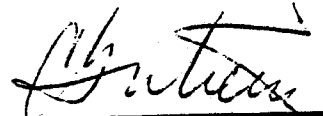


SEVENTEENTH GUAM LEGISLATURE
1984 (SECOND) Regular Session

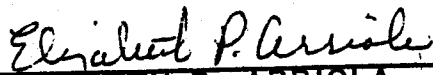
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Bill No. 368, "AN ACT TO REPEAL AND REENACT 8 GUAM CODE ANNOTATED CHAPTER 140 TO ENACT THE UNIFORM EXTRADITION AND RENDITION ACT OF 1983," was on the 18th day of January, 1984, duly and regularly passed.



CARL T. C. GUTIERREZ
Speaker

Attested:



ELIZABETH P. ARRIOLA
Senator and Legislative Secretary

This Act was received by the Governor this 24th day of January 1984, at 2:40 o'clock P.m.


R. J. Romo
Assistant Staff Officer
Governor's Office

APPROVED:


RICARDO J. BORDALLO
Governor of Guam

Date:

2/2/84 (2:15pm)

Public Law No. 17-47

SEVENTEENTH GUAM LEGISLATURE
1983 (FIRST) Regular Session

Bill No. 368

Introduced by:

F. R. Santos

AN ACT TO REPEAL AND REENACT 8 GUAM CODE
ANNOTATED CHAPTER 140 TO ENACT THE UNIFORM
EXTRADITION AND RENDITION ACT OF 1983.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. Chapter 140 of Title 8 Guam Code Annotated is repealed,
3 provided, however, that any extradition proceedings commenced under 8
4 GCA Chapter 140 shall be continued to their conclusion as if said Chapter
5 had not been repealed.

6 Section 2. A new Chapter 140 is added to Title 8 Guam Code
7 Annotated to read:

8 "CHAPTER 140

9 Article 1 - General Provisions

10 §140.10. Short Title.

11 §140.12. Definitions.

12 §140.14. Conditions of Release.

13 §140.16. Non-waiver by Guam.

14 Article 2 - Proceedings Prior to Extradition & Rendition

15 §140.20. Arrest Without Warrant.

16 §140.22. Issuance of Process or Arrest Warrant Before Receipt.

17 §140.14. Appearance Prior to Receipt of Demand or Request.

18 §140.26. Extension of Time.

19 Article 3 - Extradition

20 §140.30. Demand for Extradition

21 §140.31. Supporting Documentation.

22 §140.32. Governor's Investigation.

23 §140.33. Extradition of Persons Imprisoned or Awaiting Trial.

24 §140.34. Governor's Warrant.

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§140.35. Rights of Demanded Persons.

§140.36. Judicial Extradition Hearing.

Article 4 - Rendition

§140.40. Request for Rendition.

§140.41. Supporting Documentation.

§140.42. Filing of Request.

§140.43. Issuance of Arrest Warrant or Process.

§140.44. Rights of Requested Person.

§140.45. Judicial Rendition Hearing.

Article 5 - Miscellaneous

§140.50. Order to Transfer Custody.

§140.51. Confinement.

§140.52. Cost of Return.

§140.53. Applicability of Other Law.

§140.54. Payment of Transportation and Subsistence Costs.

§140.55. Uniformity of Application and Construction.

Article 1 - General Provisions

§140.10. Short Title.

This Chapter may be cited and referred to as the Uniform Extradition and Rendition Act (1983).

§140.12. Definitions.

As used in this Chapter:

1. 'Arrest warrant' means any document that authorizes a peace officer to take custody of a person.
2. 'Certified copy' means a copy of a document accompanied by a statement of a custodian authorized by the law of a state to maintain that the copy of the document is a complete and true copy of an official record filed and maintained in a public office.
3. 'Demanded person' means a person whose return to a demanding state is sought from another state by extradition under Article 3.
4. 'Demanding state' means a state that is seeking the return of a person from another state through the process of extradition under Article 3.

1 5. 'Executive authority' means the Chief Executive in a
2 state other than Guam, a person performing the functions of
3 Chief Executive, or a representative designated by the Chief
4 Executive.

5 6. 'Governor' means the Governor of Guam, any person
6 performing the functions of Governor, or a representative
7 designated by the Governor.

8 7. 'Issuing authority' means any person who may issue or
9 authorize the issuance of an arrest warrant.

10 8. 'Requested person' means a person whose return to a
11 requesting state is sought from another state by rendition under
12 Article 4.

13 9. 'Requesting state' means a state that is seeking the
14 return of a person from another state through the process of
15 rendition under Article 4.

