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IN THE HOUSE

BY JUDICIARY COMMITTEE
BY REQUEST OF THE GOVERNOR

CS FOR HOUSE BILL NO. 322

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIRST LEGISLATURE - SECOND SESSION

A BILL

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

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

Section 1. DEFINITIONS. Where appearing in this Act:

a. "Governor", includes any person performing the functions of Governor by authority of the law of this state.

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

c. "State", referring to a state other than this state, includes any other state or possession of the United States of America.

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

Subject to the provisions of this Act, it is the duty of the Governor of this state to have arrested and delivered up to the Executive Authority of any other state any person charged in that state with treason, felony, or other crime, which is in accord with the expressed public policy of Alaska, who has fled from justice and is found in this state.

Sec. 3. FORM OF DEMAND. (1) No demand for the extradition

1 of a person accused but not yet convicted of a crime in another
2 state shall be recognized by the Governor of this state unless
3 made in writing and containing the following:

4 (a) An allegation that the accused was present in the
5 demanding state at the time of the commission of the alleged
6 crime and that thereafter he fled the demanding state; except that
7 the allegation contained in this subparagraph (1) shall not be
8 required in a proceeding based on Sec. 6 of this Act.

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

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

20 (a) A statement by the Executive Authority of the
21 demanding state that the person claimed has escaped from confine-
22 ment or has broken the terms of bail, probation or parole.

23 (b) A copy of the judgment of conviction or of a
24 sentence imposed in execution thereof. Said copy must be authen-
25 ticated by the Executive Authority making the demand.

26 Sec. 4. INVESTIGATION OF DEMAND AND REPORT. When a demand
27 shall be made upon the Governor of this state by the Executive
28 Authority of another state for the surrender of a person so charged
29 with crime, the Governor shall investigate the demand.

1 Sec. 5. EXTRADITION OF PERSONS IMPRISONED OR AWAITING TRIAL
2 IN ANOTHER STATE OR WHO HAVE LEFT THE DEMANDING STATE UNDER COM-
3 PULSION. When it is desired to have returned to this state a
4 person charged in this state with a crime, and such person is
5 imprisoned or is held under criminal proceedings then pending
6 against him in another state, the Governor of this state may agree
7 with the Executive Authority of such other state for the extra-
8 dition of such person before the conclusion of such proceedings
9 or his term of sentence in such other state, upon condition that
10 such person be returned to such other state at the expense of this
11 state as soon as the prosecution in this state is terminated.

12 The Governor of this state may also surrender on demand of
13 the Executive Authority of any other state any person in this
14 state who is charged in the manner provided in Sec. 23 of this
15 Act with having violated the laws of the state whose Executive
16 Authority is making the demand, even though such person left the
17 demanding state involuntarily.

18 Sec. 6. EXTRADITION OF PERSONS NOT PRESENT IN DEMANDING
19 STATE AT TIME OF COMMISSION OF CRIME. The Governor of this state
20 may also surrender, on demand of the Executive Authority of any
21 other state, any person in this state charged in such other state
22 in the manner provided in Sec. 3 with committing an act in this
23 state, or in a third state, intentionally resulting in a crime
24 in the state whose Executive Authority is making the demand, and
25 the provisions of this Act not otherwise inconsistent, shall apply
26 to such cases, even though the accused was not in that state at
27 the time of the commission of the crime, and has not fled there-
28 from.

29 Sec. 7. ISSUE OF GOVERNOR'S WARRANT OF ARREST; ITS RECITALS.

1 If the Governor decides that the demand should be complied with,
2 he shall sign a warrant of arrest, which shall be sealed with the
3 state seal, and be directed to any peace officer or other person
4 whom he may think fit to entrust with the execution thereof. The
5 warrant must substantially recite the facts necessary to the
6 validity of its issuance.

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

14 Sec. 9. AUTHORITY OF ARRESTING OFFICER TO COMMAND ASSISTANCE.
15 Every such officer or other person empowered to make the arrest,
16 shall have the same authority, in arresting the accused, to
17 command assistance therein, as peace officers have by law in the
18 execution of any criminal process directed to them, with like
19 penalties against those who refuse their assistance.

