Maryland
Extradition Manual

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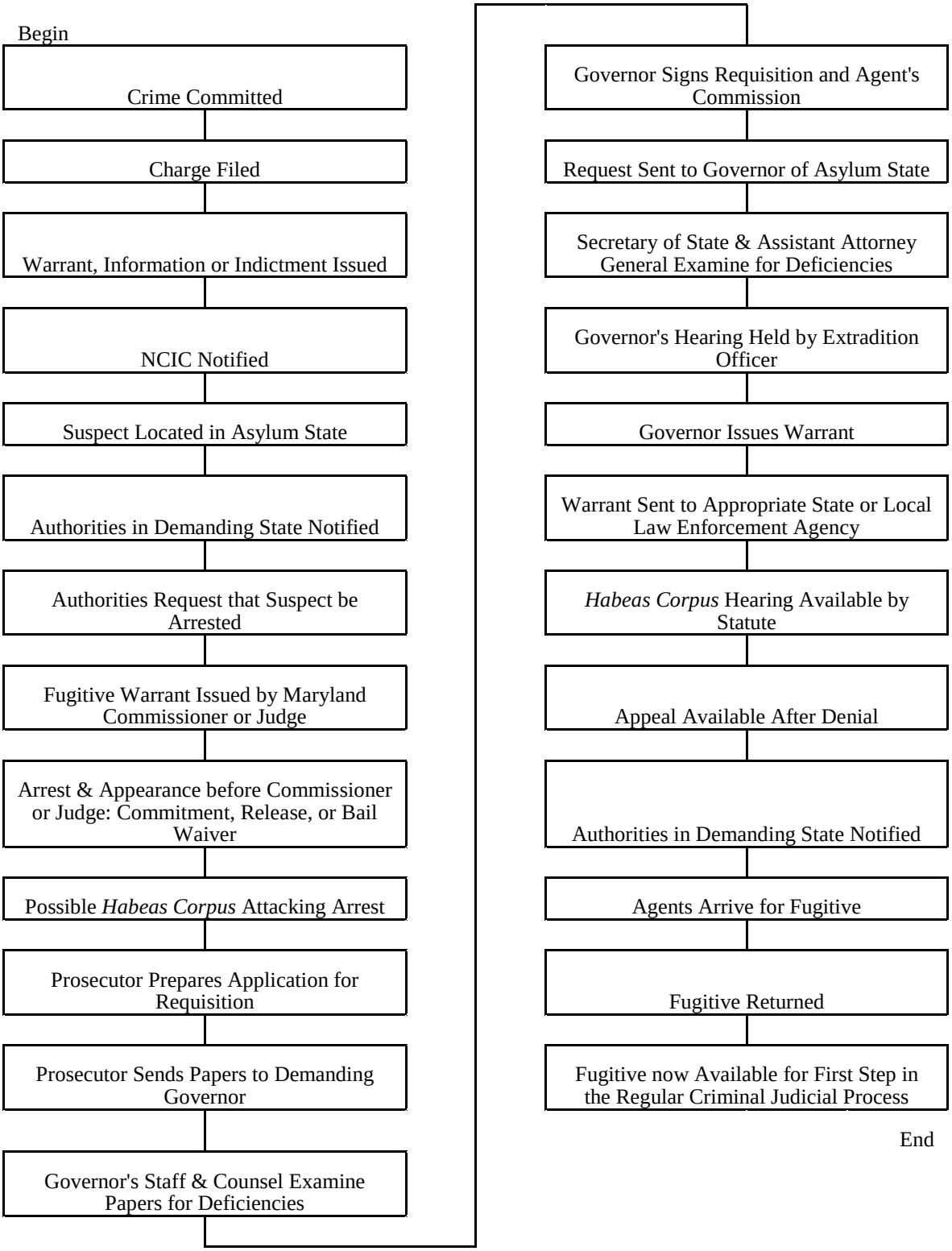

UNIFORM CRIMINAL EXTRADITION ACT - GENERAL INFORMATION

I. Useful Definitions

A. **Agent's Commission** - The formal papers, prepared by the Governor of the demanding state, designating named individuals to travel to the asylum state and return with the fugitive.

B. **Asylum State** - Where the fugitive or defendant has taken refuge or is found.

C. **Demanding State** - The state which seeks to extradite the fugitive.

D. **Detainer** - A request by a criminal justice agency to an institution holding a prisoner that the agency be notified when the prisoner's release is imminent.

E. **Executive Authority** - Includes the Governor and any person assisting in the functions of the executive branch in a state or territory other than this State.[1]

F. **Extradition** - The surrender by one state or nation to another of an individual accused or convicted of an offense outside the territory of the asylum state, and within the territorial jurisdiction of the demanding state, which, being competent to try and punish him, demands the surrender.

G. **Fugitive, Fugitive from Justice** - "Fugitive" includes all those who are subject to extradition. "Fugitive from Justice," in the narrow sense, is a person who, while bodily present in the demanding state, commits a crime therein, and thereafter "flees" from the justice of that state. Conscious flight to avoid prosecution is not necessary.[2]

H. **Fugitive Warrant** - The authority for detaining the fugitive in the asylum state pending the issuance of the Governor's Warrant.

I. **Governor's Warrant** - The warrant issued by the Governor of the asylum state directing that the fugitive be arrested and detained pending the arrival of the agent of the demanding state.

J. **Rendition** - The return of such individual to the demanding state or nation.

K. **Requisition** - the formal request made by the Governor of the demanding state upon the Governor of the asylum state for the return of the fugitive.

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[1] MD. CODE ANN., CRIM. PROC. § 9-101.

[2] *Lincoln v. State*, 199 Md. 194, 85 A.2d 765 (1952).

II. Sources of Law

A. The source of all extradition law is the **United States Constitution, Article IV, Section 2, Clause 2**, which provides:

> "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 the 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."

B. Chiefly because the Constitutional provision requiring extradition included no machinery for its execution, Congress in 1793 enacted an implementing statute **18 United States Code § 3182**, which provided:

> "Whenever the executive authority of any State or Territory demands any person as a fugitive from justice, of the executive authority of any State, District or Territory to which such person has fled, and produces a copy of an indictment found or an affidavit made before a magistrate of any State or Territory, charging the person demanded with having committed treason, felony, or other crime, certified as authentic by the governor or chief magistrate of the State or Territory from whence the person so charged has fled shall cause him to be arrested and secured, and notify the executive authority making such demand, or the agent of such authority appointed to receive the fugitive, and shall cause the fugitive to be delivered to such agent when he shall appear. If no such agent appears within thirty days from the time of the arrest, the prisoner is to be discharged."

Together, the constitutional and federal statutory provisions are referred to as the **Federal Act**. Note that the Federal Act governs extradition between states or between a territory or district and a state. The act has no application to the transfer of individuals between a state and a federal jurisdiction. Note also that the Constitution provides for extradition for "treason, felony or other crime," thus including misdemeanors.

The Supreme Court has said that insofar as the Federal Act applies to any given extradition, it controls, and while states may provide for extradition in situations not governed by federal law, they may not impose undue restrictions upon the constitutional rights of sister states to seek extradition under federal law.

C. Over time, each state developed its own peculiar set of rules with which another state had to comply in order to extradite a person from that state. The **Uniform Criminal Extradition Act** (UCEA) was proposed in an effort to reduce confusion and uncertainty about what was required by the various states.

The major distinctions between UCEA and the Federal Act are:

1. A specific provision is made for the extradition of a convicted person in that a requisition is sufficient if it is supported by a certified copy of a judgment or sentence together with a statement by the executive authority of the demanding state that the person has escaped or violated the terms of his parole or probation;

2. Extradition is now possible even though the accused was never personally present in the demanding state, since he may be extradited if he did acts outside that state intentionally resulting in a crime in the demanding state;

3. Procedures have been established for the orderly rendition of a fugitive requiring an arraignment and an opportunity to petition for a writ of habeas corpus; and

4. Procedures have been established for the detention of a fugitive for a period of time to allow the respective Governors to issue their requisitions and rendition warrants.

D. International extradition is governed wholly by federal law, and all requests for extradition from foreign countries must be coordinated through the United States Department of Justice, Criminal Division, Office of International Affairs. Requests for the extradition of persons by foreign governments shall be determined in the first instance by a judge or magistrate, but the ultimate decision to extradite is ordinarily a matter for the Executive.

III. History

During early colonial days, Governors of the various New England colonies honored each other's requests for the return of fugitives. The success of this cooperation was an inducement for the adoption of the Articles of Confederation by the United States in 1777. These articles did not completely resolve the problems of Extradition, and in September of 1787 the Constitution of the United States was adopted, substantially embracing the language of the earlier Articles.

Chiefly because the Constitutional provision requiring extradition included no machinery for its execution, Congress in 1793 enacted statutory provisions[3] which, in concert with the U.S. Constitution, continue to form the basis for interstate rendition today.[4]

Since the 1793 Congressional enactment did not cover all exigencies that arose, states retained the right to implement additional procedures for applying the Constitutional directive which were not contrary to the federal law. Accordingly,

[3] Now codified in 18 U.S.C. §§ 3182, 3194, and 3195 (1970). See Appendix C for text.

[4] 18 U.S.C. § 3195 (1970).

the states legislated - a) the method of applying for the writ of *habeas corpus*; b) the method of arrest and detention of the fugitive before the extradition demand; c) the mode of preliminary trial; d) the manner of applying for the requisition; e) the extent of asylum allowed a prisoner when brought back to the state from which he has fled; f) the prisoner's exemption from civil process; and g) other points less important that have always been regulated by local law. Many other subjects related to the extradition process have been reflected in diversified legislation and judicial decisions in the various states.

Eventually, each state developed its own peculiar set of rules with which another state had to comply in order to extradite a person from that state. In an effort to reduce the confusion and uncertainty about what was required by the various states, the Commissioners on Uniform State Laws prepared an act embracing the best features of the numerous state laws and the applicable judicial law and offered it as a uniform law for all the states to adopt. This Law, entitled the "Uniform Criminal Extradition Act," has now been adopted in whole or in part by 47 states, the District of Columbia, the Panama Canal Zone, Puerto Rico, and the Virgin Islands.[5] Only Louisiana, Mississippi and South Carolina have not adopted the UCEA. The law was enacted in Maryland in 1937 and is now codified in Annotated Code of Maryland, Criminal Procedure, Title 9.

IV. Reference Materials on Extradition

A. Narrative discussion of extradition may be found in any of the following: 21 Cal. Jr. 2d *Extradition*, pages 615-56; 31 Am. Jur. 2d *Extradition*, pages 924-81; 35 C.J.S. *Extradition*, pages 379-478; "Handbook on Interstate Crime Control" (Council of State Governments) (1966) pages 128-57.

B. Cases dealing with extradition may be found in any of the following:

1. Annotated Code of Maryland, Criminal Procedure § 9-101.

2. Title 18, United States Code Annotated § 3182.

3. Volume 11, Uniform Laws Annotated, pages 51-304.

4. Under the topical heading "Extradition and Detainers" in any of the digests, including McKinney's, Federal Practice Digest, the Decennials, and the United States Supreme Court Digest (Lawyer's Edition).

5. In any of the West Digests under the following key numbers within the general topic heading "Habeas Corpus:" 21; 45.3(5); 85.2(4); 85.8; 90; 92(2); 103; 117(2).

[5] Statutory citations are listed in Appendix A.

C. The National Association of Extradition Officials publishes a limited number of law reports each year consisting of an accumulation of extradition cases decided within the preceding year. As members of the Association, Attorneys General and Governors receive a copy of the report and may be contacted for assistance in locating recent cases through reference to that report.

V. Persons Subject to Extradition

A. **Fugitives from Justice**[6] - This class of persons generally covers those who commit a crime in one state and thereafter flee to another (asylum) state. The U.S. Constitution and the federal statutes provide for the extradition of those who "flee from justice"[7] and of those who are "fugitives from justice,"[8] respectively. Thus, anyone who commits a crime and leaves the state may be extradited. This includes not only those who are charged with crime, but also those who are escaped convicts or who violated their probation, parole, or bail terms.

B. **Persons Leaving the Demanding State Involuntarily**[9] - This class covers those who cannot technically be called "fugitives from justice" because they did not leave the demanding state under their own free will. This would include those who commit a crime and depart from the state, for instance, under the legal compulsion of an extradition proceeding for another crime and are imprisoned in another state. Extradition of these persons was not possible before the passage of the Uniform Act.

C. **Persons Committing Crimes Against the Laws of the Demanding State by Acts Done Outside of that State**[10] - Persons included in this class have committed an act outside the state intentionally resulting in the commission of crime within the state. For example, those who conspire in one state to commit crime in a second state[11] or who initiate action in one state that has an illegal effect in another state may be extradited to that second state.

NOTE - The extradition of persons in classes 2 and 3 above is pursuant only to the Uniform Act and is wholly dependent for its effectiveness on comity between the states. The U.S. Constitution and the federal statutes do not put any obligations on

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[6] MD. CODE ANN., CRIM. PROC. § 9-102.

[7] U.S. CONST. art. IV, § 2.

[8] 18 U.S.C. § 3182 (1970).

[9] MD. CODE ANN., CRIM. PROC. § 9-105.

[10] *Id.* § 9-106.

[11] *State ex rel. Gildar v. Kriss*, 191 Md. 568, 62 A.2d 568 (1948).

states to extradite individuals other than "fugitives from justice." However, they do not prohibit these states from cooperating in the extradition of criminals.[12]

VI. Extraditable Offenses

A. **Generally** - Extradition is authorized for "treason, felony, or other crime,"[13] or more simply, for "crime."[14] Therefore, a fugitive may be extradited for any offense made punishable by the law of the demanding state, including misdemeanors, regardless of whether the offense is also against the law of the asylum state.[15]

B. **Misdemeanors** - Applications and demands for minor misdemeanors are not encouraged; however, each case will stand on its own merits, and in appropriate circumstances, extradition papers involving misdemeanors will be processed.

C. **Offenses Which Are Actually Civil in Nature** - The criminal extradition process cannot be used for private purpose or to aid in the collection of a debt.[16]

1. ***Nonsupport*** - Remedies under "Uniform Interstate Family Support Act" **must** reasonably be exhausted before requisition will be processed.[17]

2. ***Child Stealing*** - Each case must stand on its own merits.[18]

3. ***Bad Checks*** - There are two types of cases which arise: chronic and non-habitual. The first involves those who are chronic violators with a long history of criminal activity, and extradition requisition is justified. The

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[12] *Innes v. Tobin*, 240 U.S. 127, 36 S. Ct. 290, 60 L. Ed. 560 (1916); *Hyatt v. New York ex rel. Corkran*, 188 U.S. 691, 23 S. Ct. 452, 47 L. Ed. 651 (1902); *Clipper v. State*, 295 Md. 303, 455 A.2d 973 (1983); *Gildar*, 191 Md. 568; *Utt v. Warden, Baltimore City Jail*, 48 Md. App. 486, 427 A.2d 1092 (1981).

[13] U.S. CONST. art. IV, § 2; 18 U.S.C. § 3182 (1970); MD. CODE ANN., CRIM. PROC. § 9-102.

[14] MD. CODE ANN., CRIM. PROC. §§ 9-105 and 9-106.

[15] *California v. Superior Court of California*, 482 U.S. 400 (1987), 107 S. Ct. 2433; *Kentucky v. Dennison*, 65 U.S. (24 How.) 66, 16 L. Ed. 717 (1861).

[16] MD. CODE ANN., CRIM. PROC. § 9-123.

[17] *See* MD. CODE ANN., FAM. LAW §§ 10-305 and 10-306.

[18] *See* Federal Parental Kidnapping Prevention Act of 1980, 28 U.S.C. § 1783A (1980); Maryland Uniform Child Custody Jurisdiction Act, MD. CODE ANN., FAM. LAW § 9-201 *et seq.*; MD. CODE ANN., FAM. LAW § 9-301 *et seq*.

second involves the non-habitual individual who has written a bad check (insufficient funds). This check has been accepted by a merchant who usually acknowledges that, as a business risk, he will sustain a certain amount of loss due to bad checks. It is in this situation that extradition can become a collection process. Restitution, when feasible, should be encouraged, and unless there are **extraordinary** circumstances, extradition may be denied.

4. ***Removal of Mortgaged Property*** **-** These cases are often similar to the second type of check case in that restitution and not criminal prosecution often satisfies the real interest of the complainant. The property involved is typically automobiles, trailers, television sets, or furniture. If the accused has made regular payments and perhaps owes only a reasonable balance, restitution should be encouraged and extradition denied.

   If the accused has purchased a vehicle or merchandise and departed the jurisdiction without making any payments, extradition should be considered.

5. ***Rental Property*** **-** The intent of the individual is often the key to disposition in these cases, which usually involve rental cars. Ascertaining intent may be complicated by oral representations made by the agent of the complainant, often appearing to give permission to the accused to extend the terms of the rental contract. If such is the situation and the accused fails to return the property, and it can be located undamaged and there was no intent to steal, extradition should not issue. However, if the accused rented the property and left the jurisdiction immediately for parts unknown, extradition will probably be required. Local prosecutors should investigate all pertinent facts before applying for requisition, and the Governor's extradition officer should confirm such an investigation has taken place.

UNIFORM CRIMINAL EXTRADITION ACT - PROCEDURES

I. Summary

A. Basic Steps

1. ***Fugitive Location and Arrest*** **-** Location and arrest of the fugitive in the asylum state by that state's officers. In Maryland, fugitives can be arrested with or without a Maryland fugitive warrant pursuant to provisions in the Maryland Code.[19]

2. ***Demanding Governor's Documents*** **-** Prosecutor's or other authority's application to the Governor of the demanding state for issuance of the *Requisition* and *Agent's Commission*, and subsequent issuance thereof by the demanding state Governor.

3. ***Documents to Asylum Governor*** **-** Presentation of these documents to the asylum state Governor and approval of the papers by his Secretary of State and a representative of the Attorney General.

4. ***Hearing by Asylum State*** **-** A hearing may be held on behalf of the asylum state Governor by his extradition hearing officer. In Maryland, this hearing is discretionary.

5. ***Warrant of Rendition and Arrest*** **-** Issuance of Warrant of Rendition by the asylum state Governor and arrest of the fugitive pursuant to this warrant.

6. ***Habeas Corpus Petition; Appeal*** **-** *Habeas corpus* proceeding in the asylum state is available to test the sufficiency of the Governor's Warrant. If the petition for *habeas corpus* relief is denied, the right to appeal to the Court of Special Appeals is provided by statute. A fugitive cannot be returned to the demanding state until the time for appeal has expired.

7. ***Fugitive Release to Demand State*** **-** Release of the fugitive to named agents of the demanding state.

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[19] MD. CODE ANN., CRIM. PROC. §§ 9-113 and 9-114. See the *Flow Chart* in front of manual following the Table of Contents.

B. **Waiver of Extradition Proceedings** - An individual may waive the extradition process and consent to voluntary return to the demanding state.[20] This decision may be made by the accused at any time but must be in writing and executed before a judge of a court of record. The writing must contain a consent to return to the demanding state. [21] Before the judge can accept the waiver, he must inform the accused of the right to the issuance of a Governor's Warrant of Rendition and the right to petition for a Writ of *habeas corpus.* Once such a waiver is executed, the fugitive is in the same legal position as if a Governor's warrant had been served. Thus, he should not be released on bail, at least not without the consent of the officials from both states. Likewise, the court should not permit the fugitive to return voluntarily to the demanding state unless the demanding state officials have consented. Thereafter, the individual is delivered to the custody of the agents named in the Agent's Commission from the demanding state, or is detained pending arrival of the agents for a period not to exceed 30 days from the date of waiver.

Waiver of extradition may play an important part in granting parole and is considered to be a valid condition of parole. In Maryland, a parolee's blanket waiver of extradition to the parole-granting state is enforceable.[22]

II. Procedures for Return of Fugitive to Maryland

A. **The Decision to Extradite** - Because the extradition process is a lengthy and costly one, an application for requisition should be made to the Governor only after evaluation of a number of factors as listed below:[23]

1. The basic circumstances;

2. The character of the offense;

3. The magnitude of the offense;

4. The evidence by which it is claimed that the crime may be proven;

5. The substantive and procedural law applicable to the circumstances;

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[20] MD. CODE ANN., CRIM. PROC. § 9-124.

[21] See Appendix B for sample form.

[22] *White v. Hall*, 15 Md. App. 446, 291 A.2d 694 (1972).

[23] The decision to extradite is within the discretion of the state where the crime was committed; there is no constitutional or statutory duty to seek extradition. *Moody v. Consentino*, 843 P.2d 1355 (Colo. 1993). Defendant cannot compel extradition. *Aycox v. Lytle* 196 F.3d 1174 (10th Cir. 1999).

6. The character of the accused;

7. The number of prior convictions and the nature of the crimes involved;

8. The probability of his committing similar crimes in other communities; and

9. The probable length of time he will be incarcerated and the effect of imprisonment upon the defendant after his release in deterring acts of crime in the state.

These factors should be weighed against:

10. The probability of a Warrant of Rendition being authorized by the Governor of the asylum state;

11. The financial cost of the accused's return for prosecution; and

12. The effect of a refusal upon those who may contemplate the commission of a crime in the community.

B. **Application**

1. All statutory requirements as to contents of applications are contained in MD. CODE ANN., CRIM. PROC. § 9-123.

2. All required documents discussed below should be submitted to the Governor's Office in triplicate unless the asylum state requires extra copies. See Appendix B for a listing of the numbers of sets of documents required by the various states. They should be addressed:

Extraditions Coordinator
Office of the Secretary of State
State House
Annapolis, Maryland 21401
(410) 260-3879
mschlein@sos.state.md.us

3. If there is a decision to extradite, the statutorily designated prosecuting or custodial authority initiates the action by making a written application to the demanding Governor.

a. *Fugitive sought on criminal charges* - Standard forms for use in making application are found in Appendix B. The application is filed by the appropriate county or Baltimore City State's Attorney and must include:

(1) The name and aliases of the person;

(2) The crime for which he is charged;

(3) The approximate time, place, and circumstances of its commission;

(4) The state in which the accused is believed to be, including his location within the state at the time the application is made;

(5) A certification that, in the State's Attorney's opinion, the ends of justice require the arrest and return of the accused to Maryland for trial and that the proceeding is not instituted to enforce a private claim;

(6) A recommendation of a person or persons to be appointed as agent; **at least one agent must be the same sex as the fugitive**;

(7) The notarized signature of the State's Attorney or authority requesting extradition.

b. *Fugitive sought after escape from confinement, breach of bail, or violation of probation or parole* - here the fugitive has escaped from confinement or has broken the terms of bail, probation or parole. The application may be filed by the State's Attorney, the parole board, the warden of the correctional institution, or the sheriff of the county from which escape was made. The contents of the application are:

(1) The name of the person;

(2) The crime of which he was convicted, fully documented, and the circumstances of his escape from confinement or of the breach of his bail, probation or parole; and

(3) The state in which he is believed to be, including the location within the state at the time application is made.

4. ***Verification by Affidavit*** - In all cases, the application must be verified by affidavit. This affidavit may be sworn to before a notary public, whose commission is then certified by the clerk of the court.

5. ***Accompanying Documents*** - With the application and verifying affidavit, a certified copy of the following documents **must** be submitted with the docket entries in the case:

   a. The indictment (presentment) returned by the Grand Jury.

   b. The information and affidavit filed. The affidavit accompanying the information must be signed by the affiant, and positively charge the commission of crime by the fugitive.[24]

   c. The complaint (affidavit, application for arrest warrant) made to the judge, magistrate or District Court Commissioner stating the offense with which the accused is charged. It is desirable that the contents of the affidavit include recitation of facts, not conclusions of law, and not the bare conclusory language of the statute. An affidavit made before a magistrate may be a complaint. However, in order for a complaint to qualify, it must be subscribed and sworn before a judge, magistrate, or District Court Commissioner. As a general rule, the judge's, magistrate's, or District Court Commissioner's signature should appear on the complaint. To comply with this requirement it may be necessary to file an amended complaint for the purpose of extradition. Judicial review of documentation in asylum state for probable cause is limited.[25]

   d. The judgment of conviction or of the sentence.

   e. The parole, probation, or bail bond documents.

   NOTE - With respect to the last two, certified copies of the original indictment, information, and affidavit, or complaint, will be helpful in case of defect in the other instruments and should be submitted, if available. However, it is not mandatory that the charging papers accompany the extradition when there has been a conviction.[26] It **must** be submitted if the **original charges** are used as the basis of the extradition request, rather than an escape charge.

6. ***Certification*** - A certification as to the genuineness of documents and signatures must be made. Additionally, the signature of the certifying officer must itself be verified. This is best accomplished by having the

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[24] MD. CODE ANN., CRIM. PROC. § 9-123.

[25] *Michigan v. Doran*, 439 U.S. 282, 99 S. Ct. 530, 58 L. Ed. 2d 521 (1978); *Statchuk v. Warden, Maryland Penitentiary*, 53 Md. App. 680, 455 A.2d 1000 (1983).

[26] *White*, 15 Md. App. 446.

clerk of the court make the original certification, with the judge certifying the propriety of the clerk's certification. Finally, the clerk must certify the judge's authority.[27]

7. ***Additional Supportive Material*** - The documents enumerated above are those that must be prepared by the requesting authority pursuant to the statute. However, there are additional items necessary to secure extradition:

   a. Affidavits from any persons who are familiar with the details of the crime and who can thus corroborate the allegations made in the complaint or indictment. This would include affidavits of investigating police officers, victims, and other eyewitnesses.

   b. A **photograph** of the fugitive **together with an affidavit** that the person there depicted is the one who is charged with the crime. Photographs are available from penal authorities in escape cases. In other cases, a photograph may be supplied by the law enforcement agency in the asylum state. An identity-confirming affidavit may then be supplied by Maryland officers or witnesses.

   c. Fingerprints of the accused taken **prior** to the fugitive's arrest in the asylum state.

   d. A copy of the **criminal statute** under which the accused is charged. This affords the Governor of the asylum state easy reference to the statute involved and assists in determining whether or not the papers substantially charge a violation of such statute.

   e. A copy of federal and/or local **information sheets** with details as to the accused's criminal record.

C. **Executive Procedures**

1. ***Review by Secretary of State:***

   a. All documents are received by the Governor's Office and reviewed by the Office of the Secretary of State to check:

      (1) Whether they are in proper form and properly executed;

      (2) Whether the fugitive's identity is clear photographic documentation of identity is invaluable); and

[27] See Appendix B for sample.

(3) Whether additional documentation is needed.

b. This review is important because deficiencies will result in return of the papers by the asylum state and consequent delay that could cause release of the fugitive in an asylum state.

2. ***Requisition*** - After review and approval by the Secretary of State's Office, the Governor issues his Requisition and Agent's Commission.[28] The Requisition includes:

a. Copies of the application and supporting papers.

b. A demand to the Governor of the asylum state that the fugitive be surrendered to the authorized agent of the demanding state.

c. A certification by the Governor that the application and attached papers are authentic and a statement that the named fugitive stands charged by indictment, warrant, and affidavit, or information and affidavit of the named crime.

NOTES - 1) South Carolina law requires that the requisition from the demanding state must be received within 20 days after arrest of the fugitive. 2) The District of Columbia requires that the requisition from the demanding state must be received by the 30-day hearing or the fugitive case will be dismissed.

3. ***Agent's Commission*** - The Agent's Commission is the Governor's appointment of the person nominated as agent with an authorization for him to receive and return the named fugitive to the demanding state.

D. **Documents to Asylum Governor; Hearing** - When the Requisition and Agent's Commission are received by the Governor of the asylum state, they are usually examined by that office and by his attorney or the Attorney General to determine whether they conform to the applicable requirements of the law of the demanding and asylum states.

After approval of the papers, asylum states may act differently relative to the holding of an executive hearing.[29]

1. ***Protest*** - In some states, if the fugitive or his attorney files a protest against the granting of extradition, the asylum state Governor will most likely set the matter down for a hearing. If there is no protest filed, the

[28] MD. CODE ANN., CRIM. PROC. § 9-122.

[29] See Section III.F for details as to the nature of this hearing in Maryland.

Governor will normally issue the Warrant of Rendition without hearing, and the warrant is subsequently executed.

2. ***Hearing Option*** - A hearing sometimes is held as a matter of executive discretion, regardless of request.

E. **Asylum Governor's Warrant of Rendition** - If extradition is granted, the asylum Governor's Warrant of Rendition issues and an arrest is made pursuant to a warrant by local law enforcement authorities.

This Warrant is the demanding state's agent's authority to receive the fugitive and to remove him from the asylum state. However, in jurisdictions adopting the Uniform Criminal Extradition Act, the fugitive must be taken before a judge of a court of record before he is transported from the state. It is the judge's duty to inform the fugitive that he has the statutory right to counsel and to institute *habeas corpus* proceedings. If *habeas corpus* proceedings are instituted, the agent may not remove the fugitive from the asylum state until the courts pass upon the legality of the issuance of the Governor's Warrant of Rendition.

F. ***Habeas Corpus*** - If the fugitive desires to apply for a Writ of *Habeas Corpus* to test the legality of the Governor's Warrant, the judge will usually fix a reasonable time for the application.[30] As in all proceedings in the asylum state, guilt or innocence is not an issue,[31] and the only issues that generally may be raised before the court are:

1. Whether the extradition papers are legally sufficient.

2. Whether the accused is substantially charged with a crime under the laws of the demanding state.

3. Whether the person in custody is the person charged.

4. Whether the accused is a fugitive from justice or is otherwise properly sought under the uniform law.

Maryland's (demand state) interests at this hearing are usually represented by police officers and prosecutors in the asylum state.

G. **Return of Fugitive to Maryland** - The agent designated by Maryland to return the fugitive must appear in the asylum state within 30 days from the time of the arrest on the Governor's Warrant or from the time when the issue of the legality of that Warrant is finally settled by *habeas corpus* and/or appellate proceedings. If

[30] See Section III.G, H, & I for additional details.

[31] MD. CODE ANN., CRIM. PROC. § 9-120.

no agent appears within that time period, the fugitive may be discharged.[32] However, should Maryland's agent fail to appear, that does not affect this state's ultimate right to have him returned.[33] The Governor's Warrant may be reissued or extradition attempted again. Agents are authorized by the Uniform Act to make use of other jails en route.[34]

Once the fugitive is back in the demanding state, either as a result of extradition or waiver, he may be tried for any other crimes charged there.[35] However, extradited persons are immune from service of process in civil actions.[36]

III. Procedures for Extradition of Fugitive from Maryland

At the outset, emphasis must be placed on the importance of complying with the statutory requirements of the asylum state.

A Tenth Circuit decision held that there is a cause of action under the federal *Civil Rights Act*, 42 U.S.C. § 1983 (1970), for abuse of the extradition power by noncompliance with the applicable law.[37] Specifically, the individual alleged that he was arrested without a warrant, was never taken before a judicial officer, and was never allowed counsel, although he made such a request. The cause of action was held to be valid against the county sheriff and police officers, although not against the acting Governor and county attorney.[38]

A. **Steps Leading to Issuance of the Fugitive Warrant** - The events leading to the application for a local warrant can occur in a number of ways. Often an individual is apprehended on local charges, and the out-of-state charges are discovered in the process of routine NCIC checks. The out-of-state law enforcement officials are then contacted so that they may take the necessary preliminary steps toward extradition. Sometimes the demanding state will initiate action in Maryland by notifying law enforcement authorities of the fugitive's presence in the state and forwarding information necessary to have a fugitive warrant issued. Such information might consist of a copy of the warrant issued in the demanding state,

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[32] 18 U.S.C. § 3182 (1970).

[33] MD. CODE ANN., CRIM. PROC. § 9-121.

[34] *Id.* § 9-112.

[35] *Id.* § 9-126.

[36] *Id.* § 9-123(a)(3).

[37] *Sanders v. Conine*, 506 F.2d 530 (10th Cir. 1974).

[38] *See also Wirth v. Surles*, 562 F.2d 319 (4th Cir. 1977).

conviction and sentence documents, and telecommunicated information sufficient to establish a basis for a commissioner or judge to issue a Maryland fugitive warrant. Under certain circumstances arrest without warrant is authorized.[39]

B. **Arrest with Warrant** - There are two ways in which the fugitive warrant can be sought:[40]

1. On oath of the officer charging the individual before a judge or District Court Commissioner; or

2. By a complaint before a judge or Commissioner based on an out-of-state affidavit.

If the legality of the fugitive arrest is to be questioned by *habeas corpus* proceeding, it must be done so immediately. An invalid arrest does not invalidate arrest under the later-issued Governor's Warrant.[41]

C. **Arrest without Warrant** - Arrest without a warrant may be effected upon reasonable information that the accused stands charged in a state with crime punishable by death or imprisonment for a term exceeding one year.[42]

D. **Judicial Hearing** - After the fugitive warrant is issued and the accused is apprehended, he must be brought before the court relative to the fugitive charge against him.[43] If it appears to the court that the accused is the person charged and that he has fled from justice or is otherwise properly sought under the law,[44] there are two alternatives for disposition:[45]

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[39] MD. CODE ANN., CRIM. PROC. § 9-114.

[40] *Id.* § 9-113.

[41] *Bryson v. Warden, Baltimore City Jail*, 287 Md. 467, 413 A.2d 554 (1980); *Miller v. Warden, Baltimore City Jail*, 14 Md. App. 377, 287 A.2d 57 (1972); *Ray v. Warden, Baltimore City Jail*, 13 Md. App. 61, 281 A.2d 125 (1971).

[42] MD. CODE ANN., CRIM. PROC. § 9-114.

[43] *Id.* § 9-113.

[44] *Id.*

[45] *Id.* 9-115.

