

EXTRADITION

Asylum · Wanted Criminal · Waiving Extradition

California Extradition involves Fugitives Wanted for Crimes across State Lines.

Extradition is the process by which one state sends a criminal suspect/defendant to another state to face criminal charges or to serve a sentence.

There are two kinds of California extradition cases involving fugitives seeking asylum:

- Arrested in California, but the crime occurred in another U.S. state. **The other state is called the demanding state or the wanting state. This individual (wanted criminal or fugitive), might not know that he/she is being accused of the crime in the wanting state, or may have fled from the wanting state to California to seek asylum.**
- Arrested for a crime committed in California, but now living in another state to seek asylum. **Again, the individual (wanted criminal or fugitive) may or may not know that he/she is wanted for a crime that occurred in California. In this case, California is the demanding state.**

California Extradition Law

Under California's "Uniform Criminal Extradition Act" and California Penal Code Section 50.34, in both of these cases, the authorities may issue a warrant for extradition (known as a Governor's Warrant), and the fugitive can be arrested. An arrested individual is then required to return to the wanting state to face criminal charges.

California Laws Protect Wanted Fugitives Charged With Extradition

Before an extradition arrest can occur a series of California legal proceedings must take place to protect the accused wanted criminal and ensure that extradition is valid. Depending on the case circumstances, an extradition waiver (dismissal) may apply at any time during these proceedings. However, it does take time, and you could be in jail while this happens.

1. The wanted fugitive is arrested based on the demanding state's charge that the individual committed a crime.
2. The demanding state then files a "fugitive complaint" against the accused individual.
3. If charged, the suspect may be held in court custody in the "asylum state" (where the suspect is currently located) or released on bail and wait for a Governor's Warrant to be issued.
4. The fugitive may choose to deny the charges or waive a formal extradition procedure and go back to the wanting state voluntarily.
5. If the fugitive denies the charges, an Identity Hearing or probable cause hearing is held in court. Under California law, evidence must be presented that proves the arrested person is actually the fugitive listed in the warrant.
6. During this time, the prosecutor in the wanting state assembles the case documents and submits them to the state's Governor via the state's Attorney General.
7. The demanding state's Governor then files a formal demand to the asylum state's Governor.
8. The asylum state Governor may conclude that the extradition request is valid, and require the arrest and retention of the fugitive.
9. The fugitive is called before court to answer the charges, and may challenge them under habeas corpus (protection against illegal imprisonment).

Defenses for California Wanted Fugitives

In order to have an extradition case dismissed or resolved, there are a number of defenses pursued by a skilled Los Angeles criminal defense attorney. These may include:

- The lack of validity of the documents filed by the prosecutor
- Vague or incorrect "proof of identity" procedures that are required for extradition

In addition, an experienced California criminal defense lawyer may negotiate with the wanting state to work out a resolution prior to extradition. There may be alternatives to extradition.

- Bail may be reduced or custody dismissed if the fugitive returns to the state voluntarily.
- The Interstate Family Support Act may apply (the accused doesn't have to leave the state where his/her family resides)
- The accused may serve a parole in the asylum state
- The Interstate Compact on Juveniles may apply (allowing a fugitive juvenile to remain in the asylum state with supervision)

Why you need an Experienced Criminal Lawyer

Facing extradition is frightening because you could be sitting in jail time for 1-3 months just waiting for the extradition paperwork to be processed. You can't resolve the matter alone—you need a criminal defense attorney with experience in extradition law.

If you live in California and have been arrested or charged with a crime committed in another state, or you live in another state but you're facing criminal charges in another, the Law Offices of Jerry Nicholson will help you by:

- **Contacting the prosecutor handling your extradition case.**
- **Negotiating with the other state to resolve charges quickly so you won't have to return to that state (or California)**
- **Negotiating a bail reduction or elimination if you agree to return to California (or the other state) on your own**
- **Working aggressively to help you avoid custody or jail time**