

# MAINE STATE LEGISLATURE

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NEW DRAFT

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EIGHTY-FOURTH LEGISLATURE

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Senate Document

No. 328

S. P. 663

In Senate, March 7, 1929.

Reported by Senator Murchie of Washington from Committee on Legal Affairs and laid on table to be printed under joint rules.

ROYDEN V. BROWN, Secretary.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE  
HUNDRED AND TWENTY-NINE

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AN ACT Relating to the Extradition of Persons Charged with  
Crime, and to Make Uniform the Law with Reference  
Thereto.

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

Section 1. (Definitions.) Where appearing in this act,  
2 the term "governor" includes any person performing the  
3 functions of governor by authority of the law of this state.  
4 The term "executive authority" includes the governor, and  
5 any person performing the functions of governor in a state  
6 other than this state. And the term "state" referring to a  
7 state other than this state refers to any other state or terri-

8 tory organized or unorganized of the United States of  
9 America.

Sect. 2. (Criminals to be delivered upon requisition.)  
2 Subject to the qualifications of this act, and the provisions  
3 of the constitution of the United States controlling, and  
4 acts of Congress in pursuance thereof, it is the duty of the  
5 governor of this state to have arrested and delivered up to  
6 the executive authority of any other state of the United  
7 States any person charged in that state with treason, felony,  
8 or other crime, who has fled from justice and is found in  
9 this state.

Sect. 3. (Form of Demand.) No demand for the extra-  
2 dition of a person charged with crime in another state shall  
3 be recognized by the governor unless in writing and accom-  
4 panied by a copy of an indictment found or by an informa-  
5 tion supported by affidavit in the state having jurisdiction of  
6 the crime, or by a copy of an affidavit made before a magis-  
7 trate there, together with a copy of any warrant which was  
8 issued thereon. The indictment, information, or affidavit  
9 made before the magistrate must substantially charge the  
10 person demanded with having committed a crime under the  
11 law of that state; and the copy must be authenticated by  
12 the executive authority making the demand, which shall  
13 be prima facie evidence of its truth.

Sect. 4. (Governor may investigate case.) When a de-  
2 mand shall be made upon the governor of this state by the  
3 executive authority of another state for the surrender of a

4 person so charged with crime, the governor may call upon  
5 the attorney general or any prosecuting officer in this state  
6 to investigate or assist in investigating the demand, and to  
7 report to him the situation and circumstances of the person  
8 so demanded, and whether he ought to be surrendered.

(Taken from Connecticut Statutes, Sec. 1566.)

Sect. 5. (What papers must show.) A warrant of ex-  
2 tradition must not be issued unless the documents presented  
3 by the executive authority making the demand show that  
4 the accused was present in the demanding state at the time  
5 of the commission of the alleged crime, and that he there-  
6 after fled from that state, and is now in this state, and that  
7 he is lawfully charged by indictment found or by an infor-  
8 mation filed by a prosecuting officer and supported by affi-  
9 davit to the facts, or by affidavit made before a magistrate  
10 in that state with having committed a crime under the laws  
11 of that state, or that he has been convicted of crime in that  
12 state and has escaped from confinement or broken his parole.

Sect. 6. (Extradition of persons guilty of a crime in an-  
2 other state though being in this state.) The governor of  
3 this state may also surrender, on demand of the executive  
4 authority of any other state, any person in this state charged  
5 on indictment found in such other state with committing  
6 an act in this state intentionally resulting in a crime in such  
7 other state; and the provisions of this act not otherwise  
8 inconsistent shall apply to such cases, notwithstanding that

9 the accused was not in that state at the time of the com-  
10 mission of the crime, and has not fled therefrom.

Sect. 7. (Issue of governor's warrant of arrest; its reci-  
2 tals.) If the governor shall decide that the demand should  
3 be complied with, he shall sign a warrant of arrest, which  
4 shall be sealed with the state seal, and be directed to a  
5 sheriff, marshal, coroner, or other person whom he may  
6 think fit to entrust with the execution thereof; and the  
7 warrant must substantially recite the facts necessary to  
8 the validity of its issue.

Sect. 8. (Manner and place of execution.) Such war-  
2 rant shall authorize the officer or other person to whom  
3 directed to arrest the accused at any place where he may  
4 be found within the state and to command the aid of all  
5 sheriffs and other peace officers in the execution of the  
6 warrant and to deliver the accused subject to the provi-  
7 sions of this act, to the duly authorized agent of the de-  
8 manding state.

