

# MAINE STATE LEGISLATURE

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# 120th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2001

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Legislative Document

No. 1265

H.P. 951

House of Representatives, February 28, 2001

### **An Act to Clarify the Criminal Extradition Laws.**

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Reference to the Committee on Judiciary suggested and ordered printed.

*Millicent M. MacFarland*

MILLICENT M. MacFARLAND, Clerk

Presented by Representative SAVAGE of Buxton.  
Cosponsored by Representative BERRY of Livermore.

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

2           **Sec. 1. 15 MRSA §210, first ¶**, as amended by PL 1997, c. 181,  
4 §1, is further amended to read:

6           A person arrested upon a Governor's warrant may not be  
8 delivered over to the agent whom the executive authority  
10 demanding the person has appointed to receive the person, unless  
12 the person is first taken before a judge of a court of record in  
14 this State, who shall inform the person of the demand made for  
16 the person's surrender and of the crime with which the person is  
18 charged and that the person has the right to demand and procure  
20 legal counsel. The judge shall inform the person arrested upon  
22 the Governor's warrant of the person's right to waive extradition  
24 in accordance with section 226. If the prisoner or the  
26 prisoner's counsel states that the prisoner may or will contest  
extradition, the judge shall fix a reasonable time, not to exceed  
7 days, to allow the person to file a petition contesting  
extradition. The petition must be filed in District Court and  
state the grounds upon which extradition is contested. When the  
petition is filed, ~~notice of it and of~~ the court shall promptly  
set a time and place of for the hearing and notice must be given  
to the prosecuting attorney ~~of for~~ the county in which the arrest  
is made and in which the accused is in custody, to the Attorney  
General and to the agent of the demanding state.

28           **Sec. 2. 15 MRSA §213, sub-§2**, as enacted by PL 1977, c. 671,  
§12, is amended to read:

30           **2. Apprehension by warrant.** A warrant issued by a judge or  
32 magistrate pursuant to subsection 1 ~~shall~~ must command the law  
enforcement officer to whom it is directed to apprehend the  
34 person named ~~therein in the warrant, wherever he may be found in  
this State,~~ and, in accordance with the Maine Rules of Criminal  
Procedure, Rule 5, to bring ~~him the person~~ before ~~the same or any  
36 other~~ a judge or magistrate who may be available in or convenient  
of access to the place where the arrest ~~may be~~ is made, to answer  
38 the charge on the complaint and affidavit.

40           **Sec. 3. 15 MRSA §214** is amended to read:

42           **§214. Arrest without warrant; hearing**

44           The arrest of a person may be lawfully made by an officer or  
46 a private citizen without a warrant, upon reasonable information  
that the ~~accused~~ person stands charged in the courts of another  
48 state with a crime punishable by death or imprisonment for a term  
exceeding one year; but when so arrested, the ~~accused~~ person must  
50 be taken before a judge or magistrate ~~with all practicable speed~~  
in accordance with the Maine Rules of Criminal Procedure, Rule 5,

2 and complaint must be made against him the person under oath  
3 setting forth the ground for the arrest as in section 213.  
4 Thereafter his the person's answer shall must be heard as if he  
5 the person had been arrested on a warrant.

6 **Sec. 4. 15 MRSA §215, first ¶**, as enacted by PL 1977, c. 671,  
7 §13, is amended to read:

8  
9 The judge or magistrate shall conduct an examination of the  
10 person arrested pursuant to section 213 or 214 at the person's  
11 initial appearance in accordance with the Maine Rules of Criminal  
12 Procedure, Rule 5 or within a reasonable time not to exceed 30  
13 days if the person has not been admitted to bail as provided in  
14 section 216. If, from the examination by the judge or magistrate  
15 of the complaint, affidavits in support thereof, formal charging  
16 documents or judgments supplied by the demanding state or any  
17 other evidence, including reliable hearsay evidence, which that  
18 may be presented, it appears that the person held is the person  
19 charged with having committed the crime alleged and that there is  
20 probable cause to believe that he the person committed the crime,  
21 and that he the person is a fugitive from justice, the judge or  
22 magistrate shall continue the case and may commit the person to  
23 jail, by a warrant specifying the accusation, for any time not  
24 exceeding 60 days which that will enable the arrest of the  
25 accused person to be made under a warrant of the Governor on a  
26 requisition of the executive authority of the state having  
27 jurisdiction of the offense.

28  
29 **Sec. 5. 15 MRSA §215, last ¶**, as enacted by PL 1977, c. 671,  
30 §13, is repealed.

### 32 SUMMARY

33  
34  
35 This bill amends the criminal extradition laws by requiring  
36 a judge to inform the person arrested of the person's right to  
37 waive extradition. The bill also requires a judge or magistrate  
38 to conduct an examination of the person arrested at the time of  
the person's initial appearance in court.