1. He may be committed to jail on the fugitive warrant for a period of 30 days to await a Governor's Warrant, which may be extended for an additional 60 days;[46] or

2. He may be released on bail.

   a. *Bail*[47] - Bail is permissible in any case **except those in which an offense is punishable by death or life imprisonment, according to the laws of the demanding state**. The court may admit the accused to bail on two conditions:

      (1) His appearance before the court at a time specified in the bond; or

      (2) His surrender for arrest upon the Governor's Warrant of Rendition.

      The amount of the bond and the sufficiency of the sureties are within the court's discretion, subject to the right of the accused to petition for a Writ of *habeas corpus*.[48] Forfeiture of the bond occurs when the accused fails to meet the conditions, and the individual is then subject to arrest without warrant on order of the court. The State may then recover the bond.[49]

      NOTE - It is **important** to be aware of the **limitations** placed on law enforcement officials in contrast with the authority held by a bondsman. Should the individual "skip bail," a bondsman has a right to pursue his "principal" into a state other than the one where the bond was executed and apprehend him for the purpose of return to the state from which he fled.[50] State law enforcement officials, of course, cannot do this and are bound by extradition law in

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[46] *Id.* § 9-117.

[47] *Id.* § 9-116.

[48] MD. CODE ANN., CTS. & JUD. PROC. § 3-701; *Lewis v. Warden, Md. House of Corr.*, 16 Md. App. 339, 296 A.2d 428 (1972).

[49] MD. CODE ANN., CRIM. PROC. § 9-118.

[50] *Taylor v. Taintor*, 83 U.S. (16 Wall.) 366 (1872); *see also United States v. Goodwin*, 440 F.2d 1152 (3d Cir. 1971); *Fitzpatrick v. Williams*, 46 F.2d 40 (5th Cir. 1931); *Maynard v. Kear*, 474 F. Supp. 794 (N.D. Ohio 1979).

recapturing fugitives. On the other hand, once the bail principal is in the custody of law enforcement officials, the bondsman cannot exercise authority over him, and no fugitive in such custody should be turned over to a bondsman.[51]

b. *Right to Counsel* - In Maryland, there is no recognized right to counsel at the preliminary District Court hearing stage of the extradition process.

c. *Waiver of Extradition* - If there is to be a waiver of extradition, it frequently takes place prior to, or at, a District Court hearing. The agreement **must be in writing** and be executed before a judge of a court of record, containing a fugitive's consent to return to the demanding state. There is statewide uniformity in the use of a waiver form.[52] Before the judge accepts the waiver, the accused must be informed of all of his rights in the extradition process.[53] It is statewide judicial policy that an out-of-state agent need not be present at a waiver hearing and is not required to come to this state until there is written execution of a waiver.[54] This avoids inconvenience and expense to the demanding state if the accused changes his mind at the waiver hearing.

d. *Reappearance Before Court* - Upon expiration of the time period specified in the fugitive warrant or bond, the accused is again brought before the District Court, and bail or commitment may be extended for an additional 60 days.[55] In most cases, the extradition process is completed before the expiration of the total 90-day period. Should the 90 days expire without a Governor's Warrant of Rendition being issued, the fugitive must be released unless he has signed a stipulation waiving the 90-day rule.[56] However, if he is confined for a period longer than 90 days and the Governor's Warrant is eventually issued, the Warrant is not invalidated by the

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[51] *See* cases cited *supra* note 50. Regarding a sheriff's liability for utilizing the services of a bail bondsman, see 61 Md. Op. Att'y Gen. 772 (1976).

[52] *See* Appendix B.

[53] MD. CODE ANN., CRIM. PROC. § 9-124.

[54] Action of Conference of Circuit Judges, May 21, 1979.

[55] MD. CODE ANN., CRIM. PROC. § 9-117.

[56] *See* Appendix B.

illegal confinement, and the issue becomes moot once the Warrant of Rendition is issued.[57] There need not be an effective fugitive warrant in existence when the Governor's Warrant is issued. Although the purpose of the 90-day statutory limit is to expedite the extradition process in the demanding states, the asylum state's issuance of a Rendition Warrant is not invalid in the absence of such fugitive warrant.[58]

E. **Governor's Receipt of Demanding State's Documents** - After the Governor receives the Requisition and Agent's Commission from the demanding state, they are examined for deficiencies by the Office of the Secretary of State and the Assistant Attorney General who serves as the Governor's extradition hearing officer and advisor.

F. **Governor's Hearing**

1. ***Discretionary in Maryland*** - The Uniform Criminal Extradition Act provides that a Governor **may** investigate the demand made upon him for the surrender of the individual charged with crime, utilizing the assistance of the Attorney General or any prosecuting officer in the state.[59] There is no constitutional right to an executive hearing.[60] In Maryland, a hearing is held as a matter of policy and it is conducted by a hearing officer who is appointed by the Attorney General.[61] Notification is given to the accused and/or his attorney of record that a hearing has been set and the conditions of such hearing.[62]

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[57] *Shields v. State*, 257 Md. 384, 263 A.2d 565 (1970) (citing *Illinois ex rel. Gummow v. Larson*, 35 Ill. 2d 280, 220 N.E.2d 165 (1966); *Willin v. Sheriff of Wicomico County*, 201 Md. 667, 95 A.2d 87 (1953)).

[58] *Miller v. Warden, Baltimore City Jail*, 14 Md. App. 377, 287 A.2d 57 (1972).

[59] MD. CODE ANN., CRIM. PROC. § 9-104.

[60] *Bryson v. Warden*, 287 Md. 467, 413 A.2d 554 (1980); *Haynes v. Sheriff of Washington County*, 253 Md. 278, 252 A.2d 807 (1969); *Willin*, 201 Md. 667; *Utt v. Warden, Baltimore City Jail*, 48 Md. App. 486, 427 A.2d 1092 (1981).

[61] *State ex rel. Zack v. Kriss*, 195 Md. 559, 564-65, 74 A.2d 25, 27 (1950) (holding that an Assistant Attorney General delegated by the Attorney General is a proper person to conduct the hearing); *Utt*, 48 Md. App. at 493 (explaining that executive hearings are given as a matter of policy, not by right, and conducted by a hearing officer appointed by the Attorney General)..

[62] *See* Appendix B.

2. ***Procedure Informal*** - The hearing procedure is informal and normal rules of evidence and procedure do not apply.[63] If the accused appears without counsel, his rights are explained to him by the hearing officer. There is no formal transcript; however, the accused may present witnesses on his behalf, and testimony may be submitted by affidavit. There may be stipulation between the alleged fugitive, and/or his counsel, and the Governor's representative wherein the fugitive agrees in writing not to invoke the 90-day rule[64] in order to allow the Governor's extradition hearing officer to conduct further investigation. A judicial officer's refusal to extend the 90-day period pursuant to the stipulation may, unfortunately, precipitate a Warrant of Rendition being issued before the investigation is completed. Legal and equitable defenses may be presented. The Governor's hearing may be the only forum where equitable defenses are heard.

3. ***Legal Issues*** - The legal issues at the hearing are the same as those that may be raised formally by the later *habeas corpus* petition.[65] Guilt or innocence is not a subject of inquiry at the hearing except as it may relate to the identity of the fugitive.[66]

4. ***Right to Counsel*** - There is no constitutional right or statutory provision for counsel, although an accused may retain counsel to represent him.[67]

G. **Issuance of Governor's Warrant**

1. ***Governor's Decision*** - Although the decision whether to extradite is within the sole power of the asylum state Governor, the U.S. Supreme Court has held that the duty to extradite is a Constitutional duty and may be enforceable in federal court.[68]

Once the Governor decides that the demand should be honored, the Code provides that he shall issue an arrest warrant and authorizes deliverance of

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[63] *Munsey v. Claugh*, 196 U.S. 364, 25 S. Ct. 382, 49 L. Ed. 515 (1905); *Shields*, 257 Md. 384; *Utt*, 48 Md. App. 486.

[64] MD. CODE ANN., CRIM. PROC. § 9-117.

[65] See discussions in following sections.

[66] MD. CODE ANN., CRIM. PROC. § 9-120.

[67] *Bartholomey v. State*, 260 Md. 504, 273 A.2d 164 (1971); *Utt*, 48 Md. App. 486; *see also* Mark S. Dachille, *An Indigent Accused Does Not Have a Constitutional Right to Appointed Counsel at Extradition Hearings: An Analytical Approach*, 13 U. BALT. L. REV. 74 (1983).

[68] *Puerto Rico v. Branstad*, 483 U.S. 219, 107 S. Ct. 2802 (1987).

the accused to the designated agent of the demanding state by the arresting Maryland law enforcement officer.[69]

2. ***Appearance Before Judge*** - Before the fugitive can be surrendered to the demanding state agent, he must be taken before a judge of a court of record.[70] The Code further sets forth a heavy penalty for non-compliance with this requirement, and such failure is a misdemeanor, for which a law enforcement officer may be fined up to $1,000 and/or face six months imprisonment.[71]

   This stage of the extradition process has been described as " . . . a judicial hearing to determine whether the accused should be surrendered."[72] The judge must inform the fugitive of:[73]

   a. The demand made for his surrender and the crime with which he is charged;

   b. The right to demand and procure legal counsel; and

   c. The right of the accused or his counsel to test by *habeas corpus* proceedings the legality of the arrest pursuant to the *Governor's Warrant of Rendition*.

3. ***Habeas Corpus Petition*** - If the fugitive desires to file a Petition for a Writ of *Habeas Corpus*, the judge fixes a reasonable time within which the petition must be filed. Because the issues that can be raised to challenge the extradition at this point are very limited, usually ten days is considered "reasonable" for this purpose. When applied for, notice of the time and place set for the hearing on the petition must also be given to the prosecuting officer of the local jurisdiction (where the arrest was made and where the accused is in custody) and to the agent of the demanding state.[74] The interests of the demanding state in this hearing are represented by the local State's Attorney's Office and police officers.

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[69] MD. CODE ANN., CRIM. PROC. §§ 9-107 and 9-109. *See* Appendix B.

[70] MD. CODE ANN., CRIM. PROC. § 9-110.

[71] *Id.* § 9-111.

[72] *Willin v. Sheriff of Wicomico County*, 201 Md. 667, 95 A.2d 87 (1953).

[73] *Id.* § 9-110.

[74] *Id.*

4. ***Right to Counsel*** **-** The Code clearly provides the right to demand and procure legal counsel, and the court will appoint counsel if a fugitive is indigent.[75] The right to counsel in a *habeas corpus* proceeding is statutory and is not constitutionally required.[76]

5. ***Bail*** **-** The Code is not specific with respect to the fugitive's right to bail after the issuance of the *Governor's Warrant of Rendition*.[77]

6. ***Appeal*** **-** If the Petition for Writ of *habeas corpus* is denied, the Code provides that an appeal therefrom may be taken to the Court of Special Appeals within a reasonable time as set by the judge.[78] Appeal was originally authorized to the Maryland Court of Appeals in 1970. The appellate provision is a Maryland statutory supplement to the Uniform Criminal Extradition Act since all states do not provide for such appellate review. Relative to this right to appeal, the U.S. District Court for Maryland has ruled that indigents cannot be denied an appeal solely because of lack of money to pay for a brief and such a denial would be a deprivation of Fourteenth Amendment rights.[79] On appeal, the Attorney General's Office represents the interests of the demanding state.

7. ***Thirty Days for Appearance of Demanding State's Agent*** **-** The demanding state's agent has 30 days from the time the Governor's Warrant is served to appear to take custody of the fugitive; otherwise, the fugitive may have cause to seek release.[80] **This 30-day limitation would be deferred when appeal is taken and reinstated when appellate relief is denied.**

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[75] *Id.*

[76] *See Utt v. Warden, Baltimore City Jail*, 48 Md. App. 486, 427 A.2d 1092 (1981); *Recent Developments—Right to Counsel—An Indigent Is Entitled to Court-Appointed Counsel in a Habeas Corpus Proceeding Under the Uniform Criminal Extradition Act*, 27 MD. L. REV. 430, 435 (1967).

[77] In most states, case or statutory law expressly precludes bail or other conditional release following service of the Governor's rendition warrant unless the court finds for the fugitive on any of the issues that may be raised to challenge extradition.

[78] MD. CODE ANN., CRIM. PROC. § 9-110.

[79] *Cohen v. Warden, Montgomery County Det. Ctr.*, 252 F. Supp. 666 (Dist. Ct. Md. 1966); *Utt*, 48 Md. App. 486.

[80] 18 U.S.C. § 3182 (1970).

8. ***Withdrawal of Governor's Warrant; Reissuance*** - The Governor has the authority to recall his Warrant or to re-issue another one should he deem it proper to do so.[81]

9. ***Effect of Pending Local Charges*** - It is within the Governor's discretion to withhold his Warrant of Rendition until local charges are disposed of, or he may honor the demand when made.[82] State's Attorneys should advise the Governor **in writing** whether local charges will be disposed of or will defer to extradition. Local police and sheriffs should **immediately advise the Governor** if local charges are pending when a fugitive warrant is required by the demanding state.

H. **Application for Writ of *Habeas Corpus***

1. ***Burden of Proof*** - At the hearing on the *habeas corpus* petition, the burden of proving the lawfulness of the arrest is on the state, and the state meets this burden by presentation of the Governor's Warrant of Rendition.[83] A *prima facie* case of authorization for rendition is established raising a presumption of the existence of every fact that the Governor was obliged to determine before issuing the Warrant.[84] Specifically, the introduction of the Governor's Warrant in evidence raises these presumptions:

   a. The Governor in issuing the warrant acted on a proper, legal, and sufficient requisition by the executive authority of a demanding state;

   b. The accused is the person named in the requisition;

   c. The accused is charged with an extraditable offense under the laws of the demanding state;

   d. The accused was in the demanding state at the time of the commission of the offense;

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[81] MD. CODE ANN., CRIM. PROC. § 9-121.

[82] *Id.* § 9-119.

[83] *Ray v. Warden, Baltimore City Jail*, 13 Md. App. 61, 281 A.2d 125 (1971).

[84] *See Bryson v. Warden, Baltimore City Jail*, 287 Md. 467, 413 A.2d 554 (1980); *Statchuk v. Warden, Maryland Penitentiary*, 53 Md. App. 680, 455 A.2d 1000 (1983); *Utt v. Warden, Baltimore City Jail*, 48 Md. App. 486, 427 A.2d 1092 (1981); *Roscoe v. Warden, Baltimore City Jail*, 23 Md. App. 516, 328 A.2d 64 (1974).

e. The accused is a fugitive from justice;

f. The accused is legally held in custody for extradition to the demanding state.

g. The burden then shifts to the accused who must then prove beyond a reasonable doubt the existence of facts that would negate the facts necessary for the issuance of a valid Governor's Warrant.[85] The burden carried by the accused is a heavy one.[86]

2. ***Evidence; Formality*** - Normal rules of evidence and procedure are not applicable in extradition proceedings.[87] The Maryland appellate courts have upheld the following evidentiary decisions by lower courts in *habeas corpus* proceedings:

a. Exclusion of testimony to impeach state's witnesses with their prior inconsistent statements;[88]

b. Restriction on open-ended cross-examination to obtain names of the demanding state's eyewitnesses;[89]

c. Admissibility of indictments and affidavits based on accomplice's statements;[90]

d. Non-admissibility of alleged stolen currency to attack the victim's credibility on identification;[91]

e. Admission of a "confession" by the accused;[92]

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[85] *Bryson*, 287 Md. 467*; Statchuk*, 53 Md. App. 680*; Ray*, 13 Md. App. 61.

[86] *Johnson v. Warden, Montgomery County Det. Ctr.*, 244 Md. 384, 223 A.2d 584 (1966).

[87] *Munsey v. Claugh*, 196 U.S. 364, 25 S. Ct. 382, 49 L. Ed. 515 (1905); *Shields v. State*, 257 Md. 384, 263 A.2d 565 (1970)*; Koprivich v. Warden, Baltimore City Jail*, 234 Md. 465, 200 A.2d 49 (1964); *In re California*, 57 Md. App. 804, 471 A.2d 1141 (1984); *Utt*, 48 Md. App. 486; *Campbell v. State*, 10 Md. App. 406, 271 A.2d 190 (1970).

[88] *Shields*, 257 Md. 384.

[89] *Id.*

[90] *Koprivich*, 234 Md. 465.

[91] *Campbell*, 10 Md. App. 406.

f. Exclusion of evidence which relates only to the question of guilt or innocence;[93] and

g. Oral evidence is not necessary to rebut testimony of accused relative to presence in the demanding state, but the trial judge must balance evidence given by accused.[94]

3. ***Issues; General*** - The broad issue in *habeas corpus* proceedings is whether the accused is properly held under the Governor's Warrant in the asylum state.[95] After a Governor's Warrant, the legality of the arrest under the fugitive warrant is a moot issue; it cannot be tested.[96] Thus, a fugitive may be re-arrested under a new fugitive warrant if he has been released from custody under the 90-day rule.[97] Further, even if the fugitive has been confined on a fugitive warrant beyond the permissible time period, his subsequent arrest under the Governor's Warrant is not thereby invalidated.[98]

In contesting the validity of the Governor's Warrant, the four basic issues that may be raised are:

a. Are the extradition papers legally sufficient?

b. Is the accused substantially charged with a crime under the laws of the demanding state?

c. Is the person in custody the person charged?

d. Is the person a fugitive from justice (or is he otherwise properly sought under the extradition law)?

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[92] *Johnson v. Warden, Montgomery County Det. Ctr.*, 244 Md. 384.

[93] *Campbell*, 10 Md. App. 406.

[94] *Clark v. Warden, Baltimore City Jail*, 39 Md. App. 305, 385 A.2d 816 (1978).

[95] *Utt v. Warden, Baltimore City Jail*, 48 Md. App. 486, 427 A.2d 1092 (1981); *Audler v. Kriss*, 197 Md. 362, 79 A.2d 391 (1951).

[96] *Shields v. State*, 257 Md. 384, 263 A.2d 565 (1970)*; Willin v. Sheriff of Wicomico County*, 201 Md. 667, 95 A.2d 87 (1953); *Miller v. Warden, Baltimore City Jail*, 14 Md. App. 377, 287 A.2d 57 (1972).

[97] *Shields*, 257 Md. 384.

[98] *Id.*

There is no right to a jury trial for the determination of any factual issues.[99] As in the executive hearing, guilt or innocence may not be challenged;[100] this is strictly a matter for the trial court of the demanding state to determine.[101] The scope of the asylum state's inquiry is the same no matter what crime is charged.[102] Substantive defenses to the crime charged are to be resolved by the demanding state. Accordingly, the questions of whether a delay in indictment prejudiced the accused's right to speedy trial[103] and whether the statute of limitations precludes charges[104] are not reviewable in *habeas corpus* hearings in the asylum state. Alibi also may not be raised.[105]

The Maryland Court of Appeals has stated that, in *habeas corpus* proceedings, it is proper to question if a delay in obtaining an indictment unfairly prejudiced an accused's attempt to present a defense in an extradition hearing, and a sixteen month delay "in and of itself" does not establish irreparable prejudice to the presentation of the defense of non-presence in the demand state.[106]

4. ***Sufficiency of Demand*** - The state need not introduce the extradition documents from the demanding state.[107] The Court of Special Appeals has stated that it will review the documents if they are presented and implied that it is the duty of the accused to present them.[108]

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[99] *Roscoe v. Warden, Baltimore City Jail*, 23 Md. App. 516, 328 A.2d 64 (1974).

[100] MD. CODE ANN., CRIM. PROC. § 9-120.

[101] *Audler v. Kriss*, 197 Md. 362, 79 A.2d 391 (1951).

[102] *Pennsylvania ex rel. Marshall v. Gedney*, 321 A.2d 641 (Pa. 1974).

[103] *Shoemaker v. Sheriff of Carroll County*, 258 Md. 129, 265 A.2d 260 (1970); *Utt v. Warden, Baltimore City Jail*, 48 Md. App. 486, 427 A.2d 1092 (1981).

[104] *Lincoln v. State*, 199 Md. 194, 85 A.2d 765 (1952).

[105] *Koprivich v. Warden, Baltimore City Jail*, 234 Md. 465, 200 A.2d 49 (1964); *Cohen v. Warden, Montgomery County Det. Ctr.*, 252 F. Supp. 666 (Dist. Ct. Md. 1966).

[106] *Shoemaker*, 258 Md. 129.

[107] *Roscoe v. Warden, Baltimore City Jail*, 23 Md. App. 516, 328 A.2d 64 (1974); *Ray v. Warden*, 13 Md. App. 61, 281 A.2d 125 (1971).

[108] *See* cases cited *supra* note 107; *Michigan v. Doran*, 439 U.S. 282, 99 S. Ct. 530, 58 L. Ed. 2d 521 (1978).

The requirements of the law relative to documentation have been discussed earlier.[109] Although that discussion pertains to Maryland as the demanding state, the same requirements apply when another state makes a demand on Maryland. The Maryland case law holds that the validity of an indictment, affidavit, or other pleading is a matter for the **demanding** state, and not the asylum state, to determine.[110] The fact that the basis of an affidavit might be hearsay evidence, rather than the personal knowledge of an affiant, is of no use to a fugitive on *habeas corpus* petition since the Maryland court has specifically rejected the idea that the test applied to affidavits accompanying applications for search warrants (i.e., probable cause) should also be applied to affidavits in extradition proceedings.[111] The court further held that the absence of an exact date does not defeat the validity of a demand for extradition where the indictment is valid under the laws of the demanding state.[112]

Additionally, it has been held in several neighbor jurisdictions that deficiencies in the charging papers can be supplemented by testimony or other evidence.[113] Minor irregularities, such as clerical errors, minor defects in wording, or discrepancies between charging papers and the requisition, do not affect the asylum state's action and are considered to be problems of the demanding state.[114]

As to the sufficiency of the demand in post-conviction cases, it is not necessary that the demanding state include the original indictment or affidavit charging the fugitive.[115]

5. ***Substantially Charged with Crime*** - With respect to whether the acts charged constitute a crime under the laws of the demanding state, it is

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[109] *See* Section II.B.

[110] *Haynes v. Sheriff of Washington County*, 253 Md. 278, 252 A.2d 807 (1969)*; In re California*, 57 Md. App. 804, 471 A.2d 1141 (1984); *Campbell v. State*, 10 Md. App. 406, 271 A.2d 190 (1970) (citing *Downey v. Hale*, 67 F.2d 208 (1st Cir. 1933); *Koprivich*, 234 Md. 465).

[111] *See* cases cited *supra* note 110.

[112] *Haynes*, 253 Md. 278.

[113] *Tucker v. Virginia*, 308 A.2d 783 (D.C. Cir. 1973); *see also Pennsylvania ex rel. Ebbole v. Robinson*, 299 A.2d 47 (Pa. 1972).

[114] *See, e.g.*, *Pennsylvania ex rel. Culcough v. Aytch*, 323 A.2d 359 (Pa. 1974) (holding that there is no requirement that the name in the extradition documents be the accused's legal name).

[115] *White v. Hall*, 15 Md. App. 446, 291 A.2d 694 (1972).

important to include within the requisition documents a copy of the statute under which the accused is being charged.

6. ***Identity - Presence in the Demanding State*** - The issue of identity is most frequently raised, and it is only on that issue that guilt or innocence of the accused may sometimes be examined.[116] Consequently, **photographic** affidavits and **fingerprints** are **invaluable**. The constitutionality of identification procedures (i.e., impermissibly suggestive police line-ups) has been challenged and the question held to be inapplicable in extradition proceedings.[117]

The accused often contends that he was not present in the demanding state at the time the crime was committed or that the evidence as to his identity is insufficient. To prove this contention, **mere contradictory evidence is not enough; the evidence must be overwhelming**.[118] For example, numbers of witnesses presented by the accused will not suffice when witnesses or other evidence are also presented by the demanding state.[119] One of the most significant cases on this point resulted in a Maryland Court of Appeals decision affirming an accused's extradition to Ohio. On the record, there were nine witnesses, including a Maryland attorney, who testified that they had been with the accused in Maryland on the day of the offense in question. The details of the testimony of the two eyewitnesses from Ohio varied. The court concluded:

> The attempt of Shields to have us determine the credibility of the witnesses by ruling that certain alleged inconsistencies in the evidence of the state's witnesses make their testimony unworthy of belief is simply an effort to have us abrogate **the longstanding rule that a mere conflict in testimony is not sufficient to warrant release of the accused**. Suffice it to say, however, that no

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[116] MD. CODE ANN., CRIM. PROC. § 9-120.

[117] *Solomon v. Warden, Baltimore City Jail*, 256 Md. 297, 260 A.2d 68 (1969) (citing *Johnson v. Warden, Montgomery County Det. Ctr.*, 244 Md. 384, 223 A.2d 584 (1966)).

[118] *South Carolina v. Bailey*, 289 U.S. 412, 53 S. Ct. 667, 77 L. Ed. 1292 (1932); *Bryson v. Warden, Baltimore City Jail*, 287 Md. 467, 413 A.2d 554 (1980); *Shields v. State*, 257 Md. 384, 263 A.2d 565 (1970); *Solomon*, 256 Md. 297; *Koprivich v. Warden, Baltimore City Jail*, 234 Md. 465, 200 A.2d 49 (1964)*; Mason v. Warden, Baltimore City Jail*, 203 Md. 659, 99 A.2d 739 (1953); *State v. Murphy*, 202 Md. 650, 96 A.2d 473 (1953); *Audler v. Kriss*, 197 Md. 362, 79 A.2d 391 (1951)*; State ex rel. Zack v. Kriss*, 195 Md. 559, 74 A.2d 25 (1950); *Campbell v. State*, 10 Md. App. 406, 271 A.2d 190 (1970).

[119] *Shields*, 257 Md. 384*; State ex rel. Channel v. Murphy*, 202 Md. 650, 96 A.2d 473 (1953).

conflicts were presented that make the testimony **so inherently improbable as to be unworthy of belief**.[120]

7. ***Other Issues:***

a. *Double Jeopardy; Res judicata* - The question of extradition being barred by double jeopardy is a matter for resolution in the **demanding** state.[121] Termination of prior proceedings against an accused by the demanding state,[122] or the holding of a second hearing when the first one concludes with a finding of insufficient evidence,[123] do not violate double jeopardy principles. In an extradition proceeding the accused is not put in jeopardy, and the concept contemplates that the first action must be one instituted in a court having power to convict and punish, which an asylum state does not have.[124] Further, double jeopardy is a constitutional issue that cannot be resolved in the asylum state.[125]

It is **very important** to remember that procedurally unsuccessful previous attempts to extradite do **not** bar succeeding attempts. Because the asylum state has not yet rendered a decision on the merits of extradition issues, *res judicata* does not apply.[126]

b. *Constitutional Issues* - The Maryland Court of Appeals has generally refused to consider constitutional issues in extradition matters and has stated:

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[120] *Shields*, 257 Md. at 389 (emphasis added).

[121] *Shields*, 257 Md. 384; *Roscoe v. Warden, Baltimore City Jail*, 23 Md. App. 516, 328 A.2d 64 (1974) .

[122] *Roscoe*, 23 Md. App. 516.

[123] *Shields*, 257 Md. 384.

[124] *Id.; Roscoe*, 23 Md. App. 516.

[125] *Roscoe*, 23 Md. App. 516 (citing *Johnson v. Warden, Montgomery Det. Ctr.*, 244 Md. 384, 223 A.2d 584 (1966)).

[126] *Pennsylvania ex rel. Marshall v. Gedney*, 321 A.2d 641 (Pa. 1974).

"Since the only purpose of extradition is the return of the fugitive to the place of the alleged offense, his Constitutional rights, other than the present right to personal liberty, are not involved."[127]

The constitutionality of identification procedures,[128] and of admitting a "confession" made by an accused, are issues that will not be considered by the Courts.[129]

c. *Non-waiver by Asylum State* - The rendition of a fugitive does not constitute a waiver by the asylum state of its right, power, or privilege to try or regain custody of the demanded individual.[130] Nor do any proceedings that fail to result in extradition constitute a waiver.[131]

For example, a fugitive challenged his return from Maryland to Pennsylvania for parole violation on the basis that Pennsylvania had apprehended him and then released him to Maryland for prosecution on Maryland charges. The Maryland court stated that more than the release of a prisoner must be shown to constitute the waiver of the right to prosecute for crimes previously committed.[132]

I. **Appeal; Release of Fugitive** - If the application for *habeas corpus* relief is denied by the trial court, the accused has the statutory right to appeal. **If he indicates that he wants to take advantage of this right, he must remain in Maryland for at least thirty (30) days to exercise the right**. At the end of this time period, the accused may be released to agents of the demanding state if the appeal has not been filed.

IV. Provisions for Extradition Between Maryland and the District of Columbia

A. **Fugitive Removal from D.C. to Maryland** - Extradition procedures are codified in Title 23 (Criminal Procedure) of the D.C. Code, specifically in sections 23-701

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[127] *Johnson*, 244 Md. 384 (citing *Illinois ex rel. Hackler v. Lohman*, 160 N.E.2d 792 (Ill. 1959)); *Utt v. Warden, Baltimore City Jail*, 48 Md. App. 486, 427 A.2d 1092 (1981).

[128] *Solomon v. Warden*, 256 Md. 297, 260 A.2d 68 (1969).

[129] *Johnson*, 244 Md. 384.

[130] MD. CODE ANN., CRIM. PROC. § 9-125.

[131] *Id.*

[132] *Ray v. Warden, Baltimore City Jail*, 13 Md. App. 61, 281 A.2d 125 (1971).

et seq. The procedures to obtain a Maryland fugitive from Washington D.C. differ from the extradition process of other states. Because the District of Columbia does not have a Governor, the Chief Judge of the Superior Court acts in an executive capacity to remand the fugitive back to the demanding state.[133]

1. ***D.C. Arrest; Documents*** - An individual wanted on a warrant in Maryland is entered into the National Crime Information Center (NCIC), an informational computer system used at police stations and sheriffs' offices. The fugitive in the District of Columbia may be arrested by the Metropolitan Police Department (MPD) on the authority of an outstanding warrant or on the authority of the NCIC. The MPD policy is to send a "locate notice of arrest" to advise the Maryland law enforcement authorities of the arrest. The Maryland authorities will either mail or deliver the certified copy of the indictment and a true test copy of the Maryland warrant. In Montgomery and Prince George's counties, these items are usually hand delivered to the MPD.

2. ***Arraignment; Waiver*** - Once the fugitive has been arrested, he is taken to the D.C. Superior Court for arraignment.[134] A hearing commissioner usually presides, although a judge may preside on Saturdays and holidays. At this time the fugitive has an opportunity to waive further extradition proceedings. If he chooses to do so, he will sign a waiver form in court and return to the D.C. jail.[135] The MPD will then notify the appropriate law enforcement office in Maryland of the waiver. The agents for Maryland then have 72 hours (excluding Saturdays, Sundays, and holidays) to pick up the fugitive.[136] If the fugitive is not picked up within the given time period, he may be released unless the MPD or Maryland police can show due cause for maintaining him in custody.[137]

3. ***Hearing*** - If the fugitive chooses instead to have an extradition hearing, a hearing date within 30 days will be set at the arraignment.[138] The District of Columbia's policy is to set all hearings on a Wednesday within the given time period. The fugitive can be released on bond or held at the D.C.

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[133] D.C. CODE ANN. § 23-704(a).

[134] *Id.* § 23-702(a).

[135] *Id.* § 23-702(f)(1).

[136] *Id.* § 23-702(f)(4).

[137] *Id.*

[138] *Id.* § 23-702(b).

jail.[139] If the fugitive is released, he may choose to surrender himself to the Maryland authorities. At the subsequent extradition hearing, the case then becomes moot and is dismissed. However, should the fugitive neither waive nor surrender himself to Maryland authorities, Maryland must forward a requisition from the Governor to be presented at the hearing.[140] On the date of the extradition hearing, the Chief Judge of the D.C. Superior Court will preside. If there are no local charges pending, the requisition papers are in order, there is no identity problem with the fugitive, and the fugitive has been placed in the jurisdiction at the time of the crime, the Chief Judge, acting in his executive capacity, will surrender the fugitive to Maryland. The fugitive will usually be held at the D.C. jail until agents from Maryland pick him up. D.C. policy requests that the fugitive be collected in 72 hours, and this is stated in the Chief Judge's order that the fugitive surrender to the demanding state. The Chief Judge also has discretionary authority to order the fugitive to surrender on his own to the demanding jurisdiction.

4. ***Extension; Dismissal*** **-** If the papers are in error, or there is a question concerning the identity of the fugitive, or the individual cannot be placed in the jurisdiction of the crime, the Chief Judge may dismiss the case. When the requisition papers have not been received within the 30 day time period, the U.S. attorney may ask for an extension. If this is denied, the case will be dismissed and the fugitive released. The MPD will continue to wait for the issuance of the Maryland requisition and, once it is issued, will attempt to arrest the fugitive and begin the extradition process again. When originally arrested, the fugitive's name will be removed from the NCIC but will be re-entered upon release, thus providing the MPD with re-arrest authority.

5. ***Appeal*** **-** The fugitive may appeal the Chief Judge's decision to extradite. The appeal must be filed within 24 hours at the D.C. Court of Appeals upon the issuance of a certificate of probable cause.[141] In addition, the fugitive may petition for a writ of *habeas corpus*. The issues are limited to the identity of the individual, whether the person was substantially charged in the demanding state, and the presence of the person in the demanding state at the time of the crime.[142] Appeals to the decision to extradite are rare. Most fugitives, in fact, waive the extradition process.

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[139] *Id.*

[140] *Id.* § 23-702(b), (g).

[141] *Id.* § 23-704(e).

[142] *Kyles v. Preston*, 253 F. Supp. 628 (D.D.C. 1966).

