CHAPTER 11

Interstate Agreement on Detainers

**SECTION 17‑11‑10.** Agreement on detainers enacted into law; terms.

 The Agreement on Detainers is hereby enacted into law and entered into by this State with all other jurisdictions legally joining therein in the form substantially as follows:

 The contracting states solemnly agree that:

ARTICLE I

 The party states find that charges outstanding against a prisoner, detainers based on untried indictments, informations or complaints, and difficulties in securing speedy trial of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainers based on untried indictments, informations or complaints. The party states also find that proceedings with reference to such charges and detainers, when emanating from another jurisdiction, cannot properly be had in the absence of cooperative procedures. It is the further purpose of this agreement to provide such cooperative procedures.

ARTICLE II

 As used in this agreement:

 (a) “State” shall mean a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

 (b) “Sending state” shall mean a state in which a prisoner is incarcerated at the time that he initiates a request for final disposition pursuant to Article III hereof or at the time that a request for custody or availability is initiated pursuant to Article IV hereof.

 (c) “Receiving state” shall mean the state in which trial is to be had on an indictment, information or complaint pursuant to Article III or Article IV hereof.

ARTICLE III

 (a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial within one hundred eighty days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer’s jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information or complaint; provided, that for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner.

 (b) The written notice and request for final disposition referred to in paragraph (a) hereof shall be given or sent by the prisoner to the warden, commissioner of corrections or other official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

 (c) The warden, commissioner of corrections or other official having custody of the prisoner shall promptly inform him of the source and contents of any detainer lodged against him and shall also inform him of his right to make a request for final disposition of the indictment, information or complaint on which the detainer is based.

 (d) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden, commissioner of corrections or other official having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner’s request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this paragraph shall be accompanied by copies of the prisoner’s written notice, request, and the certificate. If trial is not had on any indictment, information or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

 (e) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall also be deemed to be a waiver of extradition with respect to any charge or proceedings contemplated thereby or included therein by reason of paragraph (d) hereof, and a waiver of extradition to the receiving state to serve any sentence there imposed upon him, after completion of his term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of his body in any court where his presence may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law.

 (f) Escape from custody by the prisoner subsequent to his execution of the request for final disposition referred to in paragraph (a) hereof shall void the request.

ARTICLE IV

 (a) The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall be entitled to have a prisoner against whom he has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with ARTICLE V (a) hereof upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated; provided, that the court having jurisdiction of such indictment, information or complaint shall have duly approved, recorded and transmitted the request. Provided, further, that there shall be a period of thirty days after receipt by the appropriate authorities before the request be honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability, either upon his own motion or upon motion of the prisoner.

 (b) Upon receipt of the officer’s written request as provided in paragraph (a) hereof, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner. The authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reasons therefor.

 (c) In respect of any proceedings made possible by this Article, trial shall be commenced within one hundred twenty days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

 (d) Nothing contained in this Article shall be construed to deprive any prisoner of any right which he may have to contest the legality of his delivery as provided in paragraph (a) hereof, but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not affirmatively consented to or ordered such delivery.

 (e) If trial is not had on any indictment, information or complaint contemplated hereby prior to the prisoner’s being returned to the original place of imprisonment pursuant to Article V (e) hereof, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

ARTICLE V

 (a) In response to a request made under ARTICLE III or ARTICLE IV hereof, the appropriate authority in a sending state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the state where such indictment, information or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in ARTICLE III of this agreement. In the case of a Federal prisoner, the appropriate authority in the receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner’s presence in Federal custody at the place for trial, whichever custodial arrangement may be approved by the custodian.

 (b) The officer or other representative of a state accepting an offer of temporary custody shall present the following upon demand:

 (1) Proper identification and evidence of his authority to act for the state into whose temporary custody the prisoner is to be given.

 (2) A duly certified copy of the indictment, information or complaint on the basis of which the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made.

 (c) If the appropriate authority shall refuse or fail to accept temporary custody of such person, or in the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in Article III or Article IV hereof, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.

 (d) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for his attendance at court and while being transported to or from any place at which his presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

 (e) At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state.

 (f) During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow.

 (g) For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law.

