

## CHAPTER 106

---

**CRIMINAL LAW AND PROCEDURE**

---

**HOUSE BILL 04-1270**

BY REPRESENTATIVE(S) Stengel, Coleman, Hefley, Hoppe, and Romanoff;  
also SENATOR(S) Dyer, and Grossman.

**AN ACT****CONCERNING EXTRADITION PROCEEDINGS.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 16-19-118, Colorado Revised Statutes, is amended to read:

**16-19-118. Extension of time.** 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 of a district court ~~may discharge him or may~~ SHALL EITHER recommit him OR HER for a further period not to exceed sixty days or ~~a judge of a district court may~~ again take bail for his OR HER appearance and surrender, as provided in section 16-19-117, but within a period not to exceed sixty days after the date of the new bond.

**SECTION 2. Repeal.** 16-20-105, Colorado Revised Statutes, is repealed as follows:

**16-20-105. Limitation.** ~~Any proceeding initiated pursuant to this article shall be begun within one year after the flight referred to in this article.~~

**SECTION 3.** Article 19 of title 16, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**16-19-134. Securing the attendance of a defendant who is outside the United States.** (1) WHEN A CRIMINAL ACTION FOR AN OFFENSE COMMITTED IN THIS STATE IS PENDING IN A CRIMINAL COURT OF THIS STATE AGAINST A DEFENDANT WHO IS IN A FOREIGN COUNTRY WITH WHICH THE UNITED STATES HAS AN EXTRADITION TREATY, AND WHEN THE ACCUSATORY INSTRUMENT CHARGES AN OFFENSE THAT IS DECLARED IN THE TREATY TO BE AN EXTRADITABLE OFFENSE, THE DISTRICT ATTORNEY OF THE JUDICIAL DISTRICT IN WHICH THE OFFENSE WAS ALLEGEDLY COMMITTED MAY APPLY

---

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

TO THE GOVERNOR, REQUESTING HIM OR HER TO APPLY TO THE PRESIDENT OF THE UNITED STATES, TO INSTITUTE EXTRADITION PROCEEDINGS FOR THE RETURN OF THE DEFENDANT TO THIS COUNTRY AND STATE FOR THE PURPOSE OF PROSECUTION OF THE ACTION. THE DISTRICT ATTORNEY'S APPLICATION SHALL COMPLY WITH THE RULES, REGULATIONS, AND GUIDELINES ESTABLISHED BY THE GOVERNOR FOR SUCH APPLICATIONS AND SHALL BE ACCOMPANIED BY ALL OF THE ACCUSATORY INSTRUMENTS, AFFIDAVITS, AND OTHER DOCUMENTS REQUIRED BY THE GOVERNOR'S RULES, REGULATIONS, AND GUIDELINES.

(2) UPON RECEIPT OF THE DISTRICT ATTORNEY'S APPLICATION, THE GOVERNOR, IF SATISFIED THAT THE DEFENDANT IS IN THE FOREIGN COUNTRY IN QUESTION, THAT THE OFFENSE CHARGED IS AN EXTRADITABLE OFFENSE PURSUANT TO THE TREATY IN QUESTION, AND THAT THERE ARE NO FACTORS OR IMPEDIMENTS WHICH IN LAW MAY PRECLUDE SUCH AN EXTRADITION, MAY IN HIS OR HER DISCRETION SUBMIT AN APPLICATION, ADDRESSED TO THE SECRETARY OF STATE OF THE UNITED STATES, REQUESTING THAT THE PRESIDENT OF THE UNITED STATES INSTITUTE EXTRADITION PROCEEDINGS FOR THE RETURN OF THE DEFENDANT FROM THE FOREIGN COUNTRY. THE GOVERNOR'S APPLICATION SHALL COMPLY WITH THE RULES, REGULATIONS, AND GUIDELINES ESTABLISHED BY THE SECRETARY OF STATE OF THE UNITED STATES FOR SUCH APPLICATIONS AND SHALL BE ACCOMPANIED BY ALL OF THE ACCUSATORY INSTRUMENTS, AFFIDAVITS, AND OTHER DOCUMENTS REQUIRED BY SUCH RULES, REGULATIONS, AND GUIDELINES.

(3) NOTHING IN THIS SECTION SHALL PRECLUDE PROSECUTION IN ANOTHER COUNTRY OF A FUGITIVE FROM JUSTICE CHARGED WITH COMMITTING A CRIME IN COLORADO, IF THE OTHER COUNTRY OFFERS DOMESTIC PROSECUTION OF SUCH FUGITIVES AS AN ALTERNATIVE TO EXTRADITION. THIS INCLUDES, BUT IS NOT LIMITED TO, PROSECUTION IN MEXICO PURSUANT TO THE MEXICAN FEDERAL PENAL CODE.

(4) THE PROVISIONS OF THIS SECTION ALSO APPLY EQUALLY TO EXTRADITION OR ATTEMPTED EXTRADITION OF A PERSON WHO IS A FUGITIVE FOLLOWING THE ENTRY OF A JUDGMENT OF CONVICTION AGAINST HIM OR HER IN A CRIMINAL COURT OF THIS STATE.

**SECTION 4. Effective date - applicability.** This act shall take effect July 1, 2004, and shall apply to offenses committed on or after said date.

**SECTION 5. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 7, 2004