

CHAPTER 243

FINGERPRINTING AT STATE INSTITUTIONS

H. F. 169

AN ACT to amend chapter seven hundred forty-nine (749), Code 1946, relating to the bureau of criminal identification.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Chapter seven hundred forty-nine (749), Code 1946,
2 is hereby amended by adding the following:

3 "It shall be the duty of the wardens of the penitentiary and men's
4 reformatory, and superintendents of the women's reformatory, the
5 Iowa training school for boys, and the Iowa training school for girls,
6 to take or procure the taking of the fingerprints, and, in the case of the
7 penitentiary, men's reformatory, and women's reformatory only,
8 bertillon photographs of any person received on commitment to their
9 respective institutions, and to forward such fingerprint records and
10 photographs within ten days after the same are taken to the division
11 of criminal investigation and bureau of identification, Iowa depart-
12 ment of public safety, and to the federal bureau of investigation.

13 It shall also be the duty of the said wardens and superintendent to
14 procure the taking of five by seven inch photographic negative show-
15 ing a full length view of each convict, prisoner or inmate of the peni-
16 tentiary, men's reformatory, and women's reformatory in his or her
17 release clothing immediately prior to his or her discharge from the
18 institution either upon expiration of sentence or commitment or on
19 parole, and to forward such photographic negative within two days
20 after the same is taken to the division of criminal investigation and
21 bureau of identification, Iowa department of public safety."

Approved April 7, 1949.

CHAPTER 244

INTERSTATE EXTRADITION

H. F. 433

AN ACT to repeal chapter seven hundred fifty-nine (759) Code of Iowa 1946, and to enact a substitute therefor relating to uniform procedure on interstate extradition.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Where appearing in this act, the term "Governor" in-
2 cludes any person performing the functions of Governor by authority
3 of the law of this state. The term "Executive Authority" includes
4 the Governor, and any person performing the functions of Governor
5 in a state other than this state, and the term "State", referring to a
6 state other than this state, includes any other state or territory, organ-
7 ized or unorganized, of the United States of America.

1 SEC. 2. Subject to the provisions of this act, the provisions of
2 the Constitution of the United States controlling, and any and all
3 acts of Congress enacted in pursuance thereof, it is the duty of the

4 Governor of this state to have arrested and delivered up to the Exec-
5 utive Authority of any other state of the United States any person
6 charged in that state with treason, felony, or other crime, who has
7 fled from justice and is found in this state.

1 SEC. 3. No demand for the extradition of a person charged with
2 crime in another state shall be recognized by the Governor unless in
3 writing alleging, except in cases arising under Section 6, that the
4 accused was present in the demanding state at the time of the com-
5 mission of the alleged crime, and that thereafter he fled from the
6 state, and accompanied by a copy of an indictment found or by in-
7 formation supported by affidavit in the state having jurisdiction of
8 the crime, or by a copy of an affidavit made before a magistrate there,
9 together with a copy of any warrant which was issued thereupon; or
10 by a copy of a judgment of conviction or of a sentence imposed in ex-
11 ecution thereof, together with a statement by the Executive Authority
12 of the demanding state that the person claimed has escaped from
13 confinement or has broken the terms of his bail, probation or parole.
14 The indictment, information, or affidavit made before the magistrate
15 must substantially charge the person demanded with having com-
16 mitted a crime under the law of that state; and the copy of in-
17 dictment, information, affidavit, judgment of conviction or sentence
18 must be authenticated by the Executive Authority making the de-
19 mand.

1 SEC. 4. When a demand shall be made upon the Governor of this
2 state by the Executive Authority of another state for the surrender
3 of a person so charged with crime, the Governor may call upon the
4 Attorney General or any prosecuting officer in this state to investi-
5 gate or assist in investigating the demand, and to report to him the
6 situation and circumstances of the person so demanded, and whether
7 he ought to be surrendered.