Moreover, the limited defenses available in a *habeas corpus* proceeding curtail its usefulness to the fugitive.

6. ***Release; Detainer*** - The fugitive will not be released to Maryland if he is contemporaneously charged with a local crime. In that case the MPD will file a detainer on behalf of Maryland at the D.C. jail. This is an administrative detainer filed for the efficiency and convenience of the MPD, and it stays in the person's file until he is eligible for release. At that time he will be charged as a fugitive, and the extradition process will begin. Under the Interstate Agreement on Detainers,[143] Maryland could file its detainer on the fugitive once he is serving his sentence in order to obtain temporary custody of the prisoner and bring him to trial. When the trial in Maryland is completed, the individual will be transported back to the District of Columbia to serve the remainder of his sentence. Upon release, the fugitive will be turned over to Maryland authorities in order to serve the sentence imposed by the Maryland court. The court in Maryland may allow the prisoner to serve the sentence concurrently with the sentence in the District of Columbia.

B. **Fugitive Removal from Maryland to D.C.**

1. ***General; Federal Procedures*** - In order to gain custody of its fugitives or "wanted persons," the District of Columbia follows different extradition procedures from those of other jurisdictions. One reason is that D.C. has no Governor to sign a requisition which demands the return of the fugitive from the asylum state. Another unique characteristic of Washington, D.C. is that all arrest warrants issued are U.S. warrants. Thus an individual arrested for a local crime is arrested on a federal warrant, and D.C. utilizes federal removal procedures to bring fugitives back to its jurisdiction. The rules governing federal removal are found in the Federal Rules of Criminal Procedure. Pertinent sections include Rules 5, 5.1, and 40.

All territory in Maryland is located in one Federal district, while the District of Columbia is in another district. In order to transport a fugitive from Maryland to Washington, D.C., federal removal procedures are invoked. Briefly, the process involves placing the fugitive in the custody of the U.S. Marshal Service who takes him before a U.S. magistrate/judge. In Maryland, the U.S. Marshals are located in Baltimore, and full-time U.S. magistrates/judges sit in Baltimore and Greenbelt. The District of Columbia has its own U.S. Marshal Service and magistrate/judge within its borders.

[143] See Section following.

Transport of persons wanted on warrants is handled by the U.S. Marshal Service. Individuals wanted on Superior Court warrants are transported back to Washington, D.C. by the U.S. Marshal Service in Baltimore or Washington when ordered removed by the magistrate/judge. However, if agents from the MPD attend a Rule 5 hearing (preliminary examination), those agents may transport the individual back to the District of Columbia.

2. ***Baltimore City*** - The following procedure is the one prescribed by the Federal Rules of Criminal Procedure and is implemented in areas such as Baltimore and Montgomery County. In Baltimore, a fugitive will be arrested by the police, who will then notify the MPD or the Baltimore Marshal's Service. If the warrant is still good and the U.S. attorney has authorized federal removal for the individual, the Baltimore police will turn over custody of the fugitive to the U.S. Marshal Service who will take him to the nearest U.S. magistrate/judge for an initial appearance. At that time the individual may waive the subsequent federal removal procedures and return to Washington, D.C.[144]

   If the individual chooses instead to have the preliminary examination (a Rule 5 hearing), the magistrate/judge will then schedule the proceeding for within 10 days if the fugitive remains in custody, or within 20 days if the fugitive is not in custody.[145] During the preliminary examination the magistrate/judge determines whether there is probable cause to ascertain that the offense was committed and that the individual who perpetrated the crime is the defendant.[146] After this proceeding the magistrate/judge will order the fugitive back to the appropriate federal district or dismiss the case and discharge the individual.[147] If the fugitive is ordered back to D.C., the U.S. Marshal Service in Baltimore or in the District of Columbia will transport the person. If MPD officers are present at the hearing, they may transport the individual back to the District of Columbia.

3. ***Montgomery County*** - The procedures in Montgomery County are similar to those followed in Baltimore. After the wanted person is arrested by police, he is charged as a fugitive. The individual is then taken for a hearing before a commissioner at the police station to determine probable cause and bond eligibility. Later, the fugitive appears before a judge for a bond hearing review. At this time the fugitive may waive further removal proceedings; if he does, the marshals are contacted to pick up the fugitive.

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[144] FED. R. CRIM. P. 5(c).

[145] *Id.* 5(c).

[146] *Id.* 5.1(a).

[147] *Id.* 5.1(a), (c).

If the person does not waive proceedings and demands a Rule 5 hearing, the U.S. Marshals in Baltimore are notified, pick the fugitive up in Montgomery County, and transport him to Baltimore or Greenbelt for an initial appearance before the U.S. magistrate/judge. During this appearance, the magistrate/judge sets the date for the Rule 5 hearing (preliminary examination). The fugitive may be held in custody or released.[148] When the Rule 5 hearing is held, the presiding magistrate/judge will either order the individual back to the District of Columbia or release him. If the individual is ordered back, he will be transported by the U.S. Marshal Service of either Baltimore or Washington, D.C., depending on efficiency and convenience of both.

4. ***Prince George's and Other Counties*** - Different procedures have been worked out for Prince George's, Calvert, Charles, and St. Mary's counties. The MPD, the U.S. Marshal Service in D.C., and these counties have established a policy to ensure quick and reliable transport of fugitives back to Washington, D.C. This policy, which has been implemented over the last few years, was necessary because of the distance separating the counties from Baltimore's U.S. Marshal Service and the relative proximity of the counties to the District of Columbia. The procedures in these counties involve no federal removal. Moreover, the process eliminates the need for a waiver of any proceedings. The process eliminates the responsibility of Baltimore's Marshal Service to pick up fugitives in distant counties, thus reducing the marshals' workload. A potential result of circumventing federal removal procedures is a problem in identifying the fugitive.

In Prince George's county, the wanted person is arrested and taken to the police station. There, the Marshals are notified of the arrest. Then the authorities in the county will verify the warrant and authorization for federal removal. The wanted person is transferred to the sheriff's office where he is processed and taken to the district court commissioner. The commissioner will grant a temporary commitment to detain the person at Prince George's correctional facility (county detention center) for approximately 24 hours. This gives the Marshals 24 hours to take custody of the wanted person. If they do not assume custody, the U.S. Marshal Service in Baltimore will pick up the individual and begin federal removal proceedings. When the Marshals pick up these wanted persons, they are taken to the nearest available federal magistrate/judge in the District of Columbia.[149] Once in Washington, D.C., however, the issue of federal removal becomes moot, and the individual is taken to the appropriate police station and charged with the crime.

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[148] *Id.* 5(c).

[149] *Id.* 5.

Federal removal procedures will be implemented in Prince George's County should the fugitive be unable to leave the county right away. For example, according to the Prince George's sheriff's office an individual in the hospital would not be subject to the removal policy routinely used by Prince George's County. Instead, federal removal procedures would be used. The individual would be charged as a fugitive and taken before a judge. At this point the fugitive has the opportunity to waive or demand a Rule 5 hearing. A demand for a preliminary examination would involve the U.S. Marshal Service taking custody of the individual and presenting him before a magistrate/judge.

The procedures in Calvert, Charles, and St. Mary's counties are similar to those in Prince George's County. The wanted person is first arrested and brought to the sheriff's office which then notifies the MPD of the arrest by telephone or teletype. The U.S. marshals will pick up the individual and transport him back to the District of Columbia where he will be taken to the appropriate police station and charged.

For an initial appearance, a D.C. fugitive is always taken to the nearest U.S. magistrate/judge.

DETAINERS

I. General Information

A. **Definition** - A detainer is a formal or informal request filed by a criminal justice agency with the institution in which a prisoner is incarcerated asking the custodian to notify the agency when release of the prisoner is imminent.[150] It can be an arrest warrant,[151] indictment, commitment order, judgment, or even a letter or note sent to the custodian of a prisoner by a prosecutor, court, police chief, sheriff, or parole board. The essence of the detainer is that the requesting individual is seeking information as to when the person in custody will be available to him.

B. **Interstate Agreement** - With the recognition that detainers produce uncertainties for prisoners that render treatment and rehabilitation less effective, the Interstate Agreement on Detainers was promulgated by the Council of State Governments. It was enacted in Maryland in 1965 and is now codified in the Annotated Code of Maryland, Correctional Services §§ 8-402 - 8-411. Maryland has enacted supplemental provisions in the Annotated Code of Maryland, Correctional Services, §§ 8-412 - 8-417. There are now 48 states, the District of Columbia, and the United States which are parties to the Agreement.[152] Louisiana and Mississippi are not parties to the Agreement and handle such matters by executive agreement. The purpose of the Interstate Agreement on Detainers (hereinafter IAD) is to provide an expeditious method for prisoners and prosecutors both to dispose of untried charges lodged against prisoners incarcerated in another state. Under the IAD prosecutors are in the **receiving** State, and prisoners are in the **sending** State. However, not all detainers are subject to the Agreement's provisions. They must be based on untried indictments, informations, or complaints;[153] other detainers may be handled by executive agreement or by extradition upon the release of the prisoner. Detainers based on probation violation warrants are not subject to the IAD provisions.[154] Since the accused must be serving a "term of imprisonment in a penal or correctional institution,"[155]

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[150] *See Carchman v. Nash*, 473 U.S. 716, 105 S. Ct. 3401, 87 L. Ed. 2d 516 (1985); *cf. State v. Boone*, 40 Md. App. 41, 388 A.2d 150 (1978) (holding that a writ of habeas corpus ad prosequendum does not constitute a detainer within the meaning of the Interstate Agreement on Detainers).

[151] *State v. Smith*, 73 Md. App. 378, 534 A.2d 371 (1987).

[152] See Appendix D for listing of statutory citations.

[153] MD. CODE ANN., CORR. SERVS. § 8-403.

[154] *Clipper v. State*, 295 Md. 303, 455 A.2d 973 (1983); *Carchman*, 473 U.S. 716.

[155] MD. CODE ANN., CORR. SERVS. § 8-405.

a pretrial confinement will not bring an individual within the terms of the Interstate Agreement.[156] Maryland has adopted an additional provision to the IAD stating that the provisions of the IAD apply to prisoners serving sentences in Maryland in state institutions and in the jail of any county or of the City of Baltimore.[157] Many states, however, only apply the IAD to prisoners sentenced to the custody of a state correctional system.

C. **Maryland Administrator** - Notwithstanding the fact that the provisions of the IAD are self-executing, the Agreement does require that each state appoint a supervising officer.[158] In Maryland, the Attorney General is the Agreement Administrator, and all inquiries should be addressed to:

Steven G. Hildenbrand
Assistant Attorney General
6776 Reisterstown Road, Suite 313
Baltimore, Maryland 21215-2341
(410) 585-3072
shildenbrand@dpscs.state.md.us

Routinely, the Attorney General keeps records on all detainers, designates forms, approves agents to convey individuals, and answers specific legal questions. A discussion paper on the Maryland Detainer Statutes follow this section. Samples of forms discussed below are contained in Appendix D.

II. Maryland as Incarceration (Sending) State

A. Procedure; Forms

1. ***Receipt of Detainer by Warden*** - Upon the receipt of any detainer lodged against any prisoner, the type of criminal charge must be ascertained to determine if the detainer is subject to the provisions of the IAD. If the detainer is based on an untried charge, it must be determined if the State filing the detainer is party to the IAD. There should also be a finding as to where the prosecuting officer and court having jurisdiction are located. This is very important for federal detainers.[159]

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[156] *State v. Boone*, 40 Md. App. 41, 388 A.2d 150 (1978)*; Davidson v. State*, 18 Md. App. 61, 305 A.2d 474 (1973).

[157] MD. CODE ANN., CORR. SERVS. § 8-401(d).

[158] *Id.* § 8-409. See discussion on detainers in 50 Op. Att'y Gen 98 (1965).

[159] Federal Regions are listed in Appendix D.

2. ***Warden's Notification to Prisoner*** - The prisoner must then be notified by *Form I* of the source and contents of the detainer and of his right to make a request for final disposition of the charge.[160]

3. ***Prisoner's Request for Disposition*** - If the prisoner makes a request for disposition, he signs *Form II*. This operates as a request for final disposition of **all** untried charges on the basis of which detainers have been lodged.[161] This does not necessarily bar the filing of separate indictments against the prisoner in that jurisdiction or others in the receiving State upon his transfer.[162] The prisoner must make his request through the warden to validate it; he cannot do so himself.[163] By making this request the prisoner waives his right to extradition [164] and is not entitled to a *habeas corpus* hearing.

4. ***Warden's Notification to Authorities*** - The warden must then prepare *Forms III* and *IV*. One set of *Forms II, III,* and *IV* is then sent to each of the following:[165]

   a. The Attorney General of the sending state or his designee;

   b. The prosecuting officer named in *Forms II* and *IV;*

   c. The appropriate court of that prosecuting officer's jurisdiction;

   d. Each prosecuting officer of the other state whose jurisdiction has filed a detainer; and

   e. The appropriate court of each of the jurisdictions.

   ***Forms II, III* and *IV* sent to the prosecutors and to the appropriate courts must be sent by registered or certified mail, return receipt requested, and the receipt must be preserved in the prisoner's file**.[166]

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[160] MD. CODE ANN., CORR. SERVS. § 8-405(c).

[161] *Id.* § 8-405(d).

[162] *Boyd v. State*, 51 Md. App. 197, 441 A.2d 1133 (1982).

[163] MD. CODE ANN., CORR. SERVS. § 8-405(a) and (b). *See* Section III.B and *Davidson v. State*, 18 Md. App. 61, 305 A.2d 474 (1973).

[164] MD. CODE ANN., CORR. SERVS. § 8-405(e).

[165] *Id.* § 8-405(a).

The purpose of mailing a copy of *Form IV* to each prosecutor's office in the receiving state whose jurisdiction has a detainer on file with the warden is to give them notice that temporary custody of the prisoner is being offered to all receiving state jurisdictions who have filed detainers so that those prosecutors can make arrangements to bring the prisoner to trial on all detainers before he is returned again to the sending state's custody. Mailing a copy of *Form IV* to each prosecutor's office in the receiving state who has lodged a detainer will give notice to those prosecutors so that criminal cases in different receiving state jurisdictions are not dismissed because of non-compliance with the anti-shuttling provisions (also known as the single transfer rule) of the IAD.[167] Offering and obtaining temporary custody in violation of the single transfer rule may expose state and local officials and employees in the sending and/or receiving state to claims of violation of the prisoner's rights protected by constitutional and federal law.[168]

5. ***Prosecutor's Request for Temporary Custody*** - If, however, the prisoner refuses to sign *Form II* (Request for Disposition), the out-of-state prosecutor may compel the transfer of the prisoner under the IAD for final disposition by filing a request with the custodian for temporary custody of a prisoner using *Form V*. There are two prerequisites to this request:

   a. That the other state is a party to the Interstate Agreement, and

   b. That a detainer has already been filed with the institution.[169]

   Form V also requires the signature of a judge in the jurisdiction where the charges are pending.

   Before the prosecutor's *Form V* request can be granted, the prisoner must be notified by the warden of the receipt of the request. If the prisoner then requests disposition of the detainer (which he had not requested previously), procedures will be

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[166] *Id.* §§ 8-405(b) and 8-416.

[167] *Id.* §§ 8-405 and 8-406(e); *Bunting v. State*, 80 Md. App. 444, 564 A.2d 109 (1989); *Bunting v. State*, 312 Md. 472, 479, 540 A.2d 805, 808 (1988).

[168] *Bush v. Muncy*, 659 F.2d 402 (4th Cir. 1981).

[169] MD. CODE ANN., CORR. SERVS. § 8-406(a). Nevada has indicated it will also require the signature of the receiving state's Governor or Interstate Agreement Administrator.

followed as in Sections 3 and 4. If there is no request by the prisoner, the warden proceeds as follows:

> Copies of *Form III* are sent to the out-of-state prosecuting officer and court.
>
> If there are other detainers which have been filed from the same state, those prosecuting officers and courts must be furnished with copies of *Forms III* and *V* as received by the warden.

NOTE - ***Forms II, III* and *IV* must be sent by registered or certified mail, return receipt requested, to all prosecutors who have lodged detainers and to the appropriate courts**.

The warden should also give the prisoner notice of his right to petition the Governor of the sending State requesting him to block the transfer to the receiving State for temporary custody to dispose of untried charges, and submit any reason that he knows as to why the request should be denied.[170] The Governor may deny transfer on his own motion. If there is no approval or disapproval by the Governor within thirty (30) days from receipt of such request, the prisoner can still contest delivery, but not on grounds that the Governor did not consent or order delivery.[171] After the 30 day period has expired without any disapproval by the Governor, if the prisoner continues to contest delivery, the warden (or the warden's staff) must contact the State's Attorney to arrange for a pre-transfer hearing before a judge as explained below.

The warden must arrange with the State's Attorney in the county where the custodial institution is located to have the prisoner taken to a court of record in that county and advised of his rights.[172]

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[170] *Id.* § 8-406(a), (d).

[171] *Id.* § 8-405(c); *Statchuk v. Warden, Md. Penitentiary*, 53 Md. App. 680, 455 A.2d 1000 (1983).

[172] In *Cuyler v. Adams*, 449 U.S. 433, 101 S. Ct. 703, 66 L. Ed. 2d 671 (1981), the Supreme Court held that a prisoner whose temporary custody is sought by the prosecutor pursuant to *Form V* is entitled to the same procedural protections of the Uniform Criminal Extradition Act including limited judicial review as those persons who are sought for extradition. *Cuyler* overruled *Wilson v. State*, 44 Md. App. 318, 408 A.2d 1058 (1979). Once a petition for writ of *habeas corpus* is filed, the proceedings are conducted as though it is an extradition case. The issues that can be raised are the same as those that can be raised in extradition *habeas corpus* hearings (no more and no less), and the prisoner can file a direct appeal to the Court of Special Appeals from a denial of his petition for writ of *habeas corpus.* MD. CODE ANN., CRIM PROC. §

These rights include the right to file a petition for writ of *habeas corpus* in that county and the right to assistance of counsel in preparing the petition and at any hearing on the petition. Unlike the extradition act, the IAD provides no time limitation between the filing of a detainer and the holding of a *habeas corpus* hearing to determine the validity of the detainer.[173]

Upon the Warden's receipt of a copy of a signed *Form V-A* or a copy of any other consent to be delivered signed in front of a judge or upon receipt of a signed *Form II*, the warden must prepare and send *Form IV* together with a copy of *Form V-A* or *Form II* to the individuals and appropriate court listed in paragraph II A 4 above. *Form III* should be prepared and sent also if not previously sent.[174]

The warden must prepare and send *Form IV* to the individuals and appropriate court listed in paragraph II(A)(4) above upon being notified by the State's Attorney that the *habeas corpus* hearing/proceedings, including any *habeas corpus* appeals proceedings, resulted in a determination by a court in the sending state that the prisoner is to be delivered to the receiving state.

6. ***Custody to Requesting State*** - Acceptance of temporary custody by the requesting (receiving) state is achieved via *Form VII* when based on the prisoner's request and via *Form VIII* when based on the temporary custody request of another prosecutor in the receiving state. *Form VIII* should also be completed by each prosecutor in the receiving state who has filed a detainer.

7. ***Delivery of Prisoner*** - Delivery of the prisoner is preceded by the warden's receipt of an executed copy of *Form VI* signed by the receiving State's Interstate Agreement Administrator, and a showing of another executed copy by the agent when he appears to take custody. The warden may also demand a certified copy of the charging papers.

B. **Trial; Prisoner in Custody in Requesting State** - Once a prisoner is transferred, trial must be had on the pending charges within 120 days if the prisoner is there

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9-110; *Statchuk*, 53 Md. App. 680.

[173] *Beachem v. State*, 71 Md. App. 39, 523 A.2d 1033 (1987). However, the court stated a prisoner may later allege that the delay in determining the validity of the detainer affected his ability to attack its validity and must show how he was prejudiced by the delay. *Id.* at 1039-40. If the prisoner alleges the delay affected his ability to defend against charges in the receiving state, then this allegation should be raised in the receiving state.

[174] *See* II.A.4-5.

pursuant to a request for temporary custody, or within 180 days if pursuant to his own request for disposition. All jurisdictions in the receiving state who have lodged detainers against the prisoner must bring the prisoner to trial within either 120 days or 180 days. Continuances may be granted for good cause shown.[175]

While a prisoner is in temporary custody of another state, he is "deemed to remain in the custody of, and subject to the jurisdiction of, Maryland."[176] Thus, escape from temporary custody in another state is to be prosecuted under Maryland law. Time being served on Maryland sentences continues to run. From the time that a prisoner is delivered to the agent of another state until he is returned to the Maryland institution, the other state must "pay all costs of transporting, caring for, keeping, and returning the prisoner."[177]

C. **Prisoner's Return to Maryland** - A prisoner in temporary custody is to be returned to Maryland at the earliest practical time.[178] The Department of Corrections does not have a duty to make certain that a prisoner is returned to Maryland to serve any remaining portion of his sentence. Upon return of the prisoner to Maryland, the warden should learn of the disposition of the charges on which the detainers were based if the out-of-state prosecutor has not already filed *Form IX*. If all of the charges have not been disposed of, or if the other state has refused to accept custody, this may work as a dismissal of the charges with the burden on the prisoner to secure such dismissal in the appropriate courts of the receiving State.

D. **Prisoner Delivery to Requesting State After Maryland Sentence Expires** - If there has been a conviction in the other state pursuant to which a sentence is imposed, the prisoner must be delivered to that state upon the expiration of his Maryland sentence. No extradition is required if the trial occurred as a result of the prisoner's request and waiver, but it is required if the trial was held pursuant to only the *Form V* request for custody without any signed *Form II*.

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[175] MD. CODE ANN., CORR. SERVS. §§ 8-405(a) and 8-406(c); *Reed v. Farley*, 512 U.S. 339, 114 S. Ct. 2291 (1994) (holding that state court's failure to observe IAD 120-day speedy trial rule was not cognizable under federal *habeas corpus* statute because defendant suffered no prejudice and did not object to trial date when it was set); *Laster v. State*, 313 Md. 548, 546 A.2d 472 (1988).

[176] MD. CODE ANN., CORR. SERVS. § 8-407(g).

[177] *Id.* § 8-407(f).

[178] *Id.* § 8-407(e).

III. Maryland as Requesting (Receiving) State

A. **Gaining Custody** - Once the State's Attorney has learned where a prisoner with untried charges is incarcerated, he must decide, as in extradition, how significant final disposition of the charges is, considering the expense of transferring the prisoner to and from Maryland, the strength of the case, and the nature of the crime. If another criminal justice agency locates a prisoner with outstanding warrants or charges, it should notify the State's Attorney's Office immediately so that the detainer can be withdrawn if the decision is made not to prosecute that prisoner.

If the State's Attorney does not receive a *Form II* from the prisoner requesting speedy and final disposition of the charges, the State's Attorney must decide quickly whether to file a *Form V* and may find it necessary to contact the institution to expedite the process.

B. **Time Period for Bringing Accused to Trial** - If the prisoner is received pursuant to the prosecutor's request for temporary custody (*Form V*), trial must commence within 120 days of his arrival in Maryland. If the accused makes the disposition request (*Form II*), he must be brought to trial within 180 days of receipt of the request. Failure to comply with either of these time provisions results in dismissal of the action unless there is a reasonable or necessary continuance granted for good cause shown.[179] Prosecutors should request a continuance before the time period has expired. Mere lack of preparation for trial by the state is not a sufficient reason for granting a continuance, as compared to, for example, the unavailability of a crucial witness.[180]

Maryland has added an explanatory provision to the agreement defining the commencement of the 180-day time period. The time period does not begin until the notice sent by the prisoner is received by the appropriate court **and** the appropriate State's Attorney.[181] Thus, a prisoner who sent only a letter to a Circuit Court judge did not make a valid request for final disposition; on appeal, his contention that dismissal was required was unsuccessful.[182] The "appropriate court" requirement is defined broadly by Maryland.[183] There is no procedural

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[179] *Id.* §§ 8-405(a) and 8-406(c). Prosecutors should request a continuance before the time period has expired. *See supra* note 175 and accompanying text.

[180] *United States v. Odom*, 674 F.2d 228 (4th Cir. 1982); *Brady v. State*, 291 Md. 261, 434 A.2d 574 (1981); *Dennett v. State*, 19 Md. App. 376, 311 A.2d 437 (1973).

[181] MD. CODE ANN., CORR. SERVS. § 8-416; *Thurman v. State*, 89 Md. App. 125, 597 A.2d 997 (1991); *Hines v. State*, 58 Md. App. 637, 473 A.2d 1335 (1984); *Powell v. State*, 56 Md. App. 351, 467 A.2d 1052 (1983); *State v. Long*, 1 Md. App. 326, 230 A.2d 119 (1967).

[182] *Davidson v. State*, 18 Md. App. 61, 305 A.2d 474 (1973).

requirement that notice be sent to the clerk of the court,[184] and the assignment desk of the criminal court is included as an "appropriate court."

Where the prisoner completes service of his sentence in the sending state while the prisoner is awaiting trial in Maryland pursuant to the prisoner's disposition request under the IAD, compliance with the applicable time limitation under the IAD for the commencement of trial is no longer required (although Maryland and federal non-extradition speedy trial requirements will continue to apply).[185] Additionally, where a prisoner pleads guilty in a Maryland trial for which the prisoner was transferred to Maryland pursuant to the IAD, the guilty plea cuts off any claim that he was not tried before expiration of the IAD's time limitations for the commencement of trial.[186]

C. **Right to Speedy Trial** - The U.S. Supreme Court set out four factors to be considered in determining whether an individual has been accorded his constitutional right to a speedy trial.[187] They are:

1. Length of delay;

2. The reason for the delay;

3. The accused's assertion of his right; and

4. Prejudice to the accused.

The impact of this decision on the detainer agreement is that the prosecutor does not shift the burden to the accused to bring the case to trial, the state has the responsibility to afford an inmate a prompt trial, and should there not be one, the balancing test with the above factors is invoked. The length of delay may commence with the filing of the detainer.[188] The prisoner thus has no obligation to

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[183] MD. CODE ANN., CORR. SERVS. § 8-401(c); *Brooks v. State*, 329 Md. 98, 617 A.2d 1049 (1993) (interpreting "appropriate court" as defined in the IAD and importing that interpretation into the context of a disposition request under the Intrastate Detainer Act).

[184] *State v. Barnes*, 273 Md. 195, 328 A.2d 737 (1974).

[185] *State v. Holley*, 82 Md. App. 381, 571 A.2d 892 (1990).

[186] *Mohler v. State*, 84 Md. App. 431, 579 A.2d 1208 (1990).

[187] *Barker v. Wingo*, 925 S. Ct. 2182 (1972). *See Brooks v. State*, 35 Md. App. 461 (1977).

[188] *Lee v. State*, 61 Md. App. 169, 485 A.2d 1014 (1985); *see also Strickler v. State*, 55 Md. App. 688, 466 A.2d 51 (1983).

request trial in order to protect his constitutional right; that is only one factor to be considered.

An inmate can be assured of the application of a fixed time period (180 days) within which trial must be commenced by taking the initiative and requesting final disposition.

D. **Dismissal; Importance of Complying with Statute** - The requirement that the Interstate Agreement's notice and continuance provisions are to be strictly complied with. In 1972 the Maryland Court of Appeals ordered a startling dismissal of a murder indictment.[189] Although the trial was originally set within 180 days of the receipt of a valid request, Maryland prosecutors filed a petition for continuance because of the possible imposition of the death penalty by Pennsylvania, wherein the individual was incarcerated. The 180th day passed while the Maryland trial judge was holding the matter under consideration. Eventually, he ordered a "speedy trial," denying the defendant's motion to dismiss. The Court of Appeals, reversing both the trial court and the Court of Special Appeals, dictated strict compliance with the statutory time period.

IV. Federal and District of Columbia Detainers - Federal courts may issue a writ of *habeas corpus ad prosequendum* which is used to bring state prisoners into another jurisdiction to be tried on federal or criminal charges.[190] This writ directs the **immediate** production of the prisoner, unlike filing a detainer and subsequent IAD procedures.[191] The writ is not a detainer as defined in the IAD.[192] If no detainer has been filed against a prisoner and a writ of *habeas corpus ad prosequendum* is used, the IAD is not applicable.[193] However, should a detainer be filed by the authorities, the writ of *habeas corpus ad prosequendum* suffices as a request in writing for temporary custody, and the IAD applies.[194]

The District of Columbia sometimes also uses a writ of *habeas corpus ad prosequendum*, and if there has not been a detainer filed against a prisoner, the IAD is not applicable.[195]

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[189] *Hoss v. State*, 266 Md. 136, 292 A.2d 48 (1972).

[190] *United States v. Mauro*, 436 U.S. 340, 357-58 (1978).

[191] *Id.* at 358.

[192] *Id.* at 360-61; *State v. Boone*, 40 Md. App. 41, 388 A.2d 150 (1978).

[193] *Mauro*, 436 U.S. at 360-62; *Boone*, 40 Md. App. 41.

[194] *Mauro*, 436 U.S. at 361-62.

[195] *Kleinbart v. United States*, 426 A.2d 343 (D.C. Cir. 1981); *Christian v. United States*, 394 A.2d 1 (D.C. Cir. 1978).

V. Intrastate Detainers - The provisions for Intrastate Detainers are contained in the Annotated Code of Maryland, Correctional Services, §§ 8-501 - 8-503. Identical in purpose and rationale to those of the Interstate Agreement, they are to be construed in *pari materia*.[196] Provisions special to the intrastate act are:

A. The accused must be brought to trial within 120 days of his request rather than 180 days.[197]

B. If the other State paroles the prisoner to the Maryland detainer while he is in temporary custody of Maryland, the Act no longer applies and the prosecutor is not bound by the 120 day limit.[198]

C. The warden shall give notice to the prisoner within 15 days.[199]

D. The prisoner shall file his request for final disposition within 30 days.[200]

E. Despite the language regarding detainers based upon "indictments, informations, warrants, or complaints," probation violation warrants are not subject to the act.[201]

With respect to the two notification periods relative to Intrastate Detainers, they are directory rather than mandatory; an absolute adherence is not required.[202]

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[196] *Brooks v. State*, 329 Md. 98, 617 A.2d 1049 (1993); *Barnes v. State*, 20 Md. App. 262, 315 A.2d 117 (1974).

[197] MD. CODE ANN., CORR. SERVS. § 8-501. Continuances may be granted for good cause shown. *Anglin v. State*, 38 Md. App. 250, 380 A.2d 249 (1977). Moreover, dismissal is without prejudice. MD. CODE ANN., CORR. SERVS. § 8-503(c)(2); *Parks v. State*, 41 Md. App. 381, 397 A.2d 212 (1979).

[198] *State v. Oxendine*, 58 Md. App. 591, 473 A.2d 1311 (1984).

[199] MD. CODE ANN., CORR. SERVS. § 8-502.

[200] *Id.* § 8-501.

[201] *Edge v. State*, 63 Md. App. 676, 493 A.2d 437 (1985).

[202] *Davis v. State*, 24 Md. App. 567, 332 A.2d 733 (1975).

THE MARYLAND DETAINER STATUTES

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and

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INTRODUCTION

Despite the fact that the Maryland Inter- and Intra-State Detainer Acts[203] are "self-executing," that is, theoretically so simplified and well drafted that the transfers of the inmate can occur without outside assistance, and despite the fact that in the twenty-nine years since Maryland has adopted the Interstate Agreement on Detainers (the IAD), appellate courts have published their interpretations of most of its more difficult provisions, some prosecutors still are making silly mistakes with not-so-silly consequences. The IAD provides one sanction—dismissal of the indictment—for the State's failure to provide the inmate who properly invokes the Act a prompt disposition of a charge involving the detainer.[204]

The sources for becoming a detainer virtuoso are quite limited. The Act itself and cases collected in the annotations of the Maryland Code form the core.[205] This manual contains an explanatory section on the IAD and copies of the standard forms. Each State's Attorney Office has at least one copy of this manual. Finally, an Assistant Attorney General in the Office of Attorney General is assigned to "administer" the Act.[206] The task revolves periodically and is currently performed by Steven G. Hildenbrand, Assistant Attorney General, Suite 312, 6776 Reisterstown Road, Baltimore, Maryland 21215-2341, (410) 585-3072. Questions or problems regarding the Act should be directed to him **before** the crisis level is reached or passed.

The following discussion does not purport to be the definitive exposition of every aspect of the IAD. It is meant only to provide a basic familiarity with the Act and is not a substitute for reading the Act and the relevant case law. All section references in the discussion are to the *Correctional Services Article of the Annotated Code of Maryland*.

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[203] MD. CODE ANN., CORR. SERVS. §§ 8-401 - 8-503.

[204] In 1976, the Maryland Legislature amended only the Intrastate Detainer Act to provide that dismissals shall be "without prejudice," permitting reindictment with no double jeopardy bar. MD. CODE ANN., CORR. SERVS. §§ 8-501 - 8-503. This amendment has extracted the teeth of the Act as far as State prisoners are concerned. For a scholarly treatment of the present version of MD. CODE ANN., CORR. SERVS. §§ 8-501 - 8-503, see *Parks v. State*, 41 Md. App. 381, 397 A.2d 212 (1979).

[205] *See also* 50 Md. Op. Att'y Gen. 98 (1965).

[206] MD. CODE ANN., CORR. SERVS. §§ 8-405 - 8-415.

WHAT IS A DETAINER?

A detainer is a formal or informal demand from a governmental body to the custodian of a prisoner for pre-release notification so that the requesting authority may take custody of that prisoner to satisfy whatever obligations are owing in the requesting jurisdiction. The detainer may be in the form of an arrest warrant or other formal charging document, or merely a telephone call or teletype "hold" filed with the warden. Not every detainer, however, entitles the inmate or the prosecutor to engage the machinery of the IAD.

