

## I. INTERSTATE EXTRADITION

### A. DEFINITIONS

1. **Extradition** is the surrender, by one nation or state to another, of an individual accused or convicted of an offense outside its own territory and within the territorial jurisdiction of the other, which being competent to try and punish him, demands the surrender.
2. **Interstate extradition** is the right of one state to demand from the asylum state the surrender of a fugitive from justice from the demanding state when the fugitive is found in the asylum state. (United States Constitution, Art. IV, § 2, cl. 2; *Puerto Rico v. Branstad*, 483 U.S. 219, 227 (1987).)
3. **Asylum state** is where the fugitive or defendant is found.
4. **Demanding state** is the state which seeks to extradite the fugitive.
5. **Governor or executive authority** means any person performing the functions of **governor** under state law.
6. **Fugitive** means one who is accused or convicted of a crime in one state and is later found in another state, regardless of the manner of or reason for his departure from the first state. (*New Mexico, ex rel. Ortiz v. Reed*, 524 U.S. 151 (1998); *Appleyard v. Massachusetts*, 203 U.S. 222, 227 (1906).)
7. **Nonfugitive** is a person who commits an act in one state that intentionally results in a crime in another state.
8. **Magistrate** usually means any judicial officer as defined under applicable state statutes or any person certified to be a magistrate under the laws of the demanding state.
9. **Extraditable offense** refers to any criminal offense, felony or misdemeanor, in the demanding state regardless of whether the offense is a crime in the asylum state.
10. **Application for Requisition** is the formal written request from the prosecutor to the governor of the demanding state for a requisition upon the governor of the asylum state for the return of a fugitive.

7. At this point, either the prosecutor or the law enforcement officer should again contact the demanding state and indicate that the matter has been continued and that the fugitive will not waive extradition. The prosecutor in the demanding state should begin assembling extradition documents immediately. If it appears that the prosecutor cannot complete the extradition papers within the 30-day time period, he should notify officials in the asylum state of the delay and that he is proceeding with diligence and fully intends to continue extradition efforts.

If the case is called again at the end of the 30-day period, and if the governor of the asylum state has not yet issued his warrant of rendition, the court should entertain a motion to continue the matter for up to an additional 60 days. (UCEA, § 17.) The asylum state prosecutor should indicate that he has confirmed that the demanding state is proceeding with extradition and that more time is needed. Since documents and procedures under the extradition law are to be liberally construed so as to accomplish extradition, the magistrate should, on a showing that the asylum state is proceeding with diligence, grant whatever continuances are necessary for completion of the process.

8. The first step in the formal extradition process is the application to the governor of the demanding state for a requisition upon the governor of the asylum state for a warrant of rendition. The application is prepared by the prosecutor responsible for trying the charges in the demanding state and must be supported by duly certified copies of one of the charging documents specified in the extradition law and any warrant that has been issued based upon those charges. This application is sent directly to the governor of the demanding state, who then generally forwards it to the attorney general for approval as to its legal sufficiency. If the application is in proper legal form, the attorney general indicates his approval to the governor and the governor then executes his formal requisition upon the asylum state governor. (UCEA, § 23.)
9. When the formal requisition is received by the asylum state governor, he generally also forwards it to his attorney general for advice on its legal sufficiency. If the requisition is in proper form, the asylum state governor then issues his warrant of rendition, commanding the