

R.S. 2A:159A-1 et seq

June 11, 1964

LEGISLATIVE NOTES ON 2A:159A-1 et seq  
(Interstate Agreement on Detainers)

L. 1958, c. 12

COPY NO. 1

For background on the Uniform Act, see:

9 Federal Probation no. 3 (1945)  
(State Library does not have)

The detainer: a problem in interstate criminal  
administration. 48 Columbia Law Review 1191.

R 351.74 Council of State Governments.  
C85.1 Handbook on interstate crime control.  
1949. p. 85-91.

R 343 Council of State Governments.  
C855 Sentencing and release of persons  
accused of multiple offenses. Minutes  
of special committee meeting ...  
November 25, 1955.

R Council of State Governments.  
353.9 Suggested state legislation.  
C83 Program for 1956, p. 60-62.  
Program for 1958, p. 81-90.  
Program for 1959, p. 167-169.

GC - Yes

2A:159A-1024

LEGISLATIVE FACT SHEET

see also: Leges. Notes on 2A:159A-1 et seq. ON Interstate Agreement on Detainers  
N.J.R.S. 2A:159A-1 et seq. (Amendment)

LAWS OF 1958

CHAPTER 12 April 15, 1958

SENATE

ASSEMBLY 64

INTRODUCED Jan. 20, 1958

BY Ozzard, Reneo

STATEMENT

YES

NO

AMENDED DURING PASSAGE

YES

NO

HEARING

VETO

STATEMENT to A64 (1958)

The problem of expedient disposition of detainers filed against inmates of penal or correctional institutions in this State has long been recognized. It has been the subject of much discussion which has culminated eventually in the agreement on detainers embodied in this bill which has been enacted and is being enacted in the various States.

This bill has the endorsement of the Committee on Interstate Co-operation, the Department of Institutions and Agencies, the Attorney-General and the State Parole Board, and would do much to facilitate the administration of our correctional institutions in handling cases of inmates presently restricted from parole, minimum security, work assignments and other rehabilitative procedures.

# COUNCIL OF STATE GOVERNMENTS.

## SUGGESTED STATE LEGISLATION, 1956.

### DISPOSITION OF DETAINERS

A detainer may be defined as a warrant filed against a person already in custody with the purpose of insuring that he will be held for the authority which has placed the detainer. Wardens of institutions holding men who have detainers on them invariably recognize these warrants and notify the authorities placing them of the impending release of the prisoner. Such detainers may be placed by various authorities under varying conditions, for example, when an escaped prisoner or a parolee commits a new crime and is imprisoned in another state; or where a man not previously imprisoned commits a series of crimes in different jurisdictions.

While it would seem proper that authorities in quest of a violator of the law should have every assistance in returning him to their jurisdiction, nevertheless the detainer system now operates to the detriment of society all too often. The difficulties inherent in the existing detainer system affect the judges, the institutional officials, the paroling authorities and the individual himself.

The prison administrator is thwarted in his efforts toward rehabilitation. The inmate who has a detainer against him is filled with anxiety and apprehension and frequently does not respond to a training program. He often must be kept in close custody, which bars him from treatment such as trustyships, moderations of custody and opportunity for transfer to farms and work camps. In many jurisdictions he is not eligible for parole; there is little hope for his release after an optimum period of training and treatment, when he is ready for return to society with an excellent possibility that he will not offend again. Instead, he often becomes embittered with continued institutionalization and the objective of the correctional system is defeated.

The sentencing judge is likewise often thwarted by the detainer system. The enlightened judge knows that his part is to consider the act or circumstances and the course of criminal action that brought the offender before him, and to determine a suitable sentence for the necessary correctional treatment of the offender. Often, in a short course of criminal action, the offender has committed offenses in several jurisdictions, as well as committing federal offenses. The judge is at a loss when faced with detainers already filed, and with the possibility of other detainers. A rational sentence may be indicated, but the judge hesitates to give such a sentence if the offender is going to serve subsequent sentences, or if he stands to lose the privilege of parole because of a detainer. The incidental first offender may, and sometimes does, serve years in prison because he has violated the law in several jurisdictions, although only a short sentence or probation would accomplish the necessary rehabilitation. It seems obvious that proper sentencing, as well as proper correctional treatment, is not possible until the detainer system is modified. Ironically, society is the real loser in collecting its debt from the offender. Much money is spent in extra periods of imprisonment, and embittered offenders become recidivists, pyramiding the expense of law enforcement.

