

CHAPTER 9

CRIMINAL EXTRADITION

SUBCHAPTER 1

ISSUANCE OF GOVERNOR'S WARRANT

§201. Definitions

As used in this chapter, unless the context indicates otherwise, the following words shall have the following meanings. [PL 1977, c. 671, §3 (RPR).]

1. Application. "Application" means a request, by any person specified in section 223, to the Governor of this State to make a requisition to the executive authority of another state for the extradition of a fugitive from justice.

[PL 1977, c. 671, §3 (RPR).]

2. Demand. "Demand" means the demand, as provided in section 203, by the executive authority of another state upon the Governor of this State for the extradition of a fugitive from justice.

[PL 1977, c. 671, §3 (RPR).]

3. Executive authority. "Executive authority" includes the Governor and any person performing the functions of governor in a state other than this State.

[PL 1977, c. 671, §3 (RPR).]

4. Fugitive from justice. "Fugitive from justice" means:

A. Any person accused of a crime in the demanding state who is not in that state, unless he is lawfully absent pursuant to the terms of his bail or other release. This definition shall include both a person who was present in the demanding state at the time of the commission of the alleged crime and thereafter left the demanding state and a person who committed an act in this State or in a 3rd state or elsewhere resulting in or constituting a crime in the demanding state; or [PL 1977, c. 671, §3 (NEW).]

B. Any person convicted of a crime in the demanding state who is not in that state, unless he is lawfully absent pursuant to the terms of his bail or other release, who has not served or completed a sentence imposed pursuant to the conviction. This definition shall include, but not be limited to, a person who has been released pending appeal or other review of the conviction, the review having been completed; a person who has been serving a sentence in this State; a person who has escaped from confinement in the demanding state; or a person who has broken the terms of his bail, probation or parole. [PL 1981, c. 317, §1 (AMD).]

[PL 1981, c. 317, §1 (AMD).]

5. Governor. "Governor" includes any person performing the functions of Governor by authority of the law of this State.

[PL 1977, c. 671, §3 (NEW).]

5-A. Judicial officer. "Judicial officer" shall mean a justice, judge, justice of the peace, clerk of courts or other neutral person empowered by the laws of the demanding state to issue criminal process.

[PL 1979, c. 274, §1 (NEW).]

6. State. "State," referring to a state other than this State, refers to any other state or territory, organized or unorganized, of the United States of America.

[PL 1977, c. 671, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 671, §3 (RPR). PL 1979, c. 274, §1 (AMD). PL 1981, c. 317, §1 (AMD).

§202. Governor to deliver up person charged with crime in other state

Subject to the provisions of this chapter and of the Constitution of the United States and Acts of Congress in pursuance thereof, it is the duty of the Governor of this State to have arrested and delivered up to the executive authority of any other state of the United States any person who is a fugitive from justice, as defined in section 201, subsection 4, and is found in this State. Any person charged with or convicted of a crime as an adult in the demanding state shall be subject to this chapter, regardless of age. [PL 1979, c. 274, §1-A (AMD).]

SECTION HISTORY

PL 1977, c. 671, §4 (AMD). PL 1979, c. 274, §§1-A (AMD).

§203. Form of demand

1. Persons accused of a crime. No demand for the extradition of a person accused, but not yet convicted, of a crime in another state shall be recognized by the Governor of this State unless made in writing and containing the following:

A. An allegation that the accused is a fugitive from justice, as defined in section 201, subsection 4, paragraph A. The allegation shall be sufficient if it alleges that the accused was present in the demanding state at the time of the commission of the alleged crime and that he thereafter left the demanding state; or that he committed an act in this State or in a 3rd state, or elsewhere, resulting in or constituting a crime in the demanding state; and [PL 1977, c. 671, §5 (NEW).]

B. A copy of an indictment returned; or an information issued upon a waiver of indictment; or an information or other formal charging instrument issued upon a determination of probable cause by a judicial officer in the demanding state or accompanied by an arrest warrant issued upon a determination of probable cause by a judicial officer in the demanding state; or any other formal charging instrument, together with any affidavits in support thereof, or in support of an arrest warrant, which support a finding of probable cause; or an affidavit which supports a finding of probable cause. The indictment, information, other formal charging instrument or affidavit shall substantially charge the person demanded with having committed a crime under the law of that state, and the copy shall be authenticated by the executive authority making the demand. [PL 1979, c. 274, §1-B (AMD).]

