

1 IN THE HOUSE

BY RULES COMMITTEE  
BY REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 322

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the extradition of  
7 persons charged with crime, and to make  
8 uniform the law with reference thereto;  
9 repealing Sections 66-25-1 through  
10 66-25-15, ACLA 1949; and providing for  
11 an effective date."

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

13 Section 1. DEFINITIONS. Where appearing in this Act:

14 a. "Governor", includes any person performing the func-  
15 tions of Governor by authority of the law of this state.

16 b. "Executive Authority", includes the Governor, and  
17 any person performing the functions of Governor in a state other  
18 than this state.

19 c. "State", referring to a state other than this state,  
20 includes any other state or territory, organized or unorganized,  
21 of the United States of America.

22 Sec. 2. FUGITIVES FROM OTHER STATES; DUTY OF GOVERNOR.

23 Subject to the provisions of this Act, the provisions of the Con-  
24 stitution of the United States controlling, and any and all acts  
25 of Congress enacted in pursuance thereof, it is the duty of the  
26 Governor of this state to have arrested and delivered up to the  
27 Executive Authority of any other state of the United States any  
28 person charged in that state with treason, felony, or other crime,  
29 who has fled from justice and is found in this state.

1           Sec. 3. FORM OF DEMAND: a. Where person is accused of  
2 crime in another state. b. Where a person has been convicted  
3 of crime in another state.

4           (1) No demand for the extradition of a person accused  
5 but not yet convicted of a crime in another state shall be re-  
6 cognized by the Governor of this state unless made in writing and  
7 containing the following:

8                   (a) An allegation that the accused was  
9 present in the demanding state at the time of the  
10 commission of the alleged crime and that thereafter  
11 he fled the demanding state; except that the allega-  
12 tion contained in this subparagraph (a) shall not be  
13 required in a proceeding based on Sec. 6 of this Act.

14                   (b) A copy of an indictment found or an  
15 information supported by affidavit in the state having  
16 jurisdiction of the crime or by a copy of a complaint,  
17 affidavit or other equivalent accusation made before  
18 a magistrate there. Said indictment, information, or  
19 complaint, affidavit or other equivalent accusation  
20 must substantially charge the person demanded with  
21 having committed a crime under the law of that state,  
22 and the said copy must be authenticated by the Executive  
23 Authority making the demand.

24           (2) No demand for the extradition of a person convicted  
25 of a crime in another state shall be recognized by the Governor of  
26 this state unless made in writing and containing the following:

27                   (a) A statement by the Executive Authority  
28 of the demanding state that the person claimed has es-  
29 caped from confinement or has broken the terms of bail,

1           probation or parole.

2                   (b) A copy of the judgment of conviction or  
3 of a sentence imposed in execution thereof. Said copy  
4 must be authenticated by the Executive Authority making  
5 the demand.

6           Sec. 4. INVESTIGATION OF DEMAND AND REPORT. When a demand  
7 shall be made upon the Governor of this state by the Executive  
8 Authority of another state for the surrender of a person so charg-  
9 ed with crime, the Governor may call upon the Attorney General or  
10 any prosecuting attorney in this state to investigate or assist  
11 in investigating the demand, and to report to him the situation  
12 and the circumstances of the person so demanded, and whether he  
18 ought to be surrendered.

14           Sec. 5. EXTRADITION OF PERSONS IMPRISONED OR AWAITING TRIAL  
15 IN ANOTHER STATE OR WHO HAVE LEFT THE DEMANDING STATE UNDER COM-  
16 PULSION. When it is desired to have returned to this state a  
17 person charged in this state with a crime, and such person is  
18 imprisoned or is held under criminal proceedings then pending  
19 against him in another state, the Governor of this state may agree  
20 with the Executive Authority of such other state for the extra-  
21 dition of such person before the conclusion of such proceedings  
22 or his term of sentence in such other state, upon condition that  
23 such person be returned to such other state at the expense of  
24 this state as soon as the prosecution in this state is terminated

25           The Governor of this state may also surrender on demand of  
26 the Executive Authority of any other state any person in this  
27 state who is charged in the manner provided in Sec. 23 of this  
28 Act with having violated the laws of the state whose Executive  
29 Authority is making the demand, even though such person left the

1 demanding state involuntarily.