## Recommended Principles

In 1948 the Council of State Governments served as secretariat for a group known as the Joint Committee on Detainers, upon which there was representation from the following organizations: Parole and Probation Compact Administrators Association, National Association of Attorneys General, National Conference of Commissioners on Uniform State Laws, American Prison Association, and the Section on Criminal Law of the American Bar Association. The Joint Committee's report included the following "statement of aims or guiding principles" which should govern the actions of prosecuting authorities, sentencing judges, prison officials and parole authorities to the end that detainers will not hamper the administration of correction programs and the effective rehabilitation of criminals:

I. Every effort should be made to accomplish the disposition of detainers as promptly as possible. This is desirable whether the detainer has been filed against an individual who has not yet been imprisoned or against an inmate of a penal institution. Prompt disposition of detainers is a proper goal whether the detainer has been filed by a local prosecutor, a state prison, a parole board, or a federal official. Detainers lodged on suspicion should not be permitted to linger without action.

II. There should be assurance that any prisoner released to stand trial in another jurisdiction will be returned to the institution from which he was released. An important cause of long-standing detainers is the presence of unsettled charges pending against a prisoner held by another jurisdiction. If the charges appear to be valid and if the individual is to be brought to trial before completion of his sentence, then it is essential that the institution holding him in custody be assured of his return after the trial has been completed. Unless there is such assurance, many jurisdictions will understandably hesitate to cooperate.

III. Prison and parole authorities should take prompt action to settle detainers which have been filed by them. Prison officials and parole boards recognize that detainers create serious problems with respect to prisoners under their jurisdiction. Therefore, when such authorities file detainers against prisoners in other jurisdictions, they should cooperate fully to effect a prompt settlement of all detainers. They should promptly give notice as to whether they insist that the prisoner be returned at the end of his present sentence, or whether they will agree to a concurrent parole. Every effort should be made to cooperate in planning effective rehabilitation programs for the prisoner.

IV. No prisoner should be penalized because of a detainer pending against him unless a thorough investigation of the detainer has been made and it has been found valid. It should be the duty of prison

officials, parole authorities and judges to make such investigations before denying the prisoner privileges, probation or parole, or before imposing unusually heavy sentences upon the prisoner.

V. All jurisdictions should observe the principles of interstate comity in the settlement of detainers, and each should bear its own proper burden of the expenses and effort involved in disposing of charges and settling detainers. There should be full faith and credit given to the rights of any state or jurisdiction asserting them.

At its meeting in September, 1955 the Drafting Committee took note of current activities of the Council of State Governments in developing suggested state legislation which will conform to the principles set forth above. These proposals may include legislation having to do with parole to detainers, mandatory disposition of detainers, merger of sentence, and an interstate agreement concerning the disposition of detainers. It is expected that proposals of this nature will be submitted and acted upon at an interstate conference in the winter of 1955-56. Legislation thus developed will be submitted to the states for their consideration.

COUNCIL OF STATE GOVERNMENTS,  
SUGGESTED STATE LEGISLATION, 1958

Program for 1958

81

AGREEMENT ON DETAINERS

At the present time, there is no means by which a prisoner may initiate proceedings to clear a detainer placed against him from another jurisdiction. This is equally true on an interstate and a federal-state basis. In addition, the only way that a prosecuting official can secure for trial a person already imprisoned in another jurisdiction is by resort to a cumbersome special contract with the executive authority of the incarcerating state. Because of the difficulty and red tape involved in securing such contracts they are little used.