[PL 1979, c. 274, §1-B (AMD).]

2. Person convicted of a crime. No demand for the extradition of a person convicted of a crime in another state shall be recognized by the Governor of this State unless made in writing and containing the following:

A. A statement by the executive authority of the demanding state that the person demanded is a fugitive from justice, as defined in section 201, subsection 4, paragraph B; and [PL 1981, c. 317, §2 (AMD).]

B. A copy of the judgment of conviction or of the sentence imposed in execution thereof, which has been authenticated by the executive authority making the demand. [PL 1977, c. 671, §5 (NEW).]

[PL 1981, c. 317, §2 (AMD).]

3. Defects in written demand. Defects in the written demand of the executive authority of another state or in any accompanying document or in the application for requisition may be remedied at any time, including at the hearing allowed by section 210, by new or amended documents or by other evidence.

[PL 1977, c. 671, §5 (NEW).]

4. Showing of substantial prejudice. Notwithstanding any other provision of law, defects in the written demand of the executive authority of another state or in any accompanying document or in the application for requisition may not be raised as a defense to extradition, in a petition contesting extradition pursuant to sections 210 and 210-A, unless it is shown by the petitioner that any such defect is substantially prejudicial to him.

[PL 1983, c. 843, §1 (NEW).]

SECTION HISTORY

PL 1977, c. 671, §5 (RPR). PL 1979, c. 274, §§1-B (AMD). PL 1981, c. 317, §2 (AMD). PL 1983, c. 843, §1 (AMD).

§204. Attorney General to investigate at demand of Governor

When a demand is made upon the Governor of this State by the executive authority of another state for the surrender of a person so charged with crime, the Governor may call upon the Attorney General or any prosecuting officer in this State to investigate or assist in investigating the demand, and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered.

§205. Extradition of prisoners or those awaiting trial or absent by compulsion

When it is desired to have returned to this State a person charged in this State with a crime, and such person is imprisoned or is held under criminal proceedings then pending against him in another state, the Governor of this State may agree with the executive authority of such other state for the extradition of such person before the conclusion of such proceedings or his term of sentence in such other state, upon condition that such person be returned to such other state at the expense of this State as soon as the prosecution or imprisonment following conviction in this State is terminated.

The Governor may surrender on demand of the executive authority of any other state any person in this State who is charged in the manner provided in section 223 with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

§206. Extradition of those not present at time of commission of crime

(REPEALED)

SECTION HISTORY

PL 1977, c. 671, §§5-A (RP).

§207. Governor to issue warrant and deliver to officer

If the Governor decides that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal and be directed to any law enforcement officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issue. Notwithstanding any other provision of law, defects in the Governor's warrant may not be raised as a defense to extradition, in a petition contesting extradition pursuant to sections 210 and 210-A, unless it is shown by the petitioner that any such defect is substantially prejudicial to him. [PL 1983, c. 843, §2 (AMD).]

SECTION HISTORY

PL 1977, c. 671, §6 (AMD). PL 1983, c. 843, §2 (AMD).

SUBCHAPTER 2

PROCEEDINGS AFTER ISSUANCE OF GOVERNOR'S WARRANT

§208. Warrant to authorize arrest

Such warrant shall authorize the officer or other person to whom directed to arrest the accused at any place where he may be found within the State and to command the aid of any law enforcement officer in the execution of the warrant and to deliver the accused, subject to this chapter, to the duly authorized agent of the demanding state. A law enforcement officer may arrest a fugitive from justice pursuant to a warrant issued by the Governor even if he does not have physical possession of it upon the representation of the prosecuting attorney that such a warrant has, in fact, been issued. [PL 1983, c. 843, §3 (AMD).]

SECTION HISTORY

PL 1977, c. 671, §8 (AMD). PL 1983, c. 843, §3 (AMD).

§209. Arresting officer may command assistance

Every such officer or other person empowered to make the arrest shall have the same authority, in arresting the accused, to command assistance therein as sheriffs and other officers have by law in the execution of any criminal process directed to them, with the like penalties against those who refuse their assistance.

