

## HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 653 (R.S. § 5272).  
Changes were made in phraseology and surplusage was deleted.

**§ 3187. Provisional arrest and detention within extraterritorial jurisdiction**

The provisional arrest and detention of a fugitive, under sections 3042 and 3183 of this title, in advance of the presentation of formal proofs, may be obtained by telegraph upon the request of the authority competent to request the surrender of such fugitive addressed to the authority competent to grant such surrender. Such request shall be accompanied by an express statement that a warrant for the fugitive's arrest has been issued within the jurisdiction of the authority making such request charging the fugitive with the commission of the crime for which his extradition is sought to be obtained.

No person shall be held in custody under telegraphic request by virtue of this section for more than ninety days.

(June 25, 1948, ch. 645, 62 Stat. 824.)

## HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 662d (Mar. 22, 1934, ch. 73, § 3, 48 Stat. 455).

Provision for expense to be borne by the demanding authority is incorporated in section 3195 of this title.

Changes were made in phraseology and arrangement.

**§ 3188. Time of commitment pending extradition**

Whenever any person who is committed for rendition to a foreign government to remain until delivered up in pursuance of a requisition, is not so delivered up and conveyed out of the United States within two calendar months after such commitment, over and above the time actually required to convey the prisoner from the jail to which he was committed, by the readiest way, out of the United States, any judge of the United States, or of any State, upon application made to him by or on behalf of the person so committed, and upon proof made to him that reasonable notice of the intention to make such application has been given to the Secretary of State, may order the person so committed to be discharged out of custody, unless sufficient cause is shown to such judge why such discharge ought not to be ordered.

(June 25, 1948, ch. 645, 62 Stat. 824.)

## HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 654 (R.S. § 5273).  
Changes in phraseology only were made.

**§ 3189. Place and character of hearing**

Hearings in cases of extradition under treaty stipulation or convention shall be held on land, publicly, and in a room or office easily accessible to the public.

(June 25, 1948, ch. 645, 62 Stat. 824.)

## HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 657 (Aug. 3, 1882, ch. 378, § 1, 22 Stat. 215).

First word "All" was omitted as unnecessary.

**§ 3190. Evidence on hearing**

Depositions, warrants, or other papers or copies thereof offered in evidence upon the hearing

of any extradition case shall be received and admitted as evidence on such hearing for all the purposes of such hearing if they shall be properly and legally authenticated so as to entitle them to be received for similar purposes by the tribunals of the foreign country from which the accused party shall have escaped, and the certificate of the principal diplomatic or consular officer of the United States resident in such foreign country shall be proof that the same, so offered, are authenticated in the manner required.

(June 25, 1948, ch. 645, 62 Stat. 824.)

## HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 655 (R.S. § 5271; Aug. 3, 1882, ch. 378, § 5, 22 Stat. 216).

Unnecessary words were deleted.

**§ 3191. Witnesses for indigent fugitives**

On the hearing of any case under a claim of extradition by a foreign government, upon affidavit being filed by the person charged setting forth that there are witnesses whose evidence is material to his defense, that he cannot safely go to trial without them, what he expects to prove by each of them, and that he is not possessed of sufficient means, and is actually unable to pay the fees of such witnesses, the judge or magistrate judge hearing the matter may order that such witnesses be subpoenaed; and the costs incurred by the process, and the fees of witnesses, shall be paid in the same manner as in the case of witnesses subpoenaed in behalf of the United States.

(June 25, 1948, ch. 645, 62 Stat. 825; Pub. L. 90-578, title III, § 301(a)(3), Oct. 17, 1968, 82 Stat. 1115; Pub. L. 101-650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

## HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 656 (Aug. 3, 1882, ch. 378, § 3, 22 Stat. 215).

Words "that similar" after "manner" were omitted as unnecessary.

## AMENDMENTS

1968—Pub. L. 90-578 substituted "magistrate" for "commissioner".

## CHANGE OF NAME

Words "magistrate judge" substituted for "magistrate" in text pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

## EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment of magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub. L. 90-578 on Oct. 17, 1968, see section 403 of Pub. L. 90-578, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

**§ 3192. Protection of accused**

Whenever any person is delivered by any foreign government to an agent of the United States, for the purpose of being brought within the United States and tried for any offense of which he is duly accused, the President shall

have power to take all necessary measures for the transportation and safekeeping of such accused person, and for his security against lawless violence, until the final conclusion of his trial for the offenses specified in the warrant of extradition, and until his final discharge from custody or imprisonment for or on account of such offenses, and for a reasonable time thereafter, and may employ such portion of the land or naval forces of the United States, or of the militia thereof, as may be necessary for the safe-keeping and protection of the accused.