The Agreement on Detainers makes the clearing of detainers possible at the instance of a prisoner. It gives him no greater opportunity to escape just convictions, but it does provide a way for him to test the substantiality of detainers placed against him and to secure final judgment on any indictments, informations or complaints outstanding against him in the other jurisdiction. The result is to permit the prisoner to secure a greater degree of knowledge of his own future and to make it possible for the prison authorities to provide better plans and programs for his treatment.

The agreement also provides a method whereby prosecuting authorities may secure prisoners incarcerated in other jurisdictions for trial before the expiration of their sentences. At the same time, a Governor's right to refuse to make the prisoner available (on public policy grounds) is retained. Since the problems in the detainer field are both interstate and federal-state, the Agreement on Detainers provides that the United States may become a party thereto. If this is done, the procedures provided in the agreement will be available on both an interstate and a federal-state level.

The following provisions of the Agreement deserve a few words of special explanation:

Article III(d) provides that a prisoner's request to clear one detainer shall operate as a request to clear all detainers emanating from that same state and based on untried indictments, informations or complaints. This is to prevent a prisoner from attempting to clear these detainers singly and making necessary a separate trip for the purpose of trial on each of them. Since the purpose of the Agreement is to produce as much certainty in the prisoner's situation as possible, the clearing of the two or more detainers instead of merely one, is in line with this purpose.

Article IV(d) safeguards certain of the prisoner's rights. Normally, the only way to get a prisoner from one jurisdiction to another for purposes of trial on an indictment, information or complaint is through resort to extradition or waiver thereof. If the prisoner waives, there is no problem. However, if he does not waive extradition, it is not appropriate to attempt to force him to give up the safeguards of the extradition process, even if this could be done constitutionally. Nevertheless the right to insist on action by the governor is a right of the state and not of the prisoner. Consequently, it is provided that the prisoner shall not be able to plead gubernatorial inactivity in resisting delivery to the other state. The situation contemplated by this portion of the agreement is different from that dealt with in Article III. That article relates to proceedings initiated at the request of the prisoner. Accordingly, in such instances, it is fitting that the prisoner be required to waive extradition. In Article IV the prosecutor initiates the proceeding. Consequently, it probably would be improper to require the prisoner to waive those features of the extradition process which are designed for the protection of his rights. Nevertheless, Article IV(a) gives the governor an opportunity to refuse the request for prisoner availability if the governor acts within thirty days. It is quite likely that in the large majority of cases there will be no gubernatorial action or even a request for it. The possibility is left open merely to accommodate situations involving public policy which occasionally have been found in the history of extradition.

Article V(a) provides for the arrangements necessary to bring the prisoner into court in the receiving state where he is to be tried. In most instances it is contemplated that this will be accomplished by giving the prisoner into the temporary custody of the official of the jurisdiction where the trial is to be had. However, the federal government has jurisdiction throughout the United States and can therefore make the prisoner available in any state without actually surrendering custody. If the federal authorities wish to do this, they should be allowed to do so. What any party state wants is the availability of the prisoner and any method which accomplishes this purpose meets the practical purposes of the agreement. Some thought was given to giving all jurisdictions the same option afforded the federal authorities in determining whether to give temporary custody or simply to make the prisoner available in their own custody. However, it was felt that in effect the states could achieve this same result by the process of deputizing officers to act for them. Moreover, in most instances it is not contemplated that states will find it convenient to make the prisoner available in their own custody.

Suggested Legislation

[Title should conform to state requirements.]

(Be it enacted, etc.)

1     Section 1. The Agreement on Detainers is hereby enacted into  
2 law and entered into by this state with all other jurisdictions legally  
3 joining therein in the form substantially as follows:

(Here insert exact text of the Agreement on Detainers.)

1     Section 2. The phrase "appropriate court" as used in the Agree-  
2 ment on Detainers shall, with reference to the courts of this state,  
3 mean [here enumerate or otherwise define courts that are affected].

1     Section 3. All courts, departments, agencies, officers and  
2 employees of this state and its political subdivisions are hereby  
3 directed to enforce the Agreement on Detainers and to cooperate  
4 with one another and with other party states in enforcing the agree-  
5 ment and effectuating its purpose.