WHO MAY INVOKE THE IAD?

Transfer under the Act, initiated either by the prosecutor or prisoner, has several prerequisites: (1) the detainer must be based upon an **untried, criminal** indictment, information, or complaint;[207] (2) the prisoner must have entered upon a term of incarceration in a penal or correctional institution, i.e., he cannot be under pre-trial confinement; (3) a prisoner cannot be transferred lawfully more than once across State lines concerning any untried charge for which a detainer has been previously filed; and (4) each jurisdiction involved must be a party to the Act. Currently forty-eight (48) States, the District of Columbia, and the Federal Government[208] are parties. Prisoner transfers involving non-party States should be handled through executive agreements between the Governors of each State or by writs of *habeas corpus ad prosequendum*, **provided** the receiving State previously has not filed a detainer.[209]

HOW IS THE ACT INVOKED?

Perhaps the most important feature of the IAD for prosecutors is that it operates not only to permit the inmate to remove the uncertainty and complications of having a detainer on record,[210] it also permits the prosecutor to force the transfer of an out-of-State prisoner who is content to serve out his sentence, taking advantage of disappearing witnesses or constitutional speedy trial violations which may ruin a viable prosecution.

A. Request by the prisoner.

After a warden informs a prisoner that a detainer has been filed (*Form I*), the prisoner, assuming he meets the prerequisites of the IAD, may direct notice of his demand for disposition

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[207] The Intrastate Act, MD. CODE ANN., CORR. SERVS. §§ 8-501 - 8-503, and the IAD Act include "warrants" as well. *See supra* note 151 and accompanying text. Warrants charging violations of probation do not fall within the purview of the Act. *See supra* note 154 and accompanying text.

[208] See Appendix D for statutory citations and addresses of IAD administrators for all party States.

[209] *See United States v. Mauro*, 98 S. Ct. 1834, 1848 (1978) (holding that an *ad pros* writ filed after a detainer acts as a prosecutor's request under the IAD and triggers its speedy trial and single transfer provisions). Maryland adopted *Mauro* in *State v. Boone*, 40 Md. App. 41 (1978).

[210] MD. CODE ANN., CORR. SERVS. § 8-403.

under the Act to (1) the prosecutor, **and** (2) the "appropriate" court where the charges are pending (*Form II*). Interstate requests must be accompanied by a certificate of inmate status (*Form III*); for intrastate requests, the certificate is a directory requirement.[211] The offer to deliver temporary custody (*Form IV*) also must precede the transfer.[212]

A prisoner's request also waives extradition to and from the receiving State for purposes of trial and (probably) later return for serving any resultant sentence.

Trial must commence within 180 days (interstate) or 120 days (intrastate) of **receipt** by the prosecutor and the court of the prisoner's request unless the period is halted as described herein below.[213] The inmate should send these forms by registered mail, return receipt requested,[214] but technical non-compliance will be excused provided actual notice is received by the correct officials.[215]

Once the request is received, the State's Attorney either may ignore it, causing the court to lose jurisdiction over the indictment after the time limit expires, or may respond to the request by sending *Forms VI*[216] and *VII* to the warden prior to transporting the inmate to the local detention center for timely trial. Once the prosecutor decides not to honor a request under the Act, the preferable practice is to enter a *nolle prosequi* and send *Form IX* to the Warden, thus removing the prisoner's uncertainty and reducing the backlog of open cases.

If the inmate's request is not received by the prosecutor and appropriate court, regardless of fault, the Act will not be invoked.[217]Even if the fault is traced to the warden or his agents, no dismissal under the Act will be granted.[218] The recent amendment of § 8-503 imposes a duty on the warden, in Intrastate cases, to forward the inmate's requests.

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[211] *Isaacs v. State*, 31 Md. App. 604, 611-13 (1976).

[212] MD. CODE ANN., CORR. SERVS. § 8-407.

[213] *Id.* §§ 8-405(a), 8-416, and 8-502; *Davidson v. State*, 18 Md. App. 61, 67 (1973).

[214] MD. CODE ANN., CORR. SERVS. § 8-405(b).

[215] *State v. Barnes*, 273 Md. 195, 210 (1974).

[216] *Form VI* is the only document which must be sent to the Attorney General's Office for signature before it is sent to the prisoner's warden. *Form VI* should not be sent to the Attorney General's Office (attention: Steven G. Hildenbrand) until *Form IV* has been received by the prosecutor in Maryland from the prisoner's Warden.

[217] *See Thurman v. State* 89 Md. 125, 129-32 (1991).

[218] *Bey v. State*, 36 Md. App. 529, 532 (1977); *King v. State*, 5 Md. App. 652, 660 (1968).

The term *appropriate court*, referring to the court where the prisoner's disposition request is to be filed, is construed broadly and is not necessarily limited to the Maryland court in which trial would ultimately occur.[219]

B. Request by the prosecutor.

The prosecutor of the jurisdiction in which the untried indictment is pending may obtain custody of the out-of-State prisoner by filing *Form V*.[220] A grace period of thirty days must elapse to permit the prisoner to request his Governor to bar the transfer. The warden responds to *Form V* by filing the certificate of inmate status (*Form III*), and after thirty days and compliance with *Cuyler v. Adams*,[221] the offer to deliver temporary custody (*Form IV*). The prosecutor has 120 days from the **arrival** of the inmate in Maryland to commence trial.

Regardless of which party initiates the request for temporary custody, it is incumbent upon the warden to give notice of the contemplated transfer to the prosecutors of all subdivisions of the receiving State who have filed detainers. Once notified, those prosecutors as well are bound by the single transfer rule and the time limits.[222] Where timely trial will not be possible in one county because of the pending charge in another county, it is incumbent upon the prosecutors to obtain the necessary continuances. All prosecutors notified of the impending transfer of the inmate accept the offer of temporary custody by filing *Form VIII*.

Prior to arrival of the agent for the prosecutor of the receiving State at the prison to transport the accused to trial, *Form VI* must have been sent to the warden.[223] On the day of the exchange, the agent may be required to display suitable identification, his copy of *Form VI*, and a certified copy of the indictment.

The transfer of the prisoner under the IAD is **temporary**. As soon after conclusion of trial and sentencing as practicable, the prisoner and *Form IX*, verifying the Maryland disposition, must be returned to the original place of incarceration. Upon completion of sentence there, he may be returned to the receiving State to serve the balance of any unfinished sentences.[224]

Caveat: Whenever the Maryland prosecutor is to secure custody under the Act, it is helpful to grease the bureaucratic channels with a telephone call to the prisoner's warden. All

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[219] *See Brooks v. State*, 329 Md. 98, 102-08 (1993) (disposition request under the Intrastate Detainer Act held effective where filed in the District Court of Maryland, even though the offense charged was triable only in Circuit Court).

[220] MD. CODE ANN., CORR. SERVS. § 8-406(a).

[221] 449 U.S. 433, 101 S. Ct. 703, 66 L. Ed. 2d 671 (1981).

[222] MD. CODE ANN., CORR. SERVS. § 8-406(b).

[223] *Id.* § 8-407(a).
[224] *Id.* § 8-407(e).

parties are directed to "liberally construe [the Act] so as to effect its purposes"[225] and to "cooperate with one another and with other party States in enforcing the agreement and effectuating its purpose."[226] However, procedures vary and much time and anxiety can be avoided by verifying that custody will be transferred without complication prior to the agent's arrival at the prison gates. Close communication between the other State's Attorneys who are waiting to prosecute the out-of-State inmate before his return also is also essential. It is essential for all receiving State's Attorneys in Maryland to try to agree in advance of the inmate's initial return to Maryland as to the order in which prosecution will occur, responsibility for temporary custody, transportation to and from the sending state, and costs of transportation.

The importance of the standard forms is that the IAD really is self-executing when the forms are understood and filed correctly. Each form, appearing in Appendix D of the *Maryland Extradition Manual*, contains a heading indicating when and how the form is used and to whom copies are sent.

[225] *Id.* § 8-411.

[226] *Id.* § 8-412.

	SUMMARY OF FORMS	
A	The **first step** always is the warden informing a prisoner of the filing of a detainer at the institution and the rights of the inmate under the IAD.	I
B-1	If the **inmate invokes the Act**, three forms are mailed to the receiving State's prosecutors(s) and appropriate court(s).	II III IV
B-2	If the receiving State prosecutor intends to comply with the request, he informs the inmate and warden that he accepts the offer of custody and identifies the agent who will transfer the prisoner for trial. If additional receiving State prosecutors are involved, they send to the warden a form acknowledging their intent to try the inmate on their detainers.	VI VII VIII
C-1	If the **prosecutor invokes the Act**, he sends the initial request to the warden.	V
C-2	Warden replies with the certificate of inmate status and offer to deliver temporary custody to the prosecutor.	III IV
C-3	After the receipt of a Form IV, the prosecutor indicates which agent will be sent to take custody of the prisoner. (Four originals of VI sent to receiving state Administrator.)	VI
D	The last step is always the prosecutor's return of the prisoner to the sending State and a disposition report to the Warden.	IX

DIFFERENCES BETWEEN THE INTER- AND INTRA-STATE ACTS.

Except where statutory language is inconsistent, both the Inter- and Intra-State Detainer Acts are construed *in pari materia*.[227]. There are, however, several major differences: (1) the time limit of the Intra-state prisoner's request under MD. CODE ANN., CORR. SERVS. §§ 8-501 - 8-503 is reduced to 120 days. (2) The requirement of the certificate of inmate status (*Form III*) is directory under MD. CODE ANN., CORR. SERVS. §§ 8-501 - 8-503.[228] (3) There is no single transfer rule under the Intra-state Detainer Act. (4) Dismissals of the indictments under the Intrastate Detainer Act are "without prejudice."[229] (5) There is no express provision for a prosecutor to initiate a request under MD. CODE ANN., CORR. SERVS. §§ 8-501 - 8-503, but because the statutes are *in pari materia*, the prosecutor may rely upon MD. CODE ANN., CORR. SERVS. § 8-406, imposing a 120 day limit.

PITFALLS FOR THE TRIAL PROSECUTOR TO AVOID.

(1) **Notice**. The inmate's request commences the running of time limits when **received**.[230] Liberal construction of the notice requirements dispenses with formalities of registered mail and use of standardized forms. Inmates' letters therefore should be screened carefully for requests to invoke the Act, as in *Wise v. State*, 30 Md. App. 207 (1976). Special procedures should be established in every prosecutor's office for red flagging IAD cases since the time limits are too short to risk losing track of a request. While the prosecutor will not be able to ignore an inmate's request under the Act, no matter how inexpertly it is phrased, the failure of the notice to **reach** the prosecutor and appropriate court, regardless of fault, absolves the prosecutor from compliance with the IAD.[231]

(2) **Time limitations**.

(A) Interstate Request: (1) By inmate—180 days from receipt of request. (2) By prosecutor—120 days from arrival in receiving State (after thirty day grace period).[232]

(B) Intrastate Request: (1) By inmate—120 days from notice.[233] (2) By prosecutor—120 days from request.[234]

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[227] *State v. Barnes*, 273 Md. 195, 208 (1974). *Accord Brooks v. State*, 329 Md. 98, 104 (1993).

[228] *See Isaacs v. State*, 31 Md. App. 604, 613 (1976).

[229] MD. CODE ANN., CORR. SERVS. § 8-503.

[230] *Id.* § 8-416.

[231] *Bey v. State*, 36 Md. App. 529, 532 (1977).

[232] MD. CODE ANN., CORR. SERVS. § 8-406(c).

[233] *Id.* §§ 8-501 - 8-503.

(3) **Tolling of limitations**.

There are three ways to halt the running of the time periods of the IAD. (1) The most common (and the one causing the most problems) is: (a) for good cause shown, (b) in open court, i.e., on the record, (c) with defendant or his attorney present.[235] The defense need not agree to the delay, just be provided with an opportunity to voice its point of view. What constitutes good cause for continuance is commended to the sound discretion of the trial judge.[236] But no matter how compelling the reason for the delay, if all three postponement criteria are not followed, a reversal is assured.[237] (2) The time limitations are interrupted for the period a defendant spends in a mental hospital, incompetent to stand trial.[238] (3) The time period and the request are **voided**, not merely suspended, when an inmate escapes.[239]

There are two additional circumstances where an asserted violation of the time periods for commencing trial under the IAD will not operate as a bar to a Maryland conviction. Where the sending state releases the prisoner from his sentence in that state prior to the expiration of the 180-day time limitation for commencing trail in Maryland, pursuant to the prisoner's disposition request under the IAD, the IAD time limitation no longer applies (although Maryland and federal non-extradition speedy trial requirements will continue to apply).[240] Additionally, where the prisoner pleads guilty in a Maryland trial for which the prisoner was transferred to Maryland pursuant to the IAD, the guilty plea cuts off any claim that he was not tried before expiration of the IAD's time limitations for the commencement of trial.[241]

Caveat: A postponement must carry the delay past the original deadline. After that initial period is crossed, the Act imposes no further restrictions. For example, a one month continuance consuming days 30 through 60 of the period will **not** serve to extend automatically the deadline by that month. If the time lost by the continuance makes it impossible to commence trial under

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[234] *Id.* § 8-406.

[235] *Id.* §§ 8-406(c) and 8-502 (b). The prosecutor should place a memo in the office file noting the court, Judge, stenographer, defense attorney, time, date, and reason for each postponement.

[236] *Anglin v. State*, 38 Md. App. 250, 253 (1977).

[237] *Hoss v. State*, 266 Md. 136, 145 (1972); *Gardner v. State*, 29 Md. App. 314, 391 (1975).

[238] MD. CODE ANN., CORR. SERVS. § 8-408.

[239] *Id.* § 8-403(f).

[240] *See State v. Holley*, 82 Md. App. 381, 384-91 (1990).

[241] *See Mohler v. State*, 84 Md. App. 431, 436-40 (1990) (distinguishing IAD cases from those under the Intrastate Detainer Act, for which violations of the statutory time periods are not waived by a guilty plea).

the original time limit, a second continuance, in open court, **etc**., must occur **prior** to the expiration of the initial deadline.

(4) **Single transfer rule**: Once an **inter**state prisoner is transferred to the receiving State under the Act, he may not be returned to the sending jurisdiction until he has been tried and sentenced on **all** charges in **all** counties that have filed detainers. Premature return enables the prisoner to avoid a subsequent transfer to any county in the receiving State.

The single transfer rule under the IAD (also referred to as the "anti-shuffling" provision) is not violated where the defendant is returned to the sending state following trial in the District Court of Maryland, but is brought back to Maryland for a circuit court *de novo* trial upon the defendant's filing of an appeal to the circuit court.[242] Where the anti-shuffling provision is in fact violated, the defendant may be deemed to have waived the violation where he fails to assert it at his Maryland trial or on direct appeal.[243]

Since violation of the single transfer rule results in dismissal of the indictment with prejudice, two problems require comment. (1) Special problems arise where there is much traffic between the out-of-State detention center and the courts of counties along State borders; e.g., Prince George's County cannot under the IAD retrieve an inmate from Lorton, VA. (the D.C. Detention Center) for a three day trial and return the defendant at the conclusion of each day. Nor can Cecil County accept a Delaware inmate for trial and return him prior to transfer to Allegany County for resolution of its detainer. Distance and convenience are not controlling; State boundaries are. (2) Inmates in federal custody, even housed within a State facility, nevertheless fall under the Interstate Act. Thus, the single transfer rule applies although no State borders are involved. Assuming the gears of the IAD have been engaged properly, Baltimore County, for example, cannot temporarily transfer an inmate from the federal section of the Baltimore City Detention Center for arraignment, return him to the jail, and expect to take custody again at a later time for trial.[244]

(5) **The speedy trial right v. the IAD.**

Failure to invoke the Act does not prevent an inmate from claiming violation of his Sixth Amendment right of speedy trial. Out-of-State inmates may be content to wait years in silence, while the Maryland charges on which detainers are based die of neglect. To salvage these cases prosecutors should invoke the Act under MD. CODE ANN., CORR. SERVS. § 8-406. If the inmate does not oppose extradition, the Sixth Amendment dilemma is avoided; if he does, that

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[242] *See Stone v. State*, 344 Md. 97, 109-14, 685 A.2d 441, 447-49 (1996); *Jefferson v. State*, 319 Md. 674, 680-85 (1990).

[243] *See State v. Torres*, 86 Md. App. 560, 563-69 (1991).

[244] *See State v. Wilson*, 35 Md. App. 111, 143-44 (1977).

opposition militates against his successfully proving a violation of his right to speedy trial on the charge.[245]

The reverse side of the coin, the inmate who invokes only the IAD, does not automatically press for the constitutional right of speedy trial as well. Inmates may rely on either or both remedies, but in each instance, the prosecutor needs actual and specific notice.[246]

(6) **The IAD "ambush."**

By the use of aliases or by use of deliberately confusing requests intended to "ambush" the State, a prisoner may forfeit protection of the IAD.[247] Courts apply a variety of the "clean hands doctrine."

CONCLUSION

Having addressed the basic mechanics of invoking the Act, having complied with the prisoner's requests thereunder (the exchange of Forms), and having briefly touched on some of the pitfalls that confront the trial prosecutor, an early theme must be re-emphasized. Better preparation by State's Attorneys on the fundamentals of criminal procedure is imperative. As the courts continue to interpret the IAD "liberally" to the benefit of prisoners, it will be used increasingly by the inmate as a sword to extricate himself on a "technicality" from an open and shut case, rather than as a shield to effect the true intention of the Act.[248] Non-compliance with the IAD places a time bomb in a case that will explode either on direct appeal or collateral attack in federal court to free a person despite the strength of the evidence on the merits of the charge. To insure that successful prosecutions are not sabotaged prior to trial, State's Attorneys must read the Acts and read the cases to be able to defuse IAD compliance problems **before** the expiration of the controlling time period.

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[245] *Wilson*, 35 Md. App. 111.

[246] *See State v. Long*, 1 Md. App. 326, 333 (1967).

[247] *Wise v. State*, 30 Md. App. 207, 212 (1976); *Davis v. State*, 24 Md. App. 567, 574 (1975).

[248] MD. CODE ANN., CORR. SERVS. § 8-403.

EXECUTIVE AGREEMENTS

The Uniform Criminal Extradition Act contemplates by executive agreement the delivery and return of individuals in special situations. In Maryland, such agreements are most often used in the following situations:

I. To gain custody of inmates incarcerated in institutions of those states which are not parties to the Interstate Detainer Agreement or for detainer situations in which that agreement cannot be invoked.

II. To gain custody of individuals incarcerated in other states when Maryland seeks their return only for use as witnesses in criminal proceedings against other individuals. Maryland is **not** a party to the "Rendition of Prisoners as Witnesses in Criminal Proceedings Act."

The form and content of these executive agreements need not follow any statutorily prescribed form.[249]

[249] *See* Appendix B.

UNIFORM ACTS

I. Introduction; Statutory Citations - There are many situations, other than those covered by the extradition and detainer statutes, in which individuals needed for the disposition of criminal matters must be exchanged between states. Relevant uniform acts and interstate compacts covering some of these situations are listed below and discussed in following sections.[250] Where Maryland is a party to an Act, the Code citation is given:

Uniform Interstate Family Support Act.

MD. CODE ANN., FAM. LAW §§ 10-301 *et seq.*

Interstate Compact for Adult Offender Supervision.

MD. CODE ANN., CORR. SERVS. §§ 6-201 *et seq.*

Interstate Compact on Juveniles.

MD. CODE ANN., HUM. SERVS. §§ 9-301 *et seq.*

Uniform Act for the Extradition of Persons of Unsound Mind.

MD. CODE. ANN., HEALTH-GEN. §§ 10-1301 *et seq.*

Act to secure the Attendance of Witnesses from Without the State in Criminal Proceedings.

MD CODE ANN., CTS. & JUD. PROC. §§ 9-301 *et seq.*

Mandatory Disposition of Detainers Act.

Rendition of Accused Persons Act.

Rendition of Prisoners as Witnesses in Criminal Proceedings Act.

II. Uniform Interstate Family Support Act - The U.I.F.S.A. (as it is commonly known) is important in that it provides for cooperation between states in both civil and criminal nonsupport actions. The criminal provisions of the Act provide for rendition. The Governor's policy concerning the use of the U.I.F.S.A. to request rendition is that either the civil remedy must have been first unsuccessfully attempted, or a showing must be made that such a proceeding would be ineffective. The latter point should be clear in the affidavit submitted with the rendition application forwarded to the Governor.

[250] Signatory states with statutory citations are listed in Appendix A.

III. Interstate Compact for Adult Offender Supervision - The provisions of this Act allow states to release parolees and probationees to reside out-of-state under the supervision of officials in the receiving state. To the extent that an individual enters a consenting state, he waives his extradition rights.[251] By contrast, a parolee or probationee who enters a state without such formal permission is entitled to the benefits of the extradition machinery.[252] The constitutionality of the aforesaid variance, relative to extradition rights, was challenged when the Uniform Act was first promulgated, but it has been subsequently upheld by the Court.[253]

These uniform statutory provisions were impacted by a landmark U.S. Supreme Court decision,[254] mandating that, prior to revocation of parole or supervision, an individual is entitled to a hearing to establish that he violated the terms of his parole or probation. The application of this decision varies in the many states, particularly with respect to whether a preliminary hearing is required in the receiving state prior to returning the individual to sending state.

IV. Interstate Compact on Juveniles - This Compact provides for the issuance of requisitions for the return of runaways and delinquents. However, juveniles still come within the scope of the Uniform Criminal Extradition Act and can be extradited pursuant to its provisions. The Governor's policy generally is to extradite a juvenile if the case against the minor is grave, and the circumstances of such case justify handling the juvenile as an adult.[255]

The Compact further provides for cooperative supervision of juveniles on probation or parole and for the states to enter into agreements for supplementary care and rehabilitation of juveniles.

V. Uniform Act for the Extradition of Persons of Unsound Mind - Fugitives that are of unsound mind within the terms of the statute are subject to return to the demanding state

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[251] MD. CODE ANN., CORR. SERVS. § 6-202(d) (stating that "[t]he compacting states recognize that there is no 'right' of any offender to live in another state and that duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any offender under supervision"); *see also* 44 Md. Op. Att'y Gen. 288 (1959); 31 Md. Op. Att'y Gen. 160 (1946).

[252] *See* MD. CODE ANN., CRIM. PROC. § 9-110 (describing the process afforded to a person arrested on a Governor's warrant).

[253] *Ex parte Tenner*, 20 Cal. 2d 670, 128 P.2d 338 (1942).

[254] *Morrissey v. Brewer*, 408 U.S. 471 (1972). See also *Gagnon v. Scarpelli*, 411 U.S. 778 (1973), for application to probation revocation.

[255] See *Illinois v. Pardo*, 265 N.E.2d 656 (Ill. 1970), for discussion of the extradition process for juveniles.

on production of a legal document (order of commitment, decree, etc.) certified to be authentic, and an affidavit as to fugitive status. There is limited discretion in a Governor's decision to extradite. It is the duty of the executive authority of an asylum state to cause him to be apprehended and secured if found in a state.[256] The practical payment of costs incurred by the asylum state often arises when the decision to demand return of the mental patient is made. All costs are generally paid by the demanding mental institution.

VI. Act to Secure the Attendance of Witnesses from Without the State in Criminal Proceedings - On a certification from a court of record in another state that is a party to the Act, a hearing is held in Maryland to determine whether a witness is material and necessary to the out-of-state grand jury or criminal proceeding. If there is also a determination that there will be no undue hardship to the witness, and that the witness will be protected from other services of process, a summons will be issued by local court directing the witness's attendance in the other state. Alternatively, if the out-of-state certificate advises that a witness may flee, the witness may be taken into immediate custody and brought before a judge for hearing without notification.

When Maryland requires a witness, the judge of the court in which the proceeding is being conducted will issue a certificate stating the witness's material status in a pending criminal matter. The Court is also authorized to recommend immediate custody. It must be remembered that this Act **is not applicable to prisoners**.

VII. Mandatory Disposition of Detainers Act, Rendition of Accused Persons Act, Rendition of Prisoners as Witnesses in Criminal Proceedings Act -These three acts were promulgated by the national Conference of Commissioners on Uniform State Laws in 1958, 1967, and 1975 respectively. To date, only a handful of states are parties thereto. Since Maryland is not a party, their impact is minimal in this State. The Detainers Act is substantially preempted by the Interstate Detainer Agreement discussed earlier. The Rendition of Accused Persons Act is described as a supplement to the Uniform Criminal Extradition Act, although its subject matter is completely covered by the latter. The Rendition of Prisoners Act is now handled as a practical matter in Maryland by executive agreement.

[256] MD. CODE ANN., HEALTH-GEN. § 10-1301 *et seq.*

INTERNATIONAL EXTRADITION

I. International Extradition in General - International extradition is the process by which a person found in one country is surrendered to another country for trial or punishment.

A. It is a formal process regulated by treaty and conducted between the federal government of the United States and the government of a foreign county. Thus, it has a legal basis different from that of interstate rendition (frequently referred to as "interstate extradition"), mandated by Article 4, Section 2 of the Constitution, and regulated chiefly by state law and 18 U.S.C. § 3182.

B. Every request for international extradition must be approved by the Department of Justice and formally presented to the foreign government by the Department of State through diplomatic channels. It is important to remember that the terms of an extradition treaty can only be invoked by the Department of State or persons authorized by it to do so.

C. Prosecutors, police officers, or investigators are generally free to communicate directly with their foreign counterparts for the purpose of giving or receiving information on law enforcement matters, but they may not request the arrest of a fugitive for extradition. Unauthorized requests for foreign arrests cause serious diplomatic difficulties and can subject the requestor to heavy financial liability[257] or other sanctions.

II. Determining if Extradition is Possible

A. A prosecutor or investigator interested in arranging for extradition should first contact the Office of International Affairs ("OIA"), Criminal Division, Department of Justice in Washington, D.C., telephone number: (202) 514-0000. Extradition specialists in OIA determine whether the extradition request can succeed, taking into account the language of the applicable treaties, the law of the foreign country involved, and the facts of the particular case. In order for OIA to make this determination, the inquirer should be prepared to provide the following information:

1. The country in which the fugitive is believed to be located, his address or location there,[258] and status (i.e., at large, incarcerated for another offense, etc.);

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[257] *Cf. Sami v. United States*, 617 F.2d 755 (D.C. Cir. 1979).

[258] If the fugitive's whereabouts are not known, OIA can enlist the aid of several federal and international agencies in locating him. For example, in some cases OIA can ask Interpol to issue a *red notice* (an international request that the fugitive be sought and apprehended immediately pending extradition) to its member countries.

2. The citizenship of the fugitive and whether the fugitive is a citizen of the foreign country from which extradition is contemplated;[259]

3. The precise crime for which the fugitive has been charged or convicted, including the citation to the specific statute involved;

4. The full title of the court in which criminal proceedings are pending, the name of the judge, the date on which the indictment or conviction was obtained, and the docket number of the proceedings;

5. A brief description of the specific acts committed in connection with the offense, i.e., who did what to whom, when, where, and why; and

6. A brief description of how the prosecutor intends to prove the violation (e.g., witness testimony, documentary evidence, undercover agents, codefendants who agreed to cooperate with the government).

B. Based on this information, OIA determines whether an extradition request can be made, taking the following factors into account:

1. Whether there is an extradition treaty in force with the country in which the fugitive is located;[260]

2. Whether the treaty provides for extradition for the crime in question;

3. Whether the offense in question is punishable under the law of the requested country;

4. Whether there is sufficient evidence to justify extradition in accordance with the terms of the treaty;

5. Whether the fugitive is a national of the requested country (many foreign countries do not extradite their own citizens); and

6. Whether extradition is in the interests of justice in light of all the circumstances.

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[259] It is not enough to determine the fugitive is a United States citizen because many persons have dual citizenship.

[260] *Treaties in Force*, an annual publication by the Department of State, should be consulted to determine whether an extradition treaty is in force between the United States and any particular country.

III. Provisional Arrest

A. If OIA concludes that extradition is in order, it is possible in many cases to arrange for the immediate arrest of the fugitive in order to prevent any further flight while the documents and evidence in support of a formal request for extradition are being prepared. This procedure is known as "provisional arrest." **Provisional arrest should not be regarded as the ordinary method of initiating extradition proceedings**. Rather, it should only be considered in emergency situations where there is a real danger of the fugitive fleeing further before the extradition documents can be completed.

B. Under some newer treaties, for example, those with Canada and Germany, the Department of Justice can arrange provisional arrest directly with the authorities abroad by telephone, telex, or via Interpol. In other cases, OIA asks the Department of State to instruct the appropriate U.S. Embassy or consulate to make the request.

C. All requests for provisional arrest should be made to OIA and should be supported by the information called for on the form provided by the OIA. The request should be in writing, but in urgent cases it can be made by phone with written confirmation immediately thereafter. Because provisional arrest is reserved for exceptional cases, OIA requires that if the fugitive is wanted for federal charges, the Section within the Criminal Division of the Department of Justice which has oversight responsibility for the case[261] must also agree that provisional arrest is appropriate before further action is taken. If the fugitive is wanted on state or local charges, the state extradition officer must support the request by attesting that the necessary documentation will be submitted on time and that all of the expenses of the extradition request will be covered.

D. Please remember that when provisional arrest is effected, the time available to prepare, review, authenticate, translate, and transmit the documents in support of the extradition request is drastically reduced. In most countries, the fugitive will be released from custody if the documents do not arrive within a deadline prescribed by treaty,[262] and in some countries the fugitive can never be surrendered or extradited thereafter. Therefore, it is imperative in such cases that the documents be completed and sent to OIA within 14 days.

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[261] For example, a request for the provisional arrest of a wanted narcotics trafficker must be approved by the Narcotics and Dangerous Drugs Section.

[262] For the precise deadline set by a particular treaty, please contact the OIA as early as possible.

IV. Documents Needed for Extradition

A. In general, extradition documents are prepared by the federal or state authorities responsible for prosecuting the charges for which extradition is requested. It should be noted that the authority that prepares the papers must also pay all the expenses incurred in connection with the request,[263] including the cost of translating the documents, any cost of legal representation in the foreign country, any charges levied by the asylum country for boarding the fugitive pending extradition, the transportation and other expenses of the escort officers handling the fugitive's physical return to this country, and the cost of transportation of the fugitive to the United States.

B. The documents needed for extradition are:

1. An affidavit from the prosecutor describing the case;

2. Authenticated copies of the indictment and arrest warrant; and

3. Evidence establishing the crime or proving that the fugitive was convicted, including sufficient evidence to identify the fugitive.

a. *Prosecutor's Affidavit* - Every extradition must be accompanied by an affidavit describing the state of federal laws applicable to the case, including the statute of limitations. Because this affidavit is sometimes the only opportunity that any United States authority will have to assist the foreign court in deciding whether extradition should be granted, it should be tailored to serve as a sort of "cover letter" introducing and explaining the rest of the documents. The affiant (usually the prosecutor assigned to the case) should set forth enough of his background to assure foreign authorities that he is familiar with the case and with United States criminal law. The affiant should then accomplish three major objectives:

(1) Identify and attest to the authenticity of any court papers, depositions, or other documents submitted in support of the extradition request.

[263] In federal cases the United States Attorney or Strike Force office should resolve any questions regarding costs with the Executive Office for U.S. Attorneys in Washington, D.C. In non-federal cases the standard arrangements for meeting costs vary from state to state. In some states the local officials responsible for the prosecution are reimbursed by the Governor's office for the costs of international extradition. In Maryland, the prosecuting authority must absorb these costs itself.

(2) Identify the offenses with which the fugitive is charged, indicate that the statutes involved were in force when they occurred, and indicate the statutes are currently in full force and effect.[264] It must also specifically state that the applicable statute of limitations has not expired. The affiant should set forth the text of each statute involved, including the applicable statute of limitations. If the statutes are relatively short ones, they can be set out in the affidavit itself. If the statutes are lengthy, the text should be typed (not photocopied from an annotation) and attached as an exhibit to the affidavit.

(3) Describe the facts underlying the charges, indicating in general who is accused of doing what. This description of the crime should not simply track the language of the indictment, the applicable statute, or the treaty.

b. *Language* - Since it is important that the language in the affidavit be as clear and lucid as possible,[265] the following pointers are worth remembering:

(1) Use plain language;

(2) Use short sentences;

(3) Avoid legal terms of art, even ones that sound simple in English (e.g., "due process of law");

(4) Avoid "alleged," "purported," "aforementioned," "foregoing," "hereinafter," etc.; and

(5) Avoid flowery expressions (most of it will be lost in translation anyway).

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[264] If the laws are not still in effect–e.g., Title 21, United States Code, Sections 173 and 174–an explanation should be given.

[265] This is especially true when the extradition request is going to a non-English speaking country because the papers will have to be translated into the language of that country. Please remember that the translators, who are usually from the State Department Language Services Division, are frequently unfamiliar with the precise meaning of jargon that attorneys take for granted and hence will be unable to reproduce it accurately in the language of the country of refuge, which may not have an exactly equivalent term anyway. In short, the use of legalese, words of art, technical language, or *slang* is counterproductive. It is also important to use simple syntax whenever possible.

(6) The prosecutor's affidavit may be executed before any person lawfully authorized to administer oaths, but it is highly desirable that the affidavit be executed before a judge or magistrate. In some jurisdictions, judges decline to execute affidavits and insist that the clerk or deputy clerk of court perform this task. Where this is the case, the signature of a judicial official must appear somewhere on the affidavit, and the preferred method is to have the judge or magistrate sign a jurat attesting to the signature and authority of the clerk or deputy clerk.[266]

c. *Indictment and Warrant* - A fugitive can only be extradited on the basis of a formal criminal charge. Moreover, a person who has been extradited can be prosecuted or punished only for the specific charge for which he was surrendered, even if there are other charges that could have otherwise been brought against him.[267] It is therefore important to include in the extradition documents a copy of the outstanding indictment or complaint concerning all charges on which the fugitive will be tried or punished after his surrender.

