

CHAPTER 818

INTERSTATE EXTRADITION COMPACT

[P]

See chapter 820

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818.1 Agreement with other states.

The interstate extradition compact is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein in the form substantially as provided in sections 818.2 through 818.21 and the contracting states solemnly agree to these provisions.

[C79, 81, §818.1]

2008 Acts, ch 1032, §201

818.2 Findings.

The states which are parties to this agreement find that existing* extradition procedures are cumbersome, costly and frequently result in unnecessary delay in the extradition of fugitives. They find further that the provisions of the United States Constitution and United States Code relating to extradition are meant to facilitate the return of fugitives; do not prescribe the exclusive means for return of fugitives; and do not prevent the states from establishing other procedures for this purpose.

[C79, 81, §818.2]

[P] *76 Acts, ch 1245(2), §1802 effective January 1, 1978

818.3 Definitions.

As used in this compact, unless the context clearly requires otherwise:

1. “*State*” means any state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

2. “*Demanding state*” means the state in which a crime has been committed and where a charge has been filed against a fugitive whose return for trial is sought.

3. “*Asylum state*” means the state in which a person for whom the warrant was issued has been found or arrested and from which the person’s return to the demanding state is sought.

4. “*Fugitive*” means any person who is charged with a crime in the demanding state, or any person who has been convicted of a crime in the demanding state and has escaped from confinement or has broken the terms of the person’s bail, probation or parole, and is no longer within the demanding state, whether the person’s leaving the demanding state was voluntary or involuntary. For purposes of this division the term “fugitive” further includes a person in the asylum state charged with committing a crime in the demanding state by the doing of an intentional act outside the demanding state which resulted in such crime, as set forth in section 818.15.

5. “*Local prosecuting authority*” means the chief prosecuting attorney or the attorney’s designee, of the governmental unit of the demanding state which has jurisdiction over the crime committed by the fugitive. When the return to the demanding state is required of a person who has been convicted of a crime in the demanding state and the fugitive has escaped

from confinement or broken the terms of bail, probation or parole, the term “local prosecuting authority” includes the chief prosecuting attorney of the county in which the offense was committed, the parole board, and in the case of escapes the warden of the institution or the sheriff of the county from which the escape was made, and in such cases these officials may make demand for return of the fugitive in accordance with the provisions of this compact.

6. “*Chief law enforcement officer*” means county sheriff, chief of police or other chief law enforcement officer in the local governmental unit wherein the fugitive is located, and when the fugitive is confined in a penitentiary or reformatory, it includes the warden or chief administrative officer of that institution.

[C79, 81, §818.3]

818.4 Demand for return.

The local prosecuting authority of the demanding state shall have the authority to issue a demand for the return of a fugitive. The demand shall be made to a chief law enforcement officer of the local governmental unit in the asylum state where the accused has been found.

[C79, 81, §818.4]

818.5 Contents of demand.

Demand for the extradition of a fugitive under this chapter shall be in writing or by other official communication setting forth the crime with which the fugitive is charged, or that the fugitive has escaped confinement or broken the terms of the fugitive’s bail, probation, or parole. Said demand shall allege that a crime was committed in the demanding state and that the person sought is a fugitive within the meaning of this compact.

[C79, 81, §818.5]

818.6 Arrest of fugitive.

A chief law enforcement officer of the local governmental unit in the asylum state who receives the demand is authorized to cause the arrest of the fugitive in accordance with the laws of the asylum state.

[C79, 81, §818.6]

818.7 Procedure after arrest.

When an arrest has been made the fugitive shall be taken for an appearance before a judge of court of record who shall inform the fugitive of the demand made for the fugitive’s surrender and of the crime with which the fugitive is charged, or other reason for the demand as set forth in section 818.15. Said judge shall apprise the fugitive of the fugitive’s legal rights and shall advise said fugitive of the fugitive’s right to apply for a writ of habeas corpus.

[C79, 81, §818.7]

818.8 Confinement of fugitive.

If, at the fugitive’s appearance, it appears that the person held is the person charged with having committed the crime alleged or has escaped confinement or broken the terms of the person’s bail, probation, or parole and, except in cases arising under section 818.15, that the fugitive has fled from justice, the judge or magistrate before whom the fugitive is taken must, by warrant reciting the accusation, commit the fugitive to jail. Such commitment shall occur unless the accused give bail as provided in section 818.14 or is otherwise legally discharged. When the accused is confined pursuant to this section, said confinement shall be for the time specified in the warrant, but not exceeding fifteen days, as will enable the arrest of the fugitive to be made under a warrant issued by the authorities of the state having jurisdiction of the crime. If a writ of habeas corpus is applied for, the time established in this section shall be extended until such writ is disposed of.

[C79, 81, §818.8]

818.9 Warrant for conveyance.

The local prosecuting authority of the demanding state shall cause a warrant to be issued to an agent, commanding the agent to receive the fugitive when delivered to the agent and convey the fugitive to the proper officer of the local jurisdiction in the demanding state.

