

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

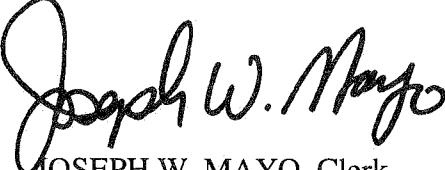
No. 693

H.P. 502

House of Representatives, February 4, 1997

An Act to Amend Procedures Relating to Extradition Proceedings.

Submitted by the Judicial Department pursuant to Joint Rule 204.
Reference to the Committee on Judiciary suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative THOMPSON of Naples.

Be it enacted by the People of the State of Maine as follows:

2
4 **Sec. 1. 15 MRSA §210-A**, as amended by PL 1981, c. 317, §3, is further amended to read:

6 **§210-A. Procedure at hearing; review of final judgment**

8 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 ~~shall have~~ has the burden of proving by clear and convincing evidence that ~~he~~ the petitioner has not been charged with a crime in the demanding state and that ~~he~~ 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 ~~shall have~~ has the burden of proving, by clear and convincing evidence, that ~~he~~ the petitioner is not the person whom the demanding state is seeking to extradite. If the names are not identical, the respondent ~~shall have~~ 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 ~~shall be~~ are conclusive on the issue of probable cause:

24 **1. Indictment.** An indictment or an information issued upon a waiver of indictment; or

26 **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.

32 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 ~~which~~ that may be deemed reliable by the court, ~~shall be~~ 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.

42 The order or judgment making final disposition of the petition ~~shall constitute~~ 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~~ Law Court. An appeal may be taken within 10 days after entry of the order or judgment appealed from. An appeal by the petitioner ~~shall may~~ may not proceed unless the ~~law court~~ Law Court issues a certificate of probable cause. The filing of the notice of appeal ~~shall be~~ is deemed to constitute a request for such a

2 certificate of probable cause. Upon the filing of a notice of
3 appeal, the presiding ~~justice~~ judge shall prepare a statement of
4 the facts of the proceedings in the ~~Superior~~ District Court,
5 which shall ~~must~~ be forwarded to the ~~law-court~~ Law Court. In ~~his~~
6 ~~the presiding judge's~~ discretion and upon a finding that special
7 circumstances exist, the presiding ~~justice~~ judge, in lieu of
8 preparing a statement of facts, may order that a transcript of
9 all or part of the proceedings in the ~~Superior~~ District Court be
10 prepared and transmitted to the ~~law--court~~ Law Court. The
11 statement of facts or the transcript ~~so-forwarded-shall~~ must be
12 returned to the ~~Superior~~ District Court with the order of the
13 court. Denial of the certificate constitutes finality of the
14 proceedings. An appeal after the issuance of a certificate of
15 probable cause to the petitioner or an appeal taken by the State,
16 in which case no certificate of probable cause is necessary,
17 shall may be taken in the same manner as an appeal of a criminal
18 conviction by a defendant except that the appeal must be made
19 directly to the Supreme Judicial Court. The provisions of
20 section 2115-A shall do not apply.

22 SUMMARY

24 The purpose of this bill is to more efficiently process
25 extradition of a fugitive from justice. The bill requires a
26 petitioner to file a petition contesting the extradition in
27 District Court, where the application is first docketed, rather
28 than in Superior Court.