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ADMINISTRATIVE REGULATION
NUMBER

415

OPR: CENTRAL RECORDS DIVISION

PROCEDURES TO FACILITATE "LOAN" OF INMATES TO OTHER STATES NOT A PARTY TO INTERSTATE AGREEMENT ON DETAINERS

I. GENERAL

This Alabama Department of Corrections (ADOC) Administrative Regulation (AR) establishes procedures and responsibility for processing requests from out of state for borrowing Alabama Department of Corrections (ADOC) inmates for court proceedings and to facilitate return to continue serving their ADOC sentence.

II. POLICY

It is the policy of the ADOC to "loan" inmates to a state where criminal charges are pending in accordance with all applicable rules of criminal and civil procedure.

III. DEFINITION(S) AND ACRONYM(S)

- A. **Extradition**: the procedure by which ADOC, upon formal request by another state, "loans" an inmate charged with a crime in that state.
- B. **Warrant**: a legal order issued by the Governor's Office to extradite an inmate from one state to another.
- C. **Waiver of Extradition**: a voluntary waiver signed by an inmate relinquishing his/her right to an extradition hearing in which he/she can dispute the legality of the extradition warrant.

IV. RESPONSIBILITIES

- A. The Director of Central Records is responsible for examining all legal documents received, insuring completeness of extradition requests and

coordinating physical movement of inmates to and from the out-of-state agencies.

- B. Wardens/designees are responsible for ensuring full cooperation with the Director of Central Records in preparing waivers, receipts, or memorandums, and for ensuring that the forms are furnished to the Director of Central Records prior to, during, and upon return of subject to custody of their facilities.

V. **PROCEDURES**

- A. The following are procedures applicable to the processing of inmates requested by extradition documentation and loaned by the ADOC for the purpose of court proceedings in another state, whether as a witness or as a defendant.
- B. Action for normal extradition must be initiated through the office of the Governor of the “borrowing state” and processed through the office of the Governor of the State of Alabama. Basic extradition papers must include an Executive Agreement from the “borrowing state” to the Governor of Alabama.
- C. When the Director of Central Records receives the completed documents from the Governor’s Office, they are forwarded to the head of the facility where the inmate is incarcerated. (See Annex A) An information copy of the forwarding letter is sent to the requesting agency.
- D. The Warden/Designee informs the inmate in the presence of three (3) witnesses of the demand made for him/her and the crime for which he/she is charged. The inmate must also be informed by the Warden/designee that he has a right to legal counsel. (See Annex B)
- E. Upon receipt of the extradition request the Director of Central Records will place a detainer in effect against the inmate (if inmate has a case pending) in favor of requesting agency, based upon the warrant contained in the extradition request. (See Annex C)
- F. A judicial hearing will be scheduled by the Warden/Designee with the circuit court nearest the facility where the inmate is incarcerated. The inmate will not be permitted to waive initial court appearance and any agreement for a temporary transfer of custody will be executed in Court. (See Annex D, Waiver of Extradition).
- G. If the inmate agrees, in the presence of a judge, to waive extradition, the borrowing state authorities are notified of his/her agreement. One copy of the executed waiver is furnished by the Warden/Designee to the Director of

Central Records and the original is retained at the facility to be given to the borrowing state authorities at the time of pickup. Upon receipt of the signed waiver, the Director of Central Records will contact the borrowing state agency to facilitate coordination of pickup of subject from facility.

- H. If the inmate refuses to sign Waiver of Extradition and Court proceedings concluded in which subject is remanded to the custody of the borrowing state, the Warden/designee of the facility will immediately notify the Central Records Director so subsequent administrative and coordinating actions may be accomplished.
1. At time of pickup, Warden/designee will require out of state agents to sign receipt for inmate indicating name, race, sex, Alabama Inmate State Number (AIS#) and date picked up. Receipt will reiterate that upon completion of court proceedings, subject must be returned to that same facility. The original receipt will be scanned into inmate's repository file and forwarded to Central Records Director and one copy of receipt (as suspense copy) shall be placed in subject's institutional file.
 2. At time of pickup, originals of extradition documents (Governor's warrant) will be given to the agents from the borrowing state.
 3. When the inmate is received back at the facility from which loaned Warden/designee will furnish written memorandum to the Central Records Director containing the same information as Paragraph G and indicating the date subject was physically received back at the facility and from where.
- I. All inmates thus "loaned" to an out of state agency, must be returned to the facility of the ADOC where the inmate was assigned or picked up. All costs involved in the "loan" of an inmate, are to be borne by the requesting agency, not the ADOC. This must be stated, agreed to, and contained in the text of the Governor-to-Governor Executive Agreement.