1 SEC. 5. When it is desired to have returned to this state a person
2 charged in this state with a crime, and such person is imprisoned or
3 is held under criminal proceedings then pending against him in an-
4 other state, the Governor of this state may agree with the Executive
5 Authority of such other state for the extradition of such person before
6 the conclusion of such proceedings or his term of sentence in such
7 other state, upon condition that such person be returned to such other
8 state at the expense of this state as soon as the prosecution in this
9 state is terminated.

10 The Governor of this state may also surrender on demand of the
11 Executive Authority of any other state any person in this state who
12 is charged in the manner provided in Section 23 of this act with
13 having violated the laws of the state whose Executive Authority is
14 making the demand, even though such person left the demanding
15 state involuntarily.

1 SEC. 6. The Governor of this state may also surrender, on demand
2 of the Executive Authority of any other state, any person in this state
3 charged in such other state in the manner provided in Section 3 with
4 committing an act in this state, or in a third state, intentionally re-
5 sulting in a crime in the state whose Executive Authority is making

6 the demand, and the provisions of this act not otherwise inconsistent,
7 shall apply to such cases, even though the accused was not in that
8 state at the time of the commission of the crime, and has not fled
9 therefrom.

1 SEC. 7. If the Governor decides that the demand should be com-
2 plied with, he shall sign a warrant of arrest, which shall be sealed
3 with the state seal, and be directed to any peace officer or other person
4 whom he may think fit to entrust with the execution thereof. The
5 warrant must substantially recite the facts necessary to the validity
6 of its issuance.

1 SEC. 8. Such warrant shall authorize the peace officer or other
2 person to whom directed to arrest the accused at any time and any
3 place where he may be found within the state and to command the
4 aid of all peace officers or other persons in the execution of the war-
5 rant, and to deliver the accused, subject to the provisions of this act
6 to the duly authorized agent of the demanding state.

1 SEC. 9. Every such peace officer or other person empowered to
2 make the arrest, shall have the same authority, in arresting the ac-
3 cused, to command assistance therein, as peace officers have by law in
4 the execution of any criminal process directed to them, with like
5 penalties against those who refuse their assistance.

1 SEC. 10. No person arrested upon such warrant shall be delivered
2 over to the agent whom the Executive Authority demanding him
3 shall have appointed to receive him unless he shall first be taken
4 forthwith before a judge of a court of record in this state, who shall
5 inform him of the demand made for his surrender and of the crime
6 with which he is charged, and that he has the right to demand and
7 procure legal counsel; and if the prisoner or his counsel shall state
8 that he or they desire to test the legality of his arrest, the judge of
9 such court of record shall fix a reasonable time to be allowed him
10 within which to apply for a writ of habeas corpus. When such writ
11 is applied for, notice thereof, and of the time and place of hearing
12 thereon, shall be given to the prosecuting officer of the county in
13 which the arrest is made and in which the accused is in custody, and
14 to the said agent of the demanding state.

1 SEC. 11. Any officer who shall deliver to the agent for extradition
2 of the demanding state a person in his custody under the Governor's
3 warrant, in wilful disobedience to the last section, shall be guilty of
4 a misdemeanor and, on conviction, shall be fined not more than
5 \$100.00 or be imprisoned not more than thirty days.

1 SEC. 12. The officer or persons executing the Governor's warrant
2 of arrest, or the agent of the demanding state to whom the prisoner
3 may have been delivered may, when necessary, confine the prisoner
4 in the jail of any county or city through which he may pass; and
5 the keeper of such jail must receive and safely keep the prisoner until
6 the officer or person having charge of him is ready to proceed on his
7 route, such officer or person being chargeable with the expense of
8 keeping.

