

CHAPTER 240—H. F. No. 639

An act to make uniform the procedure on interstate extradition and to repeal Sections 10541, 10542, 10543, 10544, 10545, 10546 and 10547, Mason's Minnesota Statutes of 1927, and all acts or parts of acts inconsistent herewith.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Definitions.—Where appearing in this act, 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. 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.

Sec. 2. Duties of Governor in extradition matters.—Subject to the provisions of this act, 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 if found in this state.

Sec. 3. Demand must be 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 6, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he 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 his 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 the indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the Executive Authority making the demand.

Sec. 4. Attorney General to investigate.—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 him the situation and circumstances of the person so demanded, and whether he ought to be surrendered.

Sec. 5. Extradition by agreement.—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 him 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 his 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.

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 23 of this act with having violated the laws of the state whose Executive Authority is making the demand, even though such person left the demanding state involuntarily.

Sec. 6. May extradite persons causing crime.—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 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 act 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.

Sec. 7. Warrant of arrest.—If the governor decides that the demand should be complied with, he 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 he *may* think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

Sec. 8. Accused to be turned over to demanding state.—Such warrant shall authorize the peace officer or other person

to whom directed to arrest the accused at any time and any place where he 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 act to the duly authorized agent of the demanding state.

Sec. 9. Powers of 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.

Sec. 10. Accused to be taken before court.—No person arrested upon such warrant shall be delivered over to the agent whom the Executive Authority demanding him shall have appointed to receive him unless he shall first be taken forthwith before a judge of a court of record in this state, who shall inform him of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand and procure legal counsel; and if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the judge of such court of record shall fix a reasonable time to be allowed him 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.

Sec. 11. Violation a gross misdemeanor.—Any officer who shall deliver to the agent for extradition of the demanding state a person in his custody under the governor's warrant, in willful disobedience to the last section, shall be guilty of a gross misdemeanor and, on conviction, shall be fined not more than \$1,000 or be imprisoned not more than six months.

Sec. 12. Accused may be confined in jail.—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 he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route, such officer or person being chargeable with the expense of keeping.

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 he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his 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 he 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.

Sec. 13. Who may be apprehended.—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 arising under Section 6 with having fled from justice, with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his 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 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 his 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 him to apprehend the person named therein, wherever he may be found in this state, and to bring him 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.

Sec. 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 him under oath setting forth the ground for the arrest as in the preceding section; and thereafter his answer shall be heard as if he had been arrested on a warrant.

Sec. 15. Court may commit to jail.—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 6, that he has fled from justice, the judge or magistrate must, by a warrant reciting the accusation commit him to the county jail for such a time not exceeding 30 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 the next section, or until he shall be legally discharged.

Sec. 16. May be admitted to bail.—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 he deems proper, conditioned for his appearance before him at a time in such bond, and for his surrender, to be arrested upon the warrant of the Governor of this state.

Sec. 17. May be discharged—When.—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 him or may recommit him for a further period not to exceed 60 days or a judge or magistrate judge may again take bail for his appearance and surrender, as provided in section 16, but within a period not to exceed 60 days after the date of such new bond.

Sec. 18. May declare bond forfeited.—If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond, the judge, or magistrate by proper order, shall declare the bond forfeited and

order his immediate arrest without warrant if he 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.

Sec. 19. May either hold or surrender prisoner.—If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor, in his discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

Sec. 20. Governor not to inquire into guilt or innocence.—The guilt or innocence of the accused as to the crime of which he 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.

Sec. 21. May recall warrant.—The governor may recall his warrant of arrest or may issue another warrant whenever he deems proper.

Sec. 22. Warrant for parolees or probationers.—Whenever the governor of this state shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in this state, from the Executive Authority of any other state, or from the chief justice or an associate justice of the supreme court of the District of Columbia authorized to receive such demand under the laws of the United States, he shall issue a warrant under the seal of this state, to some agent, commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the county in this state in which the offense was committed.