VI. DISPOSITION

Any forms used will be disposed of and retained according to the Departmental Records Disposition Authority (RDA).

VII. FORMS

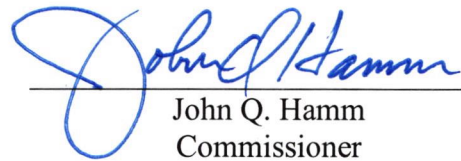
There are no forms prescribed for this AR.

VIII. SUPERSEDES

This Administrative Regulation supersedes AR 415, *Procedure to Facilitate "Loan" of Inmates to Other States not a Party to Interstate Agreement on Detainers*, March 14, 1985, and any changes.

IX. PERFORMANCE

Code of Alabama 1975 as amended, title 15, section 57, 15-9-30, 15-9-31, 15-9-33, 15-9-34.



John Q. Hamm
Commissioner

ANNEX('S):

1. Annex A, Form Letter to Warden
2. Annex B, Information of Rights
3. Annex C, Form Letter, Detainer Placement
4. Annex D, Waiver of Extradition (amended for loan-out)

Date

Warden
Correctional Facility

RE: _____ (inmate name)_
AIS# _____
Date of birth: _____
Race & sex: _____

Dear Sir or Madame:

Enclosed are documents to be served on the above-named prisoner regarding lending him to the State of _____ for trial and upon completion of court proceedings of returning him back to the State of Alabama to continue sentence serving.

I call your attention to the provision of Section 15-9-38, Code of Alabama 1975, which requires that the prisoner be informed of the demand made for him and of the crime for which he is charged and that he has a right to demand legal counsel.

The prisoner should be taken before the court as soon as possible for arraignment on said charges. Please contact the circuit court clerk nearest your institution to obtain a date and time for the hearing. Once a hearing date has been established, an officer from your institution should take the prisoner to court for his arraignment. The officer should provide the court with the original Governor's warrant and supporting documentation.

The court should inform the prisoner that a demand has been made for his rendition to the demanding state and the governor has issued a warrant commanding the rendition. The prisoner must be advised that he has a right to the assistance of counsel and that, if he desires to challenge the legality of the extradition, a reasonable time will be allowed in which to file a petition for writ of habeas corpus.

Once an order has been issued by the judge on this matter, please forward a copy of the order to this office so we may notify the State of _____ authorities to take custody.

If you have any questions regarding this matter, please contact me.

Sincerely,

Director
Central Records Division

Encl: 1. Waiver of Extradition
2. Set of documents for delivery to court and State of _____ authorities

CC: Inmate file

ANNEX A to AR 415

INFORMATION OF RIGHTS

You are hereby advised that under extradition statutes the Governor of Alabama has received a request from the Governor of the State of _____ for your return to the State. Pursuant to that request the Governor of Alabama has issued a rendition warrant for your return to the State of _____ .

Therefore, pursuant to Title 15, Chapter 9, Section 38, Code of Alabama 1975, you are hereby informed of the following:

1. A demand has been made for your surrender to the State of _____ .
2. You are charged with the crime of _____ in the State of _____ .
3. You have the right to file a petition for writ of habeas corpus to contest the legality of your arrest under the Governor’s warrant.
4. If you cannot afford to hire an attorney, one will be appointed to represent you.

If you, your friends or your attorney state that you wish to test the legality of your arrest under the Governor’s warrant, a reasonable time will be fixed within which you may apply for writ of habeas corpus. However, if you, your friends or attorney do not state that you desire to apply for writ of habeas corpus or do not file a petition for writ of habeas corpus within thirty (30) days after being informed of these above state rights, it shall be construed to mean that you do not desire to file a petition for writ of habeas corpus and that you waive such right. In the event you do waive the filing of a habeas corpus petition, the authorities in the demanding state will be notified and you will be transferred to the custody of the agents of the State of _____ .

