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COURT SECURITY AND THE TRANSPORTATION OF PRISONERS: A NATIONAL STUDY



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and

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VOLUME TWO

National Sheriffs' Association
1450 Duke Street, Suite 204
Alexandria, Virginia 22314-3490

October 1995

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This publication is dedicated to the many loyal men and women who staff our nation's courts, jails, law enforcement and criminal justice agencies.

Editor's Note: The words "he," "him," "his," "man," and "men," when used in this publication, represent both the masculine and feminine genders, unless otherwise specifically stated. The words "jail," "detention center" and "correctional facility" are used interchangeably throughout this book. Similarly, the words "jail officer," "deputy" and "correctional officer" are used interchangeably. The words "court security officer," "bailiff," "constable," "court service deputy" and "security officer" may be used interchangeably.

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FOREWORD

The National Sheriffs' Association (NSA) has prepared this publication, *Court Security and the Transportation of Prisoners: A National Study*, with support from the United States Department of Justice, National Institute of Justice.

This study continues the work which NSA began in 1978 with its publication of two documents: *Court Security -- A Manual of Guidelines and Procedures*, and *Court Security -- Training Guidelines*. In 1991, NSA continued its efforts in this important area with the publication of *Court Security Training Guidelines and Curricula*.

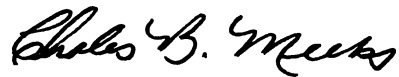
The sharp rise in acts of violence in the courts, used as a means of expressing dissent, has caused us to re-evaluate our methods of safeguarding the judicial process and the transportation of prisoners. Attacks on the courts have ranged from minor disturbances and physical assaults to senseless acts of murder, injuries and mass destruction. Many bailiffs, constables, deputy sheriffs/officers, marshals and others charged with court security and the transportation of prisoners are in some cases not fully prepared to meet this new and emerging challenge.

Regardless of past experience, there is no assurance that violence will not happen in our courts - the potential is there. No area has the right to believe it is immune to violence by virtue of geographic location. All criminal justice officials who are responsible for protection of the judicial process should implement basic practical procedures to provide a reasonable level of security for courts and the transportation of prisoners in their jurisdictions.

Providing court security and the transportation of prisoners is a responsibility most often shared by the judiciary, law enforcement agencies, other criminal justice components and private security service agencies. We must all work together to ensure that justice can be administered in an environment free from the threat of danger.

I am confident our bailiffs, constables, deputy sheriffs/officers, marshals, and others charged with court security and the transportation of prisoners will find this publication a useful resource. This publication presents viable courses of action and is intended to help the total criminal justice community protect its courthouses and judicial systems.

The National Sheriffs' Association is proud to have taken the lead in the field of court security and the transportation of prisoners.

A handwritten signature in cursive script that reads "Charles B. Meeks".

Charles B. Meeks
Executive Director
National Sheriffs' Association
October 1995

ACKNOWLEDGEMENTS

Court Security and the Transportation of Prisoners: A National Study, is the product of several contributors, without whom this work would not have been completed.

First, special recognition must be given to Bonnie Gowdy, our project monitor from the U.S. Department of Justice, National Institute of Justice (NIJ). Dr. Gowdy, who oversees corrections and criminal sanction projects in NIJ's Criminal Justice Section, generously helped guide the project from the outset, offering support and invaluable suggestions regarding the direction the research should take. We are especially grateful for her help in developing the format in this book for the final presentation of research findings, as well as her encouragement to us to "keep on going" when we became discouraged at the massive amount of work still to be completed. For us, Dr. Gowdy has been much more than a project monitor--she has served as a true friend.

We are also grateful for the help provided to us by Carole Knapel, NIJ Fellow, who wrote Section One of Chapter Four on court facility architecture.

Three vital members of the Project Staff are David Hudak, Program/Data Processing Manager at the National Sheriffs' Association, who analyzed the survey data; the Honorable John P. Corderman, retired Circuit Court Judge in Hagerstown, Maryland, who wrote the section dealing with the legal issues in court security and the transportation of prisoners and who also served as a member of our Project Advisory Board, representing the American Bar Association; and David M. Seiler, of the U.S. Department of Transportation (National Highway Traffic Safety Administration), who took the photographs appearing in this publication.

Special recognition must be given to two teams of criminal justice system professionals who served on our Advisory Board Committee and Staff Review Committee for their dedication and perseverance throughout the development and publication of this book. Their insights into the problems involved in court security and the transportation of prisoners was invaluable.

Members of the Advisory Board Committee are: Rocco A. Pozzi, Commissioner, Westchester County Probation Department, White Plains, New York; Arne Schoeller, Senior Program Manager, National Council of Juvenile and Family Court Judges, Reno, Nevada; Carolyn Kinelski, Associate Dean, University of Orlando School of Law, Orlando, Florida; Honorable John P. Forte, Justice Trial Court, Commonwealth of Massachusetts, Roxborough, Massachusetts;

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Members of the Staff Review Committee are: Lieutenant Stan Barry, Captain Marshal Valentine, and P.F.C. Curtis LeMay, Office of Sheriff, Fairfax County, Fairfax, Virginia; Walt Copeland, Chief, Prison Transportation Unit, U.S. Bureau of Prisons, Washington, D.C.; Undersheriff Richard Ruscak, Chief Deputy Ed Prokop and Deputy Dawn Jeffries, Office of Sheriff, City of Alexandria, Virginia; J. Michael Stouffer, Assistant Warden, State of Maryland [M.C.T.C.], Hagerstown, Maryland; Sergeant John L. Shriver and Deputy Sheriff Mary Krall, Office of Sheriff, Baltimore City, Baltimore, Maryland; Deputy Sheriff Nancy Suders, Office of Sheriff, Fulton County, McConnellsburg, Pennsylvania; Bailiff Jim Carbone, Office of Sheriff, Jefferson County, Charlestown, West Virginia; Deputy Dana Hubble and Sergeant Randall Freysz, Office of Sheriff, Frederick County, Frederick, Maryland; John A. Schmaltz, U.S. Marshals Service, Arlington, Virginia; John Stanley, U.S. Marshals Service, Arlington, Virginia; Herndon Russell and Carl Siler, G.S.S.C. (District of Columbia Court System) - Court Security, Arlington, Virginia; Sergeant William G. Robinson, Knox County Sheriff's Department, Galeburg, Illinois; Patty Fix, Clerk of Court, Fulton County, McConnellsburg, Pennsylvania; Emil Minnar, State of Pennsylvania Constables Association, Norristown, Pennsylvania; Jack Esher, Constable, Delaware County, Lansdowne, Pennsylvania; Bert Lawson, U.S. Bureau of Prisons, Washington, D.C.; Deputy Sheriff Diane Arnold, Deputy Sheriff Chris M. Geraghty, Deputy Sheriff Dick Wiser, Loudoun County Sheriff's Office, Leesburg, Virginia; Sheriff Frank Policaro, Office of Sheriff, Beaver County, Beaver, Pennsylvania; Edward J. Colonna, Director, Beaver County Adult Probation and Parole Department, Beaver, Pennsylvania; and Michael Sheldon, Director, City of Las Vegas, Department of Detention and Enforcement, Las Vegas, Nevada.

Special appreciation is extended to Philip Lynn, Senior Manager, National Law Enforcement Policy Center, International Association of Chiefs of Police, Alexandria, Virginia, for permission to reprint IACP's *Policy and Procedure on Transportation of Prisoners*; Sheriff Richard Paul Doria, County of DuPage, Illinois, for permission to reprint the *DuPage County Court Security Manual*; and to Brian J. Ostrom, Ph.D., Director, Court Statistics Project, National Center for State Courts, Williamsburg, Virginia, for permission to reprint State Court Structure Charts from the publication, *State Court Caseload Statistics, February 1994*.

The National Sheriffs' Association Conference Review Committee members are: Sheriff Kevin M. McLaughlin, Chittenden County, South Burlington, Vermont; High Sheriff Wayne E. Vetter, Rockingham County, Brentwood, New Hampshire; Sheriff Phil Bozarth, Hancock County, Hawesville, Kentucky; Sheriff James R. Dougan, Kent County, Grand Rapids, Michigan; Sheriff Dick Warren, Summit County Akron, Ohio; Sheriff Stephen Zotos, Douglas County, Castle Rock, Colorado; Retired Sheriff Vincent G. Swinney, Washoe County, Reno, Nevada; Deputy Sheriff John F. Getlein, New Haven County, New Haven, Connecticut, and Chief Deputy Jack Putnam, Tulsa County, Tulsa, Oklahoma.

Last but not least, a special thanks go to Gladys Rising; Miriam Kendall; Melissa Betances; Michele Parsons; Ellen Hicks; Dr. Robert I. Bradley, Ph.D.; and Clyde diAngelo, who worked so hard organizing, typesetting, proofing, critiquing and reviewing the many chapters.



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October 1995

COURT SECURITY AND THE TRANSPORTATION OF PRISONERS A NATIONAL STUDY

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COURT SECURITY AND THE TRANSPORTATION OF PRISONERS: A NATIONAL STUDY



FEDERAL JUDICIAL CIRCUITS

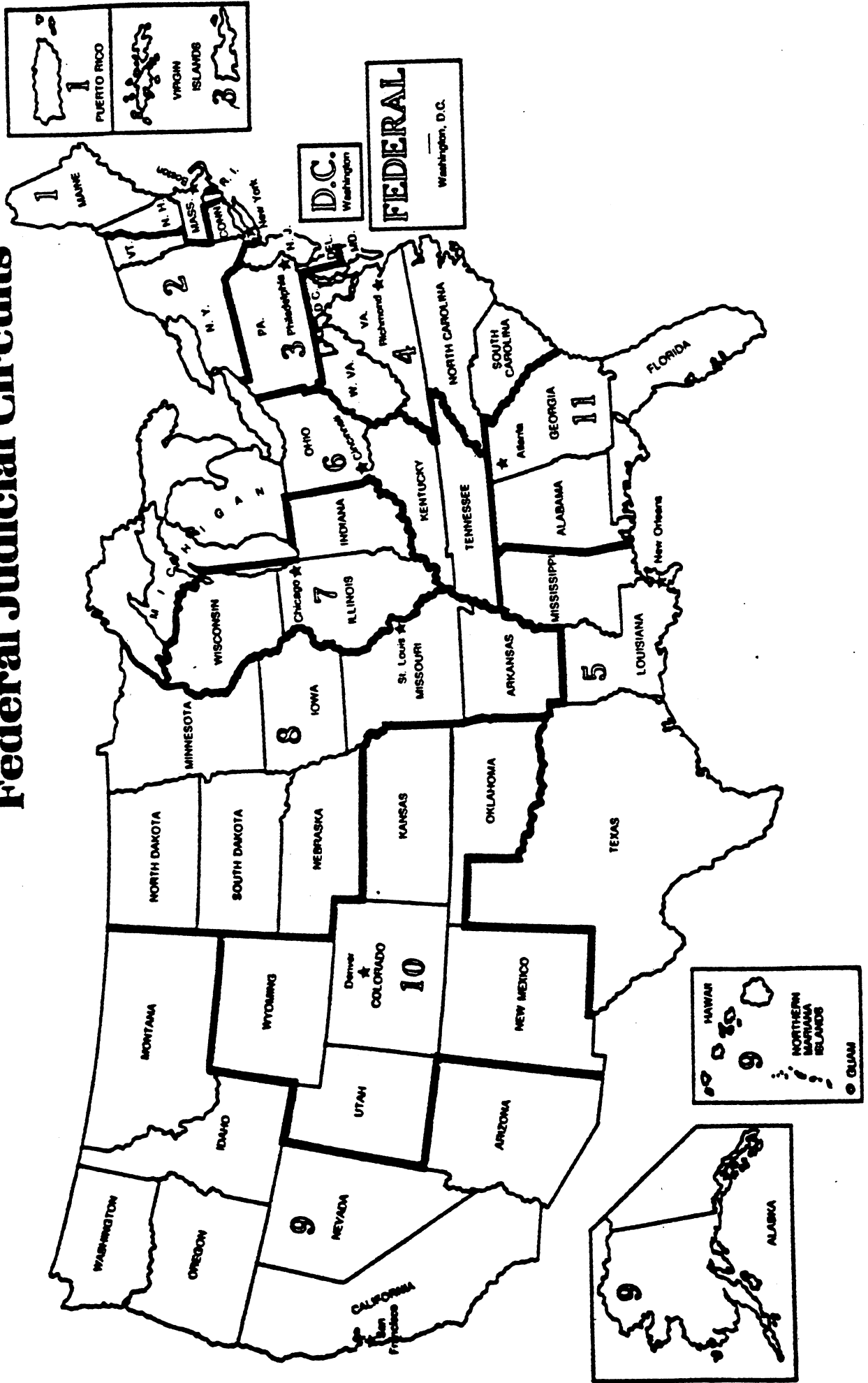
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Federal Judicial Circuits



COURT SECURITY AND THE TRANSPORTATION OF PRISONERS: A NATIONAL STUDY



FEDERAL COURT SYSTEM

- ♦ United States Court of Appeals for the Federal Circuit
- ♦ United States Court of Appeals - Circuits
- ♦ United States - District Courts
- ♦ United States Court of Appeals - Chief Judge
- ♦ United States Court Systems
 - ♦♦ Supreme Court of the United States
 - ♦♦ United States Court of Appeals
 - ♦♦ United States Court of Appeals for the Federal Circuit
 - ♦♦ United States Court of International Trade
 - ♦♦ Special Court, Regional Rail Reorganization Act of 1973
 - ♦♦ Judicial Panel on Multidistrict Litigation
 - ♦♦ United States Court of Military Appeals
 - ♦♦ United States Sentencing Commission
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DIRECTORY OF UNITED STATES COURTS

DIRECTORY OF UNITED STATES COURTS

The Federal court system of the United States is a highly organized structure with jurisdiction in all 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, Guam and the Northern Mariana Islands.

The system is structured, from the lowest level to the highest, into district courts, court of appeals, and the Supreme Court of the United States.

Overseeing the management of the Federal court system is the Judicial Conference of the United States. Its staff activities are carried out by the Administrative Office of the U.S. Courts, a coordinating agency which allocates support personnel, administers a salary system and prepares the budget for the court system, which is submitted to Congress for appropriations.

A brief listing of the Administrative Office of the United States Courts Directory, Human Resources Division, Policy Branch, Washington, D.C. 20544, (202-273-1163), Editor: Ann M. Langley, prepared by the Administrative Office of the U.S. Courts.

UNITED STATES
COURT DIRECTORY

SEPTEMBER 1994

Editor: Ann M. Langley

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

HUMAN RESOURCES DIVISION

**Superintendent of Documents, Mail Stop: SSOP,
Washington D.C. 20402-9328
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UNITED STATES COURT SYSTEMS

UNITED STATES COURT SYSTEMS

**SUPREME COURT OF THE UNITED STATES
ONE FIRST STREET, N.E.
WASHINGTON D.C. 20543
TELEPHONE: 202-479-3000**

United States Courts of Appeals

District of Columbia Circuit
U.S. Court of Appeals
3832 U.S. Courthouse
333 Constitution Avenue, NW
Washington D.C. 20001

First Circuit

Includes: Maine, Massachusetts, New Hampshire,
Rhode Island, Puerto Rico

Second Circuit

Includes: Connecticut, New York, Vermont

Third Circuit

Includes: Delaware, New Jersey, Pennsylvania,
Virgin Islands

Fourth Circuit

Includes: Maryland, North Carolina, South Carolina,
Virginia, West Virginia

Fifth Circuit

Includes: Louisiana, Mississippi, Texas

Sixth Circuit

Includes: Kentucky, Michigan, Ohio, Tennessee

Seventh Circuit

Includes: Illinois, Indiana, Wisconsin

Eighth Circuit

Includes: Arkansas, Iowa, Minnesota, Missouri,
Nebraska, North Dakota, South Dakota

Ninth Circuit

Includes: Alaska, Arizona, California, Guam,
Hawaii, Idaho, Montana, Nevada,
Northern Mariana Islands, Oregon,
Washington

Tenth Circuit

Includes: Colorado, Kansas, New Mexico,
Oklahoma, Utah, Wyoming

Eleventh Circuit

Includes: Alabama, Florida, Georgia

United States Court of Appeals for the Federal Circuit

United States Court of Federal Circuit
717 Madison Place, NW
Washington D.C. 20439

United States Court of Federal Circuit
717 Madison Place, NW
Washington D.C. 20005

United States Court of International Trade

United States Court of International Trade
1 Federal Plaza
New York, New York 10007

Special Court, Regional Rail Reorganization Act of 1973

Special Court, Regional Rail Reorganization
6613 U.S. Courthouse
601 Market Street
Philadelphia, Pennsylvania 19106

Special Court, Regional Rail Reorganization
U.S. Courthouse
333 Constitution Avenue, NW
Washington D.C. 20001

Special Court, Regional Rail Reorganization
200 U.S. Courthouse
600 Camp Street
New Orleans, Louisiana 70130

JUDICIAL PANEL ON MULTIDISTRICT LITIGATION
Thurgood Marshall Federal Judiciary Building
One Columbus Circle, N.E.
Room G-255, North Lobby
Washington D.C. 20002-8004
Telephone: 202-273-2800
Facsimile: 202-273-2810

United States Senior District Judge
P.O. Box 8287
Savannah, Georgia 31412

United States Senior District Judge
United States Courthouse
Foley Square
New York, New York 10007

United States Senior District Judge
P.O. Box 2-AD
Richmond, Virginia 23205

United States Senior District Judge
United States Courthouse
940 Front Street
San Diego, California 92189

United States District Judge
P.O. Box 985
Cheyenne, Wyoming 82003-0985

United States District Judge
United States Courthouse
219 South Dearborn Street
Chicago, Illinois 60604

Chief Judge, U.S. District Court
United States Courthouse, Room 15D28A
1100 Commerce Street
Dallas, Texas 75242

UNITED STATES SENTENCING COMMISSION
Thurgood Marshall Federal Judiciary Building
One Columbus Circle, N.E.
Suite 2-500, South Lobby
Washington D.C. 20002-8002

UNITED STATES COURT OF MILITARY APPEALS
450 E Street, N.W.
Washington D.C. 20442

UNITED STATES TAX COURT
400 Second Street, N.W.
Washington D.C. 20217

**UNITED STATES COURT OF APPEALS FOR THE
FEDERAL CIRCUIT**

United States Court of Appeals for the Federal Circuit

Circuit Judges

U.S. Court of Appeals for the Federal Circuit
717 Madison Place, N.W.
Washington D.C. 20439

Senior Circuit Judges

U.S. Court of Appeals for the Federal Circuit
305 Federal Building
Temple, Texas 76501

U.S. Court of Appeals for the Federal Circuit
717 Madison Place, N.W.
Washington D.C. 20439

U.S. Court of Appeals for the Federal Circuit
6717 Maybole Place
Temple Terrace, Florida 33617

U.S. Court of Appeals for the Federal Circuit
U.S. Courthouse
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UNITED STATES COURT OF APPEALS

◆ CIRCUITS AND THE STATES OR TERRITORIES INVOLVED

UNITED STATES COURT OF APPEALS

First Circuit

Includes: Maine, Massachusetts, New Hampshire,
Rhode Island, Puerto Rico

Attention: Senior Judge
John W. McCormack Post Office and Courthouse
Boston, Massachusetts 02109

Second Circuit

Includes: Connecticut, New York, Vermont

Attention: Senior Judge
U.S. Courthouse
P.O. Box 696
Battleboro, Vermont 05302

Third Circuit

Includes: Delaware, New Jersey, Pennsylvania,
Virgin Islands

Attention: Chief Judge
U.S. Courthouse
601 Market Street, Room 18614
Philadelphia, Pennsylvania 19106

Fourth Circuit

Includes: Maryland, North Carolina, South Carolina,
Virginia, West Virginia

Attention: Chief Judge
P.O. Drawer 1488
Morganton, North Carolina 28680-1488

Fifth Circuit

Includes: Louisiana, Mississippi, Texas

Attention: Chief Judge
300 Fannin Street, Suite 5226
Shreveport, Mississippi 71101

Sixth Circuit

Includes: Kentucky, Michigan, Ohio, Tennessee

Attention: Senior Judge
Federal Building
110 Michigan Street, N.W.
Grand Rapids, Michigan 49503

Seventh Circuit

Includes: Illinois, Indiana, Wisconsin

Attention: Judge
219 South Dearborn Street
Chicago, Illinois 60604

Eighth Circuit

Includes: Arkansas, Iowa, Minnesota, Missouri,
Nebraska, North Dakota, South Dakota

Attention: Chief Judge
P.O. Box 429
Little Rock, Arkansas 72203

Ninth Circuit

Includes: Alaska, Arizona, California, Guam,
Hawaii, Idaho, Montana, Nevada,
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Washington

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940 Front Street, Room 4192
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Tenth Circuit

Includes: Colorado, Kansas, New Mexico,
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Attention: Circuit Judge
6012 Federal Building
Salt Lake City, Utah 84138

Eleventh Circuit

Includes: Alabama, Florida, Georgia

Attention: Circuit Judge
P.O. Box 53135
Jacksonville, Florida 32201-3135

District of Columbia Circuit

Includes: Washington D.C.

Attention: Chief Judge
U.S. Courthouse
3rd and Constitution Avenue, N.W.
Washington D.C. 20001

UNITED STATES COURTS OF APPEALS

UNITED STATES COURT OF APPEALS

First Circuit

Includes: Maine, Massachusetts, New Hampshire,
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Circuit Judges

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Boston, Massachusetts 02109

U.S. Courthouse
P.O. Box 3671
San Juan, Puerto Rico 00904

Federal Building and U.S. Courthouse
1 Exchange Terrace
Providence, Rhode Island 02903-1755

U.S. Courthouse
P.O. Box 635
Bangor, Maine 04501

U.S. Courthouse
John W. McCormack
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Boston, Massachusetts 02109

U.S. Courthouse
55 Pleasant Street, Room 220
Concord, New Hampshire 03301

Senior Circuit Judges

John W. McCormack
Post Office and Courthouse
Boston, Massachusetts 02109

U.S. Courthouse
156 Federal Street, Room 219
Portland, Maine 04101

John W. McCormack
Post Office and Courthouse
Boston, Massachusetts 02109

U.S. Courthouse
55 Pleasant Street, Room 432
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Second Circuit

Includes: Connecticut, New York, Vermont

Circuit Judges

U.S. Courthouse
450 Main Street
Hartford, Connecticut 06103

U.S. Courthouse
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Brattleboro, Vermont 05302-0696

U.S. Courthouse
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New York, New York 10007

U.S. Courthouse
Audubon Court Building
55 Whitney Avenue
New Haven, Connecticut 06511

U.S. Courthouse
P.O. Box 858
Albany, New York 12201

U.S. Courthouse
Long Island Courthouse
Two Uniondale Avenue
Uniondale, New York 11553

U.S. Courthouse
55 Red Bush Lane
Milford, Connecticut 06460

Senior Circuit Judges

U.S. Courthouse
Federal Building
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Bridgeport, Connecticut 06604

U.S. Courthouse
Federal Building
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Rochester, New York 14614

U.S. Courthouse
Old Post Office Plaza, Suite 204
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New Britain, Connecticut 06051

U.S. Courthouse
Uniondale Avenue-Hempstead Turnpike
Uniondale, New York 11553

U.S. Courthouse
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Third Circuit

Includes: Delaware, New Jersey, Pennsylvania,
Virgin Islands

Circuit Judges

U.S. Courthouse
Philadelphia, Pennsylvania 19106

U.S. Courthouse
Philadelphia, Pennsylvania 19106

U.S. Courthouse, Lockbox 33
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Wilmington, Delaware 19801

U.S. Post Office and Courthouse
7th and Grand Streets
Pittsburgh, Pennsylvania 15219

U.S. Courthouse
402 East State Street
Trenton, New Jersey 08608

U.S. Courthouse
410 West Market Street
Pottsville, Pennsylvania 17901

U.S. Courthouse
Philadelphia, Pennsylvania 19106

U.S. Courthouse
402 East State Street
Trenton, New Jersey 08608

U.S. Courthouse
First National Bank Building
717 State Street, Suite 500
Erie, Pennsylvania 16501

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Newark, New Jersey 07101-9704

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U.S. Post Office and Courthouse
7th and Grant Streets
Pittsburgh, Pennsylvania 15219

U.S. Courthouse, Lockbox 32
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Wilmington, Delaware 19801

U.S. Courthouse
6144 Calle Real
Santa Barbara, California 93117-2053

U.S. Courthouse
197 South Main Street
Wilkes-Barre, Pennsylvania 18701

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7th and Grant Streets
Pittsburgh, Pennsylvania 15219

U.S. Post Office and Courthouse
Newark, New Jersey 07101

U.S. Courthouse
Philadelphia, Pennsylvania 19106

U.S. Courthouse
Philadelphia, Pennsylvania 19106

Fourth Circuit

Includes: Maryland, North Carolina, South Carolina,
Virginia, West Virginia

Circuit Judges

U.S. Court of Appeals
P.O. Box 2087
Orangeburg, South Carolina 29116-2087

U.S. Court of Appeals
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500 Quarrier Street
Charleston, West Virginia 25301

U.S. Court of Appeals
P.O. Box 2188
Richmond, Virginia 23217

U.S. Court of Appeals
P.O. Box 401
Lewisburg, West Virginia 24901

U.S. Court of Appeals
P.O. Box 7097
Columbia, South Carolina 29202

U.S. Court of Appeals
P.O. Box 1820
Richmond, Virginia 23214-1820

U.S. Courthouse Annex, Room 501
1100 East Main Street
Richmond, Virginia 23219

U.S. Court of Appeals
Main Street Center
600 East Main Street, Suite 2200
Richmond, Virginia 23219-2441

U.S. Court of Appeals
Tenth and Main Streets
Richmond, Virginia 23219

U.S. Court of Appeals
P.O. Drawer 1488
Morganton, North Carolina 28655

U.S. Court of Appeals
P.O. Box 1985
Spartanburg, South Carolina 29301

U.S. Court of Appeals
P.O. Box 868
Abingdon, Virginia 24210

U.S. Court of Appeals
Federal Building, Suite 2100
500 Quarrier Street
Charleston, West Virginia 25301

U.S. Court of Appeals
P.O. Box 3617
Durham, North Carolina 27702

U.S. Court of Appeals
255 West Main Street, Room 314
Charlottesville, South Carolina 22902

U.S. Court of Appeals
P.O. Box 10857
Greenville, South Carolina 29603

U.S. Court of Appeals
101 West Lombard Street
Baltimore, Maryland 21201

U.S. Court of Appeals
Nations Bank Plaza, Suite 1250
1901 Main Street, Compartment 704
Columbia, South Carolina 29201-2435

U.S. Court of Appeals
8280 Greensboro Drive, Suite 780
McLean, Virginia 22102

Fifth Circuit

Includes: Louisiana, Mississippi, Texas

Circuit Judges

U.S. Court of Appeals
Federal Building, Room 2B04
500 Fannin Street
Shreveport, Louisiana 71101-3074

U.S. Courthouse
515 Rusk Avenue
Houston, Texas 77002

U.S. Court of Appeals
903 San Jacinto Boulevard
Suite 300
Austin, Texas 78701

James O. Eastland U.S. Courthouse, Room 202
245 East Capitol Street
Jackson, Mississippi 39201

U.S. Courthouse
1100 Commerce Street
Dallas, Texas 75242

U.S. Court of Appeals
556 Jefferson Street, Suite 300
Lafayette, Louisiana 70501

U.S. Courthouse
515 Rusk Avenue
Houston, Texas 77002-2655

U.S. Courthouse
515 Rusk Avenue
Houston, Texas 77002-2698

U.S. Court of Appeals
556 Jefferson Street, Suite 200
Lafayette, Louisiana 70501

James O. Eastland U.S. Courthouse, Room 200
245 East Capitol Street
Jackson, Mississippi 39201

U.S. Court of Appeals
Federal Building, Room 3-A-17
500 Fannin Street
Shreveport, Louisiana 71101

U.S. Court of Appeals
8200 IH-10 West
Suite 501
San Antonio, Texas 78230

U.S. Courthouse
515 Rusk Avenue
Houston, Texas 77002

U.S. Courthouse, Room 200
600 Camp Street
New Orleans, Louisiana 70130

U.S. Court of Appeals
903 San Jacinto Boulevard
Suite 310
Austin, Texas 78701

U.S. Courthouse
1100 Commerce Street
Dallas, Texas 75242

U.S. Court of Appeals
P.O. Box 1129
Brownsville, Texas 78522-1129

U.S. Court of Appeals
903 San Jacinto Boulevard
Suite 434 and 400
Austin, Texas 78701

Sixth Circuit

Includes: Kentucky, Michigan, Ohio, Tennessee

Circuit Judges

U.S. Court of Appeals
303 Customs House
701 Broadway
Nashville, Tennessee 37203

U.S. Courthouse
231 West Lafayette Boulevard
Detroit, Michigan 48226

U.S. Courthouse
601 West Broadway
Louisville, Kentucky 40202

U.S. Courthouse
100 East Fifth Street
Cincinnati, Ohio 45202

U.S. Court of Appeals
P.O. Box 750
Chattanooga, Tennessee 37401

U.S. Court of Appeals
P.O. Box 7910
Ann Arbor, Michigan 48107

U.S. Courthouse
100 East Fifth Street
Cincinnati, Ohio 45202

U.S. Courthouse
231 West Lafayette Boulevard
Detroit, Michigan 48226

Gene Snyder U.S. Courthouse
6th and Broadway
Louisville, Kentucky 40202

U.S. Courthouse
85 Marconi Boulevard
Columbus, Ohio 43215

Federal Building
315 West Allegan Street
Lansing, Michigan 48933

U.S. Courthouse
Main and Third Street
London, Kentucky 40741

U.S. Court of Appeals
807 East Washington St., Suite 200
Medina, Ohio 44256

Senior Circuit Judges

U.S. Courthouse
201 Superior Avenue, N.E.
Cleveland, Ohio 44114

U.S. Court of Appeals
P.O. Box 1226
Danville, Kentucky 40423-5226

or

U.S. Courthouse
100 East Fifth Street
Cincinnati, Ohio 45202

U.S. Court of Appeals
Federal Building
110 Michigan Street, N.W.
Grand Rapids, Michigan 49503

U.S. Court of Appeals
Federal Building
167 North Main Street
Memphis, Tennessee 38103

U.S. Court of Appeals
U.S. Courthouse and Federal Building
2 South Main Street
Akron, Ohio 44308

U.S. Court of Appeals
U.S. Courthouse
201 Superior Avenue, N.E.
Cleveland, Ohio 44114

U.S. Court of Appeals
Federal Building
167 North Main Street
Memphis, Tennessee 38103

Seventh Circuit

Includes: Illinois, Indiana, Wisconsin

Circuit Judges

U.S. Court of Appeals
Everett McKinley Dirksen Building
219 South Dearborn Street
Chicago, Illinois 60604

U.S. Court of Appeals
U.S. Courthouse and Federal Building
517 East Wisconsin Avenue
Milwaukee, Wisconsin 53202

U.S. Court of Appeals
Federal Building
204 South Main Street
South Bend, Indiana 46601

U.S. Court of Appeals
P.O. Box 1340
Lafayette, Indiana 47902

Senior Circuit Judges

U.S. Court of Appeals
P.O. Box 299
Springfield, Illinois 62705-0299

U.S. Court of Appeals
U.S. Courthouse
701 Clematis Street
West Palm Beach, Florida 33401

Eighth Circuit

Includes: Arkansas, Iowa, Minnesota, Missouri,
Nebraska, North Dakota, South Dakota

Circuit Judges

U.S. Court of Appeals
P.O. Box 429
Little Rock, Arkansas 72203-0429

U.S. Court of Appeals
U.S. Court and Custom House
1114 Market Street
St. Louis, Missouri 63101

U.S. Court of Appeals
U.S. Courthouse, Suite 301
123 East Walnut Street
Des Moines, Iowa 50309-2037

U.S. Court of Appeals
U.S. Courthouse
811 Grand Avenue
Kansas City, Missouri 64106

U.S. Court of Appeals
Federal Building and U.S. Courthouse
400 South Phillips Avenue
Sioux Falls, South Dakota 57102

U.S. Court of Appeals
P.O. Box 2926
Fargo, North Dakota 58108

U.S. Court of Appeals
Federal Building
100 Centennial Mall North
Lincoln, Nebraska 68508

U.S. Court of Appeals
Federal Building
316 North Robert Street
St. Paul, Minnesota 55101

U.S. Court of Appeals
Federal Building and U.S. Courthouse
101 First Street, S.E.
Cedar Rapids, Iowa 52401

U.S. Court of Appeals
P.O. Box 2060
Little Rock, Arkansas 72203-2060

Senior Circuit Judges

U.S. Court of Appeals
U.S. Courthouse
811 Grand Avenue
Kansas City, Missouri 64106

U.S. Court of Appeals
P.O. Box 75908
St. Paul, Minnesota 55175

U.S. Court of Appeals
315 Federal Building
Duluth, Minnesota 55802

U.S. Court of Appeals
P.O. Box 2707
Fargo, North Dakota 58108

U.S. Court of Appeals
P.O. Box 307
Omaha, Nebraska 68101

U.S. Court of Appeals
200 Federal Building
Harrison, Arkansas 72601

U.S. Court of Appeals
U.S. Courthouse
811 Grand Avenue
Kansas City, Missouri 64106

Ninth Circuit

Includes: Alaska, Arizona, California, Guam,
Hawaii, Idaho, Montana, Nevada,
Northern Mariana Islands, Oregon,
Washington

Circuit Judges

U.S. Court of Appeals
U.S. Courthouse
940 Front Street
San Diego, California 92101-8918

U.S. Court of Appeals
P.O. Box 193939
San Francisco, California 94119-3939

U.S. Court of Appeals
50 West Liberty Street, Suite 600
Reno, Nevada 89501

U.S. Court of Appeals
U.S. Courthouse and Federal Building
230 North 1st Avenue
Phoenix, Arizona 85025

U.S. Court of Appeals
U.S. Courthouse
1010 Fifth Avenue
Seattle, Washington 98104

U.S. Court of Appeals
21800 Oxnard Street, Suite 1140
Woodland Hills, California 91367

U.S. Court of Appeals
P.O. Box 193939
San Francisco, California 94119-3939

U.S. Court of Appeals
125 South Grand Avenue, Suite 303
Pasadena, California 91105

U.S. Court of Appeals
U.S. Courthouse and Federal Building
230 North 1st Avenue
Phoenix, Arizona 85025

U.S. Court of Appeals
U.S. Courthouse
312 North Spring Street
Los Angeles, California 90012

U.S. Court of Appeals
U.S. Courthouse
1010 Fifth Avenue
Seattle, Washington 98104

U.S. Court of Appeals
125 South Grand Avenue
Pasadena, California 91105

U.S. Court of Appeals
50 West Liberty Street
Suite 850 and 950
Reno, Nevada 89501

U.S. Court of Appeals
125 South Grand Avenue
Pasadena, California 91105

U.S. Court of Appeals
P.O. Box 193939
San Francisco, California 94119-3939

U.S. Court of Appeals
U.S. Courthouse
940 Front Street
San Diego, California 92101-8919

U.S. Court of Appeals
Pioneer Courthouse
555 S.W. Yamhill Street
Portland, Oregon 97204-1396

U.S. Court of Appeals
U.S. Courthouse
550 West Fort Street
Boise, Idaho 83724

U.S. Court of Appeals
P.O. Box 91510
Pasadena, California 91109-1510

U.S. Court of Appeals
P.O. Box 1339
Boise, Idaho 83701

U.S. Court of Appeals
250 Cushman Street, Suite 3-A
Fairbanks, Alaska 99701

Senior Circuit Judges

U.S. Court of Appeals
55 East Broadway
Tucson, Arizona 85701

U.S. Court of Appeals
P.O. Box 193939
San Francisco, California 94119-3939

U.S. Court of Appeals
U.S. Courthouse
1010 Fifth Avenue
Seattle, Washington 98104

U.S. Court of Appeals
Pioneer Courthouse
555 S.W. Yamhill Street
Portland, Oregon 97204

U.S. Court of Appeals
P.O. Box 50127
Honolulu, Hawaii 96850

U.S. Court of Appeals
P.O. Box 91510
Pasadena, California 91109-1510

U.S. Court of Appeals
P.O. Box 193939
San Francisco, California 94119-3939

U.S. Court of Appeals
U.S. Courthouse and Federal Building
230 North 1st Avenue
Phoenix, Arizona 85025

U.S. Court of Appeals
Pioneer Courthouse
555 S.W. Yamhill Street
Portland, Oregon 97204

U.S. Court of Appeals
Federal Building
34 Civic Center Plaza
Santa Ana, California 92701

U.S. Court of Appeals
312 North Spring Street
Los Angeles, California 90012

U.S. Court of Appeals
P.O. Box 91510
Pasadena, California 91109-1510

Bankruptcy Appellate Panel (BAP) of the Ninth Circuit

Bankruptcy Courts
2131 Park Place Building
1200 Sixth Avenue
Seattle, Washington 98101

Bankruptcy Courts
8535 Federal Building
300 Los Angeles Street
Los Angeles, California 90012

Bankruptcy Courts
Federal Building
300 Las Vegas Blvd., South
Las Vegas, Nevada 89101

Bankruptcy Courts
5130 U.S. Courthouse
940 Front Street
San Diego, California 92101-8972

Bankruptcy Courts
101 South Church Avenue, #8112
Tucson, Arizona 85701-1608

Bankruptcy Courts
1001 S.W. 5th Avenue, #900
Portland, Oregon 97204

Bankruptcy Courts
U.S. Courthouse
312 North Spring Street
Los Angeles, California 90012

Tenth Circuit

Includes: Colorado, Kansas, New Mexico,
Oklahoma, Utah, Wyoming

Circuit Judges

U.S. Court of Appeals
U.S. Courthouse
333 West 4th Street
Tulsa, Oklahoma 74103

U.S. Court of Appeals
P.O. Box 790
Olathe, Kansas 66051-0790

U.S. Court of Appeals
1929 Stout Street
Denver, Colorado 80294

U.S. Court of Appeals
Wallace F. Bennett Federal Building
125 South State Street
Salt Lake City, Utah 84138-1102

U.S. Court of Appeals
4830 West 15th Street, Suite 100
Lawrence, Kansas 66049-3846

U.S. Court of Appeals
P.O. Box 2388
Roswell, New Mexico 88202-2388

U.S. Court of Appeals
P.O. Box 1028
Cheyenne, Wyoming 82003

U.S. Court of Appeals
U.S. Courthouse
1929 Stout Street
Denver, Colorado 80294

U.S. Court of Appeals
P.O. Box 10113
Santa Fe, New Mexico 87501

Senior Circuit Judges

U.S. Court of Appeals
P.O. Drawer I
Santa Fe, New Mexico 87504

U.S. Court of Appeals
P.O. Box 1767
Oklahoma City, Oklahoma 73101

U.S. Court of Appeals
U.S. Courthouse
1929 Stout Street
Denver, Colorado 80294

U.S. Court of Appeals
P.O. Box 1288
Cheyenne, Wyoming 82003

U.S. Court of Appeals
Wallace F. Bennett Federal Building
125 South State Street
Salt Lake City, Utah 84138-1181

Eleventh Circuit

Includes: Alabama, Florida, Georgia

Circuit Judges

U.S. Court of Appeals
P.O. Box 960
Jacksonville, Florida 32201

U.S. Court of Appeals
Atlanta, Georgia 30303

U.S. Court of Appeals
P.O. Box 10429
Tallahassee, Florida 32302

U.S. Court of Appeals
P.O. Box 977
Macon, Georgia 31202

U.S. Court of Appeals
113 St. Joseph Street, Room 433
Mobile, Alabama 36602

U.S. Court of Appeals
P.O. Box 867
Montgomery, Alabama 36101

U.S. Court of Appeals
P.O. Box 53135
Jacksonville, Florida 32201-3135

U.S. Court of Appeals
Frank M. Johnson, Jr. Federal Building and
U.S. Courthouse
15 Lee Street
Montgomery, Alabama 36104

Senior Circuit Judges

U.S. Court of Appeals
Atlanta, Georgia 30303

U.S. Court of Appeals
P.O. Box 1589
Montgomery, Alabama 36102

U.S. Court of Appeals
Federal Justice Building, Room 1245
99 N.E. 4th Street
Miami, Florida 33132

U.S. Court of Appeals
P.O. Box 759
Newnan, Georgia 30264

U.S. Court of Appeals
Federal Building
144 First Avenue, South
St. Petersburg, Florida 33701

U.S. Court of Appeals
P.O. Box 52598
Jacksonville, Florida 32201

U.S. Court of Appeals
P.O. Box 35
Montgomery, Alabama 36101

U.S. Court of Appeals
Atlanta, Georgia 30303

U.S. Court of Appeals
Federal Justice Building, 12th Floor
99 N.E. 4th Street
Miami, Florida 33132

UNITED STATES COURT
DISTRICT COURTS

UNITED STATES COURTS

Administrative Office
Attention: Director
1 Columbus Circle, N.E.
Washington D.C. 20544

District Courts

Alabama-Middle
Attention: Chief Judge
P.O. Box 235
Montgomery, Alabama 36101

Alabama-Northern
Attention: Chief Judge
1729 5th Avenue N. Room 882
Birmingham, Alabama 35203

Alabama-Southern
Attention: Chief Judge
113 St. Joseph Street
Mobile, Alabama 36602

Alaska
Attention: Chief Judge
222 West 7th Avenue, #54
Anchorage, Alaska 99513

Arizona
Attention: Chief Judge
U.S. Courthouse
55 East Broadway, Room 301
Tuscon, Arizona 85701

Arkansas-Eastern
Attention: Chief Judge
P.O. Box 1540
Little Rock, Arkansas 72203

Arkansas-Western
Attention: Chief Judge
P.O. Box 1908
Fayetteville, Arkansas 72702-1908

California-Central
Attention: Chief Judge
312 North Spring Street
Los Angeles, California 90012

California-Eastern
Attention: Chief Judge
5116 U.S. Courthouse
1130 "O" Street
Fresno, California 93721

California-Northern
Attention: Chief Judge
P.O. Box 36060
450 Golden Gate Avenue
San Francisco, California 94102

California-Southern
Attention: Chief Judge
940 Front Street, Courtroom 6
San Diego, California 92101

Colorado
Attention: Chief Judge
U.S. Courthouse, Room C-224
1929 Stout Street
Denver, Colorado 80294

Connecticut
Attention: Senior Judge
208 U.S. Courthouse
141 Church Street
New Haven, Connecticut 06510

Delaware
Attention: Chief Judge
Lock Box 40
844 King Street
Wilmington, Delaware 19801

District of Columbia
Attention: Chief Judge
U.S. Courthouse
3rd and Constitution Avenue N.W.
Washington D.C. 20001

Florida-Middle
Attention: Chief Judge
311 West Monroe
P.O. Box 53137
Jacksonville, Florida 32201

Florida-Northern

Attention: U.S. District Judge
110 East Park Avenue
Tallahassee, Florida 32301

Florida-Southern

Attention: Chief Judge
299 East Broward Boulevard
Ft. Lauderdale, Florida 33301

Georgia-Middle

Attention: Chief Judge
P.O. Box 65
Macon, Georgia 31202

Georgia-Northern

Attention: Chief Judge
1942 U.S. Courthouse
75 Spring Street, S.W.
Atlanta, Georgia 30303

Georgia-Southern

Attention: Chief Judge
P.O. Box 9865
Savannah, Georgia 31412

Hawaii

Attention: Chief Judge
P.O. Box 50128
Honolulu, Hawaii 96850

Idaho

Attention: U.S. District Judge
Federal Building MSC 040
550 West Fort Street
Boise, Idaho 83724

Illinois-Central

Attention: Chief Judge
215 Federal Building
100 N.E. Monroe Street
Peoria, Illinois 61602

Illinois-Northern

Attention: Chief Judge
219 South Dearborn Street, Room 2548
Chicago, Illinois 60604

Illinois-Southern

Attention: Senior Judge
301 West Main Street
Benton, Illinois 62812

Indiana-Northern

Attention: Chief Judge
204 South Main Street
124 Federal Building
South Bend, Indiana 46601

Indiana-Southern

Attention: Judge
310 Federal Building
101 N.W. 7th Street
Evansville, Indiana 47708

Iowa-Northern

Attention: Senior Judge
P.O. Box 267
Sioux City, Iowa 51102

Iowa-Southern

Attention: Judge
221 U.S. Courthouse
East 1st and Walnut Streets
Des Moines, Iowa 50309

Kansas

Attention: Senior Judge
812 North 7th Street
122 U.S. Courthouse
Kansas City, Kansas 66101

Kentucky-Eastern

Attention: Chief Judge
P.O. Box 1012
Covington, Kentucky 41012

Kentucky-Western

Attention: Chief Judge
202 U.S. Courthouse
601 West Broadway
Louisville, Kentucky 40202

Louisiana-Eastern

Attention: Senior Judge
C525 U.S. Courthouse
500 Camp Street
New Orleans, Louisiana 70130

Louisiana-Middle

Attention: Chief Judge
707 Florida Street, Room 228
Baton Rouge, Louisiana 70801-1791

Louisiana-Western

Attention: Chief Judge
249 Federal Building
705 Jefferson Street
Lafayette, Louisiana 70501

Maine

Attention: Chief Judge
156 Federal Street
Portland, Maine 04101

Maryland

Attention: Chief Judge
101 West Lombard Street
Baltimore, Maryland 21201-2691

Massachusetts

Attention: Chief Judge
1615 Post Office and Courthouse Building
Boston, Massachusetts 02109

Michigan-Eastern

Attention: Chief Judge
U.S. Courthouse Room 730
231 West Lafayette Boulevard
Detroit, Michigan 48226

Michigan-Western

Attention: Chief Judge
616 Federal Building
110 Michigan Street N.W.
Grand Rapids, Michigan 49503

Minnesota

Attention: Senior Judge
760 Federal Building
316 North Robert Street
St. Paul, Minnesota 55101

Mississippi-Northern

Attention: Chief Judge
P.O. Box 925
Aberdeen, Mississippi 39730

Mississippi-Southern

Attention: Chief Judge
245 East Capita Street, Suite 430
Jackson, Mississippi 39201

Missouri-Eastern

Attention: Chief Judge
U.S. Court and Custom House, Room 319
1114 Market Street
St. Louis, Missouri 63101

Missouri-Western

Attention: Senior District Judge
U.S. Courthouse, Room 443
811 Grand Avenue
Kansas City, Missouri 64106

Montana

Attention: Chief Judge
P.O. Box 1529
Great Falls, Montana 59403

Nebraska

Attention: Chief Judge
P.O. Box 607
Omaha, Nebraska 68101

Nevada

Attention: Chief Judge
303 Las Vegas Boulevard South
Las Vegas, Nevada 89101

New Hampshire

Attention: Senior Judge
55 Pleasant Street, Room 511
Concord, New Hampshire 03301

New Jersey

Attention: Chief Judge
P.O. Box 588
Camden, New Jersey 08101

New Mexico

Attention: Chief Judge
P.O. Box 67
Albuquerque, New Mexico 87103

New York-Eastern

Attention: Chief Judge
Two Uniondale Avenue
Uniondale, New York 11553

New York-Northern

Attention: Senior Judge
P.O. Box 7365
Syracuse, New York 13261-7365

New York-Southern
Attention: District Judge
101 East Post Road
White Plains, New York 10601

New York-Western
Attention: Chief Judge
272 U.S. Courthouse
100 State Street
Rochester, New York 14614

North Carolina-Eastern
Attention: Chief Judge
P.O. Box 2143
Wilmington, North Carolina 28402

North Carolina-Middle
Attention: Senior Judge
223-A Federal Building
215 North Main Street
Winston-Salem, North Carolina 27101

North Carolina-Western
Attention: Chief Judge
241 U.S. Courthouse
100 Otis Street
Asheville, North Carolina 28801

North Dakota
Attention: District Judge
P.O. Box 1578
Bismark, North Dakota 58502

Ohio-Northern
Attention: Chief Judge
338 U.S. Courthouse
201 Superior Avenue, N.E.
Cleveland, Ohio 44114

Ohio-Southern
Attention: Chief Judge
109 U.S. Courthouse
85 Marconi Boulevard
Columbus, Ohio 43215

Oklahoma-Northern
Attention: Chief Judge
4-472 U.S. Courthouse
333 West 4th Street
Tulsa, Oklahoma 74103

Oklahoma-Eastern

Attention: Chief Judge
P.O. Box 828
Muskogee, Oklahoma 74402

Oklahoma-Western

Attention: U.S. District Judge
3301 U.S. Courthouse
200 N.W. 4th Street
Oklahoma City, Oklahoma 73102

Oregon

Attention: Chief Judge
620 S.W. Main Street, Room 612
Portland, Oregon 97205

Pennsylvania-Eastern

Attention: Chief Judge
17614 U.S. Courthouse
601 Market Street
Philadelphia, Pennsylvania 19106

Pennsylvania-Middle

Attention: Chief Judge
P.O. Box 868
Harrisburg, Pennsylvania 17108

Pennsylvania-Western

Attention: Jr Judge
U.S. Post Office and Courthouse, Room 803
Pittsburgh, Pennsylvania 15219

Puerto Rico

Attention: Chief Judge
Federal Building, Room CH-129
150 Carlos Chardon Avenue
San Juan, Puerto Rico 00918-1766

Rhode Island

Attention: Senior Judge
314 Federal Building and U.S. Courthouse
One Exchange
Providence, Rhode Island 02903-1754

South Carolina

Attention: District Judge
P.O. Box 835
Charleston, South Carolina 29402

South Dakota

Attention: Chief Judge
302 U.S. Courthouse and Federal Building
400 South Phillips Avenue
Sioux Falls, South Dakota 57102

Tennessee-Eastern

Attention: Chief Judge

P.O. Box 2484

Knoxville, Tennessee 37901

Tennessee-Middle

Attention: Chief Judge

825 U.S. Courthouse

801 Broadway

Nashville, Tennessee 37203-3869

Tennessee-Western

Attention: Judge

957 Federal Building

167 North Main Street

Memphis, Tennessee 38103

Texas-Eastern

Attention: Chief Judge

100 U.S. Courthouse

221 West Ferguson Street

Tyler, Texas 75702

Texas-Northern

Attention: Chief Judge

15D28A U.S. Courthouse

1100 Commerce Street

Dallas, Texas 75242

Texas-Southern

Attention: U.S. District Judge Retired

515 Rusk Avenue, Suite 5300

Houston, Texas 77002

Texas-Western

Attention: Senior Judge

P.O. Box 1774

Midland, Texas 79702

Utah

Attention: Chief Judge

235 U.S. Courthouse

350 South Main Street

Salt Lake City, Utah 84101

Vermont

Attention: Chief Judge

P.O. Box 392

Burlington, Vermont 05402

Virginia-Eastern

Attention: Chief Judge

P.O. Box 21449

200 South Washington Street

Alexandria, Virginia 22320-2449

Virginia-Western

Attention: Chief Judge

P.O. Box 2796

Roanoke, Virginia 24001

Virgin Islands

Attention: Chief Judge

5500 Veterans Drive, Suite 310

St. Thomas, Virgin Islands 00802-6424

Washington-Eastern

Attention: Chief Judge

P.O. Box 1432

Spokane, Washington 99210

Washington-Western

Attention: Chief Judge

705 U.S. Courthouse

1010 Fifth Avenue

Seattle, Washington 98104

West Virginia-Northern

Attention: District Judge

P.O. 1275

Elkins, West Virginia 26241

West Virginia-Southern

Attention: Chief Judge

P.O. Box 351

Charleston, West Virginia 25322-0351

Wisconsin-Eastern

Attention: Chief Judge

371 U.S. Courthouse

517 East Wisconsin Avenue

Milwaukee, Wisconsin 53202

Wisconsin-Western

Attention: Chief Judge

P.O. Box 591

Madison, Wisconsin 53701-0591

Wyoming

Attention: U.S. District Judge

P.O. Box 985

Cheyenne, Wyoming 82003



COURT SECURITY AND THE TRANSPORTATION OF PRISONERS: A NATIONAL STUDY



FEDERAL COURT SYSTEM

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FEDERAL COURT SYSTEM

◆ ◆ Supreme Court
◆ ◆ Circuit/District
◆ ◆ Claims
◆ ◆ Federal Circuit

◆ ◆ Court of International
Trade
◆ ◆ Bankruptcy
◆ ◆ Magistrate

Supreme Court

9 Active
3 [Other]

Court of International Trade

9 Active
(4) [Other]

Circuit/District

816 Active
363 [Other]

Magistrate

378 Active
102 [Other]

Claims

16 Active
2 [Other]

Bankruptcy

326 Active
14 [Other]

Federal Circuit

12 Active
7 [Other]

Total: 1,554 (Active)
 495 (Other)
 2,049

**COURT SECURITY AND THE
TRANSPORTATION OF PRISONERS:
A NATIONAL STUDY**



ANNUAL REPORT 1992

**STATE COURT IDENTIFICATIONS
&
STATE COURT STRUCTURE**

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ANNUAL REPORT 1992

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A joint project of the Conference of State Court Administrators,
the State Justice Institute, and the National Center for
State Courts' Court Statistics Project

PROFILE OF STATE COURTS

Each state has its own unique structure for its court system. However, all state court systems share one common structural element: hierarchy. "Hierarchy" refers to the ability of upper level courts to review and undo what lower level courts have done, with a court of last resort (in most states, the supreme court) at the top of the hierarchy.

The legal authority of a court to dispose of particular types of controversies is its "jurisdiction." Some courts have very specific jurisdictions (e.g., criminal, civil, traffic, family and domestic relations) while other courts have general jurisdiction.

A state court system usually has three tiers of courts:

1. The appellate structure, which monitors the lower courts and tells these courts how to decide future cases involving the same or similar types of facts. At the top of the appellate structure is the supreme court, or court of last resort. In most states the supreme court hears appeals from the trial courts of general jurisdiction, although in some states which have large appellate workloads, there are intermediate appeals courts between the supreme court and the courts of general jurisdiction.
2. Trial courts of general jurisdiction have many different names in the various states but theoretically their duty is to try all cases and hear all justiciable controversies. In some states the criminal court is separate from the general court while other states have established special courts to handle specific matters, such as juvenile law cases. In reality, general jurisdiction courts have the authority to hear all criminal and civil cases except those of a minor nature.
3. Court of special jurisdiction and limited jurisdiction have been in a period of transition over the last three decades and are difficult to define clearly. Basically, though, these courts handle matters of lower value or lesser seriousness involving the same subject matter as the courts of general

jurisdiction. Some examples of these courts include municipal, justice of the peace, police court and county court.

The following pages contain diagrams of the structures of court systems for all 50 states, the District of Columbia and Puerto Rico. These diagrams are reprinted with permission from State Court Caseload Statistics: Annual Report 1992, prepared by the Conference of State Court Administrators, the State Justice Institute and the National Center for State Courts (February 1994).

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Annual Report 1992
(National Center for State Courts 1994)

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from the State Justice Institute. Points of view expressed
herein are those of the authors and do not necessarily represent
the official position of policies of the State Justice Institute.

Part IV: 1992 State Court Structure Charts . . .

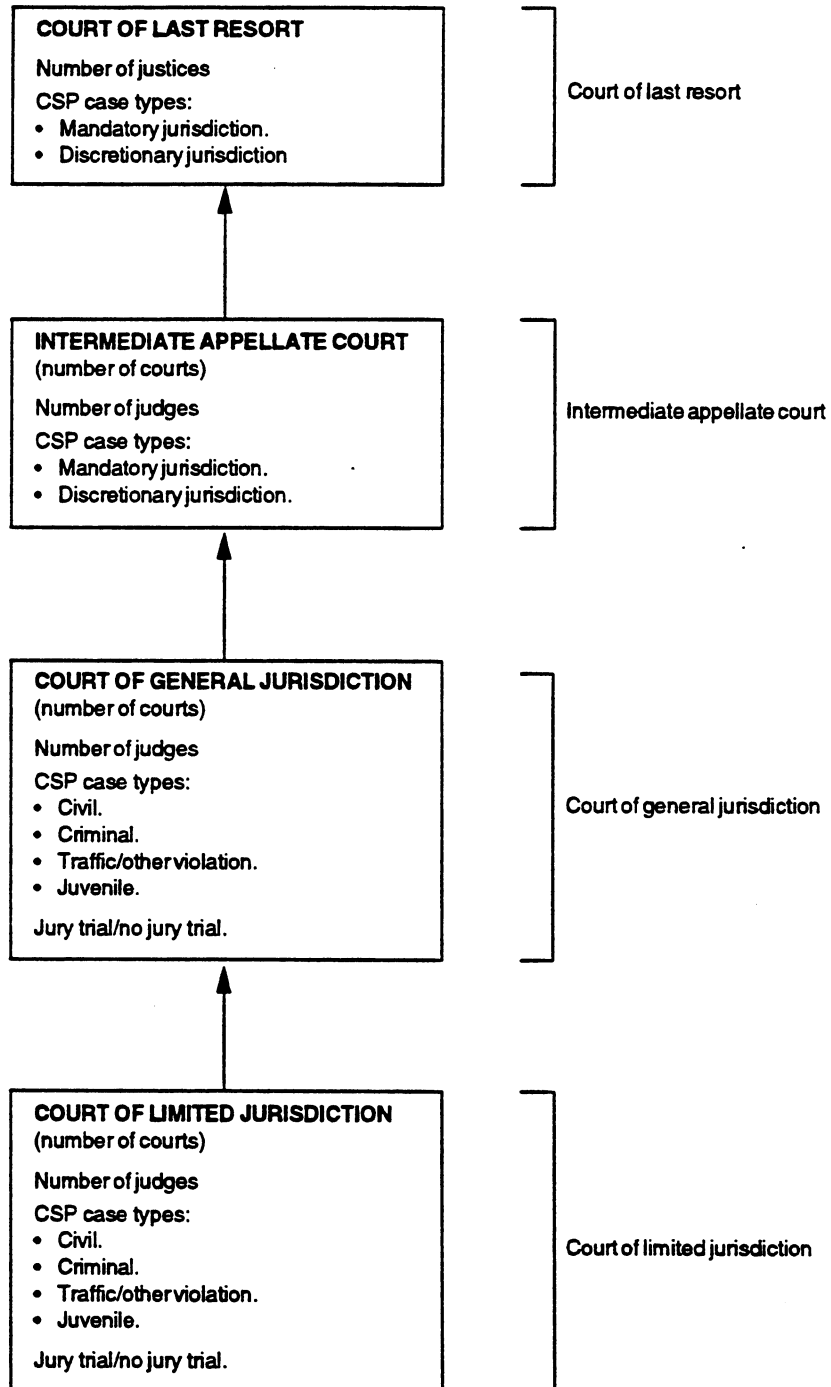
Court Structure Charts
Trial Courts 168 to 223

STATE SYSTEM

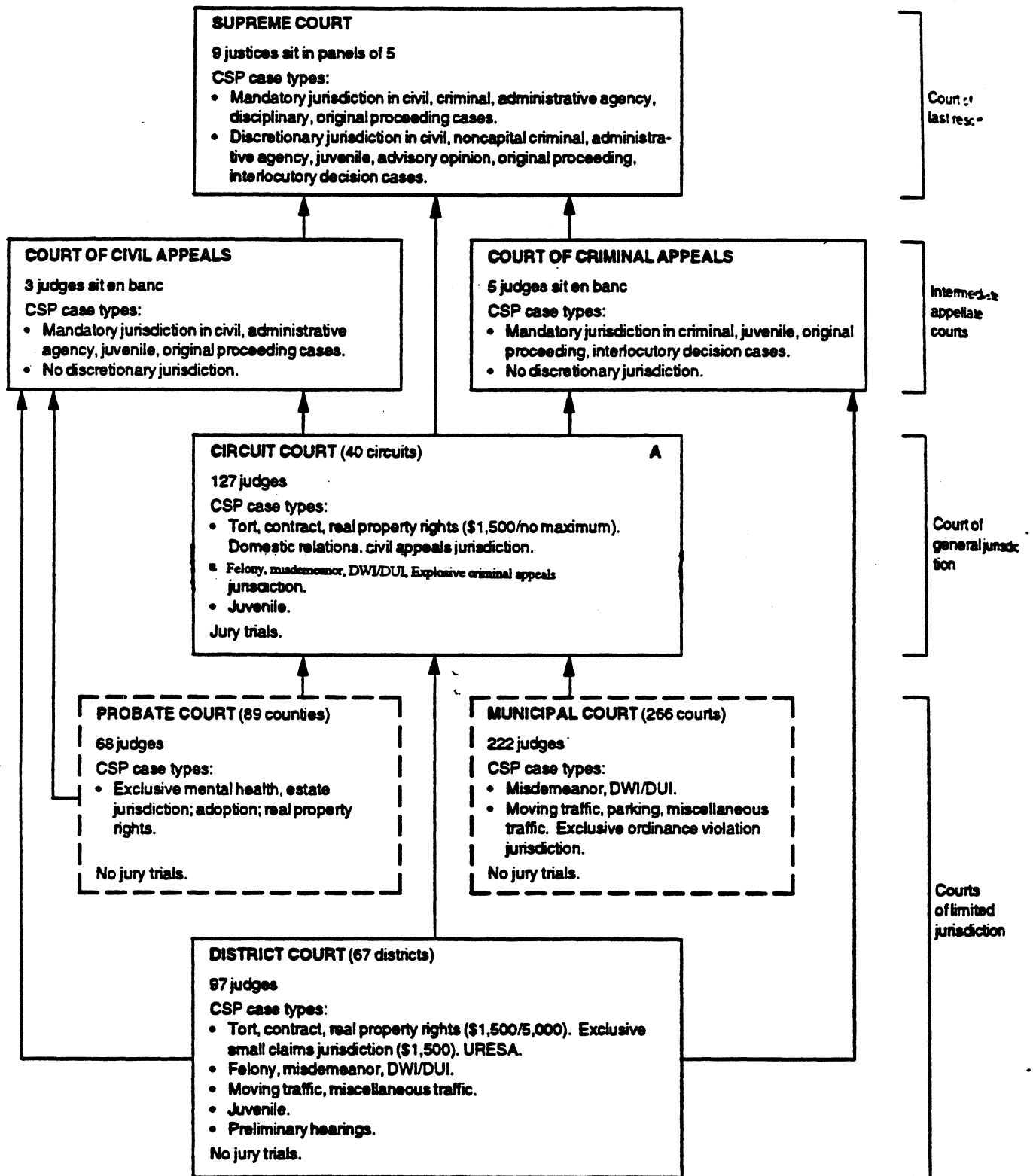
**TOTAL STATE, COUNTY, MUNICIPAL AND
TERRITORIAL COURTS AS OF THE DATE OF THIS
SURVEY - 17,825**

STATE COURT STRUCTURE PROTOTYPE

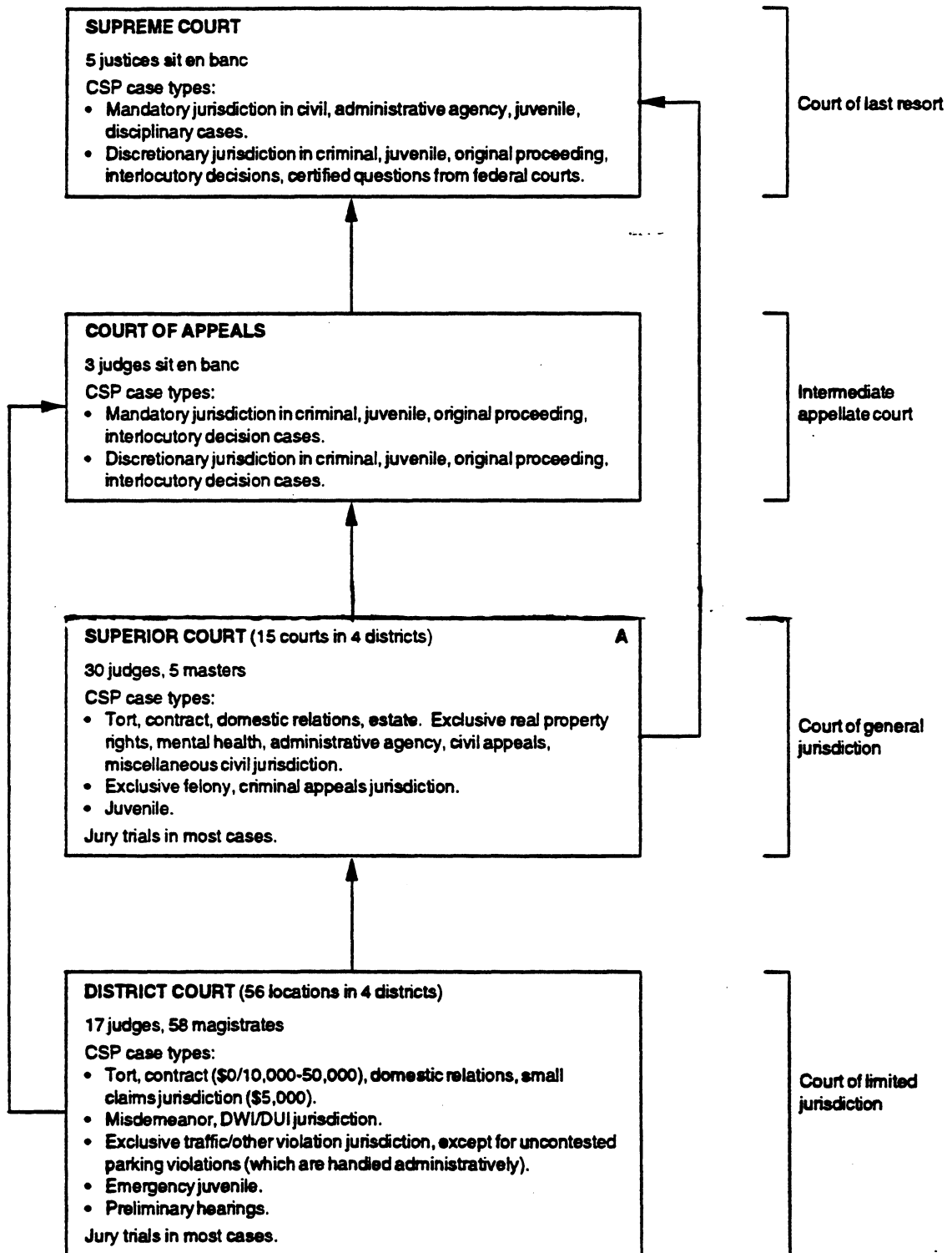
STATE COURT STRUCTURE PROTOTYPE, 1992



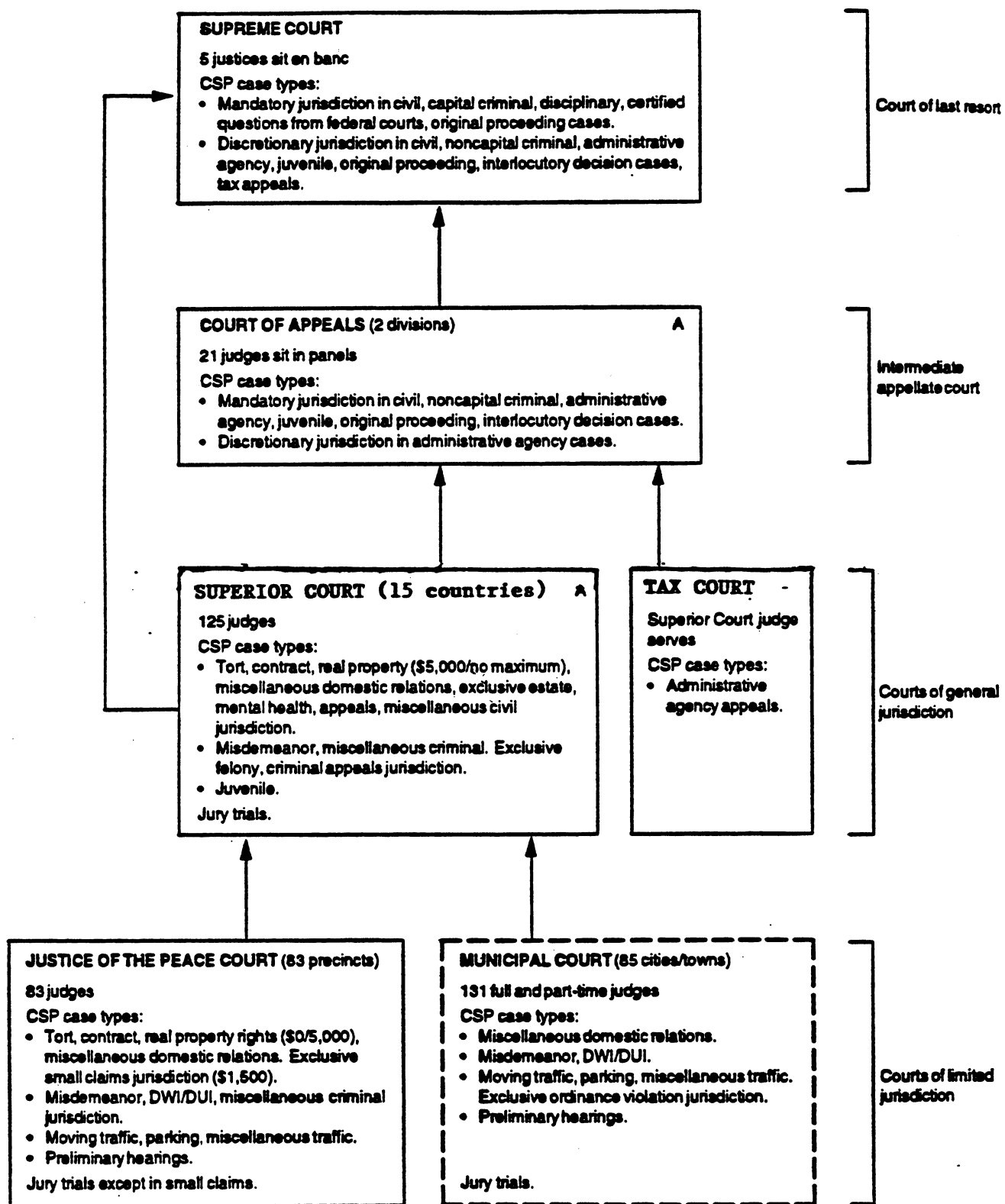
ALABAMA COURT STRUCTURE, 1992



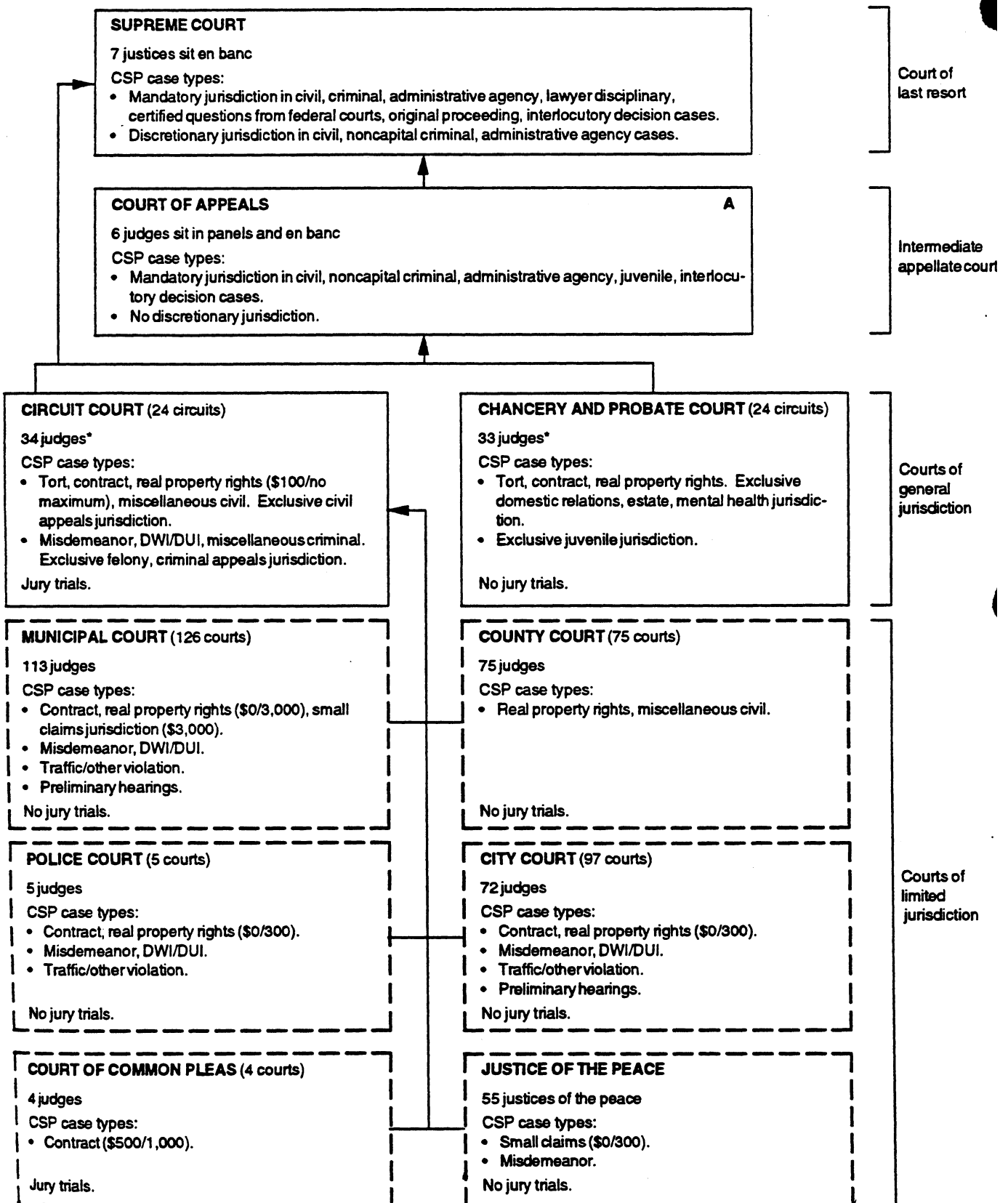
ALASKA COURT STRUCTURE, 1992



ARIZONA COURT STRUCTURE, 1992

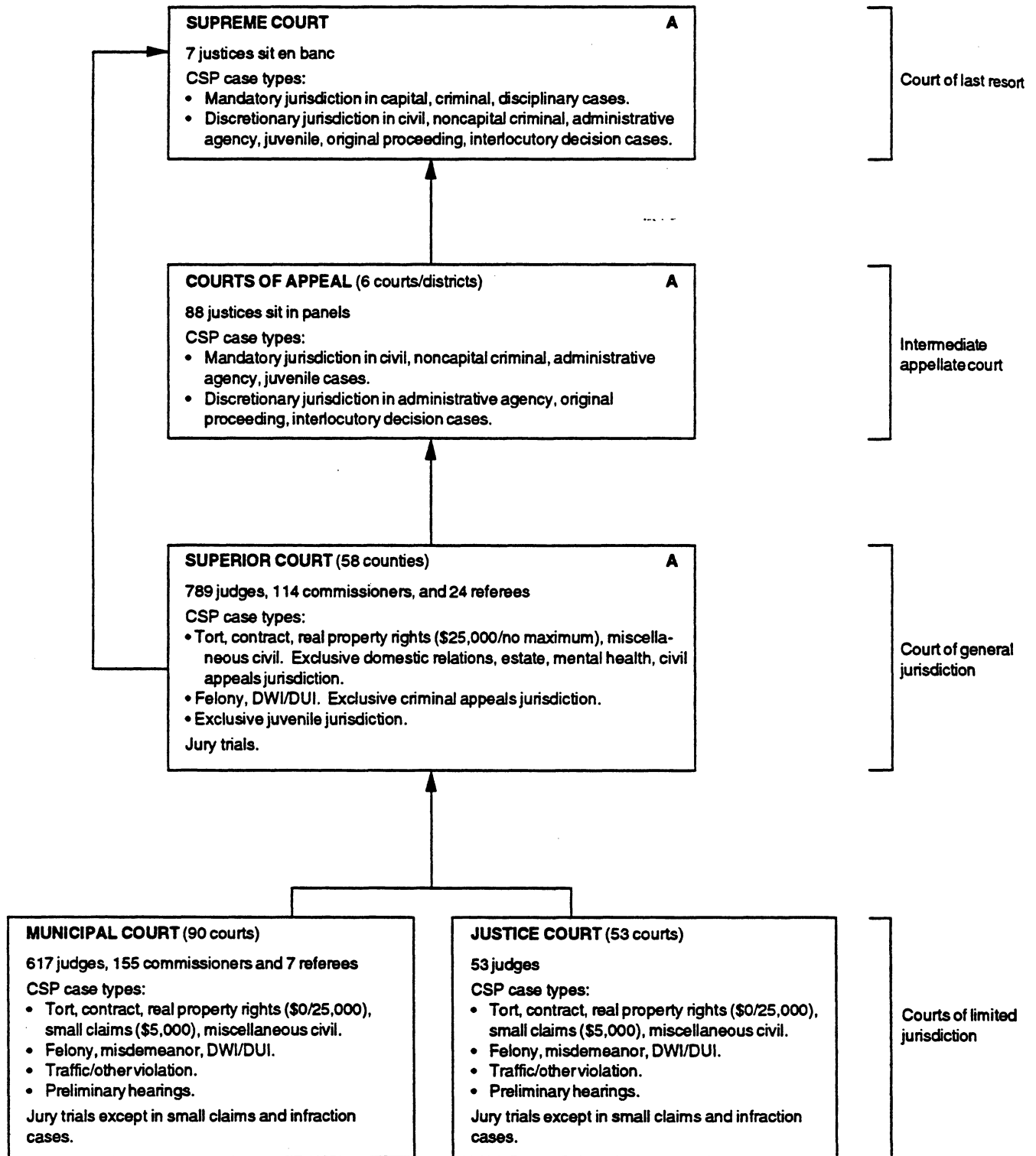


ARKANSAS COURT STRUCTURE, 1992

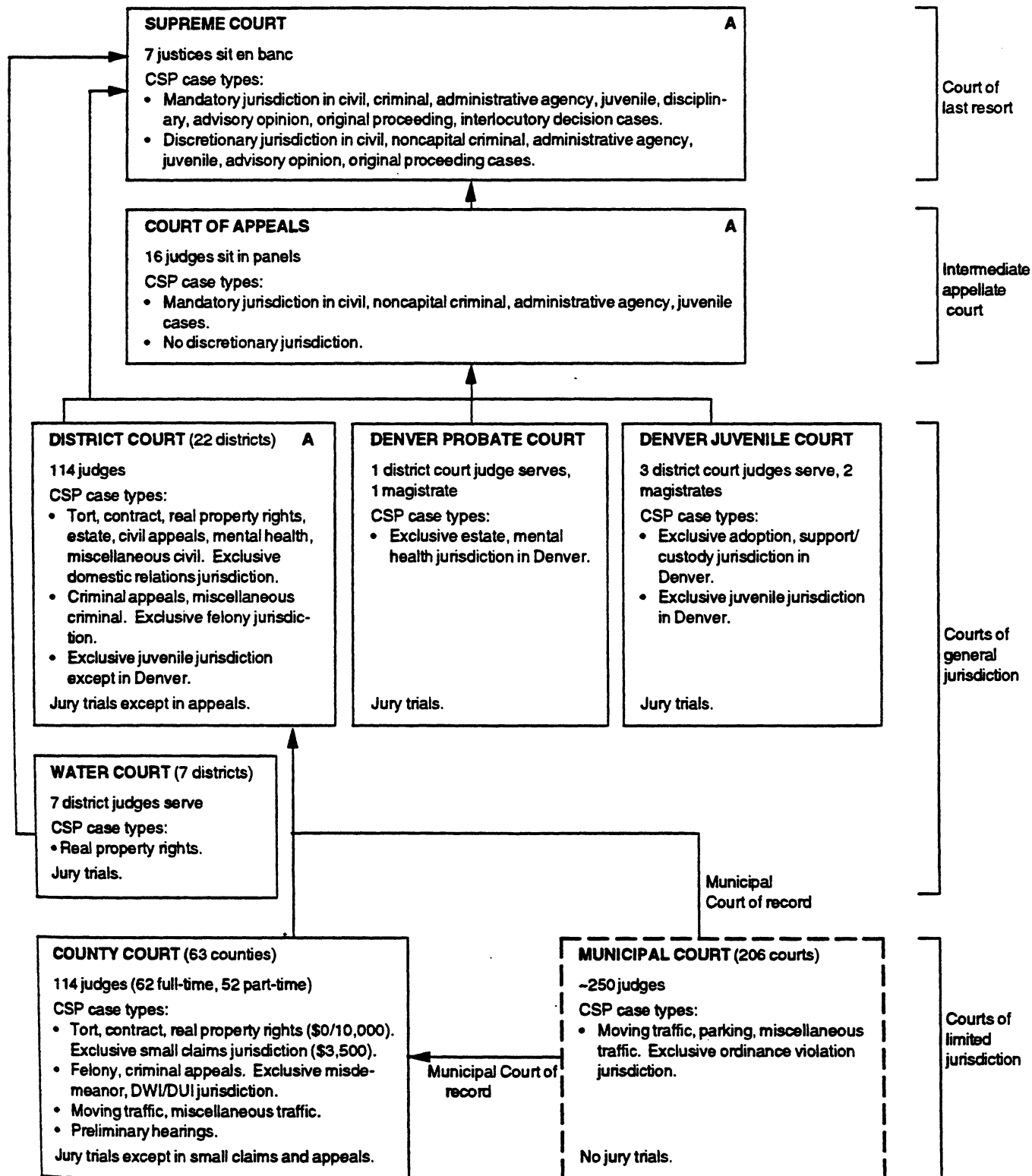


* Thirty-two additional judges serve both circuit and chancery courts, 20 of which are primarily responsible for the juvenile division of chancery court.

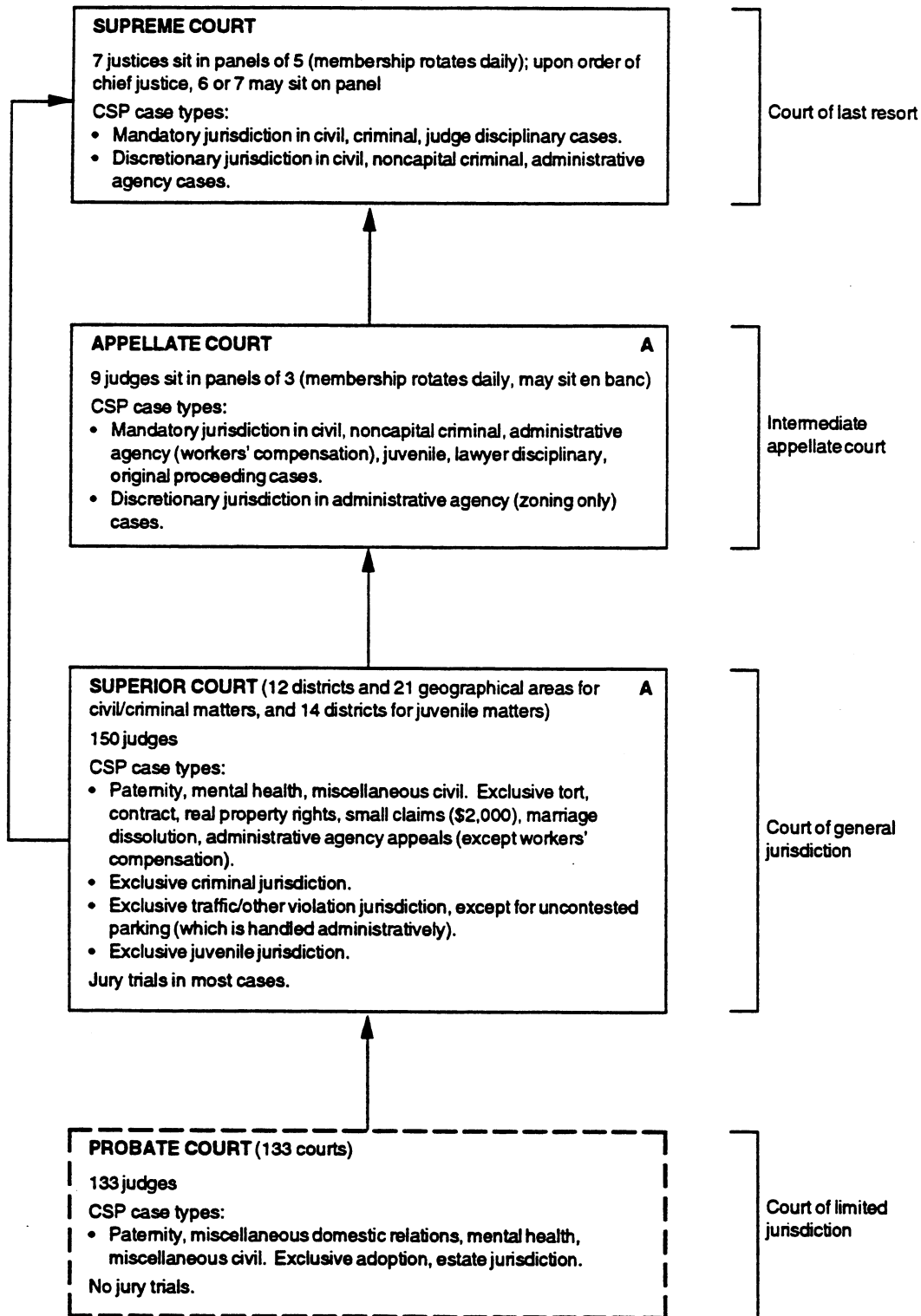
CALIFORNIA COURT STRUCTURE, 1992



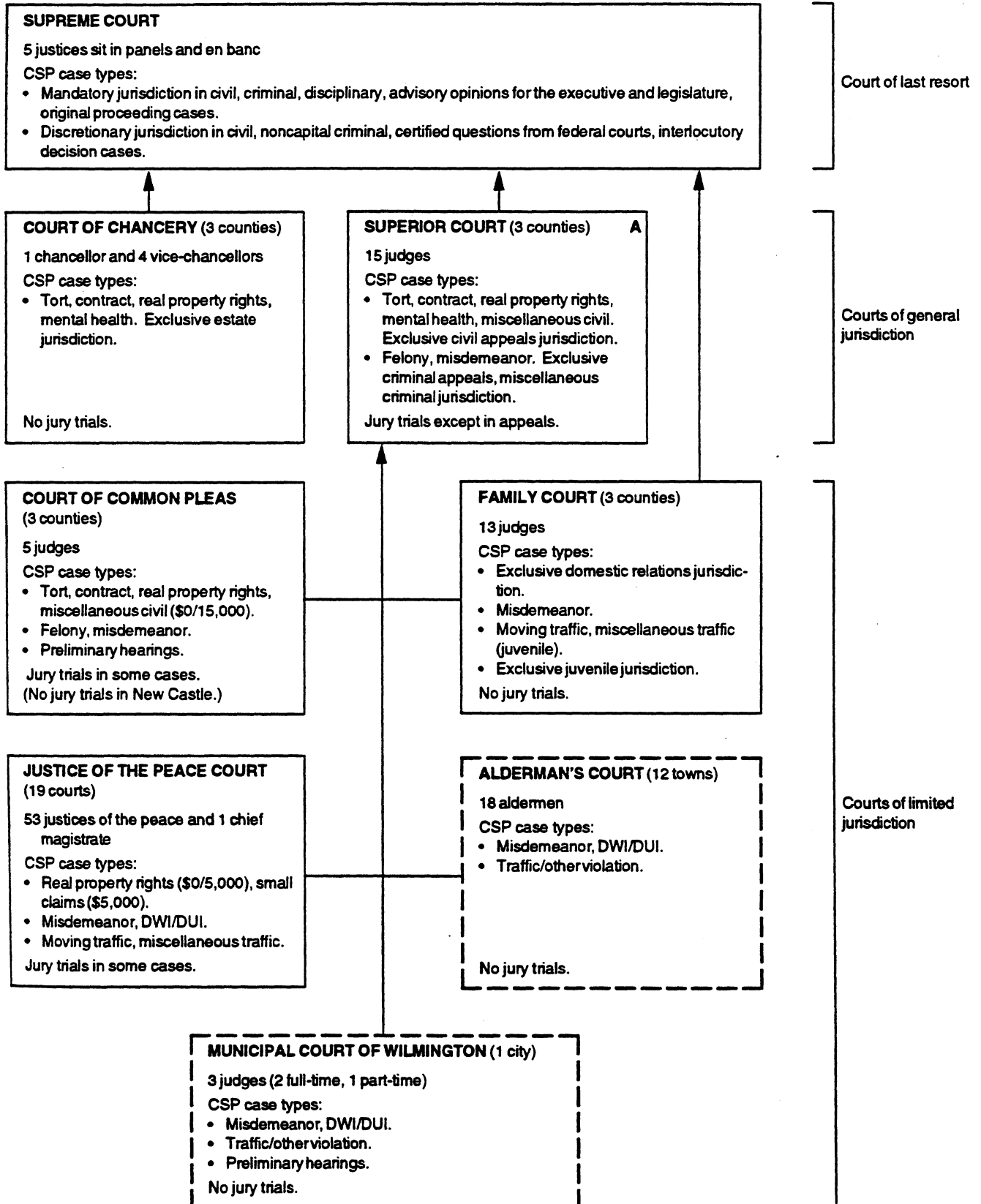
COLORADO COURT STRUCTURE, 1992



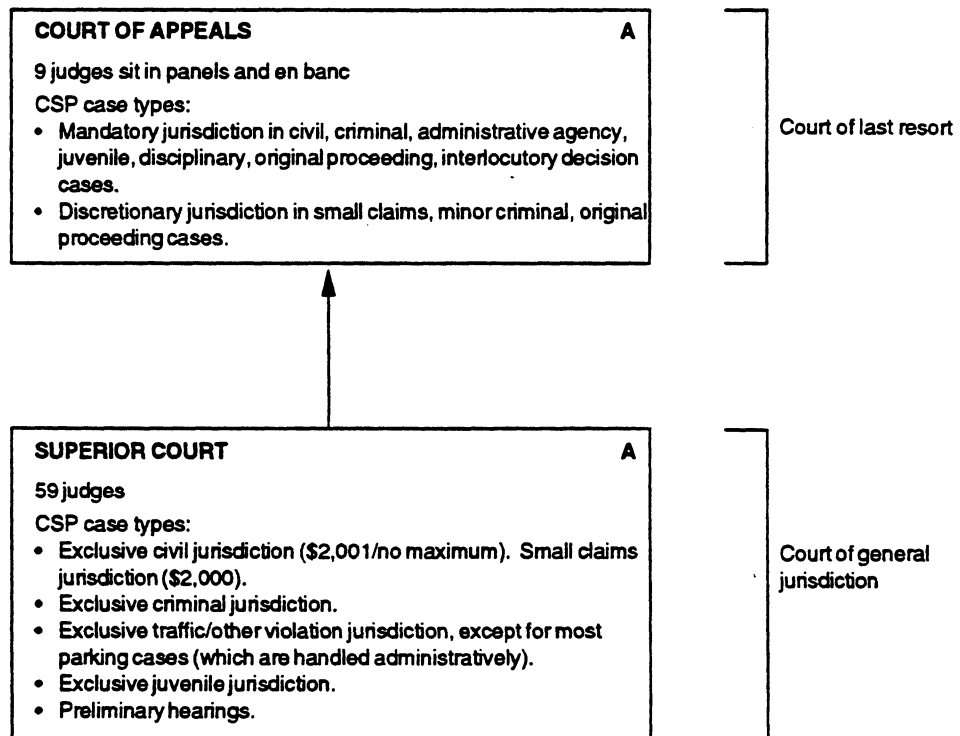
CONNECTICUT COURT STRUCTURE, 1992



DELAWARE COURT STRUCTURE, 1992



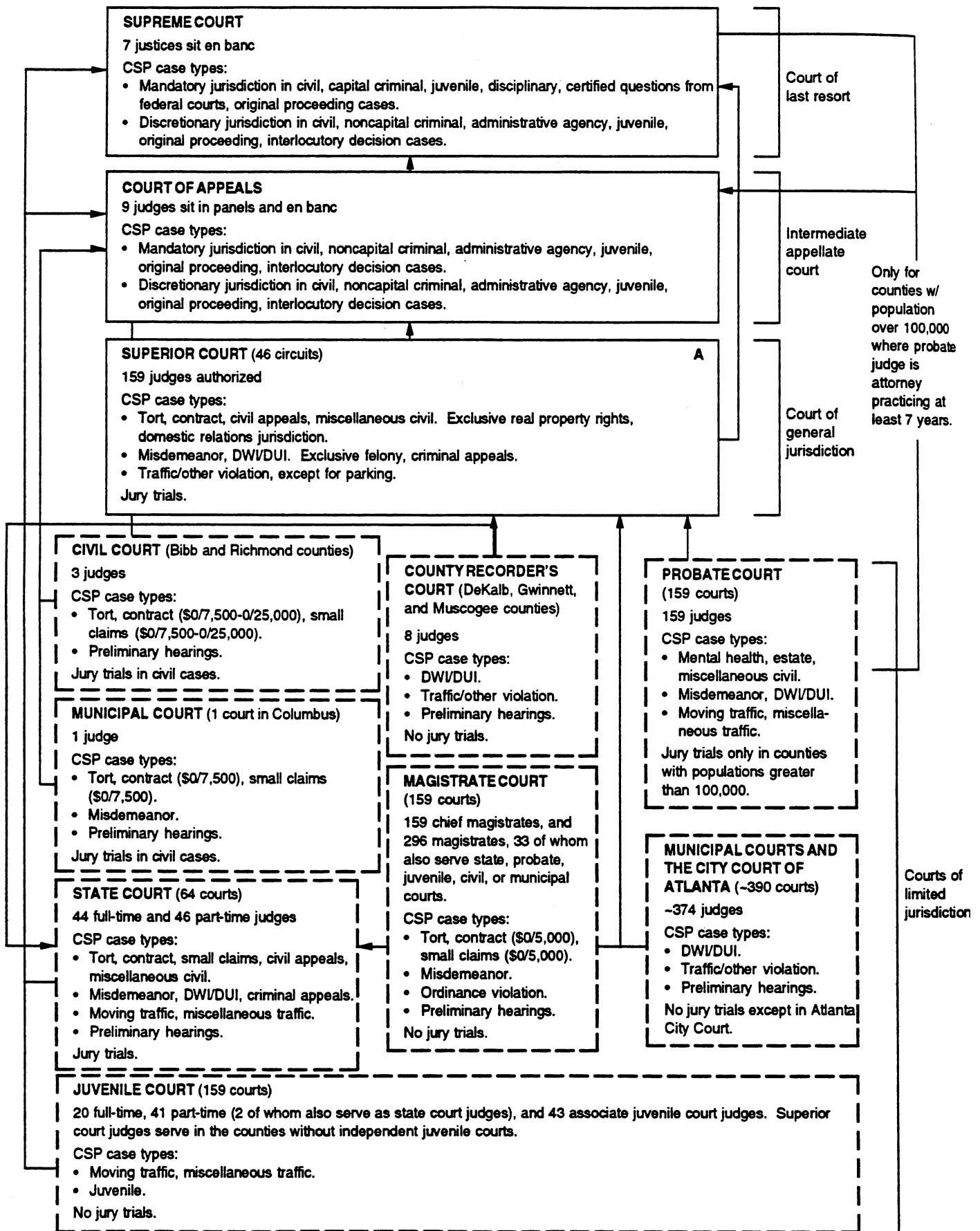
DISTRICT OF COLUMBIA COURT STRUCTURE, 1992



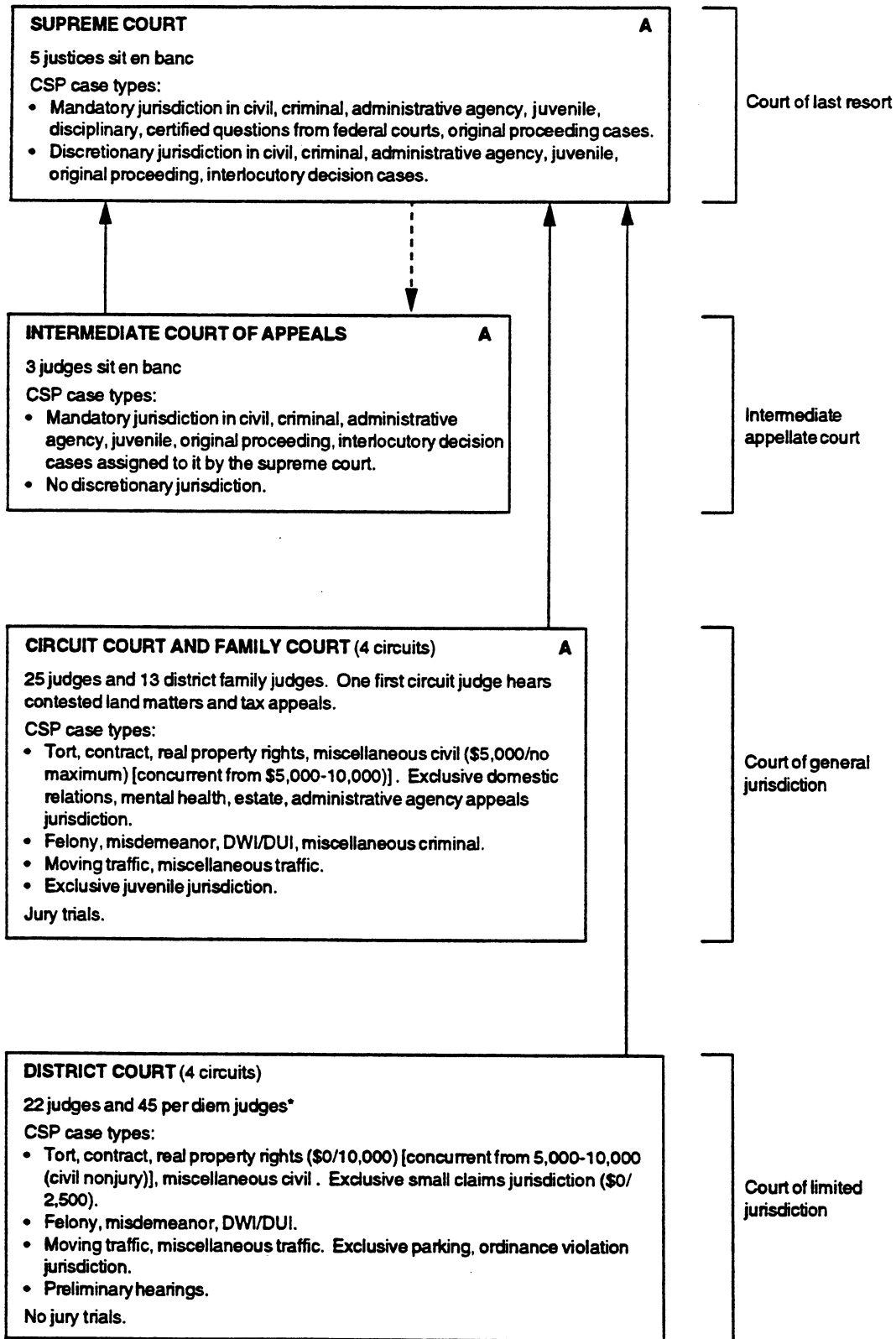
Volume II



GEORGIA COURT STRUCTURE, 1992



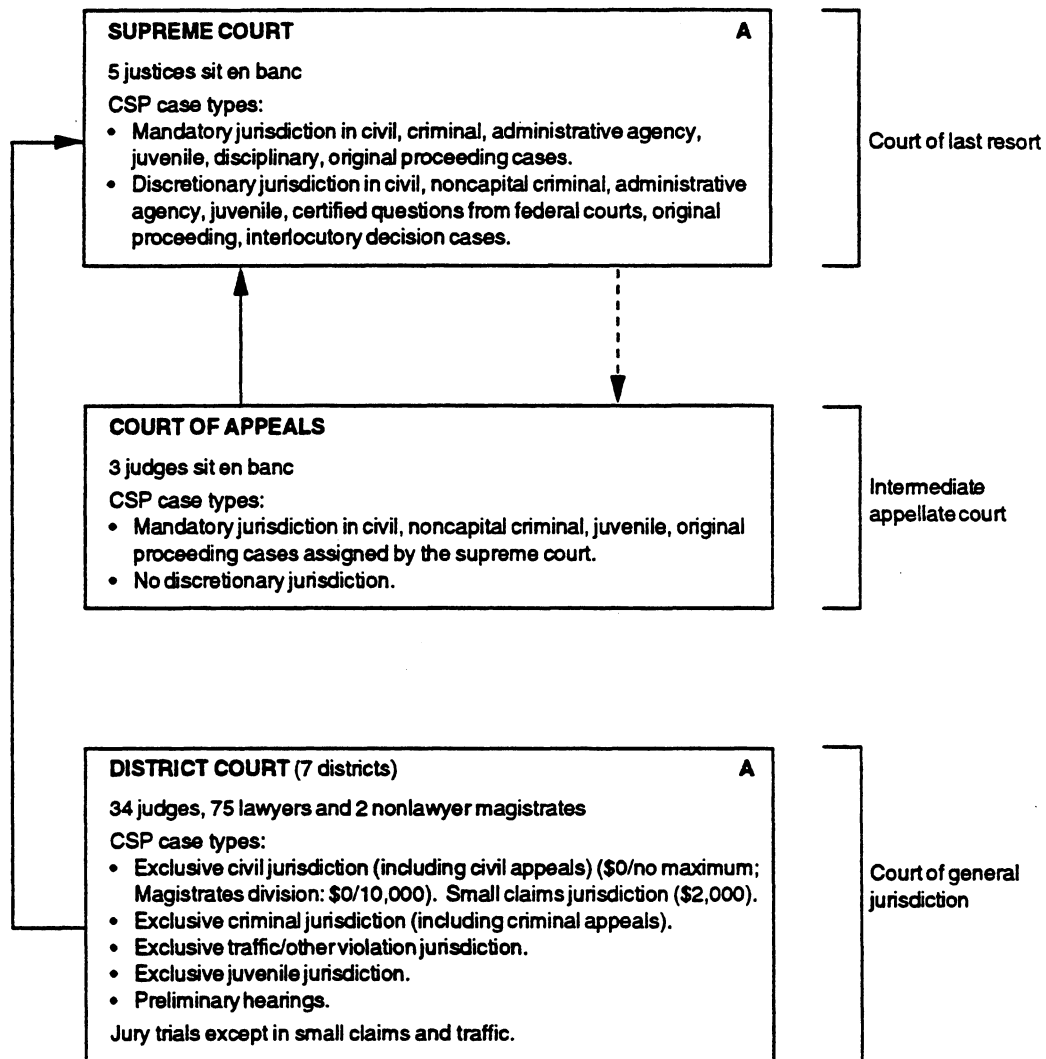
HAWAII COURT STRUCTURE, 1992



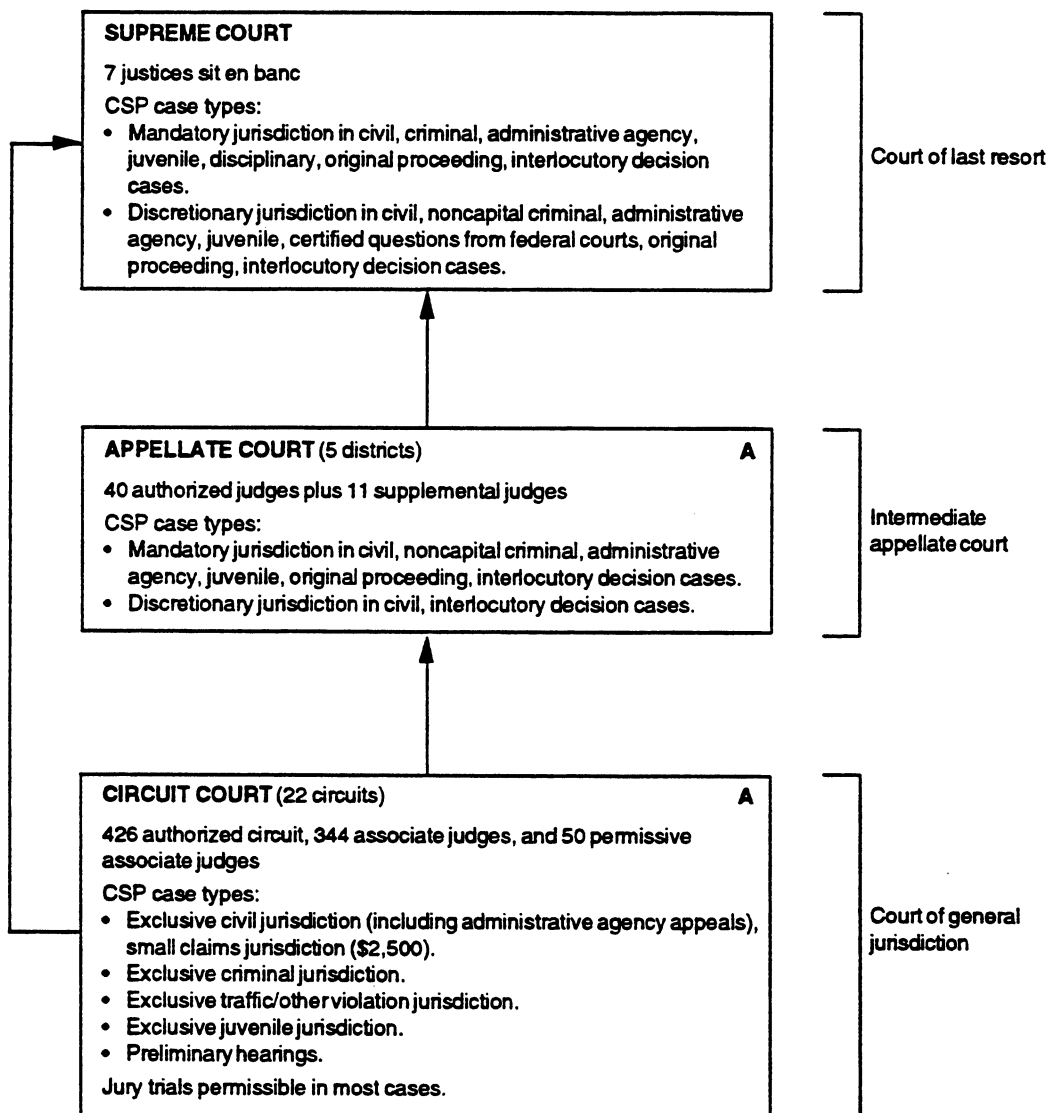
- - Indicates assignment of cases.

* Some per diem judges are assigned to serve as per diem district and family court judges in the first circuit.

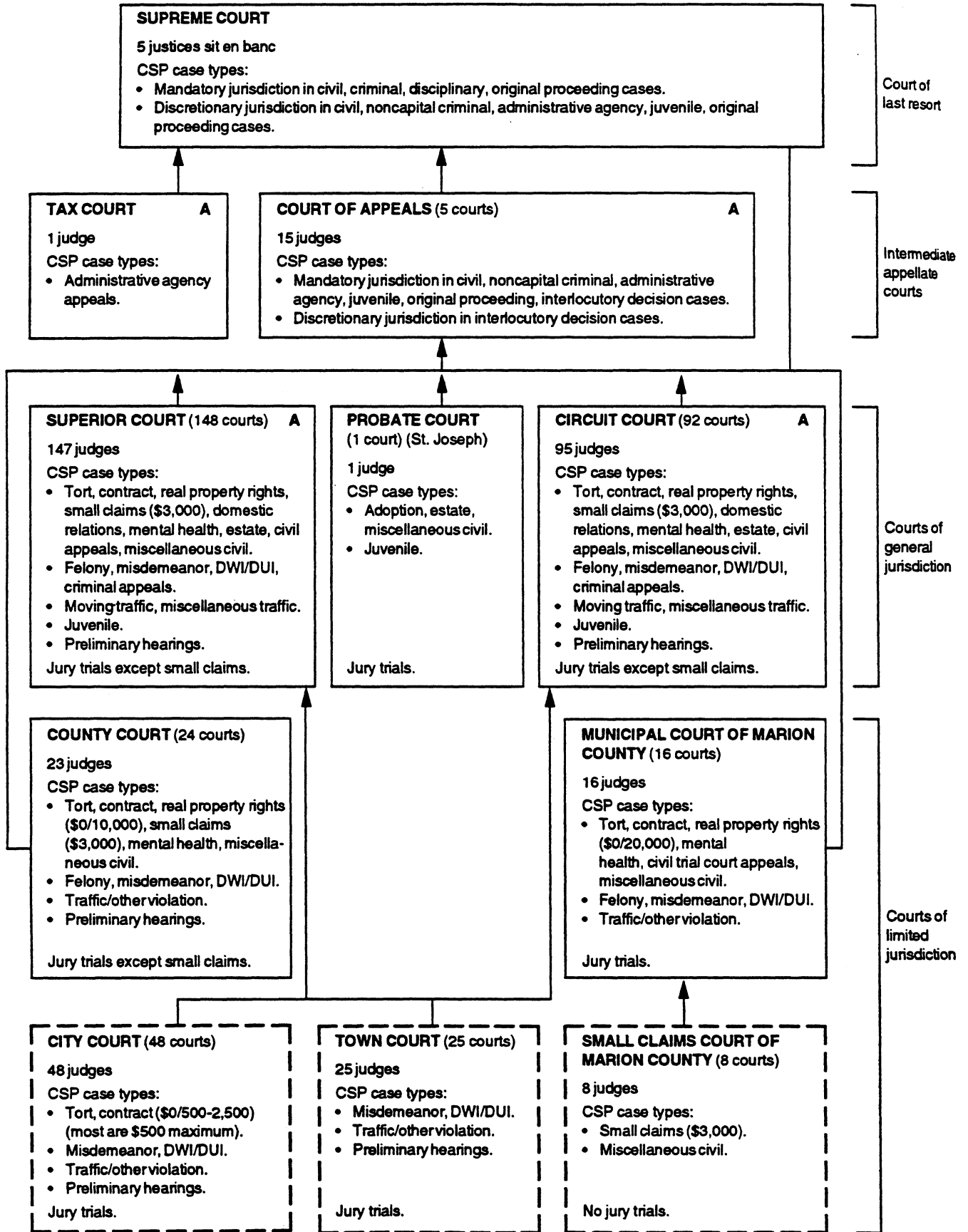
IDAHO COURT STRUCTURE, 1992



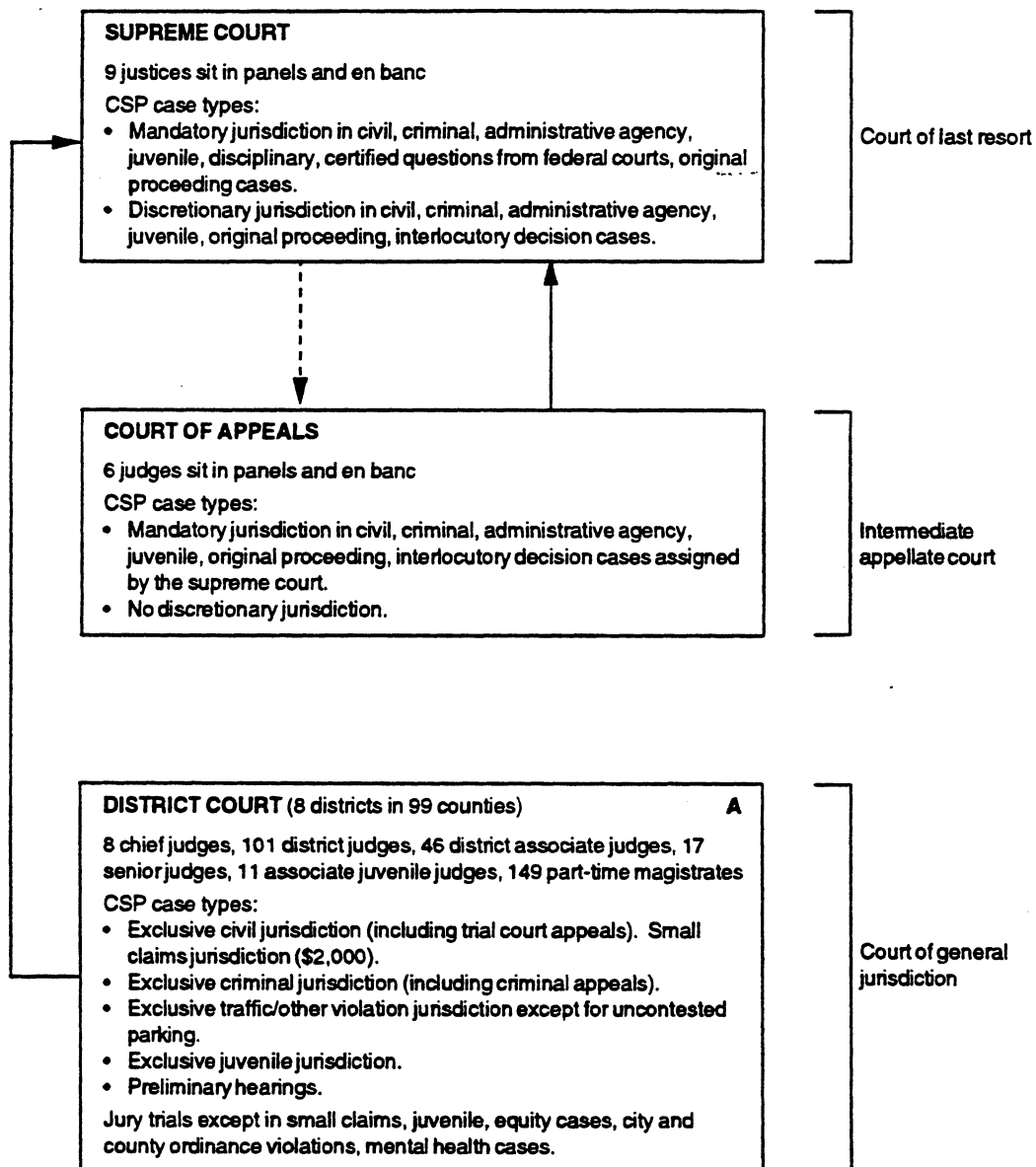
ILLINOIS COURT STRUCTURE, 1992



INDIANA COURT STRUCTURE, 1992

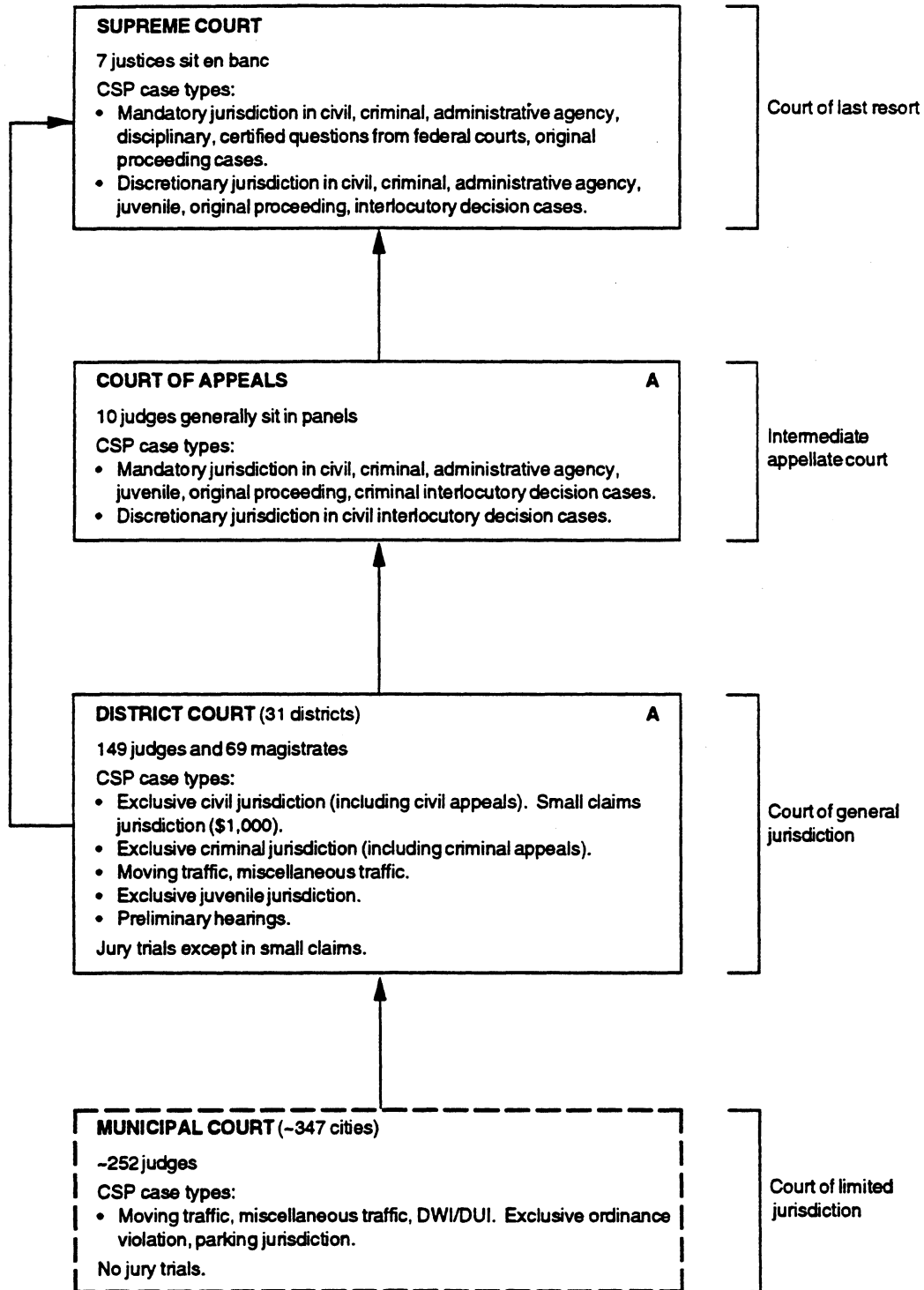


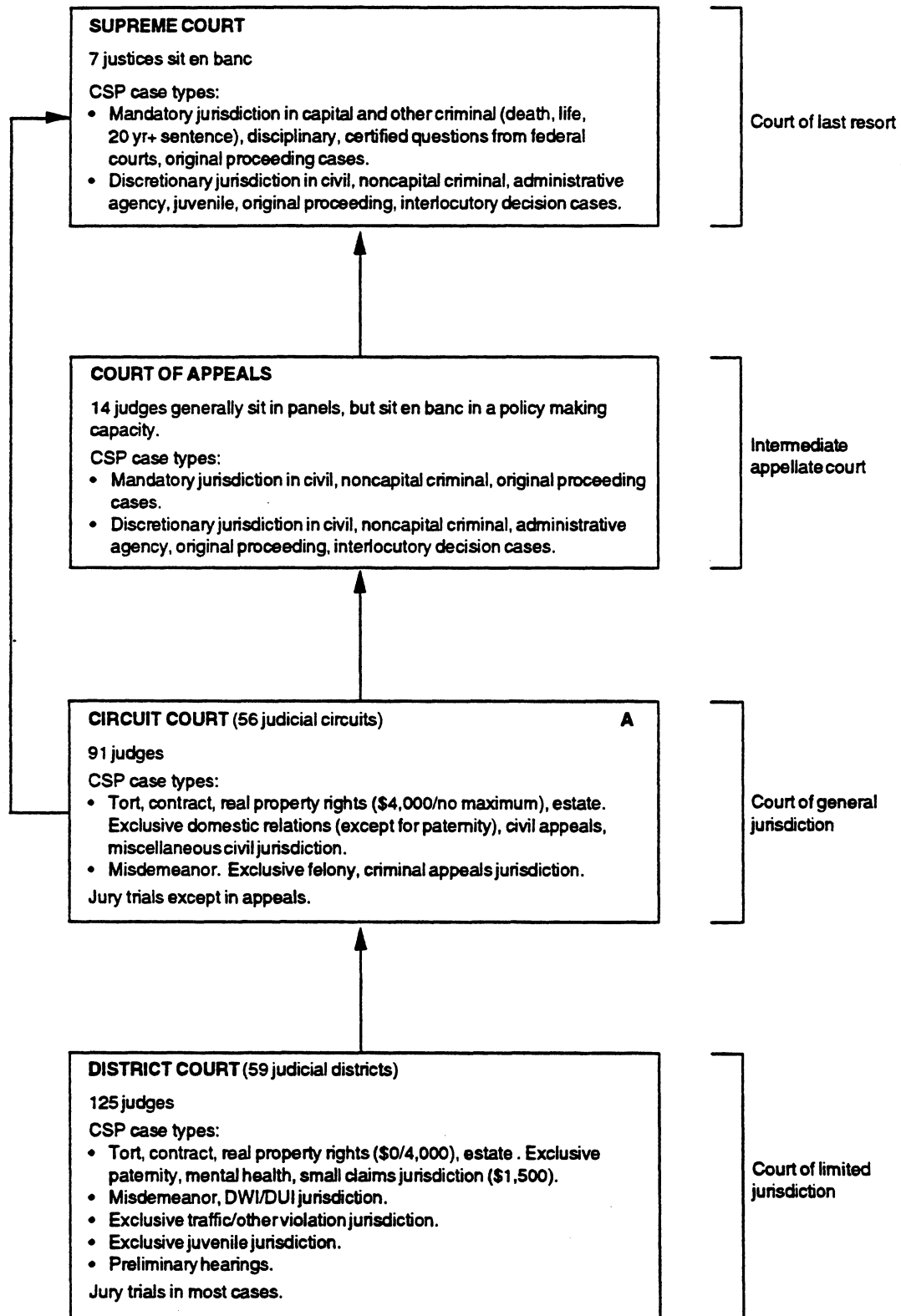
IOWA COURT STRUCTURE, 1992



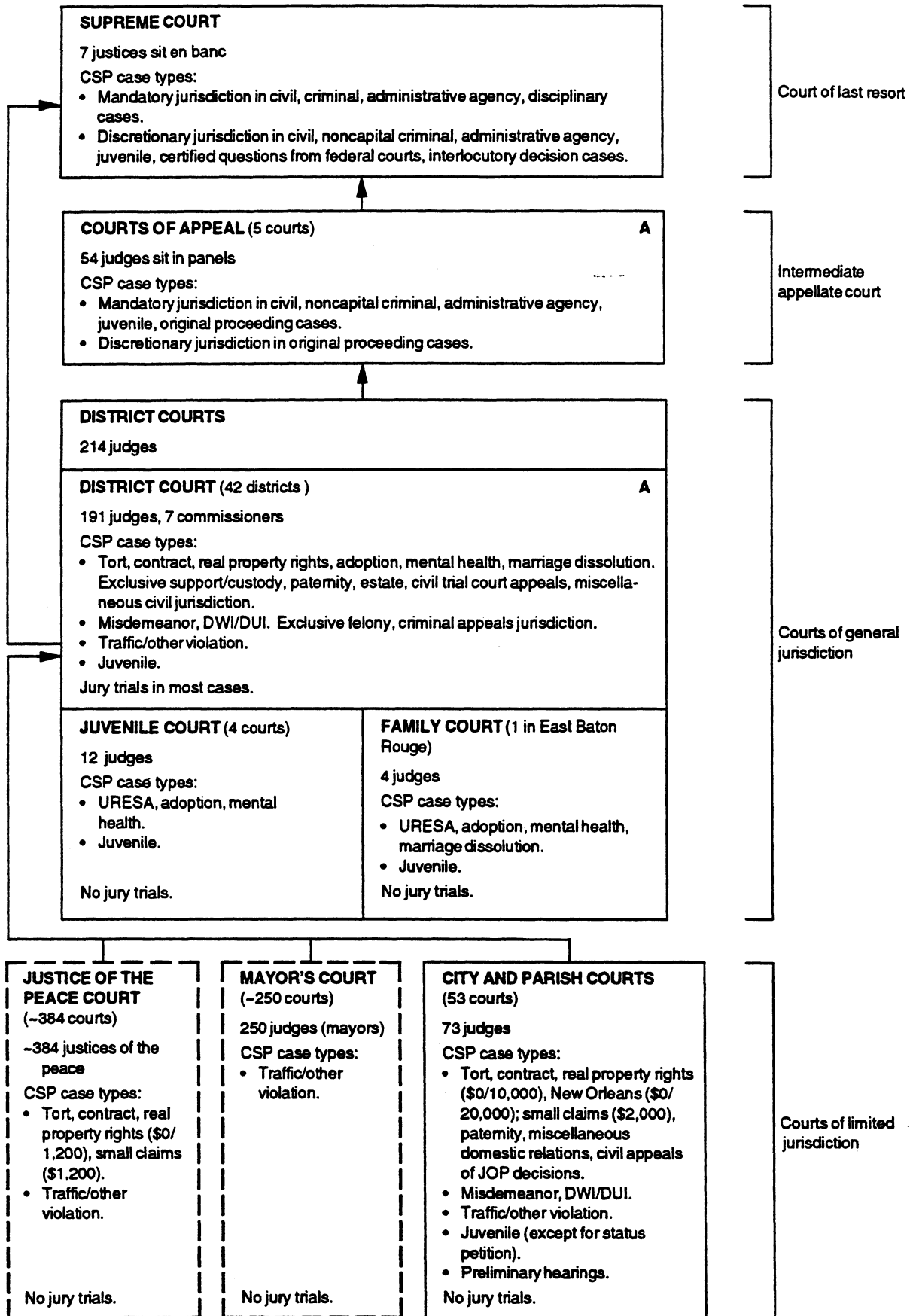
-- Indicates assignment of cases

KANSAS COURT STRUCTURE, 1992

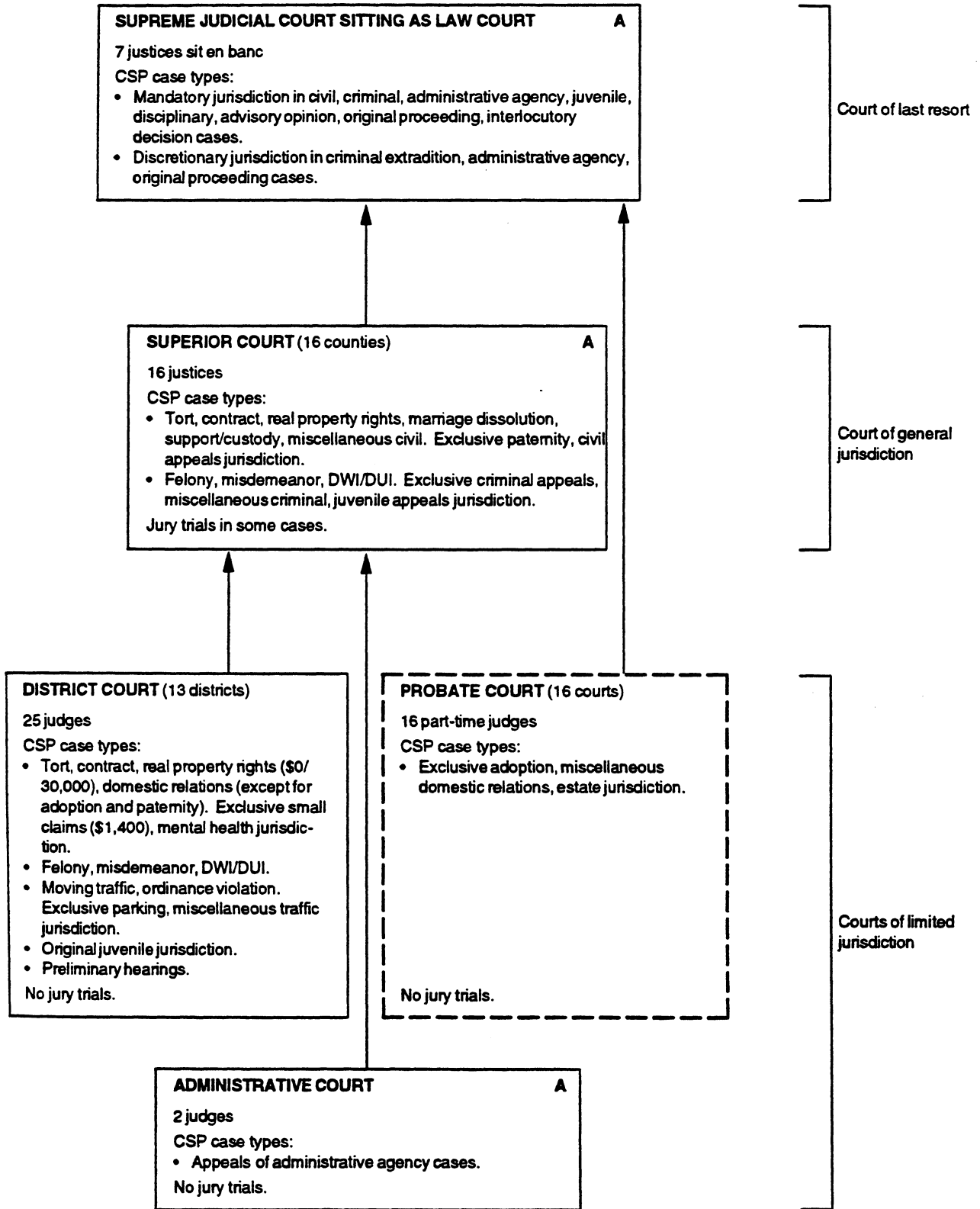




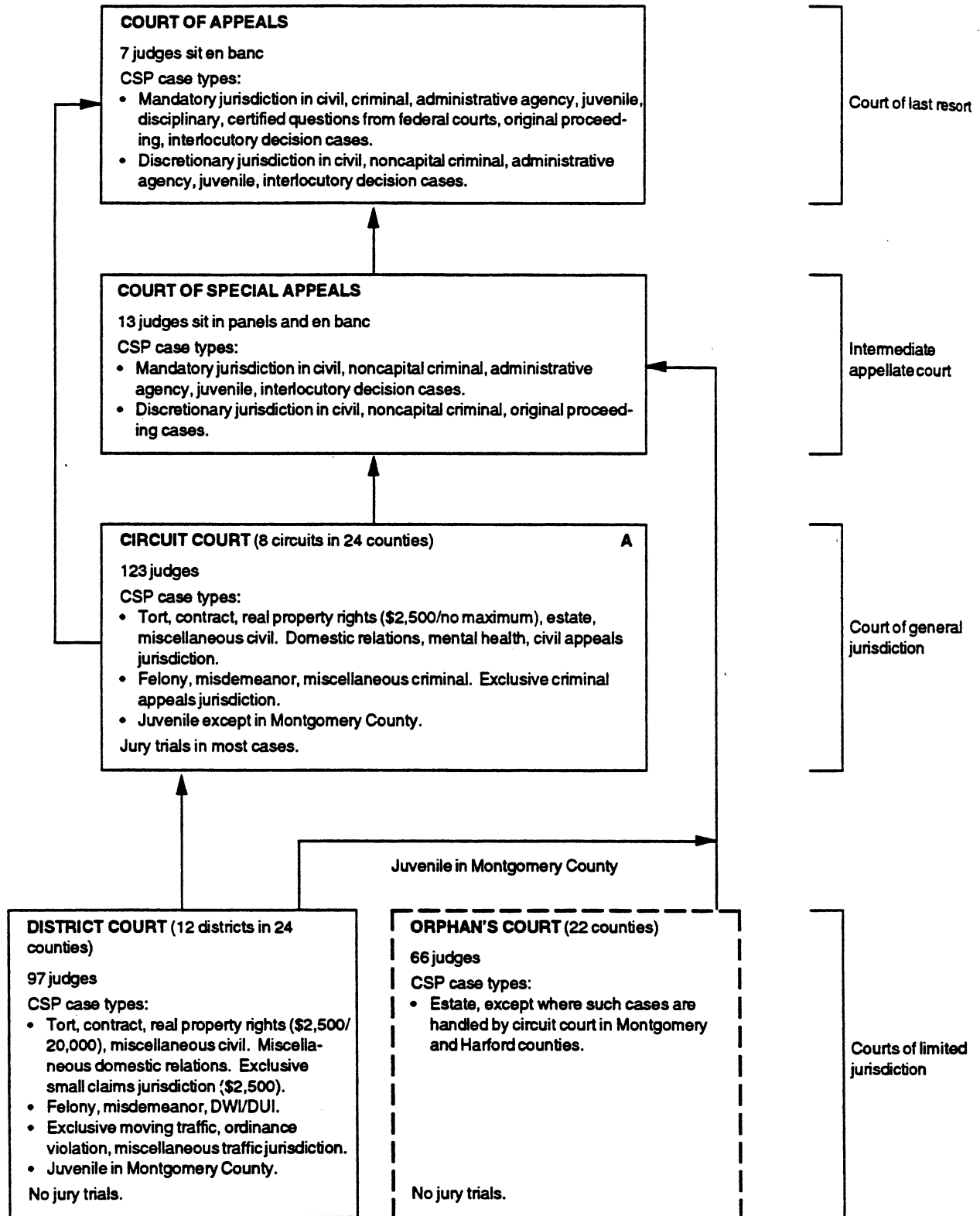
LOUISIANA COURT STRUCTURE, 1992



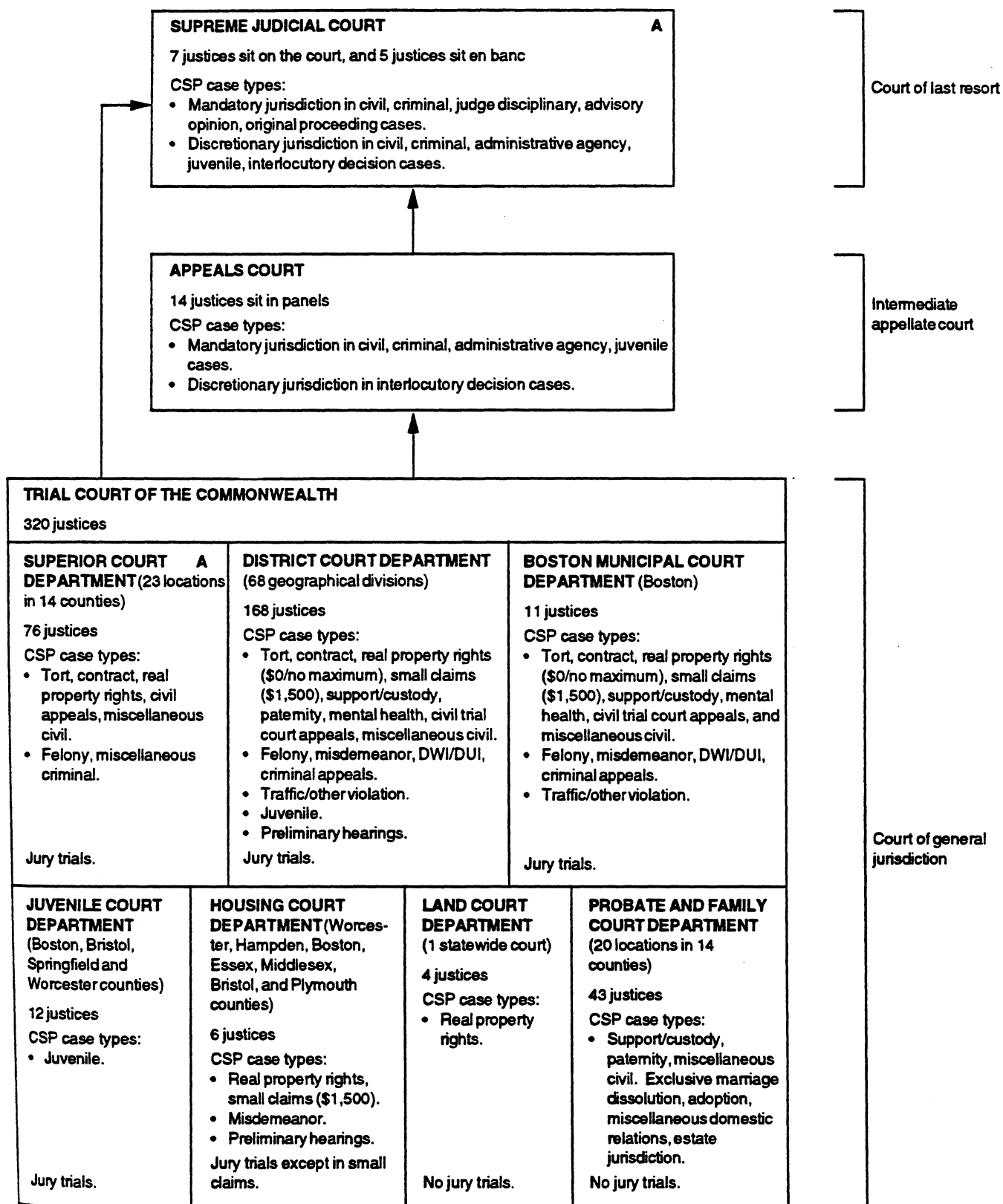
MAINE COURT STRUCTURE, 1992



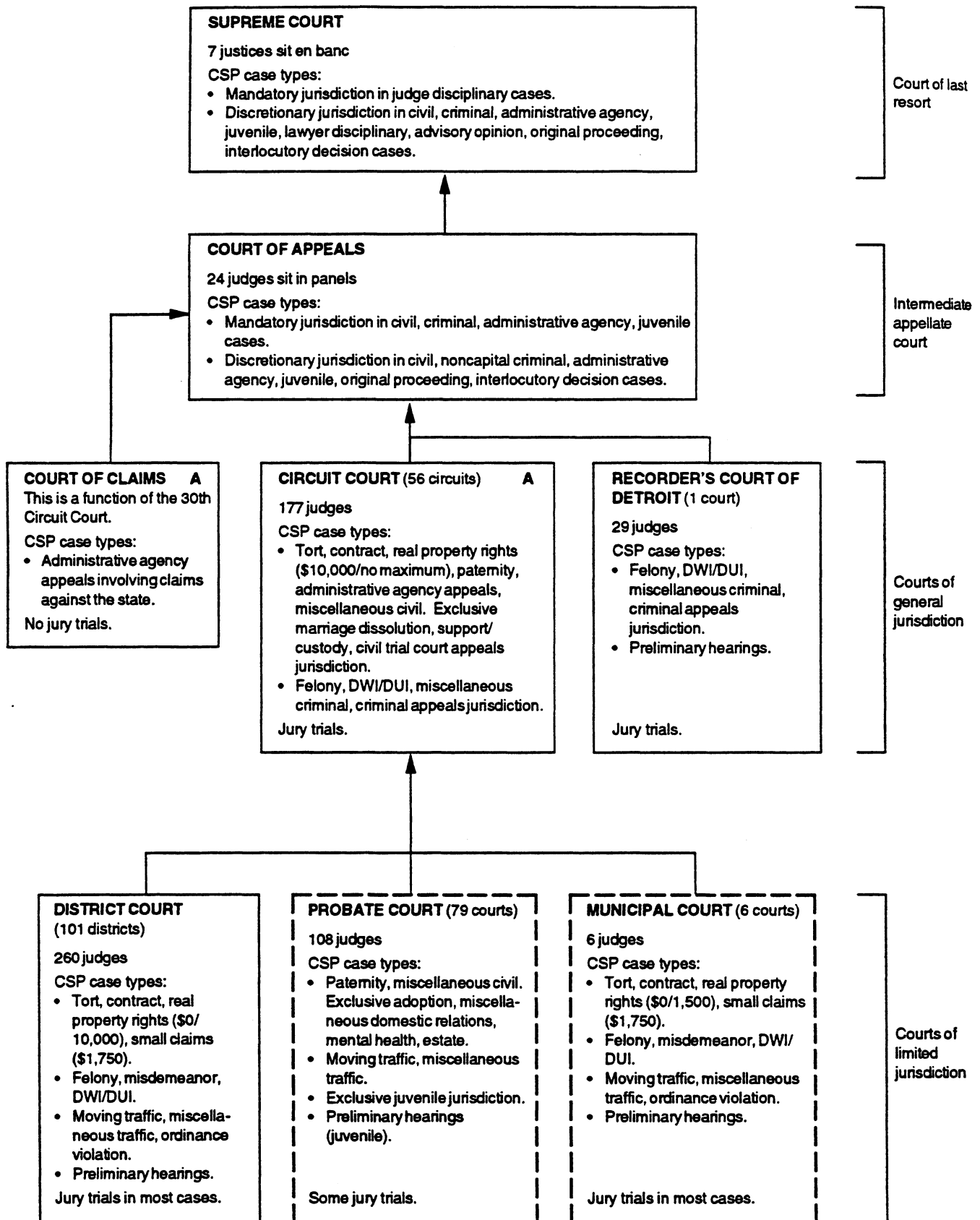
MARYLAND COURT STRUCTURE, 1992



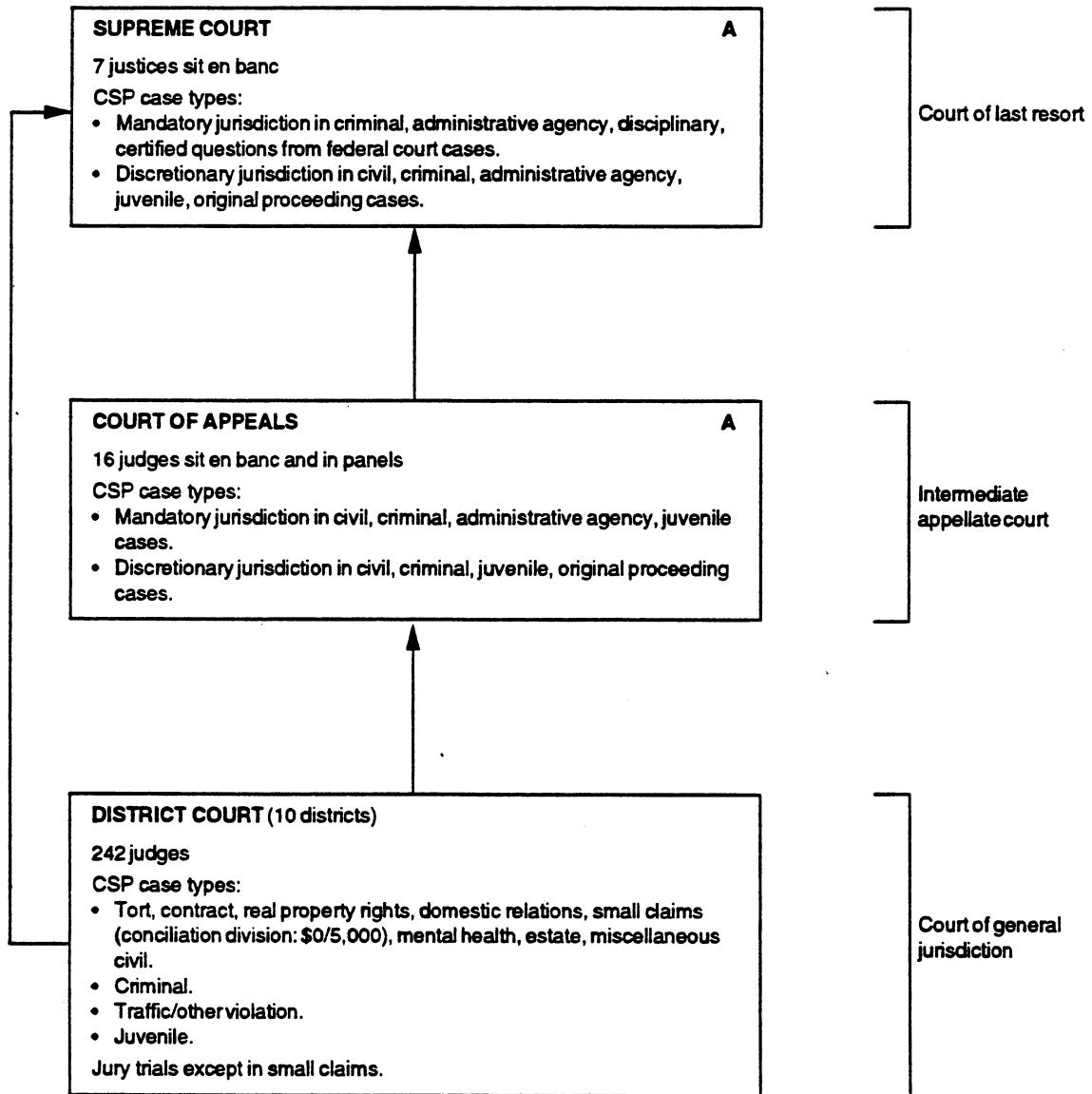
MASSACHUSETTS COURT STRUCTURE, 1992



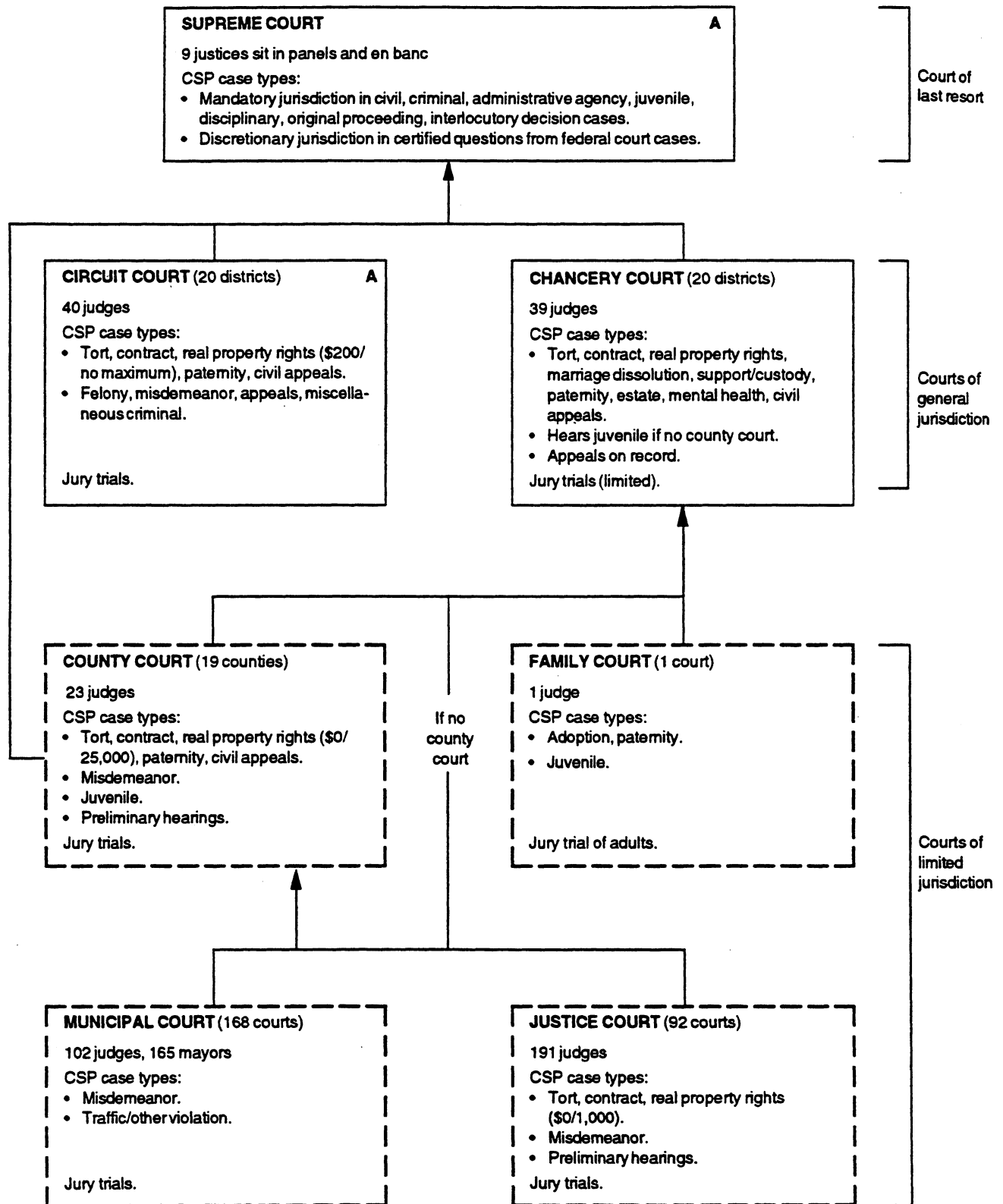
MICHIGAN COURT STRUCTURE, 1992



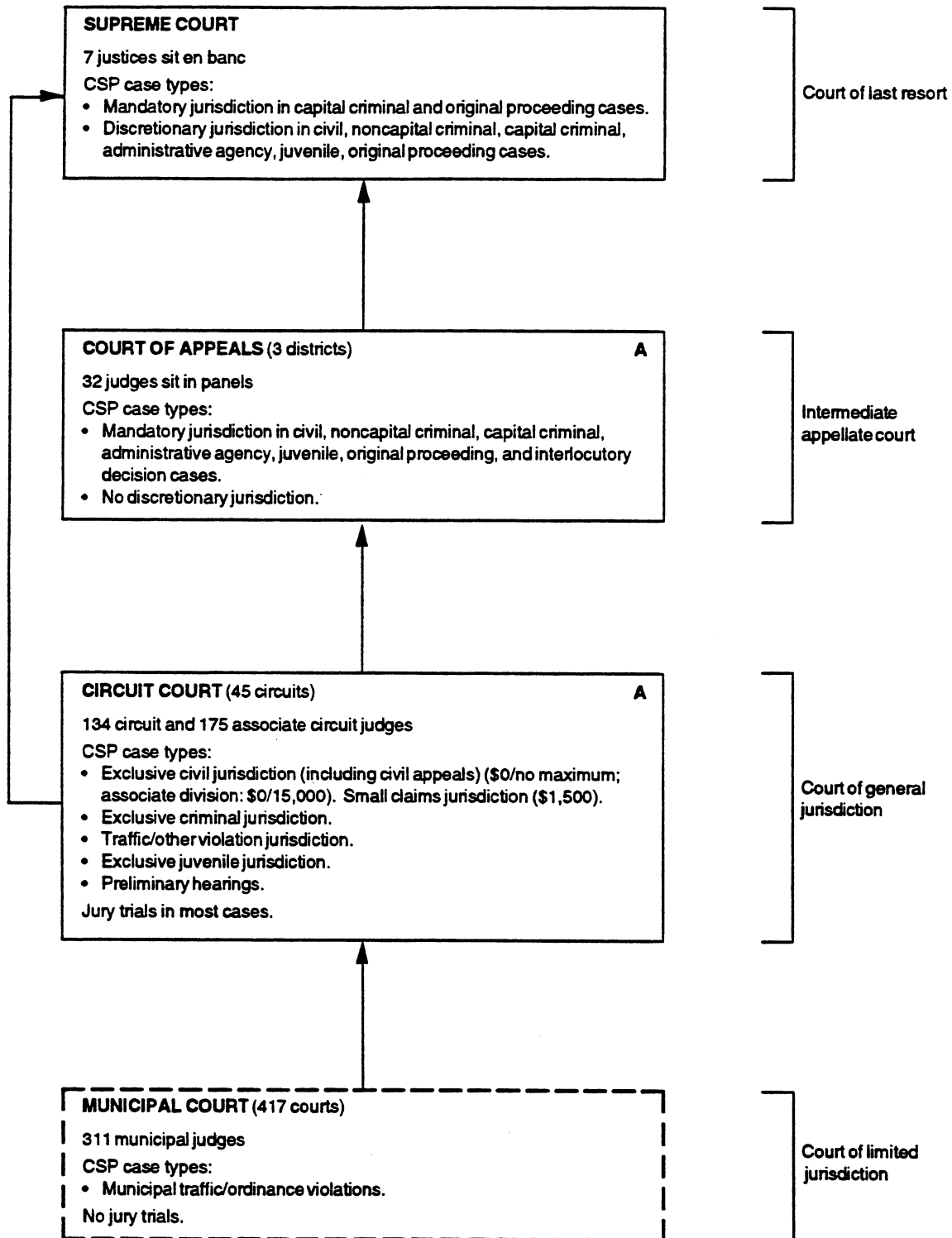
MINNESOTA COURT STRUCTURE, 1992



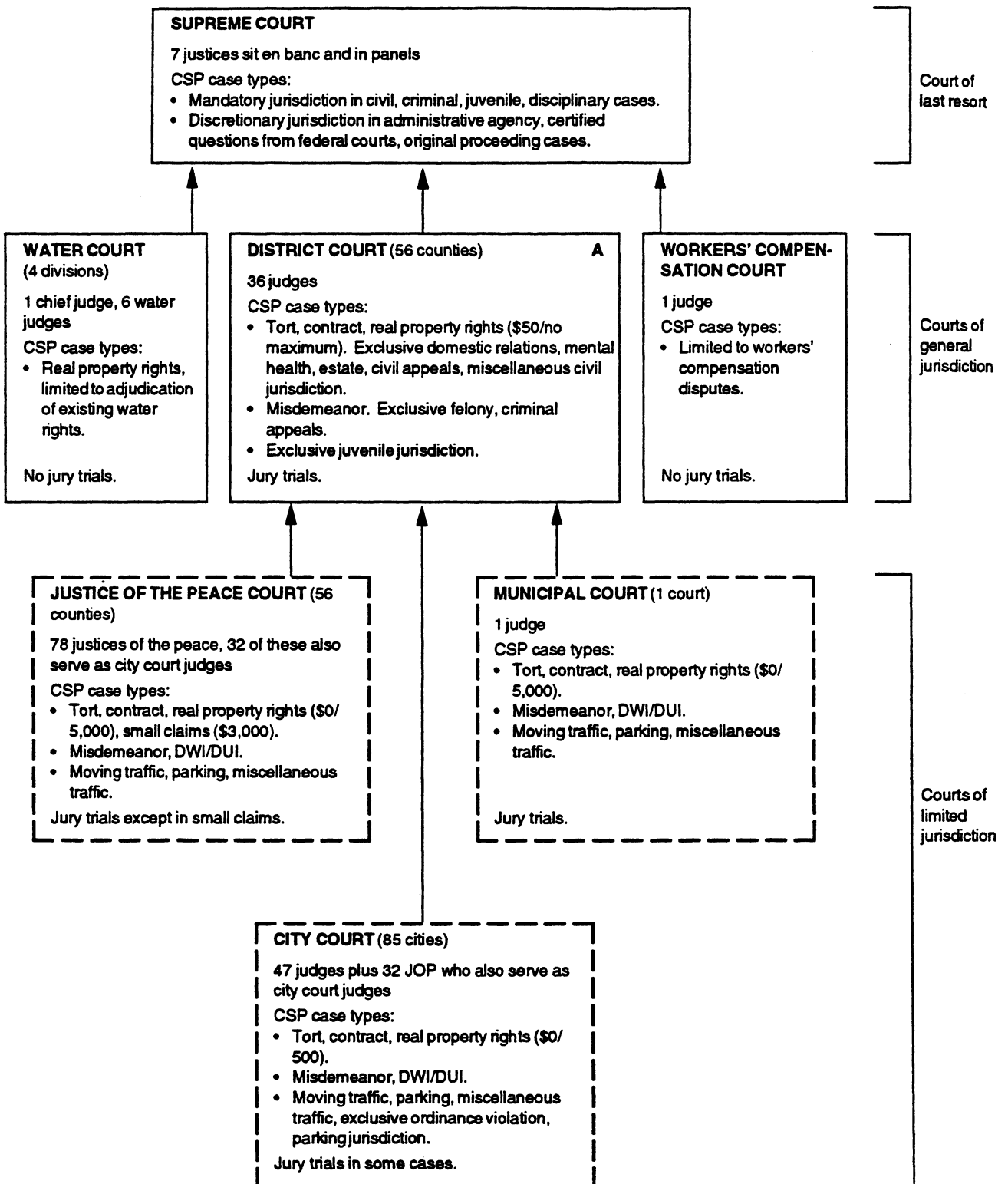
MISSISSIPPI COURT STRUCTURE, 1992



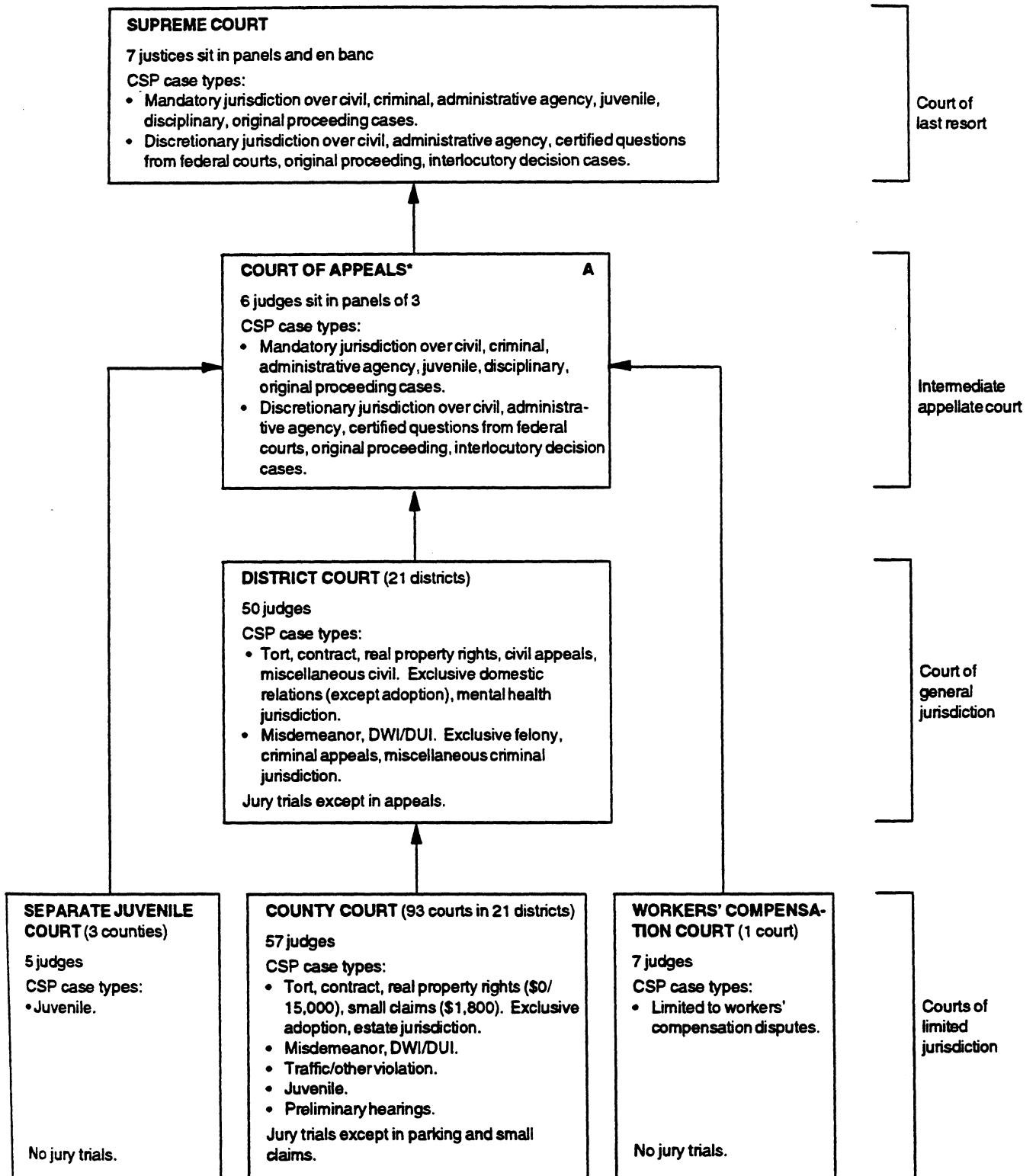
MISSOURI COURT STRUCTURE, 1992



MONTANA COURT STRUCTURE, 1992

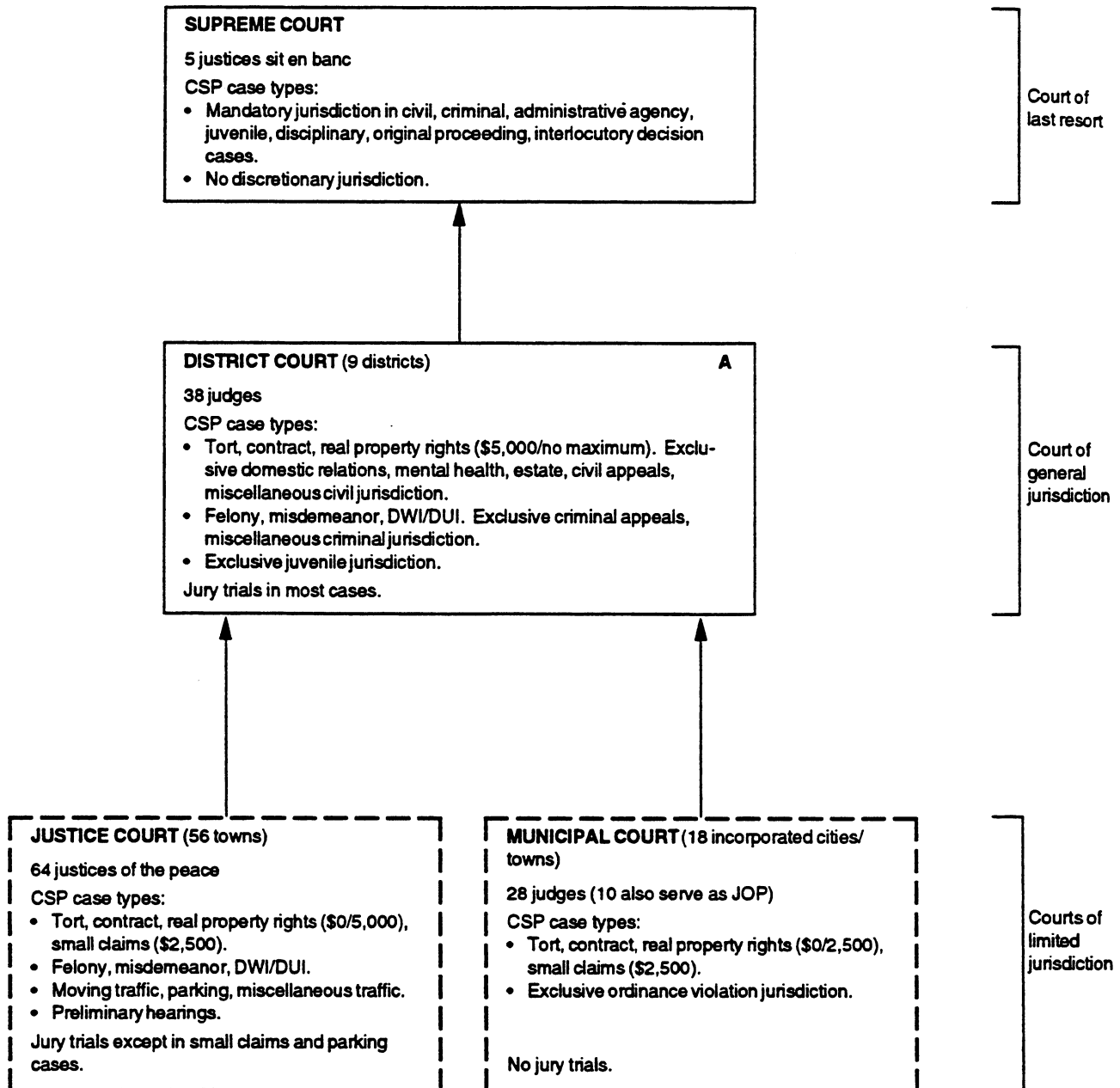


NEBRASKA COURT STRUCTURE, 1992

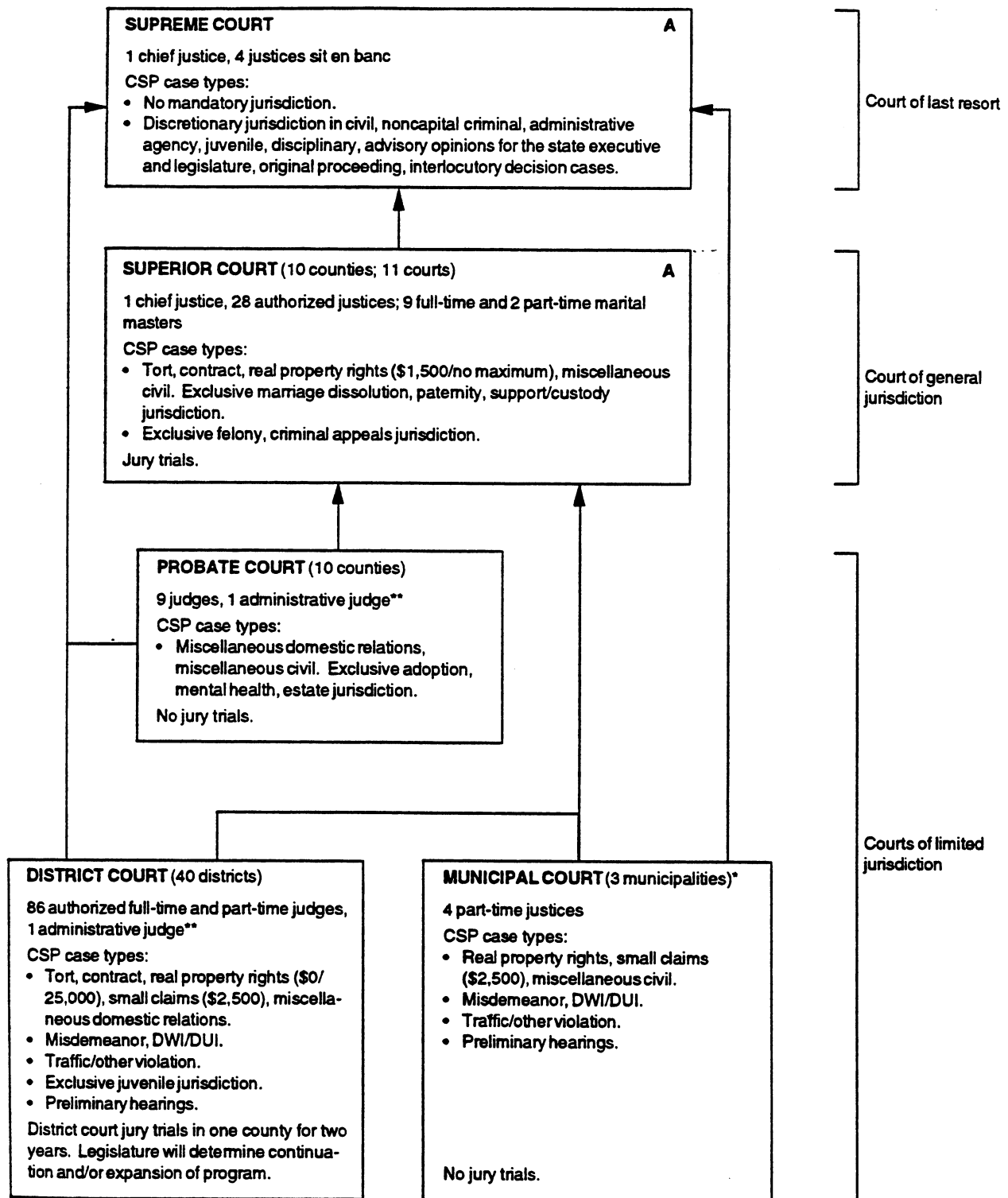


* The Nebraska Court of Appeals was established September 6, 1991.

