

**8 GCA CRIMINAL PROCEDURE
CH. 140 EXTRADITION**

**CHAPTER 140
EXTRADITION**

NOTE: 8 GCA Chapter 140 (§§ 140.10 - 140.70) was repealed and a new Chapter 140 (§§ 140.10 - 140.55) enacted by P.L. 17-47:1 and 2. Section 2 stated:

“Chapter 140 of Title 8 Guam Code Annotated is repealed, provided, however, that any extradition proceedings commenced under 8 GCA Chapter 140 shall be continued to their conclusion as if said Chapter had not been repealed.”

The terms Director of Public Safety and Department of Public Safety changed to Chief of Police and Guam Police Department respectively pursuant to P.L. 17-17:8.

Article 1. General Provisions.

Article 2. Proceedings Prior to Extradition & Rendition.

Article 3. Extradition.

Article 4. Rendition.

Article 5. Miscellaneous.

**ARTICLE 1
GENERAL PROVISIONS**

§ 140.10. Short Title.

§ 140.12. Definitions.

§ 140.14. Conditions of Release.

§ 140.16. Non-Waiver by Guam.

§ 140.10. Short Title.

This Chapter may be cited and referred to as the *Uniform Extradition and Rendition Act (1983)*.

§ 140.12. Definitions.

As used in this Chapter:

1. *Arrest warrant* means any document that authorizes a peace officer to take custody of a person.

2. *Certified copy* means a copy of a document accompanied by a statement of a custodian authorized by the law of a state to maintain that the copy of the document is a complete and true copy of an official record filed and maintained in a public office.

3. *Demanded person* means a person whose return to a demanding state is sought from another state by extradition under Article 3.

8 GCA CRIMINAL PROCEDURE
CH. 140 EXTRADITION

4. *Demanding state* means a state that is seeking the return of a person from another state through the process of extradition under Article 3.

5. *Executive authority* means the Chief Executive in a state other than Guam, a person performing the functions of Chief Executive, or a representative designated by the Chief Executive.

6. *Governor* means the Governor of Guam, any person performing the functions of Governor, or a representative designated by the Governor.

7. *Issuing authority* means any person who may issue or authorize the issuance of an arrest warrant.

8. *Requested person* means a person whose return to a requesting state is sought from another state by rendition under Article 4.

9. *Requesting state* means a state that is seeking the return of a person from another state through the process of rendition under Article 4.

10. *State* means any state of the United States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands and individual states and national entities within the Trust Territory of the Pacific Islands, both before and after the termination of the trusteeship and any other territories and possessions of the United States.

11. When a section number is referred to by number alone, such as "§ 140.12," it shall mean sections within this Title of the Guam Code Annotated.

§ 140.14. Conditions of Release.

The law of pretrial release, contained in Chapter 40 of this Title, governs release of a person pursuant to § 140.24, § 140.35, § 140.44 and § 140.50.

§ 140.16. Non-waiver by Guam.

This Chapter and proceedings under it are not exclusive and do not affect the authority of Guam to:

1. Try a demanded or requested person for a crime committed within Guam;

**8 GCA CRIMINAL PROCEDURE
CH. 140 EXTRADITION**

2. Take custody of a demanded or requested person by extradition or rendition proceedings for the purpose of trial, sentence or punishment for a crime committed in Guam;
3. Take custody of a person under other provisions of law, including interstate agreements; or
4. Release a person from custody upon any valid conditions.

ARTICLE 2

PROCEEDINGS PRIOR TO EXTRADITION & RENDITION

- § 140.20. Arrest Without Warrant.
§ 140.22. Issuance of Process or Arrest Warrant Before Receipt of Demand or Request.
§ 140.24. Appearance Prior to Receipt of Demand or Request.
§ 140.26. Extension of Time.

§ 140.20. Arrest Without Warrant.