Do you understand your rights as they have been explained to you?

I hereby certify that _____ (inmate name) , AIS# _____ has read or had read to him the above Information of Rights and that he understands his rights. No promises, threats, pressure or coercion of any kind has been used against him.

Signed: _____

Date: _____

Witness: _____

Witness: _____

Witness: _____

ANNEX B to AR 415

STATE OF ALABAMA
DEPARTMENT OF CORRECTIONS
CENTRAL RECORDS DIVISION
301 SOUTH RIPLEY STREET
MONTGOMERY, AL 36104

DATE:

TO:

RE: _____
AIS#: _____ RACE & SEX: _____
CHARGE(S): _____

(inmate name)
DATE OF BIRTH: _____
CASE NUMBER: _____

Dear Sir or Madame:

As you have requested, we have placed a holdover against subject and will notify your office approximately thirty (30) days before date of his release so you may arrange to take custody.

By copy of this notification, the Warden having physical custody of the inmate is instructed to inform the inmate of the source and content of your detainer and to give subject a copy attached. Additionally, the Warden has been instructed to advise the inmate that he may request final disposition of any untried indictment, information or complaint by writing the court and district attorney where these charges are pending. If charges against this subject are withdrawn prior to the expiration of his penitentiary sentence, request you advise this office.

Current Minimum Release Date (MRD):

Inmate has no additional detainers currently in effect.

Very truly yours,

Director
Central Records Division

Inmate Records Administration

By: _____
Detainer Clerk

cc: Warden/Dir/Supt:
Inmate Central File

ANNEX C to AR 415

STATE OF ALABAMA)
)
COUNTY OF MONTGOMERY)

WAIVER OF EXTRADITION

I, _____ (inmate name), AIS# _____, hereby freely and voluntarily agree to accompany officials of the State of _____, _____ County, as a prisoner from the _____ Correctional Facility, in the City of Montgomery, State of Alabama, for the purpose of answering to the charge of _____ there pending against me.

Furthermore, I hereby waive all formality and am willing to return to the State of _____ with the said officials without the governor's requisition or any other papers legally necessary in such causes and exonerate the State of Alabama from any blame, compulsion or interference in this connection.

I, _____ (inmate name), hereby freely and voluntarily agree to be tried in the State of _____ and upon completion of trial agree to accompany officers back to the State of Alabama to complete serving my sentence.

This waiver is being signed upon my free desire without compulsion from any authorities whatsoever.

Done this _____ day of _____, 20 ____.

Inmate Signature

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 20 ____.

NOTARY PUBLIC
My commission expires: _____

JUDGE

ANNEX D to AR 415

PLEASE NOTE THAT DURING THE HABEAS CORPUS HEARING, THE COURT WILL NOT INQUIRE INTO YOUR GUILT OR INNOCENCE.

THE COURT WILL ONLY CONSIDER:

- A. That the information, complaint, or indictment substantially charges the person demanded with having committed a crime under the law of the demanding state.
- B. That the documents submitted by the demanding state are in legal form.
- C. That the identity of the person has been established by the demanding state.

_____ I do not elect to file a Petition for Writ of Habeas Corpus to contest the legality of the extradition warrant and I wish to be transferred immediately to the State of _____ for trial.

(Inmate Signature)

_____ I elect to go before a court of record and apply for Writ of Habeas Corpus.

(Inmate Signature)

NOTE: INMATE'S INITIAL COURT APPEARANCE MUST NOT BE WAIVED.

DATED _____

Inmate Name

AIS#

WITNESS: _____

(Name and Title)

(Date)

WITNESS: _____

(Name and Title)

(Date)

Example

Date:

To: Warden
_____ Correctional Facility

From: Director
Central Records Division

Subject: Extradition of _____ (inmate name)
AIS# _____
Race & sex: _____
Date of birth: _____
To the State of _____

Attached are the original extradition documents for the "loan" of inmate _____
(inmate name) from your facility to the State of _____ .