1     Section 4. Nothing in this act or in the Agreement on Detainers  
2 shall be construed to require the application of the [habitual offenders  
3 law] to any person on account of any conviction had in a proceeding  
4 brought to final disposition by reason of the use of said agreement.

1     Section 5. [This section should be utilized to make it an offense  
2 to escape from custody while in another state pursuant to the Agree-  
3 ment on Detainers, perhaps by amendment to the criminal code.  
4 Unless already adequately covered by existing law, it is essential  
5 that this type of provision be inserted.]

1     Section 6. It shall be lawful and mandatory upon the warden or  
2 other official in charge of a penal or correctional institution in this  
3 state to give over the person of any inmate thereof whenever so re-  
4 quired by the operation of the Agreement on Detainers.

1     Section 7. [This section should be utilized to designate the  
2 officer who will serve as central administrator of and information  
3 agent for the Agreement on Detainers, or to give the governor power  
4 to make such designation -- see Article VII of the agreement.]

1     Section 8. Copies of this act shall, upon its approval, be trans-

2 mitted to the governor of each state, the attorney general and the  
3 administrator of general services of the United States, and the  
4 Council of State Governments.

1 Section 9. This act shall take effect immediately.

#### TEXT OF THE AGREEMENT ON DETAINERS

The contracting states solemnly agree that:

##### Article I

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

##### Article II

1 As used in this agreement:  
2 (a) "State" shall mean a state of the United States; the United  
3 States of America; a territory or possession of the United States;  
4 the District of Columbia; the Commonwealth of Puerto Rico.  
5 (b) "Sending state" shall mean a state in which a prisoner is  
6 incarcerated at the time that he initiates a request for final dispo-  
7 sition pursuant to Article III hereof or at the time that a request for  
8 custody or availability is initiated pursuant to Article IV hereof.  
9 (c) "Receiving state" shall mean the state in which trial is to be  
10 had on an indictment, information or complaint pursuant to Article  
11 III or Article IV hereof.

##### Article III

1 (a) Whenever a person has entered upon a term of imprisonment

2 in a penal or correctional institution of a party state, and whenever  
3 during the continuance of the term of imprisonment there is pending  
4 in any other party state any untried indictment, information or  
5 complaint on the basis of which a detainer has been lodged against  
6 the prisoner, he shall be brought to trial within one hundred eighty  
7 days after he shall have caused to be delivered to the prosecuting  
8 officer and the appropriate court of the prosecuting officer's juris-  
9 diction written notice of the place of his imprisonment and his re-  
10 quest for a final disposition to be made of the indictment, informa-  
11 tion or complaint: provided that for good cause shown in open  
12 court, the prisoner or his counsel being present, the court having  
13 jurisdiction of the matter may grant any necessary or reasonable  
14 continuance. The request of the prisoner shall be accompanied by  
15 a certificate of the appropriate official having custody of the prison-  
16 er, stating the term of commitment under which the prisoner is  
17 being held, the time already served, the time remaining to be  
18 served on the sentence, the amount of good time earned, the time  
19 of parole eligibility of the prisoner, and any decisions of the state  
20 parole agency relating to the prisoner.

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

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

33 (d) Any request for final disposition made by a prisoner pursuant  
34 to paragraph (a) hereof shall operate as a request for final disposi-  
35 tion of all untried indictments, informations or complaints on the  
36 basis of which detainers have been lodged against the prisoner from  
37 the state to whose prosecuting official the request for final disposi-  
38 tion is specifically directed. The warden, commissioner of correc-  
39 tions or other official having custody of the prisoner shall forthwith  
40 notify all appropriate prosecuting officers and courts in the several  
41 jurisdictions within the state to which the prisoner's request for  
42 final disposition is being sent of the proceeding being initiated by  
43 the prisoner. Any notification sent pursuant to this paragraph shall  
44 be accompanied by copies of the prisoner's written notice, request,

45 and the certificate. If trial is not had on any indictment, informa-  
46 tion or complaint contemplated hereby prior to the return of the  
47 prisoner to the original place of imprisonment, such indictment,  
48 information or complaint shall not be of any further force or effect,  
49 and the court shall enter an order dismissing the same with prej-  
50 udice.

