

UNIFORM CRIMINAL EXTRADITION ACT

Act 144 of 1937

AN ACT relative to and to make uniform the procedure on interstate extradition; to prescribe penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

History: 1937, Act 144, Eff. Oct. 29, 1937.

The People of the State of Michigan enact:

780.1 Uniform criminal extradition act; definitions.

Sec. 1. Definitions. Where appearing in this act, the term "governor" includes any person performing the functions of governor by authority of the law of this state. The term "executive authority" includes the governor, and any person performing the functions of governor in a state other than this state. The term "state," referring to a state other than this state, includes any other state or territory, organized or unorganized, of the United States of America.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.1.

Compiler's note: The catchlines following the act section numbers were incorporated as part of the act as enacted.

780.2 Fugitives from justice; duty of governor.

Sec. 2. Fugitives from justice; duty of governor. Subject to the provisions of this act, the provisions of the constitution of the United States controlling, and any and all acts of congress enacted 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 has fled from justice and is found in this state.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.2.

780.3 Form of demand.

Sec. 3. Form of demand. No demand for extradition of a person charged with a crime in another state shall be recognized by the governor unless in writing, accompanied by the following papers:

- (1) Governor's requisition under the seal of the state;
- (2) Prosecutor's application for requisition for the return of a person charged with crime, wherein shall be stated:
 - (a) The name of the person so charged;
 - (b) The nature of the crime;
 - (c) The approximate time, place and circumstances of its commission;
 - (d) That the accused was present in demanding state at the time of commission of alleged crime;
 - (e) That he thereafter fled from the state;
 - (f) The state in which he is believed to be, including the location of the accused therein, at the time the application is made; certifying that, in the opinion of the said prosecuting attorney, the ends of justice require the arrest and return of the accused to the demanding state for trial, and that the proceeding is not instituted to enforce a private claim;
- (3) Verification by affidavit of said application, which shall be accompanied by certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or magistrate, and the warrant issued thereupon, stating the offense with which the accused is charged, or of the judgment of conviction or of a sentence imposed in execution thereof, together with a statement by executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of his bail, probation or parole. Affidavits or documents as the prosecutor may deem proper may be submitted with such application;
- (4) Executive warrant, under the seal of the state, authorizing agent, therein named, to receive the person demanded;
- (5) The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state; and the copy of indictment, information, affidavit, judgment or conviction or sentence must be authenticated by the executive authority making the demand.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.3.

780.3a Extradition; persons not present in demanding state at time of commission of crime.

Sec. 3a. The governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state charged in such other state in the manner provided in section 3 with committing an act in this state, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand, and the provisions of this act not otherwise inconsistent shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom, and the requirements contained in subdivisions (d) and (e) of section 3 of this act shall not apply to such cases.

History: Add. 1939, Act 81, Eff. Sept. 29, 1939;—Am. 1947, Act 143, Imd. Eff. May 29, 1947;—CL 1948, 780.3a.

780.4 Investigation by governor.

Sec. 4. Governor may investigate case. When a demand shall be made upon the governor of this state by the executive authority of another state for the surrender of a person so charged with crime, the governor may call upon the attorney general or any prosecuting officer in this state to investigate or assist in investigating the demand, and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.4.

780.5 Extradition; persons imprisoned or awaiting trial in another state or who have left demanding state under compulsion.

Sec. 5. Extradition of persons imprisoned or awaiting trial in another state or who have left the demanding state under compulsion. When it is desired to have returned to this state a person charged in this state with a crime, and such person is imprisoned or is held under criminal proceedings then pending against him in another state, the governor of this state may agree with the executive authority of such other state for the extradition of such person before the conclusion of such proceedings or his term of sentence in such other state, upon condition that such person be returned to such other state at the expense of this state as soon as the prosecution in this state is terminated.

The governor of this state may also surrender on demand of the executive authority of any other state any person in this state who is charged in the manner provided in section 22 of this act with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.5.