The Governor's Warrant should be taken to court for the prisoner's initial court appearance.
Once the prisoner has been ordered released to the custody of the State of _____
authorities, this warrant should be given to the State of _____ authorities at the time
they assume custody from your facility.

A copy of the Governor's Warrant has been scanned into the prisoner's repository file.

Attachment

Example

ATTENTION: COURT

AN ORDER SIMILAR TO THE ONE ATTACHED MUST BE ISSUED IF SUBJECT DOES NOT CONTEST THE LEGALITY OF GOVERNOR'S WARRANT. IF SUBJECT DOES CONTEST THE LEGALITY OF GOVERNOR'S WARRANT AND FILES A WRIT OF HABEAS CORPUS, UPON COMPLETION OF HABEAS CORPUS PROCEEDING, A SEPARATE ORDER MUST BE ISSUED REMANDING SUBJECT TO CUSTODY FOR PURPOSE OF DELIVERY TO THE DESIGNATED AGENTS OF THE STATE OR A STAY ORDER MUST BE ISSUED. PLEASE KEEP THIS OFFICE UPDATED ON THE STATUS OF THIS CASE.

SAMPLE ARRAIGNMENT ON GOVERNOR'S WARRANT

1. Case called.
2. "Is your true name _____?"
3. "Demand has been made for your return to the State of _____ to stand trial for the crime of _____ offense, committed in _____ County of that State. The Governor of Alabama has ordered that you be returned in accordance with that demand."
4. "Do you understand the charge and the reason you are in custody?"
5. "Do you understand that you have the right to have an attorney present at all stages of these proceedings, including this arraignment?"
6. "Are you represented by counsel?"
7. "Do you desire the assistance of counsel?"
8. "Do you have funds to employ counsel?"
9. If not, appoint public defender or other attorney and provide a copy of the Governor's warrant and any attachments.
10. "Do you wish to challenge the legality of the extradition warrant?"
11. If challenged: "Further proceedings in this matter will be heard on (*reasonable time to file – e.g., 10 days*) during which time you may file a petition for writ of habeas corpus in the superior court."
12. If no challenge: "Do you admit that you are the person named in the warrant?"
13. "Defendant is remanded to custody for the purpose of delivery to the designated agents of the State of _____. The district attorney/law enforcement officer is instructed to notify the appropriate persons in the State of _____ that they may appear to take custody of the fugitive."

IN THE CIRCUIT COURT OF _____ COUNTY, ALABAMA

STATE OF ALABAMA,)
)
 Plaintiff)
 vs.)
)
 _____(inmate name))
)
 Defendant)

CASE NO. _____

ORDER

_____ (inmate name) having appeared before this Court _____ (date) and having informed the Court that his true name is _____ (inmate name) and the Court having informed him that demand has been made for his return to the State of _____ to stand trial, and the Defendant having acknowledged to the Court that he/she is charged in that State with the crime of _____ in the County of _____, State of _____ and the Court having informed him that he has the right to have an attorney represent him and he having informed the court that he does not desire the assistance of counsel and does not wish to challenge the legality of the extradition warrant and admitting that he is the person named in the warrant, it is therefore;

ORDERED and ADJUDGED that the said _____ (inmate name) is remanded to custody for the purpose of delivery to the designated agents of the State of _____. The District Attorney and law enforcement officers are instructed to instruct the appropriate persons in the State of _____ that they may appear to take custody of him.

Entered this the _____ day of _____, 20__.

PRESIDING JUDGE

Example

MEMORANDUM

DATE:

TO: Sheriff, _____ County, State of _____

FROM: Director
Central Records Division

RE: _____ (inmate name)
AIS # _____

We are in receipt of a Governor's Warrant from your jurisdiction for return of _____ (inmate name) to _____ County, State of _____ to stand trial for the crime of _____. Inmate _____ is now available for your agents to take custody. Inmate _____ is currently housed at _____ Correctional Facility, _____ (facility address). Your contact person and phone number at _____ Correctional Facility is _____ (name and phone number of contact person). Please provide names of your agents and their ETA. Inmate _____ must be returned to _____ Correctional Facility upon completion of your court proceedings. Enclosed is copy of the Judge's order.

Example