 (h) From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, informations or complaints are pending or in which trial is being had shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping and returning the prisoner. The provisions of this paragraph shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

ARTICLE VI

 (a) In determining the duration and expiration dates of the time periods provided in ARTICLEs III and IV of this agreement, the running of such time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter.

 (b) No provision of this agreement, and no remedy made available by this agreement, shall apply to any person who is adjudged to be mentally ill.

ARTICLE VII

 Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide, within and without the state, information necessary to the effective operation of this agreement.

ARTICLE VIII

 This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by inmates or by state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof.

ARTICLE IX

 This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

HISTORY: 1962 Code Section 17‑221; 1965 (54) 592.

Library References

Extradition and Detainers 51.

Westlaw Topic No. 166.

C.J.S. Extradition and Detainers Sections 95 to 98.

RESEARCH REFERENCES

ALR Library

51 ALR 6th 1 , Construction and Application of Article IV of Interstate Agreement on Detainers (Iad): Issues Related to “Speedy Trial” Requirement, and Construction of Essential Terms.

52 ALR 6th 1 , Construction and Application of Article IV of Interstate Agreement on Detainers (Iad): Issues Related to “Anti‑Shuttling” Provision, Dismissal of Action Against Detainee, and Adequacy of Certificate.

53 ALR 6th 1 , Construction and Application of Article IV of Interstate Agreement on Detainers (Iad): Issues Related to Custody, Temporary Custody, Contest as to Legality of Custody, Necessity of Hearing, and Transmittal...

70 ALR 6th 361 , Construction and Application of Article III of Interstate Agreement on Detainers (Iad)‑Issues Related to “Speedy Trial” Requirement, and Construction of Essential Terms.

71 ALR 6th 335 , Construction and Application of Article III of Interstate Agreement on Detainers (Iad): Issues Related to Certificate, Request by Defendant for Disposition, and “Anti‑Shuttling” Provision.

72 ALR 6th 141 , Construction and Application of Article III of Interstate Agreement on Detainers (Iad): Issues Related to Custody, Duties of Prison Officials, Waiver of Extradition, Escape, Assistance of Counsel, and Necessity of...

LAW REVIEW AND JOURNAL COMMENTARIES

Annual Survey of South Carolina Law: criminal law: the right to a speedy trial. 27 S.C. L. Rev. 414.

Attorney General’s Opinions

South Carolina has not established specific period of time beyond which right to speedy trial is deemed violated. Whether accused’s right to speedy trial has been violated will depend upon individual circumstances in each case. Relief granted where accused has been denied right to speedy trial is dismissal of criminal charge. 1991 Op Atty Gen, No 91‑36, p 95 (May 24, 1991) 1991 WL 474766.

NOTES OF DECISIONS

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1. In general

State established good cause for continuance prior to expiration of six‑month deadline for bringing defendant to trial after defendant’s demand for final disposition under Interstate Agreement on Detainers Act (IAD), in murder prosecution; State pointed out the complexity of the case, the special preparations required to try a case involving an alleged double murder and a burglary in the first‑degree, and the need for a Schmerber hearing. State v. Hill (S.C. 2014) 409 S.C. 50, 760 S.E.2d 802. Extradition and Detainers 59

Interstate Agreement on Detainers (IAD) is an interstate compact by which the states, the District of Columbia, and the federal government have established uniform procedures for the transfer of prisoners serving sentences in one state to another state for the disposition of pending charges. State v. Tucker (S.C.App. 2008) 376 S.C. 412, 656 S.E.2d 403, rehearing denied, certiorari granted, certiorari dismissed as improvidently granted 385 S.C. 631, 686 S.E.2d 683. Extradition And Detainers 51; States 6

Defendant who was incarcerated in federal prison and sought disposition of untried indictments under Interstate Agreement on Detainers Act (IAD) had notice of all the indictments the State intended to try him on, and thus, defendant’s request for final disposition of all untried indictments against him included indictments for burglary and grand larceny, even though letter from the solicitor informing defendant of outstanding charges did not list those particular indictments, where the solicitor filed copies of all outstanding indictments with the federal prison as detainers, and defendant signed a waiver of extradition on range of indictments which included burglary and larceny indictments. State v. Adams (S.C.App. 2003) 354 S.C. 361, 580 S.E.2d 785, rehearing denied, certiorari denied. Extradition And Detainers 57

Arrestee is not entitled to have burglary charges against him dismissed on ground that state failed to try him within 180 days after he requested speedy trial pursuant to Interstate Agreement on Detainers Act where letter sent to prosecuting attorney requesting speedy trial contains confusing information relative to place where arrestee is incarcerated, and where request is not accompanied by certificate of appropriate official having custody of arrestee. State v. Johnson (S.C. 1983) 278 S.C. 668, 301 S.E.2d 138.