51 (e) Any request for final disposition made by a prisoner pursuant  
52 to paragraph (a) hereof shall also be deemed to be a waiver of ex-  
53 tradition with respect to any charge or proceeding contemplated  
54 thereby or included therein by reason of paragraph (d) hereof, and  
55 a waiver of extradition to the receiving state to serve any sentence  
56 there imposed upon him, after completion of his term of imprison-  
57 ment in the sending state. The request for final disposition shall  
58 also constitute a consent by the prisoner to the production of his  
59 body in any court where his presence may be required in order to  
60 effectuate the purposes of this agreement and a further consent  
61 voluntarily to be returned to the original place of imprisonment in  
62 accordance with the provisions of this agreement. Nothing in this  
63 paragraph shall prevent the imposition of a concurrent sentence if  
64 otherwise permitted by law.

65 (f) Escape from custody by the prisoner subsequent to his exe-  
66 cution of the request for final disposition referred to in paragraph  
67 (a) hereof shall void the request.

#### Article IV

1 (a) The appropriate officer of the jurisdiction in which an untried  
2 indictment, information or complaint is pending shall be entitled to  
3 have a prisoner against whom he has lodged a detainer and who is  
4 serving a term of imprisonment in any party state made available  
5 in accordance with Article V (a) hereof upon presentation of a  
6 written request for temporary custody or availability to the appro-  
7 priate authorities of the state in which the prisoner is incarcerated;  
8 provided that the court having jurisdiction of such indictment, in-  
9 formation or complaint shall have duly approved, recorded and  
10 transmitted the request; and provided further that there shall be a  
11 period of thirty days after receipt by the appropriate authorities  
12 before the request be honored, within which period the governor of  
13 the sending state may disapprove the request for temporary custody  
14 or availability, either upon his own motion or upon motion of the  
15 prisoner.

16 (b) Upon receipt of the officer's written request as provided in  
17 paragraph (a) hereof, the appropriate authorities having the prisoner

18 in custody shall furnish the officer with a certificate stating the  
19 term of commitment under which the prisoner is being held,  
20 the time already served, the time remaining to be served on the  
21 sentence, the amount of good time earned, the time of parole eligi-  
22 bility of the prisoner, and any decisions of the state parole agency  
23 relating to the prisoner. Said authorities simultaneously shall fur-  
24 nish all other officers and appropriate courts in the receiving state  
25 who have lodged detainers against the prisoner with similar certi-  
26 ficates and with notices informing them of the request for custody  
27 or availability and of the reasons therefor.

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

34 (d) Nothing contained in this Article shall be construed to de-  
35 prive any prisoner of any right which he may have to contest the  
36 legality of his delivery as provided in paragraph (a) hereof, but  
37 such delivery may not be opposed or denied on the ground that the  
38 executive authority of the sending state has not affirmatively con-  
39 sented to or ordered such delivery.

40 (e) If trial is not had on any indictment, information or complaint  
41 contemplated hereby prior to the prisoner's being returned to the  
42 original place of imprisonment pursuant to Article V(e) hereof,  
43 such indictment, information or complaint shall not be of any  
44 further force or effect, and the court shall enter an order dismiss-  
45 ing the same with prejudice.

#### Article V

1 (a) In response to a request made under Article III or Article IV  
2 hereof, the appropriate authority in a sending state shall offer to  
3 deliver temporary custody of such prisoner to the appropriate  
4 authority in the state where such indictment, information or com-  
5 plaint is pending against such person in order that speedy and  
6 efficient prosecution may be had. If the request for final disposition  
7 is made by the prisoner, the offer of temporary custody shall  
8 accompany the written notice provided for in Article III of this  
9 agreement. In the case of a federal prisoner, the appropriate  
10 authority in the receiving state shall be entitled to temporary custody  
11 as provided by this agreement or to the prisoner's presence in fed-  
12 eral custody at the place for trial, whichever custodial arrange-

13 ment may be approved by the custodian.