(1) The packet should also contain copies of the outstanding warrant of arrest for each offense sought against the fugitive. If the fugitive is merely accused of a crime, the outstanding warrants will usually have been returned unexecuted and should so indicate. Where the fugitive has already been convicted, it is the outstanding warrant for bond jumping, escape, etc.—not the executed warrant for the offense underlying the conviction—that must be submitted.

(2) Because the original indictment or complaint and warrant usually remain among the records of the court, the copies of those documents included in the extradition packet should show that they are true copies of the original. While there are several ways to indicate this fact,[268] the best way

[266] Ensure the judge or magistrate certifies the signature that actually appears on the affidavit. Sometimes a deputy clerk signs in place of a clerk, and in such cases the judicial official must certify the signature, title, and authority of the deputy clerk–not the clerk.

[267] *Johnson v. Brown*, 205 U.S. 309 (1907); *United States v. Rauscher*, 119 U.S. 907 (1886).

[268] Federal district court clerks have a standard form, OA Form 132, which is frequently used to achieve this end. Many state court clerks also use a standard form for this task. These forms are usually filled out by a clerk of the court whose signature, title, and authority are certified by the judge of the court.

to is to have the clerk of the court apply a stamp or seal to the document itself authenticating it as a true copy of the original court records. Then the document should be attached as an exhibit to the prosecutor's affidavit.

d. *Evidence Establishing the Case* - All of the treaties condition the extradition of an accused person on the presentation of evidence sufficient to justify committal for trial under the law of the requested country. England, Canada, and other common law countries usually demand that the documents show a *prima facie* case.[269] As a matter of policy, the United States does not submit an extradition request to any country unless we are persuaded that a *prima facie* case has been established.

(1) The preferred method for demonstrating to the foreign government that this requirement has been satisfied is for the prosecutor to attach to his affidavit enough sworn statements from investigating agents, witnesses, coconspirators, or experts to indicate that each crime in question was committed and that the fugitive committed it. The affidavits, read together, should contain evidence on each charge for which extradition is sought. If the request is to a continental European or other civil law country, hearsay is acceptable. Therefore, for these countries, the prosecutor or investigating agent may relate the observations of other witnesses.

(2) Extradition affidavits should be prepared with formal captions showing the title of the case and the court in which the prosecution is pending. Each affiant should clearly and concisely set out the facts he knows,[270] avoiding hearsay if at all possible.[271] Because the affidavits will be presented as exhibits to the prosecutor's affidavit, it is not absolutely necessary that they be signed by a judge, and they can be executed before any person authorized to administer an

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[269] A *prima facie* case for extradition exists when the court believes that "if the evidence before the (extradition) magistrate stood alone at trial, a reasonable jury properly directed could accept it and find a verdict of guilty." IVOR STANBROOK & CLIVE STANBROOK, EXTRADITION: LAW AND PRACTICE 28 (1980) (citing *Schtraks v. Government of Israel* [1964] A.C. 556).

[270] *See supra* note 25 and accompanying text.

[271] The courts in England, Canada, and other common law countries do not accept hearsay in extradition proceedings. In other countries, hearsay is admissible but accorded considerably less weight than statements based upon personal knowledge.

oath (including a notary public). It is also not necessary that all of the affidavits be executed within the state or federal district from which the request for extradition emanates. Where a witness resides or is located elsewhere, his affidavit can be taken wherever it is most convenient, then forwarded to the prosecutor preparing the request for inclusion in the packet.

C. The other method of documenting the case is for the prosecutor to forward excerpts from the grand jury transcripts establishing that the fugitive committed the offense.[272] When grand jury transcripts are used, permission from the court for their release is generally required.[273] Grand jury transcripts are best presented as an exhibit accompanying a short affidavit from the witness who testified attesting that the transcript in fact reflects what he said before the grand jury. Alternatively, the prosecutor who appeared before the grand jury can identify the transcripts and attach them as an exhibit to his own affidavit.

1. When the fugitive has already been convicted in this country, the extradition packet generally need not contain evidence of a *prima facie* case. Instead, it should contain proof that the fugitive was convicted after having been present at trial and is unlawfully at large without having fully served his sentence. In federal cases, the judgment and committal order (CR From 25) is the best proof of conviction and sentence.[274] A copy of that document should be authenticated like the indictment and warrant of arrest and included as an attachment to the affidavit by the prosecutor. A

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[272] We try to avoid using grand jury transcripts when possible because the authorities in many foreign countries do not understand the purpose or function of a grand jury and tend to accord grand jury transcripts less weight than affidavits or sworn statements containing the same information.

[273] *See, e.g.*, FED. R. CRIM. P. 6(e).

[274] Special problems arise when the defendant in a federal case is convicted but becomes a fugitive before any sentence is imposed. Since Rule 43 of the Federal Rules of Criminal Procedure requires the defendant be personally present at sentencing, *United States v. Brown*, 456 F.2d 1112 (5th Cir. 1972), there is usually no CR Form 25 available in these cases. One solution to this problem is to ask the Court to complete the top half of CR Form 25 anyway, crossing out the phrase "and the defendant appeared in person and" in the second line and leaving blank the portion of the Form describing the term of imprisonment. Another possible solution is for the Court to actually impose sentence *in absentia* with the understanding that the sentence will be vacated and the defendant resentenced after he is returned to the jurisdiction. *Id.* Still another solution: obtain copies of the jury's verdict forms as proof of conviction. In any event, the prosecutor must explain in his affidavit exactly what occurred and detail the procedural quirk involved, because in most foreign countries the defendant is sentenced immediately upon conviction.

similar judicial document proving conviction is available in state proceedings and should be submitted in state cases. Proof that a convicted and sentenced person is unlawfully at large can generally be presented in the form of an affidavit from the warden of the prison from which he escaped, or from his probation officer. The affidavit should also indicate the portion of the sentence remaining to be served[275] and how the prisoner came to be at large. In cases involving convicted persons, the foreign government will still need a clear explanation of what the fugitive was convicted of doing, and since there will be no affidavits from witnesses, the explanation of the case in the prosecutor's affidavit assumes special importance.

2. The affidavits or grand jury transcripts must leave no room for any doubt about the identity of the fugitive. “Mistaken identity” is a universally accepted defense to extradition, so it is crucial that the documents establish:

   a. That the person who is accused or convicted indeed committed the crime, **and**

   b. That the person whose extradition we seek is the person accused or convicted. This is usually done by having the witnesses identify a photograph of the accused the foreign authorities can compare to the person arrested for extradition.[276] Fingerprint cards, photocopies of passports, or other identity evidence can also be used, provided they are accompanied by sufficient proof to tie them to the accused. All exhibits should be initialed by the affiant, dated, and attached to the upper left-hand corner of a separate page of the affidavit in order that the ribbon attaching the certificates containing the State Department's seal may pass through them. The evidence establishing the identity of the fugitive can be included in the same affidavit or grand jury testimony setting out the evidence of the offense.

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[275] Some extradition treaties provide that a convicted person need not be surrendered unless a specified minimum period of imprisonment remains to be served.

[276] Do **not** include an entire photo spread in the extradition documents. The practice of using a photo spread instead of a single photo to avoid unduly suggestive identification is wholly a creature of U.S. constitutional law and is inappropriate in the extradition context. Attaching a photo spread simply invites an argument into the extradition proceeding which can, and should be, avoided.

V. Transmission of the Completed Documents to Washington

A. In cases prepared by federal prosecutors, the original and four copies of the documents should be sent directly to OIA which reviews them for sufficiency and arranges for the seal of the Department of Justice to be affixed to them.

B. In cases prepared by state or local prosecutors, there are two paths the documents can take.

1. In most jurisdictions, the original and four copies of the papers are first sent to the extradition officer for the state. The extradition officer reviews the documents, attaches to them a requisition bearing the seal of the state, and sends them to OIA for review.

2. Alternatively, the original and four copies of the prosecutor's affidavit and its attachments can be sent directly to OIA for review with a copy sent to the state extradition officer. OIA will then affix the Department of Justice seal to the papers (instead of the seal of the state) before sending them forward to the State Department.

The latter procedure is particularly useful when a provisional arrest has been made, and it is essential that the documents get to the foreign authorities as soon as possible. OIA will not take action on a non-federal extradition case until it receives assurances from the state's extradition officer that the state supports the request and will be responsible for expenses incurred in this case.

C. Once the OIA is satisfied that the documents are in order, it forwards them to the Department of State for final screening (chiefly to detect possible foreign policy or political problems that might stem from the request) and action. The Department of State affixes its seal to the documents, and if necessary, arranges for translation of the documents or for authentication of the documents at the foreign country's embassy in Washington.

D. The State Department then sends the documents to the appropriate United States diplomatic post abroad along with instruction for formally requesting extradition.

VI. Presentation of the Extradition Request

A. United States diplomatic agents abroad present the documents to the foreign country's equivalent of the Department of State.

B. What happens to the extradition case beyond this point depends upon the extradition laws of the requested country.

C. Usually, the requested country's diplomats forward the case to their country's equivalent of the Department of Justice, which directs the appropriate authorities to make arrangements for the fugitive's arrest.[277]

D. In most cases, the courts of the requested country must also consider the matter, and judicial proceedings are conducted to determine whether the extradition request should be granted.[278]

E. If the court rules in favor of extradition, the fugitive may be able to appeal the decision to a higher court. In other countries, he can challenge the decision through *habeas corpus* or its equivalent. In a few countries, he can do both.

F. When the foreign court's approval of the extradition request has survived all review, the request goes back to the Executive authorities of the country, where the ultimate decision whether or not to order the fugitive turned over is made.

G. United States embassies abroad are obliged to report all developments in connection with extradition requests to the Department of State, which passes this information on to the OIA and the interested prosecutor.

VII. Arrangements for Taking Custody After Extradition

A. Once the authorities in the foreign country indicate that they are ready to surrender the fugitive, OIA notifies the prosecutor and coordinates the logistics of the formal surrender. Since the law in many countries provides that a fugitive found extraditable is freed if he is not removed within a specified time,[279] these steps must be accomplished as quickly as possible.

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[277] In some countries the United States must retain an attorney to handle the arrangements for the arrest, detention, and extradition of the fugitive. Where this is the case, United States foreign service officers abroad aid in the selection and retention of foreign counsel. *See* 22 C.F.R. § 92.82. In federal cases OIA assists the prosecutor in seeing to it that the foreign counsel is compensated by the Department of Justice. State authorities must make their own arrangements—and pay the necessary expenses—in cases involving the extradition of state fugitives. *See supra* note 263 and accompanying text.

[278] The United States prosecutor, investigator, and witnesses generally do **not** participate in these proceedings. If the foreign authorities require any evidence in addition to that already submitted, it is supplied by way of authenticated affidavits or depositions.

[279] See, e.g., Article 12 of the English Extradition Act of 1870 (two months after committal for extradition) and Article 16 of Denmark's Extradition of Offenders Law (Act No. 249 1967) (thirty days after committal for extradition). Several other extradition treaties contain similar provisions.

B. First, an agent must be selected to go to the foreign country, take custody of the fugitive, and return with him to the United States. Because the Marshals Service maintains a cadre of officers with special training and experience in international escort duty of this kind, OIA generally arranges for the Enforcement Operations Division of the United States Marshals Service headquarters in Washington to designate the agents. Usually at least two escort agents are dispatched for each federal or state fugitive to be guarded.[280]

C. Once the OIA is notified of the names of the escort agents, it arranges for the Department of State to issue a President's Warrant,[281] the special authorization law enforcement officers need to accept custody of the fugitive on behalf of the United States and to convey him to his place of trial. After the warrant has been signed, arrangements are made for its delivery to the escort agents before their departure.

D. When all the arrangements have been made, OIA should be informed of the agents' travel plans so that this information can be transmitted to the foreign government and the relevant United States diplomatic or consular post. This notification assures that the agents will receive the assistance and cooperation of the United States officials in the requested country upon their arrival.

1. The agents should plan their return trip to be nonstop if at all possible because a stop in a third country may provide an opportunity for the fugitive to arrange to have counsel or friends there obtain a local court order for his release and necessitate new extradition proceedings.[282]

2. If a stop in a third country is unavoidable, OIA must be notified so that appropriate arrangements can be made with the authorities in that country.[283]

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[280] In exceptional circumstances the prosecutor handling the case may request that a state or federal law enforcement officer familiar with the case be permitted to assist the Marshals in the transfer.

[281] As the name implies these warrants were formerly issued by the President of the United States in accordance with 18 U.S.C. § 3193. Now they are issued by the Secretary of State pursuant to Executive Order 11517.

[282] This has happened on more than one occasion. See *Cheng v. Governor of Pentonville Prison*, [1973] 2 W.L.R. 746 (H.L.), discussed in R. B. M. Cotterrell, Note, *Extradition and Offences "Of a Political Character,"* 89 L.Q.R. 476 (1973) and Paul O'Higgins, Case and Comment, *Extradition–Offence of a Political Character—Terrorism*, 32 CAMBRIDGE L.J. 181 (1973), in which the fugitive fell ill while being returned to New York State authorities after extradition from Sweden. When the plane touched down in England, Cheng recovered and, by applying for a writ of *habeas corpus*, gained a nine-month reprieve from extradition.

[283] Many extradition treaties contain clauses obliging each country to assist the other in the

E. If the foregoing has been handled smoothly, someone from the United States embassy or the investigative agency's liaison office in the requested country will meet the escort agents at the airport, see them through customs, and introduce them to the appropriate authorities in the requested country's law enforcement establishment. Custody of the fugitive is usually handed over at the airport just before the escort agents and their prisoner leave for their return to the United States.

F. Most United States treaties provide that evidence or fruits of the offense seized in the course of the fugitive's arrest are to be surrendered when extradition is granted. The agents may be asked to accept custody of such articles at the time the fugitive is surrendered. However, frequently the requested country chooses to make other arrangements, particularly if the articles are of significant value.

VIII. Alternatives to Extradition

If extradition is not possible, there are often alternative courses of action that can help bring the fugitive to justice. For example, deportation can sometimes be arranged from the country of refuge to the United States or to a third country from which extradition is available. If the fugitive is a citizen of the country of refuge, sometimes that country can be persuaded to prosecute him there on the charges developed in the United States because many countries have jurisdiction over their nationals' extraterritorial offenses.[284]

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transit of prisoners being extradited from third states. By properly invoking these provisions, many of the problems of transit can be reduced.

[284] Permission has been granted to reprint the preceding section written by John E. Harris of the U.S. Department of Justice, Office of International Affairs.

MILITARY PERSONNEL

Each service has its own regulations, but the following are general guidelines.

I. Introduction - The military services' counterpart of extradition procedures is set forth in 10 U.S.C. § 814 (1958). The permissive language of the statute indicates that "delivery" may be withheld where military necessity dictates against it. Further, the conditions under which delivery may occur are left to the service secretary to determine, as also dictated by military necessity. In exercising their discretion to grant or deny the request, the military authority will consider:

A. The seriousness of the offense charges;

B. Whether court-martial charges are pending against the alleged offender;

C. Whether he is serving a sentence imposed by court-martial; and

D. Whether the best interests of the armed services will be served by his retention.

II. Steps in the Process

A. Requests must come from a federal or state law enforcement agency, or political subdivision.

B. Requests must be directed to the commanding general of the installation at which the serviceman is stationed (the commanding general is the officer who has general court-martial authority over the serviceman).

C. The individual must be accused of a crime or offense under the laws of the requesting state; as in extradition, there is no delivery for civil matters.

D. The appropriate formal documents must accompany the request. This is either a warrant, indictment, or information together with sufficient information as to identify the accused. The military seeks to assure itself that the person delivered is the correct one, that formal procedures have been commenced in the demanding jurisdiction, and that reasonable cause exists to believe that the accused did indeed commit the crime.

E. The commanding officer makes a decision as to whether delivery will be approved. Where the appropriate documentation is supplied, delivery is rarely refused. If delivery is refused, a report must be made to the appropriate Judge Advocate General.

F. Delivery is executed when the individual is transferred to civilian authority at his installation. An agreement is made between the requesting jurisdiction and the military that on completion of trial the service will be advised of the outcome and the individual returned to the military, if the authorities so desire. Delivery is done at the expense of the requesting authority.

III. Additional Procedures (re: Military Location)

A. **Military Installation Located in Another State -** Extradition procedures must be used to supplement the above-enumerated process. Generally, extradition arrangements are to be carried out as much as possible before delivery is granted.

B. **Military Installation Located in Foreign Country -** The process is initiated by forwarding requests to the Judge Advocate General who refers them to the appropriate commanding officer. The requirements are the same as for domestic delivery. When the commanding officer determines that delivery is appropriate, the serviceman is returned to the U.S. through a normal port of entry where he has asylum pending extradition. Extradition procedures should thus be instituted by the demanding state prior to delivery.

Appendix A

LISTING OF PARTY STATES & STATUTES - UNIFORM CRIMINAL EXTRADITION ACT

STATE (CAPITOL)	STATUTE
Alabama (Montgomery)	Code 1975, §§ 15-9-20 to 15-9-65
Alaska (Juneau)	AS 12.70.010 to 12.70.290
Arizona (Phoenix)	A.R.S. §§ 13-3841 to 13-3869
Arkansas (Little Rock)	A.C.A. §§ 16-94-201 to 16-94-231
California (Sacramento)	West's Ann.Pen.Code, §§ 1547 to 1558
Colorado (Denver)	West's C.R.S.A. §§ 1973, 16-19-101 to 16-19-133
Connecticut (Hartford)	C.G.S.A. §§ 54-157 to 54-185
Delaware (Dover)	11 De1.C. §§ 2501 to 2530
Florida (Tallahassee)	West's F.S.A. §§ 941.01 to 941.30
Georgia (Atlanta)	Official Code of Georgia Ann., §§ 17-13-20 to 17-13-49
Hawaii (Honolulu)	HRS §§ 832-1 to 832-27
Idaho (Boise)	I.C. §§ 19-4501 to 19-4527
Illinois (Springfield)	S.H.A. ch. 60, 1J1J 18 to 49
Indiana (Indianapolis)	IC 35-33-10-3
Iowa (Des Moines)	1.C.A. §§ 820.1 to 820.29
Kansas (Topeka)	K.S.A. 22-2701 to 22-2730
Kentucky (Franfort)	KRS 440.150 to 440.420
Louisiana (Baton Rouge)	La. Code Crim. Proc. Ann. arts. 261 to 280
Maine (Augusta)	15 M.R.S.A. §§ 201 to 229
Maryland (Annapolis)	Md. Code Ann., Crim. Proc. §§ 9-101 to 9-128
Massachusetts (Boston)	M.G.L.A. c. 276, §§ 11 to 20R
Michigan (Lansing)	M.C.L.A. §§ 780.1 to 780.31
Minnesota (St. Paul)	M.S.A. §§ 629.01 to 629.29
Missouri (Jackson)	V.A.M.S. §§ 548.011 to 548.300
Montana (Jefferson City)	MCA 46-30-101 to 46-30-413
Nebraska (Helena)	R.R.S. 1943, §§ 29-729 to 29-758
Nevada (Lincoln)	N.R.S. 179.177 to 179.235
New Hampshire (Concord)	RSA 612:l to 612:30
New Jersey (Trenton)	N.J.S.A. 2A:160-6 to 2A:160-35
New Mexico (Santa Fe)	NMSA 1978, §§ 31-4-1 to 31-4-30
New York (Albany)	McKinney's CPL §§ 570.02 to 570.66
North Carolina (Raleigh)	G.S. §§ 15A-721 to 15A-750
North Dakota (Bismarck)	N.D. Cent. Code § 29-30.3-01 *et seq.*
Ohio (Columbus)	R.C. §§ 2963.0l to 2963.29
Oklahoma (Oklahoma City)	22 Okl.St.Ann. §§ 1141.1 to 1141.30
Oregon (Salem)	ORSA 133.743 to 133.857
Panama Canal Zone	Canal Zone 6 C.Z.C. §§ 5021 to 5050
Pennsylvania (Harrisburg)	42 Pa.C.S.A. §§ 9121 to 9148
Puerto Rico (San Juan)	34 L.P.R.A. § 18981 to 188lbb

Rhode Island (Providence)	Gen.Laws 1956, §§ 12-9-1 to 12-9-35
South Dakota (Pierre)	SDCL 23-24-1 to 23-24-39
Tennessee (Nashville)	T.C.A. §§ 40-1001 to 40-1035
Texas (Austin)	Vernon's Ann.Texas C.C.P. Art. 51.13
Utah (Salt Lake City)	U.C.A. 1953, 77-30-1 to 77-30-28
Vermont (Montpelier)	13 V.S.A §§ 4941 to 4969
Virgin Islands	5 V.I.C. §§ 3801 to 3829
Virginia (Richmond)	Code 1950, §§ 19.2-85 to 19.2-118
Washington (Olympia)	RCWA 10.88.200 to 10.88.930
West Virginia (Charleston)	Code, §§ 5-1-7 to 5-1-13
Wisconsin (Madison)	W.S.A. 976.03
Wyoming (Cheyenne)	W.S. 1977, §§ 7-3-201 to 7-3-227

LISTING OF PARTY STATES & STATUTES – UNIFORM INTERSTATE FAMILY SUPPORT ACT

STATE	STATUTE
Alabama	Code 1975, §§ 30-3A-101 to 30-3A-906
Alaska	AS 25.25.101 to 25.25.903
Arizona	A.R.S. §§ 25-621 to 25-661
Arkansas	A.C.A. 9-17-101 to 9-17-902
California	West's Ann.Cal.Fam.Code §§ 4900 to 4976
Colorado	West's C.R.S.A. §§ 14-5-101 to 14-5-1007
Connecticut	C.G.S.A. §§ 46b-212 to 46b-213v
Delaware	13 Del. C. §§ 601 to 691
District of Columbia	D.C.Code 1981, §§ 30-341.1 to 30-349.1
Florida	West's F.S.A. §§ 88.0011 to 88.9051
Georgia	O.C.G.A. §§19-11-100 to 19-11-191
Hawaii	HRS §§ 576B-101 to 576B-902
Idaho	I.C. §§ 7-1001 to 7-1059
Illinois	S.H.A. 750 ILCS 22/100 to 22/999
Iowa	I.C.A. §§ 252K.101 to 252K.904
Kansas	K.S.A. 23-9,301 to 23-9,903
Kentucky	KRS 407.5101 to 407.5902
Louisiana	LSA-Children's Code arts. 1301.1 to 1308.2
Maryland	Md. Code Ann., Fam. Law §§ 10-301 to 10-359
Massachusetts	M.G.L.A. c.209D, §§ 1-101 to 9-902
Michigan	M.C.L.A. §§ 552.1101 to 552.1901
Minnesota	M.S.A. §§ 518C.101 to 518C.902
Mississippi	Code 1972, 93-25-1 to 93-25-117
Missouri	V.A.M.S. §§ 454.850 to 454.997
Montana	MCA §§ 40-5-101 to 40-5-197
Nebraska	R.R.S. 1943, §§ 42-701 to 42-751
Nevada	N.R.S. 130.0902 to 130.802
New Hampshire	RSA 546-B:l to 546-B:60
New Jersey	N.J.S.A. 2A:4-30.65 to 2A:4-30.122
New Mexico	NMSA 1978 §§ 40-6A-101 to 40-6A-903
New York	McKinney's Family Ct. Act §§ 580-101 to 580-905
North Carolina	G.S. §§ 52C-1-100 to 52C-9-902
North Dakota	NDCC 14-12.2-01 to 14-12.2-49
Ohio	R.C. §§ 3115.01 to 3115.59
Oklahoma	43 Okl.St.Ann. §§ 601-100 to 601-901
Oregon	See, ORS 110.300 to 110.441
Pennsylvania	23 Pa. C.S.A. §§ 7101 to 7901
Tennessee	West's Tenn.Code §§ 36-5-2001 to 36-5-2902
Texas	V.T.C.A. Family Code §§ 159.001 to 159.902
Utah	U.C.A. 1953, 78-45f-100 to 78-45f-901
Vermont	15B V.S.A. §§ 101 to 904
Virgin Islands	16 V.I.C. §§ 391 to 451

Virginia	Code 1950, §§ 20-88.32 to 20-88.82
Washington	West's RCWA 26.21.005 to 26.21.916
West Virginia	Code, 48B-1-101 to 48B-9-903
Wisconsin	W.S.A. 769.101 to 769.903

LISTING OF PARTY STATES & STATUTES – UNIFORM ACT FOR OUT-OF-STATE PROBATIONER OR PAROLEE SUPERVISION

STATE	STATUTE
Alabama	Code 1975, § 15-22-1 repealed
Alaska	AS 33.35.010-33.35.040
Arizona	A.R.S. §§ 31-461 to 31-465
Arkansas	A.C.A. §§ 16-93-901 to 16-93-903
California	California Penal Code, §§ 11175-11179
Colorado	West's C.R.S. 24-60-301 to 24-60-309
Connecticut	C.G.S.A. §§ 54-132 to 54-138
Delaware	11 Del.C. §§ 4358, 4359
District of Columbia	D.C. Code 1981, §§ 24-251 to 24-253
Florida	West's F.S.A. §§ 949.07 to 949.09
Georgia	O.C.G.A. §§ 49-2-70 to 49-2-71
Hawaii	HRS §§ 353-81, 353-82
Idaho	I.C. § 20-301
Illinois	730 ILCS 5/3-4-4
Indiana	West's A.I.C. 11-13-4-1, 11-13-4-2
Iowa	I.C.A. § 247.40
Kansas	K.S.A. 22-4101 et seq.
Kentucky	KRS 439.560
Louisiana	LSA-R.S. 15:574.14 repealed
Maine	34-A M.R.S.A. §§ 9871 to 9888.
Maryland	Repealed
Massachusetts	M.G.L.A. c. 127, §§ 151A to 151G
Michigan	M.C.L.A. §§ 798.101 to 798.103
Minnesota	M.S.A. § 243.161
Mississippi	Code 1972, § 47-7-71
Missouri	V.A.M.S. § 217.810
Montana	Repealed
Nebraska	R.R.S. 1943, §§ 29-2637, 29-2638
Nevada	N.R.S. 213.215
New Hampshire	RSA 651-A:25
New Jersey	N.J.S.A. 2A:168-26 to 2A:168-39
New Mexico	NMSA 1978, §§ 31-5-1, 31-5-2
New York	McKinney's Executive Law §§ 259-m and 259-mm
North Carolina	G.S. §§ 148-65.1, 148-65.2
North Dakota	NDCC 12-56-01, 12-56-02
Ohio	R.C. §§ 5149.01 to 5149.23
Oklahoma	57 Okl.St.Ann. §§ 347 to 349
Oregon	ORS 144.610 to 144.620
Pennsylvania	61 P.S. §§ 321, 322
Puerto Rico	4 L.P.R.A. §§ 637 to 639
Rhode Island	Gen. Laws 1956, §§ 13-9-1 to 13-9-3
South Carolina	Code 1976, 24-21-810 to 24-21-830
South Dakota	SDCL 24-15-14 to 24-15-19

Tennessee	T.C.A. § 40-28-401
Texas	Vernon's Ann. Texas C.C.P. Art. 42.11
U.S.	4 U.S.C.A. § 112
Utah	U.C.A. 1953, 77-22-24 to 77-22-31
Vermont	28 V.S.A. § 1301
Virgin Islands	5 V.I.C. §§ 4631 to 4633
Virginia Code	1950, §§ 53.1-166, 53:1-167
Washington	West's RCWA 9.95.270
West Virginia	Code, 28-6-1, 28-6-2
Wisconsin	W.S.A. 57.13
Wyoming	W.S. 1977, §§ 7-13-412 to 7-13-417

LISTING OF PARTY STATES & STATUTES – INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION

STATE	STATUTE
Alabama	Code 1975, §§ 15-22-1.1 to 15-22-1.2
Alaska	AS 33-36-3
Arizona	ARS 31-3-4.1
Arkansas	ACA 12-15-101
California	Cal. Penal Code 11180
Colorado	CRSA §§ 24-60-2802
Connecticut	CGSA Sec 54-133
Florida	FSA 949-07
Georgia	Code 42-9-81
Hawaii	HRS 353B-1
Idaho	IC § 20-301
Illinois	45 ILCS 170/5
Iowa	ICA Sec 907B-2
Kansas	K.S.A. § 22-4110
Kentucky	KRS § 439.561
Louisiana	LSA RS 15:574.31-44
Maryland	Md. Code Ann., Corr. Servs. §§ 6-201 to 6-215
Michigan	MCLA 3.1011-3-1012
Minnesota	MN ST 243.1605 repealed
Missouri	VAMS § 589.500
Montana	MCA 46-23-1115
Nevada	NRS 213.215
New Jersey	NJSA 2A:168-26
New Mexico	NMSA 1978 Sec 31-5-20
North Carolina	NCGSA 148-4B
North Dakota	NDCC 12-65-01
Ohio	RC Sec 5149-21
Oklahoma	22 Okl St Ann §§ 1091
Oregon	ORS Sec 144-600
Pennsylvania	PA ST 61 PS 321
Rhode Island	RI ST 13-9.1-1
South Carolina	SDCL Sec 24-16A-1
South Dakota	SD ST 24-24-16A
Tennessee	TCA 40-28-41
Texas	VTCA 510.001
Utah	UCA 1953 Sec 77-28C-103
Vermont	28 VSAT 22 § 1351
Washington	WA ST 9-94A-745
Wisconsin	WSA 304-16
Wyoming	WY ST SEC 7-13-423
District of Columbia	DC ST § 24-133

LISTING OF PARTY STATES & STATUTES – INTERSTATE COMPACT ON JUVENILES

STATE	STATUTE
Alabama	Code 1975, §§ 44-2-1 to 44-2-7
Alaska	AS 47.15.010 to 47.15.080
Arizona	A.R.S. §§ 8-361 to 8-367
Arkansas	Ark.Stats. §§ 45-301 to 45-307
California	West's Ann. Welf. & Inst. Code §§ 1300-1308
Colorado	C.R.S. 24-60-701 to 24-60-708
Connecticut	C.G.S.A. §§ 17-75 to 17-81
Delaware	31 Del.C. §§ 5203, 5221 to 5228
District of Columbia	D.C. Code 1981, §§ 32-1101 to 32-1106
Florida	West's F.S.A. §§ 39.25 to 39.31
Georgia	O.C.G.A. §§ 39-3-1 to 39-3-7
Hawaii	HRS §§ 582-1 to 582-8
Idaho	I.C. §§ 16-1901 to 16-1910
Illinois	45 ILCS 10
Indiana	West's A.I.C. 31-6-10-1 to 31-6-10-4
Iowa	I.C.A. §§ 232.139, 232.140
Kansas	K.S.A. 38-1001 et seq.
Kentucky	KRS 208.600, 208.660, 208-670
Louisiana	LSA-R.S. 46:1451 to 46:1458
Maine	34-A M.R.S.A. §§ 9001 to 9016
Maryland	Md. Code Ann., Hum. Servs. §§ 9-301 to 9-314
Massachusetts	M.G.L.A. c. 119 App., §§ 1-1 to 1-7
Michigan	M.C.L.A. §§ 3.701 to 3.706
Minnesota	M.S.A. §§ 260.51 to 260.57
Mississippi	Code 1972, §§ 43-25-1 to 43-25-17
Missouri	V.A.M.S. §§ 210.570 to 210.600
Montana	MCA 41-6-101 to 41-6-106
Nebraska	R.R.S. 1943, §§ 43-1001 to 43-1009
Nevada	N.R.S. 214.010 to 214.060
New Hampshire	RSA 169-A:1 to 169-A:9
New Jersey	N.J.S.A. 9:23-1 to 9:23-4
New Mexico	N.M.S.A. 1978, §§ 32-3-1 to 32-3-8
New York	McKinney's Unconsol. Laws, §§ 1801 to 1806
North Carolina	G.S. §§ 110-58 to 110-64
North Dakota	NDCC 27-22-01 to 27-22-06
Ohio	R.C. §§ 2151.56 to 2151.61
Oklahoma	10 Okl.St.Ann. §§ 531 to 537
Oregon	ORS 417.010 to 417.080
Pennsylvania	62 P.S. § 731 et seq.
Rhode Island	Gen. Laws 1956, §§ 14-6-1 to 14-6-11
South Carolina	Code 1976, § 27-17-10
South Dakota	SDCL 26-12-1 to 26-12-13
Pennsylvania	62 P.S. § 731 et seq.