16 10. 'State' means any state of the United States, the
17 District of Columbia, the Commonwealths of Puerto Rico and the
18 Northern Mariana Islands, the Virgin Islands, American Samoa,
19 the Trust Territory of the Pacific Islands and individual states
20 and national entities within the Trust Territory of the Pacific
21 Islands, both before and after the termination of the trusteeship
22 and any other territories and possessions of the United States.

23 11. When a section number is referred to by number alone,
24 such as '§140.12', it shall mean sections within this Title of the
25 Guam Code Annotated.

26 §140.14. Conditions of Release.

27 The law of pretrial release, contained in Chapter 40 of this Title,
28 governs release of a person pursuant to §140.24, §140.35, §140.44 and
29 §140.50.

30 §140.16. Non-waiver by Guam.

31 This Chapter and proceedings under it are not exclusive and do
32 not affect the authority of Guam to:

33 1. try a demanded or requested person for a crime
34 committed within Guam;

1 2. take custody of a demanded or requested person by
2 extradition or rendition proceedings for the purpose of trial,
3 sentence or punishment for a crime committed in Guam;

4 3. take custody of a person under other provisions of law,
5 including interstate agreements; or

6 4. release a person from custody upon any valid conditions.

7 Article 2 - Proceedings Prior to Extradition & Rendition

8 §140.20. Arrest Without Warrant.

9 (a) A peace officer may arrest a person without an arrest
10 warrant upon probable cause to believe that the person is the subject
11 of another state's arrest warrant issued for (i) commission of a crime
12 punishable by death or imprisonment for a term exceeding one year,
13 (ii) escape, or (iii) violation of any term of bail, probation, parole, or
14 an order arising out of a criminal proceeding.

15 (b) The arrested person must be brought forthwith before a
16 judge of the Superior Court.

17 (c) The judge of the Superior Court shall issue an order to
18 continue custody or other process to assure the appearance of the
19 person, if testimony or affidavit shows probable cause to believe the
20 person is the subject of another state's arrest warrant issued for (i)
21 the commission of a crime punishable by death or by imprisonment for
22 a term exceeding one year, (ii) escape, or (iii) violation of any term
23 of bail, probation, parole, or an order arising out of a criminal
24 proceeding.

25 §140.22. Issuance of Process or Arrest Warrant Before Receipt of
26 Demand or Request.

27 (a) Upon application of the Attorney General, a judge of the
28 Superior Court shall authorize the issuance of an arrest warrant or
29 other process to obtain the appearance of a person, if testimony or
30 affidavit shows probable cause to believe:

31 1. the person is in Guam; and

32 2. the person is the subject of another state's arrest
33 warrant issued for (i) the commission of a crime punishable by
34 death or imprisonment for a term exceeding one year; (ii) escape,

1 or (iii) violation of any term of bail, probation, parole, or order
2 arising out of a criminal proceeding.

3 (b) Other process to obtain the appearance of a person must
4 require the appearance before a judge of the Superior Court.

5 (c) The arrest warrant must require that the person be brought
6 forthwith before a judge of the Superior Court.

7 §140.24. Appearance Prior to Receipt of Demand or Request.

8 (a) The judge shall inform the person appearing pursuant to
9 §140.20 or §140.22 of:

- 10 1. the name of the other state that has subjected the person
11 to an arrest warrant;
12 2. the basis for the arrest warrant in the other state;
13 3. the right to assistance of counsel; and
14 4. the right to require a judicial hearing under this Chapter
15 before transfer of custody to the other state.

16 (b) After being informed by the judge of the effect of a waiver,
17 the arrested person may waive the right to require a judicial hearing
18 under this Chapter and consent to return to the other state by
19 executing a written waiver in the presence of the judge. If the
20 waiver is executed, the judge shall issue an order to transfer custody
21 pursuant to §140.50 or, with the consent of the official upon whose
22 application the arrest warrant was issued in the other state, authorize
23 the voluntary return of the person to that state.

24 (c) Unless a waiver is executed pursuant to subsection (b), the
25 judge shall (i) release the person upon conditions that will reasonably
26 assure the availability of the person for arrest pursuant to §140.34 or
27 §140.43, or (ii) direct a law enforcement officer to maintain custody of
28 the person. Subject to §140.26, the period of conditional release or
29 custody may not exceed thirty (30) days.

30 §140.26. Extension of Time.

31 (a) If the person is not arrested pursuant to §140.34 or 140.43
32 within the period specified in the arrest warrant or other process, the
33 judge for good cause may issue further orders under §140.24(c) for

1 additional periods not exceeding sixty (60) days. Further extensions
2 of orders may be requested by the person under §140.24(c).

