

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 2146
6

7 H.P. 1622

House of Representatives, February 29, 1984

8 Referred to the Committee on Judiciary. Sent up for concurrence and
9 ordered printed.

EDWIN H. PERT, Clerk

10 Presented by Representative Soule of Westport.

Cosponsors: Representative Hayden of Durham and Senator Collins of
Knox.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FOUR
16

17 AN ACT to Amend the Criminal Extradition
18 Act.
19

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

22 Sec. 1. 15 MRSA §203, sub-§4 is enacted to read:

23 4. Showing of substantial prejudice. Notwith-
24 standing any other provision of law, defects in the
25 written demand of the executive authority of another
26 state or in any accompanying document or in the ap-
27 plication for requisition may not be raised as a de-
28 fense to extradition, in a petition contesting extra-
29 dition pursuant to sections 210 and 210-A, unless it
30 is shown by the petitioner that any such defect is
31 substantially prejudicial to him.

32 Sec. 2. 15 MRSA §207, as amended by PL 1977, c.
33 671, §6, is further amended to read:

1 §207. Governor to issue warrant and deliver to offi-
2 cer

3 If the Governor decides that the demand should be
4 complied with, he shall sign a warrant of arrest,
5 which shall be sealed with the state seal and be di-
6 rected to any law enforcement officer or other person
7 whom he may think fit to entrust with the execution
8 thereof. The warrant must substantially recite the
9 facts necessary to the validity of its issue. Not-
10 withstanding any other provision of law, defects in
11 the Governor's warrant may not be raised as a defense
12 to extradition, in a petition contesting extradition
13 pursuant to sections 210 and 210-A, unless it is
14 shown by the petitioner that any such defect is sub-
15 stantially prejudicial to him.

16 Sec. 3. 15 MRSA §208, as amended by PL 1977, c.
17 671, §8, is further amended to read:

18 §208. Warrant to authorize arrest

19 Such warrant shall authorize the officer or other
20 person to whom directed to arrest the accused at any
21 place where he may be found within the State and to
22 command the aid of any law enforcement officer in the
23 execution of the warrant and to deliver the accused,
24 subject to this chapter, to the duly authorized agent
25 of the demanding state. A law enforcement officer may
26 arrest a fugitive from justice pursuant to a warrant
27 issued by the Governor even if he does not have phys-
28 ical possession of it upon the representation of the
29 prosecuting attorney that such a warrant has, in
30 fact, been issued.

31 Sec. 4. 15 MRSA §210, 2nd ¶, as amended by PL
32 1979, c. 701, §4, is repealed and the following en-
33 acted in its place:

34 A person arrested upon the warrant of the Gover-
35 nor shall not be admitted to bail, except as provided
36 as follows: If a petition contesting extradition is
37 granted and the order is appealed by the State to the
38 Supreme Judicial Court sitting as the Law Court, the
39 petitioner may be admitted to bail, in the discretion
40 of the presiding justice, pending that appeal. If the
41 appeal is sustained, the petitioner shall be immedi-

1 ately placed in custody without bail to await deliv-
2 ery to the agent of the demanding state.

3 Sec. 5. 15 MRSA §210, sub-§§1 and 2, as enacted
4 by PL 1979, c. 274, §3, are repealed.

5 Sec. 6. 15 MRSA §210, sub-§3, as amended by PL
6 1979, c. 701, §5, is repealed.

7 Sec. 7. 15 MRSA §217, as repealed and replaced
8 by PL 1977, c. 671, §15, is amended to read:

9 §217. Extension of time of commitment

10 If the accused is not arrested under a warrant of
11 the Governor by the expiration of time specified in
12 the warrant, bond or undertaking, the judge or magis-
13 trate may discharge him or may continue the case for
14 any further time not to exceed 60 days. If, after the
15 expiration of any further time specified by the judge
16 or magistrate, the accused has not been arrested un-
17 der a Governor's warrant, the complaint shall be dis-
18 missed. Nothing in this section ~~shall~~ may be con-
19 strued to prevent the rearrest of the accused upon a
20 Governor's warrant issued subsequent to the expira-
21 tion of the time period specified in this section.
22 The court shall grant a reasonable extension of time
23 under this section upon the representation of the
24 prosecuting attorney that a written demand of the ex-
25 ecutive authority of another state has been issued
26 but has not been received or acted upon by the Gover-
27 nor.

28 Sec. 8. 15 MRSA §222 is amended to read:

29 §222. Warrant for agent to receive accused from an-
30 other state

31 Whenever the Governor shall demand a ~~person~~ fugitive
32 from justice, charged with crime or with escap-
33 ing from confinement or breaking the terms of his
34 bail, probation or parole in this State, from the ex-
35 ecutive authority of any other state, or from the
36 Chief Justice or an Associate Justice of the Supreme
37 Court of the District of Columbia authorized to re-
38 ceive such demand under the laws of the United
39 States, he shall issue a ~~warrant~~ commission under the

1 seal of this State to some agent, commanding him to
2 receive the person so charged, if delivered to him
3 and convey him to the proper officer of the county in
4 this State in which the offense was committed.