Rhode Island	Gen. Laws 1956, §§ 14-6-1 to 14-6-11
South Carolina	Code 1976, § 27-17-10
Tennessee	T.C.A. §§ 37-801 to 37-806
Texas	V.T.C.A., Family Code §§ 25.01 to 25.09
Utah	U.C.A. 1953, 55-12-1 to 55-12-6
Vermont	33 V.S.A. § 551 et seq.
Virginia	Code 1950, §§ 16.1-323 to 16.1-330
Washington	West's RCWA 13.24.010 to 13.24.900
West Virginia	Code, 49-8-1 to 49-8-7
Wisconsin	W.S.A. 48.991 to 48.997
Wyoming	W.S. 1977, § 14-5-101

LISTING OF PARTY STATES & STATUTES - UNIFORM ACT TO SECURE THE ATTENDANCE OF WITNESSES FROM WITHOUT A STATE IN CRIMINAL PROCEEDINGS

STATE	STATUTE
Alabama	Code 1975, §§ 12-21-280 to 12-21-285
Alaska	AS 12.50.010 to 12.50.080
Arizona	A.R.S. §§ 13-4091 to 13-4096
Arkansas	A.C.A. §§ 16-43-402 to 16-43-409
California	West's Ann.Cal.Pena1 Code, §§ 1334 to 1334.6
Colorado	West's C.R.S.A. §§ 16-9-201 to 16-9-205
Connecticut	C.G.S.A. § 54-82i
Delaware	11 De1.C. §§ 3521 to 3526
District of Columbia	D.C. Code 1981 §§ 23-1501 to 23-1504
Florida	West's F.S.A. §§ 942.01 to 942.06
Georgia	O.C.G.A. §§ 24-10-90 to 24-10-97
Hawaii	HRS §§ 836-1 to 836-6
Idaho	I.C. § 19-3005
Illinois	725 ILCS 220/2 and 725 ILCS 220/3
Indiana	West's A.I.C. 35-37-5-1 to 35-37-5-9
Iowa	I.C.A. §§ 819.1 to 819.5
Kansas	K.S.A. 22-4201 to 22-4206
Kentucky	KRS 421.230 to 421.270
Louisiana	LSA-C.Cr.P. arts. 741 to 745
Maine	15 M.R.S.A. §§ 1411 to 1415
Maryland	Md. Code Ann., Cts. & Jud. Proc. §§ 9-301 to 9-307
Massachusetts	M.G.L.A. c. 233, § 13A to 13D
Michigan	M.C.L.A. §§ 767.91 to 767.95
Minnesota	M.S.A. §§ 634.06 to 634.09
Mississippi	Code 1972, §§ 99-9-27 to 99-9-35
Missouri	V.A.M.S. §§ 491.400 to 491.450
Montana	MCA 46-15-112, 113, 120
Nebraska	R.R.S. 1943, §§ 29-1906 to 29-1911
Nevada	N.R.S. §§ 174.395 to 174.445
New Hampshire	RSA 613:l to 613:6
New Jersey	N.J.S.A. 2A:81-18 to 2A:81-23
New Mexico	NMSA 1978, §§ 31-8-1 to 31-8-6
New York	McKinney's CPL § 640.10
North Carolina	G.S. §§ 15A-811 to 15A-816
North Dakota	NDCC 31-03-25 to 31-03-31
Ohio	R.C. §§ 2939.25 to 2939.29
Oklahoma	22 Okl.St.Ann. § 721 to 727
Oregon	ORS 136.623 to 136.637
Pennsylvania	42 Pa.C.S.A §§ 5961 to 5965
Puerto Rico	34 L.P.R.A §§ 1471 to 1475
Rhode Island	Gen.Laws 1956, §§ 12-16-1 to 12-16-13

South Carolina	Code 1976, §§ 19-9-10 to 19-9-130
South Dakota	SDCL 23A-14-1 et seq.
Tennessee	T.C.A. §§ 40-17-201 to 40-17-212
Texas	Texas C.C.P. Art. 24.28
Utah	U.C.A. 1953, 77-21-1 to 77-21-5
Vermont	13 V.S.A. §§ 6641 to 6649
Virgin Islands	5 V.1.C. §§ 3861 to 3865
Virginia	Va. Code §§ 19.2-272 to 19.2-282
Washington	West's RCWA 10.55.010 to 10.55.130
West Virginia	Code, 62-6A-1 to 62-6A-6
Wisconsin	W.S.A 976.02
Wyoming	W.S. 1977 §§ 7-11-404 to 7-11-406

NUMBER OF EXTRADITION PACKAGES REQUIRED

When making a request for extradition, the following number of extradition packages should be submitted. One copy must be kept by the demanding governor, and the others are required by the individual states. **When there are codefendants, there must be a complete set for *each* defendant**.

State	Number of Packages
Alabama	2 Originals and 1 copy
Alaska	2 Originals and 2 copies
Arizona	2 Originals and 2 copies
Arkansas	2 Originals and 2 copies
California	2 Originals and 1 copy
Colorado	2 Originals and 2 copies
Connecticut	2 Originals and 2copies
Delaware	2 Originals and 2 copies
District of Columbia	2 Originals and 1 copy
Florida	2 Originals and 1 copy
Georgia	2 Originals and 1 copy
Guam	2 Originals and 2 copies
Hawaii	2 Originals and 1 copy
Idaho	2 Originals and 1 copy
Illinois	2 Originals and 1 copy
Indiana	2 Originals and 1 copy
Iowa	2 Originals and 1 copy
Kansas	2 Originals and 1 copy
Kentucky	2 Originals and 1 copy
Louisiana	2 Originals and 2 copies
Maine	2 Originals and 1 copy
Maryland	2 Originals and 1 copy
Massachusetts	2 Originals and 2 copies
Michigan	2 Originals and 1 copy
Minnesota	2 Originals and 1 copy
Mississippi	2 Originals and 1 copy
Missouri	2 Originals and 1 copy
Montana	2 Originals and 1 copy
Nebraska	2 Originals and 1 copy
Nevada	2 Originals and 1 copy
New Hampshire	2 Originals and 1 copy
New Jersey	2 Originals and 1 copy
New Mexico	2 Originals and 1 copy
New York	2 Originals and 1 copy
North Carolina	2 Originals and 1 copy

North Dakota ..... 2 Originals and 2 copies
Ohio ..... 2 Originals and 1 copy
Oklahoma ..... 2 Originals and 1 copy
Oregon ..... 2 Originals and 1 copy
Pennsylvania ..... 2 Originals and 1 copy
Puerto Rico ..... 2 Originals and 2 copies
Rhode Island ..... 2 Originals and 2 copies
South Carolina ..... 2 Originals and 1 copy
South Dakota ..... 2 Originals and 1 copy
Tennessee ..... 2 Originals and 1 copy
Texas ..... 2 Originals and 1 copy
Utah ..... 2 Originals and 1 copy
Vermont ..... 2 Originals and 2 copies
Virginia ..... 2 Originals and 1 copy
Washington ..... 2 Originals and 1 copy
West Virginia ..... 2 Originals and 2 copies
Wisconsin ..... 2 Originals and 1 copy
Wyoming ..... 2 Originals and 2 copies
U.S. Department of State ..... 2 Original and 2 copies

FORM 1

Name of fugitive: _____
State/County of Refuge: _____
Agency Making Application: _____
Official Making Application: _____
Phone Number: _____

APPLICATION FOR REQUISITION
Standard Fugitive Form for
Persons charged with a crime(s)

To the Governor of the State of _____ (demanding state):

I HAVE THE HONOR HEREWITH TO MAKE APPLICATION for a requisition upon the governor of the State of _____ (asylum state) for the arrest and rendition of _____ who is charged in this county and state with the commission of the following criminal offense(s): (list title of crime(s) and code section):

_____
_____
_____
_____
_____
_____

and who appears from the accompanying proof, and particularly the annexed affidavit submitted herewith, and who, as appears from that affidavit, is a fugitive from the justice of this state, and has taken refuge in the State of _____.

I HEREBY CERTIFY:

THAT I have carefully examined the case, and believe that the facts stated in the accompanying proof are true and that the fugitive is guilty of the crime(s) charged; that the ends of public justice require that the fugitive be brought back to this state at public expense; that I believe I have sufficient evidence to secure the fugitive's conviction; that the charge was preferred and this application is made in good faith and not for the purpose of enforcing the collection of any debt or for any private purpose, and that if the fugitive is returned to this state the criminal proceedings will not be used for any of these purposes, but that it is my intention to diligently prosecute the fugitive for the crime(s) charged.

THAT no other application has been made for a requisition for this fugitive growing out of the transaction from which the charge herein originated.

THAT the fugitive is properly charged in accordance with the laws of this state; that to the best of my belief the fugitive was personally and physically present in this state at the time of the commission of the crime, and thereafter was found in the State of _____; that the definition of the aforesaid crime of which the fugitive is charged, and the punishment therefore, as prescribed by the laws of this state, are as follows:

(*Insert copies of the relevant statutes or refer to an attachment containing those statutes*.)

THAT the fugitive is now under arrest in (city or county)_____, the State of _____, having been arrested on _____.

THAT in support of this application, I enclose true and correct copies of the [INDICTMENT] [INFORMATION and AFFIDAVIT] [AFFIDAVIT BEFORE A MAGISTRATE] [and WARRANT OF ARREST], which allege the facts required to be established, along with the following additional documents:

(*such as identification packet; UIFSA affidavit if applicable; and court exemplification/certification*):

_____

_____

_____

all of which are authentic and properly authenticated in accordance with the laws of this state; and that the copies of the papers submitted herewith have been compared with each other and are in all respects exact counterparts of this application and accompanying documents.

I NOMINATE and propose the name of _____ (sheriff, police chief, etc.) of the _____(law enforcement agency) and/or his/her designated authorized agent(s) for designation as agent of this state to return the fugitive and represent that he is a proper person for such designation; that he/she has no private interest in the arrest of the fugitive other than in the discharge of his duty as such officer. **(*Some states require the nomination of a female officer for the transport of a female fugitive.)**

DATED this _____day of _____, 200___.

Respectfully submitted,

_____

(Name)

_____

(Title)

STATE OF _____)
) ss.
County of _____)
_____, being first duly sworn, deposes and says:

THAT he/she is the (title)_____, with the office of (agency), _____ State of _____; that he/she has read the attached application for requisition directed to the Governor of this State and knows and understands its contents; and that he/she is informed and believes and on such information and belief alleges, that the statements made in the application are true.

_____
(prosecuting attorney; corrections or parole official; etc.)

Subscribed and sworn to me this ___ day of _____, 200___.
County Clerk of the County of _____
State of _____.
By: _____
[Court Executive Officer] [(Deputy) County Clerk] [Notary]

(If notary used)

My Commission Expires:
_____

FORM 1-A

Name of accused: _____
State/County of Refuge: _____
Agency Making Application: _____
Official Making Application: _____
Phone Number: _____

APPLICATION FOR REQUISITION

Nonfugitive Form Where Act[s] in Another State Constitute a Crime in This State

To the Governor of the State of _____ (demanding state):

I HAVE THE HONOR HEREWITH TO MAKE APPLICATION for a requisition upon the governor of the State of _____ (asylum state) for the arrest and rendition of _____ who is charged in this county and state with the commission of the following criminal offense(s): (list title of crime(s) and code section):

_____
_____
_____
_____
_____
_____

and who appears from the accompanying proof, and particularly the annexed affidavit submitted herewith, and who, as appears from that affidavit, committed the act(s) which intentionally resulted in the commission of the crime(s) in this state, even though the accused was not personally or physically present in this state at the time of the commission of the crime(s), and has taken refuge in the State of _____.

I HEREBY CERTIFY:

THAT I have carefully examined the case, and believe that the facts stated in the accompanying proof are true and that the accused is guilty of the crime(s) charged; that the ends of public justice require that the accused be brought back to this state at public expense; that I believe I have sufficient evidence to secure the accused's conviction; that the charge was preferred and this application is made in good faith and not for the purpose of enforcing the collection of any debt or for any private purpose, and that if the accused is returned to

this state the criminal proceedings will not be used for any of these purposes, but that it is my intention to diligently prosecute the accused for the crime(s) charged.

THAT no other application has been made for a requisition for the accused growing out of the transaction from which the charge herein originated.

THAT the accused is properly charged in accordance with the laws of this state; that to the best of my belief the accused was not personally or physically present in this state at the time of the commission of the crime, but his/her acts outside the state constitute a crime within this state; that the definition of the aforesaid crime of which the accused is charged, and the punishment therefor, as prescribed by the laws of this state, are as follows:

(Insert copies of the relevant statutes or refer to an attachment containing those statutes.)

THAT the accused is now under arrest in (city or county), in the State of _____, having been arrested on _____, and has refused to waive extradition.

THAT in support of this application, I enclose true and correct copies of the [INDICTMENT] [INFORMATION AND AFFIDAVIT] [AFFIDAVIT BEFORE A MAGISTRATE] [and WARRANT OF ARREST], which allege the facts required to be established, along with the following additional documents:

(such as identification packet; UIFSA affidavit if applicable, and court exemplification/certification):

_____

_____

_____

all of which are authentic and properly authenticated in accordance with the laws of this State; and that the copies of the papers submitted herewith have been compared with each other and are in all respects exact counterparts of this application and accompanying documents.

I NOMINATE and propose the name of _____ (sheriff, police chief, etc.) of the _____(law enforcement agency) and/or his/her designated authorized agent(s) for designation as agent of this state to return the accused and represent that he/she is a proper person for such designation; that he/she has no private interest in the arrest of the accused other than in the discharge of his duty as such officer. ***(*Some states require the nomination of a female officer for the transport of a female defendant.)***

DATED this ____day of _____, 200___.

Respectfully submitted,

_____

(Name)

_____

(Title)

STATE OF _____)
) ss.
County of _____)
_____, being first duly sworn, deposes and says:

THAT he/she is the (title)_____, with the office of (agency), _____ State of _____; that he/she has read the attached application for requisition directed to the Governor of this State and knows and understands its contents; and that he/she is informed and believes and on such information and belief alleges, that the statements made in the application are true.

_____
(prosecuting attorney; corrections or parole official; etc.)

Subscribed and sworn to me this ___ day of _____, 200___.
County Clerk of the County of _____
State of _____.
By: _____
[Court Executive Officer] [(Deputy) County Clerk] [Notary]

(If notary used)

My Commission Expires:
_____

FORM 1-B

Name of Fugitive: _____
State/County of Refuge: _____
Agency Making Application: _____
Official Making Application: _____
Phone Number: _____

APPLICATION FOR REQUISITION

For Escapees, Probation and Parole Violators

To the Governor of the State of _____ (demanding state):

I HAVE THE HONOR HEREWITH TO MAKE APPLICATION for a requisition upon the governor of the State of _____ (asylum state) for the arrest and rendition of _____ who stands convicted by virtue of the final judgment and sentence in this county and state of the commission of the following criminal offense(s): (list title of crime(s) and code section):

_____
_____
_____
_____
_____
_____

and who on or about

_____

(date) [escaped from custody] [violated the terms and conditions of probation] [or violated the terms and conditions of parole]

as appears from the accompanying proof, and particularly the annexed affidavit submitted herewith, and who, as appears from that affidavit, is a fugitive from the justice of this state and has taken refuge in the State of _____.

I HEREBY CERTIFY:

THAT I have carefully examined the case, and believe that the facts stated in the accompanying proof relating to the fugitive's conviction of the offenses, and the subsequent [escape] [probation violation] [parole violation] are true; that the ends of public justice require that the fugitive be brought back to this state at public expense; and this application

is made in good faith and not for the purpose of enforcing the collection of any debt or for any private purpose, and that if the fugitive is returned to this state the criminal proceedings will not be used for any of these purposes.

THAT no other application has been made for a requisition for the fugitive growing out of the facts and circumstances upon which this application is made.

THAT the fugitive is now under arrest in (city or county_____) in the State of _____, having been arrested on _____, and has refused to waive extradition.

THAT in support of this application, I enclose true and correct copies of the [JUDGMENT OF CONVICTION] [SENTENCING ORDER] [ORDER FOR PROBATION] , [WARRANT OF ARREST (e.g., bench warrant, parole board warrant)], and AFFIDAVIT, which allege the facts required to be established, along with the following additional documents:

(such as identification packet; probation or parole documents, affidavits and court or Department of Corrections exemplification/certification):

_____

_____

_____

all of which are authentic and properly authenticated in accordance with the laws of this state; and that the copies of the papers submitted herewith have been compared with each other and are in all respects exact counterparts of this application and accompanying documents.

I NOMINATE and propose the name of _____ (sheriff, police chief, etc.) of the _____(law enforcement agency) and/or his/her designated authorized agent(s) for designation as agent of this state to return the fugitive and represent that he is a proper person for such designation; that he/she has no private interest in the arrest of the fugitive other than in the discharge of his duty as such officer. (*Some states require the nomination of a female officer for the transport of a female fugitive.)

DATED this _____day of _____, 200___.

Respectfully submitted,

_____

(Name)

_____

(Title)

STATE OF _____)
) ss.
County of _____)
_____, being first duly sworn, deposes and says:

THAT he/she is the (title)_____, with the office of (agency), _____ State of _____; that he/she has read the attached application for requisition directed to the Governor of this State and knows and understands its contents; and that he/she is informed and believes and on such information and belief alleges, that the statements made in the application are true.

_____
(prosecuting attorney; corrections or parole official; etc.)

Subscribed and sworn to me this ___ day of _____, 200___.
County Clerk of the County of _____
State of _____.
By: _____
[Court Executive Officer] [(Deputy) County Clerk] [Notary]

(If notary used)

My Commission Expires:
_____

FORM 2

PROBABLE CAUSE AFFIDAVIT FOR FUGITIVES

(Required When Charging by Information)

IN THE MATTER OF THE EXTRADITION OF

_____

STATE OF _____)
) ss.
COUNTY OF _____)
_____, being first duly sworn on oath, deposes and says:

THAT he/she is a citizen of the United States of America, a resident of _____ County, State of _____, and is the complaining witness/investigating officer/prosecutor in this action;

THAT on or about the ____ day of _____, 200___, (name of fugitive) _____, was present in the County of _____, State of _____, and that at that time and place the fugitive committed the crime[s] of:
_____
_____
_____

(list title of crime and code sections violated)

in the following manner:
_____
_____
_____
_____
_____
_____
_____

(Provide a brief description of the facts of the crime)

THAT thereafter, _____ left this State and was found in the State of _____;

THAT this affidavit is not made for the purpose of enforcing the collection of any debt, or for any private purpose whatsoever, and if the requisition applied for is granted, the criminal proceedings shall not be used for any of these purposes;

THAT _____ is a fugitive from the justice of this state, was arrested on _____, and is now located in the City/County of _____, State of _____.

_____
Name of Declarant

_____
Position/Title

SUBSCRIBED AND SWORN to before me on this ____day of _____, 200___, and based on the foregoing I find probable cause exists for the issuance of a warrant of arrest for the above-named defendant and the warrant is so ordered.

_____
Judge

_____
Court

[Alternative: use a Notary]

SUBSCRIBED AND SWORN to before me on this ____day of _____, 200___.

_____
Notary

My Commission Expires:
_____

FORM 2-A

PROBABLE CAUSE AFFIDAVIT FOR NONFUGITIVES

(Required When Charging by Information)

IN THE MATTER OF THE EXTRADITION OF

_____

STATE OF _____)
) ss.
COUNTY OF _____)

_____, being first duly sworn on oath, deposes and says:

THAT he/she is a citizen of the United States of America, a resident of _____, County, State of _____, and is the complaining witness/investigating officer/prosecutor in this action;

THAT on or about the ____ day of _____, 200___, (name of defendant) _____, while outside this state, committed acts which intentionally resulted in the commission of a criminal offense under the laws of this state, namely the crime[s] of _____, a _____ degree felony, in violation of _____
[state code section(s)]

in the following manner:
_____
_____
_____
_____
_____
_____
_____

(Provide a brief description of the facts of the crime)

THAT the accused has taken refuge in the State of _____, City/County of _____, and was arrested on _____200___.

THAT this affidavit is not made for the purpose of enforcing the collection of any debt, or for any private purpose whatsoever, and if the requisition applied for is granted, the criminal proceedings shall not be used for any of these purposes.

_____
Name of Declarant

_____
Position/Title

SUBSCRIBED AND SWORN to before me on this ____day of _____, 200___, and based on the foregoing I find probable cause exists for the issuance of a warrant of arrest for the above-named defendant and the warrant is so ordered.

_____
Judge

_____
Court

[Alternative: use a Notary]

SUBSCRIBED AND SWORN to before me on this ____day of _____, 200__.

_____
Notary

My Commission Expires:
_____

FORM 3

CERTIFICATION FORM

State of _____)
) ss. Re:_____
County of _____)

I, Judge/Court Administrator/Clerk of the Court, County of _____

do hereby certify that I have examined the foregoing attached documents and

find them to be full, true and complete copies of the originals on file in and/or issued by this

Court.

In testimony whereof, I do hereto subscribe my name at,

_____, this ____day of _____, 200__.
(state)

_____
JUDGE/COURT ADMINISTRATOR/
CLERK OF THE _____COURT

I, _____, Judge/Court Administrator/County Clerk of the Court,

County of _____, do hereby certify that _____,

whose signature is affixed above, was at the time of subscribing the same,

a judge/court administrator/clerk of said Court, and that full faith and credit are due

all his/her official acts as such.

In testimony whereof, I do hereby subscribe my name at,

_____ this ____day of _____, 200__.
(state)

_____
JUDGE/COURT ADMINISTRATOR/
CLERK OF THE _____COURT

FORM 4

EXECUTIVE DEPARTMENT
State of _____

EXECUTIVE AGREEMENT

TO THE EXECUTIVE AUTHORITY OF THE
STATE OF _____:

WHEREAS, the undersigned as Governor of the State of [demanding state], has made demand upon the executive authority of the State of [asylum state] for the rendition of JOHN DOE as a fugitive from justice of the State of [demanding state], and which demand is in the hands of the executive authority of the State of [asylum state], and

WHEREAS, the said JOHN DOE stands charged in the State of [demanding state] with the crimes of [list charged crimes], committed in said State, as more fully appears from the requisition and the papers and exhibits attached thereto, and

WHEREAS, the said JOHN DOE [asylum state identification no. ____] is now under the jurisdiction of the [asylum state] Department of Corrections at [name and location of the institution], and

WHEREAS, the undersigned is informed and believes that said JOHN DOE will not be released and discharged from said imprisonment for a considerable length of time, and

WHEREAS, the undersigned and the prosecuting authorities of the State of [demanding state] are desirous that said JOHN DOE be brought to trial at the earliest possible date, and

WHEREAS, the powers and duties of the several states, including the State [demanding state], in matters relating to interstate extradition are contained and prescribed in Article IV, section 2, of the Constitution of the United States, and are implemented by Congress in 18 U.S.C. § 3182;

AND WHEREAS, the People of the State of [demanding state] have enacted the Uniform Criminal Extradition Act [demanding state's code section] whereby, in section [____] thereof, it is provided as follows:

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 the 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 [____] of this code with having violated the laws of the demanding state even though such person left such demanding State involuntarily.

AND WHEREAS, the law of the State of [asylum state] similarly provides in section [asylum state's code section], that the Governor of the State of [asylum state] may, in appropriate cases, by agreement with the executive authority of another state, authorize the extradition from [asylum state] to such other state of a person imprisoned in [asylum state] in order to render such person amenable to the jurisdiction of such other state, upon the condition that he be returned to [asylum state];

NOW, THEREFORE, pursuant to the authority hereinabove set forth and in consideration of the granting of said demand for the rendition of said JOHN DOE, and the issuance of a warrant of arrest and delivering up of said JOHN DOE to the duly authorized agents of the State of [demanding state] by the executive authority of the State of [asylum state], which said acts by the executive authority of the State of [asylum state] shall constitute an acceptance of this agreement;

IT IS HEREBY AGREED by the undersigned, Governor of the State of [demanding state], that in the event said JOHN DOE shall be acquitted following a trial in the courts of the State of [demanding state], or the prosecution in the State of [demanding state] is terminated in any manner, other than by the imposition of a judgment and sentence of death, said JOHN DOE shall be returned to the State of [asylum state] at the expense of the State of [demanding state], and that the Governor, or other acting executive authority of the State of [demanding state], shall upon demand of the executive authority of the State of [asylum state] surrender said JOHN DOE to the duly authorized agents of the State of [asylum state].

[Optional]

IT IS FURTHER HEREBY AGREED by the undersigned, Governor of the State of [demanding state] and the Governor of the State of [asylum state], that in the event said JOHN DOE is returned to the State of [asylum state] following conviction and the imposition of a term of imprisonment in the State of [demanding state], said JOHN DOE shall be returned to the State of [demanding state] at the expense of the State of [demanding state], without formalities to serve said term of imprisonment upon his completion of his term of imprisonment and eligibility for parole in the State of [asylum state].

IN WITNESS WHEREOF, the undersigned Governor of the State of [demanding state] [and Governor of the State of [asylum state]], does [do] hereby covenant and agree that the above express conditions upon which the custody of JOHN DOE is granted, shall be in all respects fulfilled and complied with and are expressly accepted as the terms and conditions of his custody.

IN WITNESS WHEREOF, I have here unto set my hand at [county], in the State of [demanding state], and cause to be affixed the Seal of the State of [demanding state], on this ____ day of _____, 200___.

_____

NAME OF EXECUTIVE AUTHORITY
Governor of the State of [demanding state]

By the Governor:

_____

Secretary of State

[Optional]

_____

NAME OF EXECUTIVE AUTHORITY
Governor of the State of [asylum state]

By the Governor:

_____

Secretary of State

FORM 5
DELIVERY AGREEMENT
(Navy/Coast Guard/Marines/Air Force)
[or]
DELIVERY RECEIPT
(Army)

In consideration of the delivery of

_____,
(grade & name) (service number & SS number)

United States [Army] [Navy] [Marine Corps] [Air Force] [Coast Guard], to the civil

authorities of: _____, at _____
[county, state] [place of delivery]
_____, for trial upon the charge[s] of _____
_____
_____
[list all charges]
I hereby agree, pursuant to the authority vested in me
as_____
[official designation]
that the commanding officer of the _____
[unit]
will be informed of the outcome of the trial and that
_____
[name of person delivered]
will be immediately returned to the custody of the
_____
[branch of the service and location]
upon completion of the trial if acquitted, or upon satisfying the sentence imposed if convicted, or upon other disposition of the case, at the expense of the prosecuting authorities, unless the _____
[branch of the service]
indicate that return is not desired.

DATED: _____ _____
Governor/State Official (Navy)
Receiving Officer (Army)
Prosecuting Attorney (Air Force)

FORM 6

-oo00oo-

_____ COURT OF THE STATE OF _____
IN AND FOR THE COUNTY OF _____

PEOPLE OF THE STATE OF _____,

Plaintiffs,

v.

WAIVER OF EXTRADITION
UCEA Code §

(NAME OF FUGITIVE),

Defendant.

I, _____, aka, _____, have been informed by the court that a demand is made for my surrender to the County of _____, State of _____, based upon criminal proceedings there [charging me with the commission of an offense] [alleging that I have escaped from confinement] [alleging that I have broken the terms of bail, probation, or parole].

I have been informed by the court of my right to the issuance and service of a governor's extradition warrant, as provided for in the Uniform Criminal Extradition Act, and I fully understand that right.

I knowingly and voluntarily, and without promise of reward or leniency, state that I am the identical person sought by the demanding state, that I waive the issuance and service of the governor's extradition warrant and any other legal documents and procedures which otherwise would be required to secure my return to the demanding state, and that I knowingly and voluntarily consent to my return to that state.

I wholly exonerate and hold blameless in this matter the [Sheriff of _____ County] [Chief of Police of _____] [_____ Board of Prison Terms/Pardons] [_____Department of Corrections] and all persons acting under the same, and agree to accompany to the demanding state any peace officer who may be sent to take me there, without requisition papers, warrant or rendition or other legal forms of process intended to effect my return to that state.

This agreement and waiver is made by me without reference to my guilt or innocence and shall not be considered in any manner as prejudicing my case and is not in any sense an admission of guilt.

Executed before the above-captioned court.

_____
[signature]

_____
[date]

I certify that I informed the above individual of the criminal proceedings pending against him/her and of the right to require the issuance and service of a governor's warrant of extradition as provided in the Uniform Criminal Extradition Act; and that the above individual knowingly and voluntarily, without promise, executed the foregoing waiver of extradition in my presence.

_____
[Judge]

_____
[Court]

Seal

[Forward one copy to the governor's office, and provide copies to the agent[s] of the demanding state].

FORM 7

[NEW CRIME]

-oo00oo-

_____COURT OF THE STATE OF _____
IN AND FOR THE COUNTY OF _____

PEOPLE OF THE STATE OF _____,

Plaintiffs,

v.

FUGITIVE COMPLAINT
(UCEA Code §

(NAME OF FUGITIVE),

Defendant.

The undersigned (name & title), under oath, complains that committed the crime of in the State of and that on or about a warrant for the arrest of the said was issued in case No.: _____, filed in the Court in an for the County of, State of, which case charges said defendant with the commission of such crime, and that said defendant is within the State of_____ and the County of, and is a Fugitive from Justice, within the meaning of (UCEA Code §).

_____ _____

Date Complainant

FORM 7(a)

[ESCAPE/ABSCOND]

-oo00oo-

_____ COURT OF THE STATE OF _____
IN AND FOR THE COUNTY OF _____

PEOPLE OF THE STATE OF _____,

Plaintiffs,

v.

(NAME OF FUGITIVE),

Defendant.

FUGITIVE COMPLAINT
UCEA Code §

The undersigned (name & title), under oath, complains that _____ has been convicted in case No. _____ in the _____ Court in and for the County of _____, State of _____, of the crime of _____ and that on or about _____, a warrant was issued in said case for the arrest of said defendant for:

violation of the terms of his/her bail;

[or] escape from bail;

[or] violation of the terms of probation;

[or] violation of the terms of parole;

[or] escape from confinement;

in such case, and that said defendant is within the State of _____, County of _____, and is a Fugitive from Justice, within the meaning of (UCEA Code § _____.)

_____ _____

Date Complainant

FORM 8

AGREEMENT TO TOLL THE EXTRADITION PERIODS

_____ Court
State of _____

Before _____
Judge

-oo00oo-

IN THE MATTER OF	)	
the EXTRADITION OF:	)	STIPULATION & ORDER
	)	Case No.:
_____	)	

_____ [Defendant], by and through his/her counsel _____, and _____ [prosecutor], stipulate that the statutory periods provided for in Sections 15 and 17 of the Uniform Criminal Extradition Act, _____ [state code section], may be tolled to allow time for the Governor of this State, pursuant to Section 4 of that Act, _____ [state code section], to investigate the demand from the State of _____ for the extradition of defendant.

The periods shall be tolled until this Court is further advised by the parties that the Governor's investigation is completed.

Dated this _____ day of _____, 200__.

_____
[Defendant]

_____
[Counsel for Defendant]

_____
[Prosecuting Attorney]

****

Based upon the stipulation of the parties, and good cause shown,

IT IS ORDERED that the above-described statutory periods in this extradition matter are tolled to allow the Governor of this State time to investigate the demand for the defendant's extradition made by the State of _____. The periods shall be tolled until the parties further advise this Court that the investigation has been completed.

Copies of the Stipulation and this Order shall be served upon the Governor of the State of _____[asylum state], and the prosecutor is further ordered to advise appropriate officials in the State of _____ [demanding state] of this action.

DATED this _____day of _____, 200__ .

By the Court:

_____

Judge

FORM 9

DEPARTMENT OF JUSTICE
FEDERAL PRISON SYSTEM

TO: State Authority:_____

FROM: Warden:_____

Institution:_____

SUBJECT: Instructions for Transfer of Inmates to State Agents for Production on State Writs

Inmate's Name:_____

Reg. No.:_____

The request for transfer of an inmate to state agents for production on state writs should contain as a minimum the following information:

1. Need for appearance of inmate;
2. Name and address of court issuing writ - name of judge, name of clerk, phone number of clerk and address;
3. Nature of action;
4. Party seeking production or making request for production to state court;
5. Reason production on writ necessary and some other alternative is not available (for civil cases);
6. The name and location where the inmate will be confined during legal proceedings;
7. The date for requested proceedings;

8. The name and phone number of state agency, and specific name of agent(s) who will transport the inmate at direction of the court;

9. The projected date of return to the federal institution; and

10. A statement by the state authority assuming custody:

This is to certify that the above-named inmate will be provided safekeeping, custody, and care while in the custody of the (state authority), and that said (state authority) will assume full responsibility for that custody, and will return the inmate on conclusion of the inmate's appearance in the proceeding for which the writ issues, and that I have the full power and authority to make this certification for said (state authority) as the (title or position) for that authority.

_____ _____
(Printed name/signature) (Date)

_____ _____
(Witness' printed name/signature) (Date)

APPLICATION (STANDARD) FOR REQUISITION OF

_____

To His Excellency,

The Governor of Maryland.

Sir:

I_____, State's Attorney, in and for _____ (City, County), Maryland, do hereby make application for the requisition and return to this State _____ who stands charged by accompanying certified copy of _____, now pending in the _____ Court of _____ (City, County), with the crime(s) of _____

_____

in violation of _____ committed while physically present in said (City, County) and State, on or about the _____ day of _____, 20____, but who has since the commission of said offense, and with a view of avoiding prosecution, fled from the jurisdiction of this State and is now a fugitive from justice and is located in _____ , County of _____, State of _____.

The ends of justice, in my opinion, require that (he/she) be brought back to this State for trial.

In my opinion, the facts stated in said application and accompanying documents are true, and I believe that the prosecution of said fugitive would result in (his/her) conviction of the crime charged. This Application for Requisition of said fugitive is not sought for the purpose of collecting a debt, or enforcing a civil remedy, or to answer any other private end whatever.

I nominate _____ of _____ (City, County) as proper person(s) to be appointed and commissioned by you as the Agent(s) of this State to receive the said fugitive when surrendered and return (him/her) to _____ (City, County). I certify that the Agent(s) (has/have) no private interest in the proposed arrest.

_____

State's Attorney for

_____

State of Maryland

(City)(County) of _____

I HEREBY CERTIFY, that on this _____ day of _____, 20____, before me, the subscriber, a Notary Public of the State of Maryland, in and for _____ (City, County), personally appeared _____ and made oath in due form of law that said facts stated in the foregoing application are true.

Witness my hand and notarial seal:

_____

Notary Public

My Commission Expires _____

APPLICATION (PAROLE & PROBATION VIOLATIONS) FOR REQUISITION OF _____

To His Excellency,

The Governor of Maryland.

