

Chapter 10.88 RCW
UNIFORM CRIMINAL EXTRADITION ACT

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RCW 10.88.200 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 refers to any other state, or the District of Columbia, or territory organized or unorganized of the United States of America. [1971 ex.s. c 46 § 1.]

Reviser's note: Throughout this chapter, the phrase "this act" has been changed to "this chapter." This act [1971 ex.s. c 46] consists of this chapter, the 1971 amendment of RCW 26.21.050, and the repeal of RCW 10.88.010 through 10.88.060.

RCW 10.88.210 Authority of governor. 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, the governor of this state may in his or her discretion 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. [2010 c 8 § 1066; 1971 ex.s. c 46 § 2.]

RCW 10.88.220 Demand for extradition—Requirements. 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 RCW 10.88.250, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he or she 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 or her 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 certified or authenticated by the executive authority making the demand. [2010 c 8 § 1067; 1971 ex.s. c 46 § 3.]

RCW 10.88.230 Investigation of demand—Report. 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 or her the situation and circumstances of the person so demanded, and whether he or she ought to be surrendered. [2010 c 8 § 1068; 1971 ex.s. c 46 § 4.]

RCW 10.88.240 Return or surrender of person charged in another state. 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 or her 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 or her 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 RCW 10.88.410 with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily. [2010 c 8 § 1069; 1971 ex.s. c 46 § 5.]

RCW 10.88.250 Surrender of person charged with crime committed in state other than demanding 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 RCW 10.88.220 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. [1971 ex.s. c 46 § 6.]

RCW 10.88.260 Warrant of arrest. If the governor decides that the demand should be complied with, he or she 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 or she may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance. [2010 c 8 § 1070; 1971 ex.s. c 46 § 7.]

RCW 10.88.270 Authority of officer or other person under 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 he or she 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. [2010 c 8 § 1071; 1971 ex.s. c 46 § 8.]

RCW 10.88.280 Authority to command assistance. 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. [1971 ex.s. c 46 § 9.]

RCW 10.88.290 Rights of person arrested. No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him or her shall have appointed to receive him or her unless he or she shall first be taken forthwith

before a judge of a court of record in this state, who shall inform him or her of the demand made for his or her surrender and of the crime with which he or she is charged, and that he or she has the right to demand and procure legal counsel; and if the prisoner or his or her counsel shall state that he or she or they desire to test the legality of his or her arrest, the judge of such court of record shall fix a reasonable time to be allowed him or her 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: PROVIDED, That the hearing provided for in this section shall not be available except as may be constitutionally required if a hearing on the legality of arrest has been held pursuant to RCW 10.88.320 or 10.88.330. [2010 c 8 § 1072; 1971 ex.s. c 46 § 10.]

RCW 10.88.300 Delivery of person in violation of RCW 10.88.290—Penalty. Any officer who shall deliver to the agent for extradition of the demanding state a person in his or her custody under the governor's warrant, in wilful [willful] disobedience to RCW 10.88.290, shall be guilty of a gross misdemeanor and, on conviction, shall be imprisoned in the county jail for up to three hundred sixty-four days, or be fined not more than one thousand dollars, or both. [2011 c 96 § 14; 2010 c 8 § 1073; 1971 ex.s. c 46 § 11.]

Findings—Intent—2011 c 96: See note following RCW 9A.20.021.

RCW 10.88.310 Confinement of prisoner. 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 or she may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of him or her is ready to proceed on his or her 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 or she may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of him or her is ready to proceed on his or her 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 or she 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. [2010 c 8 § 1074; 1971 ex.s. c 46 § 12.]

RCW 10.88.320 Charge or complaint—Warrant of arrest. 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 RCW 10.88.250, 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 his or her 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 RCW 10.88.250, 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 or her 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 or her to apprehend the person named therein, wherever he or she may be found in this state, and to bring him or her 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. [2010 c 8 § 1075; 1971 ex.s. c 46 § 13.]

RCW 10.88.330 Arrest without warrant. (1) 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 or her under oath setting forth the ground for the arrest as in RCW 10.88.320; and thereafter his or her answer shall be heard as if he or she had been arrested on a warrant.

(2) An officer of the United States customs service or the immigration and naturalization service may, without a warrant, arrest a person if:

(a) The officer is on duty;

(b) One or more of the following situations exists:

(i) The person commits an assault or other crime involving physical harm, defined and punishable under chapter 9A.36 RCW, against the officer or against any other person in the presence of the officer;

(ii) The person commits an assault or related crime while armed, defined and punishable under chapter 9.41 RCW, against the officer or against any other person in the presence of the officer;

(iii) The officer has reasonable cause to believe that a crime as defined in (b)(i) or (ii) of this subsection has been committed and reasonable cause to believe that the person to be arrested has committed it;

(iv) The officer has reasonable cause to believe that a felony has been committed and reasonable cause to believe that the person to be arrested has committed it; or

(v) The officer has received positive information by written, telegraphic, teletypic, telephonic, radio, or other authoritative source that a peace officer holds a warrant for the person's arrest; and

(c) The regional commissioner of customs certifies to the state of Washington that the customs officer has received proper training within the agency to enable that officer to enforce or administer this subsection. [2010 c 8 § 1076; 1979 ex.s. c 244 § 16; 1971 ex.s. c 46 § 14.]

Effective date—1979 ex.s. c 244: See RCW 9A.44.902.

