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S.87

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~~ 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.

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

2 § 4957. EXTENDING TIME OF COMMITMENT

3 If the accused is not arrested under warrant of the Governor by the
4 expiration of the time specified in the warrant, bond, or undertaking, such
5 judge may discharge ~~him or her~~ or may recommit ~~him or her~~ the accused for a
6 further period not to exceed ~~60~~ 30 days, or may again take bail for ~~his or her~~
7 the accused's appearance and surrender as provided in section 4956 of this
8 title, but within a period not to exceed ~~60~~ 30 days after the date of such new
9 bond.

10 Sec. 3. 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 the right to obtain a writ of habeas corpus as
2 provided for 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
9 limit the rights of the accused person to return voluntarily and without
10 formality to the demanding state, nor shall this waiver procedure be deemed to
11 be an exclusive procedure or to limit the powers, rights, or duties of the
12 officers of the demanding state or of this State.

13 (c) Notwithstanding any other provision of law, a law enforcement or
14 corrections agency in this State holding a person who is alleged to have broken
15 the terms of the person's probation, parole, bail, or any other release in the
16 demanding state shall immediately deliver that person to the duly authorized
17 agent of the demanding state without the requirement of a Governor's warrant
18 if all of the 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 or corrections agency holding the person has
2 received an authenticated copy of the prior waiver of extradition signed by the
3 person and photographs or fingerprints or other evidence properly identifying
4 the person as the person who signed the waiver. These documents may be
5 received by reliable electronic means.

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

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

10 § 5043. HEARING, COMMITMENT, DISCHARGE

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

16 (b) If the judge determines that the arrest was lawful, ~~he or she~~ the judge
17 shall commit the person arrested to await for ~~a reasonable time~~ the issuance of
18 an extradition warrant by the Governor of this State within 90 days or admit
19 such person to bail pending the issuance of such warrant. The judge shall
20 consider the issuance of a judicial warrant for the arrest of the person who has

1 fled justice to Vermont from another state when determining the risk of flight
2 from prosecution.

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

5 Sec. 5. EFFECTIVE DATE

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