Failure of the state to bring a defendant to trial within 120 days after his arrival following extradition from another jurisdiction did not warrant dismissal of the charges where the delay was caused by the circuit judge’s consideration of the defendant’s motion to have certain out‑of‑state witnesses ruled material so they could be brought to South Carolina at the state’s expense; when the circuit judge took the motion under advisement, a continuance was implicitly granted and the 120‑day period was tolled for a reasonable time until a ruling could be made. State v. Finley (S.C. 1982) 277 S.C. 548, 290 S.E.2d 808.

Although more than 180 days had elapsed between defendant’s request for return to South Carolina on a prior bench warrant and a hearing on revocation of his probation, the revocation would be affirmed since a probation detainer, such as the bench warrant in the present case, does not constitute an “untried indictment, information, or complaint” within the meaning of the Agreement. State v. Knowles (S.C. 1980) 275 S.C. 312, 270 S.E.2d 133.

Incarceration for 124 days before trial, where State did not move for continuance and offered no excuse for failure to do so, required dismissal of the charges for denial of speedy trial within the time limits of this Act. State v. Holbrook (S.C. 1979) 274 S.C. 4, 260 S.E.2d 181.

Absent showing of prejudice from prisoner’s return to sending state after request for continuance is granted, prisoner would not be entitled to dismissal as matter of right under provisions of Section 17‑11‑10 Article IV(e). State v. Allen (S.C. 1977) 269 S.C. 233, 237 S.E.2d 64.

2. Purpose

Central purpose of Interstate Agreement on Detainers Act (IAD), a compact enabling participating states to obtain custody of prisoners incarcerated in other participating jurisdictions and bring those prisoners to trial, is to allow participating states to uniformly and expeditiously dispose of charges pending against prisoners held out of state. State v. Hill (S.C. 2014) 409 S.C. 50, 760 S.E.2d 802. Extradition and Detainers 51; States 6

Purpose of Interstate Agreement on Detainers is to foster expeditious disposition of charges outstanding against prisoners so as to eliminate uncertainties which accompany filing of detainers. State v. Finley (S.C. 1982) 277 S.C. 548, 290 S.E.2d 808. Extradition And Detainers 51

Purpose of Interstate Agreement on Detainers Act is to foster expeditious disposition of charges outstanding against prisoner so as to eliminate uncertainties which accompany filing of detainers; goal of promoting prisoner rehabilitation programs is achieved by requiring receiving state to proceed to trial within 180 days; thus, state’s request for continuance may be granted only at or prior to expiration of 180 day period prescribed in statute. State v. Patterson (S.C. 1979) 273 S.C. 361, 256 S.E.2d 417. Extradition And Detainers 51

3. Guilty pleas

Defendant’s plea of guilty to assault with intent to kill and assault and battery with intent to kill, containing waiver of his right to appeal denial of his motion to dismiss on Interstate Agreement on Detainers (IAD), grounds was knowingly and voluntarily entered; defendant demonstrated his familiarity with criminal justice system by presenting and arguing his IAD motion although his attorneys were present, trial court specifically questioned defendant’s understanding of his sentencing exposure, defendant stated that he understood and accepted sentence proposed in plea agreement, and defendant conceived of and proposed plea agreement waiving right to appeal IAD motion. State v. Tucker (S.C.App. 2008) 376 S.C. 412, 656 S.E.2d 403, rehearing denied, certiorari granted, certiorari dismissed as improvidently granted 385 S.C. 631, 686 S.E.2d 683. Criminal Law 273.1(1)

Defendant’s plea of guilty to two counts of assault with intent to kill and one count of assault and battery with intent to kill expressly waived defendant’s right to appeal trial court’s ruling on his motion alleging violation of Interstate Agreement on Detainers (IAD), where plea was knowingly and voluntarily entered and trial court’s review of plea agreement during plea colloquy specifically referenced waiver of any right to appeal from its prior decision under IAD. State v. Tucker (S.C.App. 2008) 376 S.C. 412, 656 S.E.2d 403, rehearing denied, certiorari granted, certiorari dismissed as improvidently granted 385 S.C. 631, 686 S.E.2d 683. Criminal Law 1026.10(4)