Sec. 23. Prosecuting attorney to make written application.—(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 his 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 him, the approximate time, place and circumstances of its commission, the state in which he 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 said 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 his 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 he was convicted, the circumstances of his escape from confinement or of the breach of the terms of his bail, probation or parole, the state in which he 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 he 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 secretary of state to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

Sec. 24. May not be served with civil process.—A person brought into this state by, or after waiver of, extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceedings to answer which he is being or has been returned, until he has been convicted in the criminal proceeding, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

(a) 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 his bail, probation or parole may waive the issuance and service of the warrant provided for in sections 7 and 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 he 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 his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in section 10.

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 persons 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.

(b) Nothing in this act 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 act 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.

Sec. 25. May be tried for other crimes.—After a person has been brought back to this state by, or after waiver of extradition proceedings, he may be tried in this state for other crimes which he may be charged with having committed here as well as that specified in the requisition for his extradition.

Sec. 26. Interpretation and construction of act.—The provisions of this act shall be so interpreted and construed as to

effectuate its general purposes to make uniform the law of those states which enact it.

Sec. 27. Provisions severable.—If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 28. Governor may appoint agent.—In every case authorized by the constitution and laws of the United States, the Governor may appoint an agent, who shall be the sheriff of the county from which the application for extradition shall come, when he can act, to demand of the Executive Authority of any state or territory any fugitive from justice or any person charged with a felony or other crime in this state; and whenever an application shall be made to the Governor for that purpose, the attorney general, when so required by him, shall forthwith investigate or cause to be investigated by any county attorney the grounds of such application, and report to the Governor all material circumstances which shall come to his knowledge, with an abstract of the evidence, and his opinion as to the expediency of the demand. The accounts of agents so appointed shall in each case be audited by the county board of the county wherein the crime upon which extradition proceedings are based shall be alleged to have been committed, and every such agent shall receive from the treasury of such county four dollars for each calendar day, and the necessary expenses incurred by him in the performance of such duties.

Sec. 29. Powers of officers.—Any person who has been or shall be convicted of or charged with a crime in any other state, and who shall be lawfully in the custody of any officer of the state where such offense is claimed to have been committed, may be by said officer conveyed through or from this state, for which purpose such officer shall have all the powers in regard to his control or custody that an officer of this state has over a prisoner in his charge.

Sec. 30. Laws repealed.—Mason's Minnesota Statutes of 1927, Sections 10541, 10542, 10543, 10544, 10545, 10546 and 10547, and all acts and parts of acts inconsistent with the provisions of this act and not expressly repealed herein, are hereby repealed.

Sec. 31. To be cited as **Uniform Criminal Extradition Act.**—This act may be cited as the Uniform Criminal Extradition Act.

Sec. 32. This act shall take effect 30 days after its passage.

Approved April 14, 1939.

CHAPTER 241—S. F. No. 304

An act to amend Mason's Minnesota Statutes of 1927, Section 4293, permitting an examination of industrial commission's files by attorneys on proper authorization.

Be it enacted by the Legislature of the State of Minnesota:

That Mason's Minnesota Statutes of 1927, Section 4293, be, and the same hereby is amended to read as follows:

Section 4293. Employers must report accidents.—Reports.—Duty of physicians.—Penalties.—It is hereby made the duty of every employer subject to the provisions of part 2 of this act to make or cause to be made a report to the Industrial Commission of any accident to any employe which occurs in the course of his employment, and which causes death or serious injury, within forty-eight (48) hours of the occurrence of such accident, and of all other accidents which occur to any employe in the course of his employment, and of which the employer or his foreman has knowledge, within seven days after the occurrence of such accident, provided that such injuries are sufficient wholly or partially to incapacitate the person injured from labor or service for more than the remainder of the day, shift or turn on which the injury was sustained, which reports shall be made upon a form to be prescribed by the Industrial Commission.

The Industrial Commission shall include in the form of report prepared by it a statement that the employer will pay the compensation as required by law, to be signed by the employer or his representative, where a liability to pay compensation is admitted.

Accidents required by this section to be reported within 48 hours may be reported by telephone, telegraph or personal notice, and a written report of such accident shall then be made within seven days, or at such time as the Industrial