

1 S.87

2 Introduced by Senator Hashim

3 Referred to Committee on

4 Date:

5 Subject: Crimes and criminal procedure; extradition

6 Statement of purpose of bill as introduced: This bill proposes to provide
7 additional time for the administration of extradition warrants and to expedite
8 the extradition of persons who have broken the terms of bail, probation, parole,
9 or other release in another state.

10 An act relating to extradition procedures

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. 13 V.S.A. § 4955 is amended to read:

13 § 4955. COMMITMENT TO AWAIT EXTRADITION; BAIL

14 If upon examination it appears that the person held is the person charged
15 with having committed the crime alleged and that the person probably
16 committed the crime, and, except in cases arising under section 4946 of this
17 title, that the person has fled from justice, the judge or magistrate shall commit
18 the person to jail by a warrant, reciting the accusation, for such a time, not
19 exceeding ~~30~~ 120 days, to be specified in the warrant as will enable the arrest
20 of the accused to be made under a warrant of the Governor on a requisition of

1 the executive authority of the state having jurisdiction of the offense, unless the
2 accused give bail as provided in section 4956 of this title, or until the person
3 shall be legally discharged. On request of the state, the hearing may be
4 continued for up to three ~~working~~ business days, only for the purpose of
5 determining whether the person probably committed the crime. Findings under
6 this section may be based upon hearsay evidence or upon copies of affidavits,
7 whether certified or not, made outside this State. It shall be sufficient for a
8 finding that a person probably committed the crime that there is a current grand
9 jury indictment from another state.

10 Sec. 2. 13 V.S.A. § 4967 is amended to read:

11 § 4967. WRITTEN WAIVER OF EXTRADITION PROCEEDINGS

12 (a) Any person arrested in this State charged with having committed any
13 crime in another state or alleged to have escaped from confinement, or broken
14 the terms of ~~his or her~~ bail, probation, or parole may waive the issuance and
15 service of the warrant provided for in sections 4947 and 4948 of this title and
16 all other procedure incidental to extradition proceedings, by executing or
17 subscribing in the presence of a judge of any court of record within this State a
18 writing that states that ~~he or she~~ the person consents to return to the demanding
19 state; provided however, before ~~such~~ the waiver ~~shall be~~ is executed or
20 subscribed by ~~such~~ the person ~~it shall be the duty of such,~~ the judge to shall
21 inform ~~such~~ the person of ~~his or her~~ the rights right to ~~the~~ issuance and service

1 of a warrant of extradition and to obtain a writ of habeas corpus as provided for
2 in section 4950 of this title.

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

13 (c) Notwithstanding any other provision of law, a law enforcement agency
14 in this State holding a person who is alleged to have broken the terms of the
15 person's probation, parole, bail, or any other release in the demanding state
16 shall immediately deliver that person to the duly authorized agent of the
17 demanding state without the requirement of a Governor's warrant if all of the
18 following apply:

19 (1) The person has signed a prior waiver of extradition as a term of the
20 person's current probation, parole, bail, or other release in the demanding state.

1 (2) The law enforcement agency holding the person has received an
2 authenticated copy of the prior waiver of extradition signed by the person and
3 photographs or fingerprints or other evidence properly identifying the person
4 as the person who signed the waiver.

5 (3) Except as the State's Attorney shall otherwise determine in the
6 interest of justice, all open criminal charges in this State have been disposed of
7 through trial and sentencing.

8 Sec. 3. 13 V.S.A. § 5043 is amended to read:

9 § 5043. HEARING, COMMITMENT, DISCHARGE

10 (a) If an arrest is made in this State by an officer of another state in
11 accordance with the provisions of section 5042 of this title, ~~he or she shall~~ the
12 officer, without unnecessary delay, shall take the person arrested before a
13 Superior judge of the unit in which the arrest was made, who shall conduct a
14 hearing for the purpose of determining the lawfulness of the arrest.

15 (b) If the judge determines that the arrest was lawful, ~~he or she~~ the judge
16 shall commit the person arrested to await for ~~a reasonable time~~ the issuance of
17 an extradition warrant by the Governor of this State within 120 days or admit
18 such person to bail pending the issuance of such warrant. The judge shall
19 consider the issuance of a judicial warrant for the arrest of the person who has
20 fled justice to Vermont from another state when determining the risk of flight
21 from prosecution.

1 (c) If the judge determines that the arrest was unlawful, ~~he or she~~ the judge
2 shall discharge the person arrested.

3 Sec. 4. EFFECTIVE DATE

4 This act shall take effect on passage.