

S.87

Introduced by Senator Hashim

Referred to Committee on Judiciary

Date: February 25, 2025

Subject: Crimes and criminal procedure; extradition

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

An act relating to extradition procedures

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

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

§ 4955. COMMITMENT TO AWAIT EXTRADITION; BAIL

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

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

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

12 § 4967. WRITTEN WAIVER OF EXTRADITION PROCEEDINGS

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

1 ~~inform such the person of his or her the rights right to the issuance and service~~  
2 of a warrant of extradition and to obtain a writ of habeas corpus as provided  
3 for in section 4950 of this title.

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

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

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

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

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

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

12 § 5043. HEARING, COMMITMENT, DISCHARGE

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

18 (b) If the judge determines that the arrest was lawful, he or she the judge  
19 shall commit the person arrested to await for a reasonable time the issuance of  
20 an extradition warrant by the Governor of this State within 120 days or admit  
21 such person to bail pending the issuance of such warrant. The judge shall

1 ~~consider the issuance of a judicial warrant for the arrest of the person who has~~  
2 fled justice to Vermont from another state when determining the risk of flight  
3 from prosecution.

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

6 Sec. 4. EFFECTIVE DATE

7 ~~This act shall take effect on passage.~~

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

*§ 4955. COMMITMENT TO AWAIT EXTRADITION; BAIL*

*If upon examination it appears that the person held is the person charged with having committed the crime alleged and that the person probably committed the crime, and, except in cases arising under section 4946 of this title, that the person has fled from justice, the judge or magistrate shall commit the person to jail by a warrant, reciting the accusation, for such a time, not exceeding ~~30~~ 90 days, to be specified in the warrant as will enable the arrest of the accused to be made under a warrant of the Governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused give bail as provided in section 4956 of this title, or until the person shall be legally discharged. On request of the state, the hearing may be continued for up to three ~~working~~ business days, only for the purpose of determining whether the person probably committed the crime. Findings under this section may be based upon hearsay evidence or upon copies of affidavits, whether certified or not, made outside this State. It shall be sufficient for a finding that a person probably committed the crime that there is a current grand jury indictment from another state.*

*Sec. 2. 13 V.S.A. § 4957 is amended to read:*

*§ 4957. EXTENDING TIME OF COMMITMENT*

*If the accused is not arrested under warrant of the Governor by the expiration of the time specified in the warrant, bond, or undertaking, such judge may discharge ~~him or her~~ or may recommit ~~him or her~~ the accused for a further period not to exceed ~~60~~ 30 days, or may again take bail for ~~his or her~~ the accused's appearance and surrender as provided in section 4956 of this*

~~title, but within a period not to exceed 60 30 days after the date of such new bond.~~

~~Sec. 3. 13 V.S.A. § 4967 is amended to read:~~

~~§ 4967. WRITTEN WAIVER OF EXTRADITION PROCEEDINGS~~

~~(a) Any person arrested in this State charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of his or her bail, probation, or parole may waive the issuance and service of the warrant provided for in sections 4947 and 4948 of this title and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record within this State a writing that states that he or she the person consents to return to the demanding state; provided, however, before ~~such~~ the waiver shall be ~~is~~ executed or subscribed by ~~such~~ the person it shall be the duty of ~~such~~ the judge to ~~shall~~ inform ~~such~~ the person of his or her the rights right to the issuance and service of a warrant of extradition and the right to obtain a writ of habeas corpus as provided for in section 4950 of this title.~~

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

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

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

~~(2) The law enforcement or corrections agency holding the person has received an authenticated copy of the prior waiver of extradition signed by the person and photographs or fingerprints or other evidence properly identifying~~

~~the person as the person who signed the waiver. These documents may be received by reliable electronic means.~~

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

Sec. 4. 13 V.S.A. § 5043 is amended to read:

§ 5043. HEARING, COMMITMENT, DISCHARGE

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

~~(b) If the judge determines that the arrest was lawful, he or she the judge shall commit the person arrested to await for a reasonable time the issuance of an extradition warrant by the Governor of this State within 90 days or admit such person to bail pending the issuance of such warrant. The judge shall consider the issuance of a judicial warrant for the arrest of the person who has fled justice to Vermont from another state when determining the risk of flight from prosecution.~~

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

Sec. 5. EFFECTIVE DATE

~~This act shall take effect on passage and shall apply prospectively and not affect extraditions in process at the time of enactment.~~

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*(2) If the person previously signed an authenticated waiver of extradition to the demanding state, the waiver shall be presumed valid. If the person contests the validity of the previously signed waiver, the person bears the burden of proving that the waiver is not valid. If the court finds that the waiver is valid, it may proceed as if the person had consented to return to the demanding state in accordance with subdivision (1) of this subsection.*

*(b) If and when such consent has been duly executed, it shall forthwith be forwarded to the office of the Governor of this State and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state; and shall deliver or cause to be delivered to such agent or agents a copy of such*



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