

TITLE 19
CRIMINAL PROCEDURE

CHAPTER 45
PROCEEDINGS AGAINST FUGITIVES FROM JUSTICE

19-4501. DEFINITIONS. Where appearing in this chapter:

- (1) The term "executive authority" includes the governor, and any person performing the functions of governor in a state other than this state;
- (2) The term "governor" includes any person performing the functions of governor by authority of the law of this state; and
- (3) The term "state" refers to a state other than this state, and includes any other state or territory, organized or unorganized, of the United States of America.

[(19-4501) 1927, ch. 29, sec. 1, p. 31; I.C.A., sec. 19-4601; am. 2008, ch. 136, sec. 1, p. 386.]

19-4502. FUGITIVES FROM JUSTICE -- DUTY OF GOVERNOR. Subject to the provisions of this chapter, and 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 is found in this state.

[(19-4502) 1927, ch. 29, sec. 2, p. 31; I.C.A., sec. 19-4602; am. 2008, ch. 136, sec. 2, p. 386.]

19-4503. FORM OF DEMAND. 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 [19-4506](#), Idaho Code, 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. Such demand must be accompanied by a copy of an indictment or by information supported by affidavit of probable cause, judicial finding of probable cause, or plea of guilty, as reflected in any document from the court in the demanding state, or by affidavit made before a judge or magistrate, together with a copy of any warrant which was issued thereupon, or by a copy of a judgment of conviction or sentence imposed in execution thereof, together with a statement by the executive authority of the demanding state that the person claimed has fled the state after being charged with a crime, escaped from confinement, or has broken the terms of his bail, probation or parole. The indictment, information, or affidavit made before the judge or 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, or judgment of conviction or sentence must be authenticated by the executive authority making the demand.

[(19-4503) 1927, ch. 29, sec. 3, p. 31; I.C.A., sec. 19-4603; am. 2008, ch. 136, sec. 3, p. 386.]

19-4504. GOVERNOR MAY INVESTIGATE CASE. 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.

[(19-4504) 1927, ch. 29, sec. 4, p. 31; I.C.A., sec. 19-4604.]

19-4506. EXTRADITION OF PERSONS NOT PRESENT IN DEMANDING STATE AT TIME OF COMMISSION OF 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 [19-4503](#), Idaho Code, 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.

[(19-4506) 1927, ch. 29, sec. 6, p. 31; I.C.A., sec. 19-4606; am. 1983, ch. 130, sec. 2, p. 326; am. 2008, ch. 136, sec. 5, p. 387.]

19-4507. ISSUE OF GOVERNOR'S WARRANT OF ARREST -- RECITALS. 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.

[(19-4507) S.L. 1927, ch. 29, sec. 7, p. 31; I.C.A., sec. 19-4607; am. 2008, ch. 136, sec. 6, p. 387.]

19-4508. MANNER AND PLACE OF EXECUTION -- FACSIMILE AND ELECTRONIC SERVICE. (1) 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 chapter, to the duly authorized agent of the demanding state.

(2) A certified copy of the warrant, signed by the governor, may be sent via facsimile or in electronic format, to be executed pursuant to subsection (1) of this section.

[(19-4508) 1927, ch. 29, sec. 8, p. 31; I.C.A., sec. 19-4608; am. 2008, ch. 136, sec. 7, p. 387.]

19-4509. AUTHORITY OF ARRESTING 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.

[(19-4509) 1927, ch. 29, sec. 9, p. 31; I.C.A., sec. 19-4609; am. 2008, ch. 136, sec. 8, p. 388.]

19-4510. RIGHTS OF ACCUSED PERSON -- APPLICATION FOR WRIT OF HABEAS CORPUS. No person arrested upon such warrant shall be delivered over to the appointed agent for the executive authority demanding him unless he shall first be taken forthwith before a judge or magistrate 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; if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the judge or magistrate 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.

[(19-4510) 1927, ch. 29, sec. 10, p. 31; I.C.A., sec. 19-4610; am. 2008, ch. 136, sec. 9, p. 388.]

19-4511. PENALTY FOR NONCOMPLIANCE WITH SECTION [19-4510](#), IDAHO CODE. Any officer who shall deliver to the agent of the demanding state a person in his custody for extradition under the governor's warrant, in willful disobedience to section [19-4510](#), Idaho Code, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one thousand dollars (\$1,000), or be imprisoned not more than six (6) months, or both.

[(19-4511) 1927, ch. 29, sec. 11, p. 31; I.C.A., sec. 19-4611; am. 2008, ch. 136, sec. 10, p. 388.]

19-4512. CONFINEMENT IN JAIL WHEN NECESSARY. The officer or person 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; 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.

[(19-4512) 1927, ch. 29, sec. 12, p. 31; I.C.A., sec. 19-4612; am. 2008, ch. 136, sec. 11, p. 388.]