9 The officer or agent of a demanding state to whom a prisoner may
10 have been delivered following extradition proceedings in another
11 state, or to whom a prisoner may have been delivered after waiving
12 extradition in such other state, and who is passing through this state
13 with such a prisoner for the purpose of immediately returning such
14 prisoner to the demanding state may, when necessary, confine the
15 prisoner in the jail of any county or city through which he may pass;
16 and the keeper of such jail must receive and safely keep the prisoner
17 until the officer or agent having charge of him is ready to proceed on
18 his route, such officer or agent, however, being chargeable with the
19 expense of keeping; provided, however, that such officer or agent shall
20 produce and show to the keeper of such jail satisfactory written evi-
21 dence of the fact that he is actually transporting such prisoner to the
22 demanding state after a requisition by the Executive Authority of
23 such demanding state. Such prisoner shall not be entitled to demand
24 a new requisition while in this state.

1 SEC. 13. Whenever any person within this state shall be charged
2 on the oath of any credible person before any judge or magistrate of
3 this state with the commission of any crime in any other state and,
4 except in cases under Section 6, with having fled from justice, or
5 with having been convicted of a crime in that state and having es-
6 caped from confinement, or having broken the terms of his bail, pro-
7 bation or parole, or whenever complaint shall have been made before
8 any judge or magistrate in this state setting forth on the affidavit of
9 any credible person in another state that a crime has been committed
10 in such other state and that the accused has been charged in such state
11 with the commission of the crime, and, except in cases arising under
12 Section 6, has fled from justice, or with having been convicted of a
13 crime in that state and having escaped from confinement, or having
14 broken the terms of his bail, probation or parole and is believed to be
15 in this state, the judge or magistrate shall issue a warrant directed
16 to any peace officer commanding him to apprehend the person named
17 therein, wherever he may be found in this state, and to bring him
18 before the same or any other judge, magistrate or court who or which
19 may be available in or convenient of access to the place where the
20 arrest may be made, to answer the charge or complaint and affidavit,
21 and a certified copy of the sworn charge or complaint and affidavit
22 upon which the warrant is issued shall be attached to the warrant.

1 SEC. 14. The arrest of a person may be lawfully made also by
2 any peace officer or a private person, without a warrant upon reason-
3 able information that the accused stands charged in the courts of a
4 state with a crime punishable by death or imprisonment for a term
5 exceeding one year, but when so arrested the accused must be taken
6 before a judge or magistrate with all practicable speed and complaint
7 must be made against him under oath setting forth the ground for
8 the arrest as in the preceding section; and thereafter his answer shall
9 be heard as if he had been arrested on a warrant.

1 SEC. 15. If from the examination before the judge or magistrate
2 it appears that the person held is the person charged with having com-
3 mitted the crime alleged and, except in cases arising under Section
4 6, that he has fled from justice, the judge or magistrate must, by a

5 warrant reciting the accusation, commit him to the county jail for
6 such a time not exceeding thirty days and specified in the warrant,
7 as will enable the arrest of the accused to be made under a warrant
8 of the Governor on a requisition of the Executive Authority of the
9 state having jurisdiction of the offense, unless the accused give bail as
10 provided in the next section, or until he shall be legally discharged.

1 SEC. 16. Unless the offense with which the prisoner is charged
2 is shown to be an offense punishable by death or life imprisonment
3 under the laws of the state in which it was committed, a judge or
4 magistrate in this state may admit the person arrested to bail by bond,
5 with sufficient sureties, and in such sum as he deems proper, con-
6 ditioned for his appearance before him at a time specified in such
7 bond, and for his surrender, to be arrested upon the warrant of the
8 Governor of this state.

1 SEC. 17. If the accused is not arrested under warrant of the Gov-
2 ernor by the expiration of the time specified in the warrant or bond,
3 a judge or magistrate may discharge him or may recommit him for
4 a further period not to exceed sixty days, or a judge or magistrate
5 judge may again take bail for his appearance and surrender, as pro-
6 vided in Section 16, but within a period not to exceed sixty days after
7 the date of such new bond.

