CHAPTER 9

Extradition

**SECTION 17‑9‑10.** Warrant for fugitive charged with crime in another state; temporary confinement; right to bail.

 Any officer in the State authorized by law to issue warrants for the arrest of any person charged with crime shall, on satisfactory information laid before him under the oath of any credible person that any fugitive in the State has committed, out of the State and within any other state, any offense which by the law of the state in which the offense was committed is punishable either capitally or by imprisonment for one year or upwards in any state prison, issue a warrant for such fugitive and commit him to any jail within the State for the space of twenty days, unless sooner demanded by the public authorities of the state wherein the offense may have been committed, agreeable to the act of Congress in that case made and provided. If no demand be made within such time the fugitive shall be liberated, unless sufficient cause be shown to the contrary. Nothing herein contained shall be construed to deprive any person so arrested of the right to release on bail as in cases of similar character of offenses against the laws of this State.

HISTORY: 1962 Code Section 17‑201; 1952 Code Section 17‑201; 1942 Code Section 913; 1932 Code Section 913; Cr. P. ‘22 Section 7; Cr. C. ‘12 Section 7; Cr. C. ‘02 Section 5; G. S. 2620; R. S. 4; 1882 (17) 784.

CROSS REFERENCES

Transfer or exchange of convicted foreign nationals, see Section 24‑1‑145.

Library References

Extradition and Detainers 36.

Westlaw Topic No. 166.

C.J.S. Extradition and Detainers Sections 41 to 48.

United States Supreme Court Annotations

Interstate extradition: Supreme Court’s construction of Extradition Act (18 USCA Section 3182, and similar predecessor provisions) and of extradition clause (Art IV, Section 2, cl 2) of Federal Constitution. 96 L Ed 2d 750.

Attorney General’s Opinions

Bail should not be granted to accused fugitive who has waived extradition. 1990 Op Atty Gen No 90‑12 (January 22, 1990) 1990 WL 482400.

Defendant who knowingly and intelligently waives extradition cannot thereafter revoke waiver. 1990 Op Atty Gen No 90‑12 (January 22, 1990) 1990 WL 482400.

There are no specific formalities attendant to valid waiver of extradition such as requirement that waiver be made under oath or affirmation. 1990 Op Atty Gen No 90‑12 (January 22, 1990) 1990 WL 482400.

Fugitive warrant may be issued in this State only when the alleged crime is punishable by imprisonment for at least one year in states in which it was committed. 1967‑68 Op Atty Gen, No 2524, p 214 (October 10, 1968) 1968 WL 8920.

Fugitive warrant should not issue unless punishment for crime involved is at least one‑year imprisonment. 1966‑67 Op Atty Gen, No 2300, p 119 (July 26, 1967) 1967 8610.

NOTES OF DECISIONS

In general 1

Purpose 2

1. In general

This section [Code 1962 Section 17‑201] cannot, and does not purport to, abridge the Federal right of the executive of a state to demand the return of a fugitive from its justice; this section [Code 1962 Section 17‑201] deals only with the issuance of a fugitive warrant, and arrest and detention thereunder, prior to action by the demanding state pursuant to Federal law. Bolton v. Timmerman (S.C. 1958) 233 S.C. 429, 105 S.E.2d 518.

Where extradition papers were not received until 27 days after the fugitive’s arrest under a fugitive warrant, this section did not prevent his extradition since it applies only to the matter of confinement and does not affect the process of extradition. Bolton v. Timmerman (S.C. 1958) 233 S.C. 429, 105 S.E.2d 518.

In the provision that if no demand is made within 20 days, “the fugitive shall be liberated,” the “liberation” referred to is liberation from jail and not absolute release discharging the fugitive’s bail. Bolton v. Timmerman (S.C. 1958) 233 S.C. 429, 105 S.E.2d 518.

2. Purpose

This section [Code 1962 Section 17‑201] was intended to prevent unreasonably long confinement of a fugitive pending receipt of demand for his extradition. Bolton v. Timmerman (S.C. 1958) 233 S.C. 429, 105 S.E.2d 518.

**SECTION 17‑9‑15.** Extradition of person charged in requesting state with committing act in South Carolina or third state which intentionally resulted in committing an offense in requesting state.

 Upon the demand of the executive authority of another state, known as the requesting state, the Governor of this State may surrender a person in this State who is charged in the requesting state with committing an act in this State or a third state which intentionally resulted in committing an offense in the requesting state. The person must be charged in the requesting state in the manner set forth in Section 17‑9‑10; provided, however, the person need not have been in the requesting state at the time of the commission of the crime in that state and need not have fled from that state. However, the provisions of this chapter not otherwise inconsistent with this section apply to the case.

HISTORY: 2000 Act No. 394, Section 5.

Library References

Extradition and Detainers 29.

Westlaw Topic No. 166.

C.J.S. Extradition and Detainers Sections 10 to 12.

**SECTION 17‑9‑20.** Record of proceedings; transmission of copy to Governor.

 Every officer committing any person under Section 17‑9‑10 shall keep a record of the whole proceedings before him and immediately transmit a copy thereof to the Governor of this State for such action as he may deem fit therein under the law.

HISTORY: 1962 Code Section 17‑202; 1952 Code Section 17‑202; 1942 Code Section 913; 1932 Code Section 913; Cr. P. ‘22 Section 7; Cr. C. ‘12 Section 7; Cr. C. ‘02 Section 5; G. S. 2620; R. S. 4; 1882 (17) 784.

