

**FILED**

State of Arizona  
House of Representatives  
Forty-second Legislature  
Second Regular Session  
1996

Jane Dee Hull  
Secretary of State

CHAPTER 225

**HOUSE BILL 2011**

AN ACT

AMENDING SECTIONS 13-3841, 13-3856 AND 13-3859, ARIZONA REVISED STATUTES;  
AMENDING TITLE 13, CHAPTER 38, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING  
SECTIONS 13-3859.01 AND 13-3859.02; RELATING TO CRIMINAL EXTRADITION.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 13-3841, Arizona Revised Statutes, is amended to read:

13-3841. Definitions

In this article, unless the context otherwise requires:

1. "CHARGED WITH CRIME", "CRIMINAL CHARGE" OR "CRIMINAL OFFENSE" INCLUDES ANY OF THE FOLLOWING:

(a) A FELONY OR MISDEMEANOR OFFENSE.

(b) ESCAPE FROM CONFINEMENT OR THE CUSTODY OF ANY OF THE FOLLOWING:

(i) A LAW ENFORCEMENT OFFICER.

(ii) A CUSTODIAL OFFICIAL.

(iii) A CUSTODIAL AGENCY.

(iv) A CUSTODIAL INSTITUTION.

(c) BEING ACCUSED ON A WARRANT OF VIOLATING THE TERMS OF FEDERAL OR STATE SUPERVISION.

(d) BEING ACCUSED OF VIOLATING BAIL OR CONDITIONS OF RELEASE.

(e) THE CONVICTION OF A CRIME.

(f) HAVING AN UNSERVED REMAINING CRIMINAL SENTENCE.

(g) BEING SUBJECT TO THE DEATH PENALTY ON CRIMINAL CONVICTION.

2. "Governor" includes any person performing the functions of governor by authority of the law of this state.

1           ~~2-~~ 3. "Executive authority" includes the governor, and any person  
2 performing the functions of governor in a state other than this state.

3           ~~3-~~ 4. "State," when referring to a state other than this state, means  
4 any other state or territory, organized or unorganized, of the United States.

5           Sec. 2. Section 13-3856, Arizona Revised Statutes, is amended to read:  
6 13-3856. Bail; in what cases; conditions of bond

7           Unless the offense with which the ~~prisoner~~ PERSON is charged is ~~shown~~  
8 ~~to be a capital~~ AN offense, ~~where the proof is evident or the presumption~~  
9 ~~great,~~ THAT IS PUNISHABLE BY DEATH OR LIFE IMPRISONMENT under the laws of the  
10 state in which it was committed, OR THE PERSON IS ALLEGED TO HAVE ESCAPED  
11 FROM JAIL OR PRISON OR VIOLATED THE TERMS OF RELEASE FOLLOWING CONVICTION OF  
12 A CRIME THAT IS PUNISHABLE IN THE STATE OF CONVICTION BY IMPRISONMENT FOR A  
13 TERM EXCEEDING ONE YEAR, a judge or magistrate in this state ~~must~~ SHALL admit  
14 the person arrested to bail ~~or~~ BY bond or undertaking, with sufficient  
15 sureties, and in such sum as ~~he~~ THE COURT deems proper, conditioned ~~for his~~  
16 ON THE PERSON'S appearance before ~~him~~ THE COURT at ~~a time~~ ALL TIMES specified  
17 ~~in such bond or undertaking~~ BY THE COURT, and for ~~his~~ THE PERSON'S surrender,  
18 ~~to be arrested~~ upon the warrant of the governor OF THIS STATE. THIS SECTION  
19 DOES NOT PREVENT THE IMMEDIATE SERVICE OF THE GOVERNOR'S WARRANT THAT IS  
20 ISSUED PURSUANT TO SECTION 13-3847.

21           Sec. 3. Section 13-3859, Arizona Revised Statutes, is amended to read:  
22 13-3859. Persons under criminal prosecution in this state at  
23 time of requisition

24           A. If a criminal prosecution has been instituted against such person  
25 under the laws of this state and is still pending the governor, ~~at his~~  
26 ~~discretion,~~ either may surrender ~~him~~ THE PERSON on demand of the executive  
27 authority of another state or may hold ~~him~~ THE PERSON until ~~he~~ THE PERSON has  
28 been tried and discharged or convicted and punished in this state.