§210. Rights of accused person; habeas corpus

A person arrested upon a Governor's warrant may not be delivered over to the agent whom the executive authority demanding the person has appointed to receive the person, unless the person is first taken before a judge of a court of record in this State, who shall inform the person of the demand made for the person's surrender and of the crime with which the person is charged and that the person has the right to demand and procure legal counsel. If the prisoner or the prisoner's counsel states that the prisoner may or will contest extradition, the judge shall fix a reasonable time, not to exceed 7 days, to allow the person to file a petition contesting extradition. The petition must be filed in District Court and state the grounds upon which extradition is contested. When the petition is filed, notice of it and of the time and place of hearing must be given to the prosecuting attorney of the county in which the arrest is made and in which the accused is in custody, to the Attorney General and to the agent of the demanding state. [PL 1997, c. 181, §1 (AMD).]

A person arrested upon the warrant of the Governor may not be admitted to bail, except as provided as follows: If a petition contesting extradition is granted and the order is appealed by the State to the Supreme Judicial Court sitting as the Law Court, the petitioner may be admitted to bail, in the discretion of the presiding judge, pending that appeal. If the appeal is sustained, the petitioner must be immediately placed in custody without bail to await delivery to the agent of the demanding state. [PL 1997, c. 181, §1 (AMD).]

1.

[PL 1983, c. 843, §5 (RP).]

2.

[PL 1983, c. 843, §5 (RP).]

3.

[PL 1983, c. 843, §6 (RP).]

SECTION HISTORY

PL 1977, c. 671, §9 (RPR). PL 1979, c. 274, §§2,3 (AMD). PL 1979, c. 701, §§3-5 (AMD). PL 1983, c. 843, §§4-6 (AMD). PL 1997, c. 181, §1 (AMD).

§210-A. Procedure at hearing

At the hearing on the petition contesting extradition, if the Governor's warrant and the demand comply with the provisions of this chapter, the petitioner has the burden of proving by clear and

convincing evidence that the petitioner has not been charged with a crime in the demanding state and that the petitioner is not a fugitive from justice. If the name of the petitioner is the same as that of the person named in the Governor's warrant, the petitioner has the burden of proving, by clear and convincing evidence, that the petitioner is not the person whom the demanding state is seeking to extradite. If the names are not identical, the State has the burden of proving by a preponderance of the evidence that the petitioner is the person sought to be extradited by the demanding state. The following are conclusive on the issue of probable cause: [PL 2003, c. 17, §1 (AMD).]

1. Indictment. An indictment or an information issued upon a waiver of indictment; or [PL 1997, c. 181, §2 (AMD).]

2. Judicial determination of probable cause. An information or other formal charging instrument or an arrest warrant issued on a determination of probable cause by a judicial officer in the demanding state. [PL 1979, c. 274, §4 (NEW).]

Affidavits, including any affidavits supplied pursuant to the provisions of section 203 or in support of an application for requisition, and any other hearsay evidence that may be deemed reliable by the court, are admissible at the hearing on the petition contesting extradition, for the purpose of showing that the petitioner is charged with a crime in the demanding state, that there is probable cause, that the petitioner is in fact the person charged with the crime and that the petitioner is a fugitive from justice. [PL 1997, c. 181, §2 (AMD).]

SECTION HISTORY

PL 1977, c. 671, §10 (NEW). PL 1979, c. 274, §4 (AMD). PL 1979, c. 701, §§6-8 (AMD). PL 1981, c. 317, §3 (AMD). PL 1997, c. 181, §2 (AMD). PL 2003, c. 17, §1 (AMD).

§210-B. Review of final judgment by Law Court

The order making final disposition of the petition contesting extradition constitutes a final judgment for the purpose of review. A final judgment entered under this section may be reviewed by the Supreme Judicial Court sitting as the Law Court. An appeal must be taken within 7 days after entry of the order that is being appealed. [PL 2003, c. 17, §2 (NEW).]

1. Appeal by petitioner. A petitioner aggrieved by the order may not appeal as of right. The manner and any conditions for the taking of an appeal are as the Supreme Judicial Court provides by rule. [PL 2003, c. 17, §2 (NEW).]

2. Appeal by State. The State aggrieved by the order may appeal as of right and no certificate of approval by the Attorney General is required. The manner and any conditions for the taking of an appeal are as the Supreme Judicial Court provides by rule. [PL 2003, c. 17, §2 (NEW).]