NEVADA COURT STRUCTURE, 1992



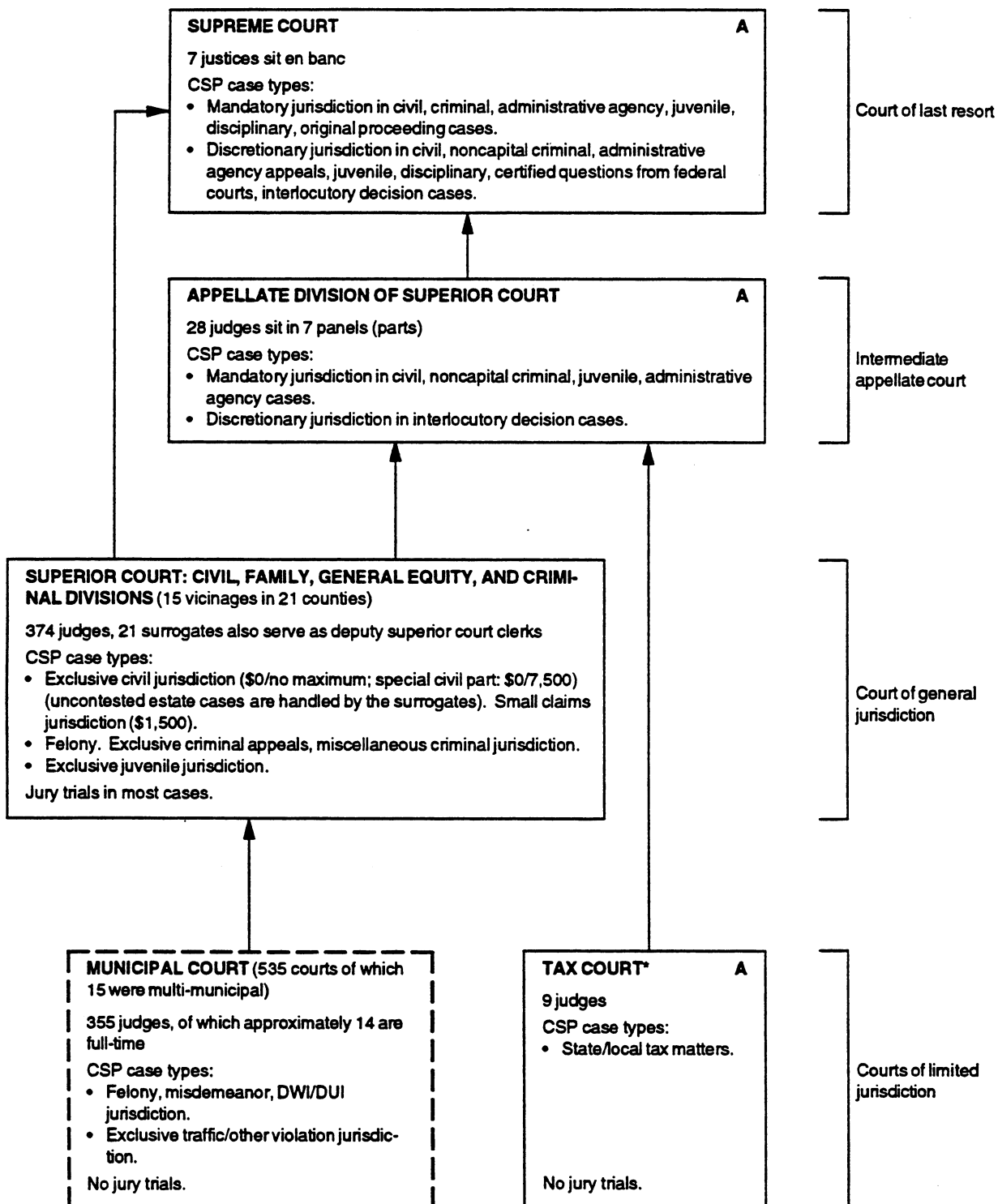
NEW HAMPSHIRE COURT STRUCTURE, 1992



* The municipal court is being phased out (by statute) upon retirement and/or resignation of sitting justices.

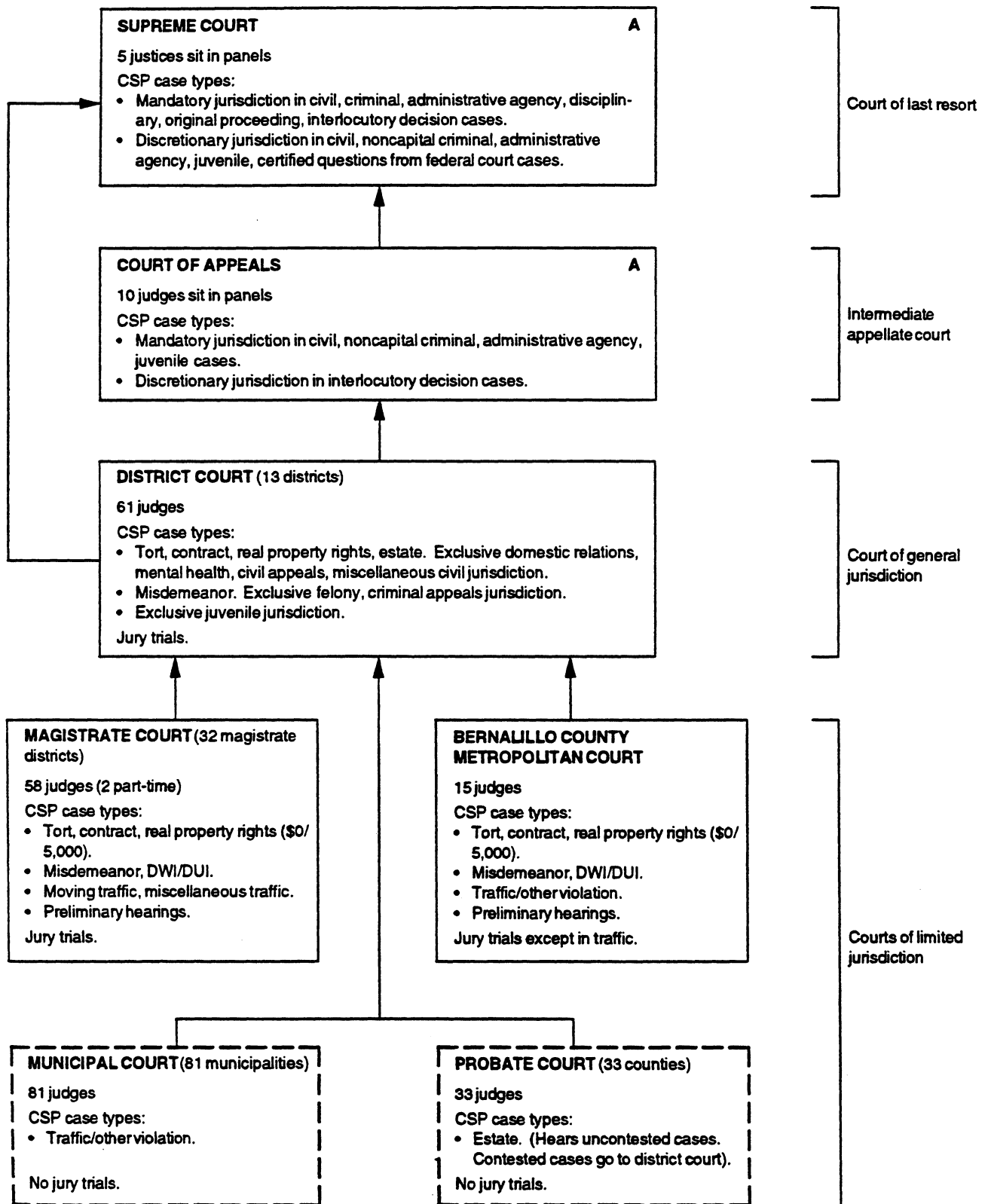
** Administrative judges also sit on the bench.

NEW JERSEY COURT STRUCTURE, 1992

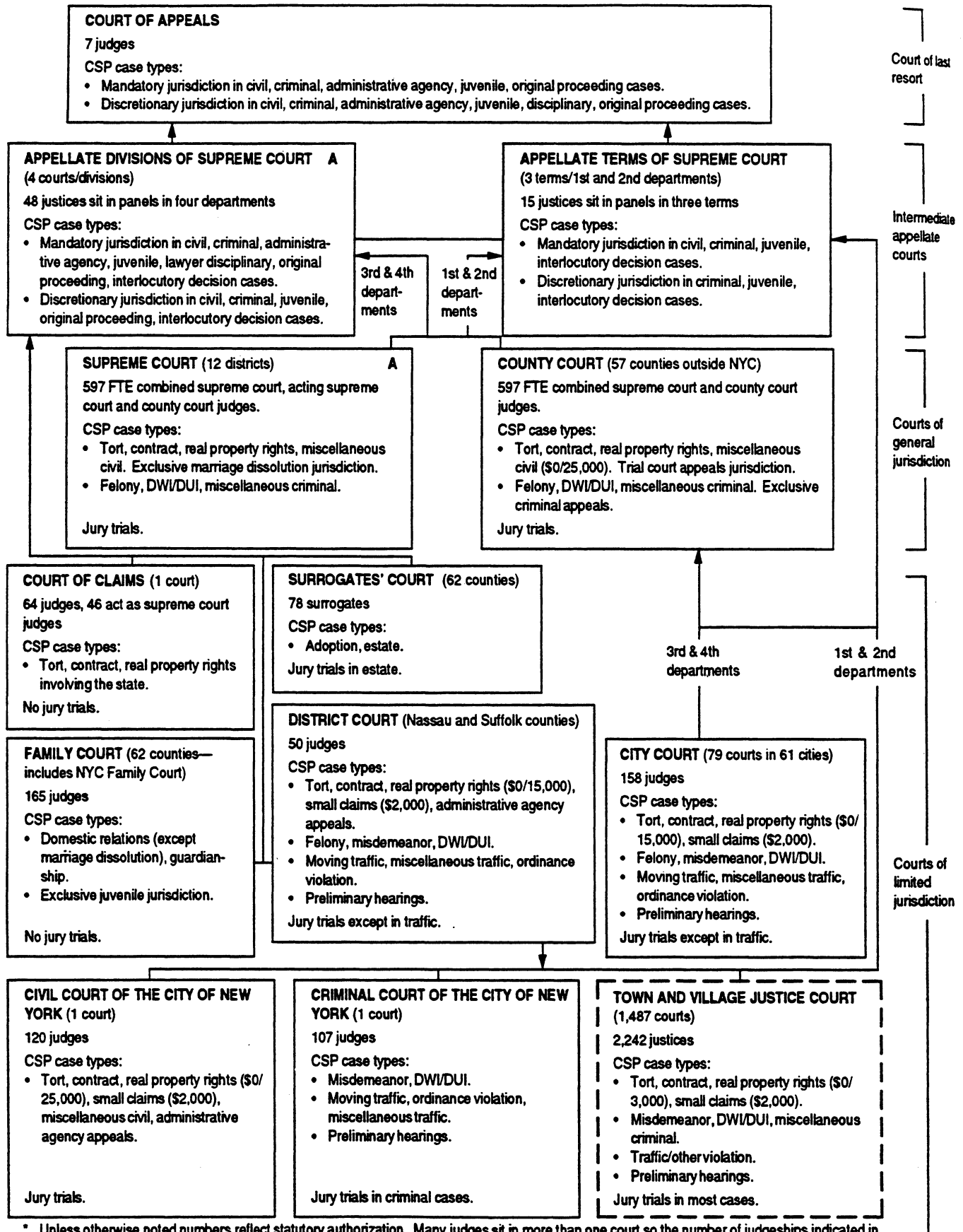


- * Tax court is considered a limited jurisdiction court because of its specialized subject matter. Nevertheless, it receives appeals from administrative bodies and its cases are appealed to the intermediate appellate court. Tax court judges have the same general qualifications and terms of service as superior court judges and can be cross assigned.

NEW MEXICO COURT STRUCTURE, 1992

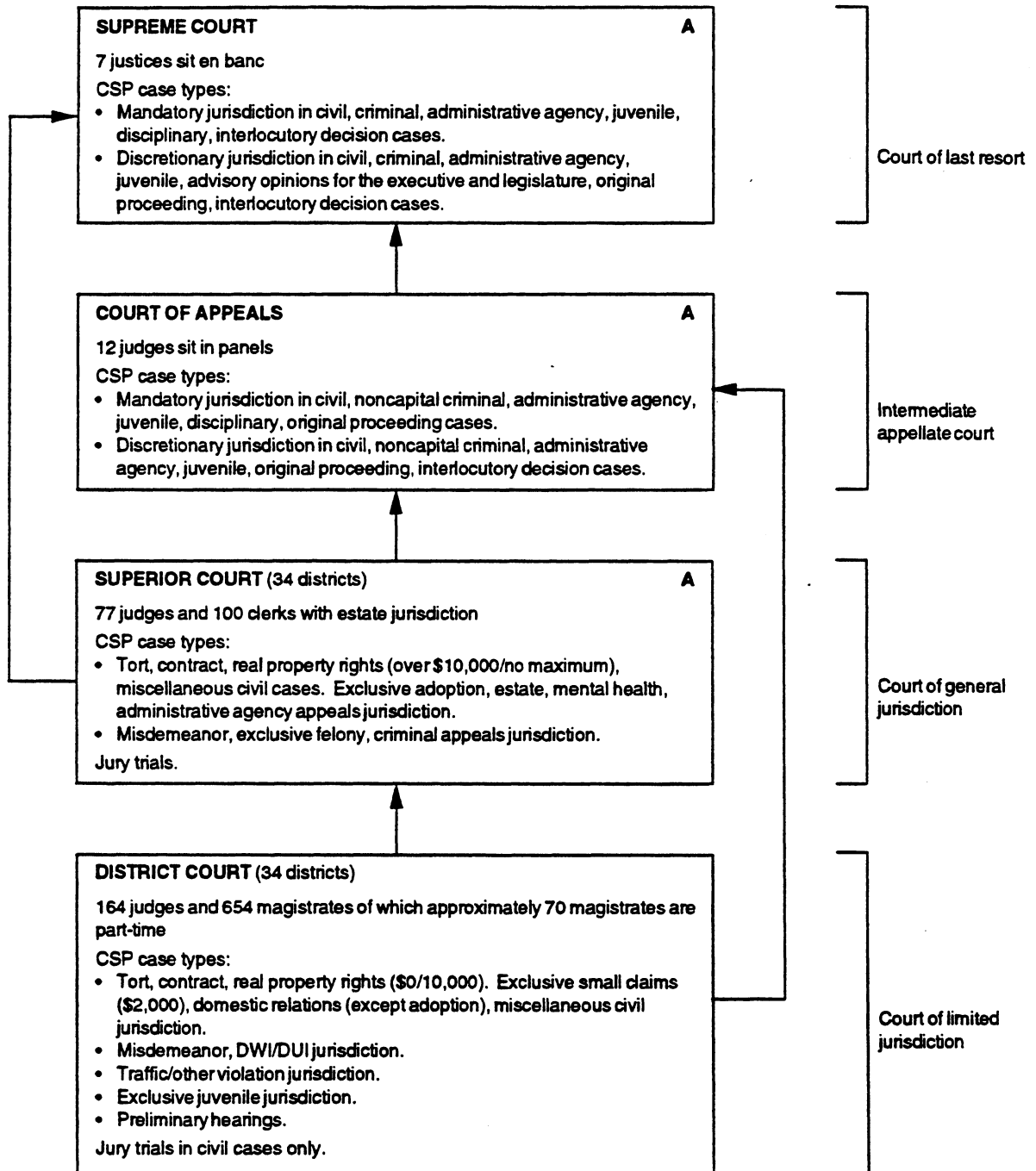


NEW YORK COURT STRUCTURE, 1992*

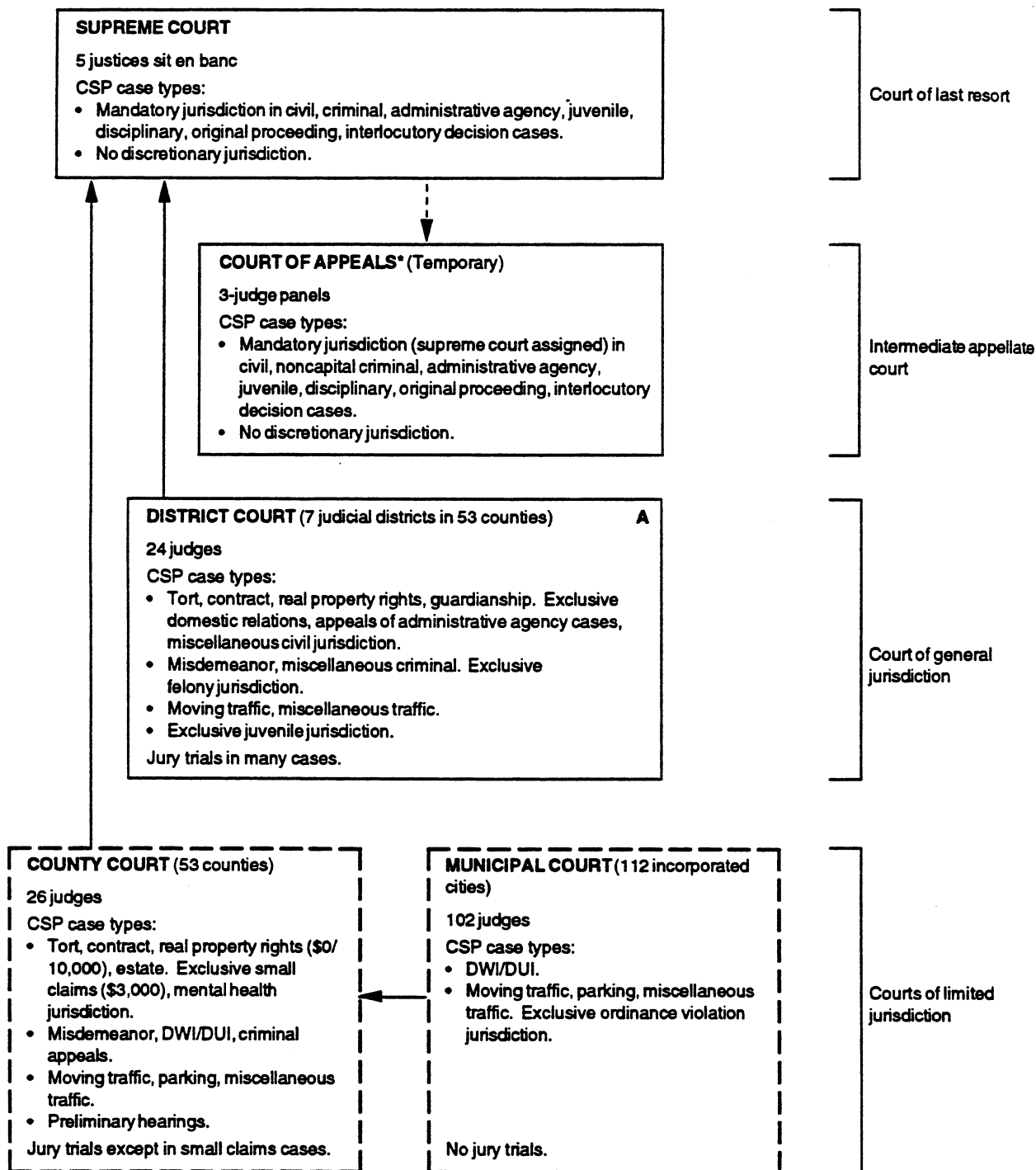


* Unless otherwise noted numbers reflect statutory authorization. Many judges sit in more than one court so the number of judgeships indicated in this chart does not reflect the actual number of judges in the system.

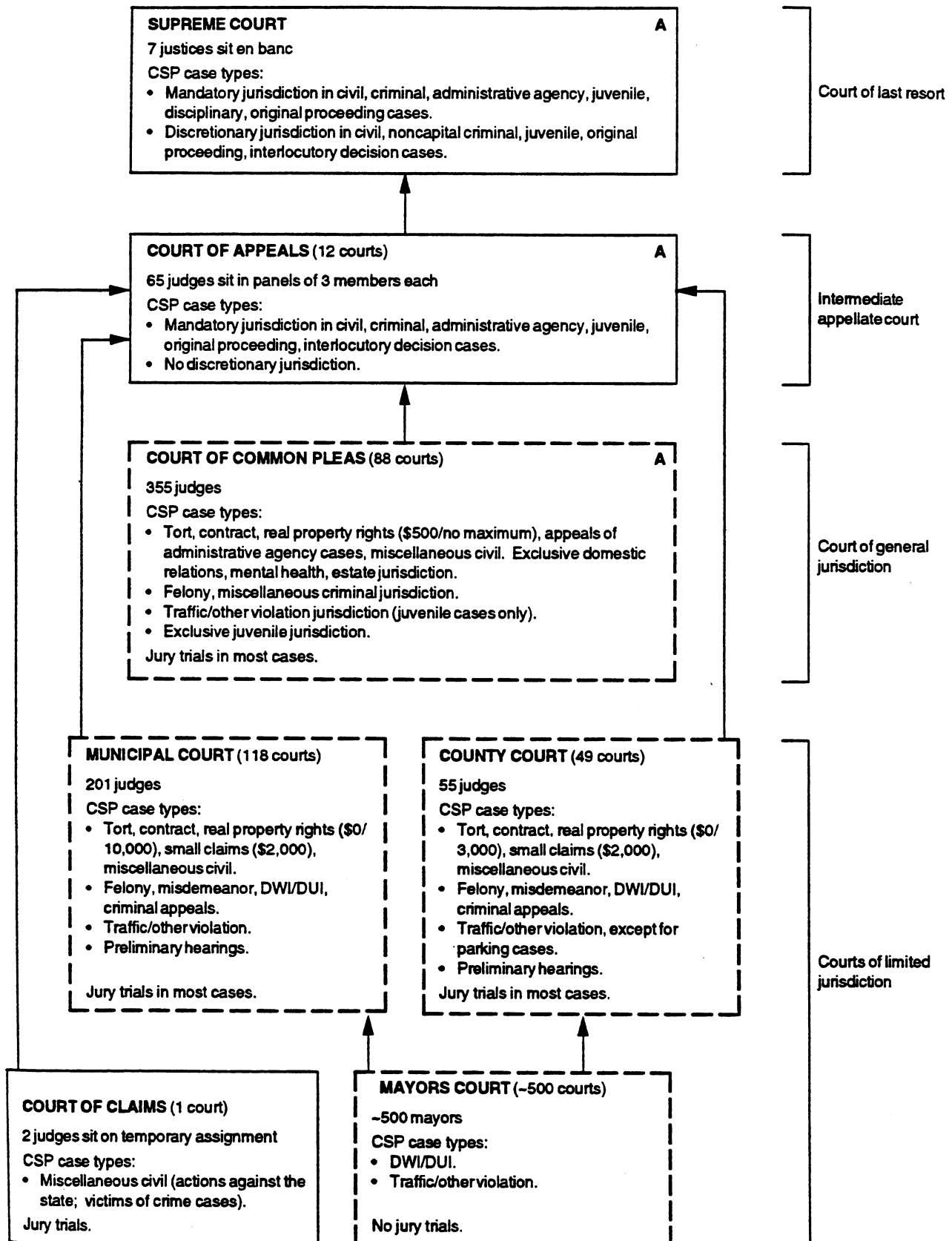
NORTH CAROLINA COURT STRUCTURE, 1992



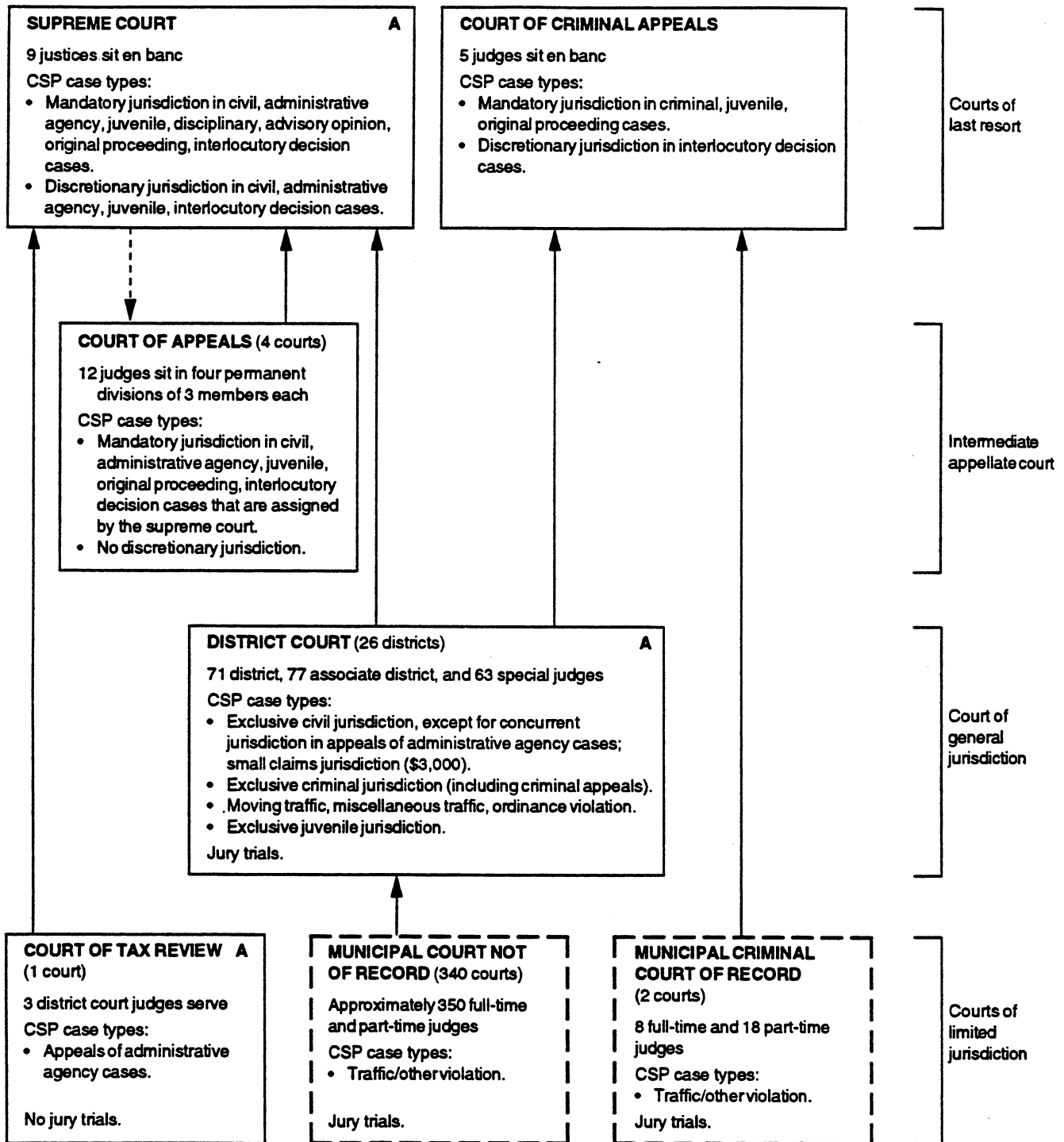
NORTH DAKOTA COURT STRUCTURE, 1992



OHIO COURT STRUCTURE, 1992



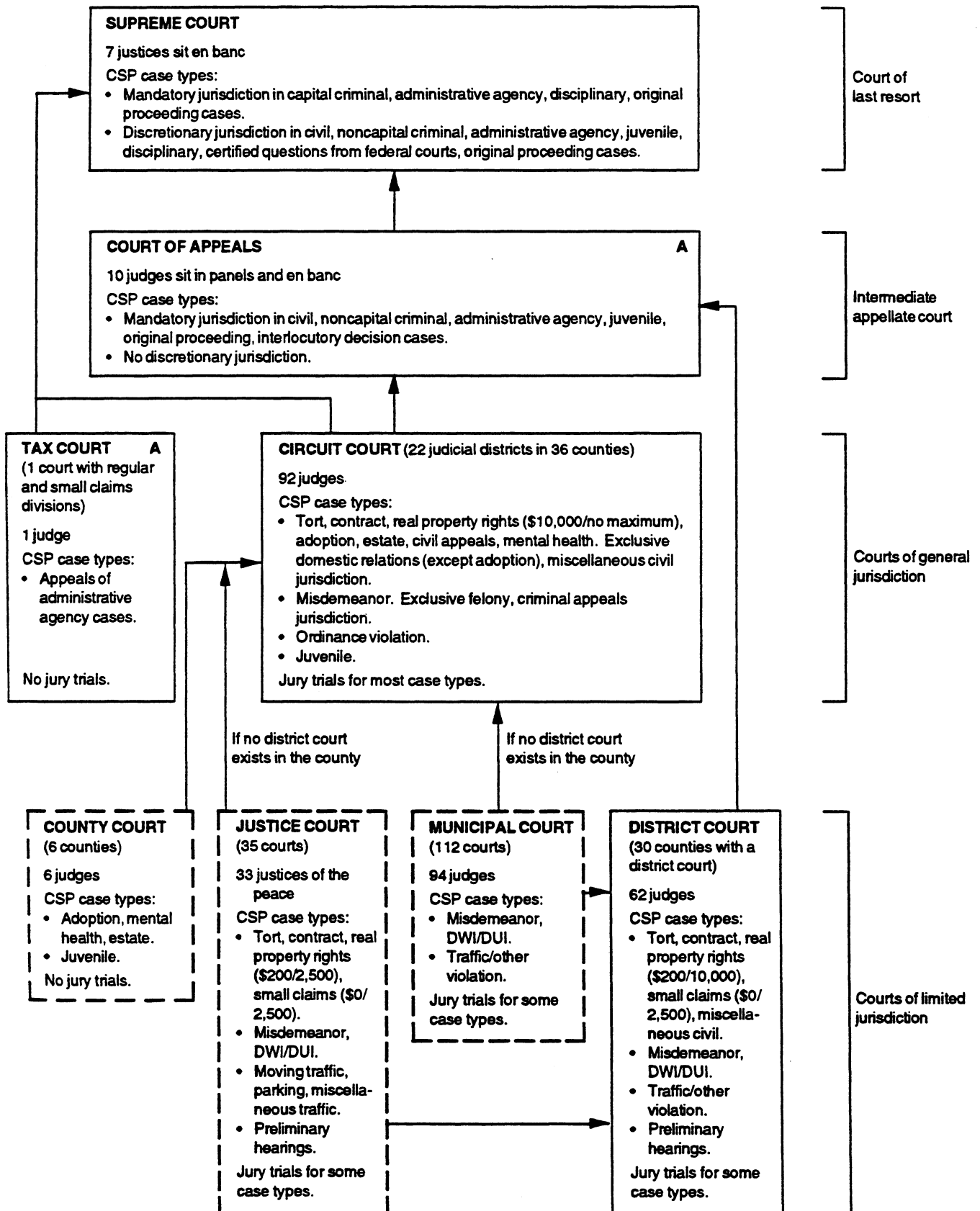
OKLAHOMA COURT STRUCTURE, 1992



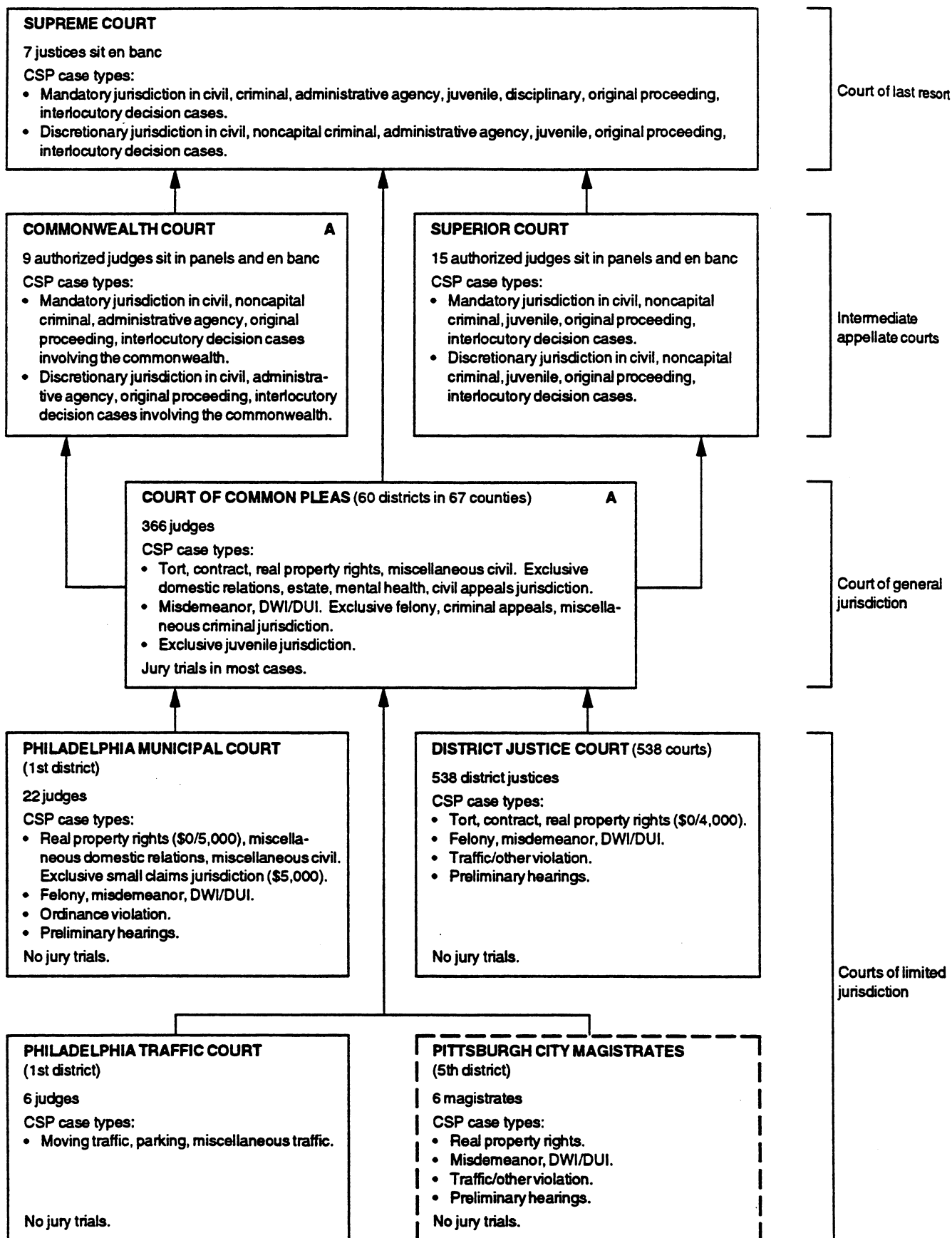
— — Indicates assignment of cases.

Oklahoma has a workers' compensation court, which hears complaints that are handled exclusively by administrative agencies in other states.

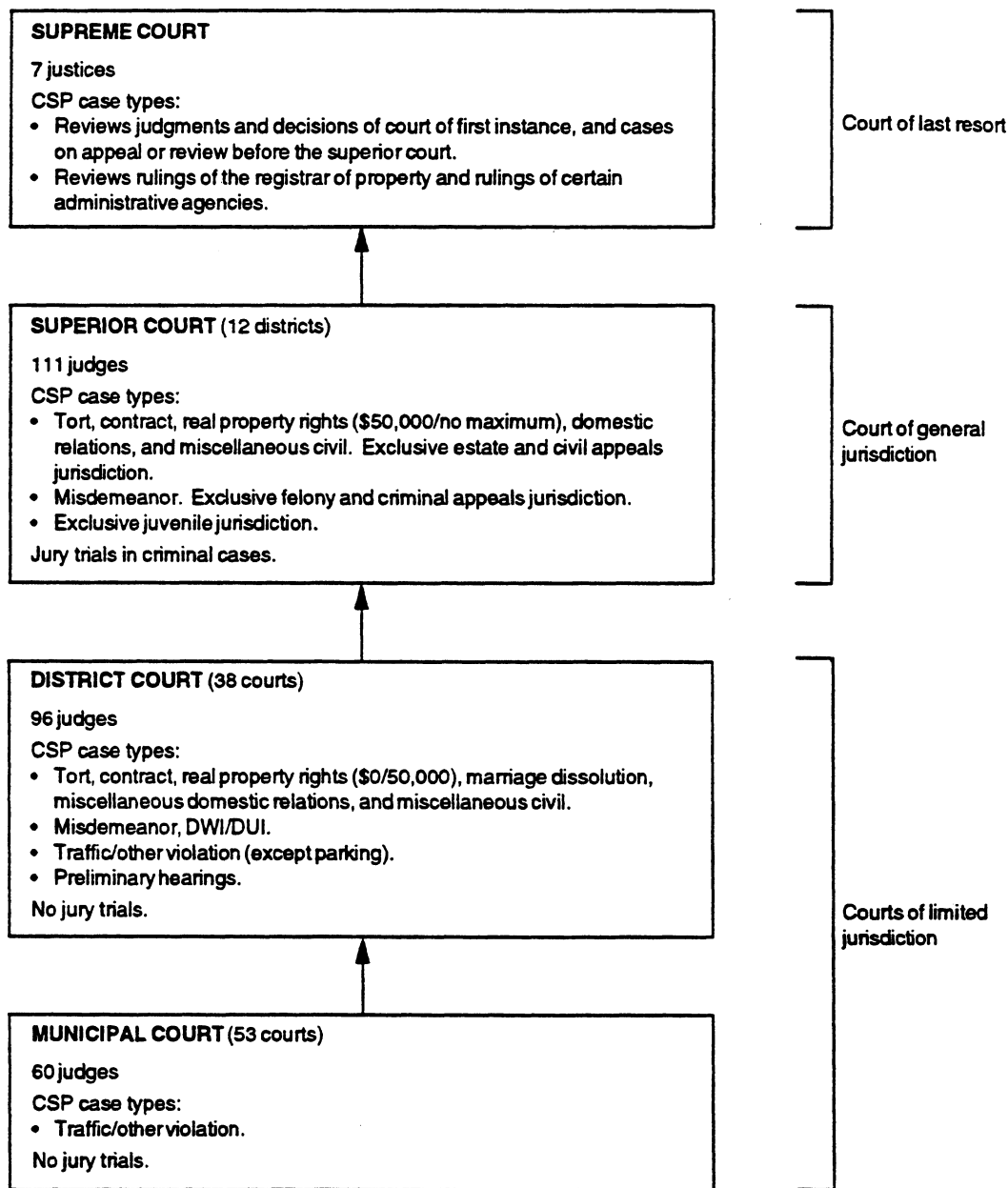
OREGON COURT STRUCTURE, 1992



PENNSYLVANIA COURT STRUCTURE, 1992

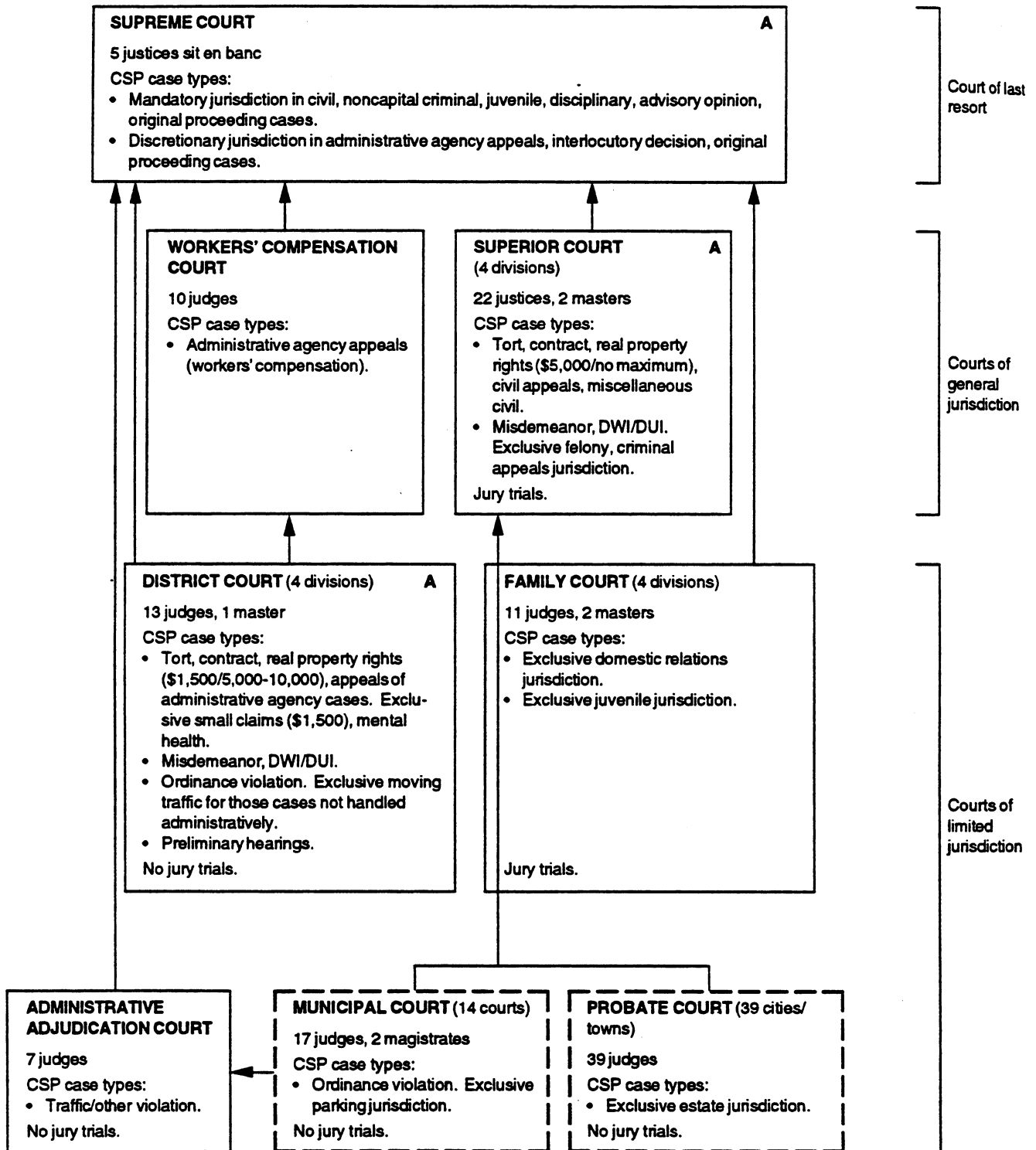


PUERTO RICO COURT STRUCTURE, 1992

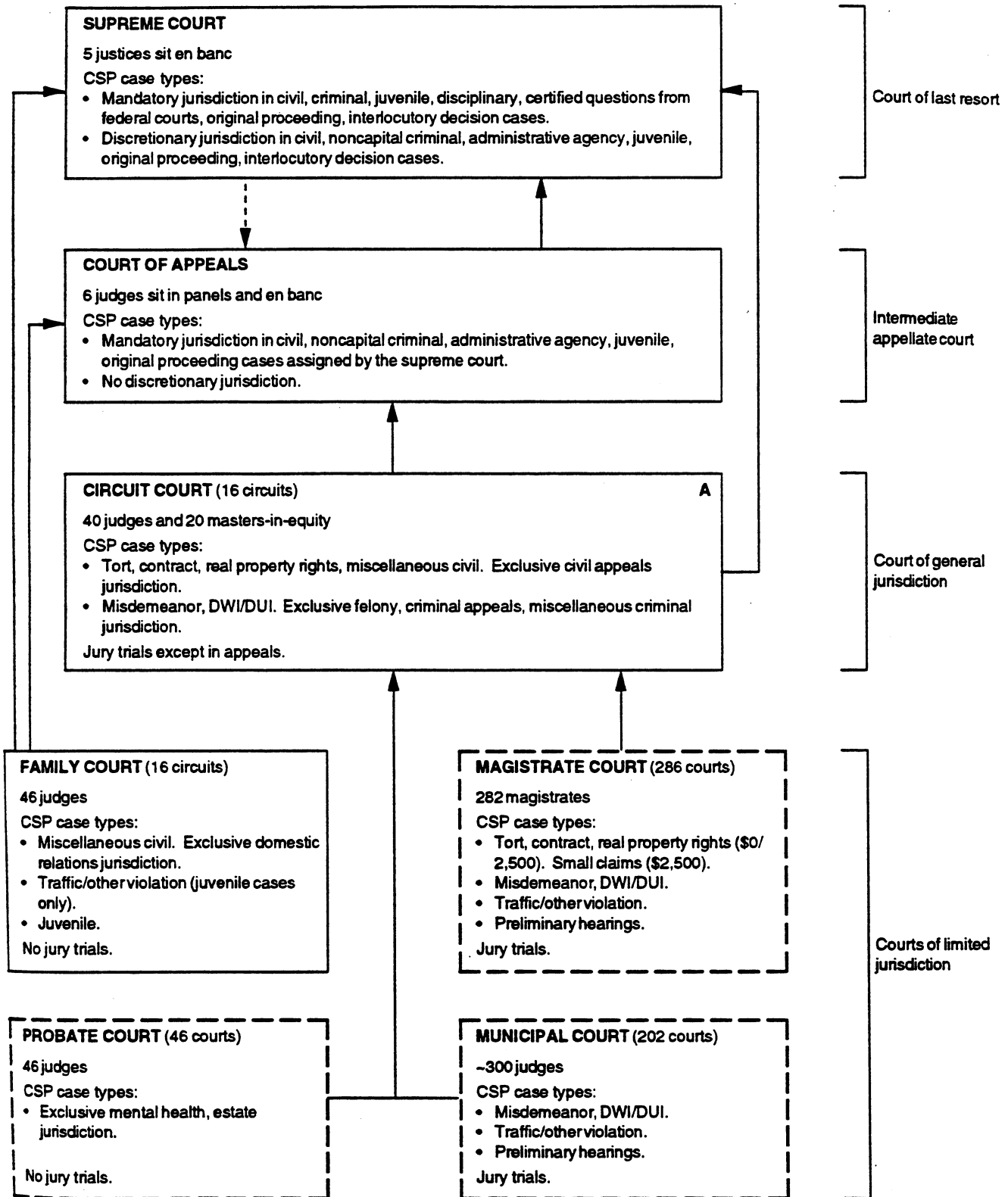


Note: Since June 30, 1991, the justice of the peace court was eliminated according to Law #17 of July 21, 1990. This jurisdiction is now with the municipal court.

RHODE ISLAND COURT STRUCTURE, 1992

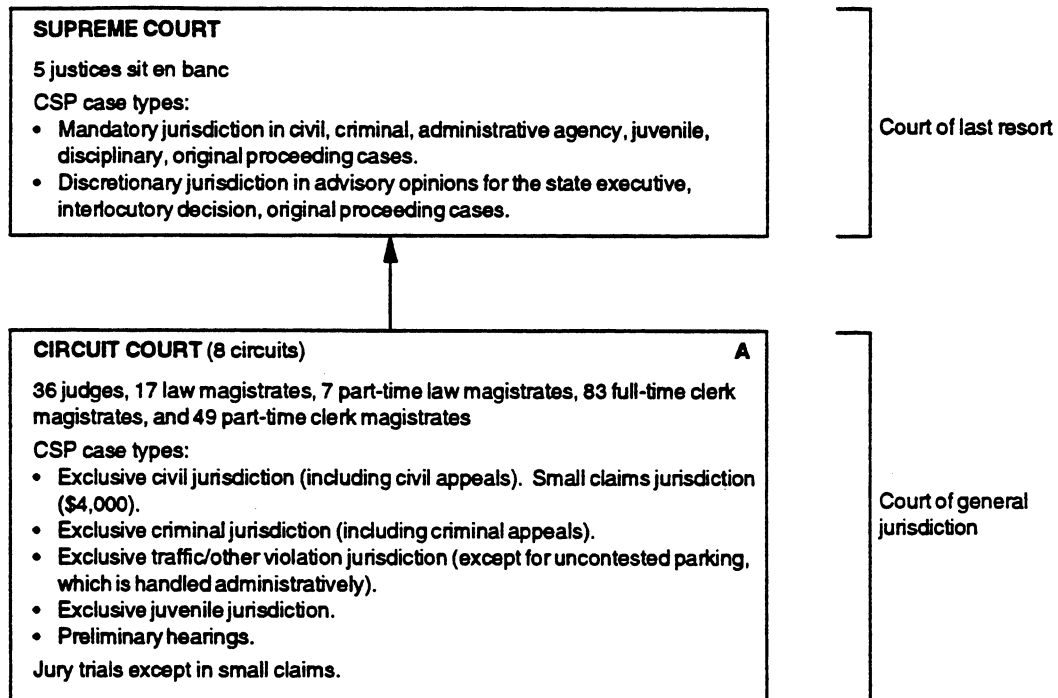


SOUTH CAROLINA COURT STRUCTURE, 1992

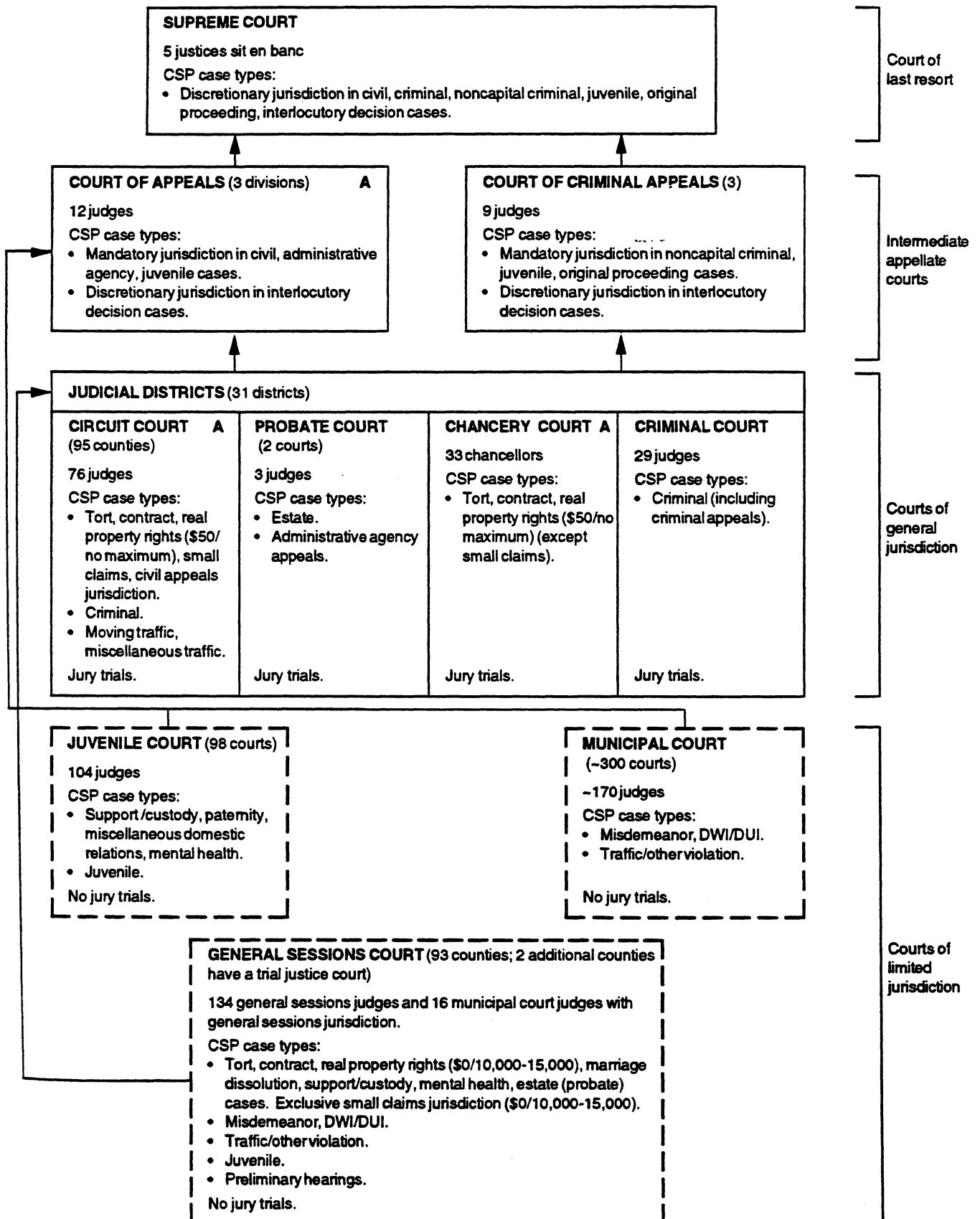


-- Indicates assignment of cases.

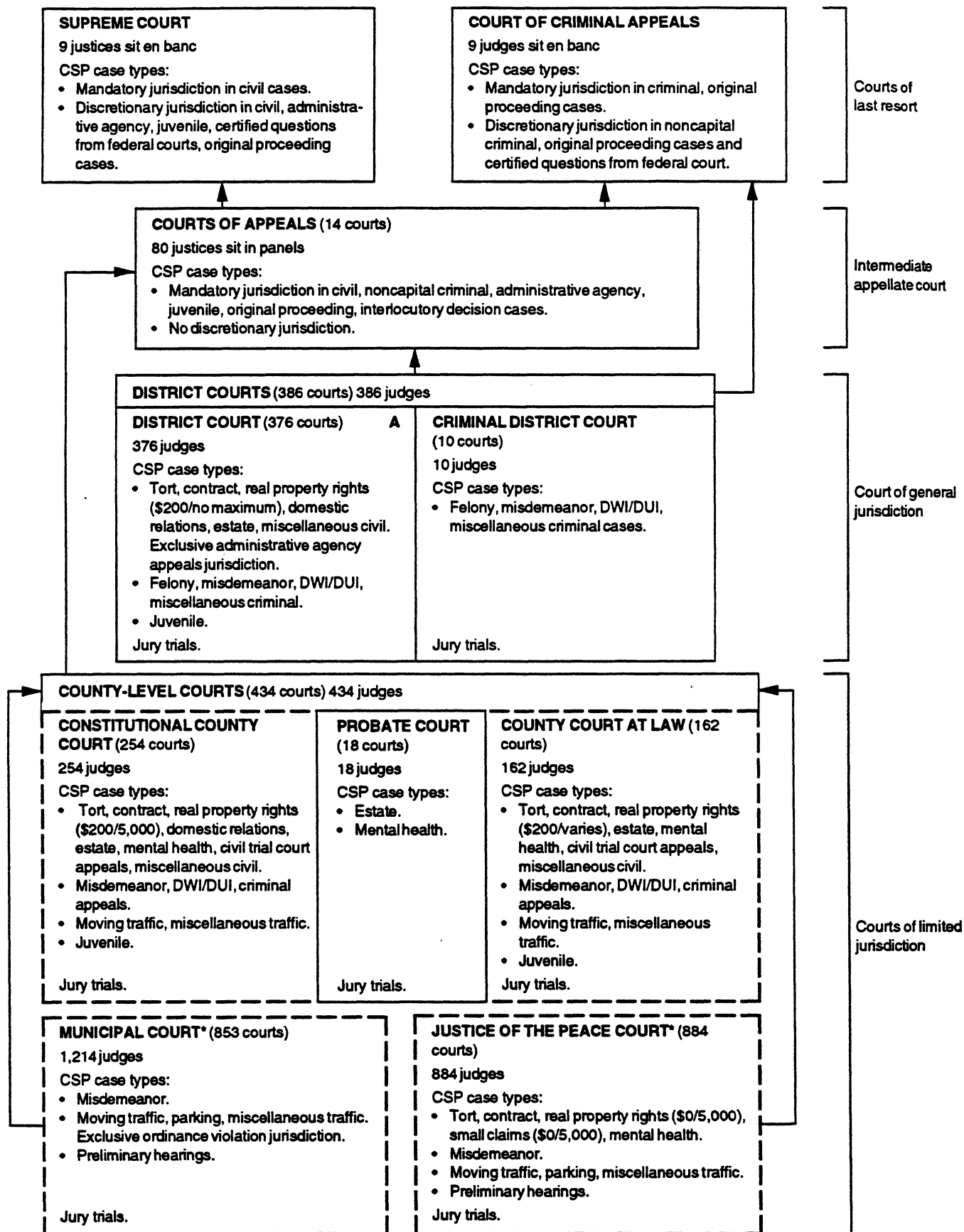
SOUTH DAKOTA COURT STRUCTURE, 1992



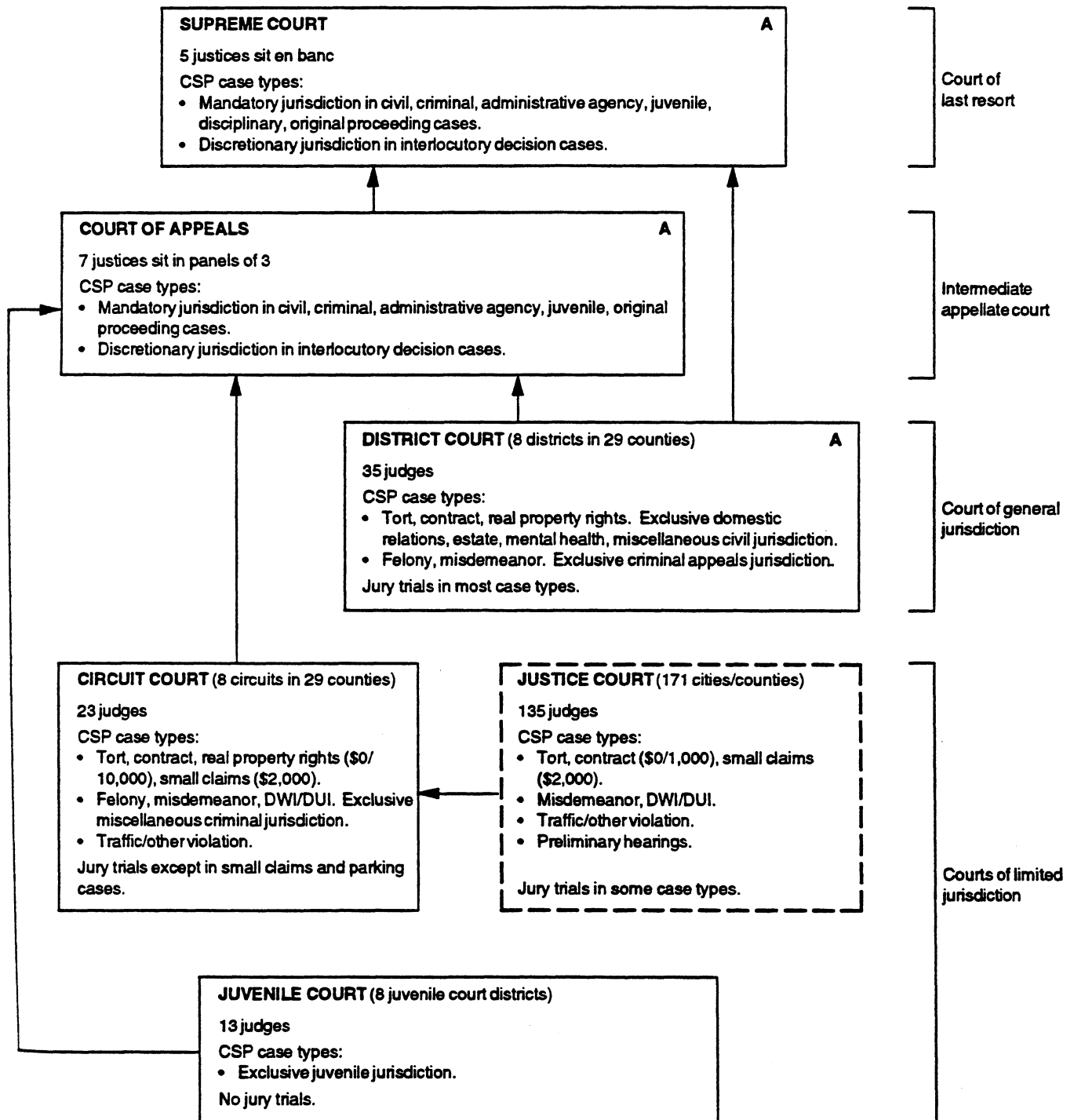
TENNESSEE COURT STRUCTURE, 1992



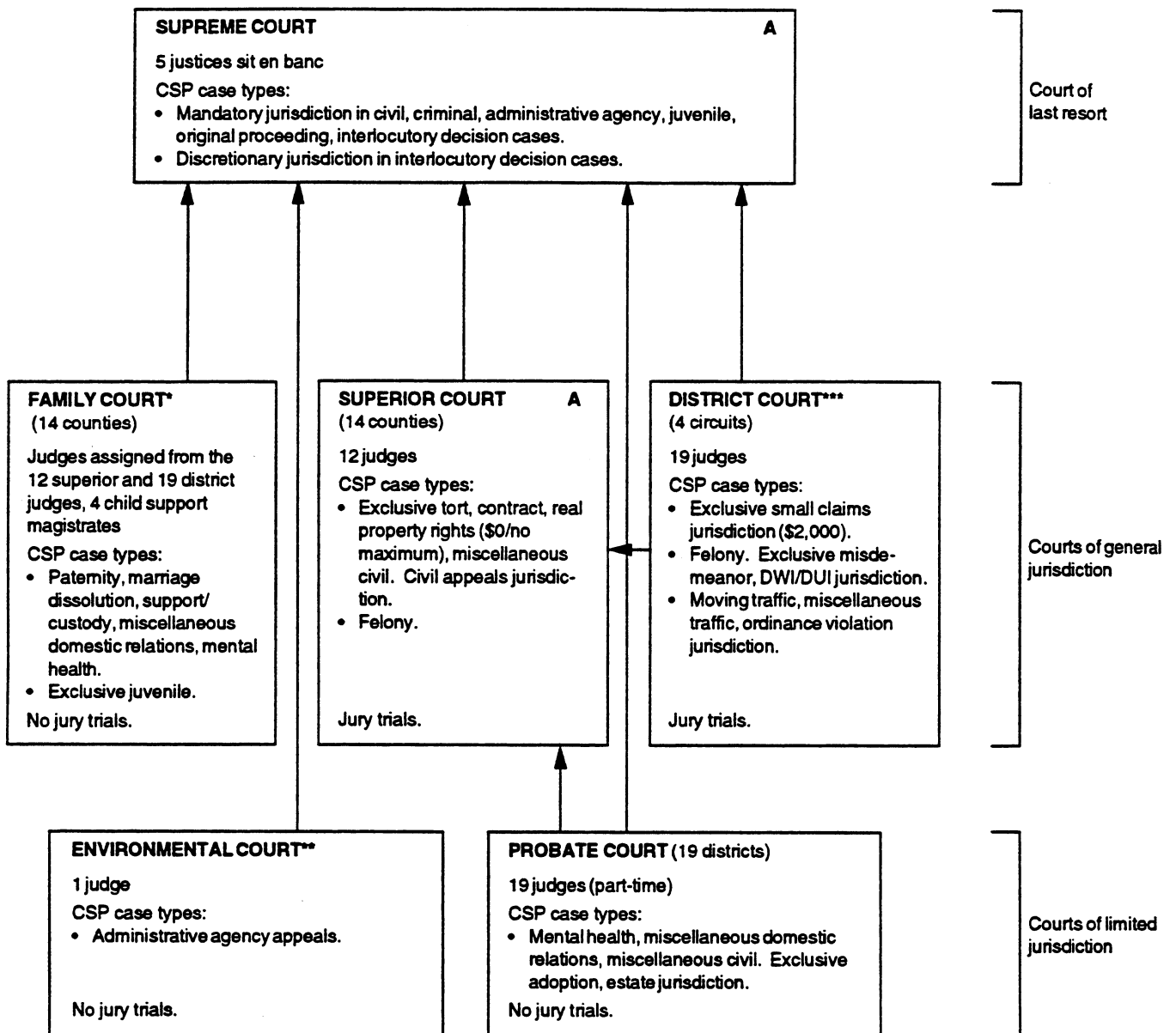
TEXAS COURT STRUCTURE, 1992



UTAH COURT STRUCTURE, 1992



VERMONT COURT STRUCTURE, 1992

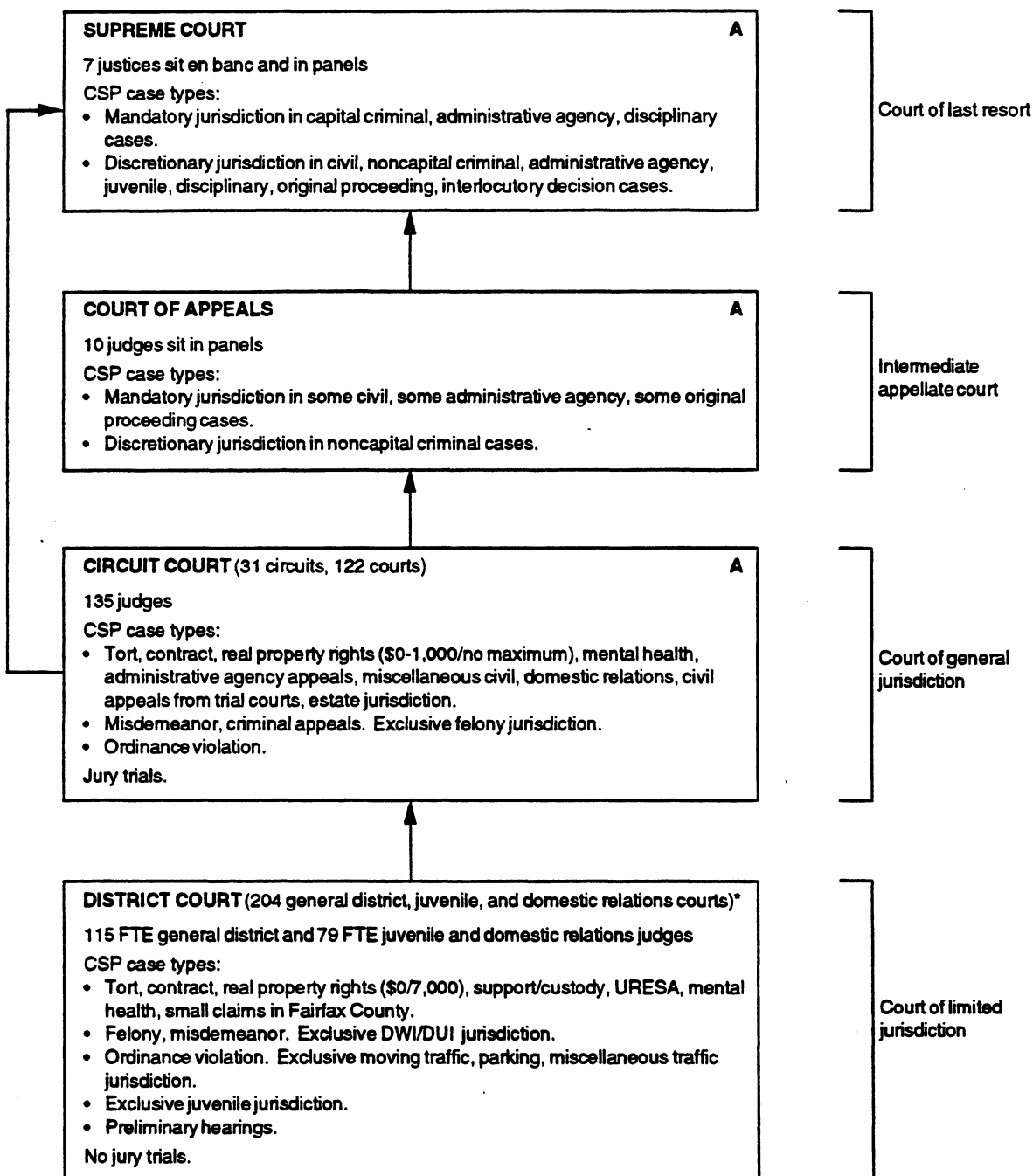


* Vermont established a family court in 1991.

** Vermont established an environmental court in 1990.

*** The district court, although created as a court of limited jurisdiction, has steadily increased its scope to include almost all criminal matters. In 1983, the district court was granted jurisdiction over all criminal cases, and has become the court of general jurisdiction for most criminal matters. A small number of appeals go to the superior court.

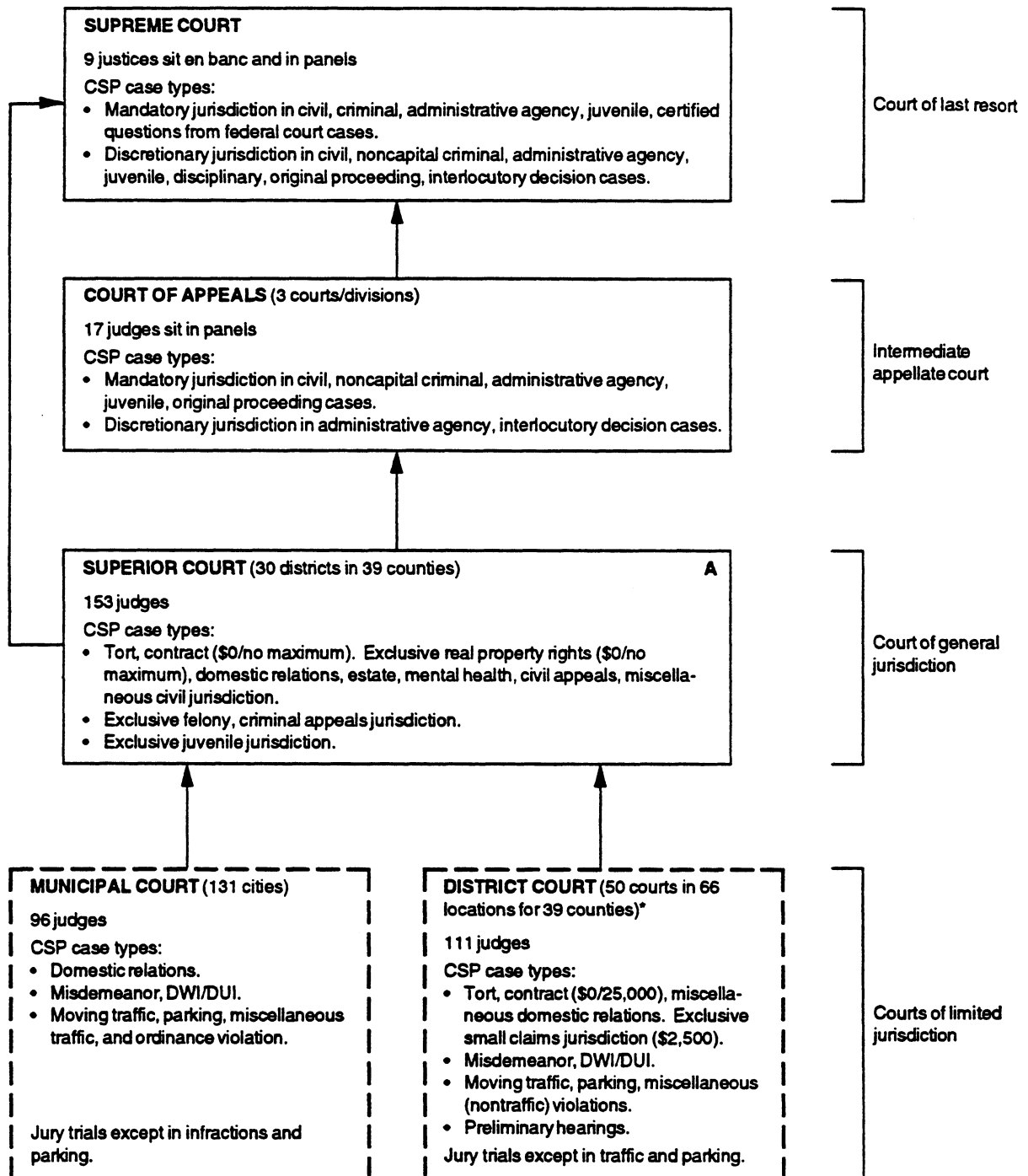
VIRGINIA COURT STRUCTURE, 1992



* The district court is referred to as the juvenile and domestic relations court when hearing juvenile and domestic relations cases, and as the general district court for the balance of the cases.

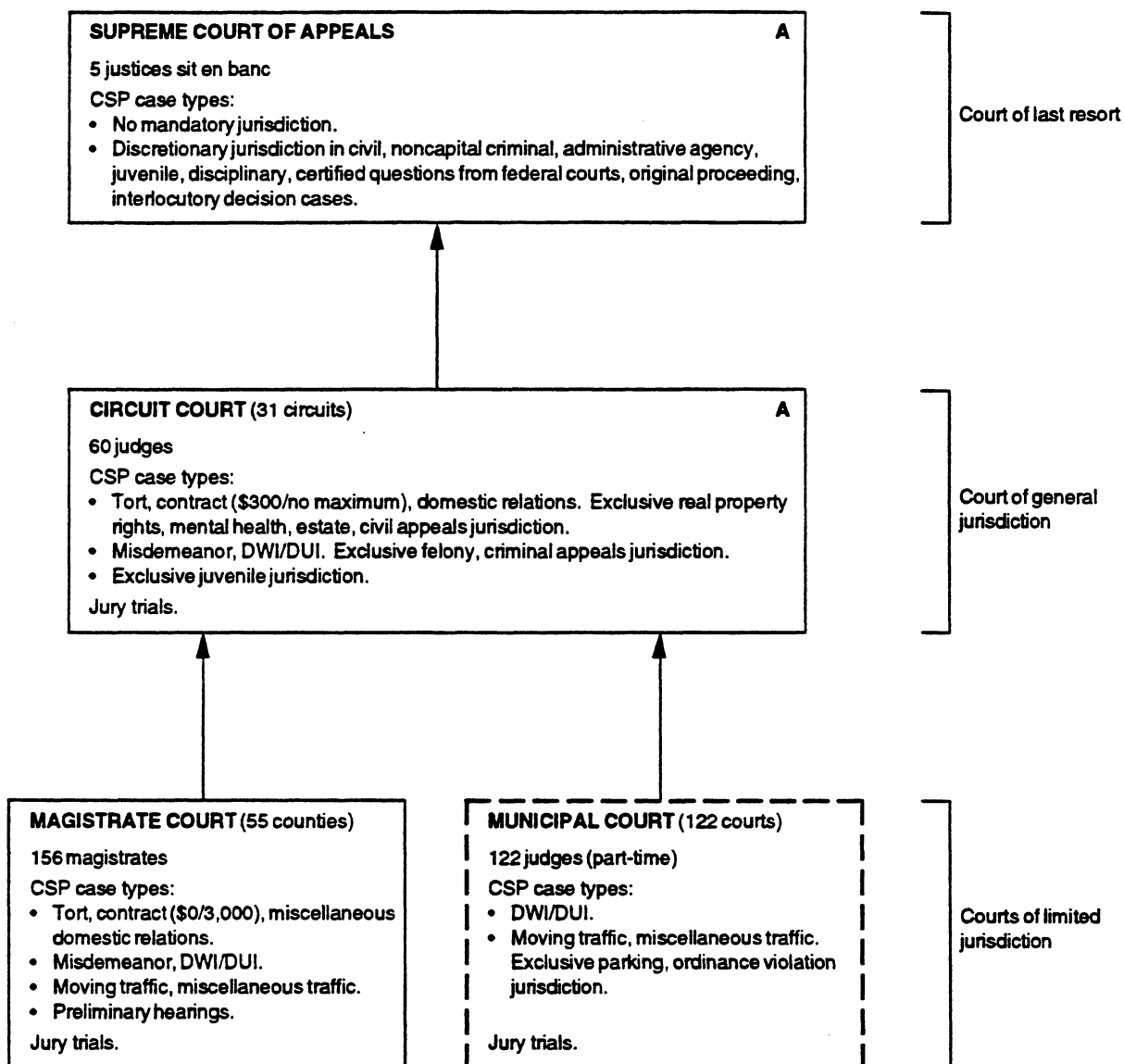
NOTE: A family court pilot project authorized by legislation passed in the 1989 session of the general assembly became operational on January 2, 1990, and concluded its two-year pilot operation on December 31, 1991.

WASHINGTON COURT STRUCTURE, 1992

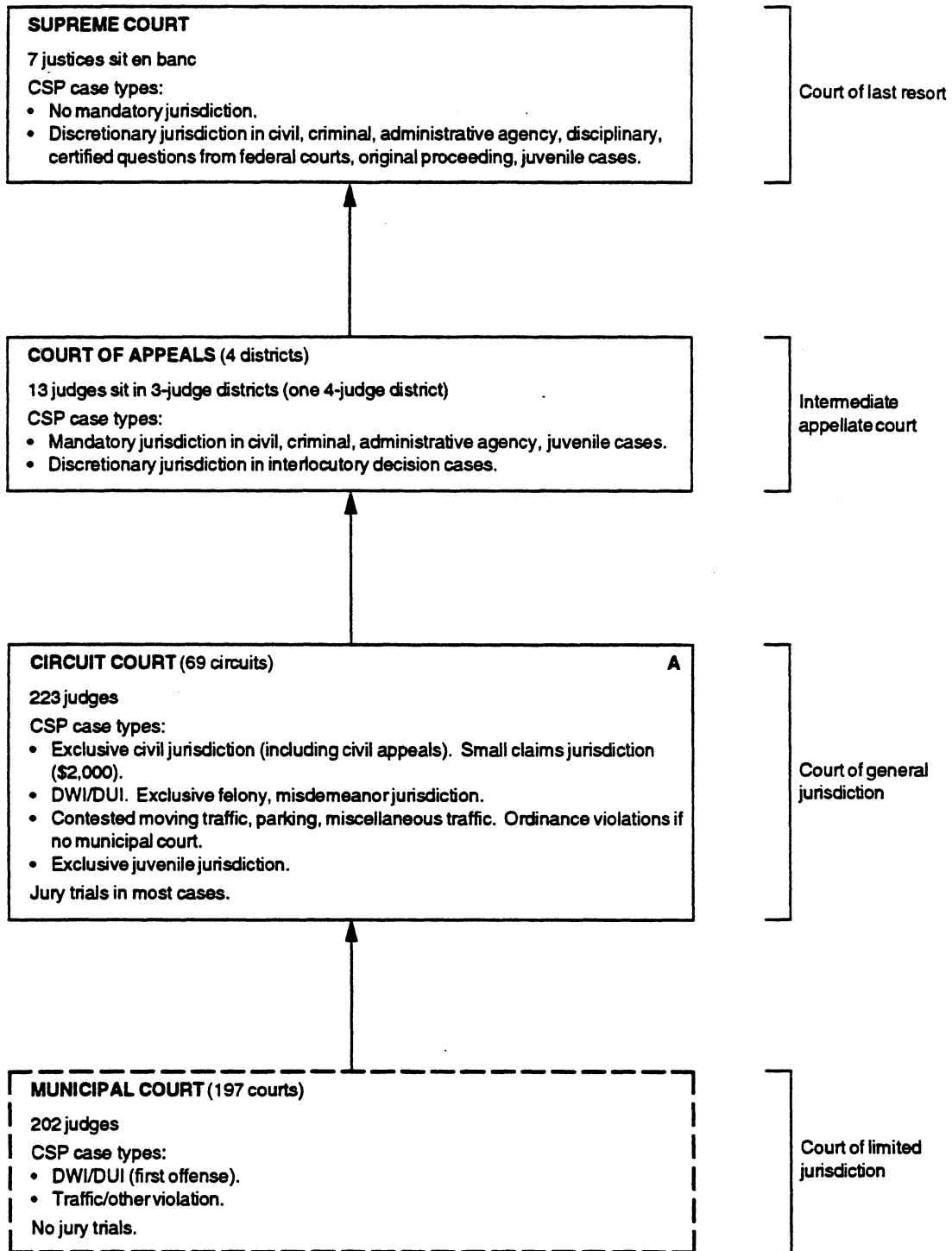


* District court provides services to municipalities that do not have a municipal court.

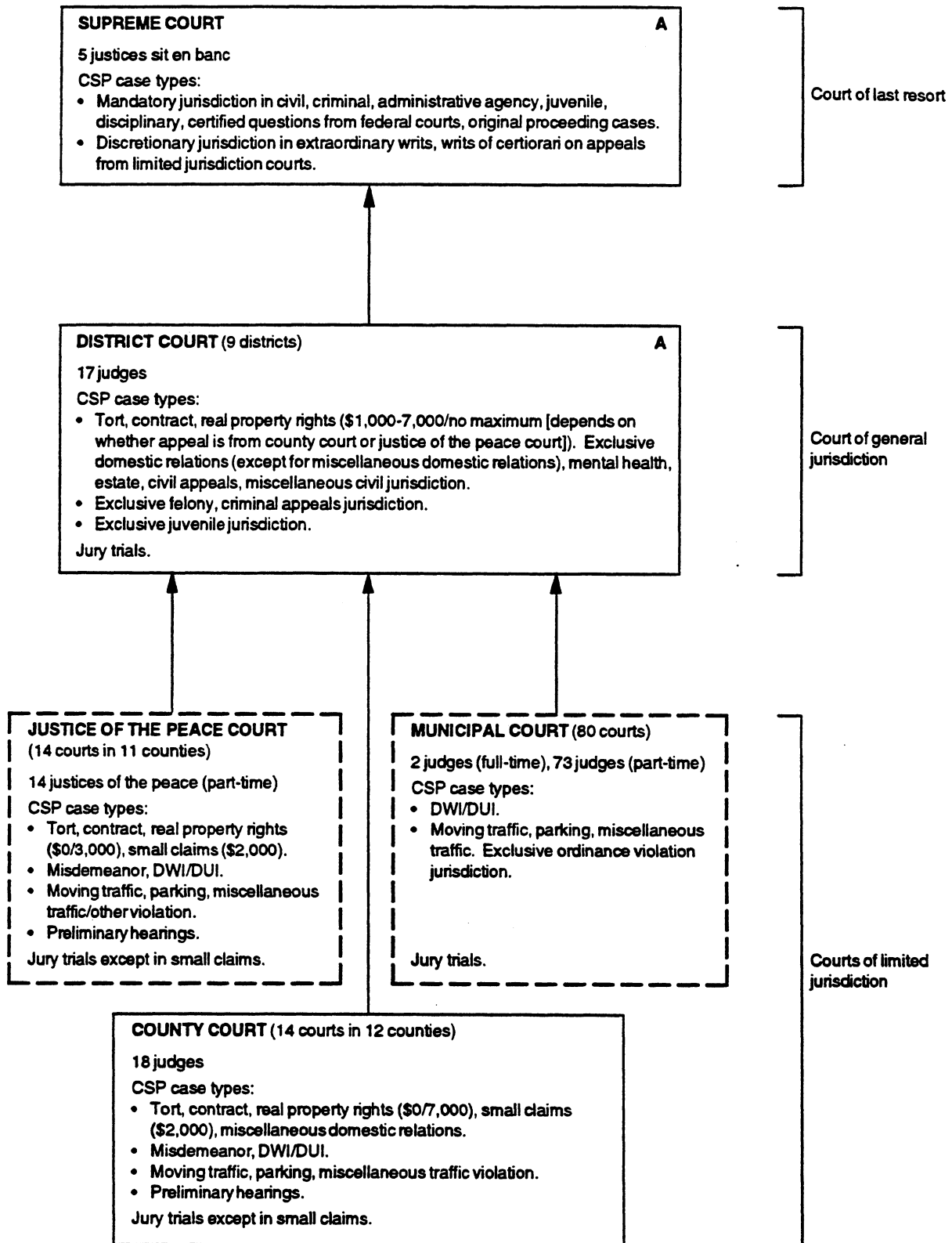
WEST VIRGINIA COURT STRUCTURE, 1992



WISCONSIN COURT STRUCTURE, 1992



WYOMING COURT STRUCTURE, 1992



STATE COURT IDENTIFICATIONS

STATE COURT IDENTIFICATIONS

ALABAMA

1 Supreme Court	9 Justices
1 Court of Civil Appeals	3 Judges
1 Court of Criminal Appeals	5 Judges
40 Circuit Courts	127 Judges
89 Probate Courts	68 Judges
266 Municipal Courts	222 Judges
67 District Courts	97 Judges
465 [Total Courts]	

ALASKA

1 Supreme Court	5 Justices
15 Superior Courts	30 Judges/5 Masters
56 District Courts	17 Judges/58 Magistrates
73 [Total Courts]	

ARIZONA

1 Supreme Court	5 Justices
1 Court of Appeals	21 Judges
15 Superior Courts	125 Judges
1 Tax Court	1 Superior Court Judge
83 Justices of Peace	83 Judges
85 Municipal Courts	113 Judges
186 [Total Courts]	

ARKANSAS

1 Supreme Court	7 Justices
1 Court of Appeals	6 Judges
24 Circuit Courts	34 Judges
24 Chancery and Probate Courts	33 Judges
126 Municipal Courts	113 Judges
75 County Courts	75 Judges
5 Police Courts	5 Judges
4 Court of Common Pleas	4 Judges
97 City Courts	72 Judges
55 Justices of Peace	55 Justices of Peace
412 [Total Courts]	

CALIFORNIA

1 Supreme Court	7 Justices
6 Court of Appeals	88 Justices
58 Superior Courts	789 Judges, 114 Commissioners and 24 referees
90 Municipal Courts	617 Judges, 155 Commissioners and 7 referees
53 Justice Courts	53 Judges
208 [Total Courts]	

COLORADO

1 Supreme Court	7 Justices
1 Court of Appeals	16 Judges
22 District Courts	114 Judges
1 Denver Probate Court	1 District Judge/1 Magistrate

<u>1 Denver Juvenile Court</u>	<u>3 District Judges/2 Magistrates</u>
<u>7 Water Courts</u>	<u>7 District Judges</u>
<u>63 County Courts</u>	<u>114 Judges</u>
<u>206 Municipal Courts</u>	<u>250 Judges</u>
302 [Total Courts]	

CONNECTICUT

<u>1 Supreme Court</u>	<u>7 Justices</u>
<u>3 Appellate Courts</u>	<u>9 Judges</u>
<u>12 Superior Courts</u>	<u>150 Judges</u>
<u>133 Probate Courts</u>	<u>133 Judges</u>
149 [Total Courts]	

DELAWARE

<u>1 Supreme Court</u>	<u>5 Justices</u>
<u>3 Courts of Chancery</u>	<u>5 Chancellors</u>
<u>3 Superior Courts</u>	<u>15 Judges</u>
<u>3 Court of Common Pleas</u>	<u>5 Judges</u>
<u>3 Family Courts</u>	<u>13 Judges</u>
<u>12 Alderman's Courts</u>	<u>18 Aldermen</u>
<u>19 Justice of Peace</u>	<u>1 Chief Magistrate/ 53 Justices of the Peace</u>
<u>1 Municipal Court of Wilmington</u>	<u>3 Judges</u>
45 [Total Courts]	

FLORIDA

<u>1 Supreme Court</u>	<u>7 Justices</u>
<u>5 District Courts of Appeal</u>	<u>57 Judges</u>
<u>20 Circuit Courts</u>	<u>421 Judges</u>

67 County Courts	241 Judges
93 [Total Courts]	

GEORGIA

1 Supreme Court	7 Justices
1 Court of Appeals	9 Judges
46 Superior Courts	159 Judges
2 Civil Courts	3 Judges
1 Municipal Court	1 Judge
64 State Courts	90 Judges
159 Juvenile Courts	104 Judges
3 County Recorder's Courts	8 Judges
159 Magistrate Courts	159 Chief Magistrates 296 Magistrates
159 Probate Courts	159 Judges
390 Municipal Courts and the City of Court of Atlanta	374 Judges
985 [Total Courts]	

HAWAII

1 Supreme Court	5 Justices
1 Intermediate of Appeals	3 Judges
4 Circuit Court and Family Courts	38 Judges
4 District Courts	22 Judges/45 Per Diem Judges
10 [Total Courts]	

IDAHO

1 Supreme Court	5 Justices
-----------------	------------

1 Court of Appeals	3 Judges
7 District Courts	34 Judges, 75 Lawyers, 2 Non-lawyer magistrates

9 [Total Courts]

ILLINOIS

1 Supreme Court	7 Justices
40 Appellate Court (districts) Circuit Courts [22]	51 Judges
426 Circuits	426 Circuit Judges
344 Associates	344 Associate Judges
50 Permissive Associates	50 Permissive Associate Judges

861 [Total Courts]

INDIANA

1 Supreme Court	5 Justices
1 Tax Court	1 Judge
5 Court of Appeals	15 Judges
148 Superior Courts	147 Judges
1 Probate Court	1 Judge
92 Circuit Courts	95 Judges
16 Municipal Courts	16 Judges
24 County Courts	23 Judges
48 City Courts	48 Judges
25 Town Courts	25 Judges
8 Small Claims Courts	8 Judges

369 [Total Courts]

IOWA

1 Supreme Court	9 Judges
-----------------	----------

<u>1 Court of Appeals</u>	<u>6 Judges</u>
99 County District Courts	282/8 Chief Judges, 101 District Judges, 46 District Associate Judges, 17 Senior Judges, 149 part-time Magistrates, 11 Associate Juvenile Judges
101 [Total Courts]	

KANSAS

<u>1 Supreme Court</u>	<u>7 Justices</u>
<u>1 Court of Appeals</u>	<u>10 Judges</u>
<u>31 District Courts</u>	<u>149 Judges & 69 Magistrates</u>
<u>347 Municipal Courts</u>	<u>252 Judges</u>
380 [Total Courts]	

KENTUCKY

<u>1 Supreme Court</u>	<u>7 Justices</u>
<u>1 Court of Appeals</u>	<u>14 Judges</u>
<u>56 Circuit Courts [Judicial]</u>	<u>91 Judges</u>
59 District Courts [Judicial Districts]	125 Judges
117 [Total Courts]	

LOUISIANA

<u>1 Supreme Court</u>	<u>7 Justices</u>
<u>5 Courts of Appeal</u>	<u>54 Judges</u>
<u>42 District Courts</u>	<u>214 Judges</u>
<u>4 Juvenile Courts</u>	<u>12 Judges</u>
<u>1 Family Court</u>	<u>4 Judges</u>

384 Justice of Peace Courts	384 Justices of Peace
250 Mayor's Court	250 Judges
53 City/Parish Courts	75 Judges
740 [Total Courts]	

MAINE

1 Supreme Court	7 Justices
16 Superior Courts	16 Justices
13 District Courts	25 Judges
16 Probate Courts	16 Judges
2 Administrative Courts	2 Judges
48 [Total Courts]	

MARYLAND

1 Court of Appeals	7 Judges
1 Court of Special Appeals	13 Judges
24 Circuit Courts	123 Judges
24 District Courts	97 Judges
22 Orphan's Courts	66 Judges
72 [Total Courts]	

MASSACHUSETTS

1 Supreme Court	7 Justices
1 Appeals Court	14 Justices
23 Superior Court Departments	76 Justices
68 District Court Departments	168 Justices
1 Boston Municipal Court Departments	11 Justices
4 Juvenile Court Departments	12 Justices

<u>7 Housing Court Departments</u>	<u>6 Justices</u>
<u>1 Land Court Department</u>	<u>4 Justices</u>
<u>20 Probate and Family Court Departments</u>	<u>43 Justices</u>

126 [Total Courts]

MICHIGAN

<u>1 Supreme Court</u>	<u>7 Justices</u>
<u>1 Court of Appeals</u>	<u>24 Judges</u>
<u>1 Court of Claims</u>	<u>Unknown</u>
<u>56 Circuit Courts</u>	<u>177 Judges</u>
<u>1 Recorder's Court of Detroit</u>	<u>29 Judges</u>
<u>101 District Courts</u>	<u>260 Judges</u>
<u>79 Probate Courts</u>	<u>108 Judges</u>
<u>6 Municipal Courts</u>	<u>6 Judges</u>

246 [Total Courts]

MINNESOTA

<u>1 Supreme Court</u>	<u>7 Justices</u>
<u>1 Court of Appeals</u>	<u>16 Judges</u>
<u>10 District Courts</u>	<u>242 Judges</u>

12 [Total Courts]

MISSISSIPPI

<u>1 Supreme Court</u>	<u>9 Justices</u>
<u>20 Circuit Courts</u>	<u>40 Judges</u>
<u>20 Chancery Courts</u>	<u>39 Judges</u>
<u>19 County Courts</u>	<u>23 Judges</u>
<u>1 Family Court</u>	<u>1 Judge</u>

168 Municipal Courts	102 Judges & 165 Mayors
92 Justice Courts	191 Judges
321 [Total Courts]	

MISSOURI

1 Supreme Court	7 Justices
3 Court of Appeals	32 Judges
45 Circuit Courts	134 Circuit Judges & 175 Associate Circuit Judges
417 Municipal Courts	311 Judges
466 [Total Courts]	

MONTANA

1 Supreme Court	7 Justices
4 Water Courts	1 Chief Judge & 6 Water Judges
56 District Courts	36 Judges
1 Worker's Compensation Court	1 Judge
1 Municipal Court	1 Judge
56 Justice of the Peace Courts	78 Justices of Peace & 32 City Court Judges
85 City Courts	47 Judges & 32 Justices of Peace City Court Judges
204 [Total Courts]	

NEBRASKA

1 Supreme Court	7 Justices
1 Court of Appeals	6 Judges
21 District Courts	50 Judges
3 Separate Juvenile Courts	5 Judges
93 County Courts	57 Judges

1 Worker's Compensation Court	7 Judges
<hr/>	
120 [Total Courts]	

NEVADA

1 Supreme Court	5 Justices
9 District Courts	38 Judges
56 Justice Courts	64 Justices of Peace
18 Municipal Courts	28 Judges & 10 Justices of Peace
<hr/>	
84 [Total Courts]	

NEW HAMPSHIRE

1 Supreme Court	1 Chief Judge, 4 Justices
11 Superior Courts	1 Chief Judge, 11 Marital Masters, 28 Justices
10 Probate Courts	9 Judges and 1 Administrative Judge
40 District Courts	1 Administrative Judge and 86 Judges
3 Municipal Courts	4 Justices
<hr/>	
65 [Total Courts]	

NEW JERSEY

1 Supreme Court	7 Justices
1 Appellate Division of Superior Courts	28 Judges
15 Superior Courts (Civil, Family, General, Equity, and Criminal Divisions)	374 Judges & 21 Surrogate Judges & Clerks
1 Tax Court	9 Judges

535 Municipal Courts	355 Judges
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553 [Total Courts]	
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NEW MEXICO

1 Supreme Court	5 Justices
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1 Court of Appeals	10 Judges
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13 District Courts	61 Judges
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32 Magistrate Courts	58 Judges
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1 Metropolitan Court	15 Judges
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33 Probate Courts	33 Judges
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81 Municipal Courts	81 Judges
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162 [Total Courts]	
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NEW YORK

1 Court of Appeals	7 Judges
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4 Appellate Divisions Supreme Courts	48 Justices
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1 Appellate Terms of Supreme Court	15 Justices
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57 County Courts	597 Judges
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12 Supreme Courts	597 Judges
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62 Surrogate Courts	78 Surrogate
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1 Court of Claims	64 Judges
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62 Family Courts	165 Judges
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2 District Courts	50 Judges
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79 City Courts	158 Judges
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1 Civil Court of the City of New York	120 Judges
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1 Criminal Court of the City of New York	107 Judges
1,487 Town and Village Justice Courts	2,242 Justices

1,770 [Total Courts]

NORTH CAROLINA

1 Supreme Court	7 Justices
1 Court of Appeals	12 Judges
34 Superior Courts	77 Judges
34 District Courts	164 Judges, 654 Magistrates

70 [Total Courts]

NORTH DAKOTA

1 Supreme Court	5 Justices
1 Court of Appeals	3 Judges
7 District Courts	24 Judges
53 County Courts	26 Judges
112 Municipal Courts	102 Judges

174 [Total Courts]

OHIO

1 Supreme Court	7 Justices
12 Court of Appeals	65 Judges
88 Court of Common Pleas	355 Judges
118 Municipal Courts	201 Judges
49 County Courts	55 Judges
1 Court of Claims	2 Judges
500 Mayor's Courts	500 Mayors

769 [Total Courts]

OKLAHOMA

1 Supreme Court	9 Justices
1 Court of Criminal Appeals	5 Judges
4 Court of Appeals	12 Judges
26 District Courts	71 District Judges, 63 Special Judges, 77 Associate District Judges
2 Municipal Criminal Courts of Record	26 Judges
340 Municipal Court Not of Record	350 Judges
1 Court of Tax Review	3 Judges
375 [Total Courts]	

OREGON

1 Supreme Court	7 Judges
1 Court of Appeals	10 Judges
1 Tax Court	1 Judge
22 Circuit Courts	92 Judges
30 District Courts	62 Judges
112 Municipal Courts	94 Judges
35 Justice Courts	35 Justices of Peace
6 County Courts	6 Judges
208 [Total Courts]	

PENNSYLVANIA

1 Supreme Court	7 Justices
1 Commonwealth Court	9 Judges
1 Superior Court	15 Judges
60 Courts of Common Pleas	366 Judges

<u>538 District Justice Courts</u>	<u>538 District Judges</u>
<u>1 Philadelphia Municipal Court</u>	<u>22 Judges</u>
<u>1 Pittsburgh City Magistrates Court</u>	<u>6 Magistrates</u>
<u>1 Philadelphia Traffic Court</u>	<u>6 Judges</u>

604 [Total Courts]

RHODE ISLAND

<u>1 Supreme Court</u>	<u>5 Justices</u>
<u>1 Workers' Compensation</u>	<u>10 Judges</u>
<u>1 Superior Court</u>	<u>22 Justices & 2 Masters</u>
<u>4 Family Courts</u>	<u>11 Judges & 2 Masters</u>
<u>4 District Courts</u>	<u>13 Judges & 1 Master</u>
<u>1 Administrative Adjudication Court</u>	<u>7 Judges</u>
<u>14 Municipal Courts</u>	<u>17 Judges & 2 Magistrates</u>
<u>39 Probate Courts</u>	<u>39 Judges</u>

65 [Total Courts]

SOUTH CAROLINA

<u>1 Supreme Court</u>	<u>5 Justices</u>
<u>1 Court of Appeals</u>	<u>6 Judges</u>
<u>16 Circuit Courts</u>	<u>40 Judges & 20 Masters</u>
<u>16 Family Courts</u>	<u>46 Judges</u>
<u>46 Probate Courts</u>	<u>46 Judges</u>
<u>286 Magistrate Courts</u>	<u>282 Magistrates</u>
<u>202 Municipal Courts</u>	<u>300 Judges</u>

568 [Total Courts]

SOUTH DAKOTA

1 Supreme Court	5 Justices
8 Circuit Courts	36 Judges, 17 Law Magistrates, 132 Magistrates
9 [Total Courts]	

TENNESSEE

1 Supreme Court	5 Justices
3 Court of Appeals	12 Judges
3 Court of Criminal Appeals	9 Judges
95 Circuit Courts	76 Judges
2 Probate Courts	3 Judges
33 Chancery Courts	33 Chancellors
29 Criminal Courts	29 Judges
300 Municipal Courts	170 Judges
98 Juvenile Courts	104 Judges
95 General Sessions Courts	134 General Session Judges, 16 Municipal Judges
659 [Total Courts]	

TEXAS

1 Supreme Court	9 Justices
1 Court of Appeals	9 Judges
14 Courts of Appeals	80 Justices
10 Criminal District Courts	10 Judges
376 District Courts	376 Judges
162 County Court at Law	162 Judges
18 Probate Courts	18 Judges

254 Constitutional County Courts	254 Judges
884 Justice of Peace Courts	884 Judges
853 Municipal Courts	1,241 Judges

2,573 [Total Courts]

UTAH

1 Supreme Court	5 Justices
1 Court of Appeals	7 Justices
29 District Courts	35 Judges
171 Justice Courts	135 Judges
8 Circuit Courts	23 Judges
8 Juvenile Courts	13 Judges

218 [Total Courts]

VERMONT

1 Supreme Court	5 Justices
14 Family Courts	12 Superior Judges, 4 Child Support Magistrates, 19 District Judges
14 Superior Courts	12 Judges
4 District Courts	19 Judges
19 Probate Courts	19 Judges
1 Environmental Court	1 Judge

53 [Total Courts]

VIRGINIA

1 Supreme Court	7 Justices
1 Court of Appeals	10 Judges

<u>122 Circuit Courts</u>	<u>135 Judges</u>
<u>204 District Courts</u>	<u>115 FTE General District Judges, 79 FTE Juvenile & Domestic Relations Judges</u>

328 [Total Courts]

WASHINGTON

<u>1 Supreme Court</u>	<u>9 Justices</u>
<u>3 Court of Appeals</u>	<u>17 Judges</u>
<u>30 Superior Courts</u>	<u>153 Judges</u>
<u>131 Municipal Courts</u>	<u>96 Judges</u>
<u>50 District Courts</u>	<u>111 Judges</u>

215 [Total Courts]

WEST VIRGINIA

<u>1 Supreme Court of Appeals</u>	<u>5 Justices</u>
<u>31 Circuit Courts</u>	<u>60 Judges</u>
<u>55 Magistrate Courts</u>	<u>156 Magistrates</u>
<u>122 Municipal Courts</u>	<u>122 Judges</u>

209 [Total Courts]

WISCONSIN

<u>1 Supreme Court</u>	<u>7 Justices</u>
<u>1 Court of Appeals</u>	<u>13 Judges</u>
<u>69 Circuit Courts</u>	<u>223 Judges</u>
<u>197 Municipal Courts</u>	<u>202 Judges</u>

268 [Total Courts]

WYOMING

<u>1 Supreme Court</u>	<u>5 Justices</u>
<u>9 District Courts</u>	<u>17 Judges</u>

<u>14</u> Justice of Peace Courts	<u>14</u> Justices
<u>80</u> Municipal Courts	<u>75</u> Judges
<u>14</u> County Courts	<u>18</u> Judges
118 [Total Courts]	

TERRITORIAL/DISTRICTS, ETC.

DISTRICT OF COLUMBIA

<u>1</u> Court of Appeal	<u>9</u> Judges
<u>1</u> Superior Court	<u>59</u> Judges
2 [Total Courts]	

AMERICA SAMOA

<u>1</u> District Court
1 [Total Court]

COMMONWEALTH FOR THE NORTHERN MARIANA ISLAND/SAIPAN

<u>2</u> District Courts
<u>2</u> Territorial Courts
4 [Total Courts]

FEDERAL STATE OF MICRONESIA

<u>1</u> District Court
1 [Total Court]

GUAM

<u>1</u> District Court
<u>1</u> Territorial Court
2 [Total Courts]

PUERTO RICO

<u>1</u> Supreme Court	7 Justices
<u>12</u> Superior Courts	111 Judges
<u>38</u> District Courts	96 Judges
<u>53</u> Municipal Courts	60 Judges
104 [Total Courts]	

REPUBLIC OF PALAU

1 Common Pleas Court
1 District Court
<u>1</u> High Court
3 [Total Courts]

VIRGIN ISLAND

1 District Court
<u>1</u> Territorial Court
2 [Total Courts]

***Total estimated county,
municipal, state and
territorial courts as of
this survey [17,825].**

COURT SECURITY AND THE TRANSPORTATION OF PRISONERS: A NATIONAL STUDY



INDEPENDENT SAFETY BOARD ACT AMENDMENTS PUBLIC LAW 103-411, [October 25, 1994]

Special Notation:

**Federal, State, Municipal and
University Aircraft Operators**

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**FEDERAL, STATE, MUNICIPAL AND UNIVERSITY
AIRCRAFT OPERATORS
Public Law 103-411
[October 25, 1994]**

The President signed Public Law 103-411 on October 25, 1994. The law became effective April 23, 1995. The bill changes the statutory definition of "public aircraft" requiring Government aircraft operators to comply with certain Federal Aviation Regulations (FAR). On April 23, 1995 passenger carrying Government aircraft will not longer be considered public and will have to comply with FAR Part 91 and 43. It should be noted if a Governmental unit is receiving compensation for operating their aircraft, compliance with FAR Part 135 and/or 121 may be required.

Thus, federal, state, county and municipal public safety/law enforcement agencies and their employees must be in compliance with this public law. [Numerous sections of the public law, regulations and guidelines are quoted in their entirety within this section.]

The National Sheriffs' Association has made mention of this Public Law 103-411 to assure any/all compliance. An entire copy of this Public Law can be found in the appendix area of this publication.

Includes:

♦ CHAPTER 1. DETERMINING WHETHER AIRCRAFT OPERATIONS ARE PUBLIC OR CIVIL

1. PUBLIC AIRCRAFT DEFINITION.
 - a. Background.
 - b. Legislative History.
 - c. Statutory Text.
 - d. Operational Nature of Definition.
 - e. Effective date.
2. KEY STATUTORY TERMS.
 - a. "For Commercial Purposes."
 - b. "Whose Presence is Required to Perform."
 - c. "Associated with the Performance of."
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 - (1) Examples.
 - (2) "Firefighting."
 - (3) "Search and Rescue."
 - (4) "Law Enforcement."
 - (5) "Aeronautical Research."
 - (6) "Biological and Geological Resource Management."

- e. "Cost Reimbursement Agreement."
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- h. "Significant and Imminent Threat "
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CHAPTER 1. DETERMINING WHETHER OPERATIONS ARE PUBLIC OR CIVIL.

1. PUBLIC AIRCRAFT DEFINITION.

a. Background. In recent years, there has been a growing concern about the safety of public aircraft, which are statutorily exempt from most types of FAA regulation.

(1) Intergovernmental reimbursement for the use of government-owned aircraft has also engendered a great deal of controversy. Intergovernmental reimbursement is involved when, for example, state and local governments enter into agreements with each other whereby one government reimburses the other for flying firefighting, rescue, or other missions for it. Some private operators have claimed that state and local governments have competed with them unfairly under the public aircraft exemption. The FAA's longstanding interpretation has been that where there is an exchange of money, an operation is "for commercial purposes" and does not have public aircraft status--i.e., such an operation is a civil aircraft operation. Many government operators objected that this interpretation made it impossible to carry out their missions, because it is impractical to obtain the services commercially, and too costly to change many of their aircraft to meet FAA requirements for civil aircraft.

(2) In response to this controversy, the FAA announced in the Federal Register on August 1, 1994, that it would reconsider whether intergovernmental reimbursement negates public aircraft status. The FAA invited comment from interested parties, 59 FR 39192, and planned to announce its decision by the end of the year.

(3) On October 9, 1994, Congress passed the Independent Safety Board Act Amendments, Pub. L. 103-411, which contained a major change in the definition of "public aircraft." The new law made the FAA's planned reconsideration unnecessary. Under the new law, where intergovernmental reimbursement occurs, the aircraft is a civil aircraft unless the appropriate unit of government certifies "that the operation was necessary to respond to a significant and imminent threat to life or property," and "that no service by a private operator was reasonably available to meet the threat."

b. Legislative History. The purpose of the new law, as reflected in the legislative history, is twofold.

(1) First, in the words of Senator Pressler, the purpose of the new law is "to mandate that FAA safety regulations, directives, and orders issued for civil aircraft be made applicable to all government-owned, nonmilitary aircraft engaged in passenger transport. ... [T]he Administrator would be allowed to waive FAA requirements for public aircraft provided an equivalent level of safety has been established by the governmental entity responsible for the aircraft." Congressional Record, S14419-S14420 (October 6, 1994).

(2) A second purpose reflected in the legislative history concerned emergency situations like wildfires. As Senator Gorton stated "the summer wildfires had a drastic impact throughout the State of Washington. Local governments were frustrated that although fires were burning, all available resources could not be utilized. Emergency or not, it is presently prohibited for public agencies to reimburse one another for the use of helicopters. The language in this bill will now give authority to local governments to respond immediately to emergency situations without having to

cut through the bureaucratic red tape. In certain cases, where an imminent threat is looming and private operators are not readily available, public agencies will be allowed to use each other's helicopters. This language helps ensure that when an emergency breaks out, all aircraft--public and private--will be available to respond without delay." *Id.* at 14419.

c. Statutory Text. The new definition of public aircraft enacted by Congress is as follows:

(1) an aircraft--

(i) used only for the United States Government; or

(ii) owned and operated (except for commercial purposes), or exclusively leased for at least 90 continuous days, by a government (except the United States Government), including a State, the District of Columbia, or a territory or possession of the United States, or political subdivision of that government; but

(2) does not include a government-owned aircraft--

(i) transporting property for commercial purposes; or

(ii) transporting passengers other than--

(I) transporting (for other than commercial purposes) crewmembers or other persons aboard the aircraft whose presence is required to perform, or is associated with the performance of, a governmental function such as firefighting, search and rescue, law enforcement, aeronautical research, or biological or geological resource management; or

(II) transporting (for other than commercial purposes) persons aboard the aircraft if the aircraft is operated by the Armed Forces or an intelligence agency of the United States.

(3) An aircraft described in the preceding sentence shall, notwithstanding any limitation relating to use of the aircraft for commercial purposes, be considered to be a public aircraft for the purposes of this part without regard to whether the aircraft is operated by a unit of government on behalf of another unit of government, pursuant to a cost reimbursement agreement between such units of government, if the unit of government on whose behalf the operation is conducted certifies to the Administrator of the Federal Aviation Administration that the operation was necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator was reasonably available to meet the threat. 49 U.S.C. § 40102(a)(37).

d. Operational Nature of Definition. The status of an aircraft as "public aircraft" or "civil aircraft" depends on its use in government service and the type of operation that the aircraft is conducting at the time. Rather than speaking of particular aircraft as public aircraft or civil aircraft, it is more precise to speak of particular operations as public aircraft or civil aircraft in nature. If a flight is a mixture of both public aircraft and civil aircraft operations, then it is considered a civil aircraft operation.

(1) *Example:* An aircraft owned by a state government is used in the morning for a search and rescue mission that meets the statutory definition of public aircraft in all respects. For the search and rescue operation, the aircraft is a public aircraft. Later that same day, however,

when the aircraft is used to fly the governor of the state from one meeting to another, the aircraft loses its public aircraft status and is instead a civil aircraft.

(2) CAUTION: Care must be taken when aircraft are used in both public and civil aircraft operations. Before such aircraft are returned to civil operations, the government operator may need to record in the aircraft records that the aircraft has been returned to civil status by someone authorized to do so under FAR Part 43, if equipment was removed and replaced to accommodate the governmental function.

e. Effective Date. The effective date of the new statute is April 23, 1995.

2. MEANING OF KEY STATUTORY TERMS. The FAA interprets various words, phrases, and clauses in the statutory definition (in their order of appearance in the statute) as follows:

a. "For Commercial Purposes." This term basically means "for compensation or hire" as that term historically has been defined by the FAA. The test for determining whether a particular operation is "for compensation or hire" is whether the operator receives direct or indirect remuneration for the operation. The remuneration need not be in the form of money; the receipt of other items of value, such as good will or the logging of flight time, have also been held to make an operation "for compensation or hire." Furthermore, no profit need be made; an operation may be "for compensation or hire" even if the operator takes a loss. When the operator is a governmental entity, reimbursement from a party not sharing a common treasury with the governmental entity makes the operation "for commercial purposes." Examples:

(1) One state agency reimburses another agency of the same state for conducting operations on its behalf using a state-owned aircraft. Where the two state agencies share a common treasury, the operation is not "for commercial purposes" within the meaning of the statute.

(2) A Federal agency reimburses a state agency for conducting aircraft operations on its behalf. This operation is a civil aircraft operations, unless the Federal agency certifies to the FAA Administrator that the operation was necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator was reasonably available to meet the threat, then the aircraft will be a public aircraft. See paragraphs 2(g) through (i) below.

(3) Flight instruction is offered as part of the curriculum at a state university. The flights involving student instruction are "for commercial purposes," within the meaning of the statute, because students pay tuition to the university for their instruction. Under FAR Section 135.1(b)(1), flights involving student instruction are excepted from the air taxi and commercial operator regulations of FAR Part 135. Instead, they are governed by FAR Part 91.

b. "Whose Presence Is Required to Perform." This phrase means either a crewmember or a non-crewmember who will participate in carrying out the governmental function. Examples:

(1) Firefighters who are being carried to a fire scene to fight the fire, when the aircraft is also used for aerial assessment to ensure safe and efficacious deployment of the firefighters, are included.

(2) Persons on board aircraft used in search and rescue operations who are needed to conduct the search when the aircraft is indispensable to the search, or to conduct the rescue operation when the aircraft is the only feasible means of reaching the victim with the necessary speed, are included. Medical evacuation operations carrying persons whose presence is required to perform the medical evacuation, but where the aircraft is used only because it is an equal or better means of transportation than other means are not included; these are considered civil aircraft operations.

(3) Persons on board aircraft conducting law enforcement operations for the purpose of operating searchlights or performing similar observational functions are included. Transporting prisoners is not included.

(4) Persons on board aircraft conducting aeronautical research who are required to make observations and gather data, provided the work can only be done in the aircraft, are included.

(5) Persons on board aircraft engaged in biological and geological resource management, who perform scientific and technical tasks that can only be done from the air, are included.

c. "Associated with the Performance of." This clause connotes a noncrewmember support person who, while not essential to performance of the governmental function, is expected to contribute to the effectiveness of those whose presence is required to perform the function.

(1) One of Congress' primary purposes in enacting the new statutory definition of "public aircraft" was to increase FAA regulatory oversight of government aircraft. See Congressional Record, S14418-S14424 (October 6, 1994). Giving the phrase "associated with the performance of" an overly broad interpretation would be contrary to that intent.

(i) Examples:

(A) A government executive who accompanies firefighters to a fire scene solely to assess what further action the government should take in regard to fighting the fire is "associated with the performance of" the governmental function of firefighting. Persons gathering information for dissemination through new media are not considered within the exception.

(B) A government-owned aircraft is used to survey a natural disaster. Individuals whose presence is required to monitor equipment installed in the aircraft for the purpose of the survey are persons "associated with the performance of" the governmental function.

d. "Governmental Function such as" The term "such as" in the clause "a governmental function such as firefighting, search and rescue, law enforcement, aeronautical research, or biological or geological resource management" indicates that the listed functions are not exhaustive, but that certain other governmental functions would be included as well. In the context of the clause "governmental function such as firefighting, search and rescue, law enforcement, aeronautical research, or biological or geological resource management," the term "such as" implies other governmental functions that share a common characteristic with those listed. The unifying characteristic shared by the governmental functions listed in the statute is

that they each involve the use of the aircraft as an integral or indispensable element of the operation. That is, the presence of those aboard the aircraft performing the governmental function is required on the aircraft, in the air-- rather than merely at the end of the flight.

(1) Examples:

(i) An aerial survey in a government-owned aircraft to determine the extent of a natural disaster is a governmental function within the scope of the statute. This operation would be a public aircraft operation.

(ii) Firefighters are transported from a base camp to the firefront, and before the aircraft lands, it is used for reconnoitering to determine the most effective deployment of the firefighters. This operation falls within the firefighting exception, and is a public aircraft operation.

(iii) Firefighters are flown from one area of the country to a firefighting base in another part of the country. This operation involves transportation that does not fall within the firefighting exception. As a result, compliance with appropriate FAA safety regulations for civil aircraft would be required.

(2) "Firefighting." This term includes the drop of fire retardants, water, and smoke jumpers, and transportation of firefighters from a base camp to the firefront, if the flight includes use of the aircraft as an integral part of the firefighting operation, as, e.g., with reconnoitering to determine the most effective deployment of the firefighters.

(3) "Search and Rescue." "Search and rescue" is a term of art meaning aircraft operations that are flown to locate and rescue people who cannot be located and rescued in a timely manner from the ground. The term includes operations where the aircraft is indispensable to the search, or is the only feasible means of reaching the victim. Victims would be considered to be "associated with" the search and rescue operation.

(i) The FAA interprets this term narrowly. The term "search and rescue" does not include routine medical evacuation of persons from traffic accidents and the like. However, if no commercial operators are available, medical evacuation operations by a government operator will be considered public aircraft. The FAA does not believe that Congress intended for injured people to be carried in aircraft that are not subject to FAA regulation when other, equally effective means are readily available. Nor does the FAA believe that Congress intended to put state and local governments in competition with commercial operations, which generally provide ample civil aircraft capacity for medical evacuation operations.

(ii) Examples:

(A) A car crashes in a remote location, and the driver will die if she is not immediately transported to a hospital. No commercial operators are available to fly the injured driver to the hospital in an expeditious manner, but the sheriff's helicopter is. The sheriff's flight carrying the injured driver to the hospital is a public aircraft operation.

(B) Same situation, but this time commercial operators are available. The medical evacuation operation by the sheriff is a civil aircraft operation.

(4) "Law Enforcement." Law enforcement operations that employ aircraft with searchlights and law enforcement personnel ready for immediate on-the-spot deployment (e.g., spotters looking for fugitives on the ground) are public aircraft operations. Transportation of prisoners; however, does not fall within the category of "law enforcement" and is not a public aircraft operation.

(5) "Aeronautical Research." Aeronautical research (e.g., conducting flights to determine aircraft performance in various operating environments), even when it requires the presence on board the research aircraft of engineers and technicians who are not part of the crew, is a public aircraft operation.

(6) "Biological and Geological Resource Management." This term means biological and geological resource management that requires the presence of scientific and technical passengers to gather information that can only be gathered by direct observation from the air.

e. "Cost Reimbursement Agreement." This term means any agreement, either oral or written, providing for reimbursement of the costs of the aircraft operation. If there is any charge or payment in excess of the cost of the operation, then the agreement does not constitute a cost reimbursement agreement.

f. "Unit of Government." This term means a government. The singular characteristic of a unit of government in this context is its common treasury. This interpretation generally allows reimbursement among or between agencies of a state, among or between a city, and among or between agencies of the Federal government without the need for compliance with FAR Parts 121, 125, 133, 135, or 137. However, should a city, state, or Federal agency receive reimbursement from another government, it would need to ensure that it is in compliance with the appropriate portions of the FAR, unless the other government is able to certify that there is a significant and imminent threat to life or property and that no private operator is reasonably available, as discussed below.

g. "Certifies." Cost reimbursement between governments does not negate public aircraft status when the government on whose behalf the operation was conducted certifies that there was a significant and imminent threat and that no private operator was reasonably available to meet the threat. The certification by a unit of government should include the following: a description of the significant and imminent threat; a description of the operation undertaken; the date on which the operation occurred; and an explanation of how it was determined that no service by a private operator was reasonably available.

(1) Units of government should retain the required certification, which should be completed contemporaneously, as part of their records in case any question should arise.

(2) A general or "blanket" statement that an operator will always comply with statutory requirements will not be considered acceptable. The certification must occur for each occasion of operation.

Note: Congress' intent in amending the public aircraft definition was, in part, to insure that units of government are not impeded in attempting to respond to certain emergency situations. In the words of Senator Gorton, Congress intended that "when an emergency breaks out, all aircraft--public and private--will be available to respond without delay." See paragraph 1(b) above. Consistent with this intent, the FAA does not intend to generally to look behind a unit of government's certification that there was a significant and imminent threat and that no private operator was reasonably available to meet the threat. Thus, it is not expected that FAA inspectors will routinely review or challenge these determinations made by units of government.

h. "Significant and Imminent Threat" "Significant and imminent threat to life or property (including natural resources)" means a situation in which the authority responsible for responding to the threat has determined that serious injury, death, or significant damage to property may occur before land- or water-borne assistance can be deployed to counter the threat effectively.

i. "No Service by a Private Operator ... Reasonably Available." "No service by a private operator was reasonably available to meet the threat" means that, as reasonably determined by the authority charged with responding to the threat, no private operator is able, at the time of the threat, to deliver aircraft capable of performing the minimum tasks necessary to respond to the threat by the latest time at which such aircraft would provide an effective response.

CHAPTER 2. BRINGING OPERATIONS INTO COMPLIANCE.

3. BASIC TYPES OF CIVIL AIRCRAFT OPERATIONS. The government operator should contact the nearest FAA Flight Standards district office (FSDO) for assistance and guidance in bringing its operations into compliance with the FAR. For operations requiring certification, the FSDO manager will assign an FAA aviation safety inspector to assist the government operator during the certification process. Initial inquiries about certification or requests for applications should be in writing or by personal visit to the FSDO.

a. FAR Part 91.

(1) FAR Part 91 prescribes the general flight rules for all aircraft operations within the United States, including the waters within 3 nautical miles of the U.S. coast. U.S.-registered civil aircraft are required to comply with FAR Part 91. When over the high seas, they must comply with Annex 2 (Rules of the Air) to the Convention on International Civil Aviation.

(2) FAR Part 91 prohibits a pilot from operating a civil aircraft unless it is in an airworthy condition. The pilot in command (PIC) is responsible for determining whether the aircraft is in condition for safe flight. The PIC is required to terminate the flight when unairworthy mechanical, electrical, or structural conditions occur. In addition, the PIC may not operate the aircraft without complying with the operating limitations specified in the approved Airplane or Rotorcraft Flight Manual, markings, and placards, or as otherwise prescribed by the certificating authority of the country of registry.

(3) Under FAR Part 91, the PIC of an aircraft is directly responsible for, and is the final authority as to the operation of that aircraft. In case of an inflight emergency, the PIC is authorized to deviate from any rule in FAR Part 91 to the extent necessary to meet the emergency. However, any PIC who deviates from a rule in FAR Part 91 is required, upon the request of the Administrator, to send a written report of that deviation to the Administrator.

b. FAR Part 125. If an operator uses an airplane with a seating configuration for 20 or more passenger seats or a maximum payload capacity of 6,000 pounds or more, and is not engaged in "common carriage," then FAR Part 125 applies. A person is considered to be engaged in "common carriage" when "holding out" to the general public or to a segment of the public as willing to furnish transportation within the limits of its facilities to any person who wants it. Examples of holding out are as follows: advertising through telephone yellow pages, billboards, television, radio, and individual ticketing. FAR Section 125.11(b) prohibits FAR Part 125 certificate holders from conducting any operation which results directly or indirectly from holding out to the general public. Further information regarding common carriage vs. private carriage can be found in AC 120-12. If the operator is engaged in "common carriage," then FAR Part 121 or 135 applies rather than FAR Part 125.

c. FAR Part 121 or 135. When a government-owned aircraft is operated "for commercial purposes" (see paragraph 2(a) above), the requirements contained in either FAR Part 121 or 135, depending on the type of operation, must be met. Generally, FAR Part 121 applies to domestic, flag, and supplemental air carriers and commercial operators of large aircraft, while FAR Part 135 applies to air taxi operators and commercial operators. An operator should consult Special Federal Aviation Regulation (SFAR) No. 38-2 as

well as the applicability provisions of each part (FAR Sections 121.1 and 135.1) to determine whether it is FAR Part 121 or 135 that applies to a particular operation. The FSDO will provide an applicant for a FAR Part 121 or 135 certificate with a videotape on certification and a copy of AC 120-49, Certification of Air Carriers. Once the videotape and the AC have been reviewed, the applicant will complete FAA Form 8400-6, Preapplication Statement of Intent, and the FSDO manager will assign a Certification Team to assist the applicant through each phase of the certification process.

d. FAR Part 133. FAR Part 133, Rotorcraft External-Load Operations, prescribes the airworthiness certification requirements for rotorcraft, and the operating and certification rules governing the operation of rotorcraft conducting external-load operations in the United States by any person. The certification rules do not apply to a Federal, state, or local government conducting operations with a government-owned aircraft unless it is operating as a civil aircraft due to receipt of compensation. Federal, state, or local governments must, however, comply with all of the other rules contained in FAR Part 133, even when operating a public aircraft.

(1) FAR Part 133 requires that a person must obtain a Rotorcraft External-Load Operator Certificate issued by the FAA before any rotorcraft external-load operations in the United States are begun. This certificate is valid for 24-calendar months unless it is surrendered, suspended, or revoked prior to the expiration date shown on the certificate.

(2) Rotorcraft used in external-load operations must have been type certificated and must continue to meet the requirements of FAR Part 27 or 29 or of FAR Section 21.25. Rotorcraft must also comply with the airworthiness requirements contained in Subpart D of FAR Part 133 and must have a valid standard or restricted category airworthiness certificate. At the present time, only rotorcraft of U.S. registry are eligible for external-load operations.

(3) Pilots conducting rotorcraft external-load operations must have at least a current commercial pilot certificate with a rating appropriate to the rotorcraft being used, and a Second Class Medical Certificate.

e. FAR Part 137. FAR Part 137, Agricultural Aircraft Operations, prescribes the rules which govern the certification and operation of agricultural aircraft operated in the United States, and the issuance of either a private or commercial agricultural aircraft operator certificate for those operations. In a public emergency, a person who conducts agricultural aircraft operations may, where necessary, deviate from any operating rule contained in FAR Part 137 for relief and welfare activities approved by an agency of the United States or of a state or local government. However, each person who deviates from a rule shall complete a report of the aircraft operation involved within 10 days, including a description of the operation and the reasons for it, to the nearest FAA FSDO.

(1) As defined in FAR Part 137, an agricultural aircraft operation means the operation of an aircraft for the purpose of:

(i) dispensing any economic poison;

(ii) dispensing any other substance intended for plant nourishment, soil treatment, propagation of plant life, or pest control; or

(iii) engaging in dispensing activities directly affecting agriculture, horticulture, or forest preservation. It does not include the

dispensing of live insects. Forest firefighting is considered to be an agricultural aircraft operation.

(2) FAR Part 137 requires that a person must obtain an Agricultural Aircraft Operator Certificate issued by the FAA before any agricultural aircraft operations in the United States are begun. A rotorcraft may conduct agricultural aircraft operations with external dispensing equipment in place without a rotorcraft external-load operator certificate. However, an operator with a rotorcraft external-load operator certificate may conduct agricultural aircraft operations if it disperses only water on forest fires by rotorcraft external-load means without an agricultural aircraft operator certificate. A Federal, state, or local government conducting agricultural aircraft operations is not required to obtain an Agricultural Aircraft Operator Certificate. They must; however, comply with all of the other rules contained in FAR Part 137.

(3) Aircraft used in agricultural aircraft operations must be certificated and airworthy, and equipped for agricultural operation. They must be equipped with a suitable and properly installed shoulder harness for use by each pilot.

(4) Operators conducting agricultural aircraft operations must have the services of one person who has at least a current U.S. commercial pilot certificate and who is properly rated for the aircraft to be used.

4. PILOT CERTIFICATION.

a. Generally. All civil aircraft are required to be operated by pilots certificated under FAR Part 61, Certification: Pilots And Flight Instructors. FAR Part 61 prescribes the requirements for issuing pilot certificates and ratings, the conditions under which those certificates and ratings are necessary, and the privileges and limitations of those certificates and ratings.

b. Domestic Aircraft. Pilots operating civil aircraft of U.S. registry are required to have in their personal possession a current pilot certificate issued to them under FAR Part 61. U.S.-registered aircraft may be operated in a foreign country with a pilot license issued by that country.

c. Foreign Aircraft. Foreign aircraft may be operated in the U.S. by pilots who have in their personal possession current pilot certificates issued under FAR Part 61 or a pilot license issued to them or validated for them by the country in which the aircraft is registered.

d. Medical Certificate. Pilots operating U.S.-registered civil aircraft are required to have in their personal possession an appropriate current medical certificate issued to them under FAR Part 67, Medical Standards and Certification. FAR Part 67 prescribes the medical standards for issuing medical certificates. A Third Class Medical Certificate is required for Private Pilot certification. A Second Class Medical Certificate is required for Commercial Pilot certification. A First Class Medical Certificate is required for Airline Transport Pilot Certification.

e. Instrument Rating. Pilots operating civil aircraft under instrument flight rules or in weather conditions less than the minimums prescribed for Visual Flight Rules are required to hold an Instrument Rating or an Airline Transport Pilot Certificate appropriate for the aircraft flown.

5. AIRCRAFT CERTIFICATION.

a. Generally. Government aircraft operations that are no longer eligible for public aircraft status must now meet the civil airworthiness standards for certification of aircraft. This includes the aircraft's engines and propellers as well as the aircraft as a whole. A civil aircraft must have a current airworthiness certificate to operate in the National Airspace System. Additionally, all civil aircraft must meet the following requirements:

(1) The aircraft must have an effective U.S. registration certificate on board during all operations as required by FAR Section 91.203.

(2) An appropriate and current airworthiness certificate must be displayed in accordance with FAR Section 91.203(c). An airworthiness certificate is effective as long as the maintenance, preventative maintenance, and alterations are performed in accordance with FAR Parts 21, 43, and 91, as appropriate, and the aircraft is registered in the United States.

(3) The aircraft must have been inspected in accordance with FAR Section 91.409 within the preceding 12-calendar months.

(i) If the government agency plans to use a progressive inspection program, it must submit a written request to the FAA. The request must be sent to the FSDO having jurisdiction over the area in which the applicant is located and the applicant must be able to meet the requirements identified in FAR Section 91.409(d).

(ii) Large airplanes, turbojet multiengine airplanes, turbopropeller-powered multiengine airplanes, and turbine-powered rotorcraft must have a program approved that meets the requirements of FAR Section 91.409(e).

(4) All maintenance and required inspections must have been completed by a person authorized under FAR Sections 43.3 and 43.7. Additionally, the maintenance and inspections performed must be recorded in accordance with FAR Sections 43.9 and 43.11. FAR Part 43 prescribes the rules governing the maintenance, preventative maintenance, rebuilding, and alteration of civil U.S.-registered aircraft.

(5) Any alterations to the aircraft must have been accomplished and returned to service by an appropriately certified and authorized person under FAR Part 43.

(6) Aircraft operations for compensation or hire must be performed in accordance with the appropriate Air Operations Certificate, e.g., FAR Part 125, 135, etc.

b. Type Certification. Prior to airworthiness certification, the type design must be certificated by the FAA. Section 603(c) of the Federal Aviation Act of 1958 makes a type certificate a prerequisite for issuance of airworthiness certificates. Each government operator who wishes to determine

the eligibility of its aircraft for civil operations must contact the responsible geographic Aircraft Certification Office (ACO) for assistance in seeking either:

(1) design approval for aircraft that have been type certificated in the past; or

(2) type certification approval of aircraft that have been operated in the past under public aircraft status without a type certificate.

c. Aircraft Previously Type Certificated. If the aircraft was originally built to an FAA type certificate, the Aircraft Certification Office will review the type certificate data and make a comparison with the aircraft's current design and condition.

(1) The applicant should provide the FAA Aircraft Certification Office with the technical information to assist in the following:

(i) a review of type design for any engineering changes or modifications;

(ii) a review of replacement parts and technical data on the replacement parts;

(iii) a review of applicable Airworthiness Directives (AD);

(iv) a review of previous operating regimes;

(v) if needed, application of later regulatory amendments or special conditions for any changes found necessary to establish current airworthiness standards for safe design.

(2) The applicant must provide accurate records of any changes from the approved type design that are necessary to establish the current design. The applicant should update all maintenance manuals as necessary. If there has been a substantial change in the type design, e.g., in the configuration, power, power limitations, speed limitations, or weight that have proven so extensive that a substantially complete investigation of compliance with the applicable regulations is required, the owner will be required to apply for a new type certificate.

d. Aircraft with No Prior Certification. It will be extremely difficult to obtain type certification of aircraft that have no history of civil certification. However, if a government operator wishes to apply for type certification, it should file an application for a type certificate on FAA Form 8110.12. The applicant must submit the application and all type design data for the aircraft, including the aircraft's engines and propellers, to the Aircraft Certification Office in its geographic area for approval. The application form must be accompanied by a three-view drawing and available basic data so that a preliminary regulatory certification basis may be established. The applicable airworthiness certification regulations, i.e., FAR Part 23, 25, 27, 29, 33, 35, etc., will be those that are in effect on the date of application for the certificate, unless otherwise noted in the regulations. The applicant must submit the type design, test reports, and computations necessary to show that the product to be certificated meets the applicable airworthiness, aircraft noise, fuel venting, and exhaust emission requirements of the FAR. Upon examining the data and test reports, participating in testing, and inspecting the prototype aircraft, the Administrator must be able to find that the type design in fact complies with the above-mentioned regulations.

e. Airworthiness Certification. An operator of an aircraft that has been operated in public aircraft status cannot obtain a standard airworthiness certificate or return the aircraft to civil operations without showing that the aircraft meets all the criteria for that airworthiness certificate as prescribed by the regulations. Making that showing may be difficult when the aircraft has not been maintained, altered, or inspected in accordance with the FAR. In order to receive a standard airworthiness certificate, the operator should show that the aircraft has been maintained according to the manufacturer's instructions, and that any modifications to the aircraft either were removed or approved by the FAA. Before a standard airworthiness certificate can be issued, the applicant must show that:

(1) The aircraft conforms to its approved type design and is in condition for safe operation.

(2) Any alterations were accomplished in accordance with an approved supplemental type certificate (STC) or other FAA approved data, such as a field approval as reflected by the issuance of an FAA Form 337, Major Repair or Alteration.

(3) All applicable AD's have been complied with.

(4) If altered while in another category, the aircraft continues to meet, or has been returned to, its approved type design configuration and is in a condition for safe operation.

f. Procedures for Obtaining Certificate. Applicants interested in obtaining an airworthiness certificate must follow the following procedures.

(1) Applicants are required to submit a properly executed Application for Airworthiness, FAA Form 8130-6, and any other documents called for in FAR Parts 21 and 45 for certification. An applicant may obtain an FAA Form 8130-6, "Application for Airworthiness" from the local Manufacturing Inspection district office (MIDO) or FSDO. The applicant must have completed and signed the appropriate sections prior to submitting it to the FAA.

(2) The applicant is required to make available for inspection and review the aircraft, aircraft records, and any other data necessary to establish conformity to its type design.

(3) The applicant must properly register the aircraft in accordance with FAR Part 47, Aircraft Registration.

(4) The applicant is also required to show that the aircraft complies with the noise standards of FAR Sections 21.93(b), 21.183(e), Part 36, or Part 91, as appropriate. This may be demonstrated through the use of data. Also, the applicant is required to show that the aircraft's fuel venting and exhaust emission systems comply with the requirements of FAR Part 34. In addition, the applicant must show the aircraft meets the applicable passenger emergency exit requirements of FAR Section 21.183(f) and SFAR No. 41.

(5) During the course of the certification process, the FAA will review records and documentation to the extent necessary to establish that:

(i) All of the required records and documentation are provided for the aircraft; i.e., an up-to-date approved flight manual, a current weight and balance report, equipment list, maintenance records, FAA-accepted Instructions for Continued Airworthiness (ICAW) and/or FAA-acceptance maintenance manual(s) (MM), and any other manuals required by FAR Sections 21.31, 21.50, 23.1529, 25.1529, 27.1529, 29.1529, 33.4, and 35.4. These documents must be in the English language.

(ii) The applicant should ensure that the appropriate markings are present in accordance with FAR Part 45. The applicant should make available the Type Certificate Data Sheets (TCDS), aircraft specification, or aircraft listing that is applicable.

(iii) The inspection records and technical data should reflect that the aircraft conforms to the type design, and all required inspections, including those provided for in FAR Section 21.183(d)(2), which provides for a 100-hour inspection, as described in FAR Section 43.15 and Appendix D. The applicant must also show that the tests the aircraft has been subjected to have been satisfactorily completed, the records completed, and reflect no unapproved design changes.

(iv) The aircraft has been flight tested, if required. If it has not been flight tested, the FAA may issue a special airworthiness certificate as provided for in FAR Sections 21.35 and 21.191(b). The flight test must be recorded in the aircraft records in accordance with FAR Section 91.417(a)(2)(i) as time in service as defined in FAR Part 1. Aircraft assembled by a person other than the manufacturer (e.g., a dealer or distributor) must have been assembled and, when applicable, flight tested in accordance with the manufacturer's FAA-approved procedures.

(v) Large airplanes, turbojet, or turbopropeller multi-engined airplanes must comply with the inspection program requirements of Subpart C of FAR Part 91 or other FAR referenced therein. A supplemental structural inspection program is also required for certain large transport category airplanes. Reference AC 91-56, Supplemental Structural Inspection Program for Large Transport Category Airplanes.

(6) Inspection of the aircraft. Aircraft submitted by the applicant for inspection will be inspected for the following:

(i) The nationality and registration marks and identification plate should be displayed and marked in accordance with FAR Part 45. The information presented should agree with the application for airworthiness certification.

(ii) All equipment, both required and optional, should be properly installed and listed in the aircraft equipment list.

(iii) Instruments and placards should be located in the appropriate places, installed, and properly marked in the English language.

(iv) All applicable AD's must have been complied with and appropriately recorded.

(v) The aircraft should conform to its approved U.S. type certificate and should be in a condition for safe operation.

(vi) All aircraft systems should have been satisfactorily checked for proper operation. The operation of the engine(s) and propeller(s) should be checked in accordance with the aircraft manufacturer's instructions.

CHAPTER 3. APPLYING FOR AN EXEMPTION.

6. ADMINISTRATOR'S EXEMPTION AUTHORITY.

a. In General. The FAA Administrator has the authority to grant exemptions, provided certain requirements are met, to units of government for operations that do not have public aircraft status. The Independent Safety Board Act Amendments of 1994, Pub. L. 103-411, provide, in pertinent part:

(1) AUTHORITY TO GRANT EXEMPTIONS.

(i) IN GENERAL. The Administrator of the Federal Aviation Administration may grant an exemption to any unit of Federal, State, or local government from any requirement of part A of subtitle VII of title 49, United States Code, that would otherwise be applicable to current or future aircraft of such unit of government as a result of the amendment made by subsection (a) of this section (the revised "public aircraft" definition).

Note: The above provision authorizes exemptions from the United States Code--specifically, the Federal Aviation Act of 1958, as amended and recodified--rather than from the regulations.

b. Statutory Requirements. The statute provides as follows:

(1) The Administrator may grant an exemption [to a unit of government] ... only if--

(i) the Administrator finds that granting the exemption is necessary to prevent an undue economic burden on the unit of government and

(ii) the Administrator certifies that the aviation safety program of the unit of government is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government.

Independent Safety Board Act Amendments of 1994, Section (b)(2), Pub. L. 103-411 (emphasis added).

Note: The FAA intends to grant exemptions only where it is clearly in the public interest to do so.

c. Delegation of Authority. In the interest of administrative efficiency, the Administrator's authority to grant exemptions to units of government has been delegated to the Director, Flight Standards Service, and the Director, Aircraft Certification Service. FAR Section 11.25(b)(6).

7. KEY STATUTORY TERMS.

a. "The Administrator Finds ... and ... Certifies." This language indicates that the Administrator, or his or her delegate, is to make an independent determination as to whether the statutory requirements for granting an exemption have been met. This is in contrast to an earlier portion of the statute in which the unit of government rather than the Administrator makes the required certifications (that the operation was necessary to respond to a significant and imminent threat, and that no private operator was reasonably available to meet the threat).

b. "Undue Economic Burden." One finding that the Administrator or his or her delegate must make before granting an exemption is that the

exemption is necessary to prevent an undue economic burden on the unit of government. "Undue economic burden" means that it would cost substantially more to comply with FAA regulations than with "an aviation safety program that is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government" under the statute's exemption provision. To show "substantial additional costs," a petitioner for exemption should submit information that will allow the FAA to compare the cost of operating in compliance with Part A of Subtitle VII of Title 49 of the United States Code with comparable costs if an exemption were granted. At minimum, such information should include:

(1) The purpose and duration of the aircraft operations for which exemption is sought.

(2) The estimated initial and recurring costs of bringing the petitioners aircraft operations into compliance with civil aircraft requirements.

(3) The estimated costs associated with conducting comparable aircraft operations under the exemption.

(4) The estimated cost of obtaining the same aircraft operations from a private operator.

c. "Aviation Safety Program." The Administrator or the Administrator's delegate may not grant an exemption to a unit of government without certifying that the aviation safety program of the unit of government is "effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government." As a result, in the petition for an exemption, the petitioner must show to the Administrator's satisfaction that the petitioner's aviation safety program is effective and appropriate to ensure safe operations of the type of aircraft operated by the petitioner.

(1) An aviation safety program submitted for approval must specify how the aircraft will be maintained and operated safely. The program must include:

(i) procedures covering the maintenance and inspection of the aircraft, including the avionics equipment, emergency equipment, aircraft interior modifications;

(ii) installation, removal, and inspection instructions for all special equipment on or modifications of specific aircraft;

(iii) procedures for operating the aircraft, personnel training associated with the aircraft; and

(iv) any other procedures determined to be necessary for the safe operation of the aircraft.

(2) *Example:* A unit of government applies for an exemption on an aircraft whose wings were modified to carry external pods for various surveillance activities. In its proposed aviation safety program, the unit of government would need to identify how the continued airworthiness of the modification will be accomplished. At minimum, the following may be required: a special structural inspection at the wing attach points, additional training for pilots operating the aircraft during pod installations, and flight manual changes to reflect any new operating limitations that may be necessary due to the modifications.

d. Aircraft Ineligible for Airworthiness Certificates. It will be extremely difficult for units of government to show that aircraft ineligible for airworthiness certificates--e.g., military surplus aircraft--have "an aviation safety program that is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government." In order to meet the "aviation safety program" requirement, the public must be assured that the safety of the aircraft in question is at least roughly equivalent to that provided by the FAR. Aircraft that have no history of civil certification often present significant "unknowns" when it comes to such critical safety matters as life-limited parts and aircraft design. Thus, such aircraft do not usually have the needed base on which to build an aviation safety program that is effective and appropriate to ensure safe operations.

(1) The FAA does not now expect to grant exemptions for aircraft that are ineligible for airworthiness certificates. Units of government may apply for an exemption, but they should be aware of the limited likelihood of obtaining an exemption for such aircraft, particularly when deciding whether to expend their resources in seeking an exemption. While the FAA will not rule out completely the possibility of granting exemptions for such aircraft, the burden on the petitioner of showing that safety will not be jeopardized will be very heavy indeed.

(2) A successful petitioner for an exemption would need to show that its aviation safety program is at least roughly equivalent in terms of level of safety what is required by the operations, maintenance, and inspection requirements of the FAR.

(3) A unit of government developing a proposal for an aviation safety program may find the information below helpful:

(i) Generally. Subpart E of FAR Part 91 prescribes the rules governing the maintenance, preventative maintenance, and alterations of U.S.-registered aircraft civil aircraft operating within and outside the United States. FAR Section 91.403 states that the owner or operator of an aircraft is primarily responsible for maintaining that aircraft in an airworthy condition, including compliance with FAR Part 39. FAR Part 39 describes the requirements for compliance to AD's issued by the FAA.

(ii) Inspection Programs. Operators of large aircraft, turbojet multiengine airplanes, or turbopropeller powered multiengine airplanes, should select and use one of the four inspection program options outlined in FAR Sections 91.409(e) and (f).

(A) For one of the four inspection program options, that identified in FAR Section 91.409(f)(4), the inspection program submitted should be compared with the manufacturer's recommended program. Where there is no manufacturer's program, a time-tested program should be utilized. The program developed must provide a level of safety equivalent to or greater than that provided by the other inspection options identified in FAR Section 91.409(f).

(B) For the other three inspection options outlined in FAR Sections 91.409(e) and (f), the basis for the development of the inspection program or the instructions for continued airworthiness, including the detail of the parts and areas of the airplane to be inspected, is the manufacturer's recommendations. In the case of surplus military aircraft, the manufacturers provide this basic information to the specific military service that has contracted for the airplane. The military service then develops a

reliability-centered maintenance program to meet its needs and environment which are often comparable to the continuous airworthiness maintenance programs developed by air carriers.

(C) In many cases, manufacturers may be unwilling or unable to provide instructions for continued airworthiness for operation of the airplane in other than a military environment. Therefore, in keeping with existing policy as provided by the FAA, the only reasonable basis that for detailing the inspection criteria for the aircraft to be inspected, as required by FAR Section 91.409(g)(1), is the scope and detail developed by the applicable military service.

(D) In addition to the "field" level inspection requirements set forth in the military maintenance program, the "depot" level inspection requirements should also be included in any inspection program approved under FAR Section 91.409(f)(4). The military "field" level maintenance is roughly equivalent to the civil terminology that air carriers use to describe "A, B or C" checks. The military "depot" level maintenance is comparable to the "heavy C or D" checks used by air carriers. Some air carriers may use a numerical description verses the alphabetical identifier for inspection checks.

(E) The inspection frequency and program structure established by the military may not be appropriate for use in a civilian environment. Therefore, inspection frequency and program structure may require adjustment to meet the government operator's requirement. However, facts and sound judgment must form the basis for any inspection frequency adjustment beyond that which has been established for use by the military.

(F) An alternate means of compliance for individual specific inspection requirements, in lieu of that which is called for in the military "field" or "depot" level programs, may be approved following evaluation of the applicant's inspection process instructions.

(G) Revisions to an existing approved inspection program should be requested in accordance with FAR Section 91.415.

(iii) Persons Conducting Inspections and Maintenance. The program proposed by the petitioner should include procedures to insure that inspections and maintenance tasks are performed by persons authorized by FAR Sections 43.5 and 43.7.

(iv) Modifications and Repairs. The program must identify all major modifications and repairs accomplished since the aircraft was put into service. Additionally, all further modifications and major repairs will need to be approved in the same format as required for civil aircraft under the regulations.

8. PETITION FOR EXEMPTION.

a. Procedure. FAR Section 11.25--contains the procedures to be followed by a unit of government seeking an exemption. The petition for exemption should be submitted in duplicate to the Rules Docket (AGC-10), Federal Aviation Administration, 800 Independence Avenue, Washington, DC 20591. Under FAR Part 11, petitions for exemption are published in the Federal Register for notice and comment period.

b. Contents. The petition for exemption must set forth the text or substance of the statute from which the exemption is sought. (As noted above,

Congress authorized exemptions from the statute--the Federal Aviation Act of 1958, as amended and recodified--rather than from the regulations.) The petition for exemption must contain any information, views, analysis, or arguments available to the petitioner to show that the statutory requirements for granting an exemption have been met--i.e.:

(1) that the exemption is necessary to prevent an undue economic burden on the unit of government; and

(2) that the aviation safety program of the unit of government is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government. FAR Section 11.25. Individuals drafting a petition for exemption on behalf of a unit of government should familiarize themselves with FAR Part 11.

COURT SECURITY AND THE TRANSPORTATION OF PRISONERS: A NATIONAL STUDY



NOTICE TO ARMED LAW ENFORCEMENT OFFICERS

* Special Notation:

Proposed form to be used by
any/all Sworn and Armed Law
Enforcement Officers by the Federal
Aviation Administration. [Draft 1995.]

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AGENCY	PHONE NUMBER	PLEASE INITIAL ONE OF THE FOLLOWING
AGENCY ADDRESS		<input type="checkbox"/> LAW ENFORCEMENT OFFICER ON OFFICIAL TRAVEL REQUIRED TO REPORT TO NEW LOCATION, ARMED, AND IMMEDIATELY PREPARED FOR DUTY
FLIGHT NUMBER	SEAT NUMBER	<input type="checkbox"/> PRISONER ESCORT
FROM	TO	<input type="checkbox"/> FBI SPECIAL AGENT
IF ESCORTING A <u>DIGNITARY/WITNESS/PRISONER</u> NAME SEAT NUMBER		<input type="checkbox"/> PROVIDING A PROTECTIVE SUPPORT

PLEASE READ THE FOLLOWING PROCEDURES: (October 1995)

1. If you are authorized to carry a concealed weapon, you are requested keep it concealed at all times.
2. Other armed passengers, the flight attendants and captain will be informed that you are armed.
3. Our flight attendants and pilots have been instructed to handle passenger disturbances without assistance from other passengers and do not expect your help. Discharge of a firearm aboard an aircraft could cause a situation far more dangerous than the original disturbance -- and this includes hijacking.
4. A person having a weapon accessible in flight will not be served nor should request alcoholic beverages and should not have consumed any alcohol beverages within 8 hours before departure.
5. If you are a law enforcement officer escorting a prisoner the following procedures apply in addition to items 1 through 4 above.
 - a. You must be equipped with adequate restraining devices. Restraining devices may be used in flight if deemed necessary for adequate control of the prisoner or safety of others.
 - b. You normally will be pre-boarded, and you will be assigned to the rear-most available row of passenger seats in the cabin. You must sit between the prisoner and the aisle.
 - c. You must accompany the prisoner if a visit to the lavatory is required.
 - d. At your destination you must remain seated until all other deplaning passengers have left the aircraft.
 - e. Your prisoner will not be served and may not drink any alcoholic beverages.

BY YOUR SIGNATURE BELOW AND BY PRESENTING PROPER DOCUMENTS YOU ARE IDENTIFYING YOURSELF AS BEING AUTHORIZED, HAVING A NEED TO CARRY SUCH WEAPONS, HAVING RECEIVED TRAINING FOR LAW ENFORCEMENT OFFICERS FLYING ARMED AND BEING ON OFFICIAL BUSINESS FOR THE AGENCY NAMED ABOVE.

Passenger's Signature _____ Date: _____

STATION IDENTIFICATION CHECK: I HAVE REVIEWED THE IDENTIFICATION OF THE INDIVIDUAL NAMED ABOVE AND VERIFIED THE INDIVIDUAL IS A SWORN LAW ENFORCEMENT OFFICER WITH THE AGENCY NAMED ABOVE.

Manager or Designated Representative _____ Date: _____

It is important that all law enforcement officers/deputies flying armed or escorting prisoners always contact his/her carrier before any actual flight. All thirteen carriers internal procedures could be different and this definitely necessitates a reasonable check-in prior to any/all flights. [Twenty-four would be a reasonable procedure for any/all law enforcement officers/deputies flying armed on commercial aircraft.]

All criminal justice agencies should contact the below mentioned Corporate Security Services of the commercial air carriers as to specific carrier policy and procedures, regulations and guidelines on a periodical basis to assure agency compliance with the carriers being used.

Managing Director,
Corporate Security
American Airlines
P. O. Box 619616, MD 5555
DFW Airport, TX 75261

Manager, Security
Air Canada
25th Floor
1166 Avenue of the Americas
New York, NY 10036

Director, Corporate Security
Continental Airlines
15333 John F. Kennedy Boulevard
Suite 430
Houston, TX 77032

Manager, Ground Operations
Department
Southwest Airlines Company
P. O. Box 36611
Dallas, TX 75232-1611

Director of Security
Northwest Airlines, Inc.
Department A4420
5101 Northwest Drive
St. Paul, MN 55111-3034

Director of Security
Reeve Aleutian Airways
4700 W. International Airport
Road
Anchorage, AK 99502

Director, Corporate Security
U.S. Air, Inc.
2345 Crystal Drive
Arlington, VA 22227

Director of Security
American Trans Air
P. O. Box 56109
Indianapolis International
Airport
Indianapolis, IN 46251

Director, Corporate Security
Delta Airlines, Inc.
Hartsfield - Atlanta
International Airport
Atlanta, GA 30320

Manager, Postal & Regulatory
Affairs
Alaskan Air
P. O. Box 68900
Seattle, WA 98168-0900

Manager, Systems FAA
Security Support
Trans World Airlines
P. O. Box 20126
Kansas City, MO 64195

Manager - Security
Aloha Airlines
P. O. Box 30028
Honolulu, HI 96820

Staff Executive - Security
United Airlines, Inc.
P. O. Box 66100
Chicago, IL 60666

Criminal justice agencies should contact the below mentioned federal agencies and request any publications and the lesson plan entitled: Law Enforcement Officers (L.E.O.s), Flying Armed, June 1994, [A.C.P. 100] for review, training and usage by the agency to develop policy and procedures, guidelines, standard operational procedures or general orders for this specific function.

♦ Federal Aviation Administration
Civil Aviation
Security Section
F.A.A.
800 Independence Avenue, S.W.
Washington, D.C. 20591

The National Sheriffs' Association has supported any/all rewrites of F.A.R. Part 108 and on two occasions our general membership adoption of two resolutions.

Example 1:

NATIONAL SHERIFFS' ASSOCIATION

RESOLUTION

TRANSPORTATION OF PRISONERS

DRAFT

Carriage of Prisoners under the Control of Armed Law Enforcement Escorts and the Notice to Armed Passengers and Prisoner Escorts.

WHEREAS, the National Sheriffs' Association recognizes the importance of well formulated national policies and procedures/guidelines issued by the Federal Aviation Administration for the proper armed escort of prisoners on all commercial carriers and that it is of the utmost importance for our total support of F.A.R. 108.21; and

WHEREAS, there is a need for a safe, systematic and secure means of transporting any/all prisoners and for the protection of all law enforcement personnel, commercial carrier employees and the general public; and

WHEREAS, there is a need to support policies and procedures/guidelines by the law enforcement community; and

THEREFORE, BE IT RESOLVED that the National Sheriffs' Association goes on record and strongly supports these revisions of F.A.R. 108.21.

Adopted at a meeting of the
membership this 22nd day of June 1988
Louisville, Kentucky

Example 2:

NATIONAL SHERIFFS' ASSOCIATION

RESOLUTION

DRAFT

**TRANSPORTATION OF PRISONERS
(FEDERAL AVIATION ADMINISTRATION)**

Carriage of Prisoners under the Control of Armed Law Enforcement Escorts and the Notice to Armed Passengers and Prisoner Escorts.

WHEREAS, the National Sheriffs' Association recognizes the importance of well formulated national policies and procedures/guidelines issued by the Federal Aviation Administration for the proper armed escort of prisoners on all commercial carriers and that it is of the utmost importance for our total support of F.A.R. 108.21; and

WHEREAS, there is a need for a safe, systematic and secure means of transporting any/all prisoners and for the protection of all law enforcement personnel, commercial carrier employees and the general public; and

WHEREAS, there is a need to support any/all policies/procedures/guidelines/regulations, that has been developed by the Carriage of Weapons Task Force and the Federal Aviation Administration for an armed law enforcement escort - a federal law enforcement officer or a full-time, sworn, currently state certified law enforcement official that is authorized to enforce the public law; and

WHEREAS, the National Sheriffs' Association is the official association and voice of the sheriffs of the United States of America; and

THEREFORE, BE IT RESOLVED that the National Sheriffs' Association goes on record and strongly supports these revisions of the current F.A.R. 108.21.

Adopted at a meeting of the membership
this 15th day of June, 1994
Pittsburgh, Pennsylvania



COURT SECURITY AND THE TRANSPORTATION OF PRISONERS: A NATIONAL STUDY



COMMERCIAL DRIVER'S LICENSE REQUIREMENTS

INDEX 7

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COMMERCIAL DRIVER'S LICENSE REQUIREMENTS

Federal Motor Carrier Safety Regulations (FMCSR) of the U.S. Department of Transportation [Parts 383, 387, 390-399, Subchapter B, Chapter 3, Title 49 of the Code of Federal Regulations] requires that a Commercial Driver's License (CDL) be held by the driver of any vehicle weighing more than 26,001 pounds and capable of carrying 16 or more passengers. This requirement includes both public and private entities. Authority for this regulation is found at 49 U.S. Code 3102; 49 U.S.C. app. 12701 et seq; 49 CFR 1.48.

Thus, Federal, state, county and municipal law enforcement and correctional agencies employees must comply with this regulation when transporting groups or prisoners. [Numerous sections of the laws and statutes are quoted in their entirety within this section.]

THE COMMERCIAL DRIVER'S LICENSE PROGRAM Federal Highway Administration Office of Motor Carrier Standards Driver Standards Division (HCS-20) 2/23/94

INTRODUCTION

On October 26, 1986, Congress passed the Commercial Motor Vehicle Safety Act of 1986 (the Act). The goal of the Act is to improve highway safety by ensuring that drivers of large trucks and buses are qualified to operate those vehicles on the highway. The Act retained the State's right to issue a driver's license, but established minimum national standards which States must meet when licensing Commercial Motor Vehicle (CMV) drivers.

It is widely recognized that driving certain CMV's requires special skills and knowledge. However, in a number of States and the District of Columbia, any person licensed to drive an automobile could also legally drive a tractor-trailer, van or a bus. As a result, many drivers were operating motor vehicles that they may not have been qualified to drive. In addition, many drivers were able to obtain driver's licenses from more than one State and hide or spread violations or convictions among several driving records and continue to drive. The Act corrects these situations by making it illegal (effective July 1, 1987) to hold more than one license and by requiring States to adopt testing and licensing standards for truck and bus drivers which check a person's ability to operate the type of vehicle he/she plans to operate.

It is important to note that the Act does not require that drivers obtain a separate Federal license; it merely requires that States upgrade their existing testing and licensing programs, if necessary, to conform with the Federal standards.

THE DRIVER

Drivers must have the new commercial driver's license (CDL) in order to drive a CMV after April 1, 1992.

The Federal penalty to a driver who violates this provision is a civil penalty of up to \$2,500.00 or, in aggravated cases, criminal penalties of up to \$5,000.00 in fines or up to 90 days in prison or both. An employer is also subject to these penalties, if he or she uses a driver to operate a CMV without the proper license.

The FHWA has developed and issued standards for testing and licensing CMV drivers. Among other things, the standards require that States issue CDLs to their CMV operators after the driver passes a knowledge and skills test administered by the State about the type of vehicle to be operated. Drivers need CDL's if they are in interstate, intrastate, or foreign commerce and drive a vehicle that meets one of these definitions:

- * Has a gross combination weight rating (GCWR) of 26,001 or more pounds, inclusive of a towed unit with a gross weight rating (GVWR) of more than 10,000 pounds; or
- * Has a gross vehicle weight rating (GVWR) of 26,001 or more pounds; or
- * Is designed to transport 16 or more passengers, including the driver; or
- * Is of any size and is transporting hazardous materials in an amount that requires placarding under the Hazardous Materials Transportation Act.

A state may decide to waive firefighters, operators of emergency equipment and certain farmers from the CDL requirements. All active duty military drivers were waived by the Federal Highway Administrator.

The Federal standard requires States to issue a CDL to drivers according to the following vehicle classification, referred to as **Vehicle Groups**.

Group A - Any combination of vehicles with a GCWR of 26,001 or more pounds provided the GVWR of the vehicle(s) being towed is in excess of 10,000 pounds.

Group B - Any single vehicle with a GVWR of 26,001 or more pounds, or any such vehicle towing a vehicle not in excess of 10,000 pounds GVWR.

Group C - Any single vehicle, or combination of vehicles, that does not meet the definition of Group A or Group B, but that either is designed to transport 16 or more passengers, including the driver, or is placarded for hazardous materials.

Drivers who operate special types of CMVs will also need to pass additional tests and obtain an **Endorsement** on their CDL as follows:

T. - Double/Triple Trailers
(Knowledge Test only)

P - Passenger
(Knowledge and Skills Tests)

N - Tank Vehicle
(Knowledge Test only)

H - Hazardous Materials
(Knowledge Test only)

X - Combination of Tank Vehicle and Hazardous Materials

Restriction - "Air Brake"
(Knowledge and Skills Tests)

HOW STATES WILL IMPLEMENT THE FEDERAL REQUIREMENTS Grandfathering Provision

States have the option to "grandfather" drivers with good driving records from the skills test according to these criteria:

- * Driver has a current license at time of application.]
- * Driver has a good driving record and previously passed an acceptable skills test; OR driver has a good driving record in combination with certain driving experience.

For "Grandfathering" a Good Driving Record means:

A driver can certify that, during the 2-year period immediately prior to applying for a CDL he/she:

- * Has not had more than one license;
- * Has not had any license suspended, revoked, or canceled;
- * Has not had any convictions for any type of motor vehicle for disqualifying offenses;
- * Has not had more than one conviction for any type of motor vehicle for serious traffic violations;
- * Has not had any violation of State or local law relating to motor vehicle traffic control arising in connection with any traffic accident, and has no record of an accident in which he/she was at fault.

For "Grandfathering" Driving Experience means:

A driver can provide evidence and certify that:

- * He/she is regularly employed in a job requiring operation of CMV, and that either:
 1. He/she has previously taken a behind-the-wheel skills test in a representative vehicle; or
 2. He/she has operated a representative vehicle for at least 2 years immediately preceding application for a CDL.

Third Party Testing (This applies only to Skills Testing)

Other States, employers training facilities, governmental departments and agencies, and private institutions can serve as third party testers for the State.

- * Tests must be the same as those given by the State.
- * Examiners must meet same qualifications as State examiners.
- * At least annually, State employees must evaluate the programs by taking third party tests as if they were test applicants, or by testing a sample of drivers tested by the third party and then comparing pass/fail rates.

- * States must conduct an on-site inspection at least once a year. (see page 4)
- * The State's agreement must allow FHWA and the State to conduct random examinations, inspections, and audits without prior notice.

Knowledge & Skills Tests:

States develop their own tests which must be at least as stringent as the Federal standards. Model driver's manuals and tests have been prepared and distributed to the States to use, if they wish.

- * States shall determine specific methods of scoring the tests.
- * Basic knowledge test must contain at least 30 questions.
- * To pass, applicants must correctly answer at least 80 percent of the questions on the knowledge test. For the skills test, applicants must successfully perform all the skills (listed in 49 CFR Section 383.113).
- * The skills test must be taken in a vehicle representative of the type of vehicle that the applicant operates or expects to operate.

Commercial Driver's License Document:

A State will determine the license fee, how long the license is good for, most renewal procedures, and will also continue to decide the age and medical qualifications of its intrastate commercial drivers. Interstate drivers would need to meet the longstanding Federal age and medical qualifications.

All CDLs must contain the following information:

- The words "Commercial Driver's License" or "CDL";
- The driver's full name, signature, and mailing address;
- The driver's date of birth, sex and height;
- Color photograph of the driver;
- The driver's State license number;
- The name of the State which issued;
- The date of issuance and the date of the expiration of the license;
- The group(s) of vehicles that the driver is authorized to driver;

- Notation of the "air brake" restriction, if issued;
- The endorsement(s) for which the driver has qualified.

States may issue learner's permit for purposes of behind-the-wheel training on public highways as long as learner's permit holders are required to be accompanied by someone with a valid CDL appropriate for that vehicle and the learner's permits are issued for limited time periods.

OTHER REQUIREMENTS

There are a variety of other requirements related to this legislation which affect the commercial drivers and their employers. These include:

Clearinghouse

States must arrange to "tie" into the Commercial Driver's License Information System (CDLIS) and driver clearinghouse to exchange information about CMV drivers and traffic violations. A State would use the system to check a driver's record and make certain that the applicant does not already have a CDL. Employers will also have access to this clearinghouse.

BAC Standards

The FHWA has also established 0.04% as the blood alcohol concentration (BAC) level at or above which a CMV driver is deemed to be driving under the influence of alcohol and subject to the disqualification sanctions in the Act.

Notifications

Within 30 days of a conviction of any traffic violation, except parking, drivers must notify employers, regardless of the nature of the violation or the type of vehicle which was driven at the time.

If a driver's license is suspended, revoked, canceled, or if he/she is disqualified from driving, employers must be notified. The notification must be made before the end of the business day following the day the employee received notice of the suspension, revocation, cancellation, lost privilege or disqualification. Employers must get information from prospective employees on all driving jobs they may have held for the past 10 years, if any.

Employers may not knowingly use a driver who has more than one license or whose license is suspended, revoked or canceled, or is disqualified from driving. Violation of this requirement may result in civil or criminal penalties.

Disqualifications

For convictions while driving a CMV, drivers will be disqualified and lose their privilege to drive for:

60 to 120 days

- 2 or more serious traffic violations within 3 years. These include excessive speeding, reckless driving, improper or erratic lane changes, following the vehicle ahead too closely, and traffic offenses in connection with fatal traffic accidents.

1 Year:

- driving under the influence of a controlled substance or alcohol; or
- leaving the scene of an accident; or
- using a CMV to commit a felony.

3 Years:

- any of the 1-year offenses while operating a CMV that is placarded for hazardous materials.

Life:

- second offense of any of the 1-year or 3-year offenses; or
- committing a felony involving the manufacture, distribution, or dispensing of controlled substances.

Violations are not canceled for purposes of possible later disqualifications after they have served as the basis for one or more disqualification(s).

Disqualifications are applied for convictions of offenses that were committed in separate incidents.

If a CDL holder is disqualified from operating a CMV, the State may issue him/her a license to operate non-CMV's. Drivers who are disqualified from operating a CMV will not be able to get a "conditional", "hardship" or any other type of limited driving privileges to continue driving a CMV.

For disqualification purposes, convictions for out-of-state violations will be treated the same as convictions for violations that are committed in the home State. The CDLIS will ensure that convictions a driver receives outside his or her home State are transmitted to the home State so that the disqualifications can be applied.

States have the option to reduce certain lifetime disqualifications to a minimum disqualification period of 10 years if the driver completes a driver rehabilitation program approved by the State.

Part 383 - Commercial Driver's License Standards; Requirements and Penalties

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- Sec.
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383.3 Applicability.
383.5 Definitions.
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SUBPART B - LICENSE REQUIREMENTS

- 383.21 Number of driver's licenses.
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- 383.31 Notification of convictions for driver violations.
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- 383.131 Test procedures.
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SUBPART I - (RESERVED)

SUBPART J - COMMERCIAL DRIVER'S LICENSE DOCUMENT

- 383.151 General.
383.153 Information on the document and application.
383.155 Tamperproofing requirements.
Authority: 49 U.S.C. 3102; 49 U.S.C. app. 2505; 2701 *et seq*;
and 49 CFR 1.48.

SUBPART A - GENERAL

§383.1 Purposed and scope.

- (a) The purpose of this part is to help reduce or prevent truck and bus accidents, fatalities, and injuries by requiring drivers to have a single commercial motor vehicle driver's license and by disqualifying drivers who operate commercial motor vehicles in an unsafe manner.
- (b) This part:
- (1) Prohibits a commercial motor vehicle driver from having more than one commercial motor vehicle driver's license;
 - (2) Requires a driver to notify the driver's current employer and the driver's State of domicile of certain convictions;
 - (3) Requires that a driver provide previous employment information when applying for employment as an operator of a commercial motor vehicle;
 - (4) Prohibits an employer from allowing a person with a suspended license to operate a commercial motor vehicle;
 - (5) Establishes periods of disqualification and penalties for those persons convicted of certain criminal and other offenses and serious traffic violations, or subject to

any suspensions, revocations, or cancellations of certain driving privileges;

- (6) Establishes testing and licensing requirements for commercial motor vehicle operators;
- (7) Requires States to give knowledge and skills tests to all qualified applicants for commercial drivers' licenses which meet the Federal standard;
- (8) Sets forth commercial motor vehicle groups and endorsements;
- (9) Sets forth the knowledge and skills test requirements for the motor vehicle groups and endorsements;
- (10) Sets forth the Federal standards for procedures, methods, and minimum passing scores for States and others to use in testing and licensing commercial motor vehicle operators; and
- (11) Establishes requirements for the State issued commercial license documentation.

§383.3 Applicability.

The rules in this part apply to every person who operates a commercial motor vehicle in interstate, foreign, or intrastate commerce, and to all employers of such persons.

§383.5 Definitions.

As used in this part:

"Administrator" means that the Federal Highway Administrator, the chief executive of the Federal Highway Administration, an agency within the Department of Transportation.

"Alcohol" or "alcoholic beverage" means: (a) Beer as defined in 26 U.S.C. 5052(a), of the Internal Revenue Code of 1954, (b) wine of not less than one-half of one per centum of alcohol by volume, or (c) distilled spirits as defined in section 5002(a)(8), of such Code.

"Alcohol concentration" (AC) means the concentration of alcohol in a person's blood or breath. When expressed as a percentage it means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

"Commerce" means (a) any trade, traffic or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, including a place outside of the United States and (b) trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in paragraph (a) of this definition.

"Commercial driver's license" (CDL) means a license issued by a State or other jurisdiction, in accordance with the standards contained in 49 CFR Part 383, to an individual which authorizes the individual to operate a class of a commercial motor vehicle.

"Commercial driver's license information system" (CDLIS) means the CDLIS established by FHWA pursuant to section 12007 of the Commercial Motor Vehicle Safety Act of 1986.

"Commercial motor vehicle" (CMV) means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle -

- (a) Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
- (b) Has a gross vehicle weight rating of 26,001 or more pounds; or
- (c) Is designed to **transport 16 or more passengers**, including the driver; or
- (d) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations. (49 CFR Part 172, Subpart F).

"Controlled substance" has the meaning such term as under section 102(6), of the Controlled Substances Act {21 U.S.C. 802(6)} and includes all substances listed on Schedules I through V, of 21 CFR Part 1308, as they may be revised from time to time. Schedule I substances are identified in Appendix D of this subchapter and Schedules II through V are identified in Appendix E of this subchapter.

"Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized

administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilt or nolocontendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated."

"Disqualification" means either:

- (a) The suspension, revocation, cancellation, or any other withdrawal by a State of a person's privileges to drive a commercial motor vehicle; or
- (b) A determination by the FHWA, under the rules of practice for motor carrier safety contained in Part 386 of this title, that a person is no longer qualified to operate a commercial motor vehicle under Part 391; or
- (c) The loss of qualification which automatically follows conviction of an offense listed in §383.51.

"Driver applicant" means an individual who applies to a State to obtain, transfer, upgrade or renew a CDL.

"Driving a commercial motor vehicle while under the influence of alcohol" means committing any one or more of the following acts in a CMV: driving a CMV while the person's alcohol concentration is 0.04 percent or more; driving under the influence of alcohol, as prescribed by State law; or refusal to undergo such testing as is required by any State or jurisdiction in the enforcement of §383.51B)(2)(i)(A) or (B), or §392.5(a)(2).

"Driver's license" means a license issued by a State or other jurisdiction, to an individual which authorizes the individual to operate a motor vehicle on the highways.

"Employee" means any operator of a commercial motor vehicle, including full time, regularly employed drivers; casual, intermittent or occasional drivers; lease drivers and independent, owner-operator contractors (while in the course of operating a commercial motor vehicle) who are either directly employed by or under lease to an employer.

"Employer" means any person including the United States, a State, District of Columbia or a political subdivision of a State who owns or leases a commercial motor vehicle or assigns employees to operate such a vehicle.

"Endorsement" means an authorization to an individual's CDL required to permit the individual to operate certain types of commercial motor vehicles.

"*Felony*" means an offense under State or Federal law that is punishable by death or imprisonment for a term exceeding 1 year.

"*Foreign*" means outside the fifty United States and the District of Columbia.

"*Gross combination weight rating (GCWR)*" means the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon.

"*Gross vehicle weight rating (GVWR)*" means the value specified by the manufacturer as the loaded weight of a single vehicle.

"*Hazardous materials*" has the meaning such term as under section 103 of the Hazardous Materials Transportation Act.

"*Motor vehicle*" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, except that such term does not include a vehicle, machine, tractor, trailer, semitrailer operated exclusively on a rail.

"*Nonresident CDL*" means a CDL issued by a State to an individual domiciled in a foreign country.

"*Out of service order*" means a declaration by an authorized enforcement officer of a Federal, State, Canadian, Mexican, or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation, is out-of-service pursuant to §§386.72, 392.5, 395.13, 396.9, or compatible laws, or the North American Uniform Out-of-Service Criteria.