780.6 Governor's warrant; issuance; recitation of facts; revocation of bail.

Sec. 6. If the governor decides that the demand should be complied with, he or she shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to any peace officer or other person who the governor determines is fit to entrust with the execution of the warrant. The warrant shall substantially recite the facts necessary to the validity of its issuance. If the person was released on bail, the court shall immediately revoke bail and shall not release the person on bail but shall detain the person subject only to habeas corpus review.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.6;—Am. 2002, Act 584, Eff. Jan. 1, 2003.

780.7 Governor's warrant; execution, manner and place.

Sec. 7. Manner and place of execution. Such warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where he may be found within the state and to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this act to the duly authorized agent of the demanding state.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.7.

780.8 Arresting officer; authority.

Sec. 8. Authority of arresting officer. Every such peace officer or other person empowered to make the arrest, shall have the same authority, in arresting the accused, to command assistance therein, as peace officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.8.

780.9 Rights of accused persons; writ of habeas corpus, application.

Sec. 9. Rights of accused person; application for writ of habeas corpus. No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him shall have

appointed to receive him unless he shall first be taken forthwith before a judge of a court of record in this state, who shall inform him of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand and procure legal counsel; and if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the judge of such court of record shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding state.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.9.

780.10 Violation of section; misdemeanor, penalty.

Sec. 10. Penalty for non-compliance with preceding section. Any officer who shall deliver to the agent for extradition of the demanding state a person in his custody under the governor's warrant, in wilful disobedience to the last section, shall be guilty of a misdemeanor and, on conviction, shall be fined, not more than 1,000 dollars or be imprisoned not more than 6 months or both.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.10.

780.11 Confinement in jail; necessary circumstances.

Sec. 11. Confinement in jail when necessary. The officer or persons executing the governor's warrant of arrest, or the agent of the demanding state to whom the prisoner may have been delivered, may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route, such officer or person being chargeable with the expense of keeping.

The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another state, or to whom a prisoner may have been delivered after waiving extradition in such other state, and who is passing through this state with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his route, such officer or agent, however, being chargeable with the expense of keeping: Provided, however, That such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that he is actually transporting such prisoner to the demanding state after a requisition by the executive authority of such demanding state. Such prisoner shall not be entitled to demand a new requisition while in this state.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.11.

780.12 Arrest prior to requisition.

Sec. 12. Arrest prior to requisition. Whenever any person within this state shall be charged on the oath of any credible person before any judge or magistrate of this state with the commission of any crime in any other state and, except in cases arising under section 3a, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, or whenever complaint shall have been made before any judge or 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, except in cases arising under section 3a, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, and is believed to be in this state, the judge or magistrate shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein, wherever he may be found in this state, and to bring him before the same or any other judge, magistrate or court who or which may be available in or 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.

History: 1937, Act 144, Eff. Oct. 29, 1937;—Am. 1939, Act 81, Eff. Sept. 29, 1939;—CL 1948, 780.12.

780.13 Arrest without warrant.

Sec. 13. Arrest without a warrant. The arrest of a person may be lawfully made also by any peace officer without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding 1 year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section; and thereafter his answer shall be

heard as if he had been arrested on a warrant.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.13.

780.14 Commitment to await requisition; bail.

Sec. 14. Commitment to await requisition; bail. If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged, and, except in cases arising under section 3a, that he has fled from justice, the judge or magistrate must, by a warrant reciting the accusation, commit him to the county jail for such a time not exceeding 30 days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused give bail as provided in the next section, or until he shall be legally discharged.

History: 1937, Act 144, Eff. Oct. 29, 1937;—Am. 1939, Act 81, Eff. Sept. 29, 1939;—CL 1948, 780.14.