19-4513. ARREST PRIOR TO REQUISITION. (1) Except in cases arising under section [19-4506](#), Idaho Code, a 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 or magistrate which may be available in or of convenient access to the place where the arrest may be made, to answer to the charge or complaint and affidavit:

(a) Whenever any person within this state is 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 has fled from justice, or

has been convicted of a crime in that state and has escaped from confinement, or has broken the terms of his bail, probation or parole; or

(b) Whenever complaint is 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 has fled from justice, or has been convicted of a crime in that state and has escaped from confinement, or has broken the terms of his bail, probation or parole and is believed to be in this state.

(2) A certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

[19-4513, added 2008, ch. 136, sec. 13, p. 389.]

19-4514. ARREST WITHOUT A WARRANT. The arrest of a person may be lawfully made 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 (1) year. 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 grounds for the arrest as provided in section [19-4513](#), Idaho Code, and thereafter his answer shall be heard as if he had been arrested on a warrant.

[19-4514, added 1979, ch. 228, sec. 3, p. 627; am. 2008, ch. 136, sec. 14, p. 389.]

19-4515. COMMITMENT TO AWAIT REQUISITION -- BAIL. 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 [19-4506](#), Idaho Code, 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 thirty (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 gives bail as provided in section [19-4516](#), Idaho Code, or until he shall be legally discharged.

[19-4515, added 2008, ch. 136, sec. 16, p. 390.]

19-4516. BAIL -- IN WHAT CASES -- CONDITIONS OF BOND. 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 specified in such bond, and for his surrender, to be arrested upon the warrant of the governor of this state.

[(19-4516) 1927, ch. 29, sec. 16, p. 31; I.C.A., sec. 19-4616; am. 2002, ch. 130, sec. 1, p. 360; am. 2008, ch. 136, sec. 17, p. 390.]

19-4517. EXTENSION OF TIME OF COMMITMENT. If the accused is not arrested under warrant of the governor by the expiration of the time specified

in the warrant or bond, as provided in section [19-4515](#), Idaho Code, a judge or magistrate may discharge him or may recommit him for a further period not to exceed sixty (60) days, or a judge or magistrate may again take bail for his appearance and surrender, as provided in section [19-4516](#), Idaho Code, but within a period not to exceed sixty (60) days after the date of such new bond.

[(19-4517) 1927, ch. 29, sec. 17, p. 31; I.C.A., sec. 19-4617; am. 2008, ch. 136, sec. 18, p. 390.]

19-4518. FORFEITURE OF BAIL. 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 is within the state. Recovery may be had on such bond in the name of this state, as in the case of other bonds given by the accused in criminal proceedings within this state.

[(19-4518) 1927, ch. 29, sec. 18, p. 31; I.C.A., sec. 19-4618; am. 2008, ch. 136, sec. 19, p. 391.]

19-4519. PERSONS UNDER CRIMINAL PROSECUTION IN THIS STATE AT TIME OF REQUISITION. 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 such person 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.

[(19-4519) 1927, ch. 29, sec. 19, p. 31; I.C.A., sec. 19-4619; am. 2008, ch. 136, sec. 20, p. 391.]

19-4520. GUILT OR INNOCENCE OF ACCUSED -- WHEN INQUIRED INTO. 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 is presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

[(19-4520) 1927, ch. 29, sec. 20, p. 31; I.C.A., sec. 19-4620; am. 2008, ch. 136, sec. 21, p. 391.]

19-4521. GOVERNOR MAY RECALL WARRANT OR ISSUE ALIAS. The governor may recall his warrant of arrest or may issue another warrant whenever he deems proper.

[(19-4521) 1927, ch. 29, sec. 21, p. 31; I.C.A., sec. 19-4621; am. 2008, ch. 136, sec. 22, p. 391.]

19-4522. FUGITIVES FROM THIS STATE -- DUTY OF GOVERNOR. Whenever the governor of this state shall demand a person charged with crime, 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, or other official 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 and convey him

to the proper officer of the county in this state in which the offense was committed.

[(19-4522) 1927, ch. 29, sec. 22, p. 31; I.C.A., sec. 19-4622; am. 1990, ch. 314, sec. 1, p. 859; am. 2008, ch. 136, sec. 23, p. 391.]

19-4523. APPLICATION FOR ISSUANCE OF REQUISITION -- BY WHOM MADE -- CONTENTS. (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, and 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 director of the commission of pardons and parole, or the director of the department of correction or his designee, or head of any institution or facility operated by or under contract with the department of correction, 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, and 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 (2) 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 sentence. The prosecuting officer, director of the department of correction or his designee, or head of any institution or facility operated by or under contract with the department of correction, may also attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted with such application. One (1) copy of the application, with the action of the governor indicated by endorsement thereon, and one (1) of the certified copies of the indictment, complaint, information and affidavits, or of the judgment of conviction or 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.

[(19-4523) 1927, ch. 29, sec. 23, p. 31; I.C.A., sec. 19-4623; am. 1990, ch. 314, sec. 2, p. 859; am. 2002, ch. 28, sec. 1, p. 35; am. 2008, ch. 136, sec. 24, p. 392.]

19-4524. IMMUNITY FROM SERVICE OF PROCESS IN CERTAIN CIVIL ACTIONS. 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 for 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.

