CHAPTER 820

UNIFORM CRIMINAL EXTRADITION ACT

Referred to in **§331.756(69)**, 602.6405

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820.1 Definitions.

Where appearing in this chapter, the term *"governor"* includes any person performing the functions of governor by authority of the law of this state. The term *"executive authority"* includes the governor, and any person performing the functions of governor in a state other than this state, and the term *"state"*, referring to a state other than this state, includes any other state or territory, organized or unorganized, of the United States of America.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.1; C79, 81, §820.1]

820.2 Arrest of fugitives.

Subject to the provisions of this chapter, the provisions of the Constitution of the United States controlling, and any and all Acts of Congress enacted in pursuance thereof, it is the duty of the governor of this state to have arrested and delivered up to the executive authority of any other state of the United States any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this state.

[C51, §3283; R60, §4522; C73, §4175; C97, §5172; C24, 27, 31, 35, 39, §**13502;** C46, §759.6; C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.2; C79, 81, §820.2]

820.3 Demand in writing.

No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing alleging, except in cases arising under section 820.6, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter the accused fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of the person's bail, probation or parole. The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state; and the copy of indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority making the demand.

[R60, §4521; C73, §4174; C97, §5171; C24, 27, 31, 35, 39, §**13501;** C46, §759.5; C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.3; C79, 81, §820.3]

Referred to in §820.6

820.4 Investigation by attorney general.

When a demand shall be made upon the governor of this state by the executive authority of another state for the surrender of a person so charged with crime, the governor may call upon the attorney general or any prosecuting officer in this state to investigate or assist in investigating the demand, and to report to the governor the situation and circumstances of the person so demanded, and whether the person ought to be surrendered.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.4; C79, 81, §820.4]

820.5 Persons imprisoned in another state.

1. When it is desired to have returned to this state a person charged in this state with a crime, and such person is imprisoned or is held under criminal proceedings then pending against the person in another state, the governor of this state may agree with the executive authority of such other state for the extradition of such person before the conclusion of such proceedings or the person's term of sentence in such other state, upon condition that such person be returned to such other state at the expense of this state as soon as the prosecution in this state is terminated.

2. The governor of this state may also surrender on demand of the executive authority of any other state any person in this state who is charged in the manner provided in section 820.23 with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.5; C79, 81, §820.5]

2018 Acts, ch 1041, §127

820.6 Criminal acts committed in third state.

The governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state charged in such other state in the manner provided in section 820.3 with committing an act in this state, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand, and the provisions of this chapter not otherwise inconsistent, shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.6; C79, 81, §820.6]

Referred to in §820.3, 820.13, 820.15

820.7 Warrant for arrest.

If the governor decides that the demand should be complied with, the governor shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to any peace officer or other person whom the governor may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

[C51, §3283; R60, §4522; C73, §4175; C97, §5172; C24, 27, 31, 35, 39, §**13502;** C46, §759.6; C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.7; C79, 81, §820.7]

Referred to in §820.25

820.8 Authority of warrant.

Such warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where the accused may be found within the state and to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this chapter to the duly authorized agent of the demanding state.

[C51, §3283, 3289; R60, §4522, 4528; C73, §4175, 4181; C97, §5172, 5178; C24, 27, 31, 35, 39, §**13502, 13508;** C46, §759.6, 759.12; C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.8; C79, 81, §820.8]

Referred to in §820.25

820.9 Authority of peace officer.

Every such peace officer or other person empowered to make the arrest, shall have the same authority, in arresting the accused, to command assistance therein, as peace officers

have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.9; C79, 81, §820.9]

820.10 Testing legality of arrest.

No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding the person shall have appointed to receive the person unless the person shall first be taken forthwith before a judge of a court of record in this state, who shall inform the person of the demand made for surrender and of the crime with which the person is charged, and that the person has the right to demand and procure legal counsel; and if the prisoner or the prisoner's counsel shall state that the prisoner or they desire to test the legality of the prisoner's arrest, the judge of such court of record shall fix a reasonable time to be allowed the prisoner within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding state.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.10; C79, 81, §820.10]