20 Sec. 10. RIGHTS OF ACCUSED PERSON; APPLICATION FOR WRIT OF
21 HABEAS CORPUS. No person arrested upon such warrant shall be
22 delivered over to the agent whom the Executive Authority demanding
23 him shall have appointed to receive him unless he shall first be
24 taken forthwith before a judge of the Superior Court or a District
25 Magistrate of this state, who shall inform him of the demand made
26 for his surrender and of the crime with which he is charged, and
27 that he has the right to demand and procure legal counsel; and if
28 the prisoner or his counsel shall state that he or they desire to
29 test the legality of his arrest, the judge of such Superior Court

1 or such District Magistrate shall fix a reasonable time to be
2 allowed him within which to apply for a writ of habeas corpus.
3 When such writ is applied for, notice thereof, and of the time and
4 place of hearing thereon, shall be given to the prosecuting
5 attorney of the judicial district in which the arrest is made and
6 in which the accused is in custody, and to the said agent of the
7 demanding state.

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

15 Sec. 12. CONFINEMENT IN JAIL WHEN NECESSARY. a. The officer
16 or person executing the Governor's warrant of arrest, or the agent
17 of the demanding state to whom the prisoner may have been
18 delivered, may, when necessary, confine the prisoner in a jail
19 in any political subdivision, judicial district or city of this
20 state, through which he may pass; and the keeper of such jail must
21 receive and safely keep the prisoner until the officer or person
22 having charge of him is ready to proceed on his route, such
23 officer or person being chargeable with the expense of keeping.

24 b. The officer or agent of a demanding state to whom a
25 prisoner may have been delivered following extradition proceedings
26 in another state, or to whom a prisoner may have been delivered
27 after waiving extradition in such other state, and who is passing
28 through this state with such a prisoner for the purpose of
29 immediately returning such prisoner to the demanding state may,

1 when necessary, confine the prisoner in a jail in any political
2 subdivision, judicial district or city of this state through which
3 he may pass; and the keeper of such jail must receive and safely
4 keep the prisoner until the officer or agent having charge of him
5 is ready to proceed on his route, such officer or agent, however,
6 being chargeable with the expense of keeping; provided, however,
7 that such officer or agent shall produce and show to the keeper
8 of such jail satisfactory written evidence of the fact that he is
9 actually transporting such prisoner to the demanding state after
10 a requisition by the Executive Authority of such demanding state.
11 Such prisoner shall not be entitled to demand a new requisition
12 while in this state.

13 Sec. 13. ARREST PRIOR TO REQUISITION. Whenever any person
14 within this state shall be charged on the oath of any credible
15 person before any judge of the Superior Court or District Magis-
16 trate of this state with the commission of any crime in any other
17 state and, except in cases arising under Sec. 6, with having fled
18 from justice, or with having been convicted of a crime in that
19 state and having escaped from confinement, or having broken the
20 terms of his bail, probation or parole, or whenever complaint shall
21 have been made before any judge of the Superior Court or District
22 Magistrate in this state setting forth on the affidavit of any
23 credible person in another state that a crime has been committed
24 in such other state and that the accused has been charged in such
25 state with the commission of the crime, and, except in cases
26 arising under Sec. 6, has fled from justice, or with having been
27 convicted of a crime in that state and having escaped from confine-
28 ment, or having broken the terms of his bail, probation or parole
29 and is believed to be in this state, the judge of the Superior

1 Court or District Magistrate shall issue a warrant directed to
2 any peace officer commanding him to apprehend the person named
3 therein, wherever he may be found in this state, and to bring him
4 before the same or any other judge of the Superior Court or
5 District Magistrate, who may be available in or convenient of
6 access to the place where the arrest may be made, to answer the
7 charge or complaint and affidavit, and a certified copy of the
8 sworn charge or complaint and affidavit upon which the warrant is
9 issued shall be attached to the warrant.

10 Sec. 14. ARREST WITHOUT WARRANT. The arrest of a person
11 may be lawfully made also by any peace officer or a private person,
12 without a warrant upon reasonable information that the accused
13 stands charged in the courts of another state with a crime punish-
14 able by death or imprisonment for a term exceeding one year, but
15 when so arrested the accused must be taken before a Superior Court
16 judge or District Magistrate without unnecessary delay and, in
17 any event, within twenty four hours after his arrest, including
18 Sundays and holidays, and complaint must be made against him under
19 oath setting forth the ground for the arrest as in the preceding
20 section; and thereafter his answer shall be heard as if he had
21 been arrested on a warrant.