3 (b) If the person is not arrested pursuant to §140.34 or §140.43
4 within the time specified by the judge, the person may not be
5 subjected to any further order in Guam under §140.24(c). If the
6 person is subsequently arrested in Guam under §140.20 or §140.22 on
7 the basis of the same arrest warrant of the other state, the person
8 may not be subjected to the issuance of orders under §140.24(c) and
9 must be released from custody. However, the person may be arrested
10 thereafter pursuant to §140.34 or §140.43 of this Chapter.

11 Article 3 - Extradition

12 §140.30. Demand for Extradition.

13 (a) The Governor may recognize a written demand by an
14 executive authority for the extradition of a person, alleging that the
15 person:

- 16 1. is charged with a crime in the demanding state; or
- 17 2. having been charged with or convicted of a crime in the
18 demanding state has (i) escaped or (ii) violated any term of bail,
19 probation, parole, or an order arising out of a criminal
20 proceeding in the demanding state.

21 (b) The Governor may demand the extradition of a person from
22 another state in accordance with the Constitution of the United States,
23 or the Constitution of the national entities of the Trust Territory of
24 the Pacific Islands, both before and after termination of the
25 trusteeship, and may comply with the requirements of the other state
26 for recognition of a demand.

27 §140.31. Supporting Documentation.

28 The demand for extradition must be accompanied by a certified
29 copy of an arrest warrant and one of the following:

- 30 1. a statement by the issuing authority that the arrest
31 warrant was issued after a determination of probable cause to
32 believe that a crime had been committed and that the demanded
33 person committed the crime, together with a copy of the

1 provisions of law defining the crime and fixing the penalty
2 therefor;

3 2. a certified copy of the indictment or information upon
4 which the arrest warrant is based;

5 3. a statement by the issuing authority that the arrest
6 warrant was issued after a determination of probable cause to
7 believe that the demanded person had violated any term of bail,
8 probation, or an order arising out of a criminal proceeding; or

9 4. a certified copy of a judgment of conviction or a
10 sentencing order accompanied by a statement by the issuing
11 authority that the demanded person has escaped or violated any
12 term of parole or probation.

13 §140.32. Governor's Investigation.

14 The Governor may:

15 1. investigate the demand for extradition and the
16 circumstances of the demanded person;

17 2. request the Attorney General to investigate; or

18 3. hold a hearing.

19 §140.33. Extradition of Persons Imprisoned or Awaiting Trial.

20 (a) If a demanded person is being prosecuted, is imprisoned, is
21 on parole or probation, or is subject to an order arising out of a
22 criminal proceeding in Guam, the Governor may:

23 1. grant extradition;

24 2. delay action; or

25 3. agree with the executive authority of the demanding state
26 to grant extradition upon conditions.

27 §140.34. Governor's Warrant.

28 (a) If the Governor decides to comply with the demand for
29 extradition, he shall issue a warrant for the arrest and extradition of
30 the demanded person. The Governor's warrant must recite the name
31 of the state demanding extradition and the crime charged or other
32 basis for the demand.

33 (b) The Governor may specify the time and manner in which the
34 warrant is executed.

1 (c) At any time before the transfer of custody of the demanded
2 person to the agent of the demanding state, the Governor may recall
3 the warrant or issue another warrant.

4 (d) The warrant must be directed to any peace officer to require
5 compliance with §140.35.

6 (e) The law relating to assistance in the execution of other
7 arrest warrants in Guam applies to the execution of the Governor's
8 warrant.

9 §140.35. Rights of Demanded Persons.

10 (a) A person arrested under a Governor's warrant must be
11 brought forthwith before a judge of the Superior Court who shall
12 receive the warrant and inform the person of:

- 13 1. the name of the state demanding extradition;
- 14 2. the crime charged or other basis for the demand;
- 15 3. the right to assistance of counsel; and
- 16 4. the right to a judicial hearing under §140.36.

17 (b) After being informed by the judge of the effect of a waiver,
18 the demanded person may waive the right to a judicial hearing and
19 consent to return to the demanding state by executing a written
20 waiver in the presence of the judge. If the waiver is executed, the
21 judge shall issue an order to transfer custody pursuant to §140.50 of
22 this Chapter or, with the consent of the executive authority of the
23 demanding state, authorize the voluntary return of the person.

24 (c) If a hearing is not waived, the judge shall hold it within ten
25 (10) days after the appearance. The demanded person and the
26 Attorney General must be informed of the time and the place of the
27 hearing. The judge shall (i) release the person upon conditions that
28 will reasonably assure the availability of the person for the hearing;
29 or (ii) direct the Department of Public Safety or the Director of
30 Corrections to maintain custody of the person.

31 §140.36. Judicial Extradition Hearing.

32 (a) If the judge after hearing finds that the Governor has
33 issued a warrant supported by the documentation required by
34 §140.30(a) and §140.31, the judge shall issue an order to transfer

1 custody pursuant to §140.50 upon receipt of clear and convincing
2 evidence that the arrested person is the demanded person.

