

Chapter 28b

Interjurisdictional Transfer of Prisoners

77-28b-1 Definitions.

- (1) "Assurance" means a special condition concerning the confinement or release of an offender which must be met prior to the release of the offender.
- (2) "Offender" means a juvenile certified to be tried as an adult or an adult convicted of any criminal offense under Utah law.
- (3) "Receiving country" means the jurisdiction to which the offender is to be transferred.
- (4) "Sending state" means the jurisdiction from which the offender is to be transferred.

Enacted by Chapter 324, 1990 General Session

77-28b-2 Director's authority.

The director of the Department of Corrections may transfer offenders having foreign citizenship status to countries of citizenship under this chapter if a treaty exists between the United States and the foreign country.

Enacted by Chapter 324, 1990 General Session

77-28b-3 Eligibility criteria for international transfer.

An offender must meet the following criteria before he may be considered for an international transfer:

- (1) the offender is a citizen of the receiving country;
- (2) the offender consents to transfer to his country of citizenship;
- (3) the offense committed by the offender constitutes a criminal offense under the laws of the receiving state;
- (4) the offender does not have fewer than 12 months remaining on his sentence at the time of the application for transfer;
- (5) the offender is not under a sentence of death;
- (6) the offender does not have collateral attacks or appeals on either the sentence or conviction pending;
- (7) all other provisions of the imposed sentence such as fines, restitution, and penalties are paid in full;
- (8) there are no detainers, wanted notices based on criminal convictions, indictments, informations, complaints, or parole or probation violation allegations pending against the offender; and
- (9) the offender meets all of the eligibility requirements of the treaty with his country.

Enacted by Chapter 324, 1990 General Session

77-28b-4 Role of the classification officer.

- (1) The classification officer of each correctional institution shall be provided with the eligibility requirements of each prisoner transfer treaty.
- (2) The classification officer shall forward Form I, Transfer Inquiry, to all offenders identified as having national or citizenship status in a party nation.
- (3) Upon receipt of Form I, Transfer Inquiry, the offender may indicate he is:

- (a) interested in pursuing a transfer by signing Form I and returning it to the classification officer along with proof of citizenship; or
 - (b) not interested in pursuing a transfer by returning Form I to the classification officer without proof of citizenship.
- (4) If the offender indicates on Form I, Transfer Inquiry, that he is interested in pursuing a transfer, the institution classification officer shall complete Form II, Inmate Information Provided to Treaty Nation, and Form III, Notice Regarding International Prisoner Transfer.
- (5) The following forms, provided by the federal government, shall be completed and forwarded in triplicate by the classification officer to the superintendent of the institution:
- (a) Form I, Transfer Inquiry;
 - (b) Form II, Inmate Information Provided to Treaty Nation;
 - (c) Form III, Notice Regarding International Prisoner Transfer;
 - (d) proof of citizenship;
 - (e) statement of offender's eligibility;
 - (f) presentence report;
 - (g) classification assessment;
 - (h) current psychological and medical reports;
 - (i) signed release of confidential information forms;
 - (j) criminal history sheet; and
 - (k) judgments of conviction or certification to be tried as an adult.

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77-28b-5 Role of institution warden.

The warden shall sign Form III, Notice Regarding International Prisoner Transfer, and forward the application and the material required in Section 77-28b-4 in triplicate to the Department of Corrections Inmate Placement Program Bureau.

Enacted by Chapter 324, 1990 General Session

77-28b-6 Role of Inmate Placement Program Bureau.

- (1) The Department of Corrections Inmate Placement Program Bureau shall:
- (a) investigate the request to ensure that all eligibility requirements are met;
 - (b) request a records check to verify records listed in Section 77-28b-3;
 - (c) review application and materials for completeness and compliance with treaty terms;
 - (d) develop and recommend assurances, where indicated; and
 - (e) provide written notification of the transfer request to the following entities and receive objections or other comments for 15 business days after sending the notification:
 - (i) attorney general;
 - (ii) prosecuting law enforcement agency;
 - (iii) prosecutor; and
 - (iv) sentencing court.
- (2) If the Inmate Placement Program Bureau investigation determines that the application and materials are incomplete or do not comply with the terms of the treaty, the application shall be rejected and returned to the institution in which the inmate is incarcerated.
- (3) If the investigation of the bureau determines the application and materials are complete and in compliance with the terms of the treaty, the application and materials shall be forwarded to the director of the Department of Corrections.

Enacted by Chapter 324, 1990 General Session

77-28b-7 Role of director.

- (1) The director of the Department of Corrections shall review the application and materials. Upon his approval the application and materials shall be forwarded to the governor for authorization to transfer.
- (2) Applications that are not approved by the director shall be returned to the sending institution and the inmate shall be notified.

Enacted by Chapter 324, 1990 General Session

77-28b-8 Referral to the United States Department of Justice, Office of International Affairs.

- (1) Upon receipt of the governor's authorization for international transfer, the application and materials shall be forwarded to the United States Department of Justice, Office of International Affairs, by the Inmate Placement Program Bureau.
- (2) The bureau shall notify the inmate and the warden of the sending institution of the decision of the application for international transfer.
- (3) All arrangements regarding the treaty process and proposed assurances shall be negotiated between the bureau and the United States Department of Justice, Office of International Affairs.

Enacted by Chapter 324, 1990 General Session

77-28b-9 Transfer of offender.

- (1) If the inmate is accepted for international transfer by the United States Department of Justice, Office of International Affairs, the offender shall be transported by the Department of Corrections to the federal district court for a verification hearing to ensure the offender consents to the international transfer.
- (2) The Department of Corrections shall then relinquish jurisdiction over the offender to the United States Department of Justice.

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