(a) A peace officer may arrest a person without an arrest warrant upon probable cause to believe that the person is the subject of another state's arrest warrant issued for (i) commission of a crime punishable by death or imprisonment for a term exceeding one year, (ii) escape, or (iii) violation of any term of bail, probation, parole, or an order arising out of a criminal proceeding.

(b) The arrested person must be brought forthwith before a judge of the Superior Court.

(c) The judge of the Superior Court shall issue an order to continue custody or other process to assure the appearance of the person, if testimony or affidavit shows probable cause to believe the person is the subject of another state's arrest warrant issued for (i) the commission of a crime punishable by death or by imprisonment for a term exceeding one year, (ii) escape, or (iii) violation of any term of bail, probation, parole, or an order arising out of a criminal proceeding.

§ 140.22. Issuance of Process or Arrest Warrant Before Receipt of Demand or Request.

8 GCA CRIMINAL PROCEDURE
CH. 140 EXTRADITION

(a) Upon application of the Attorney General, a judge of the Superior Court shall authorize the issuance of an arrest warrant or other process to obtain the appearance of a person, if testimony or affidavit shows probable cause to believe:

1. The person is the subject of another state's arrest warrant issued for (i) the commission of a crime punishable by death or imprisonment for a term exceeding one year; (ii) escape, or (iii) violation of any term of bail, probation, parole, or order arising out of a criminal proceeding.

(b) Other process to obtain the appearance of a person must require the appearance before a judge of the Superior Court.

(c) The arrest warrant must require that the person be brought forthwith before a judge of the Superior Court.

§ 140.24. Appearance Prior to Receipt of Demand or Request.

(a) The judge shall inform the person appearing pursuant to § 140.20 or § 140.22 of:

1. The name of the other state that has subjected the person to an arrest warrant;
2. The basis for the arrest warrant in the other state;
3. The right to assistance of counsel; and
4. The right to require a judicial hearing under this Chapter before transfer of custody to the other state.

(b) After being informed by the judge of the effect of a waiver, the arrested person may waive the right to require a judicial hearing under this Chapter and consent to return to the other state by executing a written waiver in the presence of the judge. If the waiver is executed, the judge shall issue an order to transfer custody pursuant to § 140.50 or, with the consent of the official upon whose application the arrest warrant was issued in the other state, authorize the voluntary return of the person to that state.

(c) Unless a waiver is executed pursuant to Subsection (b), the judge shall (i) release the person upon conditions that will reasonably assure the availability of the person for arrest pursuant to § 140.34 or § 140.43, or (ii) direct a law enforcement officer to maintain custody of the person. Subject to § 140.26, the period of conditional release or custody may not exceed thirty (30) days.

§ 140.26. Extension of Time.

8 GCA CRIMINAL PROCEDURE
CH. 140 EXTRADITION

(a) If the person is not arrested pursuant to § 140.34 or 140.43 within the period specified in the arrest warrant or other process, the judge for good cause may issue further orders under § 140.24(c) for additional periods not exceeding sixty (60) days. Further extensions of orders may be requested by the person under § 140.24(c).

(b) If the person is not arrested pursuant to § 140.34 or § 140.43 within the time specified by the judge, the person may not be subjected to any further order in Guam under § 140.24(c). If the person is subsequently arrested in Guam under § 140.20 or § 140.22 on the basis of the same arrest warrant of the other state, the person may not be subjected to the issuance of orders under § 140.24(c) and must be released from custody. However, the person may be arrested thereafter pursuant to § 140.34 or § 140.43 of this Chapter.

ARTICLE 3
EXTRADITION

- § 140.30. Demand for Extradition.
- § 140.31. Supporting Documentation.
- § 140.32. Governor's Investigation.
- § 140.33. Extradition of Persons Imprisoned or Awaiting Trial.
- § 140.34. Governor's Warrant.
- § 140.35. Rights of Demanded Persons.
- § 140.36. Judicial Extradition Hearing.

§ 140.30. Demand for Extradition.

