

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1153

S. P. 373

In Senate, March 13, 1979

Referred to the Committee on Judiciary. Sent down for concurrence and ordered printed.

Presented by Senator Collins of Knox.

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

AN ACT to Amend the Uniform Criminal Extradition Act and the Uniform  
Interstate Compact on Juveniles.

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

**Sec. 1. 15 MRSA § 202**, as amended by PL 1977, c. 671, § 4, is further amended to read:

**§ 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 ~~charged in that state with treason, felony or other crime~~ 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.**

**Sec. 2. 15 MRSA § 210, last sentence**, as repealed and replaced by PL 1977, c. 671, § 9, is repealed and the following enacted in its place:

**The following persons shall not be admitted to bail subsequent to arrest upon a Governor's warrant or during the pendency of an appeal to the Supreme Judicial Court sitting as the law court:**

**Sec. 3.** 15 MRSA § 210, sub-§§ 1, 2, and 3, are enacted to read:

**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;

**2. Crime of escape.** Any person who is charged with or has been convicted of the crime of escape in the demanding state; or

**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 has escaped from confinement or has broken the terms of his bail, probation or parole.

**Sec. 4.** 15 MRSA § 210-A, as enacted by PL 1977, c. 671, § 10, is amended by adding at the end of the first paragraph the following:

**The following shall be conclusive on the issue of probable cause:**

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

**2. Judicial determination of probable cause.** An information or other formal charging instrument or an arrest warrant when they are issued upon a judicial determination of probable cause in the demanding state.

**Sec. 5.** 15 MRSA § 213, sub-§ 1, first ¶, as enacted by PL 1977, c. 671, § 12, is amended to read:

A warrant of arrest shall be issued whenever a person within this State is charged, on the oath 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 or any credible person in another state, with:

**Sec. 6.** 15 MRSA § 216, as amended by PL 1977, c. 671, § 14, is repealed and the following enacted in its place:

**§ 216. Bail permitted unless offense punishable by death or life imprisonment**

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. The following persons shall not be admitted to bail pursuant to this section:

**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;

**2. Crime of escape.** Any person who is charged with or has been convicted of the crime of escape in the demanding state; or

**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 has escaped from confinement or has broken the terms of his bail, probation or parole.**

**Sec. 7. 34 MRSA § 183, sub-§ 6**, as amended by PL 1971, c. 598, § 86, is further amended by adding at the end the following:

**A person charged with or convicted of a crime as an adult in a demanding state, whose extradition from this State is sought by the demanding state shall be subject to the provisions of chapter 9, although the person is a minor under the laws of this State.**

#### STATEMENT OF FACT

This bill would make rather minor changes in the Maine Uniform Criminal Extradition Act and the Uniform Interstate Compact on Juveniles. Most of the changes are designed to clarify existing law. A section by section analysis of the bill follows.

**Section 1.** This portion of the bill makes it clear that any person who is a "fugitive from justice," as that term is defined in Title 15, section 201, subsection 4, is extraditable. See also discussion relating to section 7.

**Sections 2 and 3.** Present law provides that bail is available at the District Court level, after the issuance of a Governor's warrant and during the pendency of an appeal to the law court to any fugitive from justice except a person who has been charged with any offense punishable by death or life imprisonment in the demanding state. Sections 2 and 3 of this bill expand the class of fugitives who are not eligible for bail to include persons who have been charged with or convicted of escape as well as those who have violated the terms of their bail, probation or parole in the demanding state. By virtue of their past conduct, these individuals represent poor bail risks. They have demonstrated a likelihood to abscond if given the opportunity. Pursuant to the United States Constitution, Article IV, and under the Uniform Criminal Extradition Act each state is under an obligation to cooperate with its sister states in matters pertaining to extradition. Assuring that these individuals, who pose a high bail risk, are available for delivery to the demanding state after the provisions of the Extradition Act have been complied with, furthers this concept of interstate cooperation. Denying bail to these individuals would also apply at the District Court level. See section 6.

**Section 4.** This portion of the bill provides that where a judicial determination of probable cause has been made in the demanding state, the Maine courts should not make an independent determination of probable cause. The Maine courts may, and in fact are constitutionally required to, rely on a sister state's judicial determination of probable cause. See *Michigan v. Doran*, 24 Crim. L. Rptr. 3031 (12/20/78). *Olson v. Thurston, Me.*, 393 A.2d 1320 (1978). This section of the bill applies to proceedings in the Superior Court on a petition for a writ of habeas corpus. It is identical to a provision in Title 15, section 215, which relates to fugitive from justice proceedings in the District Court.

**Section 5.** This portion of the bill simply makes a technical change in the existing law to reflect current court practice.

**Section 6.** See discussion relating to sections 2 and 3.

**Section 7.** This portion of the bill makes it clear that a person who is charged as an adult in the demanding state is treated as an adult for the purpose of extradition notwithstanding the fact that he may be a minor under Maine law. This bill would simply clarify and codify existing law.