2       Sec. 6. EXTRADITION OF PERSONS NOT PRESENT IN DEMANDING  
3 STATE AT TIME OF COMMISSION OF CRIME. The Governor of this state  
4 may also surrender, on demand of the Executive Authority of any  
5 other state, any person in this state charged in such other state  
6 in the manner provided in Sec. 3 with committing an act in this  
7 state, or in a third state, intentionally resulting in a crime  
8 in the state whose Executive Authority is making the demand, and  
9 the provisions of this Act not otherwise inconsistent, shall apply  
10 to such cases, even though the accused was not in that state at  
11 the time of the commission of the crime, and has not fled there-  
12 from.

13       Sec. 7. ISSUE OF GOVERNOR'S WARRANT OF ARREST; ITS RECITALS.  
14 If the Governor decides that the demand should be complied with,  
15 he shall sign a warrant of arrest, which shall be sealed with the  
16 state seal, and be directed to any peace officer or other person  
17 whom he may think fit to entrust with the execution thereof. The  
18 warrant must substantially recite the facts necessary to the vali-  
19 dity of its issuance.

20       Sec. 8. MANNER AND PLACE OF EXECUTION OF THE WARRANT. Such  
21 warrant shall authorize the peace officer or other person to whom  
22 directed to arrest the accused at any time and any place where he  
23 may be found within the state and to command the aid of all peace  
24 officers or other persons in the execution of the warrant, and to  
25 deliver the accused, subject to the provisions of this Act to the  
26 duly authorized agent of the demanding state.

27       Sec. 9. AUTHORITY OF ARRESTING OFFICER TO COMMAND ASSISTANCE.  
28 Every such officer or other person empowered to make the arrest,  
29 shall have the same authority, in arresting the accused, to

1 command assistance therein, as peace officers have by law in the  
2 execution of any criminal process directed to them, with like  
3 penalties against those who refuse their assistance.

4 Sec. 10. RIGHTS OF ACCUSED PERSON; APPLICATION FOR WRIT OF  
5 HABEAS CORPUS. No person arrested upon such warrant shall be  
6 delivered over to the agent whom the Executive Authority demand-  
7 ing him shall have appointed to receive him unless he shall first  
8 be taken forthwith before a judge of the Superior Court or a Dis-  
9 trict Magistrate of this state, who shall inform him of the de-  
10 mand made for his surrender and of the crime with which he is  
11 charged, and that he has the right to demand and procure legal  
12 counsel; and if the prisoner or his counsel shall state that  
13 he or they desire to test the legality of his arrest, the judge  
14 of such Superior Court or such District Magistrate shall fix a  
15 reasonable time to be allowed him within which to apply for a  
16 writ of habeas corpus. When such writ is applied for, notice  
17 thereof, and of the time and place of hearing thereon, shall be  
18 given to the prosecuting attorney of the judicial district in  
19 which the arrest is made and in which the accused is in custody,  
20 and to the said agent of the demanding state.

21 Sec. 11. PENALTY FOR NON-COMPLIANCE WITH PRECEDING SECTION.  
22 Any officer or other person who shall deliver to the agent for  
23 extradition of the demanding state a person in his custody under  
24 the Governor's warrant, in wilful disobedience to the last sec-  
25 tion, shall be guilty of a misdemeanor and, on conviction, shall  
26 be fined not more than ONE THOUSAND DOLLARS (\$1,000.00), or be  
27 imprisoned not more than six (6) months, or both.

28 Sec. 12. CONFINEMENT IN JAIL WHEN NECESSARY. a. The  
29 officer or person executing the Governor's warrant of arrest, or

1 the agent of the demanding state to whom the prisoner may have  
2 been delivered, may, when necessary, confine the prisoner in a  
3 jail in any political subdivision, judicial district or city of  
4 this state, through which he may pass; and the keeper of such  
5 jail must receive and safely keep the prisoner until the officer  
6 or person having charge of him is ready to proceed on his route,  
7 such officer or person being chargeable with the expense of keep-  
8 ing.

9 b. The officer or agent of a demanding state to whom  
10 a prisoner may have been delivered following extradition proceed-  
11 ings in another state, or to whom a prisoner may have been de-  
12 livered after waiving extradition in such other state, and who is  
13 passing through this state with such a prisoner for the purpose  
14 of immediately returning such prisoner to the demanding state may,  
15 when necessary, confine the prisoner in a jail in any political  
16 subdivision, judicial district or city of this state through which  
17 he may pass; and the keeper of such jail must receive and safely  
18 keep the prisoner until the officer or agent having charge of him  
19 is ready to proceed on his route, such officer or agent, however,  
20 being chargeable with the expense of keeping; provided, however,  
21 that such officer or agent shall produce and show to the keeper  
22 of such jail satisfactory written evidence of the fact that he is  
23 actually transporting such prisoner to the demanding state after  
24 a requisition by the Executive Authority of such demanding state.  
25 Such prisoner shall not be entitled to demand a new requisition  
26 while in this state.

