

1 IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST

2 HOUSE BILL NO. 248

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act to provide for the uniform rendition  
7 of prisoners as witnesses in criminal pro-  
8 ceedings; and providing for an effective  
9 date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 Section 1. DEFINITION. As used in this Act,

12 (1) "Witness" means a person who is confined in a penal  
13 institution in any state and whose testimony is desired in another  
14 state in any criminal proceeding or investigation by a grand jury  
15 or in any criminal action before a court.

16 (2) "Penal institution" includes a jail, prison, peni-  
17 tentiary, house of correction, or other place of penal detention.

18 (3) "State" includes any state of the United States,  
19 the District of Columbia, the Commonwealth of Puerto Rico, and any  
20 territory of the United States.

21 Sec. 2. SUMMONING OF WITNESSES IN THIS STATE TO TESTIFY IN  
22 ANOTHER STATE. A judge of a state court of record in another  
23 state, which by its laws has made provision for commanding persons  
24 confined in penal institutions within that state to attend and  
25 testify in this state, may certify (1) that there is a criminal  
26 proceeding or investigation by a grand jury or a criminal action  
27 pending in the court, (2) that a person who is confined in a penal  
28 institution in this state may be a material witness in the pro-  
29 ceeding investigation, or action, and (3) that his presence will

1 be required during a specified time. Upon presentation of the  
2 certificate to any judge having jurisdiction over the person con-  
3 fined, and upon notice to the Attorney General, the judge in this  
4 state shall fix a time and place for a hearing and shall make an  
5 order directed to the person having custody of the prisoner re-  
6 quiring that the prisoner be produced before him at the hearing.

7       Sec. 3. COURT ORDER. If at the hearing the judge determines  
8 (1) that the witness may be material and necessary, (2) that his  
9 attending and testifying are not adverse to the interests of this  
10 state or to the health or legal rights of the witness, (3) that  
11 the laws of the state in which he is requested to testify will give  
12 him protection from arrest and the service of civil and criminal  
13 process because of any act committed prior to his arrival in the  
14 state under the order, and (4) that as a practical matter the pos-  
15 sibility is negligible that the witness may be subject to arrest  
16 or to the service of civil or criminal process in any state through  
17 which he will be required to pass, the judge shall issue an order,  
18 with a copy of the certificate attached, (a) directing the witness  
19 to attend and testify, (b) directing the person having custody of  
20 the witness to produce him, in the court where the criminal action  
21 is pending, or where the grand jury investigation is pending, at  
22 a time and place specified in the order, and (c) prescribing such  
23 conditions as the judge shall determine.

24       Sec. 4. TERMS AN CONDITIONS. The order to the witness and  
25 to the person having custody of the witness shall provide for the  
26 return of the witness at the conclusion of his testimony, proper  
27 safeguards on his custody, and proper financial reimbursement or  
28 prepayment by the requesting jurisdiction for all expenses incurred  
29 in the production and return of the witness, and may prescribe such

1 other conditions as the judge thinks proper or necessary. The  
2 order shall not become effective until the judge of the state re-  
3 questing the witness enters an order directing compliance with the  
4 conditions prescribed.

5 Sec. 5. EXCEPTIONS. This Act does not apply to any person  
6 in this state confined as insane or mentally ill.

7 Sec. 6. PRISONER FROM ANOTHER STATE SUMMONED TO TESTIFY IN  
8 THIS STATE. If a person confined in a penal institution in any  
9 other state may be a material witness in a criminal action pending  
10 in a court of record or in a grand jury investigation in this  
11 state, a judge of the court may certify (1) that there is a crim-  
12 inal proceeding or investigation by a grand jury or a criminal  
13 action pending in the court, (2) that a person who is confined in  
14 a penal institution in the other state may be a material witness  
15 in the proceeding, investigation, or action, and (3) that his  
16 presence will be required during a specified time. The certificate  
17 shall be presented to a judge of a court of record in the other  
18 state having jurisdiction over the prisoner confined, and a notice  
19 shall be given to the Attorney General of the state in which the  
20 prisoner is confined.

21 Sec. 7. COMPLIANCE. The judge of the court in this state  
22 may enter an order directing compliance with the terms and condi-  
23 tions prescribed by the judge of the state in which the witness is  
24 confined.

25 Sec. 8. EXEMPTION FROM ARREST AND SERVICE OF PROCESS. If a  
26 witness from another state comes into or passes through this state  
27 under an order directing him to attend and testify in this or  
28 another state, he shall not while in this state pursuant to the  
29 order be subject to arrest or the service of process, civil or

1 criminal, because of any act committed prior to his arrival in  
2 this state under the order.

3       Sec. 9. UNIFORMITY OF INTERPRETATION. This Act shall be so  
4 construed as to effectuate its general purpose to make uniform the  
5 law of those states which enact it.

6       Sec. 10. SHORT TITLE. This Act may be cited as the "Uniform  
7 Rendition of Prisoners as Witnesses in Criminal Proceedings Act".

8       Sec. 11. SEVERABILITY CLAUSE. If any provision of this Act  
9 or the application thereof to any person or circumstance is held  
10 invalid, the invalidity shall not affect other provisions or appli-  
11 cations of the Act which can be given effect without the invalid  
12 provision or application, and to this end the provisions of this  
13 Act are severable.

14       Sec. 12. EFFECTIVE DATE. This Act shall take effect immed-  
15 ately upon its passage and approval or upon its becoming law  
16 without such approval.