3 (b) If the judge does not order transfer of custody, he shall
4 order the arrested person to be released. If the agent of the
5 demanded state has not taken custody within the time specified in the
6 order to transfer custody, the demanded person must be released.
7 Thereafter, an order to transfer custody may be entered only if a new
8 arrest warrant is issued as a result of a new demand for extradition or
9 a new request for rendition.

10 (c) An order to transfer custody is not appealable.

11 (d) An order denying transfer is appealable.

12 Article 4 - Rendition

13 §140.40. Request for Rendition.

14 (a) Subject to subsections (b) and (c), Guam may grant a
15 written request by an issuing authority of another state for the
16 rendition of a person in Guam.

17 (b) The request may be refused if the requested person is:

18 1. being prosecuted or is imprisoned in Guam for a criminal
19 offense;

20 2. the subject of a pending proceeding in the juvenile court
21 brought for the purpose of adjudicating the person to be a
22 delinquent; or

23 3. in the custody of the Department of Youth Affairs
24 pursuant to an order of disposition of the juvenile court as a
25 delinquent child; or

26 4. under the supervision of the juvenile court pursuant to
27 informal adjustment or an order of disposition of the court.

28 (c) The request must allege that the person:

29 1. is charged with a crime punishable in the requesting state
30 by death or imprisonment for a term exceeding one (1) year in
31 the requesting state; or

32 2. having been charged with or convicted of a crime in the
33 requesting state, has escaped or violated any term of bail,

1 probation, parole, or an order arising out of a criminal
2 proceeding in the requesting state.

3 (d) Upon application of the Attorney General of Guam, an
4 issuing authority may request rendition of a person from another state
5 and may comply with requirements of that state for the granting of the
6 request. A corrections official who is also an issuing authority may
7 request rendition from another state of a person described in
8 subsection (c)(2), and subject to the jurisdiction of the correction
9 official.

10 §140.41. Supporting Documentation.

11 The request for rendition must be accompanied by a certified
12 copy of the arrest warrant and one of the following:

13 1. a statement by the issuing authority that the arrest
14 warrant was issued after a determination of probable cause to
15 believe that a crime has been committed and the requested person
16 committed the crime, together with a copy of the provisions of law
17 defining the crime and fixing the penalty therefor;

18 2. a certified copy of the indictment or information upon
19 which the arrest warrant is based;

20 3. a statement by the issuing authority that the warrant was
21 issued after a determination of probable cause to believe that the
22 requested person had violated any term of bail, probation, or
23 other judicial order arising out of a criminal proceeding; or

24 4. a certified copy of a judgment of conviction or a
25 sentencing order accompanied by a statement by the issuing
26 authority that the requested person has escaped or violated any
27 term of parole.

28 §140.42. Filing of Request.

29 A request for rendition under §140.40 of this Article must be
30 filed with the Governor, who shall forward the request to the Attorney
31 General. The Governor by written order may terminate the use of
32 rendition at any time before the issuance of an order to transfer
33 custody.

1 **§140.43. Issuance of Arrest Warrant or Process.**

2 Upon receipt of a request under §140.42, the Attorney General
3 shall apply to a judge of the Superior Court for the issuance of an
4 arrest warrant, or other process, to obtain the appearance of the
5 requested person. If the judge finds that the provisions of §140.40
6 and §140.41 have been complied with, he shall issue the warrant or
7 other process. The warrant must require that the person be brought
8 forthwith before a judge of the Superior Court. Other process to
9 obtain the person must also require the appearance before a judge of
10 the Superior Court.

11 **§140.44. Rights of Requested Person.**

12 (a) The judge shall inform the person appearing pursuant to
13 §140.43 of:

- 14 1. the name of the state requesting rendition;
- 15 2. the basis of the arrest warrant in the other state;
- 16 3. the right to assistance of counsel; and
- 17 4. the right to require a judicial hearing pursuant to
18 §140.45.

19 (b) After being informed by the judge of the effect of a waiver,
20 the requested person may waive the right to a judicial hearing and
21 consent to return to the requesting state by executing a written
22 waiver in the presence of the judge. If the waiver is executed, the
23 judge shall issue an order to transfer custody pursuant to §140.50 or
24 with consent of the Attorney General authorize the voluntary return of
25 the person.

26 (c) If a hearing is not waived, the judge shall hold it within ten
27 (10) days after the appearance. The requested person and the
28 Attorney General must be informed of the time and place of the
29 hearing. The judge shall (i) release the person upon conditions that
30 will reasonably assure the availability of the person for the hearing,
31 or (ii) direct the Director of Public Safety or the Director of
32 Corrections to maintain custody of the person.