(a) The Governor may recognize a written demand by an executive authority for the extradition of a person, alleging that the person:

1. Is charged with a crime in the demanding state; or
2. Having been charged with or convicted of a crime in the demanding state has (i) escaped or (ii) violated any term of bail, probation, parole, or an order arising out of a criminal proceeding in the demanding state.

(b) The Governor may demand the extradition of a person from another state in accordance with the Constitution of the United States, or the Constitution of the national entities of the Trust Territory of the Pacific

8 GCA CRIMINAL PROCEDURE
CH. 140 EXTRADITION

Islands, both before and after termination of the trusteeship, and may comply with the requirements of the other state for recognition of a demand.

§ 140.31. Supporting Documentation.

The demand for extradition must be accompanied by a certified copy of an arrest warrant and one of the following:

1. A statement by the issuing authority that the arrest warrant was issued after a determination of probable cause to believe that a crime had been committed and that the demanded person committed the crime, together with a copy of the provisions of law defining the crime and fixing the penalty therefor;

2. A certified copy of the indictment or information upon which the arrest warrant is based;

3. A statement by the issuing authority that the arrest warrant was issued after a determination of probable cause to believe that the demanded person had violated any term of bail, probation, or an order arising out of a criminal proceeding; or

4. A certified copy of a judgment of conviction or a sentencing order accompanied by a statement by the issuing authority that the demanded person has escaped or violated any term of parole or probation.

§ 140.32. Governor's Investigation.

The Governor may:

1. Investigate the demand for extradition and the circumstances of the demanded person;

2. Request the Attorney General to investigate; or

3. Hold a hearing.

§ 140.33. Extradition of Persons Imprisoned or Awaiting Trial.

(a) If a demanded person is being prosecuted, is imprisoned, is on parole or probation, or is subject to an order arising out of a criminal proceeding in Guam, the Governor may:

1. Grant extradition;

2. Delay action; or

8 GCA CRIMINAL PROCEDURE
CH. 140 EXTRADITION

3. Agree with the executive authority of the demanding state to grant extradition upon conditions.

§ 140.34. Governor's Warrant.

(a) If the Governor decides to comply with the demand for extradition, he shall issue a warrant for the arrest and extradition of the demanded person. The Governor's warrant must recite the name of the state demanding extradition and the crime charged or other basis for the demand.

(b) The Governor may specify the time and manner in which the warrant is executed.

(c) At any time before the transfer of custody of the demanded person to the agent of the demanding state, the Governor may recall the warrant or issue another warrant.

(d) The warrant must be directed to any peace officer to require compliance with § 140.35.

(e) The law relating to assistance in the execution of other arrest warrants in Guam applies to the execution of the Governor's warrant.

§ 140.35. Rights of Demanded Persons.

(a) A person arrested under a Governor's warrant must be brought forthwith before a judge of the Superior Court who shall receive the warrant and inform the person of:

1. The name of the state demanding extradition;
2. The crime charged or other basis for the demand;
3. The right to assistance of counsel; and
4. The right to a judicial hearing under § 140.36.

(b) After being informed by the judge of the effect of a waiver, the demanded person may waive the right to a judicial hearing and consent to return to the demanding state by executing a written waiver in the presence of the judge. If the waiver is executed, the judge shall issue an order to transfer custody pursuant to § 140.50 of this Chapter or, with the consent of the executive authority of the demanding state, authorize the voluntary return of the person.

(c) If a hearing is not waived, the judge shall hold it within ten (10) days after the appearance. The demanded person and the Attorney General must be informed of the time and the place of the hearing. The judge shall

8 GCA CRIMINAL PROCEDURE
CH. 140 EXTRADITION

(i) release the person upon conditions that will reasonably assure the availability of the person for the hearing; or (ii) direct the Guam Police Department or the Director of Corrections to maintain custody of the person.

§ 140.36. Judicial Extradition Hearing.

(a) If the judge after hearing finds that the Governor has issued a warrant supported by the documentation required by § 140.30(a) and § 140.31, the judge shall issue an order to transfer custody pursuant to § 140.50 upon receipt of clear and convincing evidence that the arrested person is the demanded person.