Referred to in §820.11, 820.25

820.11 Penalty for willful disobedience.

Any officer who shall deliver to the agent for extradition of the demanding state a person in the officer's custody under the governor's warrant, in willful disobedience to section 820.10, shall be guilty of a simple misdemeanor.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.11; C79, 81, §820.11]

2009 Acts, ch 133, §187

820.12 Confinement in jail.

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

2. The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another state, or to whom a prisoner may have been delivered after waiving extradition in such other state, and who is passing through this state with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county or city through which the officer or agent may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of the prisoner is ready to proceed on the officer's or agent's route, such officer or agent, however, being chargeable with the expense of keeping; provided, however, that such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that the officer or agent is actually transporting such prisoner to the demanding state after a requisition by the executive authority of such demanding state. Such prisoner shall not be entitled to demand a new requisition while in this state.

[C24, 27, 31, 35, 39, §**13512;** C46, §759.16; C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.12; C79, 81, §820.12]

2018 Acts, ch 1041, §127

820.13 Arrest on affidavit.

Whenever any person within this state shall be charged on the oath of any credible person before any judge or magistrate of this state with the commission of any crime in any other state and, except in cases under section 820.6, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of bail, probation or parole, or whenever complaint shall have been made

before any judge or magistrate in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under section 820.6, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of bail, probation or parole and is believed to be in this state, the judge or magistrate shall issue a warrant directed to any peace officer commanding the officer to apprehend the person named therein, wherever the person may be found in this state, and to bring the person before the same or any other judge, magistrate or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

[C51, §3284; R60, §4523; C73, §4176; C97, §5173; C24, 27, 31, 35, 39, §**13503;** C46, §759.7; C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.13; C79, 81, §820.13]

Referred to in §820.14

820.14 Arrest without warrant.

The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against the accused under oath setting forth the ground for the arrest as in section 820.13; and thereafter the accused's answer shall be heard as if the accused had been arrested on a warrant.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.14; C79, 81, §820.14]

2008 Acts, ch 1032, §90

820.15 Holding to await requisition.

If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under section 820.6, that the person has fled from justice, the judge or magistrate must, by a warrant reciting the accusation, commit the person to the county jail for such a time not exceeding thirty days and 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 820.16, or until the accused shall be legally discharged.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.15; C79, 81, §820.15]

2008 Acts, ch 1032, §91

820.16 Bail — exceptions.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this 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, to be arrested upon the warrant of the governor of this state.

[C51, §3285, 3286; R60, §4524, 4525; C73, §4177, 4178; C97, §5174, 5175; C24, 27, 31, 35, 39, §**13504, 13505;** C46, §759.8, 759.9; C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.16; C79, 81, §820.16]

Referred to in §820.15, 820.17

820.17 Discharge or recommitment.

If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant or bond, a judge or magistrate may discharge or recommit the accused for a further period not to exceed sixty days, or a judge or magistrate may again

take bail for the accused's appearance and surrender, as provided in section 820.16, but within a period not to exceed sixty days after the date of such new bond.

[C51, §3288; R60, §4527; C73, §4180; C97, §5177; C24, 27, 31, 35, 39, §**13507;** C46, §759.11; C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.17; C79, 81, §820.17]

820.18 Forfeiture of bond.

If the prisoner is admitted to bail, and fails to appear and surrender according to the conditions of the prisoner's bond, the judge, or magistrate by proper order, shall declare the bond forfeited and order the prisoner's immediate arrest without warrant if the prisoner be within this state. Recovery may be had on such bond in the name of the state as in the case of other bonds given by the accused in criminal proceedings within this state.

[C51, §3287; R60, §4526; C73, §4179; C97, §5176; C24, 27, 31, 35, 39, §**13506;** C46, §759.10; C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.18; C79, 81, §820.18]

820.19 Criminal prosecution pending.

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending the governor, in the governor's discretion, either may surrender the person on demand of the executive authority of another state or hold the person until the person has been tried and discharged or convicted and punished in this state.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.19; C79, 81, §820.19]

820.20 Guilt or innocence of person held.

The guilt or innocence of the accused as to the crime of which the accused is charged may not be inquired into by the governor or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as above provided shall have been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.20; C79, 81, §820.20]

820.21 Warrant recalled.

The governor may recall the governor's warrant of arrest or may issue another warrant whenever the governor deems proper.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.21; C79, 81, §820.21]

820.22 Receiving person extradited.

Whenever the governor of this state shall demand a person charged with crime or with escaping from confinement or breaking the terms of the person's bail, probation, or parole in this state, from the executive authority of any other state, or from the chief judge or an associate judge of the superior court of the District of Columbia authorized to receive such demand under the laws of the United States, the governor shall issue a warrant under the seal of this state, to some agent, commanding the agent to receive the person so charged if delivered to the agent and convey the person to the proper officer of the county in this state in which the offense was committed.