"*Representative vehicle*" means a motor vehicle which represents the type of motor vehicle that a driver applicant operates or expects to operate.

"*Serious traffic violation*" means conviction, when operating a commercial motor vehicle, of:

- (a) Excessive speeding, involving any single offense for any speed of 15 miles per hour or more above the posted speed limit;
- (b) Reckless driving, as defined by State or local law or regulation, including but not limited to offenses of driving a commercial motor vehicle in willful or wanton disregard for the safety of persons or property;

- (c) Improper or erratic traffic lane changes;
- (d) Following the vehicle ahead too closely; or
- (e) A violation, arising in connection with a fatal accident, of State or local law relating to motor vehicle traffic control (other than a parking violation). (Serious traffic violations exclude vehicle weight and defect violations.)

"State" means a State of the United States and the District of Columbia.

"State of domicile" means that State where a person has his/her true, fixed, and permanent home and principal residence and to which he/she has the intention of returning whenever he/she is absent.

"Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in Part 171 of this title. However, this definition does not include portable tanks having a rated capacity under 1,000 gallons.

"United States" the term United States means the 50 States and the District of Columbia.

"Vehicle" means a motor vehicle unless other specified.

"Vehicle group" means a class or type of vehicle with certain operating characteristics.

§383.7 Waiver provisions.

- (a) Any person subject to a requirement of this part may petition the Administrator for a waiver of compliance by a class of persons or a class of commercial motor vehicles with such requirement.
- (b) Each petition for a waiver under this section shall be made in writing, preferably in triplicate, and shall:
 - (1) Include the name and complete address of petitioner;
 - (2) Identify the requirement the petitioner wants waived and any information in support of the request;

- (3) Identify the class of persons or class of commercial motor vehicle for which the waiver is sought;
 - (4) Identify the type of operation addressed in the petition;
 - (5) Indicate what benefit would be derived from the issuance of a waiver;
 - (6) Indicate why the petition, if granted, would not diminish the safe operation of commercial motor vehicles;
 - (7) Include any other pertinent materials the Administrator may require;
- (c) If the Administrator determines that the petition is without merit, the Administrator may deny the petition. Notice of the denial, with the reasons therefor, will be provided to the petitioner in writing.
- (d) If the Administrator determines that the petition may have merit, notice of the petition will be published in the **Federal Register**, and interested persons will be afforded an opportunity to comment thereon. After such notice and opportunity for comment, the Administrator may grant or deny the petition. Notice of the disposition of the petition, with the reasons therefore, will be published in the **Federal Register**.

EDITOR'S NOTE: FHWA has determined to allow States, at their discretion, to waive the CDL requirements for certain farmers and operators of firefighting and other emergency equipment. FHWA has also decided that military vehicles operated by military personnel for military purposes are waived from the CDL requirements (FR Vol. 53, No. 186, September 26, 1988). FHWA has granted a limited waiver for drivers in isolated sections in Alaska (FR Vol. 54, No. 155, August 14, 1989). FHWA also allows States to issue restricted CDL's to seasonal drivers for specific farm-related service industries (FR Vol. 57, No. 75, April 17, 1992).

SUBPART B - LICENSE REQUIREMENTS

§383.21 Number of drivers' licenses.

- (a) No person who operates a commercial motor vehicle shall at any time have more than one driver's license.

(b) *Exception.*

- (1) During the 10-day period beginning on the date such person is issued a driver's license, a person may hold more than one driver's license.
- (2) A person may have more than one driver's license if a State law enacted before June 1, 1986, required the person to have more than one driver's license. After December 31, 1989, this exception shall not apply.

§383.23 Commercial driver's license.

(a) *General rule.*

- (1) Effective April 1, 1992, no person shall operate a commercial motor vehicle unless such person has taken and passed written and driving tests which meet the Federal standards contained in Subparts F, G, and H of this part for the commercial motor vehicle that person operates or expects to operate.
- (2) Effective April 1, 1992, except as provided in paragraph (b) of this section, no person shall operate a commercial motor vehicle unless such person possesses a CDL which meets the standards contained in Subpart J of this part, issued by his/her State or jurisdiction of domicile.

(b) *Exception.* If a commercial motor vehicle operator is domiciled in a foreign jurisdiction which, as determined by the Administrator, does not test drivers and issue a CDL in accordance with, or similar to, the standards contained in Subparts F, G, and H of this part, the person shall obtain a Nonresident CDL from a State which does comply with the testing and licensing standards contained in such Subparts F, G, and H.

(c) *Learner's permit.* State learner's permits, issued for limited time periods according to State requirements, shall be considered valid commercial drivers' licenses for purposes of behind-the-wheel training on public roads or highways, if the following minimum conditions are met;

- (1) The learner's permit holder is at all times accompanied by the holder of a valid CDL; and
- (2) He/she either holds a valid automobile driver's license, or has passed such vision, sign/symbol, and knowledge tests as the State issuing the

learner's permit ordinarily administers to applicants for automobile drivers' licenses.

**SUBPART C - NOTIFICATION REQUIREMENTS AND
EMPLOYER RESPONSIBILITIES**

§383.31 Notification of convictions for driver violations.

- (a) Each person who operates a commercial motor vehicle, who has a commercial driver's license issued by a State or jurisdiction, and who is convicted of violating, in any type of motor vehicle, a State or local law relating to motor vehicle traffic control (other than a parking violation) in a State or jurisdiction other than the one which issued his/her license, shall notify an official designated by the State or jurisdiction which issued such license, of such conviction. The notification must be made within 30 days after the date that the person has been convicted.
- (b) Each person who operates a commercial motor vehicle, who has a commercial driver's license issued by a State or jurisdiction, and who is convicted of violating, in any type of motor vehicle, a State or local law relating to motor vehicle traffic control (other than a parking violation), shall notify his/her current employer of such conviction. The notification must be made within 30 days after the day that the person has been convicted. If the driver is not currently employed, he/she must notify the State or jurisdiction which issued the license according to §383.31(a).
- (c) *Notification.* The notification to the State official and employer must be made in writing and contain the following information:
 - (1) Driver's full name;
 - (2) Driver's license number;
 - (3) Date of conviction;
 - (4) The specific criminal or other offense(s), serious traffic violation(s), and other violation(s) of State or local law relating to motor vehicle traffic control, for which the person was convicted and any suspension, revocation, or cancellation of certain driving privileges which resulted from such conviction(s);

- (5) Indication whether the violation was in a commercial motor vehicle;
- (6) Location of offense; and
- (7) Driver's signature.

§383.33 Notification of driver's license suspensions.

Each employee who has a driver's license suspended, revoked, or canceled by a State or jurisdiction, who loses the right to operate a commercial motor vehicle in a State or jurisdiction for any period or who is disqualified from operating a commercial motor vehicle for any period, shall notify his/her current employer of such suspension, revocation, cancellation, lost privilege, or disqualification. The notification must be made before the end of the business day following the day the employee received notice of the suspension, revocation, cancellation, lost privilege, or disqualification.

§383.35 Notification of previous employment.

- (a) Any person applying for employment as an operator of a commercial motor vehicle shall provide at the time of application for employment, the information specified in paragraph (c) of this section.
- (b) All employers shall request the information specified in paragraph (c) of this section from all persons applying for employment as a commercial motor vehicle operator. The request shall be made at the time of application for employment.
- (c) The following employment history information for the 10 years preceding the date the application is submitted shall be presented to the prospective employer by the applicant:
 - (1) A list of the names and addresses of the applicant's previous employers for which the applicant was an operator of a commercial motor vehicle;
 - (2) The dates the applicant was employed by these employers; and
 - (3) The reason for leaving such employment.
- (d) The applicant shall certify that all information furnished is true and complete.

- (e) An employer may require an applicant to provide additional information.
- (f) Before an application is submitted, the employer shall inform the applicant that the information he/she provides in accordance with paragraph (c) of this section may be used, and the applicant's previous employers may be contacted for the purpose of investigating the applicant's work history.

§383.37 Employer responsibilities.

No employer shall knowingly allow, require, permit, or authorize an employee to operate a commercial motor vehicle in the United States during any period:

- (a) In which the employee has a commercial motor vehicle driver's license suspended, revoked, or canceled by a State, has lost the right to operate a commercial motor vehicle in a State, or has been disqualified from operating a commercial motor vehicle;
- (b) In which the employee has more than one commercial motor vehicle driver's license, except during the 10-day period beginning on the date such employee is issued a driver's license and except, whenever a State law enacted on or before June 1, 1986, requires such employee to have more than one driver's license. The second exception shall not be effective after December 31, 1989; or
- (c) In which the employee, or the motor vehicle he/she is driving, or the motor carrier operation, is subject to an out-of-service order.

SUBPART D - DRIVER DISQUALIFICATIONS AND PENALTIES

§383.51 Disqualifications of drivers.

- (a) *General.* A driver who is disqualified shall not drive a commercial motor vehicle. An employer shall not knowingly allow, require, permit, or authorize a driver who is disqualified to drive a commercial motor vehicle.
- (b) *Disqualification for driving while under the influence, leaving the scene of an accident, or commission of a felony.*
 - (1) *General rule.* A driver who is convicted of a disqualifying offense specified in paragraph (b)(2) of this section, is disqualified for the period of time specified

in paragraph (b)(3) of this section, if the offense was committed while operating a commercial motor vehicle.

(2) *Disqualifying offenses.* The following offenses are disqualifying offenses;

(i) Driving a commercial motor vehicle while under the influence of alcohol. This shall include:

(A) Driving a commercial motor vehicle while the person's alcohol concentration is 0.04 percent or more; or

(B) Driving under the influence of alcohol, as prescribed by State law; or

(C) Refusal to undergo such testing as is required by any State or jurisdiction in the enforcement of §383.51(b)(2)(i)(A) or (B), or §392.5(a)(2).

(ii) Driving a commercial motor vehicle while under the influence of a controlled substance as defined under Section 102(6) of the Controlled Substances Act {21 U.S.C. 802(6)}, including all substances listed in Schedules I through V of 21 FR Part 1308, as they may be amended from time to time. Schedule I substances are identified in Appendix D of this subchapter and Schedules II through V are identified in Appendix E of this subchapter.

(iii) Leaving the scene of an accident involving a commercial motor vehicle;

(iv) A felony involving the use of a commercial motor vehicle, other than a felony described in paragraph (b)(2)(v) of this section; or

(v) The use of a commercial motor vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance when defined as any

substance under section 102(6) of the Controlled Substances Act {21 U.S.C. 802(6)} including all substances listed in Schedules I through V of 21 CFR Part 1308, as they may be amended from time to time. Schedule I substances are identified in Appendix D of this subchapter and Schedules II through V are identified in Appendix E of this subchapter.

(3) *Duration of disqualification for driving while under the influence, leaving the scene of an accident, or commission of a felony.*

- (i) *First offenders.* A driver who is convicted of an offense described in paragraphs (b)(2)(i) through (b)(2)(iv) of this section, is disqualified for a period of one year provided the vehicle was not transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act (49 U.S.C. App. 1801-1813).
- (ii) *First offenders transporting hazardous materials.* A driver who is convicted of an offense described in paragraphs (b)(2)(i) through (b)(2)(iv) of this section, is disqualified for a period of three years if the vehicle was transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act 49 U.S.C. App. 1801-1813).
- (iii) *First offenders of controlled substance felonies.* A driver who is convicted of an offense described in paragraph (b)(2)(v) of this section, is disqualified for life.
- (iv) *Subsequent Offenders.* A driver who is convicted of an offense described in paragraphs (b)(2)(i) through (b)(2)(iv) of this section is disqualified for life if the driver had been convicted once before in a separate incident of any offense described in paragraphs (b)(2)(i) through (b)(2)(iv) of this section.
- (v) Any driver disqualified for life under §383.51(b)(3)(iv) of this paragraph, who has both voluntarily enrolled in and successfully completed, an appropriate rehabilitation

program which meets the standards of his/her State's driver licensing agency, may apply to the licensing agency for reinstatement of his/her commercial driver's license. Such applicants shall not be eligible for reinstatement from the State unless and until such time as he/she has first served a minimum disqualification period of 10 years and has fully met the licensing State's standards for reinstatement of commercial motor vehicle driving privileges. Should a reinstated driver be subsequently convicted of another disqualifying offense, as specified in paragraphs (b)(2)(i) through (b)(2)(iv) of this section he/she shall be permanently disqualified for life, and shall be ineligible to again apply for a reduction of the lifetime disqualification.

(c) Disqualification for serious traffic violations. -

- (1) *General rule.* A driver who is convicted of serious traffic violations is disqualified for the period of time specified in paragraph (c)(2) of this section, if the offenses were committed while operating a commercial motor vehicle.
- (2) *Duration of disqualification for serious traffic violations.*
 - (i) *Second violation.* A driver who, during any 3-year period, is convicted of two serious traffic violations in separate incidents, is disqualified for a period of 60 days.]
 - (ii) *Third violation.* A driver who, during any 3-year period, is convicted of three serious traffic violations in separate incidents, is disqualified for a period of 120 days.

(d) Disqualification for violation of out-of-service orders.

- (1) *General rule.* A driver who s convicted of violating an out-of-service order while driving a commercial motor vehicle is disqualified for the period of time specified in paragraph (d)(2) of this section. In addition, such driver is subject to special penalties as contained in §383.53(b).

(2) *Duration of disqualification for violation of out-of-service orders.*

- (i) *First violation.* A driver is disqualified for not less than 90 days nor more than one year if the driver is convicted of a first violation of an out-of-service order.
- (ii) *Second violation.* A driver is disqualified for not less than one year nor more than five years if, during any 10-year period the driver is convicted of two violations of out-of-service orders in separate incidents.
- (iii) *Third or subsequent violation.* A driver is disqualified for not less than three years nor more than five years, if, during any 10-year period, the driver is convicted of three or more violations of out-of-service orders in separate incidents.
- (iv) *Special rule for hazardous materials and passenger offenses.* A driver is disqualified for a period of not less than 180 days nor more than two years if the driver is convicted of a first violation of an out-of-service order while transporting hazardous materials required to be placarded under the hazardous Materials Transportation Act 49 U.S.C. app. 1801-1813, or while operating motor vehicles designed to transport more than 15 passengers, including the driver. A driver is disqualified for a period of not less than three years nor more than five years if, during any 10-year period, the driver is convicted of any subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, or while operating motor vehicles designed to transport more than 15 passengers, including the driver.

(e) *Substantial compliance by States.*

- (1) Nothing in this rule shall be construed to require a State to apply its criminal or other sanctions for driving under the influence to a person found to have operated a commercial motor vehicle with an alcohol concentration of 0.04 percent, except licensing sanctions including suspension, revocation, or cancellation.

- (2) A State that enacts and enforces through licensing sanctions the disqualifications prescribed in §383.51(b) at the 0.04 alcohol concentration level and gives full faith and credit to the disqualification of commercial motor vehicle drivers by other States shall be deemed in substantial compliance with sections 12009(a)(3) of the Commercial Motor Vehicle Safety Act of 1986.

§383.53 Penalties.

- (a) *General rule.* Any person who violates the rules set forth in subparts B and C of this part may be subject to civil or criminal penalties as provided for in 49 U.S.C. 521(b).
- (b) *Special penalties pertaining to violation of out-of-service orders.*
 - (1) *Driver violations.* A driver who is convicted of violating an out-of-service order shall be subject to a civil penalty of not less than \$1,000.00 nor more than \$2,500.00, in addition to disqualification under §383.51(d).
 - (2) *Employer violations.* An employer who is convicted of a violation of §383.37(c) shall be subject to a civil penalty of not less than \$2,500.00 nor more than \$10,000.00.

SUBPART E - TESTING AND LICENSING PROCEDURES

§383.71 Driver application procedures.

- (a) *Initial Commercial Driver's License.* Prior to obtaining a CDL, a person must meet the following requirements.
 - (1) A person who operates or expects to operate in interstate or foreign commerce, or is otherwise subject to Part 391 of this title, shall certify that he/she meets the qualification requirements contained in Part 391 of this title. A person who operates or expects to operate entirely in intrastate commerce and is not subject to Part 391, is subject to State driver qualification requirements and must certify that he/she is not subject to Part 391;
 - (2) Pass a knowledge test in accordance with the standards contained in Subparts G and H of this part for the type of motor vehicle the person operates or expects to operate;

- (3) Pass a driving or skills test in accordance with the standards contained in Subpart G and H of this part taken in a motor vehicle which is representative of the type of motor vehicle the person operates or expects to operate; or provide a evidence that he/she has successfully passed a driving test administered by an authorized third party;
 - (4) Certify that the motor vehicle in which the person takes the driving skills test is representative of the type of motor vehicle that person operates or expects to operate;
 - (5) Provide to the State of issuance the information required to be included on the CDL as specified in Subpart J of this part;
 - (6) Certify that he/she is not subject to any disqualification, suspension, revocation, or cancellation a contained in §383.51 and that he/she does not have a driver's license from more than one State or jurisdiction;
 - (7) The applicant shall surrender his/her non-CDL driver's licenses to the State.
- (b) *License transfer.* When applying to transfer a CDL from one State of domicile to a new State of domicile, an applicant shall apply for a CDL from the new State of domicile within no more than 30 days after establishing his/her new domicile. The applicant shall:
- (1) Provide to the new State of domicile the certifications contained in §383.71(a)(1) and (6);
 - (2) Provide to the new State of domicile updated information as specified in Subpart J of this part;
 - (3) If the applicant wishes to retain a hazardous materials endorsement, comply with State requirements as specified in §383.73(b)(4); and
 - (4) Surrender the CDL from the old State of domicile to the new State of domicile.
- (c) *License renewal.* When applying for a renewal of a CDL, all applicants shall:
- (1) Provide certification contained in §383.71(a)(1);

- (2) Provide update information as specified in Subpart J of this part; and
 - (3) If a person wishes to retain a hazardous materials endorsement, pass the test for such endorsement as specified in §383.121.
- (d) *License upgrades.* When applying to operate a commercial motor vehicle in a different group or endorsement from the group or endorsement in which the applicant already has a CDL, all persons shall:
- (1) Provide the necessary certifications as specified in §383.71(a)(1) and (4); and
 - (2) Pass all tests specified in §383.71a)(2) and (3) for the new vehicle group and/or different endorsements.
- (e) *Nonresident CDL.* When an applicant is domiciled in foreign jurisdiction, as defined in §383.5 where the commercial motor vehicle operator testing and licensing standards do not meet the standards contained in Subparts G and H of this part, as determined by the Administrator, such applicant shall obtain a Nonresident CDL from a State which meets such standards. Such applicant shall:
- (1) Complete the requirements to obtain a CDL contained in §383.71(a); and
 - (2) After receipt of the CDL, and for as long as it is valid, notify the State which issued the CDL of any adverse action taken by any jurisdiction or governmental agency, foreign or domestic, against his/her driving privileges. Such adverse actions would include but not be limited to license suspension or revocation, or disqualification from operating a commercial motor vehicle for the convictions described in §383.51. Notifications shall be made within the time periods specified in §383.33.
- (f) If a State uses the alternative method described in §383.73(i) to achieve the objectives of the certifications in §383.71(a), then the driver applicant shall satisfy such alternative methods as are applicable to him/her with respect to initial licensing, license transfer, license renewal, and license upgrades.

§383.72 Implied consent to alcohol testing.

Any person who holds a CDL shall be deemed to have consented to such testing as is required of him/her by any State or jurisdiction in the enforcement of §383.51(b)(2)(i) and §392.5(a)(2). Consent is implied by driving a commercial motor vehicle.

§383.73 State procedures.

- (a) *Initial licensure.* Prior to issuing a CDL to a person, a State shall:
 - (1) Require the driver applicant to certify, pass tests, and provide information as described in §§383.71(a)(1) through (6);
 - (2) Check that the vehicle in which the applicant takes his/her test is representative of the vehicle group the applicant has certified that he/she operates or expects to operate;
 - (3) Initiate and complete a check of the applicant's driving record to ensure that the person is not subject to any disqualification, suspensions, revocations, or cancellations as contained in §383.51 and that the person does not have a driver's license from more than one State. The record check shall include but not be limited to the following:
 - (i) A check of the applicant's driving record as maintained by his/her current State of licensure, if any;
 - (ii) A check with the CDLIS to determine whether the driver applicant already has a CDL, whether the applicant's license has been suspended, revoked, or canceled, or if the applicant has been disqualified from operating a commercial motor vehicle; and
 - (iii) A check with the National Driver Register (NDR), when it is determined to be operational by the National Highway Traffic Safety Administrator, to determine whether the driver applicant has:
 - (A) Been disqualified from operating a motor vehicle (other than a commercial motor vehicle);

- (B) Had a license (other than CDL) suspended, revoked, or canceled for cause in the 3-year period ending on the date of application; or
 - (C) Been convicted of any offenses contained in section 205(a)(3) of the National Drivers Register Act of 1982 (23 U.S.C. 401 note); and
- (4) Require the driver applicant, if he/she has moved from another State, to surrender his/her driver's license issued by another State.
- (b) *License transfer.* Prior to issuing a CDL to a person who has a CDL from another State, a State shall:
 - (1) Require the driver applicant to make the certifications contained in §383.71(a);
 - (2) Complete a check of the driver applicant's record as contained in §383.73(a)(3);
 - (3) Request and receive updates of information specified in Subpart J of this part;
 - (4) If such applicant wishes to retain a hazardous materials endorsement, ensure that the driver has, within the 2 years preceding the transfer, either:
 - (i) Passed the test for such endorsement specified in §383.121; or
 - (ii) Successfully completed a hazardous materials test or training that is given by a third party and that is deemed by the State to substantially cover the same knowledge base as that described in §383.121; and
 - (5) Obtain the CDL issued by the applicant's previous State of domicile.
- (c) *License Renewals.* Prior to renewing any CDL, a State shall:
 - (1) Require the driver applicant to make the certifications continue in §383.71(a);
 - (2) Complete a check of the driver applicant's record as contained in §383.73(a)(3);

- (3) Request and receive updates of information specified in Subpart J of this part; and
 - (4) If such applicant wishes to retain a hazardous materials endorsement, require the driver to pass the test for such endorsement specified in §383.121.
- (d) *License upgrades.* Prior to issuing an upgrade of a CDL, a State shall:
 - (1) Require such driver applicant to provide certifications and pass tests as described in §383.71(d); and
 - (2) Complete a check of the driver applicant's record as described in §383.73(a)(3).
- (e) *Nonresident CDL.* A State may issue a Nonresident CDL to a person domiciled in a foreign country if the Administrator has determined that the commercial motor vehicle testing and licensing standards in the foreign jurisdiction of domicile do not meet the standards contained in this part. State procedures for the issuance of a Nonresident CDL, for any modifications thereto, and for notifications to the CDLIS shall at a minimum be identical to those pertaining to any other CDL, with the following exceptions:
 - (1) If the applicant is requesting a transfer of his/her Nonresident CDL, the State shall obtain the Nonresident CDL currently held by the applicant and issued by another State;
 - (2) The State shall add the word "Nonresident" to the face of the CDL, in accordance with §383.153(b); and
 - (3) The State shall have established, prior to issuing any Nonresident CDL, the practical capability of disqualifying the holder of any Nonresident CDL by withdrawing, suspending, canceling, and revoking his/her Nonresident CDL as if the Nonresident CDL were a CDL issued to a resident of the State.
- (f) *License issuance.* After the State has completed the procedures described in §383.73(a), (b), (c), (d) or (e), it may issue a CDL to the driver applicant. The State shall notify the operator of the CDLIS of such issuance, transfer, renewal, or upgrade within the 10-day period beginning on the date of license issuance.

- (g) *Penalties for false information.* If a State determines, in its check of an applicant's license status and record prior to issuing a CDL, or at any time after the CDL is issued, that the applicant has falsified information contained in Subpart J of this part or any of the certifications required in §383.71(a), the State shall at a minimum suspend, cancel, or revoke the person's CDL or his/her pending application, or disqualify the person from operating a commercial motor vehicle for a period of at least 60 consecutive days.
- (h) *Reciprocity.* A State shall allow any person who has a valid CDL which is not suspended, revoked, or canceled, and who is not disqualified from operating a commercial motor vehicle, to operate a commercial motor vehicle in the State.
- (i) *Alternative procedures.* A State may implement alternative procedures to the certification requirements of §383.71(a)(1), (4), and (6), provided those procedures ensure that the driver meets the requirements of those paragraphs.

§383.75 Third party testing.

- (a) *Third party tests.* A state may authorize a person (including another State, an employer, a private driver training facility or other private institution, or a department, agency or instrumentality of a local government) to administer the skills tests as specified in Subparts G and H of this part, if the following conditions are met:
 - (1) The tests given by the third party are the same as those which would otherwise be given by the State; and
 - (2) The third party has an agreement with the State containing, at a minimum, provisions that:
 - (i) Allow the FHWA, or its representative, and the State to conduct random examinations, inspections and audits without prior notice;
 - (ii) Require the State to conduct onsite inspections at least annually;
 - (iii) Require that all third party examiners meet the same qualification and training standards as State examiners, to the extent necessary to conduct skills tests in compliance with Subparts G and H;

- (iv) Require that, at least on an annual basis, State employees take the tests actually administered by the third party as if the State employee were a test applicant, or that States test a sample of drivers who were examined by the third party to compare pass/fail results; and
 - (v) Reserve unto the State the right to take prompt and appropriate remedial action against the third-party testers in the event that the third-party fails to comply with State or Federal standards for the CDL testing program, or with any other terms of the third-party contract.
- (b) *Proof of testing by a third party.* A driver applicant who takes and passes driving tests administered by an authorized third party shall provide evidence to the State licensing agency that he/she has successfully passed the driving tests administered by the third party.

§383.77 Substitute for driving skills tests.

At the discretion of a State, the driving skill test as specified in §383.113 may be waived for a CMV operator who is currently licensed at the time of his/her application for a CDL, and substituted with either an applicant's driving record and previous passage of an acceptable skills test, or an applicant's driving record in combination with certain driving experience. The State shall impose conditions and limitations to restrict the applicants from whom a State may accept alternative requirements for the skills test described in §383.113. Such conditions must require at least the following:

- (a) An applicant must certify that, during the two-year period immediately prior to applying for a CDL, he/she:
 - (1) Has not had more than one license (except in the instances specified in §383.21(b);
 - (2) Has not had any license suspended, revoked, or canceled;
 - (3) Has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in §383.51(b)(2);
 - (4) Has not had more than one conviction for any type of motor vehicle for serious traffic violations; and

- (5) Has not had any conviction for a violation of State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with any traffic accident, and has no record of an accident in which he/she was at fault; and

(b) An applicant must provide evidence and certify that:

- (1) He/she is regularly employed in a job requiring operation of a CMV, and that either:
- (2) He/she has previously taken and passed a skills test given by a State with a classified licensing and testing system, and that the test was behind-the-wheel in a representative vehicle for that applicant's driver's license classification; or
- (3) He/she has operated, for at least 2 years immediately preceding application for a CDL, a vehicle representative of the commercial motor vehicle the driver applicant operates or expects to operate.

SUBPART F - VEHICLE GROUPS AND ENDORSEMENTS

§383.91 Commercial motor vehicle groups.

(a) *Vehicle group descriptions.* Each driver applicant must possess and be tested on his/her knowledge and skills, described in Subpart G of this part, for the commercial motor vehicle group(s) for which he/she desires a CDL. The commercial motor vehicle groups are as follows:

- (1) *Combination Vehicle (Group A)* - Any combination of vehicles with a **Gross Combination Weight Rating (GCWR) of 26,001 or more pounds** provided the GVWR of the vehicle(s) being towed is in excess of 10,000 pounds.
- (2) *Heavy Straight Vehicle (Group B)* - **Any single vehicle with a GVWR of 26,001 or more pounds**, or any such vehicle towing a vehicle not in excess of 10,000 pounds of GVWR.
- (3) *Small Vehicle (Group C)* - Any single vehicle, or combination of vehicles, that meets neither the definition of Group A nor that of Group B as contained in this section, but that either is **designed to transport 16 or more passengers including the driver**, or is used in the

transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR Part 172, Subpart F).

- (b) *Representative vehicle.* For purposes of taking the driving test in accordance with §383.113, a representative vehicle for a given vehicle group contained in §383.91(a); is any commercial motor vehicle which meets the definition of that vehicle group.
- (c) *Relation between vehicle groups.* Each driver applicant who desires to operate in a different commercial motor vehicle group from the one which his/her CDL authorizes shall be required to retake and pass all related tests, except the following:
 - (1) A driver who has passed the knowledge and skills tests for a combination vehicle (Group A) may operate a heavy straight vehicle (Group B) or a small vehicle (Group C), provided that he/she possesses the requisite endorsement(s); and
 - (2) A driver who has passed the knowledge and skills tests for a heavy straight vehicle (Group B) may operate any small vehicle (Group C), provided that he/she possesses the requisite endorsement(s).
- (d) *Vehicle group illustration.* Figure I illustrates typical vehicles within each of the vehicle groups defined in this section.

FIGURE I
VEHICLE GROUPS AS ESTABLISHED BY FHWA (SECTION 383.91)

(NOTE: Certain types of vehicles, such as passenger and doubles/triples, will require an endorsement. Please consult text for particulars.)

<u>Group:</u>	<u>*Description:</u>
A	Any combination of vehicles with a GCWR of 26,001 or more pounds provided the GVWR of the vehicle(s) being towed is in excess of 10,000 pounds. (Holders of a Group A license may, with any appropriate endorsements, operate all vehicles within Groups B and C.)

Examples include but are not limited to:

-
- B Any single vehicle with a GVWR of 26,001 or more pounds, or any such vehicle towing a vehicle not in excess of 10,000 pounds GVWR. (Holders of a Group B license may, with any appropriate endorsements, operate all vehicles within Group C.)

Examples include but are not limited to:

-
- C Any single vehicle, or combination of vehicles, that does not meet the definition of Group A or Group B as contained herein, but that either is designed to transport 16 or more passengers including the driver, or is placarded for hazardous materials.

Examples include but are not limited to:

-
- * The representative vehicle for the skills test must meet the written description for that group. The silhouettes typify, but do not fully cover, the types of vehicles falling within each group.

§383.93 Endorsements.

- (a) *General.* In addition to taking and passing the knowledge and skills tests described in Subpart G of this part, all persons who operate or expect to operate the type(s) of motor vehicles described in paragraph (b) of this section shall take and pass specialized tests to obtain each endorsement. The State shall issue CDL endorsements only to drivers who successfully complete the tests.
- (b) *Endorsement descriptions.* An operator must obtain State-issued endorsements to his/her CDL to operate commercial motor vehicles which are:
- (1) Double/triple trailers;
 - (2) Passenger vehicles;
 - (3) Tank vehicles; or
 - (4) Required to be placarded for hazardous materials.

- (c) *Endorsement testing requirements.* The following tests are required for the endorsements contained in paragraph (b) of this section:

- (1) *Double/Triple Trailers* - a knowledge test;
- (2) *Passenger* - a knowledge and a skills test;
- (3) *Tank vehicle* - a knowledge test; and
- (4) *Hazardous Materials* - a knowledge test.

§383.95 Air brake restrictions.

- (a) If an applicant either fails the air brake component of the knowledge test, or performs the skills test in a vehicle not equipped with air brakes, the State shall indicate on the CDL, if issued, that the person is restricted from operating a CMV equipped with air brakes.
- (b) For the purposes of the skills test and the restriction, air brakes shall include any braking system operating fully or partially on the air brake principle.

SUBPART G - REQUIRED KNOWLEDGE AND SKILLS

§383.110 General requirement.

All drivers of commercial motor vehicles shall have knowledge and skills necessary to operate a commercial motor vehicle safely as contained in this subpart. A sample of the specific types of items which a State may wish to include in the knowledge and skills tests that it administers to CDL applicants is included in the appendix to this Subpart G.

§383.111 Required knowledge.

All commercial motor vehicle operators must have knowledge of the following general areas:

- (a) *Safe operations regulations.* Driver-related elements of the regulations contained in 49 CFR Parts 391, 392, 393, 395, 396, and 397, such as: Motor vehicle inspection, repair, and maintenance requirements; procedures for safe vehicle operations; the effects of fatigue, poor vision, hearing, and general health upon safe commercial motor vehicle operation; the types of motor vehicles and cargoes subject to the requirements; and the effects of alcohol and drug use upon safe commercial motor vehicle operations.

- (b) *Commercial motor vehicle safety control systems.* Proper use of the motor vehicle's safety system, including lights, horns, side and rear-view mirrors, proper mirror adjustments, fire extinguishers, symptoms of improper operation revealed through instruments, motor vehicle operation characteristics, and diagnosing malfunctions. Commercial motor vehicle drivers shall have knowledge on the correct procedures needed to use these safety systems in an emergency situation e.g. skids and loss of brakes.
- (c) *Safe vehicle control.* (1) Control systems - The purpose and function of the controls and instruments commonly found on commercial motor vehicles.
- (2) Basic control - The proper procedures for performing various basic maneuvers.
- (3) Shifting - The basic shifting rules and terms, as well as shift patterns and procedures for common transmissions.
- (4) Backing - The procedures and rules for various backing maneuvers.
- (5) Visual search - The importance of proper visual search, and proper visual search methods.
- (6) Communication - The principles and procedures for proper communications and the hazards of failure to signal properly.
- (7) Speed management - The importance of understanding the effects of speed.
- (8) Space management - The procedures and techniques for controlling the space around the vehicle.
- (9) Night operation - Preparations and procedures for night driving.
- (10) Extreme driving conditions - The basic information on operating in extreme driving conditions and the hazards that are encountered in extreme conditions.
- (11) Hazard perceptions - The basic information on hazard perception and clues for recognition of hazards.
- (12) Emergency maneuvers - The basic information concerning when and how to make emergency maneuvers.

- (13) Skid control and recovery - The information on the causes and major types of skids, as well as the procedures for recovering from skids.
- (d) *Relationship of cargo to vehicle control.* The principles and procedures for the proper handling of cargo.
- (e) *Vehicle inspections.* The objectives and proper procedures for performing vehicle safety inspections, as follows:
 - (1) The importance of periodic inspection and repair to vehicle safety.
 - (2) The effect of undiscovered malfunctions upon safety.
 - (3) What safety-related parts to look for when inspecting vehicles.
 - (4) Pre-trip/enroute/post-trip inspection procedures.
 - (5) Reporting findings.
- (f) *Hazardous materials knowledge, such as:* What constitutes hazardous material requiring an endorsement to transport; classes of hazardous materials; labeling/placarding requirements; and the need for specialized training as a prerequisite to receiving the endorsement and transporting hazardous cargoes.
- (g) *Air brake knowledge as follows:*
 - (1) Air brake system nomenclature;
 - (2) The dangers of contaminated air supply;
 - (3) Implications of severed or disconnected air lines between the power unit and the trailer(s);
 - (4) Implications of low air pressure readings;
 - (5) Procedures to conduct safe and accurate pretrip inspections; and
 - (6) Procedures for conducting enroute and post-trip inspections of air actuated brake systems, including ability to detect defects which may cause the system to fail.

- (h) *Operators for the combination vehicle group shall also have knowledge of:*
 - (1) *Coupling and uncoupling - The procedures for proper coupling and uncoupling a tractor to semi-trailer.*
 - (2) *Vehicle inspection - The objectives and proper procedures that are unique for performing vehicle safety inspections on combination vehicles.*

§383.113 Required skills.

- (a) *Basic vehicle control skills.* All applicants for a CDL must possess and demonstrate basic motor vehicle control skills for each vehicle group which the driver operates or expects to operate. These skills should include the ability to start, to stop, and to move the vehicle forward and backward in a safe manner.
- (b) *Safe driving skills.* All applicants for a CDL must possess and demonstrate the safe driving skills for their vehicle group. These skills should include proper visual search methods, appropriate use of signals, speed control for weather and traffic conditions, and ability to position the motor vehicle correctly when changing lanes or turning.
- (c) *Air brake skills.* Except as provided in §383.95, all applicants shall demonstrate the following skills with respect to inspection and operation of air brakes:
 - (1) *Pre-trip inspection skills.* Applicants shall demonstrate the skills necessary to conduct a pre-trip inspection which includes the ability to:
 - (i) Locate and verbally identify air brake operating controls and monitoring devices;
 - (ii) Determine the motor vehicle's brake system condition for proper adjustments and that air system connections between motor vehicles have been properly made and secured;
 - (iii) Inspect the low pressure warning device(s) to ensure that they will activate in emergency situations;
 - (iv) Ascertain, with the engine running, that the system maintains an adequate supply of compressed air;

- (v) Determine that required minimum air pressure build up time is within acceptable limits and that required alarms and emergency devices automatically deactivate at the proper pressure level; and
- (vi) Operationally check the brake system for proper performance.
- (2) *Driving skills.* Applicants shall successfully complete the skills tests contained in §383.113 in a representative vehicle equipped with air brakes.
- (d) *Test area.* Skills tests shall be conducted in on-street conditions or under a combination of on-street and off-street conditions.
- (e) *Simulation technology.* A State may utilize simulators to perform skills testing, but under no circumstances as a substitute for the required testing in on-street conditions.

§383.115 Requirements for double/triple trailers endorsements.

In order to obtain a Double/Triple Trailers endorsement each applicant must have knowledge covering:

- (a) Procedures for assembly and hookup of the units;
- (b) Proper placement of heaviest trailer;
- (c) Handling and stability characteristics including off-tracking, response to steering, sensory feedback, braking, oscillatory sway, rollover in steady turns, yaw stability in steady turns; and
- (d) Potential problems in traffic operations, including problems the motor vehicle creates for other motorists due to slower speeds on steep grades, longer passing times, possibility for blocking entry of other motor vehicles on freeways, splash and spray impacts, aerodynamic buffeting, view blockages, and lateral placement.

§383.117 Requirements for passenger endorsement.

An applicant for the passenger endorsement must satisfy both of the following additional knowledge and skills test requirements.

- (a) *Knowledge test.* All applicants for the passenger endorsement must have knowledge covering at least the following topics:

- (1) Proper procedures for loading/unloading passengers;
 - (2) Proper use of emergency exits, including push-out windows;
 - (3) Proper responses to such emergency situations as fires and unruly passengers;
 - (4) Proper procedures at railroad crossings and draw-bridges; and
 - (5) Proper braking procedures.
- (b) *Skills test.* To obtain a passenger endorsement applicable to a specific vehicle group, an applicant must take his/her skills test in a passenger vehicle satisfying the requirements of that group as defined in §383.91.

§383.119 Requirements for tank vehicle endorsement.

In order to obtain a Tank Vehicle Endorsement, each applicant must have knowledge covering the following:

- (a) Causes, prevention, and effects of cargo surge on motor vehicle handling;
- (b) Proper braking procedures for the motor vehicle when it is empty, full and partially full;
- (c) Differences in handling of baffled/compartmental tank interiors versus non-baffled motor vehicles;
- (d) Differences in tank vehicle type and construction;
- (e) Differences in cargo surge for liquids of varying product densities;
- (f) Effects of road grade and curvature on motor vehicle handling with filled, half-filled and empty tanks;
- (g) Proper use of emergency systems; and
- (h) For drivers of DOT specification tank vehicles, retest and marking requirements.

§383.121 Requirements for hazardous materials endorsement.

In order to obtain a Hazardous Material Endorsement each applicant must have such knowledge as is required of a driver of a hazardous materials laden vehicle, from information contained in 49 CFR Parts 171, 172, 173, 177, 178, and 397 on the following:

(a) Hazardous materials regulations including;

- (1) Hazardous materials table;
- (2) Shipping paper requirements;
- (3) Marking;
- (4) Labeling;
- (5) Placarding requirements;
- (6) Hazardous materials packaging;
- (7) Hazardous materials definitions and preparations;
- (8) Other regulated material (e.g., ORM-D);
- (9) Reporting hazardous materials accidents; and
- (10) Tunnels and railroad crossings.

(b) Hazardous materials handling including;

- (1) Forbidden Materials and Packages;
- (2) Loading and Unloading Materials;
- (3) Cargo Segregation;
- (4) Passenger Carrying Buses and Hazardous Materials;
- (5) Attendance of Motor Vehicles;
- (6) Parking;
- (7) Routes;
- (8) Cargo Tanks; and
- (9) "Safe Havens."

(c) Operation of emergency equipment including:

- (1) Use of equipment to protect the public;
- (2) Special precautions for equipment to be used in fires;
- (3) Special precautions for use of emergency equipment when loading or unloading a hazardous materials laden motor vehicle; and

- (4) Use of emergency equipment for tank vehicles.
- (d) Emergency response procedures including:
 - (1) Special care and precautions for different types of accidents;
 - (2) Special precautions for driving near a fire and carrying hazardous materials, and smoking and carrying hazardous materials;
 - (3) Emergency procedures; and
 - (4) Existence of special requirements for transporting Class A and B explosives.

Appendix to Subpart G - Required Knowledge and Skills - Sample Guidelines

The following is a sample of the specific types of items which a State may wish to include in the knowledge and skills tests that it administers to CDL applicants. This appendix closely follows the framework of §§383.111 and 383.113. It is intended to provide more specific guidance and suggestion to States. Additional detail in this appendix is not binding and States may depart from it at their discretion provided their CDL program tests for the general areas of knowledge and skill specified in §§383.111 and 383.113.

Examples of specific knowledge elements.

- (a) *Safe operations regulations.* Driver-related elements of the following regulations:
 - (1) Motor vehicle inspection, repair, and maintenance requirements as contained in Parts 393 and 396 of this title;
 - (2) Procedures for safe vehicle operations as contained in Part 392 of this title;
 - (3) The effects of fatigue, poor vision, hearing, and general health upon safe commercial motor vehicle operation as contained in Parts 391, 392, and 395 of this title;
 - (4) The types of motor vehicles and cargoes subject to the requirements contained in Part 397 of this title; and
 - (5) The effects of alcohol and drug use upon safe commercial motor vehicle operations as contained in Parts 391 and 392 of this title.

- (b) *Commercial motor vehicle safety control systems.* Proper use of the motor vehicle's safety system, including lights, horns, side and rear-view mirrors, proper mirror adjustments, fire extinguishers, symptoms of improper operation revealed through instruments, motor vehicle operation characteristics, and diagnosing malfunctions. Commercial motor vehicle drivers shall have knowledge on the correct procedures needed to use these safety systems in an emergency situation, e.g., skids and loss of brakes.
- (c) *Safe vehicle control.* (1) Control systems - The purpose and function of the controls and instruments of the controls and instruments commonly found on commercial motor vehicles.
 - (2) Basic control - The proper procedures for performing various basic maneuvers, including:
 - (i) Starting, warming up, and shutting down the engine;
 - (ii) Putting the vehicle in motion and stopping;
 - (iii) Backing in a straight line; and
 - (iv) Turning the vehicle, e.g., basic rules, off-tracking, right/left turns and right curves.
 - (3) Shifting - The basic shifting rules and terms, as well as shift patterns and procedures for common transmissions, including;
 - (i) Key elements of shifting, e.g., controls, when to shift and double clutching;
 - (ii) Shift patterns and procedures; and
 - (iii) Consequences of improper shifting.
 - (4) Backing - The procedures and rules for various backing maneuvers, including:
 - (i) Backing principles and rules; and
 - (ii) Basic backing maneuvers, e.g., straight-line backing, and backing on a curved path.
 - (5) Visual search - The importance of proper visual search, and proper visual search methods, including:

- (i) Seeing ahead and to the sides;
 - (ii) Use of mirrors; and
 - (iii) Seeing to the rear.
- (6) Communication - The principles and procedures for proper communications and the hazards of failure to signal properly, including:
- (i) Signaling intent, e.g., signaling when changing speed or direction in traffic;
 - (ii) Communicating presence, e.g., using horn or lights to signal presence; and
 - (iii) Misuse of communications.
- (7) Speed management - The importance of understanding the effects of speed, including:
- (i) Speed and stopping distance;
 - (ii) Speed and surface conditions;
 - (iii) Speed and the shape of the road;
 - (iv) Speed and visibility; and
 - (v) Speed and traffic flow.
- (8) Space management - The procedures and techniques for controlling the space around the vehicle, including:
- (i) The importance of space management;
 - (ii) Space cushions, (e.g., controlling space ahead/to the rear);
 - (iii) Space to the sides; and
 - (iv) Space for traffic gaps.
- (9) Night operation - Preparations and procedures for night driving, including:
- (i) Night driving factors, e.g., driver factors, (vision, glare, fatigue, inexperience), roadway factors, (low illumination, variation in illumination, familiarity with roads, other

road users, especially drivers exhibiting erratic or improper driving), vehicle factors (headlights, auxiliary lights, turn signals, windshields and mirrors); and

- (ii) Night driving procedures, e.g., preparing to drive at night and driving at night.
- (10) Extreme driving conditions - The basic information on operating in extreme driving conditions and the hazards that are encountered in extreme conditions, including:
- (i) Adverse weather;
 - (ii) Hot weather; and
 - (iii) Mountain driving.
- (11) Hazard perceptions - The basic information on hazard perception and clues for recognition of hazards, including:
- (i) Importance of hazards recognition;
 - (ii) Road characteristics; and
 - (iii) Road user activities.
- (12) Emergency maneuvers - The basic information concerning when and how to make emergency maneuvers, including:
- (i) Evasive steering;
 - (ii) Emergency stop;
 - (iii) Off-road recovery;
 - (iv) Break failure; and
 - (v) Blowouts.
- (13) Skid control and recovery - The information on the causes and major types of skids, as well as the procedures for recovering from skids.
- (d) *Relationship of cargo to vehicle control.* The principles and procedures for the proper handling of cargo, including:

- (1) The importance of proper cargo handling, e.g., consequences of improperly secured cargo, drivers' responsibilities, Federal/State and local regulations.
 - (2) Principles of weight distribution.
 - (3) Principles and methods of cargo securement.
- (e) *Vehicle inspections* The objectives and proper procedures for performing vehicle safety inspections, as follows:
- (1) The importance of periodic inspection and repair to vehicle safety and to prevention of enroute breakdowns.
 - (2) The effect of undiscovered malfunctions upon safety.
 - (3) What safety-related parts to look for when inspecting vehicles, (e.g., fluid leaks, interference with visibility, bad tires, wheel and rim defects, braking system defects, steering system defects, suspension system defects, exhaust system defects, coupling system defects, and cargo problems.
 - (4) Pre-trip/enroute post-trip inspection procedures.
 - (5) Reporting findings.
- (f) *Hazardous materials knowledge, as follows:*
- (1) What constitutes hazardous material requiring an endorsement to transport; and
 - (2) Classes of hazardous materials, labeling/placarding requirements, and the need for specialized training as a prerequisite to receiving the endorsement and transporting hazardous cargoes.
- (g) *Air brakes knowledge as follows:*
- (1) General air brake system nomenclature;
 - (2) The dangers of contaminated air (dirt, moisture and oil) supply;
 - (3) Implications of severed or disconnected air lines between the power unit and the trailer(s);
 - (4) Implications of low air pressure readings;

- (5) Procedures to conduct safe and accurate pre-trip inspections, including knowledge about:
 - (i) Automatic fail-safe devices;
 - (ii) System monitoring devices; and
 - (iii) Low pressure warning alarms.
- (6) Procedures for conducting enroute and post-trip inspections of air actuated brake systems, including ability to detect defects which may cause the system to fail, including:
 - (i) Tests which indicate the amount of air loss from the braking system within a specified period, with and without the engine running; and
 - (ii) Tests which indicate the pressure levels at which the low air pressure warning devices and the tractor protection valve should activate.
- (h) *Operators for the combination vehicle group shall also have knowledge of:*
 - (1) Coupling and uncoupling - The procedures for proper coupling and uncoupling a tractor to semi-trailer.
 - (2) Vehicle inspection - The objectives and proper procedures that are *unique* for performing vehicle safety inspections on combination vehicles.

Examples of Specific Skills Elements

These examples relate to paragraphs (a) and (b) of §383.113 only.

- (a) *Basic vehicle control skills.* All applicants for a CDL must possess and demonstrate the following basic motor vehicle control skills for each vehicle group which the driver operates or expects to operate. These skills shall include:
 - (1) Ability to start, warm-up and shut down the engine;
 - (2) Ability to put the motor vehicle in motion and accelerate smoothly, forward and backward;
 - (3) Ability to bring the motor vehicle to a smooth stop;

- (4) Ability to back the motor vehicle in a straight line, and check path and clearance while backing;
 - (5) Ability to position the motor vehicle to negotiate and then make left and right turns;
 - (6) Ability to shift as required and select appropriate gear for speed and highway conditions;
 - (7) Ability to back along a curved path; and
 - (8) Ability to observe the road and the behavior of other motor vehicles, particularly before changing speed and direction.
- (b) *Safe driving skills.* All applicants for a CDL must possess and demonstrate the following safe driving skills for any vehicle group. These skills shall include:
- (1) Ability to use proper visual search methods;
 - (2) Ability to signal appropriately when changing speed or direction in traffic;
 - (3) Ability to adjust speed to the configuration and condition of the roadway, weather and visibility conditions, traffic conditions, and motor vehicle, cargo and driver conditions;
 - (4) Ability to choose a safe gap for changing lanes, passing other vehicles, as well as for crossing or entering traffic;
 - (5) Ability to position the motor vehicle correctly before and during a turn to prevent other vehicles from passing on the wrong side as well as to prevent problems caused by off-tracking;
 - (6) Ability to maintain a safe following distance depending on the condition of the road, on visibility, and on vehicle weight; and
 - (7) Ability to adjust operation of the motor vehicle to prevailing weather conditions including speed selection, braking, direction changes and following distance to maintain control.

SUBPART H - TESTS

§383.131 Test procedures.

- (a) *Driver information manuals.* Information on how to obtain a CDL and endorsements shall be included in manuals and

made available by States to CDL applicants. All information provided to the applicant shall include the following:

- (1) Information on the requirements described in §383.71, the implied consent to alcohol testing described in §383.72, the procedures and penalties, contained in §383.51(b) to which a CDL holder is exposed for refusal to comply with such alcohol testing, State procedures described in §383.73, and other appropriate driver information contained in Subpart E of this part;
 - (2) Information on vehicle groups and endorsements as specified in Subpart F of this part;
 - (3) The substance of the knowledge and skills which drivers shall have as outlined in Subpart G of this part for the different vehicle groups and endorsements;
 - (4) Details of testing procedures, including the purpose of the tests, how to respond, any time limits for taking the test, and any other special procedures determined by the State of issuance; and
 - (5) Directions for taking the tests.
- (b) *Examiner procedures.* A State shall provide to test examiners details on testing and any other State-imposed requirements in the examiner's manual, and shall ensure that examiners are qualified to administer tests on the basis of training and/or other experience. States shall provide standardized scoring sheet for the skills tests, as well as standardized driving instructions for the applicants. Such examiners' manual shall contain the following:
- (1) Information on driver application procedures contained in §383.71, State procedures described in §383.73, and other appropriate driver information contained in Subpart E of this part;
 - (2) Details on information which must be given to the applicant;
 - (3) Details on how to conduct the tests;
 - (4) Scoring procedures and minimum passing scores;
 - (5) Information for selecting driving test routes;

- (6) List of the skills to be tested;
- (7) Instructions on where and how the skills will be tested;
- (8) How performance of the skills will be scored; and
- (9) Causes for automatic failure of skills tests.

§383.133 Testing methods.

- (a) All tests shall be constructed in such a way as to determine if the applicant possesses the required knowledge and skills contained in Subpart G of this part for the type of motor vehicle or endorsement the applicant wishes to obtain.
- (b) States shall develop their own specifications for the tests for each vehicle group and endorsement which must be at least as stringent as the Federal standards.
- (c) States shall determine specific methods for scoring the knowledge and skills tests.
- (d) Passing scores must meet those standards contained in §383.135.
- (e) Knowledge and skills tests shall be based solely on the information contained in the driver manuals referred to in §383.131(a).
- (f) Each knowledge test shall be valid and reliable so as to assure that driver applicants possess the knowledge required under §383.111.
- (g) Each basic knowledge test, i.e., the test covering the areas referred to in §383.111 for the applicable vehicle group, shall contain at least 30 items, exclusive of the number of items testing air brake knowledge. Each endorsement knowledge test, and the air brake component of the basic knowledge test as described in §383.111(g), shall contain a number of questions that is sufficient to test the driver applicant's knowledge of the required subject matter with validity and reliability.
- (h) The skills tests shall have administrative procedures, designed to achieve interexaminer reliability, that are sufficient to ensure fairness of pass/fail rates.

§383.135 Minimum passing scores.

- (a) The driver applicant must correctly answer at least 80 percent of the questions on each knowledge test in order to achieve a passing score on such knowledge test.
- (b) To achieve a passing score on the skills test, the driver applicant must demonstrate that he/she can successfully perform all of the skills listed in §383.113.
- (c) If the driver applicant does not obey traffic laws, or causes an accident during the test, he/she shall automatically fail the test.
- (d) The scoring of the basic knowledge and skills tests shall be adjusted as follows to allow for the air brake restriction (§383.95):
 - (1) If the applicant scores less than 80 percent on the air brake component of the basic knowledge test as described in §383.111(g), the driver will have failed the air brake component and, if the driver is issued a CDL, an air brake restriction shall be indicated on the license; and
 - (2) If the applicant performs the skills test in a vehicle not equipped with air brake component as described in §383.113(c) and, if the driver is issued a CDL, the air brake restriction shall be indicated on the license.

SUBPART I - (RESERVED)

SUBPART J - COMMERCIAL DRIVER'S LICENSE DOCUMENT

§383.151 General.

The CDL shall be a document that is easy to recognize as a CDL. At a minimum, the document shall contain information specified in §383.153.

§383.153 Information on the document and application.

- (a) All CDLs shall contain the following information:
 - (1) The prominent statement that the license is a "Commercial Driver's License" or "CDL" except as specified in §383.153(b);
 - (2) The full name, signature, and mailing address of the person to whom such license is issued;

- (3) Physical and other information to identify and describe such person including date of birth (month, day, and year, sex, and height;
- (4) Color photograph of the driver;
- (5) The driver's State license number;
- (6) The name of the State which issued the license;
- (7) The date of issuance and the date of expiration of the license;
- (8) The group or groups of commercial motor vehicle(s) that the driver is authorized to operate, indicated as follows:
 - (i) A for Combination Vehicle;
 - (ii) B for Heavy Straight Vehicle; and
 - (iii) C for Small Vehicle.
- (9) The endorsement(s) for which the driver has qualified, if any, indicated as follows:
 - (i) T for double/triple trailers;
 - (ii) P for passenger;
 - (iii) N for tank vehicle;
 - (iv) H for hazardous materials;
 - (v) X for a combination of the tank vehicle and hazardous materials endorsements; and
 - (vi) At the discretion of the State, additional codes for additional groupings of endorsements as long as each such discretionary ~~explained by the~~ ^{explained by the} front or back of the CDL document.
- (b) If the CDL is a Nonresident CDL, it shall contain the prominent statement that the license is a "Nonresident Commercial Driver's License" or "Nonresident CDL." The word "Nonresident" must be conspicuously and unmistakably displayed, but may be noncontiguous with the words "Commercial Driver's License" or "CDL."
- (c) If the State has issued the applicant an air brake restriction as specified in §383.95, that restriction must be indicated on the license.

(d) Except in the case of a Nonresident CDL;

(1) A driver applicant must provide his/her Social Security Number on the application of a CDL; and

(2) The State must provide the Social Security Number to the CDLIS.

§383.155 Tamperproofing requirements.

States shall make the CDL tamperproof to the maximum extent practicable. At a minimum, a State shall use the same tamperproof method used for noncommercial drivers' licenses.

ALCOHOL AND DRUG RULES [MARCH 1994] ALCOHOL AND DRUG RULES: AN OVERVIEW

This pamphlet provides a general overview of the Federal Highway Administration (FHWA) drug and alcohol testing rules for persons required to have a commercial driver's license (CDL). The rules published by the FHWA and the U.S. Department of Transportation (DOT) Office of the Secretary on February 15, 1994 provide the requirements applicable to employers and employee/volunteer drivers covered by the rules. Because the information that follows is a general summary of the rules, it should not be relied upon for the legal requirements of the rules. It does not contain many of the requirements or special circumstances detailed in the FHWA and DOT rules. A list of the alcohol and drug testing rules published by the FHWA. DOT Office of the Secretary and the National Highway Traffic Safety Administration (NHTSA) applicable to CDL drivers and their employers is at the end of this document. Copies of the rules and other information may be obtained from the FHWA offices listed at the back of this pamphlet.

WHAT IS THE OMNIBUS ACT?

The Omnibus Transportation Employee Testing Act of 1991 requires alcohol and drug testing of safety-sensitive employees in the aviation, motor carrier, railroad, and mass transit industries. The DOT published rules mandating anti-drug and alcohol misuse prevention programs in February 1994. The rules also expand and supplement existing drug testing rules published in November 1988 that mandated drug testing of aviation, interstate motor carrier, railroad, pipeline, and commercial marine employees. The February 1994 rules generally require implementation beginning on January 1, 1995 for large employers (generally, 50 or more safety-sensitive drivers) and January 1, 1996 for all other employers.

The current rules for drug testing of interstate commercial motor vehicle drivers remain in effect until the new rules are required to be implemented.

WHAT ARE THE RULES?

The FHWA has issued a rule requiring alcohol and drug testing of drivers who are required to have a commercial driver's license. The DOT rules include procedures for urine drug testing and breath alcohol testing. The urine drug testing procedures rule was issued in December 1989 and governs drug testing programs mandated by the FHWA. The 1994 amendments to Part 40 add breath alcohol testing procedures and additional urine specimen collection procedures that provide for split urine specimens.

WHO IS AFFECTED BY THESE RULES?

The FHWA rules cover safety-sensitive employees in transportation who drive commercial motor vehicles requiring a CDL to operate. There are about 6,600,000 holders of CDLs.

Examples of drivers and employers that are subject to these rules are:

- ♦ Federal, State and local governments
- ♦ Apiarian industry (Beekeepers)
- ♦ For-Hire Motor Carriers
- ♦ Private Motor Carriers
- ♦ Civic Organizations
- ♦ Churches
- ♦ Indian Tribes
- ♦ Farmers and Custom Harvesters

WHAT ALCOHOL USE IS PROHIBITED?

Because alcohol is a legal substance, the rules define specific prohibited alcohol-related conduct. Performance of safety-sensitive functions is prohibited:

- ♦ While having a breath alcohol concentration is 0.04 percent or greater as indicated by an alcohol breath test.
- ♦ While using alcohol.
- ♦ Within four hours after using alcohol.

In addition, refusing to submit to an alcohol test and using alcohol within eight hours after an accident or until tested (for drivers required to be tested) are prohibited.

WHAT ALCOHOL TESTS ARE REQUIRED?

The following alcohol tests are required:

- ♦ **Preemployment** - conducted before applicants are hired or after an offer to hire, but before actually performing safety-sensitive functions for the first time. Also required when employees transfer to a safety-sensitive (Driver) position.
- ♦ **Post-accident** - conducted after accidents on drivers whose performance could have contributed to the accident (as determined by a citation for a moving traffic violation) and for all fatal accidents even if the driver is not cited for a moving traffic violation.
- ♦ **Reasonable suspicion** - conducted when a trained supervisor or company official observes behavior or appearance that is characteristic of alcohol misuse.
- ♦ **Random** - conducted on a random unannounced basis just before, during or just after performance of safety-sensitive functions.
- ♦ **Return-to-duty and follow-up** - conducted when an individual who has violated the prohibited alcohol conduct standards returns to performing safety-sensitive duties. Follow-up tests are unannounced and at least 6 tests must be conducted in the first 12 months after a driver returns to duty. Follow-up testing may be extended for up to 60 months following return to duty.

HOW WILL RANDOM ALCOHOL TESTING WORK?

Random alcohol testing must be conducted just before, during, or just after a driver's performance of safety-sensitive duties. The driver is randomly selected for testing (usually from a "pool" of drivers subject to testing). The testing dates and times are unannounced and are with unpredictable frequency throughout the year. Each year, the number of random tests conducted by the employer must equal at least 25% of all the safety-sensitive drivers. These rules provide for adjustments to the annual random testing rate based on the violations (alcohol tests 0.04 or greater and refusals to test) in the industry subject to the FHWA regulations. The random rate is set for each industry regulated by the DOT; thus, aviation employees could be tested at a rate different from commercial motor vehicle drivers.

HOW WILL ALCOHOL TESTING BE DONE?

The rules require breath testing using evidential breath testing (EBT) devices approved by NHTSA. The NHTSA periodically

publishes a list of approved devices in the *Federal Register*. Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a "negative test". If the alcohol concentration is 0.02 or greater, a second confirmation test must be conducted. The driver and the individual conducting the breath test {called a breath alcohol technician (BAT)} complete the alcohol testing form to ensure that the results are properly recorded. The confirmation test, if required, must be conducted using an EBT that prints out the results, date and time, a sequential test number, and the name and serial number of the EBT to ensure the reliability of the results. The confirmation test results determine any actions taken. Testing procedures that ensure accuracy, reliability and confidentiality of test results are outlined in the Part 40 rule. These procedures include training and proficiency requirements for the breath alcohol technicians (BAT), quality assurance plans for the breath testing devices (including calibration requirements for a suitable test location), and protection of driver test records.

WHO DOES THE TESTING?

Employers are responsible for implementing and conducting the testing programs. They may do this using their own employees, contract services, or by joining together in a consortium that provides services to all member companies. Law enforcement officers will not conduct the tests as part of roadside or other inspections. However, under certain circumstances, post-accident tests conducted by law enforcement personnel will be acceptable. Any individual who conducts the testing must be trained to operate the EBT and be proficient in the breath testing procedures.

WHAT ARE THE CONSEQUENCES OF ALCOHOL MISUSE?

Drivers who engage in prohibited alcohol conduct must be immediately removed from safety-sensitive functions. Drivers who have engaged in alcohol misuse cannot return to safety-sensitive duties until they have been evaluated by a substance abuse professional and complied with any treatment recommendations to assist them with an alcohol problem. To further safeguard transportation safety, drivers who have any alcohol concentration (defined as 0.02 or greater) when tested just before, during or just after performing safety-sensitive functions must also be removed from performing such duties for 24 hours. If a driver's behavior or appearance suggests alcohol misuse, a reasonable suspicion alcohol test must be conducted. If a breath test cannot be administered, the driver must be removed from performing safety-sensitive duties for at least 24 hours. A violation of these employer-based testing rules is not placed on, nor affects, the driver's CDL record.

HOW WILL EMPLOYEES KNOW ABOUT THESE NEW RULES?

Employers must provide detailed information about alcohol misuse, the employer's policy, the testing requirements, and how and where driver's can get help for alcohol abuse. Supervisors of safety-sensitive drivers must attend at least one hour of training on alcohol misuse symptoms and indicators used in making determination for reasonable suspicion testing.

ARE EMPLOYEES ENTITLED TO REHABILITATION?

Drivers who violate the alcohol misuse rules will be referred to a substance abuse professional for evaluation. Any treatment or rehabilitation would be provided in accordance with the employers' policy or labor/management agreements. The employer is not required under these rules to provide rehabilitation, pay for treatment, or reinstate the driver in his/her safety-sensitive position. Any employer who does decide to return a driver to safety-sensitive duties must ensure that the driver; (1) has been evaluated by a substance abuse professional; (2) has complied with any recommended treatment; (3) has taken a return-to-duty alcohol test (with a result less than 0.02); and (4) is subject to unannounced follow-up alcohol tests.

HOW WILL THE FHWA KNOW IF THESE RULES ARE BEING FOLLOWED?

Employers are required to keep detailed records of their alcohol misuse prevention programs. The FHWA will conduct inspections or audits of employers' program. Additionally, selected employers will have to submit annual calendar year summary reports to the FHWA. These reports will be used to help monitor compliance with and enforcement of the rules, as well as to provide data on the extent of alcohol misuse and the need for any future program and regulatory changes.

ARE DRIVER ALCOHOL TESTING RECORDS CONFIDENTIAL?

Yes! Driver alcohol testing records are confidential. Test results and other confidential information may only be released to the employer and the substance abuse professional. Any other release of this information is only with the driver's consent. If a driver initiates a grievance, hearing, lawsuit or other action as a result of a violation of these rules, the employer may release relevant information to the decisionmaker.

WILL FOREIGN OPERATORS HAVE TO COMPLY WITH THESE RULES?

The FHWA has issued a proposed rule that would subject foreign motor carriers to the alcohol misuse rules when their drivers are operating in the United States beginning in 1996. The proposal, however, indicates that FHWA will pursue international agreements in this area because they would more effectively satisfy the basic objectives and purposes of this rule. If such agreements are in place prior to 1996, this rule would not apply to foreign operators.

WILL THE DOT AUTHORIZE ANY ALCOHOL TESTING METHODS BESIDES BREATH TESTING?

The alcohol testing rules authorize and require only breath alcohol testing methods. However, the DOT has issued two other notices that propose to expand alcohol testing options. A proposal to use blood alcohol testing for reasonable suspicion and post-accident tests where breath testing is not readily available was published in February 1994. The proposal would enable employers to obtain a blood alcohol test when an EBT and/or trained breath alcohol technician is not available for tests that may be necessary in remote locations or at unpredictable hours. The proposal contains qualifications for personnel authorized to draw a blood sample, procedures for testing blood samples, qualifications for laboratories performing the blood alcohol analysis and protections and safeguards for drivers. The DOT has also proposed model specifications for alcohol screening test devices. These proposed specifications detail precision and accuracy requirements for disposable or portable devices that could be used for screening tests to determine an alcohol concentration of 0.02 or greater. Potentially, these specifications could be applied to saliva, breath or other body fluids. If a "positive" result (0.02 or greater) is obtained on the screening test devices, a confirmation test would be required using an EBT. The DOT hopes to issue final specifications, begin approving any qualified alcohol screening devices, and provide procedures for their use before the implementation dates of the alcohol testing rules.

WHAT ABOUT DRUG TESTING?

The drug testing rules issued by FHWA in November 1988, with later amendments, remain in effect. The FHWA's new controlled substances and alcohol testing rule will take effect beginning in January 1995 for all drivers of vehicles requiring a commercial driver's license employed or used by large employers. However, drug testing split samples are required to be collected starting on August 15, 1994. The drug testing rules cover the same drivers as the alcohol testing rules. The types of tests required are: pre-employment; reasonable suspicion post-accident; random; return-to-duty; and follow-up.

HOW IS DRUG TESTING DONE?

The DOT drug and alcohol testing procedures rule (49 CFR Part 40) sets forth the procedures for drug testing in the FHWA industries. Drug testing is conducted by analyzing a driver's urine specimen. The analysis is performed at laboratories certified and monitored by the Department of Health and Human Services (DHHS). There are over 90 DHHS-certified drug testing laboratories located through the United States. The list of DHHS approved laboratories is published monthly in the *Federal Register*. The driver provides a urine specimen in a location that affords privacy and the "collector" seals and labels the specimen, completes a chain of custody document, and prepares the specimen and accompanying paperwork for shipment to a drug testing laboratory. The specimen collection procedures and chain of custody ensure that the specimen's security, proper identification and integrity are not compromised. The Omnibus Act requires that drug testing procedures for commercial motor vehicle drivers include split specimen procedures. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence of illegal controlled substances, the driver has 72 hours to request the split specimen be sent to another DHHS certified laboratory for analysis. This split specimen procedure essentially provides the driver with an opportunity for a "second opinion."

WHAT DRUGS ARE TESTED FOR?

All urine specimens are analyzed for the following drugs:

1. Marijuana (THC metabolite)
2. Cocaine
3. Amphetamines
4. Opiates (including heroin)
5. Phencyclidine (PCP)

The testing is a two-stage process. First, a screening test is performed. If it is positive for one or more of the drugs, then a confirmation test is performed for each identified drug using state-of-the-art gas chromatography/mass spectrometry (GC/MS) analysis. GC/MS confirmation ensures that over-the-counter medications or preparations are not reported as positive results.

WHO REVIEWS AND INTERPRETS THE LABORATORY RESULTS?

All drug tests results are reviewed and interpreted by a physician {Medical Review Officer (MRO)} before they are reported to the employer. If the laboratory reports a positive result to the MRO, the MRO contacts the driver (in person or by telephone) and conducts an interview to determine if there is an alternative medical explanation for the drugs found in the driver's urine specimen. For all the drugs except PCP, there are some limited, legitimate medical uses that may explain the positive test result. If the driver provides appropriate documentation and the MRO determines that it is legitimate medical use of the prohibited drug, the drug test result is reported as negative to the employer.

WHAT DRUG USE IS PROHIBITED?

The drug rules prohibit any unauthorized use of the controlled substances. Illicit use of drug by safety-sensitive driver is prohibited on or off duty. The FHWA has some additional rules that prohibit the use of legally prescribed controlled substances (such as barbiturates, amphetamines, morphine, etc.) by safety-sensitive drivers involved in interstate commerce. Other regulations require drivers involved in interstate commerce to report any medical use of controlled substances.

WHAT ARE THE CONSEQUENCES OF A POSITIVE DRUG TEST?

As with alcohol misuse violation, a driver must be removed from safety-sensitive duty if he/she has a positive drug test result. The removal cannot take place until the MRO has interviewed the driver and determined that the positive drug test resulted from the unauthorized use of a controlled substance. A driver cannot be returned to safety-sensitive duties until he/she has been evaluated by a substance abuse professional or MRO, has complied with recommended rehabilitation, and has a negative result on a return-to-duty drug test. Follow-up testing to monitor the driver's continued abstinence from drug use may be required.

HOW DOES RANDOM DRUG TESTING WORK?

Employers are responsible for conducting random, unannounced drug tests. The total number conducted each year must equal at least 50% of the safety-sensitive drivers. Some drivers may be tested more than once each year; some may not be tested at all depending on the random selection. Random testing for drugs does not have to be conducted in immediate time proximity to performing safety-sensitive functions. Once notified of selection for testing, however, a driver must proceed to a collection site to accomplish the urine specimen collection. The FHWA has issued a

proposal to permit adjustment to the random drug testing rate. The proposal is similar to what is required for random alcohol testing. The random drug testing rate would be determined annually based upon the random positive rate for the FHWA industry.

ARE EMPLOYEE EDUCATION AND TRAINING REQUIRED?

Employers must provide information on drug use and treatment resources to safety-sensitive drivers. All supervisors and officials of businesses with safety-sensitive drivers must attend at least one hour of training on the signs and symptoms of drug abuse. This training is necessary to assist supervisors and company officials in making appropriate determinations for reasonable suspicion testing.

ARE DRIVER DRUG TESTING RECORDS CONFIDENTIAL?

Yes! Driver drug testing results and records are maintained under strict confidentiality by the employer, the drug testing laboratory, and the medical review officer. They cannot be released to others without the written consent of the driver. Exceptions to these confidentiality provisions are limited to a decisionmaker in arbitration, litigation or administrative proceedings arising from a positive drug test. Statistical records and reports are maintained by employers and drug testing laboratories. This information is aggregated data and is used to monitor compliance with the rules and to assess the effectiveness of the drug testing programs.

WHERE CAN I GET MORE INFORMATION? ACCESS TO THE FHWA ELECTRONIC BULLETIN BOARD SERVICE (FEBBS)

Copies of the rules published by the Office of the Secretary of Transportation and the FHWA may be obtained from the FHWA's Electronic Bulletin Board Service (FEBBS) using an IBM-compatible microcomputer and modem. The FEBBS is a read-only facility. The FEBBS is an informal means to exchange information among FHWA employees and with the public. The information on FEBBS is divided into Conferences and is reached by selected Conferences from the FEBBS main menu, and then selecting the letter of the Conference you want to see. There are also general information Conferences on areas such as Local Area Networks and Electronic Data Sharing.

The telephone number for FEBBS is Area Code 202-366-3764. This telephone number supports 300, 12000, and 2400 baud line speeds. For users with 9600 baud line speed capability, use 202-366-3175. A variety of terminal types and protocols are supported by the system. However, setting the modem for 2400 baud (or 9600 baud), 8 data bits, full duplex, and no parity will give optimal performance. The service is operational from 4:00 A.M. to 3:00 A.M. Eastern time, seven days a week.

If you need more information on how to access FEBBS, contact one of the offices listed below or FHWA Computer Help Desk, HMS-40, Room 4401, 400 Seventh Street, S.W., Washington, D.C. 20590. 202-366-1120.

FHWA REGIONAL OFFICES

Specific information can be obtained from the FHWA-OMC offices listed below:

REGION 1

Leo W. O'Brien Federal Building
Clinton & North Pearl Streets
Room 737
Albany, New York 12207

REGION 2 [N/A]

REGION 3

Federal Building
10 South Howard Street, Suite 4000
Baltimore, Maryland 21201

REGION 4

1720 Peachtree Road, N.W.
Suite 227
Atlanta, Georgia 30367

REGION 5

18209 Dixie Highway
Homewood, Illinois 60430-2294

REGION 6

P. O. Box 902003
Fort Worth, Texas 76102

REGION 7

P. O. Box 419715
Kansas City, Missouri 64141-6715

REGION 8

55 Zang Street, Room 190
Lakewood, Colorado 80228

REGION 9

211 Main Street, Room 1108
San Francisco, California 94105

REGION 10

KOIN Center, Suite 600
222 S.W. Columbia Street
Portland, Oregon 97201

WASHINGTON, D.C. HEADQUARTERS
Office of Motor Carrier Standards
Room 3107
400 Seventh Street, S.W.
Washington, D.C. 20590

For assistance with the procedures of how to conduct an alcohol or drug test contained in Part 40, contact:

Office of the Secretary of Transportation
Drug Enforcement and Program Compliance
Room 9404
400 Seventh Street, S.W.
Washington, D.C. 20590
202-366-3784 Telephone

COURT SECURITY AND THE TRANSPORTATION OF PRISONERS: A NATIONAL STUDY



INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE AND ITS NATIONAL LAW ENFORCEMENT POLICY CENTER

- ♦ **Transportation of Prisoners, August 1, 1990**
- ♦ **Model Policy - Transportation of Prisoners,
April 30, 1991**

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IACP National Law Enforcement Policy Center

Transportation of Prisoners

Concepts and Issues Paper

August 1, 1990

I. INTRODUCTION

A. Purpose of Document

This paper is designed to accompany the model policy on transportation of prisoners established by the IACP/BJA National Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their communities and their law enforcement agencies.

B. Background

Policies should not be designed to place a great amount of reliance on restraining devices during the transportation of prisoners. Restraining devices do not provide security; they only enhance the security provided by the officer. There have been no significant improvements in restraining devices since the invention of the handcuff. In fact, modern versions of restraining devices are less secure than older models because they have been designed to provide increased comfort for the prisoner and to enhance public acceptability. As an example, the old "bottle cuffs" were ugly and cumbersome but it was impossible to bend them and very difficult to escape from them. By contrast, the modern handcuff is easily bent to the point where it will no longer function and the locking mechanisms are easily manipulated both by the novice as well as by those who have many years of exposure to restraints.

For prisoner transportation purposes, there are only three basic restraining techniques available—handcuffs, waist chains and leg chains. There are variations on these basic restraining methods, such as the use of nylon straps for handcuffing, transport belts and bungee cords, but such equipment is often not available to the field officer.

Prisoner transportation policies and officer training should emphasize the need for constant visual monitoring of prisoners while they are outside a secure area and wearing restraining devices.

The transportation of arrestees and prisoners is the weakest link in the process of providing security for

the detention of persons in custody. The prisoner bent on escape is constantly looking and waiting for the transporting officer to make a mistake. Almost all successful escapes that occur during the time a prisoner is being transported happen because the prisoner took advantage of a lapse in adherence to policy relating to prisoner transportation or because the officer relied too heavily on the ability of the restraining devices and transporting vehicle to prevent or discourage escape.

At a minimum, transportation policy and procedures as reflected in the model policy should include direction in five basic areas. These include:

- Preparation of the transporting vehicle for prisoner transportation.
- Preparation of the arrestee or prisoner for transportation.
- Use of restraint devices.
- Segregation of different classes of prisoners.
- Enroute procedures, such as communications with the headquarters facility, seating arrangements and use of seat belts.

II. PROCEDURES

The major areas to be considered when developing a prisoner transportation policy are discussed in this section. Each area should be reviewed in light of each agency's needs, capabilities and legal restrictions or requirements.

A. Restraints

Handcuffs are the most common method of restraining prisoners and arrestees and most often the only restraining device carried by law enforcement officers. Although handcuffs have been fundamentally unchanged for many years, there are now available many variations of the basic handcuff, leg restraint and waist chain. These include hinged handcuffs; waist chains with front, side or rear handcuffs; leg chains; waist chains with leg chains connected; gang chains (six, eight or ten prisoners together); hobbles; seat belts; flex cuffs; transport belts (soft restraints); oversized handcuffs; handcuff linking pin covers (black box); full body wraps; and bungee cords.

At a minimum, field officers should consider carrying some equipment, in addition to handcuffs, for the restraint of the uncooperative or violent arrestee, especially officers working in rural and remote areas. In metropolitan areas, special restraint equipment can be carried by field supervisors to assist arresting officers when need .

Officers must take care to apply restraints correctly and in the manner in which they were designed to be used. Handcuffs applied slightly loose may allow the prisoner to slip free. If applied too tightly, handcuffs can impede or stop the flow of blood and cause injury to the prisoner. Skill in the proper application of handcuffs will help avoid these problems and will thwart the attempt of some "street smart" offenders to have the handcuffs applied incorrectly.

Restraints are designed to help the law enforcement officer achieve three goals when transporting or otherwise moving a prisoner from one location to another:

- Protect the officer from the prisoner
- Protect other people from the prisoner
- Protect the prisoner from himself and others

Restraint devices are designed to achieve these goals, never as a means of administering punishment.

A proper level of restraint during transportation is determined by both the actions of the arrestee to be transported and the vehicle used for transportation. Unless the arrestee is violent, mentally unstable or under the influence of drugs, transportation can usually be accomplished with handcuffs.

1. Handcuffs. In recent years, several manufacturers have introduced a stronger "hinged" handcuff to the market that offers a higher level of security than the traditional handcuff. Hinged handcuffs replace the swivel eye and chain with an interlaced hinging device that can only swivel back and forth in one direction, restricting the ability of the arrestee to tamper with the ratchet and locking mechanism. The main drawback to using hinged handcuffs is that they can be difficult to apply and remove when handling uncooperative or violent prisoners.

Handcuffs are notoriously easy to escape when improperly applied or when a lengthy period of time is available to the prisoner without supervision. Devices that will unlock handcuffs are easily fabricated from common items such as ball point pens and paper clips. Double-locking mechanisms are also far from fail-safe, especially on equipment that is old or poorly maintained.

Shimming is a common means of opening handcuffs without a key. Shimming is relatively easy when an officer neglects to double lock the handcuffs or when the handcuffs are worn to the point that a sharp blow will compromise the double lock. Shims can be made from hairpins, the metal edges of rulers, thin plastic credit cards or almost any material that is thin, hard and can be cut to the desired size. "Security" handcuffs, an older model that is not widely used, require a key with a diameter of approximately 3/8 inches. These handcuffs can be opened with some toothpaste and hair cream or similar tube tops, mechanical pencil eraser holders, or any round and hollow metal object with the proper diameter.

In 1989, inmates in Columbus, Ohio, demonstrated that they could easily break handcuffs by placing the

handcuff swivel into the metal hole in a seat belt clasp and, with little effort, snap the swivel from the base of the handcuff.² This technique received widespread publicity in the press and is now common knowledge among many offenders. Prisoners transported with standard handcuffs should be closely watched, handcuffed behind their backs with palms out and a seat belt securely fastened across their laps.

To overcome such tampering a "black box" may be used that covers the swivel and chain of standard handcuffs or the use of hinged handcuffs. A "black box" is a rectangular device made of hard plastic or similar material that can be attached over the swivel, chain and keyhole of handcuffs. The box prevents access to the locking mechanism of the handcuffs and restricts rotation of the hands. Some models can also be used with hinged handcuffs. A black box adds a degree of security but, as with any restraint, it should not be considered totally reliable.

2. Restraining Straps. Nylon restraining straps, often referred to as "flex-cuffs," are generally used when an officer needs additional handcuffs, particularly during mass arrest situations. Nylon straps can also be used to restrain a prisoner at the ankles. Since the proper application of the strap requires two hands, the officer applying the strap cannot control the arrestee properly and should always have a back-up officer present.

Nylon straps are narrow and, if applied improperly, can seriously restrict the flow of blood and inflict injury to the arrestee's wrists and hands. Once applied, the nylon restraint cannot be loosened to increase blood circulation or removed unless it is cut from the arrestee's wrist.

General purpose restraining straps are also available in leather, vinyl and other types of material. The most pliable and easiest to apply are those that fasten with Velcro. Leather straps are usually fastened with buckles or locks and hasps and are harder to apply than Velcro straps. Leather straps are not necessarily stronger but the fastening and locking mechanisms offer a higher degree of security.

3. Leg Restraints. Arrestees that kick are some of the most dangerous and difficult prisoners to transport. Placing such a person in a vehicle could be a lethal mistake if the prisoner is not adequately restrained.

Leg chains alone will not prevent an arrestee from kicking; they must be combined with other restraints to keep the arrestee's knees bent to prevent him from extending his legs. Leg restraint straps can be very effective but most models require securing the strap to an eye bolt in the floor of the vehicle. While the model policy recommends against handcuffing a prisoner to any part of the transporting vehicle, where highly volatile persons are concerned, the use of tethered leg restraints may be in the best interest of the officer and prisoner alike.

One police department tested a leg safety belt designed to prevent unruly prisoners from kicking officers or police equipment while being transported to jail.³ It found that permanent belts attached to an eye bolt became soiled and prisoners could manipulate the belt past their knees and step out of the strap. They then developed a belt made of nylon scrim laminate and Velcro. The 45-inch belt is adjustable for all sizes of prisoner and can be stored in the glove compartment

until needed. A polypropylene strap clips the belt to an eye bolt in the floorboard.

Law enforcement agencies that do not permit the use of eye bolts in this manner should be aware that leg restraint straps are available commercially which can be used with or without an eye bolt.⁴ The belts are adjustable to all sizes and are constructed of vinyl-backed Velcro.

4. Body Restraints. Various types of body wraps are available for controlling, containing and transporting violent and uncooperative arrestees. A "total body restraint"⁵ usually requires two or three officers to apply. A total body restraint literally wraps the arrestee inside a bag with straps circling the bag to further control movement of his extremities.

Total body restraints of this type should be used only in the most serious of transportation situations where an offender is completely uncontrollable and poses a serious risk to the officers involved.

As in other situations, officers should use only the level of restraint necessary to safely and effectively complete transportation of the offender. It should also be noted that overly restrictive methods can sometimes serve to heighten an offender's anxiety and potential for abnormal behavior.

5. Leg Braces. Leg braces that can be applied under the clothing and locked in the straight or bent position are excellent restraining devices to be used when a prisoner must be taken to or through a public area, for a commercial airline flight or for a courtroom appearance.

Orthopedic leg braces are usually not designed for locking but may be made serviceable for this purpose with some minor additional fabrication. Leg braces designed for restraint are available and vendors can be located through law enforcement equipment outlets.⁶

B. Searching and Handcuffing the Arrestee

It is essential that a search of the arrestee be conducted before he is transported. In addition to concealing a weapon, an arrestee may be in possession of a handcuff key or any number of items that can be used to open security devices. When the arrestee is handcuffed prior to the search, he should be searched immediately while the officer retains control of him.

Searching and handcuffing techniques should be thoroughly mastered by all law enforcement officers. The level of danger during a search varies, depending on the condition and state of mind of the arrestee involved. The arrestee's desire to escape, his use of alcohol or drugs, his embarrassment or other emotional upsets can make the task difficult or hazardous. Searching and handcuffing techniques have been developed to provide the officer with a safety advantage over the subject of the search.

1. Handcuffing. The handcuff can be considered a safety device for both the officer and the arrestee. It is used as a temporary restraint to prevent attack, escape, the destruction or concealment of evidence or contraband, and self-inflicted injury.

Arrestees should be handcuffed with their hands behind their backs, palms out. This will reduce the subject's potential aggressiveness and will make it harder for the subject to step through the handcuffs; that is, by bringing the hands and handcuffs from his back to his front by passing his arms and hands under his feet.

While stepping through handcuffs is difficult, it can be easily performed by some individuals. For example, in Texas, a prisoner wearing handcuffs and leg chains was able to step through the handcuffs while seated in the front seat of a patrol car, strike the officer in the head when he opened the passenger door and take his revolver.⁷ Transporting officers should always use the seat belt to hold the prisoner's hips in the seat and prevent the possibility of stepping through. The seat belt should be firmly cinched with no slack.

The model policy provides that prisoners who are pregnant, have physical handicaps or whose injuries may be aggravated by standard handcuffing procedures may be handcuffed in front or restrained by other appropriate devices.

Placing handcuffs on a prisoner should be a deliberate and conscious activity. Handcuffs should be applied

- with the keyhole facing up or out, depending on the model, to facilitate removal;
- between the hand and the protruding ulnar bone (wrist bone) with the palms out;
- reasonably snug and always double locked; and
- directly against the skin, never over items of clothing or jewelry.

When an arrestee is being transferred from one set of handcuffs to another, the original handcuffs should remain in place until the next set is placed on the arrestee, just below the original handcuffs.

It cannot be overemphasized that a transporting officer should not leave a prisoner unattended when he is in restraints, relying on the restraints to keep the prisoner secure. Escapes by unattended prisoners who are shackled are much too frequent and almost always due to laxity on the part of the transporting officer.

2. Searching. Even though the circumstances and techniques of each search may be somewhat different, there are several principles which are common to all searches:

- Maintain constant alertness.
- Maintain control of the arrestee, as well as a position of advantage.
- Conduct a thorough search.
- Always search a standing or kneeling subject from the rear.
- Search with one hand. The other hand should be in contact with the arrestee for control.
- Always search systematically, using a "W" pattern.
- Immediately notify the assisting officer, if present, when a weapon is found.

An arrestee can conceal weapons and contraband anywhere on his body; therefore, the search must be systematic and thorough. To guard against the possibility of contact with contaminated IV needles or other sharp objects, the suspect should be instructed to empty his pockets and turn them inside out. With assistance of another officer, the suspect's clothing should be grasped to detect handcuff keys, shimming devices or other items.

Experience has demonstrated a number of locations in which weapons or contraband may be concealed. These include the following:

- Waistband
- Pockets
- Groin area
- Seams of clothing

- Small of back
- Ankles
- Pocketbooks, purses and wallets
- Underarm area
- Upper inside of the leg
- Jewelry designed to be used as a weapon, such as necklaces, belt buckles, bracelets and fountain pens
- Prosthetic devices, casts and bandaged areas

Although not always possible, it is desirable to have a back-up officer present to provide protection for the officer conducting the search. The back-up officer's responsibilities are to

- protect the searching officer from outside interference;
- provide psychological intimidation of the arrestee(s) during the search;
- provide physical assistance to the searching officer if it becomes necessary; and
- provide continuous observation of the arrestee from a position of safety.

C. Transporting Vehicles and Procedures

The level of security provided by the transporting vehicle should be a factor in determining the level of restraint or number of personnel used to transport a prisoner or multiple prisoners. Well-equipped police sedans have a security screen between the front and rear seats and inoperable or removed inside rear door handles and window controls. Vehicles should be inspected prior to each tour of duty to ensure that this equipment functions properly.

Even when vehicles are equipped with screens and inoperable rear doors and windows, officers should not rely on the vehicle as a completely secure detention area. When the vehicle security is less than that described, consideration should be given to augmenting handcuffs with additional security such as waist chains or the use of a second officer when the transporting officer is operating a one-man unit.

The model policy requires that a search be conducted of the transporting vehicle prior to and after transporting a prisoner. When the prisoner is to be placed in the rear seat, the seat cushion should be pulled out, the area inspected and the seat replaced. It is not unusual for previous arrestees to hide articles in the seams and crevices of the seat or for an officer to lose an article, such as a handcuff key, while riding in the back seat. After removing the prisoner from the vehicle, the seat should be searched again for contraband or evidence left by the prisoner.

Torn or damaged seats should be repaired as soon as possible to prevent the concealment of items inside the seat cushion or the removal of pieces of spring to use as a shim or weapon. Rear seats made of fiberglass can be purchased for sedans and are more suitable for prisoner transportation.⁸ Fiberglass seats can save a significant amount of searching, are almost indestructible and are far easier to keep clean than fabric seats.

1. Seating Arrangements. When the transporting vehicle is equipped with a security screen and secured windows and doors, a single prisoner should be transported on the right side of the rear seat. As in all cases of prisoner transportation, the arrestee should be securely fastened in the seat with a seat belt.

Should the transporting vehicle not be equipped with a security screen, the model policy recommends that the prisoner be secured in the right front seat. In some agencies, the right rear seat is utilized in these cases with the reasoning that this arrangement creates some distance between the arrestee and the officer and, therefore, some added margin of safety. However, when seated in the rear of the transporting vehicle, a single transporting officer cannot keep the individual under adequate visual scrutiny and should the prisoner free himself, the officer may be subject to attack from the rear. When the arrestee is seated in the front seat, the officer can more readily detect sounds or movements by the individual that should warrant his attention. In cases where there are two officers available, the prisoner should be seated to the rear left side.

In no case should one officer attempt to transport more than one prisoner in a vehicle that is not equipped with a security screen. This policy can be difficult to follow in smaller agencies and those that operate in rural environments where a back-up officer may not be readily available. Therefore, in these law enforcement agencies, it is essential that all marked patrol vehicles be equipped with security screens and deactivated rear door locks and window cranks. Officers working in unmarked vehicles on investigative assignments in rural areas may also be called upon to transport prisoners under emergency circumstances, but without an adequately equipped vehicle. These vehicles, therefore, should be equipped with at least one set of leg chains, waist chains and restraint straps.

When transporting multiple prisoners, they should be handcuffed together to reduce their mobility. When two prisoners are being transported, they should be placed in the rear seat to the right of the driver and a second officer seated directly behind the driver. Properly equipped, two-man vehicles may, under emergency circumstances, transport as many as three prisoners. In such cases, the prisoners should be secured in the rear seat and the second officer positioned in the front seat. The second officer should position himself so that he can maintain constant surveillance of the prisoners. However, such transportation arrangements should be used only where the risks of not performing the transport outweigh those of moving the prisoners immediately to a secure detention facility. Even when properly secured, two officers may have a difficult time managing three prisoners should they attempt to escape or become violent.

Multiple arrestees should not be transported together in a sedan when there is an indication that one or more of them may become violent. The violent behavior of one prisoner may be used to the advantage of the other. Further, transporting officers have the responsibility to protect the safety of nonviolent prisoners who risk injury when seated next to a violent prisoner.

Any wheelchairs, crutches, prosthetic devices and medication should be transported with the prisoner but not in his possession. Such devices have been used to secrete weapons or tools to breach handcuffs or other security devices.

2. Transporting Females and Juveniles. Years ago, restraints were rarely used on female arrestees. However, over the years, law enforcement officers have witnessed an increase in the propensity for violence

by females, in large measure due to the increased use of illegal drugs.

While the model policy does not address this issue directly, law enforcement officers are well advised to use the same restraint policy for female and juvenile arrestees as is used for adult male arrestees. The same exceptions to handcuffing and the use of other restraints should apply to both sexes with an added consideration for women in an obvious state of pregnancy.

Female arrestees should be searched by female officers or matrons, whenever possible, before transportation. When the search *must* be conducted by a male officer, at least one officer witness should be present and the search should be only that necessary to identify the presence of weapons. The following method of searching provides an acceptable level of propriety consistent with a minimally adequate search of the female arrestee prior to transportation:

- Starting at the waist, search with a steady, even motion around the waist keeping contact with the waistband. Do not pat or rub when touching the arrestee.
- When searching the upper body, use only the blade edge of the hand keeping the palms of the hand up. With the blade of the hand, follow the top seam of the bra from armpit to armpit feeling for hard and weapon-shaped objects. Place the blade of the hand at the top of the bra seam just below the subject's neck and slide the blade of the hand to the bottom of the bra seam. With the palm of the hand facing down at the bottom of the bra line, follow the bra line from side to side.
- When searching the leg and ankle area, avoid skin-to-skin contact in sensitive areas. Search only from the knee downward toward the ankle using a continuous motion.
- The crotch area should be visually inspected with clothing intact. When the officer suspects a weapon is secreted in the crotch area and there is immediate danger, the weapon should be retrieved. A preferred method of retrieval is to handcuff the female and closely observe her until a female officer arrives to complete the search.

Female arrestees should not be handcuffed to male arrestees under other than emergency conditions.

With regard to juveniles, normally they should not be transported in the same area of a vehicle with, or detained in the same room with, an adult. Officers should limit the use of restraints on juveniles of a young age. However, the same restraint policies for adults may apply for juveniles over 16 years of age.

3. Transporting Gang Members. Gang activity that was once limited to the largest cities is now evident to an increasing degree in medium and small communities throughout the United States. The typical involvement of gang members in drug trafficking and drug use, and their well-known propensity for violence and revenge make them particular security concerns during transportation. Many gang members are well-versed in the removal of restraint devices and are extremely creative in secreting weapons.

For these and other reasons, law enforcement officers should take special precautions when initiating arrests and when transporting gang members. For example, when transporting known gang members, the *minimum*

restraints should be waist chains and handcuffs. In addition, officers should

- know who the rival gangs are and never transport rival gang members in the same vehicle;
- never leave rival gang members unguarded whether or not they are restrained; and
- check restraints often. If possible, do not open the door of a transporting vehicle to allow the prisoner to exit unless the restraints have at least been visually checked.

4. Hospital and Clinic Transportation. On occasion, law enforcement officers will be required to transport prisoners to medical facilities following arrest or during detention. Hospitals and clinics provide particularly fertile ground for escapes. Medical personnel frequently insist that they cannot properly treat a prisoner who is restrained but a transporting officer should not allow a prisoner to be treated unless proper security is available. When all restraints must be removed, more than one officer should be present.

Escorting officers should remain in the treatment room with violent prisoners at all times. The need for constant observation of a violence-prone prisoner was demonstrated in New York when a prisoner handcuffed to a bed ripped off a section of the aluminum bed frame to which the handcuff was attached.⁹ He then used the piece of metal to beat the escorting officer, who was standing outside the door to the room, and escaped with the officer's revolver.

Usually, if the prisoner's lower body is being treated, restraints can be applied to the arms. When the upper body is being treated, restraints can be applied to the lower extremities. Transporting officers should be particularly alert to the numerous objects in the treatment room that could be used as weapons or tools to compromise restraints. Upon leaving the examining room, it is a good practice to search prisoners.

Officers should be especially alert when transporting a prisoner with standing or walking problems. Prisoners placed in wheelchairs by medical personnel are not necessarily incapable of running and may be faking their injury. Unless a prisoner has an obvious deformity or debilitating illness that would prevent an escape attempt, the prisoner should wear restraints. This is advisable for prisoners in wheelchairs, in ambulances and on gurneys. Prisoners on crutches that are known escape risks are more difficult to secure. Leg chains may cause the prisoner to trip and fall if the injury is legitimate. A four-foot "leach" with a handcuff on one end gives the officer some control. If possible, two officers should escort escape-prone prisoners on crutches.

Applying restraints to sick and injured prisoners may seem heartless to those who are not aware of the number of escapes that occur from hospitals and clinics. The proper application of restraints should not produce discomfort for the prisoner. The only reason for not using restraints on a prisoner patient who would normally be restrained is when the restraint would interfere with the necessary medical procedures.

5. Transporting the Mentally Ill and/or Violent Prisoner. When the transportation officer knows the person he will be transporting has a mental illness, he should attempt to acquire some background information about him. The use of harsh restraint methods may be

unnecessary or even counterproductive when a mentally ill person has no history of violence or escape and is exhibiting no such tendencies. In addition to reviewing records, the transporting officer should consult the medical staff, if possible, to determine if the prisoner has other disabilities that could be aggravated by various restraints. In the field, officers can question family members and friends of the arrestee to learn something about the individual's disposition.

When determining the type of restraint to use, opt for the softest restraints possible that will provide the level of security deemed necessary. When available, soft restraints, such as leather straps, Velcro straps and body wraps are the most desirable types of equipment to use, especially when the arrestee has shown suicidal tendencies.

The same guidelines hold true for the transportation of violent arrestees and arrestees with drug-induced, bizarre or violent behavior. Soft and secure restraints are always the best choice if they are available and do not compromise the level of security necessary. The transporting officer must keep in mind that this type of prisoner is much more likely than the normal arrestee to receive injuries, both from the restraining devices and self-inflicted injuries. These types of arrestees should receive constant visual observation while being transported. Their mental state, level of strength, endurance and pain resistance provide the ingredients for unpredictable and potentially dangerous behavior.

When applying handcuffs or leg chains to the mentally ill or violent arrestee, particular care must be exercised. Such individuals often experience a significant increase in strength and a reduced sense of pain, especially when exhibiting drug-induced violence. They can cause serious injury to themselves while struggling against the restraints. The restraints should be inspected often by the transporting officer, not only for the prisoner's welfare but also to ensure that they are secure.

6. Communication. Communications provide a vital link in the security chain during the transportation of arrestees. The dispatcher should be advised of the time the transportation unit is departing the scene of an arrest, how many prisoners are in custody and the destination. When transporting female prisoners, in particular, the transporting officer should also give the dispatcher the starting and ending time and mileage. This information should be entered in a log by the dispatcher or recorded automatically on tape. Added security can be provided when the dispatcher or another officer is held responsible for tracking the transporting unit until the unit arrives at its destination.

Vehicles that are not equipped with a radio or mobile telephone should not be used to transport prisoners at any time.

D. Long Distance Transportation by Vehicle

Prisoner transportation over long distances by vehicle is frequently required to pick up arrestees on warrant, for extraditions and in response to court orders for incarcerated witnesses. The cardinal rule for long distance transportation, whether by air or vehicle, is *plan ahead*. Following are some rules that should be observed during such assignments:

- Know the history of the person to be transported. Does he have a history of violence or escape? Does

he have a medical condition that may require attention? How big is he? Does he speak English? What is his crime and criminal record? Have threats been made against him? Is there any indication that friends or associates may attempt a rescue while enroute?

- Develop a time schedule to include departure time, time and location of meal stops and overnight stops, if any.

- Contact the releasing agency as soon as possible prior to the trip. To avoid delays, tell them your estimated arrival date and time. Ask for a description of the paperwork they will require for the release of the prisoner. Request that they do not tell the prisoner he is being picked up.

- Ensure that the vehicle you will use is serviced and checked immediately prior to your departure to reduce the chance of a mechanical breakdown while enroute.

- Be knowledgeable of procedures in case of escape, accident or other emergencies. Obtain the telephone numbers of law enforcement agencies whose jurisdiction will be crossed during the trip. Identify the location of hospitals enroute.

- Arrange for overnight housing for the prisoner at a police or sheriff's department on extended trips, and determine if there will be any charge.

- Prepare and follow a trip itinerary with scheduled checkpoints. Any enroute changes in the itinerary should be communicated.

- Withhold information on the trip from all persons other than those having an official need to know.

Security of the prisoner while enroute should be uppermost in the transporting officer's mind at all times. Vehicles that are not equipped with a security screen and deactivated rear windows and doors should not be used for this type of transportation.

1. Communications. During long distance transportation, radios may not be usable because of the distance from the base station and radio frequency changes. With this in mind, agencies that routinely conduct such transportation operations may find it worthwhile to invest in a mobile telephone or install cellular telephones in one or more transporting vehicles. These are essential equipment from a safety and security standpoint, as they allow officers to maintain contact with their agencies and provide a means to summon assistance in case of mechanical difficulties or other problems. They are also useful in calling ahead to order meals or to make other arrangements and to maintain contact with the agency holding the prisoner.

2. Receiving the Prisoner. Prior to placing the prisoner in the vehicle for transportation, officers should perform several tasks, to include the following:

- Inform the prisoner what is expected of him during the trip. In so doing, assess the prisoner's feelings about the trip. Speak with those officers who have had recent contact with the prisoner to determine his attitude and whether hostility can be expected. This will have bearing on decisions about the types of restraints that should be used.

- For security purposes it is best to not allow the prisoner to make telephone calls prior to departure. Conduct a skin search of the prisoner to ensure that nothing has been hidden and change the clothing

of any prisoner considered to be an escape risk. The prisoner's personal property should be transported with, but not in the possession of, the prisoner. Once the prisoner has been searched and prepared for the trip, he should have no more contacts with other prisoners.

- Special care should be taken to ensure that restraints are applied correctly. Restraints that must be adjusted during the trip will require that the vehicle be stopped, thus adding to potential risks. During extended transportation, prisoners should not be handcuffed behind their backs. For more comfort and security, leg and waist chains should be used in combination with handcuffs and leg braces as necessary.

3. Meals. Stopping for meals can create hazardous situations if the officers and the prisoner must exit the vehicle. The prisoner may attract annoying curiosity and, conversely, may create an awkward situation for other diners. The potential embarrassment caused to the prisoner may also cause him to become unruly or recalcitrant. Dining within a restaurant also provides the prisoner with access to a variety of objects, such as silverware, that could be used as weapons or to compromise security. For these and other reasons, it is recommended that transporting officers use fast-food drive-through restaurants whenever possible.

If a walk-in facility must be used, it is preferable to dine at times when the restaurant is least busy. The prisoner should be informed that he should not speak with any other patrons and must follow instructions completely. Sit in a corner of the restaurant away from emergency exits and other doors and directly across the table from the prisoner. All extra silverware and place settings should be removed from the table and all condiments should be out of reach of the prisoner. If a second officer is available he should be seated at another table where he can observe the prisoner.

4. Overnight Accommodations. Overnight accommodations of prisoners should only be made in secure detention facilities. Advance notice should be given to agencies that are scheduled to house the prisoner and arrangements made to reimburse the jurisdiction if necessary. One should determine if the prisoner will be required to undergo the booking process. If so, this could be a time-consuming process in larger facilities and one that should be accommodated in the schedule.

If possible, arrangements should be made to have dinner and breakfast served to the prisoner while in the facility, thereby avoiding these stops while in transit. If meals cannot be served, one should obtain permission to bring these meals to the prisoner while in the facility.

5. Special Requests. Prior to transport, transporting officers should make it clear to prisoners that requests for unscheduled stops or favors will not be granted and that suggestions for trip routing, restroom stops or eating facilities are not necessary and will not be followed. Too often, such requests and suggestions are ploys to facilitate escape plans, many times made in advance with accomplices or relatives.

Public restrooms at gas stations and in restaurants in particular, have been the scene of many attempted and successful escapes. Prisoners should be reminded to use restroom facilities during normally scheduled stops. Should an unscheduled stop become necessary,

however, transporting officers should drive for a distance until they are confident that they are not being followed. Restraints should not be removed but they may have to be adjusted.

Prisoners should never be allowed to enter restrooms unescorted or to close a stall door in private. When two escorting officers are available, one should enter the restroom before the prisoner to ensure that objects are not available that could be used as weapons, that there is no one else in the restroom and that nothing has been purposely left behind for the prisoner by an associate. If the prisoner is unobserved for any length of time in this or other contexts, he should be searched before reentering the vehicle.

6. Escapes. The majority of all prisoner escapes during transportation can be accounted for by one of the following actions or inactions:

- Failure to maintain constant visual contact with a prisoner
- Failure of restraints and/or security in the transporting vehicle
- Failure to search or to *properly* search prisoners
- Prisoners who "slip" handcuffs
- Instances in which normal procedures must be modified and security measures are not adjusted accordingly

The majority of escapes are not aided by outside help and, unlike detention facility escapes, are rarely preplanned with any precision as to time and place. Normally escapes occur during periods of opportunity when normal procedures are unexpectedly interrupted or established procedures are not followed.

Following an escape, it is imperative that transporting officers transmit complete information to the communications center as soon as possible. This should include, at a minimum, a complete description of the fugitive, his mode and direction of travel, crime and propensity for violence, if known.

7. Prisoner Well-Being. In the field of prisoner transportation, there are few issues of greater interest for judicial oversight than the well-being of prisoners in custody. As the first link in the custody process, transporting officers must be aware of the well-being of their prisoners while also ensuring their security. Transportation following arrest can be a particularly traumatic time for an arrested individual. The arrestee may have been involved in a physical altercation with the arresting officer or others and is typically in an emotionally charged, if not volatile, state of mind. Under such circumstances, prisoners are capable of irrational and sometimes bizarre behavior, particularly where drugs or alcohol are involved. Given the fact that some may be facing periods of incarceration, a sense of desperation may also fuel prisoner anxieties.

Under these circumstances, prisoners may not be fully aware of injuries or the degree to which they have strained their physical limitations and taxed their physical capacities. These factors may set the stage for immediate or later physical reactions such as heart attacks or strokes and may provide the impetus for suicide when incarcerated. In the first instance, transporting officers should be aware of physical reactions by keeping close watch over prisoners following arrest and during transportation. Any obvious physical injuries should be treated as soon as possible

rather than waiting for such a determination to be made at booking. All prisoner complaints of serious injury or physical problems should be taken seriously and medical aid summoned immediately.

Officers should also be aware of a phenomena referred to as "sudden death syndrome." The term is used to describe unexpected and unexplainable death of an individual shortly after being taken into custody. Such deaths are not common but occur with sufficient frequency that officers should be aware of the potentiality. In many cases they are associated with persons who have consumed substantial quantities of illegal drugs or alcohol. The unexplained cause of these deaths has, on numerous occasions, placed arresting and transporting officers in extremely awkward situations as well as legal entanglements by casting suspicion on the manner in which they handled the prisoner. While not all cases of sudden death may be avoided, an alert officer may identify when an arrestee is having trouble breathing or is unresponsive, for example, and take immediate steps to render assistance. Failure to maintain awareness of an arrestee's condition during transport in these situations will normally weigh heavily in any potential investigation of negligence or liability.

From the emotional perspective, transporting officers are in a particularly opportune position to identify potential suicide risks. The single best indicator of potential suicide is depression. Between 70 and 80 percent of all custodial suicides are committed by persons who are severely and obviously depressed. In many cases this depression is exacerbated by excessive consumption of alcohol or drugs. Transporting officers should be aware of and report to booking officers any unusual signs of depression such as the arrestee's expressed feelings of hopelessness and extreme anxiety, profound sadness, crying, excessive self-blame and inordinate expression of guilt and shame.¹⁰

E. Prisoner Transportation on Commercial Aircraft

Commercial airlines are the most effective means for transporting one or two prisoners over a long distance. Airline flights can be made in a single day, eliminating many problems such as enroute meals and overnight housing.

The Federal Aviation Administration (FAA) regulates prisoner transportation on commercial aircraft in two areas: the carrying of firearms and the security of the prisoner. Individual airline companies may add regulations in addition to the FAA requirements or refuse to transport prisoners altogether. Most airline companies will accept prisoners as passengers when they are transported in accordance with all regulations.

Airline regulations only apply to the escorting officer and prisoner in their relationship to the particular airline and flight they are using. However, other areas pertaining to security should be considered by the transporting officers. For example, officers should book direct flights whenever possible and prearrange ground transportation at both ends of the flight. When there is a lengthy delay while changing flights at a connecting airport, one should determine in advance if there is a lockup at the airport or nearby that can be used for the prisoner. This not only provides better security for the prisoner, it gives the escorting officer a chance to relax. One should be as inconspicuous as possible while

in public areas of the airport terminal and discourage anyone attempting to approach the prisoner.

Locking leg braces are recommended as an effective restraint for use during air transportation. They are not visible to the public and effectively hobble the prisoner. Handcuffs are also easily concealed and should be used in most cases. If not used, the transporting officer should always carry handcuffs and should consider carrying restraining straps and leg chains for use if the prisoner becomes uncooperative or violent while in transit.

FAA regulations require the transportation officer to present credentials to the airline. Badges alone are not acceptable but most law enforcement identification cards contain the required identifying information. To avoid any misunderstanding or delay, it is recommended that the transporting officer also provide a letter on the department's letterhead to the airline specifying the circumstances of the trip and the need to be armed during the flight. The letter should be signed by a supervisory official of the transporting officer's agency.

Complete FAA requirements for carrying weapons and transporting prisoners on commercial airlines are contained in the appendix. A brief summary is as follows:

1. Carrying Weapons on Commercial Aircraft. In order to carry a weapon on a commercial aircraft, the law enforcement officer must

- be an employee of the United States, a state or municipality;
- be authorized to carry the weapon by his employer;
- demonstrate a need to carry the weapon;
- notify the carrier at least one hour in advance of the flight on which the officer will be carrying the weapon;
- present credentials to the carrier; and
- be familiar with the airline's procedures for carrying a weapon.

The airline will ensure that each armed person on the airplane knows the location of any other armed passenger and that the pilot and appropriate crew members are notified that the transporting officer is armed.

When transporting a firearm in checked baggage, the transporting officer must ensure that it is unloaded and certify to the airline that an unloaded firearm is in the baggage. The airline may require, however, that the checked weapon be transported in a special airline container.

2. Transporting Prisoners on Commercial Aircraft. When transporting a prisoner on a commercial aircraft, the law enforcement officer must

- notify the airline of the identity of the prisoner at least one hour in advance of the flight;
- notify the airline as to whether or not the prisoner is considered to be in a maximum risk category. If so, two escorts are required. Only one maximum risk prisoner can be transported on one airplane. One armed officer can escort up to two prisoners when both prisoners are not in the maximum risk category;
- Ensure the airline that the officer is equipped with adequate restraining devices, that the prisoner has been searched and that he has no dangerous articles or weapons on or about his person; and
- accompany the prisoner and keep him under surveillance at all times.

The transporting officer and prisoner will

- board the airplane before other passengers when departing a flight from an originating airport;
- deplane after all other passengers have deplaned;
- sit in the rear-most passenger seat when possible (the seats cannot be in the lounge area or next to an exit); and
- sit with the officer between the prisoner and the aisle. When possible, officers should select flights using aircraft that provide two seats together with an aisle separation, such as a DC-10. It is highly preferable not to sit directly next to other passengers. The airline will not

- serve food, beverages or utensils to the prisoner without the escorting officer's permission; or
- serve alcoholic beverages to the officer or prisoner.

In summary, the airline will have the final prerogative of accepting or denying boarding of the transporting officer and the prisoner. On occasion, chartered aircraft or the use of an air prisoner transportation vendor may be necessary to expedite the transfer of a prisoner.

Endnotes

¹Peerless Handcuff Co., 95 Street, Springfield, Maine 01103.

²*Chicago Tribune*, April 17, 1989, C, 3:6.

³"Dallas Police Get Positive Results from Leg Safety Belts for Transporting Prisoners," *Corrections Digest*, December 3, 1986, p. 6.

⁴Mr. America Mfg., Inc., P.O. Box 587, Oltewah, Tennessee 03763.

⁵TBR of Rochester, Inc., 2604 Elmwood Ave., Suite 337, Rochester, New York 14618.

⁶Humane Restraint Co., Inc., P.O. Box 16, Madison, Wisconsin 53701.

⁷*Houston Post*, June 20, 1988, A, 7:1.

⁸F. Morton Pitt Co., 1444 San Gabriel Blvd., San Gabriel, California 91776.

⁹*New York Times*, March 8, 1988, II, 2:1.

¹⁰"Identifying the Suicide Risk in Police Lock-ups," *Training Key* #377, International Association of Chiefs of Police, 1110 N. Glebe Rd., Suite 200, Arlington, Virginia 22201, November 1988.

Acknowledgement

This paper was prepared by Captain Jerry West, Los Angeles County Sheriff's Department, (Ret.)

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Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this model policy incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no "model" policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies, and the impact of varied agency resource capabilities among other factors.

TRANSPORTATION OF PRISONERS

Model Policy

Effective Date May 1, 1990		Number
Subject. Transportation of Prisoners		
Reference		Special Instructions
Distribution	Reevaluation Date April 30, 1991	No. Pages 2

I. PURPOSE

The purpose of this policy is to provide guidelines on the transportation of all persons in custody of a law enforcement officer.

II. POLICY

It shall be the policy of this law enforcement agency to take the precautions necessary while transporting prisoners to protect the lives and safety of the officers, public, and the person in custody.

III. PROCEDURES

A. Vehicle Inspection

1. At the beginning and end of each tour of duty, all vehicles regularly used for prisoner transport shall be inspected for readiness as follows:
 - a. The safety screen shall be securely in place and undamaged;
 - b. All windows shall be intact, and outer door latches in proper working order;
 - c. Rear seat door handles and window controls should be deactivated; and
 - d. The interior shall be thoroughly searched to ensure that no weapons or contraband have been left or hidden within the vehicle.
2. Prior to placing a prisoner in the vehicle for transport, the transporting officer shall again inspect the interior for weapons or contraband. The vehicle shall be searched again after the prisoner has been delivered to the detention facility or other destination.

B. Handcuffing

1. Officers shall handcuff (double locked) all prisoners with their hands behind their back and palms facing outward.
2. The officer may handcuff the prisoner with his/her hands in front, or utilize other appropriate restraining devices where the prisoner:
 - a. Is in an obvious state of pregnancy;
 - b. Has a physical handicap; or
 - c. Has injuries that could be aggravated by standard handcuffing procedures.
3. Prisoners shall not be handcuffed to any part of the vehicle during transport.
4. Additional approved restraint devices may be used to secure a prisoner who violently resists

arrest or who manifests mental disorders such that he poses a threat to himself or to the public.

C. Transport

1. Prior to transport, all prisoners shall be thoroughly searched for any weapons or tools of escape.
 - a. If practical, the protective search should be conducted by an officer of the same sex as the prisoner; and
 - b. The transporting officer should search the prisoner, unless a search was conducted in his presence.
2. When transporting prisoners, the officer shall provide the communication's center with the following information when possible:
 - a. Identity of the prisoner;
 - b. Arrest location and destination of transport; and
 - c. Time and mileage readings before and after transport.
3. The officer should use care when assisting a prisoner into the vehicle for transport.
4. Prisoners shall be transported in the following manner:
 - a. Where the vehicle has a security screen, but only one transporting officer, the prisoner shall be placed in the back seat on the right hand side of the vehicle. When the vehicle is not equipped with a security screen and has only one transporting officer, the prisoner shall be placed in the right front seat.
 - b. When a prisoner is being transported in a two-officer vehicle without a security screen, the prisoner shall be placed in the right rear seat. The second officer shall sit in the left rear seat behind the driver.
 - c. Leg restraints shall be used when an officer believes the prisoner has a potential for violent behavior.
 - d. One transporting officer should not attempt to transport more than one prisoner in a vehicle without a security barrier, but should request transport assistance.
 - e. All prisoners shall be secured in the vehicle by proper use of a seatbelt.

5. Any wheelchairs, crutches, prosthetic devices, and medication should be transported with, but not in the possession of, the prisoner.
6. Prisoners shall not be left unattended during transport. Any escape shall be immediately reported to the communications center.

BY ORDER OF

CHIEF OF POLICE

The IACP Model Policy on Transportation of Prisoners was developed under the auspices of the Advisory Board to the IACP/BJA National Law Enforcement Policy Center. It is intended to serve as a guide for the law enforcement executive who is interested in formulating a written procedure to prevent and resolve potential prisoner transportation problems. The law enforcement executive is advised to refer to all federal, state, and municipal statutes, ordinances, regulations, and judicial and administrative decisions to ensure that the policy he seeks to implement meets the unique needs of the jurisdiction.

COURT SECURITY AND THE TRANSPORTATION OF PRISONERS: A NATIONAL STUDY



DUPAGE COUNTY SHERIFF'S DEPARTMENT Wheaton, Illinois

♦ Court Security/Policy &
Procedures, 01/01/95

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GENERAL ORDER NUMBER: **CTS 8-73**

EFFECTIVE DATE: **01/01/95**

REFERENCES: **CALEA 73.1.1**

CHAPTER: **Court Security**

SUBJECT: **Court Security Manual**

I. POLICY:

To protect the integrity of the court procedures. To sustain the rights of individuals before the court. To deter those who would take violent action against the court or its participants and to maintain the decorum of the court.

II. PURPOSE:

To establish a manual to assist and direct Court Security Deputies in the performance of their duties. To provide, in a professional manner, a safe and orderly environment to the Eighteenth Judicial Circuit. To serve as a security plan for the protection of the courthouse and courtrooms.

A copy of this manual shall be issued to all Court Security Deputies at the effective date of the manual or at the time of their appointment to the department. Court Security Deputies shall be responsible for replacing revisions as they are issued.

III. DEFINITIONS:

None.

IV. COURT SECURITY MANUAL:

The information, procedures and guidelines outlined in this manual shall serve to advise, guide and regulate the performance of Court Security Deputies assigned to the duties and responsibilities associated with the various positions within the task of Court Security for the DuPage County Sheriff's Department as adopted by the Sheriff.

GON: CTS 8-73

CHAPTER: Court Security

SUBJECT: Court Security Manual

The departmental written directives contained in this manual (CTS) are issued to all members assigned to the function of Court Security and such members shall **KEEP THIS MANUAL IMMEDIATELY AVAILABLE.**

A. PERSONAL CONDUCT:

The Sheriff is mandated by law to either attend all Court sessions or appoint a Deputy in his stead. Court Security Deputies shall fulfill this obligation in a professional and efficient manner. The DuPage County Sheriff's Manual sections on Policy and Regulations shall serve to be the standard of conduct for all Court Security Deputies.

B. PERSONNEL ALLOCATION:

The allocation of personnel to specific assignments is made with the aim of establishing the highest degree of effectiveness within the Department. Individual preference will be considered only to the extent they do not diminish effectiveness.

GENERAL ORDER NUMBER: **CTS 8-73.1**

EFFECTIVE DATE: **01/01/95**

REFERENCES: **CALEA 73.1.1**

CHAPTER: **Court Security**

SUBJECT: **Job Descriptions And Position Responsibilities**

I. POLICY:

To maintain a clear delineation of duties performed by Court Security Deputies.

Court Security Deputies assigned to courtrooms, assume the duties and responsibilities of that position. The position requires individuals capable of taking decisive actions.

II. PURPOSE:

To outline the job duties, responsibilities and tasks, of a Court Security Deputy assigned to various positions in a Court Facility.

III. DEFINITIONS:

Secured Area: That area in the building that is used for the specific purpose of containing inmates; the staging area, private corridor on floor 3.5, holding cells, landing, and the sally port.

IV. DESCRIPTIONS AND RESPONSIBILITIES:

A. CHIEF OF COURT SECURITY:

Under the general direction of the Bureau Chief, Administration Bureau. The Chief of Court Security supervises the activities of Court Security Deputies assigned to courtrooms in preparing said courtrooms for trial, as well as Court Security Deputies assigned to Building Security in the maintenance of order within a Court Facility.

The Chief of Court Security assures that the security and custody of prisoners and jurors are maintained.

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The position of Chief of Court Security, requires technical knowledge of Courtroom procedures.

The Chief of Court Security schedules, directs, reviews and evaluates the work of subordinates.

Observes job performance, provides in-service training.

Supervises the activities of Court Security Deputies assigned to Courtrooms, Facility Security, Prisoner Escort, Master Control Center and the Training Office.

Directs and participates in the transportation of prisoners and defendants within Court Facilities.

Makes arrests.

Supervises and participates in the physical security of the Judicial Office Facility.

Acts to prevent incidents that may cause injury to an individual, disruption of the Court proceedings or disturbances in the Judicial Office Facility.

Supervises and participates in the security of juries, arranges meals, lodging and transportation.

Ensures the isolation of the jurors by preventing tampering and/or intimidation.

Supervises and acts in emergency situations such as fires or bomb threats.

Provides basic first aid when needed.

Directs the opening and closing of courtrooms.

Directs the preparation of Court Security forms and related materials.

Immediately advises the Administrative Bureau Chief of ALL major incidents occurring in Court Facilities.

Acts as Court Liaison between the Eighteenth Judicial Circuit Courts and the Sheriff.

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B. SUPERVISOR:

Is directly responsible to the Chief of Court Security.

Functions in place of Chief of Court Security, when necessary.

Assigns personnel to posts within his/her respective area of responsibility.

Will receive one "S.D.O." (supervisory day off) each month to compensate for additional supervisory responsibilities. S.D.O.'s cannot be accumulated and must be taken within the month earned. These days shall not be construed to be personal days or taken from the sick time bank. Use of this time shall be at the mutual agreement of the supervisor and the Chief of Court Security.

Schedules, directs, reviews and evaluates work of subordinates.

Responsible for ensuring a properly trained staff, by coordinating in-service training with the Chief of Court Security and the Training Coordinator.

Supervises the Unit Coordinators.

Completes the 10-41 sheets.

Meets with Court Security Deputies to discuss specific problems/concerns regarding Court business.

Assists with, and/or writes incident reports for that day and follows up on previously written reports. Submits same to the Chief of Court Security.

Coordinates the Rapid Action Team when the need occurs.

Passes on information to Court Personnel on a need to know basis.

May respond to medical emergencies.

May respond to duress alarms within the building.

Assists in emergencies.

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Must respond to deaths, criminal activities, any life threatening situation or upon request of any Deputy.

Assists in courtrooms when needed.

Makes arrests.

Supervises and participates in the physical security of the Judicial Office Facility.

Acts to prevent incidents that may cause injury to an individual or disruption of the Judicial Office Facility.

Supervises and participates in emergency situations such as fires or bomb threats.

Provides basic first aid when needed.

Directs the preparation of Court Security forms and related materials.

Carry out all lawful orders issued by the Sheriff, Administrative Bureau Chief or the Chief of Court Security.

C. UNIT COORDINATORS; COURTS:

Directly responsible to the Court Supervisor.

This is a working post. Unit Coordinators shall have regular courtroom assignments in the Civil, Criminal, and Domestic Relations Courts respectively.

The order of succession in the absence of the Court Supervisor is as follows:
Criminal U.C., Domestic Relations U.C., Civil U.C.

The duties of Unit Coordinator include, but are not limited to;

Preserving the integrity and peaceful use of the Judicial Office Facility by:

1. Monitoring the public and private corridors, stairs, elevators and escalators.

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2. Monitoring all the Courtrooms on their floor, to ensure all active Courtrooms have a Courtroom Deputy present.

Assisting the Court Supervisor with his daily duties when needed.

Monitoring vacation schedules, scheduled time off and sick days of Courtroom Deputies and Judges to ensure there is personnel to meet the needs of the Court.

Being aware of any visiting Judges scheduled to work on their floor and provide assistance as needed.

Taking 10-24's and advising the Court Supervisor of available Courtroom Deputies to fill in areas where there is a need.

Assisting with any problems that may occur within the Judicial Office Facility.

Monitoring all radio traffic.

Responding to all emergencies when needed.

Assisting Prisoner Escort Deputies transporting prisoners.

Replacing Court Security Deputies in Courtrooms as needed.

Knowing the functions and duties of their division to ensure that courts operates efficiently.

In the event of an incident where a report needs to be written, assist the courtroom deputy on the scene with writing the report, and following up on same.

Responding to duress alarms when requested to do so.

Making arrests.

Assisting judges and staff in all court related functions.

Reporting maintenance problems (on paper) to the Chief Of Court Security unless it is an emergency. In the event of an emergency it shall be reported directly to BASE.

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Assisting in obtaining supplies, including batteries for radios, and video equipment for courtrooms.

Will receive one "U.C.D.O." (Unit Coordinator Day Off), each quarter to compensate for additional responsibilities. U.C.D.O.'s cannot be accumulated and must be taken within the quarter earned.

These days shall not be construed to be personal days or taken from the sick time bank. Use of this time shall be at the mutual agreement between the Coordinator and his/her Supervisor.

D. UNIT COORDINATOR; MASTER CONTROL AND PRISONER ESCORT:

Is directly responsible to the Supervisor of Building Security.

These duties include, but are not limited to;

Overseeing the operation of Prisoner Escort and Master Control.

This is a working position in the Prisoner Escort/Master Control area.

Schedules lunches, breaks, and shifts.

Assigning Court Security Deputies to posts throughout the Prisoner Escort/Master Control area.

Meeting with Court Security Deputies to discuss specific problems/concerns regarding Court business.

Assisting with, and/or writing incident reports for that day and follow up on previously written reports. Submitting same to the Chief of Court Security.

Passing on verbal information to Court Security Personnel on a need to know basis.

Responding to medical emergencies.

Observing work performance and providing in-service training.

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Makes arrests.

Supervises and participates in the physical security of the Courthouse.

Will receive one "U.C.D.O." (Unit Coordinator Day Off) each quarter to compensate for additional responsibilities. U.C.D.O.'s cannot be accumulated and must be taken within the quarter earned. These days shall not be construed to be personal days, or taken from the sick time bank. Use of this time shall be at the mutual agreement between the Coordinator and his/her Supervisor.

Maintaining the Detex Recorder Records.

Oversees the cleaning of the holding areas, secured corridor, security elevator and the sally port.

E. UNIT COORDINATOR; ENTRANCE SECURITY:

Directly responsible to the Supervisor of Building Security.

Is responsible for the population circulation patterns.

Schedules lunches, breaks and shifts.

Assigns Court Security Deputies to posts throughout the building.

Meets with Court Security Deputies to discuss specific problems/concerns regarding Court business.

Assists and/or writes incident reports for that day and follows up on previously written reports. Submits same to the Patrol Watch Commander, Bureau Chief and Chief of Court Security.

Assists the Supervisor of Building Security when needed.

Makes sure there is proper personnel to fill the schedule.

Passes on verbal information to Court Security Personnel on a need to know basis.

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Responsible to act in the capacity of the Supervisor of Building Security in his/her absence.

Responsible for the posting of all armed security within the Courthouse.

Responsible for responding to all Courthouse emergencies.

Responsible for ensuring the readiness of the Rapid Action Team.

Responsible to ensure proper preparation and response to any unusual incidents, i.e., Bomb Threat, Hostage, Evacuations etc.

Responsible to the Building Security Supervisor and shall assist him/her as needed.

Will receive one "U.C.D.O." (Unit Coordinator Day Off) each quarter to compensate for additional responsibilities. U.C.D.O.'s cannot be accumulated and must be taken within the quarter earned. These days shall not be construed to be personal days, or taken from the sick time bank. Use of this time shall be at the mutual agreement between the Coordinator and his/her supervisor.

F. COURTROOM DEPUTY:

Under the direct supervision of the Court Security Supervisor. A Court Security Deputy assigned to a courtroom shall:

Perform specialized responsibilities, if required.

Maintain order and decorum in a courtroom. The Court Security Deputy shall sit or stand in a position that will enable the deputy to monitor ALL persons, including court staff, that are in the courtroom.

Not be armed while assigned to work in a courtroom unless directed to by Supervisor or the Chief of Court Security.

Carry out all lawful orders issued by the Sheriff, Administrative Bureau Chief, Chief of Court Security, Supervisor or Judge.

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Prepare courtrooms for sessions.

Open and close Court.

The Court Security Deputies assigned to courtrooms shall arrive each day thirty minutes before the opening of Court. The courtroom and chambers, all anterooms and related conference rooms, shall be inspected at the beginning of each day to determine if communications equipment, locks, lighting, heating, plumbing, air conditioning and other mechanical equipment are operational. In the event defects are discovered follow the maintenance request procedures. In the event of an emergency contact BASE directly via the radio.

This will avoid the problem of too many people contacting maintenance regarding the same problem. In the event the problem is an emergency, contact BASE, via the radio. BASE shall then contact the maintenance supervisor or his designee.

The entire courtroom area including conference rooms, closets, hallways, chambers, holding cells, jury rooms and lavatories shall be inspected for contraband and other suspicious or potentially harmful objects. Upon location of any such item, the Court Security Deputy assigned to the courtroom shall not remove the object but shall immediately notify the Chief of Court Security or his designee.

If the object is a suspected explosive device, the Court Security Deputy shall NOT USE THE RADIO. For more details on Courtroom searches, see CTS 8-73.11.

The Court Security Deputy shall introduce himself/herself to the Judge and the Clerk of the Court. The Judge will advise the Court Security Deputy if the opening of Court varies from the usual opening.

The Court Security Deputy shall thoroughly familiarize himself/herself with the duties of which he/she is expected to perform in order to eliminate the need for further briefing from the Judge. If requested by the Judge, the Court Security Deputy shall provide a water pitcher and paper cups on the bench.

Except where a Court Security Deputy is presently assigned to a Courtroom, the deputy shall advise the Judge upon the Judges arrival that he/she is assigned to the Courtroom and inquire as to specific instructions.

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In the event the Judge is holding pre-trial conferences, the Court Security Deputy shall be in a position to observe both the Courtroom and the private corridor, if at all possible.

The Courtroom shall be opened to the public fifteen minutes prior to the time Court is due to commence. At least one Court Security Deputy shall remain in the Courtroom continuously thereafter.

As persons enter the Courtroom the Court Security Deputy shall ensure no food or beverage is brought into the Courtroom.

Monitoring those entering for signs of intoxication.

Ensuring that the tone of voice and demeanor of those entering is not loud or boisterous.

Monitoring those entering to identify persons who may need assistance, either informational or physical.

Advising the Judge of the existence of any fact which may interfere with the proper functioning of the Court, including the identity of persons who may be intoxicated or unruly.

When the Clerk, Court Reporter, and attorneys are ready to proceed, inform the Judge. The Court Security Deputy shall advise the Judge of any problems, or other unusual situations which have occurred within or immediately outside of the Courtroom.

Prior to opening Court, the Court Security Deputy shall request those persons present to be seated and inform them that there is to be no talking while Court is in session.

If a large group of spectators has gathered before the Court convenes, the Court Security Deputy shall caution them as to their expected conduct while Court is in session.

At the hour of the morning session when the Court is set to convene, the Court Security Deputy shall be alert for the presence of the Judge.

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Upon the Judges appearance, the Court Security Deputy shall open Court with the following recitation or one requested by the Judge.

"ALL RISE, THIS COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT IS NOW IN SESSION. THE HONORABLE _____ PRESIDING; PLEASE BE SEATED AND COME TO ORDER."

When the Judge announces a recess, the Court Security Deputy shall repeat, as necessary, the announcement by stating that Court is in recess. Any time set by the Judge shall be incorporated into the announcement. **"Court is in recess for — minutes" or "Court is in recess until —"**)

After a recess, including the noon recess, the Court Security Deputy shall make the following announcement upon entry of the Judge;

"REMAIN SEATED AND COME TO ORDER; COURT IS AGAIN IN SESSION."

When the Judge has completed his/her Court call or otherwise leaves the bench for the day, the Court Security Deputy shall make the following announcement, as necessary; **"THIS CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT IS NOW ADJOURNED."**

When Court business has been completed, the Court Security Deputy shall examine all areas of the Court. These areas include, but are not limited to; hallways, stairs, lavatories, conference rooms, chambers and jury rooms.

After a complete inspection, the Courtroom shall be secured.

Prior to leaving, the Court Security Deputy shall check with the Judge to see if he/she is needed for anything further, then **promptly** report to their Unit Coordinator, via radio or in person, their status.

Court Security Deputies shall ensure the maintenance of order while Court is in session.

During the time Court is in session, the Court Security Deputy shall be positioned

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to be able to observe the actions of those in the Courtroom and where the Judge can catch his/her eyes if need be.

The Court Security Deputy shall be alert to anticipate the needs of the Court, such as placing a blackboard in position when testimony indicates a need for this.

Remain in the Courtroom at all times while Court is in session, or when the Courtroom is unlocked, unless otherwise directed by the Judge.

Court Security Deputies shall be responsible for only those forms pertinent to the function of the Court such as COURT SECURITY SHEETS or forms with the SO # designation.

Ensuring that everyone is quiet while Court is in session. Talking or reading by the public is prohibited. Conversations between attorneys and/or clients shall be permitted only to the extent that Court proceedings are not distracted or disrupted.

In the event a visitor appears to see the Judge, inquire of the name of the visitor and nature of the visit. Report this information to the Judge and await further instruction. The Judge will instruct as to whether he will see the visitor in chambers, in the Courtroom or give you specific instructions to relay to the visitor. The Judge may not wish to see the visitor at all.

If a school group or a group from another organization enters the Courtroom to observe, the Court Security Deputy shall assist in seating them and advise the Judge of the name of the group and the name of the person(s) in charge of the group.

The Court Security Deputy shall be aware of all minor children present in the Courtroom and guard against the possibility of them hearing any obscene testimony. Situations of this sort can usually be anticipated through the content of opening remarks made by the attorneys. Minor children may be asked to leave the Courtroom with the approval of the Judge. A good example for this would be cases where pornographic videos, as evidence, will be viewed by the jury.

If a disruption occurs within the Courtroom, the Court Security Deputy shall take immediate action to control the situation. The Courtroom Deputy shall utilize the radio to contact the Rapid Action Team for assistance or an emergency. The Court Security Deputy shall activate the duress alarm in the event of an actual emergency.

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Whenever it is necessary to contact counsel for the purpose of securing attendance during jury deliberations, for the return of a verdict or any other instance when a hearing has been recessed, the Court Security Deputy shall obtain, in advance, telephone numbers and/or locations where counsel can be reached.

The Court Security Deputy shall be responsible for obtaining and monitoring necessary equipment and supplies for the Courtroom, chambers and jury room. These items include but are not limited to; necessary forms (not court orders), stationary for the Judge, easels for the Courtroom and coffee for the jury room.

In the event other equipment and supplies are required, the Court Security Deputy shall request and obtain the same from the Office of Court Administrator.

In the event that any equipment within the Courtroom, Judge's chambers or the jury room does not function properly, the Court Security Deputy shall notify the proper authority. This shall also be noted on the Courtroom Inspection Form.

No video or audio equipment of any kind shall be allowed to be turned on in a Courtroom without the express approval of the Judge. Such equipment includes but is not limited to: still cameras, video cameras, and tape or cassette recording devices. **NO PORTABLE PHONES SHALL BE USED IN THE COURTROOM.** Personal pagers may be used in the vibrating or silent position.

In the event a Court Security Deputy discovers an individual entering a Courtroom with a transmitting or recording device, other than a phone, the Court Security Deputy shall ask the individual to remove it from the Courtroom. The Court Security Deputy shall notify the Judge of the occurrence as soon as possible.

In the event a Court Security Deputy discovers the presence of any transmitting or recording device in the hallways or anterooms, the Court Security Deputy shall secure the device and notify the Judge and Chief of Court Security. **REFER TO ADMINISTRATIVE ORDERS REGARDING PHOTOGRAPHIC/RECORDING DEVICES IN THE COURTHOUSE.**

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Take proper action regarding jurors, witnesses, trial participants and evidence as required.

RESERVING VIDEO EQUIPMENT:

Reservations for the video equipment **MUST** be made through the lead secretary in the criminal division (4th. floor), domestic relations division (3rd. floor) and law/chancery division (2nd. floor). As The equipment is on a first come first served basis, reservations should be made as much in advance as possible. Advise the lead secretary what equipment is needed; the date, time and Courtroom # it is needed for and how long approximately it will be in use. The Court Security Deputy is responsible for return of the equipment to the proper storage area.

The equipment is maintained in;

Chambers No. 251, second floor

Chambers No. 381, third floor

Conference Room No. 468, fourth floor

There is also a VCR. and TV. available from the Chief Judges Office.

OBTAINING JURORS:

Seat all prospective jurors in the spectator seats of the Courtroom, keeping the prospective jurors separate from those in the gallery. The Court Security Deputy shall give the appropriate copies of the juror profile to the clerk and attorneys.

Advise the Judge that the jurors, clerk and attorneys are present.

When the Judge enters the Courtroom, the Court Security Deputy shall announce: **All rise, this Court of the Eighteenth Judicial Circuit is now in session. The Honorable ——— - ——— presiding. Jurors remain standing, all others please be seated.**

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The clerk will administer the oath to the jurors and instruct the jurors to be seated.

IMPANELING JURORS:

After the jurors are sworn and the Judge makes a brief statement to the group of jurors as a whole, the clerk will call a certain number, usually twelve, of the prospective jurors to be seated in the jury box. As the clerk reads the juror numbers, the Court Security Deputy shall be stationed between the spectator seats and the jury box. The Court Security Deputy shall direct the prospective jurors to the appropriate seats.

As each Judge may seat the jurors differently, ask the Judge how he/she wants the prospective jurors seated before the start of a jury trial.

Once the jury has been selected and sworn, the remaining prospective jurors shall be dismissed and instructed to return to the jury assembly room. The remaining juror profiles shall be put into one envelope and sent back to the Jury Commission with one of the returning prospective jurors.

The Court Security Deputy shall receive from the Clerk the profiles of impaneled jurors. The Court Security Deputy shall retain these profiles in order to record the juror's daily attendance. These profiles shall be returned to the Jury Supervisor at the conclusion of the trial. It is customary to orally report the verdict to the Jury Supervisor at this time.

JURY MANAGEMENT DURING A TRIAL:

One of the most important duties of a Court Security Deputy is the security of the jury. The term security used here is not so much of a physical nature, but meant as protection against any contamination of the jurors. The jurors shall be protected against overhearing or accidentally seeing anything pertinent to the trial that may not be properly brought before the Court. The jurors shall be protected against anything which may bias the juror(s) opinion. Breach of this security may result in a mistrial. The Court Security Deputy shall be aware of this and use all means to prevent its occurrence. If an incident occurs, the Court Security Deputy shall immediately notify the Judge.

The Court Security Deputy shall provide the jurors with note pads and pencils when directed by the Judge to do so. These supplies are provided by the Court

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When discharged for the day, jurors shall be instructed where and when to report for duty the following day.

The Court Security Deputy shall be responsible for noting the daily attendance of each juror on his/her juror profile.

Jurors shall be advised that once they report to the jury room they may not wander through the private hallway or staff offices.

The Court Security Deputy shall be aware of the exhibits offered and accepted as evidence. When exhibits are passed to a jury for inspection, the Court Security Deputy shall remain to retrieve them when the inspection is completed.

When the Judge begins to read the instructions to the jury, the public entrance shall be locked when so ordered by the Judge.

After the instructions have been read, the Judge will ask the Clerk to swear the Court Security Deputies. The Deputies shall approach the bench, raise their right hands and be sworn.

After being sworn, the Court Security Deputy shall obtain the original set of instructions from the Judge, then take the jury and instructions to the jury deliberation room.

After securing the jury and instructions in the jury room by locking the door, ask the Judge which, if any, exhibits shall be delivered to the jurors. Deliver such exhibits and make sure no juror has left any personal items (including notes) in the jury box.

When a witness is called to testify, the Court Security Deputy shall direct him/her to come forward and indicate the location for him/her to stand and be sworn.

When witnesses are excluded from listening to the on going trial, the Court Security Deputy shall direct them to wait in a specific location until they are called to testify.

The Court Security Deputy shall ensure that no person testifying is chewing gum or chewing tobacco.

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Administrator's Office.

Upon termination of the trial by way of verdict, mistrial, plea or dismissal, the Court Security Deputy shall take all notes and DESTROY them.

During meals and while deliberating, the jury must be kept together. The Court Security Deputy shall accompany any juror who needs to leave the company of the other jurors for any reason.

No one shall be permitted to discuss the case or the juror's service with the jurors during meals or at any time while the trial is in progress.

While eating outside of the jury room, the Court Security Deputies tending the jury shall sit at a separate table from the jury, but close enough to see and hear the jurors.

When all the jurors have finished their meal they shall be returned directly to the jury deliberation room.

The Court Security Deputy shall note the amounts paid for each meal. All meal receipts **must be itemized with prices**. The meal receipt and a DuPage County white claim form #90 shall be delivered to the Jury Supervisor for processing.

The case number, Trial Judge's name and the Court Security Deputy's name shall be included in the preparation of the form.

No tax shall be included on any meal expenditure.

No alcoholic beverages may be ordered or consumed. See food and beverage memo.

During a Court recess the jurors shall be escorted to the jury deliberation room with the door to that room kept closed.

When returning the jury back to the Courtroom after a recess, it is necessary that the jurors return to the same seats unless otherwise directed by the Judge.

Jurors may not remain in the jury room over the lunch break. The jurors may return to the jury assembly area.

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Immediately prior to escorting the jurors to the jury room, the Court Security Deputy shall examine the room to ensure that no extraneous material such as law books, Court files or newspapers are located therein.

Upon arrival to the jury room, the jurors shall be advised that if they have a question, the fore person should put it in writing, date and sign it and then press the WALL BUTTON to get the attention of the Court Security Deputy.

The jury shall be instructed that they are not to mark any of the evidence or any of the questions as the questions also become part of the case. The Court Security Deputy shall instruct the fore person to press the WALL BUTTON when the jury has reached a verdict. When advised by the fore person that there is a verdict, tell the fore person that there will be a short wait while the parties assemble.

The door to the jury room shall be locked at all times.

The Court Security Deputy shall keep all persons away from the jury room.

The Court Security Deputy shall be positioned during deliberations so as to be able to observe the jury room door or the lighted indicator on the Court Security Deputy's desk.

The Court Security Deputy shall not discuss the case with the jury nor permit others to do so.

The Court Security Deputy should always confer with the Judge as to meals for the Jury. The noon lunch should be ordered from Cafe DuPage, through the Jury Commission, at least one (1) hour before serving. If the Jury is to deliberate beyond five o'clock p.m. (1700 Hours). Dinner should be ordered at least one (1) hour before serving from Jack Straws unless otherwise ordered by the Judge.

The Court Security Deputy shall notify Building Security and BASE that a trial is deliberating into the evening, and give the names of the attorneys and relevant parties.

The Court Security Deputy shall make arrangements with Building Security or 2nd shift deputies to escort any jurors to their cars if requested to do so.

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If a juror needs to make arrangements of any kind while staying late, the Court Security Deputy shall make all telephone calls for the jurors. Jurors are NOT to use the telephone unless authorized by the Judge.

When advised by the fore person that there is a verdict, tell the fore person that there will be a short wait while the parties assemble.

Advise the Judge, Court Reporter, Clerk and attorneys that a verdict has been reached.

In the event a verdict stipulation has been signed, the Judge may advise the attorneys of the verdict via the telephone.

If no verdict stipulation has been signed and the parties are assembled, escort the jury to their seats in the jury box.

After the jury is seated, the Judge will ask if they have reached a verdict. Upon their affirmation, the Judge will ask the fore person to hand the verdict(s) to the Court Security Deputy. The Court Security Deputy shall then hand the verdict(s) to the Judge.

After the Judge discharges the jury, they should be escorted to the jury room to gather their belongings, then dismissed for the day. If the Judge has indicated that he/she wishes to talk to the jury, the Court Security Deputy shall request that the jury remain until the Judge arrives.

The Court Security Deputy shall gather the instructions and exhibits and place them on the bench.

In a criminal case, when the defendant is in custody or the Judge revokes his/her bond, the Court Security Deputy shall stay with the defendant until the defendant can be taken to the jail.

The Court Security Deputy shall maintain custody of jurors during prolonged trials, arrange meals and rooms, maintain isolation of jurors and handle juror(s) communication.

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In the event a jury is sequestered the following shall apply:

1. *Sequestered jurors shall be transported to and from the hotel.*
2. *The Court Security Deputy shall arrange transportation with the Jury Commission.*
3. *All vehicles shall be searched for newspapers and other contraband prior to boarding jurors.*
4. *Commercial broadcast radios in the transporting vehicle shall be turned off during jury transportation.*
5. *The management of the hotel shall be instructed that the jurors are not to be contacted directly by any employee.*
6. *All radio and television sets in juror's rooms shall be removed or otherwise disconnected.*
7. *Jurors shall not be permitted to make or receive calls unless authorized by the Judge.*
8. *Telephone calls to jurors shall be diverted at the switchboard and given to the Court Security Deputy.*
9. *Sequestered jurors shall, where practical, receive meals in a separate dining area. The Court Security Deputy shall seat themselves in such a way as to monitor any contact with non-jurors.*
10. *The Court Security Deputy shall establish an emergency evacuation procedure for the swift and safe movement of jurors from the motel.*
11. *If authorized by the Judge, the jurors may be allowed to assemble in a lounge area or in one of the juror's rooms to visit.*
12. *In the event a juror is in need of personal items from his/her residence, the Court Security Deputy will make arrangements with other household members for a Sheriff's Deputy to pick the items up.*

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13. *The Court Security Deputy will provide the on-duty Patrol Watch Commander with a list of juror's names and addresses for the pick up of personal items.*
14. *If the juror lives alone, a County Patrol Deputy and Court Security Deputy, if available shall accompany the juror to his/her residence.*
15. *It is the responsibility of the Court Security Deputy to ensure that the medical needs of the jurors are provided for. Prescriptions should be refilled as needed. An incident report shall be filed reflecting names, dates, times and places visited for the medical treatment of any juror. The Court Security Deputy shall obtain the name and telephone number of any medical personnel a juror might have to contact in an emergency situation.*
16. *Jurors may purchase necessary items (not including newspapers) at the hotel or restaurant as long as the purchase is in the presence of the Court Security Deputy.*

SPECIALIZED RESPONSIBILITIES:

Special duties arise as a result of the operational format of the Eighteenth Judicial Circuit. All Court Security Deputies shall be aware of the specialized duties in the event he/she are called upon to cover an area where special procedures are followed.

a) CONDEMNATION CASES:

During the time that the jury is being selected, the Court Security Deputy shall ascertain from the Judge the approximate date and time that the jury will be taken to view the premises being condemned in order that transportation can be arranged. The Court Security Deputy shall accompany the jury at all times during the trip and while the premises are being inspected. The Judge may or may not accompany the jury. The Court Security Deputy shall get the Judges permission as to whether the attorneys may ride in the same bus as the jurors.

In the event the attorneys are granted permission to ride in the same bus with the jurors, they shall not communicate or mingle with any juror/jurors.

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It may become necessary to point out boundaries or some features of the property to the jurors. Before doing this the Court Security Deputy shall get permission from the Judge after conferring with the attorneys as to what shall be said. If an agreement cannot be reached as to what shall be said or how it shall be handled, the Court Security Deputy shall contact the Judge for further instructions.

b) ADOPTIONS:

As adoptions are always confidential matters, the Court files are impounded. The Court Security Deputy shall take every precaution to protect the confidentiality of the parties involved. Hearings on adoption are usually done in chambers, however there will be times when there may be a contested hearing done in the courtroom.

The Court Security Deputy shall allow only persons involved in the matter into the Courtroom and keep all others out. With the Judges permission, the Court Security Deputy shall lock the door to the Courtroom. The Court Security Deputy shall position himself/herself at the door until the conclusion of the hearing.

c) CRIMINAL COURTROOMS:

Due to the nature of the criminal courts and the volume of prisoners brought in and out, the Court Security Deputy shall make every effort to keep the Courtroom as secure and safe as possible. In the event a high risk trial or hearing takes place, the Chief of Court Security or his designee shall institute the HIGH RISK TRIAL PLAN to ensure the safety of all trial participants.

d) DOMESTIC RELATIONS:

The Court Security Deputy assigned to a domestic relations Courtroom shall be on the alert for emotional and/or physical outbursts. Every effort shall be used to quell these outbursts before they escalate. The Court Security Deputy assigned to the Presiding Judge of the Domestic Relations Division shall transport the Orders of Protection to the Sheriff's Department.

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e) GRAND JURY:

The Grand Jury will serve for two months at a time; January/February, March/April, May/June, July/August, September/October and November/December.

The new Grand Jury selection occurs on the first Wednesday of the first month of their service. The Grand Jurors shall meet every Wednesday and Friday.

The Grand Jurors are instructed to report by 9:00 AM. The Court Security Deputy/Civilian Security Officer shall position himself/herself by the door at least thirty minutes before the Grand Jurors are expected to arrive to assist the jurors into the courtroom.

The Court Security Deputy/Civilian Security Officer shall remain at the door guarding the entry of any person(s) that do not belong with the Grand Jury proceedings.

Those persons that shall be admitted into the courtroom include but are not limited to; the Judge, relevant Assistant States Attorneys, a representative from the Jury Commission, the Court Reporter and the Clerk. The Court Security Deputy/Civilian Security Officer shall not allow others into the Courtroom for any reason.

The Court Security Deputy/Civilian Security Officer shall instruct the potential Grand Jurors to see the representative from the Jury Commission. After the Judge reviews the potential juror profiles, the Judge will then take the bench and the selection process will begin. The Court Security Deputy/Civilian Security Officer will put the Judge on the bench with a full opening.

After the selection process has been completed, the Clerk will swear the fore person, the Grand Jurors and the Court Security Deputy/Civilian Security Officer. The remaining jurors will be excused.

The Court Security Deputy/Civilian Security Officer shall escort the Grand Jury with an Assistant States Attorney to the Grand Jury room. The Grand Jurors will be given an instruction booklet. The Court Security Deputy/Civilian Security Officer shall remain outside the locked door to ensure that no one enters. The Grand Jurors shall break for lunch.

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They shall be instructed to return at 1:00 PM (1300 hr's.), to go on a tour of the jail. The States Attorney shall make arrangements with the DuPage County Jail for the tour.

The Court Security Deputy/Civilian Security Officer shall escort the jurors to and from the jail. At the conclusion of the jail tour the Grand Jurors are excused for the day from the Jail.

The Grand Jurors are instructed to return the following Friday. The Grand Jurors will be asked to sign their attendance cards and will be given their badges from the Assistant State's Attorney at this time. The Grand Jurors shall then continue with jury service. A check of the Grand Jury room shall be done at this time. The Court Security Deputy/Civilian Security Officer shall then position himself/herself outside the door to ensure against unauthorized persons entering the Grand Jury room.

The Court Security Deputy/Civilian Security Officer shall check subpoenas of civilian witnesses and instructing them to wait in the hallway until they are called.

Each day that the Grand Jury meets, the Court Security Deputy/Civilian Security Officer will get the attendance cards from the Jury Supervisor and place them on the fore persons desk. At the close of the Grand Jury proceedings the attendance cards shall be placed on the Jury Supervisors desk. The first Assistant State's Attorney going before the Grand Jury will give the Court Security Deputy/Civilian Security Officer assigned to the Grand Jury a schedule of the days proceedings.

On the schedule will be the name of the Judge taking the returns. The Court Security Deputy/Civilian Security Officer shall contact the Judge to confirm this. At the end of the day the Court Security Deputy/Civilian Security Officer shall contact the Judge to take the returns.

Lock-up and return the key to the 10-42 deputy.

G. PRISONER ESCORT DEPUTY:

The Deputy assigned as Prisoner Escort Deputy is directly responsible to the Prisoner Escort Unit Coordinator.

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The Court Security Deputy shall escort inmates from the prisoner staging area to and from Court each day.

Court Security Deputy will also escort inmates from one Courtroom to another when required.

In the event a prisoner from an outside jurisdiction or mental health patient is required to appear before Court, they shall be directed to enter the building through the sally port, where a Court Security Deputy will escort them from the sally port to the Courtroom.

It will be the responsibility of the Court Security Deputy to move all inmates in a safe and orderly fashion.

At least one Court Security Deputy will remain on duty until all prisoners have been escorted back to the staging area, the jail or the sally port, and it is unlikely that a person will be remanded into our custody. The latter will be determined by the deputy assigned to specific courtrooms.

When assigned, shall be responsible to make 15 minute checks of the holding areas using the Detex Recorder.

When problems arise in the secured hallway involving prisoners the following procedures shall be followed:

- 1) R/D will advise BASE of the problem.
- 2) BASE will advise all deputies of the problem and to hold all radio traffic.
- 3) NO ONE will open any doors into the secured hallway for any reason.
- 4) R.A.T. & Back-up deputies will to enter through BASE and secure their weapons before entering the secured hallway.
- 5) Court Security Deputies escorting prisoners are to secure them immediately.
- 6) Court Security Deputies in courtrooms with prisoners in their custody will detain the prisoners until the situation is resolved.

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- 7) When the situation is resolved, BASE will advise all deputies to resume normal radio traffic.

H. MASTER CONTROL CENTER DEPUTY:

This post is under the direct supervision of the BASE/Prisoner Escort Unit Coordinator.

The Court Security Deputy shall follow all policies and procedures as directed in the Court Security Manual.

The duties of this post include, but are not limited to;

Reporting any and all problems to the Master Control/Prisoner Escort Coordinator.

Being familiar with the equipment in the control room.

Monitoring radio traffic for BASE, along with the Prisoner Escort Coordinator.

Advising the Rapid Action Team of all emergencies that occur.

Calling the Fire, Police, EMS, Hazardous Device Unit, SWAT or other emergency unit, as directed by the Chief of Court Security or his designee.

Monitoring and recording any suspicious incidents on the VCR as viewed on the CCTV monitor.

Maintaining communication with the Chief of Court Security in the event of an emergency.

Performing in a professional manner at all times.

Assist the Prisoner Escort Deputy Coordinator with the list of prisoners being brought before the Court each day.

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Maintaining a log of all duress alarms, not including accidental activation's, and note in the log book the responding Rapid Action Team member(s) and/or responding agency.

I. ENTRANCE SECURITY DEPUTIES:

1. Court Security Deputies shall be under the direct supervision of the Security Entrance Coordinator. They shall be assigned to work one of post assignments and 7 scheduled shifts
2. Court Security Deputies shall follow all policies and procedures as directed in the Court Security Manual.
3. The Court Security Deputy operating the screening devices shall:
 - a) Have knowledge of all the equipment used in screening procedures and be able to work all post assignments.
 - b) Report any problems to the Security Entrance Coordinator.
4. The public will always be treated with courtesy and respect even if they are verbally abusive to the officer. The officer will not argue with them.
5. No Court Security Deputy shall challenge or ridicule another officer's decision to voucher an item that officer considers dangerous.
6. Items such as weapons, drugs and other contraband shall not be discussed in a light or humorous manner with the public.
7. No Court Security Deputy will make a remark that can even remotely be considered sexist, racist or discriminatory even if that remark is not directed to a single individual.
8. If a member of the public mentions that they have a gun, bomb, or any other weapon, even in jest, they shall immediately be taken aside and patted down even if they are waiting in line before screening.
If no weapon is found, obtain identification and check the subject for warrants. A cad sheet shall be pulled and report written.

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9. Any contractor who does not have a contractor's badge is to be screened completely and his/her tools are to be x-rayed. The contractor shall be escorted to the information desk to obtain a pass. After a pass is obtained, that contractor can use the pass line.
10. No Court Security Deputy will tell anyone to cover a belt buckle or any other item with their hand while walking through the magnetometer.
11. If a member of the public is in line, Court Security Deputies will immediately cease all private conversations and screen the person in line.
12. Court Security Deputy's assigned to screening will not visit with citizens or with other departmental members except for the exchange of information relating to their assignment. (See General Order REG 3-1 Section AA Regulation 27 - NEGLECT OF DUTY).
13. Court Security Deputy's will not address judges by their title "Judge". There might be people present who would want to do harm to any judge they meet or come across.
14. Court Security Deputies will not shout across the lobby or down the hallway unless there is some urgent duty reason to do so.
15. If someone indicates that they do not want to go through the magnetometer because of a pacemaker or any other reason, allow them to go around the equipment and pat them down by hand. The reason shall be verified before doing this. Generally persons with pacemakers will have an ID. card stating that fact.

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- 16.** The following items will always be vouchered regardless of the size:

knives	scissors
aerosol hair sprays	mace
pepper spray	corkscrews
razor blades	non-working electronic devices
cameras (1st floor OK)	heavy keys
padlocks	markers
heavy chain items	heavy metal belts
tools	nails, screws, etc.
knitting needles	forks, spoons, etc.
glass items	handcuff keys

Or any other item(s) that could be used as a weapon at his/her discretion.

- 17.** If the person does not wish to have the item vouchered, it is their option to take it back to their car or leave. The person will have to be screened again when they return.
- 18.** If someone brings in a car-radio face plate, or a pull-out dashboard radio, or if they have a medium to large size electronic item that doesn't work, they will be directed to take the item out to their car. We will not voucher those items.
- 19.** No Court Security Deputy will leave his/her post until properly relieved.
- 20.** Court Security Deputies will not drink any pop, coffee, or other liquids or eat any food while on any post.

SCREENING POST ASSIGNMENTS AND RESPONSIBILITIES:

Pass Card Post: All persons using this line **MUST** display a valid pass card. (Samples of valid pass cards are kept by the Security Entrance Supervisor.). Any person displaying a valid pass card shall be allowed entry into the Facility, bypassing the scanners, with the exceptions as noted in **SCREENING PROCEDURES CTS 8-73.14.**

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X-ray Post: Before proceeding through the walk thru detector, all persons shall be directed to place all hand carried such as purses and brief cases on the conveyor belt that moves through the x-ray machine. Any loose objects such as keys shall be placed in containers and picked up on the other side of the x-ray machine. All objects are subject to being opened and the contents visually inspected. Phones, calculators, etc. shall be verified simply by being turned on.

Magnetometer Post: All persons to be scanned shall be directed to remove all metal objects from their persons and place them in a designated container.

The person being scanned will be directed to proceed through the walk-thru detector.

If a negative reading results, the individual shall collect his/her property and be permitted to proceed.

If a positive reading results, the individual shall be so advised and given an opportunity to ascertain whether he/she may have previously overlooked other metal objects in his/her possession. However, the person being screened may be allowed to terminate the screening process, collect his/her belongings and exit the building.

An individual with a positive reading still desiring entry into the building shall be required to pass through the walk-thru a second time. If a positive reading is again registered, the individual will be searched using a hand held detector.

If, as a result of a hand scanner search a metallic object is located, it will, if possible, be removed.

In all cases another complete search with the hand held detector shall be done, as the person may have more than one metallic object.

If, as a result of the search, an item of contraband is discovered, appropriate action shall be taken.

Items which are prohibited by the Court System, but are legally possessed by the individual shall be vouchered for safekeeping and returned to the individual upon his/her departure from the building.

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Blocker Post: The Court Security Deputy/Civilian Security Officer working as Blocker shall stop all persons entering the building through the EXIT doors and direct them to the proper entrance. The Blocker will also maintain and return items that have been vouchered and collect envelope and card.

Point Post: The Court Security Deputy/Civilian Security Officer working the point shall assist all persons entering the building to the correct lines. The Point Deputy shall also advise persons entering the walk thru units to empty all metal objects from their pockets and direct them to the containers used for that purpose and have them remove their coats and jackets.

Back Up Searcher: The Court Security Deputy/Civilian Security Officer working as Back Up Searcher will act as back up security for the Court Security Deputies working the other posts. The Back Up Searcher shall assist in searches and arrests, if necessary.

It is also the responsibility of the Back Up Searcher to transport the vouchers in use to the Blocker at the exit doors where the possessions can be returned to their owners.

J. COURT SECURITY DEPUTY, ASSIGNED TO RAPID ACTION TEAM:

Under the direction of the Court Security, Building Supervisor, a Court Security Deputy assigned to the Rapid Action Team shall maintain order and decorum in a courtroom and/or within a Court Facility. He/she performs related work as required.

All newly sworn deputies assigned to the position of Facility Security are required to complete the Illinois Local Law Enforcement 40 Hour Firearms Training Program prior to their assignment as an armed Court Security Deputy.

Armed Court Security Deputies **MUST** be firearms qualified and shall be armed during their tour of duty.

Provide armed security in the Court Facility as required.

Court Security Deputies assigned to Facility Security, shall assist in a courtroom whenever necessary or on request.

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The job requires technical knowledge of courtroom procedures.

In this capacity, the Armed Court Security Deputy shall:

1. Provide armed security within a Court Facility and shall have the responsibility to effect arrests in accordance with Illinois Compiled Statutes.
2. Monitor corridors of the facility in order to prevent disruptive or injurious incidents.
3. Assist in the security at high risk trials or with high risk prisoners.
4. Upon the direction of the Chief of Court Security, operate magnetometers or x-ray scanners; perform designated tasks during unusual occurrences as delineated in the Court Security Manual.
5. When required, assist in the security of jurors.
6. Participate in the physical security of the Judicial Office Facility.
7. Investigate all suspicious objects and packages left or carried into Court Facilities.
8. Provide armed security of the Court Facilities as directed by the Chief of Court Security.
9. Check all public access areas of the Court Facilities such as rest rooms, conference rooms, hallways, lobbies, etc. for suspicious objects and unlawful activities.
10. Secure areas during hostage situations.
11. Provide facility and courtroom security during Court meal breaks and until the last Court is adjourned for the day.
12. Carry out all lawful orders issued by the Sheriff, Administrative Bureau Chief, the Chief of Court Security, Supervisor or a Judge.

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13. Perform the duties of a Court Security Deputy assigned to a courtroom.
14. **COURT SECURITY DEPUTIES SHALL NOT BE ARMED WHILE ASSIGNED TO A COURTROOM OR TO MCC/PRISONER ESCORT. UNLESS OTHERWISE ORDERED BY A SUPERVISOR OR ABOVE.**

K. DURESS ALARM LIAISON DEPUTY:

The deputy assigned to the position of Duress Alarm Liaison is directly responsible to the Master Control Unit Coordinator. These duties include but are not limited to;

Testing every duress alarm at the Judicial Office Facility. Each Courtroom duress alarm at the Judicial Office Facility shall be tested monthly. The duress alarm activators located in other areas shall be tested once a month.

Schedules the Courtroom testing of duress alarms and distributes schedule to all participants.

In the event of an alarm malfunction, the duress alarm liaison shall make the determination as to whether maintenance shall be contacted.

Assumes the responsibility to test any unoccupied courtroom or chambers. In the event that it is clear that a duress alarm is malfunctioning, the Duress Alarm Liaison Deputy shall investigate and follow up with the report to maintenance, if needed.

The Duress Alarm Liaison Deputy shall be responsible for all reports, including GHOST alarms and accidental activation's.

L. TRAINING COORDINATOR

Under the direction of the Chief of Court Security, the Training Coordinator-Court Security will manage the training for all personnel who work in the Court Security, Civil and Quartermaster Divisions.

Is directly responsible to the Chief of Court Security

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In that capacity he or she will:

Maintain the training records of all personnel.

Enroll personnel in training courses offered by outside agencies.

Develop new training courses that are to be taught in-house

Instruct in-house courses.

Assist the Chief of Court Security in selecting personnel from the unit who will develop and instruct in-house courses.

Coordinate the activities of those personnel.

Prepare a monthly report of training activities listing the courses, names of attendees and the hours of training.

Prepare an annual report summarizing the monthly reports.

Review all training annually for updating requirements.

Update the training as required.

Maintain a file of all course material masters. All courses will have a written lesson plan.

Maintain a file of all completed local training that includes attendance records and test results.

Maintain the Court Security Manual updating and adding new material as required.

Prepare and keep updated the Career Development Plan and all associated files.

M. UNIT TRAINING OFFICER

Unit Training Officers will write lesson plans and construct courses in accordance with Federal and State laws, department policies, regulations and procedures.

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They will conduct formal classroom education to new Court Security Deputies and ongoing training for current personnel.

N. FIELD TRAINING OFFICER

Field Training Officers will work on a one-on-one basis with new Court Security Personnel and evaluate their ability to perform all duties related to specific post assignments.

Post assignments include, but are not limited to: Screening, Rapid Action Team, Courtroom Deputy, Prisoner Escort and Master Control Center.

O. PLAIN CLOTHES DEPUTIES

The purpose of this post is to have a deputy that can traverse the building as well as sit in on courtrooms that are in session without attracting attention. In being able to function in this mode the deputy may be able to observe or overhear persons who are planning to commit acts of wrong doing.

The deputy assigned to this post will maintain a full uniform in his/her locker in case it is necessary to change assignments. The plain clothes deputy will carry a radio and beeper, the radio and beeper will be concealed. The plain clothes deputy should avoid visiting with uniformed officers and/or other court employees.

The plain clothes deputy shall frequent all public areas of the building, paying special attention to public bathrooms and seating areas.

The deputy assigned to this post shall keep notes of what has transpired during the tour of duty and these notes shall be turned over to the Security Supervisor to be maintained in the confidential file.

The plain clothes deputy may carry his/her authorized firearm but will also keep that concealed.

The schedule for this assignment is kept on the calendar on the desk of the Unit Coordinator for Screening and Security

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Is directly responsible to the Screening, Unit Coordinator

Before starting the assignment, this deputy will check with the supervisors of security and courtrooms to see if there is anything important that they are aware of for that day.

The deputy on this post will obtain the radio and the pager for this assignment from the office of the Security Supervisor.

The deputy should have some means of keeping the radio out of plain view (newspaper, bag etc.). The primary means of communication to this deputy will be through the pager.

The deputy on this post should check all courtrooms as they open for business in the morning. Concentration should be made on the third and fourth floors but all courts on all floors will be checked.

This deputy will regularly check the bathrooms on all floors and the fourth floor and first floor cashier's cage.

The deputy on this post will stay away from office areas only and will not have conversations with employees or other police officers

If it is necessary to call one or more members of the response team to a location, this deputy will make that call out of the public view, if possible. This deputy should not intervene unless it is absolutely necessary to protect a person or property.

When this deputy receives a page with a courtroom number, he/she will go to that courtroom immediately. On arrival, this deputy will confer with the deputy in the courtroom. This will be done either by hand signals or by talking quietly.

A call on the pager for 6423 or 6424 means that this deputy will report to the information desk on the first floor. a call on the pager for 6494 the deputy shall report to the lower level security office and a call on the pager for 6421 or 6420 the shall report to the Chief of Court Security's office.

The deputy will keep notes of what has happened during the two day assignment and make a report that will be kept in the undercover file.

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If other employees or attorneys identify this deputy to the public, the deputy will make note of who did it and make that a part of his or her report.

This deputy may carry his authorized weapon unless otherwise advised.

He/she shall have a complete uniform in their locker.

Shall check for breaches of peace.

Shall check for threats & intimidation.

Shall check for vandalism.

Shall check for child neglect and/or abuse

Shall monitor gang activity.

Shall gather intelligence.

Shall forward intelligence.

Shall provide back-up to RAT deputies, as needed.

Shall sit in on courtrooms with prisoners, especially prisoners that are potential escape risks.

Shall sit in on courtrooms that have high profile cases to prevent threats, attacks and possible gang activity.

Shall sit in on courtrooms and monitor the third floor hallway on the day that Orders of Protections cases are being heard.

P. ENTRANCE CIVILIAN COURT SECURITY OFFICERS:

- 1. Civilian Court Security Officers shall be under the direct supervision of the Security Entrance Coordinator. They shall be assigned to work one of post assignments and 7 scheduled shifts**

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2. Civilian Court Security Officers shall follow all policies and procedures as directed in the Court Security Manual.
3. The Civilian Court Security Officer operating the screening devices shall:
 - a) Have knowledge of all the equipment used in screening procedures and be able to work all post assignments.
 - b) Report any problems to the Security Entrance Coordinator.
 - c) The Civilian Court Security Officers shall call a Court Security Deputy in all cases when an arrest or when a confrontational situation takes place.
 - d) The Civilian Court Security Officer will not have the powers of arrest.
4. The public will always be treated with courtesy and respect even if they are verbally abusive to the officer. The officer will not argue with them.
5. No Civilian Court Security Officer shall challenge or ridicule another officer's decision to vouch an item that officer considers dangerous.
6. Items such as weapons, drugs and other contraband shall not be discussed in a light or humorous manner with the public.
7. No Civilian Court Security Officer will make a remark that can even remotely be considered sexist, racist or discriminatory even if that remark is not directed to a single individual.
8. If a member of the public mentions that they have a gun, bomb, or any other weapon, even in jest, they shall immediately be taken aside and patted down even if they are waiting in line before screening. If no weapon is found, obtain identification and check the subject for warrants. A cad sheet shall be pulled and report written.
9. Any contractor who does not have a contractor's badge is to be screened completely and his/her tools are to be x-rayed. The contractor shall be escorted to the information desk to obtain a pass. After a pass is obtained, that contractor can use the pass line.

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10. No Civilian Court Security Officer will tell anyone to cover a belt buckle or any other item with their hand while walking through the magnetometer.
11. If a member of the public is in line, Civilian Court Security Officer's will immediately cease all private conversations and screen the person in line.
12. Civilian Court Security Officer's assigned to screening will not visit with citizens or with other departmental members except for the exchange of information relating to their assignment. (See General Order REG 3-1 Section AA Regulation 27 - NEGLECT OF DUTY).
13. Civilian Court Security Officer's will not address judges by their title "Judge". There might be people present who would want to do harm to any judge they meet or come across.
14. Civilian Court Security Officer's will not shout across the lobby or down the hallway unless there is some urgent duty reason to do so.
15. If someone indicates that they do not want to go through the magnetometer because of a pacemaker or any other reason, allow them to go around the equipment and pat them down by hand. The reason shall be verified before doing this. Generally persons with pacemakers will have an ID. card stating that fact.
16. The following items will always be vouchered regardless of the size:

Knives	scissors
aerosol hair sprays	mace
pepper spray	corkscrews
razor blades	non-working electronic devices
cameras (1st floor OK)	heavy keys
padlocks	markers
heavy chain items	heavy metal belts
tools	nails, screws, etc.
knitting needles	forks, spoons, etc.
glass items	handcuff keys

Or any other item(s) that could be used as a weapon at his/her discretion.