SECTION HISTORY

PL 2003, c. 17, §2 (NEW).

§211. Disobedience of officer

Any officer who shall deliver to the agent for extradition of the demanding state a person in his custody under the Governor's warrant in disobedience of section 210 is guilty of a Class E crime. [PL 1979, c. 663, §89 (AMD).]

SECTION HISTORY

PL 1979, c. 663, §89 (AMD).

§212. Prisoner confined in jail

The officer or person executing the Governor's warrant of arrest or the agent of the demanding state to whom the prisoner may have been delivered may, when necessary, confine the prisoner in the jail of any county or city through which he may pass. The keeper of such jail must receive and safely keep the prisoner until the person having charge of him is ready to proceed on his route, such person being chargeable with the expense of keeping.

The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another state, or to whom a prisoner may have been delivered after waiving extradition in such other state, and who is passing through this State with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county or city through which he may pass. The keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his route, such officer or agent being chargeable with the expense of keeping. Such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that he is actually transporting such prisoner to the demanding state after a requisition by the executive authority of such demanding state. Such prisoner shall not be entitled to demand a new requisition while in this State.

SUBCHAPTER 3

ARREST AND PROCEEDINGS PRIOR TO ISSUANCE OF GOVERNOR'S WARRANT

§213. Arrest prior to requisition

1. Warrant of arrest. A warrant of arrest shall be issued whenever a person within this State is charged, on the sworn complaint of any credible person before a judge or magistrate of this State, or by a complaint made before a judge or magistrate of this State upon an affidavit of any credible person in another state, with:

A. The commission of a crime in any other state and with being a fugitive from justice as defined in section 201, subsection 4, paragraph A; or [PL 1977, c. 671, §12 (NEW).]

B. Having been convicted of a crime in another state and with having escaped from confinement or with having broken the terms of his bail, probation or parole. [PL 1977, c. 671, §12 (NEW); PL 1979, c. 274, §5 (AMD).]

[PL 1979, c. 274, §5 (AMD).]

2. Apprehension by warrant. A warrant issued by a judge or magistrate pursuant to subsection 1 shall command the law enforcement officer to whom it is directed to apprehend the person named therein, wherever he may be found in this State, and to bring him before the same or any other judge or magistrate who may be available in or convenient of access to the place where the arrest may be made, to answer the charge on the complaint and affidavit.

[PL 1977, c. 671, §12 (NEW).]

3. Copy of charge attached to warrant. A certified copy of the sworn charge or the complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

[PL 1977, c. 671, §12 (NEW).]

SECTION HISTORY

PL 1977, c. 671, §12 (RPR). PL 1979, c. 274, §5 (AMD).

§214. Arrest without warrant; hearing

The arrest of a person may be lawfully made by an officer or a private citizen without a warrant, upon reasonable information that the accused stands charged in the courts of another state with a crime

punishable by death or imprisonment for a term exceeding one year; but when so arrested, the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in section 213. Thereafter his answer shall be heard as if he had been arrested on a warrant.

§215. Commitment to await requisition

If, from the examination by the judge or magistrate of the complaint, affidavits in support thereof, formal charging documents or judgments supplied by the demanding state or any other evidence, including reliable hearsay evidence, which may be presented, it appears that the person held is the person charged with having committed the crime alleged and that there is probable cause to believe that he committed the crime, and that he is a fugitive from justice, the judge or magistrate shall continue the case and may commit the person to jail, by a warrant specifying the accusation, for any time not exceeding 60 days which will enable the arrest of the accused to be made under a warrant of the Governor on a requisition of the executive authority of the state having jurisdiction of the offense. [PL 1977, c. 671, §13 (NEW).]

The following shall be conclusive on the issue of probable cause: [PL 1977, c. 671, §13 (NEW).]

1. Indictment or information. An indictment or an information issued upon a waiver of indictment; or
[PL 1977, c. 671, §13 (NEW).]

2. Charging instrument or warrant. An information or other formal charging instrument or an arrest warrant when they are issued upon a determination of probable cause by a judicial officer in the demanding state.
[PL 1979, c. 274, §5-A (AMD).]

The examination shall take place within a reasonable time after arrest, not to exceed 30 days, if the person held has not been admitted to bail, as provided in section 216. [PL 1977, c. 671, §13 (NEW).]

