

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
SENATE  
109TH LEGISLATURE  
FIRST REGULAR SESSION

(Filing No. S-142)

COMMITTEE AMENDMENT "A " to S.P. 373, L.D. 1153, Bill,  
AN ACT to Amend the Uniform Criminal Extradition Act and the Uniform  
Interstate Compact on Juveniles."

Amend the Bill by inserting after the enacting clause the  
following:

'Sec. 1. 15 MRSA §201, sub-§5-A is enacted to read:

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.'

Further amend the Bill by striking out at the beginning of  
the first line after the enacting clause the abbreviation and  
figure "Sec. 1." and inserting in their place the following  
'Sec. 1-A.'

Further amend the Bill by inserting after section 1 the  
following:

'Sec. 1-B. 15 MRSA ←→ §203, sub-§1, ¶B, first sentence, as enacted  
by PL 1977, c. 671, §5, is amended to read:

← 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 ~~judicial~~ determination of  
probable cause by a judicial officer in the demanding state  
or accompanied by an arrest warrant issued upon a ~~judicial~~  
determination of probable cause by a judicial officer in the demanding

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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. '

Further amend the Bill in section 3 by striking out all of subsection 3 and inserting in its place the following:

'3. Extradition. 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

B. Is under sentence of imprisonment, having been released on bail pending appeal or other review which has been denied.'

Further amend the Bill in section 4 by striking out all of subsection 2 and inserting in its place the following:

'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.'

Further amend the Bill by inserting after section 5 the following:

'Sec. 5-A. 15 MRSA §215, sub-§2, as enacted by PL 1977, c. 671, §13, is amended to read:

2. Charging instrument or warrant. An information or other formal charging instrument or an arrest warrant when they are issued upon a ~~judicial~~ determination of probable cause by a judicial officer in the demanding state.'

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Further amend the Bill in section 6 by striking out all subsection 3 of that part designated "§216." and inserting in its place the following:

'3. Extradition. 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

B. Is under sentence of imprisonment, having been released

on bail pending appeal or other review which has been denied.'

Statement of Fact

This amendment clarifies and strengthens provisions in the bill in the following ways.

1. The amendment denies bail to a fugitive from justice who has been convicted of a crime in the demanding state, has appealed, has been released on bail and fails to appear when his appeal or other post-conviction relief has been denied. Experience has shown that these individuals are very poor bail risks and are likely to abscond if granted bail. Bail would be unavailable at the District Court proceedings as well as after the issuance of a Governor's warrant. The language in the original bill was not as specific as this amendment.

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2. The amendment provides that charging documents issued upon a determination of probable cause by a judicial officer in the demanding state are conclusive on the issue of probable cause in a court proceeding in Maine under the extradition act. Present law uses the language "issued upon a judicial determination of probable cause in the demanding state," and there has been a fair amount of confusion regarding the meaning of the phrase "judicial determination of probable cause." The term "judicial officer" is defined by this amendment and hopefully, much of the confusion existing under present law will be eliminated.

Reported by the Committee on Judiciary.

Reproduced and distributed pursuant to Senate Rule 11-A.

May 3, 1979

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