780.15 Bail; type of cases; condition of bond.

Sec. 15. Unless the offense with which the prisoner is charged is shown to be an offense punishable by death, by life imprisonment, or by imprisonment for 20 years or more under the laws of the state in which it was committed or is for escaping from custody or confinement, a judge or magistrate in this state may admit the person arrested to bail by bond, with sufficient sureties, and in an amount that, after reviewing the person's criminal history, the judge or magistrate considers proper, conditioned for the person's appearance before the court at a time specified in the bond, and for the person's surrender, to be arrested upon the warrant of the governor of this state.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.15;—Am. 2002, Act 584, Eff. Jan. 1, 2003.

780.16 Discharge or recommitment of accused; additional periods; limitation.

Sec. 16. If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant or bond, a judge or magistrate may discharge the accused or may recommit the accused for additional periods not to exceed a total extension of 60 days, or a judge or magistrate may again take bail for the accused's appearance and surrender, as provided in section 15, but within a period not to exceed 60 days after the date of any new bond.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.16;—Am. 2002, Act 584, Eff. Jan. 1, 2003.

780.17 Forfeiture of bail.

Sec. 17. Forfeiture of bail. If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond, the judge, or magistrate by proper order, shall declare the bond forfeited and order his immediate arrest without warrant if he be within this state. Recovery may be had on such bond in the name of the state as in the case of other bonds given by the accused in criminal proceedings within this state.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.17.

780.18 Persons under criminal prosecution in state; applicability of restrictions on commitment.

Sec. 18. If a criminal prosecution has been instituted against a person under the laws of this state and is still pending, the governor may surrender the person on demand of the executive authority of another state or hold the person until he or she has been tried and discharged or convicted and punished in this state. If a criminal prosecution has been instituted under the laws of this state against a person charged under section 13, the restrictions on the length of commitment specified in sections 14 and 16 are not applicable during the period that the criminal prosecution is pending in this state.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.18;—Am. 2002, Act 584, Eff. Jan. 1, 2003.

780.19 Guilt or innocence of accused when inquired into.

Sec. 19. Guilt or innocence of the accused, when inquired into. The guilt or innocence of the accused as to the crime of which he is charged may not be inquired into by the governor or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as above provided shall have been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.19.

780.20 Governor's warrant; recall or issuance of another.

Sec. 20. Governor may recall warrant or issue alias. The governor may recall his warrant of arrest or may issue another warrant whenever he deems proper.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.20.

780.21 Fugitives from state; duty of governor.

Sec. 21. Fugitives from this state; duty of governor. Whenever the governor of this state shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in this state, from the executive authority of any other state, or from the chief justice or an associate justice of the supreme court of the District of Columbia authorized to receive such demand under the laws of the United States, he shall issue a warrant under the seal of this state, to some agent, commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the county in this state in which the offense was committed.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.21.

780.22 Application for issuance of requisition; contents.

Sec. 22. Application for issuance of requisition; by whom made; contents.

1. When the return to this state of a person charged with crime in this state is required, the prosecuting attorney shall present to the governor his written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him, the approximate time, place and circumstances of its commission, the state in which he is believed to be, including the location of the accused therein, at the time the application is made and certifying that, in the opinion of the said prosecuting attorney the ends of justice require the arrest and return of the accused to this state for trial and that the proceeding is not instituted to enforce a private claim.

2. When the return to this state is required of a person who has been convicted of a crime in this state and has escaped from confinement or broken the terms of his bail, probation or parole, the prosecuting attorney of the county in which the offense was committed, the parole board, or the warden of the institution or sheriff of the county, from which escape was made, shall present to the governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement or of the breach of the terms of his bail, probation or parole, the state in which he is believed to be, including the location of the person therein at the time application is made.

3. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by 2 certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or magistrate, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, parole board, warden or sheriff may also attach such further affidavits and other documents in duplicate as he or they shall deem proper to be submitted with such application. One copy of the application, with the action of the governor indicated by endorsement thereon, and 1 of the certified copies of the indictment, complaint, information, and affidavits, or of the judgment of conviction or of the sentence 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 governor's requisition.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.22.

