

CHAPTER 176

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 05-1206

BY REPRESENTATIVE(S) Balmer, Berens, Cloer, and Schultheis;
also SENATOR(S) Groff, Grossman, Teck, and Williams.

AN ACT**CONCERNING LIMITATIONS ON A FUGITIVE'S RIGHTS IN AN EXTRADITION PROCEEDING.**

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

SECTION 1. 16-19-117 (1), Colorado Revised Statutes, is amended to read:

16-19-117. Bail pending extradition. (1) 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 or territory or country in which it is alleged to have been committed, OR HAVING BEEN CONVICTED OF A CRIME IN THE DEMANDING STATE, THE FUGITIVE IS ALLEGED TO HAVE ESCAPED FROM CUSTODY OR CONFINEMENT IN THE DEMANDING STATE OR TO HAVE VIOLATED THE TERMS OF HIS OR HER BAIL, PROBATION, PAROLE, OR SENTENCE, OR THE FUGITIVE HAS EXECUTED A WRITTEN WAIVER OF EXTRADITION PURSUANT TO SECTION 16-19-126, the judge of any district court within the state of Colorado may admit any person arrested, held, or detained for extradition or interstate rendition to another state or territory of the United States or to any foreign country, to bail by bond or undertaking, with such sufficient sureties and in such sum as such judge deems proper, conditioned upon the appearance of such person before the court at a time specified in the bond or undertaking and for such person's surrender upon the warrant of the governor of this state for such person's extradition or interstate rendition to another state or territory of the United States or to any foreign country. When any such person has been served with a governor's warrant, such person shall no longer be eligible to be admitted to bail.

SECTION 2. 16-19-126 (1), Colorado Revised Statutes, is amended, and the said 16-19-126 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

16-19-126. Written waiver of extradition. (1) Any person arrested in this state

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

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 sections 16-19-108 and 16-19-109 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 AND ACKNOWLEDGING THAT HE OR SHE SHALL NOT BE ADMITTED TO BAIL; but before the waiver is executed or subscribed by such person it is the duty of the 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 section 16-19-111.

(3) A FUGITIVE SHALL NOT BE PERMITTED TO WITHDRAW A WAIVER OF EXTRADITION UNLESS THE FUGITIVE MAKES A SHOWING OF GOOD CAUSE FOR THE WITHDRAWAL OF THE WAIVER OF EXTRADITION. THE FUGITIVE SHALL PROVIDE THE COURT, GOVERNOR, AND DISTRICT ATTORNEY WITH THE REQUEST TO WITHDRAW THE WAIVER OF EXTRADITION STATING THE REASONS FOR WITHDRAWING THE WAIVER. IF THE COURT GRANTS THE WITHDRAWAL, IT SHALL PROVIDE THE GOVERNOR WITH AN ORDER PERMITTING THE WITHDRAWAL OF THE WAIVER OF EXTRADITION. A JUDGE SHALL COMMIT A FUGITIVE WHO IS PERMITTED TO WITHDRAW HIS OR HER WAIVER OF EXTRADITION TO THE COUNTY JAIL WITHOUT BOND FOR A SPECIFIED PERIOD OF TIME, OF NOT LESS THAN THIRTY DAYS AND NOT MORE THAN NINETY DAYS, AS WILL ENABLE THE ARREST OF THE ACCUSED TO BE MADE UNDER WARRANT OF THE GOVERNOR OR ON A REQUISITION OF THE EXECUTIVE AUTHORITY OF THE STATE HAVING JURISDICTION OF THE OFFENSE.

SECTION 3. 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: May 27, 2005