SECTION HISTORY

PL 1977, c. 671, §13 (RPR). PL 1979, c. 274, §§5-A (AMD).

§216. Bail permitted in discretion of court except in certain cases

Except as otherwise provided, the judge or magistrate may admit the person arrested to bail by bond or undertaking, with sufficient sureties and in such sum as he deems proper, for his appearance before him at a time specified in that bond or undertaking and for his surrender to be arrested upon the warrant of the Governor of this State or waiver of it. The following persons shall not be admitted to bail pursuant to this section: [PL 1979, c. 701, §9 (AMD).]

1. Death or life imprisonment sentence. Any person charged with an offense for which a sentence of death or life imprisonment is possible under the laws of the demanding state;
[PL 1979, c. 274, §6 (NEW).]

2. Crime of escape. Any person who is charged with or has been convicted of the crime of escape in the demanding state; or
[PL 1979, c. 274, §6 (NEW).]

3. Escape status. Any person whose extradition is being sought on the ground that he has been convicted of a crime in the demanding state and:

A. Has escaped from confinement; or [PL 1979, c. 274, §6 (NEW).]

B. Is under sentence of imprisonment imposed upon the denial of an appeal or other review of a conviction or revocation of probation or parole, the person having been released on bail pending appeal or other review. [PL 1979, c. 701, §9 (AMD).]

[PL 1979, c. 701, §9 (AMD).]

SECTION HISTORY

PL 1977, c. 671, §14 (AMD). PL 1979, c. 274, §6 (RPR). PL 1979, c. 701, §9 (AMD).

§217. Extension of time of commitment

If the accused is not arrested under a warrant of the Governor by the expiration of time specified in the warrant, bond or undertaking, the judge or magistrate may discharge him or may continue the case for any further time not to exceed 60 days. If, after the expiration of any further time specified by the judge or magistrate, the accused has not been arrested under a Governor's warrant, the complaint shall be dismissed. Nothing in this section may be construed to prevent the rearrest of the accused upon a Governor's warrant issued subsequent to the expiration of the time period specified in this section. The court shall grant a reasonable extension of time under this section upon the representation of the prosecuting attorney that a written demand of the executive authority of another state has been issued but has not been received or acted upon by the Governor. [PL 1983, c. 843, §7 (AMD).]

SECTION HISTORY

PL 1977, c. 671, §15 (RPR). PL 1983, c. 843, §7 (AMD).

§218. Failure to appear

If the prisoner is admitted to bail and fails to appear and surrender himself according to the condition of his bond, the court, by proper order, shall declare the bond forfeited. Recovery may be had thereon in the name of the State as in the case of other bonds or undertakings given by the accused in criminal proceedings within the State.

SUBCHAPTER 4**APPLICATION; MISCELLANEOUS PROVISIONS****§219. Governor may surrender or hold prisoner where proceedings begun in this State**

If a criminal prosecution has been instituted against such person under the laws of this State and is still pending, the Governor at his discretion either may surrender him on the demand of the executive authority of another state or may hold him until he has been tried and discharged or convicted and punished in this State.

§220. Guilt or innocence not inquired into after extradition demanded

The guilt or innocence of the accused as to the crime of which he is charged may not be inquired into by the Governor or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as provided shall have been presented to the Governor, except as it may be involved in identifying the person held as the person charged with the crime, and except insofar as it may be inquired into for the purpose of establishing probable cause as required by sections 203 and 210-A. [PL 1977, c. 671, §17 (AMD).]

SECTION HISTORY

PL 1977, c. 671, §17 (AMD).

§221. Warrant for arrest recalled or another issued

The Governor may recall his warrant of arrest or may issue another warrant whenever he deems proper.

§222. Warrant for agent to receive accused from another state

Whenever the Governor shall demand a fugitive from justice, charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in this State, from the executive

authority of any other state, or from the Chief Justice or an Associate Justice of the Supreme Court of the District of Columbia authorized to receive such demand under the laws of the United States, he shall issue a commission under the seal of this State to some agent, commanding him to receive the person so charged, if delivered to him and convey him to the proper officer of the county in this State in which the offense was committed. [PL 1983, c. 843, §8 (AMD).]

SECTION HISTORY

PL 1983, c. 843, §8 (AMD).