(b) If the judge does not order transfer of custody, he shall order the arrested person to be released. If the agent of the demanded state has not taken custody within the time specified in the order to transfer custody, the demanded person must be released. Thereafter, an order to transfer custody may be entered only if a new arrest warrant is issued as a result of a new demand for extradition or a new request for rendition.

(c) An order to transfer custody is not appealable.

(d) An order denying transfer is appealable.

ARTICLE 4
RENDITION

§ 140.40. Request for Rendition.

§ 140.41. Supporting Documentation.

§ 140.42. Filing of Request.

§ 140.43. Issuance of Arrest Warrant or Process.

§ 140.44. Rights of Requested Person.

§ 140.45. Judicial Rendition Hearing.

§ 140.40. Request for Rendition.

(a) Subject to Subsections (b) and (c), Guam may grant a written request by an issuing authority of another state for the rendition of a person in Guam.

(b) The request may be refused if the requested person is:

8 GCA CRIMINAL PROCEDURE
CH. 140 EXTRADITION

1. Being prosecuted or is imprisoned in Guam for a criminal offense;

2. The subject of a pending proceeding in the juvenile court brought for the purpose of adjudicating the person to be a delinquent; or

3. In the custody of the Department of Youth Affairs pursuant to an order of disposition of the juvenile court as a delinquent child; or

4. Under the supervision of the juvenile court pursuant to informal adjustment or an order of disposition of the court.

(c) The request must allege that the person:

1. Is charged with a crime punishable in the requesting state by death or imprisonment for a term exceeding one (1) year in the requesting state; or

2. Having been charged with or convicted of a crime in the requesting state, has escaped or violated any term of bail, probation, parole, or an order arising out of a criminal proceeding in the requesting state.

(d) Upon application of the Attorney General of Guam, an issuing authority may request rendition of a person from another state and may comply with requirements of that state for the granting of the request. A corrections official who is also an issuing authority may request rendition from another state of a person described in Subsection (c)(2), and subject to the jurisdiction of the correction official.

§ 140.41. Supporting Documentation.

The request for rendition must be accompanied by a certified copy of the arrest warrant and one of the following:

1. A statement by the issuing authority that the arrest warrant was issued after a determination of probable cause to believe that a crime has been committed and the requested person committed the crime, together with a copy of the provisions of law defining the crime and fixing the penalty therefor;

2. A certified copy of the indictment or information upon which the arrest warrant is based;

3. A statement by the issuing authority that the warrant was issued after a determination of probable cause to believe that the requested

8 GCA CRIMINAL PROCEDURE
CH. 140 EXTRADITION

person had violated any term of bail, probation, or other judicial order arising out of a criminal proceeding; or

4. A certified copy of a judgment of conviction or a sentencing order accompanied by a statement by the issuing authority that the requested person has escaped or violated any term of parole.

§ 140.42. Filing of Request.

A request for rendition under § 140.40 of this Article must be filed with the Governor, who shall forward the request to the Attorney General. The Governor by written order may terminate the use of rendition at any time before the issuance of an order to transfer custody.

§ 140.43. Issuance of Arrest Warrant or Process.

Upon receipt of a request under § 140.42, the Attorney General shall apply to a judge of the Superior Court for the issuance of an arrest warrant, or other process, to obtain the appearance of the requested person. If the judge finds that the provisions of § 140.40 and § 140.41 have been complied with, he shall issue the warrant or other process. The warrant must require that the person be brought forthwith before a judge of the Superior Court. Other process to obtain the person must also require the appearance before a judge of the Superior Court.

§ 140.44. Rights of Requested Person.

(a) The judge shall inform the person appearing pursuant to § 140.43 of:

1. The name of the state requesting rendition;
2. The basis of the arrest warrant in the other state;
3. The right to assistance of counsel; and
4. The right to require a judicial hearing pursuant to § 140.45.