27 Sec. 13. ARREST PRIOR TO REQUISITION. Whenever any person  
28 within this state shall be charged on the oath of any credible  
29 person before any judge of the Superior Court or District

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1 Magistrate of this state with the commission of any crime in any  
2 other state and, except in cases arising under Sec. 6, with having  
3 fled from justice, or with having been convicted of a crime in  
4 that state and having escaped from confinement, or having broken  
5 the terms of his bail, probation or parole, or whenever complaint  
6 shall have been made before any judge of the Superior Court or  
7 District Magistrate in this state setting forth on the affidavit  
8 of any credible person in another state that a crime has been  
9 committed in such other state and that the accused has been charg-  
10 ed in such state with the commission of the crime, and, except in  
11 cases arising under Sec. 6, has fled from justice, or with having  
12 been convicted of a crime in that state and having escaped from  
13 confinement, or having broken the terms of his bail, probation or  
14 parole and is believed to be in this state, the judge of the  
15 Superior Court or District Magistrate shall issue a warrant  
16 directed to any peace officer commanding him to apprehend the  
17 person named therein, wherever he may be found in this state, and  
18 to bring him before the same or any other judge of the Superior  
19 Court or District Magistrate, who may be available in or convenient  
20 of access to the place where the arrest may be made, to answer the  
21 charge or complaint and affidavit, and a certified copy of the  
22 sworn charge or complaint and affidavit upon which the warrant is  
23 issued shall be attached to the warrant.

24       Sec. 14. ARREST WITHOUT WARRANT. The arrest of a person  
25 may be lawfully made also by any peace officer or a private per-  
26 son, without a warrant upon reasonable information that the  
27 accused stands charged in the courts of another state with a crime  
28 punishable by death or imprisonment for a term exceeding one year,  
29 but when so arrested the accused must be taken before a Superior

1 Court judge or District Magistrate without unnecessary delay and,  
2 in any event, within twenty four hours after his arrest, including  
3 Sundays and holidays, and complaint must be made against him under  
4 oath setting forth the ground for the arrest as in the preceding  
5 section; and thereafter his answer shall be heard as if he had  
6 been arrested on a warrant.

7 Sec. 15. COMMITMENT TO AWAIT REQUISITION; BAIL. If from  
8 the examination before the Superior Court judge or District Magis-  
9 trate it appears that the person held is the person charged with  
10 having committed the crime alleged and, except in cases arising  
11 under Sec. 6, that he has fled from justice, the Superior Court  
12 judge or District Magistrate, must commit him to jail for such a  
13 time, not exceeding thirty days, as will enable the arrest of the  
14 accused to be made under a warrant of the Governor on a requisition  
15 of the Executive Authority of the state having jurisdiction  
16 of the offense, unless the accused give bail as provided in the  
17 next section, or until he shall be legally discharged. The com-  
18 mittment by the judge of the Superior Court or by the District  
19 Magistrate must be by a warrant which must recite the following:

- 20 a. the accusation against him;
- 21 b. the fact that the committment is for such time as  
22 will enable the arrest of the accused to be made under a warrant  
23 of the Governor of this state; and
- 24 c. that in any event the commitment shall be for a  
25 period not to exceed thirty days.

26 Sec. 16. BAIL. Unless the offense with which the prisoner  
27 is charged is shown to be an offense punishable by death under the  
28 laws of the state in which it was committed, a Superior Court  
29 judge or District Magistrate in this state must admit the person

1 arrested to bail by bond or undertaking, with sufficient sureties,  
2 and in such sum as he deems proper, conditioned for his appearance  
3 before him at a time specified in such bond or undertaking and for  
4 his surrender, to be arrested upon the warrant of the Governor of  
5 this state.

6 Sec. 17. EXTENSION OF TIME OF COMMITMENT; ADJOURNMENT. If  
7 the accused is not arrested under warrant of the Governor by the  
8 expiration of the time specified in the warrant, bond or under-  
9 taking, a judge of the Superior Court or District Magistrate may  
10 discharge him or may recommit him for a further period not to ex-  
11 ceed sixty days, or a judge of the Superior Court or District  
12 Magistrate may again take bail for his appearance and surrender,  
13 as provided in Sec. 16, but within a period not to exceed sixty  
14 days after the date of such new bond or undertaking.