§223. Application for issuance of requisition

1. Person charged with crime. When it is required to return to this State a person charged with a crime in this State, the prosecuting attorney shall present to the Governor a written application for a requisition for the return of the person charged. The application shall state:

- A. The name of the person charged; [PL 1977, c. 671, §18 (RPR).]
- B. The crime with which he is charged; [PL 1977, c. 671, §18 (RPR).]
- C. The approximate time, place and circumstances of its commission; and [PL 1977, c. 671, §18 (RPR).]
- D. The state in which the accused is believed to be, including his location therein at the time the application is made. [PL 1977, c. 671, §18 (RPR).]

The prosecuting attorney shall certify in his application that in his opinion the ends of justice require the arrest and return of the accused to this State for trial and that the proceeding is not instituted to enforce a private claim.

[PL 1977, c. 671, §18 (RPR).]

2. Person convicted of a crime. When it is required to return to this State a person who has been convicted of a crime in this State and who has escaped from confinement or broken the terms of his bail, probation or parole, the prosecuting attorney, the State Parole Board, the warden of the institution or the sheriff of the county from which the escape was made shall present to the Governor a written application for a requisition for the return of that person. The application shall state:

- A. The name of the person; [PL 1977, c. 671, §18 (RPR).]
- B. The crime of which he was convicted; [PL 1977, c. 671, §18 (RPR).]
- C. The circumstances of his escape from confinement, or of the breach of the terms of his bail, probation or parole; and [PL 1977, c. 671, §18 (RPR).]
- D. The state in which he is believed to be, including his location therein at the time the application is made. [PL 1977, c. 671, §18 (RPR).]

[PL 1977, c. 671, §18 (RPR).]

3. Verification; filing. The application shall be verified by affidavit, executed in duplicate and accompanied by 2 certified copies of:

- A. The indictment return; [PL 1977, c. 671, §18 (RPR).]
- B. The information filed or the complaint made to the judge or magistrate stating the offense with which the accused is charged, together with the affidavit in support of the information or complaint; or [PL 1977, c. 671, §18 (RPR).]
- C. The judgment of conviction. [PL 1977, c. 671, §18 (RPR).]

The prosecuting attorney, State Parole Board, warden or sheriff may attach any further affidavits and other documents which he shall deem proper to be submitted with the application, including affidavits with attached photographs or fingerprints which serve to establish that the person named and shown

therein is the person for whom a requisition is sought. One copy of the application with the action of the Governor indicated thereon, and one of the certified copies of the indictment, complaint, information and affidavits, or of the judgment of conviction, or of the sentence shall be filed in the office of the Secretary of State to remain of record in that office. The other copies of all papers shall be forwarded with the Governor's requisition.

[PL 1977, c. 671, §18 (RPR).]

4. Prosecuting attorney; defined. As used in this section, the term "prosecuting attorney" means:

A. The district attorney or the deputy district attorney of the county in which the offense was committed; or [PL 1977, c. 671, §18 (NEW).]

B. The Attorney General or a Deputy Attorney General. [PL 1977, c. 671, §18 (NEW).]
[PL 1979, c. 663, §90 (AMD).]

SECTION HISTORY

PL 1971, c. 622, §§57,58 (AMD). PL 1977, c. 671, §18 (RPR). PL 1979, c. 663, §90 (AMD).

§224. Expenses paid on rendition of prisoners

1. Expenses paid from funds allotted to prosecuting attorney. When a fugitive from justice is returned to the State of Maine for prosecution, expenses incurred that are necessary and proper for the return must be paid out of the funds allotted for that purpose to the district attorney or from the Extradition and Prosecution Expenses Account established by section 224-A. In those cases prosecuted by the Attorney General, the expenses for extradition must be paid by the district attorney in whose county the crime is alleged to have been committed. District attorneys may agree to share expenses whenever a fugitive from justice is charged in the State with more than one offense.
[PL 2013, c. 566, §2 (AMD).]

2. Violations of probation and parole. Expenses incurred in connection with the extradition of persons charged with violating the terms and conditions of probation must be shared equally between the district attorney of the county in which the person was convicted and the Department of Corrections. Expenses incurred in connection with the extradition of persons charged with violating the terms and conditions of parole must be paid by the Department of Corrections.
[PL 2011, c. 515, §1 (AMD).]