Defendant’s entry of guilty plea to state assault charges, following his second transfer from federal custody pursuant to Interstate Agreement on Detainers (IAD), implicitly waived any challenge to his conviction based upon alleged violation of anti‑shuttling provision of IAD, where plea was without reservation and any violation was non‑jurisdictional. State v. Tucker (S.C.App. 2008) 376 S.C. 412, 656 S.E.2d 403, rehearing denied, certiorari granted, certiorari dismissed as improvidently granted 385 S.C. 631, 686 S.E.2d 683. Criminal Law 273.4(1)

4. Review

Trial court’s decision to grant State a continuance prior to expiration of six‑month deadline for bringing defendant to trial after defendant’s demand for final disposition under Interstate Agreement on Detainers Act (IAD) was subject to review for abuse of discretion. State v. Hill (S.C. 2014) 409 S.C. 50, 760 S.E.2d 802. Criminal Law 1151

**SECTION 17‑11‑20.** “Appropriate court” defined.

 The phrase “appropriate court” as used in the Agreement on Detainers shall, with reference to the courts of this State, mean a court of record with criminal jurisdiction.

HISTORY: 1962 Code Section 17‑222; 1965 (54) 592.

Library References

Extradition and Detainers 51.

Westlaw Topic No. 166.

C.J.S. Extradition and Detainers Sections 95 to 98.

**SECTION 17‑11‑30.** State courts, departments, agencies, officers, and employees shall enforce and cooperate in enforcement of agreement.

 All courts, departments, agencies, officers and employees of this State and its political subdivisions are hereby directed to enforce the Agreement on Detainers and to cooperate with one another and with other party states in enforcing the agreement and effectuating its purpose.

HISTORY: 1962 Code Section 17‑223; 1965 (54) 592.

Library References

Extradition and Detainers 51.

Westlaw Topic No. 166.

C.J.S. Extradition and Detainers Sections 95 to 98.

**SECTION 17‑11‑40.** Escape of prisoner in temporary custody.

 Any prisoner released to temporary custody under the provisions of the Agreement on Detainers from a place of imprisonment in South Carolina who shall escape or attempt to escape from such temporary custody, whether within or without the borders of this State, shall be dealt with in the same manner as if the escape or attempt to escape were from the original place of imprisonment.

HISTORY: 1962 Code Section 17‑224; 1965 (54) 592.

Library References

Extradition and Detainers 54.

Westlaw Topic No. 166.

C.J.S. Extradition and Detainers Sections 99 to 101.

**SECTION 17‑11‑50.** Application of Habitual Offenders Law not required.

 Nothing in this chapter or in the Agreement on Detainers shall be construed to require the application of the Habitual Offenders Law to any person on account of any conviction had in a proceeding brought to final disposition by reason of the use of such agreement.

HISTORY: 1962 Code Section 17‑225; 1965 (54) 592.

**SECTION 17‑11‑60.** Official in charge of penal or correctional institution shall give over inmate when required under agreement.

 It shall be lawful and mandatory upon the warden or other official in charge of a penal or correctional institution in this State to give over the person of any inmate thereof whenever so required by the operation of the Agreement on Detainers.

HISTORY: 1962 Code Section 17‑226; 1965 (54) 592.

Library References

Extradition and Detainers 58.

Westlaw Topic No. 166.

C.J.S. Extradition and Detainers Section 104.

**SECTION 17‑11‑70.** Central Administrator and Information Agent.

 The Governor is empowered to designate the officer who will serve as Central Administrator and Information Agent for the Agreement on Detainers.

HISTORY: 1962 Code Section 17‑227; 1965 (54) 592.

**SECTION 17‑11‑80.** Copies of chapter shall be transmitted to Governors and certain other officials.

 Copies of this chapter shall, upon its approval, be transmitted to the Governor of each state, the Attorney General and the Administrator of General Services of the United States, and the Councils of State Governments.

HISTORY: 1962 Code Section 17‑228; 1965 (54) 592.