Sir:

I, _____, State's Attorney, in and for _____ (City, County), Maryland, do hereby make application for the requisition and return to this State _____, who stands convicted by virtue of the final judgment and sentence in the _____Court of _____ (City, County), of the crime(s) of _____ _____, but who since his conviction and release on _____ (date) has failed to abide by the terms of his _____ as more fully appears from the accompanying certified documentation included herein and has fled from the jurisdiction of this State and is now a fugitive from justice and is located in _____, County of _____, State of _____.

The ends of justice, in my opinion, require that (he/she) be brought back to this State for the purpose of revoking (his, her) _____.

In my opinion, the facts stated in said application and accompanying documents are true, and I believe that the return of said fugitive would result in the revocation of (his/her) _____. This Application for Requisition of said fugitive is not sought for the purpose of collecting a debt, or enforcing a civil remedy, or to answer any other private end whatever.

I nominate _____ of _____ (City, County) as proper person(s) to be appointed and commissioned by you as the Agent(s) of this State to receive the said fugitive when surrendered and return (him/her) to _____ (City, County). I certify that the Agent(s) (has/have) no private interest in the proposed arrest.

_____

State's Attorney for

_____

State of Maryland

(City)(County) of _____

I HEREBY CERTIFY, that on this _____ day of _____, 20____, before me, the subscriber, a Notary Public of the State of Maryland in and for the _____ (City, County), personally appeared _____ and made oath in due form of law that said facts stated in the foregoing application are true.

Witness my hand and notarial seal:

_____

Notary Public

My Commission Expires _____

APPLICATION (ACT IN ASYLUM STATE; CRIME IN DEMANDING STATE) FOR REQUISITION OF

_____

To His Excellency,

The Governor of Maryland.

Sir:

I, _____, State's Attorney, in and for _____ (City, County), Maryland, do hereby make application for the requisition and return to this State _____ who stands charged by accompanying certified copy of_____, now pending in the _____ _____ Court of _____ (City, County), with the crime(s) of _____ _____having committed an act or acts on or about the _____ day of _____, 20___, in the State of _____ which intentionally resulted in commission of said crime in the said _____ (City, County) of this State and is now a fugitive from justice and is located in _____ , County of _____, State of _____.

The ends of justice, in my opinion, require that (he/she) be brought back to this State for trial.

In my opinion, the facts stated in said application and accompanying documents are true, and I believe that the prosecution of said fugitive would result in (his/her) conviction of the crime charged. This Application for Requisition of said fugitive is not sought for the purpose of collecting a debt, or enforcing a civil remedy, or to answer any other private end whatever.

I nominate _____of _____ (City, County) as proper person(s) to be appointed and commissioned by you as the Agent(s) of this State to receive the said fugitive when surrendered and return (him/her) to _____ (City, County). I certify that the Agent(s) (has/have) no private interest in the proposed arrest.

_____

State's Attorney for

_____

State of Maryland

(City)(County) of _____

I HEREBY CERTIFY, that on this _____ day of _____, 20___, before me, the subscriber, a Notary Public of the State of Maryland in and for the _____ (City, County), personally appeared _____and made oath in due form of law that said facts stated in the foregoing application are true.

Witness my hand and notarial seal:

_____

Notary Public

My Commission Expires _____

APPLICATION (ESCAPE) FOR REQUISITION OF

_____

To His Excellency,

The Governor of Maryland.

Sir:

I, _____, State's Attorney, in and for _____ (City, County), Maryland, do hereby make application for the requisition and return to this State _____, who stands convicted by virtue of the final judgment and sentence in the _____ Court of _____ _____ (City, County), with the crime(s) of _____

_____

_____, but who, since (his, her) conviction and confinement has escaped from the place of confinement wherein (he, she) was legally detained as more fully appears from the accompanying certified documentation included herein and has fled from the jurisdiction of this State and is now a fugitive from justice and is located in _____ , County of _____, State of _____.

The ends of justice, in my opinion, require that (he/she) be brought back to this State for (trial/sentencing) on the charge of _____.

In my opinion, the facts stated in said application and accompanying documents are true, and since I believe that the return of said fugitive would result in (his/her) conviction of the crime charged. This Application for Requisition of said fugitive is not sought for the purpose of collecting a debt, or enforcing a civil remedy, or to answer any other private end whatever.

I nominate _____ of _____ (City, County) as proper person(s) to be appointed and commissioned by you as the Agent(s) of this State to receive the said fugitive when surrendered and return (him/her) to _____ (City, County). I certify that the Agent(s) (has/have) no private interest in the proposed arrest.

_____

State's Attorney for

_____

State of Maryland

(City)(County) of _____

I HEREBY CERTIFY, that on this _____ day of _____, 20___, before me, the subscriber, a Notary Public for the State of Maryland in and for the _____ (City, County), personally appeared _____ and made oath in due form of law that said facts stated in the foregoing application are true.

Witness my hand and notarial seal:

_____

Notary Public

My Commission Expires _____

APPLICATION (BAIL VIOLATION) FOR REQUISITION OF

_____

To His Excellency,

The Governor of Maryland.

Sir:

I, _____, State's Attorney, in and for _____ (City, County), Maryland, do hereby make application for the requisition and return to this State_____, who stands (charged, convicted) in the _____ Court of _____ (City, County), with the crime(s) of

_____

_____, but who, since (his, her) (charge, conviction) and release on bail has failed to abide by the terms of (his, her) bail as more fully appears from the accompanying certified documentation included herein and has fled from the jurisdiction of this State and is now a fugitive from justice and is located in _____, County of_____, State of _____.

The ends of justice, in my opinion, require that (he/she) be brought back to this State for (trial, sentencing).

In my opinion, the facts stated in said application and accompanying documents are true, and I believe that the return of said fugitive would result in (his/her) (conviction, sentencing). This Application for Requisition of said fugitive is not sought for the purpose of collecting a debt, or enforcing a civil remedy, or to answer any other private end whatever.

I nominate _____ of _____ (City, County) as proper person(s) to be appointed and commissioned by you as the Agent(s) of this State to receive the said fugitive when surrendered and return (him/her) to _____ (City, County). I certify that the Agent(s) (has/have) no private in the proposed arrest.

_____

State's Attorney for

_____

State of Maryland

(City)(County) of _____

I HEREBY CERTIFY, that on this _____ day of _____, 20____, before me, the subscriber, a Notary Public for the State of Maryland in and for the _____ (City, County), personally appeared _____ and made oath in due form of law that said facts stated in the foregoing application are true.

Witness my hand and notarial seal:

_____

Notary Public

My Commission Expires _____

Certification of the notary's signature by the Clerk of the Circuit Court to be appended to all applications for Requisition.

State of Maryland

(City)(County) of _____

I, _____, Clerk of the Circuit Court for _____ (City, County), Maryland, do hereby certify that_____, who has signed the above certificate, is now, and was at the date thereof, a Notary Public for the State of Maryland in and for the (City, County) of_____; duly appointed, commissioned and qualified and authorized by the laws of Maryland to sign said Certificate; and, further, that I am well acquainted with the handwriting of the said Notary Public and verily believe his/her signature to the said Certificate, and the seal authenticating the same, to be genuine.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix the seal of the Circuit Court for said _____ (City, County), this _____ _____ day of _____, 20___.

_____

Clerk of the Circuit Court for

_____ (City, County).

CERTIFICATIONS REQUIRED FOR DOCUMENTS SUBMITTED WITH APPLICATION FOR REQUISITION

This triple certification document must be submitted with all Applications for Requisition. This certification document must be attached to the documents to be certified at the time the certifications are signed.

State of Maryland, (City, County) of _____

I HEREBY CERTIFY, that the attached documents are true copies of the (list documents being certified by the court) in the case of the State of Maryland vs. _____ Charge _____ and that the docket entries in said case are truly taken and copies from the records of proceedings of the (Circuit, District) Court for _____ (City, County).

IN TESTIMONY WHEREOF, I hereunto set my hand and affix the seal of the (Circuit, District) Court for _____ _____ (City, County), this _____ day of _____, 20___.

_____
Clerk of the (Circuit, District) Court for

_____ (City, County)

State of Maryland, (City, County) of _____.

I, _____, Judge of the (Circuit, District) Court for (City, County), do hereby certify that the foregoing attestation of _____ Clerk of the (Circuit, District) Court for _____ (City, County), is in due form and by the proper officer.

IN TESTIMONY WHEREOF,I hereunto subscribe my name, this day of _____, 20___.

_____

State of Maryland, (City, County) of

I, _____, Clerk of the (Circuit, District) Court of the (City, County) aforesaid, do hereby certify that _____, who has certified and signed the above attestation, was at the time of so doing, a Judge of the (Circuit, District) Court for the (City, County) aforesaid, duly commissioned and qualified, and authorized by law to so sign and certify the same, and that his signature thereto is genuine.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix the seal of the (Circuit, District) Court for _____ (City, County), this _____ day of _____, 20 ___.

_____
Clerk of the (Circuit, District) Court for

_____ (City, County)

CERTIFICATION OF PHOTO OR FINGERPRINTS

STATE OF MARYLAND:
COUNTY/CITY OF _____:

ATTACH PHOTO OR FINGERPRINTS HERE

I HEREBY CERTIFY that on this _____ day of _____, 20___, before me, the subscriber, a Notary Public in and for the State of Maryland, personally appeared _____ _____ [name of person], _____ [title of person], and made oath in due form of law that the above-attached (photograph or fingerprints) is a true copy of the (photograph or fingerprints) of _____, whose extradition is sought from the State of _____
for_____.

Witness my hand and notarial seal:

_____
Signature of Notary

_____
Name of notary typed or printed
Notary Public

My commission expires: _____

CERTIFICATION OF AUTHORITY OF DISTRICT COURT COMMISSIONER

STATE OF MARYLAND, COUNTY OF_____:

I, _____, Clerk of the District Court for _____ County/City, Maryland, do hereby certify that_____, before whom the annexed Statement of Charges/Application for Statement of Charges, warrant and oath were made, and who hath thereunto subscribed his/her name, was, at the time of so doing, a commissioner of the _____ _____ District Court for _____County/City, Maryland duly appointed, commissioned and sworn, and was residing in said County/City, and authorized by law to sign and certify the same, and that his/her signature thereto is genuine.

IN TESTIMONY WHEREOF, I hereunto subscribe my name and affix the Official Seal of the _____ District Court, at_____, County/City of _____, State of Maryland this ____ day of _____, 20__.

_____

Clerk of the _____ District Court

for _____ County/City, Maryland

CERTIFICATION OF STATUTE UPON WHICH WARRANT IS BASED

STATE OF MARYLAND:
COUNTY/CITY OF _____:

The statute upon which this prosecution is brought in this State is known as _____ _____ (name of article and section of the *Annotated Code of Maryland)*:

COPY THE TEXT OF THE SECTION OF THE CODE VIOLATED.

I, _____, (Administrative Clerk)(Clerk) of the (District)(Circuit) Court of Maryland for _____ County/City, hereby certify that the aforegoing is a true copy of the statute upon which the enclosed warrant was issued.

IN WITNESS WHEREOF, I have subscribed my name and affixed the Official Seal of the (District)(Circuit) Court of Maryland for _____ County/City this _____ day of _____, 20___.

_____
(Administrative Clerk)(Clerk) of the

(District)(Circuit) Court

Notice of Extradition Hearing

A requisition from His Excellency, the Governor of _____ has been received demanding the return of _____AKA _____, respondent herein, on a charge of _____.

A hearing is hereby granted to the said Respondent: the same to be held at the Jeffrey Building, First Floor, 16 Francis St., Annapolis, Maryland 21401 (Phone 410-974-5530), at 10:30 a.m. on _____ (day), _____ (date), subject to the conditions hereinafter set forth:

CONDITIONS

l. The accused shall appear in person and may be represented by counsel at said hearing. The accused may bring additional witnesses who may be permitted to testify behalf of the accused. The accused may call the number listed above with any questions.

2. Pursuant to the Uniform Criminal Extradition Act, as adopted in Maryland, Sections 9-101 to 9-128 of the Criminal Procedure Article of the Annotated Code of Maryland (2008) as amended, the guilt or innocence of the accused may not be inquired into at the hearing.

3. The defenses that may be considered at the Extradition hearing are:

   (a) the identity of the accused

   (b) whether or not the accused was actually in the demanding State at the time the offense was committed

   (c) the legality and formality of the extradition papers, and

   (d) such other defenses as are allowable by the statutes quoted above

4. Counsel should enter their appearance with the Secretary of State, State House, Annapolis, Maryland 21401 and be prepared to file a Memorandum of Authorities in support of any legal arguments presented.

5. The authorities from the demanding State are not required to appear unless requested to do so by the Assistant Attorney General of Maryland designated to conduct the hearing and make recommendations to the Governor in the premises.

Given under my hand on _____ (date).

GOVERNOR OF MARYLAND

By_____
Secretary of State

STIPULATION TO WAIVE 90-DAY RULE

Waiver

WHEREAS, the undersigned _____ is the subject of a Requisition for Extradition from the State of _____, pursuant to the Uniform Criminal Extradition Act; and,

WHEREAS, the undersigned has requested the Governor of the State of Maryland to conduct an investigation pursuant to Section 9-104 of the Criminal Procedure Article of the *Annotated Code of Maryland* (2008) and the time needed for the aforesaid investigation may result in the expiration of the time limitations in Sections 9-115 and 9-117 of the Criminal Procedure Article of the *Annotated Code of Maryland*; and,

WHEREAS, the Governor of the State of Maryland deems it inappropriate for any person against whom extradition proceedings are pending to set up the aforesaid time limitations in Sections 9-115 and 9-117 of the Criminal Procedure Article, as an obstacle to extradition where the reason for the delay is an investigation undertaken primarily for the benefit of the undersigned.

IT IS HEREBY AGREED, that in consideration of my request to the Governor of the State of Maryland for an investigation, the undersigned does hereby waive the time limitations in Sections 9-115 and 9-117 of the Criminal Procedure Article of the *Annotated Code of Maryland*.

The undersigned further agrees not to seek the release or dismissal of the fugitive warrant issued in this case pending the final disposition of the extradition proceeding by the Governor of the State of Maryland. It is requested that this Waiver be forwarded to the Court having jurisdiction over the fugitive warrant in order that the said Court is fully informed of this Waiver of the above-cited time limitations.

WITNESS my signature on _____.

_____ _____

Subject of Requisition Attorney

_____

Benjamin A. Harris
Assistant Attorney General
Extradition Hearing Officer

DISTRICT COURT OF MARYLAND FOR _____

Located at _____ **Case. No.** _____

STATE OF MARYLAND VS. _____
Defendant

CONSENT TO WAIVE EXTRADITION

I, _____, having been arrested in the State of Maryland, County of _____, and being charged by warrant with being a fugitive from the State of _____, acknowledge that I have appeared before this Court on this ____ day of _____, 20 ___.

I have been informed that the State of _____ has charged me with the crime(s) of _____ _____ and has demanded my surrender.

It has further been explained that I have the right to demand a warrant of extradition; and that I have the right to test in this court the legality of my arrest by filing a writ of HABEAS CORPUS in accordance with the Criminal Procedure Article, Annotated Code of Maryland.

Having had these rights explained to me, and understanding each, I do freely and voluntarily waive each and every one of them, and I am willing to submit to the custody of the State of _____ without any further legal proceedings in the State of Maryland.

I have reviewed this document fully, and it has been read to me in its entirety. I understand that by signing below, I am waiving my rights as indicated herein.

_____ _____
Date Signature of Defendant

_____
Witness

ORDER FOR WAIVER OF EXTRADITION

This Court having advised the Defendant of his rights under the Criminal Procedure Article of the Annotated Code of Maryland, and having received the Defendant's Consent to Waive Extradition, it is, therefore,

ORDERED that the police agency having the Defendant in custody shall deliver the Defendant into the custody of any authorized agent of the State of _____ without unreasonable delay and no later than _____.

_____ _____
Date Judge

ACKNOWLEDGEMENT OF RECEIPT OF DEFENDANT

I, _____, as agent for the State of _____ do hereby acknowledge that I have taken the above named Defendant into custody this _____ day of _____, 20____.

_____
Agent

NOTIFICATION OF RELEASE FROM CUSTODY

No agent for the State of _____ having taken custody of the Defendant within the time prescribed by Order of the Court, the Defendant has been released from custody this ____ day of _____, 20____ By _____ _____
Name and Title Law Enforcement Agency

Governor's Warrant of Rendition for Person Charged with Crime

TO: ANY SHERIFF, DEPUTY SHERIFF AND OTHER PEACE OFFICERS OF AND IN THE SEVERAL CITIES AND COUNTIES THIS STATE:

WHEREAS, the Governor of the State of _____, has directed a requisition for rendition to me, duly authenticated in accordance with the laws of that State showing that _____ **AKA** _____ stands charged with the crime(s) of _____, which has been certified to be a crime under the laws of said State, and that the fugitive (has fled from justice of said State/is sought by said State as a non-fugitive pursuant to Section 2-206 of the Uniform Criminal Extradition Act) (delete inapplicable provision), and has taken refuge in this State, and

WHEREAS, the Governor of said State, pursuant to the Constitution and laws of the United States, and of said State, and of this State, has demanded of me that I cause this person to be arrested and delivered to _____ and/or (his/her/their) their authorized agent(s), who is/are, as is satisfactorily shown, duly authorized to receive the accused into custody and convey the accused back to said State, and

WHEREAS, the requisition is accompanied by copies of the application for requisition, supported by charging document and other papers duly certified as authentic by the Governor of said State.

NOW THEREFORE, by virtue of the authority vested in me by the Constitution and laws of this State, and the United States, I issue this, my warrant, which requires you to arrest and secure _____ **AKA** _____ wherever found within this State, and afford said person such opportunity to petition for a writ of *habeas corpus* as is prescribed by the extradition laws of this State, and to thereafter deliver said person into the custody of said authorized agent(s) to be returned to the **State of** _____ there to be dealt with according to law.

IN WITNESS WHEREOF, I have hereto signed my name and have caused the seal of this State to be affixed at Annapolis, State of Maryland, on _____ (date).

SEAL

_____
Governor

By the Governor

_____
Secretary of State

Governor's Warrant of Rendition for Escapees, Probation & Parole Violators

TO: ANY SHERIFF, DEPUTY SHERIFF AND OTHER PEACE OFFICERS OF AND IN THE SEVERAL CITIES AND COUNTIES THIS STATE:

WHEREAS, the Governor of the State of _____, has directed a requisition for rendition to me, duly authenticated in accordance with the laws of that State showing that _____ **AKA** _____ stands convicted of the crime(s) of _____, _____ which has been certified to be a crime under the laws of said State, and thereafter (escaped from lawful custody/violated probation/violated parole) (delete inapplicable provision) in said State, and is a fugitive from the justice thereof, and has taken refuge in this State, and

WHEREAS, the Governor of said State, pursuant to the Constitution and laws of the United States, and of said State, and of this State, has demanded of me that I cause this person to be arrested and delivered to _____ and/or (his/her/their) authorized agent(s), who is/are, as is satisfactorily shown, duly authorized to receive the accused into custody and convey the accused back to said State, and

WHEREAS, the requisition is accompanied by copies of the application for requisition, supported by a judgment of conviction or order of sentence and other papers duly certified as authentic by the Governor of said State.

NOW THEREFORE, by virtue of the authority vested in me by the Constitution and laws of this State, and the United States, I issue this, my warrant, which requires you to arrest and secure _____ **AKA** _____ wherever found within this State, afford said fugitive such opportunity to petition for a writ of *habeas corpus* as is prescribed by the extradition laws of this State, and to thereafter deliver said person into the custody of the said authorized agent(s) to be returned to the **State of** _____ there to be dealt with according to law.

IN WITNESS WHEREOF, I have hereto signed my name and have caused the seal of this State to be affixed at Annapolis, State of Maryland, on _____ (date).

_____

SEAL Governor

By the Governor

_____

Secretary of State

State of Maryland
County (City) of _____
I do hereby certify that I have executed this Warrant of Rendition by serving _____,
_____ the fugitive named herein, this _____ day of _____ , 20___.

_____
Law Enforcement Officer

OR

State of Maryland
County (City) of _____
I do hereby certify that I have executed this Warrant of Rendition by serving _____,
_____ the fugitive named herein, and I further certify that the fugitive has been released on bail which is returnable at his/her next scheduled court appearance* on _____, 20___ at the hour of _____.

_____
Law Enforcement Officer, Date

OR

State of Maryland
County (City) of _____
I, Clerk of Court _____, do hereby certify that attached hereto is a true and exact copy of the original Waiver of Extradition or Order of Dismissal in the case against _____, the fugitive named within this Warrant of Rendition, wanted in the State of _____.

_____
Clerk of Court, Date

RECEIPT BY AGENT

I, (We) _____, Agent(s), authorized by the State of _____ to receive the fugitive named herein and deliver him (her)* back to the State of _____, hereby acknowledge that said fugitive was delivered* into my (our) custody in _____, Maryland, at the hour of _____, this ____ day of _____, 20____.

_____
Agent

_____
Agent

*Pursuant to Section 9-110 of the Criminal Procedure Article of the *Annotated Code of Maryland*, no person arrested upon this warrant shall be delivered to the agent of the demanding state until he has been taken before a judge of a court of record in this State wherein he shall be informed of the right to demand and procure legal counsel and apply for a Writ of *Habeas Corpus* to test the legality of his arrest. If the application for a Writ of *Habeas Corpus* after an extradition hearing only is denied, by the trial court, the fugitive must remain, in the absence of a waiver, in this State for an additional 30 days, during which time an appeal to the Court of Special Appeals may be taken.

Return the original Governor's Warrant to this office with the appropriate information completed. Additional copies may be photocopied from this document should it be necessary.

EXECUTIVE AGREEMENT FOR EXTRADITION OF PERSON INCARCERATED IN STATE WHICH IS NOT A PARTY TO THE I.A.D.

AGREEMENT BETWEEN THE GOVERNOR OF THE STATE OF _____ AND THE GOVERNOR OF THE STATE OF MARYLAND

RE: EXTRADITION OF

WHEREAS, application has been made to the Governor of the State of _____ by the Governor of the State of Maryland for the issuance of a warrant of the Governor of the State of _____ directed to any peace officer of the State for the arrest of one _____described in the Requisition for Extradition of the Governor of the State of Maryland to the Governor of the State of _____, and the delivery of the said _____ upon such arrest, to the duly designated agent of the State of Maryland, for return to _____, State of Maryland, for trial upon a charge of _____, now pending against the said _____. (See attached certified copy of charging document)

WHEREAS, the said _____ is now imprisoned in the _____ Correctional Facility, _____ , _____ and which term of confinement has not been concluded.

NOW, THEREFORE, I, _____ , as Governor of the State of _____ , do hereby covenant and agree with _____ , as Governor of the State of Maryland, for the extradition of the said _____ to the State of Maryland, for a period of approximately _____ days, and place him in the temporary custody of the Sheriff of _____ City/County, Maryland, _____ , and his deputies, _____ and/or _____upon the express condition that the said _____ shall be promptly brought to trial in said State of Maryland, and upon the further express condition that the said _____ be returned promptly to the State of _____ , as soon as the proceedings in the State of Maryland are terminated, and upon such return shall be delivered into the custody of the Warden of the _____Correctional Facility, _____ , _____ for completion of his term of sentence in the State of _____ , and

I, _____ , as Governor of the State of Maryland do hereby covenant and agree to and with the aforesaid _____ , as Governor of the State of _____, that the aforesaid express condition upon which the application for the extradition of the said _____ to the State of Maryland is granted, shall be in all respects fulfilled and complied with and expressly accepted as to the terms and conditions of said extradition; and that if the said _____ be returned to the State of Maryland as above provided, the State of Maryland shall pay and defray all expenses of the return of said _____ into the custody of the Warden of the _____ Correctional Facility, _____ , _____, and that such return of _____ shall be made as promptly and expeditiously as reasonably possible by and at the expense of the State of Maryland, as aforesaid.

IN WITNESS WHEREOF, this agreement has been signed, in duplicate, by the undersigned, _____ as Governor of the State of Maryland, and the seal of the State of Maryland affixed hereto on this _____ day of _____, 20___ and signed in duplicate by the undersigned, _____, as Governor of the State of _____, and the seal of the State of _____ affixed hereto on this ____ day of _____, 20___.

SEAL

_____
(signature)
Governor of the State of _____

ATTEST:

_____
(signature)
Secretary of the State of _____

SEAL

_____
(signature)
Governor of the State of Maryland

ATTEST:

_____
(signature)
Secretary of the State of Maryland

EXECUTIVE AGREEMENT FOR THE TRANSFER OF PRISONER WANTED AS A WITNESS IN CRIMINAL PROCEEDING

AGREEMENT BETWEEN THE GOVERNOR OF THE STATE OF _____ AND THE GOVERNOR OF THE STATE OF MARYLAND

RE: TEMPORARY SURRENDER OF CUSTODY OF _____

WHEREAS, _____ , is currently serving a sentence for _____ in the _____ Correctional Institution, _____, _____, and which sentence has not been concluded, and

WHEREAS, the said _____ is a material witness in the case of the State of Maryland vs. _____ who is charged in the _____ Court for _____ County, Criminal No. _____ with_____.

NOW THEREFORE, I_____, Governor of the State of _____ , do hereby covenant and agree with _____ as Governor of the State of Maryland for the temporary surrender of the said _____ to the State of Maryland for the period of approximately _____ and place him/her in the temporary custody of the _____ Department, _____ , or his representative, upon the express condition that the said _____ should be used as a witness for the State in its prosecution of _____ and upon the further condition that the said _____ be returned promptly to the State of _____ at the expense of the State of Maryland as soon as his/her testimony is concluded and upon his/her return shall be delivered to the custody of the Warden of the _____ Correctional Institution for completion of his/her sentence in the State of _____ , and

I, _____ , as Governor of the State of Maryland, do hereby covenant and agree to and with the aforesaid _____ , as Governor of the State of _____ that the aforesaid express conditions upon which the application for the temporary surrender of the said _____ to the State of Maryland is granted shall be in all respects fulfilled and complied with and expressly accepted as to the terms and conditions of said surrender, and that when the said _____ is returned, the State of Maryland shall pay and defray all expenses of the return of the said _____ to the State of _____ , and the delivery of the said _____ into the custody of the Warden of the _____ Correctional Institution, and that the return of the said _____ shall be made as promptly and expeditiously as reasonably possible by and at the expense of the State of Maryland aforesaid.

IN WITNESS WHEREOF, this agreement has been signed, in duplicate, by the undersigned, _____ as Governor of the State of Maryland, and the seal of the State of Maryland affixed hereto on this _____ day of _____ , 20___ and signed in duplicate by the undersigned, _____ , as Governor of the State of _____ , and the seal of the State of _____ affixed hereto on this ____ day of _____ , 20___.

SEAL

_____
(signature)
Governor of the State of _____

ATTEST:

_____
(signature)
Secretary of the State of _____

SEAL

_____
(signature)
Governor of the State of Maryland

ATTEST:

_____
(signature)
Secretary of the State of Maryland

Appendix C

LIST OF CASES CITED

Anglin v. State, 38 Md. App. 250, 380 A.2d 249 (1977).
Audler v. Kriss, 197 Md. 362, 79 A.2d 391 (1951).
Barker v. Wingo, 925 S. Ct. 2182 (1972).
Barnes v. State, 20 Md. App. 262, 315 A.2d 117 (1974).
Bartholomey v. State, 260 Md. 504, 273 A.2d 164 (1971).
Beachem v. State, 71 Md. App. 39, 523 A.2d 1033 (1987).
Bey v. State, 36 Md. App. 529 (1977).
Boyd v. State, 51 Md. App. 197, 441 A.2d 1133 (1982).
Brady v. State, 291 Md. 261 (1981).
Brooks v. State, 329 Md. 98, 617 A.2d 1049 (1993).
Brooks v. State, 35 Md. App. 461 (1977).
Bryson v. Warden, Baltimore City Jail, 287 Md. 467, 413 A.2d 554 (1980).
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Bush v. Muncy, 659 F.2d 402 (4th Cir. 1981).
California v. Superior Court of California, 482 U.S. 400, 107 S. Ct. 2433 (1987).
Campbell v. State, 10 Md. App. 406, 271 A.2d 190 (1970).
Carchman v. Nash, 473 U.S. 716, 105 S. Ct. 3401, 87 L. Ed. 2d 516 (1985).
Cheng v. Governor of Pentonville Prison, [1973] 2 W.L.R. 746 (H.L.).
Christian v. United States, 394 A.2d 1 (D.C. Cir. 1978).
Clark v. Warden, Baltimore City Jail, 39 Md. App. 305, 385 A.2d 816 (1978).
Clipper v. State, 295 Md. 303, 455 A.2d 973 (1983).
Cohen v. Warden, Montgomery County Det. Ctr., 252 F. Supp. 666 (D. Md. 1966).
Pennsylvania *ex rel.* Culcough v. Aytch, 323 A.2d 359 (Pa. 1974).
Pennsylvania *ex rel.* Marshall v. Gedney, 321 A.2d 641 (Pa. 1974).
Cuyler v. Adams, 449 U.S. 433, 101 S. Ct. 703, 66 L. Ed. 2d 671 (1981).Davidson v. State, 18 Md. App. 61, 305 A.2d 474 (1973).
Downey v. Hale, 67 F.2d 208 (1st Cir. 1933).
Davis v. State, 24 Md. 567, 332 A.2d 733 (1975).
Dennett v. State, 19 Md. App. 376, 311 A.2d 437 (1973).
Ebbole v. Robinson, 299 A.2d 47 (Pa. 1972).
Edge v. State, 63 Md. App. 676, 493 A.2d 437 (1985).
Estep v. State, 14 Md. App. 53, 286 A.2d 157 (1972).
Ex parte Tenner, 20 Cal. 2d 670, 128 P. 2d 338 (1942).
Fitzpatrick v. Williams, 46 F.2d 40 (5th Cir. 1931).
Gagnon v. Scarpelli, 411 U.S. 778 (1973).
Gardner v. State, 29 Md. App. 314 (1975).
Haynes v. Sheriff of Washington County, 253 Md. 278, 252 A.2d 807 (1969).
Hines v. State, 58 Md. 637, 473 A.2d 1335 (1984).
Hoss v. State, 266 Md. 136, 292 A.2d 48 (1972).
Hyatt v. New York *ex rel.* Corkran, 188 U.S. 691, 23 S. Ct. 452, 47 L. Ed. 651 (1902).
In re California, 57 Md. App. 804, 471 A.2d 1141 (1984).

Innes v. Tobin, 240 U.S. 127, 36 S. Ct. 240, 60 L. Ed. 560 (1916).
Isaacs v. State, 31 Md. App. 604 (1976).
Jefferson v. State, 319 Md. 674 (1990).
Johnson v. Brown, 205 U.S. 309 (1907).
Johnson v. Warden, Montgomery County Det. Ctr., 244 Md. 384, 223 A.2d 584 (1966).
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King v. State, 5 Md. App. 652 (1968).
Kleinbart v. United States, 426 A.2d 343 (D.C. Cir. 1981).
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Kyles v. Preston, 253 F. Supp. 628 (D.D.C. 1966).
Laster v. State, 313 Md. 548, 546 A.2d 472 (1988).
Lee v. State, 61 Md. App. 169, 485 A.2d 1014 (1985).
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Mason v. Warden, Baltimore City Jail, 203 Md. 659, 99 A.2d 739 (1953).
Maynard v. Kear, 474 F. Supp. 794 (N.D. Ohio 1979).
Michigan v. Doran, 439 U.S. 282, 99 S. Ct. 530, 58 L. Ed. 2d 521 (1978).
Miller v. Warden, Baltimore City Jail, 14 Md. App. 377, 271 A.2d 57 (1972).
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Morrisey v. Brewer, 408 U.S. 471 (1972).
Munsey v. Claugh, 196 U.S. 364, 25 S. Ct. 382, 49 L. Ed. 515 (1905).
Parks v. State, 41 Md. App. 381, 397 A.2d 212 (1979).
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Powell v. State, 56 Md. App. 351, 467 A.2d 1052 (1983).
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Reed v. Farley, 512 U.S. 339, 114 S. Ct. 2291 (1994).
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Sami v. United States, 617 F.2d 755 (D.C. Cir. 1979).
Sanders v. Conine, 506 F.2d 530 (10th Cir. 1974).
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Shields v. State, 257 Md. 384, 263 A.2d 565 (1970).
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Solomon v. Warden, Baltimore City Jail, 256 Md. 297, 260 A.2d 68 (1969).
Solomon v. Warden, Montgomery County Det. Ctr., 244 Md. 384, 223 A.2d 584 (1966).
South Carolina v. Bailey, 289 U.S. 412, 53 S. Ct. 667, 77 L. Ed. 1292 (1932).
Statchuk v. Warden, Maryland Penitentiary, 455 A.2d 1000, 53 Md. App. 680 (1983).
State *ex rel.* Channel v. Murphy, 202 Md. 650, 96 A.2d 473 (1953).
State *ex rel.* Gildar v. Kriss, 191 Md. 568, 62 A.2d 568 (1948).
State *ex rel.* Zack v. Kriss, 195 Md. 559, 74 A.2d 25 (1950).
State v. Barnes, 273 Md. 195, 328 A.2d 737 (1974).
State v. Boone, 40 Md. App. 41, 388 A.2d 150 (1978).
State v. Holley, 82 Md. App. 381, 571 A.2d 1208 (1990).
State v. Long, 1 Md. App. 326, 230 A.2d 119 (1967).