15 Sec. 18. FORFEITURE OF BAIL. If the prisoner is admitted  
16 to bail, and fails to appear and surrender himself according to  
17 the conditions of his bond or undertaking the Superior Court judge  
18 or District Magistrate by proper order, shall declare the bond or  
19 undertaking forfeited, and order his immediate arrest if he be  
20 within this state. Recovery may be had on such bond or under-  
21 taking in the name of the state as in the case of other bonds or  
22 undertakings given by the accused in criminal proceedings within  
23 this state.

24 Sec. 19. PERSONS UNDER CRIMINAL PROSECUTION IN THIS STATE  
25 AT TIME OF REQUISITION. If a criminal prosecution has been in-  
26 stituted against such person under the laws of this state and is  
27 still pending, the Governor, in his discretion, either may sur-  
28 render him on demand of the Executive Authority of another state  
29 or may hold him until he has been tried and discharged, or

1 convicted and punished in this state.

2 Sec. 20. GUILT OR INNOCENCE OF ACCUSED, WHEN INQUIRED INTO.  
3 The guilt or innocence of the accused as to the crime of which he  
4 is charged may not be inquired into by the Governor or in any pro-  
5 ceeding after the demand for extradition, accompanied by a charge  
6 of crime in legal form as above provided shall have been presented  
7 to the Governor, except as it may be involved in identifying the  
8 person held as the person charged with the crime.

9 Sec. 21. GOVERNOR MAY RECALL WARRANT OR ISSUE ALIAS. The  
10 Governor may recall his warrant of arrest or may issue another  
11 warrant whenever he deems proper.

12 Sec. 22. FUGITIVES FROM THIS STATE; DUTY OF GOVERNORS.  
13 Whenever the Governor of this state shall demand a person charged  
14 with crime or with escaping from confinement or breaking the terms  
15 of his bail, probation or parole in this state, from the Executive  
16 Authority of any other state, or from a judge of the District  
17 Court of the United States for the District of Columbia authorized  
18 to receive such demand under the laws of the United States, he  
19 shall issue a warrant under the seal of this state, to some agent,  
20 commanding him to receive the person so charged if delivered to  
21 him and convey him to the proper officer of the judicial district  
22 in this state in which the offense was committed.

23 Sec. 23. APPLICATION FOR ISSUANCE OF REQUISITION; BY WHOM  
24 MADE; CONTENTS. a. When the return to this state of a person  
25 charged with a crime in this state is required, the prosecuting  
26 attorney of the judicial district in which the offense is com-  
27 mitted, or the attorney general, shall present to the Governor his  
28 written application for a requisition for the return of the person  
29 charged; in the application shall be stated the name of the person

1 so charged, the crime charged against him, the approximate time,  
2 place and circumstances of its commission, the state in which he  
3 is believed to be, including the location of the accused therein  
4 at the time the application is made, and certifying that in the  
5 opinion of the said prosecuting attorney, or the attorney general,  
6 the ends of justice require the arrest and return of the accused  
7 to this state for trial, and that the proceeding is not insti-  
8 tuted to enforce a private claim.

9 b. When the return to this state is required of a  
10 person who has been convicted of a crime in this state and has  
11 escaped from confinement or broken the terms of his bail, proba-  
12 tion or parole, the prosecuting attorney of the judicial district  
13 in which the offense was committed, or the attorney general, the  
14 parole or probation authority having jurisdiction over him, or  
15 the Commissioner of the Department of Health and Welfare, shall  
16 present to the Governor a written application for a requisition  
17 for the return of such person, in which application shall be stated  
18 the name of the person, the crime of which he was convicted, the  
19 circumstances of his escape from confinement or of the breach of  
20 the terms of his bail, probation or parole, the state in which he  
21 is believed to be, including the location of the person therein  
22 at the time the application is made.

23 c. The application shall be verified by affidavit,  
24 shall be executed in duplicate and shall be accompanied by two  
25 certified copies of the indictment returned, or information and  
26 affidavit filed, or of the complaint made to the Superior Court  
27 judge or District Magistrate, stating the offense with which the  
28 accused is charged, or of the judgment of conviction or of the  
29 sentence. The attorney general or the prosecuting attorney, the

1 parole or probation authority, or the Commissioner of the Depart-  
2 ment of Health and Welfare may also attach such further affidavits  
3 and other documents in duplicate as he shall deem proper to be  
4 submitted with such application. One copy of the application, with  
5 the action of the Governor indicated by endorsement thereon, and  
6 one of the certified copies of the indictment, complaint, informa-  
7 tion and affidavits, or of the judgment of conviction or of the  
8 sentence shall be filed in the office of the Governor to remain of  
9 record in that office. The other copies of all papers shall be  
10 forwarded with the Governor's requisition.

