

MAINE STATE LEGISLATURE

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SEVENTH REVISION

THE
REVISED STATUTES

OF THE
STATE OF MAINE

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CHAPTER 150.

Uniform Criminal Extradition Act.

Sec. 1. Terms governor, executive authority, and state defined. 1929, c. 124, § 1. Where appearing in this chapter, the term "governor" includes any person performing the functions of governor by authority of the law of this state. The term "executive authority" includes the governor, and any person performing the functions of governor in a state other than this state. And the term "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.

Sec. 2. Governor to deliver up person charged with crime in other state. 1929, c. 124, § 2. Subject to the qualifications of this chapter, and the provisions of the constitution of the United States controlling, 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 charged in that state with treason, felony, or other crime, who has fled from justice and is found in this state.

Sec. 3. Demand for extradition to be in writing; to be accompanied by copy of indictment or information, and affidavit. 1929, c. 124, § 3. No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing and accompanied by a copy of an indictment found or by an information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereon. The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state; and the copy must be authenticated by the executive authority making the demand, which shall be prima facie evidence of its truth.

Sec. 4. Attorney-general to investigate at demand of governor. 1929, c. 124, § 4. 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.

Sec. 5. Conditions under which warrant for extradition may be issued. 1929, c. 124, § 5. A warrant of extradition must not be issued unless the documents presented by the executive authority making the demand show that the accused was present in the demanding state at the time of the commission of the alleged crime, and that he thereafter fled from that state, and is now in this state, and that he is lawfully charged by indictment found or by an information filed by a prosecuting officer and supported by affidavit to the facts, or by affidavit made before a magistrate in that state with having committed a crime under the laws of that state, or that he has been convicted of crime in that state and has escaped from confinement or broken his parole.

Sec. 6. Person may be surrendered for act in this state intentionally resulting in crime in another state. 1929, c. 124, § 6. The governor of this state

may also surrender, on demand of the executive authority of any other state, any person in this state charged on indictment found in such other state with committing an act in this state intentionally resulting in a crime in such other state; and the provisions of this act not otherwise inconsistent shall apply to such cases, notwithstanding that the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.

Sec. 7. If extradition to be allowed, governor to make out warrant and deliver it to officer. 1929, c. 124, § 7. 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 a sheriff, marshal, or other person whom he may think fit to entrust with the execution thereof; and the warrant must substantially recite the facts necessary to the validity of its issue.

Sec. 8. Such warrant to authorize arrest. 1929, c. 124, § 8. 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 all sheriffs and other peace officers in the execution of the warrant and to deliver the accused subject to the provisions of this chapter, to the duly authorized agent of the demanding state.

Sec. 9. Officer arresting may command assistance. 1929, c. 124, § 9. 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.

Sec. 10. Person arrested to be informed of charge; may apply for writ of habeas corpus; notice to be given for hearing. 1929, c. 124, § 10. No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him, unless he has been informed of the demand made for his surrender and of the crime with which he is charged and that he has the right to demand legal counsel; and if the prisoner, his friends, or counsel shall state that he or they desire to test the legality of the arrest, the prisoner shall be taken forthwith before a judge of a court of record in this state, who shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. And when such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the public prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding state.

Sec. 11. Penalty for disobedience of § 10. 1929, c. 124, § 11. 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 the last section shall be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment.

Sec. 12. Prisoner may be confined in jail. 1929, c. 124, § 12. 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; and 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.

Sec. 13. When person charged with being a fugitive, judge or magistrate may issue warrant for his arrest. 1929, c. 124, § 13. Whenever any person

within this state shall be charged on the oath of any credible person before any judge or other magistrate of this state with the commission of any crime in any other state and with having fled from justice; or whenever complaint shall have been made before any judge or other magistrate in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and has fled therefrom and is believed to have been found in this state, the judge or magistrate shall issue a warrant directed to the sheriff of the county in which the oath or complaint is filed directing him to apprehend the person charged, wherever he may be found in this state, and bring him before the same or any other judge, court, or magistrate who may be convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit; and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

Sec. 14. Arrest may be made without warrant if person charged with crime punishable by death or life imprisonment; hearing to be held. 1929, c. 124, § 14. The arrest of a person may be lawfully made also by an officer or a private citizen without a warrant upon reasonable information that the accused stands charged with a crime punishable by death or life imprisonment in the courts of another state; 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 the last section; and thereafter his answer shall be heard as if he had been arrested on a warrant.