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

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

18 (2) A duly certified copy of the indictment, information or com-  
19 plaint on the basis of which the detainer has been lodged and on the  
20 basis of which the request for temporary custody of the prisoner  
21 has been made.

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

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

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

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

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

55 (h) From the time that a party state receives custody of a

56 prisoner pursuant to this agreement until such prisoner is returned  
57 to the territory and custody of the sending state, the state in which  
58 the one or more untried indictments, informations or complaints  
59 are pending or in which trial is being had shall be responsible for  
60 the prisoner and shall also pay all costs of transporting, caring  
61 for, keeping and returning the prisoner. The provisions of this  
62 paragraph shall govern unless the states concerned shall have  
63 entered into a supplementary agreement providing for a different  
64 allocation of costs and responsibilities between or among them-  
65 selves. Nothing herein contained shall be construed to alter or  
66 affect any internal relationship among the departments, agencies  
67 and officers of and in the government of a party state, or between  
68 a party state and its subdivisions, as to the payment of costs, or  
69 responsibilities therefor.

#### Article VI

1 (a) In determining the duration and expiration dates of the time  
2 periods provided in Articles III and IV of this agreement, the run-  
3 ning of said time periods shall be tolled whenever and for as long  
4 as the prisoner is unable to stand trial, as determined by the court  
5 having jurisdiction of the matter.

6 (b) No provision of this agreement, and no remedy made avail-  
7 able by this agreement, shall apply to any person who is adjudged  
8 to be mentally ill.

#### Article VII

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

#### Article VIII

1 This agreement shall enter into full force and effect as to a  
2 party state when such state has enacted the same into law. A state  
3 party to this agreement may withdraw herefrom by enacting a  
4 statute repealing the same. However, the withdrawal of any state  
5 shall not affect the status of any proceedings already initiated by  
6 inmates or by state officers at the time such withdrawal takes effect.

7 nor shall it affect their rights in respect thereof.

#### Article IX

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

## UNIFORM MANDATORY DISPOSITION OF DETAINERS ACT

A detainer may be defined as a warrant filed against a person already in custody with the purpose of insuring that he will be available to the authority which has placed the detainer. Such detainers may be placed by various authorities under varying conditions, such as when an escaped prisoner or a parolee commits a new crime and is imprisoned in another state or when a man not previously imprisoned commits a series of crimes in different jurisdictions. It is proper that authorities in quest of a violator of the law should have assistance in returning him to their jurisdiction, nevertheless the detainer system now operates to the detriment of society all too often.

A sentencing judge is at a loss when faced with detainers already filed and with the possibility of other detainers, since the effect of the detainers on the total correctional treatment of the offender cannot be known in advance of trial under them. The prison administrator is hampered in his efforts toward rehabilitation since the inmate with a detainer filed against him may suffer from anxiety concerning its effect and not respond to training. In many jurisdictions, he is not eligible for parole.

In 1948, concern over this problem led to the formation of the Joint Committee on Detainers at the instance of the Parole and Probation Compact Administrators' Association, with the Council of State Governments as Secretariat and representation from the following organizations in addition to the Compact Administrators: National Association of Attorneys General, National Conference of Commissioners on Uniform State Laws, American Prison Association (now the American Correctional Association) and the Section on Criminal Law of the American Bar Association. The report of the Joint Committee included a statement of aims or guiding principles which should govern public authorities regarding detainers, but did not attempt to draft legislation.

During 1955 and 1956 the old Joint Committee on Detainers was informally reconstituted under the auspices of the Council of State Governments, and the membership of the Committee was augmented by representation from the National Probation and Parole Association, the National Association of County and Prosecuting Attorneys and the U. S. Department of Justice. Operating under the title of "Committee on Detainers and Sentencing and Release of Persons Accused of Multiple Offenses," three meetings of the augmented group were held. The Committee developed and approved three specific proposals, among them one dealing with disposition of detainers within the state based substantially on a plan operative in California and Oregon, which make it possible for a prisoner to initiate the disposition of detainers lodged against him from the state where he is imprisoned. In 1956, a larger group convened to review the draft proposals at a conference held in New York City and approved a number of proposals, including the proposal on Disposition of Detainers within the State. The text of this proposal, along with others approved by the Committee on Suggested State Legislation, is included in Suggested State Legislation--Program for 1957, on pages 75-76.