[(19-4524) 1927, ch. 29, sec. 24, p. 31; I.C.A., sec. 19-4624; am. 2008, ch. 136, sec. 25, p. 393.]

19-4525. NO RIGHT OF ASYLUM -- NO IMMUNITY FROM OTHER CRIMINAL PROSECUTION WHILE IN THIS STATE. 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.

[(19-4525) 1927, ch. 29, sec. 25, p. 31; I.C.A., sec. 19-4625; am. 2008, ch. 136, sec. 26, p. 393.]

19-4526. INTERPRETATION. The provisions of this chapter shall be so interpreted and construed as to effectuate the general purposes to make uniform the law of those states which enact it.

[(19-4526) 1927, ch. 29, sec. 26, p. 31; I.C.A., sec. 19-4626; am. 2008, ch. 136, sec. 27, p. 393.]

19-4528. COSTS AND EXPENSES. When the governor of this state, in the exercise of the authority conferred by section 2 of article 4 of the Constitution of the United States, or by the laws of this state, demands from the executive authority of any state or territory of the United States, or of any foreign government, the surrender to the authorities of this state of a fugitive from justice, who has been found and arrested in such state, territory, or foreign government, the accounts of the person employed by him to bring back such fugitive must be audited by the board of examiners and paid out of the state treasury, provided that in any case where a person against whom criminal proceedings are pending in any court of this state is to be brought into this state for such proceedings, whether with or without any demand or proceedings by the governor of this state and there is no appropriation of state funds available for the purpose at the time, reasonable compensation for the services of any person employed to bring the defendant in such criminal proceedings to this state and his expenses and the expenses on the account of the said defendant may be allowed and paid at the discretion of the board of county commissioners of the county where such criminal proceedings are pending from the general fund of said county, but no compensation for services as distinguished from expenses other than the regular salary shall be allowed any sheriff or deputy sheriff from either state or county funds.

[(19-4528) R.S., sec. 8425; am. R.C. & C.L., sec. 8425; C.S., sec. 9348; am. 1927, ch. 44, sec. 1, p. 59; I.C.A., sec. 19-4631; am. 2008, ch. 136, sec. 29, p. 393.]

19-4529. EXTRADITION OF PERSONS IMPRISONED OR CHARGED IN ANOTHER STATE OR WHO HAVE LEFT DEMANDING STATE INVOLUNTARILY -- AUTHORIZED SIGNATURE OF GOVERNOR. (1) 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.

(2) 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 [19-4523](#), Idaho Code, with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

(3) Any written, stamped, photocopied or electronic signature of the governor on documents executed pursuant to subsections (1) and (2) of this section, applied at his direction and under his supervision, is deemed to be the authorized signature of the governor.

[19-4529, added 2008, ch. 136, sec. 31, p. 394.]

19-4530. WRITTEN WAIVER OF EXTRADITION PROCEEDINGS. (1) Any person who is arrested in this state and who is charged with having committed a 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 [19-4507](#) and [19-4508](#), Idaho Code, and all other procedures incidental to extradition proceedings by executing or subscribing in the presence of a judge or magistrate of a court of record within this state a writing which states that he consents to return to the demanding state, except that before the waiver is executed or subscribed to by the person it is the duty of the judge or magistrate to inform the person of his right to the issuance or service of a warrant of extradition and the right to contest extradition by habeas corpus as provided in section [19-4510](#), Idaho Code.

(2) If the consent is duly executed, the judge or magistrate shall direct the officer who has custody of the person to deliver the person promptly to the accredited agent or agents of the demanding state and to deliver or cause to be delivered to the agent or agents a copy of the consent.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, a law enforcement agency holding a person who is alleged to have broken the terms of his probation, parole, bail or other release shall immediately deliver the person to the duly authorized agent of the demanding state without the requirement of a governor's warrant if all of the following apply:

(a) The person has signed a prior waiver of extradition as a term of his current probation, parole, bail or other release in the demanding state.

(b) The law enforcement agency holding the person has received both of the following:

(i) An authenticated copy of the prior waiver of extradition signed by the person.

(ii) A photograph and fingerprints properly identifying the person as the person who signed the waiver.

(4) The delivery of a fugitive to an agent of the demanding state does not constitute a waiver by this state of its right, power or privilege to regain custody of the person by extradition, detainer proceedings or other process for the purpose of trial, sentencing or punishment for any criminal offense charged against the person in this state.

(5) In any criminal proceeding wherein a court in this state has issued a warrant for the arrest of a person and that person was arrested in any other state, territory or possession of the United States, and that person waives extradition and consents to return to this state, the sheriff of the county where the warrant was issued may contract with an agent for the return of such person to this state, or the sheriff or his deputy may return such person to this state.

[19-4530, added 2008, ch. 136, sec. 32, p. 394.]

19-4531. SHORT TITLE. This chapter may be cited as the "Uniform Criminal Extradition Act."

[(19-4531) (19-4527) 1927, ch. 29, sec. 29, p. 31; I.C.A., sec. 19-4629; am. and redesign. 2008, ch. 136, sec. 28, p. 393.]