

1 S.87

2 An act relating to extradition procedures

3 The House proposes to the Senate to amend the bill by striking out all after
4 the enacting clause and inserting in lieu thereof the following:

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

6 § 4955. COMMITMENT TO AWAIT EXTRADITION; BAIL

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

1 finding that a person probably committed the crime that there is a current grand
2 jury indictment from another state.

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

4 § 4957. EXTENDING TIME OF COMMITMENT

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

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

13 § 4967. WRITTEN WAIVER OF EXTRADITION PROCEEDINGS

14 (a)(1) Any person arrested in this State charged with having committed any
15 crime in another state or alleged to have escaped from confinement; or broken
16 the terms of ~~his or her~~ bail, probation, or parole may waive the issuance and
17 service of the warrant provided for in sections 4947 and 4948 of this title and
18 all other procedure incidental to extradition proceedings, by executing or
19 subscribing in the presence of a judge of any court of record within this State a
20 writing that states that ~~he or she~~ the person consents to return to the demanding
21 state; provided, however, before ~~such~~ the waiver ~~shall be~~ is executed or

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

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

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

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

2 § 5043. HEARING, COMMITMENT, DISCHARGE

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

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

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

17 Sec. 5. EFFECTIVE DATE

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