11 Sec. 24. IMMUNITY FROM SERVICE OF PROCESS IN CERTAIN CIVIL  
12 ACTIONS. A person brought into this state by, or after waiver of,  
13 extradition based on a criminal charge shall not be subject to  
14 service of personal process in civil actions arising out of the  
15 same facts as the criminal proceeding to answer which he is being  
16 or has been returned, until he has been convicted in the criminal  
17 proceeding, or, if acquitted, until he has had reasonable opportun-  
18 ity to return to the state from which he was extradited.

19 Sec. 25. WRITTEN WAIVER OF EXTRADITION PROCEEDINGS. a. Any  
20 person arrested in this state charged with having committed any  
21 crime in another state or alleged to have escaped from confinement,  
22 or broken the terms of his bail, probation or parole may waive the  
23 issuance and service of the warrant provided for in Secs. 7 and 8  
24 and all other procedure incidental to extradition proceedings, by  
25 executing or subscribing in the presence of any Superior Court  
26 judge or District Magistrate within this state a writing which  
27 states that he consents to return to the demanding state; pro-  
28 vided, however, that before such waiver shall be executed or sub-  
29 scribed by such person it shall be the duty of such judge or

1 District Magistrate to inform such person of his right to the  
2 issuance and service of a warrant of extradition and of his right  
3 to apply for a writ of habeas corpus as provided for in Sec. 10.

4 b. If and when such consent has been duly executed it  
5 shall forthwith be forwarded to the office of the Governor of this  
6 state and filed therein. The judge or District Magistrate shall  
7 direct that the officer having such person in custody to deliver  
8 forthwith such person to the duly accredited agent or agents of  
9 the demanding state, and shall deliver or cause to be delivered  
10 to such agent or agents a copy of such consent; provided, however,  
11 that nothing in this section shall be deemed to limit the rights  
12 of the accused person to return voluntarily and without formality  
13 to the demanding state, nor shall this waiver procedure be deemed  
14 to be an exclusive procedure or to limit the powers, rights or  
15 duties of the officers of the demanding state or of this state.

16 Sec. 26. NONWAIVER BY THIS STATE. Nothing in this Act con-  
17 tained shall be deemed to constitute a waiver by this state of  
18 its right, power or privilege to try such demanded person for  
19 crime committed within this state, or of its right, power or pri-  
20 vilege to regain custody of such person by extradition proceedings  
21 or otherwise for the purpose of trial, sentence or punishment for  
22 any crime committed within this state, nor shall any proceedings  
23 had under this Act which result in, or fail to result in, extradi-  
24 tion be deemed a waiver by this state of any of its rights, privi-  
25 leges or jurisdiction in any way whatsoever.

26 Sec. 27. NO RIGHT OF ASYLUM. NO IMMUNITY FROM OTHER CRIMINAL  
27 PROSECUTIONS WHILE IN THIS STATE. After a person has been brought  
28 back to this state through extradition proceedings, or after waiver  
29 of extradition proceedings by such person, he may be tried in

1 this state for other crimes which he may be charged with having  
2 committed here as well as that specified in the requisition for  
3 his extradition.

4 Sec. 28. INTERPRETATION. The provisions of this Act shall  
5 be so interpreted and construed as to effectuate its general pur-  
6 poses to make uniform the law of those states which enact it.

7 Sec. 29. SEVERABILITY. If any provision of this Act or the  
8 application thereof to any person or circumstances is held in-  
9 valid, such invalidity shall not affect other provision or appli-  
10 cations of the Act which can be given effect without the invalid  
11 provision or application, and to this end the provisions of this  
12 Act are declared to be severable.

13 Sec. 30. REPEAL. Sections 66-25-1 through 66-25-15, ACLA  
14 1949, are hereby repealed and all acts and parts of acts inconsis-  
15 tent with the provisions of this Act and not expressly repealed  
16 herein are hereby repealed.

17 Sec. 31. SHORT TITLE. This Act may be cited as the "Uniform  
18 Criminal Extradition Act."

19 Sec. 32. TIME OF TAKING EFFECT. This Act shall take effect  
20 on the day after its passage and approval or on the day it becomes  
21 law without approval.