[C79, 81, §818.9]

818.10 Surrender of fugitive.

Said designated agent of the demanding state may at all times enter the asylum state for the purpose of making demand for the surrender of the fugitive. Upon demand and proof of authority, the fugitive shall be released and surrendered to the agent's custody subject to the provisions of sections 818.11 and 818.12 unless a petition for habeas corpus has been applied for and is pending before the court. All requirements to obtain extradition other than provided in this compact are hereby waived on the part of the state party hereto as to such fugitive.

[C79, 81, §818.10]

818.11 Prosecution pending.

If a criminal prosecution has been instituted against the fugitive under the laws of the asylum state and is still pending, the prosecuting authority of the asylum state in its discretion may either surrender the fugitive on demand or hold the fugitive until the fugitive has been tried and discharged or convicted and punished in the asylum state.

[C79, 81, §818.11]

818.12 Extradition during imprisonment.

When it is desired to have returned to the demanding state a person sentenced in the asylum state with a crime, and such person is imprisoned, the governor of the asylum state may agree with the governor of the demanding state for the extradition of such person before the conclusion of the prisoner's term or sentence upon condition that such person be returned to the asylum state as soon as the prosecution in the demanding state is terminated.

[C79, 81, §818.12]

818.13 Review — habeas corpus hearing.

The guilt or innocence of the fugitive as to the crime of which the fugitive is charged is not reviewable by any official of the asylum state or in any proceeding in the asylum state after the demand for extradition. When a habeas corpus hearing is held pursuant to section 818.5, the judge shall cause to be presented to the fugitive a certified copy of the indictment found or information from the state having jurisdiction of the crime, or a copy of any warrant which was issued thereupon; or a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the local prosecuting authority of the demanding state that the fugitive has escaped from confinement or has broken the terms of the fugitive's bail, probation or parole. Notice of such habeas corpus hearing including the time and place thereof shall be given to the local prosecuting authority of the demanding state.

[C79, 81, §818.13]

818.14 Bail.

Unless the crime with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the demanding state, a judge or magistrate in the asylum state may admit the person arrested to bail by bond with sufficient sureties, and in such sum as the judge or magistrate deems proper, conditioned for the prisoner's appearance before the judge or magistrate at a time specified in such bond, and for the prisoner's surrender. In the event of a violation of the conditions of said bond, forfeiture thereof and recovery thereon may be had as in the case of appearance bonds given by accused persons in criminal proceedings in the asylum state.

[C79, 81, §818.14]

818.15 Interstate crimes.

A chief law enforcement officer of the local governmental unit in the asylum state may surrender, on demand of the local prosecuting authority of the demanding state, any person in the asylum state charged in the demanding state in the manner provided in section 818.5 with committing an act in the asylum state, or in a third state, intentionally resulting in a crime in the demanding state. The provisions of this compact not otherwise inconsistent shall apply to such cases, even though the accused was not in the demanding state at the time of the commission of the crime, and has not fled therefrom.

[C79, 81, §818.15]

818.16 Expenses and costs.

The expenses incurred in extradition shall be assessed to the governmental unit of the demanding state seeking the return of the fugitive, but this provision shall not be construed to alter or affect any internal arrangements between a party state and its subdivisions as to the payment of costs or responsibilities therefor. These expenses shall include fees paid to the officers of the asylum state and all necessary and actual traveling expenses incurred in returning the prisoner.

[C79, 81, §818.16]

818.17 Administrator's duties.

Each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact, and who shall provide, within and without the state, information necessary to the effective operation of this compact.

[C79, 81, §818.17]

818.18 Administrator of interstate extradition.

The governor of this state shall appoint an administrator of interstate extradition to serve in such capacity for a period and under terms determined by the governor. Said administrator shall fulfill the duties set forth in section 818.17 and such other necessary duties as may be required for the administration of this compact.

[C79, 81, §818.18]

818.19 Effective date — withdrawal.

This compact shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this compact may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated at the time such withdrawal takes effect.

[C79, 81, §818.19]

818.20 Uniform criminal extradition Act unaffected.

This compact provides an alternate procedure to the uniform criminal extradition Act, which remains in full force and effect; a state seeking return of a fugitive may proceed under this compact, or under the uniform criminal extradition Act. Where another state seeks return of a fugitive under this compact, the governor of this state may intervene at any time prior to surrender of the fugitive and require the proceedings to be stayed subject to investigation and appropriate orders relating to custody of the fugitive by the governor.

[C79, 81, §818.20]

818.21 Construction — validity — constitutionality.

This compact shall be liberally construed so as to effectuate its purposes. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact

and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party hereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

[C79, 81, §818.21]

818.22 Enforcement.

All courts, departments, agencies, officers and employees of this state and its political subdivisions are hereby directed to enforce the interstate extradition compact contained in sections 818.1 through 818.21 and to cooperate with one another and with other party states in enforcing the compact and effectuating its purpose.

[C79, 81, §818.22]

2008 Acts, ch 1032, §201

818.23 Copies of compact transmitted.

Copies of this chapter shall, upon its approval, be transmitted to the governor of each state, the attorney general and the administrator of general services of the United States, and the council of state governments.

[C79, 81, §818.23]

818.24 Short title.

Sections 818.1 through 818.21 may be cited as the "*Interstate Extradition Compact*".

[C79, 81, §818.24]

2008 Acts, ch 1032, §201