(June 25, 1948, ch. 645, 62 Stat. 825.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 659 (R.S. § 5275).  
Words "crimes or" before "offenses" were omitted as unnecessary.

### § 3193. Receiving agent's authority over offenders

A duly appointed agent to receive, in behalf of the United States, the delivery, by a foreign government, of any person accused of crime committed within the United States, and to convey him to the place of his trial, shall have all the powers of a marshal of the United States, in the several districts through which it may be necessary for him to pass with such prisoner, so far as such power is requisite for the prisoner's safe-keeping.

(June 25, 1948, ch. 645, 62 Stat. 825.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 660 (R.S. § 5276).  
Words "jurisdiction of the" were omitted in view of the definition of United States in section 5 of this title.  
Minor changes only were made in phraseology.

#### EX. ORD. NO. 11517. ISSUANCE AND SIGNATURE BY SECRETARY OF STATE OF WARRANTS APPOINTING AGENTS TO RETURN FUGITIVES FROM JUSTICE EXTRADITED TO UNITED STATES

Ex. Ord. No. 11517, Mar. 19, 1970, 35 F.R. 4937, provided:  
WHEREAS the President of the United States, under section 3192 of Title 18, United States Code, has been granted the power to take all necessary measures for the transportation, safekeeping and security against lawless violence of any person delivered by any foreign government to an agent of the United States for return to the United States for trial for any offense of which he is duly accused; and

WHEREAS fugitives from justice in the United States whose extradition from abroad has been requested by the Government of the United States and granted by a foreign government are to be returned in the custody of duly appointed agents in accordance with the provisions of section 3193 of Title 18, United States Code; and

WHEREAS such duly appointed agents under the provisions of the law mentioned above, being authorized to receive delivery of the fugitive in behalf of the United States and to convey him to the place of his trial, are given the powers of a marshal of the United States in the several districts of the United States through which it may be necessary for them to pass with such prisoner, so far as such power is requisite for the prisoner's safekeeping; and

WHEREAS such warrants serve as a certification to the foreign government delivering the fugitives to any other foreign country through which such agents may pass, and to authorities in the United States of the powers therein conferred upon the agents; and

WHEREAS it is desirable by delegation of functions heretofore performed by the President to simplify and

thereby expedite the issuance of such warrants to agents in the interests of the prompt return of fugitives to the United States:

NOW, THEREFORE, by virtue of the authority vested in me by section 301 of Title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. The Secretary of State is hereby designated and empowered to issue and sign all warrants appointing agents to receive, in behalf of the United States, the delivery in extradition by a foreign government of any person accused of a crime committed within the United States, and to convey such person to the place of his trial.

SEC. 2. Agents appointed in accordance with section 1 of this order shall have all the powers conferred in respect of such agents by applicable treaties of the United States and by section 3193 of Title 18, United States Code, or by any other provisions of United States law.

SEC. 3. Executive Order No. 10347, April 18, 1952, as amended by Executive Order No. 11354, May 23, 1967, is further amended by deleting numbered paragraph 4 and renumbering paragraphs 5 and 6 as paragraphs 4 and 5, respectively.

RICHARD NIXON.

### § 3194. Transportation of fugitive by receiving agent

Any agent appointed as provided in section 3182 of this title who receives the fugitive into his custody is empowered to transport him to the State or Territory from which he has fled.

(June 25, 1948, ch. 645, 62 Stat. 825.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 663 (R.S. § 5279).  
Last sentence of said section 663, relating to rescue of such fugitive, was omitted as covered by section 752 of this title, the punishment provision of which is based on later statutes. (See reviser's note under that section.)

Minor changes were made in phraseology.

### § 3195. Payment of fees and costs

All costs or expenses incurred in any extradition proceeding in apprehending, securing, and transmitting a fugitive shall be paid by the demanding authority.

All witness fees and costs of every nature in cases of international extradition, including the fees of the magistrate judge, shall be certified by the judge or magistrate judge before whom the hearing shall take place to the Secretary of State of the United States, and the same shall be paid out of appropriations to defray the expenses of the judiciary or the Department of Justice as the case may be.

The Attorney General shall certify to the Secretary of State the amounts to be paid to the United States on account of said fees and costs in extradition cases by the foreign government requesting the extradition, and the Secretary of State shall cause said amounts to be collected and transmitted to the Attorney General for deposit in the Treasury of the United States.

(June 25, 1948, ch. 645, 62 Stat. 825; Pub. L. 90-578, title III, § 301(a)(3), Oct. 17, 1968, 82 Stat. 1115; Pub. L. 101-650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 662, 662c, 662d, 668 (R.S. § 5278; Aug. 3, 1882, ch. 378, § 4, 22 Stat. 216; June 28,