1 SEC. 18. If the prisoner is admitted to bail, and fails to appear
2 and surrender himself according to the conditions of his bond, the
3 judge, or magistrate by proper order, shall declare the bond forfeited
4 and order his immediate arrest without warrant if he be within this
5 state. Recovery may be had on such bond in the name of the state as
6 in the case of other bonds given by the accused in criminal proceed-
7 ings within this state.

1 SEC. 19. If a criminal prosecution has been instituted against such
2 person under the laws of this state and is still pending the Governor,
3 in his discretion, either may surrender him on demand of the Execu-
4 tive Authority of another state or hold him until he has been tried and
5 discharged or convicted and punished in this state.

1 SEC. 20. The guilt or innocence of the accused as to the crime of
2 which he is charged may not be inquired into by the Governor or in
3 any proceeding after the demand for extradition accompanied by a
4 charge of crime in legal form as above provided shall have been pre-
5 sented to the Governor, except as it may be involved in identifying
6 the person held as the person charged with the crime.

1 SEC. 21. The Governor may recall his warrant of arrest or may
2 issue another warrant whenever he deems proper.

1 SEC. 22. Whenever the Governor of this state shall demand a
2 person charged with crime or with escaping from confinement or
3 breaking the terms of his bail, probation or parole in this state, from
4 the Executive Authority of any other state, or from the chief justice
5 or an associate justice of the Supreme Court of the District of Colum-
6 bia authorized to receive such demand under the laws of the United
7 States, he shall issue a warrant under the seal of this state, to some

8 agent, commanding him to receive the person so charged if delivered
9 to him and convey him to the proper officer of the county in this state
10 in which the offense was committed.

1 SEC. 23. When the return to this state of a person charged with
2 crime in this state is required, the prosecuting attorney shall present
3 to the Governor his written application for a requisition for the re-
4 turn of the person charged, in which application shall be stated the
5 name of the person so charged, the crime charged against him, the
6 approximate time, place and circumstances of its commission, the
7 state in which he is believed to be, including the location of the ac-
8 cused therein at the time the application is made and certifying that,
9 in the opinion of the said prosecuting attorney the ends of justice re-
10 quire the arrest and return of the accused to this state for trial and
11 that the proceeding is not instituted to enforce a private claim.

12 When the return to this state is required of a person who has been
13 convicted of a crime in this state and has escaped from confinement
14 or broken the terms of his bail, probation or parole, the prosecuting
15 attorney of the county in which the offense was committed, the parole
16 board, or the warden of the institution or sheriff of the county, from
17 which escape was made, shall present to the Governor a written
18 application for a requisition for the return of such person, in which
19 application shall be stated the name of the person, the crime of which
20 he was convicted, the circumstances of his escape from confinement
21 or of the breach of the terms of his bail, probation or parole, the state
22 in which he is believed to be, including the location of the person
23 therein at the time application is made.

24 The application shall be verified by affidavit, shall be executed in
25 duplicate and shall be accompanied by two certified copies of the in-
26 dictment returned, or information and affidavit filed, or of the com-
27 plaint made to the judge or magistrate, stating the offense with which
28 the accused is charged, or of the judgment of conviction or of the
29 sentence. The prosecuting officer, parole board, warden or sheriff
30 may also attach such further affidavits and other documents in
31 duplicate as he shall deem proper to be submitted with such applica-
32 tion. One copy of the application, with the action of the Governor
33 indicated by endorsement thereon, and one of the certified copies of
34 the indictment, complaint, information, and affidavits or of the judg-
35 ment of conviction or of the sentence shall be filed in the office of the
36 Governor to remain of record in that office. The other copies of all
37 papers shall be forwarded with the Governor's requisition.

1 SEC. 24. When the punishment of the crime shall be the confine-
2 ment of the criminal in the penitentiary, the expenses shall be paid
3 out of the state treasury, on the certificate of the Governor and war-
4 rant of the Comptroller; and in all other cases they shall be paid out
5 of the county treasury in the county wherein the crime is alleged to
6 have been committed. The expenses shall be the fees paid to the
7 officers of the state on whose Governor the requisition is made, and
8 all necessary and actual traveling expenses incurred in returning the
9 prisoner.

