WEST VIRGINIA CODE: §62-14A-6

§62-14A-6. Immunity from service of civil process; waiver of extradition proceedings; nonwaiver of rights of state; trial on other charges after return.

(a) A person brought into this state by, or after waiver of, extradition based on a criminal charge, shall not be subject to service of personal process in civil actions until the person has been convicted in the criminal proceedings, or, if acquitted, until the person has had reasonable opportunity to return to the state from which the person was extradited.

(b) Any person arrested in this state charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of his or her bail, probation or parole may waive the issuance and service of the warrant provided for in §62-14A-3(a) and §62-14A-3(d) of this code, and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record, within this state, a writing which states that the person consents to return to the demanding state: Provided, That before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his or her rights with respect to the issuance and service of a warrant of extradition and with respect to obtaining a writ of habeas corpus as provided for in §62-14A-4(a) of this code.

If and when such consent has been duly executed it shall forthwith be forwarded to the Office of the Governor. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent: Provided, That nothing in this subsection shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights, or duties of the officers of the demanding state or of this state.

(c) Prior waiver of extradition. — Notwithstanding any other provision of this code, a law-enforcement or corrections agency in the State of West Virginia holding a person who is charged by another jurisdiction with a violation of his or her terms of probation, parole, bail, or other form of conditional release in another jurisdiction which is demanding the return of such person shall immediately deliver the person to the duly authorized agent of the demanding state, and without the requirement of a Governor's warrant, if such person has previously executed a waiver of extradition as a condition of his or her current terms of probation, parole, bail, or other form of conditional release in the demanding state and upon receipt of the following documentation from the demanding state:

(1) A certified copy of the previously executed waiver of extradition being held by the officials in the demanding state or an electronically or electromagnetically transmitted facsimile thereof;

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(2) A certified copy of an order or warrant from the demanding state seeking the return of the person or an electronically or electromagnetically transmitted facsimile thereof; and

(3) A photograph, fingerprints, or other evidence which identifies the person held by the law-enforcement or corrections agency as the person who signed the waiver of extradition and who is named in the order or warrant, or an electronically or electromagnetically transmitted facsimile thereof.

(d) Nothing in this article contained shall be deemed to constitute a waiver by this state of its right, power, or privilege to try such demanded person for an offense committed within this state, or of its right, power, or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence, or punishment for any offense committed within this state, nor shall any proceedings under this article which result in, or fail to result in, extradition, be deemed a waiver by this state of any of its rights, privileges, or jurisdiction in any way whatsoever.

(e) After a person has been brought back to this state by, or after waiver of, extradition proceedings, the person may be tried in this state for any offense which the person may be charged with having committed here as well as that specified in the requisition for his or her extradition.

(f) Nothing in this section shall be construed to limit the authority of the Governor, at his or her own instance, to refuse to honor an extradition demand from another jurisdiction.

WV Legislature