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17. If the person does not wish to have the item vouchered, it is their option to take it back to their car or leave. The person will have to be screened again when they return.
18. If someone brings in a car-radio face plate, or a pull-out dashboard radio, or if they have a medium to large size electronic item that doesn't work, they will be directed to take the item out to their car. We will not voucher those items.
19. No Civilian Court Security Officer will leave his/her post until properly relieved.
20. Civilian Court Security Officer will not drink any pop, coffee, or other liquids or eat any food while on any post.

SCREENING POST ASSIGNMENTS AND RESPONSIBILITIES:

PASS POST: The person on this post will stand at the beginning of the pass line, close to the point where people enter and are directed to the proper line.

Only Du Page Bar Association, Illinois Attorney General, Du Page County Capital Plant, Du Page County Employees with a blue seal, DuPage County Sheriff IDs and Du Page County Circuit Clerk passes will be honored.

A person with a pass will be asked to show the picture side of the pass to the Civilian Court Security Officer. That person should be within an arm's length of the deputy.

The Civilian Court Security Officer on the pass line should not be distracted by questions from the public. If the question can be answered quickly without losing one's attention to the pass line, the Civilian Court Security Officer should answer it. If the answer is going to take some time, the person should be directed to the information desk.

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SUBJECT: JOB DESCRIPTIONS AND POSITION RESPONSIBILITIES

When directing people into the scanning line the pass line Civilian Court Security Officer should tell them to take all items out of their pockets, remove their jackets and coats and have electronic devices ready to display. The owner of the electronic device will operate the device when asked to do so. No Civilian Court Security Officer will handle or operate any device. The people should also be told to wait at the line on the floor until they are called forward.

When performing the above regulation, the Civilian Court Security Officer shall speak in a normal tone of voice at a volume a little above conversational. He/she will speak to four or five people at a time and will repeat the instructions over and over. The Civilian Court Security Officer shall not shout at the people.

The Civilian Court Security Officer will not suggest to people in the line that they have guns, bombs, drugs or other contraband in their possession.

The Civilian Court Security Officer will not become upset with people who do not listen to instructions. Most people entering the facility are not coming for something pleasant. They are distracted, maybe frightened, confused and not listening.

Police officers not in uniform should be asked to show a badge. They should then be directed to the weapons lockers. If there is any question about the validity of a person claiming to be a police officer, a supervisor will be called for verification..

Anyone returning to the weapons lockers should again be asked to show a badge before entering.

When an attorney from another county attempts to use a pass from that county, he or she should be politely directed to the screening line and advised where a DuPage Pass can be obtained.

Employees and attorneys shall randomly be sent through the screening line only upon the order of a supervisor.

GON: CTS 8 - 73.1

CHAPTER: COURT SECURITY

SUBJECT: JOB DESCRIPTIONS AND POSITION RESPONSIBILITIES

When people leave the building, pass out of sight of the Civilian Court Security Officer on this post and then return, they will have to go through screening. This applies even if they are going to go out the other door. They will not be allowed to bypass screening.

When closing down the pass line the Civilian Court Security Officer should make sure it is truly closed. There should not be any room left for people to squeeze through.

All persons using this line **MUST** display a valid pass card. (Samples of valid pass cards are kept by the Security Entrance Supervisor.) Any person displaying a valid pass card shall be allowed entry into the Facility, bypassing the scanners, with the exceptions as noted in SCREENING PROCEDURES CTS 8-73.13.

X-ray Post: Before proceeding through the walk thru detector, all persons shall be directed to place all hand carried such as purses and brief cases on the conveyor belt that moves through the x-ray machine. Any loose objects such as keys shall be placed in containers and picked up on the other side of the x-ray machine.

All objects are subject to being opened and the contents visually inspected. Phones and calculators shall be verified simply by being turned.

Magnetometer Post: All persons to be scanned shall be directed to remove all metal objects from their persons and place them in a designated container.

The person being scanned will be directed to proceed through the walk-thru detector.

If a negative reading results, the individual shall collect his/her property and be permitted to proceed.

If a positive reading results, the individual shall be so advised and given an opportunity to ascertain whether he/she may have previously overlooked other metal objects in his/her possession.

However, the person being screened may be allowed to terminate the screening process, collect his/her belongings and exit the building.

GON: CTS 8-73.4

CHAPTER: Court Security

SUBJECT: Courthouse Population Circulation Patterns

VI. COURTHOUSE; General Public:

The general public shall use the main doors located in the center of the building on the east side and west side. The general public shall keep to the public areas of the building. The general public shall not have access to the private corridor, the secure corridor and the holding cells or any other restricted areas.

VII. COURTHOUSE; Court Personnel/Court Security:

Court Personnel and Court Security shall enter and exit through the east or west doors located in the center of the building. Court Security shall not congregate in the hallways, public or private, but shall go directly to their assigned area.

VIII. COURTHOUSE; Prisoner Movement:

Prisoners from outside jurisdictions shall be brought in through the sally port. These prisoners shall remain in the custody of their transportation officers. The transportation officers shall check their weapons in the gun lockers provided in the sally port. The transportation officer(s) and their prisoner(s) shall then be escorted directly to their courtroom by a Court Security Deputy assigned to Prisoner Escort.

Prisoners housed in the DuPage County Jail shall be brought over by Corrections Officers from the jail. They shall be delivered to the reception area at the east side of the bridge where Escort Deputies shall deliver them to the awaiting courtroom or holding cell. The prisoners shall travel the secure elevator to their required destination. When the Escort Deputy arrives at the courtroom, the prisoner shall be placed in the holding cell or handed over to the Courtroom Deputy assigned to that courtroom. The Courtroom Deputy shall remove the prisoner's handcuffs (unless a high risk prisoner) for the prisoner's appearance before the judge.

In the event a prisoner must be moved through the public corridor, the Court Security Deputy escorting the prisoner shall take all precautions necessary and follow the guidelines and procedures outlined in CTS 8-73.6 COURT FACILITY ARRESTS.

GON: CTS 8-73.4

CHAPTER: Court Security

SUBJECT: Courthouse Population Circulation Patterns

IX. YOUTH HOME:

The facility is contained in a one story building used expressly for the detention of juveniles. The courtroom is located in the northeast section of the building. There is one public entrance to the court area on the east side of the building. There is one private entrance located on the north side of the building at the east corner.

The public shall enter the building by the public entrance located on the east side. They shall pass through the magnetometer set up at the entrance. Their movements shall be restricted to the courtroom and the adjacent waiting room.

The judge shall enter and exit the building through the private entrance that leads directly to the judge's chambers. The chambers are connected to the courtroom.

Court Staff and Court Security Deputies shall enter/exit the building through the public entrance.

Prisoners confined in the Youth Home are brought to the secured court holding area by Youth Home Officials. The holding area is adjacent to the courtroom and is restricted from the public.

Any other prisoners shall be brought directly to the holding area away from the public. Restraints shall remain on the prisoner until secured in the holding area. If the prisoner is considered HIGH RISK, then the restraints shall remain on the prisoner.

X. COURTROOM 1000:

The Courtroom is located on the first floor of the DuPage County Jail. It is on the south side of the building directly east of the public entrance. A private entrance to the Courtroom is located just east of the public entrance.

The general public shall enter the building through the public entrance. The public entrance to the courtroom is just to the right when walking in. They shall pass through a magnetometer set up at the entrance of the courtroom.

The judge shall enter the courtroom through the private entrance, then into the judge's chambers on the right.

GON: CTS 8-73.4

CHAPTER: Court Security

SUBJECT: Courthouse Population Circulation Patterns

The prisoners shall enter the courtroom through the security port connecting the jail to the courtroom. Prisoners shall be escorted to and from the jail by Corrections Officers. Prisoners shall be escorted to and from the courtroom by a Court Security Deputy. Restraints shall be placed on all prisoners considered a HIGH RISK when informed as such by Corrections Officers.

XI. ADDISON FIELD COURT:

The courtroom is located in the northeast portion on the first floor of the building. There is one private entrance located on the north side of the building.

The general public shall enter the building through the east side, public entrance. A hallway connects to the entrance of the courtroom.

The judge shall enter the building through the private entrance which affords private entry into the courtroom.

Court Staff/Court Security Deputies shall enter the building through the private entrance which allows private entry into the courtroom.

In the event a person is taken into custody, he or she shall be placed in restraints to await transportation to the County Jail. Transportation Officers shall transport the prisoners through the private entrance.

XII WHEATON FIELD COURT

The courtroom is located in the DuPage County Administration Building located at 421 North County Farm Road Wheaton IL. The building houses most county departments and has seven entrances. There are no private or semi-private entrances to the building.

The main courtroom has two doors. The door to the South is used as an entrance and the door to the North is used as an exit.

The judge, court staff, court security deputies and the public can use any of the entrances to the building. They then can enter the judge's chambers through a door separate from the courtroom entrance.

GON: CTS 8-73.4

CHAPTER: Court Security

SUBJECT: Courthouse Population Circulation Patterns

There is an auxiliary courtroom to the South of the main courtroom that is used on certain days for calls other than traffic. That courtroom has a separate entrance. If a person is taken into custody, he or she will be held in the courtroom area and prisoner transport will be called.

XIII. DOWNERS GROVE FIELD COURT:

The Court Facility is located in a one story building. There are three public entrances. Two entrances are located on the south side of the building. One entrance is located on the west side of the building. There is one public entrance into the Courtroom and one private entrance into the Courtroom.

The general public has access to the Court Facility through any one of the three public entrances to the building. The general public shall enter the Courtroom through the public entrance.

The Judge must enter the building through one of the three public entrances. Once inside the building, the Judge shall enter the Courtroom through the private entrance.

Court Staff/Court Security Deputies shall enter through one of the three public entrances. Once inside the building, Court Security Deputies shall use the private entrance to the Courtroom.

In the event a person is taken into custody, the prisoner shall be transported through the private entrance. If necessary, the prisoner may be placed into 1 of 2 holding cells, but must be observed at all times.

XIV. GLENDALE HEIGHTS FIELD COURT:

The Court Facility is located in a two story building. The Courtroom is located on the second floor. There is one public entrance and one public stairway. There is one public elevator. There is one public entrance into the Courtroom.

The Judge must enter through the public entrance located on the south side of the building. He/she shall utilize the public stairway or elevator to travel to the second floor. To avoid public contact, the Judge shall endeavor to arrive at Court prior to the opening of the Courtroom.

GON: CTS 8-73.4

CHAPTER: Court Security

SUBJECT: Courthouse Population Circulation Patterns

The Judge shall enter the Courtroom through the private entrance provided for this purpose. This entrance connects with the Courtroom.

Court Security Deputies shall enter through the public entrance, use the public elevator/stairs and shall enter the Courtroom through the private entrance.

In the event a person is taken into custody, the prisoner shall be transported through the private entrance.

GENERAL ORDER NUMBER: CTS 8-73.5
EFFECTIVE DATE: 01/01/95
REFERENCES: CALEA 73.3.2
CHAPTER: Court Security
SUBJECT: Court Facility Arrests/Placement In Custody

I. POLICY:

To maintain a secure environment within a court facility while effecting a Court ordered or on-view arrest.

II. PURPOSE:

To establish guidelines and procedures to enable a Court Security Deputy to safely and effectively place a person into custody or effect an arrest while in a court facility.

III. DEFINITIONS:

None.

IV. ARRESTS/CUSTODY PROCEDURES; Generally:

When a Court Security Deputy effects an arrest or places a person into custody, either Court ordered or on-view, the Court Security Deputy shall adhere to the following procedures;

Take the prisoner to a secure location, away from the general public, if possible.

HANDCUFF AND SEARCH PROCEDURES: Place the person in handcuffs to the back of the body. If a physical condition exists which would prohibit this method of securing the prisoner, place the handcuffs to the front of the body, securing them through a belt, if possible. Another method would be to use two sets of handcuffs linked together behind the prisoner's back.

Search the prisoner and search any articles, packages, etc., which the prisoner may have in his/her possession. Female prisoners shall **ONLY** be searched by female Court Security Députies.

GON: **CTS 8-73.5**

CHAPTER: **Court Security**

SUBJECT: **Court Facility Arrests/Placement In Custody**

Obtain all necessary court documents for transportation with the prisoner. This is required BEFORE the jail will take the arrestee.

- 1) All warrants must be verified through MCC and/or by the arresting deputy.
- 2) Delayed sentence orders must be either in hand or verified through MCC.
- 3) Remand or Contempt of Court Orders MUST accompany the arrestee before the arrestee can be taken to the jail.

V. ARRESTS/CUSTODY PROCEDURES; Specific locations:

AN ARREST WITHIN THE COURTROOM: The Courtroom Deputy taking a person into custody shall radio BASE that Courtroom # ____ has taken a male/female into custody and advise BASE of the situation (Example, a person surrendering, a verified* warrant, or a person being held in Contempt of Court.) and request an Escort Deputy to escort the arrestee. BASE will notify the jail of the arrest and the sex of the individual (male or female). AT NO TIME IS AN ARRESTEE TO BE PUT INTO A COURT HOLDING CELL! The Courtroom Deputy shall stay with the arrestee until the Escort Deputy takes the arrestee to the prisoner holding area. In the event the Court Security Deputy cannot stay with the arrestee due to other prisoners or certain courtroom situations, the Courtroom Deputy shall notify BASE, a R.A.T. deputy or their respective Unit Coordinator.

* All warrants shall be verified before being executed. To verify a warrant, the Court Security Deputy shall radio the Master Control Center giving them this information, in this order:

- 1 LAST NAME
- 2 FIRST NAME
- 3 MIDDLE INITIAL
- 4 GENDER 5 RACE 6 DATE OF BIRTH

As some police departments serve their own warrants, it would be helpful to know what department issued the warrant.

GON: **CTS 8-73.5**

CHAPTER: **Court Security**

SUBJECT: **Court Facility Arrests/Placement In Custody**

The Escort Deputy shall follow handcuff and search procedures, then escort the arrestee to the prisoner holding area. The Courtroom Deputy shall have filled out the Intake Data Sheet with all pertinent information, prior to turning the arrestee over to Escort Deputy.

VI. ARRESTS/CUSTODY PROCEDURES; General Public and Office Areas:

Radio the BASE and advise BASE of the arrest. Give BASE the location where the arrest is taking place and any other pertinent information. Advise BASE of the approximate time the arrestee will be brought to the prisoner staging area. BASE will contact the jail with this information. A Corrections Officer from the jail will take the arrestee from the prisoner staging area where the jail will take custody of the arrestee. The Court Security Deputy making the arrest shall have all appropriate paperwork ready to accompany the arrestee to the jail.

VII. ARRESTS/CUSTODY PROCEDURES; Other Facilities:

YOUTH HOME:

Adults; Remove the arrestee from the public. Follow handcuff and search procedures. Females shall ONLY be searched by female Court Security Deputies. Contact the Sheriff's Department Prisoner Transportation Unit to pick up the individual to be taken to the jail. All pertinent documents shall be given to the Prisoner Transportation Officer at the time the arrestee is picked up.

Juveniles; Remove the youth from the public. Follow search procedures. Contact the Youth Home and advise the Youth Home Personnel of the situation. The Court Security Deputy shall stay with the youth until Youth Home Personnel arrive to pick up the youth. (This usually does not take longer than five minutes.) The youth may be placed in the holding cell as long as the Court Security Deputy can observe the youth at all times. Advise the Youth Home Personnel if the youth has NOT been searched. All pertinent documents shall be handed to the Youth Home Personnel at the time of pick up.

GON: **CTS 8-73.5**

CHAPTER: **Court Security**

SUBJECT: **Court Facility Arrests/Placement In Custody**

FIELD COURTS:

Remove the individual from the public, if possible. Follow handcuff and search procedures. Contact the Supervisor of Courts to arrange pick up of the arrestee. The Supervisor of Courts shall advise the Supervisor of Building Security that a prisoner needs to be picked up and give him the location. The Supervisor of Building Security shall notify the Unit Coordinator of Building Security and he/she shall arrange the pick up. All pertinent documents shall be given to the Prisoner Transportation Officer at the time of pick up. In the event the Court Security Transportation vehicle is not available the Sheriff's Department Prisoner Transportation Unit shall be called.

GENERAL ORDER NUMBER: 8-73.6
EFFECTIVE DATE: 01/01/95
REFERENCES: CALEA 73.1.1
CHAPTER: Court Security
SUBJECT: Courthouse Security

I. POLICY:

To maintain a clear line of authority as to the individual(s) responsible for the security of the courthouse.

II. PURPOSE:

To establish the duly constituted authority responsible for the integrity and security of the courthouse and court facilities of the Eighteenth Judicial Circuit.

III. DEFINITIONS:

None.

IV. SHERIFF:

In accordance with the **Illinois Compiled Statutes, 55ILCS 5/3-6023**, the Sheriff is charged with the custody and care of the courthouse. It states; Each Sheriff shall, in person or by deputy, attend upon all courts held in his or her county when in session, and obey the lawful orders and directions of the court.

The Sheriff has empowered the Chief, Administrative Bureau or his designee with the duty and the responsibility of the custody and care of the courthouse and court facilities of the Eighteenth Judicial Circuit. The Chief of Court Security is directly responsible to the Bureau Chief, Administrative Bureau for the daily operations of the Court Security Division. The Chief of Court Security shall ensure the security and integrity of the courts, while in session.

GON: 8-73.6

CHAPTER: Court Security

SUBJECT: Courthouse Security

V. DIRECTOR OF CAPITAL PLANT:

The Director of Capital Plant is responsible for the physical security of the courthouse and other court facilities. These responsibilities include but are not limited to: SECURING THE LOADING DOCK, KEY CONTROL, LOCKS, LIGHTING, MAINTENANCE, POST-SESSION SECURITY, FIRE ALARMS AND EVACUATION PROCEDURES.

As the total responsibility of the courthouse and court facilities is shared by two entities, there is the imperative necessity for concerted coordination between them. This shall allow a clear and continuous channel of communication to assure the goals of both are obtained. The Sheriff and Director of Capital Plant shall meet at least semi-annually to coordinate their efforts. The Sheriff and the Director of Capital Plant shall communicate any anticipated and/or emergency changes in procedures necessitating an alteration in the other procedures.

GENERAL ORDER NUMBER: CTS 8-73.8
EFFECTIVE DATE: 01/01/95
REFERENCES: CALEA 73.2.1c
CHAPTER: Court Security
SUBJECT: Prisoner Control And Holding Facility

I. POLICY:

To sustain the rights of individuals before the Court; To deter those who would take violent action against the Court or its participants and; To sustain the decorum of the Court.

To provide a safe, secure and sanitary holding facility for those incarcerated offenders appearing in Court. The Sheriff of DuPage County will be responsible for the control and operation of the holding facility.

II. PURPOSE:

To set standard guidelines and procedures for the control of prisoners who are in the custody of the Sheriff and who are summoned to appear before a Court of the Eighteenth Judicial Circuit.

A copy of this manual will be issued to all Court Security Deputies assigned to the Court Security Division at the effective date of this manual or at the time of their appointment.

III. DEFINITIONS: As used in this manual, the following shall apply;

COURT HOLDING CELL: That area in the Courthouse designed to hold and isolate incarcerated offenders while waiting to appear in Court or be returned to the jail.

FIREARM: A weapon that expels a projectile by means of exploding or expanding gases.

ESSENTIAL PERSONS: Designated staff and detainees are essential persons. All other persons are considered nonessential persons.

GON: **CTS 8-73.8**

CHAPTER: **Court Security**

SUBJECT: **Prisoner Control & Holding Facility**

IV. PROCEDURES: PRISONER CONTROL; Generally:

There will be one type of movement in the JOF; that being movement to and from Court.

All inmate movement from the prisoner staging area, which is located on east side of the bridge, shall be controlled and supervised by the Prisoner Escort Coordinator. This shall be inclusive of all individual and/or group inmate movements within the Judicial Office Facility.

When moving inmates to or from Court, the inmates will be accompanied by Court Security Deputies assigned to Prisoner Escort. The inmate shall walk with his or her right side to the wall. The Prisoner Escort Deputy shall walk to the rear and slightly to the left of the inmate. Conversation shall be kept to a minimum. Each Prisoner Escort Deputy shall be equipped with a hand held two-way radio in order to effect communication in the event of a problem.

All inmates will move single file, in an orderly fashion. There shall be no talking, no smoking, no deviation of directions or destinations.

Restraints shall be used as routine. Inmates will be handcuffed in the front, palms together, unless medically prohibited or considered a risk. Inmates considered a risk shall be handcuffed to the handcuff belt with additional restraints as deemed necessary. The RACC belt may be used on violent inmates or inmates who may be an escape risk, if deemed necessary.

The Court Security Deputy shall not allow the prisoners any type of clothing exchange, nor is contraband (including money) to be given to any prisoner in the custody of Court Security Deputies. Anything of that nature **must** be taken to the DuPage County Jail.

Court Security Deputies shall keep a close watch on their prisoners. The Court Security Deputy shall not allow anyone to talk to the prisoner in their custody with the exception of the ATTORNEY OF RECORD as ordered by the Judge. The prisoner/attorney conference shall be done in a manner that will not disturb the Court.

The Court Security Deputy shall station himself/herself in such a position in the Courtroom as to prevent the prisoner from any attempt to escape or to cause a disturbance in the Court.

GON: CTS 8-73.8
CHAPTER: Court Security
SUBJECT: Prisoner Control & Holding Facility

When Court recesses for lunch, the Court Security Deputy shall request a Court Security Deputy to return the prisoner to the jail.

Corrections Officers from the Corrections Bureau shall notify Court Security Personnel of any prisoner that is considered a risk, mentally disturbed or has any infectious diseases, if known. To this end any Court Security Deputy handling such prisoner shall take whatever precautions that may be necessary.

In the event a prisoner becomes ill. The Court Security Deputy shall radio BASE requesting medical assistance for the inmate. Advise BASE of the specific location. The Court Security Deputy shall stay with the prisoner until relieved of that assignment. **For further information SEE CTS 8-73.21 EMERGENCY MEDICAL PLAN; Inmates or any other individual who is in the custody and care of the Sheriff.**

In the event Court remains in session past the prisoner's lunch or dinner hour, the Court Security Deputy with a prisoner shall radio BASE and advise base that the prisoner is still needed in Court. BASE will advise the jail of that fact so arrangements can be made to have a bag lunch/dinner waiting for the prisoner on his/her return.

In the event Court remains in session past normal Courtroom hours and there is a prisoner in custody, at the close of Court the Court Security Deputy shall remain on duty to return the inmate to the prisoner staging area where a Corrections Officer from the jail will then take the prisoner back to the jail. A Court Security Deputy assigned to BASE shall remain on duty until all prisoners have been returned to the jail, all criminal trials have concluded and there is no chance of any person being remanded to the custody of the Sheriff.

BASE shall be informed on the movement of inmates to and from the JOF as well as throughout the JOF.

V. PRISONER CONTROL DURING JURY TRIALS:

During a jury trial, the Court Security Deputy assigned to a Courtroom shall be responsible for duties in addition to those already specified. These responsibilities include;

The security of the prisoner must be to some degree unobtrusive, unless there are extreme circumstances where the defendant is unruly or violent.

GON: **CTS 8-73.8**

CHAPTER: **Court Security**

SUBJECT: **Prisoner Control & Holding Facility**

It is important that the Court Security Deputy guarding a prisoner be alert and position himself/herself in such a way as to be able to contain the prisoner in the event it becomes necessary, yet still remain unobtrusive.

When there is a jury trial with a prisoner, it will be necessary to have two (2) Court Security Deputies in the Courtroom. One Court Security Deputy shall be responsible for the prisoner, the other Court Security Deputy shall be responsible for tending the jury and other Courtroom matters. The Court Security Deputy responsible for the custody of the prisoner shall not have any other responsibilities while the prisoner is in his/her custody.

Court Security Deputies shall be equipped with radios to maintain contact with the BASE, Armed Court Security Deputies, Prisoner Escort and other Court Security Deputies.

VI. CUSTODY AND RELEASE OF DEFENDANTS:

Court Security Deputies shall be responsible for taking into custody and/or releasing defendants as ordered by the Court. Specific procedures are as follows:

Defendant in custody; Remaining in custody:

When it has been determined that all parties are ready to proceed on a case where the defendant is in custody, the Court Security Deputy shall radio BASE and request that inmate. When the Court Security Deputy is finished with the inmate, the Court Security Deputy shall radio BASE and request that the inmate be picked up. A Court Security Deputy shall pick up the inmate and completed paperwork and escort the inmate to the prisoner staging area where a Corrections Officer from the jail will take the prisoner back to the jail.

Defendant on bail; Taken into custody:

When the defendant for a hearing is out on bail and remanded to the custody of the Sheriff, the Court Security Deputy shall radio BASE and advise BASE that the Court has remanded a male/female to the custody of the Sheriff. The Court Security Deputy shall have all the paperwork ready, including the completed Intake Data Sheet for the Court Security Deputy.

GON: **CTS 8-73.8**

CHAPTER: **Court Security**

SUBJECT: **Prisoner Control & Holding Facility**

When the Court Security Deputy arrives, the Court Security Deputy assigned to the Courtroom **MUST REMAIN WITH THE ESCORT DEPUTY UNTIL THE ESCORT DEPUTY HAS SEARCHED AND HANDCUFFED THE REMAND.**

The Court Security Deputy shall follow handcuff and search procedures, then escort the remand to the prisoner staging area where Corrections Officers from the jail will take custody of the remand.

Defendant on bail; Released by Court:

When the defendant for a hearing is out on bail and ordered released by the Court at the hearing, the defendant is thereby released. The release order is reflected in the minutes of the Court and the Court Security Deputy is not normally issued any paperwork for disposition.

Defendant in custody; Released in Court:

In the event the Court orders a prisoner to be released "Forthwith" from Court, the Court Security Deputy shall obtain a Jail Release Order from the Court Clerk. The Court Security Deputy shall have the jail release ready with the prisoner when the Court Security Deputy picks the prisoner up to take back to the jail. The prisoner will be released from the jail.

VII. PRISONER RESTRAINTS:

All Court Security Deputies shall carry at least one set of handcuffs for use in their day to day duties. (Arrests, prisoner restraint and control etc.)

Court Security Deputies shall contact BASE to request the handcuff belt to be placed on a prisoner.

A system of color coded handcuffs will be utilized for inmates who are segregated from the general population at the Sheriff's Correction Center.

These cuffs will maintained for use in the Master Control area. There will be two colors of handcuffs, red and yellow.

Red colored handcuffs are to be used on those inmates who are going directly to court and have been determined to be violent, suicidal, not classified or under certain medical circumstances.

GON: CTS 8-73.8
CHAPTER: Court Security
SUBJECT: Prisoner Control & Holding Facility

Yellow handcuffs are for use on those inmates, who, although designated direct, can be housed by his/her self and due to their own request, cannot be housed with certain other inmates, sexual preference or disciplinary segregation. The aforementioned examples are not necessarily the rule.

Upon the arrival of an inmate at the JOF staging area, the Court Security Deputy will determine the category that the inmate falls into and secure them with the appropriate colored handcuffs. The inmate will then be escorted to the assigned courtroom or holding cell, dependent on the color code. Inmates wearing red handcuffs will never be placed in a holding cell unless they are under constant supervision.

Red handcuffs are never to be secured to the holding cell door. The inmate will be escorted into the courtroom and the handcuffs will only be removed upon the request of the assigned Courtroom Deputy

Yellow handcuffs, found on the holding cell door, indicate that without exception, no other inmate is to be housed in that cell. Again, the decision to remove the yellow handcuffs will be made by the assigned Courtroom Deputy.

The Court Security Deputy shall maintain full custody of all prisoners in his/her charge.

Summons prisoners as their case comes before the court through BASE. BASE shall notify the DL2 CONTROL and the prisoner shall be brought to the Courtroom by a Court Security Deputy assigned to Prisoner Escort. Assist, as necessary, the Prisoner Escort Deputy.

The Court Security Deputy shall retain control of all prisoner(s) that are in Court for a trial or hearing until the prisoner is returned to the jail. This shall include any prisoners in the holding cells located in the secure hallway adjacent to the Courtroom.

The Court Security Deputy shall take charge of any person remanded into custody. The remand shall remain in the custody of the Court Security Deputy until a Prisoner Escort Deputy arrives. When the Escort Deputy arrives, the Court Security Deputy assigned to the Courtroom **MUST REMAIN WITH THE ESCORT DEPUTY UNTIL THE ESCORT DEPUTY HAS SEARCHED AND HANDCUFFED THE REMAND.**

GON: **CTS 8-73.8**

CHAPTER: **Court Security**

SUBJECT: **Prisoner Control & Holding Facility**

The Escort Deputy shall then take the remand to the prisoner staging area where the remand will be taken to the jail. The jail will **NOT** take the remand unless the proper paperwork accompanies the prisoner.

During jury trials when there is a prisoner, he/she is usually dressed in civilian clothing. Care must be taken that the jury does not know that the defendant is in custody. Before the jury is brought out, have the prisoner seated at counsel table with his/her attorney. If the prisoner is an extreme security risk, he/she shall be placed in handcuffs and leg irons. Check with the Chief of Court Security and the Judge before this is done.

Request that the Chief of Court Security check with the Corrections Department prior to a sentencing or trial to learn what is known regarding the behavior of the defendant while incarcerated if there is reason to believe that the defendant might present problems in the Court Facility.

The Court Security Deputy shall position himself/herself so as to be able to view the Courtroom, watch the defendant and observe the Judge.

The Court Security Deputy shall examine the Courtroom for any items that may be used as a weapon. Such items are pens, pencils, water pitchers or any other such item determined by the Court Security Deputy as potentially harmful. These items shall be either removed or be kept away from the prisoner.

The Court Security Deputy shall check with the prosecuting attorney to determine if any security problems might come up with regard to the prisoner, his friends and family or the victims friends and family. In the event a problem is indicated inform the Chief of Court Security or his designee and the Judge.

In the event any weapons are brought into the Courtroom as exhibits during a trial, the Court Security Deputy shall make every effort to keep all weapons away from the defendant and spectators in the Courtroom. Arms shall never be loaded and put out of commission, if possible.

In the event of illness, follow the procedures outlined in the emergency medical plan CTS 8-73.21.

In the event of any other type of emergency, follow the procedures outlined in the manual for that particular emergency.

GON: CTS 8-73.8
CHAPTER: Court Security
SUBJECT: Prisoner Control & Holding Facility

As Court convenes for the day, the Court Security Deputies assigned to Criminal Courtrooms where inmates are scheduled to appear shall determine which inmates will be needed first. The Deputy assigned to the Courtroom requesting the inmates shall advise BASE the names of the inmates being requested in the order needed.

BASE will then request from the jail the inmates needed at that time.

As inmates are brought over from the jail, Court Security Deputies assigned to Prisoner Escort will transport the inmates from the prisoner staging area to the holding cell adjacent to the Courtroom where the inmate is scheduled to appear.

As inmates are finished with their Court appearances, the Court Security Deputy assigned to the Courtroom will place the inmate back in the holding cell for the Escort Deputy to pick up. All relative paperwork shall be placed in the bins designated for Court paperwork.

After the inmate is placed in the holding cell and ALL necessary paperwork is placed in the bin, the Courtroom Deputy shall radio BASE and advise BASE the name of the inmate ready to return to the jail.

VIII. GUIDELINES:

A: Organization, Management, and Administration:

1. All deputies assigned to Court Security shall be trained in holding and prisoner transport. The levels and types of training shall vary with the nature of assignments and responsibilities. Court security deputies who are assigned to work in direct, continuous contact with detainees will require special training, including use of physical restraint, to ensure safety and security of staff and detainees. Also, the training shall include fire suppression and equipment, including smoke and fire detectors, fire extinguishers, fire hoses to one and one half (1-1/2) inches and air packs.

All other court security deputies who are not assigned to the holding facility on a daily basis are to receive an orientation on the operation of the holding facility and prisoner transport and their role, if any.

GON: CTS 8-73.8
CHAPTER: Court Security
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2. Only those court security deputies assigned to transport inmates to and from court or court security deputies assigned to courtrooms shall have access to the court holding cells. In the event outside maintenance personnel need to access the secured corridor, their tools shall be checked and the maintenance personnel shall be escorted by a court security deputy.

B: PHYSICAL PLANT:

Each holding cell shall have the following minimum conditions and be the responsibility of the Director Of Capital Plant:

1. **lighting of at least 20 foot-candles;**
2. **circulation of fresh or purified air in accordance with local public health standards;**
3. **access to a toilet, wash basin or shower, drinking water; and**
4. **a bed and bedding for each detainee held more than eight hours.**

C. Safety And Sanitation:

1. The plan and execution of all reasonable procedures for the prevention and prompt control of fire shall include the following.

A. The holding facility has an automatic fire alarm and heat and smoke detection system as well as fire equipment.

B. The type and location of the fire equipment is are listed in the Court Security Manual. **See CTS 8-73.15 XII C & D, CTS 8-73.15 XIII B & D & CTS 8-73.15 XV B.**

C. A weekly, documented, visual inspection and a semiannual, documented testing of fire equipment; and

D. A daily inspection and monthly, documented testing of the automatic fire detection devices and alarm system.

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All of the above are under the control and are the responsibility of the Director Of Capital plant.

2. For the evacuation procedures of the holding facilities, Follow the guidelines outlined in
CTS 8-73.15 & 15.1

3. The prisoner escort deputies will do a documented, daily inspection of the holding facilities and they will also supervise the trustees assigned to clean up the holding facilities.

D: Security and Control:

1. ALL FIREARMS WILL BE SECURED BEFORE ENTRY INTO THE SECURED AREA. All court security deputies that are armed will secure their weapons in M.C.C. before entering the secured area. Any outside agency that enters the facility from the sally port will secure their weapons in the gun lockers located outside of the elevator in the sally port. The only exception is when there is an inmate in the secured area with a firearm.

2. During the daily operation of inmate movement, the court security deputy will NOT enter the holding cells. In the event a deputy needs to enter a holding cell, such as an inmate with an illness or an inmate refusing to come out of the cell, the court security deputy shall radio for adequate assistance. The deputy will request that BASE monitor the cell being entered on **CCTV. IN THE EVENT THE INMATE IS HARMING HIMSELF OR HERSELF THE DEPUTY WILL ENTER THE CELL IMMEDIATELY.**

3. KEY CONTROL IS AS FOLLOWS:

A. MCC/Prisoner Escort Unit Coordinator shall maintain a permanent key control log. This log shall list all keys that are stored in the MCC key box.

B. At the start of each shift, the deputy assigned to open the MCC shall write "**ALL KEYS ARE PRESENT**" in the MCC log book.

C. The MCC/Prisoner Escort Unit Coordinator, or his designee, shall issue keys as the need arises. Any key that is not permanently issued will be logged in the appropriate manner.

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D. At the end of each shift, the MCC/Prisoner Escort Unit Coordinator or his designee will make sure all keys are present and log **"ALL KEYS PRESENT"** in the MCC log book. **ANY DISCREPANCIES WILL BE LOGGED.**

4. In the event of an escape or attempted escape, **follow the guidelines outlined in CTS 8 - 73.13, Prisoner Escape.**

E. DETAINEE PROCESSING:

1. The prisoner escort deputies shall pat search any detainee whom they believe may have contraband. An inmate preparing for court and being contained in a holding cell shall take into the holding cell only those documents needed for court. In the event an inmate brings unauthorized items, the inmate will be sent back to the jail to return such items.

2. AT NO TIME WILL PROPERTY FROM A REMAND OR AN INMATE BE KEPT IN THIS FACILITY. ANY PROPERTIES TAKEN WILL BE GIVEN DIRECTLY TO THE CORRECTIONS OFFICER IN THE PRESENCE OF THE PRISONER.

3. Male inmates will NOT be placed in the same holding cell as female inmates. No juveniles will be kept in the holding cells.

4. If a remand is under the influence alcohol or drugs, the medical staff at the jail will be notified immediately. This inmate shall never be put into a holding cell.

5. When an inmate from an outside jurisdiction is remanded to the custody of the DuPage County Sheriff, positive identification of the person will be established.

6. If a group arrest is made, all persons arrested will be immediately taken to the jail and any paperwork that is needed will be taken to the jail as quickly as possible thereafter.

7. No inmate will be released from this facility. If the court orders a prisoner to be released "FORTHWITH" from court, the courtroom deputy will obtain a jail release order from the courtroom clerk. The courtroom deputy will have ready, the jail release when the escort deputy picks the prisoner up to take back to the jail. The prisoner will then be released by the jail staff.

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8. Upon the inmates release from jail, any property taken will be returned by the jail staff.

F. MEDICAL AND HEALTH CARE SERVICES:

1. In the event of a medical emergency with an inmate in the secured area, follow the guidelines in CTS 8 - 73.21, Emergency Medical Plan.

2. First aid kits are available for staff use in emergencies only. A weekly inspection will be done and an inspection sheet will be filled out by the designated officer and replenished as needed.

The first aid kits are numbered as follows:

#01 - Chief's Office	(2nd floor)
#02 - Security Office	(lower level)
#03 - Security Office	(lower level)
#04 - Blue Portable	(lower level)
#05 - Landing between 4001-4003	(floor 3.5)
#06 - Landing between 4004-4006	(floor 3.5)
#07 - Landing between 4005-4007	(floor 3.5)
#08 - Landing outside 4010	(floor 3.5)
#09 - Landing between 4012-4014	(floor 3.5)
#10 - Landing between 4000-4002	(4th floor)
#11 - Orange Portable	(1st floor)

3. Receiving - screening information will be done on an Intake Data Sheet. SEE CTS 8 - 72.IV.E.3.

4. In the event an inmate advises a Court Security Deputy that he or she is feeling ill, or in need of medication, the deputy will advise BASE. BASE will advise the jail so that the nurse can either come to the inmate or the inmate can be returned to the jail to see the duty nurse. This will be done as quickly as possible.

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G. DETAINEE RIGHTS:

1. As court convenes for the day, the court security deputies assigned to Criminal Courtrooms where inmates are scheduled to appear shall determine which inmates are scheduled to appear shall determine which inmates will be needed first. The deputy assigned to the courtroom requesting the inmate shall advise BASE of the names of the inmates being requested in the order needed.

2. BASE will request from the jail to deliver those inmates. As inmates are brought over from the jail, escort deputies will transport them from the prisoner staging area to the holding cell next to the courtroom in which the inmate is scheduled to appear.

3. An inmate's right to make bail will not be impeded, **Follow the guidelines outlined in CTS 8 - 72.IV.E.9.**

4. If an attorney needs to confer with an inmate in a holding cell, the attorney will get permission from the trial judge. Only the attorney of record shall confer with the inmate and only those documents pertinent to that inmate's case shall be permitted into the attorney /client conference room.

5. The attorney/client conference room shall remain locked while the attorney is in conference with the inmate.

6. No inmate will be allowed to use the telephone. In the event an inmate needs to use the telephone, for legal reasons or by court order, him or her will be taken back to the jail without delay.

7. In the event court remains in session past the prisoner's lunch or dinner hour, the courtroom deputy with the prisoner shall radio BASE and advise BASE that the inmate is still needed in court. BASE will advise the jail so that arrangements can be made to have a bag lunch or dinner waiting for the prisoner upon his or her return.

H. SUPERVISION OF DETAINEES:

1. **ANY INMATE THAT GIVES ANY INDICATION OF BEING SUICIDAL, EVEN REMOTELY, SHALL NOT BE PLACED IN THE COURT HOLDING CELL.**

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The Unit Coordinator MCC-Prisoner Escort shall be notified and he or she will immediately notify the Watch Commander of the jail. The inmate will remain under constant supervision until returned to the jail.

2. The holding cells will be operational during normal court business hours, starting at 0800 hours and closing at 1600 hours. In the event an inmate is needed after these hours, an escort deputy will be assigned to stay until the inmate is returned to the jail.

3. All male or female inmates placed in a holding cell will be observed at a minimum of every 15 minutes.

4. An escort deputy will be assigned to make clock rounds of the holding cells.

5. The escort deputy assigned to clock rounds will be issued a cutting device at the start of the clock rounds in case an inmate attempts to hang himself or herself. The cutting device along with the clock will be transferred to the next deputy scheduled to make clock rounds.

6. If a deputy observes an inmate attempting suicide, the deputy shall immediately contact **BASE** for assistance and enter the cell immediately to intervene and provide aid to the inmate. **BASE** will contact the jail medical staff and call for an ambulance, if needed.

7. If an escort deputy assigned to 15 minute clock rounds discovers a problem or a situation that may detain that deputy, the deputy shall notify **BASE** immediately for assistance. The deputy will then resume the clock rounds.

8. The following areas shall be monitored by Detex recorder and key stations every 15 minutes:

A. The holding cells in the secured corridor on level 3.5. These include; the holding cell area between courtrooms 4001 and 4003, the holding cell area between courtrooms 4004 and 4006, the holding cell area between courtrooms 4005 and 4007, the holding cell area outside 4010 and the holding cell area between courtrooms 4012 and 4014.

B. The holding cell area on the 4th floor in the secured corridor between courtrooms 4000 and 4002.

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9. The secured corridor and holding cell areas shall be under constant surveillance in the control room by the use of video equipment.
10. Female prisoners are transported to and from court by a female escort deputy or two male deputies.
11. It shall be the policy of this division not to allow detainees to send or receive mail while in this facility. Any mail a detainee may need should be delivered to the jail, pursuant to their policy.
12. No inmate will be allowed to have visitors while in the holding cells. The only exception being an attorney visit.

GENERAL ORDER NUMBER: CTS 8-73.8.1

EFFECTIVE DATE: 01/01/95

REFERENCES: CALEA 71.1.1, 71.1.2, 71.1.3, 71.1.4, 71.1.5, 71.1.6, 71.1.7, 71.1.8, 71.2.1, 71.3.1, 71.3.2, 71.4.1, 71.4.2, 71.5.1

CHAPTER: COURT SECURITY

SUBJECT: PRISONER TRANSPORTATION

I. POLICY:

To maintain procedures for the safe and effective transportation of prisoners; To maintain a Transportation Section whose primary purpose is the transportation of juvenile prisoners to and from the Youth Home.

II. PURPOSE:

To establish guidelines and procedures for the transportation of prisoners to and from the Youth Home.

III. DEFINITIONS:

NONE

IV. PROCEDURES:

A. All Deputies assigned to vehicles that will or may be used for the transportation of prisoners will, at the beginning of their tour of duty, inspect their assigned vehicle to ensure that the vehicle is in a safe condition and properly equipped with all necessary items.

B. Whenever a prisoner is to be transported, the Deputies making the transport will conduct a search of the vehicle being used. This search will be conducted immediately prior to the transport and immediately after. The search is conducted to ensure that no weapons, contraband or other items are present when the prisoner is placed in the vehicle and that the prisoner has not hidden any items during the transport.

GON: CTS 8-73.8.1

CHAPTER: COURT SECURITY

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C. Prior to transporting any prisoner, the Deputy making the transport will conduct a search of the prisoner for weapons and contraband. The Deputy making the transport is responsible for the safety and custody of the prisoner. It should never be assumed that the prisoner has been searched by someone else. The search of a prisoner is not only conducted at the time a prisoner comes into a Deputy's custody for transportation but would also be conducted during transports to and from Court.

D. During the transportation of prisoners, certain safeguards must be taken in the interest of safety and security. In an effort to reduce the prisoner's opportunities for escape or attack on the Deputy(s), the prisoner's hands will be handcuffed behind his/her back with the handcuffs double locked. The prisoner will be secured in the vehicle by fastening the lap and shoulder safety belts.

E. When a prisoner is transported in a squad car, depending on the factors noted here, the following will apply:

1. In a one or two man squad, with a prisoner cage, single prisoners will be placed in the right rear seat. The Deputy(s) will sit in the front seat.
2. In a one or two man squad, with a prisoner cage, two prisoners may be placed in the rear seat. The Deputy(s) will sit in the front seat.

F. At no time during a transport, will the transporting Deputy(s) allow the prisoner(s) to be out of view. The only exceptions would be by court order or direct instruction from the Deputy's supervisor.

G. During a transport, a prisoner's right to communicate with an attorney and family members shall be governed by State statute. This generally affords the prisoner the right to communicate with an attorney of his/her choice. While actually being transported, a prisoner will not normally be allowed to communicate with his/her attorney or others. Only in an emergency situation will a prisoner be allowed such communication while in transport.

H. Upon arrival at the destination, whether it is the DuPage County Youth Home, a Holding Facility or Court, the transporting Deputies will be responsible for:

1. Following all rules and directives of the Facility or orders of the Court;

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2. Securing his/her firearm prior to entering a Holding Area or Courtroom, unless otherwise directed by a superior;
3. Delivering all necessary documentation to the proper authority;
4. Obtaining a signed receipt for the prisoner when custody is transferred to another jurisdiction;
5. For keeping the prisoner restrained until entering Court or being placed in a holding cell.

I. In the event of an escape by a prisoner being transported, the transporting Deputy(s) shall immediately take all action necessary to effect the recapture of the prisoner. If the escape occurs within DuPage County, the Deputy(s) will follow the procedures as outlined in Department Written Directives governing "Prisoner Escape." Should an escape occur outside of DuPage County, the Deputy(s) will immediately contact the police agency having jurisdiction, for assistance in apprehending the escapee. The Deputy(s) should then, as soon as practical, contact the on duty Patrol Division Watch Commander for further instructions. Any time that a prisoner escapes during transport, the transporting Deputy(s) will be required to prepare an incident report on the escape.

J. In the event that a prisoner being transported to Court is, or could be, considered a security hazard, the presiding Judge will be notified and consulted prior to the transport.

K. While a Deputy is transporting a prisoner there is always the possibility that he will encounter a situation requiring police service. In most cases these situations will be legitimate, however, the possibility always exists of a ruse being used to effect an escape. Therefore, when such incidents occur, the transporting Deputies will contact the Communications Center and advise them of the situation. The Communications Center will then contact the proper agency having jurisdiction to respond to the incident. The Deputies should use discretion in deciding whether or not to stop and take action, based on the risk to the prisoner and other persons. In any situation where there is a clear and present danger to life or limb, the Deputy(s) will stop and render aid.

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V. SPECIAL TRANSPORT SITUATIONS:

A. When a female prisoner is transported at least one of the transporting Deputy(s) will be of the same sex as the prisoner. Under certain situations this may not be possible due to a shortage of manpower. In this situation the following will apply:

1. Two Deputies will make the transport, either in the same vehicle or with one squad following the transport vehicle;
2. The Deputies will advise the Communication Center when they are beginning and ending the transport and will give their mileage when doing so. The Communications Officer will log this information in the permanent radio log;
3. If the transport occurs during the hours of darkness, the vehicle's interior light will be turned on;
4. A male Deputy may transport a female prisoner alone **ONLY** with prior supervisory approval.

B. Physically and mentally handicapped prisoners require special care and attention. When these prisoners are transported their safety and comfort are of primary concern. Whenever possible, two Deputies will be utilized for these transports. Special attention must be given to the vehicle used for these transports. Consideration must be given to the prisoner's special needs; such as wheelchairs, crutches, physical impairment, mobility, etc. When it is necessary to transport medicines and/or other items with the prisoner, these items will be given special care and will be transported with the prisoner's personal property.

C. Restraining devices will be used on handicapped prisoners whenever possible. However, there are occasions when the use of restraining devices might not be possible because of the degree of the handicap. There are also occasions when varied forms of restraining devices may be required because of the particular handicap. In either of these situations, it will be the transporting Deputy's decision which restraining devices, if any, will be employed. In arriving at this decision, the Deputy(s) must take into consideration the handicap, the reason for the transport, the length of the transport, the charged offense, if the prisoner is a security risk, and any other relevant issues.

GON: CTS 8-73.8.1
CHAPTER: COURT SECURITY
SUBJECT: PRISONER TRANSPORTATION

VI. RESTRAINING DEVICES:

While being transported all prisoners will be restrained by having their hands cuffed behind their backs and the handcuffs double locked. If the prisoner poses a security risk, other restraints such as leg irons, may be used at the Deputy's discretion. In the event the prisoner being transported is violent, other restraining devices may be used as needed, taking into consideration the safety of both the Deputy(s) and the prisoner. When a prisoner is to be transported any length of time (one hour or more) restraining belts will be used and the prisoner will be handcuffed in front with the handcuffs double locked.

At no time will a prisoner be handcuffed to any part of the vehicle nor will a prisoner be left unattended while handcuffed to a fixed object. Mentally disturbed prisoners will usually be restrained by the use of a restraining belt during transportation. During arrest or emergency situations, handcuffs may be utilized only if restraining belts are not available.

VII. VEHICLE EQUIPMENT AND MODIFICATION:

Marked patrol squads and vehicles used primarily for the transportation of prisoners will be equipped and modified so as to minimize the prisoner's opportunity to exit the vehicle unaided by the transporting Deputy(s). These vehicles will be equipped with a safety barrier, separating the driver from the prisoner. Also, the rear seat door handles and window cranks will be removed.

VIII. IDENTIFICATION AND DOCUMENTATION FOR PRISONERS:

It is the responsibility of the transporting Deputy(s) to check the prisoner's identification and the accompanying paperwork to ensure that the correct person is being transported.

When the transporting Deputy(s) receives a prisoner, he will also receive a copy of the prisoner's court order. The court order will contain information applicable to any security risk the prisoner may pose, such as escape and/or suicide potential. The transportation order and court orders will accompany the prisoner to court.

GENERAL ORDER NUMBER: **CTS 8-73.9**

EFFECTIVE DATE: **01/01/95**

REFERENCES: **CALEA 73.3.1**

CHAPTER: **Court Security**

SUBJECT: **Weapons Control**

I. POLICY:

To control the carrying of any type of weaponry into a Court facility of the Eighteenth Judicial Circuit. To ensure the safety of the Court officials and the general public.

II. PURPOSE:

To state the guidelines and regulations governing weapon control within a Court facility.

III. DEFINITIONS:

None.

IV. REGULATIONS; Courthouse:

Court regulations prohibit the carrying of any weapon(s) into Courtrooms, jury rooms, Judge's chambers and the public area of the Courthouse. Court Security Deputies shall be responsible to enforce this regulation.

Prior to entering the Courthouse facility, ALL ARMED PEACE OFFICERS shall secure their weapons in the gun lockers located at the west entrance.

No weapons will be permitted in any Courtroom except for those used for evidential purposes. Court Security Deputies are excluded from this regulation.

Court Security Deputies shall STOP and SEARCH any person suspected of carrying a weapon(s) in a restricted area. Female subjects shall be searched by female Court Security Deputies.

Court Security Deputies shall direct a legally armed person to the gun lockers located on the first floor, west side entrance area to secure his/her firearm.

GON: CTS 8-73.9

CHAPTER: Court Security

SUBJECT: Weapons Control

In the event the person is carrying the weapon **ILLEGALLY**, an arrest shall be made charging the subject with the appropriate offense, then the Court Security Deputy shall contact the Chief of Court Security.

V. REGULATIONS; Other Court Facilities:

The Court Security Deputy assigned to a Field Court shall designate an area for armed peace officers to be seated away from the general public.

GENERAL ORDER NUMBER: **CTS 8-73.10**

EFFECTIVE DATE: **01/01/95**

REFERENCES: **CALEA 73.2.1c**

CHAPTER: **Court Security**

SUBJECT: **Courtroom Searches**

I. POLICY:

To maintain a procedure for the purpose of conducting a search of each Courtroom in the Eighteenth Judicial Circuit, prior to the opening of Court. This is to ensure the safety of all persons that will attend Court sessions.

II. PURPOSE:

To establish procedures to guide Court Security Deputies in their responsibility of conducting pre-session Courtroom searches.

III. DEFINITIONS:

Contraband: Illegal or prohibited goods, including but not limited to; suspicious articles, clothing, packages and items that the Court Security Deputy feels are not appropriate for Court.

IV. PRE-SESSION SEARCH:

The Court Security Deputy shall arrive at his/her assigned Courtroom thirty minutes prior to the opening of Court. A search of the Courtroom shall be done at this time. All areas pertinent to the Courtroom shall be searched. These areas include but are not limited to; the entire Courtroom, Judge's chambers, jury rooms, lavatories and connecting hallways.

If a weapon is located, secure the area and notify the Chief of Court Security or his designee. The Chief of Court Security shall notify the Sheriff's Communication Center and request an investigation. The weapon shall NOT be removed until assistance arrives.

A Court Security Deputy locating an object suspected to be a bomb or other explosive device shall follow the procedures outlined in CTS 8-73.16, Bomb Threat.

GON: CTS 8-73.10

CHAPTER: Court Security

SUBJECT: Courtroom Searches

In the event a Court Security Deputy suspects a bomb, these steps shall be followed:

DO NOT TOUCH THE DEVICE.

EVACUATE AND SECURE THE AREA.

CONTACT THE LOCAL POLICE AGENCY.

The Court Security Deputy shall notify the Chief of Court Security or his designee to advise him of the situation at the earliest opportunity.

In a County owned facility, the local police agency shall be alerted, but not requested to respond unless requested to by the Chief of Court Security or higher authority.

In the event contraband is located, remove it and place it in an evidence envelope. Complete the proper departmental report and submit it, with the contraband to property control. Notify the Chief of Court Security or his designee. The Chief of Court Security shall notify the Sheriff's Communication Center to request an investigation, if needed.

GENERAL ORDER NUMBER: CTS 8-73.12
EFFECTIVE DATE: 01/01/95
REFERENCES: CALEA 73.2.1c
CHAPTER: Court Security
SUBJECT: Prisoner Escape

I. POLICY:

To protect against the attempted escape of a prisoner in the custody of the Sheriff. To maintain standardized procedures in the case of an attempted or actual escape of a prisoner from a Court Security Deputy or Court Facility.

II. PURPOSE:

To establish general guidelines and procedures to be followed in the case of an escape or attempted escape of a prisoner from the custody of a Court Security Deputy or Court Facility.

III. DEFINITIONS:

None.

IV. PRISONER ESCAPE; Generally:

It is the duty of all Sheriff's Deputies to have a working knowledge of what is required of them while handling prisoners. All Court Security Deputies handling prisoners shall be alert to the possibility of an escape.

Weapons shall not be allowed anywhere near a prisoner.

While a prisoner is in the custody of the Court Security Deputy, the Deputy shall not allow the prisoner to use the telephone.

The Court Security Deputy shall not allow anyone to talk to the prisoner in his/her custody with the exception of the ATTORNEY OF RECORD as ordered by the Judge. The prisoner/attorney conference shall be done in a manner that will not disturb the court.

GON: CTS 8-73.12

CHAPTER: Court Security

SUBJECT: Prisoner Escape

No private or personal visits are allowed between the family and/or friends of the prisoner unless ordered by the judge.

V. ATTEMPTED ESCAPE:

Any Court Security Deputy observing or learning of an attempted escape shall take any and all actions necessary to prevent the escape. The Court Security Deputy aware of an attempted escape shall immediately inform the Chief of Court Security or his designee of the attempted escape.

VI. THE PLAN REGARDING ESCAPES:

A. Normal Working Hours - Judicial Office Facility:

The Court Security Deputy shall notify BASE, then STAND BY to relay any pertinent information.

BASE will hold all radio traffic, then request the Deputy to proceed with the complete description and direction that the prisoner fled. If the prisoner is believed to be armed, that information **MUST BE RELAYED TO BASE.**

BASE will then announce "PRISONER ESCAPE...PRISONER ESCAPE" and repeat the pertinent information relayed from the Deputy on the scene; the description, direction and if the subject is believed to be armed.

ALL EXITS/ENTRANCES SHALL BE SECURED.

BASE shall notify the Chief of Court Security, then notify the DuPage County Sheriff's Communication Center, the Sheriff, the Administrative Bureau Chief and the Corrections Bureau Chief. The Chief of Court Security shall remain in charge unless relieved by the Administrative Bureau Chief or the Sheriff.

Upon notification of an attempted or actual escape, BASE will close the outside gate at the north sally port of the Judicial Office Facility and proceed to monitor the C.C.T.V.

Upon notification of an escape, all egress and ingress of the Judicial Office Facility will cease.

GON: CTS 8-73.12

CHAPTER: Court Security

SUBJECT: Prisoner Escape

The Blocker Deputies posted at the east and west entrances of the facility will stop all persons from entering or exiting the building. The Blockers will post themselves between the inner and outer doors.

The East X-ray machine operators will respectively staff the exit doors located outside the Jury Commission and those doors located on the south end of Cafe DuPage.

The East Magnetometer operators will respectively staff the basement level, Engineering Room entrance and area of the north exit and loading dock entrance.

The West Magnetometer operators will staff the exit/entrance door used by the Judges and Circuit Clerk, located on the east side of the building.

The West X-ray machine operator will remain in the area of the center core of the building on the first floor or cover whichever of the positions listed above may not be covered.

The Screening Supervisor will bring both public elevators to the first floor and lock out the elevator cars at this location.

The Chief of Court Security will establish a Command Post at the information Center located on the first floor of the facility.

Court Security Deputies assigned to courtrooms, who have court in session will inform the sitting Judge of the Attempted or Actual Escape, so that the Judge may elect to remain or remove him or herself from the Courtroom. The Court Security Deputy will then secure, by locking, the doors separating the Courtroom from the secure hallway. The Court Security Deputy will station him or herself at the main entrance to the Courtroom and bar any entrance or exit by any person to that Courtroom until it is determined to be safe to resume normal operations.

The Chief of Court Security will organize teams to conduct an immediate, systematic and thorough search of the facility until it is determined that the prisoner has fled the facility or the escaped prisoner is once more taken into custody.

GON: CTS 8-73.12

CHAPTER: Court Security

SUBJECT: Prisoner Escape

B. P.M. Shift:

In the case of an escape after 1630 hours, the Facility Security Unit Coordinator will establish a Command Post at the Information Desk, located on the first floor. The Deputies working screening will block all ingress and egress at the east and west entrances of the facility.

BASE, if manned, will monitor the CCTV for unusual activity and/or to track the escapee and will keep the Unit Coordinator advised. If a Court Security Deputy, assigned to prisoner escort, is on duty he/she will report to the Unit Coordinator for assignment, (this can be done by radio, telephone or in person). The Unit Coordinator will contact the DuPage County Sheriff's Communication Center and advise of the escape giving all pertinent information.

The Unit Coordinator will also contact Master Control in the Corrections Division and advise them of the escape so as to enable them to follow whatever policies are set forth in that division. The Unit Coordinator will notify the Chief of Court Security of the escape. When sufficient manpower is present, a search of the building will be conducted.

ALL REPORTS SHALL BE FILED PRIOR TO THE END OF THE WORKING DAY.

C. FIELD COURTS (INCLUSIVE OF THE JUVENILE COURT):

In the case of an escape in any of the Field Courts, the Court Security Deputy will notify the police jurisdiction where that court is located and give all pertinent information regarding the escape and description of the escapee. The Court Security Deputy will notify the Chief of Court Security as soon as reasonable.

GENERAL ORDER NUMBER: CTS 8-73.11
EFFECTIVE DATE: 01/01/95
REFERENCES: CALEA 73.2.1c
CHAPTER: Court Security
SUBJECT: Hand Carried Articles

I. POLICY:

To control all articles, items and packages that are carried into a Courtroom. To ensure the safety of the public, litigants, Court personnel and to maintain the integrity of the Eighteenth Judicial Circuit.

II. PURPOSE:

To establish regulations and procedures regarding hand carried articles.

III. DEFINITIONS:

None.

IV. HAND CARRIED ARTICLES; Generally:

No package or item will be allowed into a Courtroom that may disrupt or disturb normal court business. Hand carried articles that are going to be used as evidence, however, will be allowed.

All packages or items are subject to inspection by the Court Security Deputy assigned to a courtroom. If it is unable to be inspected for any reason, it will NOT be allowed into the Courtroom.

Reading material that is not related to Court business is prohibited. The Court Security Deputy shall direct individuals to put away any reading material that is inappropriate for Court.

NEWSPAPERS are prohibited from being read in the Courtroom.

GON: CTS 8-73.11

CHAPTER: Court Security

SUBJECT: Hand Carried Articles

Court Security Deputies have the authority and the duty to challenge all items and packages. The Court Security Deputy shall request a search of any item that looks suspicious. A person refusing to allow a Court Security Deputy to search their package shall be directed to exit the building, with the item or package.

V. HAND CARRIED ARTICLES:

If Contraband or a weapon is located during a consent search, the Court Security Deputy shall immediately segregate the individual from the general public, then contact the Chief of Court Security or his designee for assistance.

If the weapon or contraband is found to be carried ILLEGALLY, the Court Security Deputy shall immediately contact the Chief of Court Security and an arrest shall be made charging the subject with the appropriate offense. The Chief of Court Security shall notify the Sheriff's Communication Center and request an investigation.

If the weapon or contraband is found to be carried legally, the Court Security Deputy shall secure the item and return it to the owner after the closing of Court. If the person refuses to allow the Court Security Deputy to secure the item, that person shall not be allowed entrance into the Courtroom. The person carrying the item will have the choice as to which course of action shall be taken.

GENERAL ORDER NUMBER: CTS 8-73.13
EFFECTIVE DATE: 01/01/95
REFERENCES: CALEA 73.2.1 b & c
CHAPTER: Court Security
SUBJECT: Screening Procedures

I. POLICY:

To preserve the security of the courthouse; to deter those who would take violent action against the court or court personnel; to maintain the decorum of the court.

II. PURPOSE:

To outline a standard screening procedure, to screen court personnel and its participants in a thorough yet expedient manner. To prevent weapons, contraband, and prohibited goods that threaten the security of the court facility from entering the courthouse.

III. DEFINITIONS:

Contraband: Items incapable of lawful possession by non-law enforcement officers, including but not limited to guns, bombs, clubs, and switchblade knives.

Prohibited Goods: Items that threaten courthouse security, including but not limited to sharp combs, mace, handcuff keys, pocket knives, nail files, etc.

Hand Held Detector: A metal detector that can be held in the hand of an operator. These are generally used for bodily inspection of individuals. They can be used separately or as part of a system to support Walk Through Detectors.

Magnetometer/Walk Through Detector: Resembling the frame of a door, this type of detector is designed to detect metallic objects on an individual passing through it. When such items are detected, the instrument informs the operator with a visual and/or audible alarm. The sensitivity of such a detector can be regulated to determine what items of metal will be detected.

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Manual Inspection/Hand Search: The physical inspection and searching of hand held items before they are taken into a **secured area**. In an effective screening system all hand held items are searched either manually, (hand search), or by x-ray before they can be taken into a secured area.

Screening: A system of guarding and protecting whereby electronic devices and manual inspection are employed to prevent forbidden items from entering a **secured area**.

X-ray: A machine capable of penetrating various thicknesses that will display shapes of things like guns, knives, etc. on a screen.

IV. SCREENING PROCEDURES; Generally:

There will be screening at both of the main entrances. Screening procedures at the main entrances will be operational during normal court business hours and any other time deemed necessary.

Main entrance screening will be accomplished in several ways. As persons enter the courthouse, a Court Security Deputy assigned to screening will direct the flow of people through either the walk through/magnetometers, or the pass line if they qualify individuals in wheel chairs etc. will be hand searched.

ARMED LAW ENFORCEMENT OFFICERS WILL BE DIRECTED TO SECURE THEIR WEAPONS IN THE GUN LOCKERS LOCATED BY THE WEST ENTRANCE.

Other than persons with pass cards, the procedure for entry at the main doors will be as follows;

All persons to be screened shall be directed to remove all metal objects from their persons and place them in trays. The items in the trays shall be looked over for any contraband. The items can be picked up on the other side of the screening device. All briefcases, hand bags, knapsacks, etc., will also be placed on the conveyor belt to be moved through the x-ray machine. Large objects shall be turned over and put through again.

All objects are subject to being opened and the contents visually inspected. All coats will be removed and sent through the x-ray

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The Court Security Deputy shall direct the person to be screened through the walk-through unit. In the event a person cannot go through the walk-through, a hand held detector shall be used.

If a negative reading results, the individual shall collect his/her property and be permitted to proceed.

If a positive reading results, the individual shall be so advised and given an opportunity to ascertain whether he/she may have previously overlooked other metal objects in his/her possession.

Alternatively, the person being searched may be allowed to terminate the searching process, collect his or her belongings and exit the building.

At a Magnetometer Post, an individual with a positive reading who still desires entry shall be passed through the walk-through a second time.

If a positive reading is again registered, the individual will be searched using a hand held detector.

If, as a result of a hand scanner search, a metallic object is located, it will, if possible, be removed. In all cases another complete search with the hand held detector shall be done, as the person may have more than one metallic object .

If as a result of the search, an item of contraband is discovered, appropriate action shall be taken.

Weapons or prohibited goods found to be carried by a person LEGALLY , shall be secured, respectively, in either the gun lockers, or placed in numbered envelopes with a matching number given to the individual, to be returned at the conclusion of their court business. In the event the item is of some value or breakable, the Deputy screening shall request that the person return the object to their car.

Weapons or contraband found to be carried ILLEGALLY shall be secured and firearms shall be made safe. The person shall be segregated from the general public, then placed under arrest, charged with the appropriate offense. The Chief of Court Security or his designee shall be notified immediately. The arresting officer shall contact the Sheriff's Detective Division, requesting an investigation when appropriate.

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CHAPTER: Court Security

SUBJECT: Screening Procedures

SCREENING PROCEDURES; MAIN ENTRANCES:

A. PASS CARDS: Pass cards have been distributed by the Office of the Circuit Clerk, Eighteenth Judicial Circuit, Capitol Plant and the DuPage County Bar Association, per the Chief Judge. Although the purpose for the pass cards is to expedite entry for all persons doing business with the Court, it is still the focus of Court Security to protect the Court and its participants. **The general flow of those with pass cards will be admitted without being screened. However, there may be RANDOM SCREENING for any person entering the Facility with a pass card, at the discretion of the Court Security Deputy on duty.**

There will be a Court Security Deputy monitoring passes at the main entrance on the east side of the building. Any person displaying a valid pass card, as authorized by the Sheriff, shall be allowed entry into the facility bypassing the scanners, with the exception as noted previously, i.e., random screening or if the Court Security Deputy has reason to believe that the person entering with a pass card may pose a threat to the security of the court facility.

In the event a person with a valid pass card, as authorized by the Sheriff, enters the facility through the entrance on the west side, that person shall stand in the line proceeding through the scanning devices. At the point of scanning the person with a valid pass card will be passed through the scanner, unless that person has been selected for random screening.

ANY PERSON, OTHER THAN UNIFORMED LAW OFFICERS AND PERSONS DISPLAYING A VALID PASS CARDS MUST PASS THROUGH THE SCANNING PROCEDURE. In the event a person with a pass card has a guest or is not carrying his/her pass card, the procedure will be to allow **only** the person displaying the valid pass card entry and direct the guest and/or person not carrying the valid pass card through the scanning procedure.

The Sheriff, Administrative Bureau Chief or Chief of Court Security shall have the authority to order all persons entering the facility to be screened.

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CHAPTER: Court Security

SUBJECT: Screening Procedures

B. DURESS ALARMS: There is one duress alarm located next to one of the two x-ray machines at each entrance. Since the majority of the Court Security Deputies assigned to screening are armed, the duress alarm shall be activated **ONLY** if there is a situation that **CANNOT** be contained by the Court Security Deputies on the scene.

V. SCREENING PROCEDURES COURTROOMS:

Juvenile court is equipped with a magnetometer only. All purses and bags shall be hand searched by the deputy assigned to screening.

Entry screening is the most important factor in reducing serious threats within a court facility. In the event entry screening is not possible, or additional screening is necessary for a high risk trial taking place, all persons shall be screened at the entry of the courtroom.

All persons, including judges, passing through the entry point shall be required to submit to screening.

Courtroom screening shall be a manual examination of all hand held articles and the use of the hand held metal detectors. In the event prohibited goods are found, follow the same procedures as described in entrance screening.

GENERAL ORDER NUMBER: CTS 8-73.14
EFFECTIVE DATE: 01/01/95
REFERENCES: CALEA 73.2.1 c
CHAPTER: Court Security
SUBJECT: Facility Evacuation Plan

I. POLICY

To maintain a safe and effective plan of evacuation of the Judicial Office Facility in cases of smoke, fire, natural disaster or other exigent circumstance necessitating such action.

II. PURPOSE:

To establish procedures and guidelines for Court Security Deputies, Capital Plant Security and Facility Users to ensure a safe and orderly evacuation of the Judicial Office Facility when such evacuation is necessitated.

III. DEFINITIONS:

Alarm Panels: A board which indicates an activation of the fire alarm system. There are three alarm panels in the Center. The main panel is located at the main entrance of the Center on the southeast wall. An enunciator panel is located in BASE located on the northwest section of the second floor. The third panel is located in the Master Control Center of the DuPage County Jail.

Directional Arrows: A chevron (>) directional indicator to guide persons to the nearest emergency exit.

Emergency Lighting: Emergency lighting is activated whenever a power failure exists. An emergency generator located in the mechanical room in the basement activates emergency power twenty seconds following a failure in the Center's electrical power supply. Battery powered emergency lights, located throughout the Center and in the emergency stairwells are activated immediately.

Exit Signs: Signs which indicate an exit stairway to be utilized in cases of emergency egress.

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Full Alarm: An audible alarm on the enunciator panels reflecting an activation of the Center's fire alarm system. A printed message follows such activation indicating the type of activation, water flow, smoke, fire, etc. and the location of the activation. DuComm is immediately notified electronically of the activation and Wheaton Fire Department is dispatched to respond to the Center.

After ninety seconds an audible alarm sounds throughout the Center alerting persons to evacuate the Center. Such delay is in effect 7:30 AM to 4:30 PM, Monday through Friday. At all other times the audible alert is immediately activated.

Non-Business Hours: All times other than Normal Business Hours

Normal Business Hours: 7:30 AM to 4:30 PM, Monday through Friday excluding holidays.

Trouble Alarm: A warning indicator on the alarm panel indicating a fire alarm system malfunction.

Pull Station: Mechanical fire alarm activation devices placed throughout the Center to be manually operated to activate the Center's fire alarm system.

User: Elected Official, County Department Head or Other Agency Administrator maintaining office space in the Judicial Center.

IV. RESPONSIBILITY

The DuPage County Sheriff has the responsibility to establish an evacuation policy for the Judicial Office Center and all occupants and users of the entire building shall follow said policy established by the DuPage County Sheriff pursuant to County Board Resolution JPS-003-93.

The DuPage County Sheriff's Court Security Division is responsible to administer the plan in cases necessitating evacuation of the Center during normal business hours.

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CHAPTER: Court Security

SUBJECT: Facility Evacuation Plan

Capital Plant Security is responsible to administer the Dupage County Sheriff's Office evacuation plan in cases necessitating evacuation of the Center during non-business hours and shall notify the Sheriff's Communications Center whenever the plan is initiated.

Capital Plant has the responsibility to maintain the fire alarm system, emergency lighting system, all emergency exit signage and indicators and all fire suppression equipment.

It shall be the responsibility of each User and their respective employees to be aware of the location of the emergency exits, pull stations, fire extinguishers and first aid kits in the Center and have the knowledge that there will be limited evacuation assistance by facility security during non-business hours.

V. EVACUATION PLAN; GENERALLY:

There are three circumstances that may necessitate an evacuation of the Judicial Center, a fire alarm system activation, weather emergency or an emergency due to unusual occurrence such as a gas leak, bomb threat, etc.

Elevators and escalators are prohibited from being used during any Center evacuation.

VI. EVACUATION RESPONSE PLAN; NORMAL BUSINESS HOURS:

A. Fire Alarm System Activation

In the event that an evacuation is necessitated by any of the mentioned circumstances, the Chief of Court Security will establish a evacuation command center at the information center, located on the first floor of the Center.

If the fire alarm system has been activated, BASE control will advise all Court Security Deputies via radio by using a code word. Deputies shall respond to their pre designated emergency evacuation positions and ready themselves for the audible alert to assist the occupants in a safe and orderly evacuation from the Center.

The Fire Department will respond to the east side main entrance.

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B. Weather

Upon notification of a tornado warning or other like endangering weather, BASE will notify the Chief of Court Security and advise him/her, by telephone, of the situation. The Chief of Court Security make the determination to evacuate the first through fourth floors of the Center based on the present facts. In the event an evacuation is necessitated, the Chief of Court Security will advise BASE to advise all Court Security Deputies via radio of the impending action by using a code word. Court Security Deputies shall respond to their pre designated weather emergency positions and ready themselves to assist the occupants in a safe and orderly evacuation to the lower level of the Center. Ninety seconds following the coded signal, BASE will utilize the Center's public address system to announce the weather related evacuation of the first through the fourth floors. Center occupants will be ordered to go to the nearest primary emergency exit and will be directed by Court Security Deputies to a safe location in the lower level of the Center.

C. Unusual Occurrence

Upon notification of, or receiving knowledge of an unusual event which may require a possible full or partial evacuation of the Center, the Chief of Court Security shall contact BASE ordering them to advise all Court Security Deputies via radio of the impending action by using a code word. Court Security Deputies shall respond by staying in their positions, silencing all radio traffic and readying themselves for further instructions from the Chief of Court Security. The Chief of Court Security shall determine the extent of the evacuation and the procedure to be followed on a case by case bases as determined by the specific situation.

D. Trouble Alarm

Upon activation of a trouble alarm an audible signal is transmitted from the alarm panel. Court security Deputies assigned to BASE will immediately contact Capital Plant to remedy the system malfunction.

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VII. EVACUATION RESPONSE PLAN; NON-BUSINESS HOURS

A. Fire Alarm System Activation

Upon activation of the fire alarm system, the Center's audible fire alert warning is immediately activated alerting all occupants to evacuate the Center through the emergency exits. Capital Plant Security will immediately notify the Sheriff's Communication Center (7256) of the situation and request a patrol response.

Capital Plant Security will assist the occupants in a safe and orderly evacuation of the Center and alert the responding emergency personnel of the known locations of the occupants in the Center. Capital Plant Security will also assist emergency personnel in assuring that all occupants in the Center have safely exited from the emergency exit stairways.

The Fire Department will respond to the east side main entrance.

B Weather

Upon notification of a tornado warning or other like endangering weather, the Capital Plant Security Officer in charge shall announce the evacuation of the first through the fourth floors of the Center, directing the occupants to the basement of the Center. He/she will then notify the Sheriff's Communication Center and DuComm of his/her action.

Upon the renewal of building occupancy following the passage of the danger, the Capital Plant Security Officer in charge will contact the Sheriff's Communication Center and DuComm of his/her action.

C Unusual Occurrence

Upon notification of, or receiving knowledge of an unusual event which may require a full or partial evacuation of the Center, the Capital Plant Security officer in charge will immediately assess the situation and act to minimize any danger to the occupants. He shall notify DuComm by dialing "911" advising them of the situation and requesting emergency response and assistance. He shall also contact the Sheriff's Communication Center (7256) requesting a patrol response.

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If an immediate evacuation of the Center is necessary based on the facts of the situation, such evacuation shall be instituted in a manner consistent with the situation. Upon arrival of emergency assistance, the Capital Plant Security Officer shall assist them as necessary advising them of the nature and location of the unusual occurrence.

D. Trouble Alarm

Upon activation of a trouble alarm an audible signal is transmitted from the alarm panel. The Capital Plant Security Officer in charge will immediately contact Capital Plant to remedy the system malfunction.

VIII. TRAINING:

Court Security Deputies, Capital Plant Security Officers and Users shall be instructed on the contents of this evacuation plan prior to its effective date. Training shall be conducted by Sheriff's Department personnel and documented.

User liaisons shall be responsible to train newly hired employees or the liaison may request training from the Chief of Court Security. Such training shall be documented.

Upon request by a User or a liaison to the Chief of Court security, Court Security shall assist the User in conducting a fire drill for the employees of the specific User. Such drill will be conducted at a time mutually agreeable to both Court Security and the User.

IX. USER LIAISONS:

Each User shall select a liaison to the Chief of Court Security for the purpose of administering the Judicial Office Center's Evacuation Plan. The responsibility of the liaisons are to assist in the instruction of the plan to each of the members of their respective agencies and to bring to the attention of the Chief of Court Security any alterations to the plan for his consideration.

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X. EVACUATION EXITS:

Judicial Center Evacuation Exits have been prepared by Richard H. Soloman, P.E., Fire Protection Engineer and as approved by the Wheaton Fire Department. Locations for the primary evacuation exits for each floor of the Center are listed in the addendum of this plan.

XI. SUGGESTED PRIMARY AND SECONDARY EMERGENCY EXITS

The following exit locations are suggested primary and secondary emergency exits in cases of fire alarm and weather related evacuations. In all other evacuations circumstances will dictate exit locations.

A. Probation

North: (P) Stairway 1
(S) Main Entrance West

South: (P) Main Entrance West
(S) Main Entrance East

B. Circuit Court Clerk

North: (P) Judges Entrance East
(S) Main Entrance East

South: (P) Main Entrance West
(S) Cafeteria

C. Cafe DuPage

P) Cafeteria
S) Jury Commission Corridor

D. Jury Commission

(P) Jury Commission Corridor
(S) Main Entrance East

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- E. Multipurpose Rooms
 - (P) Main Entrance East
 - (S) Main Entrance West
- F. First Floor Lobby and Aisle
 - (P) Main Entrance West
 - (S) Main Entrance East
- G. Second Floor North Private Offices
Secretarial Area and Private Corridor
 - (P) Stairway 1
 - (S) Stairway 5
- H. Courtrooms 2008-2009-2010-2011-2014
Chancery Division- Second Floor Common
 - (P) Stairway 5
 - (S) Stairway 2
- I. Second Floor South Private Offices
Circuit Court Administration-Law Library
 - (P) Stairway 4
 - (S) Stairway 3
- J. Courtrooms 2016-2018-2020
Circuit Court Administration Conference Room
 - (P) Stairway 3
 - (S) Stairway 5
- K. Third Floor North Private Offices
States Attorney's Office North
 - (P) Stairway 1
 - (S) Stairway 2

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- L. Courtroom 3000 and Lobby
 - (P) Stairway 1
 - (S) Stairway 2
- M. Courtroom 3001 and Lobby
Courtroom 3002-3003-3004-3005-3006-3007
Common Area
 - (P) Stairway 2
 - (S) Stairway 5
- N. States Attorney's Office Central West
States Attorney's Office Central South
Courtroom 3009- Common Area
 - (P) Stairway 5
 - (S) Stairway 2
- O. States Attorney's Office South
 - (P) Stairway 4
 - (S) Stairway 3
- P. Fourth Floor Private Offices North
Secretarial Area North
 - (P) Stairway 1
 - (S) Stairway 5
- Q. Courtroom 4000
 - (P) Stairway 1
 - (S) Stairway 2

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R. Courtroom 4001-4002-4003

(P) Stairway 2
(S) Stairway 5

**S. Courtroom 4004-4005-4006-4007-4010
Common Areas**

(P) Stairway 5
(S) Stairway 2

T. Public Defender

(P) Stairway 4
(S) Stairway 5

**U. Courtroom 4012-4014-4016-Grand Jury
Fourth Floor Private Offices South**

(P) Stairway 3
(S) Stairway 5

V. Secure Corridor Floor 3.5

(P) Stairway 6
(S) Stairway 3

W. Lower Level Northeast

(P) Lower Level North Entrance
(S) Stairway 5

X. Lower Level Mechanical Room

(P) Mechanical Room Entrance
(S) Lower Level North Entrance

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Y. Lower Level Sally Port

(P) Sally Port Entrance

Z. Lower Level Central

(P) Stairway 5

(S) Lower Level North Entrance

AA. Lower Level South

(P) Stairway 4

(S) Stairway 5

XII. PULL STATION LOCATIONS:

A. Fourth Floor

Stairway 1 Entrance

Stairway 2 Entrance

Stairway 3 Entrance

Stairway 4 Entrance

Stairway 5 Entrance

Stairway 6 Entrance

B. Third Floor

Stairway 1 Entrance

Stairway 2 Entrance

Stairway 3 Entrance

Stairway 4 Entrance

Stairway 5 Entrance

Juvenile Holding

C. 3.5

None

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D. Second Floor

Stairway 1 Entrance
Stairway 2 Entrance
Stairway 3 Entrance
Stairway 4 Entrance
Stairway 5 Entrance
Prisoner Control Staging Area

E. First Floor

Stairway 1 Entrance
Stairway 2 Entrance
Stairway 5 Exit
Southeast Jury Commission Emergency Exit
Southeast Kitchen Exit
South Kitchen Area
Central Kitchen Area
West Cafeteria Serving Area
West Main Entrance
Judges Entrance (Circuit Court Clerk Emergency Exit)

F. Lower Level

Stairway 2 Exit
Stairway 3 Entrance
Stairway 5 Entrance
North Hallway Entrance/Exit
Sally port Pedestrian Entrance/Exit

Refer To Location Diagram

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XIII. FIRE EXTINGUISHER LOCATIONS:

A. Fourth Floor

Electrical Room 481A
Electrical Room 457A
Electrical Room 418A
Electrical Room 439A

B. 3.5

None

C. Third Floor

Electrical Room 309A
Electrical Room 335A
Electrical Room 364A

D. Second Floor

Master Control Vestibule
Electrical Room 233A
Electrical Room 266A
Electrical Room 210A
Electrical Room 219A

E. First Floor

Electrical Room 157A

F. Lower Level

Loading Dock Garbage Area
Loading Dock Northwest Corner
Elevator Equipment Room 026
North Maintenance Entrance/Exit
Emergency Generator Room 021
Electrical Room 047

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Mechanical Room 017
Elevator Room 018
Telephone Room 016
Elevator Room 002
Elevator Room 003
Mechanical Room 034
Electrical Room 035
Elevator Room 008
Elevator Room 007

Refer To Location Diagram

XIV. FIRE EXTINGUISHER (IN CABINET) LOCATIONS:

A. Fourth Floor

Main Hallway North Courtroom 4002
Main Hallway North Courtroom 4007
Main Hallway Central Courtroom 4010
Main Hallway South Eastside
Grand Jury Elevator Area
Stairway 5 Entrance

B. 3.5

None

C. Third Floor

Private Hallway North
Private Hallway Northeast Courtroom 3003
Private Hallway Northwest Courtroom 3002
Stairway 5 Entrance
Main Hallway North Courtroom 3007
States Attorney Outside Room 358A
States Attorney Room 351
States Attorney South Area North of Elevator 5
States Attorney Room 320

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D. Second Floor

Private Hallway North By Room 251
Private Hallway Northwest Courtroom 2002
Private Hallway West Central Courtroom 2014
Main Hallway North Courtroom 2004
Main Hallway North Courtroom 2008
Main Hallway Central Courtroom 2014
Law Library Adjacent To Elevator 5
Stairway 5 Entrance

E. First Floor

Circuit Court Clerk Administration Area
Circuit Court Clerk Southwest Corner
Main Entrance East
Main Entrance West Probation Entrance
Probation Across From Room 180
Stairway 2 Entrance
Stairway 5 Exit
Main Hallway South
Kitchen Room 114
Kitchen Room 118
Cafeteria Main Entrance
Psychological Services Northwest Corner

F. Lower Level

None

Refer To Location Diagram

XV. FIRE DEPARTMENT WATER FLOW VALVE CABINET LOCATIONS:

A. Fourth Floor

Private Hallway Adjacent To Each Set of Restrooms
Public Hallway Adjacent to Public Restrooms

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B. 3.5

North End Wall of Corridor
Central Corridor wall at Stairway Courtroom 4010

C. Third Floor

Private Hallway Adjacent To Each Set of Restrooms
Public Hallway Adjacent To Public Restrooms

D. Second Floor

Private Hallway Across From Room 269
Private Hallway Adjacent To Room 214
Private Hallway Across From Room 222
Private Hallway Across From Room 231

E. First Floor

Jury Commission Adjacent To Restrooms
Psychological Services Adjacent To Restrooms
Probation West Wall Adjacent To Room 156
Main Hallway Adjacent To Public Restrooms

F. Lower Level

Corridor 048 Northwest To Mechanical Room
Northeast Circuit Court Clerk Storage - Center Room 029
Southeast Circuit Court Clerk Storage - Center Room 004
Southwest Equipment Storage Room 009 North Central Wall

Refer To Location Diagram

XVI. FIRST AID KIT LOCATIONS:

First Floor Information Desk
First Floor Circuit Court Clerk - Outside South Wall Room 195
First Floor Security Office (2)
Second Floor Court Security Chief's Office

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Second Floor Master Control
Lower Level Room 023
Lower Level Room 025
Lower Level Room 014
Lower Level Across From Public Elevators - Stretcher Only
Lower Level Court Security Office (4)

Refer To Location Diagram

XVII EVACUATION POLICY REVIEW:

This policy shall be reviewed and updated by the Chief of Court Security at least quarterly in the months of January, April, July and October and following each evacuation. Such review shall be documented.

GENERAL ORDER NUMBER: **CTS 8-73.14.1**

EFFECTIVE DATE: **01/01/95**

REFERENCES: **CALEA 73.2.1c**

CHAPTER: **Court Security**

SUBJECT: **Facility Evacuation Plan; Court Security Response**

I. POLICY

To maintain a safe and effective plan of evacuation of the Judicial Office Facility (JOF) in cases of smoke, fire, natural disaster or other exigent circumstances necessitating such action.

II. PURPOSE

To establish procedures and guidelines for Court Security Deputies, to ensure a safe and orderly evacuation of the JOF when such evacuation is necessitated.

III. DEFINITIONS

RAT: Rapid Action Team

Non-Business Hours: All times other than normal business hours.

Normal Business Hours: 7:30 AM to 4:30 PM, Monday through Friday, excluding holidays.

Pool: Deputies not assigned to a specific post.

Pull Station: Mechanical fire alarm activation devices placed throughout the JOF to be manually operated to activate the fire alarm system.

User: Elected Official, County Department Head or Other Agency Administrator maintaining office space in the Judicial Office Center.

IV. EVACUATION; COURT SECURITY RESPONSE

There are three circumstances that may necessitate an evacuation of the JOF, a fire alarm system activation, weather emergency or an emergency due to unusual occurrence such as a gas leak, bomb threat, etc.

GON: CTS 8-73.14.1

CHAPTER: Court Security

SUBJECT: Facility Evacuation Plan: Court Security Response

A. Fire Alarm System Activation

Upon activation of the fire alarm system or the coded "**RED ALERT**" radio transmission by BASE, Court Security Deputies shall respond by going to their designated posts for this type of alert.

RED ALERT/FIRE ALARM - POSTS

1 POST #1 - COMMAND CENTER, INFORMATION DESK, FIRST FLOOR

Sam 1: Coordinates and commands the evacuation.

Sam 2: Assists Sam 1 and documents the evacuation.

Sam 7: Reports to Alarm Panel, dispatches the RAT to the location of the activation.

Responsible to ensure all floors and stairwells, especially refuge areas, are cleared of personnel.

2. POST #2 - WEST SIDE DOOR ENTRANCE

West side blocker: assist public exiting facility and stop anyone from entering same.

3. POST #3 - STAIRWELL #5

East Side Door Blocker: assists public and users with exiting stairwell and out east exit doors. Stop anyone from entering facility.

4. POST #4 - FIRST FLOOR STAIRWELL, #3 AND #4

West Side X-ray Operator: assist public with exiting facility, stop anyone from entering same.

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5. POST #5 - BASEMENT STAIRWELL #1 AND #2

East Side X-ray Operator: assist public out of stairwell to exit and stop anyone from entering facility.

6. POST #6 - JUDGES/CLERKS EXIT DOOR, FIRST FLOOR

East Side Magnetometer Operator: assist employees and Judges in exiting facility and stop anyone from entering.

7. POST #7 - CAFETERIA EMERGENCY DOORS

West Side Magnetometer Operator: Report to the cafeteria emergency exit doors. Assist public to exit and stop any one from entering facility.

8. POST #8 - CENTER BASEMENT ELEVATOR / STAIRWELL AREA

To be assigned by Sam 7. Assist public to exit facility by stairwell #5, first floor.

9. POST #9 - SECOND FLOOR ESCALATOR / ELEVATOR

To be manned by the Unit Coordinator, Civil. Assist public to stairwell #5. Block people from using escalator.

10. POST #10 - THIRD FLOOR ESCALATOR ELEVATOR

To be manned by the Unit Coordinator, Domestic Relations. Assist public to stairwell #5. Block people from using escalator.

11. POST #11 - FOURTH FLOOR ESCALATOR ELEVATOR

To be manned by the Unit Coordinator, Criminal. Assist public to stairwell #5. Block people from using escalator.

12. POST #12. - BASE

To be manned by the Master Control Unit Coordinator who coordinates the disposition of prisoners by prisoner transport deputies.

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CHAPTER: Court Security

SUBJECT: Facility Evacuation Plan: Court Security Response

Prisoners will be escorted to the prisoner staging area on the east side of the bridge, second floor, to be escorted over to the Jail by Jail personnel. Send unassigned deputies to pool, and advise Command Post of any information they gather from monitors.

13. POST #13 - COMMAND POST, FIRST FLOOR

Courtroom Deputies Using Stairwell #5: report to the Command Post on the first floor, for assignment.

14. POST #14 - OUTSIDE/NORTH SIDE, CROWD CONTROL

Deputies Using Stairwells 1 & 2, Report to outside/north side, for crowd control. Move public safe distance from facility. Stop anyone from entering same.

15. POST #15 - EAST AND WEST OUTSIDE CROWD CONTROL FIRST FLOOR

Will be assigned from the Command Post. Move public back a safe distance from facility. Stop anyone from entering same.

16. POST #16 - STAIRWELL #3 AND #4

Courtroom Deputies using stairwells #3 and #4, after assisting the public to the stairwells, will report to their respective Unit Coordinator. The Unit Coordinator will assign the deputies to search the floor for persons who have not evacuated.

17. POST #17 - UNASSIGNED DEPUTIES

Assist the public and Users to evacuate the Center in a safe and orderly manner, then report to the Command Center for further assignment.

B. YELLOW ALERT/ WEATHER, STORM - POSTS

Upon notification of a tornado warning or other like endangering weather, BASE will contact the Chief of Court Security by telephone and advise him of the situation.

GON: CTS 8-73.14.1

CHAPTER: Court Security

SUBJECT: Facility Evacuation Plan: Court Security Response

The Chief of Court Security makes the determination to evacuate the first through fourth floors of the Center, based on the facts presented. In the event an evacuation is necessitated, the Chief of Court Security will advise BASE to inform all Court Security Deputies via radio of the impending action, by using a code signal, **"YELLOW ALERT"** word.

Court Security Deputies shall respond to their pre designated weather emergency posts for a **"YELLOW ALERT"**, and ready themselves to assist the occupants in a safe and orderly evacuation to the lower level of the Center. Ninety seconds following the **"YELLOW ALERT"** signal, BASE will utilize the Center's public address system to announce the weather related evacuation of the first through fourth floors, by broadcasting the following announcement:

"Attention, we have received an actual tornado warning. Please proceed in an orderly manner to the emergency stairwells. You will be directed to the lower level until the crisis has passed. Do not use the elevator or escalators". Center occupants will be ordered to go to the nearest primary emergency exit and will be directed by Court Security Deputies to a safe location in the lower level of the facility.

1. POST #1 - COMMAND POST, INFORMATION DESK, FIRST FLOOR

Sam 1: Advises MCC to activate **"YELLOW ALERT"**, coordinates and commands the operation.

Sam 2: Assists and documents the evacuation at the Command Post.

Sam 7: Dispatches unassigned personnel. Responsible to ensure all floors and stairwells, especially refuge areas are clear of personnel.

2. POST #2 - WEST SIDE ENTRANCE DOOR

West side door blocker; directs the public entering stairwell #5, prevents people from exiting and directs them to stairway #5.

GON: CTS 8-73.14.1

CHAPTER: Court Security

SUBJECT: Facility Evacuation Plan: Court Security Response

3. POST #3 - STAIRWELL #5 FIRST FLOOR

East side door blocker directs the public coming down stairwell to the lower level. Stops those persons attempting to leave the Center.

4. POST #4 - FIRST FLOOR STAIRWELL, EXITS #3 AND #4

West side X-ray Operator; unlocks door to lower level, and returns to the first floor to assist public and users, directing them to the lower level, and stopping them from exiting the Center.

5. POST #5 - LOWER LEVEL STAIRWELL EXIT DOORS #1 AND #2

East side X-ray Operator; Assists the public out of the stairwell and directs them into the main hallway in the lower level, stopping anyone from exiting the Center.

6. POST #6 - JUDGES/CLERKS EXIT DOOR, FIRST FLOOR

East side Magnetometer Operator; directs employees and Judges, to stairwell #2.

7. POST #7 - CAFETERIA EMERGENCY DOORS

West side Magnetometer Operator; reports to the Cafeteria, directs the public and employees out of the Cafeteria and kitchen to the southeast stairwell #3, and into the lower level.

8. POST #8 - STAIRWELL #5, LOWER LEVEL ELEVATOR

To be assigned from the pool by Sam 7. Assists public to remain calm, and prevent them from bunching up.

9. POST #9 - SECOND FLOOR ESCALATOR ELEVATOR AREA

To be manned by the Unit Coordinator. Assist public to stairwell #5. Block escalator.

GON: CTS 8-73.14.1

CHAPTER: Court Security

SUBJECT: Facility Evacuation Plan: Court Security Response

10. POST #10 - THIRD FLOOR ESCALATOR ELEVATOR AREA

To be manned by the Unit Coordinator. Assist public to stairwell #5. Block escalator.

11. POST #11 - FOURTH FLOOR ESCALATOR ELEVATOR AREA

To be manned by the Unit Coordinator. Assist public to stairwell #5. Block escalator.

12. POST #12- MASTER CONTROL

To be manned by the Master Control Unit Coordinator who coordinates disposition of prisoners by the prisoner transport deputies. Prisoners will be escorted to the prisoner staging area on the east side of the bridge, second floor, to be escorted to the Jail by Jail personnel.

Directs unassigned deputies to the pool and advises command post of any information gathered from monitors.

13. POST #13 - COMMAND POST, FIRST FLOOR

Courtroom Deputies using stairwell #5; report to Command Post first floor, for assignment to the pool.

14. POST #14 - CROWD CONTROL, LOWER LEVEL

Courtroom Deputies using stairwells #1 and #2, report to lower level for crowd control duties. Prevent the public from bunching up, help them to remain calm.

15. POST #15 - EAST AND WEST EXIT DOORS

Will be assigned assistance to the pool by Sam 7.

GON: CTS 8-73.14.1

CHAPTER: Court Security

SUBJECT: Facility Evacuation Plan: Court Security Response

16. POST #16 - STAIRWELL DOORS #3 AND #4, ALL LEVELS

Courtroom Deputies help to assist the public into the stairwell. They will then report to their Unit Coordinators at the escalator area. The Unit Coordinator will assign the deputies to search the floor for non-employees floors.

17. POST #17 - UNASSIGNED DEPUTIES

Assist the public and Users to evacuate the Center in a safe and orderly manner, then report to the Command Post for additional assignment.

C. UNUSUAL OCCURRENCES

Upon notification of, or receiving knowledge of an unusual event which may require a possible full or partial evacuation of the JOF, the Chief of Court Security shall BASE, ordering them to advise all Court Security Deputies via radio, of the impending action by using **"WHITE ALERT"**. Court Security Deputies shall respond by staying at their posts, silencing all radio traffic and readying themselves for further instructions from the Chief of Court Security. The Chief of Court Security shall determine the extent of the evacuation and the procedure to be followed on a case by case basis as determined by the specific situation.

1. WHITE ALERT - BOMB THREAT POSTS

- a. Upon notice of a bomb threat, either by voice or by radio transmission, upon hearing the code **"WHITE ALERT"**, Courtroom Deputies shall search courtroom, judges chambers, wash rooms, secretarial areas, washrooms and all adjoining private offices and conference rooms.
- b. If a device is found, notify BASE by telephone. **UNDER NO CIRCUMSTANCES, ATTEMPT TO MOVE IT.** Leave it in it's original location.

Security Deputies shall search all public hallways, washrooms, and all general public areas throughout the facility.

GON: CTS 8-73.14.1

CHAPTER: Court Security

SUBJECT: Facility Evacuation Plan: Court Security Response

BASE will make a systematic visual sweep of the area through the use on the monitors.

Responding deputy SHALL NOT TRANSMIT OVER HIS/HER RADIO. Initiate the bomb plan, and evacuate building.

2. BLACK ALERT - UNUSUAL OCCURRENCES, OTHER

- a. All personnel will clear the air of all unnecessary radio traffic.
- b. Standby for further instructions.
- c. Remain alert and calm.

GENERAL ORDER NUMBER: **CTS 8-73.14.2**

EFFECTIVE DATE: **01/01/95**

REFERENCES: **None**

CHAPTER: **Court Security**

SUBJECT: **Court Facility Evacuation Plan; Other Locations**

I. POLICY:

To maintain a safe and effective plan of evacuation of the Court Facilities located outside the Courthouse.

II. PURPOSE:

To establish procedures, and guidelines for Court Security Deputies to ensure a safe and orderly evacuation of the Courtrooms and Court Facilities located outside the Courthouse.

III. DEFINITIONS:

NONE.

IV. YOUTH HOME:

ALARM PANELS: The alarm panel is located in the Central Control Room of the Facility. This panel indicates the source of the activation but does not emit an audible warning signal.

The Court Security Deputy assigned to the Youth Home facility shall have the responsibility of determining if an evacuation is necessary. The Court Security Deputy shall:

- A. Evacuate the occupants in a safe and orderly manner.
- B. Evacuate and secure any person in the Custody of the Court and are located in the Court at the time of evacuation. All other persons in custody within the facility are the responsibility of the Youth Home Director.
- C. Notify the Chief of Court Security, or his designee.

GON: CTS 8-73.14.2

CHAPTER: Court Security

SUBJECT: Court Facility Evacuation Plan, Other Locations

V. COURTROOM 1000:

In the event of an evacuation of Courtroom 1000, the Court Security Deputy assigned to that facility shall have the responsibility of:

- A. Evacuating the Courtroom in a safe and orderly manner.
- B. Notify the on-duty Corrections Watch Commander, requesting assistance with the disposition of any prisoner that is in the custody of the Court at the time of the evacuation.
- C. Notify the Chief of Court Security or his designee.

VI. TRAFFIC COURTS:

In the event of an evacuation of the Traffic Field Courts, the Court Security Deputy assigned to that Court shall have the responsibility of:

- A. Evacuation of the Court facility in a safe and orderly manner.
- B. Notify the Chief of Court Security or his designee.

GENERAL ORDER NUMBER: CTS 8-73.15
EFFECTIVE DATE: 01/01/95
REFERENCES: CALEA 73.2.1 c
CHAPTER: Court Security
SUBJECT: Bomb Threat

I. POLICY:

To maintain a safe and effective plan concerning the threat of an explosive or hazardous device being placed within or around a Court Facility.

II. PURPOSE:

To establish procedures that will enable Court Security Deputies the ability to act promptly, safely and decisively in cases of known or suspected bombs, explosives or other hazardous devices which may have been placed or brought into a Court Facility.

III. DEFINITION:

Bomb: an explosive device fused to detonate under specific conditions.

IV. PROCEDURES; generally:

Proper action taken by a Court Security Deputy from the point of notification/knowledge of a suspected bomb threat until the arrival of a Hazardous Device Technician is essential to ensure the safety of all citizens and the protection of property.

All Court Security Deputies locating a suspected explosive or hazardous device shall:

1. REMAIN CALM
2. UNDER NO CIRCUMSTANCES ATTEMPT TO MOVE IT, but leave it in its original condition and location.
3. Do not attempt to transmit on the radio.

GON: CTS 8-73.15

CHAPTER: Court Security

SUBJECT: Bomb Threat

4. Secure and evacuate the immediate area.
5. When assistance arrives, evacuate the rooms on each side of the room containing the suspected device, the rooms above and below.
6. After the immediate area has been evacuated, notify all Court Security Deputies to turn off their radios.
7. Notify the Chief of Court Security or his designee, **NOT BY RADIO**.
8. The Chief of Court Security or his designee shall notify the Sheriff's Communication Center to request the assistance of the Sheriff's Office Hazardous Device unit.

In the event the facility needs to be evacuated, start the evacuation in the area immediately above the room containing the suspected device, if possible. Then follow the evacuation procedures from the top floor down. Secure an area, preferably by open space, for the Hazardous Device Unit Vehicle. Building evacuees should **NOT** be in this area.

Notify the Bureau Chief. The Bureau Chief shall inform the Sheriff.

Remain at the location to advise specialized personnel as they arrive.

V. BOMB THREAT CALL:

The Court Security Deputy receiving notification of a bomb threat call shall have the responsibility of:

1. Obtaining all pertinent information from the person who received the threat, including the exact words of the caller. In the event that the call received is from the person who planted the bomb, it is vital that all information be recorded accurately. The Bomb Call Checklist, shall be utilized as a guideline for this purpose.
2. Notify the Chief of Court Security or his designee by the fastest means possible. **DO NOT USE THE RADIO**, as it may trigger the device.

GON: CTS 8-73.15

CHAPTER: Court Security

SUBJECT: Bomb Threat

3. Upon receiving a bomb threat, Court Security Deputies shall search the courtrooms, Judges' chambers, washrooms, jury rooms, secretarial areas and all adjoining rooms in the secured area.
4. Court Security Deputies Shall search all public hallways, washrooms and general public areas throughout the facility.
5. Once the device is located, secure and evacuate the immediate area. Clear the area of personnel and the public. Evacuate building if necessary.

THE CHIEF OF COURT SECURITY SHALL SET UP A COMMAND POST IN AN AREA VISIBLE AND ACCESSIBLE, BUT NOT NECESSARILY IN THE BUILDING.

VI. TRAFFIC FIELD COURTS:

Upon knowledge of a bomb threat, the Court Security Deputy shall have the responsibility of:

Obtaining all pertinent information.

Evaluating all information to determine the best course of action, initiating same. If an evacuation of the Courtroom and adjoining areas is necessary, it shall be ordered by the Court Security Deputy or the Chief of Court Security. The Court Security Deputy shall notify building personnel.

Notify the appropriate police jurisdiction of the threat.

Notify the Chief of Court Security, Sheriff's Communication Center and the Sheriff.

VII. YOUTH HOME:

Upon the knowledge of a bomb threat, the Court Security Deputy shall have the responsibility of:

Obtaining all pertinent information.

GON: CTS 8-73.15

CHAPTER: Court Security

SUBJECT: Bomb Threat

Notifying the Director of the Youth Home to ascertain the course of action that shall be taken. If an evacuation is necessary, it shall be administered in accordance with Department Written Directives.

Notifying the Chief of Court Security, Bureau Chief and the Sheriff.

Assist the Youth Home Director in whatever action is undertaken.

VII. COURTROOM 1000:

Upon the knowledge of a bomb threat, the Court Security Deputy shall have the responsibility of:

Obtaining all pertinent information.

Evacuate the Courtroom and all adjoining offices, if necessary.

Notify the Corrections Bureau Watch Commander and request assistance with inmates.

The Chief of Court Security shall have the responsibility of:

Interviewing the person that received the call, either in person or by telephone.

Evaluating the information and determining the best course of action.

Ordering the evacuation of the facility, if deemed appropriate.

Notifying the Sheriff's Communication Center, the Chief Judge, the Bureau Chief, the Sheriff and related personnel on a need to know basis.

Assigning Court Security Deputies to such tasks as is necessary.

<u>GENERAL ORDER NUMBER:</u>	CTS 8-73.16
<u>EFFECTIVE DATE:</u>	01/01/95
<u>REFERENCES:</u>	CALEA 73.2.1c
<u>CHAPTER:</u>	Court Security
<u>SUBJECT:</u>	Hostage Plan

I. POLICY:

To maintain a safe and effective plan of containment and evacuation in the event of a hostage situation within a Court Facility.

II. PURPOSE:

To establish guidelines and procedures ensuring a prompt, safe and decisive response in the event of a hostage situation within a Court Facility.

III. DEFINITIONS:

Hostage Situation: An event when one or more persons are held by another person in a conflict as a pledge that promises will be kept or terms met.

IV. PROCEDURES; Generally:

Hostage taking is a form of conflict problem solving. The hostage is a tool for the hostage taker. Whatever is done to the hostage by the hostage taker is meant to influence someone, usually the authorities.

Assurance that a hostage will be released unharmed is a meaningless promise. The hostage as a person is of no value. The hostage is used to accomplish a goal. In the case of a hostage situation in a Courtroom, the goal is usually escape.

To assure the safety of the hostage, the hostage must remain in the company of the Court Security Deputy. However, exceptional situations may arise which shall dictate the removal of the hostage by the hostage taker. Such a situation might be where a large group of people could get hurt.

GON: **CTS 8-73.16**
CHAPTER: **Court Security**
SUBJECT: **Hostage Plan**

V. HOSTAGE SITUATION; Courthouse:

In the event of a hostage situation in the Courthouse, the following plan shall come into effect:

The Court Security Deputy shall radio BASE relaying all pertinent information. BASE shall radio the following message, "A LEVEL III HOSTAGE SITUATION."

The RAT members shall respond to the scene to contain and evacuate the area.

A. The Chief of Court Security shall:

Set up a command post at the reception center on the first floor, or other assessable area with a phone.

Gather and evaluate all available information.

Isolate the incident and establish a perimeter.

Evacuate all non-essential persons from the perimeter.

Contact the Sheriff's Department Communication Center requesting assistance from Special Operations and Patrol Division.

Contact the Chief Judge, Sheriff, Administrative Bureau Chief and all County Department heads located within the Judicial Office Facility.

Assign Court Security Deputies to necessary tasks.

Coordinate efforts with all responding agencies.

B. RAT DEPUTIES shall:

Isolate the incident and contain the situation.

Assist in the evacuation of all non-essential persons.

Assist the Chief of Court Security as directed.

GON: **CTS 8-73.16**
CHAPTER: **Court Security**
SUBJECT: **Hostage Plan**

C. Court Security Deputies assigned to Courtrooms shall:

Ensure the duress alarm has been activated.

Alert armed Court Security Deputies, if possible.

Maintain order in the Courtroom.

Attempt to calm the situation. Never take any action which may place ANY person, including the Court Security Deputy, in further jeopardy.

Assist in the evacuation of all non-essential persons.

Assist the Chief of Court Security as needed.

VI. YOUTH HOME/FIELD COURTS:

In the event of a hostage situation in the Youth Home or in a Field Court, the following plan shall come into effect:

Court Security Deputies shall have the responsibility of:

Ensuring that the duress alarm has been activated.

Contacting the Sheriff's Department Communication Center requesting assistance from the Special Operations Unit and the Patrol Division.

Contacting the Director of the Youth Home, the Sheriff and the Chief of Court Security as soon as possible.

Maintaining order in the Courtroom.

Attempt to calm the situation. Never take any action which may place ANY person, including the Court Security Deputy, in further jeopardy.

GON: **CTS 8-73.16**
CHAPTER: **Court Security**
SUBJECT: **Hostage Plan**

VII. COURTROOM 1000;

The Court Security Deputy shall have the responsibility of:

Ensuring that the duress alarm has been activated.

Ensuring that the security corridor between the Courtroom and the jail is locked.

Isolating and containing the situation.

Contacting the Sheriff's Department Communications Center requesting Special Operations and Patrol Division assistance.

Maintaining order in the Courtroom.

Attempting to calm the situation. Never take any action which may place ANY person, including the Court Security Deputy, in further jeopardy.

Contacting the Chief of Court Security as soon as possible.

VIII. DEPUTIES SURRENDERING WEAPONS:

An armed suspect who has a Deputy or another person at a disadvantage may have them at his/her mercy, but experience has shown that the danger to a Deputy is not reduced by giving up his/her weapon upon demand. Surrendering your weapon might mean giving up your only chance for survival; therefore, a Deputy shall use every tactical tool at his disposal to avoid surrendering his weapon.

In these situations, Deputies are expected to take whatever action is necessary to assure their safety and the protection of their life and the lives of others. The Deputy's decision to surrender his weapon is a personal decision. When making such a decision, the Deputy should consider the affect it may have on his immediate survival and the safety of others.

Once a Deputy has surrendered his weapon, he has given up any chance of neutralizing the suspect. The Deputy will have armed the subject with a loaded and properly functioning firearm.

GENERAL ORDER NUMBER: CTS 8-73.17
EFFECTIVE DATE: 01/01/95
REFERENCES: CALEA 73.2.1c
CHAPTER: Court Security
SUBJECT: Major Emergency/Disaster Plan

I. POLICY:

To maintain a safe and effective plan to minimize injury and loss of life during a major emergency or disaster.

II. PURPOSE:

To establish guidelines and procedures that will enable Court Security Deputies to act promptly, safely and decisively during a major emergency or disaster.

III. DEFINITIONS:

DISASTER - a sudden calamitous event bringing great damage, loss of life or destruction (storm, tornado, earthquake, etc.)

EMERGENCY - an unforeseen combination of circumstances or the resulting state that call for immediate action (man-made event).

IV. INITIAL RESPONSE:

The initial first response of the Court Security Deputy shall be:

The protection of lives and to minimize injuries.

Contacting the Master Control Center, BASE to activate necessary emergency services. The BASE shall contact the Chief of Court Security and the Sheriff's Department Patrol Watch Commander. The Master Control Center, BASE shall keep the Chief of Court Security apprised of all actions being taken.

V. THE CHIEF OF COURT SECURITY:

The Chief of Court Security shall have the responsibility of:

GON: CTS 8-73.17

CHAPTER: Court Security

SUBJECT: Major Emergency/Disaster Plan

Designating a location to be utilized as a command post.

Identifying the cause of the disaster or major emergency.

Determining if an evacuation is necessary. If evacuation is necessary:

Assign personnel to the task of removing persons to a place of safety **within the Facility**, OR if evacuation **from the Facility** is necessary, implementing an evacuation as outlined in the Court Security Manual CTS 8-73.15.

Assigning and coordinating tasks necessary to minimize injuries to persons and/or the destruction of property.

Inform all County Departments within the facility and the adjacent Corrections Department of the situation and actions taken.

The Chief of Court Security shall assign the RAT members as required.

VI. COURT SECURITY DEPUTIES SHALL:

Monitor their radios for special instructions.

Assist with the safe and orderly evacuation of Courtrooms and other areas, as necessary.

Report to the unit coordinators for further assignments.

VII. TRAFFIC FIELD COURTS:

Upon the knowledge of a major emergency or disaster, the Court Security Deputy shall have the responsibility of:

Obtaining all pertinent information relating to the emergency/disaster.

Notifying the appropriate emergency services agencies.

Assisting in the safe and orderly evacuation of persons, when necessary, as outlined in Court Security Manual CTS 8-73.15.

GON: **CTS 8-73.17**

CHAPTER: **Court Security**

SUBJECT: **Major Emergency/Disaster Plan**

Notifying the Chief of Court Security or his designee.

Notifying the Sheriff's Department Communications Center of the emergency/disaster requesting appropriate assistance.

VIII. YOUTH HOME:

Upon the knowledge of a major emergency or disaster, the Court Security Deputy shall have the responsibility of:

Obtaining all pertinent information relating to the emergency/disaster.

Notifying the appropriate emergency services agencies.

Assisting in the safe and orderly evacuation of persons, when necessary, as outlined in Court Security Manual CTS 8-73.15.

Notifying the Director of the Youth Home and the Chief of Court Security or his designee.

Notifying the Sheriff's Department Communications Center requesting appropriate assistance.

IX. COURTROOM 1000:

Upon the knowledge of a major emergency or disaster, the Court Security Deputy shall have the responsibility of:

Obtaining all pertinent information relating to the emergency/disaster.

Contacting the Sheriff's Department Communications Center, advising him/her of the situation and request appropriate assistance.

Contacting the on-duty Corrections Bureau Watch Commander, requesting assistance in the disposition of any prisoners in the custody of Court Security Deputies.

Evacuating Courtroom 1000 and adjoining offices as outlined in Court Security Manual CTS 8-73.15.

GON: CTS 8-73.17

CHAPTER: Court Security

SUBJECT: Major Emergency/Disaster Plan

Notifying the Chief of Court Security or his designee and advising him of any action taken.

GENERAL ORDER NUMBER: **CTS 8-73-18**

EFFECTIVE DATE: **01/01/95**

REFERENCES: **CALEA 73.2.1c**

CHAPTER: **Court Security**

SUBJECT: **Special Operations Incident Plan**

I. POLICY:

To maintain a safe and effective plan enabling Court Security Deputies assigned to Building Security to minimize injury, loss of life and destruction of property during incidents which require the use of the Special Operations Unit of the Sheriff's Department.

II. PURPOSE:

To establish a plan delineating the duties and responsibilities of a Court Security Deputy during incidents requiring the use of the Special Operations Unit.

III. DEFINITIONS:

Special Operations Unit: A unit of the Sheriff's Department consisting of a group of specially trained and equipped personnel representing an organized professional approach to an unusual and dangerous situation for the purpose of minimizing injuries, loss of life and destruction of property.

IV. SPECIAL OPERATIONS INCIDENT PLAN; General responsibilities:

During any incident which occurs in the courthouse and which requires the use of the Special Operations Unit, such as the taking of a hostage or an armed and barricaded subject, Court Security Deputies shall have the follow responsibilities:

Ensure the activation of the duress alarm.

Avoid escalating or aggravating the situation.

Contain and isolate the situation, as soon as possible.

Evacuate the area, if necessary.

GON: CTS 8-73.18

CHAPTER: Court Security

SUBJECT: Special Operations Incident Plan

Notify the Chief of Court Security or his designee.

Notify the Sheriff's Department Patrol Watch Commander.

Detain any witnesses in a safe location, when possible.

V. The Chief of Court Security or his designee shall:

Respond to the scene of the incident.

Determine manpower and special unit requirements.

Assign the Rapid Action Team, as required.

Notify the Sheriff's Department Patrol Watch Commander to request the assistance of the Special Operations Unit.

Designate a site for the command post and/or specific safe location for responding agency personnel to be directed.

Contact any other appropriate emergency service agency.

Assign armed personnel, if needed, to contain the situation.

Determine the primary containment zone and evacuate all non-essential persons from the area.

Evacuate prisoners as outlined in the Court Security Manual CTS 8-73.15

Contain and isolate the situation, when possible.

Detain witnesses at a safe location.

Secure all exits.

Relay all pertinent information to the Special Operations Unit Commander or his designee.

GON: CTS 8-73.18

CHAPTER: Court Security

SUBJECT: Special Operations Incident Plan

VI. SPECIAL OPERATIONS INCIDENT PLAN; Field Courts/Youth Home:

In addition to the procedures previously stated, Court Security Deputies assigned to Field Court or the Youth Home shall have the additional responsibility of:

FIELD COURT: Informing the appropriate police agency serving the jurisdiction of that specific Field Court **prior** to notifying the Sheriff's Department.

YOUTH HOME: Informing the proper Youth Home Officials and the Sheriff's Department Patrol Watch Commander.

GENERAL ORDER NUMBER:

CTS 8-73.18.1

EFFECTIVE DATE:

01/01/95

REFERENCES:

CALEA 73.2.1b

SUBJECT:

CROWD CONTROL

I. POLICY:

To protect against disturbing, obstructing or interference with the judicial process of the courts and preserving the dignity and decorum of the judicial system.

II. PURPOSE:

To establish general guidelines and procedures to be followed in case of demonstrations, disturbances and breaches of peace within the Eighteenth Judicial Circuit.

III. DEFINITIONS:

Crowd Control: Controlling any civil disturbances, riots, demonstrations, inmate cell extraction's, or any other unusual incidents that require the intervention of a specially trained unit.

Demonstration: A public display of group feelings toward a person or cause.

Disturbance: To throw into disorder, inconvenience, to interfere.

Crowd: A large number of persons collected into a somewhat compact body without disorder.

IV. CROWD CONTROL:

It is the duty of all Sheriff's Deputies to have a working knowledge of what is required of them while preventing or handling demonstrations, disturbances, or breaches of peace.

GON: **CTS 8-73.18.1**

CHAPTER: **COURT SECURITY**

SUBJECT: **CROWD CONTROL**

Deputies shall be aware of unusual amounts of people entering or gathering in the facility, an exceptionally large media presence and/or highly publicized trials including sentencing.

All courtroom deputies shall be aware of what kinds of cases are on their court calls.

When a deputy observes any of the above situations developing, he/she should notify their immediate supervisor. They should observe, assess, and attempt to identify potential ringleaders.

Upon arrival of the supervisor, the deputy shall brief him/her, and the supervisor shall assess the situation.

The Supervisor shall notify the Chief Of Court Security, and if necessary, the R.A.T members. The Supervisor on the scene shall further assess and observe, and take whatever action is necessary, until the Chief Of Court Security arrives.

The Chief of Court Security or his designee shall serve as the Incident Commander, unless relieved by the Administrative Bureau Chief or the Sheriff.

The Chief Of Court Security or his designee shall notify BASE., the Bureau Chief, and if necessary, the Patrol Division Commander, the Corrections Bureau Watch Commander, the Chief Judges Office, Department of Children and Family Services, if appropriate.

On the order of the Incident Commander, a Command Post and a staging area shall be set up in the immediate area, and an assigned deputy will deliver an equipment bag (located in the lower level Court Security office) to the Command Post. The Equipment bag shall contain the following items:

Flex-Cuffs (several pairs)
Bullhorn
Permanent Magic Markers
Crime Scene Tape
Telephone Handset
Camera with film

GON: CTS 8-73.18.1
CHAPTER: COURT SECURITY
SUBJECT: CROWD CONTROL

An assigned Medical Officer shall bring the First Responder's Medical Bag to the Command Post

Stanchions and wheelchairs will be put on standby.

The Incident Commander shall be responsible to:

- A. Direct, control, and diffuse the situation, and, if necessary, order arrests to be made.
- B. Assign a supervisor to coordinate all outside assistance, and prepare a staging area, preferably the cafeteria, or the multi-purpose room.
- C. Ensure that BASE will turn on the appropriate monitor, if possible.

V. FIELD COURTS:

The deputy assigned to any Field Court shall take whatever action is necessary to control and diffuse the situation and shall notify or local authorities for assistance.

As soon as possible, the Field Court Deputy will notify the Chief Of Court Security of the incident, and a report shall be generated.

All reports shall be filed before the end of the shift.

GENERAL ORDER NUMBER: CTS 8-73.19
EFFECTIVE DATE: 01/01/95
REFERENCES: CALEA 73.2.1c
CHAPTER: Court Security
SUBJECT: High Risk Trial Plan

I. POLICY:

To be prepared for any incident which may occur prior to and during a trial which has a known or suspected potential to become volatile, the defendant is known to be a high security risk or when threats have been made against Court Security Officers or trial participants.

II. PURPOSE:

To establish a plan of action which includes the responsibilities and duties of Court Security Deputies assigned to Building Security, Screening and Courtrooms in the event of a known high risk trial.

III. DEFINITIONS:

As used in this document, the following definition shall apply;

HIGH RISK TRIAL: A trial of which the character indicates a serious security threat or which may provoke a strong outcry from the public, trial participants or Court Officials.

IV. SHERIFF'S DUTY:

Whenever the potential for an incident is high, the Sheriff shall take any and all precautions necessary, as approved by the Court, to ensure the security of the Eighteenth Judicial Circuit.

V. COURT SECURITY DEPUTIES, assigned to Courtrooms; General responsibilities:

Many trials contain the potential for high risk emotional responses. It is incumbent upon each Deputy to ascertain when these situations may arise. When this is accomplished, steps can be taken to neutralize the situation.

GON: **CTS 8-73.19**

CHAPTER: **Court Security**

SUBJECT: **High Risk Trial Plan**

It is important that the Deputy be aware of the type of cases on the Daily Court Call that could create a high risk situation. The Court Security Deputy shall immediately bring these facts to the attention of the Unit Coordinator, of that particular floor, who shall notify Courtroom And Facility Supervisors and the judge.

VI. COURTROOM DEPUTIES; Specific responsibilities:

In addition to the General Responsibilities, the Court Security Deputy shall have the additional responsibility of:

1. Arriving at the Courtroom prior to the opening of Court and completing a search for contraband, weapons, bombs, etc. The jury room, adjacent conference rooms, corridors and nearby restrooms will also be searched by the Court Security Deputy.
2. Advising Prisoner Escort of the particular situation. Requesting that the handcuff belt or the RACC belt be put on the prisoner, if necessary.
3. Requesting BASE to monitor the courtroom via CCTV and video, if necessary.
4. Searching all persons entering the courtroom either by magnetometers or hand search, prior to entering the courtroom, as dictated by circumstances.
5. Maintaining prisoner control. When assigned this task, the Court Security Deputy will not be assigned any other tasks.
6. Maintaining order in the Courtroom.
7. The Court Security Deputy/Deputies assigned to a high risk trial are responsible for the security of the prisoner, the general public, the judge and other court staff while court is in session.
8. Court Securities Deputies shall maintain strategic positions throughout the courtroom in order to quell any disorders and to thwart any escape attempts.

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High Risk Trial Plan

9. In the event the HIGH RISK COURTROOM 4000 is used, the deputies assigned to work there have the additional responsibility of setting up the glass wall partition between the gallery and the bench area. They will search and secure the holding cell and surrounding area where the prisoner may be kept during the trial. They will ensure that all mechanical equipment is working, including THE DURESS ALARM SYSTEM, (advise BASE prior to testing alarm)

VII. COURT SECURITY DEPUTIES assigned to Facility Security:

Court Security Deputies. assigned to Facility Security shall have the responsibility to be armed security for all high risk trials and be positioned in strategic locations in and around the courtroom as assigned by the Chief of Court Security.

VIII. COURT SECURITY DEPUTIES assigned to First Floor Screening shall:

1. Be alert for anything unusual from their day to day screening operation and advising their supervisor of same.
2. If necessary, keep the screening operation open longer hours both before the trial commences and during the duration of the trial.
3. Meet with Screening Supervisor for special assignments.

IX. COURT SECURITY DEPUTIES assigned to the Control Room shall:

1. Meet with their supervisor to discuss the particulars of the trial.
2. In the event the trial participants include inmate(s), use restraints as deemed appropriate.
3. Monitor the entrance and exits of the building, monitoring the inmate secured corridor, if used, monitoring the specific courtroom conducting the High Risk Trial (video taping the proceedings if requested to do so) and advising the Chief of Court Security of any unusual occurrence.

This shall include assigning additional Deputies to escort the inmate(s) to and from Court.

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CHAPTER: **Court Security**

SUBJECT: **High Risk Trial Plan**

X. THE CHIEF OF COURT SECURITY shall have the responsibility of:

1. Staffing the security for all high risk trials. The Sheriff shall provide additional security from other bureaus within the Sheriff's Department, when necessary.
2. Meeting with the trial judge and related Court Security Deputies to coordinate trial plan particulars.
3. Informing the Sheriff, Bureau Chief and Chief Judge of the security plan.
4. Briefing all affected personnel prior to the trial and debriefing them at the trials conclusion in an effort to strengthen future security measures, if needed.

XI. SECURITY PLAN; generally:

Prior to the trial, the Chief of Court Security or his designee shall conduct a briefing with the judge who will preside over the High Risk Trial to discuss the security measures to be implemented prior to and during the trial. Specific topics which shall be addressed include, but are not limited to:

A. JUDICIAL SECURITY:

1. Judge's Parking; Parking shall be in a secure area as near to the Court Facility as possible. The parking space shall NOT be marked or designated with the title or name of the judge.
2. Judge's Escort; Uniformed or non-uniformed armed deputies shall escort the judge to and from court, if necessary.
3. Judge's Movements; Routes shall be established for the movement of the judge from the parking area to the court and from the court to other locations the judge will be traveling within the Court Facility. Escorts within the Facility shall be established.

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4. Judge's Routine; The Chief of Court Security shall advise the judge to inform him of any changes in his or her daily routine. Security shall be advised to accommodate those changes.
5. Facility Searches; A search of the court facility, courtroom and judge's chambers shall be conducted prior to and following each Court session.
6. Disruptive Behavior; The Court Security Deputy assigned to work a high risk trial shall confer with the trial judge as to how much disruption he or she will permit before the deputy shall intervene. The judge may want to set up a signal with the deputy working the trial as to when the deputy shall take action to stop the disruption.
7. Emergency Situation; Signals and procedures shall be established for Court Security Deputies to follow in the event of an emergency.
8. Court Security Deputies; Court Security Deputies shall inform Court Personnel on related matters on a need to know basis. Court Security Deputies shall establish an exit route for the judge for rapid exit. Court Security Deputies shall also establish a secure area in the event a person is taken into custody.
9. Intelligence; The trial judge shall be made aware of any intelligence gathered on the defendant and associates that may interfere with the proceedings.

B. PRISONER SECURITY; Control and considerations:

1. Security measures shall be implemented to thwart escapes and prevent harm to any prisoner or defendant. Additional Security Deputies shall be assigned to the courtroom and Court Facility to ensure effective prisoner control.
2. Prisoners shall be placed in restraints during any movements within the Court Facility. The Court Deputy shall confer with the trial judge regarding restraints while the prisoner is in the courtroom.

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3. The Court Security Deputy shall retain immediate control and keep visual contact with any prisoner in his or her custody.
4. In the event of multiple prisoners, additional Court Security Deputies shall be provided.
5. Court Security Deputies shall be mindful of the amount of time an inmate is spending in the courtroom while other court business is being attended to.
6. The Court Security Deputy shall take necessary measures to prevent the prisoner from any access to evidence or other items which may pose a security risk.
7. In the event the judge ORDERS a privileged conference between the prisoner and his/her attorney of record, an area for the conference shall be determined by the court.

C. WITNESS SECURITY:

1. The Chief of Court Security shall evaluate the nature of the case as it pertains to witness protection and the extent of additional Court Security Deputies to be provided, if any.
2. In the event a secure waiting area for witnesses is required, the Chief of Court Security shall establish the location after conferring with related individuals.
3. In the event it is necessary to obtain a court order to provide 24 hour protection, the order shall direct the County Board to provide additional funding for this purpose. (This also protects the Sheriff from any liability resulting from a claim of false imprisonment by a protected witness.)

D. SPECTATOR/MEDIA SECURITY:

1. In the event there is to be reserved seating for defendants family/friends, victims relatives, the media and spectators, a plan shall be established to determine seating.

GON:

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SUBJECT:

High Risk Trial Plan

2. The number of spectators allowed in the courtroom shall be predetermined along with a policy on their movements.
3. Any exceptions to the Administrative Order prohibiting the use of audio and video equipment by the media shall be discussed by the Chief of Court Security and the judge making the exception.
4. If necessary, additional screening shall be set up at the entry to the courtroom and ALL persons wishing entry MUST go through the screening procedure.

E. JURY SECURITY:

1. Jury security measures shall be considered with the Jury Administrator and procedures jointly agreed upon.
2. In the event a jury is to be sequestered, a meeting shall be held between the Chief of Court Security, the Trial Judge and the Jury Administrator to discuss the particulars of the sequestering and all security measures that shall be instituted by the Chief Judge and the Sheriff based on their recommendations.

XII. OTHER SECURITY MEASURES:

1. The Chief of Court Security has the responsibility of gathering all pertinent information concerning the prisoner/defendant and his/her associates and family. The Chief of Court Security shall contact the Corrections and Criminal Bureaus requesting all available intelligence and analyze it to determine the security risks and measures to be implemented. Photographs may be requested from the Crime Laboratory, when needed.
2. The Chief of Court Security shall hold a briefing with all Court Security Deputies assigned to work a high risk trial, advising the Court Security Deputies of the plan of action and of all pertinent intelligence.

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3. Upon conclusion of the court session each day, the Chief of Court Security shall conduct a debriefing meeting with the trial judge and all Court Security Deputies assigned to work the high risk trial to determine the effectiveness of the current security measures and to gather any pertinent information concerning the security of the Facility or its occupants.

The Chief of Court Security shall inform the Sheriff, Administrative Bureau Chief, Chief Judge and trial Judge of any potential risk discovered.

All information shall be forwarded to the Chief Judge and the Sheriff through the Bureau Chief by the Chief of Court Security within seven (7) days following the debriefing.

GENERAL ORDER NUMBER: CTS 8-73.20
EFFECTIVE DATE: 01/01/95
REFERENCES: CALEA 73.2.1 b &c
CHAPTER: Court Security
SUBJECT: Emergency Medical Plan

I. POLICY:

To provide an emergency medical plan; To ensure medical assistance and a rapid response to all medical emergencies that occur within a Court Facility of the Eighteenth Judicial Circuit.

II. PURPOSE:

To establish an emergency medical plan for all court facilities within the Eighteenth Judicial Circuit.

III. DEFINITIONS:

EMS: Emergency Medical Service

Assign: To appoint to a post or duty.

IV. EMERGENCY MEDICAL PLAN; initial response:

Upon the knowledge of a medical emergency, the Court Security Deputy shall:

Go to the victim and determine as best as possible what the specific problem is.

If trained in first aid and it is determined that first aid is needed, start first aid procedures.

The responding Court Security Deputy shall radio BASE that there is a "LEVEL I MEDICAL EMERGENCY." In the event that emergency medical service is required, the medical emergency shall be upgraded to a "LEVEL II MEDICAL EMERGENCY." A deputy trained to be a First Responder shall be called to the scene. A RAT Deputy shall wait for the paramedics by the main door on the east side of the building. Another RAT Deputy shall secure an elevator and be prepared to lead the paramedics to the victim.

GON: CTS 8-73.20

CHAPTER: Court Security

SUBJECT: Emergency Medical Plan

The Court Security Deputy shall relay as much information as possible to BASE.

BASE shall relay any pertinent information from the DuComm Unit (911) back to the First Responder.

In the event BASE is unmanned, the Court Security Deputy shall contact the DuPage County Sheriff's Communication Center ON CHANNEL TWO (2), for assistance. Since this may not occur often, clearly identify the location needing assistance, the Court Security Deputy making the request and any other pertinent information that will expedite assistance to the victim.

V. EMERGENCY MEDICAL PLAN; Inmates or any other individual who is in the custody and care of the Sheriff's Department:

In the event an inmate becomes ill the Court Security Deputy accompanying that inmate shall:

Radio BASE stating, "Medical emergency with an inmate" and give the specific location. Be as specific as possible.

BASE shall radio, "LEVEL I medical emergency with an inmate at ____" (giving specific location).

The Court Security Deputy accompanying the inmate shall remain with the inmate until relieved of that assignment.

The Court Security Deputy shall be prepared to describe the specific nature of the illness and anything else that may be unusual or out of the ordinary.

BASE shall notify the Duty Sergeant from Corrections and request the jail duty nurse. Two RAT Deputies shall go to the victim to assist and prevent escape.

In the event it has been determined that an ambulance is needed, the medical emergency shall be upgraded to a LEVEL II MEDICAL EMERGENCY. BASE shall contact emergency medical services (9-911). One RAT Deputy shall wait for the paramedics by the main door on the east side of the building.* Another RAT Deputy shall secure an elevator and be prepared to lead the paramedics to the victim. The DuPage County Corrections Department shall take custody of any inmate transported to medical facilities.

GON: CTS 8-73.20

CHAPTER: Court Security

SUBJECT: Emergency Medical Plan

* It may be necessary to relocate the ambulance to the sally port, in the event the inmate can only be transported in the secure elevator. This will be determined at the time of the incident.

VI. FIRST AID KITS AND EMERGENCY TELEPHONE NUMBERS:

Each Court Security Deputy shall be familiar with the location of the nearest available first aid supplies and of the applicable emergency telephone number to contact emergency medical services.

A. Judicial Office Facility

505 N. County Farm Road

Wheaton, IL. 60187

First Aid Supplies: The Master Control Center. If Master Control is unmanned, contact the reception desk on the first floor at 6423 or 6424 and request a first aid kit. There are 3 first aid kits located in the security office on the lower level.

Building Telephone - 9-911

Public Telephone - 911

B. Courtroom 1000:

First Aid Supplies - Contact the jail Medical Services Unit (MSU) at Centrex 7749 or contact Master Control (jail) by radio.

Emergency Medical Telephone Number - 9-911

Public Telephone - 911

C. Addison Field Court:

First Aid Supplies - Contact the Addison Police Department at telephone extension # 206.

GON: CTS 8-73.20

CHAPTER: Court Security

SUBJECT: Emergency Medical Plan

Emergency Medical Telephone Number - 911

D. Glendale Heights Field Court:

First Aid Supplies - Contact the Glendale Heights Police Department at 260-6020.

Emergency Medical Telephone Number - 911

E. Wheaton Field Court:

First Aid Supplies - Information Desk (first floor)

Emergency Medical Telephone Number 9 - 911

F. Downers Grove Field Court:

First Aid Supplies - in the Courtroom

Emergency Medical Telephone Number - 911

VII. DURESS ALARMS:

Duress alarms **SHALL NOT** be utilized in medical emergencies. All requests for medical assistance shall be made either by radio, telephone or by word of mouth.

GENERAL ORDER NUMBER: CTS 8-73.21
EFFECTIVE DATE: 01/01/95
REFERENCES: CALEA 73.2.1 a, b & c
CHAPTER: Court Security
SUBJECT: Security Survey

I. POLICY:

To ensure that the security of the Courthouse, Courtrooms and the individuals utilizing these facilities by instituting an annual inspection process describing the current level of security and recommendations for improvements.

II. PURPOSE:

To delineate the criteria contained in the annual Security Survey and; To state the procedures guiding the personnel assigned to conduct the Security Survey and recommend appropriate actions to ensure the security of the Facilities of the Eighteenth Judicial Circuit.

III. DEFINITIONS:

Security Survey: An on-site examination and analysis that:

- A. Determines the nature and degree of the threat, the exact kind and degree of protective measures used, the precise kinds of security measures that are needed AND
- B. Recommends actions needed to establish the appropriate level of security

IV. SECURITY SURVEY; Procedures:

The Chief of Court Security shall have the responsibility to designate one or more subordinates to the task of conducting an annual Security Survey of all Court Facilities within the Eighteenth Judicial Circuit.

GON:

CTS 8-73.21

CHAPTER:

Court Security

SUBJECT:

Security Survey

The Security Survey shall be conducted during the month of April each year with the results forwarded by the Chief of Court Security to the Sheriff no later than April 30th.

Whenever a structural change occurs in a Court Facility, the Chief of Court Security shall update the annual Survey denoting the change and shall forward updated information to the Sheriff for review.

The date of the review or update and the name of the Deputy conducting the survey shall be noted on the title page of each survey.

GENERAL ORDER NUMBER: CTS 8-73.22
EFFECTIVE DATE: 01/01/95
REFERENCES: CALEA 73.2.1 a, b & c, 73.4.1
CHAPTER: Court Security
SUBJECT: Inventory

I. POLICY:

To ensure the accountability of the equipment assigned to the function of Court Security. A current inventory of all equipment is maintained by both the Chief of Court Security and the Department Quartermaster. Any additions, deletions or changes of this equipment must have prior approval by the Chief of Court Security and the Sheriff.

II. PURPOSE:

To maintain in documented form, a current inventory of all equipment utilized in the function of Court Security and; To state the procedures for conducting an inventory inspection and the maintenance of the current inventory.

III. DEFINITIONS:

As used in this document the following shall apply;

Inventory: An on-site examination and documentation of certain items that are the property of the DuPage County Sheriff's Department and are utilized in the operation of Court Security.

IV. INVENTORY; Procedures:

The Chief of Court Security shall have the responsibility to designate one or more Deputies to conduct an inventory inspection of all equipment assigned to Court Security or utilized in the function of Court Security within the Eighteenth Judicial Circuit.

GON: CTS 8-73.22

CHAPTER: Court Security

SUBJECT: Inventory

The inventory shall be conducted in April of each year and the results documented on an inventory list which shall be forwarded to the Chief of Court Security, the Quartermaster and the Sheriff no later than April 30th. A current list shall be maintained by the Chief of Court Security.

Any missing or damaged equipment shall be immediately brought to the attention of the Chief of Court Security.

Any additions, deletions or changes shall be denoted on an addendum to the current inventory by the Chief of Court Security and a copy forwarded to the Administrative Bureau Chief.

GENERAL ORDER NUMBER: CTS 8-73.23
EFFECTIVE DATE: 01/01/95
REFERENCES: CALEA 73.2.1 a, b & c, 73.4.1
CHAPTER: Court Security
SUBJECT: Physical Security Plan

I. POLICY:

To ensure the security of the Eighteenth Judicial Circuit, its assets and occupants, by enhancing the use of equipment and trained personnel.

II. PURPOSE:

To establish guidelines that regulate performance and ensure quality of all aspects of the physical security of the facilities of the Eighteenth Judicial Circuit.

III. DEFINITIONS:

As used in this document, the following shall apply;

Physical Security Plan: A plan concerning security of the physical aspects of an area, a structure or areas within a structure.

IV. PHYSICAL SECURITY PLAN; Generally:

The physical security plan is designed to protect all facilities of the Eighteenth Judicial Circuit. This plan shall be the guide for implementing new measures or improving existing ones. The plan shall be reviewed by the use of an annual Security Survey and recommendations shall be forwarded for purposes of such improvements. This plan shall be utilized as a guide in the formulation of annual forecasting and budgeting.

GON: CTS 8-73.23

CHAPTER: Court Security

SUBJECT: Physical Security Plan

V. PHYSICAL SECURITY PLAN:

The plan shall consist of the numerous variables which effect the physical security of the Court Facilities. Most of these variables are addressed in other Written Directives included in the Court Security manual in more specific terms.

Through the annual security survey, the Sheriff shall identify the security needs. The Sheriff shall attempt to maintain or upgrade current security measures by comparing them to the suggested variables delineated in this order. The Sheriff shall attempt to implement these measures through the normal budgetary process and by his liaison with the Capital Plant and the Courts.

VI. SECURITY PLAN VARIABLES:

Perimeter Lighting - Exterior perimeter lighting should be mounted high enough on the building or on poles as to discourage vandalism. All perimeter doors, walkways and parking facilities surrounding the Court Facility should have adequate illumination.

Parking Areas - Parking areas established for Court Facilities should be placed within a reasonable distance from the facility. Those areas used exclusively for Court parking should be posted as such. Adequate space should be reserved and properly posted for Judges and Court Staff. These reserved parking spaces should be placed as near to the private entrance, if any, of the Court Facility.

Exterior Doors - All exterior doors should be at least one and one-half inch thick if constructed of wood or should be reinforced with steel. Any windows on the door should be made of shatter resistant material. All exterior doors should be equipped with deadbolts, metal striker plates and emergency crash bars. In addition, the exterior doors should be alarmed alerting security or police as well as warning intruders.

Windows - All windows should be made of shatter resistant material. Windows shall be closed and locked at the end of the Court session and monitored during the session by Court Security Deputies. Sub level and first floor windows should be equipped with security bars and/or screens.

GON: CTS 8-73.23

CHAPTER: Court Security

SUBJECT: Physical Security Plan

All Courtroom windows should be made of a tinted material or light limiting material should be placed over the windows to temper bright sunlight which may affect the performance of Court Officers and Court Security Deputies.

Interior Doors - All interior doors should be equipped with a deadbolt and metal striker plate. If the interior of the door is constructed with a window, the window should be made of shatter resistant material. All interior doors should open out and should be locked when the Courtroom is not being utilized. All doors providing private entrance into the Judge's chambers and other restricted areas should be locked at all times.

Interior Hallway Lighting - All hallway lighting should be adequate to provide proper visible security regardless of the time of day or night. All fixtures should be recessed in order to prevent vandalism or accidental breakage. All hallway light controls should be either placed inaccessible to the public or constructed for controlled access. All hallways should be equipped with an alternative emergency light source.

Interior Room Lighting - All room lighting should be of adequate illumination to provide proper security. All light fixtures should be recessed. All light controls should be constructed for controlled access. All rooms utilized for Court business or which are designated as public access should be equipped with an alternative emergency light source.

Alarms (duress and intrusion) - Each Courtroom should be equipped with a duress alarm with the transmitters placed in strategic positions for immediate access. The alarms should terminate in an area external to the Courtroom/Chambers enabling security personnel or police to respond without delay. A response procedure should be distributed to all affected persons.

Each Court Facility should be equipped with intrusion alarms which summon security and/or police personnel.

Communications - Each Courtroom should be equipped with a communications instrument which has the capability of reaching an external source. This may be a telephone or radio.

GON: CTS 8-73.23

CHAPTER: Court Security

SUBJECT: Physical Security Plan

Evacuation Routes - Each Court Facility should have evacuation routes posted throughout the Facility informing the occupants of the safest route out in the event of an emergency. Evacuation routes shall be reviewed at least once a year. Such routes shall be determined by consideration of fire, smoke and disaster. Alternative routes should be developed should the primary routes be impassable.

Fire Detection - All Court Facilities should be equipped with such devices, at a minimum, to audibly warn all persons within the Facility of the probability of a fire. Fire detection alarms should be able to immediately alert the proper fire department of the fire. Such devices should be constructed as to properly function if the primary electric source fails.

Fire Protection (hoses, hydrants and extinguishers) - Each Court Facility should be equipped with fire suppression devices.

Where practical, a fire suppression system should be in place to include internal hydrants, hoses and sprinklers. All locations of fire suppression devices should be clearly marked for easy identification and access. All devices should be inspected periodically and maintained in proper working order.

Auxiliary Power - All Court Facilities should be equipped with an alternative power source necessary to provide power in cases of the failure of the primary source. The alternative source may be as simple as battery operated lighting or as complex as an auxiliary generator system. Any alternative electrical source should be periodically tested and inspected to ensure proper working condition.

Security Cameras - Internal and external security cameras should be placed in locations as to maximize security efforts of the Courthouse.

GENERAL ORDER NUMBER: CTS 8-73.24
EFFECTIVE DATE: 01/01/95
REFERENCES: NONE
CHAPTER: Court Security
SUBJECT: Incident Reports

I. POLICY:

To maintain written documentation relating to criminal and non-criminal incidents occurring within the Facilities of the Eighteenth Judicial Circuit which relate specifically to the task of Court Security and the members assigned to this function.

II. PURPOSE:

To establish guidelines and procedures relating to the reporting of unusual or criminal incidents which occur within a Court Facility.

III. DEFINITIONS:

As used in this document, the following shall apply:

UNUSUAL INCIDENT: Any occurrence that is not encountered in the normal day to day routine of a member assigned to the task of Court Security.

IV. COURT SECURITY REPORTS;

Court Security will use the standard DuPage County Sheriff's Department Reports as covered in the DuPage County Sheriff's Report Writing Manual for the purpose of reporting all unusual and criminal incidents occurring within a Court Facility or J.O.F. which affect the responsibilities of Court Security. Examples of the type of activity to be written on this type of report include, but are not limited to:

Disruptive, criminal and non-criminal, behavior.

Medical assistance, requested or rendered.

Duress Alarm activation's, including false activation's.

GON: **CTS 8-73.24**

CHAPTER: **Court Security**

SUBJECT: **Incident Reports**

Discovered contraband and/or currency. These items shall be forwarded to Property Control with a copy of the incident report and a copy of the CADS sheet.

Escorts of civilians to their cars when requested

Escorts of armored truck guards within the building.

Warrant arrests

Assistance rendered to other J.O.F. users

V. Responsibilities of Court Security Deputies:

Court Security Deputies shall contact the Sheriff's Department Communications Center to request a CADS sheet and incident number. The Court Security Deputy should have available all pertinent information necessary for entry into CADS

Sometime during the day of the incident a deputy should go to the Communications Center in the 501 Building to pick up the CADS sheet to be attached to the incident report. If, for some reason, it cannot be picked up that day it shall be picked up by mid-morning of the next day.

The Court Security Deputy must attach the CADS sheet to the incident report when submitting the incident report to his/her Supervisor.

Each report shall be completed with all pertinent information. The report may either be type written or in legible print. The report shall be completed, signed and submitted to his/her Supervisor as soon as practical. The Chief of Court Security or his designee shall be contacted if there is an anticipated delay in the submission of the report.

VI. Responsibilities of the Chief of Court Security:

The Chief of Court Security shall be responsible for reviewing each report for completeness, verifying the review by signing each report and forwarding to the Chief of Court Security, each report as follows;

GON: CTS 8-73.24

CHAPTER: Court Security

SUBJECT: Incident Reports

1. The original incident report with the original CADS sheet to the Watch Commander. Maintain a file on all reports generated by the Court Security Division. This file shall be maintained indefinitely.
2. A copy of the report and the CADS sheet to the Chief of Court Security
3. The goldenrod original copy of the report and CADS sheet to the Bureau Chief, Administration Bureau.
4. If illness or injury is involved, a copy of the report and the CADS sheet to the DuPage County Safety Risk/Management manager.
5. A copy to the Chief Judge if the incident involves the courts or the courthouse itself.
6. A copy to the Court Administrator if the incident involves the courts or the courthouse itself.

GENERAL ORDER NUMBER: CTS 8-73.25

EFFECTIVE DATE: 01/01/95

REFERENCES: CALEA 1.3.1, 1.3.7, 1.3.13, 1.3.14

CHAPTER: Court Security

SUBJECT: Authorized Use of the Stunning Device Nova XR5000

I. POLICY:

To only use that force that is necessary and reasonable, in keeping with all applicable statutes, case law, as well as our own policies and procedures. This policy shall apply to the authorized use of the stunning device by Court Security Deputies who are trained in the use of such device.

II. PURPOSE:

To establish procedures and guidelines for the use of the NOVA XR5000 / SPIRIT / ULTRON II.

III. DEFINITION:

NOVA XR5000 / SPIRIT / ULTRON II: A hand held, non-lethal electronic stun device with a maximum electrical output of 45,000 to 50,000 volts, 1 ohm, 1.7 micro-second pulses and a maximum power output of .35 Joules (watts per second) or .00004 AMPS whose power source is a 9 volt lithium non-rechargeable battery or 3 three volt lithium batteries.

IV. USE OF; Generally:

Should an emergency or potentially dangerous situation occur, leaving no time to contact the Chief of Court Security, the Court Security Deputy shall take whatever actions are reasonable and necessary to protect himself/herself or others. The stunning device shall be used as outlined in this general order by a deputy **trained** in its use.

The determination to use the stunning device must result from careful consideration. Considering the circumstances, the Court Security Deputy shall determine if this is the most reasonable and least harmful course of action.

GON: CTS 8-73.25

CHAPTER: Court Security

SUBJECT: Authorized Use of the Stunning Device - Nova XR5000

In the case where the stunned subject is to be remanded to the custody of the DuPage County Sheriff or any other jurisdiction, that authority is to be notified that the stunning device was used. Relay any medical information to the receiving jurisdiction.

Court Security Deputies shall NOT use or carry the NOVA XR5000 without first receiving and passing the prescribed NOVA training course.

To use the NOVA XR5000, place the contact probes against the subjects body and depress the switch. A short burst 1/4 to 1/2 seconds in duration will disorient the subject and cause minor muscle contractions. This causes a repelling effect. A burst of 2 to 3 seconds in duration can immobilize the subject, causing disorientation, loss of balance and leave the subject weak and dazed for several minutes. A burst of 5 to 7 seconds will take the subject down to the ground and the subject should completely pass out. Grab hold of the subject and direct the individual to the ground to prevent injury.

The stunning device shall be used DEFENSIVELY, not offensively. Court Security Deputies using the stunning device shall make every effort to avoid areas above the neck or around the genital areas.

V. MEDICAL ATTENTION:

Upon application of the stunning device, medical attention will be rendered to the affected subject. If the subject is to be remanded to the Sheriff, the subject will receive medical attention from the corrections medical staff. If the subject is not to be remanded, medical attention will be sought through the proper medical authorities; i.e. hospitals or clinics. IN EVERY CASE a full medical examination shall be done with a complete medical report.

This information shall be forwarded to the Bureau Chief, Administration Bureau, through the proper chain of command. In the event a subject refuses medical attention, that refusal shall be documented in the report. Transportation in an ambulance is not always necessary. The Court Security Deputy shall use his/her best judgment in this regard.

GON: CTS 8-73.25

CHAPTER: Court Security

SUBJECT: Authorized Use of the Stunning Device - Nova XR5000

VI. ARRESTS:

In each case where the stunning device has been used, it is **MANDATORY** that a Court Security Deputy file the appropriate charges to arrest the subject. Contempt of Court will be considered a criminal charge.

VII. INCIDENT REPORTS:

After each use of the stun device, the Court Security Deputy using the device shall prepare a full report. The report shall be forwarded to the Bureau Chief, via the chain of command. This report shall be done prior to the end of that persons tour of duty. The term ERD shall be used to identify the electronic restraining device.

INCLUDE IN THE REPORT:

1. Date and time of use.
2. Location of use, the facility address, Courtroom number or location in the Courthouse.
3. Name of subject and docket number, if applicable.
4. Location on the body that the stun device contact probes touched. The length of time the contact probes touched the subject's body.
5. Give a synopsis of the events, and put down the reason the stun device was chosen as the proper course of action.
6. Include a description of how the subject reacted. Note what, if any, medical treatment was given.
7. Include the name of the Court Security Deputy using the device and the name of the supervisor granting permission, if applicable.

When use of the stun device is authorized, it will be used for the shortest duration possible to achieve control over the subject.

It will **NEVER** be used for punishment.

GON: CTS 8-73.25

CHAPTER: Court Security

SUBJECT: Authorized Use of the Stunning Device - Nova XR5000

The only stun device approved for use in the Department is the NOVA XR5000 /SPIRIT / ULTRON II.

Court Security Deputies shall take all precautions necessary to ensure that these devices do not fall into the wrong hands.

GENERAL ORDER NUMBER: **CTS 8-73.25.1**

EFFECTIVE DATE: **01/01/95**

REFERENCES: **CALEA 1.3.7**

CHAPTER: **Court Security**

SUBJECT: **Remotely Activated Custody Control (R.A.C.C.) Belt**

I. POLICY:

It is the policy of the DuPage County Sheriff's Office to use only that force which is necessary and reasonable, in keeping with applicable statutes and case law, as well as the Department's policies and procedures. To prevent the possibility of injury to members of the DuPage County Sheriff's Office. This policy shall apply to the authorized use of the REMOTELY ACTIVATED CUSTODY CONTROL BELT (RACC BELT), by those Deputies of the DuPage County Sheriff's Office who are **trained and certified** under Departmental and STI guidelines.

II. PURPOSE:

This order establishes procedures and guidelines for the use of the REMOTELY ACTIVATED CUSTODY CONTROL BELT (RACC BELT)

III. DEFINITIONS:

RACC BELT: A multilevel security system utilizing non lethal electronic immobilization technology, by means of psychological dominance and/or actual application.

STI: Stun Tech Incorporated

III. PROCEDURES:

A. Authorization

Only supervisory personnel with the rank of sergeant or above, including the Chief of Court Security, shall authorize the use of the belt on an inmate/prisoner. This authorization will be given only after it has been determined that this is the least amount of force necessary to ensure safety and security.

GON: **CTS 8-73.25.1**

CHAPTER: **Court Security**

SUBJECT: **REMOTELY ACTIVATED CUSTODY CONTROL (R.A.C.C.) Belt**

At no time shall the belt be placed on any inmate/prisoner without prior approval from the appropriate supervisory personnel. This applies to both inmates housed at the Dupage County Corrections Facility and those being transported from other jurisdictions.

B. USE OF, GENERALLY:

The determination to use the RACC BELT must result from careful consideration of the circumstances. Once the determination is made and authorization is obtained, the CONTROL DEPUTY **shall:**

1. Verify identification numbers on the receiver, transmitter and stun pack.
2. Turn the key to the "on" position and test device to determine if it is in operating condition. If the device is operating properly, when activating the transmitter it will emit an audible tone. Maintain contact with the button and a second audible tone followed by a crackling noise, will be heard. Release the button and the unit should cycle for a period of about eight (8) seconds.
3. Turn the key to the "off" position. Remove key and place power source in the belt pouch, securing belt pouch.
4. Present to the inmate/prisoner and complete the Electronic Immobilization Belt Notification form.
5. Remove trouser belt if present, from the inmate/prisoner, place RACC BELT around the midriff area. The RACC BELT should ride above the waist. Advise the subject to take three (3) deep breaths. At the end of the third breath, pull the belt tight and secure. The electronic pouch should ride on the left side over the kidney area with two silver buttons, snug against the body.
6. Turn the key to the "on" position, remove key. The belt is now operational.
7. Levels of Response:
 - a. Psychological - merely wearing the belt and comprehending the end result.

GON: **CTS 8-73.25.1**

CHAPTER: **Court Security**

SUBJECT: **REMOTELY ACTIVATED CUSTODY CONTROL (R.A.C.C.) Belt**

- b. Full Immobilization - The transmitter button should be depressed for two full seconds, thereby projecting the eight second continuous cycle. This cycle can only be interrupted by inserting the key and turning to the off position.

C. MEDICAL ATTENTION:

After activation of the RACC BELT, medical attention shall be rendered to the affected subject by the Corrections Bureau Medical Staff. In every case a full medical examination will be conducted with a complete medical report. A copy of this medical report will be attached to the field or incident report and a copy will be forwarded to the Administrative Bureau Chief and Corrections Bureau Chief. If the device is used outside of the DuPage County JOF or Corrections Facility, the transporting Deputy will be required to obtain medical reports from the medical facility that rendered assistance. This report will reflect the status and findings of these reports to the Corrections Medical Staff Supervisor or their designee for follow-up. Any subject, who has been subjected to the stun mode of the RACC BELT outside the confines of the DuPage County JOF or Corrections Facility, will be reexamined by the DuPage County Corrections Medical Staff upon return to the facility.

D. INCIDENT REPORT:

After each use where the RACC BELT is activated, the Control Deputy shall prepare a full report. Reports shall be completed and copies forwarded to the Sheriff, through the proper Chain of Command, by the end of the work day in which it was activated.

GENERAL ORDER NUMBER: CTS 8-73.25.2
EFFECTIVE DATE: 01/01/95
REFERENCES: CALEA 1.3.7
CHAPTER: Court Security
SUBJECT: Authorized Use of Electronic Riot Shield

I. POLICY:

To only use force that is reasonable and necessary, and in keeping with all applicable statutes, case law, as well as our own policies and procedures. This policy shall apply to the use of the Electronic Riot Shield by any authorized and fully trained Court Security Deputies.

II. PURPOSE:

To establish procedures and guidelines for the use of the Electronic Riot Shield.

III. DEFINITIONS:

As used in this policy, the following definitions shall apply:

Electronic Riot Shield (E.R.S.): A non-lethal, hand held shield used to immobilize and control an individual. It has a maximum electronic output of 40,000 to 50,000 volts/4-6 milliamps and 30 minutes of constant power. The power source is (6) 3 volt lithium batteries.

IV. USE OF; Generally:

Should an emergency or potentially dangerous situation occur, leaving no time to contact the Chief of Court Security, the Court Security Deputy shall take whatever actions are reasonable and necessary to protect himself/herself or others. The Electronic Riot Shield shall be used as outlined in this general order by a deputy trained in its use.

The determination to use the stunning device must result from careful consideration. Considering the circumstances, the Court Security Deputy shall determine if this is the most reasonable and least harmful course of action.

GON: CTS 8-73.25.2

CHAPTER: Court Security

SUBJECT: Authorized Use Of The Electronic Riot Shield

In the case where the stunned subject is to be remanded to the custody of the DuPage County Sheriff or any other jurisdiction, that authority is to be notified that the Electronic Riot Shield was used.

Relay any medical information to the receiving jurisdiction.

Court Security Deputies shall NOT use or carry the Electronic Riot Shield without first receiving and passing the prescribed NOVA training course.

V. Proper use of the Electronic Riot Shield:

- a. Conventional: Conventional Shield (PUSH) techniques.
- b. Optional compliance: visual display of the electrical arc.
- c. Repelling: fully activated shield, use in full body contact to neutralize offensive behavior.
- d. Stunning: 1-3 second application to take the aggressiveness out of an individual.
- e. Full Takedown: sustained contact- no more than eight (8) seconds.

VI. Application of the Electronic Riot Shield:

Attempt to apply the E.R.S. to the largest portion of the body torso. Contact with the body must be made with at least two (2) contact strips on the front of the shield. Maintain contact with the E.R.S. against the subject with the switch depressed, until resistance is broken and the subject becomes passive or eight (8) seconds of continuous contact, whichever comes first. Once resistance has successfully been terminated and the situation entirely stabilized, discontinue use of the E.R.S. The E.R.S. will never be used on the head. If the shield comes in contact with the head, then discontinue use by releasing the trigger, reposition the shield, then continue use until resistance is terminated.

CAUTION: If fluids are thrown against the shield, discontinue use immediately.

NOTE: With lithium batteries this shield will give a full thirty (30) minutes of sustained power. Therefore, a tendency to over use the E.R.S. exists. Users must take extra care not to abuse this device. Under no circumstances will the E.R.S. be used any longer than eight (8) seconds at one time and it will never be used for punishment.

The Electronic Riot Shield shall be used DEFENSIVELY, not offensively.

GON:

CTS 8-73.25.2

CHAPTER:

Court Security

SUBJECT:

Authorized Use Of The Electronic Riot Shield

VII. MEDICAL ATTENTION:

Upon application of the Electronic Riot Shield, medical attention will be rendered to the affected subject. If the subject is to be remanded to the Sheriff, the subject will receive medical attention from the corrections medical staff. If the subject is not to be remanded, medical attention will be sought through the proper medical authorities; i.e. hospitals or clinics. IN EVERY CASE a full medical examination shall be done with a complete medical report. This information shall be forwarded to the Bureau Chief, Administration Bureau, through the proper chain of command. In the event a subject refuses medical attention, that refusal shall be documented in the report. Transportation in an ambulance is not always necessary. The Court Security Deputy shall use his/her best judgment in this regard.

VIII. ARRESTS:

In each case where the Electronic Riot Shield has been used, it is MANDATORY that a Court Security Deputy file the appropriate charges to arrest the subject. Contempt of Court will be considered a criminal charge.

IX. INCIDENT REPORTS:

After each use of the Electronic Riot Shield, the Court Security Deputy using the device shall prepare a full report. The report shall be forwarded to the Bureau Chief, via the chain of command. This report shall be done prior to the end of that persons tour of duty. The term ERS shall be used to identify the Electronic Riot Shield.

INCLUDE IN THE REPORT:

- a. Date and time of use.
- b. Location of use, the facility address, Courtroom number or location in the Courthouse.
- c. Name of subject and docket number, if applicable.
- d. Location on the body that the Electronic Riot Shield contact probes touched. The length of time the contact probes touched the subject's body.

GON:

CTS 8-73.25.2

CHAPTER:

Court Security

SUBJECT:

Authorized Use Of The Electronic Riot Shield

- e. Give a synopsis of the events, and put down the reason the Electronic Riot Shield was chosen as the proper course of action.
- f. Include a description of how the subject reacted. Note what, if any, medical treatment was given.
- g. Include the name of the Court Security Deputy using the Electronic Riot Shield and the name of the supervisor granting permission, if applicable.

When use of the Electronic Riot Shield is authorized, it will be used for the shortest duration possible to achieve control over the subject.

Court Security Deputies shall take all precautions necessary to ensure that the Electronic Riot Shield does not fall into the wrong hands.

GENERAL ORDER NUMBER: CTS 8-73.26
EFFECTIVE DATE: 01/01/95
REFERENCES: NONE
CHAPTER: Court Security
SUBJECT: Emergency Response Plan

I. POLICY:

To provide assistance and rapid response to duress alarms and reports of trouble within the Judicial Office Facility.

II. PURPOSE:

To establish an emergency response plan for the Judicial Office Facility .

III. DEFINITIONS:

Emergency: Any situation necessitating the need for Armed Court Security Deputies.

RAT: Rapid Action Team

IV. EMERGENCY RESPONSE PLAN:

A. In the event of an emergency, where the Rapid Action Team is required, the Rapid Action Team members will respond as assigned.

1. To a level 1 emergency: Rapid Action Team #1
2. To a level 2 emergency: Rapid Action Teams #1, and #2, with available SAM units as backups.
3. To a level 3 emergency: Rapid Action Teams #1, #2, and #3 with available SAM units as backups.

B. The Emergency Response Plan will consist of three (3) teams. They are as follows:

1. Team #1: Rapid Action Team

GON: CTS 8-73.26

CHAPTER: Court Security

SUBJECT: Emergency Response Plan

2. Team #2: Rapid Action Team and any available SAM Units.
 3. Team #3: Rapid Action Team, any available SAM Units , and all remaining SAM Units that are available.
- C. On any given report of trouble or activated duress alarm BASE will activate the Emergency Response Plan. Base will request all units to hold their radio traffic, then give the location and a brief description of the problem, level response and any other information relative to the situation.

Responding Deputies shall then advise BASE of their status. (10-76 enroute or 10-23 arrived at scene.)

In the event that the responding deputies need further assistance, the deputy shall radio BASE to send assistance. BASE will send additional assistance by increasing the level of the emergency.

In addition to the RAT's, the Unit Coordinator or Supervisors will respond until satisfied that the situation is under control. BASE will advise all units to resume normal radio traffic.

If a duress is activated in any of the office areas, the Response Team will respond to the reception area or the information desk and attempt to gather information as to the location of the alarm (within the office area) and the causative factor.

An incident report shall be filled out by the end of the day. Copies submitted to the Chief of Court Security and the Administrative Bureau Chief.

Rapid Action Team response will be limited to the hours of 0730 to 1630 hours. After 1630, response will be limited to the Court Security Deputies on duty and outside emergency agencies.

If additional assistance is needed, the Security Deputy on duty shall request assistance from the Sheriff's Department Communication Center.

GON: CTS 8 - 73.1

CHAPTER: COURT SECURITY

SUBJECT: JOB DESCRIPTIONS AND POSITION RESPONSIBILITIES

An individual with a positive reading still desiring entry into the building shall be required to pass through the walk-thru a second time. If a positive reading is again registered, the individual will be searched using a hand held detector.

If, as a result of a hand scanner search a metallic object is located, it will, if possible, be removed. In all cases another complete search with the hand held detector shall be done, as the person may have more than one metallic object.

If, as a result of the search, an item of contraband is discovered, a Court Security Deputy will be called.

Items which are prohibited by the Court System, but are legally possessed by the individual shall be vouchered for safekeeping and returned to the individual upon his/her departure from the building.

Blocker Post: The Civilian Court Security Officer working as Blocker shall stop all persons entering the building through the EXIT doors and direct them to the proper entrance. The Blocker will also maintain and return items that have been vouchered and collect envelope and voucher card.

Point Post: The Civilian Court Security Officer working the point shall assist all persons entering the building to the correct lines. The Point Officer shall also advise persons entering the walk thru units to empty all metal objects and direct them to the containers used for that purpose.

Back Up Searcher: The Civilian Court Security Officer working as Back Up Searcher will act as back up security for the Deputy/Officer working the other posts. The Back Up Searcher shall assist in searches and in cases of arrest and call for the necessary assistance needed.

It is also the responsibility of the Civilian Back Up Searcher to transport the vouchers in use to the Blocker at the exit doors where the possessions can be returned to their owners

GENERAL ORDER NUMBER: CTS 8-73.2
EFFECTIVE DATE: 01/01/95
REFERENCES: CALEA 73.1.5
CHAPTER: Court Security
SUBJECT: Court Liaison

I. POLICY:

To maintain a clear channel of communication between the Eighteenth Judicial Circuit and the Sheriff's Department to ensure the objectives of both are met.

II. PURPOSE:

To establish the position of Court Liaison within the department for the purpose of maintaining clear channels of communication with specific authorities of the Eighteenth Judicial Circuit in regards to Court Security

III. DEFINITIONS:

None.

IV. COURT LIAISON:

The Chief of Court Security shall be responsible for the task of Court Liaison and shall accomplish this task in the name of the Sheriff. The Court Liaison shall initiate formal and continual communication to facilitate a secure environment within the Court Facilities. A climate that shall take into account not only security but the fair and impartial administration of justice. Cooperation between the Judiciary and the Department is required to coordinate the complex task of Court Security.

The Court Liaison shall meet quarterly; January, April, July and October with the Chief Judge or his designee. Topics which are of mutual concern shall be discussed at that time. These topics include but are not limited to; daily security, the security of prisoners, defendants, Judges, witnesses, juries, screening and related equipment, high risk trials, alarms, hostage and/or bomb situations, disaster plans, evacuation procedures and the general duties of Court Security.

GENERAL ORDER NUMBER: CTS 8-73.3
EFFECTIVE DATE: 01/01/95
REFERENCES: CALEA 73.4.2
CHAPTER: Court Security
SUBJECT: Courtroom External Communications

I. POLICY:

To ensure the safety of Court Officials, litigants and persons attending court sessions. To enhance the efficiency of the Court and of Court Security Deputies.

II. PURPOSE:

To describe the devices utilized within a courtroom for the purposes of a means of external communications to areas outside of the courtroom.

III. DEFINITIONS:

Oral Communications Device: A telephone or radio capable of communicating to a location outside of a courtroom.

Courtroom: The room utilized for conducting court business and related rooms such as; chambers, conference rooms, jury rooms and anterooms.

IV. EXTERNAL COMMUNICATIONS:

Court Security Deputies assigned to Courtrooms, Building Security, Prisoner Escort, Screening and BASE shall be equipped with a portable two-way radio. The Court Security Deputy will be able to contact the Chief of Court Security or his designee. The Court Security Deputy will also be able to contact BASE and Sheriff's Communication Center which has access to telephones.

GENERAL ORDER NUMBER: CTS 8-73.4
EFFECTIVE DATE: 01/01/95
REFERENCES: CALEA 73.2.1c
CHAPTER: Court Security
SUBJECT: Courthouse Population Circulation Patterns

I. POLICY:

To provide a method to safely and effectively control the movements of specific classes of the population which utilize the Courthouse and Courtrooms. This shall include Judges, Court Security Deputies, Court Staff, prisoners and the general public.

II. PURPOSE:

To outline the population circulation patterns within the courthouse and courtrooms, to afford optimum safety to all persons and to effectively conduct court business.

III. DEFINITIONS:

None.

IV. COURTHOUSE; General Structure Outline:

ENTRANCE/EXITS: The Courthouse is a four story structure with a lower level. The main public entrance is located on the east side. There is a second entrance located directly opposite the main entrance on the west side. There is an entrance exclusively for judges with key cards on the east side, north of the main entrance. These doors may also be used as an exit. There is one EXIT located on the east side, south of the main entrance. This exit is for emergencies only. Stairway #3 and #4 empty out through this exit door. There is an entrance/exit located on the west side of the building, adjacent to the bridge. This is a secure door in that the prisoners are brought to and from court through this door. There are four alarmed EXIT doors located in the Cafe DuPage. These exits are for emergencies only.

On the lower level there is one entrance on the north side of the building, adjacent to the engineering room. It shall be used exclusively for Capital Plant.

GON: **CTS 8-73.4**

CHAPTER: **Court Security**

SUBJECT: **Courthouse Population Circulation Patterns**

There is one EXIT door adjacent to the sally port on the north side of the building. Stairway #6 exits through this door. There is a dock door on the north side of the building. Stairway #1 and #2 exit through this door. There are four garage type doors located on the north side of the building. One is for the sally port, two doors are used for deliveries and one door is used for trash pick-up.

ELEVATORS: The building has six elevators. Elevator #1 is a private elevator. It travels from the lower level to level four. It shall be used exclusively for the judges. It is located on the east side of the building, north of the main door. Elevators #2 and #3 are to be used by the general public and court staff. They travel from the lower level to level four. They are located in the center core of the building, by the main entrance. Elevator #4 is a private elevator. It is to be used by kitchen personnel. It travels from the lower level to level one. Elevator #5 is a private elevator. It travels from the lower level to level four. This elevator is for those with key card access. Elevator #6 is a private and secure elevator. It is for the movement of prisoners to and from Court. The Master Control Center, JOF, moves this elevator from the lower level to level four. There is one escalator located at the main entrance of the building. It travels from level one to level four.

STAIRWAYS: There are six stairways located throughout the building. Stairway #1 is a private stairway located on the north side of the building. It travels from the lower level to level four. Stairway #2 is adjacent to stairway #1. It is for use by the general public and court staff in the event of an emergency. Stairway #3 is for use by the general public and court staff in the event of an emergency. It is located on the south side of the building and travels from the lower level to level four. Stairway #4 is a private stairway. It is adjacent to stairway #3. Stairway #3 and #4 both exit out the east exit door, south of the main entrance. Stairway #5 is for use by the general public and court staff. It travels from the lower level to level one and from level one to level four. Stairway #6 is a private and secure stairway. It is for the evacuation of prisoners in the event of an emergency. It exits out the north side door by the Sally Port.

V. COURTHOUSE; Judges:

The judges with key cards may enter the courthouse through the judge's private door located on the east side of the building, north of the main entrance. They may travel floor to floor on the judge's private elevator. The judges shall have access to their chambers and courtrooms via the private corridor.