RCW 10.88.340 Preliminary examination—Commitment. 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 RCW 10.88.250, that he or she has fled from justice, the judge or magistrate must, by a warrant reciting the accusation, commit him or her 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 RCW 10.88.350, or until he or she shall be legally discharged. [2010 c 8 § 1077; 1971 ex.s. c 46 § 15.]

RCW 10.88.350 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 or she deems proper, conditioned for his or her appearance before him or her at a time specified in such a bond, and for his or her surrender, to be arrested upon the warrant of the governor of this state. [2010 c 8 § 1078; 1971 ex.s. c 46 § 16.]

RCW 10.88.360 Failure to make timely arrest or demand for extradition. 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 her or may recommit him or her for a further period not to exceed sixty days, or a judge or magistrate judge may again take bail for his or her appearance and surrender, as provided in RCW 10.88.350, but within a period not to exceed sixty days after the date of such new bond: PROVIDED, That the governor may, except in cases in which the offense is punishable under laws of the demanding state by death or life imprisonment, deny a demand for extradition when such demand is not received by the governor before the expiration of one hundred twenty days from the date of arrest in this state of the alleged fugitive, in the absence of a showing of good cause for such delay. [2010 c 8 § 1079; 1971 ex.s. c 46 § 17.]

RCW 10.88.370 Failure to appear—Bond forfeiture—Arrest—Recovery on bond. If the prisoner is admitted to bail, and fails to appear and surrender himself or herself according to the conditions of his or her bond, the judge, or magistrate by proper order, shall declare the bond forfeited and order his or her immediate arrest without warrant if he or she 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. [2010 c 8 § 1080; 1971 ex.s. c 46 § 18.]

RCW 10.88.380 Pending criminal prosecution in this state. If a criminal prosecution has been instituted against such person under the laws of this state and is still pending the governor, in his or her discretion, either may surrender him or her on demand of the executive authority of another state or hold him or her until he or she has been tried and discharged or convicted and punished in this state. [2010 c 8 § 1081; 1971 ex.s. c 46 § 19.]

RCW 10.88.390 Recall or reissuance of warrant. The governor may recall his or her warrant of arrest or may issue another warrant whenever he or she deems proper. [2010 c 8 § 1082; 1971 ex.s. c 46 § 20.]

RCW 10.88.400 Demand by governor of this state for extradition—Warrant—Agent. Whenever the governor of this state shall demand a person charged with crime or with escaping from confinement or breaking the terms of his or her bail, probation, or parole in this state, from the executive authority of any other state, or from the appropriate authority of the District of Columbia authorized to receive such demand under the laws of the United States, he or she shall issue a warrant under the seal of this state, to some agent, commanding him or her to receive the person so charged if delivered to him or her and convey him or her to the proper officer of the county in this state in which the offense was committed. [2010 c 8 § 1083; 1971 ex.s. c 46 § 21.]

RCW 10.88.410 Application for requisition for return of person—Contents—Affidavits—Copies. (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 or her 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 or her, the approximate time, place, and circumstances of its commission, the state in which he or she 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 or her 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 or she was convicted, the circumstances of his or her escape from confinement or of the breach of the terms of his or her bail, probation, or parole, the state in which he or she 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 or she 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. [2010 c 8 § 1084; 1971 ex.s. c 46 § 22.]

RCW 10.88.415 Delivery without governor's warrant. A law enforcement agency shall deliver a person in custody to the accredited agent or agents of a demanding state without the governor's warrant provided that:

(1) Such person is alleged to have broken the terms of his or her probation, parole, bail, or any other release of the demanding state; and

(2) The law enforcement agency has received from the demanding state an authenticated copy of a prior waiver of extradition signed by such person as a term of his or her probation, parole, bail, or any other release of the demanding state and photographs or fingerprints or other evidence properly identifying the person as the person who signed the waiver. [2001 c 264 § 6.]

Effective date—2001 c 264: See note following RCW 9A.76.110.

RCW 10.88.420 Civil process—Service on extradited person. 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 proceeding to answer which he or she is being or has been returned, until he or she has been finally convicted in the criminal proceeding, or, if acquitted, until he or she has had reasonable opportunity to return to the state from which he or she was extradited. [2010 c 8 § 1085; 1971 ex.s. c 46 § 23.]

RCW 10.88.430 Waiver of extradition. 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 or her bail, probation, or parole may waive the issuance and service of the warrant provided for in RCW 10.88.260 and 10.88.270 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 or she 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 or her rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in RCW 10.88.290.

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. [2010 c 8 § 1086; 1971 ex.s. c 46 § 24.]

RCW 10.88.440 Rights, powers, privileges or jurisdiction of state not 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. [1971 ex.s. c 46 § 25.]

RCW 10.88.450 Trial for other crimes. After a person has been brought back to this state by, or after waiver of extradition proceedings, he or she may be tried in this state for other crimes which he or she may be charged with having committed here as well as that specified in the requisition for his or her extradition. [2010 c 8 § 1087; 1971 ex.s. c 46 § 26.]

RCW 10.88.460 Extradition or surrender of obligor—Uniform interstate family support act. See chapter 26.21A RCW.

RCW 10.88.900 Construction—1971 ex.s. c 46. 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, to the extent which it has been enacted by this state.
[1971 ex.s. c 46 § 27.]

RCW 10.88.910 Short title. RCW 10.88.200 through 10.88.450 shall be known and may be cited as the Uniform Criminal Extradition Act. [1971 ex.s. c 46 § 28.]

RCW 10.88.920 Effective date—1971 ex.s. c 46. This act shall become effective on July 1, 1971. [1971 ex.s. c 46 § 29.]