

1 IN THE HOUSE

BY JUDICIARY COMMITTEE  
BY REQUEST OF THE GOVERNOR

2 CS FOR 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 per-  
7 sons charged with crime, and to make uniform  
8 the law with reference thereto; repealing  
9 Sections 66-25-1 through 66-25-15, ACLA 1949;  
10 and providing for an effective date."

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

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

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

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

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

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

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

29 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) (a) 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 will  
8 enable the arrest of the accused to be made under a warrant of the  
9 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. Unless the offense with which the prisoner  
13 is charged is shown to be an offense punishable by death under  
14 the laws of the state in which it was committed, a Superior Court  
15 judge or District Magistrate in this state must admit the person  
16 arrested to bail by bond or undertaking, with sufficient sureties,  
17 and in such sum as he deems proper, conditioned for his appearance  
18 before him at a time specified in such bond or undertaking and for  
19 his surrender, to be arrested upon the warrant of the Governor of  
20 this state.

21 Sec. 17. EXTENSION OF TIME OF COMMITMENT; ADJOURNMENT. If  
22 the accused is not arrested under warrant of the Governor by the  
23 expiration of the time specified in the warrant, bond or under-  
24 taking, a judge of the Superior Court or District Magistrate may  
25 discharge him or may recommit him for a further period not to  
26 exceed sixty days, or a judge of the Superior Court or District  
27 Magistrate may again take bail for his appearance and surrender,  
28 as provided in Sec. 16, but within a period not to exceed sixty  
29 days after the date of such new bond or undertaking.

1           Sec. 18. FORFEITURE OF BAIL. If the prisoner is admitted  
2 to bail, and fails to appear and surrender himself according  
3 to the conditions of his bond or undertaking the Superior Court  
4 judge or District Magistrate by proper order, shall declare  
5 the bond or undertaking forfeited, and order his immediate arrest  
6 if he be within this state. Recovery may be had on such bond  
7 or undertaking in the name of the state as in the case of other  
8 bonds or undertakings given by the accused in criminal proceedings  
9 within this state.

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

17           Sec. 20. GUILT OR INNOCENCE OF ACCUSED; WHEN INQUIRED INTO.  
18 The guilt or innocence of the accused as to the crime of which he  
19 is charged may not be inquired into by the Governor in any proceed-  
20 ing after the demand for extradition, accompanied by a charge of  
21 crime in legal form as above provided shall have been presented to  
22 the Governor, except as it may be involved in identifying the per-  
23 son held as the person charged with the crime.

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

27           Sec. 22. FUGITIVES FROM THIS STATE; DUTY OF GOVERNORS.  
28 Whenever the Governor of this state shall demand a person charged  
29 with crime or with escaping from confinement or breaking the terms

1 of his bail, probation or parole in this state, from the Executive  
2 Authority of any other state, or from a judge of the District  
3 Court of the United States for the District of Columbia authorized  
4 to receive such demand under the laws of the United States, he  
5 shall issue a warrant under the seal of this state, to some agent,  
6 commanding him to receive the person so charged if delivered to  
7 him and convey him to the proper officer of the judicial district  
8 in this state in which the offense was committed.

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

24       b. When the return to this state is required of a person  
25 who has been convicted of a crime in this state and has escaped  
26 from confinement or broken the terms of his bail, probation or  
27 parole, the prosecuting attorney of the judicial district in which  
28 the offense was committed, or the attorney general, the parole  
29 or probation authority having jurisdiction over him, or the

1 Commissioner of the Department of Health and Welfare, shall present  
2 to the Governor a written application for a requisition for the  
3 return of such person, in which application shall be stated the  
4 name of the person, the crime for which he was convicted, the  
5 circumstances of his escape from confinement or of the breach of  
6 the terms of his bail, probation or parole, the state in which he  
7 is believed to be, including the location of the person therein  
8 at the time the application is made.

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

26 Sec. 24. IMMUNITY FROM SERVICE OF PROCESS IN CERTAIN CIVIL  
27 ACTIONS. A person brought into this state by, or after waiver of,  
28 extradition based on a criminal charge shall not be subject to  
29 service of personal process in civil actions arising out of the

1 same facts as the criminal proceeding to answer which he is being  
2 or has been returned, until he has been convicted in the criminal  
3 proceeding, or, if acquitted, until he has had reasonable opportu-  
4 nity to return to the state from which he was extradited.

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

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

1 duties of the officers of the demanding state or of this state.

2 Sec. 26. NONWAIVER BY THIS STATE. Nothing in this Act  
3 contained shall be deemed to constitute a waiver by this state of  
4 its right, power or privilege to try such demanded person for  
5 crime committed within this state, or of its right, power or  
6 privilege to regain custody of such person by extradition proceed-  
7 ings or otherwise for the purpose of trial, sentence or punishment  
8 for any crime committed within this state, nor shall any proceed-  
9 ings had under this Act which result in, or fail to result in,  
10 extradition be deemed a waiver by this state of any of its rights,  
11 privileges or jurisdiction in any way whatsoever.

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

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

22 Sec. 29. REPEAL. Sections 66-25-1 through 66-25-15, ACLA  
23 1949, are hereby repealed and all Acts and parts of Acts incon-  
24 sistent with the provisions of this Act and not expressly repealed  
25 herein are hereby repealed.

26 Sec. 30. SHORT TITLE. This Act may be cited as the "Uniform  
27 Criminal Extradition Act."

28 Sec. 31. EFFECTIVE DATE. This Act takes effect on the day  
29 after its passage and approval or on the day it becomes law without

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

such approval.

SENATE AMENDMENTS TO CS FOR HB NO. 322, AS AMENDED  
(Adopted March 19, 1960)

- Page 1, line 23: After the comma, insert the following:  
"the provisions of the Constitution of the United States controlling, and any and all acts of Congress enacted in pursuance thereof,"
- Page 1, line 26: Delete the clause:  
"which is in accord with the expressed public policy of Alaska,"
- Page 2, line 7: After the numeral (1) insert the following:  
"(a)"
- Page 8, line 12: Place the article "A" in lower case and precede it with the following:  
"Unless the offense with which the prisoner is charged is shown to be an offense punishable by death under the laws of the state in which it was committed,"
- Page 8, line 19: Delete the entire section and substitute the following:  
"Sec. 17. EXTENSION OF TIME OF COMMITMENT; ADJOURNMENT. If the accused is not arrested under warrant of the Governor by the expiration of the time specified in the warrant, bond or undertaking, a judge of the Superior Court or District Magistrate may discharge him or may recommit him for a further period not to exceed sixty days, or a judge of the Superior Court or District Magistrate may again take bail for his appearance and surrender, as provided in Sec. 16, but within a period not to exceed sixty days after the date of such new bond or undertaking."
- Page 9, line 12: After the word "Governor" delete the clause:  
"except where the crime charged is not contrary to the expressed public policy of Alaska or"