COURT SECURITY AND THE TRANSPORTATION OF PRISONERS: A NATIONAL STUDY



POTENTIAL DIRECTIVES, GOALS & OBJECTIVES, MISSION STATEMENTS

- ♦ **Mission Statement**
- ♦ **Budget Mission Statement - Budget Issue**
- ♦ **Mission, Philosophy, Goals and Objectives
of the Sheriff's Department/Sheriff's Office**
- ♦ **Philosophy, Goals, Objectives for the
Administrative Services Division**
- ♦ **Philosophy, Goals, Objectives for the
Court Security and Services Division**
- ♦ **General Order - Use of Seat Belts (Mandatory)**

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MISSION STATEMENT

It is the mission of the _____ County Sheriff's Office/Sheriff's Department to provide services to our citizens that meet or exceed the professional standards established for nationally accredited law enforcement agencies. To provide equal enforcement and protection of the law, without prejudice or favor. To establish goals in partnership with the community, and to prioritize problems based on community concerns. To contribute, as members of the community, to the preservation and improvement of the quality of life in _____ County. To make a difference for the better.



Sheriff's Department/Office of Sheriff

BUDGET MISSION STATEMENT - BUDGET ISSUE

The basic function of a Sheriff's Department/Office of Sheriff is to provide safe and secure judicial services building. In addition to that, it is our goal to provide a normal and professional work environment for any/all judicial service personnel and the citizens of the community.

General Order Number: 2.002

Effective Date: 01/01/95

Reference:

Chapter: Agency Manual

Subject: Mission, Philosophy, Goals and Objectives of the Sheriff/Sheriff's Department

I. PURPOSE

To state the mission, philosophy, goals and objectives of the _____ county Sheriff's Office/Sheriff's Department.

II. POLICY

It is the policy of the _____ County Sheriff's Office/Sheriff's Department that its mission, philosophy, goals and objectives are as stated in this standard operating procedure. Each division within the Sheriff's Office/Sheriff's Department by virtue of its specific role, will have a written philosophy and written goals and objectives, contained herein as Attachments ____ which will be reviewed and updated as required but not less often than once annually.

III. MISSION STATEMENT

The Sheriff's Office/Sheriff's Department exists to ensure the safety of, and provide the highest quality service to, the citizens of _____ County. This will be accomplished by maintaining the highest level of professionalism in all services undertaken by this office to include: the provision of humane and secure correctional services for those persons remanded to the custody of this office; the provision of courtroom and courthouse security and the service of legal adjudication of all criminal and civil matters before the courts.

IV. PROCEDURE

- A. The philosophy, goals and objectives stated in Attachment ____ will guide the conduct of operations in the _____ County Adult Detention Center.
- B. The philosophy, goals and objectives stated in Attachment ____ will guide the conduct of operations in the _____ County Sheriff's Office/Sheriff's Department - Court Security and Court Services Division.

- C. The philosophy, goals and objectives stated in Attachment ____ will guide the conduct of operations in the _____ County Sheriff's Office/Sheriff's Department - Community Corrections Division.
- D. The philosophy, goals and objectives stated in Attachment ____ will guide the conduct of operations in the _____ County Sheriff's Office/Sheriff's Department - Administrative Services Division.

Date Approved

Sheriff

Effective Date

General Order Number: 3.003

Effective Date: 01/01/95

References:

Chapter: Administrative Services Division

Subject: Philosophy, Goals, Objectives for the Administrative Services Division

PHILOSOPHY, GOALS, OBJECTIVES

ADMINISTRATIVE SERVICES DIVISION

Administrative and Management of the _____ County, Sheriff's Department/Sheriff's Office - Administrative Services Division is based on the tenet that administrative support is required throughout the agency in order for each division to fulfill its operational goals and objectives. The quality of the administrative support provided by the Administrative Services Division to all other entities within the agency will necessarily affect the quality of service provided by each division. Therefore, the Administrative Services Division must strive to provide the highest quality of administrative support possible.

GOALS

To facilitate compliance with all applicable laws, standards, statutes, ordinances, policies and procedures by all affected Sheriff's Department/Sheriff's Office divisions, branches, sections, units, or individual employees.

OBJECTIVES

To conduct research to reveal all applicable laws, standards, etc.

To publish policies and procedures based on applicable laws, standards, statutes, ordinances and resolutions.

To provide personnel services to all Sheriff's Office personnel.

To coordinate all budget matters between the Sheriff's Office/Sheriff's Department
_____ County budget agencies, and the Commonwealth/State
_____.

To provide investigative and information support for the Sheriff, the Chief Deputy Sheriff/Undersheriff and the other authorized personnel.

To maintain a high level of proficiency in the discharge of duties for all personnel through coordination of a comprehensive training program.

To facilitate the performance of duty through automation.

To provide personal counseling services to all personnel as requested.

Date Approved

Sheriff

Effective Date

General Order Number: 4.004
Effective Date: 01/01/95
References: Court Security
Chapter: Court Security Manual
Subject: Philosophy, Goals, Objectives for the
Court Security and Services Division

Administration and management of the _____ County, Office of Sheriff, Sheriff's Department - Court Security and Services Division are based on the tenet that security, the safety and welfare of all judges, the general public and the prisoners/detainees in our custody are paramount in successful implementation of our policies. Services require the dedicated and successful service of process and prompt and effective returns to the courts of origin.

GOALS

To comply with the standards, policies and procedures established by the Code for the State of _____.

OBJECTIVES

To maintain a safe and secure facility.

To provide for the safety and welfare of all judges, the general public and all prisoners in our care, custody, control and supervision.

To provide for the prompt and effective service of all processes and their immediate return to court of origin. To further provide for the safety and well being of all deputies/officers in the performance of their duties.

To maintain procedures for the collection of data, records management and methods of reporting for the purpose of cost effectiveness.

To sustain employee motivation, morale, and job proficiency through training, personnel development programs and employee assistance programs.

To insure that policies and procedures governing the operation of Security and Services are promulgated to, and understood by, all employees assigned to this division.

Date Approved

Sheriff

Effective Date

SHERIFF'S DEPARTMENT/SHERIFFS' OFFICE

GENERAL ORDER

Today's Date:	Effective Date:	Number:
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Subject: _____

Use of Vehicle Seat Belts [Mandatory]

Reference:	Special Instructions:
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Distribution:	Re-Evaluation Date:	Number of Pages:
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Agency Wide	2
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I. PURPOSE

- A. To reduce the possibility of death and/or injury by all agency personnel as a result of on-duty vehicle accidents.
- B. To establish a policy concerning the use of vehicle safety belts by all agency personnel.
- C. To encourage safety belt usage by the general public by promoting a good example.

II. RATIONALE

- A. Recent studies indicate that the use of safety belts (lap or shoulder) can greatly reduce the possibility of death and/or serious injury resulting from automobile accidents.
- B. Properly fastened safety belts assist the operator in maintaining control of a vehicle during emergency driving situations.

III. PROCEDURE

- A. All agency personnel operating or occupying any agency vehicle, or one used on official business, will wear safety belts (lap and shoulder).
- B. Civilians and other non-agency passengers, while in an agency vehicle, will also be required to wear their safety belts. The ranking deputy or driver shall be responsible for ensuring the compliance of all occupants with this directive.

- C. Persons under arrest (when transported in any agency passenger vehicle), will be properly fastened in a safety belt (lap or shoulder). This is in addition to other agency procedures concerning the restraint of prisoners.
- D. Safety belt assemblies in agency vehicles shall not be modified or altered in any manner without the express written approval of _____.
- E. Agency vehicles with inoperable safety belt assemblies will not be used if other vehicles with properly working safety belts are available.
- F. It is the responsibility of _____ to inspect vehicle safety belt assemblies prior to each tour of duty.
- G. Inoperable safety belts will be immediately reported to (the) _____.

EXCEPTION: There may be times and circumstances where the use of safety belts may be deemed inappropriate or inadvisable due to the nature of the Sheriff's Department/Sheriffs' Office function. Supervisory personnel may grant an exception to this policy pursuant to the specific situation. As with any policy deviation, rationale must be justified and explained upon request.

IV. ENFORCEMENT

- A. It will be the responsibility of supervisory personnel to promote the voluntary compliance of this policy.
- B. It will be the responsibility of supervisory personnel to monitor and enforce this policy.
- C. Agency personnel disregarding this policy (without just cause) will be subject to departmental charges and subsequent sanctions.

Approved by:

NAME

SHERIFF

I have read and understand this rule.

EMPLOYEE SIGNATURE

DATE

COURT SECURITY AND THE TRANSPORTATION OF PRISONERS: A NATIONAL STUDY



NATIONAL SHERIFFS' ASSOCIATION

COURT SECURITY TRAINING PROGRAMS

- ♦ Five Day Program - Court Security Personnel
- ♦ Three Day Program - Court Security Personnel
- ♦ Two Day Program - Court Security Management
Seminar for Judges, Sheriffs, Court Administrators
Clerk of Courts, County Commissioners/Supervisors
and County Executives

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**COURT SECURITY SEMINAR
FIVE-DAY PROGRAM**

INSTRUCTIONAL OBJECTIVES:

Duties of Court Security Personnel	1 Hour
Objective: To familiarize the student with all aspects of the duties and functions of the court security deputy/officer, including the protection of evidence and files and the prevention of escapes and the transportation of prisoners.	

Review of Agency Policies**1 Hour**

Objective: To ensure that the student is familiar with the policies of the agency responsible for providing court security and transportation of prisoners.

Intelligence and Threat Assessment**1 Hour**

Objective: To instruct the student in the value of a systematic program of intelligence and information gathering as a part of the court security threat assessment analysis planning and operations processes.

Domestic Terrorists and Court Disruptions**2 Hours**

Objective: To make the student aware of techniques for dealing with advocacy groups or terrorists who threaten court participants or disrupt court proceedings to intimidate and influence decisions.

Bomb, Weapon and Contraband Search and Identification**2 Hours**

Objective: To instruct the student in the physical characteristics of explosive devices, weapons, and contraband that persons may attempt to bring into the court facility; to describe the techniques and equipment used in screening persons and packages to detect such objects; and to describe the techniques for searching the court building and courtroom for concealed bombs, weapons and contraband.

Securing the Court Facilities**2 Hours**

Objective: To familiarize the student with routine procedures for ensuring that courtrooms, judges' chambers and other court facilities are secured before each court day or court session begins, and with special procedures required when there is a known threat to court security.

Protection of Persons at Risk**2 Hours**

Objective: To familiarize the student with the procedures for personal protection of principals involved in the court process; such as the judge, witnesses, jurors, defendant, plaintiff, or attorneys. This session will include protective techniques to be used in the court facility, during transport, and at the principals' house.

Disguised and Concealed Weapons**1 Hour**

Objective: To provide the student with knowledge of procedures for searching for and identifying concealed or disguised weapons.

Non-Verbal Communication**2 Hours**

Objective: To familiarize the student with non-verbal or "body language" actions and attitudes of people in a court room that might signal potential danger to the participants in the proceedings.

Prisoner Control, Transport and Classification of Prisoners 1 Hour

Objective: To provide the skills and knowledge necessary to control the prisoner within the court facility, including the use of restraining devices, and to provide safe and secure transportation of the prisoner to and from the court building.

Crowd Control**2 Hours**

Objective: To develop knowledge and understanding of various kinds of crowd control situations that may arise in the courthouse and courtroom, and the skills for confronting demonstrations and riots.

Hostage Situations**2 Hours**

Objective: To provide an understanding of what occurs in a hostage-taking event, how the departmental hostage control plan will operate, and the actions to be taken by the court security officer(s) present at the situation.

Emergency Procedures**2 Hours**

Objective: To prepare the student to carry out the procedures required in the event of a natural disaster, fire, bombing, medical emergency, building evacuation, or threat to the security of the court. This session will familiarize the student with the role of outside agencies; such as ambulance and civil defense, the fire and rescue service the county, state and city police departments, state emergency services agencies, and federal agencies involved in emergency and disaster control.

High Risk Trial Policy and Procedures**2 Hours**

Objective: To prepare the student to effectively participate in the implementation of the high risk trial plan and to deal with handling and controlling the mentally disturbed defendant; dealing with trial situations where a gang member is a defendant; dealing with persons known to plan escape, create a disturbance, take a hostage, obtain revenge or commit suicide.

Public Information and the Media**2 Hours**

Objective: To prepare the student to deal with questions from the media or from the families of persons involved in court security incidents so as to protect the privacy rights of all involved, not compromise any investigation or hostage negotiation underway, and protect the reputation of the sheriff's office/sheriff's departments and staff at a time of intense publicity.

Legal Issues in Court Security**2 Hours**

Objective: To instruct the student in the protection which the law provides to a court security officer in the proper performance of duty, the actions which a court security deputy/officer may legally employ to execute their duties, and the legal responsibilities he has for their actions.

Sequestered Juries**1 Hour**

Objective: To instruct the student in the special procedures and reports required when a jury is sequestered.

Legal Review of Liability Cases**2 Hours**

Objective: To inform the student of recent liability lawsuits in which court security personnel have been defendants, and to suggest actions that may reduce the risk of liability to the court security officer.

The Role of the Judge in Court Security**1 Hour**

Objective: To instruct the student in ways in which the judge can contribute to the protection of the courts, through procedural orders in high risk situations, and by providing information to court security staff that will assist them in protecting the judge and his family.

Practical Problem Exercise**3 Hours**

Objective: To give the student an opportunity to plan and direct in a moot situation, a court security operation involving a high risk situation; thereby giving the student practical use of the information provided in this class.

Examination**1 Hour**

Objective: To ascertain whether the student achieved the objectives for each module of this program.

**COURT SECURITY SEMINAR
FIVE-DAY PROGRAM**

Hour	First Day	Second Day	Third Day	Fourth Day	Fifth Day
1st	The Nature of Court Violence and Security Threats	Domestic Terrorist and Court Disruptions	Disguised and Concealed Weapons	Emergency Procedures	<u>Sequestered Juries</u> <u>Legal Review of Liability Cases</u>
2nd			Non-verbal Communication		
3rd	The State Court System	Bomb, Weapon and Contraband, Search and Identification	Prisoner Control and Transport and Classifications	High Risk Trial Policy and Procedures	<u>The Role of Judge in Court Security</u>
4th	The Trial Process				
5th	Courtroom Protocol	Securing the Court Facilities	Crowd Control	Public Information and the Media	Practical Problem
6th	Duties of Court Security Personnel				
7th	Review of Agency Policies & Procedures	Protection of Persons at Risk	Hostage Situations	Legal Issues in Court Security & Transportation of Prisoners	Exercise
8th	Intelligence and Threat Assessment				<u>Examination and Critiques</u>

**COURT SECURITY SEMINAR
THREE-DAY PROGRAM - OPTION A**

SUBJECT MATTER AND INSTRUCTIONAL OBJECTIVES:

<p>The Nature of Court Violence and Security Threats</p>	<p>1 Hour</p>
<p>Objective: To familiarize the student, through a review of actual court security incidents and disturbances, with the situations which can occur to disrupt court proceedings or endanger trial participants, and the methods used in such actions.</p>	

The State Court System	1 Hour
Objective: To familiarize the student with the various courts and with the roles of the court deputies/officers and trial participants; and to inform the student of the legal authority under which the courts and court security officers operate.	

Duties of Court Security Personnel	1 Hour
Objective: To familiarize the student will all aspects of the duties and functions of the court security officer, including the protection of evidence and files and the prevention of escapes.	

Intelligence and Threat Assessment 1 Hour

Objective: To instruct the student in the value of a systematic program of intelligence and information gathering as a part of the court security threat assessment, planning and operations processes. Techniques of intelligence operation will be presented.

Domestic Terrorists and Court Disruptions 2 Hours

Objective: To make the student aware of techniques for dealing with advocacy groups or terrorists who threaten court participants or disrupt court proceedings to intimidate and influence decisions.

Bomb, Weapon and Contraband Search and Identification 2 Hours

Objective: To instruct the student in the physical characteristics of explosive devices, weapons, and contraband that persons may attempt to bring into the court facility; to describe the techniques and equipment used in screening persons and packages to detect such objects; and to describe the techniques for searching the court building and courtroom for concealed bombs, weapons and contraband.

Disguised and Concealed Weapons 1 Hour

Objective: To provide the student with routine procedures for ensuring that courtrooms, judges' chambers and other court facilities are secured before each court day or court session begins, and with special procedures required when there is a known threat to court security.

Protection of Persons at Risk 2 Hours

Objective: To familiarize the student with the procedures for personal protection of principals involved in the court process; such as the judge, court administrators, clerk of courts, witnesses, jurors, defendant, plaintiff, or attorneys. This session will include protective techniques to be used in the court facility, during transport, and at the principals' homes.

Crowd Control 2 Hours

Objective: To develop knowledge and understanding of various kinds of crowd control situations that may arise in the courthouse and courtroom, and the skills for confronting demonstrations and riots.

Hostage Situations**2 Hours**

Objective: To provide an understanding of what occurs in a hostage-taking event, how the agency hostage control plan will operate, and the actions to be taken by the court security officer(s) present at the situation.

Emergency Procedures**1 Hour**

Objective: To prepare the student to carry out the procedures required in the event of a natural disaster, fire, bombing, medical emergency, building evacuation, or threat to the security of the court. This session will familiarize the student with the role of outside agencies; such as the fire and rescue service, the county and city police departments, state emergency services agencies, and federal agencies involved in emergency and disaster control.

High Risk Trial Policy and Procedure**2 Hours**

Objective: To prepare the student to effectively participate in the implementation of the high risk trial plan and to deal with handling and controlling the mentally disturbed defendant; dealing with trial situations where a gang member is a defendant; dealing with persons known to plan escape, create a disturbance, take a hostage, obtain revenge or commit suicide.

Public Information and the Media**2 Hours**

Objective: To prepare the student to deal with questions from the media or from the families of persons involved in court security incidents so as to protect the privacy rights of all involved, not compromise any investigation or hostage negotiation underway, and protect the reputation of the sheriff's office and staff at a time of intense publicity.

Sequestered Juries**1 Hour**

Objective: To instruct the student in the special procedures, court orders, resources and reports required when a jury is sequestered.

Legal Issues in Court Security**1 Hour**

Objective: To instruct the student in the protection which the law provides to a court security officer in the performance of duty, the actions which he may employ, and the legal responsibilities he has for his actions.

The Role of the Judge in Court Security**1 Hour**

Objective: To instruct the student in ways in which the judge can contribute to the protection of the courts, as a member of the court security committee, through procedural orders in high risk situations, and by providing information to court security staff that will assist them in protecting the judge and his family.

**COURT SECURITY SEMINAR
THREE-DAY, OPTION A**

HOUR	FIRST DAY	SECOND DAY	THIRD DAY
1st	The Nature of Court Violence and Security Threats	Disguised and Concealed Weapons	Emergency Procedures
2nd	The Court System	Securing the Court Facilities	High Risk Trial/Policy and Procedures
3rd	Duties of Court Security Personnel	Protection of Persons at Risk and Transportation of Prisoners	Public Information and the Media
4th	Intelligence and Threat Assessment		
5th	Domestic Terrorists and Court Disruptions	Crowd Control	Sequestered Juries
6th			
7th	Bomb, Weapon and Contraband Search and Identification	Hostage Situations	Legal Issues in Court Security and Liability issues
8th			The Role of the Judge in County Security

**COURT SECURITY SEMINAR
THREE-DAY PROGRAM - OPTION B**

SUBJECT MATTER AND INSTRUCTIONAL OBJECTIVES:

Intelligence and Threat Assessment	1 Hour
Objective: To instruct the student in the value of a systematic program of intelligence and information gathering as a part of the court security threat assessment, planning and operations processes.	

Disguised and Concealed Weapons**1 Hour**

Objective: To provide the student with knowledge of procedures for searching for and identifying concealed or disguised weapons.

Bomb and Weapon Search and Identification**2 Hours**

Objective: To instruct the student in the physical characteristics of explosive devices, weapons, and contraband that persons may attempt to bring into the court facility; to describe the techniques and equipment used in screening persons and packages to detect such objects; and to describe the techniques for searching the court building and courtroom for concealed bombs, weapons and contraband.

Securing the Court Facilities**1 Hour**

Objective: To familiarize the student with routine procedures for ensuring that courtrooms, judges' chambers and other court facilities are secured before each court day or court session begins, and with special procedures required when there is a known threat to court security.

Protection of Persons at Risk**2 Hours**

Objective: To familiarize the student with the procedures for personal protection of principals involved in the court process; such as the judge, witnesses, jurors, defendant, plaintiff, or attorneys. This session will include protective techniques to be used in the court facility, during transport, and at the principals' homes.

Crowd Control**2 Hours**

Objective: To develop knowledge and understanding of various kinds of crowd control situations that may arise in the courthouse and courtroom, and the skills for confronting demonstrations and riots.

Hostage Situations**2 Hours**

Objective: To provide an understanding of what occurs in a hostage-taking event, how the departmental hostage control plan will operate, and the actions to be taken by the court security officer(s) present at the situation.

Emergency Procedures**1 Hour**

Objective: To prepare the student to carry out the procedures required in the event of a natural disaster, fire, bombing, medical emergency, building evacuation, or threat to the security of the court. This session will familiarize the student with the role of the outside agencies; such as the fire and rescue service, the county and city police departments, state emergency services agencies, and federal agencies involved in emergency and disaster control.

High Risk Trial Policy and Procedures**1 Hour**

Objective: To prepare the student to effectively participate in the implementation of the high risk trial plan and to deal with handling and controlling the mentally disturbed defendant; dealing with trial situations where a gang member is a defendant; dealing with persons known to plan escape, create a disturbance, take a hostage, obtain revenge or commit suicide.

Sequestered Juries**1 Hour**

Objective: To instruct the student in the special procedures, court orders, resources and reports required when a jury is sequestered.

Public Information and the Media**2 Hours**

Objective: To prepare the student to deal with questions from the media or from the families of persons involved in court security incidents so as to protect the privacy rights of all involved, not compromise any investigation or hostage negotiation underway, and protect the reputation of the sheriff's office/sheriff's departments and staff at a time of intense publicity.

Legal Issues in Court Security**1 Hour**

Objective: To instruct the student in the protection which the law provides to a court security officer in the proper performance of duty, the actions which a court security deputy/officer may allegedly employ to execute his duties, and the legal responsibilities he has for his actions.

The Role of the Judge in Court Security**1 Hour**

Objective: To instruct the student in ways in which the judge can contribute to the protection of the courts, as a member of the court security committee, through

procedural orders in high risk situations, and by providing information to court security staff that will assist them in protecting the judge and his family.

Practical Exercise

2 Hours

Objective: To give the student the opportunity to utilize the knowledge gained in the course by application to a moot problem to be solved by teams of students.

**COURT SECURITY SEMINAR
THREE-DAY, OPTION B**

HOURS	FIRST DAY	SECOND DAY	THIRD DAY
1st	The Nature of Court Violence and Security Threats	Protection of Persons at Risk	Sequestered Juries
2nd	The Court System		Public Information and the Media
3rd	Duties of Court Security Personnel	Crowd Control	
4th	Intelligence and Threat Assessment		Legal Issues in Court Security
5th	Disguised and Concealed Weapons	Hostage Situations	The Role of the Judge in Court Security
6th	Bomb and Weapon Search and Identification	Emergency Procedures	Practical/
7th			Exercise/
8th	Securing the Court Facilities	High Risk Trial Policy & Procedures, Classification and Transportation of Prisoners	Graduation & Critiques

NATIONAL SHERIFFS' ASSOCIATION

**COURT SECURITY MANAGEMENT SEMINAR
FOR JUDGES, SHERIFFS, COURT ADMINISTRATORS, CLERK OF COURTS,
COUNTY COMMISSIONERS/SUPERVISORS AND COUNTY EXECUTIVES**

INSTRUCTIONAL GOAL: The goal of this two-day seminar is to create an awareness of court security risks among those officials who are either responsible for planning and managing the court security function or are the persons at risk in a court security incident, and to increase their knowledge of strategies and techniques in court security.

SUBJECT MATTER AND INSTRUCTIONAL OBJECTIVES:

The Nature of Court Security Threats and Violence 1 Hour

Objective: To familiarize the attendees, through a review of actual court security incidents and disturbances, with the situations which can occur to disrupt court proceedings or endanger trial participants, and the methods used in such actions.

Assignment of Responsibility for Court Security 1 Hour

Objective: To describe the roles of various officials and agencies in court security operations and planning; to familiarize attendees with the national standards for court security; and to describe the membership and role of a court security committee.

Intelligence and Threat Assessment 1 Hour

Objective: To instruct the attendee in the value of a systematic program of intelligence and information gathering as a part of the court security threat assessment, planning and operations processes.

Legal Issues in Court Security 2 Hours

Objective: To familiarize the attendees with the legal rights and responsibilities of court security providers, the effect of judicial immunity, the need for protection of the constitutional rights of all trial participants, and how rules of court may assist in the provision of court security, and judicial considerations in court security.

Security Planning and Procedures**2 Hours**

Objective: To enable the attendees to view court security from a systems approach, define proactive and reactive strategies and tactics, describe methods of threat assessment, establish resource requirements and operational plans, conduct security surveys, and to describe planning and operation of a command center, and the use of public safety resources from other agencies through mutual aid agreements.

Architectural Considerations**1 Hour**

Objective: To enable the attendee to determine how an existing court building structure and layout affects court security plans and procedures; how to identify minor modifications that can be made to an existing structure to improve security, and what security considerations should be included in plans for building renovation or a new court building.

Weapons and Bombs**2 Hours**

Objective: To acquaint the attendees with the kinds of weapons and explosive devices that are likely to be employed in a court security incident, and the methods and equipment for discovering and identifying these weapons before they can be used.

High Risk Trials**1 Hour**

Objective: To acquaint the attendees with the special security measures that may be required in trials involving gang members, political extremists, public demonstrations, notorious offenses that have aroused the public, organized crime and narcotic cases, and mentally disturbed or suicidal persons.

Protection of Persons at Risk**2 Hours**

Objective: To give the attendees an understanding of the tactics that can be employed in local court security programs to provide special protection for judges, litigants, witnesses, jurors and court staff in high security trials or when threats are made against these persons.

Sequestered Juries**1 Hour**

Objective: To instruct the attendee in the special procedures, court orders, resources, and reports required when a jury is sequestered.

Public Information and the Media

2 Hours

Objective: To enable the attendees to understand the special stress and problems in dealing with the media in the event of a court security incident, and to enable them to develop a media relations plan that will give proper access by the media to information and yet protect the integrity of the court security operation.

**COURT SECURITY MANAGEMENT SEMINAR
FOR JUDGES, SHERIFFS, COURT ADMINISTRATORS,
COUNTY COMMISSIONERS AND COUNTY EXECUTIVES**

HOURS	FIRST DAY	SECOND DAY
1st	The Nature of Court Security Threats and Violence	Weapons and Bombs
2nd	Assignment of Responsibility for Court Security & Classification of Prisoners	
3rd	Intelligence and Threat Assignment	High Risk Trials & Transportation of Prisoners
4th	Legal Issues in Court Security	Protection of Persons Risk
5th		
6th	Security Planning and Procedures	Sequestered Juries
7th		
8th	Architectural Considerations	Public Information and the Media



COURT SECURITY AND THE TRANSPORTATION OF PRISONERS: A NATIONAL STUDY



SAMPLE TRAINING SCHEDULES

- ♦ National Sheriffs' Association - Five Day Programs
- ♦ City of Las Vegas, Nevada - Minimum Standards Programs
- ♦ State of Maryland - Minimum Standards Programs
- ♦ Pennsylvania State Constables Association - Basic Inductory and Refresher Program
- ♦ State of Virginia - Minimum Standards Program
- ♦ State of Minnesota - One Day Program

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NATIONAL SHERIFFS' ASSOCIATION SAMPLE TRAINING SCHEDULE					
TIME	FIRST DAY	SECOND DAY	THIRD DAY	FOURTH DAY	FIFTH DAY
0800 1000 1000- 1100	Introduction, administrative matters The trial process	The bailiff duties	Physical Security	Bomb Threat Response	Personal security procedures
1100- 1115	Break	Break	Break	Break	Break
1115- 1215	The trial process	The bailiff duties	Physical security	High-risk trial procedures	Personal security procedures
1215- 1330	Lunch	Lunch	Lunch	Lunch	Lunch
1330- 1530	The sheriff's office/ sheriff's departments	Prisoner transport	Emergency preparedness	Hostage situation control	Defense tactics
1530- 1545	Break	Break	Break	Break	Break
1545- 1700	Liability issues	Crowd control	Emergency preparedness	Hostage situation control	Review, examination, evaluations & graduation

SUGGESTED COURT SECURITY LESSON GUIDES

- A. The Trial Process
- B. The Sheriff's Office
- C. The Bailiff
- D. Liability
- E. Prisoner Transport
- F. Firearms Proficiency and Safety
- G. Emergency Preparedness
- H. Bomb Threat Response
- I. Hostage Situation Control
- J. Crowd Control
- K. Physical Security
- L. Defensive Tactics
- M. High Risk Trial Procedures
- N. Personal Security Procedures
- O. Special Security Considerations

Training Block A

Title: The Trial Process
Recommended Time: Two Hours

Objective

To instruct and provide information regarding the federal and state criminal justice system; to train regarding the types of writs, records, and other court documents and the purposes of each action; and to instruct regarding the role of each trial participant.

Principal Subject Elements to be Covered

The English common law judicial system of the United States; the kinds and functions of the various state courts; the kinds and functions of the various state detention facilities; court documents and their purpose (subpoenas, writs, etc.); the role of the judge, clerk, recorder, bailiff, prosecutor, and defense counsel.

Suggested Delivery Methods

Lecture, handouts, visit to functioning civil and criminal courts, film.

Visual Aids

Film or slide presentation on the functioning of the court.

Delivery Skills Required

Lecture presentation should be by someone with court experience--ideally a judge, prosecuting attorney, or a defense counsel.

Related to Blocks

B, C

Training Block B

Title: The Sheriff's Office/
Sheriff's Department
Recommended Time: Two Hours

Objective

To train the students in the broad range of responsibilities of the sheriff's office and to provide a basic understanding of the overall function and role of the sheriff's office with respect to the courts and court security.

Principal Subject Elements to be Covered

The role of the sheriff in the trial process, legal authority and responsibility; the organization of the sheriff's office and its overall responsibilities, such as the civil process, law enforcement, and maintaining the jail; prisoner transport to the courthouse, courtroom, and other transport responsibilities (within the state, the county and other jurisdictions); arrest of persons in the court; taking convicted defendants into custody; coordination with other agencies within the county (police, federal agencies).

Suggested Delivery Methods

Lecture, visits to the office and jail; visits to other detention facilities.

Visual Aids

Organizational chart or functional description handouts.

Delivery Skills Required

Lecturer should be the sheriff or a senior member of his staff for most of the subject matter. Commanders of the jail, civil division, and prisoner transport are suggested for pertinent parts of the instruction.

Related to Blocks

A through O

Volume II

Training Block C

Title: The Bailiff Duties
Recommended Time: Three Hours

Objective

To provide basic instruction in the duties of the court bailiff, for developing basic skills in the overall functions of the bailiff, particularly as these pertain to their duties in regard to juries and court security.

Principal Subject
Elements to be
Covered

The bailiff's manual--its content and use; deportment and demeanor; the bailiff's responsiveness to the needs of the judge; the bailiff and the court clerk in supportive roles; elements of court security; detailed responsibilities of the bailiff with respect to juries (during the trial, during non-trial periods, sequestered juries, etc.).

Suggested Delivery
Methods

Lecture; demonstration of proper and improper methods of performing the bailiff's duties. A moot court could be used.

Visual Aids

Color slides, with or without a tape presentation, film.

Delivery Skills
Required

First lecturer should have bailiff experience; second lecturer should be from the senior staff of the sheriff's office (to discuss manual, role or bailiff, and career development); third lecturer should be a judge (to give his view of what is expected of the bailiff).

Related to Blocks

A, B, C, F, G, H, I, K, L, M, O

Training Block D

Title: Liability Issues
Recommended Time: One Hour

♦	Objective	To provide basic knowledge regarding the liability of a member of the sheriff's office for actions taken or omitted and an understanding of the law in this respect.
♦	Principal Subject Elements to be Covered	The law with respect to various aspects of civil and criminal liability that may effect an officer. The limits of tort liability and the process of claim. Criminal liability in dealing with incustody defendants and the use of minimal force in carrying out official duties.
♦	Suggested Delivery Methods	Lecture with many case examples.
♦	Visual Aids	Handouts on case examples and the law.
♦	Delivery Skills Required	The lecturer should be a lawyer, such as the prosecuting attorney or a judge.
♦	Related to Blocks	B, C, E, F, J, L, M, O

Training Block E

Title: Prisoner Transport
Recommended Time: Two Hours

♦	Objective	To provide skills needed for the safe and secure transportation of incustody defendants.
♦	Principal Subject Elements to be Covered	A review of the transportation requirements of the sheriff's office; transportation equipment (use and maintenance); the use of approved restraint equipment and minimum force; transportation of female prisoners, handicapped prisoners, mentally disturbed or retarded prisoners, and multiple prisoners; transport requirements out of county and state; and searching incustody prisoners.
♦	Suggested Delivery Methods	Lecture for the basic materials to be covered with reference to the department's standard operating procedures concerning the transportation of prisoners; observe actual prisoner transports and searches by teams of four; physical demonstration of drive capability and various search techniques.
♦	Visual Aids	Film and/or slide presentation on search techniques and the use of restraining devices.
♦	Delivery Skills Required	Experienced members of the department should be able to provide instruction by lecture and demonstration. Instructors should have extensive experience in prisoner transport.
♦	Related to Blocks	B, C, D, F, G, K, L, M, O

Training Block F

Title: Firearms Proficiency and Safety
Recommended Time: Forty Hours

Objective	<p>To prepare the student with safety practices in the use of all firearms and tear gas equipment that may be used; to give a full understanding of department policy with respect to their use; and to achieve a level of proficiency consistent with department standards.</p>
Principal Subject Elements to be Covered	<p>The weapons and their ammunition; care and cleaning of the weapons, firearms and gas weapon safety on duty, at the range, and firearms safety off duty (if applicable); ethical, legal, and policy constraints concerning the use of weapons; the department's policy and practice regarding weapon inspection; firing on the range for proficiency and score.</p>
Suggested Delivery Methods	<p>Classroom training by lectures and demonstration. Training on the range should include: the basic principles of marksmanship; firing practice using single action and a bullseye target; double action firing using silhouette target; and customary practical pistol course procedures. Passing scores on the range should be in accordance with department standards. National Rifle Association recommends that 75 percent of the total possible score be used as a minimum qualifying score. Tear gas use should be demonstrated in special facilities that allow student exposure to the effects of tear gas.</p>
Visual Aids	<p>Film and/or slide presentation on search techniques and the use of restraining devices.</p>
Delivery Skills Required	<p>Firearms instructors and range officers. Only those with these skills and with training experience should be in charge of this training block.</p>
Related to Blocks	<p>B, C, D, E, H, I, J, L, M, N, O</p>

Training Block G

Title: Emergency Preparedness
Recommended Time: Three Hours

Objective

To prepare students to carry out effectively and efficiently their responsibilities with respect to department emergency plans.

Principal Subject Elements to be Covered

Preparedness planning and the department's security plan (detailed operating procedures for natural disasters, fire, bomb threats, medical emergencies, and building evacuation); the role of the court security official (especially with regard to his actions in case of fire with a full discussion of the kinds of fire that be expected and the location within the courthouse where a fire might occur); basic first aid procedures; medical emergencies described in detail and emergency treatment procedures described and practiced (heart attacks, epileptic seizures, diabetic comas, and fainting); building evacuation procedures; and the evacuation of incustody prisoners should be included.

Suggested Delivery Methods

Lecture and demonstrations. Student practice in providing emergency first aid for heart attacks, epileptic seizure, and diabetic coma. Practice of basic first aid procedures.

Visual Aids

Film and/or slide presentation on search techniques and the use of restraining devices.

Delivery Skills Required

Senior members of the office can provide the instruction concerning the security plan. A medical doctor should be used for instruction on medical emergency response procedures. Competent department or hospital personnel can provide instruction in first aid. Where emergency medical services capabilities exist, these personnel could be utilized for much of the emergency treatment instruction.

Related to Blocks

B, C, E, H, K, M, O

Volume II

Training Block H

Title: Bomb Threat Response
Recommended Time: Two Hours

♦	Objective	To provide an awareness and skill in identifying types of bombs and knowledge of actions to be taken in such cases; to develop skills in searching for bombs and other contraband.
♦	Principal Subject Elements to be Covered	The department's security plan, which will include detailed operational procedures and will identify actions to be taken upon receipt of bomb threat; bomb search procedures for courthouse and courtroom; bomb types and characteristics; telephone threats; building evacuation procedures.
♦	Suggested Delivery Methods	Lecture and demonstration of bomb types and characteristics, but not necessarily by actually exploding ordinance; demonstration of search techniques and practice by the students by using role playing.
♦	Visual Aids	Demonstration of bomb types and bomb elements by exhibit; films and slide presentation on bombing effects and types.
♦	Delivery Skills Required	One of two instructors should be from an ordinance demolition team (often available from a U.S. Army installation); the other should be a member of the department experienced in conducting physical searches for bombs and other contraband.
♦	Related to Blocks	B, C, G, K

Training Block I

Title: Hostage Situation Control
Recommended Time: One to Three Hours

Objective

Principal Subject
Elements to be
Covered

To provide an understanding of the overall hostage control plan and to develop skills for implementation of the plan

Suggested Delivery Methods

The hostage control plan (part of the department's security plan); the role and function of the control center commander, the mobilization center commander, the containment and assault team, and the negotiator; case examples to illustrate what to do and not to do in hostage situations; the press and media priorities and the press officer; the post-event critique and the final report.

Lecture, illustrated by case examples and news accounts; films; and role playing where the class is required to develop a hostage control team and negotiate with hostage taker. If role playing is used the time for this block would be three hours, if not, one hour.

Visual Aids

Color slides and films, video tape of role playing exercise is recommended if equipment is available.

Delivery Skills Required

Senior department officials responsible for implementing the hostage control plan should present a portion of the subject material. Another lecturer to consider is someone with experience as a negotiator or a psychologist who has provided counsel to law enforcement agencies in such cases.

Related to Blocks

B, C, D, E, F, K, L, M, N, O

Training Block J

Title: Crowd Control
Recommended Time: One to Four Hours

Objective	<p>To develop knowledge and understanding of various kinds of crowd control situations that may arise in the courthouse and courtrooms and skills for confronting demonstrations and riots and for controlling crowds.</p>
Principal Subject Elements to be Covered	<p>If this subject is added to a current basic training class, the subjects to be covered here will concern the kinds of demonstrations and riots that might arise in connection with the functions of offices and courts in the courthouse; large crowds and measures for their control; the use of minimum force and the operational decision for the use of tear gas and firearms; crowd control as part of the court security plan; practical use of tear gas and and protective equipment. If this subject is not included in the basic training program practical exercises on riot control formations and operations should be included and a broader treatment of crowd control to include general requirements; the importance of intelligence in the development of an operational plan</p>
Suggested Delivery Methods	<p>Lecture and demonstration by flip charts or other mean; films to illustrate riot control formations; practical exercises in the field; operational plan design by class members, given a set of hypothetical conditions and circumstances.</p>
Visual Aids	<p>Flip charts, slides, and film to illustrate crowd situations, riots, and control methods.</p>
Delivery Skills Required	<p>Senior commander of the department should be used for the delivery of the planning, operational command, and departmental policy segments; a member of the department with experience in riot control and the use of intelligence should be used for the implementation of the crowd control plan.</p>
Related to Blocks	<p>A, B, D, E, F, I, K, L, N</p>

Training Block K

Title: Physical Security
Recommended Time: Three Hours

Objective	<p>To familiarize the student with the physical characteristics of the courthouse and courtrooms; to develop an awareness of security equipment used; and to develop necessary skills in the use of communications equipment.</p>
Principal Subject Elements to be Covered	<p>The courthouse building and the identity and location of all tenants; the official and public traffic flow and security problems that might arise; security needs of the building tenants, security procedures in effect; alarms (their use and response procedures); monitors used (at what times and under what conditions); locks and other anti-intrusion devices used; other security equipment in use, such as CCTV; the alarm response plan and the role of the individual officer; communications equipment used by the department and by the courts and their use; the outer perimeter and security needs; security of sensitive areas adjacent to the courthouse, such as parking spaces and power generators.</p>
Suggested Delivery Methods	<p>Lecture and demonstration using examples of equipment in use (such as CCTV), physical inspection of various areas of the building; practical exercise in response to alarms by class members.</p>
Visual Aids	<p>Detailed floor plans of the building and significant parts.</p>
Delivery Skills Required	<p>A person familiar with the building structure and the relevant security should deliver the lecture; the training officer can lead the practical exercise.</p>
Related to Blocks	<p>A, B, C, E, G, H, I, J, M, N</p>

Training Block L

Title: Defensive Tactics
Recommended Time: Two Hours

♦ Objective

To familiarize the students with various kinds of defensive tactics that might be used in the humane control of prisoners and suppress violence in the court without the use of weapons and to develop the necessary minimum skills in this regard.

♦ Principal Subject Elements to be Covered

Techniques in avoiding confrontation; basic tactics, including positioning for defense, control holds, "come alongs," and "take-downs;" the use of the hands and feet in self defense; the use of the baton, slapstick, or other department equipment; the use of handcuffs and other restraining devices for prisoner control; handling mentally deficient and retarded prisoners; handling female prisoners.

♦ Suggested Delivery Methods

Lecture, practical demonstration, and class participation in practical exercises.

♦ Visual Aids

Films depicting defensive tactics.

♦ Delivery Skills Required

Experienced defensive tactics instructor.

♦ Related to Blocks

B, C, D, E, F, J, M, N, O

Training Block M

Title: High Risk Trial Procedures
Recommended Time: One Hour

Objective	To prepare the student to participate in the effective implementation of the high risk trial plan.
Principal Subject Elements to be Covered	The high risk trial plan and its specific elements including prisoner control, the role of the judge and issuance of court orders for specific security actions, visitor control; the relationship with the news media; the use of intelligence; the court security officer's responsibility in plan implementation.
Suggested Delivery Methods	Lecture illustrated with case examples.
Visual Aids	Mock-up of court and adjacent area showing security features and actions to be taken; the inspection of high risk trial court.
Delivery Skills Required	Senior department officer with major responsibilities for plan implementation.
Related to Blocks	A, B, C, D, E, F, G, I, J, K, L

Training Block N

Title: Personal Security Procedures
Recommended Time: Two Hours

Objective	To provide an awareness of special security requirements when a participant in the trial process is personally threatened and to develop certain skills in the implementation of the personal protection plan.
Principal Subject Elements to be Covered	Anticipated threats to participants in the trial process, including judges, their families, witnesses, the prosecutor and family, the defense counsel, the protection plan, including escort, surveillance, the use of intelligence, communications control and discipline, transportation route design, and designation of travel routes; options of response to violence; and defensive driving techniques.
Suggested Delivery Methods	Lecture illustrated with case examples; hypothetical problem requiring the class to develop a protection plan; defensive driving practical exercise (requires four to eight hours depending upon availability of training resources).
Visual Aids	Films on kidnapping (available commercially); slides.
Delivery Skills Required	Senior department official concerned with implementation of personal protection operations plans should give the lecture; larger departments have defensive driving instructors.
Related to Blocks	A, B, C, D, E, F, H, I, K, M, O

Training Block O

Title: Special Security Considerations
Recommended Time: One Hour

♦	Objective	To familiarize the student with special situations that will call for a security alert and special actions and to develop skills in meeting these needs.
♦	Principal Subject Elements to be Covered	Procedures for handling and controlling the mentally disturbed defendants and the mentally retarded; trial situations where a gang member is a defendant and the safe handling of incustody prisoners in these situations; the value of intelligence in being prepared for such situations; the political dissident as an incustody defendant and security problems that can be present during the trial; security readiness procedures short of the high risk trial plan.
♦	Suggested Delivery Methods	Lecture, illustrated with case examples, demonstrations.
♦	Visual Aids	Films may be developed showing the proper procedures for handling the mentally deficient or retarded prisoner.
♦	Delivery Skills Required	Senior member of the department with experience in handling pertinent situations should give the lecture; a medical specialist should be considered for the discussion on the mentally deficient and retarded prisoner.
♦	Related to Blocks	A, B, C, D, E, I, J, K, L, M

CITY OF LAS VEGAS

**Department of Detention & Enforcement
3300 East Stewart Avenue
Las Vegas, Nevada 89101**

I. Minimum Standard of Training: Category

The minimum standard of training in category I is successful completion of a basic course that includes 480 hours of training in:

1. Legal subjects, specifically:

- (a) Constitutional law;
- (b) Probable cause;
- (c) Search and seizure;
- (d) Laws of arrest;
- (e) Crimes against property;
- (f) Crimes against persons;
- (g) Laws governing coroners;
- (h) Traffic laws;
- (i) Laws relating to narcotics;
- (j) Civil liability;
- (k) Use of force;
- (l) Laws relating to child abuse;
- (m) Laws relating to domestic violence;
- (n) Laws relating to juveniles;
- (o) Miscellaneous crimes; and
- (p) Operation of emergency vehicles.

2. Procedures for patrol, specifically:

- (a) Basic patrol procedures;
- (b) Stopping and citing of drivers of vehicles;
- (c) Survival of officers;
- (d) Searching of buildings;
- (e) Domestic violence;
- (f) Child abuse;
- (g) Handling persons who are mentally ill; and
- (h) Crisis intervention.

3. Skills of officers, specifically:

- (a) Techniques of interviewing and interrogation;
- (b) Writing of reports;
- (c) Fingerprinting;
- (d) Methods of arrest;

- (e) Nonlethal weapons;
- (f) Retention of weapons;
- (g) Qualification for use of firearms;
- (h) Defensive tactics; and
- (i) Operation of emergency vehicles.

4. Investigation, specifically:

- (a) Principles of investigation;
- (b) Investigation of crime scenes;
- (c) Collection and preservation of evidence;
- (d) Investigation of drivers who are under the influence of alcohol or a controlled substance; and
- (e) Investigation of accidents.

5. Community relations, specifically:

- (a) Ethics in law enforcement;
- (b) Victim's rights;
- (c) History and principles of law enforcement; and
- (d) Interpersonal communication.

6. Miscellaneous subjects, specifically:

- (a) Stress;
- (b) Criminal justice process;
- (c) Courtroom demeanor;
- (d) Emergency first aid;
- (e) Cardiopulmonary resuscitation;
- (f) National Crime Information Center procedure; and
- (g) Physical conditioning.

7. Course administration and examinations.

CITY OF LAS VEGAS

**Department of Detention & Enforcement
3300 East Stewart Avenue
Las Vegas, Nevada 89101**

**Minimum Standard of Training:
Category II**

The minimum standard of training for officers in training category II is successful completion of a basic course that includes 200 hours of training in:

1. Legal subjects, specifically:

- (a) Constitutional law;
- (b) Probable cause;
- (c) Search and seizure;
- (d) Laws of arrest;
- (e) Crimes against property;
- (f) Crimes against persons;
- (g) Laws relating to narcotics;
- (h) Miscellaneous crimes;
- (i) Civil liability;
- (j) Use of force;
- (k) Laws relating to child abuse;
- (l) Laws relating to domestic violence;
- (m) Laws relating to juveniles;

Procedures in the field, specifically:

- (a) Survival of officers;
- (b) Domestic violence;
- (c) Child abuse;
- (d) Handling persons who are mentally ill;
- (e) Crisis intervention; and
- (f) Care and custody of prisoners.

3. Skills of officers, specifically:

- (a) Techniques of interviewing interrogation;
- (b) Writing of reports;
- (c) Fingerprinting;
- (d) Physical methods of arrest and defensive tactics;
- (e) Retention of weapons; and
- (f) Qualification for use of firearms.

4. Investigations, specifically:

- (a) Principles of investigation;
- (b) Investigation of crime scenes; and
- (c) Collection and preservation of evidence.

5. Community relations, specifically:

- (a) Ethics in law enforcement;
- (b) Victim's rights;
- (c) History and principles of law enforcement; and
- (d) Communication skills.

6. Miscellaneous subjects, specifically:

- (a) Stress;
- (b) Criminal justice process;
- (c) Courtroom demeanor;
- (d) Emergency first aid;
- (e) Cardiopulmonary resuscitation; and
- (f) National Crime Information Center procedure.

7. Course administration and examinations.

CITY OF LAS VEGAS

**Department of Detention & Enforcement
3300 East Stewart Avenue
Las Vegas, Nevada 89101**

Minimum Standard of Training: Category III

The minimum standard of training officers in category III is successful completion of a basic course that includes:

- 1. Sixteen hours of legal subjects including:**
 - (a) Civil rights of offenders;
 - (b) Searches of offender institutions;
 - (c) Laws relating to correctional institutions; and
 - (d) Use of force.
- 2. Twenty-one hours of subjects relating to procedure in the field including:**
 - (a) Gangs and cults;
 - (b) Supervision of offenders;
 - (c) Classification and receiving of offenders;
 - (d) Transportation of offenders;
 - (e) Crisis intervention;
 - (f) Records of offenders in institutions; and
 - (g) Games offenders play.
- 3. Twenty-five hours of subjects relating to skills of officers including:**
 - (a) Writing of reports for correctional institutions;
 - (b) Fire safety and use of emergency equipment;
 - (c) Fingerprinting;
 - (d) Defensive tactics; and
 - (e) Introduction to restraints.
- 4. Twelve hours of subjects relating to investigation including:**
 - (a) Crime scene and evidence;
 - (b) Investigation of narcotics and abuse of controlled substances; and
 - (c) Personality disorders and prevention of suicide.
- 5. Fifteen hours of subjects relating to community relations including:**

- (a) Ethics for correctional officers;
- (b) Cultural awareness;
- (c) Interpersonal communications; and
- (d) Public and media relations.

6. Twenty-two hours of general subject including:

- (a) Modern correctional philosophy;
- (b) First aid;
- (c) Cardiopulmonary resuscitation; and
- (d) Criminal justice system.

7. Nine hours of administration and examination.

CITY OF LAS VEGAS

**Department of Detention & Enforcement
3300 East Stewart Avenue
Las Vegas, Nevada 89101**

**Minimum Standard of Training:
Category III**

The minimum standard of training for officers in training category III is successful completion of a basic course that includes 160 hours of training in:

1. Legal subjects, specifically:

- (a) Civil rights of offenders;
- (b) Searches of offender institutions;
- (c) Laws relating to correctional institutions; and
- (d) Use of force.

2. Procedures in the field, specifically:

- (a) Gangs and cults;
- (b) Supervision of offenders;
- (c) Classification and receiving of offenders;
- (d) Transportation of offenders;
- (e) Crisis intervention;
- (f) Records of offenders in institutions; and
- (g) Games offenders play.

3. Skills of officers, specifically:

- (a) Writing of reports for correctional institutions;
- (b) Fire safety and use of emergency equipment;
- (c) Fingerprinting;
- (d) Defensive tactics; and
- (e) Introduction of restraints.

4. Investigation, specifically:

- (a) Crime scene and evidence;
- (b) Investigation of narcotics and abuse of controlled substances; and
- (c) Personality disorders and prevention of suicide.

5. Community relations, specifically:

- (a) Ethics for correctional officers;
- (b) Cultural awareness;
- (c) Interpersonal communications; and
- (d) Public and media relations.

6. Miscellaneous subjects, specifically:

- (a) Modern correctional philosophy;
- (b) First aid;
- (c) Cardiopulmonary resuscitation; and
- (d) Criminal justice system.

7. Course administration and examination.

STATE OF MARYLAND

THE SHERIFF OF BALTIMORE CITY
Court House
100 North Calvert Street
Baltimore, Maryland 21202

Training Requirements for Deputy Sheriffs and Court Security Officers Training Program

The mandated curricula which is required for the State of Maryland for Entrance Level Training (Minimum Standards) which must be successfully completed in order for a member to be certified as a deputy sheriff/police officer, in accordance with Maryland Police & Correctional Training Commission Regulations shall be discussed below.

All of Deputy Sheriffs and Court Security Officers must undergo this training at a Maryland Police Training Commission approved police academy, usually in Baltimore City or one of the surrounding counties.

Additional on-the-job training is required and provided within agencies to afford each Deputy Sheriff or Court Security Officer the opportunity to become a well-rounded member of the agency.

In-service Training and Annual Firearms Qualifications, totalling twenty-four (24) hours, are undertaken each year in order to ensure that each member's training is kept current and proficiency is maintained at an acceptable level.

In-service, certification and re-certification in Basic First Aid and Cardiopulmonary Resuscitation courses are required by all deputy sheriffs and court officers/deputies.

ENTRANCE LEVEL TRAINING	
<u>SUBJECT</u>	<u>HOURS</u>
Orientation and Administrative Time	33
Rules and Regulations	2
General Order Manual	2
Drill	4
Exams and Critiques	12
History & Philosophy of Law Enforcement	
History & Philosophy of Corrections	30
History & Philosophy of Courts	
Law	81
Patrol	104
Report Writing	63
Traffic	55
Crisis Intervention	21
Crime Laboratory	5
Narcotics Seminar	27
Criminal Justice System Guest Lecturers	7
Staff Support	27
Crowd Control	9
Physical Training	48
Defense Tactics	31
Range	45
Drivers Education/Hot pursuit/Defensive Driving	24
First Responder (M.I.E.M.S.)	40
Community Relations	4
Field Training	40
	<u>714 hrs</u>
	(18 weeks)

PENNSYLVANIA STATE CONSTABLES ASSOCIATION
Education & Training Committee
505 Church Street
Norristown, Pennsylvania 19401

Basic Introductory and Refresher
Short Court for
Pennsylvania State Constables
[Weekend Program of Forty-Two Hours]

PREFACE

This 42-hour course covers the current Pennsylvania Rules of Court related to the service of Civil and Criminal Process by the Constable.

It is recognized that the rules promulgated by the Pennsylvania Supreme Court, in many cases necessitate adoption of procedures for the Constable to practice in order to satisfy the rules and orders of court. At present, no statewide standardized procedures exist for reference and use by the Constable. For this reason, some counties have elected to develop their own. However, these individual county-generated procedures where extant, many times vary.

Because of these varied, or sometimes non-existent procedures, this course will only address the rules for service of process and, in turn, attempt to identify those areas where acceptable procedures should be considered. It is not the intent of the instruction to identify any one procedure to be more correct or acceptable than another; rather, the Constable should determine whether or not the procedures followed sufficiently satisfy the intent of the Pennsylvania Rules of Court.

Where a question of procedure arises, the Constable should refer it to the respective Court Administrator within that county for resolution. The Constable is encouraged to identify, where necessary, the specific need for acceptable procedures with the County Court Administrator, since mutual resolution should result in more efficient and effective service of process.

PURPOSE OF THIS PENNSYLVANIA STATE CONSTABLES ASSOCIATION SHORT COURSE

This 42-hour short course is structured to cover areas of subject matter related to the activities most working Constables perform on a daily basis for the Unified Judicial System. It should be of interest to candidates running for the office of Constable, newly-appointed Constables and Deputy Constables, and those recently elected to Constable positions.

The course deals with the basics and should appear not only to the "new" Constable seeking initial technical guidance but also the "seasoned" Constable who desires a refresher course on general procedures and wishes to keep abreast of the latest rules changes and case law.

While this short course cannot be expected to prepare a Constable for all facets of his duties, it will provide a fundamental background so that he can adequately perform the primary functions of civil and criminal service of process. Additionally, this course is designed to provide impetus for the Constable to seek more advanced programs of study and pursue continuing education to become fully qualified and totally competent.

Constables must continuously be aware of the importance of their position and duties. They should strive toward successful, efficient and safe service of process but should never lose sight of the constitutional rights of others. This course not only covers rules and procedures for service of process, but also emphasizes the Constable's personal safety.

WHO SHOULD ATTEND

This short course is structured to cover areas of subject matter related to the activities most working Constables perform on a daily basis for the Unified Judicial System. It should be of interest to candidates running for the office of Constable, newly-appointed Constables and Deputy Constables, those recently elected to Constable positions, and certain court-related personnel.

The course deal with the basics and should appeal not only to the "new" Constable seeking initial guidance, but also to the "seasoned" Constable who desires a refresher course on general procedures and who wishes to keep abreast of the latest rules changes and case law.

While this short course cannot be expected to prepare a Constable for all facets of his/her duties, it can provide a fundamental background so that he/she can adequately perform the

primary functions of civil and criminal service of process. Additionally, these training sessions are designed to provide impetus for the Constable to seek more advanced programs of study and pursue continuing education to become more qualified and competent.

WEEKEND CURRICULA

WEEK I - CRIMINAL (20 HOURS)

MODULES I-VI

<u>FRIDAY</u>	<u>SUBJECT</u>	<u>TIME</u>	<u>MODULE</u>
6:00-7:00 p.m.	Registration & Course Introduction	(1 hr.)	I
7:00-8:30 p.m.	Powers, Duties and Performance Standards for the Constables	(1 1/2 hrs.)	II
8:30-9:00 p.m.	Test-Modules I and II	(1/2 hr.)	
<u>SATURDAY</u>			
8:00-11:30 a.m.	Criminal Rules	(3 1/2 hrs.)	III
11:30 a.m.-Noon	Test-Module III	(1/2 hr.)	
12:00-1:00 p.m.	LUNCH		
1:00-4:30 p.m.	Warrants-Summary, Misdemeanor & Felony	(3 1/2 hrs.)	IV
4:30-5:00 p.m.	Test-Module IV	(1/2 hr.)	
5:00-6:00 p.m.	Temporary Restraining Orders, Protection from Abuse, Injunctive Order, etc.	(1 hr.)	V
<u>SUNDAY</u>			
8:00-8:30 a.m.	Temporary Restraining Orders	(1/2 hr.)	V (continued)
8:30-9:00 a.m.	Test-Module V	(1/2 hr.)	
9:00 a.m.-Noon	Prisoner Transport and Constable Safety	(3 hrs.)	VI
12:00-1:00 p.m.	LUNCH		

1:00-3:30 p.m.	Prisoner Transport	(2 1/2 hrs.)	VI
3:30-4:00 p.m.	Test-Module VI	(1/2 hr.)	
4:00-5:00 p.m.	Review and Summary Evaluations	<u>20 hrs.</u>	

WEEK II - CIVIL (22 HOURS)

MODULES VII-IX

<u>FRIDAY</u>	<u>SUBJECT</u>	<u>TIME</u>	<u>MODULE</u>
5:00-9:00 p.m.	Civil Rules	(4 hrs.)	VII
<u>SATURDAY</u>			
8:00-11:30 a.m.	Civil Rules	(3 1/2 hrs.)	VII (continued)
11:30 a.m.-Noon	Test-Module VII	(1/2 hr.)	
12:00-1:00 p.m.	LUNCH		
1:00-6:00 p.m.	Civil Actions, Judgments and Executions	(5 hrs.)	VIII
<u>SUNDAY</u>			
8:00-9:30 a.m.	Civil Actions	(1 1/2 hrs.)	VIII (continued)
9:30-10:00 a.m.	Test-Module VIII	(1/2 hr.)	
10:00-12:00 noon	Landlord and Tenant Complaints, Judgments and Possessions	(2 hrs.)	IX
12:00-1:00 p.m.	LUNCH		
1:00-4:30 p.m.	Landlord and Tenant Complaints (continued)	(3 1/2 hrs.)	IX
4:30-5:00 p.m.	Test-Module IX	(1/2 hr.)	
5:00-6:00 p.m.	Course Review/ Summary/Evaluations	<u>(1 hr.)</u> 22 hrs.	X

TOTAL: 42 HOURS

STATE OF VIRGINIA

The mandated curricula which is required for the State of Virginia for entrance level training, (Minimum Standards), which must be successfully completed in order for a member to be certified as a deputy sheriff/law enforcement/jailor/court officer/deputy, in accordance with the Commonwealth of Virginia/Criminal Justice Services Board.

BASIC TRAINING CURRICULUM

LAW ENFORCEMENT SCHOOL

PROGRAM BREAKDOWN BY HOURS

1.0	Course Administration	40
2.0	Criminal Investigation	39
3.0	Legal Matters	92
4.0	Patrol	80
5.0	Skills	241
6.0	Traffic	34
7.0	Practical Training & Evaluation	<u>44</u>
TOTAL		570

DEPUTY SHERIFF SCHOOL

PROGRAM BREAKDOWN BY HOURS

	Basic Administration	18
	Background Materials	17
	Legal Issues	33
	Combined Subjects	59
	Court Security/Civil Process	45
	Jailor/Custodial Officers	82
	Miscellaneous Courses	24
	Breakout Courses	<u>136</u>
TOTAL		414

**RULES RELATING TO COMPULSORY MINIMUM TRAINING
STANDARDS FOR JAILORS OR CUSTODIAL
OFFICERS/COURTHOUSE AND COURT ROOM SECURITY
OFFICERS AND PROCESS SERVICE OFFICERS**

1. Basic Administration (Testing not required)

- a. Orientation
- b. Notebook Construction and Notetaking
- c. Testing and Evaluation
- d. Training Standards/Training Overview

2. Background Materials

- a. Code of Ethics
- b. Jail/Criminal Justice History
- c. Court Systems
- d. Commonwealth/Defense Attorneys/Judges
- e. Juvenile Offender/Juvenile Justice System
- f. Freedom of Information Act
- g. Community Relations: Public Responsibility
- h. Community Relations: Probation and Parole
- i. Community Relations: Work Release
- j. Community Relations: Community Resources
- k. Community Relations: Communications and Crisis

3. Legal Issues

- a. Code of Virginia
- b. Constitutional Law and Civil Liability
- c. Laws of Arrest
- d. Rules of Evidence
- e. Probable Cause
- f. Juvenile Law
- g. Search and Seizure

4. Combined Subjects

- a. Courtroom Demeanor and Testimony
- b. Transportation and Physical Restraints
- c. Officer Safety and Arrest Techniques
- d. Hostages and Disturbances
- e. Unusual Prisoners
- f. Chemical Agents
- g. Firearms
- h. Standard First Aid
- i. Report Writing
- j. Privacy of Criminal History and Records
- k. Searches (cell/prisons)
- l. Stress
- m. Fire Safety
- n. Crisis Intervention

B. Jailors or Custodial Officers

- a. Jail Operations/Security
- b. Standards for Local Jails/Lockups
- c. Basic Security Overview
- d. Supervisory Techniques
- e. Inmate Behavior
- f. Inmate Supervision
- g. Key Control/Head Counts
- h. Classification
- i. Receiving and Discharging Inmates
- j. Escapes
- k. Trustees
- l. Medication
- m. Discipline/Due Process
- n. Introduction to Fingerprinting
- o. Protecting a Crime Scene
- p. Jail Climate and Jailors

C. Courtroom Security Officers and Process Service Officers

1. Court Security

- a. Duties and Responsibilities
- b. Security Threats, Problems and Explosives
- c. Identification of Personnel/Package Control/Detection
- d. Sequestered Juries/Witnesses
- e. Moot Problem/Courtroom Searches

2. Civil Process

- a. Laws of Civil Process and Implementation Duties
- b. Department of Motor Vehicles
- c. Legal Document Workshop

TOTALS:

JAILORS OR CUSTODIAL OFFICERS	152 HOURS
COURTROOM SECURITY OFFICERS AND PROCESS SERVICE OFFICERS	172 HOURS

3. Applicability

- A. Every person employed as a jailor or custodial officer in accordance with Section 9-170(7), of the Code of Virginia, shall meet compulsory minimum training standards herein established in sections 2.A and B unless provided otherwise in accordance with 3. subsection C.

- B. Every person employed as a Courthouse and Courtroom Security Officer/Deputy Sheriff Designated to Serve Process in accordance with and of 9-170(5) and (6) of the Code of Virginia, shall meet compulsory minimum training standards herein established in subsections A and C unless provided otherwise in accordance with 3.C.
- C. The director may grant an exemption or partial exemption of the compulsory minimum training standards as established herein, in accordance with 9-173 of the Code of Virginia.

4. Time Requirement for Completion Training

- A. Every jailor or custodial officer, courthouse and courtroom security officer and process service officer who is required to comply with the compulsory minimum training standards shall satisfactorily complete such training within 12 months of the date of appointment as a jailor or custodial officer, courtroom security officer or process service officer unless provided otherwise in accordance with section 4.B of these regulations.
- B. The director may grant an extension of the time limit for completion of the minimum training required upon presentation of evidence by the agency administrator that such officer was unable to complete the required training with the specified time limit due to illness, injury, military service, special duty assignment required and performed in the public interest or leave without pay or suspension pending investigation or adjudication of a crime. The agency administrator shall request such extension prior to expiration of any time limit.
- C. Any jailor or custodial officer, courthouse and courtroom security officer or process service officer who originally complied with all applicable training requirements and later separated from jailor or custodial officer, courtroom security officer process service officer status, in excess of 24 months, upon re-entry as a jailor, courtroom security officer or process server will be required to complete all compulsory minimum training standards unless provided otherwise in accordance with Section 3.C of these regulations.

5. How Compulsory Minimum Training May Be Attained

- A. The compulsory minimum training standards shall be attained by attending and satisfactorily completing an approved training school.
- B. Officers attending an approved training school are required to attend all classes and should not be placed on duty or on call except in cases of emergency.
- C. All approved training schools which begin on or after July 1, 1990, shall be conducted in conformance with the Rules Relating to Compulsory Minimum Training Standards for Jailors or Custodial Officers, Courthouse and Courtroom Security Officers and Process Service Officers as amended by the Board on April 4, 1990. However, the period July 1, 1990 through June 30, 1991 shall serve as a transition period wherein training schools may be approved by the Department to conduct training according to the Rules Relating to Compulsory Minimum Training Standards for Jailors or Custodial/Courthouse and Courtroom Security Officers/Deputy Sheriffs Designated to Service Process as amended by the Board on April 1, 1987, or according to the Rules Relating to Compulsory Minimum Training Standards for Jailors or Custodial Officers, [Courthouse and] Courtroom Security Officers and Process Service Officers as amended by the Board on April 4, 1990.

6. Approved Training Schools:

- A. Jailor or custodial officer training schools, in order to meet 2, sections A and B of these rules, shall be approved by the department prior to the first scheduled class. Courthouse and courtroom security officers Process Service Officers training schools, in order to meet sections 2.A and C of these rules, shall be approved prior to the first scheduled class. Combined jailor or custodial officer courthouse and courtroom security officer process service officer training schools, in order to meet 2, subsections A, B and C of these rules, shall be approved prior to the first scheduled class. Approval is requested by making application to the director on forms provided by the department. The director may approve those schools which

on the basis of curricula, instructors, facilities, and examinations, provide the required minimum training. One application for all mandated training shall be submitted prior to the beginning of each fiscal year. A curriculum listing the subjects, the instructors, dates and times for the entire proposed training session shall be submitted to the department 30 days prior to the beginning of each such proposed session. An exception to the 30 day requirement may be granted for good cause shown by the school director.

- B. Each school director will be required to maintain a file of all current lesson plans and supporting material for each subject contained in the compulsory minimum training standards.
- C. Schools which are approved will be subject to inspection and reviewed by the director.
- D. The department may suspend the approval of an approved training school upon written notice, which shall contain the reason(s) upon which the suspension is based, to the school's director. The school's director may request a hearing before the director or his designee. The request shall be in writing and must be received by the department within 15 days of the date of the notice of suspension/revocation. The school's director may appeal the decision of the director or his designee to the board. Such request shall be in writing and must be received by the board within 15 days of the date of the decision of the director or his designee.
- E. The department may revoke the approval of any approved training school upon written notice, which shall contain the reason(s) upon which the revocation is based, to the school's director. The school's director may request a hearing before the director or his designee. The request shall be in writing and must be received by the department within 15 days of the date of the notice of revocation. The school's director may appeal the decision of the director or his designee to the board. Such request shall be in writing and must be received by the board within 15 days of the date of the decision of the director or his designee.

7. Grading

- A. Each officer designated as provided for in Sections 3, A and B shall comply with the applicable performance objectives and subjects set forth in Section 2, and the document entitled "Performance Based Training and Testing Objectives for Compulsory Minimum Training Standards for Jailors or Custodial Officers, Courthouse and Courtroom Security Officers Process Service Officers" (October 1989).
- B. All approved training schools shall utilize testing procedures which indicate that every officer, prior to satisfactory completion of the training school, has met the requirements set forth in each performance objective specified in the document entitled "Performance Based Training and Testing Objectives for Compulsory Minimum Training Standards for Jailors or Custodial Officers, Courthouse and Courtroom Security Officers and Process Service Officers".
- C. The officer may be tested and re-tested as may be necessary within the limits of section 4.A of these rules and each academy's written policy. An officer shall not be certified as having complied with the compulsory minimum training standards unless all applicable requirements have been met.
- D. The following firearms training will be required for each officer attending an approved school:
 - 1. Nomenclature and care of service handgun;
 - 2. Safety (on the firearms range, on duty and off duty);
 - 3. Legal responsibilities and liabilities of firearms;
 - 4. Service handgun (handling, firing principles);
 - 5. Dry firing and application of basic shooting principles);
 - 6. Pre-qualification shooting (150 rounds, minimum);
 - 7. Virginia Modified Double Action Course; (70% minimum qualification required);
 - 8. Qualification (70% minimum required) on one of the following:

- a. Modified Tactical Revolver Course
 - b. Modified Practical Pistol Course
 - c. Virginia Modified Combat Court I
 - d. Virginia Modified Combat Court II
- E. Familiarize with the police shotgun (20 rounds required - shoulder and hip position)

8. Failure to Comply with Rules and Regulations

- A. Any jailor or custodial officer courthouse and courtroom security officer or process service officer attending an approved training school shall comply with the rules and regulations promulgated by the board and any other rules and regulations within the authority established by the approved training school. The school director shall be responsible for enforcement of all rules and regulations established to govern the conduct of attendees. If the school director considers a violation of the rules and regulations detrimental to the welfare of the school, the school director may expel the officer from the school. Notification of such action shall be reported in writing within 48 hours to the officer's agency administrator and the director.

9. Administrative Requirements

- A. Reports will be required from the agency administrator and school director on forms approved or provided by the department and at such times as designated by the director.
- B. The school director shall, within thirty 30 days upon completion of an approved training school session, submit to the department a roster containing the names of those officers who have satisfactorily completed all training requirements and, if applicable, a revised curriculum, for the training session.
- C. The school director shall furnish each instructor with objectives for the assigned subject matter.
- D. Approved training schools for jailors or custodial officers, courthouse and courtroom security officers or process service officers shall maintain accurate records of all tests,

grades and testing procedures. Training school records must be maintained in accordance with the provisions of these rules 42.1-67 through 42.1-91 of the Code of Virginia.

10. Effective Date

These rules shall be effective on and after July 1, 1990 and until amended or rescinded.

11. Adopted:

July 12, 1973

Amended:

April 4, 1990

REVISED JAILORS CURRICULUM--HOURLY BREAKDOWN

II. Basic Jailors and/or Custodial Officers School REVISED

	Hrs.	% of Change
1.0 Basic Administration	19	
1.1 Orientation	7	
1.2 Notebook and construction & Notetaking	1	
1.3 Testing & Evaluation	10	
1.4 Training Standards Overview	1	
2.0 Background Materials	16	
2.1 Ethics	3	+1
2.2 Jail History	2	+1
2.3 Court Systems	1	
2.4 Commonwealth/Def. Atty's & Judges	1	
2.5 Juvenile Justice System	2	
2.6 Freedom of Information Act	1	
2.7 Public Responsibility	2	+1
2.8 Probation & Parole	1	

2.9	Work Release	2	+1
2.10	Community Resources	1	
2.11	Communications & Crisis (In IPC)	--	
3.0	Legal Issues	35	
3.1	Code of Virginia	6	
3.2	Const. Law/Civil Liability	4	
3.3	Laws of Arrest	6	
3.4	Rules of Evidence	6	
3.5	Probable Cause	2	
3.6	Juvenile Law	3	
3.7	Search & Seizure	8	
4.0	Combined Subjects	128/5	
4.1	Courtroom Testimony & Demeanor	1	
4.2	Transportation & Physical Restraints	4	
4.3	Officer Safety & Arrest Techniques	25	
4.4	Hostages & Disturbances	4	+2
4.5	Unusual Prisoners	10/1	+6/1
4.6	Chemical Agents (BO)	1/2	
4.7	Firearms (BO)	32	
4.8	Standard First Aid (First Responder-BO)	35	
4.9	Report Writing	4	
4.10	Privacy of Criminal History Records	1	
4.11	Searches (Cell & Personal)	2/2	
4.12	Stress Management (BO)	8	
4.13	Fire Safety	1	
4.14	Crisis Management (In IPC)	--	

6.0 Jailors or Custodial Officers	44/12	
6.1 Standards for Local Jails/Lockups	2	+1
6.2 Basic Security Overview	3/2	+1
6.3 Inmate Supervision & Techniques (6.5)	2	
6.4 Inmate Behavior	3	+2
6.6 Key Control & Headcount	1/2	-1
6.7 Classification	1	
6.8 Receiving & Discharging Inmates	4/2	+1
6.9 Escapes	1	
6.10 Trusties	2	+1
6.11 Medication Security	1/2	
6.12 Discipline & Due Process	0	-2
6.13 Introduction to Fingerprinting	4	+1
6.14 Protecting a Crime Scene in Jail	2/2	
6.15 Jail Climate	1	
6.16 Interpersonal Communications	16	
6.17 Mob & Crowd Control	1/2	

**BAILIFF TRAINING PROGRAM
STATE OF MINNESOTA**

ONE DAY PROGRAM

The Supreme Court's Office of Continuing Education for State Court Personnel has been conducting Bailiff Training Programs since 1986. The purpose of this specialized training is to assist court personnel who serve as bailiffs in the trial courts to better understand and carry out their prescribed duties.

Several issues were apparent that specifically applied to the Bailiff in the Trial Court setting.

Includes:

- the greatest need is for training of bailiffs who are not licensed peace officers;
- roles and responsibilities of the bailiff are very different from county to county;
- training resources at the local court level are limited;
- selection, training and supervision of bailiffs is a function shared by the sheriff's office, the court administrator, and the judge.

A Bailiff Training Instructor's Guide and Student manual was prepared as a cooperative effort by Supreme Court Continuing Education and an Advisory Committee comprised of County Sheriffs and Court Administrators representing the state's judicial districts. A basic overview of the Bailiff Manual and of the entire program is discussed in detail.

Included:

PLANNING FOR BAILIFF TRAINING

Policies and Procedures
Training Plan
Training Coordinator
Faculty
P.O.S.T. Accreditation
Planning Checklist
Sample Court Announcement
Sample Registration Form
Elements of Orientation
Orientation Handbook
Orientation Checklist

BAILIFF TRAINING PROGRAM

Program Purpose and Process
Sample Agenda
Pre/Post-Program Evaluation Purpose and Process
Sample Questionnaire and Answer Key

BAILIFF TRAINING MATERIALS

PURPOSE AND PROCESS MATERIALS: ROLES AND RESPONSIBILITIES OF THE BAILIFF

- General Conduct
- Courtroom Decorum
- Personal Appearance
- Opening Court
- Courtroom Preparation
- Jury Responsibilities

COURT SECURITY PROCEDURES

Planning for Court Security
Security for Judges
Security for Witnesses and Waiting Areas
Handling In-Custody Defendants
Records and Evidence
Firearm Policy
Court Security Emergency Procedures
Emergency Medical Procedures

RULES FOR UNIFORM DECORUM

CASELAW FOR COURT BAILIFFS

OVERVIEW OF THE MINNESOTA COURT SYSTEM

SMALL GROUP DISCUSSION GUIDE

Purpose and Process
Instructions for Role Players
Role Play Scenarios

APPENDIX: <i>"TIPS"</i> FOR THE TRAINER

Bailiff Training Resources
Characteristics of Adult Learners
The Effective Trainer
General Suggestions
Suggestions for Group Leaders
Encouraging Questions/Participation
Using Questions for a Purpose
Techniques for Handling Difficult Situations
Bibliography

**BAILIFF TRAINING PROGRAM
Planning Checklist**

60 days prior to training:

- ☐ Training Facilitator/Leader appointed
- ☐ Planning Committee/Faculty identified
- ☐ Initial planning meeting scheduled:
Date _____ Location: _____
- ☐ Estimate program costs; identify funding sources
- ☐ Training location identified
- ☐ Meeting space reserved

45 days prior to training:

- ☐ Speakers confirmed by letter
- ☐ Discussion leaders identified
- ☐ Application for P.O.S.T. credit (optional)
- ☐ Preliminary agenda approved
- ☐ Participant registration notices mailed

30 days prior to training:

- ☐ Planning meeting scheduled:
Date: _____ Location: _____
- ☐ Materials selected
- ☐ Case situations and guidelines to group discussion leaders
- ☐ Role play scenarios selected
- ☐ Faculty/Committee preview/practice of program

10 days prior to training:

- ☐ Participant and faculty rosters printed
- ☐ Participant and faculty name badges prepared
- ☐ Participant materials photocopied and collated
- ☐ Photocopy and collate discussion problems and role-play roles
- ☐ Reconfirm meeting space reservation and break service needs

Training day:

- ☐ Check on seating to make sure there is room for everyone
- ☐ Set up registration area with materials, rosters, and name badges
- ☐ Make sure breakout rooms are unlocked
- ☐ Post no-smoking signs if needed
- ☐ Test microphones and other audio/visual equipment
- ☐ Place handout materials on the speaker's table in the front of the room
- ☐ **WELCOME THE PARTICIPANTS WITH A WARM SMILE!**
- ☐ Meet with planning committee for 20 - 30 minutes to discuss the strengths and weaknesses; changes to be made
- ☐ Set tentative date for next training session

7 days after the training:

- _____ Write thank you letters to all speakers, discussion leaders, and planning committee members
- _____ Summarize post-training committee discussion
- _____ Pay costs incurred for meeting or travel expense
- _____ Start again at the beginning

SAMPLE

**BAILIFF TRAINING PROGRAM
REGISTRATION FORM**

Please list below the name and title of each person to be registered to attend the program. Include the license number of licensed peace officers to assure appropriate accreditation/certification.

<u>NAME</u>	<u>TITLE</u>	<u>LICENSE NUMBER</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Recommended for group discussion leader _____

Telephone Number _____

Fax Number _____

Please list two or three topics of special interest or concern you would like to have discussed during the training.

Please return the completed form by _____ (date) to:

Name (Training Coordinator)
Street Address
City/County/State/Zip Code
Telephone Number
Fax Number

ORIENTATION CHECKLIST

Advance preparation:

- ☐ Work area ready; supplies available, including keys and name badge
- ☐ Written materials copied
- ☐ Time scheduled on your calendar for orientation
- ☐ Appointments scheduled if needed for introductions to judges, sheriff, court administrator, etc.
- ☐ Assign mentor (optional)

First day:

- ☐ Welcome/work location; provide keys, identification, etc.
- ☐ Discuss work schedule, job responsibilities and expectations
- ☐ Present written materials, point out items for immediate review; schedule time for discussion later in week
- ☐ Introductions to co-workers, judges, court personnel
- ☐ Meet bailiff mentor
- ☐ Tour of courthouse/court environment
- ☐ Assign first task; give instructions

First week:

- ☐ Courtroom observation
- ☐ Discussion of court security policies and procedures
- ☐ Completion of first assignment; discuss results and next assignments
- ☐ Schedule preparation in one-day bailiff training program

One to three months:

Periodically review expectations and performance with the bailiff to provide continuing support and encouragement.

ELEMENTS OF ORIENTATION

As with any new court employee, training should begin with an orientation on the first day a bailiff reports to the court. The orientation plan should include each of the following elements:

- Introductions to court personnel and to the court environment.
- A tour of the court facilities, pointing out emergency escape routes, security alarm systems, telephones and emergency numbers, restricted areas that are not open to the public.
- Discussion of the roles and responsibilities of the bailiff.
- Written materials including personnel policies, court security policies, AIDS policy, and procedural guides.
- Discussion of the policies, demonstration and practice with alarms, fire extinguishers, and any other equipment provided to assure court security.
- Observing an experienced bailiff working during a court hearing; working with an experienced bailiff as a "mentor" if it is possible to do so.

ORIENTATION HANDBOOK

The materials in the Instructor's Guide may be copied or used for reference to prepare an orientation handbook provided to new bailiffs on the first day of employment in your court. The following materials are recommended:

- General conduct of Bailiff.
- Court decorum, personal appearance. Specify the dress code for your court. In uniforms or blazer jackets are required, instruct the bailiff on how it is to be used.
- Opening court. Include a written copy of the statement used to open court in your jurisdiction and instruct the bailiff on how it is to be used.
- Courtroom preparation. Copy the checklist provided, or substitute a checklist specific to your courtrooms.
- Jury responsibilities. Use the materials from the Instructor's Guide as general information. Add policies or guidelines specific to your court. Include a list of restaurants and hotels approved for jury meals or housing.
- Court security. Provide a copy of your local court security policies, or copy the materials in the Instructor Guide. Call attention to any particular security concerns in your court.

- AIDS policy. Discuss the policy with the bailiff. Emphasize the importance of impartiality and confidentiality of the AIDS status in dealing with the jury.

PURPOSE

The purpose of the Bailiff's Training Program is to enable bailiffs to carry out their responsibilities with confidence in accordance with the Rules of Uniform Decorum in the District Courts of Minnesota, and with established court policies.

COURSE OBJECTIVES

As a result of the training program, bailiffs will be able to:

- demonstrate conduct and behavior that is appropriate to the dignity of the court and the impartial administration of justice;
- assume custody of a jury to provide the care, supervision and protection needed to assure impartiality;
- establish and maintain security procedures that ensure safety for judges, parties, court personnel, and the public; and
- promptly take control in the event of an emergency.

INTENDED AUDIENCE

Bailiffs who are not licensed law enforcement officers/deputies. The program was value for trained peace officers, and they are encouraged to attend, but the target audience is the lay bailiff.

PROCESS

State the purpose and the objectives in course announcements and registration materials sent to supervisors and participants.

- * so participants will know what to expect;
- * so you will have participants who want to be there and will use the training on the job;
- * so they can identify questions and concerns in advance to discuss during the training.

Include objectives in the written materials given to participants.

Tell participants how the agenda

"This is what we plan to do"correlates to the objectives. (agenda)

"This is why we are going to do it: (objectives)

SAMPLE

**ONE DAY
BAILIFF TRAINING PROGRAM
AGENDA**

- 8:30 a.m. Program Evaluation Pre-test**
- 8:40 a.m. Welcome and Program Overview**
Training Coordinator/Program Facilitator
- 8:45 a.m. Roles and Responsibilities of the Courtroom Bailiff**
Emphasis is on what the presiding judge expects of the bailiff; communication with the judge is essential; recognize the value of the bailiff to the judge; a judge depends on the bailiff to help control the courtroom.
Presenter: Chief Judge or a designee
- 9:30 a.m. Stretch Break**
- 9:40 a.m. What Bailiffs Do and How It Should Be Done**
A series of small group discussions of actual case situations which a bailiff faces daily in the courtroom.
- 11:00 a.m. Stretch Break**
- 11:10 a.m. Case Situation Summary Discussion**
Group leaders will report on discussions, identify major issues, unresolved problems, and policy concerns.
- 12:00 p.m. Lunch Break**
- 1:00 p.m. Dealing With Emergency Situations**
Participants will act as judges, jurors, attorneys, witness, observers, and bailiffs. Discussion will follow with ample time for questions on each situation.
- 2:30 p.m. Break**
- 2:40 p.m. The Jury and the Bailiff**
A series of case-situations which focus o jury supervision will be discussed.
- 3:30 Course Evaluation Post-test**
Discussion of the correct answers to summarize the training and to reinforce the key points to be remember.
- 4:00 Adjournment**

PRE-PROGRAM/POST-PROGRAM EVALUATION QUESTIONNAIRE

PURPOSE

The purpose of the pre-test and post-test is so that:

- participants begin to focus on the program content;
- it helps set the environment for learning;
- it highlights key points of the training; and
- evaluation: instructors can see what learning has taken place, what revisions are needed to improve the program.

TIME

Pre-test: 10 minutes
Post-test: 5 minutes

MATERIALS

- Copy of the questionnaire for each participant
- Pencils available for all participants
- Instructor answer key
- Explanatory notes
- Appropriate cites and rules or case law

PRE-PROGRAM PROCESS

- **PLAN TO START ON TIME!**
- Before your scheduled starting time, announce that the program will begin in 5 minutes. Do not wait for latecomers.
- Reassure participants that they will not be graded on their answers, that the questionnaire is an evaluation that will help the instructors teach.
- Make sure everyone has a copy of the questionnaire. Follow instructions at the top of the page. Use only the blanks on the let-hand side of the form. If they do not know the answer, leave it blank. When finished, set the form aside until the end of the program.

POST-PROGRAM PROCESS

- Allow 5 minutes for participants to answer the questions, using the blanks on the right-hand side of the form.
- Give the correct answers and discuss each question with participants. Give examples from the program or the manual that support the answer.

EVALUATION

The difference between the number of correct answers at the beginning and at the end of the program is one indication of what learning has occurred.

- Did anyone answer all of the questions correctly on the pre-test? (Why aren't they teaching instead of you?)
- Did anyone leave blanks on the pre-test? Any blanks left empty on the post-test? Which question(s)?

Make sure the correct answers are explained and understood.

- Did anyone have more than 5 errors on the pre-test? More than 3 errors? 1 or more errors on the pre-test?
- Did anyone have more than 5 errors on the post-test? More than 3 errors? 1 or more errors on the post-test?

NOTE: If several participants have 5 or more errors on the post-test, instructors should carefully assess the training program and decide what changes are needed to make it more effective.



COURT SECURITY AND THE TRANSPORTATION OF PRISONERS: A NATIONAL STUDY



POTENTIAL COURT SECURITY TRAINING PROGRAMS [LESSON PLAN PREPARATION GUIDES]

♦ Guides 1 to 26

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POTENTIAL COURT SECURITY TRAINING PROGRAMS
LESSON PLAN PREPARATION GUIDES

COURT SECURITY TRAINING
Lesson Plan Preparation Guide #1

Lesson Title: The Nature of the Court Violence
and Security Threats

Curricula Used In and Suggested Time:

Court Security Management Seminar	1 Hour
3-Day Program Options A and B	1 Hour
5-Day Program	1 Hour

Objective:

To familiarize the student, through a review of actual court security incidents and disturbances, with the situations which can occur to disrupt court proceedings or endanger trial participants, and the methods used in such actions.

Reference Materials:

National Sheriffs' Association report on Court Violence prepared for the State Justice Institute, 1991, available from the National Sheriffs' Association, 1450 Duke Street Alexandria, Virginia 22314.

Court Security: A Manual of Guidelines and Procedures, National Sheriffs' Association, 1978.

Transportation of Prisoners, I.A.C.P., 1991.

Strikes and Labor Disputes, I.A.C.P., 1995.

Domestic Violence, I.A.C.P., 1990.

Mutusal Assistance, I.A.C.P., 1993.

Information Sources:

National Sheriffs' Association, 1450 Duke Street, Alexandria, Virginia 22314; National Center for State Courts, 300 Newport Avenue, Williamsburg, Virginia 23187 and State Justice Institute, 1650 King Street, Alexandria, Virginia 22314.

Items to be Covered:

- A. The fact that the courts operate in an open and public environment and are to be maintained as accessible as possible to all, makes them a vulnerable target for a variety of threats and attacks.

- B. Give some examples of court security incidents in recent months, preferably in courts of the same size jurisdiction. Use incidents that vary in nature, and that involve a variety of types of court.
- C. Using data from the National Sheriffs' Association, or the National Center for State Courts, or from the state crime statistical agency, discuss the following:
1. Types of incidents
 2. Types of courts in which incident occurred
 3. Location of the incidents; (i.e. where in the courthouse, or out of the courthouse)
 4. At what stage was the court case at the time of the incident
 5. Type of case being heard at the time of the incident
 6. Who were the victims and/or targets/victims
 7. What injuries were sustained by the targets/victims
 8. Who was the assailant
 9. What was the relationship between the assailant and the target/victim
 10. What was the reason for the incident
 11. Was the assailant injured, killed, arrested, escaped, etc.
 12. What weapon was used
- D. Discuss the specific situations that may increase risk in certain courts, (e.g. bitter child custody battles in domestic relations court, public indignation at defendant in criminal case involving offense against a child, bitterly contested civil suit, threats made against judge, witnesses or jurors.)
- E. Discuss organized crime elements, drug trafficker, organized gangs, domestic terrorist groups, ethnic or nationalist activist groups, or other organized groups that are known to be present in the jurisdiction and may become involved in some way in court proceedings.
- F. Discuss the necessity of providing adequate protection to the courts and participants in court actions to maintain the system of open courts free of coercive influence.

Audio-Visual Aids:

Use videotapes of local, regional or state TV newscasts of court incidents or criminal justice or law enforcement agency official videotapes, still pictures of incidents and use of public broadcast stations. Make overhead projection transparencies of newspaper or newsmagazine articles. Make overhead slides.

COURT SECURITY TRAINING
Less Plan Preparation Guide #2

Lesson Title: The State Court System

Curricula Used In and Suggested Time:

3-Day Program Option A and B	1 Hour
5-Day Program	1 Hour

Objective:

To familiarize the student with the various state and local courts and with the roles of the various court officers and trial participants; and to inform the student of the legal authority under which the courts and court security deputies/officers operate.

Reference Materials:

State statutes and case law relating to the judiciary and the organization of the courts. Rules of the state Supreme Court, Special Court of Appeals, Court of Appeals and the courts of record.

Information Sources:

State court administrator, chief judge of courts in the jurisdiction, county attorney, court clerk, clerk of court, state criminal justice planning agency. National Center for State Courts, State Justice Institute, National Center for Juvenile Justice and the National Judicial College.

Transportation of Prisoners, I.A.C.P., 1990.

Civilian Personnel, I.A.C.P., 1995.

Items to be Covered:

- A. The structure of the judicial system in the state. Hierarchy of the courts, jurisdiction of the various courts.
- B. The official principals involved in the judicial process, their authority and their roles:
 - 1. Judges, magistrates, justices, commissioners, masters,
 - 2. Clerk of courts,

3. Court reporters and stenographers,
4. Bailiffs and marshals,
5. Prosecutors, state attorneys, county attorneys,
6. Public defenders,
7. Court administrators, and
8. Court deputies/officers.

C. Other principals involved in the court process:

1. Plaintiff
2. Crime Victim
3. Defendant/Respondent
4. Witness
5. Juror
6. Attorney

D. Who is charged with the responsibility, and by what authority, for maintaining the decorum and the security of the courts?

E. What courts hold session in this area, in what building do they sit, who are the principals, what kinds of cases are handled by each court?

Audio-Visual Aids:

Overhead projector transparencies showing the structure of the court system, the jurisdiction of the various courts, and the roles of the various participants. Overhead transparencies indicating where the local courts are housed.

COURT SECURITY TRAINING

Lesson Plan Preparation Guide #3

Lesson Title: The Trial Process

Curricula Used In and Suggested Time:

5-day Program

1 Hour

Objective:

To identify for the student the several stages of legal proceedings in the civil, criminal, juvenile and domestic relations courts and the points at which participant stress may cause disruption.

Reference Materials:

State statutes and rules of procedures for the various courts.

Information Sources:

Judges, court administrators, court clerks, county attorneys, state criminal planning agency. National Center for State Courts, National Center for Juvenile Justice, State Justice Institute and National Judicial College.

Items To Be Covered:

- A. Describe the criminal case process from arraignment through trial and the process for appeal. Explain in which court each step of the process occurs.
- B. Describe the civil case process and the various courts which hear certain cases or cases at given stages.
- C. Describe the process for adjudicating juvenile and domestic relations cases, and what courts have jurisdiction in various cases and circumstances.
- D. Describe the processes involved in traffic, municipal, coroners, and other lower courts.
- E. Describe during each of the above, the stress points at which court disruptions are most likely to occur.

Audio-Visual Aids:

Overhead projector transparencies flow charting the trial processes described.

COURT SECURITY TRAINING

Lesson Plan Preparation Guide #4

Lesson Title: Courtroom Protocol

Curricula Used In and Suggested Time:

5-Day Program

1 Hour

Objective:

To make the student aware of the ceremonial aspects of the court process and the role of the court security deputy/officer in enforcing protocol for the protection of the dignity of the court.

Reference Materials:

Individual court orders, documentation of customs by judges or court clerks. Protocols are very specific to a state, a court, and a judge.

Information Sources:

Judges, court clerks, experienced bailiffs and court security officers.

National Center for State Courts, 300 Newport Avenue, Williamsburg, Virginia 23187; National Center for Juvenile Justice, 701 Forbes Avenue, Pittsburgh, Pennsylvania 15219 and National Judicial College, c/o University of Nevada at Reno, Reno, Nevada 89557.

Items to be Covered:

- A. Mode of address to judge, attorneys and other participants; i.e. titles.
- B. Announcing judge, calling court to order and court rules.
- C. Instructing spectators on decorum and court rules.
- D. Reading of orders and verdicts.
- E. Directing seating of participants.

Audio-Visual Aids:

Overhead or flip-chart of typical or specific courtroom to identify locations of particular participants.

COURT SECURITY TRAINING

Lesson Plan Preparation Guide #5

Lesson Title: Duties of Court Security Personnel

Curricula Used In and Suggested Time:

3-Day Program Options A and B	1 Hour
5-Day Program	1 Hour

Objective:

To familiarize the student with all aspects of the duties and functions of the court security officer.

Reference Materials:

State statutes, departmental manuals and standard operating procedures.

Court Security: A Manual of Guidelines and Procedures, Chapter 3, National Sheriffs' Association, 1978. C.A.L.E.A., Inc., 10306 Eaton Place, Fairfax, Virginia 22030.

Use of Force, I.A.C.P., 1989.

Transportation of Prisoners, I.A.C.P. 1990.

Lockup and Holding Facilities, I.A.C.P., 1996.

Information Services:

F.B.I. Academy Staff, Quantico, Virginia 22135; I.A.C.P., 515 North Washington Street, Alexandria, Virginia 22314; U.S. Marshals Service, 600 Army Navy Drive, Arlington, Virginia 22202 and National Center for State Courts, 300 Newport Avenue, Williamsburg, Virginia 23187.

Judges, county attorney, departmental manual on court security.

National Sheriffs' Association, 1450 Duke Street, Alexandria, Virginia 22314.

Items to be Covered:

- A. Definition of bailiff, marshal, and court security officer. If courts use both bailiffs and other court security officers, indicate what authority appoints each to whom they report, and specific the duties of each from the list below, adding other duties that may be imposed by the court.

B. Traditional bailiff duties and who perform them in this jurisdiction:

1. Calling court to order
2. Serving process in courtroom
3. Maintaining proper demeanor of participants and spectators
4. Control and custody of evidence and exhibits
5. Locating legal reference materials for the judge
6. Verification of documents presented to the court
7. Receiving and seating the jury panel
8. Acting as law clerk to judge
9. Protocol at entrance and exit of judge

C. Security duties and who performs them in this jurisdiction:

1. Custody and protection of the jury
2. Protection of courtroom principals
 - judge
 - witnesses
 - attorneys
 - court staff
3. Protection of press and spectators
4. Custody and protection of defendants
5. Protection of chambers, offices, and courthouse building and grounds

Audio-Visual Aids:

Flip chart or overhead transparencies to list duties.

COURT SECURITY TRAINING

Lesson Plan Preparation Guide #6

Lesson Title: Review of Departmental Policies

Curricula Used In and Suggested Time:

5-Day Program

1 Hour

Objective:

To ensure that the student is familiar with the policies of the agency responsible for providing court security.

Reference Materials:

Department court security manual and standard operating procedures.

Use of Force, I.A.C.P., 1989.

Lockups and Holoding Facilities, I.A.C.P., 1995.

Civil Personnel, I.A.C.P., 1995.

Juvenile Enforcement and Custody, I.A.C.P., 1994.

Information Sources:

Head of agency that provides court security, C.A.L.E.A., Inc., 10306 Eaton Place, Fairfax, Virginia 22030; I.A.C.P., 515 North Washington Street, Alexandria, Virginia 22314; U.S. Marshals Service, 600 Army Navy Drive, Arlington, Virginia 22202 and National Fire Protection Association, 1 Battery March Park, P.O. Box 9101, Quincy, Massachusetts 02269.

Items to be Covered:

Review entire set of written departmental policies and procedures relating to the court security function.

Audio-Visual Aids:

Reproduce any diagrams or charts from manuals for use on flip charts or overhead projector.

COURT SECURITY TRAINING

Lesson Plan Preparation Guide #7

Lesson Time: Intelligence and Threat Assessment

Curricula Used In and Suggested Time:

Court Security Management Seminar	1 Hour
3-Day Program Options A and B	1 Hour
5-Day Program	1 Hour

Objective:

To instruct the student in the value of a systematic program of intelligence and information gathering as a part of the court security threat assessment, planning and operations process.

Reference Materials:

Court Security: A Manual of Guidelines and Procedures, National Sheriffs' Association, 1978, Chapter 3.

Report on Court Violence of the National Sheriffs' Association to the State Justice Institute, 1991.

International Association of Chief of Police Training Key #223 - "Criminal Intelligence".

Strikes and Labor Disputes, I.A.C.P., 1995.

Use of Force, I.A.C.P., 1989.

Lockups and Holding Facilities, I.A.C.P., 1996.

Information Sources:

National Sheriffs' Association, 1450 Duke Street, Alexandria, Virginia 22314; International Association of Chiefs of Police, 515 North Washington Street, Alexandria, Virginia 22314; United States Marshals Service, Training Academy, Glynco, Georgia 31524; United States Marshals Service, 600 Army Navy Drive, Arlington, Virginia 22202; National Center for State Courts, 300 Newport Avenue, Williamsburg, Virginia 23187; F.B.I. Academy, Quantico, Virginia 22135; I.N.S., Tenth and Constitution Avenue, N.W., Washington, D.C. 20530; Federal Bureau of Prisoners, 320 First Second, NW, Washington, D.C. 20530.

Items to be Covered:

- A. Review from Lesson Plan #1 the circumstances under which disruptions and violence have occurred in courts, and the persons who are most likely to cause problems for court security.
- B. Law enforcement information sources available in the jurisdiction to identify potentially dangerous trial participants; e.g.
 - 1. NLETS, NCIC and State Criminal History files for prior criminal records which might indicate a particular risk.
 - 2. Gun registration files.
 - 3. Local arrest and police incident records.
 - 4. Records of commitment to mental institutions or substance abuse treatment programs.
 - 5. Reports of federal, state and local law enforcement agencies regarding organized crime activities, gangs, activist groups, or drug syndicates operating in the area that may be connected with a particular trial.
- C. Informal sources of information on trial participants, e.g.
 - 1. Court staff
 - 2. Attorneys
 - 3. Family and friends of participants
 - 4. News stories relating to participants
 - 5. Local gossip and rumors
- D. Organizing to collect, analyze and report on information.
- E. Sharing information on participants that may indicate a high risk trial.
 - 1. With court security committee and executive
 - 2. With prosecuting and defense attorneys
 - 3. With judge

Audio-Visual Aids:

Flip chart or overhead projection slide and listing of official law enforcement information and intelligence agencies available for use.

COURT SECURITY TRAINING

Lesson Plan Preparation Guide #8

Lesson Title: Domestic Terrorists and Court Disruptions

Curricula Used In and Suggested Time:

3-Day Program Option A	2 Hours
5-Day Program	2 Hours

Objective:

To make the student aware of techniques for dealing with advocacy groups or terrorists who threaten court participants or disrupt court proceedings to intimidate influence decisions.

Reference Materials:

International Association of Chiefs of Police Training Key #133, "Tactics of Militant Demonstrators".

A number of publications on domestic terrorist activities are available from the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco and Firearms and the U.S. Customs Service. Contact those agencies for the latest materials.

Strikes and Labor Disputes, I.A.C.P., 1995.

Juvenile Enforcement and Custody, I.A.C.P., 1994.

Lockups and Holding Facilities, I.A.C.P., 1994.

Domestic Violence, I.A.C.P., 1993.

A continuously-updated bibliographic search service is available from N.C.J.R.S. (See below).

Information Sources:

Federal Bureau of Investigation, J. Edgar Hoover Building, Washington, D.C. 20535; F.B.I. Academy, Quantico, Virginia 22135; Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226; United States Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229; National Criminal Justice Reference Service, P. O. Box 6000, Rockville, Maryland 20850, United States Marshals Service, 600 Army Navy Drive, Arlington, Virginia 22202 and Federal Bureau of Prisons, 320 First Street, N.W., Washington, D.C. 20530.

Items to be Covered:

- A. Describe international and foreign terrorist groups known in the United States and describe their purposes and methods.
- B. Describe domestic terrorist organizations and activist groups that are known to use court disruptions and demonstrations at courthouse to further their causes. Describe their goals, organization, methods, membership, locations where they have acted, and where intelligence concerning them is available.
- C. Describe anti-terrorist methods effectively employed against these groups by U.S. and foreign police authorities. Describe countermeasures for use in building security, transportation of principals, and public assemblies.
- D. Give information on specific groups or organizations known to be active in your jurisdiction.

Audio-Visual Aids:

Videotapes on this topic are available from a number of commercial sources, and are constantly being updated.

COURT SECURITY TRAINING

Lesson Plan Preparation Guide #9

Lesson Title: Disguised and Concealed Weapons

Curricula Used In and Suggested Time:

3-Day Program Options A and B	1 Hour
5-Day Program	1 Hour
(This lesson is used in shorter form in Court Security Management Seminar as part of lesson on Weapons and Bombs. See Lesson #10)	

Objective:

To provide the student with knowledge and procedures for searching for an identifying concealed or disguised weapons.

Reference Materials:

United States Customs Service publication on Disguised Weapons.

Videotape entitled Disguised Weapons. Contact National Sheriffs' Association for information on purchases.

Use of Force, I.A.C.P., 1989.

Transportation of Prisoners, I.A.C.P., 1991.

Body Armor, I.A.C.P., 1993.

Information Sources

United States Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229; Bureau of Alcohol and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226; D.O.T. (F.A.A.), 800 Independence Avenue, S.W., Washington, D.C. 20591; National Sheriffs' Association, 1450 Duke Street, Alexandria, Virginia 22314, U.S. Marshals Service, 600 Army Navy Drive, Arlington, Virginia 22202.

Items to be Covered:

- A. Description of a variety of disguised weapons from the Customs Service publication and other videotapes are readily available.

- B. Description of the search techniques required to discover various types of disguised weapons, and the limitations of various kinds of equipment in detecting them.

Audio-Visual Aids:

If available, show examples of disguised weapons.

COURT SECURITY TRAINING

Lesson Plan Preparation Guide #10

Lesson Title: Bomb, Weapon and Contraband Search and Identification

Curricula Used In and Suggested Time:

3-Day Program Options A and B	2 Hours
5-Day Program	2 Hours

Objective:

To instruct the student in the physical characteristics of explosive devices, weapons, and contraband that persons may attempt to bring into the court facility; to describe the techniques and equipment used in screening persons and packages to detect such objects; and to describe the techniques for searching the court building and courtroom for concealed bombs, weapons and contraband.

Reference Materials:

Bomb and Physical Security Planning, Bureau of Alcohol, Tobacco and Firearms, published annually.

Contact Bureau of Alcohol, Tobacco and Firearms for list of current publications.

Protection of firearms and explosives repositories during civil disturbances, I.A.C.P., 1995.

Transportation of Prisoners, I.A.C.P., 1994.

Information Sources:

Bureau of Alcohol, Tobacco and Firearms, U.S. Department of the Treasury, 1200 Pennsylvania Avenue, N.W., Washington D.C. 20226; U.S. Marshals Service, 600 Army Navy Drive, Arlington, Virginia 22202 and F.B.I., Academy, Quantico, Virginia 22135.

Items to be Covered:

- A. Description of various explosive devices: physical characteristics, damage potential, typical packaging, how detonated.
- B. What kinds of devices are used by known domestic and foreign terrorist groups or most commonly made and used by amateurs.

- C. What kinds of non-explosive weapons and contraband is commonly brought into courtrooms to cause disturbances; including such items as spray paint, chemical weapons, sound generators, edged weapons, etc.
- D. Search techniques and equipment for personal searches.
- E. Search techniques and equipment for building and room searches.
 - 1. Search items
 - 2. Room sweeps
 - 3. Handling identified suspicious objects
 - 4. Search equipment and removal equipment.
- F. Descriptions of the kinds and uses of various detection devices.
- G. Resources to assist in screening, detection and removal of devices.

Audio-Visual Aids:

Overhead projection slides of illustrations from ATF Bomb and Physical Security Planning, and pictures of explosive devices, weapons, and detection devices. If possible, use models of common types of bombs and weapons, and demonstrate some type of metal detectors.

COURT SECURITY TRAINING

Lesson Plan Preparation Guide #11

Lesson Title: Securing the Court Facilities

Curricula Used In and Suggested Time:

3-Day Program Options A and B	1 Hour
5-Day Program	2 Hours

Objective:

To familiarize the student with the procedures for ensuring that courtrooms, judges' chambers and other court facilities are secured before each court day or court session begins, and with special procedures required when there is a known threat to court security.

Reference Materials:

Court Security: A Manual of Guidelines and Procedures, National Sheriffs' Association, 1978, Chapter 3.

Departmental policies and procedures on court security.

Information Sources:

National Sheriffs' Association, 1450 Duke Street, Alexandria, Virginia 22314; National Center for State Courts, 300 Newport Avenue, Williamsburg, Virginia 23187; State Justice Institute, 1650 King Street, Alexandria, Virginia 22314, National Judicial College, Reno, Nevada 89557; National Center for Juvenile Justice, 701 Forbes Avenue, Pittsburgh, Pennsylvania 15219 and National Fire Protection Association, 1 Battery March Park, P. O. Box 9101, Quincy, Massachusetts 02269.

Items to be Covered:

- A. Gathering information on the calendar for the day and identifying potential problems in each courtroom:
 - Demonstrations that may be held
 - Gang members involved in a case before the court
 - Family disputes involving child custody or property settlement
 - Mental cases involved in litigation
 - Persons known to have made threats regarding a case
- B. Search procedures prior to the opening of court for the day:

- Search if chambers, courtroom, jury room, witness room, holding cell and entry area prior to unlocking courtroom door to the public
 - Reporting suspicious and/or unattended articles to supervisor and requesting assistance
 - Disposing of all unattended or suspicious articles discovered during the search
- C. Verify that all building systems are operating:
- Alarms
 - Communications systems
 - Sound and Recording systems
 - Lighting and emergency lighting
 - Air conditioning or heating
 - Door locks
 - Elevators and escalators
- D. Identify individuals who require special treatment or handling:
- Handicapped or disabled
 - Relatives of litigants
 - Attorneys
 - Media representatives
 - Activists or demonstrators
- E. Supervise seating of the jury
- F. Supervise seating of media and spectators
- G. Maintain custody and control of in-custody persons
- Use metal detectors
 - Use X-ray machines
 - Search brief cases and packages
 - Do pat-down searches
- J. Secure and search the area at recess and adjournment

Audio-Visual Aids:

If checklist of duties is available, make overhead projector transparency; transparency of typical courtroom or floor of courthouse.

COURT SECURITY TRAINING

Lesson Plan Preparation Guide #12

Lesson Title: Protection of Persons at Risk

Curricula Used In and Suggested Time:

Court Security Management Seminar	2 Hours
3-Day Program Options A and B	2 Hours
5-Day Program	2 Hours

Objective:

To familiarize the student with the procedures for personal protection of principals involved in the court process, such as judges, witnesses, jurors, defendants, plaintiffs, and attorneys. This session will include protective techniques to be used in the court facility, during transport and at the principals' homes.

Reference Materials:

Protective Services Training section of the State and Local Court Security Seminar of the United States Marshals Service Training Academy.

Domestic Violence, I.A.C.P., 1993.

Use of Force, I.A.C.P., 1989.

Confidential Informants, I.A.C.P., 1993.

Juvenile Enforcement and Custody, I.A.C.P., 1994.

Civilian Personnel, I.A.C.P., 1995.

Information Sources:

United States Marshals Service, Training Academy, Glynco, Georgia 31524; United States Marshals Service, 600 Army Navy Drive, Arlington, Virginia 22202; United States Secret Service, 1800 G Street, N.W., Washington, D.C. 20223; National Sheriffs' Association, 1450 Duke Street, Alexandria, Virginia 22314; National Center for State Courts, 300 Newport Avenue, Williamsburg, Virginia 23187; National Center for Juvenile Justice, 701 Forbes Avenue, Pittsburgh, Pennsylvania 15219; State Justice Institute, 1650 King Street, Suite 600, Alexandria, Virginia 22314 and National Judicial College, Reno, Nevada 89557.

- B. Setting up the protective detail
 - Courthouse
 - Transportation
 - Residence of principal
- C. Advance planning and advance surveillance operations
- D. Protective tactics
 - At the courthouse
 - While transporting
 - At the residence
 - At public meetings

Audio-Visual Aids:

Public Official Protection videotape produced by the California State Police; reproduce on transparencies the protective detail movement illustration from the U.S. Marshals Service training materials.

COURT SECURITY TRAINING

Lesson Plan Preparation Guide #13

Lesson Title: Non-verbal Communication

Curricula Used In and Suggested Time:

5-Day Program

2 Hours

Objective:

To familiarize the student with the non-verbal or "body language" actions and attitudes of people in a courtroom that might signal potential danger to the participants in the proceedings.

Reference Materials:

Fast, Julius, Body Language, New York: Pocket Books, 1971.

Harper, R.G., Non-Verbal Communication, New York: Wiley, 1978.

Articles:

"What Body Language Can Tell You That Words Cannot", David Givens, U.S. News and World Report, November, 1984.

"Avoiding Family Violence: The Non-verbal Behavior of Police Intervention at Family Fights", R. D. Hicks and G. Dolphin, Police Chief, March, 1979.

"Non-verbal Communications in Interrogations", M. S. Kuhlman, FBI Law Enforcement Bulletin, November, 1980.

Information Sources:

United States Marshals Service, Training Academy, Glynco, Georgia 31524; F.B.I. Academy, Behavioral Science Unit, Quantico, Virginia 22135; National Institute of Justice, 633 Indian Avenue, N.W., Washington, D.C. 20531; National Criminal Justice Reference System, P. O. Box 6000, Rockville, Maryland 20850.

Items to be Covered:

A. Body Language

- Aspects of body language as communication
- Observing the actions of a suspect
- Behavioral clues
- Using body language

- B. Proxemics
 - Analyzing proximity as a clue to behavior and communication
- C. Using Non-verbal Communication in Law Enforcement
 - Identifying behaviors that indicate risk
 - Non-verbal communication in interrogation
 - Non-verbal communication and police intervention

Audio-Visual Aids:

See Court Security Training Manual of the United States
Marshals Service Training Academy

COURT SECURITY TRAINING

Lesson Plan Preparation Guide #14

Lesson Title: Prisoner Control and Transport

Curricula Used In and Suggested Time:
5-Day Program

1 Hour

Objective:

To provide the skills and knowledge necessary to control the prisoner within the court facility, including the use of retraining devices, and to provide safe and secure transportation of the prisoner to and from the court building.

Reference Materials:

U.S. Marshals Service State and Local Court Security Seminar Workbook.

International Association of Chiefs of Police Training Keys as follows:

- #216 - "Come-along Holds";
- #249 - "Taking Prisoners into Custody";
- #250 - "Searching Prisoner";
- #267 - "Use of Handcuffs";
- #281 - "Prisoner Transports"

Transportation of Prisoners, I.A.C.P., 1991.

Use of Force, I.A.C.P., 1989.

Juvenile Enforcement and Custody, I.A.C.P., 1994.

Lockups and Holding Facilities, I.A.C.P., 1996.

Information Sources:

National Sheriffs' Association, 1450 Duke Street, Alexandria, Virginia 22314; International Association of Chiefs of Police, 5515 North Washington Street, Alexandria, Virginia 22314; Immigration & Naturalization Service, Tenth Street & Constitution Avenue, N.W., Washington, D.C. 20530; Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591 and Commission on Accreditation of Law Enforcement Association, Inc., 10306 Eaton Place, Fairfax, Virginia 22030.

Items to be Covered:

- A. Controlling the prisoner in the courtroom.
 - Positioning the security officer in relation to the prisoner
 - Restraining the prisoner known to be at risk
 - Restraining the violent prisoner
 - Use of restraint devices in the courtroom
 - Review of court decisions on restraint
- B. Use of the courthouse holding cell and movements within the building
 - Keeping the prisoner separated from the public, judges, jury, witnesses and public
 - Search prior to entering courtroom
 - Removal of restraints before entering courtroom
- C. Ensuring safe travel when transporting between confinement and the courthouse
 - Use of restraining devices in a vehicle
 - Defensive driving techniques

Audio-Visual Aids

The videotapes may be used in this lesson.

COURT SECURITY TRAINING

Lesson Plan Preparation Guide #15

Lesson Title: Crowd Control

Curricula Used In and Suggested Time:

2-Day Program Options A and B

2 Hours

5-Day Program

2 Hours

Objective:

To develop knowledge and understanding of various kinds of crowd control situations that may arise in the courthouse and courtroom, and the skills for confronting demonstrations and riots.

Reference Materials:

International Association of Chiefs of Police, Training Keys, as follows:

- #52 - "Crowd Control:
- #133 - "Tactics of Militant Demonstrators"
- #199 - "The Police Officer and the Non-Hostile Crowd"
- #200 - "The Police Officer and the Hostile Crowd";
- #344 - "Demonstrations: Control Planning; and
- #345 - "Demonstrations: Control Operations:

Strikes and Labor Disputes, I.A.C.P., 1995.

Use of Force, I.A.C.P., 1989.

Transportation of Prisoners, I.A.C.P., 1991.

Lockups and Holding Facilities, I.A.C.P., 1996.

Civilian Personnel, I.A.C.P., 1995.

Mutual Aid, I.A.C.P., 1993.

Information Sources:

International Association of Chiefs of Police, 515 North Washington Street, Alexandria, Virginia 22314; National Sheriffs' Association, 1450 Duke Street, Alexandria, Virginia 22314; F.B.I. Academy, Quantico, Virginia 22135; Federal Bureau of Prisons, 320 First Street, N.W., Washington, D.C. 20530; Immigration & Naturalization, Tenth Street & Constitution Avenue, N.W., Washington, D.C. 20530 and National Criminal Justice Reference System, P.O. Box 6000, Rockville, Maryland 20850.

B. Control Operations

- The command post
- Perimeter protection
- Building security
- Arrest procedures
- Emergency facilities for medical treatment and
confinement
- Traffic control

Audio-Visual Aids:

See United States Marshals Service Training Academy workbook for State and Local Court Security Seminar for diagrams and charts suitable for making overhead projection slides.

COURT SECURITY TRAINING

Lesson Plan Preparation Guide #16

Lesson Title: Hostage Situations

Curricula Used In and Suggested Time:

3-Day Program Options A and B	2 Hours
5-Day Program	2 Hours

Objective:

To provide an understanding of what occurs in a hostage-taking event, how the departmental hostage control plan will operate, and the actions to be taken by the court security officer(s) present at the situation.

Reference Materials:

International Association of Chiefs of Police Training Keys as follows:

- #234 - "Hostage Incident Response"
- #235 - "Hostage Negotiation"
- #315 - "Hostage Situations: Tactical Considerations"
- #316 - "Hostage Situations: The Assault Alternative"

Use of Force, I.A.C.P., 1989.

Juvenile Enforcement and Custody, I.A.C.P., 1994.

Transportation of Prisoners, I.A.C.P., 1994.

Civilian Personnel, I.A.C.P., 1995.

Information Sources:

International Association of Chiefs of Police, 515 North Washington Street, Alexandria, Virginia 22314; United States Marshals Service, Training Academy, Glynco, Georgia 31524; United States Marshals Service, 600 Army Navy Drive, Arlington, Virginia 22202; National Criminal Justice Reference Service, P. O. Box 6000, Rockville, Maryland 208505 and Federal Bureau of Prisons, 320 First Street, N.W., Washington, D.C. 20530.

Audio-Visual Aids:

United States Marshals Service Training Academy workbook on Court Security for State and Local Court Security Seminar contains some materials that can be used for overhead projection slides.

COURT SECURITY TRAINING

Lesson Plan Preparation Guide #17

Lesson Title: Emergency Procedures

Curricula Used In and Suggested Time:
3-Day Program Options A and B

1 Hour
2 Hours

Objective:

To prepare the student to carry out the procedures required in the event of a natural disaster fire, bombing, medical emergency, building evacuation, or threat to the security of the court. This session familiarize the student with the role of outside agencies; such as the fire and rescue service, the county and city police departments, state emergency services agencies, and federal agents involved in emergency and disaster control.

Reference Materials:

Court Security: A Manual of Guidelines and Procedures, National Sheriffs' Association, 1978.
Protection of Firearms and Explosive Repositories during Civil Disturbances, I.A.C.P., 1994.
Mutual Aid Planning, National Sheriffs' Association, 1973.

Information Sources:

National Criminal Justice Reference Service, P. O. Box 6000, Rockville, Maryland 20850; National Sheriffs' Association, 1450 Duke Street, Alexandria, Virginia 22314; National Fire Protection Association, 1 Battery March Park, P. O. Box 9101, Quincy, Massachusetts 02269; F.B.I. Academy, Quantico, Virginia 22135 and Federal Bureau of Prisons, 320 First Street, N.W., Washington, D.C. 20530.

B. Inventory of agencies available to assist and the nature of the mutual aid agreement with the court security agency.

- Law enforcement departments
- Fire and rescue services
- Hospitals and medical treatment facilities
- Utility emergency repair services
- Public works agencies
- Sources for emergency power and communications
- Facilities for sheltering evacuees and victims
- Volunteer and private relief agencies

- Transportation services
 - Building repair and heavy equipment contractors
- C. Preparation of the emergency operations plan.
- D. Command post and chain of command when utilizing outside agencies.
- Who can activate emergency plan
 - Who can initiate mutual aid call-up
- E. Discuss in detail the specifics of dealing with the several kinds of incidents that would activate the emergency plan.
- F. Describe procedure for post-event review of an emergency situation.

Audio-Visual Aids:

Prepare a flip-chart diagram of a typical courthouse and grounds, and use for a student exercise in preparing a plan to meet a specific emergency.

Use the Figure 3-14 "General Guidelines for Emergency Plans" from Court Security: A Manual of Guidelines and Procedures, National Sheriffs' Association, 1978 to make overhead projection slide.

COURT SECURITY TRAINING

Lesson Plan Preparation Guide #18

Lesson Title: High Risk Trial Police and Procedures

Curricula Used In and Suggest Time:

Court Security Management Program	1 Hour
3-Day Program Options A and B	1 Hour
5-Day Program	2 Hours

Objective:

To prepare the student to effectively plan and participate in the implementation of the high risk trial plan and to deal with handling and controlling the mentally disturbed defendant; to deal with trial situations where a gang member is a defendant; or to deal with persons known to plan to escape create a disturbance, take a hostage, obtain revenge or commit suicide.

Reference Materials:

Court Security: A Manual of Guidelines and Procedures:
National Sheriffs' Association, 1978.

Juvenile Enforcement and Custody, I.A.C.P., 1994.

Transportation of Prisoners, I.A.C.P., 1991.

Lockups and Holding Facilities, I.A.C.P., 1996.

Use of Force, I.A.C.P., 1989.

United States Marshals Service, Training Academy, Workbook
for State and Local Court Security Seminar.

Information Services:

National Sheriffs' Association, 1450 Duke Street,
Alexandria, Virginia 22314; National Center for State
Courts, 300 Newport Avenue, Williamsburg, Virginia
23187; National Center for Juvenile Justice, 701 Forbes
Avenue, Pittsburgh, Pennsylvania 15219; State Justice
Institute, 1650 King Street, Alexandria, Virginia 22314,
National Criminal Justice Reference Service, P. O. Box
6000, Rockville, Maryland 20850; Federal Aviation
Administration, 800 Independence Avenue, S.W.,
Washington, D.C. 20591, Federal Bureau of Prisons, 320
First Street, N.W. Washington, D.C. 20530.

B. High Risk Trial Criteria

- Prisoners who are known to be involved in gangs, narcotics, violence, political extremism, terrorism, or are mentally or emotionally disturbed, or threatened
- A gallery of spectators who are emotionally or politically involved with the victim or defendant or their cause
- High community interest in the case; e.g. trial of a suspect in a child sexual killing
- Media interest that has aroused the community or gained national attention

C. Pre-Planning Procedures

- Security of the prisoners
- Courtroom conduct and decorum
- Seating of press, spectators, guards
- Pre-trial conference with judge and attorneys
- Screening and searching of attendees
- Court order from judge regarding removal of disruptive persons and all security procedures

D. Security for the judge, jury and witnesses

E. The Trial Security Team

Audio-Visual Aids:

See the publications listed Reference Materials above for charts and diagrams that can be made into overhead projection slides.

COURT SECURITY

Lesson Plan Preparation Guide #19

Lesson Title: Sequestered Juries

Curricula Used In and Suggested Time:

3-Day Program Options A and B	1 Hour
5-Day Program	1 Hour
(This material may be used as a part of the lesson on High Risk Trials in the Court Security Management Seminar)	

Objective:

To instruct the student in the special procedures and reports required when a jury is sequestered.

Reference Materials:

Court Security: A Manual of Guidelines and Procedures, National Sheriffs' Association, 1978. _____

State and Local Court Security Workbook, United States Marshals Service Training Academy. _____

Information Sources:

National Sheriffs' Association, 1450 Duke Street, Alexandria, Virginia 22314; National Center for State Courts, 300 Newport Avenue, Williamsburg, Virginia 23187; United States Marshals Service, Training Academy, Glynco, Georgia 31524; National Center for Juvenile Justice, 701 Forbes Avenue, Pittsburgh, Pennsylvania 1219; State Justice Institute, 1650 King Street, Alexandria, Virginia 22314; National Judicial College, Reno, Nevada 89557; National Council of Juvenile and Family Court Judges, P. O. Box 8970, Reno, Nevada 89557 and U.S. Marshal Service, 600 Army Navy Drive, Arlington, Virginia 22202.

B. Preparing for sequestration:

- Appoint a supervisor of security
- Prepare security plan for approval of judge
- Local and negotiate with a suitable hotel and restaurant
- Locate nearby medical facilities

- C. Converting the plan to a court order, what should be included:
- Hotel accommodations and meals
 - Transportation of the jury
 - Entertainment and access to TV, radio, newspapers and movies
 - Medical services and medications
 - Religious services
 - Shopping trips
 - Visits to the jurors at the hotel
 - Communicating with family, clergy, doctors, business associates and friends
 - Communicating the rules to the jurors
- D. Staffing plan
- Security at courthouse
 - Security and drivers for transportation
 - Security at the hotel
- E. Logistics and equipment
- Transportation equipment
 - Communications equipment
 - Television, telephones, alarm systems
 - Facilities to secure jurors valuables
 - Emergency lighting equipment
 - Control post desk and equipment
- F. Emergency and evacuation plans
- From courthouse
 - During transport
 - At hotel

Audio-Visual Aids:

Prepare a floor plan of typical hotel as an overhead projection slide to illustrate room requirement and how to locate security post, TV room, visiting room, and command center.

See N.S.A. publication for the forms required for reporting all security activities relating to the sequestered jury.

COURT SECURITY TRAINING

Lesson Plan Preparation Guide #20

Lesson Title: Public Information and the Media

Curricula Used In and Suggested Time:

Court Security Management Seminar	2 Hours
3-Day Program Options A and B	2 Hours
5-Day Program	2 Hours

Reference Materials:

The Standards Manual of the Law Enforcement Agency Accreditation Program, Commission on Accreditation for Law Enforcement Agencies, 1995.

Mutual Assistance, I.A.C.P., 1993.

Information Services:

National Sheriffs' Association, 1450 Duke Street, Alexandria, Virginia 22314; Commission on Accreditation for Law Enforcement Agencies, Inc., 10306 Eaton Place, Fairfax, Virginia 22030; ACA/CAC, 4380 Forbes Boulevard, Lanham, Maryland 20706; DOT/NHTSA, Police Services, NTS/41, Room 5119-N, 400 Seventh Street, S.W., Washington, D.C. 20590; International Association of Chiefs of Police, 515 North Washington Street, Alexandria, Virginia 22314, F.B.I. Academy, Quantico, Virginia 22135; Commission on Accreditation of Law Enforcement Association, Inc., 10306 Eaton Place, Fairfax, Virginia 22030 and International Association of Fire Chiefs, 1329 18th Street, N.W., 18th Street, N.W., Washington, D.C. 20036.

Items to be Covered:

- A. Developing a public information program for a court security agency.
 - Selecting a departmental public information officer
 - Preparing a written policy regarding public information and the media
 - Informing the media and the court security personnel of the policy
 - Media credentials and identification
- B. Training the court security staff to respond to on-the-scene questions from the media.

- C. Dealing with the media in a high risk trial
 - Setting up a media briefing and work room
 - Seating arrangements in the courtroom
 - Policy on interviewing in the court building
- D. How to call and conduct a press conference
- E. How to conduct an on-the-scene TV, radio or newspaper interview

Audio-Visual Aids:

Use a video camera and recorder to conduct some role-playing to demonstrate the interview process.

COURT SECURITY TRAINING

Lesson Plan Preparation Guide #21

Lesson Title: Legal Issues in Court Security

Curricula Used In and Suggested Time:

Court Security Management Seminar	2 Hours
3-Day Program Options A and B	1 Hour
5-Day Program	2 Hours

Objective:

To instruct the student in the protection which the law provides to a court security officer in the proper performance of duty, the actions which a court security officer may legally employ to execute his duties, and the legal responsibilities he has for his actions.

Reference Materials:

In preparing for this lesson, check with the local prosecutor, county attorney or county attorney for the most recent court decisions and state statutes.

Juvenile Enforcement and Custody, I.A.C.P., 1994.

Response to Civil Litigation, I.A.C.P., 1990.

Information Services:

National Center for State Courts, 300 Newport Avenue, Williamsburg, Virginia 23187; National Sheriffs' Association, 1450 Duke Street, Alexandria, Virginia 223144; United States Marshals Service, 600 Army Navy Drive, Arlington, Virginia 22202; National Council of Juvenile and Family Court Judges, P. O. Box 8970, Reno, Nevada 89557; State Justice Institute, 1650 King Street, Alexandria, Virginia 223314 and National Center for Juvenile Justice, 701 Forbes Avenue, Pittsburgh, Pennsylvania 15219.

- D. Court security officers in the courtroom:
- Uniformed or plain clothes
 - Where stationed, inside and outside the bar
 - Armed or unarmed

- E. Security measures outside the courtroom:
- Entry screening and searches at courthouse
 - Visible guards in corridors, on roofs, etc.
 - Security during transport

Audio-Visual Aids:

None suggested.

COURT SECURITY TRAINING

Lesson Plan Preparation Guide #22

Lesson Title: Legal Review of Liability Cases

Curricula Used In and Suggested Time:

5-Day Program

2 Hours

Objective:

To inform the student of recent liability lawsuits in which court security personnel have been defendants, and to suggest actions that may reduce the risk of liability to the court security officer.

Reference Materials:

C. E. Friend, Police Rights: Civil Remedies for Law Enforcement Officers, The Michie Company, 1979.

Obtain information on federal and state liability cases from the county or city attorney.

Transportation of Prisoners, I.A.C.P., 1991.

Response to Civil Litigation, I.A.C.P., 1990.

Lockups and Holding Facilities, I.A.C.P., 1996.

Juvenile Enforcement and Custody, I.A.C.P., 1996.

Mutual Assistance, I.A.C.P., 1993.

Emergency Vehicular Warning Devices, I.A.C.P., 1993.

Use of Force, I.A.C.P., 1989.

Evidence Control, I.A.C.P., 1993.

Vehicular Pursuit, I.A.C.P., 1993.

Information Sources:

National Sheriffs' Association, 1450 Duke Street, Alexandria, Virginia 22314; Commission on Accreditation for Law Enforcement Agencies, Inc., 10306 Eaton Place, Fairfax, Virginia 22030; ACA/CAC, 4380 Forbes Boulevard, Lanham, Maryland 20706; DOT/NHTSA, Police Services, NTS/41, Room 5119-N, 400 Seventh Street, S.W., Washington, D.C. 20590; Commission on Correctional Health Care, 2105 North

Southport, Chicago, Illinois 60614; Federal Bureau of Prisons, 320 First Street, N.W., Washington, D.C. 20530; F.B.I. Academy, Quantico, Virginia 22135; U.S. Marshals Service, 600 Army Navy Drive, Arlington, Virginia 22314, National Institute of Corrections, 1860 Industrial Circle, Longmont, Colorado 80501; American Civil Liberties Union, 1875 Connecticut Avenue, N.W., Washington, D.C. 20009; National Judicial College, c/o University of Nevada-Reno, Reno, Nevada 89557 and National Council of Juvenile and Family Court Judges, P. O. Box 8970 and Reno, Nevada 89557.

Items to be Covered:

This lesson should include a detailed review of court cases involving liability claims against court security officers and agencies, particularly in the same state or federal circuit. The lesson should include suggestions as to what actions might have been taken to prevent the lawsuit.

Audio-Visual Aids:

None suggested.

COURT SECURITY TRAINING

Lesson Plan Preparation Guide #23

Lesson Title: The Role of the Judge in Court Security

Curricula Used In and Suggested Time:

3-Day Program Options A and B	1 Hour
5-Day Program	1 Hour

Objective:

To instruct the student in ways in which the judge can contribute to the protection of the court - through procedural orders in high risk trials, by serving on the security committee, and by communicating the needs of the court to the security staff. This lesson will also discuss the judicial perspective on court security.,

Reference Materials:

American Bar Association Commission on Standards of Judicial Administration, Standards Relating to Trial Courts, 1976.

Court Security: A Manual of Guidelines and Procedures, National Sheriffs' Association, 1978.

Information Sources:

National Center for State Courts, 300 Newport Avenue, Williamsburg, Virginia 233187; National Sheriffs' Association, 1450 Duke Street, Alexandria, Virginia 22314; American Bar Association, 750 North Lake Shore Drive, Chicago, Illinois 60611; National Center for Juvenile Justice, 701 Forbes Avenue, Pittsburgh, Pennsylvania 15219; State Justice Institute, 1650 King Street, Alexandria, Virginia 22314; University of Nevada at Reno, Reno, Nevada 89557 and National Council of Juvenile and Family Court Judges, P. O. Box 8970, Reno, Nevada 89557.

1. Historical issues

- Symbolism of the courts as citadels of justice
- Sanctity of the courtroom
- Particularly of cases - individualization of issues
- Accessibility to the courts by parties and the public
- Judicial independence
- Judicial reliance on the executive for protection
- Security not dominating the judicial process

2. Legal issues

- Physical indicia of innocence of the accused
- Respect for the rights of individuals
- Right to a fair trial to be preserved
- Judicial independence
- Constitutional considerations - 4th amendment

3. Political issues

- Court must appear impartial
- Judges (in most cases) answer to voters
- Highly visible security may indicate fear by court
- High security may cause delays in proceedings
- Respect for court must be maintained

4. Safety issues

- Judge must see to protection of jurors, witnesses and parties
- Judge and family must be protected from threats and violence
- Cost of security and who will pay

B. How the judge can participate in security

1. Serve on or chair the court security committee
2. Participate in annual security survey of courthouse
3. Assist in preparation of security policy and procedures manual
4. Prepare chief judge security order
5. Make docketing changes to facilitate trial security
6. Meet with security staff regarding intelligence on high risk trials
7. Provide the security staff with personal and family information that will assist them if the judge or family are threatened.
8. Provide the security staff with personal and family information that will assist them if the judge or family are threatened.

Audio-Visual Aids:

To be determined by presenter.

COURT SECURITY TRAINING

Lesson Plan Preparation Guide #24

Lesson Title: Assignment of Responsibility for Court Security

Curricula Used In and Suggested Time:

Court Security Management Seminar

1 Hour

Objective:

To describe the roles of various officials and agencies in court security operations and planning; to familiarize attendees with the national standards for court security; and to describe the membership and role of a court security committee.

Reference Materials:

Court Security: A Manual of Guidelines and Procedures, National Sheriffs' Association, 1978.

Standards Relating to Trial Courts, American Bar Association Commission on Standards of Judicial Administration, 1976.

Standards for Law Enforcement Agencies, Commission on Accreditation for Law Enforcement Agencies, Inc.

Information Sources:

National Sheriffs' Association, 1450 Duke Street, Alexandria, Virginia 22314; National Center for State Courts, 300 Newport Avenue, Williamsburg, Virginia 23187; Commission on Accreditation for Law Enforcement Agencies, 10306 Eaton Place, Fairfax, Virginia 22030; American Bar Association, 650 North Lake Shore Drive, Chicago, Illinois 60611; National Council of Juvenile and Family Court Judges, P. O. Box 8970, Reno, Nevada 89557; United States Marshals Service, 600 Army Navy Drive, Arlington, Virginia 22202, National Judicial College, University of Nevada-Reno, Reno, Nevada 89557; State Justice Institute, 1650 King Street, Alexandria, Virginia 22314 and National Center for Juvenile Justice, 701 Forbes Avenue, Pittsburgh, Pennsylvania 15219.

Items to be Covered:

- A. Areas of Authority or Jurisdiction for Court Security
 - Judge
 - Court Administrator
 - Sheriff or Police Chief
 - Court Administrator
 - County Executive or Administrator

B. Role of a court security committee

- Establish policy
- Determine jurisdiction and roles for various agencies
- Conduct and evaluate periodic security surveys
- Plan total security resource requirements
- Assist member agencies with security budget requests
- Negotiate mutual aid agreements where appropriate
- Pre-plan for emergencies and high risk trials
- Establish media and public information plan
- Prepare and maintain a security policy and procedure manual

C. Standards/guidelines which affect court security

- National Commission on Correctional Health Care
- Commission on Accreditation for Law Enforcement Agencies
- American Bar Association
- National Fire Protection Association
- State court system
- State peace officer standards and training council

Audio-Visual Aids:

As determined by presenter.

COURT SECURITY TRAINING
Lesson Plan Preparation Guide #25

Lesson Title: Security Planning and Procedures

Curricula Used In and Suggested Time:
Court Security Management Seminar

2 Hours

Objective:

To enable the attendee to view court security from a systems approach, define proactive and reactive strategies and tactics, describe methods of threat assessment, establish resource requirements and operational plans, conduct security surveys, and to describe the planning and operation of a command center and the use of public safety resources from other agencies through mutual aid agreements.

Reference Materials:

Court Security: A Manual of Guidelines and Procedures,
National Sheriffs' Association, 1978.

Workbook for State and Local Court Security Seminar,
United States Marshals Service Training Academy

Mutual Aid Planning, National Sheriffs' Association,
1973.

Information Sources:

National Sheriffs' Association, 1450 Duke Street,
Alexandria, Virginia 22314; National Center for State
Courts, 300 Newport Avenue, Williamsburg, Virginia
23187; United State Marshals Service Training Academy,
Glynco, Georgia 31524; United States Marshals Service,
600 Army Navy Drive, Arlington, Virginia 22202;
Commission on Accreditation for Law Enforcement Agencies,
Inc., 103066 Eaton Place, Fairfax, Virginia 22030,
National Center for Juvenile Justice, 701 Forbes Avenue,
Pittsburgh, Pennsylvania 15219; National Judicial
College, University of Nevada-Reno, Reno, Nevada 89557.

Items to be Covered:

- A. Systems approach to court security planning
- Goals, problems and solutions
 - Key planning factors
 - Community pressures and attitudes of judges and attorneys
 - Legal and fiscal restrictions

- B. Security procedures manual
 - Design
 - Contents
- C. Physical security
 - Barriers
 - Architecture
 - Equipment
 - Personnel resources
- D. The physical security survey
 - Survey elements
 - Survey activities
 - Survey report
 - Implementation of recommendations
- E. Equipment
 - Key planning issues
 - Detection equipment
 - Communications equipment
 - Alarms
 - Weapons
 - Restraining devices
 - Furniture and hardware
 - Body armor
- F. The command center
 - Location and alternates
 - Staffing
 - Equipment
 - Operations plan
 - Activation
- G. Mutual aid for court security
 - Police assistance
 - Fire and rescue
 - Medical services
 - Bomb detection and disposal
 - Crowd and riot control
 - Traffic control
 - Utilities restoration and service
 - Heavy equipment

Audio-Visual Aids:

As determined by presenter.

COURT SECURITY TRAINING

Lesson Plan Preparation Guide #26

Lesson Title: Architectural Considerations

Curricula Used In and Suggested Time:

Court Security Management Seminar

1 Hour

Objective:

To enable the attendee to determine how an existing court building structure and layout affects court security plans and procedures; how to identify minor modifications that can be made to an existing structure to improve security; and what security considerations should be included in plans for building renovation or a new court building.

Reference Materials:

Court Security: A Manual of Guidelines and Procedures, National Sheriffs' Association, 1987.

United States Court Design Guide, U.S. General Services Administration, Public Buildings Service, 1989.

Virginia Courthouse Facility Guidelines, National Center for State Courts, 1987.

Guidelines for the Planning and Design of State Courts Programs and Facilities, Volume B, National Clearinghouse for Criminal Justice Planning and Architecture, University of Illinois, 1976.

Space Management and the Courts: Design Handbook, F. Michael Wong, 1973.

Information Sources:

National Sheriffs' Association, 1450 Duke Street, Alexandria, Virginia 22314; National Center for State Courts, 300 Newport Avenue, Williamsburg, Virginia 23817; United States Marshal Service, 600 Army Navy Drive, Arlington, Virginia 22202; National Center for Juvenile Justice, 701 Forbes Avenue, Pittsburgh, Pennsylvania 15219; State Justice Institute, 1650 King Street, Alexandria, Virginia 22314; National Judicial College, University of Nevada-Reno, Reno, Nevada 89557 and National Council of Juvenile; Family Court Judges,

P.O. Box 8970, Reno, Nevada 89557; U.S. General Services Administration, Public Buildings Service, 18th and F Streets, N.W., Washington, D.C. 20405; American Institute of Architects, 1735 New York Avenue, N.W., Washington, D.C. 20006 and National Fire Protection Association, 1 Battery March Park, P. O. Box 9101, Quincy, Massachusetts 02269-9101. Items to be Covered:

A. Security implications in the present courthouse

- Security of outside entrances
- Traffic patterns - separation of public, prisoners, jurors, judges, witnesses, etc.
- Courtroom layout
- Security systems
 - Alarms
 - Communications
 - Lighting
 - Locks
 - First aid and medical equipment

B. Security input in planning

- Architect selection
- Security planner input
- Building user input

C. Planning for new construction

- Using state and national guidelines
- Weighing security vs. accessibility

Audio-Visual Aids:

All of the cited reference materials have illustrations and pictures that can be made into effective overhead transparencies.



COURT SECURITY AND THE TRANSPORTATION OF PRISONERS: A NATIONAL STUDY



UNITED STATES OF AMERICA GOVERNMENT [CRIMINAL JUSTICE HEADQUARTERS CONTACTS]

Including:

- ♦ Federal Bureau of Investigation
- ♦ Federal Bureau of Prisons
- ♦ Federal Probation/Pretrial Services
- ♦ Immigration & Naturalization Service
- ♦ Marshals Service

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Longmont, Colorado 80501

303-682-0382 Telephone

800-995-NICW Telephone

♦ Jail Center

303-682-0639 Telephone

NIC INFORMATION CENTER

1860 Industrial Circle Suite A

Longmont, Colorado 80501

303-682-0213 Telephone

800-995-NICW

MANAGEMENT AND SPECIALTY TRAINING CENTER

791 Chambers Road

Aurora, Colorado 80011

303-361-0557 Telephone

STAFF TRAINING ACADEMY

Federal Law Enforcement Building 21

Glynco, Georgia 31524

912-267-2711 Telephone

**FEDERAL BUREAU OF INVESTIGATION
(FIELD OFFICES)**

FEDERAL BUREAU OF INVESTIGATION
(Field Offices)

Albany, NY	F.B.I. Field Division 5th Floor 445 Broadway USPO & Ct. Hse. Albany, NY 12201-1219 518-465-7551
Albuquerque, NM	F.B.I. Field Division 415 Silver S.W., Suite 300 Albuquerque, NM 87102 505-224-2000
Anchorage, AK	F.B.I. Field Division 222 W. 7th Avenue Room 241 Anchorage, AK 99513-7598 907-276-4441
Atlanta, GA	F.B.I. Field Division N.E. Suite 400, 2635 Century Parkway Atlanta, GA 30345 404-679-9000
Baltimore, MD	F.B.I. Field Division 7142 Ambassador Road Baltimore, MD 21207 410-265-8080
Birmingham, AL	F.B.I. Field Division Room 1400 2121 Bldg. Birmingham, AL 35203 205-252-7705

Boston, MA	F.B.I. Field Division One Center Plaza Suite 600 Boston, MA 02108 617-742-5533
Buffalo, NY	F.B.I. Field Division Room 1400 111 Huron Street Buffalo, NY 14202 716-856-7800
Charlotte, NC	F.B.I. Field Division 400 South Tyron Suite 900 Charlotte, NC 28217 704-377-9200
Chicago, IL	F.B.I. Field Division Room 905 219 S. Dearborn Street Chicago, IL 60604 312-431-1333
Cincinnati, OH	F.B.I. Field Division Room 9023 550 Main Street Cincinnati, OH 45202 513-421-4310
Cleveland, OH	F.B.I. Field Division Room 3005 FOB 1240 E. 9th Street Cleveland, OH 44199 216-522-1400

Columbia, SC	<p>F.B.I. Field Division Suite 1357, Strom Thurmond Fed. Bldg. 1835 Assembly Street Columbia, SC 29202 803-254-3011</p>
Dallas, TX	<p>F.B.I. Field Division Suite 300 1801 N. Lamar Street Dallas, TX 75202 214-720-2200</p>
Denver, CO	<p>F.B.I. Field Division Room 1823 Federal Office Bldg. Denver, CO 80202 303-629-7171</p>
Detroit, MI	<p>F.B.I. Field Division P.V. McNamara FOB 477 Mich. Avenue Detroit, MI 48226 313-965-2323</p>
El Paso, TX	<p>F.B.I. Field Division Suite C-600 700 E. San Antonio Avenue El Paso, TX 79901 915-533-7451</p>
Honolulu, HI	<p>F.B.I. Field Division Room 4307, Kalaniana'ole Federal Bldg. 300 Ala Moana Blvd. Honolulu, HI 96850 808-521-1411</p>

Houston, TX	F.B.I. Field Division Suite 200 2500 East T.C. Jester Street Houston, TX 77008 713-868-2266
Indianapolis, IN	F.B.I. Field Division Room 679 FOB 575 N. Pa. Street Indianapolis, IN 46204 317-639-3301
Jackson, MS	F.B.I. Field Division Suite 1553 FOB 100 W. Capitol Street Jackson, MS 39269 601-948-5000
Jacksonville, FL	F.B.I. Field Division Suite 200 7820 Arlington Expwy. Jacksonville, FL 32211 904-721-1211
Kansas City, MO	F.B.I. Field Division Room 300 U.S. Ct. Hse. Kansas City, MO 64106 816-221-6100
Knoxville, TN	F.B.I. Field Division 6th Floor 710 Locust Street Knoxville, TN 37901 615-544-0751

Las Vegas, NV	F.B.I. Field Division 700 E. Charleston Blvd. Las Vegas, NV 89104 702-385-1281
Little Rock, AR	F.B.I. Field Division Suite 200, Two Financial Centre 10825 Financial Centre Parkway Little Rock, AR 72211 501-221-9100
Los Angeles, CA	F.B.I. Field Division FOB, 11000 Wilshire Blvd. Los Angeles, CA 90024 310-477-6565
Louisville, KY	F.B.I. Field Division Room 500 FOB 600 Martin Luther King, Jr. Place Louisville, KY 40202 502-583-3941
Memphis, TN	F.B.I. Field Division Room 841 C. Davis FOB 167 N. Main Street Memphis, TN 38103 901-525-7373
Miami, FL	F.B.I. Field Division 16320 NW 2nd Avenue N. Miami Beach Miami, FL 33169 305-944-9101
Milwaukee, WI	F.B.I. Field Division Room 700, 517 E. Wisconsin Avenue FOB Milwaukee, WI 53202 414-276-4684

Minneapolis, MN	F.B.I. Field Division 111 Washington Avenue South Suite 1100 Minneapolis, MN 55401 612-376-3200
Mobile, AL	F.B.I. Field Division One St. Louis Centre 1 St. Louis Street Mobile, AL 36602 205-438-3674
Newark, NJ	F.B.I. Field Division Gateway 1, Market Street Newark, NJ 07102 201-622-5613
New Haven, CT	F.B.I. Field Division Federal Building 150 Court Street New Haven, CT 06510 203-777-6311
New Orleans, LA	F.B.I. Field Division Suite 2200, 1250 Poydras Street New Orleans, LA 70113-1829 504-522-4671
New York, NY	F.B.I. Field Division 26 Federal Plaza New York, NY 10278 212-335-2700
Norfolk, VA	F.B.I. Field Division Room 839, 200 Granby Street Norfolk, VA 23510 804-623-3111

Oklahoma City, OK F.B.I.
Field Division
50 Penn Place
Suite 1600
Oklahoma City, OK 73118
405-842-7471

Omaha, NE F.B.I.
Field Division
10755 Burt Street
Omaha, NE 68114
402-493-8688

Philadelphia, PA F.B.I.
Field Division
Wm. Green FOB
600 Arch Street
Philadelphia, PA 19196
215-629-0800

Phoenix, AZ F.B.I.
Field Division
201 E. Indianola, Suite 400
Phoenix, AZ 85012
602-279-5511

Pittsburgh, PA F.B.I.
Field Division
Suite 300, USPO
700 Grant Street
Pittsburgh, PA 15219
412-471-2000

Portland, OR F.B.I.
Field Division
Crown Plaza Building
1500 S.W. 1st Avenue
Portland, OR 97201
503-224-4181

Richmond, VA	F.B.I. Field Division 111 Greencourt Road Richmond, VA 23228 804-261-1044
Sacramento, CA	F.B.I. Field Division Federal Building 2800 Cottage Way Sacramento, CA 95825 916-481-9110
St. Louis, MO	F.B.I. Field Division Room 2704, FOB 1520 Market Street St. Louis, MO 63103 314-241-5357
Salt Lake Cty, UT	F.B.I. Field Division 257 E. 200 South Suite 1200 Salt Lake City, UT 84111 801-579-1400
San Antonio, TX	F.B.I. Field Division 615 E. Houston Street, Room 200 San Antonio, TX 78205 210-225-6741
San Diego, CA	F.B.I. Field Division 880 Front Street, Room 6S-31 San Diego, CA 92188 619-231-1122
San Francisco, CA	F.B.I. Field Division 450 Golden Gate Avenue San Francisco, CA 94102 415-553-7400

San Juan, PR	F.B.I. Field Division U.S. Ct. Hse. & Fed. Bldg. Room 526, Hato Rey San Juan, PR 00918 809-754-6000
Seattle, WA	F.B.I. Field Division Room 710 FOB 915 Second Avenue Seattle, WA 98174 206-622-0460
Springfield, IL	F.B.I. Field Division 400 W. Monroe Street Suite 400 Springfield, IL 62704 217-522-9675
Tampa, FL	F.B.I. Field Division Room 610, Federal Office Bldg. 500 Zack Street Tampa, FL 33602 813-228-7661
Washington, DC	F.B.I. Field Division 1900 Half Street S.W Washington, DC 20535 202-324-3000

**UNITED STATES IMMIGRATION &
NATURALIZATION SERVICE
(FIELD OFFICES/STATIONS)**

UNITED STATES IMMIGRATION & NATURALIZATION SERVICE
(FIELD OFFICES/STATIONS)

INS REGION AND DISTRICT OFFICES

WESTERN REGION

24000 Avila Road
P. O. Box 30080
Laguna Niguel, California 92607-0080
(714) 643-4236 Telephone

DISTRICT OFFICES

595 Ala Moana Boulevard
Honolulu, Hawaii 96813
(808) 541-1388 Telephone

300 North Los Angeles Street
Los Angeles, California 90012
(213) 894-2780 Telephone

2035 North Central
Phoenix, Arizona 85004
(602) 379-3114 Telephone

880 Front Street, Suite 1234
San Diego, California 92101-8834
(619) 557-5645 Telephone

Appraisers Building
630 Sansome Street, Room 232
San Francisco, California 94111-2280
(415) 705-4571 Telephone

DISTRICT OFFICES IN FOREIGN COUNTRIES

c/o American Embassy
P. O. Box 12
95 Wireless Road
Bangkok, Thailand 10300
(9) 011-662-252-5040, ext. 2614

c/o American Embassy
Mexico City, Mexico
P. O. Box 3087, Room 118
Laredo, Texas 78044
011-525-211-0042, ext. 3514

c/o American Embassy, PSC59
Rome, Italy
APO AE 09624
(9) 011-396-4674-2239

NORTHERN REGION

B.H. Whipple Building
Room 480, 1 Federal Drive
Fort Snelling, Minnesota 55111-4007
725-3850 Telephone

DISTRICT OFFICES

620 East 10th Avenue, Suite 102
Anchorage, Alaska 99501
(907) 271-3521 Telephone

2901 Metro Drive, Suite 100
Bloomington, Minnesota 55425
(612) 335-2211 Telephone

10 West Jackson Boulevard, Suite 600
Chicago, Illinois 60604
(312) 353-7302 Telephone

4730 Paris Street
Denver, Colorado 80239
(303) 371-0986 Telephone

9747 North Conant Avenue
Kansas City, Missouri 64153
(816) 891-0603 Telephone

A. J. C. Federal Building
1240 East Ninth Street, Room 1917
Cleveland, Ohio 44199
(216) 522-4767 Telephone

333 Mount Elliott Street
Federal Building
Detroit, Michigan 48207-4381
(313) 568-6000 Telephone

2800 Skyway Drive
Helena, Montana 59601
(406) 449-5220 Telephone

3736 South 132nd Street
Omaha, Nebraska 68144
(402) 697-0049 Telephone

Federal Building
511 Northwest Broadway
Portland, Oregon 97209
(503) 326-3962 Telephone

815 Airport Way, South
Seattle, Washington 98134
(206) 553-0498 Telephone

EASTERN REGION

70 Kimball Avenue
South Burlington, Vermont 05403-6813
(802) 660-5000 Telephone

DISTRICT OFFICES

4420 North Fairfax Drive
Arlington, Virginia 22203
(202) 307-1640 Telephone

Equitable Bank Center
12th Floor, Tower One
100 South Charles Street
Baltimore, Maryland 21201
(410) 962-2010 Telephone

Government Center
JFK Federal Building, Room 1700
Boston, Massachusetts 02203
(617) 565-4214 Telephone

130 Delaware Avenue
Buffalo, New York 14202
(716) 846-4741 Telephone

Carlos Chardon Street
Hato Rey, Puerto Rico 00917
(809) 766-5329 Telephone

26 Federal Plaza, Room 14-102
New York, New York 10278
(212) 264-5942 Telephone

970 Broad Street
Federal Building
Newark, New Jersey 07102
(201) 645-2269 Telephone

1600 Callowhill Street
Philadelphia, Pennsylvania 19130
(215) 656-7150 Telephone

739 Warren Avenue
Portland, Maine 04103
(207) 780-3399 Telephone

SOUTHERN REGION

7701 North Stemmons Freeway
Dallas, Texas 75247
(214) 767-7010 Telephone

DISTRICT OFFICES

77 Forsyth Street S.W.
MLK Federal Building, Room 117
Atlanta, Georgia 30303
(404) 331-0253 Telephone

8101 North Stemmons Freeway
Dallas, Texas 75247
(214) 655-3011 Telephone

700 East San Antonio
El Paso, Texas 79901
(915) 534-6334 Telephone

2102 Teege Road
Harlingen, Texas 78550-4667
(210) 427-8592 Telephone

509 North Belt
Houston, Texas 77060
(713) 847-7950 Telephone

7880 Biscayne Boulevard
Miami, Florida 33138
(305) 530-7658 Telephone

701 Loyola Avenue
Room T-8011
New Orleans, Louisiana 70113
(504) 589-6521 Telephone

8940 Four Winds Drive
San Antonio, Texas 78239
(512) 871-7000 Telephone

INS BORDER PATROL SECTOR OFFICE LOCATIONS

WESTERN REGION

Livermore Sector
6102 9th Street
Dublin, California 94568
(510) 828-3770 Telephone

El Centro Sector
1111 North Imperial Avenue
El Centro, California 92243
(619) 352-3241 Telephone

San Diego Sector
3752 Beyer Boulevard
P. O. Box 439022
San Diego, California 92143-9022
(619) 428-7325 Telephone

Tucson Sector
1970 West Ajo Way
Tucson, Arizona 85713
(602) 670-6871 Telephone

Yuma Sector
350 West First Street
P. O. Box 2708
Yuma, Arizona 85366-2708
(602) 782-9548 Telephone

NORTHERN REGION

Blaine Sector
1590 H Street
P. O. Box 3529
Blaine, Washington 98231
(206) 332-8781

Detroit Sector
P. O. Box 32639
Detroit, Michigan 48232-0639
(313) 568-6061 Telephone

Grand Forks Sector
2320 South Washington Street
Grand Forks, North Dakota 58201
(701) 775-6259 Telephone

Havre Sector
2605 Fifth Avenue S.E.
P. O. Box 112
Havre, Montana 59501
(406) 265-6781 Telephone

Spokane Sector
10710 Newport Highway
P. O. Box 18930
Spokane, Washington 99208
(509) 353-2747 Telephone

EASTERN REGION

Houlton Sector
Calais Road
Houlton, Maine 04730
(207) 532-6521 Telephone

Swanton Sector
Grand Avenue
P. O. Box 705
Swanton, Vermont 05488
(802) 868-3361 Telephone

Buffalo Sector
231 Grand Island Boulevard
Tonawanda, New York 14150
(716) 846-4101 Telephone

Ramey Sector
722 Belt Street
P. O. Box 250467
Aquadilla, Puerto Rico 00604-0467
(809) 882-3560 Telephone

SOUTHERN REGION

Del Rio Sector
Qualia Drive
P. O. Box 2020
Del Rio, Texas 78841-2020
(210) 703-2100 Telephone

El Paso Sector
8901 Montana Avenue
El Paso, Texas 79925
(915) 540-7850 Telephone

Laredo Sector
207 West Del Mar Boulevard
Laredo, Texas 78041
(210) 723-4367 Telephone

Marfa Sector
300 Madrid Street Box 1
Marfa, Texas 79843
(915) 729-4353 Telephone

McAllen Sector
2301 South Main Street
P. O. Box 1179
McAllen, Texas 78502-1179
(210) 686-5496 Telephone

New Orleans Sector
3819 Patterson Road
New Orleans, Louisiana 70114
(504) 589-6107 Telephone

Miami Sector
7201 Pembroke Road
Pembroke Pines, Florida 33023
(305) 963-9807 Telephone

INS DETENTION FACILITIES

SERVICE PROCESSING CENTERS

INS owned & operated

Aguadilla SPC
Corner Belt & Gun Street
Former Ramey Base
Aguadilla, Puerto Rico 00604
(809) 890-3600 Telephone

Boston SPC
U.S. Coast Guard Support Center
427 Commercial Street
Building 8, Fourth Floor
Boston, Massachusetts 02109
(617) 223-3088 Telephone

El Centro SPC
1115 North Imperial Avenue
El Centro, California 92243
(619) 353-2170 Telephone

El Paso SPC
8915 Montana Street
El Paso, Texas 79925
(915) 540-7342 Telephone

Florence SPC
3250 North Pinal Parkway Avenue
Florence, Arizona 85232
(602) 868-5862 Telephone

Krome North SPC
18201 S. W. 12th Street
Miami, Florida 33194
(305) 552-1845 Telephone

Port Isabel SPC
Buena Vista Road
Route 3, Box 341
Los Fresnos, Texas 78566
(210) 233-4431 Telephone

San Pedro SPC
2001 Seaside Avenue
Terminal Island
San Pedro, California 90731
(310) 514-6575 Telephone

Varick Street SPC
201 Varick Street
New York, New York 10014
(212) 620-3452 Telephone

CONTRACT FACILITIES
Contractor owned & operated

Wackenhut Corrections Corporation
(1) 11901 East 30th Avenue
Aurora, Colorado 80010-1525
(303) 361-0701 Telephone

(2) 145-55 226th Street
Springfield Gardens
New York, New York 11413
(718) 949-4209 Telephone

Corrections Corporation of America
(1) 15850 Export Plaza
Houston, Texas 77032
(713) 220-2308 Telephone

(2) 4702 East Saunders
Laredo, Texas 78041
(210) 727-4772 Telephone

CONTRACT FACILITIES
INS owned/Contractor operated

Esmore, Inc.
815 Airport Way, South
Seattle, Washington 98134
(206) 553-7915 Telephone

JOINT FEDERAL FACILITIES
INS/Bureau of Prisons (BOP)

Federal Detention Center (Oakdale II)
P. O. Box 5095
Oakdale, Louisiana 71463
(318) 335-0713 Telephone

INS/PUBLIC HEALTH SERVICES (PHS)

St. Elizabeths Hospital
INS/PHS Evaluation Center
Relief Building
2700 Martin Luther King, Jr. Avenue, S.E.
Washington, D. C. 20032
(202) 373-7779 Telephone

INS ASYLUM OFFICES

Arlington, Virginia
P. O. Box 3599
Arlington, Virginia 22203-0599
(Mailing Address)
1500 Wilson Boulevard, Suite 200
Arlington, Virginia 22209
(703) 525-8141 Telephone

Chicago, Illinois
209 South La Salle Street, Room 625
Chicago, Illinois 60604
(312) 353-9607 Telephone

Houston, Texas
P. O. Box 670626
Houston, Texas 77267-0262
(Mailing Address)
509 North Belt, 4th Floor
Houston, Texas 77060
(713) 229-2942 Telephone

Los Angeles, California
P. O. Box 65015
Anaheim, California 92815-5015
(Mailing Address)
290 South Anaheim Boulevard, Room 101
Anaheim, California 92805
(714) 635-0126 Telephone

Miami, Florida
701 SW 27th Avenue, Suite 1400
Miami, Florida 33135
(305) 530-6074 Telephone

Newark, New Jersey
20 Washington Place, 6th Floor
Newark, New Jersey 07102
(201) 645-3665 Telephone

San Francisco, California
P. O. Box 77530
San Francisco, California 94107
(Mailing Address)
75 Hawthorne Street
San Francisco, California 94105
(415) 744-8419-20

INS SERVICE CENTERS

WESTERN SERVICE CENTER

Laguna Niguel, California
24000 Avila Road, 2nd Floor
Laguna Niguel, California 92677
(714) 643-4880 Telephone

EASTERN SERVICE CENTER

St. Albans, Vermont
75 Lower Weldon Street
St. Albans, Vermont 05479-0001
(802) 527-3160 Telephone

NORTHERN SERVICE CENTER

Lincoln, Nebraska
Federal Building, Room B-26
100 Centennial Mall North
Lincoln, Nebraska 68508-3898
(402) 437-5218 Telephone

SOUTHERN SERVICE CENTER

Irving, Texas
P. O. Box 82521
Irving, Texas 75015-2122
(214) 767-7769 Telephone

**UNITED STATES MARSHALS SERVICE
DISTRICT OFFICES**

**UNITED STATES MARSHALS SERVICE
DISTRICT OFFICES**

Office of the U.S. Marshal
Department of Justice
Northern District of Alabama
1729 5th Avenue, North
Room 240
Birmingham, AL 35203
205-731-1712 (24 hours)
205-731-0220 (Fax)

Office of the U.S. Marshal
Department of Justice
Middle District of Alabama
224 Federal Building
Court, Lee & Molton Streets
Montgomery, AL 36104
205-223-7401 (24 hours)
205-223-7369 (Fax)

Office of U.S. Marshal
Department of Justice
Southern District of Alabama
413 U.S. Courthouse
113 St. Joseph Street
Mobile, AL 36601
205-690-2841 (24 hours)
205-694-4285 (Fax)

Office of U.S. Marshal
Department of Justice
District of Alaska
U.S. Courthouse & Federal Bldg.
222 W. 7th Avenue, Room 189
Anchorage, Alaska 99513-7568
907-271-5154 (24 hours)
907-271-3674 (Fax)

Office of U.S. Marshal
Department of Justice
District of Arizona
8204 U.S. Courthouse
230 North First Avenue
Phoenix, AZ 85025
602-379-3621 (24 hours)
602-379-6419 (Fax)

Office of U.S. Marshal
Department of Justice
Eastern District of Arkansas
600 West Capitol Avenue, Room 445
U.S. Post Office & Courthouse
Little Rock, AR 72201
501-324-6256 (24 hours)
501-324-6252 (Fax)

Office of U.S. Marshal
Department of Justice
Western District of Arkansas
30 South 6th Street
Room 243
Fort Smith, AR 72901
501-783-5215 (24 hours)
501-782-4204 (Fax)

Office of U.S. Marshal
Department of Justice
Northern District of California
20005 U.S. Courthouse
450 Golden Gate Avenue
San Francisco, CA 94102
415-556-3930
415-556-1447 (Fax)

Office of U.S. Marshal
Department of Justice
Eastern District of California
1020 U.S. Courthouse
650 Capitol Mall
Sacramento, CA 95814
916-551-2861 (24 hours)
916-551-2877 (Fax)

Office of U.S. Marshal
Department of Justice
Central District of California
U.S. Courthouse
312 North Spring Street G-23
Los Angeles, CA 90012-4798
213-894-6820 (24 hours)
213-894-4955 (Fax)

Office of U.S. Marshal
Department of Justice
Southern District of California
LL B-71 U.S. Courthouse
940 Front Street
San Diego, CA 92189
619-557-6620 (24 hours)
619-557-5215 (Fax)

Office of U.S. Marshal
Department of Justice
District of Colorado
C-324 U.S. Courthouse
1929 Stout Street
Denver, CO 80294
303-844-2801
303-844-5714 (Fax)

Office of U.S. Marshal
Department of Justice
District of Connecticut
U.S. Courthouse
141 Church Street
New Haven, CT 06510
203-773-2107
203-773-2419 (Fax)

Office of U.S. Marshal
Department of Justice
District of Columbia
Superior Court
Superior Courthouse
500 Indiana Avenue, N.W.
Room C-250
Washington, DC 20001
202-616-8600
202-616-8666 (Fax)

Office of U.S. Marshal
Department of Justice
District of Columbia
U.S. Courthouse
3rd & Constitution Avenue, N.W.
Washington, DC 20001
202-273-0787
202-273-0898 (Fax)

Office of U.S. Marshal
Department of Justice
District of Delaware
4311 U.S. Courthouse
844 King Street
Wilmington, DE 19801
302-573-6176 (24 hours)
302-573-6218 (Fax)

Office of U.S. Marshal
Department of Justice
Northern District of Florida
100 U.S. Courthouse
110 E. Park Avenue
P.O. Box 10229
Tallahassee, FL 32302
904-942-8400
904-942-8388 (Fax)

Office of U.S. Marshal
Department of Justice
Middle District of Florida
611 Florida Avenue Basement
Tampa, FL 33602-4519
813-228-2146 (24 hours)
813-225-7145 (Fax)

Office of U.S. Marshal
Department of Justice
Southern District of Florida
205 Federal Courthouse Square
301 North Miami Avenue
Miami, FL 33128-7785
305-536-5346 (24 hours)
305-536-5907 (Fax)
305-536-4636 (Warrants fax)

Office of U.S. Marshal
Department of Justice
Northern District of Georgia
1669 Federal Building
75 Spring Street, SW
Atlanta, GA 30303
404-331-6833 (24 hours)
404-331-3139 (Fax)

Office of U.S. Marshal
Department of Justice
Middle District of Georgia
101 U.S. Courthouse
Macon, GA 31202
912-752-8280 (24 hours)
912-752-3402 (Fax)

Office of U.S. Marshal
Department of Justice
Southern District of Georgia
Room 333 U.S. Courthouse
125 Bull Street
Savannah, GA 31412
912-652-4212 (24 hours)
912-652-4064 (Fax)

Office of U.S. Marshal
Department of Justice
District of Guam
507 Pacific News Building
238 Archbishop Flores Street
Agana, Guam 96910
200-550-7351 (24 hours)
200-550-7454 (Fax)

Office of U.S. Marshal
Department of Justice
District of Hawaii
C103 U.S. Courthouse
300 Ala Moana Blvd.
Honolulu, HI 96850
808-541-3000 (24 hours)
808-541-3015 (Fax)

Office of U.S. Marshal
Department of Justice
District of Idaho
741 U.S. Courthouse
550 West Fort Street
Boise, ID 83724-0010
208-334-1298 (24 hours)
208-334-9383 (Fax)

Office of U.S. Marshal
Department of Justice
Northern District of Illinois
219 South Dearborn Street
Room 2444
Chicago, IL 60604
312-353-5290
312-353-4132 (Fax)
312-353-1002 (After hours)

Office of U.S. Marshal
Department of Justice
Central District of Illinois
333 U.S. Courthouse
6th & Monroe Streets
Springfield, IL 62701
217-492-4430 (24 hours)
217-492-4718 (Fax)

Office of U.S. Marshal
Department of Justice
Southern District of Illinois
027 U.S. Courthouse
750 Missouri Avenue
East St. Louis, IL 62201
618-482-9336 (24 hours)
618-482-9235 (Fax)

Office of U.S. Marshal
Department of Justice
Northern District of Indiana
233 Federal Building
204 South Main Street
South Bend, IN 46601-2122
219-236-8291 (24 hours)
219-236-8815 (Fax)

Office of U.S. Marshal
Department of Justice
Southern District of Indiana
226 U.S. Courthouse
46 East Ohio Street
Indianapolis, IN 46204
317-226-6571
317-226-7695 (Fax)
317-226-6566 (After hours)

Office of U.S. Marshal
Department of Justice
Northern District of Iowa
Room 320
320 Federal Building
101 First Street SE
Cedar Rapids, Iowa 52401
319-362-4411 (24 hours)
319-362-7098 (Fax)

Office of U.S. Marshal
Department of Justice
Southern District of Iowa
208 U.S. Courthouse
East First & Walnut Streets
Des Moines, Iowa 50309
515-284-6240 (24 hours)
515-284-6204 (Fax)

Office of U.S. Marshal
Department of Justice
District of Kansas
456 Federal Building
444 Southeast Quincy
Topeka, KS 66683
913-295-2775 (24 hours)
913-295-2548 (Fax)

Office of U.S. Marshal
Department of Justice
Eastern District of Kentucky
162 Federal Building
Barr & Limestone Streets
Lexington, KY 40507
606-233-2513 (24 hours)
606-233-2517 (Fax)

Office of U.S. Marshal
Department of Justice
Western District of Kentucky
114 U.S. Courthouse
601 West Broadway
Louisville, KY 40202
502-582-5141 (24 hours)
502-582-5023 (Fax)

Office of U.S. Marshal
Department of Justice
Eastern District of Louisiana
C-600 U.S. Courthouse
500 Camp Street
New Orleans, LA 70130
504-589-6079 (24 hours)
504-589-4028 (Fax)

Office of U.S. Marshal
Department of Justice
Middle District of Louisiana
204 U.S. Courthouse
707 Florida Street
Baton Rouge, LA 70801
504-389-0364 (24 hours)
504-389-0370 (Fax)

Office of U.S. Marshal
Department of Justice
Western District of Louisiana
2A10 Federal Building
500 Fannin Street
Shreveport, LA 71101-3022
318-676-4200 (24 hours)
318-676-4203 (Fax)

Office of U.S. Marshal
Department of Justice
District of Maine
156 Federal Street
Portland, Maine 04101
207-780-3355 (24 hours)
207-780-3230 (Fax)

Office of U.S. Marshal
Department of Justice
District of the Northern Mariana Islands
1st Floor
Horiguchi Building
Garpan, Saipan, MP 96950-0570
011-670-234-6563 (24 hours)
011-670-234-6784 (Fax)

Office of U.S. Marshal
Department of Justice
District of Maryland
605 U.S. Courthouse
101 West Lombard Street
Baltimore, MD 21201
410-962-2220 (24 hours)
410-962-3780 (Fax)

Office of U.S. Marshal
Department of Justice
District of Massachusetts
1516 U.S. Courthouse
Congress & Water Streets
Boston, MA 02109
617-223-9721 (24 hours)
617-223-9726 (Fax)

Office of U.S. Marshal
Department of Justice
Eastern District of Michigan
120 U.S. Courthouse
231 West Lafayette Street
Detroit, MI 48226
313-226-7754 (24 hours)
313-226-4134 (Fax)

Office of U.S. Marshal
Department of Justice
Western District of Michigan
544 Federal Building
110 Michigan Avenue NW
Grand Rapids, MI 49503
616-456-2438 (24 hours)
616-456-2446 (Fax)

Office of U.S. Marshal
Department of Justice
District of Minnesota
523 U.S. Courthouse
110 South 4th Street
Minneapolis, MN 55401
612-348-1935 (24 hours)
612-348-1946 (Fax)