Library References

Extradition and Detainers 39.

Westlaw Topic No. 166.

C.J.S. Extradition and Detainers Sections 34 to 40.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Governor Section 33, Extradition to Another Jurisdiction.

**SECTION 17‑9‑30.** Governor shall inform governor of foreign state.

 The Governor of this State shall immediately inform the governor of the state in which the crime is alleged to have been committed of the proceedings had in such case.

HISTORY: 1962 Code Section 17‑203; 1952 Code Section 17‑203; 1942 Code Section 913; 1932 Code Section 913; Cr. P. ‘22 Section 7; Cr. C. ‘12 Section 7; Cr. C. ‘02 Section 5; G. S. 2620; R. S. 4; 1882 (17) 784.

Library References

Extradition and Detainers 39.

Westlaw Topic No. 166.

C.J.S. Extradition and Detainers Sections 34 to 40.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Governor Section 33, Extradition to Another Jurisdiction.

**SECTION 17‑9‑40.** Sheriff and jailer shall surrender fugitive under order of Governor.

 Every sheriff or jailer, in whose custody any person committed under this chapter shall be, shall, upon the order of the Governor of this State, surrender such person to the person named in such order for that purpose.

HISTORY: 1962 Code Section 17‑204; 1952 Code Section 17‑204; 1942 Code Section 913; 1932 Code Section 913; Cr. P. ‘22 Section 7; Cr. C. ‘12 Section 7; Cr. C. ‘02 Section 5; G. S. 2620; R. S. 4; 1882 (17) 784.

Library References

Extradition and Detainers 24.

Westlaw Topic No. 166.

C.J.S. Extradition and Detainers Section 6.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Governor Section 33, Extradition to Another Jurisdiction.

Attorney General’s Opinions

A prior opinion dated June 25, 1958, which dealt with the question of whether a prisoner, after having been convicted and sentenced in this State, may be extradited to another state for trial or to satisfy a sentence pending in the demanding state, no longer represents the opinion of this Office. Where another state permits the transfer of prisoners to South Carolina for trial, there would be no bar to South Carolina later surrendering custody temporarily in order that the prisoners be returned to the other state for trial even though any sentence had been completed; such temporary transfer would not be tantamount to a pardon. 1986 Op Atty Gen, No 86‑0, p 30 (January 13, 1986) 1986 WL 191968.

**SECTION 17‑9‑50.** Taking testimony in hearings on extradition; report and recommendations to Governor.

 The Governor of this State may, when a hearing is demanded upon any extradition for a fugitive in this State for an offense committed within any other state, appoint the Attorney General to take or cause to be taken by any person in his office the testimony offered at such hearing and report the testimony to the Governor with his recommendations thereon. Such recommendations shall not be binding upon the Governor. It shall not be necessary for the party so designated to hold such hearing to be commissioned or give bond, but the only requirement necessary is that he shall take an oath that he will fairly and impartially conduct the hearing and report the testimony and his recommendations, and when the Attorney General acts personally in such capacity no oath shall be required.

HISTORY: 1962 Code Section 17‑205; 1952 Code Section 17‑205; 1942 Code Section 914‑1; 1939 (41) 112, 423.

Library References

Extradition and Detainers 39.

Westlaw Topic No. 166.

C.J.S. Extradition and Detainers Sections 34 to 40.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Governor Section 33, Extradition to Another Jurisdiction.

United States Supreme Court Annotations

Interstate extradition: Supreme Court’s construction of Extradition Act (18 USCA Section 3182, and similar predecessor provisions) and of extradition clause (Art IV, Section 2, cl 2) of Federal Constitution. 96 L Ed 2d 750.

**SECTION 17‑9‑60.** Compensation and expenses of agents appointed to bring fugitives to this State.

 In all cases of requisition for the delivery of fugitives from justice the agents appointed by the Governor to bring such fugitives into this State shall receive as compensation for their services a per diem for the days actually employed and shall be reimbursed their expenses actually and necessarily incurred in the performance of their duties.

HISTORY: 1962 Code Section 17‑206; 1952 Code Section 17‑206; 1942 Code Section 914; 1932 Code Section 914; Cr. P. ‘22 Section 8; Cr. C. ‘12 Section 8; Cr. C. ‘02 Section 6; R. S. 5; 1887 (19) 850.

Library References

Extradition and Detainers 40.

Westlaw Topic No. 166.

C.J.S. Extradition and Detainers Section 24.

Attorney General’s Opinions

Discussion of who is responsible for the cost involved in transporting a prisoner from the asylum state to South Carolina. S.C. Op.Atty.Gen. (Oct. 27, 1995) 1995 WL 805839.

**SECTION 17‑9‑70.** Governor shall approve accounts; payment.

 Upon presentation to the Governor of the accounts of such agents, itemized and duly verified by their affidavits thereto annexed, the Governor, if he approve such accounts as correct, shall endorse his approval thereon and, upon presentation of the accounts so endorsed to the Comptroller General, he shall draw his warrants on the State Treasurer for the amount thereof, payable out of the regular contingent fund of the Governor.

HISTORY: 1962 Code Section 17‑207; 1952 Code Section 17‑207; 1942 Code Section 914; 1932 Code Section 914; Cr. P. ‘22 Section 8; Cr. C. ‘12 Section 8; Cr. C. ‘02 Section 6; R. S. 5; 1887 (19) 850.

Library References

Extradition and Detainers 40.

Westlaw Topic No. 166.

C.J.S. Extradition and Detainers Section 24.

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