Sect. 9. (Authority of arresting officer.) Every such  
2 officer or other person empowered to make the arrest, shall  
3 have the same authority in arresting the accused to com-  
4 mand assistance therein, as sheriffs and other officers have  
5 by law in the execution of any criminal process directed  
6 to them, with the like penalties against those who refuse  
7 their assistance.

Sect. 10. (Accused may apply for writ of habeas cor-  
2 pus.) No person arrested upon such warrant shall be

3 delivered over to the agent whom the executive authority  
4 demanding him shall have appointed to receive him un-  
5 less he has been informed of the demand made for his  
6 surrender and of the crime with which he is charged, and  
7 that he has the right to demand legal counsel; and if the  
8 prisoner, his friends, or counsel shall state that he or they  
9 desire to test the legality of the arrest, the prisoner shall  
10 be taken forthwith before a judge of a court of record in  
11 this state, who shall fix a reasonable time to be allowed  
12 him within which to apply for a writ of habeas corpus.  
13 And when such writ is applied for, notice thereof, and of  
14 the time and place of hearing thereon, shall be given to  
15 the public prosecuting officer of the county in which the  
16 arrest is made and in which the accused is in custody, and  
17 to the said agent of the demanding state.

Sect. 11. (Penalty for noncompliance with preceding  
2 section. Any officer who shall deliver to the agent for  
3 extradition of the demanding state a person in his cus-  
4 tody under the governor's warrant in disobedience to the  
5 last section shall be guilty of a misdemeanor, and on con-  
6 viction shall be fined (not more than one thousand dollars,  
7 or be imprisoned not more than six months, or both.)

Sect. 12. (Confinement in jail when necessary.) The  
2 officer or person executing the governor's warrant of ar-  
3 rest, or the agent of the demanding state to whom the  
4 prisoner may have been delivered, may when necessary  
5 confine the prisoner in the jail of any county or city through

6 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.

Sect. 13. (Arrest prior to requisition.) 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.

Sect. 14. (Arrest without a warrant.) The arrest of a person may be lawfully made also by an officer or a pri-

3 vate citizen without a warrant upon reasonable informa-  
4 tion that the accused stands charged with a crime punish-  
5 able by death or life imprisonment in the courts of another  
6 state; but when so arrested the accused must be taken be-  
7 fore a judge or magistrate with all practicable speed and  
8 complaint must be made against him under oath setting  
9 forth the ground for the arrest as in the last section; and  
10 thereafter his answer shall be heard as if he had been ar-  
11 rested on a warrant.

Sect. 15. (Commitment to await requisition: bail.) If  
2 from the examination before the judge or magistrate it  
3 appears that the person held is the person charged with  
4 having committed the crime alleged and that he probably  
5 committed the crime, and, except in cases arising under  
6 section six, that he has fled from justice, the judge or mag-  
7 istrate must commit him to jail by a warrant reciting the  
8 accusation for such a time specified in the warrant as will  
9 enable the arrest of the accused to be made under a war-  
10 rant of the governor on a requisition of the executive  
11 authority of the state having jurisdiction of the offense,  
12 unless the accused give bail as provided in the next section,  
13 or until he shall be legally discharged.

Sect. 16. (Bail except in capital and life imprisonment  
2 cases; condition and requisites of bond.) Unless the of-  
3 fense with which the prisoner is charged is shown to be  
4 an offense punishable by death or life imprisonment under  
5 the laws of the state in which it was committed, the judge

6 or magistrate must admit the person arrested to bail by  
7 bond or undertaking, with sufficient sureties, and in such  
8 sum as he deems proper, for his appearance before him  
9 at a time specified in such bond or undertaking, and for  
10 his surrender, to be arrested upon the warrant of the gov-  
11 ernor of this state.

Sect. 17. (If no arrest made on governor's warrant be-  
2 fore the time specified.) If the accused is not arrested un-  
3 der warrant of the governor by the expiration of the time  
4 specified in the warrant, bond, or undertaking, the judge or  
5 magistrate may discharge him or may recommit him to a  
6 further day, or may again take bail for his appearance and  
7 surrender, as provided in section sixteen; and at the ex-  
8 piration of the second period of commitment, or if he has  
9 been bailed and appeared according to the terms of his  
10 bond or undertaking, the judge or magistrate may either  
11 discharge him, or may require him to enter into a new  
12 bond or undertaking, to appear and surrender himself at  
13 another day.