Office of U.S. Marshal
Department of Justice
Northern District of Mississippi
348 Federal Building
911 Jackson Avenue
Oxford, MS 38655
601-234-6661 (24 hours)
601-234-0219 (Fax)

Office of U.S. Marshal
Department of Justice
Southern District of Mississippi
Room 305 J.O. Eastland Bldg.
245 East Capitol Street
Jackson, MS 39205
601-965-4444 (24 hours)
601-965-4245 (Fax)

Office of U.S. Marshal
Department of Justice
Eastern District of Missouri
108 U.S. Courthouse
1114 Market Street
St. Louis, MO 63101
314-539-2212 (24 hours)
314-539-2225 (Fax)

Office of U.S. Marshal
Department of Justice
Western District of Missouri
509 U.S. Courthouse
811 Grand Avenue
Kansas City, MO 64106-1971
816-426-3521 (24 hours)
816-426-6005 (Fax)

Office of U.S. Marshal
Department of Justice
District of Montana
5110 Federal Building
316 North 26th Street
Billings, Montana 59101-1362
406-657-6284 (24 hours)
406-657-6062 (Fax)

Office of U.S. Marshal
Department of Justice
District of Nebraska
8121 Zorinsky Federal Building
215 North 17th Street
Omaha, Nebraska 68102
402-221-4781 (24 hours)
402-221-3006 (Fax)

Office of U.S. Marshal
Department of Justice
District of Nevada
4240 U.S. Courthouse
300 Las Vegas Blvd. South
Las Vegas, NV 89101
702-388-6355 (24 hours)
702-388-6703 (Fax)

Office of U.S. Marshal
Department of Justice
District of New Hampshire
409 Federal Building
55 Pleasant Street
Concord, New Hampshire 03301
603-225-1632 (24 hours)
603-225-1633 (Fax)

Office of U.S. Marshal
Department of Justice
District of New Jersey
500 U.S. Courthouse
Federal Square
Newark, NJ 07101
201-645-2404 (24 hours)
201-645-3943 (Fax)

Office of U.S. Marshal
Department of Justice
District of New Mexico
12403 U.S. Courthouse
500 Gold Avenue Southwest
Albuquerque, NM 87103
505-766-2933 (24 hours)
505-766-8425 (Fax)

Office of U.S. Marshal
Department of Justice
Northern District of New York
213 Federal Building
10 Broad Street
Utica, NY 13501
315-732-2123 (24 hours)
315-793-8196 (Fax)

Office of U.S. Marshal
Department of Justice
Eastern District of New York
172 U.S. Courthouse
225 Cadman Plaza East
Brooklyn, NY 11201
718-330-7493
718-330-7120 (Fax)
718-330-7121 (Warrants Fax)
718-330-7495 (After hours)

Office of U.S. Marshal
Department of Justice
Southern District of New York
114 U.S. Courthouse
1 St. Andrew's Plaza
New York, NY 10007
212-791-1100 (24 hours)
212-791-9763 (Fax)

Office of U.S. Marshal
Department of Justice
Western District of New York
129 U.S. Courthouse
68 Court Street
Buffalo, NY 14202
716-846-4851 (24 hours)
716-846-5505 (Fax)

Office of U.S. Marshal
Department of Justice
Eastern District of North Carolina
744 Federal Building
310 New Bern Avenue
Raleigh, NC 27611
919-856-4153 (24 hours)
919-856-4217 (Fax)

Office of U.S. Marshal
Department of Justice
Middle District of North Carolina
234 U.S. Courthouse
324 West Market Street
Greensboro, NC 27402
919-333-5354 (24 hours)
919-333-5084 (Fax)

Office of U.S. Marshal
Department of Justice
Western District of North Carolina
315 U.S. Courthouse
100 Otis Street
Asheville, NC 28802
704-259-0651 (24 hours)
704-259-0578 (Fax)

Office of U.S. Marshal
Department of Justice
District of North Dakota
115 Old Federal Building
655 1st Avenue North
Fargo, ND 58108
701-239-5602
701-239-5624 (Fax)
701-235-3050 (After hours)

Office of U.S. Marshal
Department of Justice
Northern District of Ohio
Room 1710
1111 Superior Avenue
Cleveland, OH 44114
216-522-2150 (24 hours)
216-522-7908 (Fax)
216-522-4089 (Warrants fax)

Office of U.S. Marshal
Department of Justice
Southern District of Ohio
425 U.S. Courthouse
85 Marconi Blvd.
Columbus, OH 43215
614-469-5540 (24 hours)
614-469-2298 (Fax)

Office of U.S. Marshal
Department of Justice
Northern District of Oklahoma
4557 U.S. Courthouse
Tulsa, OK 74103
918-581-7738 (24 hours)
918-581-7735 (Fax)

Office of U.S. Marshal
Department of Justice
Eastern District of Oklahoma
U.S. Courthouse Building, Room 136
111 N. 5th Street
P.O. Box 738
Muskogee, OK 74401
918-687-2523 (24 hours)
918-687-2526 (Fax)

Office of U.S. Marshal
Department of Justice
Western District of Oklahoma
2418 U.S. Courthouse
200 Northwest 4th Street
Oklahoma City, OK 73102
405-231-5647
405-231-5597 (Fax)
405-556-2664 (Duty Officer Pager)
405-556-2657 (Warrants)

Office of U.S. Marshal
Department of Justice
District of Oregon
420 U.S. Courthouse
620 Southwest Main Street
Portland, OR 97205-3087
503-326-2209 (24 hours)
503-326-3145 (Fax)

Office of U.S. Marshal
Department of Justice
Eastern District of Pennsylvania
2110 U.S. Courthouse
601 Market Street
Philadelphia, PA 19106
215-597-7272 (24 hours)
215-597-1688 (Fax)

Office of U.S. Marshal
Department of Justice
Middle District of Pennsylvania
231 Federal Building
Washington Avenue & Linden Street
Scranton, PA 18501
717-346-7277 (24 hour)
717-346-7342 (Fax)

Office of U.S. Marshal
Department of Justice
Western District of Pennsylvania
539 U.S. Courthouse
7th and Grant Streets
Pittsburgh, PA 15219
(412) 644-3351
(412) 644-4769 (Fax)

Office of U.S. Marshal
Department of Justice
District of Puerto Rico
200 Federal Building
150 Carlos Chardon Avenue
Hato Ray, Puerto Rico 00918-1740
809-766-6000 (24 hours)
809-766-6211 (Fax)

Office of U.S. Marshal
Department of Justice
District of Rhode Island
405 U.S. Courthouse & Federal Bldg.
Providence, RI 02903
401-528-5300 (24 hours)
401-528-5307 (Fax)

Office of U.S. Marshal
Department of Justice
District of South Carolina
B-31 U.S. Courthouse
1845 Assembly Street
Columbia, SC 29201
803-765-5821 (24 hours)
803-765-5824 (Fax)

Office of U.S. Marshal
Department of Justice
District of South Dakota
216 Federal Building
400 South Phillips Avenue
Sioux Falls, SD 57102
605-330-4351 (24 hours)
605-330-4586 (Fax)

Office of U.S. Marshal
Department of Justice
Eastern District of Tennessee
204 U.S. Courthouse
501 Main Street
Knoxville, TN 37901
615-545-4182 (24 hours)
615-545-4187 (Fax)

Office of U.S. Marshal
Department of Justice
Middle District of Tennessee
866 U.S. Courthouse
801 Broadway
Nashville, TN 37203
615-736-5417 (24 hours)
615-736-5134 (Fax)

Office of U.S. Marshal
Department of Justice
Western District of Tennessee
1029 Federal Building
167 North Main Street
Memphis, TN 38103
901-544-3304 (24 hours)
901-544-4111 (Fax)

Office of U.S. Marshal
Department of Justice
Northern District of Texas
1100 Commerce Street
16F47 Federal Building
Dallas, TX 75242
214-767-0836 (24 hours)
214-767-4974 (Fax)

Office of U.S. Marshal
Department of Justice
Eastern District of Texas
305 Federal Building
211 West Ferguson Street
Tyler, TX 75702
903-592-8216 (24 hours)
903-592-0850 (Fax)

Office of U.S. Marshal
Department of Justice
Southern District of Texas
10130 U.S. Courthouse
515 Rusk Avenue
Houston, TX 77002
713-229-2800 (24 hours)
713-229-2813 (Fax)

Office of U.S. Marshal
Department of Justice
Western District of Texas
235 U.S. Courthouse
655 East Durango Blvd.
San Antonio, TX 78206
512-229-6540 (24 hours)
512-730-4134 (Fax)

Office of U.S. Marshal
Department of Justice
District of Utah
B-20 U.S. Post Office & Courthouse
350 South Main Street
Salt Lake City, UT 84101
801-524-5693 (24 hours)
801-524-4359 (Fax)

Office of U.S. Marshal
Department of Justice
District of Vermont
11 Elmwood Avenue
Burlington, VT 05401
802-951-6271 (24 hours)
802-951-6378 (Fax)

Office of U.S. Marshal
Department of Justice
Eastern District of Virginia
Albert V. Bryan, Sr., U.S. Courthouse
200 South Washington Street
Alexandria, VA 22314
703-235-2713 (24 hours)
703-235-9550 (Fax)

Office of U.S. Marshal
Department of Justice
Western District of Virginia
247 Federal Building
210 Franklin Road SW
Roanoke, VA 24009
703-982-6230 (24 hours)
703-982-6032 (Fax)

Office of U.S. Marshal
Department of Justice
District of The Virgin Islands
371 U.S. Courthouse
Veteran's Drive
St. Thomas, VI 00801
809-774-2743 (24 hours)
809-776-1105 (Fax)
809-772-8075 (After hours pager)

Office of U.S. Marshal
Department of Justice
Eastern District of Washington
888 U.S. Courthouse
West 920 Riverside Avenue
Spokane, WA 99201
509-353-2781 (24 hours)
509-353-2130 (Fax)

Office of U.S. Marshal
Department of Justice
Western District of Washington
300 U.S. Courthouse
1010 5th Avenue
Seattle, WA 98104-1188
206-553-5500 (24 hours)
206-553-0904 (Fax)

Office of U.S. Marshal
Department of Justice
Northern District of West Virginia
317 Federal Building
300 Third Street
Elkins, WVA 26241
304-636-0332 (24 hours)
304-636-6712 (Fax)

Office of U.S. Marshal
Department of Justice
Southern District of West Virginia
4302 Federal Building
500 Quarrier Street
Charleston, WVA 25301
304-347-5136 (24 hours)
304-347-5394 (Fax)

Office of U.S. Marshal
Department of Justice
Eastern District of Wisconsin
4310 U.S Courthouse
517 East Wisconsin Avenue
Milwaukee, WI 53202
414-297-3707 (24 hours)
414-297-1825 (Fax)

Office of U.S. Marshal
Department of Justice
Western District of Wisconsin
440 U.S. Courthouse
120 N. Henry Street
Madison, WI 53703-2559
608-264-5161 (24 hours)
608-264-5396 (Fax)

Office of U.S. Marshal
Department of Justice
District of Wyoming
2124 Joseph C. O'Mahoney Federal Center
2120 Capitol Avenue
Cheyenne, WY 82001
307-772-2196 (24 hours)
307-772-2735 (Fax)

**UNITED STATES GOVERNMENT DIVISION
OF PROBATION/PRETRIAL SERVICES**

United States Government Division of Probation/Pretrial Services

Headquarters

Attention: Chief
1 Columbus Circle N.E.
Washington D.C. 20544

State/District Offices

Alabama-Middle District

Attention: Chief Probation Officer
P.O. Box 39
Montgomery, Alabama 36101-0039

Alabama-Northern District

Attention: Chief Probation Officer
1729 Fifth Avenue North
Birmingham, Alabama 35203-2039

Attention: Supervisor

P.O. Box 69
Florence, Alabama 35631-0069

Attention: OIC

P.O. Box 1097
Gadsden, Alabama 35902-1097

Attention: Supervisor

P.O. Box 368
Huntsville, Alabama 35804-0368

Attention: Probation Officer

P.O. Box 38
Talladega, Alabama 35160-0038

Attention: U.S. Probation Officer

P.O. Box 2629
Tuscaloosa, Alabama 35403-2629

Alabama-Southern District

Attention: Chief Probation Officer

P.O. Box 2985
Mobile, Alabama 36652-2985

Attention: Chief Pretrial Services Officer

P.O. Box 2925
Mobile, Alabama 36652-1985

Alaska

Attention: Chief Probation Officer
222 West 7th Avenue, Box 48
Anchorage, Alaska 99513-7562

Attention: U.S. Probation Officer
101-12th Avenue, Box 3
Fairbanks, Alaska 99701

Arizona

Attention: Chief Probation Officer
230 North First Avenue #2417
Phoenix, Arizona 85025-0002

Attention: OIC
3708 East Columbia, Room 100
Tucson, Arizona 85714-3413

Attention: OIC
823 North San Francisco Street, Room C
Flagstaff, Arizona 86001-4651

Attention: Supervisor
4425 West Olive, Suite 218
Glendale, Arizona 85302-3845

Attention: Supervisor
1930 South Alma School Road, Suite B-210
Mesa, Arizona 85210-3041

Attention: U.S. Probation Officer
P.O. Box 2470
Pinetop, Arizona 86302-2485

Attention: OIC
P.O. Box 2485
Prescott, Arizona 86302-2485

Attention: OIC
333 West Wilcox Drive #203
Sierra Vista, Arizona 85635-1756

Attention: OIC
P.O. Box 1730
Tuba City, Arizona 86045-1730

Attention: Chief Probation Officer
110 South Church Street, Suite 9100
Tucson, Arizona 85701

Attention: Supervisor
325 West 19th Street, Suite A
Yuma, Arizona 85364

Arkansas-Eastern District
Attention: Chief Probation Officer
P.O. Box 3688
Little Rock, Arkansas 72203-3688

Arkansas-Western District
Attention: Chief Probation Officer
P.O. Box 1564
Fort Smith, Arkansas 72902-1564

Attention: Supervisor
P.O. Box 1564
El Dorado, Arkansas 71731-1564

Attention: Senior Officer
35 East Mountain
Fayetteville, Arkansas 72101-6051

California-Central District
Attention: Chief Probation Officer
312 North Spring Street, Suite 600
Los Angeles, California 90012-4701

Attention: Chief Pretrial Services Officer
U.S. Courthouse
312 North Spring Street
Los Angeles, California 90012

Attention: U.S. Probation Officer
15600 Devonshire Street, Room 206
Granada Hills, California 91344

Attention: U.S. Probation Officer
111 North La Brea Avenue, Room 209
Inglewood, California 90301

Attention: Supervisor
24000 Avila Road, 1st Floor
Laguna Niguel, California 92656-3494

Attention: Supervisor
501 West Ocean Boulevard, Suite 6340
Long Beach, California 90802

Attention: Supervisor
202 East Airport Drive, Room 100
San Bernadino, California 92408

Attention: Supervisor
P.O. Box 12340
Santa Ana, California 92712

Attention: Supervisor
222 East Carrillo Street, Suite 309
Santa Barbara, California

Attention: Supervisor
11506 Telegraph Road, Suite 203
Santa Fe Springs, California 90670

Attention: Supervisor
5500 telegraph Road, Suite 171
Ventura, California 93003

Attention: Supervisor
1901 West Pacific Avenue, Suite 102
West Covina, California 91790

California-Eastern District
Attention: Chief Probation Officer
650 Capitol Mall, Room 3305
Sacramento, California 95814-9888

Attention: Deputy Chief
650 Capitol Mall, Room 8558
Sacramento, California 95814-4790

Attention: Supervisor
650 Capitol Mall, Room 3305
Sacramento, California 95814

Attention: Supervisor
800 Truxtun Avenue, Suite 205
Bakersfield, California 93301-4728

Attention: Chief Probation Officer
1130 "O" Street, Room 1000
Fresno, California 93721-2201

Attention: Supervising Probation Officer
2444 Main Street, Suite 150
Fresno, California 93721-2734

Attention: Supervisor
5777 Madison Avenue, Room 120
Sacramento, California 95841-3309

Attention: Supervising Probation Officer
650 Capitol Mall, 3rd Floor
Sacramento, California 95814

Attention: Probation Officer
401 North San Joaquin, Room 209
Stockton, California 95202-9998

Attention: Probation Officer
217 South Locust Street, Suite 5B
Visalia, California 93291

California-Northern District
Attention: Chief Probation Officer
P.O. Box 36057
San Francisco, California 94102-3487

Attention: Chief Pretrial Services Officer
P.O. Box 36108
450 Golden Gate Avenue #7-5242
San Francisco, California 94102

Attention: Probation Officer
P.O. Box 141
Monterey, California 93942

Attention: Supervisor
1330 Broadway, Room 400
Oakland, California 94612-2504

Attention: Supervisor
280 South 1st Street, Suite 106
San Jose, California 95113-3003

Attention: Probation Officer
1515 South El Camino Real #220
San Mateo, California 94402-3034

Attention: Supervising Probation Officer
777 Sonoma Avenue, Suite 323
Santa Rosa, California 95404-4741

California-Southern District
Attention: Chief Probation Officer
401 West "A" Street #400
San Diego, California 92101-7903

Attention: Chief Pretrial Services Officer
940 Front Street, Suite 5196
San Diego, California 92101

Colorado
Attention: Chief Probation Officer
475-17th Street, Suite 600
Denver, Colorado 80202

Attention: Pretrial Services
1929 Stout Street
Courthouse, Room C-191
Denver, Colorado 80294-2900

Attention: Supervisor
10200 East Girgord Avenue, Suite 150C
Denver, Colorado 80231-5512

Attention: Supervisor
3005 Center Green Drive, Suite 225
Boulder, Colorado 80301

Attention: OIC
212 North Wahsatch, Suite 300
Colorado Springs, Colorado 80903-3476

Attention: Supervisor
P.O. Box 3508
Grand Junction, Colorado 81502-3508

Connecticut

Attention: Chief Probation Officer
P.O. Box 1335
New Haven, Connecticut 06501

Attention: Chief Pretrial Services
157 Church Street, 22nd Floor
New Haven, Connecticut 06501

Attention: Supervisor
915 Lafayette Boulevard, Room 211
Bridgeport, Connecticut 06604-4706

Attention: Supervisor
450 Main Street
Federal Building
Hartford, Connecticut 06103-3002

Delaware

Attention: Chief Probation Officer
Lock Box 39
Wilmington, Delaware 19801-3588

District of Columbia

Attention: Chief Probation Officer
3rd and Constitution Avenue, Room 2800
Washington D.C. 20001-2866

Florida-Middle District

Attention: Chief
501 East Polk Street, Room 900
Tampa, Florida 33602

Attention: OIC
Building 1, Suite 10
1970 Michigan Avenue
Cocoa, Florida 32922-7960

Attention: Supervisor
2000 Main Street, Suite 503
Fort Myers, Florida 33901-3086

Attention: Administrative Supervisor
U.S. Courthouse and Post Office
311 West Monroe Street
Jacksonville, Florida 32202-4221

Attention: U.S. Probation Officer
P.O. Box 3128
Federal Building
207 N.W. 2nd Street
Ocala, Florida 34478-3128

Attention: Administrative Supervisor
80 North Hughey Avenue
U.S. Courthouse
Orlando, Florida 32801-2279

Attention: Officer
111 South Orange Ave
Federal Building
Sarasota, Florida 34236-8428

Florida-Northern District

Attention: Chief Probation Officer
P.O. Box 1753
Tallahassee, Florida 32302-1753

Attention: OIC
P.O. Box 599
Gainesville, Florida 32602-0599

Attention: OIC
P.O. Box 980
Panama City, Florida 32402-0980

Attention: Supervisor
100 North Palafox Street, Room 312
Pensacola, Florida 32501-4858

Florida-Southern District

Attention: Chief Probation Officer
300 N.E. 1st Avenue, Room 315
Miami, Florida 33123-2126

Attention: Chief Pretrial Services Officer
330 Biscayne Boulevard, Suite 500
Miami, Florida 33123-2126

Attention: Supervisor
505 South 2nd Street, Suite 320
Fort Pierce, Florida 34950-1505

Attention: Supervisor
101 N.E. 3rd Avenue, 4th Floor
Ft. Lauderdale, Florida 33301-1168

Attention: OIC
301 Simonton Street, Room 230
Key West, Florida 33040-6812

Attention: Supervisor
6100 Hollywood Boulevard, Suite 501
Hollywood, Florida 33024-7938

Attention: Supervisor
501 South Flagler Drive, Suite 400
West Palm Beach, Florida 33401-5912

Georgia-Middle District

Attention: Chief Probation Officer
P.O. Box 1736
Macon, Georgia 31202-1736

Attention: Chief Probation Officer
P.O. Box 1766
Albany, Georgia 31702-1766

Attention: Jr OIC
P.O. Box 494
Columbus, Georgia 31902-0494

Attention: U.S. Probation Officer
P.O. Box 456
Valdosta, Georgia 31603-0456

Georgia-Northern District

Attention: Chief Probation Officer
75 Spring Street, S.W. #2003
Atlanta, Georgia 30303-3301

Attention: Supervisor
4500 Hugh Howell Road #405
Tucker, Georgia 30084

Attention: Supervisor
100 Hartsfield Center Parkway #620
Atlanta, Georgia 30354

Attention: Supervisor
2000 Powers Ferry Road #530
Marietta, Georgia 30067

Georgia-Southern District
Attention: Chief Probation Officer
P.O. Box 8165
Savannah, Georgia 31412-8165

Attention: Supervisor
P.O. Box 760
Augusta, Georgia 30903-0760

Attention: Supervisor
P.O. Box 878
Brunswick, Georgia 31521-0878

Guam
Attention: Chief Probation Officer
238 Archbishop Flores Street #1003E
Agana, Guam 96910

Hawaii
Attention: Chief Probation Officer
P.O. Box 50111
Honolulu, Hawaii 96850-0001

Idaho
Attention: Chief Probation Officer
MSC 032
550 West Fort Street
Boise, Idaho 83724-0032

Attention: U.S. Probation Officer
P.O. Box 9287
Moscow, Idaho 83843

Attention: Supervisor
250 South Fourth Avenue, Room 296
Pocatello, Idaho 83201-6422

Attention: U.S. Probation Officer
P.O. Box 148
Twin Falls, Idaho 83301

Illinois-Central District

Attention: Supervisor
P.O. Box 726
Danville, Illinois 61834-0726

Attention: Deputy Chief Probation Officer
100 N.E. Monroe Street, Room 332
Peoria, Illinois 61602-1022

Attention: Supervisor
P.O. Box 4204
Rock Island, Illinois 61204-4204

Attention: Supervisor
100 N.E. Monroe Street, Room 321
Peoria, Illinois 61602

Attention: Supervisor
P.O. Box 5013
Springfield, Illinois 62705-5013

Illinois-Northern District

Attention: Chief Probation Officer
219 South Dearborn Street, Room 1100
Chicago, Illinois 60604-1705

Attention: Chief Pretrial Services Officer
219 South Dearborn Street, Room 1100
Chicago, Illinois 60604-1705

Attention: Supervisor
801 Warrenville Road, Suite 75
Lisle, Illinois 60532

Attention: U.S. Probation Officer
211 South Court Street
Rockford, Illinois 61101-1219

Attention: Supervisor
5101 Washington Street, Suite 2-R
Gurnee, Illinois 60031-5913

Illinois-Southern District

Attention: Chief Probation Officer
302 West Main Street, Suite 2-C
Benton, Illinois 62812

Attention: OIC
501 Belle Street, Room 211
Alton, Illinois 62002-6169

Attention: Supervisor
750 Missouri Avenue, Room 118
East St Louis, 62201

Indiana-Northern District
Attention: Chief Probation Officer
507 State Street, Room 312
Hammond, Indiana 46320

Attention: Deputy Chief Prob/Prtl Officer
Federal Building
1300 Harrison Street
Fort Wayne, Indiana 46802

Attention: Supervisor
507 State Street, 4th Floor
Hammond, Indiana 46320

Attention: Supervisor
507 State Street, 4th Floor
Lafayette, Indiana 46320

Attention: Supervisor
507 State Street, 4th Floor
South Bend, Indiana 46320

Attention: Supervisor
Federal Building
204 South Main Street
South Bend, Indiana 46601

Attention: OIC
Federal Building
1300 Harrison Street
Fort Wayne, Indiana 46802

Indiana-Southern District
Attention: Chief Probation Officer
46 E Ohio Street, Room 101
Indianapolis, Indiana 46204-1903

Attention: Officer in Charge
202-A College Square
Bloomington, Indiana 47401

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COURT SECURITY AND THE TRANSPORTATION OF PRISONERS: A NATIONAL STUDY



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COURT SECURITY AND THE TRANSPORTATION OF PRISONERS: A NATIONAL STUDY



CRIMINAL JUSTICE/LAW ENFORCEMENT & RELATED ASSOCIATIONS & ORGANIZATIONS

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CRIMINAL JUSTICE PUBLICATIONS AND NETWORKING CONTACTS

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DESIGNED PRODUCTS GROUP

Branch of Whitehouse, NJ Operation
17925-B Kings Point Drive
Cornelius, NC 28078
704-892-4699 Telephone
704-892-4598 Fax

DESIGNED PRODUCTS GROUP

Branch of Whitehouse, NJ Operation
643 Owl Hill Road
Lititz, PA 17543
717-626-9388 Telephone
717-626-5592 Fax

DESIGNED PRODUCTS GROUP

Box 478, 3616 Highway 22 West
Whitehouse, NJ 08888
908-534-6500 Telephone
908-534-1477 Fax

EESCO SYSTEMS, INC.

3000 East La Palma
Anaheim, CA 92806
714-632-3222 Telephone
714-632-1711 Fax

ELECTRICAL CONCEPTS, INC.

P. O. Box 2062
Norcross, GA 30091
404-416-8806 Telephone
404-416-8807 Fax

GUSTAFSON SALES, INC.

RR #1
Red Wing, MN 55066
800-733-7118 Toll Free
612-388-7540 Fax

J & B SALES, INC.

1428 W. Cedar Avenue
Denver, CO 80223-1755
303-698-2211 Telephone
303-698-2214 Fax

MONTGOMERY-AMES

156 Broad Street
Lynn, MA 01901
617-592-3150 Telephone
617-592-3750 Fax

MONTGOMERY-AMES

70 Cottage Street
Hudson, MA 01749
508-562-4686 Telephone

ORMAN & ASSOCIATES

13 N. Walnut Court
Streamwood, IL 60107
708-372-7135 Telephone
708-372-7155 Fax

PACNOR MARKETING, INC.

19101 36th Avenue, West, Suite 108
Lynnwood, WA 98036
206-771-6016 Telephone
206-771-5576 Fax

PAT NORMAN SALES

P. O. Box 50122
Indianapolis, IN 46250
317-842-5611 Telephone
317-842-5611 Fax

RUYLE & ASSOCIATES

420 Steinway Road
Lincoln, NE 68505
402-488-8926 Telephone
402-488-8926 Fax

ALARMS/BODY

SENTRY PRODUCTS, INC.
2225 Martin Avenue, #J
Santa Clara, CA 95050
408-727-1866 Telephone
408-727-2129 Fax

ALARMS/PERSONAL

SENTRY PRODUCTS, INC.
2225 Martin Avenue, #J
Santa Clara, CA 95050
408-727-1866 Telephone
408-727-2129 Fax

ALCOHOL DETECTION

APPROVED TECHNOLOGY/AMERICAN SIGNAL, INC.
2437 S. Division, P. O. Box 88094
Grand Rapids, MI 49508
616-243-1900 Telephone
800-468-2289 Toll Free
800-4-FAX ATI Fax

APPAREL

HORACE SMALL APPAREL COMPANY
350 28th Avenue North
Nashville, TN 32709
615-230-1000 Telephone
800-883-4722 Toll Free
615-327-1912 Fax

PRIDE OF FLORIDA
5540 Rio Vista Drive
Clearwater, FL 34620-3107
813-535-4900 Telephone
800-643-8459 Toll Free
813-530-4255

BODY ARMOR/PROTECTIVE VESTS

SECOND CHANCE BODY ARMOR, INC.
P. O. Box 578,
7919 Camerson Street
Central Lake, MI 49622
616-544-5721 Telephone
800-253-7090 Toll Free
616-544-9824 Fax

BODY PROTECTION & SUPPLIES

AERO/CHEM

Division of Athea Laboratories, Inc.
P. O. Box 23926
Milwaukee, WI 53223
800-878-CURB Toll Free
414-354-9219 Fax

CASCO INTERNATIONAL, INC.

P. O. Box 166
Gap Mountain Road
Fitzwilliam, NH 03447 USA
603-585-9422 Telephone
603-585-9575 Fax

MSI

MACE SECURITY INTERNATIONAL

160 Benmont Avenue
Bennington, Vermont 05201 USA

PRO-GARD INDUSTRIES

8802 Bash Street, Suite "D"
Indianapolis, IN 46256-1288
800-480-6680 Toll Free
317-579-6681 Fax

SECOND CHANCE

P. O. Box 578
Central Lake, MI 49622 USA
800-253-7090 Toll Free

STRONG HOLSTER CO.

Division of Strong Group, Inc.
105 Maplewood Avenue
P. O. Box 1195 Dept.
Gloucester, MA 01931-1195
508-281-3300 Telephone

SUPER SEER CORPORATION

P. O. Box 700
Evergreen, CO 80439
303-674-6663 Telephone
303-674-8540 Fax

TASERTRON

A Division of Electronic Medical Research Laboratory, Inc.
1785 Pomona Road, Suite C
Corona, CA 91720

ULTRA-COOL/GIOELLO ENTERPRISES LTD.

Department F.C.
P. O. Box 407
Yonkers, NY 10705
914-963-4837 Telephone
914-965-0852 Fax

BOOKING SYSTEMS

COMPU-CAPTURE

2010 Cabot Boulevard West, Building F
Langhorne, PA 19047
215-752-0963 Telephone
215-752-5910 Fax

CAMERAS

PELCO

300 W. Pontiac Way
Clovis, CA 93612
209-292-1981 Telephone
800-289-9100 Toll Free
209-292-3827 Fax
800-289-9150 Telex

COMMUNICATIONS EQUIPMENT

AMERICAN TELEPHONE AND TELEGRAPH COMPANY (AT&T)

295 N. Maple Avenue
Basking Ridge, NJ 07920
908-221-2772 Telephone
908-221-5868 Fax

CEECO (COMMUNICATION EQUIPMENT & ENGINEERING CO.)

1580 N.W. 65th Avenue
Plantation, FL 33313-4588
305-587-5430 Telephone
305-587-5440 Fax

HARRIS DIGITAL TELEPHONE SYSTEMS

300 Bel Marin Keys Boulevard
Novato, CA 94949
415-382-5000 Telephone
800-888-3763 Toll Free
415-382-5222 Fax
314049 Telex

RACAL RECORDERS, INC.

18 Technology Drive, Suite 100
Irvine, CA 92718
714-727-3444 Telephone
800-847-1226 Toll Free (Outside California)
725-737-1774 Fax

RAULAND-BORG CORPORATION

3450 W. Oakton Street
Skokie, IL 60076-2951
708-679-0900 Telephone
800-752-7725 Toll Free
708-679-0625 Fax

SOUND POWERED COMMUNICATIONS

335 Robbins Avenue
Trenton, NJ 08638
609-883-1180 Telephone
800-431-0033 Toll Free
609-883-1181 Fax

COMMUNICATIONS SYSTEMS**AMERICAN TELEPHONE AND TELEGRAPH COMPANY (AT&T)**

295 N. Maple Avenue, Room 141G1
Basking Ridge, NJ 07920
908-221-2772 Telephone
908-221-5868 Fax

HARRIS DIGITAL TELEPHONE SYSTEMS

300 Bel Marin Keys Boulevard
Novato, CA 94949
415-382-5000 Telephone
800-888-3763 Toll Free
415-382-5222 Fax
314049 Telex

RAULAND-BORG CORPORATION

3450 W. Oakton Street
Skokie, IL 60076-2951
708-679-0900 Telephone
800-752-7725 Toll Free
708-679-0625 Fax

RING COMMUNICATIONS, INCORPORATED

57 Trade Zone Drive
Ronkonkoma, NY 11779
516-585-RING Telephone
516-585-7410 Fax

STS**SKAGGS TELECOMMUNICATIONS SERVICE, INC.**

5290 South Main
Murray, UT 84107
801-261-4400 Telephone
801-261-1580 Fax

SOUND POWERED COMMUNICATIONS

355 Robbins Avenue
Trenton, NJ 08638
609-883-1180 Telephone
800-431-0033 Toll Free
609-883-1181 Fax

TELE-MATIC CORPORATION

6675 S. Kenton Street
Englewood, CO 80111
303-790-9111 Telephone
303-790-9540 Fax

COMPUTERS/SOFTWARE**COMPU-COLOR, INC.**

2720 Lackland Drive
Waterloo, IA 50702
319-296-1923 Telephone
391-296-2202 Fax

SCOTSMAN BUILDINGS

8211 Town Center Drive
Baltimore, MD 21236
410-931-6000 Telephone
800-472-2020 Toll Free

SVERDRUP CORPORATION

801 North 11th Street
St. Louis, MO 63101
314-436-7600 Telephone
800-325-7910 Toll Free
314-436-7734 Fax

DETENTION EQUIPMENT**FOLGER ADAM COMPANY**

16300 W. 103rd Street
Lemont, IL 60439
708-739-3900 Telephone
708-739-6138 Fax

KENALL

1020 Lakeside Drive
Gurnee, IL 60031
708-360-8200 Telephone
800-634-5013 Toll Free
708-360-1781 Fax

MARIS EQUIPMENT COMPANY

110 Summit Drive
Exton, PA 19341
215-524-7000 Telephone
215-524-7434 Fax

MARK CORRECTIONAL SYSTEMS, INC.

87 Route 17 North
Maywood, NJ 07607
201-368-8118 Telephone
201-368-8831 Fax

PRIDE OF FLORIDA

5540 Rio Vista Drive
Clearwater, FL 34620
813-535-4900 Telephone
800-643-8459 Toll Free
813-530-4255 Fax

SOUTHERN STEEL COMPANY

4634 South Presa
San Antonio, TX 78223
210-533-1231 Telephone
210-533-2211 Fax

VAN NOORDEN COMPANY

55 Border Street
Newton, MA 02165
617-527-3555 Telephone
800-299-3556 Toll Free
617-969-2605 Fax

DOORS/CLOSERS AND HINGES**BLAINE WINDOW HARDWARE, INC.**

7319 Blaine Drive
Hagerstown, MD 21740
301-797-6500 Telephone
800-678-1919 Toll Free
301-797-2510 Fax

DOORS/SECURITY

MARK CORRECTIONAL SYSTEMS, INC.

87 Route 17 North
Maywood, NJ 07607
201-368-8118 Telephone
201-368-8831 Fax

U.S. SYSTEMS, INC.

575 Menlo Drive, Unit 2
Rocklin, CA 95765
916-624-0996 Telephone
916-624-3193 Fax

VAN NOORDEN COMPANY

55 Border Street
Newton, MA 02165
617-527-3555 Telephone
800-299-3556 Toll Free
617-969-2605 Fax

DURESS ALARMS

SENTRY PRODUCTS, INC.

2225 Martin Avenue, #J
Santa Clara, CA 95050
408-727-1866 Telephone
408-727-2129 Fax

SHORROCK ELECTRONIC SYSTEMS, INC.

7255 Standard Drive
Hanover, MD 21076
410-712-6020 Telephone
800-325-6124 Toll Free
410-712-0329 Fax

ELECTRONIC CONTROL/PANELS

ECSI-EAG INTERNATIONAL

23 Just Road
Fairfield, NJ 07004
201-575-0536 Telephone
201-575-0794 Fax

FOLGER ADAM COMPANY

16300 W. 103rd Street
Lemont, IL 60439
708-739-3900 Telephone
708-739-6138 Fax

SOUTHERN STEEL COMPANY

4634 South Presa
San Antonio, TX 78223
210-553-1231 Telephone
210-553-2211 Fax

SPACE AGE ELECTRONICS, INC.

406 Lincoln Street
Marlboro, MA 01752-2195
508-485-0966 Telephone
800-486-1723 Toll Free
508-485-4740 Fax

ELECTRONIC MONITORING DEVICES**PRECISION DYNAMICS CORPORATION**

13880 Del Sur Street
San Fernando, CA 91340-3490
818-897-1111 Telephone
800-847-0670 Toll Free
818-899-4045 Fax
240055 PDC UR Telex

RACAL RECORDERS, INC.

18 Technology Drive, Suite 100
Irvine, CA 92718
714-727-3444 Telephone
800-847-1226 Toll Free (Outside California)
725-737-1774 Fax

ELECTRONIC PERIMETER SYSTEMS**ECSI-EAG INTERNATIONAL**

23 Just Road
Fairfield, NJ 07004
201-575-0536 Telephone
201-575-0794 Fax

SAFEGUARDS TECHNOLOGY, INC.

300 Hudson Street
Hackensack, NJ 07649
201-488-1022 Telephone
201-488-1244 Fax

ELECTRONIC PLUMBING CONTROL

BRADLEY CORPORATION

9101 Fountain Boulevard
Menomonee Falls, WI 53051
414-251-6000 Telephone
414-251-5817 Fax

ELECTRONIC VIDEO IMAGING SYSTEMS

DACTEK INTERNATIONAL, INC.

8117 Orion Avenue
Van Nuys, CA 91406-1450
818-787-1901 Telephone
800-232-2835 Toll Free
818-988-9776 Fax

EVIDENCE/PROPERTY LABELS

KAPAK CORPORATION

5305 Parkdale Drive
St. Louis Park, MN 55416
800-527-2557 Toll Free
612-541-0735 Fax

FITZCO INC.

14180 23rd Avenue North
Plymouth, MN 55447
800-367-8760 Toll Free
612-550-0555 Telephone

EXIT SIGNS

KENALL

1020 Lakside Drive
Gurnee, IL 60031
708-360-8200 Telephone
800-634-5013 Toll Free
708-360-1781 Fax

FINGERPRINTING

DACTEK INTERNATIONAL, INC.

8117 Orion Avenue
Van Nuys, CA 91406-1450
818-787-1901 Telephone
800-232-2835 Toll Free
818-988-9776 Fax

FIRE PROTECTION EQUIPMENT

RAULAND-BORG CORPORATION

3450 W. Oakton Street
Skokie, IL 60076-2951
708-679-0900 Telephone
800-752-7725 Toll Free
708-679-0625 Fax

EXPLOSIVE REMOVALS

NABCO, INC.

1501 Reedsdale Street, Suite 502
Pittsburgh, PA 15233
412-231-8558 Telephone
412-321-9122 Fax

WEATHERLY, INC.

1100 Spring Street, N.W.
Atlanta, GA 30309
404-873-5030 Telephone
404-873-1303 Fax

FIREARMS SCHOOLS

NATIONAL RIFLE ASSOCIATION

Law Enforcement Activities Division
11250 Waples Mill Road
Fairfax, VA 22030

FLAME RESISTANT CUSHIONING/MATERIAL

CHESTNUT RIDGE FOAM, INC.

Route 981 N.
P. O. Box 781
Latrobe, PA 15650
412-537-9000 Telephone
800-234-2734 Toll Free
412-537-9003 Fax

UNITED STATES MANUFACTURERS GROUP

Technical Services & Training Division
266 Pine Avenue
Pacific Grove, CA 93950
408-655-0502 Telephone
800-995-USMG Toll Free
408-655-1461 Fax

FRP-FIBERGLASS REINFORCED PLASTIC

BP CHEMICALS, INC.

Advanced Materials Division/Commercial Composites
7310 Turfway Road, Suite 300
Florence, KY 41042
606-525-7878 Telephone
800-443-4566 Toll Free
606-282-3667 Fax

FURNITURE/LOUNGE AND DINING

NORIX GROUP, INC.

P. O. Box 639
Batavia, IL 60510
708-879-6160 Telephone
800-234-4900 Toll Free
708-879-6168 Fax

FURNITURE/SECURITY

KLN STEEL PRODUCTS COMPANY

8614 Perrin Beitel Road
P. O. Box 34690
San Antonio, TX 78265-4690
210-655-4020 Telephone
800-624-9101 Toll Free
210-655-5862 Fax

GARMENT BAGS

BACIG MANUFACTURING CO., INC.

3611 14th Avenue
Brooklyn, NY 11218
718-871-6106 Telephone
718-871-0162 Fax

HANDCUFFS

VAN NOORDEN COMPANY

55 Border Street
Newton, MA 02165
617-527-3555 Telephone
800-299-3556 Toll Free
617-969-2605 Fax

HARDWARE

SOUTHERN STEEL COMPANY

4634 South Presa
San Antonio, TX 78223
210-533-1231 Telephone
210-533-2211 Fax

HEAT SEALING EQUIPMENT

KAPAK CORPORATION

5305 Parkdale Drive
St. Louis Park, MN 55416
800-527-2557 Telephone
612-541-0735 Fax

IDENTIFICATION PRODUCTS

PRECISION DYNAMICS CORPORATION

13880 Del Sur Street
San Fernando, CA 91340-3490
818-897-1111 Telephone
800-847-0670 Toll Free
818-899-4045 Fax
240055 PDC UR Telex

TEMTEC, INC./TEMPBADGE

100 Route 59
Suffern, NY 10901-4910
914-368-4040 Telephone
800-628-0022 Toll Free
914-368-4099 Fax

INTEGRATED SECURITY SYSTEMS

ALLEN-BRADLEY COMPANY, INC.

A Rockwell International Company
P. O. Box 3064
Cedar Rapids, IA 52406-3064
800-223-5354, Ext. 2966 Toll Free
800-545-1179 Fax

AMERICA TFP, INC.

110 Frederick Street
Greenville, SC 29607
803-232-8632 Telephone
803-370-2824 Fax

FOLGER ADAM COMPANY

16300 W. 103rd Street
Lemont, IL 60439
708-739-3900 Telephone
708-739-6138 Fax

MARIS EQUIPMENT COMPANY

110 Summit Drive
Exton, PA 19341
215-524-7000 Telephone
215-524-7434 Fax

RAULAND-BORG CORPORATION

3450 W. Oakton Street
Skokie, IL 60076-2951
708-679-0900 Telephone
800-752-7725 Toll Free
708-679-0625 Fax

RING COMMUNICATIONS, INCORPORATED

57 Trade Zone Drive
Ronkonkoma, NY 11779
516-585 RING Telephone
516-585-7410 Fax

SAFEGUARDS TECHNOLOGY, INC.

300 Hudson Street
Hackensack, NJ 07649
201-488-1022 Telephone
201-488-1244 Fax

SHORROCK ELECTRONIC SYSTEMS, INC.

7255 Standard Drive
Hanover, MD 21076
410-712-6020 Telephone
800-325-6124 Toll Free
410-712-0329 Fax

INTERCOMS**RAULAND-BORG CORPORATION**

3450 W. Oakton Street
Skokie, IL 60076-2951
708-679-0900 Telephone
800-752-7725 Toll Free
708-679-0625 Fax

RING COMMUNICATIONS, INCORPORATED

57 Trade Zone Drive
Rononkoma, NY 11779
516-585-RING Telephone
516-585-7410 Fax

U.S. SYSTEMS, INC.

575 Menlo Drive, Unit 2
Rocklin, CA 95765
916-624-0996 Telephone
916-624-3193 Fax

KEY CONTROL**KNOW COUNTY**

17672 Armstrong
Irvine, CA 92714
800-552-5669 Toll Free
714-252-0482 Fax

LIGHTING FIXTURES**APPROVED TECHNOLOGY/AMERICAN SIGNAL, INC.**

2437 S. Division
P. O. Box 88094
Grand Rapids, MI 49508
616-243-1900 Telephone
800-468-2289 Toll Free
800-4-FAX ATI Fax

KENALL

Lakeside Drive
Gurnee, IL 60031
708-360-8200 Telephone
800-634-5013 Toll Free
708-360-1781 Fax

LOCKERS/STORAGE**AMERICAN LOCKER SECURITY SYSTEMS, INC.**

P. O. Box 489
15 W. Second Street
Jamestown, NY 14702-0489
716-664-9600 Telephone
800-828-9118 Toll Free
716-664-2949 Fax

BACIG MANUFACTURING CO., INC.

3611 14th Avenue
Brooklyn, NY 11218
718-871-6106 Telephone
718-871-0162 Fax

LOCKING SYSTEMS

FOLGER ADAM COMPANY

16300 W. 103rd Street
Lemont, IL 60439
708-739-3900 Telephone
708-739-6138 Fax

MARIS EQUIPMENT COMPANY

110 Summit Drive
Exton, PA 19341
215-524-7000 Telephone
215-524-7434 Fax

SOUTHERN STEEL COMPANY

4634 South Presa
San Antonio, TX 78223
210-533-1231 Telephone
210-533-2211 Fax

LOCK REPAIR

VAN NOORDEN COMPANY

55 Border Street
Newton, MA 02165
617-527-3555 Telephone
800-299-3556 Toll Free
617-969-2605 Fax

LOCKS AND EQUIPMENT

FOLGER ADAM COMPANY

16300 W. 103rd Street
Lemont, IL 60439
708-739-3900 Telephone
708-739-6138 Fax

SOUTHERN STEEL COMPANY

4634 South Presa
San Antonio, TX 78223
210-533-1231 Telephone
210-533-2211 Fax

MANAGEMENT INFORMATION SYSTEMS

SPILLMAN DATA SYSTEMS, INC.

901 South State
Logan, UT 84321
801-753-1610 Telephone
801-753-3031 Fax

METAL DETECTORS

CONTROL SCREENING L.P.

35 W. Pittsburgh Street, Suite 203
Greensburg, PA 15601
412-837-5411 Telephone
800-343-9727 Toll Free
412-837-5425 Fax

GARRETT METAL DETECTORS

Security Division
1881 W. State Street
Garland, TX 75042
214-494-6151 Telephone
800-234-6151 Toll Free
214-494-1881 Fax

FIBREBOND CORPORATION

1300 Davenport Drive
Minden, LA 71055
318-377-1030 Telephone
800-824-2614 Toll Free
318-377-5756 Fax

NORMANDY METAL FABRICATORS, INC.

Rapid Response TM Correctional Systems
521 DiGiulian Boulevard
Glen Burnie, MD 21061
410-766-3306 Telephone
410-766-3345 Fax

SCOTSMAN BUILDINGS

8211 Town Center Drive
Baltimore, . MD 21236
410-931-6000 Telephone
800-472-2020 Toll Free

PERIMETER ALARM SYSTEMS

ECSI-EAG INTERNATIONAL

23 Just Road
Fairfield, NJ 07004
201-575-0536 Telephone
201-575-0794 Fax

SAFEGUARDS TECHNOLOGY, INC.

300 Hudson Street
Hackensack, NJ 07649
201-488-1022 Telephone
201-488-1244 Fax

SHORROCK ELECTRONIC SYSTEMS, INC.

7255 Standard Drive
Hanover, MD 21076
410-712-6020 Telephone
800-325-6124 Toll Free
410-712-0329 Fax

PERSONNEL MANAGEMENT/ELECTRONIC VIDEO IMAGING SYSTEMS

DACTEK INTERNATIONAL, INC.

8117 Orion Avenue
Van Nuys, CA 91406-1450
818-787-1901 Telephone
800-232-2835 Toll Free
818-988-9776 Fax

SHORROCK ELECTRONIC SYSTEMS, INC.

7255 Standard Drive
Hanover, MD 21076
410-712-6020 Telephone
800-325-6124 Toll Free
410-712-0329 Fax

PHOTO ID BADGES/ELECTRONIC VIDEO IMAGING SYSTEMS

COMPU-COLOR, INC.

2720 Lackland Drive
Waterloo, IA 50702
319-296-1923 Telephone
319-296-2202 Fax

DACTEK INTERNATIONAL, INC.

8117 Orion Avenue
Van Nuys, CA 91406-1450
818-787-1901 Telephone
800-232-2835 Toll Free
818-988-9776 Fax

SHORROCK ELECTRONIC SYSTEMS, INC.

7255 Standard Drive
Hanover, MD 21076
410-712-6020 Telephone
800-325-6124 Toll Free
410-712-0329 Fax

TEMTEC, INC./TEMPBADGE

100 Route 59
Suffern, NY 10901-4910
914-368-4040 Telephone
800-628-0022 Toll Free
914-368-4099 Fax

PRISONER PROPERTY/EVIDENCE POUCHES (HEAT SEALABLE)

KAPAK CORPORATION

5305 Parkdale Drive
St. Louis Park, MN 55416
800-527-2557 Toll Free
612-541-0735 Fax

PROPERTY STORAGE BAGS

AMERICAN LOCKER SECURITY SYSTEMS, INC.

P. O. Box 489
15 West Second Street
Jamestown, NY 14702-0489
716-664-9600 Telephone
800-828-9118 Toll Free
716-664-2949 Fax

RESTRAINING EQUIPMENT

AEDEC INTERNATIONAL, INC.

7926 S.W. Nimbus Avenue
Beaverton, OR 97008
503-644-8988 Telephone
503-641-6105 Fax

HUMANE RESTRAINT COMPANY

912 Bethel Circle
Waunakee, WI 53597
608-849-6313 Telephone
800-356-7472 Toll Free
608-849-6315 Fax

HIATT-THOMPSON CORPORATION

5211 W. 65th Street
Bedford Park, IL 60638
708-496-8585 Telephone
708-496-8618 Fax

PEERLESS HANDCUFF COMPANY

95 State Street
Springfield, MA
800-732-3705 Toll Free

TRI LOCK CORPORATION

7926 S. W. Nimbus Avenue
Beverton, OR 97008
503-644-3555 Telephone
503-641-6105 Fax

RIOT CONTROL EQUIPMENT**SECOND CHANCE BODY ARMOR, INC.**

P. O. Box 578
7919 Cameron Street
Central Lake, MI 49622
616-544-5721 Telephone
800-253-7090 Toll Free
616-544-9824 Fax

SECURITY WALL SYSTEMS**HOPEMAN CORRECTIONAL SYSTEMS**

P. O. Box 820
Waynesboro, VA 22980
703-949-9200 Telephone
800-368-3482 Toll Free
703-949-9259 Fax

SHELVING**NATIONAL LAW RESOURCE**

426 S. Clinton Street
Chicago, IL 60607
312-922-6200 Telephone
800-279-7799 Toll Free
312-922-0066 Fax

SPEAKER SYSTEMS/INTERCOMS

RAULAND-BORG CORPORATION

3450 W. Oakton Street
Skokie, IL 60076-2951
708-679-0900 Telephone
800-752-7725 Toll Free
708-679-0625 Fax

SHORROCK ELECTRONIC SYSTEMS, INC.

7255 Standard Drive
Hanover, MD 21076
410-712-6020 Telephone
800-325-6124 Toll Free
410-712-0329 Fax

STEEL DOORS

MARK CORRECTIONAL SYSTEMS, INC.

87 Route 17 North
Maywood, NJ 07607
201-368-8118 Telephone
201-368-8831 Fax

STORAGE BAGS

BACIG MANUFACTURING CO., INC.

3611 14th Avenue
Brooklyn, NY 11218
718-871-6106 Telephone
718-871-0162 Fax

STORAGE EQUIPMENT

FWE/FOOD WARMING EQUIPMENT CO., INC.

P. O. Box 1001
Crystal Lake, IL 60039-1001
815-459-7500 Telephone
800-222-4393 Toll Free
815-459-7989 Fax

SUBSTANCE ABUSE PROGRAMS

HAZELDEN CORRECTIONS SERVICES

15245 Pleasant Valley Road
P. O. Box 11
Center City, MN 55012-0011
612-257-4010 Telephone
800-257-7800 Toll Free
612-257-4449 Fax

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COURT SECURITY AND THE TRANSPORTATION OF PRISONERS: A NATIONAL STUDY



UNITED STATES CODE ANNOTATED, CONSTITUTION OF THE UNITED STATES, ARTICLE IV--STATES--RECIPROCAL RELATIONSHIP BETWEEN STATES AND WITHIN THE UNITED STATES

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UNITED STATES EXTRADITION STATUTES

*** SPECIAL NOTATION:**

**STATES THAT HAVE ADOPTED THE
UNIFORM CRIMINAL EXTRADITION ACT**

UNITED STATES CODE ANNOTATED
CONSTITUTION OF THE UNITED STATES
ARTICLE IV--STATES--RECIPROCAL RELATIONSHIP
BETWEEN STATES AND WITHIN THE UNITED STATES

Article IV, Section 2, Clause 2. Extradition

A person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

SPECIAL NOTATION:

Uniform Criminal Extradition Act is promulgated
promulgated by a joint commission, not a Federal statute.

The following are the Constitutional and statutory regulations
which govern extradition.

COURT SECURITY AND THE TRANSPORTATION OF PRISONERS: A NATIONAL STUDY



INTERNATIONAL TREATIES OF EXTRADITION

Citation
18 USCA s 3189
18.U.S.C.A. s 3189

UNITED STATES CODE ANNOTATED
TITLE 18. CRIMES AND CRIMINAL PROCEDURE
PART II--CRIMINAL PROCEDURE
CHAPTER 209--EXTRADITION
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INTERNATIONAL TREATIES OF EXTRADITION

CITATION

18 U.S.C.A. s 3181

18 U.S.C.A. s 3181

UNITED STATES CODE ANNOTATED

TITLE 18. CRIMES AND CRIMINAL PROCEDURE

PART II--CRIMINAL PROCEDURE

CHAPTER 209--EXTRADITION

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Current through P.L. 103-219, approved 3-9-94

The provisions of this chapter relating to the surrender of persons who have committed crimes in foreign countries shall continue in force only during the existence of any treaty of extradition with such foreign government.

The United States has entered into the following bilateral treaties of extradition with the following countries:

Country	Date Signed	Entered into force	Citation
Albania	March 1, 1933. . .	November 14, 1935. . .	49 Stat. 3313.
Antigua & Barbuda .	June 8, 1972 . . .	January 21, 1977 . . .	28 UST 227.
Argentina	January 21, 1972 .	September 15, 1972 . . .	23 UST 3501.
Australia	May 14, 1974 . . .	May 8, 1976.	27 UST 957.
	September 4, 1990.	December 21, 1992	
Austria	January 31, 1930 .	September 11, 1930 . .	46 Stat. 2779.
	May 19, 1934 . . .	September 5, 1934. . .	49 Stat. 2710.
Bahamas	December 22, 1931.	June 24, 1935	47 Stat. 2122.
		August 17, 1978 . . .	30 UST 187.
Barbados.	December 22, 1931.	June 24, 1935.	47 Stat. 2122.
Belgium	October 26, 1901 .	July 14, 1902.	32 Stat. 1894.
	June 20, 1935. . .	November 7, 1935 . . .	49 Stat. 3276.
	November 14, 1963.	December 25, 1964 . .	15 UST 2252.
Belize	June 8, 1972 . . .	January 21, 1977 . . .	28 UST 227.
Bolivia	April 21, 1900 . .	January 22, 1902 . . .	32 Stat. 1857.

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Ghana	December 22, 1931 . June 24, 1935	47 Stat. 2122.
Greece	May 6, 1931 November 1, 1932.	47 Stat. 2185.
	September 2, 1937 . September 2, 1937	51 Stat. 357.
Grenada.	December 22, 1931 . June 24, 1935	47 Stat. 2122.
Guatemala.	February 27, 1903 . August 15, 1903	33 Stat. 2147.
	February 20, 1940 . March 13, 1941	55 Stat. 1097.
Guyana	December 22, 1931 . June 24, 1935	47 Stat. 2122.
Haiti	August 9, 1904. June 28, 1905	34 Stat. 2858.
Honduras	January 15, 1909. July 10, 1912	37 Stat. 1616.
	February 21, 1927 . June 5, 1928	45 Stat. 2489.
Hungary	July 3, 1856. December 13, 1856	11 Stat. 691.
Iceland	January 6, 1902	32 Stat. 1096.
	November 6, 1905. February 19, 1906	34 Stat. 2887.
India.	December 22, 1931 . March 9, 1942	47 Stat. 2122.
Iraq	June 7, 1934. April 23, 1936.	49 Stat. 3380.
Ireland.	July 13, 1983 December 15, 1984	TIAS.
Israel	December 10, 1962. December 5, 1963.	14 UST 1707.
 April 11, 1967.	18 UST 382.
Italy.	October 13, 1983. September 24, 1984.	TIAS 10837.
Jamaica.	December 22, 1931 . June 24, 1935	47 Stat. 2122.
	June 14, 1983 July 7, 1991	TIAS.
Japan.	March 3, 1978 March 26, 1980	31 UST 892.
Kenya	December 22, 1931 . June 24, 1935.	47 Stat. 2122.
 August 19, 1965.	16 UST 1866.
Kiribati	June 8, 1972. January 21, 1977	28 UST 227.
Latvia	October 16, 1923. March 1, 1924.	43 Stat. 1738.
	October 10, 1934. March 29, 1935	49 Stat. 3131.
Lesotho.	December 22, 1931 . June 24, 1935	47 Stat. 2122.
Liberia.	November 1, 1937. November 21, 1939.	54 Stat. 1733.
Liechtenstein.	May 20, 1936. June 28, 1937.	50 Stat. 1337.
Lithuania.	April 9, 1924 August 23, 1924.	43 Stat. 1835.
	May 17, 1934. January 8, 1935.	49 Stat. 3077.
Luxembourg	October 29, 1883. August 13, 1884	23 Stat. 808.
	April 24, 1935. March 3, 1936.	49 Stat. 3355.
Malawi	December 22, 1931 . June 24, 1935.	47 Stat. 2122.
 April 4, 1967.	18 UST 1822.

Malaysia December 22, 1931 . July 31, 1939 47 Stat. 2122.
 Malta. December 22, 1931 . June 24, 1935 47 Stat. 2122.
 Mauritius. December 22, 1931 . June 24, 1935 47 Stat. 2122.
 Mexico May 4, 1978 January 25, 1980 31 UST 5059.
 Monaco February 15, 1939 . March 28, 1940 54 Stat. 1780.
 Nauru. December 22, 1931 . August 30, 1935. 47 Stat. 2122.
 Netherlands. . . . June 24, 1980 . . . September 15, 1983 [FN1PP]
TIAS 10733.
 New Zealand. . . . January 12, 1970. . December 8, 1970 22 UST 1.
 Nicaragua. March 1, 1905 . . . July 14, 1907. 35 Stat. 1869.
 Nigeria December 22, 1931 . June 24, 1935. 47 Stat. 2122.
 Norway June 9, 1977. . . . March 7, 1980. 31 UST 5619.
 Pakistan December 22, 1931 . March 9, 1942. 47 Stat. 2122.
 Panama May 25, 1904. . . . May 8, 1905 34 Stat. 2851.
 Papua New Guinea . December 22, 1931 . August 30, 1935. . . . 47 Stat. 2122.
 February 2/23, 1988. February 23, 1988. . . . TIAS.
 Paraguay May 24, 1973. . . . May 7, 1974 25 UST 967.
 Peru November 28, 1899 . February 22, 1901. . . . 31 Stat. 1921.
 Poland November 22, 1927 . July 6, 1929 46 Stat. 2282.
 April 5, 1935 . . . June 5, 1936 49 Stat. 3394.
 Portugal May 7, 1908 November 14, 1908. . . . 35 Stat. 2071.
 Romania July 23, 1924 . . . April 7, 1925. 44 Stat. 2020.
 November 10, 1936 . July 27, 1937. 50 Stat. 1349.
 Saint Christopher
 and Nevis . . . June 8, 1972. . . . January 21, 1977 28 UST 227.
 Saint Lucia . . . June 8, 1972. . . . January 21, 1977 28 UST 227.
 Saint Vincent
 and Grenadines . June 8, 1972. . . . January 21, 1977 28 UST 227.
 San Marino January 10, 1906. . July 8, 1908 35 Stat. 1971.
 October 10, 1934. . June 28, 1935. 49 Stat. 3198.
 Seychelles December 22, 1931 . June 24, 1935. 47 Stat. 2122.
 Sierra Leone . . . December 22, 1931 . June 24, 1935. 47 Stat. 2122.
 Singapore. December 22, 1931 . June 24, 1935. 47 Stat. 2122.
 Solomon Islands. . June 8, 1972. . . . January 21, 1977 28 UST 277.

South Africa . . . December 18, 1947 . April 30, 1951 2 UST 884.

Spain May 29, 1970. . . . June 16, 1971. 22 UST 737.
January 25, 1975. . June 2, 1978 29 UST 2283.

Sri Lanka December 22, 1931 . June 24, 1935. 47 Stat. 2122.

Suriname June 2, 1887. . . . July 11, 1889. 26 Stat. 1481.
January 18, 1904. . August 28, 1904. 33 Stat. 2257.

Swaziland. December 22, 1931 . June 24, 1935. 47 Stat. 2122.
. July 28, 1970. 21 UST 1930.

Sweden October 24, 1961. . December 3, 1963 14 UST 1845.
March 14, 1983. . . September 24, 1984 TIAS 10812.

Switzerland. . . . May 14, 1900. . . . March 29, 1901 31 Stat. 1928.
January 10, 1935. . May 16, 1935 49 Stat. 3192.
January 31, 1940. . April 8, 1941. 55 Stat. 1140.

Tanzania December 22, 1931 . June 24, 1935. 47 Stat. 2122.
. December 6, 1965 16 UST 2066.

Thailand December 30, 1922 . March 24, 1924 43 Stat. 1749.

Tonga. December 22, 1931 . August 1, 1966 47 Stat. 2122.
. April 13, 1977 28 UST 5290.

Trinidad and
Tobago. December 22, 1931 . June 24, 1935. 47 Stat. 2122.

Turkey June 7, 1979. . . . January 1, 1981. 32 UST 3111.

Tuvalu June 8, 1972. . . . January 21, 1977 28 UST 227.
. April 25, 1980 32 UST 1310.

United Kingdom. . . June 8, 1972. . . . January 21, 1977 28 UST 227.
June 25, 1985 . . . December 23, 1986. TIAS.

Uruguay April 6, 1973 . . . April 11, 1984 TIAS 10850.

Venezuele January 19/21, 1922 April 14, 1923 43 Stat. 1698.

Yugoslavia. October 25, 1901. . June 12, 1902. 32 Stat. 1890.

Zambia. December 22, 1931 . June 24, 1935. 47 Stat. 2122.

COURT SECURITY AND THE TRANSPORTATION OF PRISONERS: A NATIONAL STUDY



STATE CODES, LAWS, ORDINANCES & STATUTES

- ♦ Extradition and Detainers
- ♦ Fugitives from Justice
- ♦ Proceedings and Procedures
- ♦ Uniform Criminal Justice/Extradition Acts

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CODE OF ALABAMA 1975
TITLE 15. CRIMINAL PROCEDURE.
CHAPTER 9. FUGITIVES FROM JUSTICE, EXTRADITION AND DETAINERS.
ARTICLE 2. EXTRADITION.

Division 1. General Provisions.

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Current through Act 93-928, approved 9-2-93

s 15-9-20 Definitions.

For the purposes of this article, the following terms shall have the meanings respectively ascribed to them by this section:

- (1) Governor. Any person performing the functions of governor by authority of the law of this state.
- (2) Executive authority. The governor and any person performing the functions of governor in a state other than this state.
- (3) State. Such term, when referring to a state other than Alabama, refers to any other state or territory of the United States of America.

s 15-9-30 Duty of governor to have arrested and deliver foreign fugitive.

Subject to the qualifications of this division, the controlling provisions of the Constitution of the United States and acts of congress 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.

s 15-9-31 Form of demand.

No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing and accompanied by a copy of an indictment found, or by an information supported by affidavit, in the state having jurisdiction of the crime or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereon. 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 must be authenticated by the executive authority making the demand, which shall be prima facie evidence of its truth.

s 15-9-32 Investigation of demand.

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.

s 15-9-33 What supporting documents to show.

A warrant of extradition must not be issued unless the documents presented by the executive authority making the demand show that the accused was present in the demanding state at the time of the commission of the alleged crime and that he thereafter fled from that state and is now in this state, and that he is lawfully charged by indictment or by an information filed by a prosecuting officer and supported by affidavit to the facts, or by affidavit made before a magistrate in that state, with having committed a crime under the laws of that state, or that he has been convicted of crime in that state and has escaped from confinement or broken his parole.

s 15-9-34 Surrender of person committing act in Alabama resulting in crime in another state.

On demand of the executive authority of any other state, the governor of this state may also surrender any person in this state charged on indictment found in such other state with committing an act in this state intentionally resulting in a crime in such other state, and the provisions of this division not otherwise inconsistent shall apply in such cases, notwithstanding that the accused was not in that state at the time of the commission of the crime and has not fled therefrom.

s 15-9-35 Arrest warrant -- Issuance; contents.

If the governor shall decide that an extradition demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal and be directed to a sheriff, marshal, coroner or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issue.

s 15-9-36 Arrest warrant -- Authorization to arresting officer.

A warrant of arrest issued by the governor under this division shall authorize the officer or other person to whom directed to arrest the accused at any place where he may be found within the state and to command the aid of all sheriffs and other peace officers in the execution of the warrant, and to deliver the accused subject to the provisions of this division to the duly authorized agent of the demanding state.

s 15-9-37 Authority of arresting officer to command assistance; refusal to assist arresting officer.

Every officer or other person empowered to make an arrest pursuant to a warrant issued under this division shall have the same authority in arresting an accused to command assistance therein as sheriffs and other officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

s 15-9-38 Right of arrestee to be informed; application for writ of habeas corpus; penalty for violation of section.

(a) No person arrested upon a warrant of arrest issued under this division shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he has been informed of the demand made for his surrender, the crime with which he is charged and that he has the right to demand legal counsel.

(b) If the prisoner, his friends or counsel shall state that he or they desire to test the legality of the arrest, the prisoner shall be taken forthwith before a judge of a district or circuit court in this state, who 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 public 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.

(c) 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 disobedience of this section shall be guilty of a misdemeanor, and on conviction shall be fined not more than \$1,000.00 or be imprisoned not more than six months or both.

s 15-9-39 Confinement of prisoner.

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

s 15-9-40 Arrest prior to requisition.

Whenever any person within this state shall be charged on the oath of any credible person before any district or circuit court judge of this state with the commission of any crime in any other state and, except in cases arising under section 15-9-34, with having fled from justice; or whenever complaint shall have been made before any district or circuit court judge 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, that the accused has been charged in such state with the commission of the crime and, except in cases arising under section 15-9-34, that he has fled from justice and is believed to have been found in this state, the judge shall issue a warrant directed to the sheriff of the county in which the oath or complaint is filed, directing him to apprehend the person charged, wherever he may be found in this state, and bring him before the same or any other district or circuit court judge who may be convenient of access to the place where the arrest may be made to answer the charge or complaint and affidavit. A certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

s 15-9-41 Arrest without warrant -- When authorized; persons authorized to make arrest; appearance of accused before judge.

The arrest of a person may be lawfully made also by an officer or a private citizen without a warrant upon reasonable information that the accused stands charged with a crime punishable by death or life imprisonment in the courts of another state. When so arrested, the accused must be taken before a district or circuit court judge with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in section 15-9-40, and thereafter his answer shall be heard as if he had been arrested on a warrant.

s 15-9-42 Arrest without warrant -- Commitment to jail or admission to bail.

If, from the examination before the district or circuit court judge, it appears that the person held is the person charged with having committed the crime alleged, that he probably committed the crime and, except in cases arising under section 15-9-34, that he has fled from justice, the judge must commit him to jail by a warrant reciting the accusation for such a time 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 gives bail as provided in section 15-9-43, or until he shall be legally discharged.

s 15-9-43 Arrest without warrant -- When accused to be admitted to bail; conditions of bail.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, the district or circuit court judge must admit the person arrested to bail by bond or undertaking, with sufficient sureties and in such sum as he deems proper, for his appearance before him at a time specified in such bond or undertaking, and for his surrender, to be arrested upon the warrant of the governor of this state.

s 15-9-44 Arrest without warrant -- Failure to arrest accused on governor's warrant within time specified.

If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant, bond or undertaking, the district or circuit court judge may discharge him, may recommit him to a further day or may again take bail for his appearance and surrender, as provided in section 15-9-43. At the expiration of the second period of commitment, or if he has been bailed and appeared according to the terms of his bond or undertaking, the judge may either discharge him or may require him to enter into a new bond or undertaking to appear and surrender himself at another day.

s 15-9-45 Arrest without warrant -- Forfeiture of bail.

If the prisoner is admitted to bail and fails to appear and surrender himself according to the condition of his bond, the court, by proper order, shall declare the bond forfeited, and recovery may be had thereon in the name of the state as in the case of other bonds or undertakings given by the accused in criminal proceedings within this state.

s 15-9-46 When prosecution already instituted in Alabama.

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor, at his discretion, either may surrender him on the demand of the executive authority of another state, or may hold him until he has been tried and discharged or convicted and punished in this state.

s 15-9-47 Inquiry into guilt or innocence of accused.

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 provided in this division shall have been presented to the governor, except as it may be involved in identifying the accused held as the person charged with the crime.

s 15-9-48 Constraint on use for collection of debt, demand or claim.

Nothing in this division shall be construed as authorizing the extradition of any person in this state to any other state where the extradition proceedings, directly or indirectly, seek to aid in the collection of any debt, demand or claim against the party sought to be extradited.

s 15-9-49 Recall of warrant or issuance of alias.

Under this division, the governor may recall his warrant of arrest or may issue another warrant whenever he deems proper.

s 15-9-60 Warrant for fugitives from Alabama.

Whenever the governor of this state shall demand a person charged with crime in this state from the chief executive of any other state or of the District of Columbia, 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.

s 15-9-61 Application by district attorney to governor for requisition; filing and forwarding of papers and requisition.

(a) When the return to this state of a person charged with crime in this state is required, the district attorney of the county in which the offense is

committed 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 charged, the crime charged against him, the approximate time, place and circumstances of its committal, the state in which he is believed to be, including the location of the accused therein at the time the application is made, and certification that, in the opinion of the said district 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.

(b) The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the court, stating the offense with which the accused is charged.

(c) The district attorney may also attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted with such application.

(d) One copy of the application, with the action of the governor indicated by endorsement thereon, and one of the certified copies of the indictment or complaint or information and affidavit 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.

s 15-9-62 Payment of expenses of returning accused to Alabama; fees and expenses of officers.

When the punishment of the crime shall be the confinement of the criminal in the penitentiary or death, the expenses incurred in bringing an accused back to the state of Alabama shall be paid out of the state treasury, on the certificate of the governor and warrant of the comptroller. In all other cases, they shall be paid out of the county treasury in the county wherein the crime is alleged to have been committed. Notwithstanding any other provision of law regulating expenses of state officers and employees, the sheriff or other agent shall receive \$8.00 per day while going to and returning from the place where the prisoner is arrested or confined and actual necessary expenses, including expenses of transportation; if train or bus is used, actual cost of transportation shall be allowed, but if the trip is made in the personal car of the sheriff or other agent of the state there shall be allowed for transportation \$.10 for each mile traveled. There shall also be allowed the fees paid to the officers of the state on whose governor the requisition is made.

s 15-9-63 Exemption from process in civil actions.

A person brought into this state on extradition based upon a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceeding to answer when he is returned until he has been convicted in the criminal proceeding or, if acquitted, until he has had ample opportunity to return to the state from which he was extradited.

s 15-9-64 Trial for crimes other than those specified in requisition.

After a person has been brought back to this state upon extradition proceedings, he may be tried in this state for other crimes which he may be charged with having committed in Alabama, in addition to those specified in the requisition for his extradition.

s 15-9-65 Fees and expenses of sheriff when accused returns without requisition.

In cases where notice is received in this state from the authorities in another state that a person has been arrested for a crime committed in this state, and the sheriff of the county in which said crime was committed goes to the state aforesaid and the person aforesaid consents to return with said sheriff without requisition from the governor, said sheriff shall be entitled to the fees and expenses now provided by law where requisitions issue. This section shall apply to felonies and misdemeanors alike, whether there be a conviction of the person apprehended or not.

s 15-9-80 Short title.

This article may be cited as the Uniform Mandatory Disposition of Detainers Act.

s 15-9-81 Adoption and text of agreement on detainers.

The agreement on detainers is hereby enacted into law and entered into by the state of Alabama with any and all jurisdictions legally joining therein, in the form substantially as follows:

AGREEMENT ON DETAINERS

The contracting states solemnly agree that:

Article I.

The party states find that charges outstanding against a prisoner, detainers based on untried indictments, informations or complaints and difficulties in securing speedy trial of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainers based on untried indictments, informations or complaints. The party states also find that proceedings with reference to such charges and detainers, when emanating from another jurisdiction, cannot properly be had in the absence of cooperative procedures. It is the further purpose of this agreement to provide such cooperative procedures.

Article II.

As used in this agreement:

(a) "State" shall mean a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

(b) "Sending state" shall mean a state in which a prisoner is incarcerated at the time that he initiates a request for final disposition pursuant to article III hereof or at the time that a request for custody or availability is initiated pursuant to article IV hereof.

(c) "Receiving state" shall mean the state in which trial is to be had on an indictment, information or complaint pursuant to article III or article IV hereof.

Article III.

(a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial within 180 days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information, or complaint; provided, that for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner and any decision of the state parole agency relating to the prisoner.

(b) The written notice and request for final disposition referred to in paragraph (a) hereof shall be given or sent by the prisoner to the warden, commissioner of corrections or other official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

(c) The warden, commissioner of corrections or other official having custody of the prisoner shall promptly inform him of the source and contents of any detainer lodged against him and shall also inform him of his right to make a request for final disposition of the indictment, information or complaint on which the detainer is based.

(d) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden, commissioner of corrections or other official having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this paragraph shall be accompanied by copies of the prisoner's written notice, request and the certificate. If trial is not had on any indictment, information or complaint contemplated hereby prior to the return of the prisoner to the original place of

imprisonment, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

(e) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of paragraph (d) hereof, and a waiver of extradition to the receiving state to serve any sentence there imposed upon him, after completion of his term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of his body in any court where his presence may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law.

(f) Escape from custody by the prisoner subsequent to his execution of the request for final disposition referred to in paragraph (a) hereof shall void the request.

Article IV.

(a) The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall be entitled to have a prisoner against whom he has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with article V(a) hereof upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated; provided, that the court having jurisdiction of such indictment, information or complaint shall have duly approved, recorded and transmitted the request; and provided further, that there shall be a period of 30 days after receipt by the appropriate authorities before the request be honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability, either upon his own motion or upon motion of the prisoner.

(b) Upon request of the officer's written request as provided in paragraph (a) hereof, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner and any decisions of the state parole agency relating to the prisoner. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reasons therefor.

(c) In respect of any proceeding made possible by this article, trial shall be commenced within 120 days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

(d) Nothing contained in this article shall be construed to deprive any prisoner of any right which he may have to contest the legality of his delivery as provided in paragraph (a) hereof, but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not

affirmatively consented to or ordered such delivery.

(e) If trial is not had on any indictment, information or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment pursuant to article V(e) hereof, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

Article V.

(a) In response to a request made under article III or article IV hereof, the appropriate authority in a sending state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the state where such indictment, information or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in article III of this agreement. In the case of a federal prisoner, the appropriate authority in the receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in federal custody at the place of trial, whichever custodial arrangement may be approved by the custodian.

(b) The officer or other representative of a state accepting an offer of temporary custody shall present the following upon demand:

(1) Proper identification and evidence of his authority to act for the state into whose temporary custody this prisoner is to be given.

(2) A duly certified copy of the indictment, information or complaint on the basis of which the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made.

(c) If the appropriate authority shall refuse or fail to accept temporary custody of said person, or in the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in article III or article IV hereof, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.

(d) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for his attendance at court and while being transported to or from any place at which his presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

(e) At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state.

(f) During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run, but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow.

(g) For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state, and any escape from temporary custody may be dealt with in the same manner as an escape from

the original place of imprisonment or in any other manner permitted by law.

(h) From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, informations or complaints are pending or in which trial is being had shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping and returning the prisoner. The provisions of this paragraph shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

Article VI.

(a) In determining the duration and expiration dates of the time periods provided in articles III and IV of this agreement, the running of said time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter.

(b) No provision of this agreement, and no remedy made available by this agreement shall apply to any person who is adjudged to be mentally ill.

Article VII.

Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide, within and without the state, information necessary to the effective operation of this agreement.

Article VIII.

This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by inmates or by state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof.

Article IX.

1. This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the Constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the Constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

2. The phrase "appropriate court," as used in the agreement on detainers, shall, with reference to the courts of this state, mean any court with criminal jurisdiction.

3. All courts, departments, agencies, officers and employees of this state and its political subdivisions are hereby directed to enforce the agreement on detainers and to cooperate with one another and with other party states in enforcing the agreement and effectuating its purposes.

4. Escape from custody while in another state pursuant to the agreement on detainers shall constitute an offense against the laws of this state to the same extent and degree as an escape from the institution in which the prisoner was confined immediately prior to having been sent to another state pursuant to the provisions of the agreement on detainers, and shall be punishable in the same manner as an escape from said institution.

5. It shall be lawful and mandatory upon the warden or other official in charge of a penal or correctional institution in this state to give over the person of any inmate thereof whenever so required by the operation of the agreement on detainers.

6. The governor is hereby authorized and empowered to designate an administrator who shall perform the duties and functions and exercise the powers conferred upon such person by article VII of the agreement on detainers.

7. In order to implement article IV(a) of the agreement on detainers, and in furtherance of its purposes, the appropriate authorities having custody of the prisoner shall, promptly upon receipt of the officer's written request, notify the prisoner and the governor in writing that a request for temporary custody has been made and such notification shall describe the source and contents of said request. The authorities having custody of the prisoner shall also advise him in writing of his rights to counsel, to make representations to the governor within 30 days and to contest the legality of his delivery.

s 15-9-82 Right of prisoner to final disposition of untried indictments, etc., pending against him; duty of official having custody of prisoners to inform prisoners of untried indictments, etc.; failure to notify prisoners of filing of detainers.

(a) Any person who is imprisoned in a penal or correctional institution of this state may request final disposition of any untried indictment, information or complaint pending against him in this state. The request shall be in writing addressed to the court in which the indictment, information or complaint is pending and to the district attorney charged with the duty of prosecuting it, and shall set forth the place of imprisonment.

(b) The warden or other like official having custody of prisoners shall promptly inform each prisoner in writing of the source and nature of any untried indictment, information or complaint against him of which the warden or other like official had knowledge or notice, and of his right to make a request for final disposition thereof.

(c) Failure of the warden or other like official to inform a prisoner, as required by this section, within one year after a detainer has been filed at the institution, shall entitle him to a final dismissal of the indictment, information or complaint with prejudice.

s 15-9-83 Action by official having custody of prisoner upon receipt of request for final determination.

The request shall be delivered to the warden or other like official having custody of the prisoner, who shall forthwith:

(1) Certify the term of commitment under which the prisoner is being held, the time already served on the sentence, the time remaining to be served, the good time earned, the time of parole eligibility of the prisoner and any decisions of the state board of pardons and paroles relating to the prisoner; and

(2) Send by registered or certified mail, return receipt requested, one copy of the request and certificate to the court and one copy to the district attorney to whom it is addressed.

s 15-9-84 Time within which indictment, etc., to be brought to trial; continuances; failure to bring indictment, etc., to trial within specified time.

Within 90 days after the receipt of the request and certificate by the court and district attorney or within such additional time as the court for good cause shown in open court may grant, the prisoner or his counsel being present, the indictment, information or complaint shall be brought to trial; but the parties may stipulate for a continuance or a continuance may be granted on notice to the attorney of record and opportunity for him to be heard. If, after such a request, the indictment, information or complaint is not brought to trial within that period, no court of this state shall any longer have jurisdiction thereof, nor shall the untried indictment, information or complaint be of any further force or effect, and the court shall dismiss it with prejudice.

s 15-9-85 Escape by prisoner after request filed.

Escape from custody by any prisoner subsequent to his execution of a request for final disposition of an untried indictment, information or complaint voids the request.

s 15-9-86 Article inapplicable to mentally ill persons.

This article does not apply to any person adjudged to be mentally ill.

s 15-9-87 Notice to prisoners of provisions of article.

The warden or other like official having custody of prisoners shall arrange for all prisoners to be informed in writing of the provisions of this article, and for a record thereof to be placed in the prisoner's file.

s 15-9-88 Construction of article.

This article shall be so construed as to effectuate its general purpose to make uniform the laws of this state with those states joining in the Interstate Agreement on Detainers Act.

W.S. 9-3-103.

s 7-3-225 Service of civil process on person brought into state.

A person brought into this state on extradition based on a criminal charge, is not subject to service of personal process in any civil action arising out of the same facts as the criminal proceedings to answer which he is returned, until he has been convicted in the criminal proceedings, or if acquitted, until he has had ample opportunity to return to the state from which he was extradited.

s 7-3-226 Charging of person brought into state with other crimes.

After a person has been brought back to this state upon 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.

s 7-3-227 Construction of provisions.

This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

ALASKA STATUTES

Title 12. Code of Criminal Procedure.

Chapter 70. Uniform Criminal Extradition Act.

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Current through Ch. 83 of the 1st Regular Session of 1993

Sec. 12.70.010 Fugitives from other states and duty of governor.

Subject to the provisions of this chapter, 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 another state a person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this state.

Sec. 12.70.020 Form of demand.

(a) No demand for the extradition of a person accused but not yet convicted of a crime in another state shall be recognized by the governor of this state unless made in writing and containing the following:

(1) an allegation that the accused was present in the demanding state at the time of the commission of the alleged crime and that thereafter the accused fled the demanding state; except that this allegation shall not be required in a proceeding based on AS 12.70.050;

(2) a copy of an indictment found or an information supported by affidavit in the state having jurisdiction of the crime or by a copy of a complaint, affidavit, or other equivalent accusation made before a magistrate there; the indictment, information, or complaint, affidavit, or other equivalent accusation must substantially charge the person demanded with having committed a crime under the law of that state, and the copy must be authenticated by the executive authority making the demand.

(b) No demand for the extradition of a person convicted of a crime in another state shall be recognized by the governor of this state unless made in writing and containing the following:

(1) a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of bail, probation, or parole;

(2) a copy of the judgment of conviction or of a sentence imposed in execution thereof; the copy must be authenticated by the executive authority making the demand.

Sec. 12.70.030 Investigation of demand and report.

When a demand is made upon the governor of this state by the executive authority of another state for a surrender of a person charged with crime, the governor shall investigate the demand.

Sec. 12.70.040 Extradition of persons imprisoned or awaiting trial in another state or who have left the demanding state under compulsion.

(a) When it is desired to have returned to this state a person charged in

this state with a crime, and that person is imprisoned or is held under criminal proceedings then pending against that person in another state, the governor of this state may agree with the executive authority of the other state for the extradition of that person before the conclusion of the proceedings or the term of sentence in the other state, upon condition that the person be returned to the other state at the expense of this state as soon as the prosecution in this state is terminated.

(b) The governor of this state may also surrender on demand of the executive authority of another state a person in this state who is charged in the manner provided in AS 12.70.220 with having violated the laws of the state whose executive authority is making the demand, even though that person left the demanding state involuntarily.

Sec. 12.70.050 Extradition of person not present in demanding state at time of commission of crime.

The governor of this state may also surrender, on demand of the executive authority of another state, a person in this state charged in the other state in the manner provided in AS 12.70.020 with committing an act in this state, or a third state, intentionally resulting in a crime in the state whose executive authority is making the demand, and the provisions of this chapter not otherwise inconsistent shall apply to those cases, even though the accused was not in that state at the time of the commission of the crime and has not fled from that state.

Sec. 12.70.060 Issue of governor's warrant of arrest.

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

Sec. 12.70.070 Manner and place of execution of the warrant.

The warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where the accused 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 chapter, to the duly authorized agent of the demanding state.

Sec. 12.70.080 Authority of arresting officer to command assistance.

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

Sec. 12.70.090 Rights of accused person and application for writ of habeas corpus.

A person arrested on a warrant may not be delivered over to the agent who the executive authority demanding the person has appointed to receive the person unless the person is first taken immediately before a judge or magistrate of this state, who shall inform the person of the demand made for the person's surrender, and of the crime with which the person is charged, and that the person has the right to demand and procure legal counsel. If the prisoner or the prisoner's counsel states a desire to test the legality of the arrest, the judge or magistrate shall fix a reasonable time to be allowed the prisoner within which to apply for a writ of habeas corpus. When that writ is applied for, notice of the application and of the time and place of hearing on it shall be given to the prosecuting attorney of the judicial district in which the arrest is made and in which the accused is in custody, and to the agent of the demanding state.

Sec. 12.70.100 Penalty for noncompliance with AS 12.70.090.

An officer or other person who delivers to the agent for extradition of the demanding state a person in custody under the governor's warrant, in wilful disobedience to AS 12.70.090, is guilty of a misdemeanor and, on conviction, is punishable by a fine of not more than \$1,000, or by imprisonment for not more than six months, or by both.

Sec. 12.70.110 Confinement in jail when necessary.

(a) 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 a jail in a political subdivision, judicial district, or city of this state through which the officer or person may pass. The keeper of the jail shall receive and safely keep the prisoner until the officer or person having charge of the prisoner is ready to proceed. The officer or person is chargeable with the expense of keeping.

(b) 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 the other state, and who is passing through this state with a prisoner for the purpose of immediately returning that prisoner to the demanding state may, when necessary, confine the prisoner in a jail in a political subdivision, judicial district, or city of this state through which the officer or agent may pass. The keeper of the jail shall receive and safely keep the prisoner until the officer or agent having charge of the prisoner is ready to proceed. The officer or agent is chargeable with the expense of keeping. The officer or agent shall produce and show to the keeper of the jail satisfactory written evidence of the fact that the officer or agent is actually transporting the prisoner to the demanding state after a requisition by the executive authority of the demanding state. The prisoner shall not be entitled to demand a new requisition while in this state.

Sec. 12.70.120 Arrest prior to requisition.

When a person within this state is charged on the oath of a credible person before a judge or magistrate of this state with the commission of a crime in another state and, except in cases arising under AS 12.70.050, 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 bail, probation, or parole; or whenever complaint is made before a judge or magistrate in this state setting out on the affidavit of a credible person in another state that a crime has been committed in the other state and that the accused has been charged in that state with the commission of the crime and, except in cases arising under AS 12.70.050, 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 bail, probation, or parole and is believed to be in this state, the judge or magistrate shall issue a warrant directed to a peace officer commanding the officer to apprehend the person named in the warrant, wherever that person may be found in this state, and to bring that person before the same or another judge or magistrate who is available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit. A certified copy of the sworn charge or complaint or affidavit upon which the warrant is issued shall be attached to the warrant.

Sec. 12.70.130 Arrest without warrant.

The arrest of a person may also be lawfully made by a peace officer or a private person without a warrant upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one year, but when arrested the accused must be taken before a judge or magistrate without unnecessary delay and, in any event, within 24 hours after arrest, including Sundays and holidays, and complaint shall be made against the accused under oath setting out the ground for the arrest as in AS 12.70.120. Thereafter the answer of the accused shall be heard as if the accused had been arrested on a warrant.

Sec. 12.70.140 Commitment to await requisition.

If at 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 AS 12.70.050, that the person has fled from justice, the judge or magistrate shall commit the person to jail for not more than 30 days, 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 gives bail as provided in AS 12.70.150, or until legally discharged. The commitment by the judge or magistrate shall be by a warrant that shall recite the following:

- (1) the accusation against the accused;
- (2) the fact that the commitment is for a time as will enable the arrest of the accused to be made under a warrant of the governor of this state; and
- (3) that in any event the commitment shall be for not more than 30 days.

Sec. 12.70.150 Bail.

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, a judge or magistrate in this state shall admit the prisoner to bail by bond or undertaking, with sufficient sureties, and in a sum the judge or magistrate considers proper, conditioned upon the prisoner's appearance before the judge or magistrate at a time specified in the bond or undertaking and for the prisoner's surrender, to be arrested on the warrant of the governor of this state.

Sec. 12.70.160 Extension of time of commitment.

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 or magistrate may discharge the accused or may recommit the accused for a further period of not more than 60 days, or a judge or magistrate may again take bail for the appearance and surrender of the accused, as provided in AS 12.70.150, but within a period of not more than 60 days after the date of the new bond or undertaking.

Sec. 12.70.170 Forfeiture of bail.

If the prisoner is admitted to bail and fails to appear and surrender according to the conditions of the bond or undertaking, the judge or magistrate, by proper order, shall declare the bond or undertaking forfeited, and order the immediate arrest of the prisoner if the prisoner is within this state. Recovery may be had on the bond or undertaking in the name of the state as in the case of other bonds or undertakings given by the accused in criminal proceedings within this state.

Sec. 12.70.180 Persons under criminal prosecution in this state at time of requisition.

If a criminal prosecution has been instituted against the person under the laws of this state and is still pending, the governor has discretion to surrender that person on demand of the executive authority of another state or hold that person until tried and discharged, or convicted and punished in this state.

Sec. 12.70.190 Inquiry into guilt or innocence of accused.

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

Sec. 12.70.200 Governor's warrant.

The governor may recall the warrant of arrest or may issue another warrant whenever the governor deems proper.

Sec. 12.70.210 Fugitives from this state.

When the governor of this state demands a person charged with crime or with escaping from confinement or breaking the terms of bail, probation, or parole in this state from the executive authority of any other state, or from a judge of the District Court of the United States for the District of Columbia authorized to receive the demand under the laws of the United States, the governor shall issue a warrant under the seal of this state to an agent, commanding the agent to receive the person so charged if delivered to the agent and convey that person to the proper officer of the judicial district in this state in which the offense was committed.

Sec. 12.70.220 Application for issuance of requisition.

(a) When the return to this state of a person charged with a crime in this state is required, the prosecuting attorney of the judicial district in which the offense is committed, or the attorney general, shall present to the governor a written application for a requisition for the return of the person charged. In the application there shall be stated the name of the person so charged, the crime charged, the approximate time, place, and circumstances of its commission, the state in which the accused 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 or the attorney general, 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.

(b) 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 the person's bail, probation, or parole, the prosecuting attorney of the judicial district in which the offense was committed, or the attorney general, the parole or probation authority having jurisdiction over the person, or the commissioner of corrections shall present to the governor a written application for a requisition for the return of that person. In the application there shall be stated the name of the person, the crime for which the person was convicted, the circumstances of the escape from confinement or of the breach of the terms of bail, probation, or parole, and the state in which the person is believed to be, including the location of the person therein at the time the application is made.

(c) The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or 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 attorney general or the prosecuting attorney, the parole or probation authority, or the commissioner of corrections may also attach further affidavits and other documents in duplicate to be submitted with the application. One copy of the application, with the action of the governor indicated by endorsement on the application, and one of the certified copies of the indictment, complaint, information and affidavits,

or judgment or conviction or sentence shall be filed in the office of the governor to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

Sec. 12.70.230 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 proceeding for which the person is being or has been returned, until the person has been convicted in the criminal proceedings, or, if acquitted, until the person has reasonable opportunity to return to the state from which extradited.

Sec. 12.70.240 Written waiver of extradition proceedings.

(a) A person arrested in this state charged with having committed a crime in another state or alleged to have escaped from confinement, or broken the terms of bail, probation, or parole may waive the issuance and service of the warrant provided for in AS 12.70.060 and 12.70.070 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge or magistrate within this state a writing which states that the person consents to return to the demanding state; however, before the waiver is executed or subscribed by that person, the judge or magistrate shall inform that person of the right to the issuance and service of a warrant of extradition and of the right to apply for a writ of habeas corpus as provided for in AS 12.70.090.

(b) If and when that consent is executed, it shall immediately be forwarded to the office of the governor of this state and filed therein. The judge or magistrate shall direct the officer having the person in custody to deliver immediately that person to the duly accredited agent of the demanding state, and shall deliver or cause to be delivered to the agent a copy of the consent.

(c) Nothing in this section is considered to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be considered to be an exclusive procedure or to limit the powers, rights, or duties of the officers of the demanding state or of this state.

Sec. 12.70.250 Nonwaiver by this state.

Nothing in this chapter is considered to constitute a waiver by this state of its right, power, or privilege to try the demanded person for crime committed within this state, or of its right, power, or privilege to regain custody of that person by extradition proceedings or otherwise for the purpose of trial, sentence, or punishment for a crime committed within this state, nor shall a proceeding had under these sections which results in, or fails to result in, extradition be deemed a waiver by this state of any of its rights, privileges, or jurisdiction in any way whatsoever.

Sec. 12.70.260 No immunity from other criminal prosecutions while in this state.

After a person has been brought back to this state through extradition proceedings, or after waiver of extradition proceedings by that person, that person may be tried in this state for other crimes which the person may be charged with having committed here as well as that specified in the requisition for extradition.

Sec. 12.70.270 Interpretation.

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

Sec. 12.70.280 Definitions.

In this chapter

- (1) "executive authority" includes the governor and a person performing the functions of governor in a state other than this state;
- (2) "governor" includes a person performing the functions of governor by authority of the law of this state;
- (3) "state," referring to a state other than this state, includes another state or possession of the United States.

Sec. 12.70.290 Short title.

This chapter may be cited as the Uniform Criminal Extradition Act.

ARIZONA REVISED STATUTES ANNOTATED
TITLE 13. CRIMINAL CODE
CHAPTER 38. MISCELLANEOUS
ARTICLE 5. UNIFORM CRIMINAL EXTRADITION ACT
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Current through 1993 1st Reg. Sess. Ch. 259, & 1st through 4th Sp. Sess.

s 13-3841. Definitions

In this article, unless the context otherwise requires:

1. "Governor" includes any person performing the functions of governor by authority of the law of this state.
2. "Executive authority" includes the governor, and any person performing the functions of governor in a state other than this state.
3. "State," when referring to a state other than this state, means any other state or territory, organized or unorganized, of the United States.

s 13-3842. Fugitives from justice; duty of governor

Subject to the provisions of this article, 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.

s 13-3843. Form of demand

A. No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing and accompanied by a copy of an indictment found or by an information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there.

B. 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 must be authenticated by the executive authority making the demand, which shall be prima facie evidence of its truth.

s 13-3844. 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.

s 13-3845. What papers must show

A warrant of extradition shall not be issued unless the documents presented by the executive authority making the demand show that:

1. Except in cases arising under s 13-3846, the accused was present in the demanding state at the time of the commission of the alleged crime, and thereafter fled from the state;
2. The accused is now in this state, and
3. Is lawfully charged by indictment found or by information filed by a prosecuting officer and supported by affidavit to the facts, or by affidavit made before a magistrate in that state, with having committed a crime under the laws of that state, or that he has been convicted of a crime in that state and has escaped from confinement or broken his parole.

s 13-3846. Extradition of persons not present in demanding state at time of commission of crime

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 s 13-3845 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 article 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.

s 13-3847. Issue of governor's warrant of arrest; its recital

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

s 13-3848. 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 article, to the duly authorized agent of the demanding state.

s 13-3849. 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.

s 13-3850. Duty of arresting officer; application for writ of habeas corpus; notice

A. [FN1] 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 has been informed of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand legal counsel; and if the prisoner, his friends, or counsel shall state that he or they desire to test the legality of his arrest, the prisoner shall be taken forthwith before a judge of a court of record, who 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 public 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.

s 13-3851. Noncompliance with preceding section; classification

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 disobedience to s 13-3850, shall be guilty of a class 2 misdemeanor.

s 13-3852. 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.

s 13-3853. Arrest prior to requisition

When 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 s 13-3846, with having fled from justice, or whenever complaint shall have been made before any judge or magistrate of 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 s 13-3846, has fled therefrom and is believed to be in this state, the judge or magistrate shall issue a warrant directed to the sheriff of the county in which the oath or complaint is filed directing him to apprehend the person charged, wherever he may be found in this state, and bring him before the same or any other judge, magistrate, or court who or which may be 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.

s 13-3854. Arrest without a warrant

The arrest of a person may be lawfully made also by any peace officer or a private citizen without a warrant upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one 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 s 13-3853, and thereafter his answer shall be heard as if he had been arrested on a warrant.

s 13-3855. 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 that he probably committed the crime and, except in cases arising under s 13-3846, that he has fled from justice, the judge or magistrate must commit him to jail by a complaint reciting the accusation for such a time specified in the complaint, not exceeding thirty days, 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 gives bail as provided in s 13-3856 or until he is legally discharged.

s 13-3856. Bail; in what cases; conditions of bond

Unless the offense with which the prisoner is charged is shown to be a capital offense, where the proof is evident or the presumption great, under the laws of the state in which it was committed, a judge or magistrate in this state must admit the person arrested to bail or bond or undertaking, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond or undertaking, and for his surrender, to be arrested upon the warrant of the governor.

s 13-3857. If no arrest made on governor's warrant before the time specified

If the accused is not arrested under warrant of the governor by the expiration of the time specified in the complaint, bond or undertaking, the judge or magistrate may discharge him or may recommit him to a further day, not to exceed sixty days, or may again take bail for his appearance and surrender as provided in s 13-3856, and at the expiration of the second period of commitment, or if he has been bailed and appeared according to the terms of his bond or undertaking, the judge or magistrate may either discharge him, or may require him to enter into a new bond or undertaking, to appear and surrender himself at another day.

s 13-3858. 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 court, by proper order, shall declare the bond forfeited; and recovery may be had thereon in the name of the

state as in the case of other bonds or undertaking given by the accused in criminal proceedings within this state.

s 13-3859. Persons under criminal prosecution in this state at time of requisition

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending the governor, at his discretion, either may surrender him on demand of the executive authority of another state or may hold him until he has been tried and discharged or convicted and punished in this state.

s 13-3860. Guilt or innocence of 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 provided by this article 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.

s 13-3861. Governor may recall warrant or issue alias

The governor may recall his warrant of arrest, or may issue another warrant whenever he deems proper.

s 13-3862. Fugitives from this state; duty of governors

Whenever the governor of this state shall demand a person charged with crime 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 state attorney general or of the county in this state in which the offense was committed.

s 13-3863. Application for issuance of requisition; by whom made; contents

When the return to this state of a person charged with crime in this state is required, the attorney general or county attorney of the county in which the offense is committed 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, and 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 attorney general or county 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. The application shall be verified by affidavit, shall be executed in duplicate and shall be

accompanied by two 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. The attorney general or county attorney may also attach such further affidavits and other documents in duplicate as he 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 one of the certified copies of the indictment, complaint, information and affidavits 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.

s 13-3864. Payment of account of agent; method as exclusive; classification

A. When the governor of this state, in the exercise of the authority conferred by law, demands from the executive authority of any other state or foreign country the surrender to the authorities of this state of a fugitive from justice, the accounts of the persons employed by him for that purpose shall be paid by the state upon presentation to the department of administration division of finance or the county in which the offense was committed upon presentation of the account to the board of supervisors. Should the state or the board of supervisors neglect to pay the claim within thirty days after its presentation, the superior court may, upon petition filed in such court, order the payment of the claim.

B. No compensation, fee or reward shall be paid to or received by a public officer of this state, or other person, for a service rendered in procuring from the governor the demand, the surrender of the fugitive, conveying the fugitive to this state, or detaining him therein, except as provided in this section, and any person receiving or accepting such compensation, fee or reward in violation of the provisions of this section is guilty of a class 2 misdemeanor.

s 13-3865. Exemption from civil process

A person brought into this state on 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 returned, until he has been convicted in the criminal proceeding, or, if acquitted, until he has had ample opportunity to return to the state from which he was extradited.

s 13-3865.01. Written waiver of extradition proceedings; prior waiver

A. Any person arrested in this state who is charged with having committed a crime in another state or alleged to have escaped from confinement or broken the terms of his bail, probation or parole may waive the issuance and service of the warrant provided for in ss 13-3847 and 13-3848 and all other procedures incidental to extradition proceedings by executing or subscribing in the presence of a judge of a court of record within this state a writing which states that he consents to return to the demanding state, except that before the waiver is executed or subscribed to by the person it is the duty of the

judge to inform the person of his right to the issuance or service of a warrant of extradition, the right to contest extradition by habeas corpus as provided in s 13-3850 and the right to bail as provided in s 13-3856.

B. If the consent is duly executed, the judge shall direct the officer who has custody of the person to deliver the person promptly to the accredited agent or agents of the demanding state and to deliver or cause to be delivered to the agent or agents a copy of the consent.

C. Notwithstanding subsection A of this section, a law enforcement agency holding a person who is alleged to have broken the terms of his probation, parole, bail or any other release shall immediately deliver the person to the duly authorized agent of the demanding state without the requirement of a governor's warrant if all of the following apply:

1. The person has signed a prior waiver of extradition as a term of his current probation, parole, bail or other release in the demanding state.
2. The law enforcement agency holding the person has received both of the following:

- (a) An authenticated copy of the prior waiver of extradition signed by the person.

- (b) A photograph and fingerprints properly identifying the person as the person who signed the waiver.

s 13-3866. No right of asylum

After a person has been brought back to this state upon 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.

s 13-3867. Interpretation

The provisions of this article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

s 13-3868. Short title

This article may be cited as the uniform criminal extradition act.

s 13-3869. Extradition of persons to and from Indian reservations

A. Extraditions of persons to and from Indian reservations located in this state shall be available under the provisions of this section only if both the Indian tribal governing body and this state have mutually and formally entered into an extradition compact by which either party may exercise the power of extradition of persons otherwise subject to prosecution by the requesting jurisdiction for crimes committed in their respective jurisdictions.

B. Extradition compacts may relate to any Indian charged with an offense by an Indian tribe if the Indian is a fugitive from justice from such tribe and is found within the jurisdiction of this state or to any Indian or non-Indian charged with an offense by this state if the person is a fugitive from justice

from this state and is found within the jurisdiction of the Indian tribe.

C. If this state is seeking the extradition of an Indian from within the jurisdiction of an Indian tribe in this state, this state, whether or not specified in any extradition compact entered into with the tribe, shall comply with any applicable requirements of tribal extradition law.

D. A demand for extradition of an Indian charged with an offense by an Indian tribe in this state shall not be recognized by this state unless an extradition compact as provided for in this section has been entered into and a written request for extradition is received by the attorney general. The request shall state that the accused person was present on the demanding reservation at the time of the commission of the alleged crime and that thereafter he fled from the reservation to avoid prosecution. The request shall be accompanied by a copy of any warrant issued for the individual, by a copy of any judgment of conviction or sentence imposed, if applicable, and by a sworn statement from a reservation judicial officer that the person who is the subject of the extradition request has escaped or evaded confinement or broken the terms of his probation, bail or parole and that the individual has been charged with committing a specific offense under the laws of the tribe.

E. If a criminal prosecution has been instituted under the laws of this state against a person demanded by a tribe for extradition, and the prosecution is still pending, the attorney general, in his discretion, may either commence extradition proceedings on tribal demand, or hold the individual until he has been tried and discharged or convicted and punished in this state.

F. The attorney general shall submit the documents specified in subsection D of this section to any superior court judge. If the judge decides that the extradition demand should be complied with, he shall issue a warrant of arrest directed to any law enforcement officer. Extradition proceedings under this section shall be conducted between the respective superior court presiding judge and Indian tribal judge or magistrate involved in the request for extradition. The superior court judge may call on the attorney general to investigate the demand for extradition and to report to him the situation and circumstances of the person so demanded and whether he ought to be surrendered.

G. The guilt or innocence of an accused as to the crime with which he is charged may not be inquired into by a superior court judge in any extradition proceeding except as it may be necessary to identify the person being held as the person being charged with the crime. The requirements of this article with respect to participation of the governor do not apply to extradition proceedings brought under this section, unless otherwise agreed to by the parties in the extradition compact entered into between this state and the Indian tribe.

H. A person arrested on a judge's warrant shall not be delivered to an agent appointed by the demanding tribe to receive him until he is first taken before a committing magistrate in this state who shall inform him of the demand for his surrender and of the crime with which he is charged and that he has the right to demand and procure legal counsel. The provisions of s 13-3850 with respect to the availability of habeas corpus apply to all extradition requests made under this section for return of an Indian to an Indian tribal court. Formal extradition proceedings under this section may be waived if the person making the waiver knowingly, and in the presence of a magistrate, signs a statement that he consents to his return to the demanding authority. However, before the waiver may be executed the committing magistrate shall inform the person of his rights and shall inform him of the procedures available under s 13-3850.

I. The law enforcement officer or person executing the judge's warrant of

arrest, or the agent of the demanding tribe to whom the prisoner may have been delivered, may confine the prisoner, if necessary, in the jail of any county or city through which he may pass and the keeper of such jail shall receive and safely keep the prisoner until the law enforcement officer or person having charge of him is ready to proceed on his route. The governmental unit which employs the law enforcement officer or person having custody of the prisoner shall be charged with the expense of keeping the prisoner.

ARKANSAS CODE OF 1987 ANNOTATED
TITLE 16. PRACTICE, PROCEDURE, AND COURTS
SUBTITLE 6. CRIMINAL PROCEDURE GENERALLY
CHAPTER 94. EXTRADITION
SUBCHAPTER 2. UNIFORM CRIMINAL EXTRADITION ACT
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16-94-201 Definitions.

Where appearing in this subchapter, 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. And the term "state" referring to a state other than this state refers to any other state or territory organized or unorganized of the United States of America.

16-94-202 Duty of Governor.

Subject to the qualifications of this subchapter, and the provisions of the Constitution of the United States controlling, and acts of Congress 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.

16-94-203 Procedure generally.

No demand for the extradition of a person charged with crime in another state shall be recognized by the Governor unless in writing and accompanied by a copy of an indictment found or by an information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereon. 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 must be authenticated by the executive authority making the demand, which shall be prima facie evidence of its truth.

16-94-204 Investigation by Attorney General.

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.

16-94-205 Warrant generally.

A warrant of extradition must not be issued unless documents presented by the

executive authority making the demand show that:

I. Except in cases arising under s 16-94-206, the accused was present in the demanding state at the time of the commission of the alleged crime, and thereafter fled from the state;

II. The accused is now in this state; and

III. He is lawfully charged by indictment found or by information filed by a prosecuting officer and supported by affidavit to the facts, or by affidavit made before a magistrate in that state, with having committed a crime under the laws of that state, or that he has been convicted of a crime in that state and has escaped from confinement or broken his parole.

16-94-206 Absence of fugitive from other state when crime committed.

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 s 16-94-205 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 subchapter not otherwise inconsistent shall apply to such cases, notwithstanding that the accused was not in that state at the time of the commission of the crime and has not fled therefrom.

16-94-207 Governor to sign warrant.

If the Governor shall decide that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to a sheriff, marshal, coroner, or other person whom he may think fit to entrust with the execution thereof; and the warrant must substantially recite the facts necessary to the validity of its issue.

16-94-208 Contents of warrant.

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

16-94-209 Arresting officer.

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

16-94-210 Accused to be informed of demand -- 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 has been informed of the demand made for his surrender and of the crime with which he is charged and that he has the right to demand legal counsel; and if the prisoner, his friends, or counsel shall state that he or they desire to test the legality of the arrest, the prisoner shall be taken forthwith before a judge of a court of record in this state, who shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. And when such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the public 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.

16-94-211 Penalty.

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 disobedience to the last section shall be guilty of a misdemeanor, and on conviction shall be fined not more than one thousand dollars (\$1,000) or be imprisoned not more than six (6) months, or both.

16-94-212 Confining of accused in jail while en route.

The officer or person 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 person having charge of him is ready to proceed on his route, such person being chargeable with the expense of keeping.

16-94-213 Arrest prior to requisition.

Whenever any person within this state shall be charged on the oath of any credible person before any judge or other magistrate of this state with the commission of a crime in any other state, and, except in cases arising under s 16-94-206, with having fled from justice; or whenever complaint shall have been made before any judge or other 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 s 16-94-206, has fled therefrom and is believed to have been found in this state, the judge or magistrate shall issue a warrant directed to the sheriff of the county in which the oath or complaint is filed directing him to apprehend the person charged, wherever he may be found in this state, and bring him before the same or any other judge, court, or magistrate who may be 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.

16-94-214 Arrest without warrant.

The arrest of a person may be lawfully made also by an officer or a private citizen without a warrant upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one (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 last section; and thereafter his answer shall be heard as if he had been arrested on a warrant.

16-94-215 Jailing of accused by magistrate.

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 that he probably committed the crime, and, except in cases arising under s 16-94-206, that he has fled from justice, the judge or magistrate must commit him to jail by a warrant reciting the accusation for such a time 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 gives bail as provided in the next section, or until he shall be legally discharged.

16-94-216 Bail.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, the judge or magistrate must admit the person arrested to bail by bond or undertaking, with sufficient sureties, and in such sum as he deems proper, for his appearance before him at a time specified in such bond or undertaking, and for his surrender, to be arrested upon the warrant of the Governor of this state.

16-94-217 Discharge of warrant.

If the accused is not arrested under warrant of the Governor by the expiration of the time specified in the warrant, bond, or undertaking, the judge or magistrate may discharge him or may recommit him to a further day, or may again take bail for his appearance and surrender, as provided in s 16-94-216; and at the expiration of the second period of commitment, or if he has been bailed and appeared according to the terms of his bond or undertaking, the judge or magistrate may either discharge him, or may require him to enter into a new bond or undertaking, to appear and surrender himself at another day.

16-94-218 Forfeiture of bond.

If the prisoner is admitted to bail and fails to appear and surrender himself according to the condition of his bond, the court by proper order shall declare the bond forfeited; and recovery may be had thereon in the name of the state as in the case of other bonds or undertakings given by the accused in criminal proceedings within this state.

16-94-219 Criminal prosecution in this state.

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the Governor at his discretion either may surrender him on the demand of the executive authority of another state or may hold him until he has been tried and discharged or convicted and punished in this state.

16-94-220 Pertinence of guilt or innocence of accused.

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.

16-94-221 Recall of warrant or issuance of alias.

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

16-94-222 Issuance of warrant for fugitives from this state.

Whenever the Governor of this state shall demand a person charged with crime in this state from the chief executive 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.

16-94-223 Obtaining Governor's requisition.

When the return to this state of a person charged with crime in this state is required, the prosecuting attorney (of the county in which the offense is committed) 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, and the approximate time, place, and circumstances of its committal, 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. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two (2) certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the magistrate, stating the offense with which the

accused is charged. The prosecuting officer may also attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted with such application. One (1) copy of the application with the action of the Governor indicated by endorsement thereon, and one (1) of the certified copies of the indictment or complaint or information and affidavit, 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.

16-94-224 Expenses.

When the punishment of the crime shall be the confinement of the criminal in the penitentiary, the expenses shall be paid out of the State Treasury, on the certificate of the Governor and warrant of the State Auditor; and in all other cases they 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 not exceeding cents a mile for all necessary travel in returning such prisoner.

16-94-225 Immunity from service of process.

A person brought into this state on 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 proceeding to answer which he is returned, until he has been convicted in the criminal proceeding, or if acquitted, until he has had ample opportunity to return to the state from which he was extradited.

16-94-226 Trial for other crimes.

After a person has been brought back to this state upon 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.

16-94-227 Construction.

This subchapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

16-94-228 Separability.

If any part of this subchapter is for any reason declared void, such invalidity shall not affect the validity of the remaining portions of this subchapter.

16-94-229 Repealer.

All acts or parts of acts and administrative rules inconsistent with this subchapter are hereby repealed.

16-94-230 Title.

This subchapter may be cited as the "Uniform Criminal Extradition Act."

16-94-231 Effective date.

Whereas, under the present laws there is no effective way whereby the extradition of criminals may be effectively had; and,

Whereas, it is necessary for the preservation of the public peace, health and safety for an efficient statute covering the subject of extradition of criminals, an emergency is hereby declared and this subchapter shall take effect and be in force from and after its approval.

WEST'S ANNOTATED CALIFORNIA CODES
PENAL CODE
PART 2. OF CRIMINAL PROCEDURE
TITLE 12. SPECIAL PROCEEDINGS OF A CRIMINAL NATURE
CHAPTER 4. PROCEEDINGS AGAINST FUGITIVES FROM JUSTICE
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Current through the 1993 portion of the 1993-94 legislative sessions.

s 1548. Words and phrases

As used in this chapter:

- (a) "Governor" means any person performing the functions of Governor by authority of the law of this State.
- (b) "Executive authority" means the Governor or any person performing the functions of Governor in a State other than this State.
- (c) "State," referring to a State other than the State of California, means any other State or Territory, organized or unorganized, of the United States of America.
- (d) "Laws of the United States" means: (1) those laws of the United States passed by Congress pursuant to authority given to Congress by the Constitution of the United States where the laws of the United States are controlling, and (2) those laws of the United States not controlling the several States of the United States but which are not in conflict with the provisions of this chapter.

s 1548.1. Governor; duty to cause arrest and delivery

Subject to the provisions of this chapter, the Constitution of the United States, and the laws of the United States, 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, who has fled from justice and is found in this State.

s 1548.2. Demand for extradition; form and contents; documents to accompany demand; charge of crime; authentication

No demand for the extradition of a person charged with crime in another State shall be recognized by the Governor unless it is in writing alleging that the accused was present in the demanding State at the time of the commission of the alleged crime, and that thereafter he fled from that State. Such demand shall be accompanied by a copy of an indictment found or by information or by a copy of an affidavit made before a magistrate in the demanding State together with a copy of any warrant which was issued thereon; or such demand shall be accompanied by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the executive authority of the demanding State that the person claimed has escaped from confinement or has violated the terms of his bail, probation or parole. 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 of conviction or

sentence must be certified as authentic by the executive authority making the demand.

s 1549. Domestic offender held in foreign state; agreement for extradition and return; surrender of person who left demanding state involuntarily

When it is desired to have returned to this state a person charged in this state with a crime, and the person is imprisoned or is held under criminal proceedings then pending against him or her in another state, the Governor of this state may agree with the executive authority of the other state for the extradition of the person before the conclusion of the proceedings or his or her term of sentence in the other state, upon the condition that the person be returned to the 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 1548.2 with having violated the laws of the demanding state even though such person left the demanding state involuntarily.

s 1549.1. Surrender of person not in demanding state when committing act resulting in crime in demanding state; flight from, or presence in demanding state need not be shown

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 the other state in the manner provided in Section 1548.2 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. The provisions of this chapter, not otherwise inconsistent, shall apply to those cases, even though the accused was not in the demanding state at the time of the commission of the crime, and has not fled therefrom. Neither the demand, the oath, nor any proceedings under this chapter pursuant to this section need state or show that the accused has fled from justice from, or at the time of the commission of the crime was in, the demanding or other state.

s 1549.2. Governor's warrant; direction; recitals

If a demand conforms to the provisions of this chapter, the Governor or agent authorized in writing by the Governor whose authorization has been filed with the Secretary of State shall sign a warrant of arrest, which shall be sealed with the State Seal, and shall be directed to any peace officer or other person whom he may entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance. The provisions of Section 850 shall be applicable to such warrant, except that it shall not be necessary to include a warrant number, address, or description of the subject, provided that a complaint under Section 1551 is then pending against the subject.

s 1549.3. Governor's warrant; authority conferred

Such warrant shall authorize the peace officer or other person to whom it is directed:

- (a) To arrest the accused at any time and any place where he may be found within the State;
- (b) To command the aid of all peace officers or other persons in the execution of the warrant; and
- (c) To deliver the accused, subject to the provisions of this chapter, to the duly authorized agent of the demanding State.

s 1550. Arresting officer; power to command assistance; refusal to assist

Every peace officer or other person empowered to make the arrest hereunder shall have the same authority, in arresting the accused, to command assistance therefor as the persons designated in Section 150. Failure or refusal to render that assistance is a violation of Section 150.

s 1550.1. Prisoner to be taken before magistrate; information as to demand, charge, and right to counsel; habeas corpus, time service

No person arrested upon such warrant shall be delivered over to the agent of the executive authority demanding him unless he is first taken forthwith before a magistrate, 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 counsel. If the accused or his counsel desires to test the legality of the arrest, the magistrate shall remand the accused to custody, and fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. If the writ is denied, and probable cause appears for an application for a writ of habeas corpus to another court, or justice or judge thereof, the order denying the writ shall remand the accused to custody, and fix a reasonable time within which the accused may again apply for a writ of habeas corpus. When an application is made for a writ of habeas corpus as contemplated by this section, a copy of the application shall be served as provided in Section 1475, upon the district attorney of the county in which the accused is in custody, and upon the agent of the demanding state. A warrant issued in accordance with the provisions of Section 1549.2 shall be presumed to be valid, and unless a court finds that the person in custody is not the same person named in the warrant, or that the person is not a fugitive from justice, or otherwise subject to extradition under Section 1549.1, or that there is no criminal charge or criminal proceeding pending against the person in the demanding state, or that the documents are not on their face in order, the person named in the warrant shall be held in custody at all times, and shall not be eligible for release on bail.

s 1550.2. Delivery of prisoner to agent of demanding state without appearance before magistrate; offense; punishment

Any officer or other person entrusted with a Governor's warrant who delivers to the agent of the demanding State a person in his custody under such Governor's warrant, in wilful disobedience to the preceding section, is guilty of a misdemeanor and, on conviction thereof, shall be fined not more than \$1,000 or be imprisoned not more than six months, or both.

s 1550.3. Confinement of prisoner under governor's warrant or of prisoner being taken through state; expense; evidence of authority

The officer or persons executing the Governor's warrant of arrest, or the agent of the demanding State to whom the prisoner has been delivered may confine the prisoner in the jail of any county or city through which he may pass. 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 shall be charged with the expense of keeping the prisoner.

The officer or agent of a demanding State to whom a prisoner has been delivered following extradition proceedings in another State, or to whom a prisoner has 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 confine the prisoner in the jail of any county or city through which he may pass. 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 shall be charged with the expense of keeping the prisoner. 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 thereof. Such prisoner shall not be entitled to demand a new requisition while in this State.

s 1551. Complaint against fugitive; magistrate's warrant; attaching certified copy of complaint and affidavit to warrant

(a) Whenever any person within this State is charged by a verified complaint before any magistrate of this State with the commission of any crime in any other State, or, with having been convicted of a crime in that State and having escaped from confinement, or having violated the terms of his bail, probation or parole; or (b) whenever complaint is made before any 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, or that the accused has been convicted of a crime in that State and has escaped from bail, probation or parole and is believed to be in this State; then the 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 magistrate who is available in or convenient of access to the place where the arrest is made. A certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

s 1551.1. Arrest without warrant; grounds; taking prisoner before magistrate; complaint

The arrest of a person may also be lawfully made by any peace officer, without a warrant, upon reasonable information that the accused stands charged in the

courts of any other state with a crime punishable by death or imprisonment for a term exceeding one year, or that the person has been convicted of a crime punishable in the state of conviction by imprisonment for a term exceeding one year and thereafter escaped from confinement or violated the terms of his or her bail, probation or parole. When so arrested the accused shall be taken before a magistrate with all practicable speed and complaint shall be made against him or her under oath setting forth the ground for the arrest as in Section 1551.

s 1552. Person arrested on magistrate's warrant or without warrant; commitment pending governor's warrant; bail

If at the hearing before the magistrate, it appears that the accused is the person charged with having committed the crime alleged, the magistrate must, by a warrant reciting the accusation, commit him to the county jail for such a time, not exceeding thirty 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 section 1552.1, or until he shall be legally discharged.

s 1552.1. Person arrested on magistrate's warrant or without warrant; bail

Unless the offense with which the prisoner is charged, is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, or it is shown that the prisoner is alleged to have escaped or violated the terms of his parole following conviction of a crime punishable in the state of conviction by imprisonment for a term exceeding one year, the magistrate may admit the person arrested to bail by bond or undertaking, with sufficient sureties, and in such sum as he deems proper, conditioned upon the appearance of such person before him at a time specified in such bond or undertaking, and for his surrender upon the warrant of the Governor of this state. Nothing in this section or in Section 1553 shall be deemed to prevent the immediate service of a Governor's warrant issued under Section 1549.2.

s 1552.2. Person arrested on magistrate's warrant or without warrant; expiration of time; discharge or recommitment; new bail; time limit

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 magistrate may discharge him or may recommit him for a further period of 60 days. In the latter event a justice of the Supreme Court or court of appeal or a judge of the superior court may again take bail for his appearance and surrender, as provided in Section 1552.1 but within a period not to exceed 60 days after the date of such new bond or undertaking.

s 1553. Person arrested on magistrate's warrant or without warrant; non-appearance; forfeiture of bond; order for immediate arrest; recovery on bond

If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond, the 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 people of the State as in the case of other bonds or undertakings given by a defendant in criminal proceedings.

s 1553.1. Pendency of domestic prosecution; discretion to surrender or hold fugitive; restrictions on length of commitment

(a) If a criminal prosecution has been instituted against a person charged under Section 1551 under the laws of this state and is still pending, the Governor, with the consent of the Attorney General, may surrender the person on demand of the executive authority of another state or hold him or her until he or she has been tried and discharged or convicted and served his or her sentence in this state.

(b) If a criminal prosecution has been instituted under the laws of this state against a person charged under Section 1551, the restrictions on the length of commitment contained in Sections 1552 and 1552.2 shall not be applicable during the period that the criminal prosecution is pending in this state.

s 1553.2. Inquiry into guilt or innocence; identification

The guilt or innocence of the accused as to the crime with 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 has been presented to the Governor, except as such inquiry may be involved in identifying the person held as the person charged with the crime.

s 1554. Governor's warrant; recall; reissue

The Governor may recall his warrant of arrest or may issue another warrant whenever he deems it proper.

s 1554.1. Governor's warrant; issuance to agent to receive person demanded from foreign state

Whenever the Governor of this State shall demand the return of a person charged with crime in this State or with escaping from confinement or violating the terms of his bail, probation or parole in this State, from the executive authority of any other State or of any foreign government or the chief justice or an associate justice of the Supreme Court of the District of Columbia authorized to receive such demand, he shall issue a warrant under the seal of this state to an agent, commanding him to receive the person so demanded and to convey him to the proper officer in the county in this State in which the offense was committed.

s 1554.2. Application for requisition from foreign state; contents;

verification; accompanying documents; filing; forwarding copies with requisition

(a) When the return to this state of a person charged with crime in this state is required, the district attorney shall present to the Governor his written application for a requisition for the return of the person charged. In such application there shall be stated the name of the person so charged, the crime charged against him, the approximate time, place and circumstances of its commission, and the state in which he is believed to be, including the location of the accused therein at the time the application is made. Such application shall certify that, in the opinion of the district 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.

(b) When the return to this state is required of a person who has been convicted of a crime in this state and who has escaped from confinement or has violated the terms of his bail, probation or parole the district attorney of the county in which the offense was committed, the Board of Prison Terms, the Director of Corrections, the California Institution for Women, the Youth Authority, or the sheriff of the county from which escape from confinement was made, shall present to the Governor a written application for a requisition for the return of such person. In such application there shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape or of the violation of the terms of his bail, probation or parole, and the state in which he is believed to be, including the location of such person therein at the time application is made.

(c) The application shall be verified, shall be executed in duplicate, and shall be accompanied by two certified copies of the indictment, the information, or the verified complaint made to the magistrate stating the offense with which the accused is charged, or the judgment of conviction or the sentence. The officer or board requesting the requisition may also attach such affidavits and other documents in duplicate as are deemed proper to be submitted with such application. One copy of the application, with the action of the Governor indicated by endorsement thereon, and one of the certified copies of the indictment, verified complaint, information, or judgment of conviction or sentence shall be filed in the office of the Secretary of State. The other copies of all papers shall be forwarded with the Governor's requisition.

(d) Upon receipt of an application under this section, the Governor or agent authorized in writing by the Governor whose authorization has been filed with the Secretary of State, may sign a requisition for the return of the person charged and any other document incidental to that requisition or to the return of the person charged.

s 1555. Exemption of person extradited from civil process in certain actions; time

A person brought into this State on, or after waiver of extradition based on a criminal charge shall not be subject to service of process in civil actions arising out of the same facts as the criminal proceedings for which he is 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.

s 1555.1. Waiver of extradition; method; advice as to rights; filing of waiver; delivery to agent of demanding state; voluntary return

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 Governor's warrant provided for in this chapter and all other procedure incidental to extradition proceedings, by subscribing in the presence of a magistrate within this state a writing which states that he or she consents to return to the demanding state; provided, however, that before such waiver shall be subscribed by such person, the magistrate shall inform him or her of his or her rights to require the issuance and service of a warrant of extradition as provided in this chapter.

If such waiver is executed, it shall forthwith be forwarded to the office of the Governor of this state, and filed therein. The magistrate shall remand the person to custody without bail, unless otherwise stipulated by the district attorney with the concurrence of the other state, and shall direct the officer having such person in custody to deliver such person forthwith to the duly authorized agent of the demanding state, and shall deliver to such agent a copy of such waiver.

Nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, provided that state consents, nor shall this procedure of waiver be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this state.

s 1555.2. Refusal to sign waiver of extradition; hearing; finding of probable cause; order remanding to custody and directing delivery to agents of other state; bail; habeas corpus; time for application

(a) If the arrested person refuses to sign a waiver of extradition under Section 1555.1, a hearing shall be held, upon application of the district attorney, to determine whether the person is alleged to have violated the terms of his release within the past five years on bail or own recognizance while charged with a crime punishable in the charging state by imprisonment for a term exceeding one year, or on probation or parole following conviction of a crime punishable in the state of conviction by imprisonment for a term exceeding one year, and whether, as a condition of that release, the person was required to waive extradition.

(b) At the hearing, the district attorney shall present a certified copy of the order from the other state conditionally releasing the person, including the condition that he was required to waive extradition together with a certified copy of the order from the other state directing the return of the person for violating the terms of his conditional release. The magistrate shall accept these certified copies as conclusive proof of their contents and shall presume the validity of the extradition waiver condition.

(c) If the magistrate finds that there is probable cause to believe that the arrested person is the same person named in the conditional release order and the order commanding his return, the magistrate shall forthwith issue an order remanding the person to custody without bail and directing the delivery of the person to duly accredited agents of the other state.

(d) Notwithstanding the provisions of subdivision (c), the district attorney may stipulate, with the concurrence of the other state, that the arrested

person may be released on bail or own recognizance pending the arrival of duly accredited agents from the other state.

(e) If the arrested person or his counsel desires to test the legality of the order issued under subdivision (c), the magistrate shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. If the writ is denied and probable cause appears for an application for a writ of habeas corpus to another court, or justice or judge thereof, the order denying the writ shall fix a reasonable time within which the accused may again apply for a writ of habeas corpus. Unless otherwise stipulated pursuant to subdivision (d), the arrested person shall remain in custody without bail.

s 1556. Prosecution of extradited person for other offenses

After a person has been brought back to this State by extradition proceedings, he may be tried in this State for other crimes which he may be charged with having committed in this State as well as for the crime or crimes specified in the requisition for his extradition.

s 1556.2. Short title

This chapter may be cited as the Uniform Criminal Extradition Act.

WEST'S COLORADO REVISED STATUTES ANNOTATED
TITLE 16. CRIMINAL PROCEEDINGS
FUGITIVES AND EXTRADITION
ARTICLE 19. FUGITIVES AND EXTRADITION
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Current through all 1993 First Extraordinary Session laws

s 16-19-101. Short title

This article shall be known and may be cited as the "Uniform Criminal Extradition Act".

s 16-19-102. Definitions

As used in this article, unless the context otherwise requires:

- (1) "Executive authority" includes the governor and any person performing the function of governor in a state other than this state.
- (2) "Governor" includes any person performing the functions of governor by authority of the law of this state.
- (3) "State", referring to a state other than this state, includes any other state or territory, organized or unorganized, of the United States.

s 16-19-103. Fugitives from justice

Subject to the provisions of this article, the provisions of the constitution of the United States controlling, and any act 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.

s 16-19-104. Form of demand

No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing alleging, except in cases arising under section 16-19-107, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon, or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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. 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 the indictment, information, affidavit, or judgment of conviction or sentence must be authenticated by the executive authority making the demand.

s 16-19-105. Governor may investigate case

When a demand is 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.

s 16-19-106. Extradition of persons imprisoned or awaiting trial

(1) 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 the other state for the extradition of that person before the conclusion of such proceedings or his term of sentence in the other state, upon condition that such person be returned to the other state at the expense of this state as soon as the prosecution in this state is terminated.

(2) 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 16-19-124 with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

s 16-19-107. Extradition of persons not present where crime committed

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 16-19-104 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 article 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.

s 16-19-108. Issue of governor's warrant

If the governor decides that the demand should be complied with, the governor shall sign a warrant of arrest, which shall be sealed with the state seal and be directed to any peace officer or other person whom the governor may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance. Any electronically or electromagnetically transmitted facsimile of a governor's warrant shall be treated as an original document.

s 16-19-109. Manner and place of execution

The 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 article, to the duly authorized agent of the demanding state.

s 16-19-110. Authority of arresting officer

Every 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.

s 16-19-111. Rights of accused--habeas corpus

No person arrested upon such a warrant shall be delivered over to the agent whom the executive authority demanding him has 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. If the prisoner or his counsel states that he or they desire to test the legality of his arrest, the judge of the 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 agent of the demanding state. Review beyond the court of record shall be only in the supreme court by petition for certiorari, pursuant to such rules as that court may promulgate.

s 16-19-112. Penalty for noncompliance

Any person who delivers to the agent for extradition of the demanding state a person in his custody under the governor's warrant, in willful disobedience to section 16-19-111, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

s 16-19-113. Confinement in jail

The officer or person executing the governor's warrant of arrest, or the agent of the demanding state to whom the prisoner has been delivered, when necessary, may confine the prisoner in the jail in any county or city through which he may pass. The keeper of the 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 person being chargeable with the expense of keeping. The officer or agent of a demanding state to whom a prisoner has been delivered following extradition proceedings in another state, or to whom a prisoner has been delivered after waiving extradition in such other state, and who is passing through this state with the prisoner for the purpose of immediately returning the prisoner to the demanding state, when necessary, may confine the prisoner in the jail of any county or city through which he may pass. The keeper of the 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; but the officer or agent shall produce and show to the keeper of the 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 the demanding state. The prisoner shall not be entitled to demand a new requisition while in this state.

s 16-19-114. Arrest prior to requisition

When any person within this state is charged on the oath of any credible person before any judge of this state with the commission of any crime in any other state and, except in cases arising under section 16-19-107, 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 has been made before any judge in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in the 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 16-19-107, 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 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 or court 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.

s 16-19-115. Arrest without warrant

The arrest of a person may be lawfully made also by any peace officer or a private person 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 one year. When so arrested the accused must be taken before a judge with all practicable speed, and complaint must be made against him under oath setting forth the ground for arrest as in section 16-19-114; and thereafter his answer shall be heard as if he had been arrested on a warrant.

s 16-19-116. Commitment to await requisition—bail

If from the examination before the judge it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under section 16-19-107, that he has fled from justice, the judge shall, by a warrant reciting the accusation, commit him to the county jail for such a time not exceeding thirty days and as 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 gives bail as provided in section 16-19-117, or until he is legally discharged.

s 16-19-116. Commitment to await requisition--bail

If from the examination before the judge it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under section 16-19-107, that he has fled from justice, the judge shall, by a warrant reciting the accusation, commit him to the county jail for such a time not exceeding thirty days and as 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 gives bail as provided in section 16-19-117, or until he is legally discharged.

s 16-19-117. Bail pending extradition

(1) Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state or territory or country in which it is alleged to have been committed, the judge of any district court within the state of Colorado may admit any person arrested, held, or detained for extradition or interstate rendition to another state or territory of the United States or to any foreign country, to bail by bond or undertaking, with such sufficient sureties and in such sum as such judge deems proper, conditioned upon the appearance of such person before the court at a time specified in the bond or undertaking and for such person's surrender upon the warrant of the governor of this state for such person's extradition or interstate rendition to another state or territory of the United States or to any foreign country. When any such person has been served with a governor's warrant, such person shall no longer be eligible to be admitted to bail.

(2) Before granting the bond provided for in subsection (1) of this section, the judge of the district court within the state of Colorado to whom such application for bail is made shall cause reasonable notice to be served upon the district attorney of the judicial district within which an application is made and also upon the person or authority holding or detaining the person.

s 16-19-118. Extension of time

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 of a district court may discharge him or may recommit him for a further period not to exceed sixty days, or a judge of a district court may again take bail for his appearance and surrender, as provided in section 16-19-117, but within a period not to exceed sixty days after the date of the new bond.

s 16-19-119. Forfeiture of bail

If the person so held is admitted to bail as provided for in section 16-19-117 and fails to appear and surrender himself according to the conditions of his bond, the judge of the district court, by proper order, shall declare the bond forfeited and order his immediate arrest without warrant if he is within this

state. Recovery may be had on such bond in the name of the people of the state of Colorado as in the case of other bonds or undertakings given by a defendant in criminal proceedings.

s 16-19-120. Persons under prosecution when demanded

If a criminal prosecution has been instituted against a person under the laws of this state and is still pending, the governor, in his discretion, subject to such criminal prosecution, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

s 16-19-121. When guilt 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 proceedings after the demand for extradition accompanied by a charge of crime in legal form has been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

s 16-19-122. Governor may recall warrant

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

s 16-19-123. Fugitives from this state

When the governor of this state demands 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.

s 16-19-124. Application for requisition

(1) When the return to this state of a person charged with crime in this state is required, the district 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, and 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 district 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 state board of parole, or the superintendent 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, and 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 two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, state board of parole, superintendent, or sheriff may also attach such further affidavits and other documents in duplicate as he deems proper to be submitted with such application. One copy of the application, with the action of the governor indicated by endorsement thereon, and one 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.

s 16-19-125. Immunity from civil process

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 proceeding 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.

s 16-19-126. Written waiver of extradition

(1) 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 bail, probation, or parole may waive the issuance and service of the warrant provided for in sections 16-19-108 and 16-19-109 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 which states that he consents to return to the demanding state; but before the waiver is executed or subscribed by such person it is the duty of the judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in section 16-19-111.

(2) If and when a consent has been duly executed, it shall forthwith be forwarded to the office of the governor of this state and filed therein. The judge shall direct the officer having the person in custody to deliver such person forthwith to the duly accredited agent or agents of the demanding state and shall deliver or cause to be delivered to that agent or those agents a copy of the consent. Nothing in this section shall be deemed to limit the rights of

the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights, or duties of the officers of the demanding state or of this state.

s 16-19-126.5. Prior waiver of extradition

(1) Notwithstanding any other provision of law, a law enforcement agency in the state of Colorado holding a person who is alleged to have broken the terms of such person's probation, parole, bail, or any other conditional release in the demanding state shall immediately deliver the person to the duly authorized agent of the demanding state without the requirement of a demand by the executive authority of the demanding state, and without the requirement of a governor's warrant issued by the governor of the state of Colorado, if such person has signed a prior waiver of extradition as a condition of such person's current probation, parole, bail, or other conditional release in the demanding state.

(2) The law enforcement agency shall immediately deliver any person pursuant to subsection (1) of this section upon the receipt of the following documents, which shall be accepted as conclusive proof of the contents of such documents and of the validity of the waiver set forth therein:

(a) A certified copy of the prior waiver of extradition signed by the person being held by the law enforcement agency, or an electronically or electromagnetically transmitted facsimile thereof;

(b) A certified copy of an order or warrant from the demanding state directing the return of the person for violating the conditions of such person's probation, parole, bail, or other conditional release, or an electronically or electromagnetically transmitted facsimile thereof; and

(c) A photograph, fingerprints, or other evidence which identifies the person held by the law enforcement agency as the person who signed the waiver of extradition and who is named in the order or warrant, or an electronically or electromagnetically transmitted facsimile thereof.

(3) Nothing in this section shall be deemed to limit the right, power, or privilege of the state of Colorado to hold, try, and punish any person demanded by another state for any crime committed in the state of Colorado before delivering such person to the demanding state.

s 16-19-127. Nonwaiver by this state

Nothing contained in this article shall be deemed to constitute a waiver by this state of its right, power, or privilege to try such demanded person for any 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 article 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.

s 16-19-128. Prosecution of other charges

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 committing here as well as that specified in the requisition for his extradition.

s 16-19-129. Security for costs--default--fees

(1) In all cases where complaint is made against any fugitive from justice, the judge or justice in his discretion may require from complainant good and sufficient security for the payment of all costs which may accrue from the arrest and detention of such fugitive, which security shall be by bond to the clerk of the district court, conditioned for the payment of costs, which bond, together with a statement of the costs which have accrued on the examination, shall be returned to the office of the clerk of the district court. Upon the determination of the proceedings against the fugitive within that county, the clerk shall issue a fee bill as in other cases, to be served on the persons named in the bond, or any of them, which fee bill shall be served and returned by the sheriff, for which he shall be allowed the same fees as are given him for serving notices. If the fees are not paid on or before the first day of the next district court to be held in and for that county, nor any cause then shown why they should not be paid, the clerk may issue an execution for the same against those parties on whom the fee bill has been served and when the fees are collected shall pay over the same to the persons respectively entitled thereto. The clerk shall be entitled to one dollar for his trouble in each case, besides the usual taxed fees which are allowed in other cases for like services. Nothing contained in this section shall prevent the clerk from instituting suits on said bonds in the ordinary mode of judicial proceedings, if he deems it proper. The costs which may accrue from the arrest and detention of such fugitive, as described in this section, shall include any reasonable and necessary costs incurred by the district attorney which are directly the result of the prosecution of such fugitive from justice. When such costs are recovered by the clerk, such costs shall be remitted to the office of the district attorney which incurred such costs.

(2) For purposes of this section, reasonable costs incurred by the district attorney include but are not limited to those in section 16-11-501, as well as attorney fees and support staff costs.

s 16-19-130. Rewards--how audited--paid

When the governor is satisfied that the crime of murder or arson or kidnapping has been committed within the state, and that the person charged therewith has not been arrested or has escaped therefrom, he may in his discretion offer a reward not exceeding one thousand dollars for the arrest and delivery to the proper authorities of the person so charged, which reward, upon the certificate of the governor that the same has been earned, shall be audited and paid by the state out of any funds appropriated for that purpose.

s 16-19-131. Escape--reward

If any person charged with or convicted of a felony breaks prison or escapes or flees from justice or absconds and secretes himself, it shall be lawful for the governor, if he judges it necessary, to offer any reward not exceeding two

hundred dollars for apprehending and delivering such person into custody of the sheriff or other officer as he may direct. Upon the person or persons so apprehending and delivering any such person and producing the sheriff's or justice's receipt for the body to the governor, it shall be lawful for the governor to certify the amount of the claim to the controller, who shall issue his warrant on the treasury for the same.

s 16-19-132. Interpretation

The provisions of this article shall be so interpreted and construed as to effectuate its general purposes to make uniform the laws of those states which enact it.

CONNECTICUT GENERAL STATUTES ANNOTATED
 TITLE 54. CRIMINAL PROCEDURE
 CHAPTER 964. UNIFORM CRIMINAL EXTRADITION ACT
 COPR. (c) WEST 1994 No Claim to Orig. Govt. Works

Jurisdiction	Statutory Citation
Alabama	Code 1975, ss 15-9-20 to 15-9-65.
Alaska	AS 12.70.010 to 12.70.290.
Arizona	A.R.S. ss 13-3841 to 13-3869.
Arkansas	A.C.A. ss 16-94-201 to 16-94-231.
California	West's Ann.Cal.Pen.Code, ss 1547 to 1556.2.
Colorado	West's C.R.S.A. ss 16-19-101 to 16-19-133.
Connecticut	C.G.S.A. ss 54-157 to 54-185.
Delaware	11 Del.C. ss 2501 to 2530.
Florida	West's F.S.A. ss 941.01 to 941.30.
Georgia	O.C.G.A. ss 17-13-20 to 17-13-49.
Hawaii	HRS ss 832-1 to 832-27.
Idaho	I.C. ss 19-4501 to 19-4527.
Illinois	S.H.A. 725 ILCS 225/1 to 225/32.
Indiana	West's A.I.C. 35-33-10-3.
Iowa	I.C.A. ss 820.1 to 820.29.
Kansas	K.S.A. 22-2701 to 22-2730.
Kentucky	KRS 440.150 to 440.420.
Louisiana	LSA-C.Cr.P. arts. 261 to 280.
Maine	15 M.R.S.A. ss 201 to 229.
Maryland	Code 1957, art. 41, ss 2-201 to 2-228.
Massachusetts	M.G.L.A. c. 276, ss 11 to 20R.
Michigan	M.C.L.A. ss 780.1 to 780.31.
Minnesota	M.S.A. ss 629.01 to 629.29.
Missouri	V.A.M.S. ss 548.011 to 548.300.
Montana	MCA 46-30-101 to 46-30-413.
Nebraska	R.R.S. 1943 ss 29-729 to 29-758.
Nevada	N.R.S. 179.177 to 179.235.
New Hampshire	RSA 612:1 to 612:30.
New Jersey	N.J.S.A. 2A:160-6 to 2A:160-35.
New Mexico	NMSA 1978, ss 31-4-1 to 31-4-30.
New York	McKinney's CPL ss 570.02 to 570.66.
North Carolina	G.S. ss 15A-721 to 15A-750.
Ohio	R.C. ss 2963.01 to 2963.29.
Oklahoma	22 Okl.St. Ann. ss 1141.1 to 1141.30.
Oregon	ORS 133.743 to 133.857.
Pennsylvania	42 Pa.C.S.A. ss 9121 to 9148.
Puerto Rico	34 L.P.R.A. ss 1881 to 1881bb.
Rhode Island	Gen.Laws 1956, ss 12-9-1 to 12-9-35.
South Dakota	SDCL 23-24-1 to 23-24-39.
Tennessee	T.C.A. ss 40-9-101 to 40-9-130.
Texas	Vernon's Ann. Texas C.C.P. art. 51.13.
Utah	U.C.A. 1953, 77-30-1 to 77-30-28.
Vermont	13 V.S.A. ss 4941 to 4969.
Virgin Islands	5 V.I.C. ss 3801 to 3829.
Virginia	Code 1950, ss 19.2-85 to 19.2-118.

Washington West's RCWA 10.88.200 to 10.88.930.
West Virginia Code 5-1-7 to 5-1-13.
Wisconsin W.S.A. 976.03.
Wyoming W.S.1977, ss 7-3-201 to 7-3-227.

s 54-157. Definitions

Where appearing in this chapter, 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.

s 54-158. Governor's duty to arrest and deliver up fugitive

Subject to the provisions of this chapter, 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.

s 54-159. Requirements for recognition of extradition demand

No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing alleging, except in cases arising under section 54-162, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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. 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 of conviction or sentence must be authenticated by the executive authority making the demand.

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s 54-160. State's attorney and prosecuting attorney to assist governor

When a demand is 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 any state's attorney or prosecuting attorney 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.

s 54-161. Return to this state of person imprisoned or held in another state

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 54-179 with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

s 54-162. Return to another state of person whose act in this state caused crime

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 54-159 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 chapter 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.

s 54-163. Arrest warrant signed by governor

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

s 54-164. Authorization under warrant

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 is 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 chapter, to the duly authorized agent of the demanding state.

s 54-165. Power of arresting officer

Every such 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.

s 54-166. Appearance of accused in court. Habeas corpus

No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him has appointed to receive him unless he is first taken forthwith before a judge of any court having criminal jurisdiction 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 states that he or they desire to test the legality of his arrest, the judge of such court 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 state's attorney of the county in which the arrest is made and in which the accused is in custody, and to the agent of the demanding state.

s 54-167. Penalty for failure of officer to present accused in court

Any officer who delivers to the agent for extradition of the demanding state a person in his custody under the governor's warrant, in wilful disobedience to section 54-166, shall be fined not more than one thousand dollars or be imprisoned not more than six months or both.

s 54-168. Confinement, when

The officer or person executing the governor's warrant of arrest, or the agent of the demanding state to whom the prisoner has been delivered, may, when necessary, confine the prisoner in any community correctional center or in the jail of any city through which he passes; and the community correctional center administrator or the keeper of such jail shall 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 has been delivered following extradition proceedings in another state, or to whom a prisoner has 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 any community correctional center or in the jail of any city through which he passes; and the community correctional center administrator or keeper of such jail shall 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 being chargeable with the expense of keeping; provided such officer or agent shall produce and show to the community correctional center administrator or 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.

s 54-169. Arrest warrant of judge

Whenever any person within this state is charged on the oath of any credible person before any judge of any court of this state having criminal jurisdiction with the commission of any crime in any other state and, except in cases arising under section 54-162, with having fled from justice, or 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 has been made before such judge 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 54-162, 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 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 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.

s 54-170. Arrest without warrant

The arrest of a person may be lawfully made also by any peace officer or a private person, 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 one year, but when so arrested the accused shall be taken before such a judge with all practicable speed and complaint shall be made against him under oath setting forth the ground for the arrest as in section 54-169; and thereafter his answer shall be heard as if he had been arrested on a warrant.

s 54-171. Commitment pending governor's warrant

If from the examination before the judge it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under section 54-162, that he has fled from justice, the judge shall, by a warrant reciting the accusation, commit him to a community correctional center for such a time, not exceeding thirty 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 gives bail as provided in section 54-172, or until he is legally discharged.

s 54-172. Allowance and conditions of bail bond

Unless the offense with which the prisoner is charged is shown to be an

offense punishable by death or life imprisonment under the laws of the state in which it was committed, such a judge in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the governor of this state.

s 54-173. Discharge or recommitment after expiration of period specified in warrant or bond

If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant or bond, such judge may discharge him or may recommit him for a further period not to exceed sixty days, or a judge may again take bail for his appearance and surrender as provided in section 54-172, but within a period not to exceed sixty days after the date of such new bond.

s 54-174. Forfeiture of bond

If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond, the judge, by proper order, shall declare the bond forfeited and order his immediate arrest without warrant if he is within the 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.

s 54-175. Surrender of person against whom criminal prosecution pending in this state

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor, in his discretion, may either surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

s 54-176. Governor not to inquire into guilt or innocence of accused

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 has been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

s 54-177. Recall or new issuance of governor's warrant

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

s 54-178. Governor seeking extradition to issue warrant to agent to receive

accused

Whenever the governor of this state demands 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.

s 54-179. Application by state's attorney, parole board or correction commissioner for return of accused

(a) When the return to this state of a person charged with crime in this state is required, the state's 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 state's 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.

(b) 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 state's attorney of the county in which the offense was committed, the parole board, or the commissioner of correction, 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 and the state in which he is believed to be, including the location of the person therein at the time application is made.

(c) The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The state's attorney, parole board or commissioner of correction may also attach such further affidavits and other documents in duplicate as he deems proper to be submitted with such application. One copy of the application, with the action of the governor indicated by endorsement thereon, and one 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 the state, to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

s 54-180. Immunity of accused to process in civil action arising from same facts

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.

s 54-181. Waiver by accused

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 bail, probation or parole may waive the issuance and service of the warrant provided for in sections 54-163 and 54-164 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court having criminal jurisdiction within this state a writing which states that he consents to return to the demanding state; provided, before such waiver is executed or subscribed by such person, such judge shall inform such person of his rights to the issuance or service of a warrant of extradition and to obtain a writ of habeas corpus as provided in section 54-166. If and when such consent has been executed, it shall forthwith be forwarded to the office of the governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this state.

s 54-182. State's rights not waived

Nothing contained in this chapter shall be deemed to constitute a waiver by the 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 chapter which result in, or fail to result in, extradition be deemed a waiver by this state of any of its rights, privileges or jurisdiction.

s 54-183. Trial for crimes other than those specified in extradition requisition

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 is charged with having committed here as well as that specified in the requisition for his extradition.

s 54-184. Interpretation of chapter

The provisions of this chapter shall be so interpreted and construed as to effectuate the general purpose to make uniform the law of those states which enact it.

s 54-185. Citation of chapter

This chapter may be cited as the Uniform Criminal Extradition Act.

DELAWARE CODE ANNOTATED
TITLE 11. CRIMES AND CRIMINAL PROCEDURE
PART II. CRIMINAL PROCEDURE GENERALLY
CHAPTER 25. EXTRADITION AND DETAINERS
SUBCHAPTER I. EXTRADITION; UNIFORM CRIMINAL EXTRADITION LAW
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Current through 1993 First Sp. Sess., Ch. 172

s 2501 Definitions.

As used in this subchapter, unless the context indicates a different intent:

- (1) "Executive authority" includes the governor and any person performing the functions of governor in a state other than this State.
- (2) "Governor" includes any person performing the functions of Governor by authority of the law of this State.
- (3) "State," referring to a state other than this State, includes any other state or territory, organized or unorganized, of the United States of America.

s 2501 Definitions.

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- (3) "State," referring to a state other than this State, includes any other state or territory, organized or unorganized, of the United States of America.

s 2502 Fugitives from justice; duty of Governor.

Subject to this subchapter, the provisions of the Constitution of the United States and any and all acts of Congress enacted in pursuance thereof, the Governor of this State shall 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.

s 2503 Form of demand.

No demand for the extradition of a person charged with crime in another state shall be recognized by the Governor unless in writing alleging, except in cases arising under s 2506 of this title, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon or by a copy of a judgment of conviction or of a sentence imposed in execution thereof,

together with a statement by the 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. The indictment, information or affidavit made before the magistrate shall substantially charge the person demanded with having committed a crime under the law of that state; and the copy of indictment, information, affidavit, judgment of conviction or sentence shall be authenticated by the executive authority making the demand.

s 2504 Investigation by Governor.

When a demand is 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.

s 2505 Persons imprisoned or awaiting trial; involuntary departure.

(a) 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.

(b) The Governor of this State may surrender, on demand of the executive authority of any other state, any person in this State who is charged in the manner provided in s 2523 of this title with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

s 2506 Persons absent at time of commission of crime.

The Governor of this State may 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 s 2503 of this title 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 chapter 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.

s 2507 Governor's warrant of arrest; issuance.

If the Governor decides that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to any peace officer or other person whom he thinks fit to entrust with the execution thereof. The warrant shall substantially recite the facts

necessary to the validity of its issuance.

s 2508 Contents of warrant.

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 this subchapter, to the duly authorized agent of the demanding state.

s 2509 Authority of arresting officer to command assistance.

Every peace officer or other person empowered to make the arrest under this subchapter 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.

s 2510 Rights of accused; habeas corpus.

No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him has appointed to receive him unless he is first taken forthwith before a judge of a court of record or a justice of the peace 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. If the prisoner or his counsel states that he or they desire to test the legality of his arrest, the judge or justice of the peace 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 Deputy Attorney General of the county in which the arrest is made and in which the accused is in custody, or to the Attorney General or the Chief Deputy Attorney General, and to the agent of the demanding state.

s 2511 Denial of rights of accused; penalty.

Whoever, being an officer, delivers to the agent for extradition of the demanding state a person in his custody under the Governor's warrant, in wilful disobedience of s 2510 of this title, shall be fined not more than \$1,000 or imprisoned not more than 6 months, or both.

s 2512 Confinement in jail.

(a) The officer or persons executing the Governor's warrant of arrest, or the agent of the demanding state to whom the prisoner has been delivered, may, when necessary, confine the prisoner in the jail of any county, town or city through which he passes; and the keeper of such jail shall 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.

(b) The officer or agent of a demanding state to whom a prisoner has been delivered following extradition proceedings in another state, or to whom a prisoner has 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, town or city through which he passes; and the keeper of such jail shall 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. 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.

s 2513 Arrest prior to requisition.

Whenever any person within this State shall be charged on the oath of any credible person before any judge or justice of the peace of this State with the commission of any crime in any other state and, except in cases arising under s 2506 of this title, 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 has been made before any judge or justice of the peace 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 s 2506 of this title, 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 justice of the peace shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein, wherever he is found in this State, and to bring him before the same or any other judge, justice of the peace or court who or which is available in or convenient of access to the place where the arrest is made, to answer the charge or complaint and affidavit.

s 2514 Arrest without warrant.

The arrest of a person may be lawfully made by any peace officer or a private person, 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 shall be taken before a judge or justice of the peace with all practicable speed and complaint shall be made against him under oath setting forth the ground for the arrest as in s 2513 of this title, and thereafter his answer shall be heard as if he had been arrested on a warrant.

s 2515 Commitment awaiting requisition; bail.

If from the examination before the judge or justice of the peace it appears that the person held is the person charged with having committed the crime

alleged and, except in cases arising under s 2506 of this title, that he has fled from justice, the judge or justice of the peace shall, by a warrant reciting the accusation, commit him to 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 gives bail as provided in s 2516 of this title, or until he is legally discharged.

s 2516 Admission to bail; conditions of bond.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or justice of the peace in this State may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the Governor of this State.

s 2517 Extension of time of commitment.

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 justice of the peace may discharge him or may recommit him for a further period not to exceed 60 days, or a judge or justice of the peace may again take bail for his appearance and surrender, as provided in s 2516 of this title, but within a period not to exceed 60 days after the date of such new bond.

s 2518 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 justice of the peace by proper order shall declare the bond forfeited and order his immediate arrest, without warrant if he is 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.

s 2519 Persons under criminal prosecution.

If a criminal prosecution has been instituted against such person under the laws of this State and is still pending, the Governor, in his discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this State.

s 2520 Inquiry into guilt of accused.

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 provided in this subchapter has been presented to the Governor, except as it is involved in identifying the person held as the person charged with the crime.

s 2522 Warrant to receive fugitive from State.

Whenever the Governor of this State demands 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.

s 2523 Application for issuance of requisition.

(a) When the return to this State of a person charged with crime in this State is required, the Attorney General or any Deputy Attorney General 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 and place 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 Attorney General or Deputy Attorney General 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.

(b) 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 Attorney General or any Deputy Attorney General, the parole board, or any agent thereof, probation or court officer, 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.

(c) 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 justice of the peace, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The Attorney General or any Deputy Attorney General, parole board, or any agent thereof, probation or court officer, warden or sheriff may also attach such further affidavits and other documents in duplicate as he deems 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, 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.

s 2524 Costs and expenses.

(a) The actual expenses of agents appointed by the Governor to serve requisition papers may be paid indirectly, by having the agent pay his or her own expenses and then later seek reimbursement by submitting receipts to the State Treasurer; or they may be paid directly, by having the agent pay for his or her expenses with a credit card registered in the name of the Department of Justice.

(1) When the indirect method is chosen, the agent shall be reimbursed only for reasonable, authorized, extradition-related expenses. Further, the State Treasurer shall reimburse the agent only for receipts that have been approved by the Attorney General or 1 of his deputies.

(2) Similarly, when the direct method is chosen, the credit card may be used only for reasonable, authorized, extradition-related expenses; the agent shall be personally liable for any unauthorized excesses or abuses of the credit card.

(b) Upon the conviction of one returned to this State by requisition proceedings, the cost of requisition shall be assessed and paid the same as other costs of the case. Any requisition costs so paid shall forthwith be delivered to the State Treasurer, who shall credit such payment to the requisition fund and send notice of the fact and amount to the Attorney General.

s 2525 Immunity from process in 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.

s 2526 Waiver of requisition.

Any person arrested or detained for the commission of a crime in a foreign jurisdiction, may, after his rights to demand requisition papers have been fully explained to him, waive requisition and consent to return to the jurisdiction in which he is wanted. The waiver of requisition shall be in writing, and shall set forth that he voluntarily waives requisition and that his rights have been fully explained to and understood by him, which shall be signed by the prisoner and 3 other witnesses in his presence. The proper signing of such a waiver of requisition shall constitute ample authority for the sheriff, or other officer having the prisoner in custody, to deliver the prisoner to the duly authorized agent commissioned to receive him. The sheriff, or other officer having the prisoner in charge, before he surrenders the prisoner shall be satisfied that the agent is duly authorized and commissioned to receive the prisoner, and shall, unless the agent is a known peace officer, demand and retain the agent's warrant of authority, which he shall file and

preserve together with the prisoner's waiver of requisition.

s 2527 Preservation of rights of State.

Nothing in this subchapter 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 subchapter 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.

s 2528 Prosecution for other crimes after extradition.

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.

s 2529 Construction.

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

s 2530 Short title.

This subchapter may be cited as the Uniform Criminal Extradition Law.

DISTRICT OF COLUMBIA CODE 1981
PART IV. CRIMINAL LAW AND PROCEDURE.
TITLE 23. CRIMINAL PROCEDURE.

CHAPTER 7. Extradition and Fugitives from Justice.

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Current through Law 9-272 of the 1992-1993 Council Session.

s 23-701 Warrants for the arrest of fugitives from justice.

Whenever any person who is (1) within the District of Columbia, (2) charged with any offense committed in any State, and (3) liable by the Constitution and laws of the United States to be delivered over upon the demand of the Governor of that State, any judge of the Superior Court may, upon complaint on oath or affirmation of any credible witness, setting forth the offense, that the person is a fugitive from justice, and such other matters as are necessary to bring the case within the provisions of law, issue a warrant to bring the person so charged before the Superior Court, to answer the complaint.

(July 29, 1970, 84 Stat. 631, Pub. L. 91-358, title II, s 210(a); 1973 Ed., s 23-701.)

s 23-702 Procedure on arrest of fugitives.

(a) Any person arrested upon a warrant issued pursuant to section 23-701, or arrested within the District of Columbia as a fugitive from justice without a warrant having been issued, shall be taken before the Criminal Division of the Superior Court for preliminary examination on a complaint charging him as a fugitive.

(b) If, upon the examination of the person charged, it shall appear to the court that there is reasonable cause to believe that the complaint is true and that the person may be lawfully demanded of the chief judge, the person shall be detained or released according to law, in like manner as if the offense had been committed in the District of Columbia, to appear before the court at a future date, allowing thirty days to obtain a requisition from the Governor of the State from which the person is a fugitive. The complaint of fugitivity from another jurisdiction shall create a presumption that the person is unlikely to appear if released, which may be overcome only by clear and convincing proof.

(c) If the person so released or detained shall appear before the court upon the day ordered, he shall be discharged, unless he shall be demanded by requisition, pursuant to subsection (g) of this section or section 23-704, or unless the court shall find cause to detain or to release him as provided by subsection (b) until a later day; but regardless of whether the person shall be detained or released as provided in subsection (b) or discharged, his delivery to any person authorized by the warrant of the Governor shall be a discharge of any bond or obligation.

(d) The Chief of Police of the Metropolitan Police Department shall give notice to the police official or sheriff of the city or county from which the person is a fugitive that the person is so held in the District of Columbia.

(e) A person detained as provided by this section shall not be detained in jail longer than to allow a reasonable time for the person receiving the notice required by subsection (d) to apply for and obtain a proper requisition for the person detained according to the circumstances of the case and the distance of

the place where the offense is alleged to have been committed.

(f) (1) At any time prior to the filing of a requisition, a person arrested pursuant to this section may in open court waive further proceedings pursuant to this chapter.

(2) Following waiver, a judge of the Superior Court may, in his discretion, if the United States attorney consents, release the person upon such conditions as the judge shall deem necessary to insure his appearance before the proper official in the State from which he is a fugitive, and shall otherwise order his return to the jurisdiction of that State in the custody of a proper official.

(3) Following waiver, a person not released pursuant to paragraph (2) of this subsection shall be ordered to return to the jurisdiction from which he is a fugitive in the custody of a proper official, and may be detained to await return.

(4) A person detained pursuant to paragraph (3) for more than three days (not including Saturdays, Sundays, and holidays) shall be returned to the court and shall thereupon be released pursuant to paragraph (2), unless the court shall find good reason to extend his detention for an additional three days to obtain the attendance of a proper official of the demanding jurisdiction.

(g) If a person has not waived further proceedings pursuant to subsection (f), and a requisition from the Governor of the jurisdiction from which the person is a fugitive is presented to the court, the court shall order the requisition to be filed and referred to the chief judge for extradition proceedings pursuant to section 23-704, and shall order the person committed pending those proceedings.

(July 29, 1970, 84 Stat. 631, Pub. L. 91-358, title II, s 210(a); 1973 Ed., s 23-702.)

s 23-703 Failure to appear.

Any person released pursuant to section 23-702 who fails to appear as required shall be punished by a fine not exceeding \$5,000 or imprisonment for not more than five years, or both.

s 23-704 Extradition.

(a) In all cases where the laws of the United States provide that fugitives from justice shall be delivered up, the chief judge of the Superior Court shall cause to be apprehended and delivered up fugitives from justice who shall be found within the District of Columbia, in the same manner and under the same regulations as the executive authority of a State is required to do by the provisions of chapter 209 of title 18, United States Code, and all executive and judicial officers are required to obey the lawful precepts or other process issued for that purpose, and to aid and assist in that delivery.

(b) The chief judge of the Superior Court may also surrender, on demand of the Governor of any State, any person in the District of Columbia charged in that State in the manner provided in subsection (a) of this section with committing an act in the District of Columbia, or in another State, intentionally resulting in a crime in the State whose executive authority is making the demand, even though the accused was not in that State at the time of the commission of the crime, and has not fled therefrom.

(c) No person apprehended in accordance with the provisions of subsections (a) and (b) of this section 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 before the chief judge of the Superior Court of the District of Columbia 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.

(d) If the person or his counsel shall state that he desires to test the legality of the person's arrest, the chief judge shall hold a hearing to determine whether the person shall be delivered over as demanded. At the hearing, the person shall have the same rights to challenge his detention and extradition as if the hearing were upon a writ of habeas corpus.

(e) If the chief judge shall order the person delivered over, he may appeal, within twenty-four hours, from that order to the District of Columbia Court of Appeals if the chief judge who rendered the order, or a judge of the District of Columbia Court of Appeals, issues a certificate of probable cause. The appeal shall be expedited by the District of Columbia Court of Appeals. An application for a writ of habeas corpus on behalf of a person who is authorized to demand a hearing pursuant to this subsection shall not be entertained if it appears that the applicant has failed to demand such a hearing or that the chief judge, after hearing, has ordered him delivered over, unless it also appears that the remedy by hearing is inadequate or ineffective to test the legality of his detention.

(f) Nothing contained in this subsection shall prevent a person from waiving his right to appear before the chief judge of the Superior Court and voluntarily returning in custody of a proper official to the jurisdiction of the State which is demanding him.

(g) No person demanded by the Governor of a State pursuant to this section shall be released upon bond or other obligation except pursuant to an order of a court of the demanding State.

(h) Any associate judge designated by the chief judge or acting chief judge shall have the same power to act pursuant to this section as the chief judge.

s 23-705 Removal proceedings and returns to foreign countries not affected.

Nothing contained in this chapter shall repeal, modify, or in any way affect existing law concerning the procedure for the return of any person apprehended in the District of Columbia to a Federal judicial district to answer a Federal charge, or repeal, modify, or affect existing law or treaty concerning the return to a foreign country of a person apprehended or detained in the District of Columbia as a fugitive from a foreign country.

s 23-706 Confinement.

(a) The agent of the demanding State to whom the prisoner may have been delivered in accordance with the provisions of section 23-704, may, when necessary, confine the prisoner in a facility of the District of Columbia Department of Corrections, and the Department of Corrections must receive and safely keep the prisoner for such reasonable time as will enable the officer or person having charge of him to proceed on his route, such officer or person being chargeable with the expense of keeping.

(b) 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 the other State, and who is passing through the District of Columbia with a prisoner for the purpose of immediately returning the prisoner to the demanding State, may, when necessary, confine the prisoner in a facility of the Department of Corrections. The Department of Corrections must receive and safely keep the prisoner for such reasonable time as will enable the officer or agent to proceed on his route, such officer or agent being chargeable with the expense of keeping. That officer or agent shall produce and show to the Department of Corrections satisfactory written evidence of the fact that he is actually transporting the prisoner to the demanding State after a requisition by the executive authority of the demanding State. The prisoner shall not be entitled to demand a new requisition while in the District of Columbia.

s 23-707 Definitions.

For purposes of this chapter --

- (1) the term "State" includes any territory or possession of the United States; and
- (2) the term "Governor" means the executive authority of a State.

WEST'S FLORIDA STATUTES ANNOTATED
TITLE XLVII. CRIMINAL PROCEDURE AND CORRECTIONS
CHAPTER 941. CORRECTIONS: INTERSTATE COOPERATION
PART I. UNIFORM INTERSTATE EXTRADITION
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Jurisdiction	Statutory Citation
Alabama	Code 1975, ss 15-9-20 to 15-9-65.
Alaska	AS 12.70.010 to 12.70.290.
Arizona	A.R.S. ss 13-3841 to 13-3869.
Arkansas	A.C.A. ss 16-94-201 to 16-94-231.
California	West's Ann. Cal. Penal Code, ss 1547 to 1556.2.
Colorado	West's C.R.S.A. ss 16-19-101 to 16-19-133.
Connecticut	C.G.S.A. ss 54-157 to 54-185.
Delaware	11 Del.C. ss 2501 to 2530.
Florida	West's F.S.A. ss 941.01 to 941.30.
Georgia	O.C.G.A. ss 17-13-20 to 17-13-49.
Hawaii	HRS ss 832-1 to 832-27.
Idaho	I.C. ss 19-4501 to 19-4527.
Illinois	S.H.A. 725 ILCS 225/1 to 225/32.
Indiana	West's A.I.C. 35-33-10-3.
Iowa	I.C.A. ss 820.1 to 820.29.
Kansas	K.S.A. 22-2701 to 22-2730.
Kentucky	KRS 440.150 to 440.420.
Louisiana	LSA-C.Cr.P. arts. 261 to 280.
Maine	15 M.R.S.A. ss 201 to 229.
Maryland	Code 1957, art. 41, ss 2-201 to 2-228.
Massachusetts	M.G.L.A. c. 276, ss 11 to 20R.
Michigan	M.C.L.A. ss 780.1 to 780.31.
Minnesota	M.S.A. ss 629.01 to 629.29.
Missouri	V.A.M.S. ss 548.011 to 548.300.
Montana	MCA 46-30-101 to 46-30-413.
Nebraska	R.R.S.1943, ss 29-729 to 29-758.
Nevada	N.R.S. 179.177 to 179.235.
New Hampshire	RSA 612:1 to 612:30.
New Jersey	N.J.S.A. 2A:160-6 to 2A:160-35.
New Mexico	NMSA 1978, ss 31-4-1 to 31-4-30.
New York	McKinney's CPL ss 570.02 to 570.66.
North Carolina	G.S. ss 15A-721 to 15A-750.
Ohio	R.C. ss 2963.01 to 2963.29.
Oklahoma	22 Okl.St. Ann. ss 1141.1 to 1141.30.
Oregon	ORS 133.743 to 133.857.
Pennsylvania	42 Pa.C.S.A. ss 9121 to 9148.
Puerto Rico	34 L.P.R.A. ss 1881 to 1881bb.
Rhode Island	Gen. Laws 1956, ss 12-9-1 to 12-9-35.
South Dakota	SDCL 23-24-1 to 23-24-39.
Tennessee	T.C.A. ss 40-9-101 to 40-9-130.
Texas	Vernon's Ann. Texas C.C.P. art. 51.13.
Utah	U.C.A.1953, 77-30-1 to 77-30-28.
Vermont	13 V.S.A. ss 4941 to 4969.
Virgin Islands	5 V.I.C. ss 3801 to 3829.

Virginia Code 1950, ss 19.2-85 to 19.2-118.
Washington West's RCWA 10.88.200 to 10.88.930.
West Virginia Code, 5-1-7 to 5-1-13.
Wisconsin W.S.A. 976.03.
Wyoming W.S.1977, ss 7-3-201 to 7-3-227.

941.01. Definition

Where appearing in this chapter, 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.

941.02. Fugitives from justice; duty of Governor

Subject to the provisions of this chapter, 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.

941.03. Form of demand

No demand for the extradition of a person charged with crime in another state shall be recognized by the Governor unless in writing alleging, except in cases arising under s. 941.06, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by an authenticated copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of a warrant supported by an affidavit made before a committing magistrate of the demanding state; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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. 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 of conviction, or sentence must be authenticated by the executive authority making the demand.

941.04. 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 Department of Legal Affairs 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.

941.06. Extradition of persons not present in demanding state at time of commission of crime

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 s. 941.03 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 chapter 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.

941.07. Issue of Governor's warrant of arrest; its recitals

If the Governor decides that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant shall be sufficient if it substantially recites facts to show that an extraditable crime has been committed under the laws of the demanding state.

941.08. 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 chapter, to the duly authorized agent of the demanding state.

941.09. 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.

941.10. Rights of accused person; application for writ of habeas corpus

(1) 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 state attorney for 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.

(2) A warrant issued under s. 941.07 shall be presumed to be valid, and unless a court finds that the person in custody is not the same person named in the warrant, or that the person is not a fugitive from justice, or otherwise subject to extradition under s. 941.06, or that there is no criminal charge or criminal proceeding pending against the person in the demanding state, or that the documents are not on their face in order, the person named in the warrant shall be held in custody at all times and shall not be eligible for release on bail.

941.11. Penalty for noncompliance 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 willful disobedience to the last section, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

941.12. Confinement in jail when necessary

(1) 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 legal sufficiency of his arrest has been determined by the court and the officer or person having charge of him is ready to proceed on his route; such officer or person shall pay the jailer holding the prisoner the costs of his jailing and keeping.