3. Prosecuting attorney not liable. A prosecuting attorney shall not be liable for payment of such expenses unless he has previously consented to such rendition in writing.
[PL 1977, c. 66 (NEW).]

4. Expenses for rendition of escaped prisoners. Expenses for rendition of prisoners who have escaped from custody shall be paid by the State of Maine if the escape occurred while the prisoner was committed to or being held at a state institution or while the prisoner was in the custody of a state officer, shall be paid by the sheriff if the escape occurred while the prisoner was committed to or being held at a county jail or while in the custody of a county officer or shall be paid by a municipality if the escape occurred while the prisoner was being held at a lockup or in the custody of a municipal officer. Escape and custody shall have the same meaning as defined in Title 17-A.
[PL 1977, c. 66 (NEW).]

5. Prosecuting attorney to designate appropriate agents. The prosecuting attorney shall, in all cases, designate appropriate agents to safely return the prisoner to the State of Maine.
[PL 1977, c. 66 (NEW).]

6. Expense funds advanced. The treasurer or other appropriate official of the governmental unit responsible for payment of expenses pursuant to this section shall, upon written request of the prosecuting attorney, advance to him or officers designated by him a reasonable sum to defray necessary expenses. A full accounting of all expenses and return of unused funds shall be made to the

issuing official no later than 3 business days from the date of return. All funds returned shall be credited to the account from which they were paid.

[PL 1977, c. 66 (NEW).]

7. Expenses of officers of the State. Expenses incurred by officers of the State, on whose governor the requisition is made, shall be paid in the same manner as other expenses and travel expenses for all necessary travel in returning the prisoner shall be paid at the same rate per mile as employees of the State receive.

[PL 1977, c. 66 (NEW).]

SECTION HISTORY

PL 1977, c. 66 (RPR). PL 1983, c. 843, §§9,10 (AMD). PL 2011, c. 515, §1 (AMD). PL 2013, c. 566, §2 (AMD).

§224-A. Extradition and Prosecution Expenses Account

1. Establishment; use. Notwithstanding any provision of law to the contrary, there is established an Extradition and Prosecution Expenses Account in each prosecutorial district in an amount not to exceed \$30,000, to be administered by the district attorney and to be used solely for the purposes of paying the expenses of extraditing persons charged with or convicted of a crime in this State and who are fugitives from justice, as defined in section 201, subsection 4, paying fees or expenses of prosecution pursuant to section 1319, paying witness fees pursuant to section 1320 and paying for examination fees or expenses pursuant to Title 34-B, section 3862-A, subsection 6, paragraph D, subparagraph (3).

[PL 2019, c. 411, Pt. C, §1 (AMD); PL 2019, c. 411, Pt. D, §3 (AFF).]

2. Funding. The Extradition and Prosecution Expenses Account in each prosecutorial district is funded by bail forfeited to and recovered by the State pursuant to the Maine Rules of Unified Criminal Procedure, Rule 46. Whenever bail is so forfeited and recovered by the State and if it is not payable as restitution pursuant to Title 17-A, section 2015, subsection 4, the district attorney shall determine whether it or a portion of it is deposited in the Extradition and Prosecution Expenses Account for that district attorney's prosecutorial district, but in no event may the account exceed \$30,000. Any bail so forfeited and recovered and not deposited in the Extradition and Prosecution Expenses Account must be deposited in the General Fund. Any unexpended balance in the Extradition and Prosecution Expenses Account of a prosecutorial district established by this section may not lapse but must be carried forward into the next year.

[PL 2019, c. 113, Pt. C, §29 (AMD).]

3. Review by district attorney. The district attorney shall review monthly the Extradition and Prosecution Expenses Account and the expenses of that prosecutorial district in connection with the extradition of fugitives from justice, prosecution and witnesses and shall determine whether any funds in the account must be transferred to the General Fund.

[PL 2013, c. 566, §3 (AMD).]

4. Audit. Every district attorney shall have an annual audit made by the Office of the State Auditor or by a certified public accountant selected by the district attorney of the Extradition and Prosecution Expenses Account for that district attorney's prosecutorial district, covering the last complete fiscal year.