22 Sec. 15. COMMITMENT TO AWAIT REQUISITION; BAIL. If from
23 the examination before the Superior Court judge or District Magis-
24 trate it appears that the person held is the person charged with
25 having committed the crime alleged and, except in cases arising
26 under Sec. 6, that he has fled from justice, the Superior Court
27 judge or District Magistrate, must commit him to jail for such a
28 time, not exceeding thirty days, as will enable the arrest of the
29 accused to be made under a warrant of the Governor on a requisition

1 of the Executive Authority of the state having jurisdiction of
2 the offense, unless the accused give bail as provided in the next
3 section, or until he shall be legally discharged. The commitment
4 by the judge of the Superior Court or by the District Magistrate
5 must be by a warrant which must recite the following:

6 a. the accusation against him;

7 b. the fact that the commitment is for such time as
8 will enable the arrest of the accused to be made under a warrant
9 of the Governor of this state; and

10 c. that in any event the commitment shall be for a
11 period not to exceed thirty days.

12 Sec. 16. BAIL. A Superior Court judge or District Magis-
13 trate in this state must admit the person arrested to bail by
14 bond or undertaking, with sufficient sureties, and in such sum
15 as he deems proper, conditioned for his appearance before him
16 at a time specified in such bond or undertaking and for his
17 surrender, to be arrested upon the warrant of the Governor of
18 this state.

19 Sec. 17. DISCHARGE OF ACCUSED. If the accused is not
20 arrested under warrant of the Governor by the expiration of the
21 time specified in the warrant, bond or undertaking, a judge of
22 the Superior Court or District Magistrate shall discharge him.

23 Sec. 18. FORFEITURE OF BAIL. If the prisoner is admitted
24 to bail, and fails to appear and surrender himself according
25 to the conditions of his bond or undertaking the Superior Court
26 judge or District Magistrate by proper order, shall declare
27 the bond or undertaking forfeited, and order his immediate arrest
28 if he be within this state. Recovery may be had on such bond
29 or undertaking in the name of the state as in the case of other

1 bonds or undertakings given by the accused in criminal proceedings
2 within this state.

3 Sec. 19. PERSONS UNDER CRIMINAL PROSECUTION IN THIS STATE
4 AT TIME OF REQUISITION. If a criminal prosecution has been
5 instituted against such person under the laws of this state and
6 is still pending, the Governor, in his discretion, either may
7 surrender him on demand of the Executive Authority of another
8 state or may hold him until he has been tried and discharged, or
9 convicted and punished in this state.

10 Sec. 20. GUILT OR INNOCENCE OF ACCUSED; WHEN INQUIRED INTO.
11 The guilt or innocence of the accused as to the crime of which he
12 is charged may not be inquired into by the Governor except where
13 the crime charged is not contrary to the expressed public policy
14 of Alaska or in any proceeding after the demand for extradition,
15 accompanied by a charge of crime in legal form as above provided
16 shall have been presented to the Governor, except as it may be
17 involved in identifying the person held as the person charged
18 with the crime.

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

22 Sec. 22. FUGITIVES FROM THIS STATE; DUTY OF GOVERNORS.
23 Whenever the Governor of this state shall demand a person charged
24 with crime or with escaping from confinement or breaking the terms
25 of his bail, probation or parole in this state, from the Executive
26 Authority of any other state, or from a judge of the District
27 Court of the United States for the District of Columbia authorized
28 to receive such demand under the laws of the United States, he
29 shall issue a warrant under the seal of this state, to some agent,

1 commanding him to receive the person so charged if delivered to
2 him and convey him to the proper officer of the judicial district
3 in this state in which the offense was committed.

4 Sec. 23. APPLICATION FOR ISSUANCE OF REQUISITION; BY WHOM
5 MADE; CONTENTS. a. When the return to this state of a person
6 charged with a crime in this state is required, the prosecuting
7 attorney of the judicial district in which the offense is
8 committed, or the attorney general, shall present to the Governor
9 his written application for a requisition for the return of the
10 person charged; in the application shall be stated the name of the
11 person so charged, the crime charged against him, the approximate
12 time, place and circumstances of its commission, the state in
13 which he is believed to be, including the location of the accused
14 therein at the time the application is made, and certifying that
15 in the opinion of the said prosecuting attorney, or the attorney
16 general, the ends of justice require the arrest and return of the
17 accused to this state for trial, and that the proceeding is not
18 instituted to enforce a private claim.

19 b. When the return to this state is required of a person
20 who has been convicted of a crime in this state and has escaped
21 from confinement or broken the terms of his bail, probation or
22 parole, the prosecuting attorney of the judicial district in which
23 the offense was committed, or the attorney general, the parole
24 or probation authority having jurisdiction over him, or the
25 Commissioner of the Department of Health and Welfare, shall present
26 to the Governor a written application for a requisition for the
27 return of such person, in which application shall be stated the
28 name of the person, the crime for which he was convicted, the
29 circumstances of his escape from confinement or of the breach of
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1 the terms of his bail, probation or parole, the state in which he
2 is believed to be, including the location of the person therein
3 at the time the application is made.