(2) 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.

941.13. 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 s. 941.06 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 s. 941.06, 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.

941.14. Arrest without a warrant

The arrest of a person may be lawfully made also by any peace officer or a private person, 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.

941.15. 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 s. 941.06, 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.

941.16. Bail; in what cases; conditions of bond

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or other judicial officer having power of commitment in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the Governor of this state.

941.17. 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 or bond, a judge or magistrate may discharge him or may recommit him for a further period not to exceed 60 days, or a judge or magistrate judge may again take bail for his appearance and surrender, as provided in s. 941.16, but within a period not to exceed 60 days after the date of such new bond.

941.18. 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.

941.19. Persons under criminal prosecution in this state at time of requisition

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the Governor, in his discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

941.20. Guilt or innocence of 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.

941.21. Governor may recall warrant or issue alias

The Governor may recall his warrant or warrants of arrest or may issue another warrant whenever he deems proper.

941.22. 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.

941.23. 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 bailiff or state 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 state 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 state attorney of the county in which the offense was committed, the Parole Commission, the Department of Corrections, 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, and 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 two certified copies of the indictment returned or information and affidavit filed or of the complaint made to the judge, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, Parole Commission, Department of Corrections, warden, or sheriff may also attach such further affidavits and other documents in duplicate as he 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 one 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 Department of State to remain of record in that office. The other copies of all papers shall be forwarded with the Governor's requisition.

941.24. Costs and expenses

The costs and expenses of confinement of persons convicted in this state after extradition shall be paid as now or hereafter provided by law.

941.25. 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.

941.26. Written waiver of extradition proceedings

(1) 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 bail, probation, or parole may waive the issuance and service of the warrant provided for in ss. 941.07 and 941.08, 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 which states that he consents to return to the demanding state; provided, however, that before such waiver shall be executed or subscribed by such person, it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in s. 941.10.

(2) If and when such consent has been duly executed, it shall forthwith be forwarded to the office of the Governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights, or duties of the officers of the demanding state or of this state.

(3) Notwithstanding any other provision of law, a law enforcement agency in this state holding a person who is alleged to have broken the terms of his probation, parole, bail, or other release in the demanding state shall immediately deliver the person to the duly authorized agent of the demanding state without the requirement of a governor's warrant if:

- (a) The person has signed a prior waiver of extradition as a term of his current probation, parole, bail, or other release in the demanding state; and
- (b) The law enforcement agency holding the person has received a copy of the prior waiver of extradition signed by the person and confirmed by the demanding agency, as well as photographs or fingerprints or other evidence properly identifying the person as the person who signed the waiver.

941.27. Nonwaiver by this state

Nothing in this chapter 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 chapter 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.

941.28. 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.

941.29. Interpretation

The provisions of ss. 941.01-941.30 shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those states which enact it.

941.30. Short title; ss. 941.01-941.29

Sections 941.01-941.29 may be cited as the "Uniform Criminal Extradition Law."

CODE OF GEORGIA
TITLE 17. CRIMINAL PROCEDURE
CHAPTER 13. CRIMINAL EXTRADITION
ARTICLE 2. UNIFORM CRIMINAL EXTRADITION ACT
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17-13-20 Short title.

This article may be cited as the "Uniform Criminal Extradition Act."

17-13-21 Definitions.

As used in this article, the term:

- (1) "Executive authority" includes the Governor and any person performing the functions of governor in a state other than this state.
- (2) "Governor" includes any person performing the functions of governor by authority of the laws of this state.
- (3) "State," referring to a state other than this state, includes the District of Columbia and any other state or territory, organized or unorganized, of the United States of America.

17-13-22 Duty of Governor to have fugitives from justice arrested and delivered to executive authorities of other states.

Subject to this article, the Constitution of the United States, 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 any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this state.

17-13-23 Form of demand for extradition of person charged with crime in another state.

No demand for the extradition of a person charged with a crime in another state shall be recognized by the Governor unless in writing, alleging, except in cases arising under Code Section 17-13-25, that the accused was present in the demanding state at the time of the commission of the alleged crime and that thereafter he fled from the state, and accompanied by a copy of an indictment found, or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon, or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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. The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of the state; and the copy of the indictment, information, affidavit, judgment of conviction, or sentence must be authenticated by the executive authority making the demand.

17-13-24 Extradition of person imprisoned or awaiting trial in another state or who has left the demanding state under compulsion.

(a) 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 the other state for the extradition of the person before the conclusion of the proceedings or of his term of sentence in the other state, upon condition that the person be returned to the other state, at the expense of this state, as soon as the prosecution in this state is terminated.

(b) 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 Code Section 17-13-43 with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

17-13-25 Extradition of persons not present in demanding state at time of commission of crime.

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 Code Section 17-13-23 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 article 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.

17-13-26 Investigation of case upon receipt of demand for extradition.

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

17-13-27 Issue of Governor's warrant of arrest; recitals.

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

17-13-28 Manner and place of execution of warrant.

The 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, to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to other provisions of this article, to the duly authorized agent of the demanding state.

17-13-29 Authority of arresting officers; penalties for refusal to assist arresting officers.

Every 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.

17-13-30 Rights of accused person; application for writ of habeas corpus; hearing; penalty.

(a) No person arrested upon a 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, of the crime with which he is charged, and that he has the right to demand and procure legal counsel. If the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the judge of the court of record shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When the 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 agent of the demanding state.

(b) 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 willful disobedience of subsection (a) of this Code section, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000.00 or be imprisoned not more than six months, or both.

17-13-31 Duty of district attorney to answer and defend habeas corpus action; when Attorney General to answer and defend.

The district attorney shall answer and defend any habeas corpus action brought under this article, which action contests the issuance, execution, or validity of a Governor's warrant of arrest, unless the Governor shall direct the Attorney General to answer and defend the habeas corpus action.

17-13-32 Confinement in jail of person being extradited to another state when necessary.

(a) 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 the 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.

(b) 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 the 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 the jail must receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his route, the officer or agent, however, being chargeable with the expense of keeping; provided, however, that the officer or agent shall produce and show to the keeper of the jail satisfactory written evidence of the fact that he is actually transporting the prisoner to the demanding state after a requisition by the executive authority of the demanding state. The prisoner shall not be entitled to demand a new requisition while in this state.

17-13-33 Arrest of person charged with crime in another state under warrant based upon oath or affidavit of another person.

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 Code Section 17-13-25, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or with 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 Code Section 17-13-25, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or with 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. A certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

17-13-34 Arrest without warrant of a person charged with a crime in another state.

The arrest of a person may be lawfully made by any peace officer or private person, 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 one 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 provided in Code Section 17-13-33; and thereafter the answer of the accused shall be heard as if he had been arrested on a warrant.

17-13-35 Commitment of person accused of crime in another state to county jail pending receipt of demand from other state generally.

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 Code Section 17-13-25, 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 which time must be 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 gives bail, as provided in Code Section 17-13-36, or until he shall be legally discharged.

17-13-36 Granting of bail.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the prisoner to bail by bond, with sufficient sureties, in such sum as he deems proper, conditioned for the prisoner's appearance before the judge or magistrate at a time specified in such bond and for the prisoner's surrender to be arrested upon the warrant of the Governor of this state.

17-13-37 Procedure where accused not arrested within time specified in warrant.

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 him or may recommit him for a further period not to exceed 60 days, or a judge or magistrate may again take bail for his appearance and surrender as provided for in Code Section 17-13-36, but within a period not to exceed 60 days after the date of such new bond.

17-13-38 Forfeiture of bail bond.

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 is within the state. Recovery may be had on the bond in the name of the state as in the case of other bonds given by the accused in criminal proceedings within this state.

17-13-39 Surrender of persons under criminal prosecution or sentence in this state to demanding state.

The Governor may, in his discretion, surrender, upon demand of the executive authority of another state, any person found in this state, notwithstanding the

fact that a criminal prosecution or charges under the laws of this state are pending against the person, that the person has already been convicted in this state and is serving a sentence in any jail or penal institution of this state or of any county or municipality thereof, or that the person is serving a suspended or probationary sentence. The Governor may condition the release of the prisoner to the demanding state upon such terms as he may stipulate, including the condition that the prisoner be returned to this state immediately after trial and before commencing the service of sentence, if any, in the demanding state. In no case shall surrender of the prisoner be construed as a complete relinquishment of jurisdiction by this state, but the prisoner shall forthwith be returned to the custody of this state at the expense of the demanding state immediately after trial in the demanding state or the completion of sentence therein, as the case may be, except where the sentence of death has been executed in the demanding state.

17-13-40 Conduct of inquiry as to guilt or innocence of accused.

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 or crime in legal form as provided for in this article 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.

17-13-41 Recall of warrant of arrest or issuance of another warrant by Governor.

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

17-13-42 Demand for return of fugitives in other states by Governor of this state; issuance of warrant to person receiving fugitive.

Whenever the Governor of this state shall demand a person charged with a 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 the office of the Governor 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.

17-13-43 Application for issuance of demand.

(a) 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, in which application shall be stated the name of the person so charged, the crime charged against him, the approximate time, place, and circumstance 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 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.

(b) When the return to this state is required of a person who has been convicted of a crime in this state and who 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 State Board of Pardons and Paroles, 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. The application shall state 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 and the state in which he is believed to be, including the location of the person therein at the time application is made.

(c) The application shall be verified by affidavit, executed in duplicate, and accompanied by two certified copies of the indictment returned, 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 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 one 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 Governor, to remain of record in that office. The other copies of all papers shall be forwarded with the Governor's requisition.

17-13-44 Payment of expenses.

When the punishment of the crime shall be the confinement of the person in a penal institution, the expenses shall be paid out of the state treasury on the certificate of the Governor and warrant of the state auditor; and in all other cases the expenses 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 shall not exceed 8 cents per mile for all necessary travel in returning such prisoner.

17-13-45 Immunity from service of process of persons brought into state in civil actions based on facts in criminal charge.

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.

17-13-46 Execution and filing of written waiver of extradition proceedings by accused; delivery of accused to demanding state.

(a) 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 bail, probation, or parole, may waive the issuance and service of the warrant provided for in Code Sections 17-13-27 and 17-13-28 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 which states that he consents to return to the demanding state; provided, however, that before the waiver shall be executed or subscribed by the person it shall be the duty of the judge to inform the person of his rights to the issuance or service of a warrant of extradition and to obtain a writ of habeas corpus as provided in Code Section 17-13-30.

(b) If and when the consent has been duly executed, it shall forthwith be forwarded to the office of the Governor of this state and filed therein. The judge shall direct the officer having the person in custody to deliver forthwith the person to the duly accredited agent or agents of the demanding state and shall deliver or cause to be delivered to the agent or agents a copy of the consent. Nothing in this Code section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state; nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights, or duties of the officers of the demanding state or of this state.

17-13-47 Effect of article as to right, power, or privilege of state to try demanded person.

Nothing in this article contained shall be deemed to constitute a waiver by this state of its right, power, or privilege to try a person demanded for extradition by another state for crimes committed within this state or of its right, power, or privilege to regain custody of the 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 article 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.

17-13-48 Trial of person brought into state for other criminal prosecutions while in 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.

17-13-49 Uniform interpretation and construction.

This article shall be so interpreted and construed as to effectuate the general purposes to make uniform the laws of those states which enact it.

42-6-20 Enactment and text of agreement.

The Agreement on Detainers is enacted into law and entered into by this State with all other jurisdictions legally joining therein in the form substantially as follows:

The contracting states solemnly agree that:

Article I.

The party states find that charges outstanding against a prisoner, detainers based on untried indictments, informations or complaints, and difficulties in securing speedy trial of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainers based on untried indictments, information or complaints. The party states also find that proceedings with reference to such charges and detainers, when emanating from another jurisdiction, cannot properly be had in the absence of cooperative procedures. It is the further purpose of this agreement to provide such cooperative procedures.

Article II.

As used in this agreement:

(a) "State" shall mean a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

(b) "Sending state" shall mean a state in which a prisoner is incarcerated at the time that he initiates a request for final disposition pursuant to Article III hereof or at the time that a request for custody or availability is initiated pursuant to Article IV hereof.

(c) "Receiving state" shall mean the state in which trial is to be had on an indictment, information or complaint pursuant to Article III or Article IV hereof.

Article III.

(a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial within one hundred eighty days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information or complaint, provided that for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by the certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner.

(b) The written notice and request for final disposition referred to in paragraph (a) hereof shall be given or sent by the prisoner to the warden, commissioner of corrections or other official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

(c) The warden, commissioner of corrections or other official having custody of the prisoner shall promptly inform him of the source and contents of any detainer lodged against him and shall also inform him of his right to make a request for final disposition of the indictment, information, or complaint on which the detainer is based.

(d) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainees have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden, commissioner of corrections or other official having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this paragraph shall be accompanied by copies of the prisoner's written notice, request, and the certificate. If trial is not had on any indictment, information or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

(e) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of paragraph (d) hereof, and a waiver of extradition to the receiving state to serve any sentence there imposed upon him, after completion of his term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of his body in any court where his presence may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law.

(f) Escape from custody by the prisoner subsequent to his execution of the request for final disposition referred to in paragraph (a) hereof shall void the request.

Article IV.

(a) The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall be entitled to have a prisoner against whom he has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with Article V (a) hereof upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated: provided that the court having jurisdiction of such indictment, information or complaint shall have duly approved, recorded and transmitted the request; and provided further that there shall be a period of

thirty days after receipt by the appropriate authorities before the request be honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability, either upon his own motion or upon motion of the prisoner.

(b) Upon receipt of the officer's written request as provided in paragraph (a) hereof, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reasons therefor.

(c) In respect of any proceeding made possible by this Article, trial shall be commenced within one hundred twenty days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

(d) Nothing contained in this Article shall be construed to deprive any prisoner of any right which he may have to contest the legality of his delivery as provided in paragraph (a) hereof, but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not affirmatively consented to or ordered such delivery.

(e) If trial is not had on any indictment, information or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment pursuant to Article V (e) hereof, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

Article V.

(a) In response to a request made under Article III or Article IV hereof, the appropriate authority in a sending state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the state where such indictment, information or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in Article III of this agreement. In the case of a federal prisoner, the appropriate authority in the receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in federal custody at the place for trial, whichever custodial arrangement may be approved by the custodian.

(b) The officer or other representative of a State accepting an offer of temporary custody shall present the following upon demand:

(1) Proper identification and evidence of his authority to act for the state into whose temporary custody the prisoner is to be given;

(2) A duly certified copy of the indictment, information or complaint on the basis of which the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made.

(c) If the appropriate authority shall refuse or fail to accept temporary custody of said person, or in the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is

not brought to trial within the period provided in Article III or Article IV hereof, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.

(d) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for his attendance at court and while being transported to or from any place at which his presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

(e) At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state.

(f) During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow.

(g) For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law.

(h) From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, informations or complaints are pending or in which trial is being had shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping and returning the prisoner. The provisions of this paragraph shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

Article VI.

(a) In determining the duration and expiration dates of the time periods provided in Articles III and IV of this agreement, the running of said time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter.

(b) No provision of this agreement, and no remedy made available by this agreement, shall apply to any person who is adjudged to be mentally ill.

Article VII.

Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide, within and without the state, information

necessary to the effective operation of this agreement.

Article VIII.

This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by inmates or by state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof.

Article IX.

This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the Constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the Constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

HAWAII REVISED STATUTES ANNOTATED
DIVISION 5. CRIMES AND CRIMINAL PROCEEDINGS
TITLE 38. PROCEDURAL AND SUPPLEMENTARY PROVISIONS
CHAPTER 832. Uniform Criminal Extradition Act

s 832-1 Definitions.

Where appearing in this chapter, the term "governor" includes any person performing the functions of governor by authority of the laws of this State. The term "executive authority" includes the governor, and any person performing the functions of governor in any state, and the term "state" includes any state other than this State, the District of Columbia, or a Territory, organized or unorganized, of the United States. The term "interstate" means between this State and any other state. The term "prosecuting officer" or "prosecuting attorney" includes the attorney general of this State, any county attorney or prosecuting attorney of any county of this State. The term "peace officer" includes any officer authorized to serve process in criminal proceedings.

s 832-2 Fugitives from justice; duty of governor.

Subject to this chapter, 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 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.

s 832-3 Form of demand.

No demand for the extradition of a person charged with crime in any state shall be recognized by the governor unless in writing alleging, except in cases arising under section 832-6, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter the accused fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of the person's bail, probation, or parole. 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 of conviction, or sentence must be authenticated by the executive authority making the demand.

s 832-4 Governor may investigate case.

When a demand is made upon the governor by the executive authority of any state for the surrender of a person so charged with crime, the governor may call upon the attorney general or any other prosecuting officer in this State

to investigate or assist in investigating the demand, and to report to the governor the situation and circumstances of the person so demanded, and whether the person ought to be surrendered.

s 832-5 Extradition of persons imprisoned or awaiting trial in any 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 the person is imprisoned or is held under criminal proceedings then pending against the person in any state, the governor of this State may agree with the executive authority of the state for the extradition of the person before the conclusion of the proceedings or the person's term of sentence in the state, upon condition that the person be returned to the state at the expense of this State or any county thereof 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 state any person in this State who is charged in the manner provided in section 832-3 with having violated the laws of the state whose executive authority is making the demand, even though the person left the demanding state involuntarily.

s 832-6 Extradition of persons not present in demanding state at time of commission of crime.

The governor of this State may also surrender, on demand of the executive authority of any state, any person in this State charged in the state in the manner provided in section 832-3 with committing an act in this State, or in another state, intentionally resulting in a crime in the state whose executive authority is making the demand, and this chapter 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.

s 832-7 Issue of governor's warrant of arrest; its recitals.

If the governor decides that the demand should be complied with, the governor shall sign a warrant of arrest, which shall be sealed with the great seal of the State, and be directed to any peace officer or other person whom the governor may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

s 832-8 Manner and place of execution.

The warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where the accused may be found within this 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 this chapter to the duly authorized agent of the demanding state.

s 832-9 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.

s 832-10 Rights of accused person; application for writ of habeas corpus.

No person arrested upon the warrant shall be delivered over to the agent whom the executive authority demanding him has appointed to receive him unless he shall first be taken 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 states that he or they desire to test the legality of his arrest, the judge of the court of record shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When the 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 agent of the demanding state.

s 832-11 Penalty.

Any officer who delivers to the agent for extradition of the demanding state a person in the officer's custody under the governor's warrant, in wilful disobedience to section 832-10 shall be guilty of a misdemeanor and, on conviction, shall be fined not more than \$1,000 or be imprisoned not more than six months, or both.

s 832-12 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 through which he may pass; and the keeper of the 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 the prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county through which he may pass; and the keeper of the 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 that the officer or agent shall produce and show to the keeper of the jail satisfactory written evidence of the fact that he is actually transporting the prisoner to the demanding state after a requisition by the executive authority of the demanding state. The prisoner shall not be entitled to demand

a new requisition while in this State.

s 832-13 Arrest prior to requisition.

Whenever any person within this State is charged on the oath of any credible person before any judge of this State with the commission of any crime in any state and, except in cases arising under section 832-6, 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 has been made before any judge in this State setting forth on the affidavit of any credible person in any state that a crime has been committed in such state and that the accused has been charged in such state with the commission of the crime and except in cases arising under section 832-6, 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 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 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.

s 832-14 Arrest without a warrant.

The arrest of a person may be lawfully made also by any peace officer or a private person, 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 one year, but when so arrested the accused must be taken before a judge with all practicable speed and complaint must be made against the accused under oath setting forth the ground for the arrest as in section 832-13; and thereafter the accused's answer shall be heard as if the accused had been arrested on a warrant.

s 832-15 Commitment to await requisition; bail.

If from the examination before the judge it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under section 832-6, that the person has fled from justice, the judge must, by a warrant reciting the accusation, commit the person to the county jail for such a time not exceeding thirty 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 section 832-16, or until the accused shall be legally discharged.

s 832-16 Bail; in what cases; conditions of bond.

Unless the offense with which the prisoner is charged is shown to be an

offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge in this State may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as the judge deems proper, conditioned for the person's appearance before the judge 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.

s 832-17 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 or bond, a judge may discharge the accused or may recommit the accused for a further period not to exceed sixty days, or a judge may again take bail for the accused's appearance and surrender, as provided in section 832-16, but within a period not to exceed sixty days after the date of new bond.

s 832-18 Forfeiture of bail.

If the prisoner is admitted to bail, and fails to appear and surrender oneself according to the conditions of the prisoner's bond, the judge, by proper order, shall declare the bond forfeited and order the prisoner's immediate arrest without warrant if the prisoner be within this State. Recovery may be had on the bond in the name of the State as in the case of other bonds given by the accused in criminal proceedings within this State.

s 832-19 Persons under criminal prosecution in this State at time of requisition.

If a criminal prosecution has been instituted against such person under the laws of this State and is still pending, the governor, in the governor's discretion, either may surrender the person on demand of the executive authority of any state or hold the person until the person has been tried and discharged or convicted and punished in this State.

s 832-20 Guilt or innocence of accused, when inquired into.

The guilt or innocence of the accused as to the crime of which the accused 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 has been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

s 832-21 Governor may recall warrant or issue alias.

The governor may recall the governor's warrant of arrest or may issue another warrant whenever the governor deems proper.

s 832-22 Fugitives from this State; duty of governor.

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

s 832-23 Application for issuance of requisition; by whom made; contents.

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 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.

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 Hawaii paroling authority, the director of public safety, the sheriff, or chief of police of the county, from which escape was made, shall present to the governor a written application for a requisition for the return of the 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.

The application shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, paroling authority, director of public safety, sheriff, or chief of police may also attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted with the application. One copy of the application, with the action of the governor indicated by endorsement thereon, and one 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 lieutenant governor to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

s 832-24 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 proceeding to answer which the person is being or has been returned, until the person has been convicted in the criminal proceeding, or, if acquitted, until the person has had reasonable opportunity to return to the state from which the person was extradited.

s 832-25 Written waiver of extradition proceedings.

(a) Any person arrested in this State charged with having committed any crime in any state or alleged to have escaped from confinement, or broken the terms of the person's bail, probation, or parole may waive the issuance and service of the warrant provided for in sections 832-7 and 832-8, 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 which states that the person consents to return to the demanding state; provided that before the waiver is executed or subscribed by the person the judge shall inform the person of the person's rights to the issuance and service of warrant of extradition and to obtain a writ of habeas corpus as provided for in section 832-10.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor of this State and filed therein. The judge shall direct the officer having the person in custody to deliver forthwith the person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights, or duties of the officers of the demanding state or of this State.

(b) Notwithstanding subsection (a), a law enforcement agency holding a person who is alleged to have broken the terms of his probation, parole, bail, or any other release shall immediately deliver the person to the duly authorized agent of the demanding state without the requirement of a governor's warrant if all of the following apply:

- (1) The person has signed a prior waiver of extradition as a term of the person's current probation, parole, bail, or other release in the demanding state; and
- (2) The law enforcement agency holding the person has received both of the following:
 - (A) An authenticated copy of the prior waiver of extradition signed by the person; and
 - (B) A photograph and fingerprints properly identifying the person as the person who signed the waiver.

s 832-26 Nonwaiver by this State.

Nothing in this chapter shall be deemed to constitute a waiver by this State of its right, power, or privilege to try the demanded person for crime committed within this State, or of its right, power, or privilege to regain custody of the 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 chapter 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.

s 832-27 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, the person may be tried in this State for other crimes which the person may be charged with having committed here as well as that specified in the requisition for the person's extradition.

IDAHO CODE
TITLE 19. CRIMINAL PROCEDURE
CHAPTER 45. PROCEEDINGS AGAINST FUGITIVES FROM JUSTICE
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Current through Ch. 416 of the 52nd Legislature

19-4503 Form of demand.

No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing and accompanied by a copy of an indictment found or by an information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereon. 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 must be authenticated by the executive authority making the demand, which shall be prima facie evidence of its truth.

Extradition Proper.

Where the state of Oregon sought the return of the defendant parent on a felony charge of custodial interference in the first degree, and the allegations in the extradition documents showed that the defendant had removed his child from Oregon, that he avoided contact with the custodial parent (his former wife), that he quit his job in Oregon without notice the day he was to return the child to his former wife and joined the child in another state, and that he was indicted in Oregon for such acts, the court properly determined that the defendant was a fugitive subject to extradition, despite the defendant's contention that he was not in the state of Oregon when the crime was alleged to have been committed. *Kerr v. Watson*, 103 Idaho 478, 649 P.2d 1234 (Ct. App. 1982).

Indictment.

The fifth amendment does not require an indictment of a fugitive by a grand jury in the demanding state before he can be extradited to that state. *Hanson v. Watson*, 103 Idaho 609, 651 P.2d 543 (Ct. App. 1982).

"Substantially Charged."

Where the record included an authenticated copy of an indictment from Oregon and an affidavit that the defendant had been charged in Oregon with the felony crime of custodial interference in the first degree, the record showed that the defendant had been "substantially charged" with a crime under the law of Oregon, as was required for extradition to be proper, notwithstanding the defendant's contention that since his name did not appear in the Oregon county clerk's register and no file concerning this criminal charge had been created, he had not been charged with a crime in Oregon. *Kerr v. Watson*, 103 Idaho 478, 649 P.2d 1234 (Ct. App. 1982).

In proceeding challenging sufficiency of extradition documents submitted by state of Nevada, where record showed that a Nevada judge had issued an arrest warrant based upon a criminal complaint which, in turn, was supported by an affidavit and that, under Nevada law, such warrants must be issued upon determinations of probable cause, and where defendant made no affirmative

showing that the arrest warrant was issued in violation of procedural requirements imposed by Nevada law, the defendant was "substantially charged", in the sense that probable cause was established. *Proctor v. Skinner*, 104 Idaho 426, 659 P.2d 779 (Ct. App. 1982).

Sufficiency of Affidavit.

In extradition proceeding it is not necessary that the affidavit attached to the extradition documents of the demanding state charge the accused with every element essential to the crime but only that the affidavit substantially charge him with the commission of a crime. *Jacobsen v. State*, 99 Idaho 45, 577 P.2d 24 (1978).

The affidavit supporting the information relied upon in an extradition proceeding need not be signed before a magistrate. *Hanson v. Watson*, 103 Idaho 609, 651 P.2d 543 (Ct. App. 1982).

19-4526 Interpretation.

This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

19-4527 Short title.

This act may be cited as the Uniform Criminal Extradition Act.

WEST'S ANNOTATED INDIANA CODE
TITLE 35. CRIMINAL LAW AND PROCEDURE
ARTICLE 33. PRELIMINARY PROCEEDINGS
CHAPTER 10. SECURING ATTENDANCE OF DEFENDANTS; EXTRADITION
COPR. (c) WEST 1994 No Claim to Orig. Govt. Works
Current through end of 1993 Special Session

35-33-10-3 Uniform Criminal Extradition Act

Sec. 3. (1) Where appearing in this section, 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, refers to any other state or territory, organized or unorganized, of the United States of America.

(2) Subject to the qualifications of this section and the provisions of the Constitution of the United States controlling, and acts of congress 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, a felony, or other crime who has fled from justice and is found in this state.

(3) No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing and accompanied by a copy of an indictment found or by an information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereon. 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 must be authenticated by the executive authority making the demand, which shall be prima facie evidence of its truth.

(4) 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.

(5) A warrant of extradition shall not be issued unless the documents presented by the executive authority making the demand show that:

- (a) except in cases arising under subsection 7 of this section, the accused was present in the demanding state at the time of the commission of the alleged crime, and thereafter fled from the state;
- (b) the accused is now in this state; and
- (c) he is lawfully charged by indictment found or by information filed by a prosecuting officer and supported by affidavit to the facts, or by affidavit made before a magistrate in that state, with having committed a crime under the laws of that state, or that he has been convicted of a crime in that state and has escaped from confinement or has broken the terms of his bail, probation, or parole, or that the sentence or some portion of it otherwise remains unexecuted and that the person claimed has not been discharged or otherwise released from the sentence.

(6) 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 subsection 24 of this section with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

(7) 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 subsection 5 of this section 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 section not otherwise inconsistent shall apply to such cases, notwithstanding that the accused was not in that state at the time of the commission of the crime and has not fled therefrom.

(8) If the governor shall decide that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to a sheriff, marshal, coroner, or other person whom he may think fit to entrust with the execution thereof; and the warrant must substantially recite the facts necessary to the validity of its issue.

(9) Such warrant shall authorize the officer or other person to whom directed to arrest the accused at any place where he may be found within the state, to command the aid of all sheriffs and law enforcement officers in the execution of the warrant, and to deliver the accused subject to the provision of this section, to the duly authorized agent of the demanding state.

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

(11) 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 has been informed of the demand made for his surrender, of the crime with which he is charged and that he has the right to demand legal counsel; and if the prisoner, his friends, or counsel shall state that he or they desire to test the legality of the arrest, the prisoner shall be taken forthwith before a judge of a court of record in this state who shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. And when such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the public 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.

(12) An officer who recklessly delivers to the agent for extradition of the demanding state a person in his custody under the governor's warrant in disobedience to subsection 11 of this section commits a Class B misdemeanor.

(13) The officer or person 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 person having charge of him is ready to proceed on his

route, such person being chargeable with the expense of keeping.

(14) Whenever any person within this state shall be charged on the oath of any credible person before any judge of this state with the commission of a crime in any other state, and, except in cases arising under subsection 7 of this section, with having fled from justice, or whenever complaint shall have been made before any judge in this state setting forth on the affidavit of any credible person in another state that a treason or felony has been committed in such other state and that the accused has been charged in such state with the commission of the treason or felony, and, except in cases arising under subsection 7 of this section, has fled therefrom and is believed to have been found in this state, the judge shall issue a warrant directed to the sheriff of the county in which the oath or complaint is filed directing him to apprehend the person charged, wherever he may be found in this state, and bring him before the same or any other judge, who may be convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit. A certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

(15) The arrest of a person may be lawfully made also by an officer or a private citizen without a warrant upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one (1) year; but when so arrested the accused must be taken before a judge with all practicable speed, and complaint must be made against him under oath setting forth the ground for the arrest as in the last preceding subsection; and thereafter his answer shall be heard as if he has been arrested on warrant.

(16) If from the examination before the judge, it appears that the person held is the person charged with having committed the crime alleged and that he probably committed the crime, and, except in cases arising under subsection 7 of this section, that he has fled from justice, the judge shall commit him to jail by a warrant reciting the accusation for such time 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 gives bail as provided in subsection 17 of this section, or until he shall be legally discharged.

(17) Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, the judge must admit the person arrested to bail by bond or undertaking, with sufficient sureties, and in such sum as he deems proper, for his appearance before him at a time specified in such bond or undertaking, and for his surrender, to be arrested upon the warrant of the governor of this state. The prisoner shall not be admitted to bail after issuance of a warrant by the governor of this state.

(18) If the accused is not yet arrested under warrant of the governor by the expiration of the time specified in the warrant, bond, or undertaking, the judge may discharge him or may recommit him to a further day, or may again take bail for his appearance and surrender, as provided in subsection 17 of this section; and at the expiration of the second period of commitment, or if he has been bailed and appeared according to the terms of his bond or undertaking, the judge may either discharge him, or may require him to enter into a new bond or undertaking, to appear and surrender himself at another day.

(19) If the prisoner is admitted to bail and fails to appear and surrender himself according to the conditions of his bond, the court, by proper order, shall declare the bond forfeited; and recovery may be had thereon in the name of the state as in the case of other bonds or undertakings given by the accused

in criminal proceedings within this state.

(20) If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor at his discretion either may surrender him on the demand of the executive authority of another state or may hold him until he has been tried and discharged, or convicted and punished in this state.

(21) 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 proceedings 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.

(22) The governor may recall his warrant of arrest or may issue another warrant whenever he deems proper.

(23) Whenever the governor of this state shall demand a person charged with a crime in this state from the chief executive 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.

(24) When the return to this state of a person charged with a crime in this state is required, the prosecuting attorney of the county in which the offense is committed 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 committal, 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. The application shall be verified by affidavit, shall be executed in triplicate, and shall be accompanied by three (3) certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the magistrate, stating the offense with which the accused is charged. The prosecuting attorney may also attach such further affidavits and other documents in triplicate as he shall deem proper to be submitted with such application. One (1) copy of the application with the action of the governor indicated by the endorsement thereon and one (1) of the certified copies of the indictment or complaint or information and affidavit 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.

(25) The expenses shall be paid out of the general fund of the county treasury of 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, as now provided by law, for all necessary travel in returning such prisoner.

(26) A person brought into this state on 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 proceeding to answer for which he is returned until he has been convicted in the criminal proceeding, or if acquitted, until he has had ample opportunity to return to the state from which he was extradited.

(27) After a person has been brought back to this state upon 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.

(28) This section shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

(29) Nothing in this section contained shall be deemed to constitute a waiver by the state 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 section 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.

(30) This section may be cited as the Uniform Criminal Extradition Act.

IDAHO CODE
TITLE 19. CRIMINAL PROCEDURE
CHAPTER 45. PROCEEDINGS AGAINST FUGITIVES FROM JUSTICE
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19-4501 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. And the term "state" referring to a state other than this state refers to any other state or territory organized or unorganized of the United States of America.

19-4502 Criminals to be delivered upon requisition.

Subject to the qualifications of this act, and the provisions of the Constitution of the United States controlling, and acts of congress 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.

19-4503 Form of demand.

No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing and accompanied by a copy of an indictment found or by an information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereon. 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 must be authenticated by the executive authority making the demand, which shall be prima facie evidence of its truth.

19-4504 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.

19-4505 What papers must show.

A warrant of extradition must not be issued, except in cases arising under

section 19-4506, Idaho Code, unless the documents presented by the executive authority making the demand show that the accused was present in the demanding state at the time of the commission of the alleged crime, and that he thereafter fled from that state, and is now in this state, and that he is lawfully charged by indictment found or by an information filed by a prosecuting officer and supported by affidavit to the facts, or by affidavit made before a magistrate in that state, with having committed a crime under the laws of that state, or that he has been convicted or found guilty of a crime in that state and has escaped from confinement or broken the terms of his bail, probation or parole.

19-4506 Extradition of persons not present in demanding state at time of commission of crime.

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 19-4505, Idaho Code, 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. The provisions of this act not otherwise inconsistent shall apply to such cases, notwithstanding that the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.

19-4507 Governor's warrant of arrest -- Issuance and recitals.

If the governor shall decide that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to a sheriff, marshal, coroner, or other person whom he may think fit to entrust, with the execution thereof, and the warrant must substantially recite the facts necessary to the validity of its issue.

19-4508 Execution of warrant -- Manner and place.

Such warrant shall authorize the officer or other person to whom directed to arrest the accused at any place where he may be found within the state and to command the aid of all sheriffs and other peace officers 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.

19-4509 Authority of arresting officer.

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

19-4510 Rights of accused -- Right to apply 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 has been informed of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand legal counsel; and if the prisoner, his friends, or counsel shall state that he or they desire to test the legality of the arrest, the prisoner shall be taken forthwith before a judge of a court of record in this state, who shall fix a

19-4511 Penalty for noncompliance with preceding section.

Any officers who shall deliver to the agent for extradition of the demanding state a person in his [their] custody under the governor's warrant in disobedience to the last section shall be guilty of a misdemeanor, and on conviction shall be fined not more than \$1000, or be imprisoned in the county jail not more than six (6) months, or both.

19-4512 Confinement in jail when necessary.

The officer or person 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 person having charge of him is ready to proceed on his route, such person being chargeable with expense of keeping.

19-4513 Arrest prior to requisition.

(1) Any judge or magistrate of the state of Idaho shall issue a warrant directing any peace officer to arrest the person named in said warrant when the person named in said warrant has been charged with a felony in another state and having absented himself from that state and is believed to be in this state, provided that:

(a) A peace officer of this state shall submit an affidavit that the person named in the warrant has absented himself from a sister state having been charged with a felony, together with a certified copy of the complaint and warrant of arrest issued by a court of record in a sister state to the court in support of issuance of the warrant; or

(b) A peace officer of any other state shall submit an affidavit alleging that the person to be named in the warrant has absented himself from a sister state having committed a felony, together with a certified copy of the complaint and record of arrest issued by a court of record in a sister state to the court in support of issuance of the warrant.

(2) The warrant provided for in subsection (1) shall have a certified copy of the supporting documents attached.

(3) Upon arrest of the person charged, wherever he may be found in the state, he shall be brought before a court of convenient access to be held as provided in section 19-4514, Idaho Code.

(4) The supporting documents provided for in subsection (1)(a) and (b) shall be sufficient evidence to support a finding of probable cause by the court to issue the warrant without additional evidence.

19-4514 Arrest without a warrant.

(1) The arrest of a person may be lawfully made by a peace officer without a warrant upon reasonable information that the accused stands charged with a felony by the courts of another state; but when so arrested, the accused must be taken forthwith before a judge or magistrate where he shall be advised of the reason for his arrest, his right to bond, his right of counsel, and his right against self-incrimination.

(2) Within ten (10) days if the accused is incarcerated, and within twenty (20) days if the accused is out on bond, the court must hold a hearing to determine whether a warrant and complaint shall issue upon the basis set forth in section 19-4513, Idaho Code.

19-4515 Commitment to await requisition.

Upon arrest of the accused, with or without warrant, as specifically provided for in sections 19-4513 or 19-4514, Idaho Code, the court shall commit the accused to jail, by warrant, reciting the accusation for such time as is necessary to enable the arrest of the accused to be made under a warrant of the governor or 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.

19-4516 Bail except in capital and life imprisonment cases -- Condition and requisites of bond.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, the judge or magistrate must admit the person arrested to bail by bond or undertaking, with sufficient sureties, and in such sum as he deems proper, for his appearance before him at a time specified in such bond or undertaking, and for his surrender, to be arrested upon the warrant of the governor of this state.

19-4517 Procedure if no arrest made.

If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant, bond, or undertaking, the judge or magistrate may discharge him or may recommit him to a further day, or may again take bail for his appearance and surrender, as provided in section 19-4516; and at the expiration of the second period of commitment, or if he has been bailed and appeared according to the terms of his bond or undertaking, the judge or magistrate may either discharge him, or may require him to enter into a new bond or undertaking, to appear and surrender himself at another day.

19-4518 Forfeiture of bail.

If the prisoner is admitted to bail, and fails to appear and surrender himself according to the condition of his bond, the court, by proper order, shall declare the bond forfeited; and recovery may be had thereon in the name of the state as in the case of other bonds or undertaking [undertakings] given

by the accused in criminal proceedings within this state.

19-4519 Procedure if prosecution already instituted.

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor at his discretion either may surrender him on the demand of the executive authority of another state, or may hold him until he has been tried and discharged, or convicted and punished in this state.

19-4520 Guilt or innocence of 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.

19-4521 Governor may recall warrant or issue alias.

The governor may recall his warrant of arrest, or may issue another warrant whenever he deems proper.

19-4522 Fugitives from this state.

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 chief executive 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.

19-4523 Manner of applying for requisition.

(a) When the return to this state of a person charged with crime in this state is required, the prosecuting attorney of the county in which the offense is committed 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, and the approximate time, place and circumstances of its committal, 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.

(b) 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 commission of pardons and parole, 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 and the state in which he is believed to be, including the location of the person therein at the time application is made.

(c) The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two (2) certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the magistrate, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, commission of pardons and parole, warden or sheriff may also attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted with such application. One (1) copy of the application with the action of the governor indicated by indorsement thereon, and one (1) of the certified copies of the indictment or complaint or information and affidavit, 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.

19-4524 Exemption from civil process.

A person brought into this state on 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 proceeding to answer which he is returned, until he has been convicted in the criminal proceeding, or if acquitted, until he has had ample opportunity to return to the state from which he was extradited.

19-4525 No right of asylum.

After a person has been brought back to this state upon 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.

19-4526 Interpretation.

This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

19-4527 Short title.

This act may be cited as the Uniform Criminal Extradition Act.

WEST'S SMITH-HURD ILLINOIS COMPILED STATUTES ANNOTATED
 CHAPTER 725. CRIMINAL PROCEDURE
 ACT 225. UNIFORM CRIMINAL EXTRADITION ACT
 COPR. (c) WEST 1994 No Claim to Orig. U.S. Govt. Works

REFERENCES

UNIFORM CRIMINAL EXTRADITION ACT

Jurisdiction	Statutory Citation
Alabama	Code 1975, ss 15-9-20 to 15-9-65.
Alaska	AS 12.70.010 to 12.70.290.
Arizona	A.R.S. ss 13-3841 to 13-3869.
Arkansas	A.C.A. ss 16-94-201 to 16-94-231.
California	West's Ann.Cal.Penal Code, ss 1547 to 1556.2.
Colorado	West's C.R.S.A. ss 16-19-101 to 16-19-133.
Connecticut	C.G.S.A. ss 54-157 to 54-185.
Delaware	11 Del.C. ss 2501 to 2530.
Florida	West's F.S.A. ss 941.01 to 941.30.
Georgia	O.C.G.A. ss 17-13-20 to 17-13-49.
Hawaii	HRS ss 832-1 to 832-27.
Idaho	I.C. ss 19-4501 to 19-4527.
Illinois	S.H.A. 725 ILCS 225/1 to 225/32.
Indiana	West's A.I.C. 35-33-10-3.
Iowa	I.C.A. ss 820.1 to 820.29.
Kansas	K.S.A. 22-2701 to 22-2730.
Kentucky	KRS 440.150 to 440.420.
Louisiana	LSA-C.Cr.P. arts. 261 to 280.
Maine	15 M.R.S.A. ss 201 to 229.
Maryland	Code 1957, art. 41, ss 2-201 to 2-228.
Massachusetts	M.G.L.A. c. 276, ss 11 to 20R.
Michigan	M.C.L.A. ss 780.1 to 780.31.
Minnesota	M.S.A. ss 629.01 to 629.29.
Missouri	V.A.M.S. ss 548.011 to 548.300.
Montana	MCA 46-30-101 to 46-30-413.
Nebraska	R.R.S.1943, ss 29-729 to 29-758.
Nevada	N.R.S. 179.177 to 179.235.
New Hampshire	RSA 612:1 to 612:30.
New Jersey	N.J.S.A. 2A:160-6 to 2A:160-35.
New Mexico	NMSA 1978, ss 31-4-1 to 31-4-30.
New York	McKinney's CPL ss 570.02 to 570.66.
North Carolina	G.S. ss 15A-721 to 15A-750.
Ohio	R.C. ss 2963.01 to 2963.29.
Oklahoma	22 Okl.St. Ann. ss 1141.1 to 1141.30.
Oregon	ORS 133.743 to 133.857.
Pennsylvania	42 Pa.C.S.A. ss 9121 to 9148.
Puerto Rico	34 L.P.R.A. ss 1881 to 1881bb.
Rhode Island	Gen.Laws 1956, ss 12-9-1 to 12-9-35.
South Dakota	SDCL 23-24-1 to 23-24-39.
Tennessee	T.C.A. ss 40-9-101 to 40-9-130.
Texas	Vernon's Ann.Texas C.C.P. art. 51.13.

Utah U.C.A.1953, 77-30-1 to 77-30-28.
 Vermont 13 V.S.A. ss 4941 to 4969.
 Virgin Islands 5 V.I.C. ss 3801 to 3829.
 Virginia Code 1950, ss 19.2-85 to 19.2-118.
 Washington West's RCWA 10.88.200 to 10.88.930.
 West Virginia Code, 5-1-7 to 5-1-13.
 Wisconsin W.S.A. 976.03.
 Wyoming W.S.1977, ss 7-3-201 to 7-3-227.

225/1. Definitions

s 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, and 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.

225/2. Fugitives from justice—Duty of Governor

s 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.

225/3. Form of demand

s 3. Form of Demand. No demand for the extradition of a person charged with crime in another state shall be recognized by the Governor unless in writing alleging, except in cases arising under Section 6, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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. 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 of conviction or sentence must be authenticated by the Executive Authority making the demand.

225/4. Governor may investigate case

s 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.

225/5. Extradition of persons imprisoned or awaiting trial in another state or who have left the demanding state under compulsion

s 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 23 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.

225/6. Extradition of persons not present in demanding state at time of commission of crime

s 6. Extradition of Persons Not Present in Demanding State at Time of Commission of Crime. 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.

225/7. Issue of Governor's warrant of arrest--Its recitals

s 7. Issue of Governor's Warrant of Arrest; Its Recitals. If the Governor decides that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

225/8. Manner and place of execution

s 8. 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.

225/9. Authority of arresting officer

s 9. 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.

225/10. Rights of accused person--Application for relief by habeas corpus-- Appeals

s 10. Rights of Accused Person: Application for relief by Habeas Corpus: Appeals. 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 the circuit court of the county wherein he is arrested 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 within a reasonable time and opportunity, not less than 24 hours, 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 shall fix a reasonable time to be allowed him within which to apply for relief by habeas corpus. When such relief 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 agent of the demanding state.

Either party may take an appeal from the judgment or order of the circuit court, as in other civil cases.

225/11. Wilful disobedience to 725 ILCS 225/10

s 11. 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 Class B misdemeanor.

225/12. Confinement in jail when necessary

s 12. 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.

225/13. Arrest prior to requisition

s 13. Arrest Prior to Requisition. Whenever any person within this State shall be charged on the oath of any credible person before any judge of this State with the commission of any crime in any other state and, except in cases arising under Section 6, 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 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 6, 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 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 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.

225/14. Arrest without a warrant

s 14. Arrest Without a Warrant. The arrest of a person may be lawfully made also by any peace officer or a private person, 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 one year, but when so arrested the accused must be taken before a judge 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.

225/15. Commitment to await requisition--Bail

s 15. Commitment to await requisition--Bail. If from the examination before the judge it appears that the person held is the person charged with having

committed the crime alleged and, except in cases arising under Section 6, that he has fled from justice, the judge 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.

225/16. Bail--In what cases--Conditions of bond

s 16. Bail--In What Cases--Conditions of Bond. Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge in this State may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the Governor of this State.

225/17. Extension of time of commitment--Adjournment

s 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 or bond, a judge may discharge him or may recommit him for a further period not to exceed 60 days, or a judge may again take bail for his appearance and surrender, as provided in Section 16, but within a period not to exceed 60 days after the date of such new bond.

225/18. Forfeiture of bail

s 18. 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, 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.

225/19. Persons under criminal prosecution in this State at time of requisition

s 19. Persons Under Criminal Prosecution in This State at Time of Requisition. If a criminal prosecution has been instituted against such person under the laws of this State and is still pending the Governor, in his discretion, either may surrender him on demand of the Executive Authority of another state or hold him until he has been tried and discharged or convicted and punished in this State.

225/20. Guilt or innocence of the accused, when inquired into

s 20. 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.

225/21. Governor may recall warrant or issue alias

s 21. Governor May Recall Warrant or Issue Alias. The Governor may recall his warrant of arrest or may issue another warrant whenever he deems proper.

225/22. Fugitives from this State--Duty of Governors

s 22. Fugitives from This State; Duty of Governors. 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.

225/23. Application for issuance of requisition--By whom made--Contents

s 23. Application for issuance of requisition--By whom made--Contents. I. 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.

II. 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 and pardon 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.

III. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the

judge, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, parole and pardon board, warden or sheriff may also attach such further affidavits and other documents in duplicate as he 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 one 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.

225/24. Costs and expenses

s 24. Costs and expenses. When the punishment of the crime shall be the confinement of the criminal in the penitentiary, the expenses shall be paid out of the state treasury, on the certificate of the Governor and warrant of the State Comptroller; and in all other cases they 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 asylum state, and all necessary travel in returning such fugitives. The necessary travel expenses allowed shall be the same, as near as may be, as the amounts for travel allowed pursuant to the rules and regulations of the Illinois Department of Central Management Services. Before such accounts shall be certified by the Governor, or paid by the county, they shall be verified by affidavit, and certified to by the state's attorney of the county wherein the crime is alleged to have been committed, and submitted therewith shall be the agent's authority or a certified copy of the waiver of extradition.

225/24.1. Transportation of released prisoners

s 24.1. Transportation of released prisoners. (a) Whenever a person is brought into this State on an extradition warrant or upon waiver of extradition to be tried for an offense within this State and is subsequently released from custody without being convicted of the offense for which he was brought into this State to be tried, it shall be the duty of the peace officer, sheriff or other official from whom he was released from custody to provide or offer the person transportation to the nearest public transportation facility if the municipality or county in which he was held does not have a public transportation facility.

(b) As used in this Section:

- (1) "Public transportation facility" means a terminal or other place where one may obtain public transportation; and
- (2) "Public transportation" means the transportation or conveyance of persons by means available to the general public, except for transportation by automobiles not used for conveyance of the general public as passengers.

225/25. Immunity from service of process in certain civil actions

s 25. 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 proceeding 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.

225/26. Written waiver of extradition proceedings

s 26. Written waiver of extradition proceedings. 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 bail, probation or parole may waive the issuance and service of the warrant provided for in Sections 7 and 8 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of the circuit court a writing which states that he consents to return to the demanding state; provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a relief by habeas corpus as provided for in Section 10.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the Governor of this State and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, however, that nothing in this Section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this State.

225/27. Non-waiver by this State

s 27. 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.

225/28. No right of asylum--No immunity from other criminal prosecutions while in this State

s 28. 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.

225/29. Interpretation

s 29. 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.

225/30. Constitutionality

s 30. Constitutionality. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

225/32. Short title

s 32. Short Title. This Act may be cited as the Uniform Criminal Extradition Act.

IOWA CODE ANNOTATED
TITLE XVI. CRIMINAL LAW AND PROCEDURE
SUBTITLE 2. CRIMINAL PROCEDURE
CHAPTER 820. UNIFORM CRIMINAL EXTRADITION ACT
COPR. (c) WEST 1994 No Claim to Orig. U.S. Govt. Works
Current through 1993 Sess. (75 G.A.) - End of Laws

820.13. Arrest on affidavit

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 under section 820.6, 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 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 820.6, 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 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 the officer to apprehend the person named therein, wherever the person may be found in this state, and to bring the person 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.

820.14. Arrest without warrant

The arrest of a person may be lawfully made also by any peace officer or a private person, 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 one 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 the accused under oath setting forth the ground for the arrest as in the preceding section; and thereafter the accused's answer shall be heard as if the accused had been arrested on a warrant.

820.15. Holding to await requisition

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 820.6, that the person has fled from justice, the judge or magistrate must, by a warrant reciting the accusation, commit the person to the county jail for such a time not exceeding thirty 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 the accused shall be legally discharged.

820.16. Bail--exceptions

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as the judge or magistrate deems proper, conditioned for the prisoner's appearance before the judge or magistrate at a time specified in such bond, and for the prisoner's surrender, to be arrested upon the warrant of the governor of this state.

820.17. Discharge or recommitment

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 or recommit the accused for a further period not to exceed sixty days, or a judge or magistrate may again take bail for the accused's appearance and surrender, as provided in section 820.16, but within a period not to exceed sixty days after the date of such new bond.

820.18. Forfeiture of bond

If the prisoner is admitted to bail, and fails to appear and surrender according to the conditions of the prisoner's bond, the judge, or magistrate by proper order, shall declare the bond forfeited and order the prisoner's immediate arrest without warrant if the prisoner 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.

820.19. Criminal prosecution pending

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending the governor, in the governor's discretion, either may surrender the person on demand of the executive authority of another state or hold the person until the person has been tried and discharged or convicted and punished in this state.

820.20. Guilt or innocence of person held

The guilt or innocence of the accused as to the crime of which the accused 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.

820.21. Warrant recalled

The governor may recall the governor's warrant of arrest or may issue another warrant whenever the governor deems proper.

820.22. Receiving person extradited

Whenever the governor of this state shall demand a person charged with crime or with escaping from confinement or breaking the terms of the person's 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, the governor shall issue a warrant under the seal of this state, to some agent, commanding the person to receive the person so charged if delivered to the agent and convey the person to the proper officer of the county in this state in which the offense was committed.

820.23. Application for extradition

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 the prosecuting attorney's 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 the person, the approximate time, place and circumstances of its commission, the state in which the person 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.

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 the person's 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 the person was convicted, the circumstances of the person's escape from confinement or of the breach of the terms of the person's bail, probation or parole, the state in which the person is believed to be, including the location of the person therein at the time application is made.

The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two 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 the prosecuting officer, parole board, warden or sheriff 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 one 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 governor to remain of record in that

office. The other copies of all papers shall be forwarded with the governor's requisition.

820.24. Expenses--how paid

When the punishment of the crime shall be the confinement of the criminal in the penitentiary, the expenses shall be paid out of the state treasury, on the certificate of the governor and warrant of the director of revenue and finance; and in all other cases they 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 necessary and actual traveling expenses incurred in returning the prisoner.

820.25. Waiver by person arrested

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 bail, probation or parole may waive the issuance and service of the warrant provided for in sections 820.7 and 820.8 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 which states that the person consents to return to the demanding state; provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of the person's rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in section 820.10.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this state.

820.26. State's rights not deemed waived

Nothing in this chapter 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 chapter 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.

820.27. Trial for other crimes

After a person has been brought back to this state by, or after waiver of extradition proceedings, the person may be tried in this state for other crimes which the person may be charged with having committed here as well as that specified in the requisition for the person's extradition.

820.28. Construction of chapter

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

820.29. Title

This chapter may be cited as the "Uniform Criminal Extradition Act."

906.13. Reciprocal agreements with other states

The governor of the state of Iowa is hereby authorized and empowered to enter into compacts and agreements with other states, through their duly constituted authorities, in reference to reciprocal supervision of persons on parole or probation and for the reciprocal return of such persons to the contracting states for violation of the terms of their parole or probation.

KANSAS STATUTES ANNOTATED
CHAPTER 22. CRIMINAL PROCEDURE
KANSAS CODE OF CRIMINAL PROCEDURE
ARTICLE 27. UNIFORM CRIMINAL EXTRADITION ACT
COPR. (c) 1993 By the Revisor of Statutes of Kansas

HISTORICAL NOTES

JUDICIAL COUNCIL, 1969:

1988 Main Volume Judicial Council, 1969:

PRELIMINARY NOTE. Former K.S.A. 62-727 through 62-757 is essentially the Uniform Criminal Extradition Act. This legislation was drafted by the National Conference of Commissioners on Uniform State Laws and enacted by the Kansas legislature in 1937. Only a few amendments have been made.

22-2701. Definitions.

Where appearing in this article, 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. The term "court of record" means any court, other than a municipal court, presided over by a magistrate.

22-2702. Fugitives from justice; duty of governor.

Subject to the provisions of this article, 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.

22-2703. Form of demand.

No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing, alleging, except in cases arising under K.S.A. 22-2706 and amendments thereto, that the accused was present in the demanding state at the time of the commission of the alleged crime and that thereafter the accused fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of the person's bail, probation, assignment to a community

correctional services program, parole or postrelease supervision, or that the sentence or some portion of it remains unexecuted and that the person claimed has not been paroled, released on postreleased supervision or discharged or otherwise released therefrom. The indictment, information affidavit 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 of conviction or sentence must be authenticated by the executive authority making the demand.

22-2704. 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.

22-2705. 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 22-2723 with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

22-2706. Persons not present in the demanding state at time of commission of crime.

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 22-2703 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.

22-2707. Issue of governor's warrant of arrest; recitals.

If the governor decides that the demand should be complied with he shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed

to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

22-2708. 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.

22-2709. 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.

22-2710. Rights of accused person; application for writ of habeas corpus; notice.

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 attorney of the county in which the arrest is made and in which the accused is in custody, and it shall be the duty of the prosecuting attorney to notify said agent of the demanding state.

22-2711. Delivery of person in disobedience of 22-2710; penalty.

Any officer who shall deliver to the agent for extradition of the demanding state a person in such officer's custody under the governor's warrant, in willful disobedience of K.S.A. 22-2710 and amendments thereto, shall be guilty of a class B nonperson misdemeanor.

22-2712. 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.

22-2713. Arrest prior to requisition.

Whenever any person within this state is 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 K.S.A. 22-2706 and amendments thereto, 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 the person's bail, probation, assignment to a community correctional services program, postrelease supervision or parole, or with being under sentence, some portion of which remains unexecuted, from which such person has not been paroled, placed on postrelease supervision or discharged or otherwise released, or whenever complaint has 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 K.S.A. 22-2706 and amendments thereto, 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 the person's bail, probation, assignment to a community correctional services program, postrelease supervision or parole, or with being under sentence, some portion of which remains unexecuted, from which such person has not been paroled, placed on postrelease supervision or discharged or otherwise released, and is believed to be in this state, the judge or magistrate shall issue a warrant directed to any law enforcement officer commanding the apprehension of the person named therein, wherever such person may be found in this state, and to bring such person 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.

22-2714. Arrest without a warrant.

The arrest of a person may be lawfully made also by any peace officer or

private person 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 one 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.

22-2715. 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 22-2706, 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 thirty 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.

22-2716. Bail; in what cases; conditions of bond.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the governor of this state.

22-2717. 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 or bond, a judge or magistrate may discharge him or may recommit him for a further period not to exceed sixty days, or a judge or magistrate may again take bail for his appearance and surrender, as provided in section 22-2716, but within a period not to exceed sixty days after the date of such new bond.

22-2718. 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.

22-2719. Persons under criminal prosecution in this state at time of requisition.

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor, in his discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

22-2720. Guilt or innocence of 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.

22-2721. Governor may recall warrant or issue alias.

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

22-2722. Fugitives from this state; duty of governor.

Whenever the governor of this state demands a person charged with crime or with escaping from confinement or breaking the terms of such person's bail, probation, assignment to a community correctional services program, postrelease supervision 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, the governor shall issue a warrant under the seal of this state, to some agent, commanding such agent to receive the person so charged if delivered to such agent and convey such person to the proper officer of the county in this state in which the offense was committed.

22-2723. Application for issuance of requisition; by whom made; contents.

(a) 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 such attorney's 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 the person, the approximate time, place and circumstances of its commission and the state in which the person is believed to be, including the location of the accused therein, at the time the application is made. Such application shall certify that, in the opinion of the 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.

(b) 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 such person's bail, probation, assignment to a community correctional services program, postrelease supervision or parole or is under sentence, some portion of which remains unexecuted, from which such person has

not been paroled, placed on postrelease supervision discharged or otherwise released, the prosecuting attorney of the county in which the offense was committed, the secretary of corrections, the director of the institution from which escape was made or the 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 the person was convicted, the circumstances of the person's escape from confinement or other removal from the custody of this state or of the breach of the terms of such person's bail, probation, assignment to a community correctional services program, postrelease supervision or parole and the state in which the person is believed to be, including the location of the person therein, at the time application is made.

(c) The application shall be verified by affidavit, shall be executed in triplicate and shall be accompanied by three certified copies of the indictment returned, or of 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 applicant may also attach such further affidavits and other documents in triplicate as the applicant considers proper to be submitted with such application. One copy of the application, with the action of the governor indicated by endorsement thereon, and one 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 governor's pardon attorney to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

22-2724. Costs and expenses.

The expenses which may accrue under K.S.A. 22-2723 shall be treated as costs of the criminal proceedings and shall be taxed and paid as provided in K.S.A. 22-3801 et seq.

22-2725. Immunity from service of process in 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 proceedings, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

22-2726. Written waiver of extradition proceeding; duty of judge.

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 such person's bail, probation, assignment to a community correctional services program, postrelease supervision or parole, or alleged to be under sentence, some part of which remains unexecuted, from which such person has not been paroled, placed on postrelease supervision, discharged or otherwise released, may waive the issuance and service of the warrant provided for in K.S.A. 22-2707 and 22-2708, and amendments thereto, 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 which states that such person consents to return to the demanding state, except that before such waiver is executed or subscribed by such person it shall be the duty of such judge to inform such person of the person's rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in K.S.A. 22-2710 and amendments thereto.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent.

Nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this state.

22-2727. Nonwaiver 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.

22-2728. 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.

22-2729. Uniformity of interpretation.

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

22-2730. Invalidity of part.

If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act

are declared to be severable.

KENTUCKY REVISED STATUTES ANNOTATED
TITLE XL. CRIMES AND PUNISHMENTS
CHAPTER 440. ESCAPES, FUGITIVES FROM JUSTICE AND EXTRADITION
UNIFORM CRIMINAL EXTRADITION ACT
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Current through Kentucky Laws 2nd Ex. Sess. Ch. 2 (H.B. 1)

s 440.150 Citation of KRS 440.150 to 440.420.

KRS 440.150 to 440.420 may be cited as the Uniform Criminal Extradition Act.

(Enact. Acts 1960, ch. 135, s 1.)

s 440.160 Definitions for KRS 440.150 to 440.420.

Where appearing in KRS 440.150 to 440.420, 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, and 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.

s 440.170 Duty of governor.

Subject to the provisions of KRS 440.150 to 440.420, 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.

s 440.180 Conditions of demand for extradition.

No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing alleging, except in cases arising under KRS 440.210, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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. 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 of conviction or sentence must be authenticated by the executive authority making the demand.

s 440.190 Investigation by attorney general.

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 other officer of 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.

s 440.200 Demand by this state -- Agreement with other state -- Demand on involuntary departure.

(1) 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.

(2) 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 KRS 440.180 with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

s 440.210 Demand when act in this state results in crime in other state.

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 KRS 440.180 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 KRS 440.150 to 440.420 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.

s 440.220 Warrant of arrest by governor.

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

s 440.230 Execution of warrant.

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 KRS 440.150 to 440.420, to the duly authorized agent of the demanding state.

s 440.240 Assistance in making arrest.

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.

s 440.250 Procedure upon arrest.

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 circuit court or district court 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 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 attorney 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.

s 440.260 Confinement of prisoner en route -- Duty of jailer -- Evidence of extradition.

(1) 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.

(2) 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.

s 440.270 Person charged with crime in other state may be arrested in this state -- Procedure -- Warrant required.

(1) Whenever any person within this state shall be charged on the oath of any credible person before any judge of this state with the commission of any crime in any other state and, except in cases arising under KRS 440.210, 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 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 KRS 440.210, 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 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 circuit or district judge of the county in which he was arrested who 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.

(2) No bail bondsman or his agent shall arrest, detain, imprison, or remove from the state any person for having broken the terms of his bail unless a warrant for that person's arrest has been issued as provided for in subsection (1) of this section.

(3) Any violation of subsection (2) of this section shall be deemed as a Class D felony and punishable thereas.

s 440.280 Arrest may be made without warrant -- Conditions -- Procedure.

The arrest of a person may be lawfully made also by any peace officer or a private person, 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 one (1) year, but when so arrested the accused must be taken before a judge 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.

s 440.290 Commitment in jail pending governor's warrant issued on requisition.

If from the examination before the judge it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under KRS 440.210, that he has fled from justice, the judge must, by a warrant reciting the accusation, commit him to the county jail for such a time not exceeding thirty (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 KRS 440.300, or until he shall be legally discharged.

s 440.300 Bail permitted -- Conditions.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the governor of this state.

s 440.310 Failure to arrest under warrant of governor -- Discharge -- Recommitment.

If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant or bond, the judge may discharge him or may recommit him for a further period not to exceed sixty (60) days, or may again take bail for his appearance and surrender, as provided in KRS 440.300, but within a period not to exceed sixty (60) days after the date of such new bond.

s 440.320 Forfeiture of bond.

If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond, the judge, 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.

s 440.330 Extradition may be granted person accused or convicted in this state -- Conditions.

The governor may in his discretion surrender upon demand of the executive authority of another state, any person found in this state, notwithstanding the fact that a criminal prosecution or charges under the laws of this state are pending against such person, or that such person has been convicted in this state and is serving a sentence in any penal institution of this state. The governor may condition the release of such prisoner to the demanding state upon such terms as he may stipulate, including the condition that the prisoner be returned to this state immediately after trial and before commencing the service of sentence, if any, in the demanding state; Provided, however, in no case shall surrender of such prisoner be construed as a complete relinquishment of jurisdiction by this state, but such prisoner shall forthwith be returned to the custody of this state at expense of the demanding state, immediately after trial in the demanding state, or the completion of sentence therein, as the case may be.

s 440.340 Inquiry as to guilt prohibited after demand for extradition.

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.

s 440.350 Control of warrant.

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

s 440.360 Warrant of governor to receiving officer.

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.

s 440.370 Application for return of person charged with crime -- Person convicted -- Requisites and procedures.

(1) When the return to this state of a person charged with crime in this state is required, the commonwealth's attorney or county 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 escaped from confinement or broken the terms of his bail, probation or parole, the commonwealth's attorney or county attorney of the county in which the offense was committed, the chairman of the parole board, or the warden of the institution or county attorney 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 triplicate and shall be accompanied by three (3) certified copies of the indictment returned, or affidavit made before a judge and warrant of arrest

issued thereon, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The commonwealth's attorney or county attorney, chairman of the parole board or warden shall also attach such further affidavits and other documents in triplicate as he or the attorney general may deem proper to be submitted with such application. When the application is made pursuant to subsection (1) of this section, the prosecuting attorney shall, unless the case is of the type mentioned in KRS 440.210, submit to the governor proof in the form of an affidavit that the accused was personally present in this state at the time of commission of the crime charged. One (1) copy of the application, with the action of the governor indicated by endorsement thereon, and one (1) of the certified copies of the indictment, affidavit and warrant, 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

s 440.375 Extradition of persons charged with custodial interference.

(1) The county attorney shall present to the governor a written application prepared in accordance with KRS 440.370 for the return from any other state of any person charged with a violation of KRS 509.070.

(2) Upon receipt of the county attorney's application, the governor may immediately demand from the executive authority of any other state the return of any person charged with a violation of KRS 509.070.

s 440.380 Waiver of extradition -- Procedure -- Expenses.

(1) When a person charged with commission of a felony in this state or with having been convicted of a felony here and having escaped from confinement or broken the terms of his bail, probation or parole is arrested in another state and waives extradition proceedings, the county judge/executive of the county in which the felony was committed, or from which the escape was made, may, upon filing of a verified application by the commonwealth's attorney or county attorney setting forth the fact of waiver and making all statements required by subsection (1) or subsection (2) of KRS 440.370, enter an order designating an officer to return the fugitive to this state without benefit of any procedure incidental to extradition proceedings. Upon entry of such order the officer so designated shall be authorized to go after and return the fugitive as the agent of this state and shall receive from the state treasury the same payment for his expenses as is provided by KRS 440.090 for agents acting under requisition of the governor. Claims for reimbursement of expenses under this subsection shall be accompanied by certified copies of the verified application for appointment of the agent and the order of appointment, together with a copy of any process showing delivery of the fugitive to the jailer upon return to this state. If the agent is not given possession of the fugitive for reasons beyond the agent's control, he shall nevertheless be reimbursed as provided herein, if it is shown that prior to his appointment as agent and before departure from the state the fugitive had executed in the presence of any officer authorized to administer an oath a written waiver stating that he consents to return to this state without extradition.

(2) All legal costs incurred in apprehending and securing in this state a fugitive wanted in another state shall be paid by the agent of the state demanding him before the agent is permitted to remove him or receive him into custody.

s 440.390 Immunity from civil process.

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 proceeding 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.

s 440.400 Waiver of extradition by person arrested in this state --
Procedure -- Effect.

(1) 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 bail, probation or parole may waive the issuance and service of the warrant provided for in KRS 440.220 and 440.230 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any district or circuit court within this state a writing which states that he consents to return to the demanding state; Provided, however, That before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in KRS 440.250.

(2) If and when such consent has been duly executed it shall forthwith be forwarded to the office of the secretary of state of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; Provided, however, That nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this state.

s 440.410 Construction against waiver of any of this state's rights.

Nothing contained in KRS 440.150 to 440.420 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 KRS 440.150 to 440.420 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.

s 440.420 Returned person subject to prosecution for other crimes.

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.

WEST'S LOUISIANA STATUTES ANNOTATED
LOUISIANA CODE OF CRIMINAL PROCEDURE
TITLE VI. EXTRADITION

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Current through all 1993 First Extraordinary and 1993 Regular Session Acts

Art. 261. Special definitions

In this Title:

- (1) "Crime" means any offense denounced by a state statute and does not include an offense denounced by a local ordinance.
- (2) "Governor" includes any person performing the functions of governor by authority of the law of this state.
- (3) "Executive authority" includes the governor, and any person performing the functions of governor in a state other than this state.
- (4) "Indictment" is limited in meaning to the finding of a grand jury.
- (5) "Judge" means any judge of a district court with criminal jurisdiction.
- (6) "State," when used with reference to a state other than this state, means any state or territory of the United States of America, and includes the District of Columbia.

Art. 262. Extradition of wanted criminals

Subject to the provisions of this Title, the governor may, in his discretion, have arrested and delivered to the executive authority of any other state any person wanted in that state to be tried for a crime, or wanted for sentencing or to serve sentence after conviction of a crime, who is found in this state.

Art. 263. Form of demand for extradition; necessary papers

A demand for the extradition of a person wanted in another state shall not be recognized by the governor unless the demand is in writing and states the purpose for which he is wanted. The demand must be accompanied by:

- (1) A statement of facts by the prosecuting officer having jurisdiction of the crime, and by a copy of an indictment found or of an information filed in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or
- (2) A copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of his bail, probation, parole, furlough, or reprieve.

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 the indictment, information, affidavit, judgment of conviction, or sentence must be authenticated by the executive authority making the demand.

Art. 264. Investigation of demand by governor

When a demand is made upon the governor of this state by the executive authority of another state for surrender of a person wanted by the other state, the governor may call upon the attorney general, a district attorney, or other official or agency in this state to investigate or assist in investigating the demand, and to report to him the situation of and circumstances surrounding the person so demanded, and whether or not he ought to be surrendered.

Art. 265. Governor's warrant; issuance and recitals

If the governor decides that a demand for extradition should be complied with, he shall sign a warrant of arrest directed to any peace officer for execution. The warrant shall recite facts showing substantial compliance with Article 263, but an incomplete recital of facts shall not invalidate the warrant if a proper basis for its issuance exists.

Art. 266. Execution, recall, and expiration of governor's warrant

The governor's warrant authorizes any peace officer to arrest the accused at any time and at any place he may be found in the state. The peace officer shall have authority to command the aid of other peace officers or persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this Title, to the designated agent of the demanding state. The governor may recall his warrant of arrest or may issue another warrant at any time. A warrant issued by the governor shall expire when not executed within six months from the date of its issuance.

Art. 267. Rights of accused; extradition hearing

A person arrested upon the governor's warrant shall not be delivered over to the agent appointed by the executive authority to receive him unless he shall first be taken before a judge, or in Orleans Parish, before a judge, a magistrate judge, or a commissioner of the magistrate section of the criminal district court, who shall inform him of the demand made for his surrender, of the crime with which he is charged, of his right to procure legal counsel, and of his right to an extradition hearing. If the prisoner or his counsel states that he desires an extradition hearing, the court shall assign as early a day as practicable for the hearing, to be held in open court. At least one full day shall intervene between the assignment and the day fixed for the hearing. Notice of the time and place of the hearing shall be given to the district attorney of the parish in which the hearing is to be held. If an extradition hearing is not requested, the prisoner shall be delivered promptly to the agent of the demanding state.

Art. 269. Arrest prior to demand for extradition; issuance of warrant

A judge may issue a warrant for the arrest of a person in this state, prior to a demand for extradition in conformity with Article 263, when on the oath or affidavit of a credible person, taken before a judge or clerk of court, the person to be arrested is charged with:

- (1) Being a fugitive from justice of another state;

- (2) Commission of a crime in another state; or
- (3) Having been convicted of a crime in another state, and having escaped from confinement or having broken the terms of his bail, probation, parole, furlough, or reprieve.

In this article, "judge" means any judge of a district, city, or parish court with criminal jurisdiction.

Art. 270. Commitment to await extradition

A. The judge shall commit the accused for thirty days if it appears, after a hearing in open court, that there is reasonable ground to hold him awaiting extradition. The order of commitment shall recite the accusation. The accused shall be imprisoned in the parish jail until the term of his commitment expires or he is otherwise legally discharged, unless he gives bail as provided in Article 271.

B. The judge may extend the commitment of the accused for an additional period, not to exceed sixty days, if such additional period of commitment is for the purpose of awaiting receipt of the extradition requisition or other necessary or proper papers needed for the extradition of the accused.

Art. 272. Persons under criminal prosecution or sentence in this state at time of requisition

If a criminal prosecution against the demanded person is pending under the laws of this state, or if he has been convicted in a court of this state but has not completely satisfied his sentence, the governor may, in his discretion, surrender him on demand of the executive authority of the other state. The surrender must be pursuant to a re-extradition agreement, and:

- (1) If a prosecution is pending the district attorney must agree to the surrender; or
- (2) If the person demanded has been convicted, but has not been sentenced or has not completely satisfied his sentence, the court of the conviction must agree to the surrender.

Art. 273. Waiver of extradition proceedings

A. A demanded person arrested in this state may waive the issuance and service of the warrant required by Articles 265 and 266 and all other requirements incidental to extradition proceedings, by consenting in writing in the presence of the judge to return to the demanding state. Before such waiver is executed or subscribed to by the demanded person, the judge shall inform him of his rights to the issuance and service of a warrant of extradition and to an extradition hearing. When a waiver has been executed the judge shall direct the officer having the person in custody to deliver him immediately to the accredited agent of the demanding state, with a copy of the waiver.

B. The waiver procedure of Paragraph A of this Article is not exclusive and does not in any way preclude the state's return of a probationer or parolee to another state with which the state of Louisiana has entered into a compact for out-of-state probation and parole supervision, under the authority of R.S. 15:574.14(3), or a probation or parole absconder who has signed a waiver of extradition as a condition of probation or parole.

Art. 274. Application for issuance of requisition

When a district attorney desires the return to this state of a person wanted to be tried for a crime, he shall present to the governor a written application for a requisition for the return of the person charged. The application shall state the name of the person wanted, the crime with which he is charged, and the approximate time, place, and circumstances of its commission. It shall also specify the state in which he is believed to be and his probable location in that state at the time the application is made. The application shall recommend a peace officer or other person as agent to receive the accused. It shall certify that, in the opinion of the district 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.

Art. 275. Application for return of wanted fugitive

When the return to this state of a person convicted of a crime who has escaped from confinement or broken the terms of his bail, probation, parole, furlough, or reprieve is desired, the governor shall be presented with a written application for a requisition for his return. The application may be made by a district attorney or the attorney general, and shall state 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, parole, furlough, or reprieve. It shall specify the state in which he is believed to be and his probable location in that state at the time the application is made. It shall also recommend a peace officer or other person as agent to receive the person sought.

Art. 276. Documents to be filed with application for requisition

The application for a requisition shall be verified by affidavit, executed in duplicate, and accompanied by two certified copies of all documents that are required for extradition by the law of the state from which the wanted person is to be returned. One copy of the application, with the action of the governor indicated by endorsement thereon, and one of the certified copies of the required documents, shall be filed in the office of the secretary of state. The other copies of all papers shall be forwarded with the governor's requisition. Failure to meet the requirements of this article, or of Articles 274 and 275, will not invalidate a requisition issued by the governor.

Art. 277. Appointment of agents to receive prisoner

When the governor issues a requisition for extradition he shall also issue a warrant under the seal of the state, to an agent, commanding him to receive the person to be extradited and to deliver him to the proper authority.

Art. 278. Re-extradition agreements

When the return to this state of a person wanted in this state to be tried for a crime is desired, and the person is imprisoned or is held under criminal proceedings pending against him in another state, the governor may enter into a re-extradition agreement with the executive authority of the other state for the purpose of procuring the extradition of the person before the conclusion of the proceedings or his term of sentence in the other state. The agreement shall be upon the condition that the person extradited will be returned to the other state without further extradition proceedings, upon the request of the executive authority of that state and at the expense of this state.

Art. 280. Immunity of extradited person from service of process in 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 until he has been convicted or has pleaded guilty in the criminal proceeding, or, if acquitted or otherwise discharged, until three days after the acquittal or discharge.

MAINE REVISED STATUTES ANNOTATED
TITLE 15. COURT PROCEDURE--CRIMINAL
PART 1. CRIMINAL PROCEDURE GENERALLY
CHAPTER 9. CRIMINAL EXTRADITION
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s 201. Definitions

As used in this chapter, unless the context indicates otherwise, the following words shall have the following meanings.

1. Application. "Application" means a request, by any person specified in section 223, to the Governor of this State to make a requisition to the executive authority of another state for the extradition of a fugitive from justice.

2. Demand. "Demand" means the demand, as provided in section 203, by the executive authority of another state upon the Governor of this State for the extradition of a fugitive from justice.

3. Executive authority. "Executive authority" includes the Governor and any person performing the functions of governor in a state other than this State.

4. Fugitive from justice. "Fugitive from justice" means:

A. Any person accused of a crime in the demanding state who is not in that state, unless he is lawfully absent pursuant to the terms of his bail or other release. This definition shall include both a person who was present in the demanding state at the time of the commission of the alleged crime and thereafter left the demanding state and a person who committed an act in this State or in a 3rd state or elsewhere resulting in or constituting a crime in the demanding state; or

B. Any person convicted of a crime in the demanding state who is not in that state, unless he is lawfully absent pursuant to the terms of his bail or other release, who has not served or completed a sentence imposed pursuant to the conviction. This definition shall include, but not be limited to, a person who has been released pending appeal or other review of the conviction, the review having been completed; a person who has been serving a sentence in this State; a person who has escaped from confinement in the demanding state; or a person who has broken the terms of his bail, probation or parole.

5. Governor. "Governor" includes any person performing the functions of Governor by authority of the law of this State.

5-A. Judicial officer. "Judicial officer" shall mean a justice, judge, justice of the peace, clerk of courts or other neutral person empowered by the laws of the demanding state to issue criminal process.

6. State. "State," referring to a state other than this State, refers to any other state or territory, organized or unorganized, of the United States of America.

s 202. Governor to deliver up person charged with crime in other state

Subject to the provisions of this chapter and of the Constitution of the United States and Acts of Congress 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 who is a fugitive from justice, as defined in section 201, subsection 4, and is found in this

State. Any person charged with or convicted of a crime as an adult in the demanding state shall be subject to this chapter, regardless of age.

s 203. Form of demand

1. Persons accused of a crime. No demand for the extradition of a person accused, but not yet convicted, of a crime in another state shall be recognized by the Governor of this State unless made in writing and containing the following:

A. An allegation that the accused is a fugitive from justice, as defined in section 201, subsection 4, paragraph A. The allegation shall be sufficient if it alleges that the accused was present in the demanding state at the time of the commission of the alleged crime and that he thereafter left the demanding state; or that he committed an act in this State or in a 3rd state, or elsewhere, resulting in or constituting a crime in the demanding state; and

B. A copy of an indictment returned; or an information issued upon a waiver of indictment; or an information or other formal charging instrument issued upon a determination of probable cause by a judicial officer in the demanding state or accompanied by an arrest warrant issued upon a determination of probable cause by a judicial officer in the demanding state; or any other formal charging instrument, together with any affidavits in support thereof, or in support of an arrest warrant, which support a finding of probable cause; or an affidavit which supports a finding of probable cause. The indictment, information, other formal charging instrument or affidavit shall substantially charge the person demanded with having committed a crime under the law of that state, and the copy shall be authenticated by the executive authority making the demand.

2. Person convicted of a crime. No demand for the extradition of a person convicted of a crime in another state shall be recognized by the Governor of this State unless made in writing and containing the following:

A. A statement by the executive authority of the demanding state that the person demanded is a fugitive from justice, as defined in section 201, subsection 4, paragraph B; and

B. A copy of the judgment of conviction or of the sentence imposed in execution thereof, which has been authenticated by the executive authority making the demand.

3. Defects in written demand. Defects in the written demand of the executive authority of another state or in any accompanying document or in the application for requisition may be remedied at any time, including at the hearing allowed by section 210, by new or amended documents or by other evidence.

4. Showing of substantial prejudice. Notwithstanding any other provision of law, defects in the written demand of the executive authority of another state or in any accompanying document or in the application for requisition may not be raised as a defense to extradition, in a petition contesting extradition pursuant to sections 210 and 210-A, unless it is shown by the petitioner that any such defect is substantially prejudicial to him.

s 204. Attorney General to investigate at demand of Governor

When a demand is 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.

s 205. Extradition of prisoners or those awaiting trial or absent by 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 or imprisonment following conviction in this State is terminated.

The Governor may 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 223 with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

s 207. Governor to issue warrant and deliver to officer

If the Governor decides that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal and be directed to any law enforcement officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issue. Notwithstanding any other provision of law, defects in the Governor's warrant may not be raised as a defense to extradition, in a petition contesting extradition pursuant to sections 210 and 210-A, unless it is shown by the petitioner that any such defect is substantially prejudicial to him.

s 208. Warrant to authorize arrest

Such warrant shall authorize the officer or other person to whom directed to arrest the accused at any place where he may be found within the State and to command the aid of any law enforcement officer in the execution of the warrant and to deliver the accused, subject to this chapter, to the duly authorized agent of the demanding state. A law enforcement officer may arrest a fugitive from justice pursuant to a warrant issued by the Governor even if he does not have physical possession of it upon the representation of the prosecuting attorney that such a warrant has, in fact, been issued.

s 209. Arresting officer may command assistance

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

s 210. Rights of accused person; habeas corpus

No person arrested upon such a warrant shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him, unless he is first 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. If the prisoner or his counsel state that the prisoner may or will contest extradition, the judge shall fix a reasonable time, not to exceed 7 days, to be allowed him within which to file a petition contesting extradition. The petition shall be filed in Superior Court and shall state the grounds upon which extradition is contested. When the petition is filed, notice of it and of the time and place of hearing shall be given to the prosecuting attorney of the county in which the arrest is made and in which the accused is in custody, to the Attorney General and to the agent of the demanding state.

A person arrested upon the warrant of the Governor shall not be admitted to bail, except as provided as follows: If a petition contesting extradition is granted and the order is appealed by the State to the Supreme Judicial Court sitting as the Law Court, the petitioner may be admitted to bail, in the discretion of the presiding justice, pending that appeal. If the appeal is sustained, the petitioner shall be immediately placed in custody without bail to await delivery to the agent of the demanding state.

1, 2. Repealed. Laws 1983, c. 843, s 5.

3. Repealed. Laws 1983, c. 843, s 6.

s 211. Disobedience of officer

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 disobedience of section 210 is guilty of a Class E crime.

s 212. Prisoner confined in jail

The officer or person 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. The keeper of such jail must receive and safely keep the prisoner until the person having charge of him is ready to proceed on his route, such 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. 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 being chargeable with the expense of keeping. 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.

s 213. Arrest prior to requisition

1. Warrant of arrest. A warrant of arrest shall be issued whenever a person within this State is charged, on the sworn complaint of any credible person before a judge or magistrate of this State, or by a complaint made before a judge or magistrate of this State upon an affidavit of any credible person in another state, with:

A. The commission of a crime in any other state and with being a fugitive from justice as defined in section 201, subsection 4, paragraph A; or

B. Having been convicted of a crime in another state and with having escaped from confinement or with having broken the terms of his bail, probation or parole.

2. Apprehension by warrant. A warrant issued by a judge or magistrate pursuant to subsection 1 shall command the law enforcement officer to whom it is directed 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 or magistrate who may be available in or convenient of access to the place where the arrest may be made, to answer the charge on the complaint and affidavit.

3. Copy of charge attached to warrant. A certified copy of the sworn charge or the complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

s 214. Arrest without warrant; hearing

The arrest of a person may be lawfully made by an officer or a private citizen without a warrant, upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one 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 section 213. Thereafter his answer shall be heard as if he had been arrested on a warrant.

s 215. Commitment to await requisition; bail

If, from the examination by the judge or magistrate of the complaint, affidavits in support thereof, formal charging documents or judgments supplied by the demanding state or any other evidence, including reliable hearsay evidence, which may be presented, it appears that the person held is the person

charged with having committed the crime alleged and that there is probable cause to believe that he committed the crime, and that he is a fugitive from justice, the judge or magistrate shall continue the case and may commit the person to jail, by a warrant specifying the accusation, for any time not exceeding 60 days which 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.

The following shall be conclusive on the issue of probable cause:

1. Indictment or information. An indictment or an information issued upon a waiver of indictment; or
2. Charging instrument or warrant. An information or other formal charging instrument or an arrest warrant when they are issued upon a determination of probable cause by a judicial officer in the demanding state.

The examination shall take place within a reasonable time after arrest, not to exceed 30 days, if the person held has not been admitted to bail, as provided in section 216.

s 217. Extension of time of commitment

If the accused is not arrested under a warrant of the Governor by the expiration of time specified in the warrant, bond or undertaking, the judge or magistrate may discharge him or may continue the case for any further time not to exceed 60 days. If, after the expiration of any further time specified by the judge or magistrate, the accused has not been arrested under a Governor's warrant, the complaint shall be dismissed. Nothing in this section may be construed to prevent the rearrest of the accused upon a Governor's warrant issued subsequent to the expiration of the time period specified in this section. The court shall grant a reasonable extension of time under this section upon the representation of the prosecuting attorney that a written demand of the executive authority of another state has been issued but has not been received or acted upon by the Governor.

s 218. Failure to appear

If the prisoner is admitted to bail and fails to appear and surrender himself according to the condition of his bond, the court, by proper order, shall declare the bond forfeited. Recovery may be had thereon in the name of the State as in the case of other bonds or undertakings given by the accused in criminal proceedings within the State.

s 219. Governor may surrender or hold prisoner where proceedings begun in this State

If a criminal prosecution has been instituted against such person under the laws of this State and is still pending, the Governor at his discretion either may surrender him on the demand of the executive authority of another state or may hold him until he has been tried and discharged or convicted and punished in this State.

s 220. Guilt or innocence not inquired into after extradition demanded

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 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, and except insofar as it may be inquired into for the purpose of establishing probable cause as required by sections 203 and 210-A.

s 221. Warrant for arrest recalled or another issued

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

s 222. Warrant for agent to receive accused from another state

Whenever the Governor shall demand a fugitive from justice, 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 commission 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.

s 223. Application for issuance of requisition

1. Person charged with crime. When it is required to return to this State a person charged with a crime in this State, the prosecuting attorney shall present to the Governor a written application for a requisition for the return of the person charged. The application shall state:

- A. The name of the person charged;
- B. The crime with which he is charged;
- C. The approximate time, place and circumstances of its commission; and
- D. The state in which the accused is believed to be, including his location therein at the time the application is made.

The prosecuting attorney shall certify in his application that in his opinion 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. Person convicted of a crime. When it is required to return to this State a person who has been convicted of a crime in this State and who has escaped from confinement or broken the terms of his bail, probation or parole, the prosecuting attorney, the State Parole Board, the warden of the institution or the sheriff of the county from which the escape was made shall present to the Governor a written application for a requisition for the return of that

person. The application shall state:

- A. The name of the person;
 - B. The crime of which he was convicted;
 - C. The circumstances of his escape from confinement, or of the breach of the terms of his bail, probation or parole; and
 - D. The state in which he is believed to be, including his location therein at the time the application is made.
3. Verification; filing. The application shall be verified by affidavit, executed in duplicate and accompanied by 2 certified copies of:

- A. The indictment return;
- B. The information filed or the complaint made to the judge or magistrate stating the offense with which the accused is charged, together with the affidavit in support of the information or complaint; or
- C. The judgment of conviction.

The prosecuting attorney, State Parole Board, warden or sheriff may attach any further affidavits and other documents which he shall deem proper to be submitted with the application, including affidavits with attached photographs or fingerprints which serve to establish that the person named and shown therein is the person for whom a requisition is sought. One copy of the application with the action of the Governor indicated thereon, and one 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.

4. Prosecuting attorney; defined. As used in this section, the term "prosecuting attorney" means:

- A. The district attorney or the deputy district attorney of the county in which the offense was committed; or
- B. The Attorney General or a Deputy Attorney General.

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. Person convicted of a crime. 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 State Probation and 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. Verification; filing. 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, State Probation and Parole Board, warden or sheriff may attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted with such application. One copy of the application, with the action of the Governor indicated by indorsement thereon, and one 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."

The 1971 amendment deleted "Probation and" before "Parole Board" in subsec. 2 and in the second sentence of subsec. 3.

The 1977 amendment repealed and replaced this section.

Uniform Law:

This section is similar to s 23 of the Uniform Criminal Extradition Act, see 11 Uniform Laws Annotated, Master Edition.

s 225. Extradited persons except from civil process

A person brought into this State on 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 proceeding to answer which he is returned, until he has been convicted in the criminal proceeding or, if acquitted, until he has had ample opportunity to return to the state from which he was extradited.

s 229. Title

This chapter may be cited as the "Uniform Criminal Extradition Act" and shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

ANNOTATED CODE OF MARYLAND
ARTICLE 41. GOVERNOR -- EXECUTIVE AND ADMINISTRATIVE DEPARTMENTS.
TITLE 2. EXECUTIVE DEPARTMENT -- GENERALLY.

Subtitle 2. Extradition.

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s 2-201 Definitions.

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 of the United States of America.

s 2-202 Fugitives from justice; duty of Governor.

Subject to the provisions of this subtitle, 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.

s 2-203 Form of demand.

No demand for the extradition of a person charged with crime in another state shall be recognized by the Governor unless in writing alleging, except in cases arising under s 2-206, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a justice of the peace or magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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. The indictment, information, or affidavit made before the magistrate or justice of the peace 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 of conviction or sentence must be authenticated by the executive authority making the demand.

s 2-204 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.

s 2-205 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 s 2-223 of this subtitle with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

s 2-206 Extradition of persons not present in demanding state at time of commission of crime.

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 s 2-203 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 subtitle 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.

s 2-207 Issue of Governor's warrant of arrest.

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

s 2-208 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 subtitle to the duly authorized agent of the demanding state.

s 2-209 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.

s 2-210 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 be first 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 or the City of Baltimore in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding state. If the application for a writ of habeas corpus after an extradition hearing only, is denied by the trial court, the denial may be appealed to the Court of Special Appeals.

s 2-211 Penalty for noncompliance with s 2-210.

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 willful disobedience to s 2-210 of this article, shall be guilty of a misdemeanor and, on conviction, shall be subject to a fine of not more than \$1,000.00, or be imprisoned not more than six months, or both, the trial of said case to be conducted in the circuit court of the county wherever the offense shall have been committed.

s 2-212 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.

s 2-213 Arrest prior to requisition.

Whenever any person within this State shall be charged on the oath of any credible person before any judge or District Court commissioner of this State with the commission of any crime in any other state and, except in cases arising under s 2-206, 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 commissioner 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 s 2-206, 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 commissioner 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 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.

s 2-214 Arrest without 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 one year, but when so arrested the accused must be taken before a judge or District Court commissioner 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.

s 2-215 Commitment to await requisition; bail.

If from the examination before the judge or District Court commissioner it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under s 2-206, that he has fled from justice, the judge or commissioner must, by a warrant reciting the accusation, commit him to the county jail for such a time not exceeding thirty 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 s 2-216, or until he shall be legally discharged.

s 2-216 Bail; in what cases; conditions of bond.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge in this State may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the Governor of this State.

s 2-217 Discharge, recommitment or renewal of bail.

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 District Court commissioner may discharge him or may recommit him for a further period not to exceed sixty days, or a judge or commissioner may again take bail for his appearance and surrender, as provided in s 2-216, but within a period not to exceed sixty days after the date of such new bond.

s 2-218 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 District Court commissioner 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.

s 2-219 Persons under criminal prosecution in this State at time of requisition.

If a criminal prosecution has been instituted against such person under the laws of this State and is still pending, the Governor, in his discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this State.

s 2-220 Guilt or innocence of 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.

s 2-221 Governor may recall warrant.

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

s 2-222 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 or the City of Baltimore, in which the offense was committed.

s 2-223 Application for issuance of requisition; by whom made; contents.

(a) When the return to this State of a person charged with crime in this State is required, the State's attorney of the county or the City of Baltimore, as the case may be, 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 attorneys 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.

(b) 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 State's attorney of the county or the City of Baltimore, in which the offense was committed, the parole commission, 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.

(c) The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or District Court commissioner, 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 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 one 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.

s 2-224 Written waiver of extradition proceedings.

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 bail, probation or parole, may waive the issuance and service of the warrant provided for in ss 2-207 and 2-208, 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 which states that he consents to return to the demanding state; provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in s 2-210.

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

s 2-225 Nonwaiver by this State.

Nothing in this subtitle 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 subtitle 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.

s 2-226 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.

s 2-227 Interpretation.

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

s 2-228 Severability; short title.

If any provision of this subtitle or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the subtitle which can be given effect without the invalid provision or application, and to this end the provisions of this subtitle are declared to be severable.

This subtitle may be cited as the Uniform Criminal Extradition Act.

MASSACHUSETTS GENERAL LAWS ANNOTATED
PART IV. CRIMES, PUNISHMENTS AND PROCEEDINGS IN CRIMINAL CASES
TITLE II. PROCEEDINGS IN CRIMINAL CASES
CHAPTER 276. SEARCH WARRANTS, REWARDS, FUGITIVES FROM JUSTICE, ARREST,
EXAMINATION, COMMITMENT AND BAIL. PROBATION OFFICERS AND BOARD OF
PROBATION

s 11. Definitions

Wherever appearing in sections eleven to twenty R, inclusive, the term "governor" includes any person performing the functions of governor by authority of the law of this commonwealth, the term "executive authority" includes the governor, and any person performing the functions of governor, in any other state, the term "surrender" refers to the arresting and delivering up of a person in this commonwealth to the executive authority of another state, and the term "state", referring to a state other than this commonwealth, refers to any other state or territory, organized or unorganized, of the United States.

s 12. Arrest and delivery of accused to executives of another state;
governor's authority

Subject to the provisions of sections eleven to twenty R, inclusive, the controlling provisions of the constitution of the United States, and any and all acts of congress enacted in pursuance thereof, the governor may cause to be arrested and delivered up to the executive authority of any other state any person charged in such other state with treason, felony or other crime, or with having been convicted of a crime in such other state and having escaped from confinement or having broken the terms of his bail, probation or parole, who is found in this commonwealth.

s 13. Surrendering accused not in demanding state at time of crime or
leaving demanding state involuntarily

The governor may also surrender, on demand of the executive authority of any other state, any person in this commonwealth charged in such other state in the manner provided in section fourteen with committing an act in this commonwealth, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand, hereafter in this section and in sections fourteen to twenty P, inclusive, referred to as the demanding state, and the provisions of sections eleven to twenty R, inclusive, not otherwise inconsistent shall apply to such cases, even though the accused was not in the demanding state at the time of the commission of the crime.

The governor may surrender, on demand of the executive authority of any other state, any person in this commonwealth charged in the demanding state in the manner provided in section fourteen with having violated its laws, even though such person left such state involuntarily.

s 14. Written demand; allegations; accompanying papers; charge of crime;
authentication of copies of papers

No demand for the interstate rendition of a person charged with crime in another state shall be recognized by the governor unless it be in writing alleging either that the person demanded was present in the demanding state at the time of the commission of the alleged crime, or that such person committed in this commonwealth or in a third state an act intentionally resulting in a crime in the demanding state, or that such person has escaped from confinement or has broken the terms of his bail, probation or parole, nor unless such demand is accompanied by a copy of an indictment found, or of an information supported by affidavit, in the demanding state, or by a copy of an affidavit made before a magistrate of such state, and by a copy of the warrant which was issued thereon, or by a copy of a judgment of conviction or of a sentence imposed in execution thereof in the demanding state. The indictment or information, or the affidavit made before the magistrate who issued the warrant, shall substantially charge the person demanded with having committed a crime under the law of the demanding state, and the copy of the indictment, information, affidavit, judgment of conviction or sentence shall be authenticated by the executive authority of such state.

s 15. Investigation of demand and report to governor

When a demand shall be made upon the governor 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 other prosecuting officer 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.

s 16. Governor's warrant of arrest; recital of facts

If the governor decides that the demand should be complied with, he shall sign a warrant of arrest, sealed with the state seal and directed to an officer authorized to serve warrants in criminal cases or other person whom the governor may think fit to entrust with the execution thereof. Such warrant shall substantially recite the facts necessary to the validity of its issue.

s 17. Arrest and delivery of accused; commanding aid

Such warrant shall authorize the person to whom it is directed to arrest the accused at any time and any place where he may be found within this commonwealth and to command the aid of all officers authorized to serve warrants in criminal cases or other persons in the execution thereof, and to deliver the accused, subject to the provisions of said sections eleven to twenty R, inclusive, to the duly authorized agent of the demanding state.

s 18. Authority to command assistance; penalties for refusal

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

s 19. Rights of arrested person; habeas corpus; notice; penalty

No person arrested upon such a warrant shall be delivered over to the agent whom the executive authority of the demanding state shall have appointed to receive him unless such person shall first be taken forthwith before a justice or special justice of a court of record of this commonwealth, who shall inform such person 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 desires to test the legality of his arrest, such justice or special justice shall fix a reasonable time to be allowed the prisoner 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 attorney general and to the district attorney for the district in which the arrest is made and for the district in which the accused is in custody, and to said agent of the demanding state.

Any officer who shall deliver to said agent of the demanding state a person in his custody under the warrant of the governor, in wilful disobedience of the provisions of this section, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than six months, or both.

s 20. Confinement of accused; expense; evidence of transportation to demanding state; new requisition

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

The officer or agent of a demanding state to whom a prisoner shall have been delivered following interstate rendition proceedings in another state, or to whom a prisoner shall have been delivered after waiving interstate rendition in another state, and who is passing through this commonwealth with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in a jail or other place of detention in any county, city or town through which he may pass; and the keeper of such jail or other place of detention shall receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his journey, such officer or agent being chargeable with the expense of keeping; provided, that such officer or agent shall produce and show to such keeper satisfactory written evidence that he is actually transporting such prisoner to the demanding state pursuant to a requisition by the executive authority thereof, or that such prisoner has waived interstate rendition. No prisoner being transported pursuant to such a requisition or waiver shall be entitled to demand a new requisition while in this commonwealth.

s 20A. Warrant to apprehend on oath or affidavit; copies of papers attached

Whenever any person within this commonwealth shall be charged, on the oath of any credible person before any court or justice in this commonwealth authorized

to issue warrants in criminal cases, with the commission of any crime in any other state, including cases arising under section thirteen, or with having been convicted in such other 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 such court or justice in this commonwealth setting forth, on the affidavit of any credible person in another state, that a crime has been committed in such other state and that a person has been charged in such state with the commission of a crime, including cases arising under section thirteen, 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 commonwealth, such court or justice may issue a warrant directed to any officer authorized to serve warrants in criminal cases commanding him to apprehend the person named therein, wherever he may be found in this commonwealth, and bring him before the same or any other such court or justice 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.

s 20B. Arrest without warrant; taking accused before court or justice; complaint

The arrest of a person may be lawfully made also by any officer authorized to serve warrants in criminal cases, without a warrant, upon reasonable information that the accused stands charged in another state with a crime punishable by death or by imprisonment for a term exceeding one year, but when so arrested the accused shall be taken with all practicable speed before a court or justice authorized to issue warrants in criminal cases and complaint shall 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.

s 20C. Commitment to permit arrest under warrant of governor on requisition

If from the examination before such court or justice it appears that the person held is the person charged with having committed the crime alleged, including cases arising under section thirteen, or is the person charged with having been convicted of a crime and having escaped from confinement or having broken the terms of his bail, probation or parole, such court or justice shall, by a warrant reciting the accusation, commit him to a jail or house of correction for such time, not exceeding thirty 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 crime, unless the accused gives bail as provided in the following section, or until he shall be legally discharged.

s 20D. Bail

Unless the offence with which the person arrested is charged is shown to be an offence punishable by death or life imprisonment under the laws of the state in which it was committed, such court or justice may admit such person to bail by

bond or undertaking, with sufficient sureties, and in such sum as such court or justice deems proper, conditioned for his appearance before such court or justice, at a time specified in such bond or undertaking, and for his surrender to be arrested upon the warrant of the governor.

s 20E. Discharge; recommitment; bail

If the accused has not been arrested under warrant of the governor at the expiration of the time specified in such warrant, bond or undertaking, such court or justice may discharge him or may recommit him for a further period of sixty days, or may again take bail for his appearance and surrender, as provided in the preceding section, but within a period not to exceed sixty days following the date of such new bond or undertaking.

s 20F. Forfeiture of bail

If the accused is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond or undertaking, such court or justice, by proper order, shall declare the bond or undertaking forfeited and order his immediate arrest without warrant if he be within this commonwealth. Recovery may be had on such bonds or undertakings in the name of the commonwealth as in the case of other bonds or undertakings given by persons accused in criminal proceedings within this commonwealth.

s 20G. Prosecution pending in commonwealth

If a criminal prosecution has been instituted against such person under the laws of this commonwealth and is still pending, the governor, in his discretion, may either surrender him on the demand of the executive authority of another state, or hold him until the final disposition of such prosecution or, if convicted and sentenced, until his discharge from imprisonment.

s 20H. Inquiry into guilt or innocence

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 interstate rendition accompanied by a charge of crime in legal form as provided in section fourteen 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.

s 20I. Recall of warrant or issuance of another

The governor, whenever he deems proper, may recall his warrant of arrest or may issue another warrant.

s 20J. Waiver of warrant and procedure, etc.

Any person arrested in this commonwealth charged with having committed any

crime in another state or with having been convicted in another state and having escaped from confinement or having broken the terms of his bail, probation or parole, may waive the issuance and service of the warrant provided for in sections sixteen and seventeen and all other procedure incidental to interstate rendition proceedings, by executing or subscribing in the presence of any court or justice of this commonwealth authorized to issue warrants in criminal cases a writing which states that he consents to return to the demanding state; provided, that if such waiver shall be executed or subscribed by such person it shall be the duty of such court or justice to inform such person of his rights to the issuance and service of a warrant in interstate rendition and to obtain a writ of habeas corpus as provided in section nineteen. If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor and filed therein. Such court or justice shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent of the demanding state, and shall deliver or cause to be delivered to such agent a copy of such consent; provided, that nothing in this section shall be deemed to limit the right of the accused person to return voluntarily and without formality to the demanding state, nor shall the foregoing waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this commonwealth.

s 20K. Warrant to receive accused and convey him to proper county; proceedings pending in another state

Whenever the governor shall demand a person charged with crime in this commonwealth, or one charged with having been convicted in this commonwealth and having escaped from confinement or having broken the terms of his bail, probation or parole, from the chief executive 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 may issue a warrant, under the seal of this commonwealth, 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 which the crime was committed.

Whenever it is desired to have returned to this commonwealth a person charged herein with a crime, or with having been convicted in this commonwealth and having escaped from confinement or having broken the terms of his bail, probation or parole, and such person is imprisoned or is held under criminal proceedings then pending against him in another state, the governor may agree with the executive authority of such other state for the interstate rendition of such person before the conclusion of such proceedings or of his term of sentence in such other state, upon such conditions relative to the return of such person to such other state at the expense of this commonwealth as may be agreed upon between the governor and the executive authority of such other state.

s 20L. Application for requisition

(a) Whenever the return to this commonwealth of a person charged with crime herein is required, the attorney general, or the district attorney for the district in which the crime is alleged to have occurred, shall present to the governor his written application for a requisition for the return of the person

charged, in which application there shall be included a statement of the name of the person so charged and 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 a certificate that, in the opinion of the said attorney general or district attorney, the ends of justice require the arrest and return of the accused to this commonwealth for trial, and that the proceeding is not instituted to enforce a private claim.

(b) Whenever the return to this commonwealth is required of a person who has been convicted of a crime herein and has escaped from confinement or has broken the terms of his bail, probation or parole, the district attorney for the district in which the crime is alleged to have occurred, the parole board or the warden or superintendent of the institution 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, and the state in which he is believed to be, including the location of the person therein, at the time the application is made.

(c) The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or of the complaint made to a court or justice, stating the offence with which the accused is charged, or of the judgment of conviction or of the sentence. The attorney general, district attorney, parole board, warden or superintendent may also attach such further affidavits or other documents in duplicate as he or it may deem proper to be submitted with such application. One copy of the application, with the action of the governor indicated by endorsement thereon, and one of the certified copies of the indictment or complaint, or of the judgment of conviction or of the sentence shall be filed in the office of the state secretary to remain of record in that office. The other copies of all such papers shall be forwarded with the requisition of the governor.

s 20M. Payment of agent's expenses

If the application for a requisition for the return to this commonwealth of a person charged with crime herein, or for the return of a person who has been convicted of a crime herein and has escaped from confinement or has broken the terms of his bail, probation or parole, is complied with and an agent appointed, the account of such agent shall be paid like other expenses in criminal cases by the commonwealth.

s 20N. Service of process in civil action on accused; immunity

A person brought into this commonwealth on, or after waiver of, interstate rendition 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 proceeding to answer which he is being or has been returned, until he has been convicted or acquitted in the criminal proceeding, and, if acquitted, until he has had reasonable opportunity to return to the state from which he was brought by interstate rendition proceedings or upon waiver thereof.

s 20M. Payment of agent's expenses

If the application for a requisition for the return to this commonwealth of a person charged with crime herein, or for the return of a person who has been convicted of a crime herein and has escaped from confinement or has broken the terms of his bail, probation or parole, is complied with and an agent appointed, the account of such agent shall be paid like other expenses in criminal cases by the commonwealth.

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If the application for a requisition for the return to this commonwealth of a person charged with crime herein, or for the return of a person who has been convicted of a crime herein and has escaped from confinement or has broken the terms of his bail, probation or parole, is complied with and an agent appointed, the account of such agent shall be paid like other expenses in criminal cases by the commonwealth.

s 20N. Service of process in civil action on accused; immunity

A person brought into this commonwealth on, or after waiver of, interstate rendition 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 proceeding to answer which he is being or has been returned, until he has been convicted or acquitted in the criminal proceeding, and, if acquitted, until he has had reasonable opportunity to return to the state from which he was brought by interstate rendition proceedings or upon waiver thereof.

s 20O. Trying for other crimes; immunity

After a person has been brought into this commonwealth by interstate rendition proceedings or upon waiver thereof he may be tried herein for other crimes which he may be charged with having committed herein, as well as that specified in the requisition for his interstate rendition or in the waiver thereof.

s 20P. Waiver by commonwealth

Nothing in sections eleven to twenty O, inclusive, shall be deemed to constitute a waiver by this commonwealth of its right, power or privilege to try any person demanded of it for a crime committed herein, or of its right, power or privilege to regain custody of such a person by interstate rendition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed herein, nor shall any proceeding under said sections which result in, or fail to result in, interstate rendition be deemed a waiver by this commonwealth of any of its rights, privileges or jurisdiction in any way whatsoever.

s 20Q. Partial validity

If any part of sections eleven to twenty P, inclusive, is for any reason declared void, such invalidity shall not affect the validity of the remaining portions of said sections.

s 20R. Citation of law; uniform construction

Sections eleven to twenty R, inclusive, may be cited as the uniform criminal interstate rendition law, and shall be so interpreted and construed as to effectuate their general purpose to make uniform the law of those states enacting similar laws.

MICHIGAN COMPILED LAWS ANNOTATED
CHAPTER 780. CRIMINAL PROCEDURE
UNIFORM CRIMINAL EXTRADITION ACT
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780.1. 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.

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.

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.

780.3a. Extradition of 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 [FN1] 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.

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.

780.5. Extradition of persons imprisoned or awaiting trial in another state or who have left the 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 [FN1] with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

780.6. Governor's warrant; issuance, recitals

Sec. 6. ISSUE OF GOVERNOR'S WARRANT OF ARREST; ITS RECITALS. If the governor decides that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

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

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.

780.8. Authority of arresting officer

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.

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

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.

780.10. Rights of accused persons; 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.

780.11. Confinement in jail when necessary

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.

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, [FN1] 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 bill, 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.

780.13. Arrest without a 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.

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, [FN1] 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.

780.15. Bail; type of cases; condition of bond

Sec. 15. BAIL; IN WHAT CASES; CONDITION OF BOND. Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the governor of this state.

780.16. Extension of time of commitment; adjournment

Sec. 16. 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 or bond, a judge or magistrate may discharge him or may recommit him for a further period not to exceed 60 days, or a judge or magistrate judge may again take bail for his appearance and surrender, as provided in section 15, [FN1] but within a period not to exceed 60 days after the date of such new bond.

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.

780.18. Persons under criminal prosecution in this state at time of requisition

Sec. 18. PERSONS UNDER CRIMINAL PROSECUTION IN THIS STATE AT TIME OF REQUISITION. If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor, in his discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

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.

780.20. Governor may recall warrant or issue alias

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.

780.21. Fugitives from this 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 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.

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.

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.

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.

780.25. Written waiver of extradition proceedings

Sec. 25. WRITTEN WAIVER OF EXTRADITION PROCEEDINGS. 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 bail, probation or parole may waive the issuance and service of the warrant provided for in sections 6 and 7 [FN1] 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 which states that he consents to return to the demanding state: Provided, however, That before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his 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. [FN2]

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent.

780.26. Non-waiver by this 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 whatever.

780.27. No right of asylum; immunity from other criminal prosecutions

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.

780.28. Interpretation

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.

780.31. Short title

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

MINNESOTA STATUTES ANNOTATED
CRIMINAL PROCEDURE
CHAPTER 629. EXTRADITION, DETAINERS, ARREST, BAIL
EXTRADITION
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REFERENCES

UNIFORM CRIMINAL EXTRADITION ACT

1994 Supplemental UNIFORM CRIMINAL EXTRADITION ACT

629.01. Definitions

Where appearing in sections 629.01 to 629.29, 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.

629.02. Duties of governor in extradition matters

Subject to the provisions of sections 629.01 to 629.29, 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 if found in this state.

629.03. Demand in writing

No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless it alleges in writing, except in cases arising under section 629.06, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that the accused subsequently fled from the state. The demand shall be accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a court there, together with a copy of any warrant which was issued on it; or by a copy of a judgment of conviction or of a sentence imposed in execution of it, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of bail, probation, or parole. The indictment, information, or affidavit made before the court must substantially charge the person demanded with having committed a crime under the law of that state. The copy of the indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority making the demand.

629.04. Attorney general to investigate

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 the governor the situation and circumstances of the person so demanded, and whether the person ought to be surrendered.

629.05. Extradition by agreement

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 that person 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 the person's 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 629.23 with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

629.06. Extradition of persons committing crime

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 629.03 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 sections 629.01 to 629.29 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.

629.07. Warrant of arrest

In deciding that the demand should be complied with, the governor shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to any peace officer or other person whom the governor may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

629.08. Accused turned over to demanding state

Such warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where the accused 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 sections 629.01 to 629.29, to the duly authorized agent of the demanding state.

629.09. Powers of 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.

629.10. Accused taken before court

No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding the person shall have appointed to receive the person unless first taken forthwith before a judge of a court of record in this state, who shall inform the person of the demand made for surrender and of the crime with which the person is charged, and that the person has the right to demand and procure legal counsel; and, if the prisoner or the prisoner's counsel shall state that either desires to test the legality of the arrest, the judge of such court of record shall fix a reasonable time to be allowed the prisoner 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 agent of the demanding state.

629.11. Violation a gross misdemeanor

Any officer who shall deliver to the agent for extradition of the demanding state a person in custody under the governor's warrant in willful disobedience to section 629.10 shall be guilty of a gross misdemeanor; and upon conviction shall be fined not more than \$3,000 or be imprisoned for not more than six months.

629.12. Accused may be confined in jail

The officer or persons executing the governor's warrant of arrest, or the agents 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 they may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of the prisoner is ready to proceed on the 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 the officer or agent may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of the prisoner is ready to proceed on the route, such officer or agent being

chargeable with the expense of keeping; provided, that such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that the officer or agent 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.

629.13. Who may be apprehended

When any person within this state is charged on the oath of any credible person before any judge of this state with the commission of any crime in any other state and, except in cases arising under section 629.06, with having fled from justice, with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of bail, probation, or parole, or when complaint has been made before any judge in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in the other state and that the accused has been charged in that state with the commission of the crime and, except in cases arising under section 629.06, 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 bail, probation, or parole, and is believed to be in this state, the judge shall issue a warrant directed to any peace officer commanding the officer to apprehend the person named in it, wherever the accused may be found in this state, and to bring the accused before the same or any other judge 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. A certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

629.14. Arrest without warrant

The arrest of a person may be lawfully made also by any peace officer or a private person, 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 one year. When arrested the accused must be taken before a judge with all practicable speed and complaint must be made against the accused under oath setting forth the ground for the arrest as in section 629.13. Thereafter the answer shall be heard as if the accused had been arrested on a warrant.

629.15. Court may commit to jail

If from the examination before the judge it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under section 629.06, that the accused has fled from justice, the judge must, by a warrant reciting the accusation, commit the accused to the county jail for 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 gives bail as provided in section 629.16, or until the accused is legally discharged.

629.16. Admit to bail

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as the judge deems proper, conditioned for the person's appearance before the judge 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.

629.17. Discharge

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 may discharge the accused or may recommit the accused for a further period not to exceed 60 days. A judge may again take bail for the accused's appearance and surrender, as provided in section 629.16, but within a period not to exceed 60 days after the date of the new bond.

629.18. Bond forfeited

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

629.19. Prisoner held or surrendered

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor either may surrender the person on demand of the executive authority of another state or hold the person until the person has been tried and discharged or convicted and punished in this state.

629.20. Guilt or innocence not inquired into

The guilt or innocence of the accused as to the crime of which the accused 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 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.

629.21. Recall of warrant

The governor may recall the warrant of arrest or may issue another warrant when the governor deems it proper.

629.22. Warrant for parolees or probationers

When the governor of this state shall demand a person charged with crime or with escaping from confinement or breaking the terms of 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 [FN1] authorized to receive such demand under the laws of the United States, the governor shall issue a warrant under the seal of this state, to some agent, commanding the agent to receive the person so charged if delivered to the agent and convey the person to the proper officer of the county in this state in which the offense was committed.

629.23. Prosecuting attorney, written application

Subdivision 1. Contents. 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 a 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 the person, the approximate time, place, and circumstances of its commission, the state in which the person 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 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.

Subd. 2. Return of fugitive. 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 bail, probation, or parole, the prosecuting attorney of the county in which the offense was committed, the parole board, or the chief executive officer of the facility or sheriff of the county, from which the 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 the person was convicted, the circumstances of escape from confinement or of the breach of the terms of bail, probation, or parole, the state in which the person is believed to be, including the location of the person therein at the time application is made.

Subd. 3. Procedural requirements. The application shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, parole board, chief executive officer, or sheriff may also attach any further affidavits and other documents in duplicate as deemed proper to be submitted with the application. One copy of the application, with the action of the governor indicated by endorsement on it, and one 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.

629.24. Civil process not to be served

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 the person is being or has been returned, until the person has been convicted in the criminal proceeding, or, if acquitted, until the person has had reasonable opportunity to return to the state from which the person was extradited.

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 bail, probation, or parole, may waive the issuance and service of the warrant provided for in sections 629.07 and 629.08 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 which states that the person consents to return to the demanding state; provided, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of the person's rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus, as provided for in section 629.10.

If and when such consent has been duly executed, it shall forthwith be forwarded to the office of the governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights, or duties of the officers of the demanding state or of this state.

Nothing in sections 629.01 to 629.29 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 sections 629.01 to 629.29 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.

629.26. Uniformity

The provisions of sections 629.01 to 629.29 shall be so interpreted and construed as to effectuate their general purposes to make uniform the laws of those states which enact them.

629.29. Citation, uniform criminal extradition act

Sections 629.01 to 629.29 may be cited as the uniform criminal extradition act.

VERNON'S ANNOTATED MISSOURI STATUTES
TITLE XXXVII. CRIMINAL PROCEDURE
CHAPTER 548. EXTRADITION
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REFERENCES

UNIFORM CRIMINAL EXTRADITION ACT

1993 Pocket Part UNIFORM CRIMINAL EXTRADITION ACT

< Table of Jurisdictions Wherein Act Has Been Adopted >

< For text of Uniform Act, and variation notes and annotation materials for adopting jurisdictions, see Uniform Laws Annotated, Master Edition, Volume 11. >

Jurisdiction	Statutory Citation
Alabama	Code 1975, ss 15-9-20 to 15-9-65.
Alaska	AS 12.70.010 to 12.70.290.
Arizona	A.R.S. ss 13-3841 to 13-3869.
Arkansas	A.C.A. ss 16-94-201 to 16-94-231.
California	West's Ann.Cal.Penal Code, ss 1547 to 1556.2.
Colorado	West's C.R.S.A. ss 16-19-101 to 16-19-133.
Connecticut	C.G.S.A. ss 54-157 to 54-185.
Delaware	11 Del.C. ss 2501 to 2530.
Florida	West's F.S.A. ss 941.01 to 941.30.
Georgia	O.C.G.A. ss 17-13-20 to 17-13-49.
Hawaii	HRS ss 832-1 to 832-27.
Idaho	I.C. ss 19-4501 to 19-4527.
Illinois	S.H.A. 725 ILCS 225/1 to 225/32.
Indiana	West's A.I.C. 35-33-10-3.
Iowa	I.C.A. ss 820.1 to 820.29.
Kansas	K.S.A. 22-2701 to 22-2730.
Kentucky	KRS 440.150 to 440.420.
Louisiana	LSA-C.Cr.P. arts. 261 to 280.
Maine	15 M.R.S.A. ss 201 to 229.
Maryland	Code 1957, art. 41, ss 2-201 to 2-228.
Massachusetts	M.G.L.A. c. 276, ss 11 to 20R.
Michigan	M.C.L.A. ss 780.1 to 780.31.
Minnesota	M.S.A. ss 629.01 to 629.29.
Missouri	V.A.M.S. ss 548.011 to 548.300.
Montana	MCA 46-30-101 to 46-30-413.
Nebraska	R.R.S.1943, ss 29-729 to 29-758.
Nevada	N.R.S. 179.177 to 179.235.
New Hampshire	RSA 612:1 to 612:30.
New Jersey	N.J.S.A. 2A:160-6 to 2A:160-35.
New Mexico	NMSA 1978, ss 31-4-1 to 31-4-30.
New York	McKinney's CPL ss 570.02 to 570.66.
North Carolina	G.S. ss 15A-721 to 15A-750.

Ohio R.C. ss 2963.01 to 2963.29.
 Oklahoma 22 Okl.St.Ann. ss 1141.1 to 1141.30.
 Oregon ORS 133.743 to 133.857.
 Pennsylvania 42 Pa.C.S.A. ss 9121 to 9148.
 Puerto Rico 34 L.P.R.A. ss 1881 to 1881bb.
 Rhode Island Gen.Laws 1956, ss 12-9-1 to 12-9-35.
 South Dakota SDCL 23-24-1 to 23-24-39.
 Tennessee T.C.A. ss 40-9-101 to 40-9-130.
 Texas Vernon's Ann.Texas C.C.P. art. 51.13.
 Utah U.C.A.1953, 77-30-1 to 77-30-28.
 Vermont 13 V.S.A. ss 4941 to 4969.
 Virgin Islands 5 V.I.C. ss 3801 to 3829.
 Virginia Code 1950, ss 19.2-85 to 19.2-118.
 Washington West's RCWA 10.88.200 to 10.88.930.
 West Virginia Code, 5-1-7 to 5-1-13.
 Wisconsin W.S.A. 976.03.
 Wyoming W.S.1977, ss 7-3-201 to 7-3-227.

548.011. Definitions

Where appearing in this chapter:

- (1) The term "executive authority" includes the governor, and any person performing the functions of governor in a state other than this state;
- (2) The term "governor" includes any person performing the functions of governor by authority of the law of this state;
- (3) The terms "judge", "magistrate", and "judge of any court of record" include a judge of the supreme court or of the court of appeals, a circuit judge, and an associate circuit judge, but do not include a municipal judge;
- (4) 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.

548.021. Fugitives from justice, duty of governor

Subject to the provisions of this chapter, 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.

548.031. Form of demand

No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing alleging, except in cases arising under section 548.061, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit made before an associate circuit judge there, together with a copy of any warrant which was issued thereupon, or by a copy of a judgment of conviction or of a sentence imposed in execution thereof,

together with a statement by the 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. The indictment, information or affidavit made before the associate circuit judge 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 of conviction or sentence must be authenticated by the executive authority making the demand.

548.041. Governor may require investigation

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.

548.051. Extradition of persons imprisoned or charged in another state or who have left demanding state under compulsion

1. 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.

2. 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 548.231 with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

548.061. Extradition of persons not present in demanding state at time of commission of crime

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 548.031 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 chapter 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.

548.071. Issue of governor's warrant of arrest—its recitals

If the governor decides that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed

to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

548.081. 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 chapter, to the duly authorized agent of the demanding state.

548.091. Authority of arresting officer

Every such 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.

548.101. Rights of accused person--application of 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.

548.111. Penalty for noncompliance with section 548.101

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 willful disobedience to section 548.101, shall be guilty of a misdemeanor and, on conviction, shall be punished by a fine of not more than one thousand dollars or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

548.121. Confinement in jail when necessary

1. 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.

2. 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.

548.131. Arrest prior to requisition

Whenever any person within this state shall be charged on the oath of any credible person before any judge or associate circuit judge of this state with the commission of any crime in any other state and, except in cases arising under section 548.061, 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 associate circuit judge 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 548.061, 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 associate circuit judge 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, associate circuit judge 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, provided that when a complaint shall be made against any person under the terms of this chapter, the judge or associate circuit judge shall take from the prosecutor a bond, to the clerk of the court, with sufficient security, to secure the payment of the costs and expenses which may accrue by occasion of the arrest and detention of the party charged, which bond shall be certified and returned, with the examination, to the office of the circuit clerk and when any such recognizance shall be forfeited, it shall inure to the benefit of the state.

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(L. 1953, p. 425, s 13. Amended by L. 1978, H.B. No. 1634, p. 970, s 1, eff. Jan. 2, 1979.)

HISTORICAL NOTES

548.141. Arrest without a warrant

The arrest of a person may be lawfully made also by any peace officer or a private person, 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 one year, but when so arrested the accused must be taken before a judge or associate circuit judge with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in section 548.131; and thereafter his answer shall be heard as if he had been arrested on a warrant.

548.151. Commitment to await requisition--bail

If from the examination before the judge or associate circuit judge it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under section 548.061, that he has fled from justice, the judge or associate circuit judge must, by a warrant reciting the accusation, commit him to the county jail for such a time not exceeding thirty 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 section 548.161 or until he shall be legally discharged.

548.161. Bail--in what cases--conditions of bond

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or associate circuit judge in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the governor of this state.

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548.171. 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 or bond, a judge or associate circuit judge may discharge him or may recommit him for a further period not to exceed sixty days, or a judge or associate circuit judge may again take bail for his appearance and surrender, as provided in section 548.161, but within a period not to exceed sixty days after the date of such new bond.

548.181. 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 associate circuit judge

by proper order, shall declare the bond forfeited and order his immediate arrest without warrant if he be within the 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.

548.191. Persons under criminal prosecution in this state at time of requisition

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor, in his discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

548.201. Guilt or innocence of 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 provided in section 548.191 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.

548.221. 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.

548.231. 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 two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or associate circuit judge 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 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 one 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.

548.241. Costs and expenses

1. All necessary and proper expenses accruing under section 548.221, upon being ascertained to the satisfaction of the governor, shall be allowed on his certificate and paid out of the state treasury as other demands against the state.

2. All necessary and proper expenses accruing as a result of a person being returned to this state pursuant to the provisions of section 548.243 or 217.810, RSMo, shall be allowed and paid out of the state treasury as if the person were being returned to this state pursuant to section 548.221.

3. Notwithstanding the provisions of subsections 1 and 2 of this section, expenses incident to the extradition of any person charged with violating section 568.040, RSMo, shall be paid by the county in which the offense is alleged to have been committed. In such cases application for the payment of the expenses shall be made by the agent designated by the governor and filed in the office of the county clerk or of the comptroller of the city of St. Louis. The application shall state the name of the accused and the time, place and pertinent facts of the alleged offense and shall include an itemized statement of the necessary and actual expenses incurred in the extradition of the person and shall be signed and verified by the applicant. The county commission or the comptroller of the city of St. Louis, if the application and statement are found correct, shall issue appropriate warrants for the payment of the expenses out of the county or city treasury.

548.251. 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.

548.260. Written waiver of extradition proceedings

1. 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 bail, probation or parole may waive the issuance and service of the warrant provided for in sections 548.071 and 548.081 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 which states that he consents to return to the demanding state; provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance or service of a warrant of extradition and to obtain a writ of habeas corpus as provided in section 548.101.

2. If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this state.

548.270. Nonwaiver by this state

Nothing in this chapter 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 chapter 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.

548.280. No right of asylum--no immunity from other criminal prosecution 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.

548.290. Interpretation

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

548.300. Short title

This chapter may be cited as the "Uniform Criminal Extradition Law".

MONTANA CODE ANNOTATED
TITLE 46. CRIMINAL PROCEDURE
CHAPTER 30. UNIFORM CRIMINAL EXTRADITION ACT
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46-30-101. Definitions.

Where appearing in this chapter, the term:

(1) "executive authority" includes the governor and any person performing the functions of governor in a state other than this state or the chairman of a recognized Indian tribe within the state of Montana;

(2) "governor" includes any person performing the functions of governor by authority of the law of this state;

(3) "state", referring to a state other than this state, includes any other state or territory, organized or unorganized, of the United States of America or an Indian reservation within the state of Montana.

46-30-102. Nonwaiver by this state.

Nothing contained in this chapter may be considered a waiver by this state of its right, power, or privilege to try the demanded person for a crime committed within this state or of its right, power, or privilege to regain custody of the person by extradition proceedings or otherwise for the purpose of trial, sentence, or punishment for a crime committed within this state; nor may any proceedings had under this chapter which result in or fail to result in extradition be considered in any way a waiver by this state of any of its rights, privileges, or jurisdiction.

46-30-201. Fugitives from justice -- duty of governor.

Subject to the provisions of this chapter, 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.

46-30-202. Prosecution pending in this state at time of requisition.

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor, in his discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

46-30-203. Extradition of persons who left demanding state involuntarily.

The governor of this state may also surrender on demand of the governor of any other state any person in this state who is charged in the manner provided

in 46-30-401 with having violated the laws of the state whose governor is making the demand, even though such person left the demanding state involuntarily.

46-30-204. Extradition of persons not present in demanding state when crime committed.

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 46-30-211 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. The provisions of this chapter 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.

46-30-211. Demand -- form.

(1) No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing alleging that the accused was present in the demanding state at the time of the commission of the alleged crime and that thereafter he fled from the state, except in cases arising under 46-30-204, and accompanied by:

(a) a copy of an indictment found or information supported by affidavit in the state having jurisdiction of the crime;

(b) a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereon; or

(c) a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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.

(2) 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. The copy of the indictment, information, affidavit, judgment of conviction, or sentence must be authenticated by the executive authority making the demand.

46-30-212. Investigation by governor.

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.

46-30-212. Investigation by governor.

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.

46-30-213. Issuance of arrest warrant by governor.

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

46-30-214. Recall of warrant or alias warrant.

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

46-30-215. Execution of warrant.

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, 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 chapter, to the duly authorized agent of the demanding state.

46-30-216. Authority of arresting officer.

Every such peace officer or other person empowered to make the arrest shall have the same authority to command assistance in arresting the accused 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: En. 95-3109 by Sec. 14, Ch. 513, L. 1973; R.C.M. 1947, 95-3109.

46-30-217. Rights of accused persons — habeas corpus.

(1) No person arrested upon such warrant may be delivered over to the agent whom the executive authority demanding him has appointed to receive him unless he is first taken without delay 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.

(2) If the prisoner or his counsel states that he or they desire to test the legality of his arrest, the judge of the court of record shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When the 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 was made and in which the accused is in custody and to the agent of the demanding state.

46-30-218. Penalty for violating accused's rights.

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 willful disobedience of 46-30-217 shall be guilty of a misdemeanor and on conviction shall be fined not more than \$1,000 or be imprisoned not more than 6 months, or both.

46-30-225. Guilt or innocence of 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 provided for in 46-30-211 has been presented to the governor except as it may be involved in identifying the person held as the person charged with the crime.

46-30-226. Confinement of accused in jail on route.

(1) 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. 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, however, being chargeable with the expense of keeping.

(2) 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. 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.

46-30-227. Arrest of accused before making of requisition.

(1) A judge or magistrate of this state shall issue a warrant directed to any peace officer commanding the officer to apprehend the person named therein wherever the person may be found in this state and to bring the person 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 is made to answer the charge or complaint and affidavit whenever:

(a) a person within this state is charged on the oath of a credible person before the judge or magistrate with the commission of a crime in another state and, except in cases arising under 46-30-204, 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

(b) a complaint is made before the judge or magistrate setting forth on the affidavit of a credible person in another state that a crime has been committed in the other state and that the accused is believed to be in this state and has been charged in the other state with:

(i) the commission of the crime and, except in cases arising under 46-30-204, having fled from justice; or

(ii) having been convicted of a crime in that state and having escaped from bail, probation, or parole.

(2) A certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

46-30-228. Written waiver of extradition proceedings.

(1) Any person of this state charged with having committed any crime in another state or alleged to have escaped from confinement or broken the terms of his bail, probation, or parole may waive the issuance and service of the warrant provided for in 46-30-213 and 46-30-215 and all other procedures incidental to extradition proceedings by executing or subscribing in the presence of a judge of any court of record within this state a writing which states that he consents to return to the demanding state. Before such waiver shall be executed or subscribed by such person, it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in 46-30-217.

(2) If and when such consent has been duly executed, it shall forthwith be forwarded to the office of the governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state and shall deliver or cause to be delivered to such agent or agents a copy of such consent.

(3) Nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights, or duties of the officers of the demanding state or of this state.

History: En. 95-3128 by Sec. 14, Ch. 513, L. 1973; R.C.M. 1947, 95-3128.

46-30-229. Prior waiver of extradition.

(1) A person who is alleged to have violated the terms of his bail, probation, parole, or any other conditional release from another state and who is held in this state may be released to the duly authorized agent of that other state without the warrant provided for in 46-30-213 if the following has occurred:

(a) a district court in this state has held a hearing at which the state has presented:

(i) a certified copy of an agreement to waive extradition, signed by the person, or an order from the other state releasing the person on the condition that he waive extradition;

(ii) a certified copy of the warrant or order from the other state directing the return of the person for violating the terms of his release; and

(iii) evidence that the person is the same person named in the warrant or order; and

(b) the district court has found that there is probable cause to believe that the person is the same person charged in the warrant or order. Whenever a district court makes this finding, it shall, except as provided in subsection (2), order that the person be remanded to custody and delivered to agents of the other state. The court shall also advise the person of his right to contest the order by filing a writ of habeas corpus.

(2) If the person wishes to test the validity of the order issued pursuant to subsection (1)(b), the court shall fix a reasonable time for him to apply for a writ of habeas corpus before he may be released to agents from the other state.

46-30-301. Arrest of accused without warrant.

The arrest of a person may be lawfully made also by any peace officer or a private person 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 of 1 year or more. When arrested under this section, 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 46-30-227. After the complaint is made, his answer must be heard as if he had been arrested on a warrant.

46-30-302. Commitment to await requisition.

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 46-30-204, 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 46-30-303 or until he shall be legally discharged.

46-30-303. Bail while awaiting requisition.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail by bond or undertaking with sufficient sureties and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond or undertaking and for his surrender to be arrested upon the warrant of the governor of this state.

46-30-304. Extension of time of commitment or bail.

If the accused is not arrested under the warrant of the governor by the expiration of the time specified in the warrant, bond, or undertaking, a judge or magistrate may discharge him or may recommit him for a further period of 60 days or a supreme court justice or district court judge may again take bail for

his appearance and surrender, as provided in 46-30-303, for a period not to exceed 60 days after the date of the new bond or undertaking.

46-30-305. 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 or undertakings given by the accused in criminal proceedings within this state.

46-30-401. Application for issuance of requisition.

(1) When the return to this state of a person charged with a 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. The application shall state the name of the person charged, the crime charged against him, the approximate time, place, and circumstances of its commission, and the state in which he is believed to be, including the location of the accused therein at the time the application is made. It shall certify that in the opinion of the 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 being 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 the escape was made shall present to the governor a written application for a requisition for the return of the person. The application shall state 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, and the state in which he is believed to be, including the location of the person therein at the time the application is made.

(3) The application shall be verified by affidavit, executed in duplicate, and accompanied by two certified copies of the:

- (a) indictment returned;
- (b) information and affidavit filed;
- (c) complaint made to the judge or magistrate stating the offense with which the accused is charged;
- (d) judgment of conviction; or
- (e) sentence.

(4) The prosecuting officer, parole board, warden, or sheriff may also attach such further affidavits and other documents in duplicate as he considers proper to be submitted with the application.

(5) One copy of the application, with the action of the governor indicated by endorsement thereon, and one of the certified copies of the indictment, complaint, information and affidavits, judgment of conviction, or 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.

46-30-402. Requisition by 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 chief executive 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.

46-30-403. Extradition of persons held in another state.

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.

46-30-404. Immunity from service of civil process.

A person brought into this state on 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 proceeding to answer which he is being or has been returned until he has been convicted in the criminal proceedings or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

46-30-405. No immunity from other criminal prosecutions.

After a person has been brought back to this state by 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.

46-30-406 through 46-30-410 reserved.

46-30-411. Expenses of bringing fugitives back to this state.

(1) When the governor of this state, in the exercise of the authority conferred by section 2, Article IV, of the constitution of the United States or by the laws of this state, demands from the executive authority of any state of the United States or of any foreign government the surrender to the authorities of this state of a fugitive from justice who has been found and arrested in such state or foreign government, the accounts of the person employed by him to bring back such fugitive must be audited by the attorney general and paid out

of the state treasury.

(2) An agent of this state authorized to return a fugitive from justice to this state may utilize commercial transportation, aircraft, or motor vehicle to return the fugitive. The agent shall be paid travel expenses, as provided for in 2-18-501 through 2-18-503, as amended, incurred in returning the fugitive to this state.

46-30-412. Restrictions on compensation for assisting return of fugitive.

No compensation, fee, or reward of any kind may be paid to or received by a public officer of this state or other person for a service rendered in procuring from the governor the demand mentioned in 46-30-411(1), for the surrender of the fugitive, or for conveying him to this state or detaining him therein, except as provided in 46-30-411.

46-30-413. Penalty for illegal compensation.

Every person who violates any of the provisions of 46-30-412 is guilty of a misdemeanor.

NEBRASKA REVISED STATUTES OF 1943
CHAPTER 29. CRIMINAL PROCEDURE
ARTICLE 7. EXTRADITION AND DETAINER
(A) UNIFORM CRIMINAL EXTRADITION ACT

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Current through the 93rd Legislature, 1993 First Session.

s 29-729. Terms, defined.

Where appearing in sections 29-729 to 29-758, 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, and 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.

s 29-730. Fugitives from justice; Governor; duty.

Subject to the provisions of sections 29-729 to 29-758, 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.

s 29-731. Form of demand.

No demand for the extradition of a person charged with crime in another state shall be recognized by the Governor unless in writing alleging, except in cases arising under section 29-734, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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. 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.

s 29-732. Governor; order investigation.

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.

s 29-733. Persons; imprisoned or waiting trial; left the demanding state under compulsion; extradition.

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 29-751 with having violated the laws of the state whose Executive Authority is making the demand, even though such person left the demanding state involuntarily.

s 29-734. Persons not present in demanding state at time of commission of crime; extradition.

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 29-731 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 sections 29-729 to 29-758 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.

s 29-735. Warrant of arrest; issuance.

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

s 29-736. Warrant of arrest; 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 sections 29-729 to 29-758 to the duly authorized agent of the

demanding state.

s 29-737. Arresting officer; authority.

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.

s 29-738. Rights of accused person; writ of habeas corpus; application.

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.

s 29-739. Rights of accused person; violation; penalty.

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 willful disobedience to section 29-738, shall be guilty of a Class II misdemeanor.

s 29-740. Confinement; 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 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.

s 29-741. Warrant of arrest; issuance 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 29-734, 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 29-734, 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.

s 29-742. Arrest without warrant.

The arrest of a person may be lawfully made also by any peace officer or a private person, 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 one 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 section 29-741; and thereafter his answer shall be heard as if he had been arrested on a warrant.

s 29-743. 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 29-734, 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 thirty 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 section 29-744, or until he shall be legally discharged.

s 29-744. Bail; bond; conditions.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the Governor of this state.

s 29-745. Commitment; discharge or extension.

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 him or may recommit him for a further period not to exceed sixty days, or a judge or magistrate judge may again take bail for his appearance and surrender, as provided in section 29-744, but within a period not to exceed sixty days after the date of such new bond.

s 29-746. Bail; forfeiture.

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.

s 29-747. Persons under criminal prosecution in this state at time of requisition; Governor; discretionary powers.

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending the Governor, in his discretion, either may surrender him on demand of the Executive Authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

s 29-748. Guilt or innocence of 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.

s 29-749. Warrant of arrest; recall; issuance.

The Governor may recall his warrant of arrest or may issue another warrant

whenever he deems proper.

s 29-750. Fugitives from this state; Governor's duty.

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.

s 29-751. Requisition; application; contents; by whom made.

(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 a 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 or her, the approximate time, place, and circumstances of its commission, the state in which he or she 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 or her bail, probation, or parole, the prosecuting attorney of the county in which the offense was committed, the parole board, or, if the escape was from an institution of the Department of Correctional Services, the Director of Correctional Services, 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 or she was convicted, the circumstances of the escape from confinement or of the breach of the terms of bail, probation, or parole, the state in which he or she 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 two 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, director, or sheriff may also attach such further affidavits and other documents in duplicate as he or she 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 one 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.

s 29-752. Costs; expenses; payment.

When the punishment of the crime shall be the confinement of the criminal in a Department of Correctional Services adult correctional facility, the expenses shall be paid out of the state treasury, on the certificate of the Governor and warrant of the Auditor of Public Accounts. In all other cases the expenses 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 shall be equal to the mileage rate authorized in section 81-1176 for each mile which is necessary to travel in returning such prisoner.

s 29-753. Civil action; immunity from service of process in certain cases.

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 proceeding 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.

s 29-754. Extradition proceedings; written waiver.

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 bail, probation or parole may waive the issuance and service of the warrant provided for in sections 29-735 and 29-736 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 which states that he consents to return to the demanding state; PROVIDED, HOWEVER, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in section 29-738.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the Governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; PROVIDED, HOWEVER, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this state.

s 29-755. Nonwaiver by this state.

Nothing in sections 29-729 to 29-758 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 sections 29-729 to 29-758 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.

s 29-756. No right of asylum or 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.

s 29-757. Sections, how construed.

The provisions of sections 29-729 to 29-758 shall be so interpreted and construed as to effectuate their general purposes to make uniform the law of those states which enact them.

s 29-758. Act, how cited.

Sections 29-729 to 29-758 may be cited as the Uniform Criminal Extradition Act.

NEVADA REVISED STATUTES
TITLE 14. PROCEDURE IN CRIMINAL CASES.
CHAPTER 179. SPECIAL PROCEEDINGS OF A CRIMINAL NATURE; SEALING RECORDS OF
CRIMINAL PROCEEDINGS; REWARDS; FORMS.
Criminal Extradition (Uniform Act)

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179.177 Short title.

NRS 179.177 to 179.235, inclusive, may be cited as the Uniform Criminal Extradition Act.

179.179 Definitions.

As used in NRS 179.177 to 179.235, inclusive, unless the context requires otherwise:

1. "Executive authority" means the governor, and any person performing the functions of governor in a state other than this state.
2. "Governor" means any person performing the functions of governor by authority of the law of this state.
3. "State," when referring to a state other than this state, means any other state or territory, organized or unorganized, of the United States of America.

179.181 Fugitives from justice; duty of governor.

Subject to the provisions of NRS 179.177 to 179.235, inclusive, 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.

179.183 Form of demand.

No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless it is:

1. In writing alleging, except in cases arising under NRS 179.189, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state; and
2. Accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or
3. Accompanied by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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.

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 of conviction or sentence must be authenticated by the executive authority making the demand.

179.185 Governor may investigate case.

When a demand is 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.

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

1. 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.

2. 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 NRS 179.223 with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

179.189 Extradition of persons not present in demanding state at time of commission of crime.

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 NRS 179.183 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 NRS 179.177 to 179.235, inclusive, 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.

179.191 Governor's warrant of arrest.

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

2. A telegraphic copy or an abstract of the governor's warrant may be sent by telegraph, teletype or any other electronic device to the person entrusted with the execution of the warrant. The copy or abstract is as effectual as the original warrant issued by the governor.

3. The person who causes a telegraphic copy or abstract of the governor's warrant to be sent must certify as correct, and file in the telegraphic office from which the copy or abstract is sent, a copy of the warrant, and must return the original with a statement of his actions under the warrant.

179.193 Manner and place of execution.

Such warrant shall authorize the peace officer or other person to whom directed to:

1. Arrest the accused at any time and any place where he may be found within the state;
2. Command the aid of all peace officers or other persons in the execution of the warrant; and
3. Deliver the accused, subject to the provisions of NRS 179.177 to 179.235, inclusive, to the duly authorized agent of the demanding state.

179.195 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.

179.197 Rights of accused person; application for writ of habeas corpus.

1. No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him has appointed to receive him unless he is first 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.

2. If the prisoner or his counsel 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 to the district court for a writ of habeas corpus.

3. 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 agent of the demanding state.

179.199 Penalty for noncompliance with NRS 179.197.

Any officer who delivers to the agent for extradition of the demanding state a person in his custody under the governor's warrant, in willful disobedience

to NRS 179.197, shall be guilty of a misdemeanor.

179.201 Confinement in jail or detention facility when necessary.

1. 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 or detention facility of any county or city through which he may pass, and the keeper of the jail or detention facility shall 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.

2. 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 another state, and who is passing through this state with a prisoner for the purpose of immediately returning the prisoner to the demanding state may, when necessary, confine the prisoner in the jail or detention facility of any county or city through which he may pass, and the keeper of the jail or detention facility shall 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 being chargeable with the expense of keeping. The officer or agent shall produce and show to the keeper of the jail or detention facility satisfactory written evidence of the fact that he is actually transporting a prisoner to the demanding state after a requisition by the executive authority of the demanding state. The prisoner is not entitled to demand a new requisition while in this state.

179.203 Arrest before requisition.

1. Whenever any person within this state is 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 NRS 179.189, 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

2. Whenever complaint has 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 NRS 179.189, 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. A certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

179.205 Arrest without warrant.

The arrest of a person may be lawfully made also by any peace officer or a private person, 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 NRS 179.203. Thereafter his answer shall be heard as if he had been arrested on a warrant.

179.207 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 NRS 179.189, 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 gives bail as provided in NRS 179.209, or until he is legally discharged.

179.209 Bail: In what cases; conditions of bond.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, or unless the prisoner is charged as a parole violator or escaped convict, a judge or magistrate in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the governor of this state. No prisoner may be admitted to bail after having been arrested upon the warrant of the governor of this state.

179.211 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 or bond, a judge or magistrate may discharge him or may recommit him for a further period not to exceed 60 days, or a judge or magistrate judge may again take bail for his appearance and surrender, as provided in NRS 179.209, but within a period not to exceed 60 days after the date of such new bond.

179.213 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 is 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.

179.215 Persons under criminal prosecution in this state at time of requisition.

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor, in his discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

179.217 Guilt or innocence of 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 has been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

179.219 Governor may recall warrant or issue alias.

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

179.221 Fugitives from this state; duty of governors.

Whenever the governor of this state demands 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.

179.223 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 district attorney shall present to the governor his written application for a requisition for the return of the person charged in which application must be stated:

- (a) The name of the person so charged;
- (b) The crime charged against him;
- (c) The approximate time, place and circumstances of its commission;
- (d) The state in which he is believed to be, including the location of the accused therein at the time the application is made; and
- (e) A certification that, in the opinion of the district 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 district attorney of the county in which the offense was committed, the state board of parole commissioners, the chief parole and probation officer, the director of the department of prisons or the sheriff of the county from which escape was made shall present to the governor a written application for a requisition for the return of the person, in which application must be stated:

- (a) The name of the person;
- (b) The crime of which he was convicted;
- (c) The circumstances of his escape from confinement or of the breach of the terms of his bail, probation or parole; and
- (d) 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 must be verified by affidavit, executed in duplicate and accompanied by two 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 district attorney, state board of parole commissioners, chief parole and probation officer, director of the department of prisons or sheriff may also attach such further affidavits and other documents in duplicate as he deems proper to be submitted with the application. One copy of the application, with the action of the governor indicated by endorsement thereon, and one of the certified copies of the indictment, complaint, information and affidavits, or of the judgment of conviction or of the sentence must be filed in the office of the secretary of state of the State of Nevada to remain of record in that office. The other copies of all papers must be forwarded with the governor's requisition.

179.225 Costs and expenses.

1. If the punishment of the crime is the confinement of the criminal in prison, the expenses must be paid from money appropriated to the office of the attorney general for that purpose, upon approval by the state board of examiners. After the appropriation is exhausted the expenses must be paid from the reserve for statutory contingency account upon approval by the state board of examiners. In all other cases they must be paid out of the county treasury in the county wherein the crime is alleged to have been committed. The expenses are:

- (a) If the prisoner is returned to this state from another state, the fees paid to the officers of the state on whose governor the requisition is made;
- or

- (b) If the prisoner is returned to this state from a foreign country or jurisdiction, the fees paid to the officers and agents of this state or the United States,

and the necessary traveling expenses and subsistence allowances in the amounts authorized by NRS 281.160 incurred in returning the prisoner.

2. If a person is returned to this state pursuant to this chapter or chapter 178 of NRS and is convicted of, or pleads guilty or no contest to the criminal charge for which he was returned or a lesser criminal charge, the court shall conduct an investigation of the financial status of the person to determine his ability to make restitution. In conducting the investigation, the court shall

determine if the person is able to pay any existing obligations for:

- (a) Child support;
- (b) Restitution to victims of crimes; and
- (c) Any administrative assessment required to be paid pursuant to NRS 62.223, 176.059 and 176.062.

3. If the court determines that the person is financially able to pay the obligations described in subsection 2, it shall, in addition to any other sentence it may impose, order the person to make restitution for the expenses incurred by the attorney general or other governmental entity in returning him to this state. The court shall not order the person to make restitution if payment of restitution will prevent him from paying any existing obligations described in subsection 2. Any amount of restitution remaining unpaid constitutes a civil liability arising upon the date of the completion of his sentence.

4. The attorney general may adopt regulations to carry out the provisions of this section.

179.227 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 proceeding 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.

179.229 Written waiver of extradition proceedings.

1. Except as otherwise provided in subsection 3, 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 bail, probation or parole may waive the issuance and service of the warrant provided for in NRS 179.191 and 179.193 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 which states that he consents to return to the demanding state. Before such a waiver is executed or subscribed the judge shall inform the person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in NRS 179.197.

2. An executed waiver must be forwarded forthwith to the office of the governor of this state and filed therein. The judge shall remand the person to custody without bail, unless otherwise stipulated by the district attorney with the concurrence of the other state, and shall direct the officer having the person in custody to deliver him forthwith to an accredited agent of the demanding state, and shall deliver or cause to be delivered to the agent a copy of the waiver.

3. A law enforcement agency which has custody of a person in this state who is alleged to have broken the terms of his probation, parole, bail or other release shall, after the resolution of all criminal charges filed in this state against that person, immediately deliver that person to the accredited agent of the demanding state without a warrant issued pursuant to NRS 179.191 and 179.193 if:

- (a) The person has signed a waiver of extradition as a condition of his

probation, parole, bail or other release in the demanding state; and

(b) The law enforcement agency has received:

(1) An authenticated copy of the waiver of extradition signed by the person; and

(2) A photograph and copy of the fingerprints of the person which identify him as the person who signed the waiver.

4. This section does not limit:

(a) The right of the accused person to return voluntarily and without formality to the demanding state;

(b) The powers, rights or duties of the officers of the demanding state or of this state; or

(c) Any other procedures concerning the waiver of extradition.

179.231 Nonwaiver by this state.

Nothing contained in NRS 179.177 to 179.235, inclusive, 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 NRS 179.177 to 179.235, inclusive, 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.

179.233 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.

179.235 Interpretation.

The provisions of NRS 179.177 to 179.235, inclusive, shall be so interpreted and construed as to effectuate their general purposes to make uniform the law of those states which enact them.

NEW HAMPSHIRE STATUTES ANNOTATED
TITLE LIX. PROCEEDINGS IN CRIMINAL CASES
CHAPTER 612. UNIFORM CRIMINAL EXTRADITION LAW
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Current through the 1993 Regular Session

612:1. Definitions

Where appearing in this chapter, 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.

612:2. Fugitives from Justice; Duty of Governor

Subject to the provisions of this chapter, 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.

612:3. Form of Demand

No demand for the extradition of a person charged with a crime in another state shall be recognized by the governor, unless in writing alleging, except in cases arising under RSA 612:6, that the accused was present in the demanding state at the time of the commission of the alleged crime and that thereafter he fled from the state, and accompanied by a copy of an indictment found, by information supported by affidavit in the state having jurisdiction of the crime, by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon, or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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. 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 of conviction, or sentence must be authenticated by the executive authority making the demand.

612:4. 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 a 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.

612:5. 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 of 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 RSA 612:23 with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

612:5-a. Violation of Terms of Release; Presigned Waiver of Extradition

Notwithstanding any other law to the contrary, a law enforcement agency shall deliver a person in custody to the accredited agent or agents of a demanding state without the governor's warrant provided that:

- I. Such person is alleged to have broken the terms of his probation, parole, bail or any other release of the demanding state; and
- II. The law enforcement agency has received from the demanding state an authenticated copy of a prior waiver of extradition signed by such person as a term of his probation, parole, bail or any other release of the demanding state. The copy shall contain photographs, fingerprints or other evidence properly identifying such person as the person who signed the waiver.

612:6. Extradition of Persons Not Present in Demanding State at Time of Commission of Crime

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 RSA 612:3 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 chapter 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.

612:7. Issue of Governor's Warrant of Arrest; Its Recitals

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

612:8. Manner and Place of Execution

The warrant issued pursuant to RSA 612:7 shall authorize the peace officer or other person to whom it is directed to arrest the accused at any time and any place where he may be found within the state, 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 hereof, to the duly authorized agent of the demanding state.

612:9. Authority of Arresting Officer

Every peace officer or other person empowered to make an arrest pursuant to RSA 612:8 shall have the same authority to command assistance in arresting the accused 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.

612:10. Rights of Accused Person; Application for Writ of Habeas Corpus

No person arrested upon a warrant issued pursuant to RSA 612:7 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 agent of the demanding state.

612:11. Penalty for Noncompliance 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 RSA 612:10 shall be guilty of a misdemeanor.

612:12. Confinement in Jail When Necessary

The officer or person executing the governor's warrant of arrest, or the agent of the demanding state to whom the prisoner has 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 has been delivered following extradition proceedings in another state, or to whom a

prisoner has been delivered after waiving extradition in such other state, and who is passing through this state with the 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.

612:13. 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 RSA 612:6, 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 RSA 612:6, has fled from justice, or has been convicted of a crime in that state and has escaped from confinement, or has 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 is 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.

612:14. Arrest Without a Warrant

The arrest of a person may be lawfully made also by any peace officer or a private person 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 one 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 RSA 612:13, and, thereafter, his answer shall be heard as if he had been arrested on a warrant.

612:15. 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 RSA 612:6, 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 gives bail as provided in RSA 612:16, or until he shall be legally discharged.

612:16. Bail; In What Cases; Conditions of Bond

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail by bond, with sufficient sureties in such sum as he deems proper, conditioned for his appearance before the judge or magistrate at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the governor of this state.

612:17. 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 or bond, a judge or magistrate may discharge him or may recommit him for a further period, not to exceed 60 days, or a judge or magistrate may again take bail for his appearance and surrender, as provided in RSA 612:16, but within a period not to exceed 60 days after the date of such new bond.

612:18. Forfeiture of Bail

If a 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 is 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.

612:19. Persons Under Criminal Prosecution in This State at Time of Requisition

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, when a demand for extradition is received, the governor, in his discretion, may surrender the person on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

612:20. Guilt or Innocence of 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 provided in

RSA 612:3 has been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

<< For credits, see Historical Note field. >>

612:21. Governor May Recall Warrant or Issue Alias

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

612:22. Fugitives from This State; Duty of Governors

Whenever the governor of this state shall demand a person charged with a 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.

612:23. Application for Issuance of Requisition; By Whom Made; Contents

I. When the return to this state of a person charged with a 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 a certification that, in the opinion of the 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.

II. 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, and the state in which he is believed to be, including the location of the person therein at the time application is made.

III. 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 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 one 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.

612:24. Expenses

All expenses of officers of this state in connection with extradition proceedings under the provision of this chapter shall be paid out of the county treasury in the county wherein the crime is alleged to have been committed, except as provided in the case of recommitment of certain paroled convicts as provided by RSA 651:44.

612:25. 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.

612:26. Written Waiver of Extradition Proceedings

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 bail, probation, or parole may waive the issuance and service of the warrant provided for in RSA 612:7 and 8 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 which states that he consents to return to the demanding state; provided, however, that before such waiver shall be executed or subscribed by such person, it shall be the duty of such judge to inform such person of his right to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in RSA 612:10. If and when such consent has been duly executed, it shall forthwith be forwarded to the office of the governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, however, that nothing in this section shall be deemed to limit the right of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights, or duties of the officers of the demanding state or of this state.

612:27. Nonwaiver by This State

Nothing contained in this chapter shall be deemed to constitute a waiver by

this state of its right, power, or privilege to try a demanded person for a 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 chapter 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.

612:28. 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.

612:29. Interpretation

The provisions of this chapter shall be so interpreted and constructed as to effectuate its general purposes to make uniform the law of those states which enact it.

612:30. Constitutionality

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions hereof are declared to be severable.

NEW JERSEY STATUTES ANNOTATED
 TITLE 2A. ADMINISTRATION OF CIVIL AND CRIMINAL JUSTICE
 SUBTITLE 11. CRIMINAL PROCEDURE
 CHAPTER 160. EXTRADITION
 ARTICLE 2. UNIFORM CRIMINAL EXTRADITION LAW
 COPR. (c) WEST 1994 No Claim to Orig. Govt. Works

REFERENCES

UNIFORM CRIMINAL EXTRADITION ACT

1994 Pocket Part UNIFORM CRIMINAL EXTRADITION ACT

< Table of Jurisdictions Wherein Act Has Been Adopted >

< For text of Uniform Act, and variation notes and annotation materials
 for adopting jurisdictions, see Uniform Laws Annotated, Master Edition. >

Jurisdiction	Statutory Citation
Alabama	Code 1975, ss 15-9-20 to 15-9-65.
Alaska	AS 12.70.010 to 12.70.290.
Arizona	A.R.S. ss 13-3841 to 13-3869.
Arkansas	A.C.A. ss 16-94-201 to 16-94-231.
California	West's Ann.Cal.Pen.Code, ss 1547 to 1556.2.
Colorado	West's C.R.S.A. ss 16-19-101 to 16-19-133.
Connecticut	C.G.S.A. ss 54-157 to 54-185.
Delaware	11 Del.C. ss 2501 to 2530.
Florida	West's F.S.A. ss 941.01 to 941.30.
Georgia	O.C.G.A. ss 17-13-20 to 17-13-49.
Hawaii	HRS ss 832-1 to 832-27.
Idaho	I.C. ss 19-4501 to 19-4527.
Illinois	S.H.A. 725 ILCS 225/1 to 225/32.
Indiana	West's A.I.C. 35-33-10-3.
Iowa	I.C.A. ss 820.1 to 820.29.
Kansas	K.S.A. 22-2701 to 22-2730.
Kentucky	KRS 440.150 to 440.420.
Louisiana	LSA-C.Cr.P. arts. 261 to 280.
Maine	15 M.R.S.A. ss 201 to 229.
Maryland	Code 1957, art. 41, ss 2-201 to 2-228.
Massachusetts	M.G.L.A. c. 276, ss 11 to 20R.
Michigan	M.C.L.A. ss 780.1 to 780.31.
Minnesota	M.S.A. ss 629.01 to 629.29.
Missouri	V.A.M.S. ss 548.011 to 548.300.
Montana	MCA 46-30-101 to 46-30-413.
Nebraska	R.R.S.1943, ss 29-729 to 29-758.
Nevada	N.R.S. 179.177 to 179.235.
New Hampshire	RSA 612:1 to 612:30.
New Jersey	N.J.S.A. 2A:160-6 to 2A:160-35.
New Mexico	NMSA 1978, ss 31-4-1 to 31-4-30.

New York	McKinney's CPL ss 570.02 to 570.66.
North Carolina	G.S. ss 15A-721 to 15A-750.
North Dakota	NDCC 29-30.2-01 to 29-30.2-29.
Ohio	R.C. ss 2963.01 to 2963.29.
Oklahoma	22 Okl.St.Ann. ss 1141.1 to 1141.30.
Oregon	ORS 133.743 to 133.857.
Pennsylvania	42 Pa.C.S.A. ss 9121 to 9148.
Puerto Rico	34 L.P.R.A. ss 1881 to 1881bb.
Rhode Island	Gen.Laws 1956, ss 12-9-1 to 12-9-35.
South Dakota	SDCL 23-24-1 to 23-24-39.
Tennessee	T.C.A. ss 40-9-101 to 40-9-130.
Texas	Vernon's Ann.Texas C.C.P. art. 51.13.
Utah	U.C.A.1953, 77-30-1 to 77-30-28.
Vermont	13 V.S.A. ss 4941 to 4969.
Virgin Islands	5 V.I.C. ss 3801 to 3829.
Virginia	Code 1950, ss 19.2-85 to 19.2-118.
Washington	West's RCWA 10.88.200 to 10.88.930.
West Virginia	Code, 5-1-7 to 5-1-13.
Wisconsin	W.S.A. 976.03.
Wyoming	W.S.1977, ss 7-3-201 to 7-3-227.

2A:160-6. Definitions

As used in this article, 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, territory or district, organized or unorganized, of the United States of America.

2A:160-7. Construction of article

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

2A:160-8. Effect of article as to waivers by and rights, powers and privileges of this state

Nothing in this article 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 article 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.

2A:160-9. Short title of article

This article may be cited as the "uniform criminal extradition law".

2A:160-10. Fugitives from justice found in this state; arrest and delivery to demanding state; person charged with murder in demanding state and imprisoned in this state for term less than life; warrant of governor

Subject to the provisions of this article, 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; provided, if the executive authority of any other state or district requests the extradition of any person charged in that state with murder, and that person is imprisoned in a penal institution or jail of this state for a term less than imprisonment for life, the governor of this state may deliver him or her up to the executive authority of the demanding state or district for the purpose of trial in said state or district; provided, however, that prior to the removal of the person from this state, the executive authority of the demanding state or district shall have agreed that the person so delivered up is to be returned immediately to this state, at the cost of the demanding state or district, to serve the balance of his or her term of imprisonment in the event of his or her acquittal in the demanding state, or in the event of his or her conviction in such state of manslaughter or any degree of murder the punishment for which is less than death or imprisonment for life.

The warrant of the governor of this state shall be sufficient authority to the keeper of the New Jersey state prison or officer of any other institution to surrender the person named therein and for whom extradition is sought.

2A:160-11. Demand for extradition; form and contents; affidavit; copy of indictment or information; statement by executive authority of demanding state

No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing alleging that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, except in cases arising under section 2A:160-14 of this title, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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. 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 the indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority making the demand.

2A:160-12. Investigation by governor; duty of attorney general and prosecuting officers

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.

2A:160-13. Extradition of person leaving demanding state involuntarily

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 2A:160-32 of this title with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

2A:160-14. Extradition of persons not present in demanding state at time of commission of crime

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 2A:160-11 of this title 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 article 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.

2A:160-15. Warrant of arrest; issue by governor; recitals

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

2A:160-16. Execution of warrant of arrest

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 article, to the duly authorized agent of the demanding state.

2A:160-17. Authority of officer making arrest; assistance given

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.

2A:160-18. Rights of persons arrested; appearance before criminal court; habeas corpus; notice of and hearing on

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 criminal 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 criminal 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.

2A:160-19. Noncompliance with section 2A:160-18 a misdemeanor; punishment

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 willful disobedience to section 2A:160-18 of this title, shall be guilty of a misdemeanor, and, on conviction, shall be fined not more than \$1,000 or be imprisoned not more than 6 months, or both.

2A:160-21. Arrest of accused before requisition made; warrant for arrest

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 2A:160-14 of this title, 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 said section 2A:160-14, 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.

2A:160-22. Arrest of accused without warrant

The arrest of a person may be lawfully made also by any peace officer or a private person, 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 section 2A:160-21 of this title; and thereafter his answer shall be heard as if he had been arrested on a warrant.

2A:160-23. Commitment to jail of person arrested before requisition made, 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 2A:160-14 of this title, 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 section 2A:160-24 of this title, or until he shall be legally discharged.

2A:160-24. Bail of accused for appearance, when authorized; bond or undertaking; surrender of accused to be arrested on warrant

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail by bond or undertaking, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond or undertaking, and for his surrender, to be arrested upon the warrant of the governor of this state.

2A:160-25. Discharge of accused; extension of time of commitment of accused; new bail for appearance

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 may discharge him or may recommit him for a further period of 60 days, or a judge of the superior court may again take bail for his appearance and surrender, as provided in N.J.S. 2A:160-24, but within a period not to exceed 60 days after the date of such new bond or undertaking.

2A:160-26. Forfeiture of bail; arrest of accused without warrant; recovery on bail bond

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

2A:160-27. Extradition of persons pending outcome of criminal prosecution in this state

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor, in his discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

2A:160-28. Inquiry into guilt or innocence of accused

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.

2A:160-29. Recall of warrant of arrest; alias warrant

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

2A:160-30. Waiver of extradition proceedings; procedure; effect

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 bail, probation or parole, may waive the issuance and service of the warrant provided for in sections 2A:160-15 and 2A:160-16 of this title and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any criminal court of record within this state a writing which states that he consents to return to the demanding state. Before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in section 2A:160-18 of this title.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent. Nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this state.

2A:160-31. Demand for extradition; issue of warrant by 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 a judge of the district court of the United States for 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.

2A:160-32. Application to governor for requisition; by whom made; contents; verification of application; execution in duplicate; certified copies of indictment, information and affidavit filed, or complaint to accompany application; copy filed with secretary of state; copy forwarded with requisition

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 it shall deem proper to be submitted with such application. One copy of the application, with the action of the governor indicated by indorsement 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.

2A:160-33. Extradition of persons imprisoned or awaiting trial in another state; agreement to return to state from which extradited

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.

2A:160-34. Immunity from service of process in certain civil actions

A person brought into this state on, 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 proceeding 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.

2A:160-35. No immunity from other criminal prosecution while in this state

After a person has been brought back to this state by 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.

NEW MEXICO STATUTES 1978, ANNOTATED

CHAPTER 31. Criminal Procedure

ARTICLE 4. Extradition

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Current through Ch. 367 of the 1st Reg. Sess. of the 41st Legislature (1993)

31-4-1 Definitions.

Where appearing in this act [31-4-1 to 31-4-30 NMSA 1978], 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. The term "prosecuting attorney" includes the various district attorneys of this state and their duly appointed, qualified and acting assistants, the attorney general and his duly appointed, qualified and acting assistants.

NEW MEXICO STATUTES 1978, ANNOTATED

CHAPTER 31. Criminal Procedure

ARTICLE 4. Extradition

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Current through Ch. 367 of the 1st Reg. Sess. of the 41st Legislature (1993)

31-4-2 Fugitives from justice; duty of governor.

Subject to the provisions of this act [31-4-1 to 31-4-30 NMSA 1978], 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.

31-4-3 Form of demand.

No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing, alleging, except in cases arising under Section 6 [31-4-6 NMSA 1978], that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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. 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 [copy] of indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority making the demand.

31-4-4 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.

31-4-5 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 23 [31-4-25 NMSA 1978] 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.

31-4-6 Extradition of persons not present in demanding state at time of commission of crime.

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 [31-4-3 NMSA 1978] 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 [31-4-1 to 31-4-30 NMSA 1978] 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.

31-4-7 Issue of governor's warrant of arrest; its recitals.

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

31-4-8 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 [31-4-1 to 31-4-30 NMSA 1978], to the duly authorized agent of the demanding state.

31-4-9 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.

31-4-10 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.

31-4-11 Penalty for noncompliance 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 willful disobedience to the last section [31-4-10 NMSA 1978], shall be guilty of a misdemeanor and, on conviction, shall be fined (not more than \$1,000.00 or be imprisoned not more than six months, or both).

31-4-12 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.

31-4-13 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 6 [31-4-6 NMSA 1978] 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 6, 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.

31-4-14 Arrest without a warrant.

The arrest of a person may be lawfully made also by any peace officer or a private person 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 one 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 [31-4-13 NMSA 1978]; and thereafter his answer shall be heard as if he had been arrested on a warrant.

31-4-15 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 6 [31-4-6 NMSA 1978], 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 thirty 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 [31-4-16 NMSA 1978], or until he shall be legally discharged.

31-4-16 Bail; in what cases; conditions of bond.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the governor of this state.

31-4-17 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 or bond, a judge or magistrate may discharge him or may recommit him for a further period not to exceed sixty days, or a judge or magistrate judge may again take bail for his appearance and surrender, as provided in Section 16 [31-4-16 NMSA 1978], but within a period not to exceed sixty days after the date of such new bond.

31-4-18 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.

31-4-19 Persons under criminal prosecution in this state at time of requisition.

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor, in his discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

31-4-20 Guilt or innocence of 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.

31-4-21 Governor may recall warrant or issue alias.

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

31-4-22 Written waiver of extradition proceedings.

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 bail, probation or parole may waive the issuance and service of the warrant provided for in Sections 31-4-7 and 31-4-8 NMSA 1978 and all other procedure incidental to extradition proceedings by executing or subscribing in the presence of a magistrate or a judge of a magistrate court or of any court of record within this state a writing which states that he consents to return to the demanding state; provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in Section 31-4-10 NMSA 1978.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this state.

31-4-23 Nonwaiver by this state.

Nothing in this act [31-4-1 to 31-4-30 NMSA 1978] 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.

31-4-24 Fugitives from this state; duty of governors.

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.

31-4-25 Application for issuance of requisition; by whom made; contents.

A. 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.

B. 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.

C. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed or of the complaint made to the judge of 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 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 one 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.

31-4-26 Costs and expenses.

When the punishment of the crime shall be the confinement of the criminal in the penitentiary, the expenses shall be paid out of the state treasury, on the certificate of the governor and warrant of the auditor; and in all other cases they shall be paid out of the county treasury in the county wherein the crime is alleged to have been committed.

31-4-27 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 for which he is being or has been returned, until he has been convicted in the criminal proceedings, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

31-4-28 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.

31-4-29 Interpretation.

The provisions of this act [31-4-1 to 31-4-30 NMSA 1978] shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those states which enact it.

31-4-30 Short title.

This act [31-4-1 to 31-4-30 NMSA 1978] may be cited as the Uniform Criminal Extradition Act.

History: Laws 1937, ch. 65, s 30; 1941 Comp., s 42-1930; 1953 Comp., s 41-19-

31-4-31 Transfer under treaty; governor.

When a treaty is in effect between the United States and a foreign country providing for the transfer of convicted criminal offenders who are citizens or nationals of foreign countries to the foreign countries of which they are citizens or nationals, the governor is authorized, subject to the terms of such treaty, to act on behalf of the state of New Mexico and to consent to the transfer of the convicted criminal offender.

MCKINNEY'S CONSOLIDATED LAWS OF NEW YORK ANNOTATED
CRIMINAL PROCEDURE LAW
CHAPTER 11-A OF THE CONSOLIDATED LAWS
PART THREE--SPECIAL PROCEEDINGS AND MISCELLANEOUS PROCEDURES
TITLE Q--PROCEDURES FOR SECURING ATTENDANCE AT CRIMINAL ACTIONS AND
PROCEEDINGS OF DEFENDANTS NOT SECURABLE BY CONVENTIONAL MEANS--AND
RELATED

MATTERS

ARTICLE 570--SECURING ATTENDANCE OF DEFENDANTS WHO ARE OUTSIDE THE STATE
BUT
WITHIN THE UNITED STATES--RENDITION TO OTHER JURISDICTIONS OF DEFENDANTS
WITHIN

THE STATE--UNIFORM CRIMINAL EXTRADITION ACT
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ARTICLE 570--SECURING ATTENDANCE OF DEFENDANTS WHO ARE OUTSIDE THE STATE
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(Information regarding effective dates, repeals, etc. is provided subsequently
in this document.)

Current through L.1993, c. 731, approved 12/27/93

s 570.02 Short title

This article may be cited and referred to as the uniform criminal extradition
act.