(b) After being informed by the judge of the effect of a waiver, the requested person may waive the right to a judicial hearing and consent to return to the requesting state by executing a written waiver in the presence of the judge. If the waiver is executed, the judge shall issue an order to transfer custody pursuant to § 140.50 or with consent of the Attorney General authorize the voluntary return of the person.

(c) If a hearing is not waived, the judge shall hold it within ten (10) days after the appearance. The requested person and the Attorney General

8 GCA CRIMINAL PROCEDURE
CH. 140 EXTRADITION

must be informed of the time and place of the hearing. The judge shall (i) release the person upon conditions that will reasonably assure the availability of the person for the hearing, or (ii) direct the Chief of Police or the Director of Corrections to maintain custody of the person.

§ 140.45. Judicial Rendition Hearing.

(a) If the judge after hearing finds that § 140.40 and § 140.41 have been complied with, he shall issue an order to transfer custody pursuant to § 140.50 upon clear and convincing evidence that the arrested person is the requested person.

(b) If the judge does not order transfer of custody, he shall order the requested person to be released. If the agent of the requesting state has not taken custody within the time specified in the order to transfer custody, the requested person must be released. Thereafter, an order to transfer custody may be entered only if a new arrest warrant is issued as a result of a new demand by extradition or a new request for rendition.

(c) An order to transfer custody is not appealable.

(d) An order denying transfer is appealable.

ARTICLE 5
MISCELLANEOUS

- § 140.50. Order to Transfer Custody.
- § 140.51. Confinement.
- § 140.52. Cost of Return.
- § 140.53. Applicability of Other Law.
- § 140.54. Payment of Transportation and Subsistence Costs.
- § 140.55. Uniformity of Application and Construction.

§ 140.50. Order to Transfer Custody.

(a) Except as provided in Subsection (b), a judicial order to transfer custody issued pursuant to § 140.24, § 140.35, § 140.36, § 140.44 or § 140.45 must direct either the Director of Corrections or the Chief of Police to take or retain custody of the person until an agent of the other state is available to take custody. If the agent of the other state has not taken custody within twenty (20) days, the judge may:

8 GCA CRIMINAL PROCEDURE
CH. 140 EXTRADITION

1. Order the release of the person upon conditions that will assure the person's availability on a specified date within thirty (30) days; or

2. Extend the original order for an additional ten (10) days upon good cause shown for the failure of an agent of the other state to take custody.

(b) If the agent of the other state has not taken custody within the time specified in the order, the person must be released. Thereafter, an order to transfer custody may be entered only if a new arrest warrant or other process to obtain appearance of a person is issued as a result of a new demand extradition or a new request for rendition.

(c) The judge in the order may authorize the voluntary return of the person with the consent of the executive authority or with the consent of the Attorney General.

§ 140.51. Confinement.

An agent who has custody of a person pursuant to an order to transfer custody issued in any state may request confinement of the person in any detention facility in Guam while transporting him pursuant to the order. Upon production of proper identification of the agent and a copy of the order, the detention facility shall confine the person for that agent. The person is not entitled to another extradition or rendition proceeding in Guam.

§ 140.52. Cost of Return.

Unless the state otherwise agrees, the state to which the person is being returned shall pay the cost of returning the person incurred after transfer of custody to its agent.

§ 140.53. Applicability of Other Law.

(a) A person returned to Guam is subject to the law of Guam as well as the provisions of law that constituted the basis for the return.

(b) This Chapter does not limit the powers, rights, or duties of the officials of a demanding, or requesting state, or of Guam.

§ 140.54. Payment of Transportation and Subsistence Costs.

If a person returned to Guam is found not to have violated the law that constituted the basis for the return, the judge may order the government of Guam to pay the person the cost of transportation and subsistence to the place of the person's initial arrest or to the person's residence.

8 GCA CRIMINAL PROCEDURE
CH. 140 EXTRADITION

§ 140.55. Uniformity of Application and Construction.

This Chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this Chapter among states enacting it.