4 c. The application shall be verified by affidavit, shall be
5 executed in duplicate and shall be accompanied by two certified
6 copies of the indictment returned, or information and affidavit
7 filed, or of the complaint made to the Superior Court judge or
8 District Magistrate, stating the offense with which the accused
9 is charged, or of the judgment of conviction or of the sentence.
10 The attorney general or the prosecuting attorney, the parole or
11 probation authority, or the Commissioner of the Department of
12 Health and Welfare may also attach such further affidavits and
13 other documents in duplicate as he shall deem proper to be sub-
14 mitted with such application. One copy of the application, with
15 the action of the Governor indicated by endorsement thereon, and
16 one of the certified copies of the indictment, complaint, informa-
17 tion and affidavits, or of the judgment of conviction or of the
18 sentence shall be filed in the office of the Governor to remain of
19 record in that office. The other copies of all papers shall be
20 forwarded with the Governor's requisition.

21 Sec. 24. IMMUNITY FROM SERVICE OF PROCESS IN CERTAIN CIVIL
22 ACTIONS. A person brought into this state by, or after waiver of,
23 extradition based on a criminal charge shall not be subject to
24 service of personal process in civil actions arising out of the
25 same facts as the criminal proceeding to answer which he is being
26 or has been returned, until he has been convicted in the criminal
27 proceeding, or, if acquitted, until he has had reasonable opportu-
28 nity to return to the state from which he was extradited.

29 Sec. 25. WRITTEN WAIVER OF EXTRADITION PROCEEDINGS. a. Any
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1 person arrested in this state charged with having committed any
2 crime in another state or alleged to have escaped from confinement
3 or broken the terms of his bail, probation or parole may waive the
4 issuance and service of the warrant provided for in Secs. 7 and 8
5 and all other procedure incidental to extradition proceedings, by
6 executing or subscribing in the presence of any Superior Court
7 judge or District Magistrate within this state a writing which
8 states that he consents to return to the demanding state; provided
9 however, that before such waiver shall be executed or subscribed
10 by such person it shall be the duty of such judge or District
11 Magistrate to inform such person of his right to the issuance and
12 service of a warrant of extradition and of his right to apply
13 for a writ of habeas corpus as provided for in Sec. 10.

14 b. If and when such consent has been duly executed it shall
15 forthwith be forwarded to the office of the Governor of this state
16 and filed therein. The judge or District Magistrate shall direct
17 that the officer having such person in custody to deliver forth-
18 with such person to the duly accredited agent or agents of the
19 demanding state, and shall deliver or cause to be delivered to
20 such agent or agents a copy of such consent; provided, however,
21 that nothing in this section shall be deemed to limit the rights
22 of the accused person to return voluntarily and without formality
23 to the demanding state, nor shall this waiver procedure be deemed
24 to be an exclusive procedure or to limit the powers, rights or
25 duties of the officers of the demanding state or of this state.

26 Sec. 26. NONWAIVER BY THIS STATE. Nothing in this Act
27 contained shall be deemed to constitute a waiver by this state of
28 its right, power or privilege to try such demanded person for
29 crime committed within this state, or of its right, power or

1 privilege to regain custody of such person by extradition proceed-
2 ings or otherwise for the purpose of trial, sentence or punishment
3 for any crime committed within this state, nor shall any proceed-
4 ings had under this Act which result in, or fail to result in,
5 extradition be deemed a waiver by this state of any of its rights,
6 privileges or jurisdiction in any way whatsoever.

7 Sec. 27. NO RIGHT OF ASYLUM; NO IMMUNITY FROM OTHER CRIMINAL
8 PROSECUTIONS WHILE IN THIS STATE. After a person has been brought
9 back to this state through extradition proceedings, or after
10 waiver of extradition proceedings by such person, he may be tried
11 in this state for other crimes which he may be charged with having
12 committed here as well as that specified in the requisition for
13 his extradition.

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

17 Sec. 29. REPEAL. Sections 66-25-1 through 66-25-15, ACLA
18 1949, are hereby repealed and all Acts and parts of Acts incon-
19 sistent with the provisions of this Act and not expressly repealed
20 herein are hereby repealed.

21 Sec. 30. SHORT TITLE. This Act may be cited as the "uniform
22 Criminal Extradition Act."

23 Sec. 31. EFFECTIVE DATE. This Act takes effect on the day
24 after its passage and approval or on the day it becomes law without
25 such approval.

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