

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred Senate Bill No. 87
3 entitled “An act relating to extradition procedures” respectfully reports that it
4 has considered the same and recommends that the House propose to the Senate
5 that the bill be amended by striking out all after the enacting clause and
6 inserting in lieu thereof the following:

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

8 § 4955. COMMITMENT TO AWAIT EXTRADITION; BAIL

9 If upon examination it appears that the person held is the person charged
10 with having committed the crime alleged and that the person probably
11 committed the crime, and, except in cases arising under section 4946 of this
12 title, that the person has fled from justice, the judge or magistrate shall commit
13 the person to jail by a warrant, reciting the accusation, for such a time, not
14 exceeding ~~30~~ 90 days, to be specified in the warrant as will enable the arrest of
15 the accused to be made under a warrant of the Governor on a requisition of the
16 executive authority of the state having jurisdiction of the offense, unless the
17 accused give bail as provided in section 4956 of this title, or until the person
18 shall be legally discharged. On request of the state, the hearing may be
19 continued for up to three ~~working~~ business days, only for the purpose of
20 determining whether the person probably committed the crime. Findings under
21 this section may be based upon hearsay evidence or upon copies of affidavits,

1 whether certified or not, made outside this State. It shall be sufficient for a
2 finding that a person probably committed the crime that there is a current grand
3 jury indictment from another state.

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

5 § 4957. EXTENDING TIME OF COMMITMENT

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

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

14 § 4967. WRITTEN WAIVER OF EXTRADITION PROCEEDINGS

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

1 state; provided, however, before ~~such~~ the waiver ~~shall be~~ is executed or
2 subscribed by ~~such~~ the person it ~~shall be the duty of such,~~ the judge to shall
3 inform ~~such~~ the person of ~~his or her~~ the ~~rights~~ right to the issuance and service
4 of a warrant of extradition and the right to obtain a writ of habeas corpus as
5 provided for in section 4950 of this title.

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

16 (c) Notwithstanding any other provision of law, a law enforcement or
17 corrections agency in this State holding a person who is alleged to have broken
18 the terms of the person's probation, parole, bail, or any other release in the
19 demanding state shall immediately deliver that person to the duly authorized
20 agent of the demanding state without the requirement of a Governor's warrant
21 if the criteria of subdivisions (1)–(3) of this subsection are met.

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 state.

3 (2) The law enforcement or corrections agency holding the person has
4 received an authenticated copy of the prior waiver of extradition signed by the
5 person and photographs or fingerprints or other evidence properly identifying
6 the person as the person who signed the waiver. A copy of the prior waiver
7 and identifying evidence is considered authenticated if the criteria of
8 subdivisions (A) or (B) of this subdivision (2) is met.

9 (A) If the person has been charged with having committed any crime
10 in another state or has broken the terms of the person’s bail in another state,
11 but the person has not been convicted of any crime forming the basis of the
12 waiver of extradition, upon request from the law enforcement or corrections
13 agency holding the person, a Superior judge of this State shall review
14 immediately a copy of the prior waiver of extradition signed by the person,
15 photographs or fingerprints, and any other evidence offered to properly
16 identify the person as the person who signed the waiver. The judge shall
17 authenticate the waiver unless the judge finds that the documents lack
18 authenticity on their face and shall approve the documents as sufficient
19 grounds to return the person to the demanding state. These documents may be
20 transmitted and received by reliable electronic means.

1 (B) If the person is alleged to have broken the terms of the person's
2 probation, parole, or any other release in the demanding state after being
3 convicted of any crime forming the basis of the waiver of extradition, the law
4 enforcement or corrections agency holding the person shall authenticate a copy
5 of the prior waiver of extradition signed by the person and photographs or
6 fingerprints or other evidence properly identifying the person as the person
7 who signed the waiver. These documents may be received by reliable
8 electronic means.

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

12 (d)(1) When a person who is alleged to have broken the terms of the
13 person's probation, parole, bail, or any other release from a demanding state is
14 brought to a correctional facility for detention, the arresting law enforcement
15 officer shall provide the supervising officer of the correctional facility with a
16 written statement alleging that:

17 (A) the person has broken the terms of the person's probation, parole,
18 bail, or any other release from a demanding state;

19 (B) the demanding state has issued an extraditable arrest warrant for
20 the person; and

21 (C) the person has signed a waiver of extradition.

1 (2) The written statement from the law enforcement officer shall be a
2 sufficient warrant for detaining the person.

3 (3) The Department of Corrections shall have the authority to hold the
4 person pending the delivery of the person to the demanding state subject to the
5 provisions of subsection (c) of this section.

6 (e) If the person is not delivered to the demanding state within 14 days
7 from date the Department of Corrections takes custody of the person pursuant
8 to subsection (d) of this section, the Department shall notify the arresting
9 agency to file a fugitive from justice complaint and the person shall appear
10 before the next available judge pursuant to section 4953 of this title.

11 (f) If at any time the Department of Corrections or any court reviewing the
12 documents under subdivision (c)(3) of this section identifies an error in the
13 presigned waiver of extradition, the Department or the court shall notify the
14 arresting agency to file a fugitive from justice complaint, and the person shall
15 appear before the next available judge pursuant to section 4953 of this title. If
16 the person does not appear in front of a judge within the next business day, the
17 Department of Corrections shall immediately release the person.

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

19 § 5043. HEARING, COMMITMENT, DISCHARGE

20 (a) If an arrest is made in this State by an officer of another state in
21 accordance with the provisions of section 5042 of this title, ~~he or she shall~~ the

1 officer, without unnecessary delay, shall take the person arrested before a
2 Superior judge of the unit in which the arrest was made, who shall conduct a
3 hearing for the purpose of determining the lawfulness of the arrest.

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

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

13 Sec. 5. EFFECTIVE DATE

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

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2 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE