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Senate File 445

Passed on File.

By ELY.

Passed Senate, Date *January 3/9* *3/24*

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Vote: Ayes *47* Nays *0*

Vote: Ayes *83* Nays *0*

Approved *May 24, 1965*

January 7/19

A BILL FOR

An Act relating to criminal procedue; to adopt the agreement on
detainers and provide for implementation thereof.

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

1 Section 1. The agreement on detainers is hereby enacted into
2 law and entered into by this state with all other jurisdictions
3 legally joining therein in the form substantially as follows:
4 The contracting states solemnly agree that:

Article I

6 The party states find that charges outstanding against a pris-
7 oner, detainers based on untried indictments, informations or
8 complaints, and difficulties in securing speedy trial of persons
9 already incarcerated in other jurisdictions, produce uncertain-
10 ties which obstruct programs of prisoner treatment and rehabili-
11 tation. Accordingly, it is the policy of the party states and
12 the purpose of this agreement to encourage the expeditious and
13 orderly disposition of such charges and determination of the
14 proper status of any and all detainers based on untried indict-
15 ments, informations or complaints. The party states also find
16 that proceedings with reference to such charges and detainers,
17 when emanating from another jurisdiction, cannot properly be had
18 in the absence of cooperative procedures. It is the further pur-
19 pose of this agreement to provide such cooperative procedures.

Article II

21 As used in this agreement:

22 (a) "State" shall mean a state of the United States; the
23 United States of America; a territory or possession of the United
24 States; the District of Columbia; the Commonwealth of Puerto Rico.

25 (b) "Sending state" shall mean a state in which a prisoner is
26 incarcerated at the time that he initiates a request for final
27 disposition pursuant to Article III hereof or at the time that a
28 request for custody or availability is initiated pursuant to
29 Article IV hereof.

30 (c) "Receiving state" shall mean the state in which trial is
31 to be had on an indictment, information or complaint pursuant to
32 Article III or Article IV hereof.

33 Article III

34 (a) Whenever a person has entered upon a term of imprisonment
35 in a penal or correctional institution of a party state, and when-
36 ever during the continuance of the term of imprisonment there is
37 pending in any other party state any untried indictment, informa-
38 tion or complaint on the basis of which a detainer has been lodged
39 against the prisoner, he shall be brought to trial within one hun-
40 dred eighty-days after he shall have caused to be delivered to the
41 prosecuting officer and the appropriate court of the prosecuting
42 officer's jurisdiction written notice of the place of his impris-
43 onment and his request for a final disposition to be made of the
44 indictment, information or complaint: provided that for good cause
45 shown in open court, the prisoner or his counsel being present,
46 the court having jurisdiction of the matter may grant any necessary
47 or reasonable continuance. The request of the prisoner shall be
48 accompanied by a certificate of the appropriate official having
49 custody of the prisoner, stating the term of commitment under

50 which the prisoner is being held, the time already served, the
51 time remaining to be served on the sentence, the amount of good
52 time earned, the time of parole eligibility of the prisoner, and
53 any decisions of the state parole agency relating to the prisoner.

54 (b) The written notice and request for final disposition refer-
55 red to in paragraph (a) hereof shall be given or sent by the pris-
56 oner to the warden, commissioner of corrections or other official
57 having custody of him, who shall promptly forward it together with
58 the certificate to the appropriate prosecuting official and court
59 by registered or certified mail, return receipt requested.

60 (c) The warden, commissioner of corrections or other official
61 having custody of the prisoner shall promptly inform him of the
62 source and contents of any detainer lodged against him and shall
63 also inform him of his right to make a request for final disposi-
64 tion of the indictment, information or complaint on which the
65 detainer is based.

66 (d) Any request for final disposition made by a prisoner pur-
67 suant to paragraph (a) hereof shall operate as a request for final
68 disposition of all untried indictments, informations or complaints
69 on the basis of which detainers have been lodged against the pris-
70 oner from the state to whose prosecuting official the request for
71 final disposition is specifically directed. The warden, commis-
72 sioner of corrections or other official having custody of the
73 prisoner shall forthwith notify all appropriate prosecuting of-
74 ficers and courts in the several jurisdictions within the state
75 to which the prisoner's request for final disposition is being
76 sent of the proceeding being initiated by the prisoner. Any noti-
77 fication sent pursuant to this paragraph shall be accompanied by

78 copies of the prisoner's written notice, request, and the certi-
79 ficate. If trial is not had on any indictment, information or
80 complaint contemplated hereby prior to the return of the prisoner
81 to the original place of imprisonment, such indictment, information
82 or complaint shall not be of any further force or effect, and the
83 court shall enter an order dismissing the same with prejudice.

84 (e) Any request for final disposition made by a prisoner pur-
85 pursuant to paragraph (a) hereof shall also be deemed to be a waiver
86 of extradition with respect to any charge or proceeding contem-
87 plated thereby or included therein by reason of paragraph (d) here-
88 of, and a waiver of extradition to the receiving state to serve
89 any sentence there imposed upon him, after completion of his term
90 of imprisonment in the sending state. The request for final dispo-
91 sition shall also constitute a consent by the prisoner to the
92 production of his body in any court where his presence may be
93 required in order to effectuate the purposes of this agreement
94 and a further consent voluntarily to be returned to the original
95 place of imprisonment in accordance with the provisions of this
96 agreement. Nothing in this paragraph shall prevent the imposition
97 of a concurrent sentence if otherwise permitted by law.

98 (f) Escape from custody by the prisoner subsequent to his
99 execution of the request for final disposition referred to in
100 paragraph (a) hereof shall void the request.

101

Article IV

102 (a) The appropriate officer of the jurisdiction in which an
103 untried indictment, information or complaint is pending shall be
104 entitled to have a prisoner against whom he has lodged a detainer
105 and who is serving a term of imprisonment in any party state made

106 available in accordance with Article V (a) hereof upon presenta-
107 tion of a written request for temporary custody or availability
108 to the appropriate authorities of the state in which the prisoner
109 is incarcerated: provided that the court having jurisdiction of
110 such indictment, information or complaint shall have duly approved,
111 recorded and transmitted the request: and provided further that
112 there shall be a period of thirty days after receipt by the ap-
113 propriate authorities before the request be honored, within which
114 period the governor of the sending state may disapprove the re-
115 quest for temporary custody or availability, either upon his own
116 motion or upon motion of the prisoner.

117 (b) Upon receipt of the officer's written request as provided
118 in paragraph (a) hereof the appropriate authorities having the
119 prisoner in custody shall furnish the officer with a certificate
120 stating the term of commitment under which the prisoner is being
121 held, the time already served, the time remaining to be served on
122 the sentence, the amount of good time earned, the time of parole
123 eligibility of the prisoner, and any decisions of the state parole
124 agency relating to the prisoner. Said authorities simultaneously
125 shall furnish all other officers and appropriate courts in the
126 receiving state who have lodged detainers against the prisoner
127 with similar certificates and with notices informing them of the
128 request for custody or availability and of the reasons therefor.

129 (c) In respect of any proceeding made possible by this Article,
130 trial shall be commenced within one hundred twenty days of the
131 arrival of the prisoner in the receiving state, but for good cause
132 shown in open court, the prisoner or his counsel being present,
133 the court having jurisdiction of the matter may grant any neces-

134 sary or reasonable continuance.

135 (d) Nothing contained in this Article shall be construed to
136 deprive any prisoner of any right which he may have to contest
137 the legality of his delivery as provided in paragraph (a) hereof,
138 but such delivery may not be opposed or denied on the ground that
139 the executive authority of the sending state has not affirmative-
140 ly consented to or ordered such delivery.

141 (e) If trial is not had on any indictment, information or com-
142 plaint contemplated hereby prior to the prisoner's being returned
143 to the original place of imprisonment pursuant to Article V (e)
144 hereof, such indictment, information or complaint shall not be of
145 any further force or effect, and the court shall enter an order
146 dismissing the same with prejudice.

147 Article V

148 (a) In response to a request made under Article III or Article
149 IV hereof, the appropriate authority in a sending state shall offer
150 to deliver temporary custody of such prisoner to the appropriate
151 authority in the state where such indictment, information or com-
152 plaint is pending against such person in order that speedy and
153 efficient prosecution may be had. If the request for final dis-
154 position is made by the prisoner, the offer of temporary custody
155 shall accompany the written notice provided for in Article III of
156 this agreement. In the case of a federal prisoner, the appropri-
157 ate authority in the receiving state shall be entitled to temporary
158 custody as provided by this agreement or to the prisoner's presence
159 in federal custody at the place for trial, whichever custodial
160 arrangement may be approved by the custodian.

161 (b) The officer or other representative of a state accepting

162 an offer of temporary custody shall present the following upon
163 demand:

164 (1) Proper identification and evidence of his authority to
165 act for the state into whose temporary custody the prisoner is
166 to be given.

167 (2) A duly certified copy of the indictment, information or
168 complaint on the basis of which the detainer has been lodged and
169 on the basis of which the request for temporary custody of the
170 prisoner has been made.

171 (c) If the appropriate authority shall refuse or fail to ac-
172 cept temporary custody of said person, or in the event that an
173 action on the indictment, information or complaint on the basis
174 of which the detainer has been lodged is not brought to trial
175 within the period provided in Article III or Article IV hereof,
176 the appropriate court of the jurisdiction where the indictment,
177 information or complaint has been pending shall enter an order
178 dismissing the same with prejudice, and any detainer based thereon
179 shall cease to be of any force or effect.

180 (d) The temporary custody referred to in this agreement shall
181 be only for the purpose of permitting prosecution on the charge
182 or charges contained in one or more untried indictments, informa-
183 tions or complaints which form the basis of the detainer or de-
184 tainers or for prosecution on any other charge or charges arising
185 out of the same transaction. Except for his attendance at court
186 and while being transported to or from any place at which his
187 presence may be required, the prisoner shall be held in a suit-
188 able jail or other facility regularly used for persons awaiting
189 prosecution.

190 (e) At the earliest practicable time consonant with the pur-
191 poses of this agreement, the prisoner shall be returned to the
192 sending state.

193 (f) During the continuance of temporary custody or while the
194 prisoner is otherwise being made available for trial as required
195 by this agreement, time being served on the sentence shall con-
196 tinue to run but good time shall be earned by the prisoner only
197 if, and to the extent that, the law and practice of the juris-
198 diction which imposed the sentence may allow.

199 (g) For all purposes other than that for which temporary cus-
200 tody as provided in this agreement is exercised, the prisoner
201 shall be deemed to remain in the custody of and subject to the
202 jurisdiction of the sending state and any escape from temporary
203 custody may be dealt with in the same manner as an escape from
204 the original place of imprisonment or in any other manner per-
205 mitted by law.

206 (h) From the time that a party state receives custody of a
207 prisoner pursuant to this agreement until such prisoner is re-
208 turned to the territory and custody of the sending state, the
209 state in which the one or more untried indictments, informations
210 or complaints are pending or in which trial is being had shall
211 be responsible for the prisoner and shall also pay all costs of
212 transporting, caring for, keeping and returning the prisoner.
213 The provisions of this paragraph shall govern unless the states
214 concerned shall have entered into a supplementary agreement
215 providing for a different allocation of costs and responsibili-
216 ties as between or among themselves. Nothing herein contained
217 shall be construed to alter or affect any internal relationship

218 among the departments, agencies and officers of and in the gov-
219 ernment of a party state, or between a party state and its sub-
220 divisions as to the payment of costs, or responsibilities there-
221 for.

222 Article VI

223 (a) In determining the duration and expiration dates of the
224 time periods provided in Articles III and IV of this agreement,
225 the running of said time periods shall be tolled whenever and for
226 as long as the prisoner is unable to stand trial, as determined
227 by the court having jurisdiction of the matter.

228 (b) No provision of this agreement, and no remedy made avail-
229 able by this agreement, shall apply to any person who is adjudged
230 to be mentally ill.

231 Article VII

232 Each state party to this agreement shall designate an officer
233 who, acting jointly with like officers of other party states,
234 shall promulgate rules and regulations to carry out more effective-
235 ly the terms and provisions of this agreement, and who shall pro-
236 vide, within and without the state, information necessary to the
237 effective operation of this agreement.

238 Article VIII

239 This agreement shall enter into full force and effect as to a
240 party state when such state has enacted the same into law. A
241 state party to this agreement may withdraw herefrom by enacting a
242 statute repealing the same. However, the withdrawal of any state
243 shall not affect the status of any proceedings already initiated
244 by inmates or by state officers at the time such withdrawal takes
245 effect, nor shall it affect their rights in respect thereof.

246

Article IX

247 This agreement shall be liberally construed so as to effectu-
248 ate its purposes. The provisions of this agreement shall be
249 severable and if any phrase, clause, sentence or provision of this
250 agreement is declared to be contrary to the constitution of any
251 party state or of the United States or the applicability thereof
252 to any government, agency, person or circumstance is held invalid,
253 the validity of the remainder of this agreement and the applica-
254 bility thereof to any government, agency, person or circumstance
255 shall not be affected thereby. If this agreement shall be held
256 contrary to the constitution of any state party hereto, the agree-
257 ment shall remain in full force and effect as to the remaining
258 states and in full force and effect as to the state affected as
259 to all severable matters.

1 Sec. 2. The phrase "appropriate court" as used in the agree-
2 ment on detainers shall, with reference to the courts of this
3 state, mean any court with criminal jurisdiction in the matter in-
4 volved.

1 Sec. 3. All courts, departments, agencies, officers, and em-
2 ployees of this state and its political subdivisions are hereby
3 directed to enforce the agreement on detainers and to cooperate
4 with one another and with other party states in enforcing the
5 agreement and effectuating its purposes.

1 Sec. 4. Nothing in this Act or in the agreement on detainers
2 shall be construed to require the application of chapter seven
3 hundred forty-seven (747) of the Code to any person on account of
4 any conviction had in a proceeding brought to final disposition
5 by reason of the use of this agreement.

1 Sec. 5. Escape from custody while in another state, pursuant
2 to this agreement on detainers shall constitute an offense against
3 the Laws of this state to the same extent and degree as an escape
4 from the institution in which the prisoner was confined immedi-
5 ately prior to having been sent to another state pursuant to the
6 provisions of the agreement on detainers and shall be punishable
7 in the same manner as an escape from said institution.

1 Sec. 6. It shall be lawful and mandatory upon the warden or
2 other official in charge of a penal or correctional institution
3 in this state to give over the person of any inmate thereof when-
4 ever so required by the operation of the agreement on detainers.

1 Sec. 7. Pursuant to the agreement on detainers, the governor
2 is hereby authorized to designate an officer or alternate who
3 shall be the central administrator of and information agent for
4 the agreement on detainers and who, acting jointly with like of-
5 ficers of other party states, shall have power to formulate rules
6 and regulations to carry out more effectively the terms of the
7 agreement, and shall serve subject to the pleasure of the governor.

1 Sec. 8. Copies of this Act shall, upon its approval, be trans-
2 mitted to the governor of each state, the attorney general, and
3 the administrator of general services of the United States, and
4 the council of state governments.