1 SEC. 25. Any person arrested in this state charged with having
2 committed any crime in another state or alleged to have escaped

3 from confinement, or broken the terms of his bail, probation or parole
 4 may waive the issuance and service of the warrant provided for in
 5 sections 7 and 8 and all other procedure incidental to extradition pro-
 6 ceedings, by executing or subscribing in the presence of a judge of
 7 any court of record within this state a writing which states that he
 8 consents to return to the demanding state; provided, however, that
 9 before such waiver shall be executed or subscribed by such person it
 10 shall be the duty of such judge to inform such person of his rights to
 11 the issuance and service of a warrant of extradition and to obtain a
 12 writ of habeas corpus as provided for in Section 10.

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

1 SEC. 26. Nothing in this act contained shall be deemed to consti-
 2 tute a waiver by this state of its right, power or privilege to try such
 3 demanded person for crime committed within this state, or of its
 4 right, power or privilege to regain custody of such person by extra-
 5 dition proceedings or otherwise for the purpose of trial, sentence or
 6 punishment for any crime committed within this state, nor shall any
 7 proceedings had under this act which result in, or fail to result in,
 8 extradition be deemed a waiver by this state of any of its rights,
 9 privileges or jurisdiction in any way whatsoever.

1 SEC. 27. After a person has been brought back to this state by,
 2 or after waiver of extradition proceedings, he may be tried in this
 3 state for other crimes which he may be charged with having com-
 4 mitted here as well as that specified in the requisition for his extra-
 5 dition.

1 SEC. 28. The provisions of this act shall be so interpreted and
 2 construed as to effectuate its general purposes to make uniform the
 3 law of those states which enact it.

1 SEC. 29. If any provision of this act or the application thereof
 2 to any person or circumstances is held invalid, such invalidity shall
 3 not affect other provisions or applications of the act which can be
 4 given effect without the invalid provision or application, and to this
 5 end the provisions of this act are declared to be severable.

1 SEC. 30. Chapter seven hundred fifty-nine (759), Code 1946, is
 2 hereby repealed.

1 SEC. 31. All Acts and parts of acts inconsistent with the provi-
 2 sions of this act and not expressly repealed herein are hereby re-
 3 pealed.

1 SEC. 32. This act may be cited as the Uniform Criminal Extra-
2 dition Act.

1 SEC. 33. This act being deemed of immediate importance shall be
2 of full force and effect from and after its passage and publication in
3 the Times-Republican, a newspaper published at Corydon, Iowa, and
4 the Times-Press, a newspaper published at Bedford, Iowa.

Approved April 5, 1949.

I hereby certify that the foregoing act was published in the Times-Republican, April 21, 1949, and in the Times-Press, April 21, 1949.

MELVIN D. SYNHORST, *Secretary of State.*

CHAPTER 245

CLERK OF GRAND JURY

H. F. 132

AN ACT to amend section seven hundred seventy point twenty-one (770.21), Code 1946, and as amended by chapter 301, Acts regular session Fifty-second General Assembly relating to compensation of clerk of the grand jury and to provide compensation for such clerks in counties having a population of one hundred fifty thousand (150,000) or over.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. That section seven hundred seventy point twenty-one
2 (770.21), Code 1946, is further amended by adding immediately after
3 the word "over" in line sixteen (16), the following:
4 "and less than one hundred fifty thousand (150,000) inhabitants."

1 SEC. 2. That said section is further amended by adding to said
2 section the following:

3 "In counties having a population of one hundred fifty thousand
4 (150,000) and over, such clerks shall receive an annual salary of
5 Thirty-six hundred dollars (\$3600.00)."

Approved May 2, 1949.