29           B. THIS ARTICLE DOES NOT CONSTITUTE A WAIVER BY THIS STATE OF ITS  
30 RIGHT, POWER OR PRIVILEGE TO TRY A DEMANDED PERSON FOR A CRIME THAT WAS  
31 COMMITTED IN THIS STATE OR TO REGAIN CUSTODY OF A DEMANDED PERSON BY  
32 EXTRADITION PROCEEDINGS OR OTHERWISE FOR THE PURPOSES OF TRIAL, SENTENCING  
33 OR PUNISHMENT FOR ANY CRIME THAT WAS COMMITTED IN THIS STATE. A PROCEEDING  
34 UNDER THIS ARTICLE THAT RESULTS OR FAILS TO RESULT IN EXTRADITION IS NOT A  
35 WAIVER BY THIS STATE OF ITS RIGHT, POWER OR PRIVILEGE.

36           Sec. 4. Title 13, chapter 38, article 5, Arizona Revised Statutes, is  
37 amended by adding sections 13-3859.01 and 13-3859.02, to read:

38 13-3859.01. Local criminal prosecution; continuance of status;  
39 time limits tolled

40           A. IF THIS STATE INITIATES CRIMINAL PROSECUTION UNDER THE LAWS OF THIS  
41 STATE AGAINST A PERSON WHO IS CHARGED PURSUANT TO SECTION 13-3853 OR 13-3854,  
42 THE LENGTH OF COMMITMENT RESTRICTIONS UNDER SECTIONS 13-3855 AND 13-3857 ARE  
43 TOLLED DURING THE PERIOD THAT THE CRIMINAL PROSECUTION IS PENDING DISPOSITION  
44 IN THIS STATE. THE ARIZONA COURT SHALL RETAIN JURISDICTION OVER THE FUGITIVE

1 MATTER AND SHALL CONTINUE IN EFFECT THE FUGITIVE RELEASE CONDITIONS UNTIL ONE  
2 OF THE FOLLOWING OCCURS:

- 3 1. THE LOCAL CRIMINAL PROSECUTION IS DISPOSED.
- 4 2. THE FUGITIVE MATTER IS VACATED PURSUANT TO SECTION 13-3859.02.
- 5 3. THE GOVERNOR ISSUES A DIRECTIVE PURSUANT TO SUBSECTION B OF THIS  
6 SECTION.

7 B. IF A FUGITIVE IS SENTENCED TO SERVE A TERM OF IMPRISONMENT IN A  
8 CORRECTIONAL FACILITY IN THE STATE DEPARTMENT OF CORRECTIONS OR COUNTY JAIL,  
9 ON THE GOVERNOR'S DIRECTIVE THE ARIZONA COURT HAVING JURISDICTION OF THE  
10 FUGITIVE MATTER SHALL VACATE THE PENDING PROCEEDINGS AND SHALL DIRECT THE  
11 SHERIFF TO PROVIDE WRITTEN NOTICE TO THE REQUESTING STATE OF THE TERM AND  
12 PLACE OF THE FUGITIVE'S IMPRISONMENT IN THIS STATE. THE FUGITIVE MATTER WILL  
13 THEN PROCEED PURSUANT TO SECTION 13-3859.02.

14 13-3859.02. Imprisonment; alternative methods of extradition

15 IF AFTER A LOCAL CRIMINAL PROSECUTION A FUGITIVE DEFENDANT IS SENTENCED  
16 TO SERVE A TERM OF IMPRISONMENT IN AN ARIZONA STATE PRISON OR COUNTY JAIL,  
17 THE COURT SHALL VACATE THE FUGITIVE PROCEEDINGS AND SHALL EXONERATE THE  
18 FUGITIVE BOND. AFTER THE PROCEEDINGS ARE VACATED AND THE BOND IS EXONERATED,  
19 EXCEPT FOR DEATH PENALTY CASES, SECTIONS 31-481 AND 31-482 APPLY. IF  
20 SECTIONS 31-481 AND 31-482 DO NOT APPLY, THE FUGITIVE MATTER IS GOVERNED BY  
21 ANY OTHER APPLICABLE PROCEDURE FOR THE RENDITION OR EXTRADITION OF FUGITIVES,  
22 SUBJECT TO SECTION 13-3859. THE DEFENDANT'S FUGITIVE STATUS IS NOT  
23 EXTINGUISHED BY THE SENTENCE OF IMPRISONMENT.

APPROVED BY THE GOVERNOR APRIL 20, 1996.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 22, 1996.