[C51, §3282; R60, §4518; C73, §4171; C97, §5169; C24, 27, 31, 35, 39, §**13497;** C46, §759.1; C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.22; C79, 81, §820.22]

2016 Acts, ch 1073, §181

820.23 Application for extradition.

1. When the return to this state of a person charged with crime in this state is required, the prosecuting attorney shall present to the governor the prosecuting attorney's written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against the person, the approximate time, place and circumstances of its commission, the state in which the person is believed to be, including the location of the accused therein at the time the application is made and certifying that in the opinion of the prosecuting attorney the ends of justice require the

arrest and return of the accused to this state for trial and that the proceeding is not instituted to enforce a private claim.

2. When the return to this state is required of a person who has been convicted of a crime in this state and has escaped from confinement or broken the terms of the person's bail, probation, or parole, the prosecuting attorney of the county in which the offense was committed, the parole board, or the warden of the institution or sheriff of the county, from which escape was made, shall present to the governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which the person was convicted, the circumstances of the person's escape from confinement or of the breach of the terms of the person's bail, probation, or parole, and the state in which the person is believed to be, including the location of the person therein at the time application is made.

3. The application shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or magistrate, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, parole board, warden, or sheriff may also attach such further affidavits and other documents in duplicate as the prosecuting officer, parole board, warden, or sheriff shall deem proper to be submitted with such application. One copy of the application, with the action of the governor indicated by endorsement thereon, and one of the certified copies of the indictment, complaint, information, and affidavits or of the judgment of conviction or of the sentence shall be filed in the office of the governor to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.23; C79, 81, §820.23]

2017 Acts, ch 54, §71; 2019 Acts, ch 24, §94

Referred to in §820.5

Section amended

820.24 Expenses — how paid.

When the punishment of the crime shall be the confinement of the criminal in the penitentiary, the expenses shall be paid by the department of corrections; and in all other cases they shall be paid out of the county treasury in the county wherein the crime is alleged to have been committed. The expenses shall be the fees paid to the officers of the state on whose governor the requisition is made, and all necessary and actual traveling expenses incurred in returning the prisoner.

[C51, §3282; R60, §4518; C73, §4171, 4184; C97, §5169, 5181; C24, 27, 31, 35, 39, §**13498, 13499, 13511;** C46, §759.2, 759.3, 759.15; C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.24; C79, 81, §820.24]

2003 Acts, ch 145, §286; 2016 Acts, ch 1138, §6

820.25 Waiver by person arrested.

1. Any person arrested in this state charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of bail, probation or parole may waive the issuance and service of the warrant provided for in sections 820.7 and 820.8 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record within this state a writing which states that the person consents to return to the demanding state; provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of the person's rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in section 820.10.

2. If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding

state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this state.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.25; C79, 81, §820.25]

2018 Acts, ch 1041, §127

820.26 State's rights not deemed waived.

Nothing in this chapter contained shall be deemed to constitute a waiver by this state of its right, power or privilege to try such demanded person for crime committed within this state, or of its right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within this state, nor shall any proceedings had under this chapter which result in, or fail to result in, extradition be deemed a waiver by this state of any of its rights, privileges or jurisdiction in any way whatsoever.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.26; C79, 81, §820.26]

820.27 Trial for other crimes.

After a person has been brought back to this state by, or after waiver of extradition proceedings, the person may be tried in this state for other crimes which the person may be charged with having committed here as well as that specified in the requisition for the person's extradition.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.27; C79, 81, §820.27]

820.28 Construction of chapter.

The provisions of this chapter shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those states which enact it.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.28; C79, 81, §820.28]

820.29 Title.

This chapter may be cited as the *"Uniform Criminal Extradition Act"*.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §759.29; C79, 81, §820.29]