Sect. 18. (Forfeiture of bail.) If the prisoner is ad-  
2 mitted to bail, and fails to appear and surrender himself  
3 according to the conditions of his bond, the court, by prop-  
4 er order, shall declare the bond forfeited; and recovery  
5 may be had thereon in the name of the state as in the case  
6 of other bonds or undertakings given by the accused in  
7 criminal proceedings within the state.

Sect. 19. (If a prosecution has already been instituted

2 in this state.) If a criminal prosecution has been instituted  
3 against such person under the laws of this state and is  
4 still pending, the governor at his discretion either may sur-  
5 render him on the demand of the executive authority of  
6 another state, or may hold him until he has been tried and  
7 discharged, or convicted and punished in this state.

Sect. 20. (Guilt or innocence of accused, when inquired  
2 into.) The guilt or innocence of the accused as to the  
3 crime of which he is charged may not be inquired into by  
4 the governor or in any proceeding after the demand for  
5 extradition accompanied by a charge of crime in legal form  
6 as above provided shall have been presented to the gover-  
7 nor, except as it may be involved in identifying the per-  
8 son held as the person charged with the crime.

Sect. 21. (Governor may recall warrant or issue alias.)  
2 The governor may recall his warrant of arrest, or may is-  
3 sue another warrant whenever he deems proper.

Sect. 22. (Fugitives from this state.) Whenever the  
2 governor of this state shall demand a person charged with  
3 crime in this state from the chief executive of any other  
4 state, or from the chief justice or an associate justice of  
5 the supreme court of the District of Columbia authorized  
6 to receive such demand under the laws of the United  
7 States, he shall issue a warrant under the seal of this state,  
8 to some agent, commanding him to receive the person so  
9 charged if delivered to him and convey him to the proper

10 officer of the county in this state in which the offense was  
11 committed.

Sect. 23. (Manner of applying for requisition.) When  
2 the return to this state of a person charged with crime  
3 in this state is required, the prosecuting attorney (of the  
4 county in which the offense was committed) shall present  
5 to the governor his written application for a requisition  
6 for the return of the person charged, in which application  
7 shall be stated the name of the person so charged, the crime  
8 charged against him, and the approximate time, place and  
9 circumstances of its committal, the state in which he is  
10 believed to be, including the location of the accused there-  
11 in at the time the application is made, and certifying that  
12 in the opinion of the said prosecuting attorney the ends  
13 of justice require the arrest and return of the accused to  
14 this state for trial, and that the proceeding is not institut-  
15 ed to enforce a private claim. The application shall be  
16 verified by affidavit, shall be executed in duplicate and shall  
17 be accompanied by two certified copies of the indictment  
18 returned, or information and affidavit filed, or of the com-  
19 plaint made to the magistrate, stating the offense with  
20 which the accused is charged. The prosecuting officer may  
21 also attach such further affidavits and other documents in  
22 duplicate as he shall deem proper to be submitted with such  
23 application. One copy of the application with the action  
24 of the governor indicated by endorsement thereon, and one  
25 of the certified copies of the indictment or complaint or in-

formation 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 gov-  
ernor's requisition.

Sect. 24 (Costs and expenses.) (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 gover-  
nor the requisition is made, and not exceeding .....  
cents a mile for all necessary travel in returning such  
prisoner.)

Sect. 25. (Exemption from civil process.) 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 crim-  
inal proceeding to answer which he is returned, until he  
has been convicted in the criminal proceeding, or if ac-  
quitted, until he has had ample opportunity to return to  
the state from which he was extradited.

Sect. 26. (No right of asylum.) After a person has  
been brought back to this state upon extradition proceed-  
ings, he may be tried in this state for other crimes which

4 he may be charged with having committed here, as well  
5 as that specified in the requisition for his extradition.

Sect. 27. (Interpretation.) This act shall be so in-  
2 terpreted and construed as to effectuate its general pur-  
3 pose to make uniform the law of those states which enact it.

Sect. 28. (Constitutionality.) If any part of this act  
2 is for any reason declared void, such invalidity shall not  
3 affect the validity of the remaining portions of this act.

Sect. 29. (Repeal.) All acts or parts of acts and ad-  
2 ministrative rules inconsistent with this act are hereby re-  
3 pealed.

Sect. 30. (Short title.) This act may be cited as the  
2 Uniform Criminal Extradition Act.