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s 570.04 Definitions

As used in this article, the following terms have the following meanings:

1. "Governor" includes any person performing the functions of governor by authority of the law of this state.
2. "Executive authority" includes the governor, and any person performing the functions of governor in a state other than this state.
3. "State," when referring to a state other than this state, includes any other state or territory, organized or unorganized, of the United States of America.

s 570.06 Fugitives from justice; duty of governor

Subject to the provisions of this article, 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.

s 570.08 Demand; form

No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing alleging that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, except in cases arising under section 570.14 or 570.16, and accompanied by a copy of an indictment found or by information supported by an affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereon, or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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. 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 the indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority making the demand.

s 570.10 Investigation by governor

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 district attorney 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.

s 570.12 Extradition of persons imprisoned or awaiting trial in another state

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 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.

s 570.14 Extradition of persons who left the demanding state under compulsion

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 570.08 with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

s 570.16 Extradition of persons not present in demanding state at time of commission of crime

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 570.08 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, when the acts for which extradition is sought would be punishable by the laws of this state, if the consequences claimed to have resulted therefrom in the demanding state had taken effect in this state; and the provisions of this article 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; provided, however, that the governor of this state may, in his discretion, make any such surrender conditional upon agreement by the executive authority of the demanding state, that the person so surrendered will be held to answer no criminal charges of any nature except those set forth in the requisition upon which such person is so surrendered, at least until such person has been given reasonable opportunity to return to this state after his acquittal, if he shall be acquitted, or if he shall be convicted, after he shall be released from confinement. Nothing in this section shall apply to the crime of libel.

s 570.18 Issuance of warrant of arrest by governor; recitals therein

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

s 570.20 Execution of warrant; manner and place thereof

Such warrant shall authorize the police 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 police officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this article to the duly authorized agent of the demanding state.

s 570.22 Authority of arresting officer

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

s 570.24 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 justice or 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 justice or judge of such court of record shall fix a reasonable time to be allowed 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 district attorney 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.

s 570.26 Noncompliance with preceding section; penalties for violation

Any officer who shall deliver to the agent for extradition of the demanding a state a person in his custody under the governor's warrant, in disobedience of the preceding section, shall be guilty of a felony.

s 570.28 Confinement of the accused 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, however, being chargeable with the expense of keeping.

s 570.30 Confinement of extradited persons passing through this state

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 or waiver thereof. Such person shall not be entitled to demand a new requisition while in this state.

s 570.32 Arrest of accused before making of requisition

Whenever any person within this state shall be charged on the oath of any

credible person before any local criminal court of this state with the commission of any crime in any other state and, except in cases arising under section 570.14 or 570.16, 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 local criminal court 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 other state with the commission of the crime, and, except in cases arising under section 570.14 or 570.16, 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 local criminal court shall issue a warrant directed to any police officer directing 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 local criminal court 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 such warrant.

s 570.34 Arrest of accused without warrant therefor

The arrest of a person in this state may be lawfully made also by any police officer or a private person, without a warrant, upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one year; but when so arrested the accused must be taken before a local criminal court 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 answers shall be heard as if he had been arrested on a warrant.

s 570.36 Commitment to await requisition; bail

If from the examination before the local criminal court it appears that the person held is the person charged with having committed the crime alleged, and, except in cases arising under section 570.14 or 570.16, that he has fled from justice, the local criminal court must, by a warrant reciting the accusation, commit him to the county jail for such a time not exceeding thirty 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 gives bail as provided in the next section, or until he shall be legally discharged.

s 570.38 Bail; in what cases; conditions of bond

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it is committed, a justice of the supreme court or county judge in this state may admit the person arrested to bail by bond or undertaking, with sufficient sureties, and in such sum as he deems proper, conditioned for his

appearance before him at a time specified in such bond or undertaking but not later than thirty days after the examination referred to in section 570.36 and for his surrender, to be arrested upon the warrant of the governor of this state.

s 570.40 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 local criminal court may discharge him or may recommit him for a further period of sixty days, or for further periods not to exceed in the aggregate sixty days, or a supreme court justice or county judge may again take bail for his appearance and surrender, as provided in section 570.38 but within a period not to exceed sixty days after the date of such new bond or undertaking.

s 570.42 Bail; when forfeited

If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond or undertaking, the justice of the supreme court or county judge, 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 or undertaking in the name of the state as in the case of other bonds or undertakings given by the accused in criminal proceedings within this state.

s 570.44 Persons under criminal prosecution in this state at time of requisition

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor, in his discretion, may either surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

s 570.46 Guilt or innocence of accused; when inquired into

The guilt or innocence of the accused as to the crime with 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.

s 570.50 Written waiver of extradition proceedings

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 bail, probation or parole, may waive the issuance and service of the warrant provided for in sections 570.18 and 570.20 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 which states that he consents to return to the demanding state, provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in section 570.24.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the secretary of state of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent. Provided, however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this state.

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s 570.52 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.

s 570.54 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 district attorney of the county in which the offense was committed, or, if the offense is one which is cognizable by him, the attorney general 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 district attorney or attorney general 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 there is required the return to this state 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 district 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, or the commissioner of the state department of correctional services or his designee 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 the application is made.

3. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the accusatory instrument stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The district attorney, attorney general, parole board, warden, sheriff or the commissioner of the state department of correctional services or his designee may also attach such further affidavits and other documents in duplicate as he 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 one of the certified copies of the accusatory instrument, or of the judgment of conviction or 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.

s 570.56 Expense of extradition

The expenses of extradition must be borne by the county from which the application for a requisition comes or, where the application is made by the attorney general, by the county in which the offense was committed. In the case of extradition of a person who has been convicted of a crime in this state and has escaped from a state prison or reformatory, the expense of extradition shall be borne by the state department of correction. Where a person has broken the terms of his parole from a state prison or reformatory, the expense of extradition shall be borne by the state division of parole. Where a person has broken the terms of his bail or probation, the expense of extradition shall be borne by the county. Where a person has been convicted but not yet confined to a prison, or has been sentenced for a felony to a county jail or penitentiary and escapes, the expenses of extradition shall be charged to the county from whose custody the escape is effected.

s 570.58 Immunity from service of process in certain civil actions

A person brought into this state on 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 proceeding 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. [FN1MV]

s 570.60 No immunity from other criminal prosecution while in this state

After a person has been brought back to this state by extradition proceedings, he may be tried in this state for other offenses which he may be charged with having committed here as well as that specified in the requisition for his extradition.

s 570.62 Non-waiver by this state

Nothing in this article contained shall be deemed to constitute a waiver by this state of its right, power or privilege to try such demanded person for offenses 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 offense committed within this state, nor shall any proceedings had under this article 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.

s 570.64 Interpretation

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

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s 570.66 Constitutionality

If any part of this article is for any reason declared void, such invalidity shall not affect the validity of the remaining portions thereof.

s 580.10 Securing attendance of defendants confined as prisoners in institutions of other jurisdictions of the United States; methods

The attendance in a criminal action pending in a court of this state of a defendant confined as a prisoner in an institution of another jurisdiction of the United States may, under prescribed circumstances, be secured pursuant to:

1. Section 570.12 of article five hundred seventy, known as the uniform criminal extradition act; or
2. Section 580.20, known as the agreement on detainers; or
3. Section 580.30.

NORTH DAKOTA CENTURY CODE

TITLE 29. JUDICIAL PROCEDURE, CRIMINAL

CHAPTER 29-30.3. UNIFORM EXTRADITION AND RENDITION ACT

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Current through Ch. 783 of the 53rd Legislative Assembly (1993)

29-30.3-01. (1-101). Definitions.

As used in this chapter:

1. "Arrest warrant" means any document that authorizes a peace officer to take custody of a person.
2. "Certified copy" means a copy of a document accompanied by a statement of a custodian authorized by the law of a state to maintain the document that the copy is a complete and true copy of an official record filed and maintained in a public office.

3. "Demanded person" means a person whose return to a demanding state is sought from another state by extradition under sections 29-30.3-08 through 29-30.3-14.

4. "Demanding state" means a state that is seeking the return of a person from another state through the process of extradition under sections 29-30.3-08 through 29-30.3-14.

5. "Executive authority" means the chief executive in a state other than this state, any person performing the functions of chief executive, or a representative designated by the chief executive.

6. "Governor" means the governor of this state, any person performing the functions of governor or a representative designated by the governor.

7. "Issuing authority" means any person who may issue or authorize the issuance of an arrest warrant.

8. "Requested person" means a person whose return to a requesting state is sought from another state by rendition under sections 29-30.3-15 through 29-30.3-20.

9. "Requesting state" means a state that is seeking the return of a person from another state through the process of rendition under sections 29-30.3-15 through 29-30.3-20.

s 2963.01 Definitions.

As used in sections 2963.01 to 2963.27, inclusive, of the Revised Code:

(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 state or territory, organized or unorganized, of the United States.

s 2963.02 Governor to deliver fugitives from justice.

Subject to sections 2963.01 to 2963.27, inclusive, of the Revised Code, the constitution of the United States and all acts of congress enacted in pursuance thereof, the governor shall have arrested and delivered 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.

s 2963.03 Demand for extradition.

No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless the demand is in writing alleging, except in cases arising under section 2963.06 of the Revised Code, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and unless the demand is accompanied by:

(A) A copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon;

(B) A copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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. 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. The copy of indictment, information, affidavit, judgment of conviction, or sentence must be authenticated by the executive authority making the demand.

s 2963.04 Demand investigated by order of governor.

When a demand is made upon the governor of this state by the executive authority of another state for the surrender of a person 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 such person ought to be surrendered.

s 2963.05 Extradition upon agreement to return prisoner.

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 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 may also surrender, on demand of the executive authority of any other state, any person in this state who is charged under section 2963.21 of the Revised Code with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily. This section shall be carried out by conforming to the procedure outlined in sections 2963.01 to 2963.27, inclusive, of the Revised Code.

s 2963.06 Governor may surrender anyone charged with crime against another state.

The governor may 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 2963.03 of the Revised Code 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 sections 2963.01 to 2963.27, inclusive, of the Revised Code, 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.

s 2963.07 Warrant for arrest.

If the governor decides that a demand for extradition should be complied with,

he shall sign a warrant of arrest, which shall be sealed with the state seal and be directed to any peace officer or other person whom the governor finds fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

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 sections 2963.01 to 2963.27, inclusive, of the Revised Code, to the authorized agent of the demanding state.

s 2963.08 Authority to arrest accused.

Every peace officer or other person empowered to make an arrest under section 2963.07 of the Revised Code has the same authority, in arresting the accused, to command assistance therein as peace officers have in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

s 2963.09 Mandatory hearing.

No person arrested upon a warrant under section 2963.07 of the Revised Code shall be delivered to the agent whom the executive authority demanding him appointed to receive him unless such person is first 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. If the prisoner or his counsel desires to test the legality of his arrest, the judge 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.

Whoever violates this section by willfully delivering a person arrested upon the governor's warrant to an agent for extradition of the demanding state before a hearing, shall be fined not more than one thousand dollars or imprisoned not more than six months, or both.

s 2963.10 Prisoner may be confined while enroute.

A peace officer or other person executing a warrant of arrest issued by the governor, or an agent of the demanding state to whom the prisoner has been delivered, may, when necessary, confine the prisoner in the jail of any county or city through which he may pass.

The officer or agent of a demanding state to whom a prisoner has been delivered following extradition proceedings in another state, or to whom a prisoner has 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. Such officer or agent shall produce and show to the keeper of such jail

his warrant and other 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 may not demand a new requisition while in this state.

The keeper of such jail must receive and safely keep a prisoner delivered to him under this section, until the officer or agent having charge of him is ready to proceed on his route. Such officer or agent is chargeable with the expense of such keeping.

s 2963.11 Fugitive from justice.

When, on the oath of a credible person before any judge or magistrate of this state, any person within this state is charged with the commission of any crime in any other state and 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 has 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, 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 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.

This section does not apply to cases arising under section 2963.06 of the Revised Code.

s 2963.12 Arrest without warrant.

An arrest may be made by any peace officer or a private person without a warrant upon reasonable information that the accused stands charged in the courts of any state with a crime punishable by death or imprisonment for a term exceeding one year. 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 provided in section 2963.11 of the Revised Code. Thereafter his answer shall be heard as if he had been arrested on a warrant.

s 2963.13 Fugitive to be confined pending requisition.

If from the examination before the judge or magistrate it appears that the person held under section 2963.11 or 2963.12 of the Revised Code is the person charged with having committed the crime alleged and 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 to exceed thirty 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 furnishes bail or until he is legally discharged.

s 2963.14 Bail.

Unless the offense with which the prisoner is charged under sections 2963.11 and 2963.12 of the Revised Code is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail by bond, with sufficient sureties and in such sum as he deems proper, conditioned for his appearance before said judge or magistrate at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the governor of this state.

s 2963.15 Release of accused.

If the accused mentioned in section 2963.14 of the Revised Code 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 him or may recommit him for a further period not to exceed sixty days, or a judge or magistrate may again take bail for his appearance and surrender, under said section, but within a period not to exceed sixty days after the date of such new bond.

s 2963.16 Forfeited recognizance.

If a prisoner admitted to bail under section 2963.14 of the Revised Code 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 is 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.

s 2963.17 Governor may hold fugitive indicted in this state or surrender him.

If a criminal prosecution has been instituted under the laws of this state against a person sought by another state under sections 2963.01 to 2963.27, inclusive, of the Revised Code, and is still pending, the governor may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

s 2963.18 Guilt not to be inquired into by governor or in extradition proceedings.

The guilt or innocence of an accused as to the crime of which he is charged may not be inquired into by the governor or in any proceeding after a demand for extradition accompanied by a charge of crime under section 2963.03 of the Revised Code has been presented to the governor, except as it may be involved

in identifying the person held as the person charged with the crime.

s 2963.19 Governor may recall warrant for arrest.

The governor may recall his warrant of arrest issued under section 2963.07 of the Revised Code or may issue another warrant whenever he thinks is proper.

s 2963.21 Application for requisition for return of fugitive.

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. The prosecuting attorney shall certify that in his opinion 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.

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 pardon and parole commission, 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.

Such application shall be verified by affidavit, executed in duplicate, and accompanied by two 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, commission, warden, or sheriff may also attach such further affidavits and other documents in duplicate as he finds proper to be submitted with such application. One copy of the application, with the action of the governor indicated by indorsement thereon, and one 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.

s 2963.22 Reimbursement of fees.

The director of budget and management shall provide for reimbursement of the fees to the officers of the state on whose governor the requisition is made under section 2963.21 of the Revised Code, and all necessary travel in returning the prisoner at the rates governing travel that have been adopted pursuant to section 126.31 of the Revised Code, on the certificate of the

governor of such state.

s 2963.23 Accused immune from civil suits until conviction or return home.

A person brought into this state by, or after waiver of, extradition based on a criminal charge is not subject to service of personal process in any civil action in this state 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.

s 2963.24 Extradition hearing waived.

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 bail, probation, or parole may waive the issuance and service of the warrant provided for in section 2963.07 of the Revised Code 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 which states that he consents to return to the demanding state. Before such waiver is executed or subscribed by such person the judge in open court shall inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in section 2963.09 of the Revised Code.

When such consent has been executed it shall forthwith be forwarded to the office of the governor and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the accredited agent of the demanding state, and shall deliver to such agent a copy of such consent. This section does not limit the rights of the accused person to return voluntarily and without formality to the demanding state before any such demand has been made, nor is this waiver procedure an exclusive procedure or a limitation on the powers, rights, or duties of the officers of the demanding state or of this state.

s 2963.25 Right to punish or regain custody by this state not waived.

Sections 2963.01 to 2963.27, inclusive, of the Revised Code do not 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 are any proceedings had under such sections, which result in, or fail to result in, extradition, a waiver by this state of any of its rights, privileges, or jurisdiction.

s 2963.26 Extradited fugitive may be tried for other crimes committed in this state.

A person returned to this state by, or after waiver of, extradition proceedings, 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.

s 2963.27 Uniform interpretation.

Sections 2963.01 to 2963.26, inclusive, of the Revised Code shall be so interpreted and construed as to make the law of this state uniform with the law of those states which enact similar legislation.

s 2963.28 Request by governor for extradition of criminal.

If it appears to the governor by sworn evidence in writing that a person has committed a crime within this state for which such person may be delivered to the United States or its authorities by a foreign government or its authorities, because of laws of the United States, or of a treaty between the United States and a foreign government, and that such person is a fugitive from justice of this state, and may be found within the territory of such foreign government, the governor, under the great seal of Ohio, shall request the president of the United States, or the secretary of state of the United States, to take any steps necessary for the extradition of such person and his delivery to any agent of this state appointed by the governor, or to the proper officer of the county within which he is charged with the commission of such crime.

s 2963.29 Governor must be satisfied by evidence of good faith.

The governor shall not request the extradition of a person under section 2963.28 of the Revised Code unless he is satisfied by sworn evidence that extradition is sought in good faith for the punishment of the crime named and not for the purpose of collecting a debt or pecuniary mulct or of bringing the alleged fugitive within this state to serve him with civil process, or with criminal process other than for the crime for which his extradition is sought.

s 2963.30 Interstate agreement on detainees.

The Interstate Agreement on Detainers is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein, in the form substantially as follows:

s 2963.31 Definitions.

As used in section 2963.30 of the Revised Code, with reference to the courts of this state, "appropriate court" means the court of record having jurisdiction of the indictment, information, or complaint.

s 2963.32 Duty to effectuate agreement.

The courts, departments, agencies and officers of this state and its political subdivisions shall do all things necessary and to effectuate the agreement adopted pursuant to section 2963.30 of the Revised Code, appropriate within

their respective jurisdictions and consistent with their duties and authority. The warden or other official in charge of a penal or correctional institution in this state shall give over the person of any inmate thereof when so required by the operation of the agreement.

s 2963.34 Escape and aiding escape.

A person, while in another state pursuant to the agreement, adopted pursuant to section 2963.30 of the Revised Code, is subject to the prohibitions and penalties provided by sections 2921.34 and 2921.35 of the Revised Code.

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s 2963.35 Duty of warden.

The chief of the adult parole authority is designated as the administrator as required by Article VII of the agreement adopted pursuant to section 2963.30 of the Revised Code. The administrator, acting jointly with like officers of other party states, shall, in accordance with Chapter 119. of the Revised Code, promulgate rules and regulations to carry out the terms of the agreement. The administrator is authorized and empowered to cooperate with all departments, agencies, and officers of this state and its political subdivisions, in facilitating the proper administration of the agreement or of any supplementary agreement or agreements entered into by this state thereunder.

GENERAL STATUTES OF NORTH CAROLINA
CHAPTER 15A. CRIMINAL PROCEDURE ACT.
SUBCHAPTER VII. SPEEDY TRIAL; ATTENDANCE OF DEFENDANTS.
ARTICLE 37. UNIFORM CRIMINAL EXTRADITION ACT.
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s 15A-721 Definitions.

Where appearing in this Article 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.

s 15A-722 Duty of Governor as to fugitives from justice of other states.

Subject to the provisions of this Article, 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.

s 15A-723 Form of demand for extradition.

No demand for the extradition of a person charged with crime in another state shall be recognized by the Governor unless in writing alleging, except in cases arising under G.S. 15A-726, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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. 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 of conviction or sentence must be authenticated by the executive authority making the demand.

s 15A-724 Governor may cause investigation to be made.

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.

s 15A-724 Governor may cause investigation to be made.

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.

s 15A-725 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 G.S. 15A-743 with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

s 15A-726 Extradition of persons not present in demanding state at time of commission of crime.

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 G.S. 15A-723 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 Article, 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.

s 15A-726 Extradition of persons not present in demanding state at time of commission of crime.

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 G.S. 15A-723 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 Article, 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.

s 15A-727 Issue of Governor's warrant of arrest; its recitals.

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

s 15A-728 Manner and place of execution of warrant.

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 Article, to the duly authorized agent of the demanding state.

s 15A-729 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.

s 15A-730 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.

s 15A-731 (Effective until January 1, 1995) Penalty for noncompliance with s 15A-730.

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 willful disobedience to G.S. 15A-730, shall be guilty of a misdemeanor and, on

conviction, shall be fined not more than one thousand dollars (\$1,000) or be imprisoned not more than six months, or both.

(1937, c. 273, s. 11; 1973, c. 1286, s. 16.)

s 15A-731 (Effective January 1, 1995) Penalty for noncompliance with s 15A-730.

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 willful disobedience to G.S. 15A-730, shall be guilty of a Class 2 misdemeanor.

s 15A-732 Confinement in jail when necessary.

The officer or person 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.

s 15A-733 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 G.S. 15A-726, 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 G.S. 15A-726, 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.

s 15A-734 Arrest without a warrant.

The arrest of a person may be lawfully made also by any peace officer or a private person, 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 one 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 G.S. 15A-733; and thereafter his answer shall be heard as if he had been arrested on a warrant.

s 15A-735 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 G.S. 15A-726, 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 G.S. 15A-736, or until he shall be legally discharged.

s 15A-736 Bail in certain cases; conditions of bond.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this State may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the Governor of this State.

s 15A-737 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 or bond, a judge or magistrate may discharge him or may recommit him for a further period not to exceed 60 days, or a judge or magistrate may again take bail for his appearance and surrender, as provided in G.S. 15A-736, but within a period not to exceed 60 days after the date of such new bond.

s 15A-738 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.

s 15A-739 Persons under criminal prosecution in this State at time of requisition.

If a criminal prosecution has been instituted against such person under the laws of this State and is still pending, the Governor, in his discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this State.

s 15A-740 Guilt or innocence of 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.

s 15A-741 Governor may recall warrant or issue alias.

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

s 15A-742 Fugitives from this State; duty of governors.

Whenever the Governor of this State shall demand a person charged with a 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.

s 15A-743 Application for issuance of requisition; by whom made; contents.

(a) 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.

(b) 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 Director of Prisons 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.

(c) The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two 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 shall deem proper to be submitted with such application. A copy of all papers shall be forwarded with the Governor's requisition.

s 15A-744 Costs and expenses.

Subject to the requirements and restrictions set forth in this section, if the crime is a felony or if a person convicted in this State of a misdemeanor has broken the terms of his probation or parole, reimbursements for expenses shall be paid out of the State treasury on the certificate of the Governor. In all other cases, such expenses or reimbursements shall be paid out of the county treasury of the county wherein the crime is alleged to have been committed according to such regulations as the board of county commissioners may promulgate. In all cases, the expenses, for which repayment or reimbursement may be claimed, shall consist of the reasonable and necessary travel expense and subsistence costs of the extradition agent or fugitive officer, as well as the fugitive, together with such legal fees as were paid to the officials of the state on whose governor the requisition is made. The person or persons designated to return the fugitive shall not be allowed, paid or reimbursed for any expenses in connection with any requisition or extradition proceeding unless the expenses are itemized, the statement of same be sworn to under oath, and shall not then be paid or reimbursed unless a receipt is obtained showing the amount, the purpose for which said item or sum was expended, the place, date and to whom paid, and said receipt or receipts attached to said sworn statement and filed with the Governor. The Governor shall have the authority, upon investigation, to increase or decrease any item or expenses shown in said sworn statement, or to include items of expenses omitted by mistake or inadvertence. The decision or determination of the Governor as to the correct amount to be paid for such expenses or reimbursements shall be final. When it is deemed necessary for more than one agent, extradition agent, fugitive officer or person, to be designated to

return a fugitive from another state to this State, the district attorney or prosecuting officer shall file with his written application to the Governor of this State an affidavit setting forth in detail the grounds or reasons why it is necessary to have more than one extradition agent, fugitive officer or person to be so designated. Among other things, and not by way of limitation, the affidavit shall set forth whether or not the alleged fugitive is a dangerous person, his previous criminal record if any, and any record of said fugitive on file with the Federal Bureau of Investigation or with the prison authorities of this State. As a further ground or reason for more than one extradition agent or fugitive officer to be designated, it may be shown in said affidavit the number of fugitives to be returned to this State and any other grounds or reasons for which more than one extradition agent or fugitive officer is desired. If the Governor finds or determines from his own investigation and from the information made available to him that more than one extradition agent or fugitive officer is necessary for the return of a fugitive or fugitives to this State, he may designate more than one extradition agent or fugitive officer for such purpose. All travel for which expenses or reimbursements are paid or allowed under this section shall be by the nearest, direct, convenient route of travel. If the extradition agent or agents or person or persons designated to return a fugitive or fugitives from another state to this State shall elect to travel by automobile, a sum not exceeding seven cents (7 cents) per mile may be allowed in lieu of all travel expense, and which shall be paid upon a basis of mileage for the complete trip. The Governor may promulgate executive orders, rules and regulations governing travel, forms of statements, receipts or any other matter or objective provided for in this section. The Governor may delegate any or all of the duties, powers and responsibilities conferred upon him by this section to any executive agent or executive clerk on his staff or in his office, and such executive agent or executive clerk, when properly authorized, may perform any or all of the duties, powers and responsibilities conferred upon the Governor. Provided that if the fugitive from justice is an alleged felon, and he be returned without the service of extradition papers by the sheriff or the agent of the sheriff of the county in which the felony was alleged to have been committed, the expense of said return shall be borne by the State of North Carolina under the rules and regulations made and promulgated by the Governor of North Carolina or the executive agent or the executive clerk to whom the said Governor may have delegated his duties under this section.

s 15A-745 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.

s 15A-746 Written waiver of extradition proceedings.

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 bail, probation or parole may waive the issuance and service of the warrant provided for in G.S. 15A-727 and 15A-728 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 or a clerk of the

superior court a writing which states that he consents to return to the demanding state: Provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge or clerk of superior court to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in G.S. 15A-730.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the Governor of this State and filed therein. The judge or clerk of superior court shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent: Provided, however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this State.

s 15A-747 Nonwaiver by this State.

Nothing in this Article 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 Article 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.

s 15A-748 No right of asylum; no immunity from other criminal prosecution 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.

s 15A-749 Interpretation.

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

s 15A-750 Short title.

This Article may be cited as the Uniform Criminal Extradition Act.

PAGE'S OHIO REVISED CODE ANNOTATED

TITLE 29: CRIMES--PROCEDURE

CHAPTER 2963: EXTRADITION

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Current with Laws passed and filed through 12-31-92

§ 2963.01 Definitions.

As used in sections 2963.01 to 2963.27, inclusive, of the Revised Code:

(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 state or territory, organized or unorganized, of the United States.

§ 2963.02 Governor to deliver fugitives from justice.

Subject to sections 2963.01 to 2963.27, inclusive, of the Revised Code, the constitution of the United States and all acts of congress enacted in pursuance thereof, the governor shall have arrested and delivered 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.

§ 2963.03 Demand for extradition.

No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless the demand is in writing alleging, except in cases arising under section 2963.06 of the Revised Code, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and unless the demand is accompanied by:

(A) A copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon;

(B) A copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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. 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. The copy of indictment, information, affidavit, judgment of conviction, or sentence must be authenticated by the executive authority making the demand.

§ 2963.04 Demand investigated by order of governor.

When a demand is made upon the governor of this state by the executive authority of another state for the surrender of a person 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 such person ought to be surrendered.

s 2963.05 Extradition upon agreement to return prisoner.

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 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 may also surrender, on demand of the executive authority of any other state, any person in this state who is charged under section 2963.21 of the Revised Code with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily. This section shall be carried out by conforming to the procedure outlined in sections 2963.01 to 2963.27, inclusive, of the Revised Code.

s 2963.06 Governor may surrender anyone charged with crime against another state.

The governor may 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 2963.03 of the Revised Code 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 sections 2963.01 to 2963.27, inclusive, of the Revised Code, 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.

s 2963.07 Warrant for arrest.

If the governor decides that a demand for extradition should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal and be directed to any peace officer or other person whom the governor finds fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

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 sections 2963.01 to 2963.27, inclusive, of the Revised Code, to the authorized agent of the demanding state.

s 2963.08 Authority to arrest accused.

Every peace officer or other person empowered to make an arrest under section

2963.07 of the Revised Code has the same authority, in arresting the accused, to command assistance therein as peace officers have in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

s 2963.09 Mandatory hearing.

No person arrested upon a warrant under section 2963.07 of the Revised Code shall be delivered to the agent whom the executive authority demanding him appointed to receive him unless such person is first 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. If the prisoner or his counsel desires to test the legality of his arrest, the judge 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.

Whoever violates this section by willfully delivering a person arrested upon the governor's warrant to an agent for extradition of the demanding state before a hearing, shall be fined not more than one thousand dollars or imprisoned not more than six months, or both.

s 2963.10 Prisoner may be confined while enroute.

A peace officer or other person executing a warrant of arrest issued by the governor, or an agent of the demanding state to whom the prisoner has been delivered, may, when necessary, confine the prisoner in the jail of any county or city through which he may pass.

The officer or agent of a demanding state to whom a prisoner has been delivered following extradition proceedings in another state, or to whom a prisoner has 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. Such officer or agent shall produce and show to the keeper of such jail his warrant and other 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 may not demand a new requisition while in this state.

The keeper of such jail must receive and safely keep a prisoner delivered to him under this section, until the officer or agent having charge of him is ready to proceed on his route. Such officer or agent is chargeable with the expense of such keeping.

s 2963.11 Fugitive from justice.

When, on the oath of a credible person before any judge or magistrate of this state, any person within this state is charged with the commission of any crime in any other state and 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 has 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, 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 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.

This section does not apply to cases arising under section 2963.06 of the Revised Code.

s 2963.12 Arrest without warrant.

An arrest may be made by any peace officer or a private person without a warrant upon reasonable information that the accused stands charged in the courts of any state with a crime punishable by death or imprisonment for a term exceeding one year. 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 provided in section 2963.11 of the Revised Code. Thereafter his answer shall be heard as if he had been arrested on a warrant.

s 2963.13 Fugitive to be confined pending requisition.

If from the examination before the judge or magistrate it appears that the person held under section 2963.11 or 2963.12 of the Revised Code is the person charged with having committed the crime alleged and 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 to exceed thirty 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 furnishes bail or until he is legally discharged.

s 2963.14 Bail.

Unless the offense with which the prisoner is charged under sections 2963.11 and 2963.12 of the Revised Code is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail by bond, with sufficient sureties and in such sum as he deems proper, conditioned for his appearance before said judge or magistrate at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the governor of

this state.

s 2963.15 Release of accused.

If the accused mentioned in section 2963.14 of the Revised Code 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 him or may recommit him for a further period not to exceed sixty days, or a judge or magistrate may again take bail for his appearance and surrender, under said section, but within a period not to exceed sixty days after the date of such new bond.

s 2963.16 Forfeited recognizance.

If a prisoner admitted to bail under section 2963.14 of the Revised Code 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 is 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.

s 2963.17 Governor may hold fugitive indicted in this state or surrender him.

If a criminal prosecution has been instituted under the laws of this state against a person sought by another state under sections 2963.01 to 2963.27, inclusive, of the Revised Code, and is still pending, the governor may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

s 2963.18 Guilt not to be inquired into by governor or in extradition proceedings.

The guilt or innocence of an accused as to the crime of which he is charged may not be inquired into by the governor or in any proceeding after a demand for extradition accompanied by a charge of crime under section 2963.03 of the Revised Code has been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

s 2963.19 Governor may recall warrant for arrest.

The governor may recall his warrant of arrest issued under section 2963.07 of the Revised Code or may issue another warrant whenever he thinks is proper.

s 2963.20 Governor to demand fugitive from this state.

Whenever the governor demands 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 and convey such person to the proper officer of the county in which the offense was committed.

s 2963.21 Application for requisition for return of fugitive.

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. The prosecuting attorney shall certify that in his opinion 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.

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 pardon and parole commission, 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.

Such application shall be verified by affidavit, executed in duplicate, and accompanied by two 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, commission, warden, or sheriff may also attach such further affidavits and other documents in duplicate as he finds proper to be submitted with such application. One copy of the application, with the action of the governor indicated by indorsement thereon, and one 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.

s 2963.22 Reimbursement of fees.

The director of budget and management shall provide for reimbursement of the fees to the officers of the state on whose governor the requisition is made under section 2963.21 of the Revised Code, and all necessary travel in returning the prisoner at the rates governing travel that have been adopted pursuant to section 126.31 of the Revised Code, on the certificate of the governor of such state.

s 2963.23 Accused immune from civil suits until conviction or return home.

A person brought into this state by, or after waiver of, extradition based on a criminal charge is not subject to service of personal process in any civil action in this state 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.

s 2963.24 Extradition hearing waived.

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 bail, probation, or parole may waive the issuance and service of the warrant provided for in section 2963.07 of the Revised Code 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 which states that he consents to return to the demanding state. Before such waiver is executed or subscribed by such person the judge in open court shall inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in section 2963.09 of the Revised Code.

When such consent has been executed it shall forthwith be forwarded to the office of the governor and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the accredited agent of the demanding state, and shall deliver to such agent a copy of such consent. This section does not limit the rights of the accused person to return voluntarily and without formality to the demanding state before any such demand has been made, nor is this waiver procedure an exclusive procedure or a limitation on the powers, rights, or duties of the officers of the demanding state or of this state.

s 2963.25 Right to punish or regain custody by this state not waived.

Sections 2963.01 to 2963.27, inclusive, of the Revised Code do not 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 are any proceedings had under such sections, which result in, or fail to result in, extradition, a waiver by this state of any of its rights, privileges, or jurisdiction.

s 2963.26 Extradited fugitive may be tried for other crimes committed in this state.

A person returned to this state by, or after waiver of, extradition proceedings, 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.

s 2963.27 Uniform interpretation.

Sections 2963.01 to 2963.26, inclusive, of the Revised Code shall be so interpreted and construed as to make the law of this state uniform with the law of those states which enact similar legislation.

s 2963.28 Request by governor for extradition of criminal.

If it appears to the governor by sworn evidence in writing that a person has committed a crime within this state for which such person may be delivered to the United States or its authorities by a foreign government or its authorities, because of laws of the United States, or of a treaty between the United States and a foreign government, and that such person is a fugitive from justice of this state, and may be found within the territory of such foreign government, the governor, under the great seal of Ohio, shall request the president of the United States, or the secretary of state of the United States, to take any steps necessary for the extradition of such person and his delivery to any agent of this state appointed by the governor, or to the proper officer of the county within which he is charged with the commission of such crime.

s 2963.29 Governor must be satisfied by evidence of good faith.

The governor shall not request the extradition of a person under section 2963.28 of the Revised Code unless he is satisfied by sworn evidence that extradition is sought in good faith for the punishment of the crime named and not for the purpose of collecting a debt or pecuniary mulct or of bringing the alleged fugitive within this state to serve him with civil process, or with criminal process other than for the crime for which his extradition is sought.

OKLAHOMA STATUTES ANNOTATED
TITLE 22. CRIMINAL PROCEDURE
CHAPTER 20. FUGITIVES FROM JUSTICE
UNIFORM CRIMINAL EXTRADITION ACT
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s 1141.1. Definitions

Where appearing in this act, [FN1] 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, and 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.

s 1141.2. Duty of Governor

Subject to the provisions of this act, [FN1] 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.

s 1141.3. Requisites of demand--Accompanying papers

No demand for the extradition of a person charged with crime in another state shall be recognized by the Governor unless in writing alleging, except in cases arising under Section 6, [FN1] that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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. 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 of conviction or sentence must be authenticated by the executive authority making the demand.

s 1141.4. Investigation and report

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.

s 1141.5. Agreement for return to other state--Surrender of person leaving state involuntarily

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 23 of this act [FN1] with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

s 1141.6. Surrender of persons not fleeing from demanding state

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 [FN1] 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 [FN2] 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.

s 1141.7. Warrant of arrest of Governor

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

s 1141.7. Warrant of arrest of Governor

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

s 1141.8. Authority conferred by warrant

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 [FN1] to the duly authorized agent of the demanding state.

s 1141.9. Authority to command assistance

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 executive of any criminal process directed to them, with like penalties against those who refuse their assistance.

s 1141.10. Notice of demand to alleged fugitive--Counsel--Habeas corpus

Any person who is arrested within this state, by virtue of a warrant issued by the Governor of this state, upon a requisition of the Governor of any other state or territory, as a fugitive from justice under the laws of the United States, shall not be delivered to the agent of such state or territory until notified of the demand made for his surrender, and given twenty-four (24) hours to make demand for counsel; and should such demand be made for the purpose of suing out a writ of habeas corpus, the prisoner shall be forthwith taken to the nearest judge of the district court, and ample time given to sue out such writ, such time to be determined by the said judge of the district court.

s 1141.12. Confinement of prisoner in jail

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.

s 1141.13. Issuance of warrant of arrest by judge or magistrate

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 6, [FN1] 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 6, 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.

s 1141.14. Arrest without warrant

The arrest of a person may be lawfully made also by any peace officer or a private person, 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 one (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.

s 1141.15. Commitment by judge or magistrate

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 6, [FN1] 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 thirty (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.

s 1141.16. Bail

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as

he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the Governor of this state.

s 1141.17. Discharge or recommitment

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 him or may recommit him for a further period not to exceed sixty (60) days, or a judge or magistrate may again take bail for his appearance and surrender, as provided in Section 16, [FN1] but within a period not to exceed sixty (60) days after the date of such new bond.

s 1141.18. 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.

s 1141.19. Demand for person against whom prosecution pending

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending the Governor, in his discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

s 1141.20. Inquiry into guilt or innocence

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 proceedings 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.

s 1141.21. Recalling warrant—New warrant

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

s 1141.22. Warrant to agent to receive person demanded

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.

s 1141.23. Application to Governor by prosecuting attorney for requisition

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.

II. 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.

III. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two 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 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 one 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.

s 1141.24. Immunity from civil process

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.

s 1141.25. Waiver of proceedings and consent to return to demanding state

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 bail, probation or parole may waive the issuance and service the warrant provided for in Section 7 and 8 [FN1] 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 which states that he consents to return to the demanding state; provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in Section 10. [FN2]

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

s 1141.26. Rights of state not deemed waived

Nothing in this act [FN1] 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.

s 1141.27. Trial for other offenses than that specified

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.

s 1141.28. Uniformity of construction

The provisions of this act [FN1] shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those states which enact it.

s 1141.29. Partial invalidity

If any provision of this act [FN1] or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

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If any provision of this act [FN1] or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

s 1141.30. Short title

This act [FN1] may be cited as the Uniform Criminal Extradition Act.

1993 OREGON REVISED STATUTES
TITLE 14. PROCEDURE IN CRIMINAL MATTERS GENERALLY
CHAPTER 133. ARREST AND RELATED PROCEDURES; SEARCH AND SEIZURE;
EXTRADITION

UNIFORM CRIMINAL EXTRADITION ACT

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Current through Ch. 820 of the 67th Legislative Assembly (1993)

133.743. "Governor" defined; appointment of legal counsel to assist Governor.

(1) Where appearing in ORS 133.743 to 133.857, the term "Governor" includes any person performing the extradition functions of Governor by authority of an appointment under subsection (2) of this section. The term "executive authority" includes the Governor and any person performing the functions of Governor in a state other than this state, and 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.

(2) The Governor may appoint a member of the legal staff of the Governor to act in behalf of the Governor under ORS 133.743 to 133.857 in performing the extradition functions of the Governor. The appointment shall be in writing and be filed with the Secretary of State.

133.747. Fugitives from other states; Governor to cause arrest and delivery of criminals.

Subject to the qualifications of ORS 133.743 to 133.857 and the provisions of the Constitution of the United States controlling, and Acts of Congress 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.

133.750 (Renumbered 135.155).

133.753. Form of demand.

No demand for the extradition of a person charged with crime in another state shall be recognized by the Governor unless in writing and accompanied by a copy of an indictment found or by an information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of bail, probation or parole. 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 of conviction or sentence must be authenticated by the executive authority making the demand.

133.757. Investigation of demand and report.

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 the Governor the situation and circumstances of the person so demanded, and whether the person ought to be surrendered.

(Formerly 147.040)

NOTES, REFERENCES, AND ANNOTATIONS

133.743 to 133.857

See also annotations under ORS chapter 147 in permanent edition.

NOTES OF DECISIONS

This Act was adopted to facilitate the interjurisdictional transfer of prisoners. Bishop v. Cupp, (1971) 7 Or App 349, 490 P2d 524

Interjurisdictional transfers to clear up charges protect the prisoner's constitutional right to a speedy trial and the state's interest in the orderly administration of justice. Id.

133.757

133.760 (Amended by 1973 c.836 s 140; renumbered 135.165).

133.763. Facts documents must show.

A warrant of extradition must not be issued unless the documents presented by the executive authority making the demand show that:

- (1) Except in cases arising under ORS 133.767, the accused, when demanded upon a charge of crime, was present in the demanding state at the time of the commission of the alleged crime and thereafter fled from that state;
- (2) The person demanded is in this state; and
- (3) They constitute full compliance with the requirements of ORS 133.753.

133.767. Extradition of person not present in demanding state at time of commission of crime.

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 ORS 133.763 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 chapter not otherwise inconsistent shall apply to such cases, notwithstanding that the accused was not in that state at the time of the commission of the crime and has not fled therefrom.

133.773. Governor's warrant of arrest.

If the Governor shall decide that the demand should be complied with, the Governor shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to a sheriff, marshal, coroner or other person whom the Governor may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issue.

133.777. Execution of the warrant.

Such warrant shall authorize the officer or other person to whom directed to arrest the accused at any place where the accused may be found within the state and to command the aid of all sheriffs and other peace officers in the execution of the warrant, and to deliver the accused, subject to the provisions of ORS 133.743 to 133.833 and 133.839 to 133.855, to the duly authorized agent of the demanding state.

133.783. Authority of arresting officer to command assistance.

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

133.787. Rights of arrested person.

No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding the person shall have appointed to receive the person unless the person has been informed of the demand made for surrender and of the crime with which the person is charged, and that the person has the right to demand legal counsel; and if the prisoner, the friends, or counsel of the prisoner shall state the desire to test the legality of the arrest, the prisoner shall be taken forthwith before a judge of a court of record in this state, who shall fix a reasonable time to be allowed the prisoner within which to apply for a writ of habeas corpus. And when such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the public 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.

(Formerly 147.100)

133.793. Penalty for disobedience to ORS 133.787.

Any officer who shall deliver to the agent for extradition of the demanding state a person in the custody of the officer under the Governor's warrant in disobedience to ORS 133.787 commits a Class B misdemeanor.

133.797. Confinement of prisoner.

(1) The officer or person 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 the officer, person or agent may pass; and the keeper of such jail must receive and safely keep the prisoner until the person having charge of the prisoner is ready to proceed on the route, such person being chargeable with the expense of keeping.

(2) 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 the officer or agent may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of the prisoner is ready to proceed on the 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 the officer or agent 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.

133.803. Arrest prior to requisition.

Whenever any person within this state shall be charged on the oath of any credible person before any judge or other magistrate of this state with the commission of a crime in any other state and, except in cases arising under ORS 133.767, 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 bail, probation or parole, or whenever complaint shall have been made before any judge or other magistrate in this state setting forth on the affidavit of any creditable 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 ORS 133.767, has fled therefrom or has been convicted of a crime in that state and escaped from confinement, or has broken the terms of 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 the peace officer to apprehend the person named therein, wherever the person may be found in this state, and bring the person before the same or any other judge, court or magistrate who may be 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.

133.805. Arrest without warrant.

The arrest of a person may be lawfully made also by an officer or a private citizen without a warrant, upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one 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 the accused under oath setting forth the ground

for the arrest as in ORS 133.803; and thereafter the answer of the accused shall be heard as if the accused had been arrested on a warrant.

133.807. Commitment to await arrest on requisition.

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, the judge or magistrate must commit the person to jail by a warrant reciting the accusation for such a time 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 defense, unless the accused is released as provided in ORS 133.809, or until the accused shall be legally discharged.

133.809. Release.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, the judge or magistrate must make a release decision concerning the person arrested under ORS 135.230 to 135.290, for the appearance of the person at a time specified in the security release or in the release agreement.

133.813. Proceedings in absence of arrest under executive warrant within specified time.

If the accused is not arrested under warrant of the Governor by the expiration of the time specified in the warrant, security release or release agreement, the judge or magistrate may discharge the accused or may recommit the accused to a further day, or may again set a security release or a release agreement for the appearance and surrender of the accused, as provided in ORS 133.809; and at the expiration of the second period of commitment, or if the accused has been released and appeared according to the terms of the security release or release agreement of the accused, the judge or magistrate either may discharge the accused or may require the accused to enter into a new security release or release agreement to appear and surrender at another day.

133.815. Forfeiture; recovery thereon.

If the prisoner is released and fails to appear according to the condition of the security release or release agreement of the prisoner, the court, by proper order, shall declare the security release or release agreement forfeited, and recovery may be had thereon in the name of the state as in the case of other security releases and release agreements given by the accused in criminal proceedings within this state.

133.817. Persons under criminal prosecution in this state at time of requisition.

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the Governor, at the discretion of the Governor, either may surrender the person on the demand of the executive authority of another state or may hold the person until the person has been tried and discharged, or convicted and punished in this state.

133.823. When guilt of accused may be inquired into.

The guilt or innocence of the accused as to the crime of which the accused 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 provided in ORS 133.743 to 133.817, 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.

133.825. Governor may recall warrant; alias writ.

The Governor may recall the Governor's warrant of arrest or may issue another warrant whenever the Governor deems proper.

133.827. Warrant to agent to return fugitive from this state.

Whenever the Governor of this state shall demand a person charged with crime or with escaping from confinement or breaking the terms of bail, probation or parole in this state from the chief executive 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, the Governor shall issue a warrant under the seal of this state to some agent or agents, commanding the agent to receive the person so charged if delivered to the agent and convey the person to the proper officer of the county in this state in which the offense was committed.

133.833. Application for requisition; filing and forwarding of papers.

(1) When the return to this state of a person charged with crime in this state is required, the district attorney of the county in which the alleged crime is committed shall present to the Governor 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 the person, the approximate time, place and circumstances of its commission, the state in which the person 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 district attorney the interest of the public in the effective administration of criminal justice requires 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 or found guilty except for insanity of a crime in this state and who has escaped from confinement or broken the terms of the release, probation or parole of such person, the district attorney of the county in which the offense was committed, the parole board, or the superintendent 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 the person was convicted or found guilty except for insanity, the circumstances of the escape from confinement or of the breach of the terms of release, probation or parole, the state in which the person 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 two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the magistrate, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The district attorney, parole board, superintendent or sheriff may also attach such further affidavits and other documents in duplicate as the district attorney, parole board, superintendent or sheriff shall deem proper to be submitted with such application. One copy of the application, with the action of the Governor indicated by indorsement thereon, and one of the certified copies of the indictment, complaint, information and affidavit, 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.

133.835. Extradition of persons imprisoned or awaiting trial in another state or who have left the demanding state under compulsion.

(1) 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 the person 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 the term of sentence of the person in such other state, upon condition that the person be returned to the other state at the expense of this state as soon as the prosecution in this state is terminated.

(2) 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 this chapter with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

133.837. Appointment of agent to return fugitive from this state who waives extradition.

In the event a fugitive from this state shall waive extradition, an agent or agents to secure the return of the fugitive may be appointed by the district attorney of the county in which the offense was committed, and the account of such agent or agents embracing necessary expenses incurred in performing the service, shall be audited and paid in the same manner as accounts presented under ORS 133.857.

133.839. Immunity from civil process in certain civil cases.

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 proceeding to answer which the person is being or has been returned, until the person has been convicted in the criminal proceeding, or, if acquitted, until the person has had reasonable opportunity to return to the state from which the person was extradited.

133.843. Written waiver of extradition proceedings.

(1) 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 bail, probation or parole may waive the issuance and service of the warrant provided for in ORS 133.773 and 133.777 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 which states that the person consents to return to the demanding state; provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of rights to the issuance and service of a warrant of extradition and to apply for a writ of habeas corpus as provided for in ORS 133.787.

(2) If and when such consent has been duly executed it shall forthwith be forwarded to the office of the Governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, however, that nothing in this section shall be deemed to limit the right of the accused person to submit voluntarily to the custody of such agent or agents for return without formality to the demanding state.

133.845. Nonwaiver by this state.

Nothing contained in this chapter shall be deemed to constitute a waiver by this state of its right, power or privilege to try a person demanded under ORS 133.843 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 chapter 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.

133.847. Trial of extradited person for other crimes.

After a person has been brought back to this state upon extradition proceedings, the person may be tried in this state for other crimes which the person may be charged with having committed here as well as that specified in the requisition for extradition.

133.853. Construction of Act.

ORS 133.743 to 133.833 and 133.839 to 133.855 shall be so interpreted and

construed as to effectuate their general purpose to make uniform the law of those states which enact the Uniform Criminal Extradition Act.

133.855. Short title.

ORS 133.743 to 133.833 and 133.839 to 133.855 may be cited as the Uniform Criminal Extradition Act.

133.857. Payment of agent's expenses.

The account of the agent or agents embracing necessary expenses incurred in performing the service, after approval by the Governor, shall be paid, after being audited and allowed as other claims against the state, from any moneys appropriated therefor.

135.050. Eligibility for court-appointed counsel; financial statement; termination; civil liability.

- (1) Suitable counsel for a defendant shall be appointed by a court if:
 - (a) The defendant is before a court on a matter described in subsection (4) of this section;
 - (b) The defendant requests aid of counsel;
 - (c) The defendant provides to the court a written and verified financial statement; and
 - (d) It appears to the court that the defendant is financially unable to retain adequate representation without substantial hardship in providing basic economic necessities to the defendant or the defendant's dependent family.
- (2) Appointed counsel shall not be denied to any defendant merely because the defendant's friends or relatives have resources adequate to retain counsel or because the defendant has deposited or is capable of depositing security for release. However, appointed counsel may be denied to a defendant if the defendant's spouse has adequate resources which the court determines should be made available to retain counsel.
- (3) The defendant's financial statement under subsection (1) of this section shall include, but not be limited to:
 - (a) A list of bank accounts in the name of defendant or defendant's spouse, and the balance in each;
 - (b) A list of defendant's interests in real property and those of defendant's spouse;
 - (c) A list of automobiles and other personal property of significant value belonging to defendant or defendant's spouse;
 - (d) A list of debts in the name of defendant or defendant's spouse, and the total of each; and
 - (e) A record of earnings and other sources of income in the name of defendant or defendant's spouse, and the total of each.
- (4) Counsel must be appointed for a defendant who meets the requirements of subsection (1) of this section and who is before a court on any of the following matters:
 - (a) Charged with a crime.
 - (b) For a hearing to determine whether an enhanced sentence should be imposed when such proceedings may result in the imposition of a felony sentence.

(c) For extradition proceedings under the provisions of the Uniform Criminal Extradition Act.

(d) For any proceeding concerning an order of probation, including but not limited to the revoking or amending thereof.

(5) Unless otherwise ordered by the court, the appointment of counsel under this section shall continue during all criminal proceedings resulting from the defendant's arrest through acquittal or the imposition of punishment. The court having jurisdiction of the case may substitute one appointed counsel for another at any stage of the proceedings when the interests of justice require such substitution.

(6) If, at any time after the appointment of counsel, the court having jurisdiction of the case finds that the defendant is financially able to obtain counsel, the court may terminate the appointment of counsel. If, at any time during criminal proceedings, the court having jurisdiction of the case finds that the defendant is financially unable to pay counsel whom the defendant has retained, the court may appoint counsel as provided in this section.

(7) In addition to any criminal prosecution, a civil proceeding may be initiated by any public body which has expended moneys for the defendant's legal assistance within two years of judgment if the defendant was not qualified in accordance with subsection (1) of this section for legal assistance.

(8) The civil proceeding shall be subject to the exemptions from execution as provided for by law.

PURDON'S PENNSYLVANIA CONSOLIDATED STATUTES ANNOTATED
TITLE 42. JUDICIARY AND JUDICIAL PROCEDURE
PART VIII. CRIMINAL PROCEEDINGS
CHAPTER 91. DETAINERS AND EXTRADITION
SUBCHAPTER B. EXTRADITION OF PERSONS CHARGED WITH CRIME
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s 9121. Short title of subchapter

This subchapter be known and may be cited as the "Uniform Criminal Extradition Act."

s 9122. Definitions

The following words and phrases when used in this subchapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Executive authority." Includes the Governor and any person performing the functions of Governor in a state other than this Commonwealth.

"Governor." Includes any person performing the functions of Governor by authority of the law of this Commonwealth.

"State." Includes, when referring to a state other than this Commonwealth, any other state or territory, organized or unorganized, of the United States of America.

s 9123. Duty of Governor with respect to fugitives from justice

PURDON'S PENNSYLVANIA CONSOLIDATED STATUTES ANNOTATED
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"State." Includes, when referring to a state other than this Commonwealth, any other state or territory, organized or unorganized, of the United States of America.

s 9123. Duty of Governor with respect to fugitives from justice

Subject to the provisions of this subchapter, 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 Commonwealth 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 Commonwealth.

s 9124. Form of demand

No demand for the extradition of a person charged with crime in another state shall be recognized by the Governor unless in writing, alleging, except in cases arising under section 9127 (relating to extradition of persons not present in demanding state at time of commission of crime) that the accused was present in the demanding state at the time of the commission of the alleged crime and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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. The indictment, information

to the validity of its issuance.

s 9129. 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 this Commonwealth 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 subchapter, to the duly authorized agent of the demanding state.

s 9130. 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.

s 9131. Rights of accused person

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 Commonwealth 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.

s 9132. Penalty for noncompliance

Any officer who shall deliver to the agent for extradition of the demanding state a person in his custody under the warrant of the Governor in willful disobedience to section 9131 (relating to rights of accused person) shall commit a misdemeanor of the third degree.

s 9133. Confinement in jail

(a) General rule.—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 or borough 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.

(b) Prisoner in transit.—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

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 of conviction or sentence must be authenticated by the executive authority making the demand.

s 9125. Governor may investigate case

When a demand shall be made upon the Governor of this Commonwealth 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 Commonwealth 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.

s 9126. Extradition of persons imprisoned or awaiting trial in another state or who have left the demanding state under compulsion

(a) Extradition from another state.--When it is desired to have returned to this Commonwealth a person charged in this Commonwealth 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 Commonwealth 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 Commonwealth as soon as the prosecution in this Commonwealth is terminated.

(b) Surrender to another state.--The Governor of this Commonwealth may also surrender on demand of the executive authority of any other state any person in this Commonwealth who is charged, in the manner provided in section 9144 (relating to issuance of requisition), with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

s 9127. Extradition of persons not present in demanding state at time of commission of crime

The Governor of this Commonwealth may also surrender on demand of the executive authority of any other state any person in this Commonwealth charged in such other state in the manner provided in section 9124 (relating to form of demand) with committing an act in this Commonwealth 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 subchapter 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.

s 9128. Issue by Governor of warrant of arrest

If the Governor decides that the demand should be complied with he shall sign a warrant of arrest which shall be sealed with the State seal and be directed to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary

in such other state, and who is passing through this Commonwealth 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 or borough 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. 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 Commonwealth.

s 9134. Arrest prior to requisition

Whenever any person within this Commonwealth shall be charged on the oath of any credible person before any judge or issuing authority of this Commonwealth with the commission of any crime in any other state, and, except in cases arising under section 9127 (relating to extradition of persons not present in demanding state at time of commission of crime) 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 issuing authority in this Commonwealth, 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 9127, 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 Commonwealth, the judge or issuing authority shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein wherever he may be found in this Commonwealth and to bring him before the same or any other judge or issuing authority 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.

s 9135. Arrest without a warrant

The arrest of a person may be lawfully made also by any peace officer or a private person 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 one year, but when so arrested the accused must be taken before a judge or issuing authority with all practicable speed, and complaint must be made against him under oath setting forth the ground for the arrest as in section 9134 (relating to arrest prior to requisition), and thereafter his answer shall be heard as if he had been arrested on a warrant.

s 9136. Commitment to await requisition

If from the examination before the judge or issuing authority it appears that the person held is the person charged with having committed the crime alleged, and, except in cases arising under section 9127 (relating to extradition of persons not present in demanding state at time of commission of crime), that he has fled from justice, the judge or issuing authority 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 section 9137 (relating to bail), or until he shall be legally discharged.

s 9137. Bail

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or issuing authority in this Commonwealth may admit the person arrested to bail by bond with sufficient sureties and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond and for his surrender to be arrested upon the warrant of the Governor of this Commonwealth.

s 9138. Extension of time of commitment

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 issuing authority may discharge him or may recommit him for a further period, not to exceed 60 days, or a judge or issuing authority may again take bail for his appearance and surrender, as provided in section 9137 (relating to bail), but within a period not to exceed 60 days after the date of such new bond.

s 9139. 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 issuing authority by proper order shall declare the bond forfeited and order his immediate arrest without warrant if he be within this Commonwealth. Recovery may be had on such bond in the name of the Commonwealth as in the case of other bonds given by the accused in criminal proceedings within this Commonwealth.

s 9140. Persons under criminal prosecution in this Commonwealth at time of requisition

If a criminal prosecution has been instituted against such person under the laws of this Commonwealth and is still pending, the Governor in his discretion either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this Commonwealth.

s 9141. Inquiry into guilt or innocence of accused

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 provided in this subchapter 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.

s 9142. Governor may recall warrant or issue another

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

s 9143. Duty of Governor in case of fugitives from this Commonwealth

Whenever the Governor of this Commonwealth shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in this Commonwealth, from the executive authority of any other state, or from the official 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 Commonwealth 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 Commonwealth in which the offense was committed.

s 9144. Issuance of requisition

(a) Return of accused.—When the return to this Commonwealth of a person charged with crime in this Commonwealth 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 Commonwealth for trial, and that the proceeding is not instituted to enforce a private claim.

(b) Return of convict.—When the return to this Commonwealth is required of a person who has been convicted of a crime in this Commonwealth 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.

(c) Procedure.—The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or issuing authority 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 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 one 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 Department of State to remain of record in that office. The other copies of all papers shall be forwarded with the requisition of the Governor.

s 9144.1. Payment of expenses, costs and fees

All costs and expenses shall be paid out of the county treasury in the county wherein the crime is alleged to have been committed: Provided, however, That all costs and expenses incurred by a county in extraditing a person who, upon release from a Federal prison, is apprehended on a writ of detainer issued by a state other than Pennsylvania, shall be reimbursed by the Department of Justice. Reimbursable costs and expenses incurred in any extradition proceeding shall include, but not be limited to, apprehending, securing, transmitting and maintaining the prisoner, as well as food, court fees and counsel fees. Any person released from a federal prison for whom extradition proceedings have been initiated and who is apprehended on a writ of detainer issued by a state other than Pennsylvania, shall be transferred to the Bureau of Correction as soon as possible until such extradition occurs or until he is released by the court. The Commissioner of Correction shall accept such transfer. The Bureau of Correction shall make every effort to be reimbursed for all costs and expenses from the state which is seeking extradition.

s 9145. Immunity from service of process in certain civil actions

A person brought into this Commonwealth 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.

s 9146. Written waiver of extradition proceedings

(a) General rule.—Any person arrested in this Commonwealth charged with having committed any crime in another state or alleged to have escaped from confinement or broken the terms of his bail, probation or parole may waive the issuance and service of the warrant provided for in section 9128 (relating to issue by Governor of warrant of arrest) and section 9129 (relating to manner and place of execution) 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 Commonwealth a writing which states that he consents to return to the demanding state. Before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus, as provided in section 9131 (relating to rights of accused person).

(b) Action following waiver.—If and when such consent has been duly executed it shall forthwith be forwarded to the office of the Governor of this Commonwealth and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent.

(c) Effect of section.—Nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this Commonwealth.

s 9147. Nonwaiver by Commonwealth

Nothing in this subchapter contained shall be deemed to constitute a waiver by this Commonwealth of its right, power or privilege to try such demanded person for crime committed within this Commonwealth 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 Commonwealth, nor shall any proceedings had under this subchapter which result in or fail to result in extradition be deemed a waiver by this Commonwealth of any of its rights, privileges or jurisdiction in any way whatsoever.

s 9148. Liability to further criminal prosecutions

After a person has been returned to this Commonwealth by or after waiver of extradition proceedings he may be tried in this Commonwealth for other crimes which he may be charged with having committed here, as well as the crimes specified in the requisition for his extradition.

s 9760. Credit for time served

After reviewing the information submitted under section 9737 (relating to report of outstanding charges and sentences) the court shall give credit as follows:

(1) Credit against the maximum term and any minimum term shall be given to the defendant for all time spent in custody as a result of the criminal charge for which a prison sentence is imposed or as a result of the conduct on which such a charge is based. Credit shall include credit for time spent in custody prior to trial, during trial, pending sentence, and pending the resolution of an appeal.

(2) Credit against the maximum term and any minimum term shall be given to the defendant for all time spent in custody under a prior sentence if he is later reprosecuted and resentedenced for the same offense or for another offense based on the same act or acts. This shall include credit in accordance with paragraph (1) of this section for all time spent in custody as a result of both the original charge and any subsequent charge for the same offense or for another offense based on the same act or acts.

(3) If the defendant is serving multiple sentences, and if one of the sentences is set aside as the result of direct or collateral attack, credit against the maximum and any minimum term of the remaining sentences shall be given for all time served in relation to the sentence set aside since the

commission of the offenses on which the sentences were based.

(4) If the defendant is arrested on one charge and later prosecuted on another charge growing out of an act or acts that occurred prior to his arrest, credit against the maximum term and any minimum term of any sentence resulting from such prosecution shall be given for all time spent in custody under the former charge that has not been credited against another sentence.

Rule 4016. Breach of Bail and Forfeiture of Bond; Process and Bail Pieces; Exoneration of Surety

A. Remedies on Breach

(1) Forfeiture

(a) When a breach of a condition of bail occurs, the issuing authority or court may declare the bond forfeited and make a record thereof.

(b) Upon such declaration written notice of such forfeiture shall be given to the surety either personally or by certified mail at his last known address. When there is no surety such notice shall be given to the defendant at his last known address.

(c) The issuing authority or the court may direct that a forfeiture be set aside upon such conditions as may be imposed if it appears that justice does not require enforcement of the forfeiture.

(d) Execution on the bond may issue at the expiration of fifteen (15) days following notice.

(2) Warrants

(a) When a breach of a condition of bail occurs, the issuing authority or court may also issue an appropriate process to bring the defendant before it.

(b) Upon service of such process the defendant shall not thereafter be released upon bail except upon further order of the person who issues the process, or if he is unavailable, upon order of the president judge of the judicial district or the judge presiding in the criminal division of the court.

(3) Bail Pieces

The surety may apply for a bail piece from the court. If the court is satisfied that a bail piece is required, it may issue a bail piece authorizing the surety to apprehend and detain the defendant whenever and wherever he may be found and to bring the defendant before the issuing authority or court without unnecessary delay.

B. Exoneration of Surety

A surety may be exonerated by a deposit of cash in the amount of any forfeiture ordered or by timely surrender of a defendant in custody. When the conditions of the bond have been satisfied or the forfeiture thereof has been set aside or remitted, the issuing authority or court shall exonerate the obligors.

Note: Adopted July 23, 1973, effective sixty days hence, replacing prior Rule 4012; Comment revised January 28, 1983, effective July 1, 1983.

Comment: This Rule does not apply when the defendant has been arrested pursuant to extradition proceedings. See generally Uniform Criminal Extradition Act, Judicial Code Chapter 91, Subchapter B, 42 Pa.C.S. ss

LAWS OF PUERTO RICO ANNOTATED
TITLE THIRTY-FOUR CODE OF CRIMINAL PROCEDURE
PART XI. PROCEEDINGS AGAINST FUGITIVES FROM JUSTICE
CHAPTER 135. CRIMINAL EXTRADITION

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Current through 3rd Sp. Sess., 11th Leg., Act 53, approved 12-27-90

s 1881. Definitions

Where appearing in this chapter, the term "Governor" includes any person performing the functions of Governor by authority of the law of the Commonwealth of Puerto Rico. The term "executive authority" includes the Governor, and any person performing the functions of Governor in a state other than the Commonwealth of Puerto Rico, and the term "state" shall include any state, or territory or district, organized or unorganized, of the United States of America.

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s 1881a. Fugitives from justice; duty of Governor

Subject to the provisions of this chapter, it is the duty of the Governor of the Commonwealth of Puerto Rico to have arrested and delivered up to the Executive Authority of any state any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in the Commonwealth of Puerto Rico.

s 1881b. Form of demand

No demand for the extradition of a person charged with crime in another state shall be recognized by the Governor unless in writing alleging, except in cases arising under section 1881e of this title, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state; and unless the demand is accompanied by a copy of the indictment or of the information supported by affidavit made in the state having jurisdiction of the offense, or by a copy of an affidavit made before a magistrate of said state, together with a copy of any warrant of arrest or commitment issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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. 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 the indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the Executive Authority making the demand.

s 1881c. Governor may investigate case

When a demand shall be made upon the Governor by the Executive Authority of

another state for the surrender of a person so charged with a crime, the Governor may call upon the Secretary of Justice to investigate or assist in investigating the demand, and to report to him the situation and the circumstances of the person so demanded, with his recommendations as to whether or not he ought to be surrendered.

s 1881d. Extradition of persons imprisoned or awaiting trial in a state or who have left the demanding state under compulsion

When it is desired to have returned to the Commonwealth of Puerto Rico a person charged therein with a crime, and such person is imprisoned or is held under criminal proceedings then pending against him in another state, the Governor may agree with the Executive Authority of that state for the extradition of such person before the conclusion of such proceedings or his term of sentence in such state, upon condition that such person be returned to that state at the expense of the Commonwealth as soon as the prosecution in this jurisdiction is terminated. In like manner, when it is desired to have returned to a demanding state a person charged in said state with a crime, and such person is imprisoned or is held under criminal proceedings then pending against him in the Commonwealth of Puerto Rico, the Executive Authority of the demanding state may agree with the Governor of the Commonwealth of Puerto Rico for the extradition of such person before the conclusion of such proceedings or his term of sentence in the Commonwealth of Puerto Rico; upon condition that such person be returned to the Commonwealth of Puerto Rico at the expense of the demanding state as soon as the prosecution in that jurisdiction is terminated.

The Governor may also surrender on demand of the Executive Authority of any state any person in Puerto Rico who is charged in the manner provided in section 1881v of this title with having violated the laws of the state whose Executive Authority is making the demand, even though such person lift the demanding state involuntarily.

s 1881e. Extradition of persons not present in demanding state at time of commission of crime

The Governor may also surrender, on demand of the Executive Authority of any state, any person in Puerto Rico charged in the demanding state, in the manner provided in section 1881b of this title, with committing an act in Puerto Rico, or in any other state, intentionally resulting in a crime in the state whose Executive Authority is making the extradition demand; and the provisions of this chapter not otherwise inconsistent shall apply to such cases, even though the accused was not in the demanding state at the time of the commission of the crime, and has not fled therefrom.

s 1881f. Issue of warrant of arrest by a judge of the Superior Court of Puerto Rico; its recitals

If it is decided that the demand should be complied with, the Governor, through the Secretary of Justice, shall solicit a judge of the Superior Court of Puerto Rico to issue the warrant of arrest, which shall be sealed with the seal of the Superior Court of Puerto Rico and be directed to any peace officer

or other person who is fit to be entrusted with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

s 1881g. 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 boundaries of the Commonwealth, and to deliver the accused, subject to the provisions of this chapter, to the duly authorized agent of the demanding state.

s 1881h. 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 penalties against those who refuse their assistance as provided in section 139 of the Penal Code.

s 1881i. 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 the Superior Court of Puerto Rico, 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 to 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 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 jurisdiction in which the arrest is made and to the said agent appointed by the Executive Authority of the demanding state; Provided, That the judge of the Superior Court shall fix bail for the person detained as provided in section 1881o of this title, or shall order his commitment to jail while the writ of habeas corpus is being processed and passed upon.

s 1881j. Penalty for noncompliance with section 1881i

Any officer who shall deliver to the agent for extradition of the demanding state a person in his custody under the warrant issued by the corresponding judge of the Superior Court, in wilful disobedience to section 1881i of this title shall be guilty of a misdemeanor and, on conviction, shall be fined not more than \$1,000 or be imprisoned not more than six (6) months, or both penalties, in the discretion of the court.

s 1881k. Confinement in jail when necessary

The officer or person executing the warrant of arrest issued by the judge of

the corresponding court may, when necessary, confine the prisoner, on a confinement order issued by the corresponding judge of the Superior Court of Puerto Rico, in the jail of any city or town through which he may pass; and the jail warden or superintendent must receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route.

The agent of a demanding state to whom a prisoner may have been delivered, may, when necessary, confine the prisoner in the jail of any city or town through which he may pass, and the jail warden or superintendent must receive and safely keep the prisoner until the agent of the demanding state is ready to proceed on his route; Provided, That said agent of the demanding state shall produce and show the jail warden or superintendent written evidence of the fact that he is actually transporting such prisoner to the demanding state. The prisoner in such case may be confined in jail without the necessity of a confinement order. Provided, further, that when the confinement is made on petition of the agent of the demanding state, such agent shall be chargeable with the expense of keeping.

The officer or agent of the demanding state to whom a person may have been delivered following extradition proceedings in another state, or to whom a person may have been delivered after waiving extradition in such other state and who is passing through the Commonwealth of Puerto Rico with such a person for the purpose of returning such prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any city or town through which he may pass. The jail warden must receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his route; Provided, That such agent shall be chargeable with the expense of keeping; Provided, further, That such officer or agent shall produce and show the jail warden written evidence of the fact that he is actually transporting such prisoner to the demanding state after the corresponding requisition by the Executive Authority of such demanding state. Such prisoner shall not be entitled to demand a new requisition while in Puerto Rico. In such a case, the prisoner may be confined in jail without the necessity of a confinement order.

s 18811. Arrest prior to requisition

Whenever any person within the Commonwealth of Puerto Rico shall be charged on the oath of any credible person before a magistrate of the Superior Court of Puerto Rico with the commission of any crime in any other state and, except in cases arising under section 1881e of this title, 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 magistrate in Puerto Rico setting forth on the affidavit of any credible person in another state that a crime has been committed in such a state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under section 1881e of this title, 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 Puerto Rico, the magistrate shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein, wherever he may be found in the Island, and to bring him before the same or any other magistrate of the same court that 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.

s 1881m. Arrest without a warrant

The arrest of a person may be lawfully made also by any peace officer or a private person, 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 one (1) year, but when so arrested the accused must be taken before a magistrate of a Court of First Instance with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in section 1881l of this title; and thereafter his answer shall be heard as if he had been arrested on a warrant.

s 1881n. Commitment to await requisition; bail

If from the examination before a magistrate of the Superior Court it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under section 1881e of this title, that he has fled from justice, the magistrate must, by a warrant reciting the accusation or complaint, commit him to jail for such a time not exceeding thirty (30) days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the judge of the Superior Court on a requisition of the Executive Authority of the state having jurisdiction of the offense, unless the accused give bail as provided in section 1881o of this title, or until he shall be legally discharged.

s 1881o. Bail; in what cases; conditions of bond

The magistrates of Puerto Rico may admit any person arrested according to the preceding provisions to bail by bond, with sufficient sureties, and in such sum as they deem proper, conditioned for his appearance before them at a time specified in such bond and for his surrender, to be arrested upon the warrant of a judge of the Superior Court of Puerto Rico.

s 1881p. Extension of time of commitment; adjournment

If the accused is not arrested under warrant of a judge of the Superior Court by the expiration of the time specified in the warrant or bond, a magistrate may discharge him or may recommit him for a further period not to exceed sixty (60) days, or a magistrate may again take bail for his appearance, or for his surrender, as provided in section 1881o of this title, but within a period not to exceed sixty (60) days after the date of such new bond.

s 1881q. 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 magistrate shall by proper order declare the bond forfeited and order his immediate arrest without warrant if he be within Puerto Rico. Recovery may be had on such bond in the name of The

People of Puerto Rico as in the case of other bonds given by the accused in criminal proceedings within Puerto Rico.

s 1881r. Persons under criminal prosecution in Puerto Rico at time of requisition

If a criminal prosecution has been instituted against such person under the laws of Puerto Rico and is still pending, the Governor may, in his discretion, either surrender him on demand of the Executive Authority of another state or hold him until he has been tried and discharged or convicted and punished in Puerto Rico.

s 1881s. Guilt or innocence of accused, when inquired into

The guilt or innocence of the accused as to the crime with 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.

s 1881t. Judge of Superior Court of Puerto Rico issuing warrant of arrest to hold person claimed may recall warrant or issue alias

The judge of the Superior Court of Puerto Rico who issued the warrant of arrest to hold the person claimed may recall his warrant of arrest or issue another warrant whenever he deems proper.

s 1881u. Fugitives from Puerto Rico; duty of Governor

Whenever the Governor of Puerto Rico shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation, or parole, 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 Puerto Rico, to some agent, commanding him to receive the person so charged if delivered to him and convey him to the proper officer in the jurisdiction of Puerto Rico in which the offense was committed.

s 1881v. Application for issuance of requisition; by whom made; contents

(1) When the return to Puerto Rico of a person charged with crime in Puerto Rico is required, the Secretary of Justice 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 Secretary of Justice, the ends of justice require the arrest and return to Puerto Rico of said person for trial and that the

proceeding is not instituted to enforce a particular or private claim.

(2) When the return to Puerto Rico is required of a person who has been convicted of a crime therein and has escaped from confinement or broken the terms of his bail, probation, or parole, the Secretary of Justice 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.

The application shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the indictment returned or of the complaint filed, or of the judgment rendered by the corresponding court, and of certified copies in duplicate of the affidavits which were the basis for the determination of probable cause. The Secretary of Justice may also attach such further affidavits and other documents in duplicate as he 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 one of the certified copies of the indictment, complaint, sentence, and affidavits shall be filed in the office of the Secretary of State. The other copies of all papers shall be forwarded with the Governor's requisition.

s 1881w. Expenses; budget of expenses of Department of Justice

The expenses incurred in the extradition proceedings for and the return to Puerto Rico of the persons claimed by the Governor of the Commonwealth of Puerto Rico according to the preceding provisions shall be defrayed from the budget of expenses of the Department of Justice of Puerto Rico.

s 1881x. Immunity from service of process in certain civil actions

A person brought into Puerto Rico 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 proceeding to answer which he is being or has been returned to Puerto Rico, until he has been convicted in said criminal proceeding, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

s 1881y. Written waiver of extradition proceedings

Any person arrested in Puerto Rico charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of his bail, probation, or parole may waive the issuance and service of the warrant provided for in sections 1881f and 1881g of this title and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of one of the judges of the Superior Court of Puerto Rico a writing which states that he consents to return to the demanding state; Provided, however, That before such waiver shall be executed or subscribed by such person it shall be the duty of such magistrate to inform such person of his rights to the issuance and service of a warrant of extradition and to

obtain a writ of habeas corpus as provided for in section 1881i of this title.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the Governor of Puerto Rico and filed therein. The magistrate shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; Provided, however, That nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights, or duties of the officers of the demanding state or of the Commonwealth of Puerto Rico.

s 1881z. Nonwaiver by Commonwealth of Puerto Rico

Nothing in this chapter contained shall be deemed to constitute a waiver by the Commonwealth of Puerto Rico of its right, power or privilege to try such demanded person for crime committed within Puerto Rico, 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 herein, nor shall any proceedings had under this chapter which result in, or fail to result in, extradition be deemed a waiver by the Commonwealth of Puerto Rico of any of its rights, privileges, or jurisdiction in any way whatsoever.

s 1881aa. No right of asylum; no immunity from other criminal prosecutions while in Puerto Rico

After a person has been brought back to Puerto Rico by, or after waiver of, extradition proceedings, he may be tried here for other crimes which he may be charged with having committed here as well as that specified in the requisition for his extradition.

s 1881bb. Interpretation

The provisions of this chapter shall be so interpreted and construed as to effectuate its general purposes to make uniform the laws of those states which enact it.

GENERAL LAWS OF RHODE ISLAND ANNOTATED, 1956
REENACTMENT OF 1981
TITLE 12. CRIMINAL PROCEDURE
CHAPTER 9. EXTRADITION

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Current through January Session (1993), Ch. 93-475

12-9-1 Short title.

This chapter may be cited as the uniform criminal extradition act.

12-9-2 Definitions.

Where appearing in this chapter, 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.

12-9-3 Governor's duty to deliver fugitives from justice.

Subject to the provisions of this chapter, 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.

12-9-4 Form of demand from another state.

No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing alleging, except in cases arising under ss 12-9-7 and 12-9-8, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a judge there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof; together with a statement by the 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. The indictment, information, or affidavit made before the judge must substantially charge the person demanded with having committed a crime under the law of that state; and the copy of indictment, information, affidavit, judgement of conviction or sentence must be authenticated by the executive authority making the demand.

12-9-5 Investigation as to demanded person.

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.

12-9-6 Agreement to return person demanded from another state.

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.

12-9-7 Surrender of person who left demanding state involuntarily.

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 s 12-9-4 with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

12-9-8 Surrender of person committing act in one state resulting in crime in another.

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 s 12-9-4 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, when the acts for which extradition is sought would be punishable by the laws of this state, if the consequences claimed to have resulted therefrom in the demanding state had taken effect in this state; and the provisions of this chapter, 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; provided, however, that the governor of this state may, in his discretion, make any such surrender conditional upon agreement by the executive authority of the demanding state, that the person so surrendered will be held to answer no criminal charges of any nature except those set forth in the requisition upon which such person is so surrendered, at least until such person has been given reasonable opportunity to return to this state after his acquittal, if he shall be acquitted, or if he shall be convicted, after he shall be released from confinement. Nothing in ss 12-9-7 and 12-9-8 shall apply to the crime of libel.

12-9-9 Warrant of arrest on executive demand.

If the governor decides that the demand should be complied with, he shall

sign a warrant of arrest, which shall be sealed with the state seal, and be directed to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

12-9-10 Authority granted by warrant.

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 chapter to the duly authorized agent of the demanding state.

12-9-11 Commanding assistance in execution of warrant.

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.

12-9-12 Appearance of prisoner before judge — Application for 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 and to the said agent of the demanding state.

12-9-12.1 Extradition of juveniles.

When the extradition of a child under the age of eighteen (18) years of age is demanded by another state, said child shall be summoned to appear or ordered to appear before the family court pursuant to the provisions of chapter 1 of title 14.

The provisions of s 12-9-12 shall apply to the hearing conducted by the family court. In addition when the other state seeks the extradition of said child for trial as an adult, the family court shall determine whether or not said child would have been tried as an adult in this state if charged with the offense alleged to have been committed in the other state. The family court shall apply the provisions of s 14-1-7 and s 14-1-7.1 in making said determination.

No person under the age of eighteen (18) shall be extradited for trial in another state as an adult unless a justice of the family court determines that said person would have been tried as an adult in the state of Rhode Island.

12-9-13 Penalty for violating s 12-9-12.

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 s 12-9-12, shall be guilty of a misdemeanor and, on conviction, shall be fined not more than one thousand dollars (\$1,000) or be imprisoned not more than six (6) months, or both.

12-9-14 Confinement of prisoner pending extradition or en route.

The officer or persons executing the governor's warrant or 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.

12-9-15 Confinement of prisoners passing through state.

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, or waiver thereof. Such person shall not be entitled to demand a new requisition while in this state.

12-9-16 Warrant of arrest on affidavit.

Whenever any person within this state shall be charged on the oath of any credible person before any judge of this state with the commission of any crime in any other state and, except in cases arising under ss 12-9-7 and 12-9-8 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 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 ss 12-9-7 and 12-9-8, 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 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 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 charges or complaint and affadavit, and a certified copy of the sworn charge or complaint and affadavit upon which the warrant is issued shall be attached to the warrant.

12-9-17 Arrest without warrant.

The arrest of a person may be lawfully made also by any peace officer or a private person, 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 one (1) year, but when so arrested the accused must be taken before a judge with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in s 12-9-16; and thereafter his answer shall be heard as if he had been arrested on a warrant.

12-9-18 Commitment awaiting requisition.

If from the examination before the judge it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under ss 12-9-7 and 12-9-8, that he has fled from justice, the judge must, by a warrant reciting the accusation, commit him to the adult correctional institutions for such a time not exceeding thirty (30) days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the governor or on requisition of the executive authority of the state having jurisdiction of the offense, unless the accused give bail as provided in s 12-9-19, or until he shall be legally discharged.

12-9-19 Admission to bail.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, but not later than thirty (30) days after the examination referred to in s 12-9-18, and for his surrender, to be arrested upon the warrant of the governor of this state.

12-9-20 Failure to arrest on governor's warrant within time specified.

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 may discharge him or may recommit him for a further period not to exceed sixty (60) days, or a judge may again take bail for his apperance and surrender, as provided in s 12-9-19, but within a period not to exceed sixty (60) days after the date of such new bond.

12-9-21 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, 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.

12-9-22 Persons under prosecution in this state.

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor, in his discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

12-9-23 Guilt or innocence as subject of inquiry.

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.

12-9-24 Recall or reissue of governor's warrant.

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

12-9-25 Warrant to return prisoner from another state.

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.

12-9-26 Application for requisition of person charged with crime.

When the return to this state of a person charged with crime in this state is required, the attorney-general 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 attorney-general 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.

12-9-27 Application for requisition of person convicted of crime.

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 attorney-general or the warden of the institution 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.

12-9-28 Affidavits and documents to support application.

The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two (2) certified copies of the indictment returned, or information and affidavit filed, or of the complaint made of the judge, stating the offense with which the accused is charged, or of the judgment of conviction, or of the sentence. The attorney-general, the director of corrections, or the warden may also attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted with such application. One (1) copy of the application, with the action of the governor indicated by endorsement thereon, and one (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 on record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

12-9-29 Immunity from civil process arising out of occurrence for which extradited.

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.

12-9-30 Execution of waiver of extradition.

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 bail, probation or parole may waive the issuance and service of the warrant provided for in ss 12-9-9 and 12-9-10 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 which states that he consents to return to the demanding state; provided, however,

that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in s 12-9-12.

12-9-31 Filing of consent -- Delivery of prisoner to extradition agents.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, however, that nothing in ss 12-9-30 and 12-9-31 shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this state.

12-9-32 State's rights against extradited persons not waived.

Nothing in this chapter 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 chapter 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.

12-9-33 Trial for crimes not specified in requisition.

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.

12-9-34 Uniformity of construction.

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

Current through January Session (1993), Ch. 93-475

12-9-35 Severability of provisions.

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provisions of application, and to this end the provisions of this

chapter are declared to be severable.

SOUTH DAKOTA CODIFIED LAWS
TITLE 23. LAW ENFORCEMENT
CHAPTER 23-24. EXTRADITION PROCEEDINGS

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Current through the 69th Annual Session of the Legislative Assembly (1994)

23-24-1 Definition of terms.

Where appearing in this chapter, 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, and 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.

23-24-2 Fugitives from other states -- Governor to cause arrest and delivery.

Subject to the provisions of this chapter, 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.

Source: SL 1929, ch 250, s 2; SDC 1939, s 34.1702; SL 1953, ch 200, s 2.

23-24-3 Form of demand for extradition to another state.

No demand for the extradition of a person charged with crime in another state shall be recognized by the Governor unless in writing alleging, except in cases arising under s 23-24-7, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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. 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 of conviction or sentence must be authenticated by the executive authority making the demand.

23-24-4 Investigation by Governor.

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.

23-24-5 Agreement for return of fugitive to this state after trial or sentence in another state.

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.

23-24-6 Fugitive from another state who departed therefrom involuntarily.

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 ss 23-24-29 to 23-24-32, inclusive, with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

Source: SL 1953, ch 200, s 5; SDC Supp 1960, s 34.1705.

23-24-7 Fugitive from another state who was absent therefrom at the time of the commission of the crime.

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 s 23-24-3 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 chapter 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.

23-24-8 Governor's warrant of arrest -- Issuance -- Recitals.

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

23-24-9 Manner and place of execution.

The Governor's warrant of arrest 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 chapter to the duly authorized agent of the demanding state.

23-24-10 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.

23-24-11 Rights of accused person before delivery to agent for extradition -- Violation as misdemeanor.

No person arrested on a Governor's warrant shall be delivered to the agent appointed to receive him until he has been first taken to a judge of the circuit court 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. Any officer who delivers to the agent for extradition of the demanding state a person in his custody under the Governor's warrant, in intentional disobedience of this section is guilty of a Class 2 misdemeanor.

23-24-12 Application for habeas corpus to test legality of arrest.

If a prisoner taken before a judge pursuant to s 23-24-11 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.

23-24-13 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 first or second class municipality 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.

23-24-14 Taking prisoner from another state to demanding state through this state -- Confinement in jail.

The officer or agent of a demanding state to whom a prisoner may have been delivered following the 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 first or second class municipality 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.

23-24-15 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 s 23-24-7, 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 s 23-24-7, 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.

23-24-16 Arrest without a warrant.

The arrest of a person may be lawfully made also by any peace officer or a private person, 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 one 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 s 23-24-15; and thereafter his answer shall be heard as if he had been arrested on a warrant.

23-24-17 Commitment to await requisition.

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 s 23-24-7, 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 thirty 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 s 23-24-18, or until he shall be legally discharged.

23-24-18 Bail pending proceedings -- Conditions of bond.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the Governor of this state.

23-24-19 Failure to arrest under Governor's warrant within specified time -- Discharge or recommitment -- New bail.

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 him or may recommit him for a further period not to exceed sixty days, or a judge or magistrate judge may again take bail for his appearance and surrender as provided in s 23-24-18, but within a period not to exceed sixty days after the date of such new bond.

23-24-20 Forfeiture of bail.

If a 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.

23-24-21 Persons under criminal prosecution in this state at time of requisition.

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending the Governor, in his discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

23-24-22 Identifying prisoner as the person charged with the crime -- No other inquiry concerning guilt.

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 provided by s 23-24-3 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.

23-24-23 Governor may recall warrant or issue alias.

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

23-24-24 Written waiver of extradition proceedings.

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 bail, probation or parole may waive the issuance and service of the warrant provided for in ss 23-24-8 and 23-24-9 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 which states that he consents to return to the demanding state; provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in s 23-24-12.

23-24-25 Consent to return to demanding state -- Execution -- Filing -- Effect.

If and when consent under s 23-24-24 has been duly executed it shall forthwith be forwarded to the office of the Governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent.

23-24-26 Voluntary return without formality.

Nothing in s 23-24-24 or 23-24-25 shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this state.

23-24-27 Nonwaiver by this state.

Nothing in this chapter 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 chapter 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.

23-24-28 Fugitives from this state -- Governor to issue warrant.

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.

23-24-29 Application for Governor's requisition from another state -- Person charged with crime -- Contents -- Certification by prosecuting attorney.

When the return to this state of a person charged with a 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.

23-24-30 Person convicted escaping or violating bail, probation or parole -- Application for requisition, by whom made, contents.

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 board of pardons and paroles, 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.

23-24-31 Application for Governor's requisition -- Verification -- Accompanying documents.

An application under s 23-24-29 or 23-24-30 shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two 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, board of pardons and paroles, warden or sheriff may also attach such further affidavits and other documents in duplicate as he or it shall deem proper to be submitted with such application.

23-24-32 Disposition of copies of application and accompanying documents.

One copy of the application described in s 23-24-31, with the action of the Governor indicated by endorsement thereon, and one 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.

23-24-33 Immunity from civil process.

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 proceeding 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.

23-24-34 No immunity as to prosecution for other crimes.

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.

23-24-35 Compensation in extradition cases -- Authorization by Governor required -- Unauthorized asking or receiving as misdemeanor -- Officer defined.

Any officer of this state who asks or receives any compensation, fee, or reward of any kind for any service rendered or expense incurred in procuring from the Governor of this state a demand on the executive authority of a state or territory of the United States, or on a foreign government, for the surrender of a fugitive from justice, or for any service rendered or expense incurred in procuring the surrender of such fugitive, for conveying him to this state, or for detaining him therein, except when requested by the Governor of this state, and on an account audited and paid out of the state treasury, is guilty of a Class 2 misdemeanor.

The term "officer" in this section means any executive or administrative officer of the state of South Dakota or any officer of any county, municipality, township, school district, district, board, bureau, commission,

department or other body or office, exercising executive or administrative powers as part of the government, or any arm of the government, of the state of South Dakota.

23-24-36 Custody and restraint of person in South Dakota by agent of foreign state.

Any peace officer or extradition agent of another state bringing any person within this state or transporting such person through the state under a warrant of arrest or extradition warrant issued in another state or the officer of any penal institution of another state conveying or transporting a prisoner of such institution into or through this state shall have the same authority as to the custody and restraint of such person while in the state of South Dakota as duly constituted peace officers of this state have in making an arrest under the process issued by the courts of this state or under the laws of this state.

23-24-37 Uniformity of interpretation.

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

23-24-38 Severability of provisions.

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

23-24-39 Citation of uniform provision.

Sections 23-24-1 to 23-24-34, inclusive, may be cited as the Uniform Criminal Extradition Act.

SOUTH DAKOTA CODIFIED LAWS

TITLE 23. LAW ENFORCEMENT

CHAPTER 23-24. EXTRADITION PROCEEDINGS

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Current through the 69th Annual Session of the Legislative Assembly (1994)

23-24-1 Definition of terms.

Where appearing in this chapter, 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, and 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.

TENNESSEE CODE ANNOTATED
TITLE 40 CRIMINAL PROCEDURE
CHAPTER 9 EXTRADITION

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Current through 1993 Regular Session, Chapter 535

40-9-101 Short title.

This chapter may be cited as the "Uniform Criminal Extradition Act."

40-9-102 Definitions.

As used in this chapter, unless the context otherwise requires:

- (1) "Executive authority" includes the governor, and any person performing the functions of governor in a state other than this state;
- (2) "Governor" includes any person performing the functions of governor by authority of the law of this state; and
- (3) "State," referring to a state other than this state, refers to any other state or territory organized or unorganized of the United States.

40-9-103 Warrant of arrest for crime in another state.

Whenever any person within this state shall be charged on the oath of any credible person before any judge or other magistrate of this state with the commission of a crime in any other state, and, except in cases arising under s 40-9-113, with having fled from justice; or whenever complaint shall have been made before any judge or other 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 s 40-9-113, has fled therefrom and is believed to have been found in this state, the judge or magistrate shall issue a warrant directed to the sheriff of the county in which the oath or complaint is filed directing him to apprehend the person charged, wherever he may be found in this state, and bring him before the same or any other judge, court or magistrate who may be convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit. A certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

40-9-104 Arrest without warrant for felony in another state.

The arrest of a person may be lawfully made also by an officer or a private citizen without a warrant upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one (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 s 40-9-103. Thereafter his answer shall be heard as if he had been arrested on a warrant.

40-9-105 Commitment awaiting extradition.

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 that he probably committed the crime, and, except in cases arising under s 40-9-113, that he has fled from justice, the judge or magistrate must commit him to jail by a warrant reciting the accusation for such a time 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 gives bail as provided in s 40-9-106, or until he is legally discharged.

40-9-106 Admission to bail.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, the judge or magistrate must admit the person arrested to bail by bond or undertaking, with sufficient sureties, and in such sum as he deems proper, for his appearance before him at a time specified in such bond or undertaking, and for his surrender, to be arrested upon the warrant of the governor of this state.

40-9-107 Forfeiture of bail.

If the prisoner is admitted to bail, and fails to appear and surrender himself according to the condition of his bond, the court, by proper order, shall declare the bond forfeited. Recovery may be had thereon in the name of the state as in the case of other bonds or undertakings given by the accused in criminal proceedings within this state.

40-9-108 Disposition of prisoner on expiration of time specified in warrant of commitment -- No discharge pending proceedings before governor.

(a) If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant, bond or undertaking, the judge or magistrate may discharge him or recommit him to a further day, or may again take bail for his appearance and surrender, as provided in s 40-9-106; and at the expiration of the second period of commitment, or if he has been bailed and appeared, according to the terms of his bond or undertaking, the judge or magistrate may either discharge him, or require him to enter into a new bond or undertaking, to appear and surrender himself at another day.

(b) Whenever any fugitive from justice awaiting extradition to another state files a protest or requests a hearing before the governor of this state, prior to the returning of the fugitive to the other state, no judge or court in this state shall have the authority to order the release or discharge of such fugitive, pending the final disposition of the extradition proceeding before the governor. Likewise, the surety on any bail or appearance bond shall not be released from liability until final disposition of the matter by the governor of this state.

40-9-109 Governor's duty to cause arrest and extradition of fugitives.

Subject to the qualifications of this chapter and the provisions of the

Constitution of the United States controlling, and acts of congress 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 any person charged in that state with treason, felony or other crime, who has fled from justice and is found in this state.

40-9-110 Contents of demands from other states.

No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing and accompanied by a copy of an indictment found or by an information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereon. 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 must be authenticated by the executive authority making the demand, which shall be prima facie evidence of its truth.

40-9-111 Investigation by prosecuting officer.

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 and reporter 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.

40-9-112 Allegations required in demand for extradition.

A warrant of extradition must not be issued unless the documents presented by the executive authority making the demand show that:

- (1) Except in cases arising under s 40-9-113, the accused was present in the demanding state at the time of the commission of the alleged crime, and thereafter fled from the state;
- (2) The accused is now in this state; and
- (3) He is lawfully charged by indictment found or by information filed by a prosecuting officer and supported by affidavit to the facts, or by affidavit made before a magistrate in that state, with having committed a crime under the laws of that state, or that he has been convicted of a crime in that state and has escaped from confinement or broken his parole.

40-9-113 Acts resulting in crime in state in which accused is not present.

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 s 40-9-112 with committing an act in this state, or in a third state, intentionally resulting in crime in the state whose executive authority is making the demand. The provisions of this chapter not otherwise inconsistent shall apply to such cases, notwithstanding that the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.

40-9-114 Guilt or innocence not 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.

40-9-115 Demand for person held on charge of crime in Tennessee.

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor, at his discretion, either may surrender him on the demand of the executive authority of another state, or may hold him until he has been tried and discharged, or convicted and punished in this state.

40-9-116 Issuance of warrant of arrest.

If the governor shall decide that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to a sheriff, marshal, coroner or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issue.

40-9-117 Recall or reissuance of warrant.

The governor may recall his warrant of arrest, or may issue another warrant whenever he deems proper.

40-9-118 Authority given by governor's warrant.

(a) The warrant shall authorize the officer or other person to whom directed to arrest the accused at any place where he may be found within the state and to command the aid of all sheriffs and other peace officers in the execution of the warrant, and to deliver the accused subject to the provisions of this chapter, to the duly authorized agent of the demanding state.

(b) Whether the prisoner or fugitive so charged is bound to appear before any court, is committed to jail, or discharged, any person authorized by the warrant of the governor of this state may at any time take such person or fugitive into custody, and such apprehension shall forthwith be a discharge of the bond or other proceeding, if there is one pending in any court of this state.

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

40-9-119 Information to person arrested -- 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 has been informed of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand legal counsel. If the prisoner, his friends or counsel shall state that he or they desire to test the legality of the arrest, the prisoner shall be taken forthwith before a judge of a court of record in this state, who 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 public prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the agent of the demanding state.

40-9-120 Confinement of prisoner en route.

The officer or person 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. The keeper of such jail must receive and safely keep the prisoner until the person having charge of him is ready to proceed on his route, such person being chargeable with the expense of keeping.

40-9-121 Demand for fugitive from Tennessee.

(a) The governor of this state may demand of the executive authority of any other state or territory, any fugitive from justice, or other person charged with treason, felony or other crime in this state and may appoint an agent to demand and receive such person and return such person to this state.

(b) 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 or territory, or the District of Columbia, the governor of this state may agree with the executive authority of such other state or territory for the extradition of such person before the conclusion of such proceedings or his term of sentence in such other state or territory, or the District of Columbia, upon condition that such person be returned to such other state or territory at the expense of this state as soon as the prosecution in this state is terminated.

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

40-9-122 Warrant to agent to return prisoner.

Whenever the governor of this state shall demand a person charged with crime in this state from the chief executive 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.

40-9-123 Application for requisition of person charged with crime.

When the return to this state of a person charged with crime in this state is required, the district attorney general (for the county in which the offense is committed) 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, and the approximate time, place and circumstances of its committal, 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 district attorney general 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.

40-9-124 Application for requisition of escapee, bail jumper, parole violator, probationer, or community corrections violator.

When the return to this state is required for a person who has been convicted of a felony in this state and has escaped from confinement, broken the terms of such person's bail, court-ordered probation, probation pursuant to s 40-35-501(a)(3), or has escaped from or broken the terms of a sentence to any community based alternative to incarceration pursuant to chapter 36 of this title, the district attorney general for the county in which the offense was committed, the parole board, or the warden of the institution or sheriff of the county from which the 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 such person was convicted, the circumstances of such person's escape from confinement or placement in the community based alternative to incarceration, or of the breach of the terms of such person's bail, any form of probation, or parole, and the state in which such person is believed to be, including the location of the person therein at the time application is made. In the case of an application for requisition for escape from, or a breach in the terms of a sentence to, a community based alternative to incarceration only the district attorney general for the county in which the original offense was committed or the county in which the escape occurred shall have the authority to file the application with the governor.

40-9-125 Form and contents of application.

(a) The application shall be verified by affidavit, shall be executed in triplicate and shall be accompanied by three (3) certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the magistrate, stating the offense with which the accused is charged.

(b) The prosecuting officer may also attach such further affidavits and other documents in triplicate as he shall deem proper to be submitted with such application.

(c) One (1) copy of the application with the action of the governor indicated by endorsement thereof, and one (1) of the certified copies of the indictment or complaint or information and affidavit, shall be filed in the office of the secretary of state to remain of record in that office.

(d) The other two (2) copies of all papers shall be forwarded with the governor's requisition.

40-9-126 Expenses paid by state.

(a)(1) The demanding agent appointed by the governor under s 40-9-121 to return any fugitive from justice under this chapter to this state for trial in the proper county in which the offense is alleged to have been committed or to other proper official or prison, as the case may be, is authorized to employ a guard or escort sufficient to so return such fugitive from justice to this state and contract such other expenses as are absolutely required in performing the duties of the agent.

(2) In no event shall more than one (1) person be named or designated as demanding agent in any extradition proceeding, and only one (1) such person shall be paid expenses in returning any fugitive to this state.

(3) An alternate agent may be named and designated, who shall be authorized to go and return the fugitive only when the original demanding agent named or designated is unable to make the trip and return the fugitive.

(4) No guard or escort shall be authorized and no expenses for the same shall be paid, unless such a request for a guard or escort shall be set forth and certified to by the district attorney general in his written application for the issuance of requisition papers as now authorized under ss 40-9-123 -- 40-9-125.

(b)(1) Except as provided in s 40-9-127, all of the costs and expenses incurred in the return of any fugitive from justice to this state under the provisions of this chapter shall be paid out of the treasury of the state of Tennessee on the certificate of the governor by the warrant of the commissioner of finance and administration.

(2) The costs and expenses incurred, subsequent to the issuance of the warrant or requisition by the governor of Tennessee when the demanding agent is unable to return such fugitive from justice to this state under the provisions of this chapter, after making a bona fide effort to do so, shall be paid in the same manner.

(c)(1) The mileage reimbursement for the demanding agent who returns such person shall be the same as the reimbursement received by a state employee using a personal vehicle for the convenience of the state, in accordance with the comprehensive travel regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter and all other actual and necessary expenses.

(2) "All other actual and necessary expenses" means and includes the actual expenses for meals and lodging for both the demanding agent, alternate agent, guard, escort and the fugitive, plus any other actual expense that the demanding agent might be required to pay in the responding state as a prerequisite to the release of custody of the fugitive to the demanding agent. It also means and includes such other items and the costs thereof as now allowed or which may be allowed regular employees of the state of Tennessee, under current or subsequent state travel regulations.

(3) The mileage travel allowance shall include all miles traveled both inside or outside this state, and no separate travel allowance shall be allowed any guard, escort or fugitive unless the travel is made by public transportation and in that event the actual cost of the public transportation will be reimbursed to the agent, guard or escort.

(4) No mileage travel allowance will be paid unless the personal automobile of the agent is actually used in travel.

(5) Any municipality or other governmental agency in this state which may own, lease or contract for the use of an airplane for the purpose of air travel facilities, and the airplane facilities are used in going after and returning any fugitive from another state, shall be reimbursed the cost of the plane fare

for the demanding agent, alternate agent, guard and fugitive in the amount as may be charged by any regular commercial airline, plus such other expenses as may be necessary for meals, lodging and such actual expenses incurred in going to and from the airport.

(d)(1) The demanding agent shall make out an itemized statement of his actual and necessary expenses as to the number of miles traveled, including the compensation to be paid any guard, and swear to the same.

(2) Such itemized statement shall be submitted to the governor of this state as a condition precedent to the certificate by the governor directing the payment of the account.

(3) Payment to the guard shall be by separate warrant, based on the certificate of the governor.

40-9-127 Expenses paid by county.

(a) When a warrant shall be sworn before any general sessions judge or any indictment returned by a grand jury, charging any person with a felonious crime and such person shall have absconded beyond the borders of this state, and on authority of the district attorney general, then the county executive of such county in which the crime shall have been committed shall pay to the sheriff or to one (1) officer named by the district attorney general of such county who shall have gone for such person the same mileage allowance received by a state employee using a personal vehicle for the convenience of the state in accordance with the comprehensive travel regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter for each mile necessarily traveled in going and coming, both inside and outside the state of Tennessee, and reasonable expenses for meals and lodging. Such person so designated shall be known as the "demanding agent," and shall be empowered to contract with another person to accompany him on such trip and to serve as guard; such person having been first approved in writing by the authorities who appointed the demanding agent. Only the demanding agent shall be paid the mileage allowance, as herein provided, with only the actual expenses of the guard being paid. When the guard travels with the demanding agent in the personal automobile of the demanding agent, or in any automobile belonging to any political subdivision or agency, no allowance will be granted him for transportation expense; and when commercial transportation is used, then only the actual cost of fare.

(b) The demanding agent shall be reimbursed the actual money expended by him for transportation costs of the fugitive, with no reimbursement being allowed when the fugitive is returned in the personal automobile of the demanding agent, and only actual cost of fare for such fugitive when a commercial carrier is used. The demanding agent shall further be reimbursed reasonable expenses of meals and lodging for the fugitive, plus any and all costs, paid by him, that are imposed by the responding state as a prerequisite to release of custody of the fugitive to the demanding agent.

(c) Upon such sheriff's or named officer's return, he shall give to each official herein named an itemized statement supported with receipts for each item of expense, and make a sworn affidavit covering all expenditures. The receipt of such sheriff or named officer so returning the fugitive charged with a felonious crime shall be a voucher for the amount thereof of such chairman of the board of county commissioners in his settlement with the county; provided, that no designation by the county executive shall be necessary to authorize the sheriff or named officer to act and draw pay under this section, and that the county executive shall have no power to designate any person. The officers one (1) to be designated as demanding agent, and one (1) to be designated as

guard, for each fugitive returned under this section.

(d) In this section, "reasonable expenses" are determined to be in close cost proximity as allowed state employees in pamphlet, "State of Tennessee -- Comprehensive Travel Regulations."

(e) The provisions of this section shall apply only when the case is actually tried by a jury, or the defendant pleads guilty.

(f) All sums paid by any county or the county executive thereof, to the sheriff or named officer for returning such absconding felon, shall be certified to the clerk of the criminal court of the county and all such sums then to be assessed as part of the costs of the court in the case.

40-9-128 Trial for crimes not specified in requisition.

After a person has been brought back to this state upon 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.

40-9-129 Construction of chapter.

This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

40-9-130 Waiver.

(a) Nothing in this chapter 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 chapter 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.

(b) In the event that the return of a person, imprisoned or held under criminal proceedings pending against him in this state, is requested by another state or territory, by a demand made upon the governor of this state by the executive authority of such other state or territory in the manner provided in this chapter, the governor of this state may, without waiving the rights, power, privileges or jurisdiction of this state in any way, enter into an agreement with the executive authority of such other state or territory for the extradition of such person to such other state or territory, before the conclusion of such proceedings or his term of sentence in this state, with or without the condition that at a time agreed upon by the governor of this state and the executive authority of such other state or territory, the person returned to such other state or territory shall be returned to this state. This agreement shall provide that the expense of returning such a person to such other state or territory and of returning such a person from such other state or territory to this state, if applicable, shall be paid by such other state or territory.

(c) Any waiver of extradition from this state to another state or territory for the purposes of trial, sentence or punishment in the other state or territory, made by a person imprisoned or held under criminal proceedings pending against him in this state, shall include a waiver of extradition for

the return of such a person to this state from the other state or territory for trial, sentence or punishment in this state on the charges against him at the time of the execution of this waiver, at any time agreed upon by the governor of this state and executive authority of the other state or territory, at the time of this waiver or any later time.

VERNON'S TEXAS STATUTES AND CODES ANNOTATED
CODE OF CRIMINAL PROCEDURE
PART I—CODE OF CRIMINAL PROCEDURE OF 1965
MISCELLANEOUS PROCEEDINGS
CHAPTER FIFTY-ONE—FUGITIVES FROM JUSTICE
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Current through the Regular Session of the 73rd Legislature (End).

Art. 51.13. [1008a] Uniform Criminal Extradition Act

Definitions

Sec. 1. Where appearing in this Article, the term "Governor" includes any person performing the functions of Governor by authority of the laws 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, and the term "State", referring to a State other than this State, includes any other State organized or unorganized of the United States of America.

Fugitives from Justice; Duty of Governor

Sec. 2. Subject to the provisions of this Article, 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.

Form of Demand

Sec. 3. No demand for the extradition of a person charged with crime in another State shall be recognized by the Governor unless in writing, alleging, except in cases arising under Section 6, that the accused was present in the demanding State at the time of the commission of the alleged crime, and that thereafter he fled from the State, and accompanied by a copy of an indictment found or by information supported by affidavit in the State having jurisdiction of the crime, or by a copy of an affidavit before a magistrate there, together with a copy of any warrant which issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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. 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 of conviction or sentence must be authenticated by the Executive Authority making the demand; provided, however, that all such copies of the aforesaid instruments shall be in duplicate, one complete set of such instruments to be delivered to the defendant or to his attorney.

Sec. 4. 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 Secretary of State, 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.

Extradition of Persons Imprisoned or Awaiting Trial in Another State or Who have Left the Demanding State Under Compulsion

Sec. 5. 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 23 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.

Extradition of Persons Not Present in Demanding State at Time of Commission of Crime

Sec. 6. 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 Article 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.

Issue of Governor's Warrant of Arrest; Its Recitals

Sec. 7. If the Governor decides that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal and be directed to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

Manner and Place of Execution

Sec. 8. 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 and other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this Article to the duly authorized agent of the demanding State.

Authority of Arresting Officer

Sec. 9. 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.

Rights of Accused Person; Application for Writ of Habeas Corpus

Sec. 10. 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 a 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.

Penalty for Non-compliance With Preceding Section

Sec. 11. 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 Section 10 of this Act, shall be guilty of a misdemeanor and, on conviction, shall be fined not more than one thousand dollars or be imprisoned not more than six months, or both.

Confinement in Jail, When Necessary

Sec. 12. 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.

Arrest Prior to Requisition

Sec. 13. 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 6, 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 6, 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.

Arrest Without a Warrant

Sec. 14. The arrest of a person may be lawfully made also by any peace officer or private person, 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 one 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.

Commitment to Await Requisition; Bail

Sec. 15. 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 6, that he has fled from justice, the judge or magistrate must, by warrant reciting the accusation, commit him to the county jail for such time not exceeding thirty 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.

Bail; In What Cases; Conditions of Bond

Sec. 16. Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the State in which it was committed, a judge or magistrate in this State may admit the person arrested to bail by bond, with sufficient sureties and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the Governor in this State.

Extension of Time of Commitment; Adjournment

Sec. 17. 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 him or may recommit him for a further period not to exceed sixty

days, or a judge or magistrate may again take bail for his appearance and surrender, as provided in Section 16, but within a period not to exceed sixty days after the date of such new bond.

Forfeiture of Bail

Sec. 18. 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.

Persons Under Criminal Prosecution in this State at the Time of Requisition

Sec. 19. If a criminal prosecution has been instituted against such person under the laws of this State and is still pending, the Governor, in his discretion, either may surrender him on demand of the Executive Authority of another State or hold him until he has been tried and discharged or convicted and punished in this State.

Guilt or Innocence of Accused, When Inquired Into

Sec. 20. 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.

Governor May Recall Warrant or Issue Alias

Sec. 21. The governor may recall his warrant of the arrest or may issue another warrant whenever he deems proper. Each warrant issued by the Governor shall expire and be of no force and effect when not executed within one year from the date thereof.

Fugitives from this State; Duty of Governor

Sec. 22. 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 state seal, 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, or in which the prosecution for such offense is then pending.

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Application for Issuance of Requisition; By Whom Made; Contents

Sec. 23. 1. When the return to this State of a person charged with crime in

this State is required, the State's attorney shall present to the Governor his written motion for a requisition for the return of the person charged, in which motion 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 motion is made and certifying that, in the opinion of the said State's 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 the circumstances 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 two 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 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 one 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 on record in that office. The other copies of all papers shall be forwarded with the Governor's requisition.

Costs and Expenses

Sec. 24. In all cases of extradition, the commissioners court of the county where an offense is alleged to have been committed, or in which the prosecution is then pending may in its discretion, on request of the sheriff and the recommendation of the prosecuting attorney, pay the actual and necessary expenses of the officer or person commissioned to receive the person charged, out of any county fund or funds not otherwise pledged.

Immunity from Service of Process in Certain Civil Cases

Sec. 25. 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 proceeding 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.

Written Waiver of Extradition Proceedings

Sec. 25a. 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 bail, probation, or parole may waive the issuance and service of the warrant provided for in Sections 7 and 8 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge or any court of record within this State a writing which states that he consents to return to the demanding State; provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in Section 10.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the Governor of this State and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding State, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding State, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding State or of this State.

Non-waiver by this State

Sec. 25b. 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 Article which result, or fail to result in, extradition to be deemed a waiver by this State of any of its rights, privileges or jurisdiction in any way whatsoever.

No Right of Asylum, No Immunity from Other Criminal Prosecutions While in this State

Sec. 26. 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.

Interpretation

Sec. 27. The provisions of this Article shall be interpreted and construed as to effectuate its general purposes to make uniform the law of those States which enact it.

UTAH CODE, 1953
TITLE 77. UTAH CODE OF CRIMINAL PROCEDURE
CHAPTER 30. EXTRADITION

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Current through Ch. 17 of the 1993 2nd Sp. Sess. of the 50th Legislature

77-30-1 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.

77-30-2 Duty of governor to deliver person charged with crime upon demand by other state.

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.

77-30-3 Form of demand -- What documents presented must show.

No demand for the extradition of a person charged with a crime in another state shall be recognized by the governor unless in writing alleging, except in cases arising under Section 77-30-6, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon or by a copy of a judgment of conviction or of a sentence composed in execution, together with a statement by the 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. 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 the indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority making the demand.

77-30-4 Governor may investigate demand.

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 a

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.

77-30-5 Extradition for prosecution before conclusion of trial or term in other state – Return of person involuntarily leaving demanding state.

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 77-30-23 with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

77-30-6 Extradition for crime committed in another state by person while in this state.

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 77-30-3, 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.

77-30-7 Governor's warrant of arrest – Recitals.

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

77-30-8 Execution of warrant of arrest.

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: C. 1953, 77-30-8, enacted by L. 1980, ch. 15, s 2.

77-30-9 Authority of officers under warrant of arrest.

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.

77-30-10 Time to apply for habeas corpus allowed.

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 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.

77-30-11 Penalty for disobedience of 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 willful disobedience to the last preceding section [Section 77-30-10], shall be guilty of a misdemeanor and on conviction shall be fined not more than \$1,000 or be imprisoned in the county jail not more than six months, or both.

77-30-12 Officers entitled to use local jails.

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 being chargeable with the expense of keeping; provided, 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.

77-30-13 Fugitives from justice — Warrant of arrest.

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 77-30-6 that he 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, 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 77-30-6, 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 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.

77-30-14 Arrest without warrant.

The arrest of a person may be lawfully made also by any peace officer or a private person 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 one 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 [Section 77-30-13], and thereafter his answer shall be heard as if he had been arrested on a warrant.

77-30-15 Commitment pending arrest under warrant of governor.

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 77-30-6 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 thirty 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 gives bail as provided in the next section or until he shall be legally discharged.

77-30-16 Amount of bail.

Unless the prisoner is not entitled to bail under Section 77-20-1, a judge or magistrate in this state may admit the person arrested to bail by bond with sufficient sureties and in an amount he considers proper, conditioned for his appearance before him at a time specified in the bond and for his surrender, to be arrested upon the warrant of the governor of this state.

History: C. 1953, 77-30-16, enacted by L. 1980, ch. 15, s 2; 1988 (2nd S.S.),

77-30-17 Procedure when no arrest made under warrant of governor.

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 him or may recommit him for a further period not to exceed sixty days, or a judge or magistrate may again take bail for his appearance and surrender, as provided in Section 77-30-16, but within a period not to exceed sixty days after the date of such new bond.

77-30-18 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.

77-30-19 Procedure if prosecution pending in this state.

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending the governor, in his discretion, may either surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

77-30-20 Governor not to inquire into guilt or innocence.

The guilt or innocence of the accused as to the crime of which he is charged in another state 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.

77-30-21 Governor's warrant of arrest recalled or another issued.

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

77-30-21 Governor's warrant of arrest recalled or another issued.

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

77-30-22 Fugitives from this state -- Issuance of governor's warrant.

Whenever the governor of this state shall demand a person charged with a 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 superior 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.

77-30-23 Fugitives from this state -- Applications for requisition for return.

(1) When the return to this state of a person charged with a 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 two 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 or 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 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 one 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 governor to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

77-30-24 Payment of expenses -- Extradition costs.

(1) When the punishment of the crime is the confinement of the defendant in prison, the expenses shall be paid out of the state treasury on the certificate of the governor and warrant of the auditor, and in all other cases they shall be paid out of the treasury of the county where 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.

(2) Any person who is returned to the state under this chapter, and who is convicted of, or pleads guilty or no contest to, the criminal charge or to a lesser criminal charge may, under Sections 76-3-201, 77-27-5, and 77-27-6, be required to make restitution to the appropriate governmental entities for the costs of his extradition.

77-30-25 Person brought into state on extradition exempt from civil process --
Waiver of extradition proceedings -- Non-waiver by this state.

(1) 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 proceedings, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

(2) 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 bail, probation or parole may waive the issuance and service of the warrant provided for in Sections 77-30-7 and 77-30-8, 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 which states that he consents to return to the demanding state; provided, before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in Section 77-30-10.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, or shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights, or duties of the officers of the demanding state or of this state.

(3) Nothing in this act shall be deemed to constitute a waiver by this state of its right, power or privilege to try such demanded person for a 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, or 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.

77-30-26 Prosecution not limited to crime specified in requisition.

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.

77-30-27 Uniformity of 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.

77-30-28 Citation -- Uniform Criminal Extradition Act.

This act may be cited as the Uniform Criminal Extradition Act.

VERMONT STATUTES ANNOTATED
TITLE THIRTEEN. CRIMES AND CRIMINAL PROCEDURE
PART 2. CRIMINAL PROCEDURE GENERALLY
CHAPTER 159. EXTRADITION AND FRESH PURSUIT
SUBCHAPTER 2. UNIFORM CRIMINAL EXTRADITION ACT

s 4941. Definitions

The word "governor," as used in this subchapter, shall include any person performing the functions of governor by authority of the law of this state. The words "executive authority" shall include the governor, and any person performing the functions of governor in a state other than this state. The word "state" referring to a state other than this state shall mean any other state or territory organized or unorganized of the United States of America.

s 4942. Duty of governor

Subject to the qualifications of this subchapter, and the provisions of the constitution of the United States controlling, and acts of Congress 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.

s 4943. Form of demand

(a) A demand for the extradition of a person charged with crime in another state shall not be recognized by the governor unless in writing alleging, except in cases arising under section 4946 of this title, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by an information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate therein, together with a copy of any warrant which was issued thereon or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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. 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 the indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority making the demand.

(b) A warrant of extradition shall not be issued unless the documents presented by the executive authority making the demand show that:

- (1) Except in cases arising under section 4946 of this title, the accused was present in the demanding state at the time of the commission of the alleged crime, and thereafter fled from that state;
- (2) The accused is now in this state; and
- (3) He is lawfully charged by indictment found or by information filed by a prosecuting officer and supported by affidavit to the facts, or by affidavit made before a magistrate in that state, with having committed a crime under the laws of that state or that he has been convicted of a crime in that state and has escaped from confinement or broken the terms of his bail, probation or parole.

s 4944. Investigation

When a demand shall be made upon the governor 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.

s 4945. 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 4963 of this title, with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

s 4946. Extradition of person not in demanding state at time crime committed

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 such other state in the manner provided in section 4943 of this title with committing an act in this state, or in a third state, intentionally resulting in a crime in the state whose executive authority makes the demand; and the provisions of this subchapter not otherwise inconsistent shall apply to such cases, notwithstanding that the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.

s 4947. Governor to issue warrant

If the governor shall decide that the demand should be complied with, he shall issue a warrant of arrest, which shall be sealed with the state seal, and be directed to any sheriff, constable, or other person whom he may think fit to entrust with the execution thereof. Such warrant must substantially recite the facts necessary to the validity of its issue.

s 4948. Manner and place of executing warrant

Such warrant shall authorize the officer or other person to whom directed to arrest the accused at any place where he may be found within the state and to command the aid of all sheriffs and other peace officers in the execution of

such warrant, and to deliver the accused, subject to the provisions of this subchapter, to the duly authorized agent of the demanding state.

s 4949. Authority of arresting officer

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

s 4950. Rights of accused person; application for writ of habeas corpus

A person arrested upon such warrant shall not be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he shall first be taken forth-with 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. If the prisoner or his counsel shall state that he or they desire to test the legality of the 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 state's attorney of the county in which the arrest is made and in which the accused is in custody, and to the agent of the demanding state.

s 4951. --Penalty for noncompliance

An officer who shall deliver a person in his custody under the governor's warrant to the agent for extradition of the demanding state in disobedience of section 4950 of this title shall be imprisoned not more than six months or fined not more than \$1,000.00, or both.

s 4952. Confinement in jail when necessary

The officer or person 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 shall receive and safely keep the prisoner until the person having charge of him is ready to proceed on his route, such 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 shall 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. However, such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that he is actually

person shall be legally discharged. On request of the state, the hearing may be continued for up to three working days, only for the purpose of determining whether the person probably committed the crime. Findings under this section may be based upon hearsay evidence or upon copies of affidavits, whether certified or not, made outside this state. It shall be sufficient for a finding that a person probably committed the crime that there is a current grand jury indictment from another state.

s 4956. Bail when ordered

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, the judge or magistrate shall admit the person arrested to bail by bond or undertaking, with sufficient sureties, and in such sum as he deems proper, for his appearance before him at a time specified in such bond or undertaking, and for his surrender, to be arrested upon the warrant of the governor of this state.

s 4956. Bail when ordered

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, the judge or magistrate shall admit the person arrested to bail by bond or undertaking, with sufficient sureties, and in such sum as he deems proper, for his appearance before him at a time specified in such bond or undertaking, and for his surrender, to be arrested upon the warrant of the governor of this state.

s 4957. Extending time of commitment

If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant, bond or undertaking, such judge may discharge him or may recommit him for a further period not to exceed sixty days, or may again take bail for his appearance and surrender as provided in section 4956 of this title, but within a period not to exceed sixty days after the date of such new bond.

s 4958. Forfeiture of bail

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

s 4959. Persons under prosecution in this state at time of requisition

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor in his discretion either

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.

s 4953. 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 4946 of this title, 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 before a superior judge, assistant judge of the county court, or judge of a municipal court within this state, setting forth on the affidavit of a 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 a crime, and, except in cases arising under section 4946, 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 have been found in this state, such judge shall issue a warrant directed to any sheriff or constable directing him to apprehend the person charged, wherever he may be found in this state, and bring him before the same or any other superior judge, assistant judge of the county court or judge of a district court who may be available in or convenient of access of 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.

s 4954. Arrest without a warrant

The arrest of a person may be lawfully made by an officer or a private citizen without a warrant upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one year. When so arrested, the accused shall be taken before a superior judge, assistant judge of the county court, or judge of a district court as soon as may be and complaint shall be made against him under oath setting forth the ground for the arrest as in section 4953 of this title; and thereafter his answer shall be heard as if he had been arrested on a warrant.

s 4955. Commitment to await extradition; bail

If upon examination it appears that the person held is the person charged with having committed the crime alleged and that the person probably committed the crime, and, except in cases arising under section 4946 of this title, that the person has fled from justice, the judge or magistrate shall commit the person to jail by a warrant, reciting the accusation, for such a time, not exceeding thirty days, to be 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 section 4956 of this title, or until the

may surrender him on the demand of the executive authority of another state, or may hold him until he has been tried and discharged, or convicted and punished in this state.

s 4960. Guilt or innocence of accused not in issue

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.

s 4961. Governor may recall or reissue warrant

The governor may recall his warrant of arrest, or may issue another warrant when he deems proper.

s 4962. Fugitives from this state; duty of governors

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 chief executive of any other state, or from the chief judge or another judge of the United States district court for the District of Columbia authorized to receive such demand under 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 sheriff of the county in this state in which the offense was committed.

s 4963. Manner of applying for requisition

(a) When the return to this state of a person charged with a crime in this state is required, the state's attorney of the county in which the offense is committed, or the attorney general shall present to the governor his written application for a requisition for the return of the person so charged, in which application shall be stated the name of the person so charged, the crime charged against him, and 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 state's attorney or the attorney general 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.

(b) 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 attorney general or the state's attorney of the county in which the offense was committed, the state probation officer 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.

(c) The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment, returned, or information and affidavit filed, or of the complaint, stating the offense with which the accused is charged or of the judgment of conviction or of the sentence. The state's attorney, the attorney general, the state probation officer, warden or sheriff may also attach such further affidavits and other documents in duplicate as he 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 one of the certified copies of the indictment or complaint or information and affidavit, or of the judgment of conviction or of the sentence shall be filed in the office of the governor to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

s 4964. Immunity from civil process

A person brought into this state on, 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 proceeding to answer which he is returned, until he has been convicted in the criminal proceeding, or if acquitted, until he has had ample opportunity to return to the state from which he was extradited.

s 4965. No immunity from other criminal prosecutions

After a person has been brought back to this state upon, or after waiver of, extradition proceedings, he may be tried in this state for other crimes which he may be charged with having committed in this state, as well as that specified in the requisition for his extradition.

s 4966. Payment of expenses

In proceedings under the preceding sections of this subchapter, the complainant shall pay the actual costs and charges and for the support in jail of a person committed thereunder at the rate of \$4.00 a week and shall advance the money therefor from time to time or give to the jailer satisfactory security therefor. When complainant neglects for twenty-four hours to advance such money or give such security after he has been required by the jailer so to do, the jailer may discharge the person so committed and shall forthwith notify the authority issuing the warrant.

s 4967. Written waiver of extradition proceedings

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 bail, probation or parole may waive the issuance and service of the warrant provided for in sections 4947 and 4948 of this title 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

which states that he consents to return to the demanding state; provided however, before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in section 4950 of this title.

If and when such consent has been duly executed, it shall forthwith be forwarded to the office of the governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this state.

s 4968. Nonwaiver by this state

Nothing contained in this subchapter 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 subchapter 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.

s 4969. Uniform interpretation

This subchapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

VIRGIN ISLANDS CODE ANNOTATED
TITLE FIVE. JUDICIAL PROCEDURE
SUBTITLE 3. CRIMINAL PROCEDURE
PART II. SPECIAL PROCEEDINGS
CHAPTER 331. CRIMINAL EXTRADITION
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STATES VIRGIN ISLANDS
Current through Act 5824, approved 1-7-93

s 3801. Definitions

Where appearing in this chapter, the term "Governor" includes any person performing the functions of Governor by authority of the law applicable to the Virgin Islands. The term "Executive Authority" includes the Governor, and any person performing the functions of Governor in a state other than the Virgin Islands.

s 3802. Fugitives from justice; duty of Governor

Subject to the provisions of this chapter, 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 the Virgin Islands 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 the Virgin Islands.

s 3803. Form of demand

No demand for the extradition of a person charged with crime in another state shall be recognized by the Governor unless in writing alleging, except in cases arising under section 3806 of this title, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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. 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 of conviction or sentence must be authenticated by the Executive Authority making the demand.

s 3804. Governor may investigate case

When a demand shall be made upon the Governor of the Virgin Islands by the Executive Authority of another state for the surrender of a person so charged with crime, the Governor may call upon the United States attorney 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.

s 3805. 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 the Virgin Islands a person charged in the Virgin Islands with a crime, and such person is imprisoned or is held under criminal proceedings then pending against him in another state, the Governor of the Virgin Islands 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 the Virgin Islands as soon as the prosecution in the Virgin Islands is terminated.

The Governor of the Virgin Islands may also surrender on demand of the Executive Authority of any other state any person in the Virgin Islands who is charged in the manner provided in section 3823 of this title with having violated the laws of the state whose Executive Authority is making the demand, even though such person left the demanding state involuntarily.

s 3806. Extradition of persons not present in demanding state at time of commission of crime

The Governor of the Virgin Islands may also surrender, on demand of the Executive Authority of any other state, any person in the Virgin Islands charged in such other state in the manner provided in section 3803 of this title with committing an act in the Virgin Islands, 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 chapter 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.

s 3807. Issue of Governor's warrant of arrest; its recitals

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

s 3808. 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 Virgin Islands 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 chapter to the duly authorized agent of the demanding state.

s 3809. 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.

s 3810. 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 United States attorney, and to the said agent of the demanding state.

s 3811. 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 willful disobedience to section 3810 of this title, shall be fined not more than \$1,000 or imprisoned not more than six months, or both.

s 3812. 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 any jail in the Virgin Islands; 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 the Virgin Islands with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in any jail in the Virgin Islands; 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 the Virgin Islands.

s 3813. Arrest prior to requisition

Whenever any person within the Virgin Islands is charged on the oath of a credible person before any judge of the Virgin Islands with the commission of a crime in any other state and, except in cases arising under section 3806 of this title, 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 has been made before any judge in the Virgin Islands setting forth on the affidavit of any credible person in another state that a crime has been committed in that other state and that the accused has been charged in that state with the commission of the crime, and, except in cases arising under section 3806 of this title, 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 the Virgin Islands, the judge shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein, wherever he may be found in the Virgin Islands, and to bring him before the same or any other judge or court 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.

s 3814. Arrest without a warrant

The arrest of a person may be lawfully made also by any peace officer or a private person, 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 one year, but when so arrested the accused must be taken before a judge with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in section 3813 of this title; and thereafter his answer shall be heard as if he had been arrested on a warrant.

s 3815. Commitment to await requisition; bail

If from the examination before the judge it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under section 3806 of this title, that he has fled from justice, the judge must, by a warrant reciting the accusation, commit him to jail for such a time not exceeding thirty 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 section 3816 of this title, or until he shall be legally discharged.

s 3816. Bail; in what cases; conditions of bond

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge in the Virgin Islands may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such

bond, and for his surrender, to be arrested upon the warrant of the Governor of the Virgin Islands.

s 3817. 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 or bond, a judge may discharge him or may recommit him for a further period not to exceed sixty days, or a judge may again take bail for his appearance and surrender, as provided in section 3816 of this title, but within a period not to exceed sixty days after the date of such new bond.

s 3818. 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, by proper order, shall declare the bond forfeited and order his immediate arrest without warrant if he be within the Virgin Islands. Recovery may be had on such bond in the name of the government of the Virgin Islands as in the case of other bonds given by the accused in criminal proceedings within the Virgin Islands.

s 3819. Persons under criminal prosecution in Virgin Islands at time of requisition

If a criminal prosecution has been instituted against such person under the laws of the Virgin Islands and is still pending the Governor, in his discretion, either may surrender him on demand of the Executive Authority of another state or hold him until he has been tried and discharged or convicted and punished in the Virgin Islands.

s 3820. Guilt or innocence of 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.

s 3821. Governor may recall warrant or issue alias

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

s 3822. Fugitives from Virgin Islands; duty of Governors

Whenever the Governor of the Virgin Islands shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in the Virgin Islands, from the Executive Authority of any

other state, or from the chief judge or associate judge of the United States District Court for 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 the Virgin Islands, to some agent, commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the Virgin Islands.

s 3823. Application for issuance of requisition; by whom made; contents

I. When the return to the Virgin Islands of a person charged with crime in the Virgin Islands is required, the United States 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 United States attorney the ends of justice require the arrest and return of the accused to the Virgin Islands for trial and that the proceeding is not instituted to enforce a private claim.

II. When the return to the Virgin Islands is required of a person who has been convicted of a crime in the Virgin Islands and has escaped from confinement or broken the terms of his bail, probation or parole, the United States attorney, the Board of Parole, the Police Commissioner, or the officer in charge of the institution 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.

III. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the information and affidavit filed, or of the complaint made to the judge, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The United States attorney, Board of Parole, Police Commissioner, or officer in charge may also attach such further affidavits and other documents in duplicate as he 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 one of the certified copies of the complaint, information, and affidavits, or of the judgment of conviction or of the sentence shall be filed in the office of the Government Secretary to remain of record in that office. The other copies of all papers shall be forwarded with the Governor's requisition.

IV. The Governor need not issue a requisition under this section if it appears that the presence of the person charged with, or convicted of, a crime in the s 3824. Costs and expenses

The expenses shall be paid out of money appropriated for that purpose by law. Such 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.

s 3825. Immunity from service of process in certain civil actions

A person brought into the Virgin Islands 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 proceeding 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.

s 3826. Written waiver of extradition proceedings

Any person arrested in the Virgin Islands charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of his bail, probation or parole may waive the issuance and service of the warrant provided for in sections 3807 and 3808 of this title and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record within the Virgin Islands a writing which states that he consents to return to the demanding state; provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in section 3810 of this title.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the Governor of the Virgin Islands and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of the Virgin Islands.

s 3827. Non-waiver by Virgin Islands

Nothing in this chapter constitutes a waiver by the government of the Virgin Islands of its right, power or privilege to try the demanded person for crime committed within the Virgin Islands, or of its right, power or privilege to regain custody of him by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within the Virgin Islands, nor shall any proceedings had under this chapter which result in, or fail to result in, extradition be deemed a waiver by the government of the Virgin Islands of any of its rights, privileges or jurisdiction.

s 3828. No right of asylum; no immunity from other criminal prosecutions

After a person has been brought back to the Virgin Islands by, or after waiver of extradition proceedings, he may be tried in the Virgin Islands for other crimes which he may be charged with having committed here as well as that specified in the requisition for his extradition.

CODE OF VIRGINIA
TITLE 19.2. CRIMINAL PROCEDURE.
CHAPTER 8. EXTRADITION OF CRIMINALS.
ARTICLE 2. UNIFORM CRIMINAL EXTRADITION ACT.
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Current through Ch. 3 of the 1993 Special Session

s 19.2-85 Definitions.

When appearing in this chapter:

- (1) The term "Governor" includes any person performing the functions of Governor by authority of the law of this Commonwealth;
- (2) The term "executive authority" includes the Governor, and any person performing the functions of Governor in a state other than this Commonwealth;
- (3) The term "State," referring to a state other than this Commonwealth, includes any other state or territory, organized or unorganized, of the United States of America, and the District of Columbia; and
- (4) The term "judge" means a judge of a court of record having criminal jurisdiction.

s 19.2-86 Fugitives from justice; duty of Governor.

Subject to the provisions of this chapter, the provisions of the Constitution of the United States controlling, and any and all acts of Congress enacted in pursuance thereof, the Governor shall have arrested and delivered up to the executive authority of any other 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 Commonwealth.

s 19.2-87 Form of demand.

No demand for the extradition of a person charged with, or convicted of, crime in another state shall be recognized by the Governor unless in writing alleging, except in cases arising under s 19.2-91, that the accused was present in the demanding state at the time of the commission of the alleged crime and that thereafter he fled from such state, and accompanied: (1) by a copy of an indictment found, (2) by a copy or an information supported by an affidavit filed in the state having jurisdiction of the crime, (3) by a copy of an affidavit made before a magistrate in such state together with a copy of any warrant which was issued thereupon, or (4) by a copy of a judgment of conviction or of a sentence imposed in execution thereof together with a statement by the 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. 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 the indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority making the demand.

s 19.2-88 Governor may investigate case.

When a demand shall be made upon the Governor by the executive authority of another state for the surrender of a person so charged with, or convicted of, crime, the Governor may call upon the Attorney General or any other officer of this Commonwealth 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.

s 19.2-89 Extradition of persons imprisoned or awaiting trial in another state.

When it is desired to have returned to this Commonwealth a person charged in this Commonwealth with a crime and such person is imprisoned or is held under criminal proceedings then pending against him in another state, the Governor 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 Commonwealth as soon as the prosecution in this Commonwealth is terminated.

s 19.2-90 Extradition of persons who have left demanding state involuntarily.

The Governor may also surrender on demand of the executive authority of any other state any person in this Commonwealth who is charged in the manner provided in ss 19.2-109 to 19.2-111, with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

s 19.2-91 Extradition of persons not in demanding state at time of commission of crime.

The Governor may also surrender, on demand of the executive authority of any other state, any person in this Commonwealth charged in such other state in the manner provided in s 19.2-87 with committing an act in this Commonwealth, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand. The provisions of this chapter 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.

s 19.2-92 Issuance of Governor's warrant of arrest; its recitals.

If the Governor decides that a demand for the extradition of a person, charged with, or convicted of, crime in another state should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to the sheriff or sergeant of any county or city or to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

s 19.2-93 Manner and place of execution of warrant.

Such warrant shall authorize the officer or other person to whom it is

directed to arrest the accused at any time and at any place where he may be found within the Commonwealth 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 chapter, to the duly authorized agent of the demanding state.

s 19.2-94 Assistance to arresting officer.

Every officer or other person empowered to make the arrest, as provided in the preceding section, shall have the same authority, in arresting the accused, to command assistance therein as the sheriffs and sergeants of the several counties and cities of this Commonwealth have by law in the execution of any criminal process directed to them, with like penalties against those who refuse to render their assistance.

s 19.2-95 Rights of accused persons; 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 circuit or general district court in this Commonwealth, 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 or trial justice 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 attorney for the Commonwealth of the county or city in which the arrest is made and in which the accused is in custody, and to the agent of the demanding state.

s 19.2-96 Penalty for noncompliance 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 willful disobedience to the last preceding section shall be guilty of a Class 1 misdemeanor.

s 19.2-97 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 shall 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.

s 19.2-98 Same; for prisoners being taken through Commonwealth.

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 Commonwealth with such prisoner for the purpose of returning immediately 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 shall 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 deliver to the jailer the warrant or legal order authorizing custody of the prisoner. Such prisoner shall not be entitled to demand a new requisition while in this Commonwealth.

s 19.2-99 Arrest prior to requisition.

Whenever: (1) any person within this Commonwealth shall be charged on the oath of any credible person before any judge, magistrate or other officer authorized to issue criminal warrants in this Commonwealth with the commission of any crime in any other state and, except in cases arising under s 19.2-91, (a) with having fled from justice, (b) with having been convicted of a crime in that state and of having escaped from confinement, or (c) of having broken the terms of his bail, probation, or parole, or (2) complaint shall have been made before any such judge, magistrate or other officer in this Commonwealth 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 s 19.2-91, (a) has fled from justice, (b) having been convicted of a crime in that state has escaped from confinement, or (c) broken the terms of his bail, probation or parole, and that the accused is believed to be in this Commonwealth, such judge, magistrate or other officer shall issue a warrant directed to any sheriff or to any peace officer commanding him to apprehend the person named therein, wherever he may be found in this Commonwealth, and to bring him before any judge who may be available in or convenient of access to the place where the arrest may be made, to answer the charge of complaint and affidavit. A certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

s 19.2-100 Arrest without warrant.

The arrest of a person may be lawfully made also by any peace officer or private person 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 one year. But when so arrested the accused shall be taken before a judge, magistrate or other officer authorized to issue criminal warrants in this Commonwealth with all practicable speed and complaint 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.

s 19.2-101 Confinement to await requisition; bail.

If from the examination before the judge it appears that the person held pursuant to either of the two preceding sections is the person charged with

having committed the crime alleged and, except in cases arising under s 19.2-91, that he has fled from justice, the judge shall, by a warrant reciting the accusation, commit him to jail for such a time, not exceeding thirty days, 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.

s 19.2-102 In what cases bail allowed; conditions of bond.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, any judge, magistrate or other person authorized by law to admit persons to bail in this Commonwealth may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned upon his appearance before a judge at a time specified in such bond and upon his surrender for arrest upon the warrant of the Governor of this Commonwealth.

s 19.2-103 Discharge, recommitment or renewal of bail.

If the accused is not arrested under warrant of the Governor by the expiration of the time specified in the warrant or bond, any judge in this Commonwealth may discharge him or may recommit him for a further period not to exceed sixty days, or such judge may again take bail for his appearance and surrender, as provided in the preceding section, but within a period not to exceed sixty days after the date of such new bond.

s 19.2-104 Forfeiture of bail.

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

s 19.2-104 Forfeiture of bail.

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

s 19.2-105 Persons under criminal prosecution in this Commonwealth at time of requisition.

If a criminal prosecution has been instituted against such person under the laws of this Commonwealth and is still pending, the Governor, in his

discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this Commonwealth.

s 19.2-106 When guilt or innocence of accused 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.

s 19.2-107 Governor may recall warrant or issue alias.

The Governor may recall his warrant of arrest or may issue another warrant whenever he deems it proper.

Current through Ch. 3 of the 1993 Special Session

s 19.2-108 Fugitives from this Commonwealth; duty of Governor.

Whenever the Governor shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in this Commonwealth, 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 Commonwealth 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 or city in this Commonwealth in which the offense was committed.

s 19.2-109 Application for requisition for return of person charged with crime.

When the return to this Commonwealth of a person charged with crime in this Commonwealth is required, the attorney for the Commonwealth 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 attorney for the Commonwealth, the ends of justice require the arrest and return of the accused to this Commonwealth for trial and that the proceeding is not instituted to enforce a private claim.

s 19.2-110 Application for requisition for return of escaped convict, etc.

When the return to this Commonwealth is required of a person who has been convicted of a crime in this Commonwealth and has escaped from confinement or broken the terms of his bail, probation or parole, the attorney for the Commonwealth, of the county or city in which the offense was committed, or the warden of the institution or sheriff of the county or city from which the

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 and the state in which he is believed to be, including the location of the person therein at the time application is made.

s 19.2-111 Form of such applications; copies, etc.

The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge of a circuit or general district court or other officer issuing the warrant stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The attorney for the Commonwealth, warden or sheriff may also attach such further affidavits and other documents in duplicate as he 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 one 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 the Commonwealth, to remain of record in that office. The other copies of all papers shall be forwarded with the Governor's requisition.

s 19.2-112 Costs and expenses.

The expenses incident to the extradition of any person under the four preceding sections shall be paid out of the state treasury, on warrants of the Comptroller issued upon vouchers signed by the Governor, or such other person as may be designated by him for such purpose.

s 19.2-113 Immunity from service of process in certain civil actions.

A person brought into this Commonwealth 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 proceeding 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.

s 19.2-114 Written waiver of extradition proceedings.

Any person arrested in this Commonwealth charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of his bail, probation or parole may waive the issuance and service of the warrant provided for in ss 19.2-92 and 19.2-93 and all other procedures incidental to extradition proceedings by executing or subscribing in the presence of a judge of a circuit or district court within this Commonwealth a writing which states that he consents to return to the demanding state. However, before the waiver is executed or subscribed by the person, it shall be the duty of the judge to inform the person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in s 19.2-95.

If and when such consent has been duly executed, it shall forthwith be

forwarded to the office of the Governor and filed therein. The judge shall direct the officer having the person in custody to promptly deliver him to the duly accredited agent of the demanding state, and shall deliver or cause to be delivered to such agent a copy of the consent.

This section shall not be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an executive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this Commonwealth.

s 19.2-115 Nonwaiver by this Commonwealth.

Nothing in this chapter contained shall be deemed to constitute a waiver by this Commonwealth of its right, power or privilege to try such demanded person for crime committed within this Commonwealth, 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 Commonwealth, nor shall any proceedings had under this chapter which result in, or fail to result in, extradition be deemed a waiver by this Commonwealth of any of its rights, privileges or jurisdiction in any way whatsoever.

s 19.2-116 No right of asylum; no immunity from other criminal prosecutions while in this Commonwealth.

After a person has been brought back to this Commonwealth by, or after waiver of, extradition proceedings he may be tried in this Commonwealth for other crimes which he may be charged with having committed here as well as that specified in the requisition for his extradition.

s 19.2-117 Interpretation of article.

The provisions of this article shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those states which enact statutes similar thereto.

s 19.2-118 Short title.

This article may be cited as the Uniform Criminal Extradition Act.

WEST'S REVISED CODE OF WASHINGTON ANNOTATED
TITLE 10. CRIMINAL PROCEDURE
CHAPTER 10.88--UNIFORM CRIMINAL EXTRADITION ACT
COPR. (c) WEST 1994 No Claim to Orig. U.S. Govt. Works
Current through Laws 1993, 1st Sp. Sess., Ch. 26, approved 6-2-93

10.88.200. Definitions

Where appearing in this chapter, 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, and the term "state" referring to a state other than this state refers to any other state, or the District of Columbia, or territory organized or unorganized of the United States of America.

WEST'S REVISED CODE OF WASHINGTON ANNOTATED
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10.88.210. Authority of governor

Subject to the provisions of this chapter, the provisions of the Constitution of the United States controlling, and any and all acts of congress enacted in pursuance thereof, the governor of this state may in his discretion 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.

10.88.220. Demand for extradition--Requirements

No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing alleging, except in cases arising under RCW 10.88.250, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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. 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 of conviction or sentence must be certified or authenticated by the executive authority making the demand.

10.88.230. Investigation of demand--Report

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.

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10.88.240. Return or surrender of person charged in another state

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 RCW 10.88.410 with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

10.88.250. Surrender of person charged with crime committed in state other than demanding state

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 RCW 10.88.220 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 chapter 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.

10.88.260. Warrant of arrest

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

10.88.270. Authority of officer or other person under warrant

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 chapter to the duly authorized agent of the demanding state.

10.88.280. Authority to command assistance

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.

10.88.290. Rights of person arrested

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: Provided, That the hearing provided for in this section shall not be available except as may be constitutionally required if a hearing on the legality of arrest has been held pursuant to RCW 10.88.320 or 10.88.330.

10.88.300. Delivery of person in violation of RCW 10.88.290—Penalty

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 RCW 10.88.290, shall be guilty of a gross misdemeanor and, on conviction, shall be imprisoned in the county jail for not more than one year, or be fined not more than one thousand dollars, or both.

10.88.310. Confinement of prisoner

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.

10.88.320. Charge or complaint--Warrant of arrest

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 RCW 10.88.250, 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 RCW 10.88.250, 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.

10.88.330. Arrest without warrant

(1) The arrest of a person may be lawfully made also by any peace officer or a private person, 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 one 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 RCW 10.88.320; and thereafter his answer shall be heard as if he had been arrested on a warrant.

(2) An officer of the United States customs service or the immigration and naturalization service may, without a warrant, arrest a person if:

(a) The officer is on duty;

(b) One or more of the following situations exists:

(i) The person commits an assault or other crime involving physical harm, defined and punishable under chapter 9A.36 RCW, against the officer or against any other person in the presence of the officer;

(ii) The person commits an assault or related crime while armed, defined and punishable under chapter 9.41 RCW, against the officer or against any other person in the presence of the officer;

(iii) The officer has reasonable cause to believe that a crime as defined in (b)(i) or (ii) of this subsection has been committed and reasonable cause to believe that the person to be arrested has committed it;

(iv) The officer has reasonable cause to believe that a felony has been committed and reasonable cause to believe that the person to be arrested has committed it; or

(v) The officer has received positive information by written, telegraphic, teletypic, telephonic, radio, or other authoritative source that a peace officer holds a warrant for the person's arrest; and

(c) The regional commissioner of customs certifies to the state of Washington that the customs officer has received proper training within the agency to enable that officer to enforce or administer this subsection.

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Enacted by Laws 1971, Ex.Sess., ch. 46, s 14, eff. July 1, 1971. Amended by Laws 1979, Ex.Sess., ch. 244, s 16, eff. July 1, 1979.

10.88.340. Preliminary examination--Commitment

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 RCW 10.88.250, 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 thirty 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 RCW 10.88.350, or until he shall be legally discharged.

10.88.350. Bail

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such a bond, and for his surrender, to be arrested upon the warrant of the governor of this state.

10.88.360. Failure to make timely arrest or demand for extradition

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 him or may recommit him for a further period not to exceed sixty days, or a judge or magistrate judge may again take bail for his appearance and surrender, as provided in RCW 10.88.350, but within a period not to exceed sixty days after the date of such new bond: Provided, That the governor may, except in cases in which the offense is punishable under laws of the demanding state by death or life imprisonment, deny a demand for extradition when such demand is not received by the governor before the expiration of one hundred twenty days from the date of arrest in this state of the alleged fugitive, in the absence of a showing of good cause for such delay.

10.88.370. Failure to appear--Bond forfeiture--Arrest--Recovery on bond

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.

10.88.380. Pending criminal prosecution in this state

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending the governor, in his discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

10.88.390. Recall or reissuance of warrant

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

10.88.400. Demand by governor of this state for extradition--Warrant--Agent

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 appropriate authority 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.

10.88.410. Application for requisition for return of person--Contents--
Affidavit--Copies

(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 two 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 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 one 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.

10.88.420. Civil process--Service on extradited person

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 proceeding to answer which he is being or has been returned, until he has been finally convicted in the criminal proceeding, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

10.88.430. Waiver of extradition

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 bail, probation or parole may waive the issuance and service of the warrant provided for in RCW 10.88.260 and 10.88.270 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 which states that he consents to return to the demanding state: Provided, however, That before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in RCW 10.88.290.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent: Provided, however, That nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this state.

10.88.440. Rights, powers, privileges or jurisdiction of state not waived

Nothing in this chapter 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 chapter 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.

10.88.450. Trial for other crimes

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.

10.88.460. Extradition or surrender of obligor—Uniform reciprocal enforcement of support act

10.88.900. Construction—1971 ex.s. c 46

The provisions of this chapter shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those states which enact it, to the extent which it has been enacted by this state.

10.88.910. Short title

RCW 10.88.200 through 10.88.450 shall be known and may be cited as the Uniform Criminal Extradition Act.

10.88.920. Effective date—1971 ex.s. c 46

This act shall become effective on July 1, 1971.

10.88.930. Severability—1971 ex.s. c 46

If any provisions of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

WEST VIRGINIA CODE 1966
CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY OF
STATE AND
ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,
COMMISSIONS,

OFFICES, PROGRAMS, ETC.
ARTICLE 1. THE GOVERNOR.

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Current through Ch. 3 of the Second Extraordinary
Session of the 71st Legislature (1993)

s 5-1-7 Extradition of persons charged with crime in another state or
imprisoned or awaiting trial in another state.

(a) Where appearing in this article, 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.

(b) Subject to the provisions of this article, 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: Provided, That the demand or application of the executive authority of such other state is accompanied by an affidavit or sworn evidence that the demand or application is made in good faith for the punishment of crime, and not for the purpose of collecting a debt or pecuniary mulct, or of removing the alleged fugitive to a foreign jurisdiction with a view to serve him there with civil process.

(c) No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing alleging, except in cases arising under subdivision (g) of this section, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found, or by information supported by affidavit, in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate or justice there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or a sentence imposed in execution thereof, together with a statement by the 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. The indictment, information, or affidavit made before the magistrate or justice 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 of conviction or sentence must be authenticated by the executive authority making the demand.

(d) 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, any prosecuting officer, or the department of public safety, 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.

(e) When it is desired to have returned to this state a person charged in this state with 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.

(f) 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 subdivision (b) of section ten [s 5-1-10] of this article, with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state voluntarily.

(g) 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 subdivision (c) of this section, 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 article 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.

s 5-1-8 Governor's warrant of arrest.

(a) If the governor decides that the demand should be complied with, he shall sign a warrant of arrest which shall be sealed by the secretary of state with the great seal of this state, and be directed by the governor to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

(b) 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 provision of this article to the duly authorized agent of the demanding state.

(c) The governor may recall the warrant of arrest or may issue another warrant whenever he deems proper.

(d) 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.

s 5-1-9 Hearing after arrest; application for writ of habeas corpus; arrest and confinement of fugitives from another state; bail; persons involved in criminal or civil actions in this state.

(a) 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 attorney 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.

(b) 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 subdivision (a) of this section, shall be guilty of a misdemeanor, and on conviction shall be fined not more than one thousand dollars or be imprisoned not more than six months, or both.

(c) 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 shall 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 shall 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, 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.

(d) Whenever any person within this state shall be charged on the oath of any credible person before any judge or justice of this state with the commission of any crime in any other state and, except in cases arising under subdivision (g), section seven [s 5-1-7] of this article, 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 justice in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under subdivision (g), section seven [s 5-1-7] of this article, 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 justice 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, justice, 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.

(e) The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant, upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or by imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or justice 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 [subsection (d) of this section]; and thereafter his answer shall be heard as if he had been arrested on a warrant.

(f) If from the examination before the judge or justice it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under subdivision (g), section seven [s 5-1-7] of this article, that he has fled from justice, the judge or justice must, by a warrant reciting the accusation, commit him to the county jail for such a time not exceeding thirty 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 subdivision (g) of this section, or until he shall be legally discharged.

(g) Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or justice in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the governor of this state.

(h) 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 justice may discharge him or may recommit him for a further period not to exceed sixty days, or a judge or justice may again take bail for his appearance and surrender as provided in subdivision (g) of this section, but within a period not to exceed sixty days after the date of such new bond.

(i) If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond, the judge, or justice, 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.

(j) If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor, in his discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state: Provided, That any person under recognizance to appear as a witness in any criminal proceeding pending in this state may in the discretion of the governor be surrendered on demand of the executive authority of another state or be held until such criminal proceeding pending in this state has been determined: Provided further, That any person who was in custody upon any execution, or upon process in any suit, at the time of being apprehended for a crime charged to have been committed without the jurisdiction of this state, shall not be delivered up without the consent of the plaintiff in such execution or suit, until the amount of such execution shall have been paid, or until such person shall be otherwise discharged from such execution or process.

(k) 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 provided in this article 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.

s 5-1-10 Return of fugitive from this state.

(a) 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 great seal of this state affixed thereon by the secretary of state, to some agent, commanding him to receive the person so charged if delivered to him and to convey him to the proper officer of the county in this state in which the offense was committed.

(b) 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.

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.

The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or justice, stating the offense with which the accused is charged, or the judgment of conviction or of the sentence. The prosecuting attorney, parole board, warden or sheriff may also attach such further affidavits and other documents in duplicate as he 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 one 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.

s 5-1-11 Immunity from service of civil process; waiver of extradition proceedings; nonwaiver of rights of state; trial on other charges after

return.

(a) 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 until he has been convicted in the criminal proceedings, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

(b) 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 bail, probation or parole may waive the issuance and service of the warrant provided for in subsections (a) and (d), section eight [s 5-1-8] of this article, 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 which states that he consents to return to the demanding state: Provided, That before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights with respect to the issuance and service of a warrant of extradition and with respect to obtaining a writ of habeas corpus as provided for in subsection (a), section nine [s 5-1-9] of this article.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor of this state and be filed by him in the office of the secretary of state. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent: Provided, That nothing in this subdivision shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights, or duties of the officers of the demanding state or of this state.

(c) Nothing in this article 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 the state, nor shall any proceedings had under this article 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.

(d) 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.

s 5-1-12 How costs paid; complainant responsible for.

When the punishment of the crime shall be the confinement of the criminal in the penitentiary, expenses incurred shall be paid from funds available to the division of corrections. In all other cases such expenses shall be paid out of the county treasury of the county wherein the crime is alleged to have been committed.

The complainant in each case is answerable for all the actual costs and charges, and for the support in prison of any person so committed; and, if the charge for his or her support in prison shall not be paid when demanded, the

jailer may discharge such person from prison.

s 5-1-13 Construction of ss 5-1-7 to 5-1-13; severability; how cited.

The provisions of sections seven to thirteen [ss 5-1-7 to 5-1-13] of this article shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those states which enact such provisions, and if any provision thereof, or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications thereof which can be given effect without the invalid provision or application, and to this end the provisions thereof are declared to be severable.

Sections seven to thirteen [ss 5-1-7 to 5-1-13] of this article may be cited as the "Uniform Criminal Extradition Act."

manner provided in sub. (23) with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

(6) Extradition of persons charged with having committed a crime in the demanding state by acts done in this or some other state. 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 as provided in sub. (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 section not otherwise inconsistent shall apply to such cases, notwithstanding that the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.

(7) Issue of governor's warrant of arrest; its recitals. If the governor shall decide that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to a sheriff, marshal, coroner or other person whom he may think fit to entrust with the execution thereof; and the warrant must substantially recite the facts necessary to the validity of its issue.

(8) Manner and place of execution. The warrant shall authorize the officer or other person to whom directed to arrest the accused at any place where he may be found within the state and to command the aid of all sheriffs and other peace officers in the execution of the warrant, and to deliver the accused subject to this section, to the duly authorized agent of the demanding state.

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

(10) Rights of accused; application for habeas corpus. No person arrested upon such warrant may 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 commence an action for habeas corpus. When such action is commenced, 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.

(11) Penalty for noncompliance with preceding section. Any officer who delivers to the agent for extradition of the demanding state a person in his custody under the governor's warrant in disobedience to sub. (10) shall be guilty of a misdemeanor, and on conviction shall be fined not more than \$1,000, or be imprisoned not more than 6 months or both.

(12) Confinement in jail when necessary. (a) The officer or person 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 person having charge of him is ready to proceed on his route, such person being chargeable with the expense of keeping.

(b) 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.

(13) Arrest prior to requisition. Whenever any person within this state shall be charged on the oath of any credible person before any judge of this state with the commission of any crime in any other state and, except in cases arising under sub. (6), 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 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 sub. (6), 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 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 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.

(14) Arrest without a warrant. The arrest of a person may be lawfully made also by an officer or a private citizen without a warrant upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one year; but when so arrested the accused must be taken before a judge with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in sub. (13); and thereafter his answer shall be heard as if he had been arrested on a warrant.

(15) Commitment to await requisition; bail. If from the examination before the judge it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under sub. (6), that he has fled from justice, the judge 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 sub. (16), or until he shall be legally discharged.

(16) Bail; in what cases; conditions of bond. Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge in

this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the governor of this state.

(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 or bond, a judge may discharge him or may recommit him for a further period not to exceed 60 days, or may again take bail for his appearance and surrender, as provided in sub. (16), but within a period not to exceed 60 days after the date of such new bond.

(18) 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, 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.

(19) If a prosecution has already been instituted in this state. If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor at his discretion either may surrender him on the demand of the executive authority of another state, or may hold him until he has been tried and discharged, or convicted and punished in this state.

(20) Guilt or innocence of 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.

(21) Governor may recall warrant or issue alias. The governor may recall his warrant of arrest, or may issue another warrant whenever he deems proper.

(22) 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 district court of the United States for 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.

(23) Manner of applying for requisition. (a) 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, and 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.

(b) 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 or her bail, probation or parole, the prosecuting attorney of

the county in which the offense was committed, the secretary of corrections, 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 the person, in which application shall be stated the name of the person, the crime of which the person was convicted, the circumstances of escape from confinement or of the breach of the terms of bail, probation or parole, and the state in which the person is believed to be, including the location of the person therein at the time application is made.

(c) 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 a judge, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, parole commission, warden or sheriff may also attach such further affidavits and other documents in duplicate as he, she or it deems proper to be submitted with the application. One copy of the application, with the action of the governor indicated by endorsement thereon, and one 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 governor to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

(24) Expenses of extradition. The compensation of the agent of the demanding state shall be \$8 per day for the time necessarily devoted to the performance of his duties, and his actual and necessary expenses, which compensation and expenses shall be allowed by the county board of the county in which the crime was committed, upon presentation to said board of a verified account, stating the number of days he was engaged and the items of expense incurred while acting as such agent.

(25) Assistants to agent returning fugitive. If the district attorney certifies in writing that it is necessary or desirable, one or more peace officers may accompany said agent and shall be entitled to compensation at the rate of \$5 per day, unless the county board by resolution establishes a different rate, and to their actual and necessary expenses. Such compensation and expenses shall be claimed and allowed as provided in sub. (24) and the said certificate of the district attorney shall be attached to the verified account of such officer for such services. While so engaged, said officer shall be deemed an officer of this state and shall use all proper means to assist the agent to retain the custody of the prisoner.

(26) Exemption from civil process. 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 proceeding 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.

(27) Written waiver of extradition proceedings. (a) 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 bail, probation or parole may waive the issuance and service of the warrant provided for in subs. (7) and (8) 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 which states that he consents to return to the demanding state; however, before such waiver shall be executed or subscribed by such person the judge shall inform such person of his rights to the issuance

and service of a warrant of extradition and to commence an action for habeas corpus as provided in sub. (10).

(b) If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent. Nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this state.

(28) Nonwaiver by this state. Nothing in this section 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 section 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.

(29) No right of asylum. 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.

(30) Interpretation. This section shall be so interpreted as to make uniform the law of those states which enact it.

WEST'S WISCONSIN STATUTES ANNOTATED
CHAPTER 976. UNIFORM ACTS IN CRIMINAL PROCEEDINGS
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Current through 1993 Act 46, published 11/12/93.

976.03. Uniform criminal extradition act

(1) Definitions. In this section, "governor" includes any person performing the functions of governor by authority of the law of this state. "Executive authority" includes the governor, and any person performing the functions of governor in a state other than this state, and "state" referring to a state other than this state refers to any other state or territory organized or unorganized of the United States of America.

(2) Criminals to be delivered upon requisition. Subject to the qualifications of this section, and the provisions of the U.S. constitution controlling, and acts of congress 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.

(3) Form of demand. No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing alleging, except in cases arising under sub. (6), that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by an information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the 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. 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 of conviction or sentence must be authenticated by the executive authority making the demand.

(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.

(5) Extradition of persons imprisoned or awaiting trial in another state or who have left the demanding state under compulsion. (a) 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.

(b) 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

WYOMING STATUTES 1977
TITLE 7. Criminal Procedure
CHAPTER 3. Fugitives and Prevention of Crime
ARTICLE 2. EXTRADITION

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Current through Ch. 230 of the General Session of the 52nd Legislature (1993)

s 7-3-201 Definitions.

(a) As used in this act:

- (i) "Executive authority" includes the governor, and any person performing the functions of governor in a state other than this state;
- (ii) "Governor" includes any person performing the functions of governor by authority of the law of this state;
- (iii) "State", referring to a state other than this state, includes any other organized or unorganized state or territory of the United States of America;
- (iv) "This act" means W.S. 7-3-201 through 7-3-227.

s 7-3-202 Duty of governor to have fugitives arrested and delivered up to proper authorities.

Subject to the qualifications of this act, and the applicable provisions of the United States constitution and acts of congress, the governor of this state shall 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.

s 7-3-203 General requirements as to demand by another state.

No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing and accompanied by a copy of an indictment found or by an information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereon. The indictment, information, or affidavit made before the magistrate shall substantially charge the person demanded with having committed a crime under the law of that state and the copy shall be authenticated by the executive authority making the demand, which shall be prima facie evidence of its truth.

s 7-3-204 Investigation of demand.

When a demand shall be made upon the governor of this state by the executive authority of another state for a surrender of a person charged with crime, the governor may call upon the attorney general or any district attorney 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 should be surrendered.

s 7-3-205 Contents of demand.

(a) A warrant of extradition shall not be issued unless the documents presented by the executive authority making the demand show that the accused:

- (i) Except in cases arising under W.S. 7-3-206, was present in the demanding state at the time of the commission of the alleged crime, and thereafter fled from the state;
- (ii) Is now in this state; and
- (iii) Is lawfully charged by indictment found or by information filed by a prosecuting officer and supported by affidavit to the facts, or by affidavit made before a magistrate in that state, with having committed a crime under the laws of that state, or that he has been convicted of a crime in that state and has escaped from confinement or broken his parole.

s 7-3-206 Surrender of accused when not present in demanding state at time of crime.

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 that other state in the manner provided in W.S. 7-3-205, with committing an act in this state, or in a third state, intentionally resulting in a crime in that state whose executive authority is making the demand. The provisions of this act not otherwise inconsistent shall apply to this situation notwithstanding the accused was not in that state at the time of the commission of the crime and has not fled therefrom.

s 7-3-207 Issuance of governor's warrant for arrest; contents.

If the governor decides that the demand should be complied with, he shall sign a warrant of arrest, sealed with the state seal, and directed to a sheriff, marshal, coroner or other person entrusted to execute it. The warrant shall substantially recite the facts necessary to the validity of its issuance.

s 7-3-208 Effect of warrant.

(a) The warrant shall:

- (i) Authorize the officer or other person to whom directed to arrest the accused at any place where he may be found within the state and to deliver him to the duly authorized agent of the demanding state; and
- (ii) Command the aid of all sheriffs and other peace officers in the execution of the warrant.

s 7-3-209 Authority of person making arrest to command assistance.

Every officer or other person authorized by the governor to make the arrest has the same authority in arresting the accused to command assistance as sheriffs and other officers have in the execution of any criminal process directed to them, with the like penalties against those who refuse their assistance.

s 7-3-210 Right of accused to counsel; opportunity to apply for writ of habeas corpus; notice of writ and hearing.

No person arrested pursuant to W.S. 7-3-208 shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he has been informed of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand legal counsel. If the prisoner, his friends, or counsel shall state that he or they desire to test the legality of the arrest, the prisoner shall be taken forthwith before a judge of a court of record in this state, who shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When the 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 appointed agent of the demanding state.

s 7-3-211 Penalty for surrendering accused without hearing.

Any officer who delivers to the agent for extradition of the demanding state a person in his custody under the governor's warrant in violation of W.S. 7-3-210 is guilty of a misdemeanor, and on conviction shall be fined not more than one thousand dollars (\$1,000.00), or be imprisoned not more than six (6) months, or both.

s 7-3-212 Confinement in jail for safekeeping; expenses.

The officer or person 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 en route to his destination. The keeper of the jail shall receive and safely keep the prisoner until the person having charge of him is ready to proceed on his route. The person having charge of the prisoner is chargeable with the expense of keeping him in jail.

s 7-3-213 Issuance of warrant for arrest by judge or magistrate.

(a) The judge or magistrate shall issue a warrant for arrest when:

(i) Any person within this state is charged on the oath of any credible person before the judge or other magistrate of this state with the commission of a crime in any other state, and except in cases arising under W.S. 7-3-206, with having fled from justice; or

(ii) A complaint has been made before any judge or other magistrate in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in that other state and that the accused has been charged in that state with the commission of the crime, and, except in cases arising under W.S. 7-3-206, has fled therefrom and is believed to have been found in this state.

(b) The warrant to the sheriff of the county in which the oath or complaint is filed shall direct him to apprehend the person charged, wherever he may be found in this state, and bring him before the judge or magistrate or any other judge, court, or magistrate who may be convenient to the place where the arrest may be made, to answer the charge or complaint and affidavit. A certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

s 7-3-214 Authority to arrest person without warrant.

The arrest of a person may be lawfully made by an officer or a private citizen without a warrant upon reasonable information that the accused is charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one (1) year. When arrested under this section the accused shall be taken before a judge or magistrate as soon as possible and complaint shall be made against him under oath setting forth the ground for the arrest as in W.S. 7-3-213. Thereafter his answer shall be heard as if he had been arrested on a warrant.

s 7-3-215 Examination of person arrested without warrant; commitment pending demand.

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 that he probably committed the crime, and, except in cases arising under W.S. 7-3-206, that he has fled from justice, the judge or magistrate shall commit him to jail by a warrant reciting the accusation and specifying the time 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 W.S. 7-3-216, or until he shall be legally discharged.

s 7-3-216 Right of person arrested without warrant to bail.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, the judge or magistrate shall admit the arrested person to bail by bond or undertaking, with sufficient sureties, and in such sum as he deems proper. The bail or bond shall be conditioned for the appearance of the arrested person before the judge or magistrate at a time specified in the bond or undertaking, and for his surrender, to be arrested upon the warrant of the governor of this state.

s 7-3-217 Failure of state to demand person arrested without warrant within time specified.

If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant, bond, or undertaking, the judge or magistrate may discharge him or may recommit him to a further day, or may again take bail for his appearance and surrender, as provided in W.S. 7-3-216. At the expiration of the second period of commitment, or if he has been bailed and appeared according to the terms of his bond or undertaking, the judge or magistrate may either discharge him, or may require him to enter into a new bond or undertaking, to appear and surrender himself at another day.

s 7-3-218 Failure of prisoner admitted to bail to appear.

If the prisoner is admitted to bail, and fails to appear and surrender

himself according to the condition of his bond, the court shall order the bond forfeited. Recovery may be had on the bond in the name of the state as in the case of other bonds or undertakings given by the accused in criminal proceedings within this state.

s 7-3-219 Procedure where criminal prosecution pending against accused in state.

If a criminal prosecution has been instituted against the person under the laws of this state and is still pending, the governor at his discretion either may surrender him on the demand of the executive authority of another state, or may hold him until he has been tried and discharged, or convicted and punished in this state.

s 7-3-220 Inquiry into guilt or innocence of accused.

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 as provided by W.S. 7-3-203 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.

s 7-3-221 Recall of, or issuance of new, warrant.

The governor may recall his warrant of arrest, or may issue another warrant whenever he deems proper.

s 7-3-222 Demand that accused be returned to this state; issuance of warrant.

(a) Upon receipt of an application as provided by W.S. 7-3-223, the governor of this state may demand a person charged with crime in this state, or with violation of parole, from the chief executive 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.

(b) The governor shall issue a warrant under the seal of this state, to some agent, commending 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.

s 7-3-223 Application for return of accused to this state.

(a) When the return to this state of a person charged with crime in this state is required, the district attorney for the county in which the offense is committed shall present to the governor a written application for a requisition for the return of the person charged. The application shall state:

- (i) The name of the person charged;
- (ii) The crime charged against him;
- (iii) The approximate time, place and circumstances of the commission of the crime; and
- (iv) The state and address or location where the accused is believed to be at the time the application is made.

(b) As part of the application under subsection (a) of this section the district attorney shall certify that in his opinion justice requires the arrest and return of the accused to this state for trial, and that the proceeding is not instituted to enforce a private claim.

(c) The application under subsection (a) of this section shall be verified by affidavit and shall be executed in duplicate. It shall be accompanied by two (2) certified copies of the indictment returned, or information filed, or of the complaint and affidavit made to the magistrate, stating the offense with which the accused is charged. The district attorney may also attach further affidavits and other documents in duplicate as he deems proper to be submitted with the application. One (1) copy of the application with the action of the governor indicated by his endorsement, and one (1) of the certified copies of the indictment, information or complaint and affidavit, shall be filed in the office of the secretary of state to remain of record in that office. The other copy of all papers shall be forwarded with the governor's requisition.

(d) When the return to this state of a person charged with violating the conditions of his parole is required, the chairman of the board of parole shall present to the governor a written application for a requisition for the return of the person charged with parole violation. The application shall state:

- (i) The name of the parolee;
- (ii) The parole violation charged against him;
- (iii) The approximate time, place and circumstances of the commission of the violation; and
- (iv) The state and address where the parolee is believed to be at the time the application is made.

(e) As part of the application under subsection (d) of this section the chairman of the board of parole shall certify that in his opinion justice requires the arrest and return of the parolee to this state for hearing before the board of parole and that the proceeding is not instituted to enforce a private claim.

(f) The application under subsection (d) of this section shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two (2) certified copies of the judgment and sentence, parole grant, parole agreement, recommendation for revocation of parole and order of arrest issued by the board of parole. The chairman of the board of parole may also attach further affidavits and other documents in duplicate as he deems proper to be submitted with the application. One (1) copy of the application with the action of the governor indicated by his endorsement, and one (1) of the certified copies required by this subsection, shall be filed in the office of the secretary of state to remain of record in that office. The other copy of all papers shall be forwarded with the governor's requisition.

s 7-3-224 Payment of expenses for return of accused to this state.

(a) The state shall pay the expenses involved in the return to this state of a person charged with violating the terms of his parole or who has escaped from a state penal institution or who has escaped from a corrections program provided for inmates of a state penal institution other than a defendant serving a split sentence of incarceration under W.S. 7-13-107. In all other cases the expenses of extradition shall be paid by the county applying for the return of the person.

(b) Expenses authorized under this section include the fees paid to the officers of the state on whose governor the requisition is made, and mileage for all necessary travel in returning the person not exceeding the rate set in