State v. Murphy, 202 Md. 650, 96 A.2d 473 (1953).
State v. Oxendine, 58 Md. App. 591, 473 A.2d 1311 (1984).
State v. Smith, 73 Md. App. 378, 534 A.2d 371 (1987).
State v. Torres, 86 Md. App. 560 (1991).
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Stone v. State, 344 Md. 97 (1996).
Strickler v. State, 55 Md. App. 688, 466 A.2d 51 (1983).
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Thurman v. State, 89 Md. App. 125, 597 A.2d 997 (1991).
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Utt v. Warden, Baltimore City Jail, 48 Md. App. 486, 427 A.2d 1092 (1981).
White v. Hall, 15 Md. App. 446, 291 A.2d 694 (1972).
Willin v. Sheriff of Wicomico County, 201 Md. 667, 95 A.2d 87 (1953).
Wirth v. Surles, 562 F.2d 319 (4th Cir. 1977).
Wise v. State, 30 Md. App. 207 (1976).

18 U.S.C. §§ 3182, 3194, 3195 (1970):

3182. FUGITIVES FROM STATE OR TERRITORY TO STATE, DISTRICT OR TERRITORY.

Whenever the executive authority of any State or Territory demands any person as a fugitive from justice, of the executive authority of any State, District or Territory to which such person has fled, and produces a copy of an indictment found or an affidavit made before a magistrate of any State or Territory, charging the person demanded with having committed treason, felony, or other crime, certified as authentic by the governor or chief magistrate of the State or Territory from whence the person so charged has fled, the executive authority of the State, District or Territory to which such person has fled shall cause him to be arrested and secured, and notify the executive authority making such demand, or the agent of such authority appointed to receive the fugitive, and shall cause the fugitive to be delivered to such agent when he shall appear. If no such agent appears within thirty days from the time of the arrest, the prisoner may be discharged.

3194. TRANSPORTATION OF FUGITIVE BY RECEIVING AGENT.

Any agent appointed as provided in § 3182 of this title who receives the fugitive into his custody is empowered to transport him to the State or Territory from which he has fled.

3195. PAYMENT OF FEES AND COSTS.

All costs or expenses incurred in any extradition proceeding in apprehending, securing, and transmitting a fugitive shall be paid by the demanding authority.

ENFORCEMENT OF PRESIGNED WAIVERS OF EXTRADITION

STATE		STATUTE
Alaska	→	No law on the subject; Attorney General's policy disfavors seeking Enforcement.
Alabama	→	No law on the subject.
Arizona	→	Yes. (Statute - Crim. Code, § 13-3865.01)
Arkansas	→	Yes.
California	→	Yes. (Pen. Code, § 1555.2)
Colorado	→	Yes. (C.R.S. 16-19-126.5)
Connecticut	→	No law
Delaware	→	Yes. (*Reed v. State* (Del. 1969) 251 A.2d 549)
District of Columbia	→	No law. Policy disfavors enforcement
Florida	→	Yes. (Statute - F.S.A. § 941.26(3).
Georgia	→	No law on the subject; depends on the judge.
Guam	→	No law. Courts tend to favor enforcement.
Hawaii	→	Yes. (Statute - H.R.S. § 832-25)
Idaho	→	No law specifically on the subject, but policy favors since most Idaho courts impose such conditions.
Illinois	→	Yes (Attorney General Opinion 84-005), but may depend on judge
Indiana	→	No law on subject; but policy and practice favors enforcement.
Iowa	→	No law on the subject; policy disfavors.
Kansas	→	Yes. (*Hunt v. Hand* (Kan. 1960) 352 P.2d 1)
Kentucky	→	No law on the subject; Attorney General's policy favors seeking enforcement

Louisiana	→	Yes. (Statute - Art. 273, Code of Crim. Proc.)
Maine	→	Yes. (Statute - 15 M.R.S.A., § 226)
Maryland	→	Yes. (*White v. Hall*, 15 Md. App. 446, 291 A.2d 694 (1972))
Massachusetts	→	No law.
Michigan	→	Yes. (M.C.L.A. 780.25(a))
Minnesota	→	Yes. (*State ex rel. Swyston v. Hedman* (Minn. 1970) 179 N.W.2d 282; State v. Tahash (Minn. 1962) 115 N.W.2d 676)
Mississippi	→	Unknown.
Missouri	→	No law; practice disfavors enforcement.
Montana	→	Yes, for the most part, but some judges do not honor them. (Statute - MCA, § 46-30-229; see also *Swartz v. Woodahl* (Mont. 1971) 487 P.2d 300)
Nebraska	→	Yes. (*State v. Lingle* (Neb. 1981) 308 N.W.2d 531)
Nevada	→	Yes. (N.R.S. 179.22 § 3)
New Hampshire	→	Yes. (R.S.A. 612.5-a)
New Jersey	→	Yes, but some counties may not enforce them. (*State v. Maglio* (N.J. 1988) 459 A.2d 1209; *State v. Arundell* (N.J. 1994) 650 A.2d 845.) May include presigned waiver as a condition of parole.
New Mexico	→	Unknown.
New York	→	No, except in the case of the Interstate Compact on Adult Supervision, Executive Law § 259-m and 259-mm.
North Carolina	→	No law; but policy and informal Attorney General Opinion favors enforcement.
North Dakota	→	No law. Policy favors since North Dakota courts and parole authorities impose extradition waivers as release conditions.
Ohio	→	No law. Depends on the judge.
Oklahoma	→	Yes. (*Wright v. Page* (Ok. 1966) 414 P.2d 570)
Oregon	→	Yes. (ORS 133.843)

Pennsylvania	→	Yes. (Pa C.S.A. 42 § 9146.1)
Puerto Rico	→	No law. Prosecutors seek enforcement.
Rhode Island	→	No law.
South Carolina	→	Yes, by Executive Order.
South Dakota	→	No law.
Tennessee	→	Yes. (Attorney General opinion, No. 589)
Texas	→	Yes. (*Ex parte Johnson* (Tex. 1981) 610 S.W.2d 757)
Utah	→	Yes, U.C.A. 77-3-25.
Vermont	→	No law.
Virginia	→	Does not recognize presigned waivers
Virgin Islands	→	No law.
Washington	→	Yes. RCW 10.88.415.
West Virginia	→	Yes. W.Va Code § 5-1-11c.
Wisconsin	→	No.
Wyoming	→	No law. Depends on judge.

Appendix D

INTERSTATE AGREEMENT ON DETAINERS SUMMARY OF IAD FORMS

➢ **FORM I: NOTICE OF UNTRIED INDICTMENT, INFORMATION, OR COMPLAINT AND OF THE RIGHT TO REQUEST DISPOSITION.**
This form (in duplicate) is signed and dated by the Warden and given to the inmate. The inmate also signs and dates this form.
One copy signed by both should be kept by the Warden—one signed by the Warden should be kept by the inmate.

➢ **FORM II: INMATE'S NOTICE OF PLACE OF IMPRISONMENT AND REQUEST FOR DISPOSITION OF INDICTMENTS, INFORMATIONS, OR COMPLAINTS.**
This form (five copies if only one jurisdiction has detainer—if more than one, additional copies are necessary for prosecuting officials and clerks of the court) is signed by the inmate and is his request for disposition.
One copy is retained by the prisoner; one signed copy is retained by the Warden; one signed copy goes to each of the following: the Agreement Administrator of the state housing the prisoner; the prosecuting official of jurisdiction placing the detainer; and the clerk of the court having jurisdiction over the matter. Copies for the prosecutor and the court should be mailed return receipt requested.

➢ **FORM III: CERTIFICATE OF INMATE STATUS.**
If an inmate's request is for disposition, this copy should be attached to copies of *Form II*. If the request is initiated by a prosecutor, a copy of this form should be sent to the prosecutor upon receipt by the Warden of *Form V*.
A copy goes to whomever receives *Form II*, if it is initiated by the inmate; a copy goes to the inmate; and a copy goes to all other prosecutors in the requesting state who have lodged detainers against the inmate and the appropriate court.

➢ **FORM IV: OFFER TO DELIVERY TEMPORARY CUSTODY.**
If an inmate's request is for disposition, copies of this form should be attached to *Form II*. If the prosecutor initiates, this form should not be completed until either the inmate completes *Form II* or until **after** both expiration of 30 days (the time allowed for the Governor to approve or disapprove transportation of the inmate) and **after** the court hearings (including any *habeas corpus* hearing and appeals) pursuant to Cuyler v. Adams, 449 U.S. 443 (1981) have been concluded.
A copy goes to whomever receives *Form III* - including one to the prisoner and one to the Warden.

➢ **FORM V: REQUEST FOR TEMPORARY CUSTODY**
This form should be completed by the prosecutor if he desires to initiate the request for custody **after** a detainer is lodged.
Five copies. A signed copy should be sent to the prisoner and the official who has the prisoner in custody; a copy goes to the Agreement Administrator of the state of incarceration; and a copy is retained by the person filing the request and the judge who signs the request.

➢ **FORM VI: EVIDENCE OF AGENT'S AUTHORITY TO ACT FOR RECEIVING STATE.**
This form must always be completed by the prosecutor regardless of who initiates the request.
Four copies. All copies must have the original signature of the prosecutor and the agent(s). If the possibility exists that a person designated as the agent will not be the person actually going after the inmate, then two agents should be named on the form and each one must also sign the form. If you prefer to complete one form and make three photocopies, that is okay as long as it is a good copy, but *each page must have original signatures*. All four copies must then be sent to the Agreement Administrator of the requesting state. After signing all copies, the Administrator retains one copy for her/his file; one copy is sent to the Warden having custody, and two copies are returned to the prosecutor. One of the prosecutor's forms should be retained in his file, the other must accompany the agent when he/she goes after the inmate. *The agent must also carry a certified copy of the charging instrument with him/her along with Form VI*.

➢ **FORM VII: PROSECUTOR'S ACCEPTANCE OF TEMPORARY CUSTODY OFFERED IN CONNECTION WITH A PRISONER'S REQUEST FOR DISPOSITION OF A DETAINER.**
This form is used **only** when an offer of temporary custody has been received as the result of a **prisoner's request** for disposition of a detainer. If an offer has been received because another prosecutor in your state has initiated the request, **use *Form VIII***.
Copies go to the Warden, the prisoner, other jurisdictions in your state listed in the offer of temporary custody, and the Agreement Administrator of the state which has the inmate incarcerated. A copy should be retained by the person filing acceptance and by the judge who signs it.

➢ **FORM VIII: PROSECUTOR'S ACCEPTANCE OF TEMPORARY CUSTODY OFFERED IN CONNECTION WITH ANOTHER PROSECUTOR'S REQUEST FOR DISPOSITION OF A DETAINER.**
This form is used **only** when an offer of temporary custody has been received as the result of **another prosecutor's request** for disposition.
Copies go to the warden, the prisoner, other jurisdictions in your state listed on the offer of temporary custody, and the Agreement Administrator of the state which has the prisoner incarcerated. A copy should be retained by the person filing acceptance and the judge who signs it.

➢ **FORM IX: PROSECUTOR'S REPORT ON DISPOSITION OF CHARGES.**
This form should **always** be completed regardless of who initiates the request for disposition.
Four copies. One copy is retained by the prosecutor; one copy is sent to the Warden of the state of original imprisonment; and one copy is sent to the Warden or agency who will have jurisdiction over the inmate when he returns to the state which placed the detainer to serve his new sentence.

FORM I

INTERSTATE AGREEMENT ON DETAINERS

One copy of this form, signed by the inmate and the warden, should be retained by the warden. One copy, signed by the warden should be retained by the inmate.

NOTICE OF UNTRIED INDICTMENT, INFORMATION OR COMPLAINT AND OF RIGHT TO REQUEST DISPOSITION

Inmate _____ No. _____ Inst. _____

NOTICE OF UNTRIED INDICTMENT, INFORMATION OR COMPLAINT

Pursuant to the Interstate Agreement on Detainers (IAD), you are hereby informed that a detainer has been lodged for the following untried indictments, informations, or complaints against you concerning which the undersigned has knowledge, and the source and contents of each:

(1) Jurisdiction/Agency: _____

Crime(s) charged: _____

(2) Jurisdiction/Agency: _____

Crime(s) charged: _____

(3) Jurisdiction/Agency: _____

Crime(s) charged: _____

RIGHT TO REQUEST DISPOSITION OF CHARGES AND TO SPEEDY TRIAL

You are hereby further advised that under the IAD you have the right to request the appropriate prosecuting officer of the jurisdiction in which any such indictment, information or complaint is pending, and the appropriate court, that a final disposition be made thereof. You shall then be brought to trial within 180 days, unless extended pursuant to provisions of the IAD, after said prosecuting officer and said court have received written notice of the place of your imprisonment and your request, together with a certificate of the custodial authority as more fully set forth in the IAD. However, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

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WAIVER AND CONSENT

Your request for final disposition will operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against you from the state to whose prosecuting official your request for final disposition is specifically directed. Your request will also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein and a waiver of extradition to the state of trial to serve any sentence there imposed upon you, after completion of your term of imprisonment in this state. Your request will also constitute a consent by you to the production of your body in any court where your presence may be required in order to effectuate the purposes of the IAD and a further consent to be voluntarily returned to the institution in which you are now confined.

Should you desire such a request for final disposition of any untried indictment, information or complaint, you are to notify of the institution in which you are confined.

RIGHT TO OPPOSE REQUEST FOR TEMPORARY CUSTODY

You are also advised that under provisions of the IAD the prosecuting officer of a jurisdiction in which any such indictment, information or complaint is pending may request your temporary custody to obtain a final disposition thereof. In that event, you may oppose such request. You may request the Governor of this state to disapprove any such request for your temporary custody but you cannot oppose delivery on the grounds that the Governor has not affirmatively consented to or ordered such delivery. You are also entitled to the procedural protections provided in state extradition laws.

_____ Dated: _____
Warden

CUSTODIAL AUTHORITY

Name: _____

Institution: _____

Address: _____

City/State: _____

Telephone: _____

RECEIVED

INMATE: _____ NO: _____ DATE: _____
(Signature)

WITNESS: _____ DATE: _____
(Signature)

_____
(Printed Name & Title)

Rev. 3/03
Form I

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FORM II

INTERSTATE AGREEMENT ON DETAINERS

Six copies, if only one jurisdiction within the state involved has an indictment, information or complaint pending. Additional copies will be necessary for prosecuting officials and clerks of court if detainers have been lodged by other jurisdictions within the state involved. One copy should be retained by the inmate. One signed copy should be retained by the institution. Signed copies must be sent to the Agreement Administrators of the sending and receiving states, the prosecuting official of the jurisdiction which placed the detainer, and the clerk of the court which has jurisdiction over the matter. The copies for the prosecuting official and the court must be transmitted by certified or registered mail, return receipt requested.

INMATE'S NOTICE OF PLACE OF IMPRISONMENT AND REQUEST FOR DISPOSITION OF INDICTMENTS, INFORMATIONS OR COMPLAINTS

TO: (1) _____ Prosecuting Officer _____
(Jurisdiction)

(2) Clerk of _____ Court _____
(Jurisdiction)

And to all other prosecuting officers and courts of jurisdictions listed below in which indictments, informations or complaints are pending.

You are hereby notified that the undersigned, _____, is now
(Inmate's Name & Number)

imprisoned in_____ at _____.
(Institution) (City and State)

I hereby request that final disposition be made of the following indictments, informations or complaints now pending against me: _____

_____

_____

Failure to take action in accordance with the Interstate Agreement on Detainers (IAD), to which your state is committed by law, will result in the dismissal of the indictments, informations or complaints.

I hereby agree that this request will operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against me from your state. I also agree that this request shall be deemed to be my waiver of extradition to your state for any proceeding contemplated hereby, and a waiver of extradition to your state to serve any sentence there imposed upon me, after completion of my term of imprisonment in this state. I also agree that this request shall constitute consent by me to the production of my body in any court where my presence may be required in order to effectuate the purposes of the IAD and a further consent to be returned to the institution in which I now am confined.

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If jurisdiction over this matter is properly in another agency, court, or officer, please designate below the proper agency, court, or officer and return this form to sender.

_____

_____

The required Certificate of Inmate Status (Form III) and Offer of Temporary Custody (Form IV) are attached.

_____	_____	_____
Inmate's Printed Name & Number	Inmate's Signature	Date
_____	_____	_____
Witness's Printed Name & Title	Witness's Signature	Date

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FORM III

INTERSTATE AGREEMENT ON DETAINERS

In the case of an inmate's request for disposition under Article III, copies of this Form should be attached to all copies of Form II. In the case of a request initiated by a prosecutor under Article IV, a copy of this Form should be sent to the prosecutor upon receipt by the warden of Form V. Copies of this Form should be sent to all other prosecutors in the same state who have lodged detainers against the inmate. A copy may be given to the inmate.

CERTIFICATE OF INMATE STATUS

_____ _____
(Inmate) (Number)

_____ _____
(Institution) (Location)

_____ hereby certifies:
(Custodial authority)

1. The inmate's commitment offense(s): _____
2. The term of commitment under which the inmate is being held: _____
3. The time already served: _____
4. Time remaining to be served on the sentence: _____
5. Good time earned/Good time release date: _____
6. The date of parole eligibility of the inmate: _____
7. The decisions of the state parole agency relating to the inmate: (If additional space is needed, use reverse side.)_____
8. Maximum expiration date under present sentence:_____
9. Security level/special security requirements: _____

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10. Detainers currently on file against this inmate from your state: _____

_____ Dated: _____
Warden

CUSTODIAL AUTHORITY

Name/Title: _____

Institution: _____

Address: _____

City/State: _____

Telephone: _____

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FORM IV

INTERSTATE AGREEMENT ON DETAINERS

Inmate's request: Copies of this Form should be attached to all copies of Form II. Prosecutor's request: This Form should be completed after the warden has approved the request for temporary custody, expiration of the 30 day period, and successful completion of a pretransfer hearing. Copies of this Form should then be sent to all officials who receive(d) copies of Form III. One copy also should be given to the inmate and one copy should be retained by the institution. Copies mailed to the prosecutor should be sent certified or registered mail, return receipt requested.

OFFER TO DELIVER TEMPORARY CUSTODY

TO: _____ Prosecuting Officer
(Jurisdiction)

And to all other prosecuting officers and courts of jurisdictions listed below from which indictments, informations or complaints are pending.

RE: _____ No. _____
(Inmate)

Pursuant to Article V of the Interstate Agreement on Detainers (IAD), the undersigned hereby offers to deliver temporary custody of the above-named inmate to the appropriate authority in your state in order that speedy and efficient prosecution may be had of the indictment, information or complaint which is

☐ described in the attached inmate's request (Form II)

☐ described in your request for custody (Form V) of _____
(Date)

The required Certificate of Inmate Status (Form III)

☐ is enclosed

☐ was sent to you with our letter of _____
(Date)

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Indictments, informations or complaints charging the following offenses are also pending against the inmate in your state and you are hereby authorized to transfer the inmate to the custody of appropriate authorities in these jurisdictions for purposes of disposing of these indictments, informations or complaints.

Offense:	County or Other Jurisdiction:
_____	_____
_____	_____
_____	_____

If you do not intend to bring the inmate to trial, please inform us as soon as possible.

_____ Date: _____
Warden

CUSTODIAL AUTHORITY

Name/Title: _____

Institution: _____

Address: _____

City/State: _____

Telephone: _____

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FORM V

INTERSTATE AGREEMENT ON DETAINERS

Six copies. Signed copies must be sent to the inmate and to the official who has the inmate in custody. A copy should be sent to the Agreement Administrators of both the sending and the receiving states. Copies should be retained by the person filing the request and the judge who signs the request. Prior to transfer, the inmate may be afforded a judicial hearing similar to that provided under the Uniform Criminal Extradition Act, in which the inmate may bring a limited challenge to this request.

REQUEST FOR TEMPORARY CUSTODY

TO: _____ _____
Warden (Institution)

_____ _____
(Address) (City/State)

Please be advised that_____, who is presently an inmate of
(Inmate's Name & Number)

your institution, is under [indictment] [information] [complaint] in the _____
(Jurisdiction)

of which I am the _____.
(Title of Prosecuting Officer)

Said inmate is therein charged with the following offense(s): _____

_____

_____

In order that proceedings in this matter may be properly had, I hereby request temporary custody of such person pursuant to Article IV(a) of the Interstate Agreement on Detainers (IAD).

I propose to bring this person to trial on the above [indictment] [information] [complaint] within the time specified in Article IV(c) of the IAD.

Attached herewith find a certified copy of :

A. The complaint, information or indictment.

B. The warrant.

C. Fingerprint cards, photographs, and physical description (if available).

I hereby agree that immediately after trial is completed in this jurisdiction I will return the prisoner directly to you or allow any jurisdiction you have designated to take temporary custody. I agree also to complete Form IX, the Notice of Disposition of a Detainer, immediately after trial and to return it to your state with the inmate.

Signature: _____ Dated: _____

_____
(Printed Name & Title)

Address: _____

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City/State: _____ Telephone: _____

I hereby certify that the person whose signature appears above is an appropriate officer within the meaning of Article IV(a) and that the facts recited in this request for temporary custody are correct and that having duly recorded said request I hereby transmit it for action in accordance with its terms and the provisions of the IAD.

Signature: _____ Dated: _____

Judge

_____, Judge

(Printed name)

Court/Judicial District: _____

City/State: _____

Telephone: _____

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FORM V-A

_____

The official who takes the prisoner to court pursuant to a prosecutor's request for temporary custody should provide four (4) copies of this form to the court. If the prisoner wishes to admit that he is the same person whose custody has been requested, and to return to the requesting state, the prisoner should complete each copy of this form in the presence of the court, which should then endorse each copy on the space provided. One copy should be filed with the court, one copy should be placed in the prisoner's file, one copy should be provided to the prosecutor who requested custody, and one copy should be provided to the prisoner.

_____

PRISONER'S AGREEMENT TO TEMPORARY TRANSFER OF CUSTODY

I, _____, _____,
(Prisoner's full name) (Prison number)

am currently incarcerated at _____,
(Institution)

_____. Without admitting my guilt
(Address)

or innocence, I acknowledge that I am the same person named in the attached request for temporary custody (Form V). I have been advised that I am entitled to challenge that request for temporary custody by filing a petition for writ of habeas corpus. I have also been advised that the Governor may intercede in my behalf within thirty (30) days of the request for temporary custody. I wish to waive my right to file a petition for writ of habeas corpus and agree to waive the thirty (30) day period so that I may be transferred as soon as possible.

_____
SIGNED

_____
DATED

_____
JUDGE

FORM VI

INTERSTATE AGREEMENT ON DETAINERS

Five copies. All copies, with original signatures by the prosecutor and the agent, should be sent to the Agreement Administrator of their own state. After signing all copies, the Administrator should retain one for his/her files, send one to the warden/superintendent of the institution in which the inmate is located and return two copies to the prosecutor, who will give one to the agent for use in establishing his/her authority and place one in his/her files. One copy should also be forwarded to the Agreement Administrator in the sending state.

EVIDENCE OF AGENT'S AUTHORITY TO ACT FOR RECEIVING STATE

TO: _____
Administrator of the Agreement on Detainers

_____
(Address)

_____ is confined in _____
(Inmate's name and number) (Institution)

_____ and, pursuant to the Interstate Agreement on Detainers
(Address)

(IAD), will be taken into custody at the institution on or about _____

for delivery to the County of _____, State of _____ for trial.

After the completion of the trial, the inmate shall be returned to the sending state.

In accordance with Article V(b), I have designated the agent(s) named below to return the prisoner.

_____ Dated: _____
(Prosecutor's Signature)

Printed Name: _____ Title: _____

County: _____

Address: _____

City/State: _____ Telephone: _____

Agent(s) printed name(s) and signature(s):

_____ and/or

_____ and/or

_____

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TO: Warden/Superintendent

In accordance with the above representation and the provisions of the IAD, the persons listed above are hereby designated as Agents for the State of _____ to deliver _____

(Inmate's Name & Number)

To _____, State of _____ for trial. At completion of the trial
(Jurisdiction)

the above inmate shall be returned to _____.
(Institution & Address)

Signature: _____ Dated: _____
Agreement Administrator

Agreement Administrator: _____

Address: _____

City/State: _____

Telephone: _____

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FORM VII

INTERSTATE AGREEMENT ON DETAINERS

Six copies. **IMPORTANT: This form should only be used when an offer of temporary custody has been received as the result of an inmate's request** for disposition of a detainer. [If the offer has been received because another prosecutor in your state has initiated the request, use Form VIII.] Copies of Form VII should be sent to the warden, the inmate, the other jurisdictions in your state listed in the offer of temporary custody, and the Agreement Administrators of the sending and receiving states. Copies should be retained by the person filing the acceptance and the judge who signs it. If the offer of custody is being made to more than one jurisdiction in your state, the prosecutor from each jurisdiction should submit a Form VII.

PROSECUTOR'S ACCEPTANCE OF TEMPORARY CUSTODY OFFERED WITH AN INMATE'S REQUEST FOR DISPOSITION OF A DETAINER

TO: _____
Warden

_____
(Institution)

_____
(Address) (City/State)

In response to your letter of _____ and offer of temporary custody regarding
(Date)

_____, who is presently under indictment, information,
(Inmate's Name & Number)

or complaint in _____ of which I am the _____,
(Jurisdiction) (Title of Prosecuting Officer)

please be advised that I accept temporary custody and that I propose to bring this person to trial on the indictment, information, or complaint named in the offer within the time specified in Article III (a) of the Interstate Agreement on Detainers (IAD).

I hereby agree that immediately after the trial is completed in this jurisdiction, I will return the inmate directly to you or allow any jurisdiction you have designated to take temporary custody. I agree also to complete Form IX, Prosecutor's Report of Disposition of Charges, immediately after trial, and return it to your state with the inmate.

(If your jurisdiction is the only one named in the offer of temporary custody, use the space below to indicate when you would like to send your agents to bring the inmate to your jurisdiction. If the offer of temporary custody has been sent to other jurisdictions in your state, use the following space to make inquiry as to the order in which you will receive custody, or to indicate any arrangements you have already made with other jurisdictions in your state in this regard. Each prosecutor in a receiving state jurisdiction should submit a Form VII in accordance with the instructions above.)

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ARRANGEMENTS/INQUIRY: _____

_____

_____

_____

_____

Prosecutor's Signature: _____ Dated: _____

Printed Name/Title: _____

County/Jurisdiction: _____

Address:

_____

City/State: _____

Telephone: _____

I hereby certify that the person whose signature appears above is an appropriate officer within the meaning of Article IV (a) and that the facts recited herein are correct and that having duly recorded this acceptance, I hereby transmit it for action in accordance with its terms and the provisions of the IAD.

Judge's Signature: _____ Dated: _____

Printed Name: _____

Court/Judicial District: _____

Address: _____

City/State: _____

Telephone: _____

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FORM VIII

INTERSTATE AGREEMENT ON DETAINERS

Six copies. **IMPORTANT**: **This form should only be used when an offer of temporary custody has been received as the result of a prosecutor's request for disposition of a detainer**. [If the offer has been received because an inmate has initiated the request, use Form VII to accept such an offer.] **Include the bracketed sentence in the first paragraph if you have been offered custody as a result of another prosecutor's request for disposition.** Copies of Form VIII should be sent to the warden, the inmate, the other jurisdictions in your state listed in the offer of temporary custody, and the Agreement Administrators of the sending and receiving states. Each prosecutor in a receiving state jurisdiction should submit a Form VIII in accordance with these instructions. Copies should be retained by the person filing the acceptance and the judge who signs it.

PROSECUTOR'S ACCEPTANCE OF TEMPORARY CUSTODY OFFERED IN CONNECTION WITH A PROSECUTOR'S REQUEST FOR DISPOSITION OF A DETAINER

TO: _____
Warden

_____
(Institution)

_____
(Address) (City/State)

According to your letter of _____, _____
(Date) (Inmate's Name & Number)

is being returned to this state at the request of _____,
(Name & Title of Prosecuting Officer)

of _____. [I hereby accept your offer of temporary custody of the above inmate,
(Jurisdiction)

who is also under indictment, information, or complaint in _____,]
(Jurisdiction)

of which I am the _____.
(Title of Prosecuting Officer)

I plan to bring this person to trial on said indictment, information, or complaint within the time specified in Article IV(c) of the Interstate Agreement on Detainers (IAD).

I hereby agree that immediately after the trial is completed in this jurisdiction, I will return the inmate directly to you or allow any jurisdiction you have designated to take temporary custody. I agree also to complete Form IX, Prosecutor's Report of Disposition of Charges, immediately after trial, and return it to your state with the inmate.

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(Use the following space to make inquiry as to the order in which your jurisdiction will receive custody or to inform the warden of arrangements you have already made with other jurisdictions in your state in this regard.)

ARRANGEMENTS/INQUIRY:

_____

_____

_____

_____

_____

Prosecutor's Signature: _____ Dated: _____

Printed Name/Title: _____

County/Jurisdiction: _____

Address: _____

City/State: _____

Telephone: _____

I hereby certify that the person whose signature appears above is an appropriate officer within the meaning of Article IV (a) and that the facts recited herein are correct and that having duly recorded this acceptance, I hereby transmit it for action in accordance with its terms and the provisions of the IAD.

Judge's Signature: _____ Dated: _____

Printed Name: _____

Court/Judicial District: _____

Address: _____

City/State: _____

Telephone: _____

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FORM IX

INTERSTATE AGREEMENT ON DETAINERS

Four copies. One copy to be retained by the prosecutor; one copy to be sent to the warden, superintendent, or director of the state of original imprisonment; one copy to be sent to the Agreement Administrator of each state.

PROSECUTOR'S REPORT OF DISPOSITION OF CHARGES

TO: _____
Warden

_____
(Institution)

_____
(Address) (City/State)

_____ pursuant to the Interstate Agreement on Detainers (IAD) for trial based on the charge or charges contained in the

☐ IAD Form II (Inmate's Request

☐ IAD Form V (Prosecutor's Request)

The disposition of the charge(s), including any sentence imposed, in this jurisdiction was as follows:

_____

_____

_____

☐ Please withdraw detainer

☐ Please lodge attached judgment/commitment as a detainer

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Contact the following 30 to 60 days prior to release to make arrangements to return the inmate:

Name/Title : _____

Address: _____

City/State: _____

Telephone: _____

Prosecutor's Signature: _____ Dated: _____

Printed Name/Title: _____

County/Jurisdiction: _____

Address: _____

City/State: _____

Telephone: _____

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LISTING OF PARTY STATES TO INTERSTATE AGREEMENT ON DETAINERS

STATE	STATUTE
Alabama	Code 1975, § 15-9-81
Alaska	A.S. 33.35.010 to 33.35.040
Arizona	A.R.S. §§ 31-481, 31-482
Arkansas	A.C.A §§ 16-95-101 to 16-95-107
California	West's Ann. Penal Code §1389 to 1389.8
Colorado	West's C.R.S.A. §§ 24-60-501 to 24-60-507
Connecticut	C.G.S.A. §§ 54-186 to 54-192
Delaware	11 Del.C. §§ 2540 to 2550
District of Columbia	D.C. Code 1981, §§ 24-701 to 24-705
Florida	West's F.S.A. §§ 941.45 to 941.50
Georgia	O.C.G.A,. §§ 42-6-20 to 42-6-25
Hawaii	HRS §§ 834-1 to 834-6
Idaho	I.C. §§ 19-5001 to 19-5008
Illinois	S.H.A. 730 ILCS 5/3-8-9
Indiana	West's A.I.C. 35-33-10-4
Iowa	I.C.A. §§ 821.1 to 821.8
Kansas	K.S.A. 22-4401 to 22-4408
Kentucky	KRS 440.450 to 440.500
Maine	34-A.M.R.S.A. §§9601 to 9609
Maryland	Md. Code Ann., Corr. Servs. §§ 8-401 to 8-417
Massachusetts	M.G.L.A. c. 276 App., §§ 1-1 to 1-8
Michigan	M.C.L.A. §§ 780.601 to 780.608
Minnesota	M.S.A. § 629.294
Missouri	V.A.M.S. §§ 217.490 to 217.520
Montana	MCA 46-31-101 to 46-31-204
Nebraska	R.R.S. 1943, §§ 29-759 to 29-765
Nevada	N.R.S. 178.620 to 178.640
New Hampshire	RSA 606-A:1 to 606-A:6
New Jersey	N.J.S.A. 2A:159A-1 to 2A:159A-15
New Mexico	N.M.S.A. 1978, § 31-5-12
New York	McKinney's CPL § 580.20
North Carolina	G.S. §§ 15A-761 to 15A-767
North Dakota	NDCC 29-34-01 to 29-34-08
Ohio	R.C. §§ 2963-30 to 2963.35
Oklahoma	10 Okl.St.Ann. §§ 1345 to 1349
Oregon	ORS 135.775 to 135.793
Pennsylvania	42 Pa.C.S.A. §§ 9101 to 9108
Rhode Island	Gen. Laws 1956, §§ 13-13-1 to 13-13-8
South Carolina	Code 1976, §§ 17-11-10 to 17-11-80
South Dakota	SDCL 23-24A-1 to 23-24A-34
Tennessee	West's Tenn. Code §§ 40-31-101 to 40-31-108
Texas	Vernon's Ann. Texas C.C.P. Art. 51.14
U.S.	18 U.S.C.A.App.
Utah	U.C.A. 1953, 77-29-5 to 77-29-11

Vermont	28 V.S.A. §§ 1501 to 1509, 1531 to 1537
Virginia	Code 1950, §§ 53.1-210 to 53.1-215
West Virginia	Code, 62-14-1 to 62-14-7
Wisconsin	W.S.A. 976.05, 976.06
Wyoming	W.S. 1977, §§ 7-15-101 to 7-15-105