Sec. 15. Judge to commit him to jail until such time as warrant for extradition may be made, unless he gives bail or is discharged. 1929, c. 1924, § 15. If, from the examination before the judge or magistrate, it appears that the person held is the person charged with having committed the crime alleged and that he probably committed the crime, and, except in cases arising under section six, that he has fled from justice, the judge or magistrate must commit him to jail by a warrant reciting the accusation for such a time specified in the warrant as 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, unless the accused give bail as provided in the next section, or until he shall be legally discharged.

Sec. 16. Prisoner may give bail unless offense is punishable by death or life imprisonment. 1929, c. 124, § 16. Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, the judge or magistrate must 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 such bond or undertaking, and for his surrender, to be arrested upon the warrant of the governor of this state.

Sec. 17. Procedure if warrant of governor is not made at expiration of first warrant. 1929, c. 124, § 17. If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant, bond, or undertaking, the judge or magistrate may discharge him or may recommit him to a further day, or may again take bail for his appearance and surrender, as provided in section sixteen; and at the expiration of the second period of commitment, or if he has been bailed and appeared according to the terms of his bond or undertaking, the judge or magistrate may either discharge him, or

may require him to enter into a new bond or undertaking, to appear and surrender himself at another day.

Sec. 18. Proceedings if prisoner admitted to bail fails to appear. 1929, c. 124, § 18. 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; and 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.

Sec. 19. If being tried in this state, governor may either surrender him or hold him. 1929, c. 124, § 19. 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.

Sec. 20. Guilt or innocence of accused not to be inquired into after extradition demanded. 1929, c. 124, § 20. 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 above 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.

Sec. 21. Warrant for arrest may be recalled or another issued. 1929, c. 124, § 21. The governor may recall his warrant of arrest, or may issue another warrant whenever he deems proper.

Sec. 22. Governor of this state demanding person from another state to issue warrant to agent to receive accused. 1929, c. 124, § 22. Whenever the governor of this state shall demand a person charged with crime in this state from the chief executive 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 warrant 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.

Sec. 23. Prosecuting attorney to present application to governor; contents; to be verified by affidavit. 1929, c. 124, § 23. When the return to this state of a person charged with crime in this state is required, the prosecuting attorney of the county in which the offense was committed shall present to the governor his written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him, and the approximate time, place and circumstances of its committal, the state in which he is believed to be, including the location of the accused therein at the time the application is made, and certifying that in the opinion of the said prosecuting attorney 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. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the magistrate, stating the offense with which the accused is charged. The prosecuting officer may also attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted with such application. One copy of the application with the action of the governor indicated by endorsement thereon, and

one of the certified copies of the indictment or complaint or information and affidavit, 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.

Sec. 24. Expenses to be paid out of state treasury or county treasury depending on crime charged. 1929, c. 124, § 24. When the punishment of the crime shall be the confinement of the criminal in the penitentiary, the expenses shall be paid out of the state treasury, on the certificate of the governor and warrant of the auditor; and in all other cases they shall be paid out of the county treasury in the county wherein the crime is alleged to have been committed. The expenses shall be the fees paid to the officers of the state on whose governor the requisition is made, and not exceeding ten cents a mile for all necessary travel in returning such prisoner.

Sec. 25. Service of process in civil actions not to be made on person brought into state on extradition based on criminal charge. 1929, c. 124, § 25. 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.

Sec. 26. Accused may be tried for other crimes as well as one specified in extradition proceedings. 1929, c. 124, § 26. 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.

Sec. 27. Purpose of chapter to make uniform the extradition laws of those states which enact it. 1929, c. 124, § 27. This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Sec. 28. Unconstitutionality of part not to affect validity of remaining portions. 1929, c. 124, § 28. If any part of this chapter is for any reason declared void, such invalidity shall not affect the validity of the remaining portions of this chapter.

Sec. 29. Chapter to be known as "Uniform Criminal Extradition Act." 1929, c. 124, § 30. This chapter may be cited as the uniform criminal extradition act.