5 Sec. 9. 15 MRSA §224, sub-§1, as enacted by PL
6 1977, c. 66, is amended to read:

7 1. Expenses paid from funds allotted to prose-
8 cuting attorney. When a prisoner fugitive from
9 justice is returned to the State of Maine for prose-
10 cution, expenses incurred which are necessary and
11 proper for the return shall be paid out of the funds
12 allotted for that purpose to the prosecuting attorney
13 district attorney or from the Extradition Account es-
14 tablished by section 224-A. In those cases prosecuted
15 by the Attorney General, the expenses for extradition
16 shall be paid by the district attorney in whose coun-
17 ty the crime is alleged to have been committed. Pro-
18 secuting attorney shall have the same meaning as set
19 forth in section 1318. District attorneys may agree
20 to share expenses whenever a fugitive from justice is
21 charged in the State with more than one offense.

22 Sec. 10. 15 MRSA §224, sub-§2, as enacted by PL
23 1977, c. 66, is repealed and the following enacted in
24 its place:

25 2. Violations of probation and parole. Expenses
26 incurred in connection with the extradition of per-
27 sons charged with violating the terms and conditions
28 of probation, shall be shared equally between the
29 district attorney of the county in which the person
30 was convicted and the Department of Corrections, Di-
31 vision of Probation and Parole. Expenses incurred in
32 connection with the extradition of persons charged
33 with violating the terms and conditions of parole
34 shall be paid by the Department of Corrections, Divi-
35 sion of Probation and Parole.

36 Sec. 11. 15 MRSA §224-A is enacted to read:

37 §224-A. Extradition Account

38 1. Establishment. Notwithstanding any other pro-
39 vision of law, there is established an Extradition
40 Account in each prosecutorial district in an amount

1 not to exceed \$10,000, to be administered by the dis-
2 trict attorney and to be used solely for the purpose
3 of paying the expenses of extraditing persons charged
4 with or convicted of a crime in this State and who
5 are fugitives from justice, as defined in section
6 201, subsection 4.

7 2. Funding. The Extradition Account in each
8 prosecutorial district shall be funded by bail for-
9 feited to and recovered by the State pursuant to the
10 Maine Rules of Criminal Procedure, Rule 46D. Whenever
11 bail is so forfeited and recovered by the State, the
12 district attorney shall determine whether it or a
13 portion of it shall be deposited in the Extradition
14 Account for his prosecutorial district, but in no
15 event may the account exceed \$10,000. Any bail so
16 forfeited and recovered and not deposited in the Ex-
17 tradition Account shall be deposited in the General
18 Fund. Any unexpended balance in the Extradition Ac-
19 count of a prosecutorial district established by this
20 section shall not lapse but shall be carried forward
21 into the next year.

22 3. Review by district attorney. The district at-
23 torney shall regularly review the Extradition Account
24 and the expenses of his prosecutorial district in
25 connection with the extradition of fugitives from
26 justice and shall determine whether any funds in the
27 account shall be transferred to the General Fund.

28 4. Audit. Every district attorney shall have an
29 annual audit made by the Department of Audit or by a
30 certified public accountant selected by the district
31 attorney of the Extradition Account for his
32 prosecutorial district, covering the last complete
33 fiscal year.

34 If the auditor finds in the course of his audit evi-
35 dence of improper transactions, incompetency in keep-
36 ing accounts or handling funds, failure to comply
37 with this section or any other improper practice of
38 financial administration, he shall report the same to
39 the Attorney General immediately.

40 5. Advances and accounting. The district attor-
41 ney shall advance funds from the Extradition Account
42 to the agents designated by him to return a fugitive

1 from justice to this State. A full accounting of all
2 expenses and the return of all unused funds shall be
3 made by the agents no later than 3 business days from
4 the date of return. All funds returned shall be cred-
5 ited to the Extradition Account from which they were
6 paid.

7 Sec. 12. 15 MRSA §226, as amended by PL 1979, c.
8 701, §10, is further amended by adding at the end the
9 following:

10 Notwithstanding any other provision of law, a law
11 enforcement agency in this State holding a person who
12 is alleged to have broken the terms of his probation,
13 parole, bail or any other release in the demanding
14 state, shall immediately deliver the person to the
15 duly authorized agent of the demanding state without
16 the requirement of a Governor's warrant, if all of
17 the following apply:

18 1. Waiver. The person has signed a prior waiver
19 of extradition as a term of his current probation,
20 parole, bail or other release in the demanding state;
21 and

22 2. Authenticated copy. The law enforcement agen-
23 cy holding the person has received an authenticated
24 copy of the prior waiver of extradition signed by the
25 person and photographs or fingerprints or other evi-
26 dence properly identifying the person as the person
27 who signed the waiver.

28 Sec. 13. 15 MRSA §226-A is enacted to read:

29 §226-A. Delivery of fugitive to agents

30 Whenever a person held as a fugitive in this
31 State has exhausted his remedies under this chapter
32 to challenge his extradition or has waived extradi-
33 tion, the district attorney shall promptly notify the
34 agents of the demanding state that the fugitive is
35 available to be returned to that state. If no agent
36 appears within 30 days after such notification, the
37 fugitive may be discharged from custody, provided
38 that after the discharge the fugitive may be
39 rearrested and delivered to the agent for return to
40 the demanding state, unless the Governor's warrant

1 has been recalled.

2

STATEMENT OF FACT

3

4

5

6

7

8

9

This bill is designed to simplify and streamline the criminal extradition process and to speed up the procedure by which fugitives are returned to sister states. The bill also addresses several recurring problems in the extradition process and proposes a new mechanism for financing the return of fugitives to this State.

10

5807021084