If the auditor finds in the course of the audit evidence of improper transactions, incompetency in keeping accounts or handling funds, failure to comply with this section or any other improper practice of financial administration, the auditor shall report that finding to the Attorney General immediately.

[PL 2013, c. 566, §3 (AMD).]

5. Advances and accounting for extradition. The district attorney shall advance funds from the Extradition and Prosecution Expenses Account to the agents designated by the district attorney to return

a fugitive from justice to this State. A full accounting of all expenses and the return of all unused funds must be made by the agents no later than 3 business days from the date of return. All funds returned must be credited to the Extradition and Prosecution Expenses Account from which they were paid. [PL 2013, c. 566, §3 (AMD).]

SECTION HISTORY

PL 1983, c. 843, §11 (NEW). PL 1983, c. 862, §42 (AMD). PL 1991, c. 377, §7 (AMD). PL 1995, c. 447, §§1-3 (AMD). PL 2007, c. 31, §1 (AMD). PL 2013, c. 16, §10 (REV). PL 2013, c. 566, §3 (AMD). PL 2015, c. 431, §5 (AMD). PL 2019, c. 113, Pt. C, §29 (AMD). PL 2019, c. 411, Pt. C, §1 (AMD). PL 2019, c. 411, Pt. D, §3 (AFF).

§225. Extradited persons except from civil process

A person brought into this State on extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceeding to answer which he is returned, until he has been convicted in the criminal proceeding or, if acquitted, until he has had ample opportunity to return to the state from which he was extradited.

§226. Waiver of extradition

Any person arrested in this State charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of his bail, probation or parole may waive the issuance and service of the warrant provided for in sections 207 and 208 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record within this State a writing which states that he consents to return to the demanding state. Before such waiver shall be executed or subscribed by such person, it shall be the duty of such judge to inform such person of his rights to await the issuance and service of a warrant of extradition and to contest extradition following issuance of the warrant of the Governor as provided for in section 210. Following waiver of extradition, the person shall be placed in custody without bail to await delivery to the agent of the demanding state. The agent of the demanding state need not be present at the waiver. [PL 1979, c. 701, §10 (AMD).]

If and when such consent has been duly executed, it shall forthwith be forwarded to the office of the Governor of this State and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent. Nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this State.

Notwithstanding any other provision of law, a law enforcement agency in this State holding a person who is alleged to have broken the terms of his probation, parole, bail or any other release in the demanding state, shall immediately deliver the person to the duly authorized agent of the demanding state without the requirement of a Governor's warrant, if all of the following apply: [PL 1983, c. 843, §12 (NEW).]

1. Waiver. The person has signed a prior waiver of extradition as a term of his current probation, parole, bail or other release in the demanding state; and
[PL 1983, c. 843, §12 (NEW).]

2. Authenticated copy. The law enforcement agency holding the person has received an authenticated copy of the prior waiver of extradition signed by the person and photographs or fingerprints or other evidence properly identifying the person as the person who signed the waiver.
[PL 1983, c. 843, §12 (NEW).]

SECTION HISTORY

PL 1979, c. 701, §10 (AMD). PL 1983, c. 843, §12 (AMD).

§226-A. Delivery of fugitive to agents

Whenever a person held as a fugitive in this State has exhausted his remedies under this chapter to challenge his extradition or has waived extradition, the district attorney shall promptly notify the agents of the demanding state that the fugitive is available to be returned to that state. If no agent appears within 30 days after such notification, the fugitive may be discharged from custody, provided that after the discharge the fugitive may be rearrested and delivered to the agent for return to the demanding state, unless the Governor's warrant has been recalled. [PL 1983, c. 843, §13 (NEW).]

SECTION HISTORY

PL 1983, c. 843, §13 (NEW).

§227. Non-waiver by this State

Nothing in this chapter shall be deemed to constitute a waiver by this State of its right, power or privilege to try such demanded person for crime committed within this State, or of its right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within this State, nor shall any proceedings had under this chapter which result in or fail to result in extradition be deemed a waiver by this State of any of its rights, privileges or jurisdiction in any way whatsoever.

§228. Trial for crimes other than specified

After a person has been brought back to this State upon extradition proceedings, he may be tried in this State for other crimes which he may be charged with having committed here as well as that specified in the requisition for his extradition.

§229. Title

This chapter may be cited as the "Uniform Criminal Extradition Act" and shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

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