Compiler's note: For transfer of powers and duties of Michigan parole and commutation board to Michigan parole board within department of corrections, and abolishment of Michigan parole and commutation board, see E.R.O. No. 2011-3, compiled at MCL 791.305.

780.23 Costs and expenses.

Sec. 23. In all extradition cases the expenses therefor 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 governor the requisition is made, and all other necessary and reasonable expenses in returning such prisoner.

History: 1937, Act 144, Eff. Oct. 29, 1937;—Am. 1947, Act 247, Imd. Eff. June 20, 1947;—CL 1948, 780.23.

780.23a Extradition costs; payment.

Sec. 23a. The court may order an individual who is extradited to this state for committing a crime and who is convicted of a crime to pay the actual and reasonable costs of that extradition, including, but not limited to, all of the following:

(a) Transportation costs.

(b) The salaries or wages of law enforcement and prosecution personnel, including overtime pay, for

processing the extradition and returning the individual to this state.

History: Add. 2002, Act 584, Eff. Jan. 1, 2003.

780.24 Immunity from service of process in certain civil actions.

Sec. 24. Immunity from service of process in certain civil actions. A person brought into this state by, or after waiver of, 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 criminal proceedings to answer which he is being or has been returned, until he has been convicted in the criminal proceeding, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.24.

780.25 Written waiver of extradition proceedings.

Sec. 25. Any person arrested in this state charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of his or her bail, probation, or parole may waive the issuance and service of the warrant provided for in sections 6 and 7 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record within this state a writing that states that he or she consents to return to the demanding state. However, before the waiver is executed or subscribed by the person, the judge shall inform the person of his or her rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in section 9.

When a person's consent has been duly executed, it shall promptly be forwarded to and filed in the office of the governor of this state. The judge shall direct the officer having the person in custody to promptly deliver the person to the accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to that agent or agents a copy of the person's consent.

If a waiver is executed, the judge shall remand the person to custody without bail. The order shall direct the officer having the person in custody to deliver the person to the duly authorized agent of the demanding state together with a copy of the order and the waiver.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.25;—Am. 2002, Act 584, Eff. Jan. 1, 2003.

780.25a Delivering individual to demanding state without governor's warrant.

Sec. 25a. Notwithstanding section 3, a law enforcement agency in this state holding an individual who is alleged to have broken the terms of his or her probation, parole, bail, or other release in the demanding state shall immediately deliver the individual to the authorized agent of the demanding state without the requirement of a governor's warrant if all of the following have occurred:

(a) The individual has signed a prior waiver of extradition as a term of his or her current probation, parole, bail, or other release in the demanding state.

(b) The law enforcement agency holding the individual has received a copy of the prior waiver of extradition signed by the individual and confirmed by the demanding agency.

(c) The law enforcement agency has received photographs, fingerprints, or other evidence that properly identify the individual who signed the waiver.

History: Add. 1994, Act 380, Imd. Eff. Dec. 27, 1994.

780.26 Non-waiver by state.

Sec. 26. Non-waiver by this state. Nothing in this act contained shall be deemed to constitute a waiver by this state of its right, power or privilege to try such demanded person for crime committed within this state, or of its right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within this state, nor shall any proceedings had under this act which result in, or fail to result in, extradition be deemed a waiver by this state of any of its rights, privileges or jurisdiction in any way whatsoever.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.26.

780.27 No right of asylum.

Sec. 27. No right of asylum. No immunity from other criminal prosecutions while in this state. After a person has been brought back to this state by, or after waiver of extradition proceedings, he may be tried in this state for other crimes which he may be charged with having committed here as well as that specified in the requisition for his extradition.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.27.

780.28 Interpretation of act.

Sec. 28. Interpretation. The provisions of this act shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those states which enact it.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.28.

780.31 Uniform criminal extradition act; short title.

Sec. 31. This act may be cited as the "uniform criminal extradition act".

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.31.

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