The Uniform Act, text of which appears below, is based on the California act, and while similar in intent and provisions to the proposal referred to above includes some important additions. The basic purpose of the act is to afford a means of permitting a prisoner to clear up detainers which have been lodged against him. It provides that a prisoner, wishing to clear a detainer based on an outstanding

indictment, information or complaint, may make a request for final disposition of the charges against him. If trial on them is not had within a reasonable time as defined in the statute, the indictment, information or complaint ceases to be of any further force or effect, and the detainer based thereon is removed with prejudice. The Uniform Act provides for dismissal of the detainer with prejudice under the circumstances outlined above and also upon failure of the proper correctional official to inform a prisoner within one year after a detainer has been filed against him at the institution. This act is carried in this Program of Suggested State Legislation as are all recently promulgated acts of the Uniform Law Commission for the information of the states but without review or recommendation by the Committee on Suggested State Legislation.

#### Uniform Mandatory Disposition of Detainers

1     Section 1. (a) Any person who imprisoned in a penal or correctional in-  
2 stitution of this state may request final disposition of any untried [indictment,  
3 information or complaint] pending against him in this state. The request shall  
4 be in writing addressed to the court in which the [indictment, information or  
5 complaint] is pending and to the [prosecuting official] charged with the duty of  
6 prosecuting it, and shall set forth the place of imprisonment.

7     (b) The [warden, commissioner of corrections or other official] having  
8 custody of prisoners shall promptly inform each prisoner in writing of the  
9 source and nature of any untried [indictment, information or complaint]  
10 against him of which the [warden, commissioner of corrections or other  
11 official] had knowledge [or notice] and of his right to make a request for  
12 final disposition thereof.

13     (c) Failure of the [warden, commissioner of corrections or other official]  
14 to inform a prisoner, as required by this section, within one year after a de-  
15 tainer has been filed at the institution shall entitle him to a final dismissal of  
16 the [indictment, information or complaint] with prejudice.

1     Section 2. The request shall be delivered to the [warden, commissioner  
2 of corrections or other officials] having custody of the prisoner, who shall  
3 forthwith

4     (1) certify the term of commitment under which the prisoner is being  
5 held, the time already served on the sentence, the time remaining to be served,  
6 the good time earned, the time of parole eligibility of the prisoner, and any  
7 decisions of the [state parole agency] relating to the prisoner; and

8     (2) send by registered or certified mail, return receipt requested, one copy  
9 of the request [and certificate] to the court and one copy to the [prosecuting  
10 official] to whom it is addressed.

1     Section 3. Within [ninety days] after the receipt of the request and cer-  
2 tificate by the court and [prosecuting official] or within such additional time  
3 as the court for good cause shown in open court may grant, the prisoner or  
4 his counsel being present, the [indictment, information or complaint] shall be  
5 brought to trial; but the parties may stipulate for a continuance or a continuance  
6 may be granted on notice to the attorney of record and opportunity for him to be  
7 heard. If, after such a request, the [indictment, information or complaint] is  
8 not brought to trial within that period, no court of this state shall any longer  
9 have jurisdiction thereof, nor shall the untried [indictment, information or  
10 complaint] be of any further force or effect, and the court shall dismiss it with  
11 prejudice.

1     Section 4. Escape from custody by any prisoner subsequent to his execu-  
2 tion of a request for final disposition of an untried [indictment, information  
3 or complaint] voids the request.

1     Section 5. This Act does not apply to any person adjudged to be mentally  
2 ill [or a defective delinquent].

1     Section 6. The [warden, commissioner of corrections or other official]  
2 having custody of prisoners shall arrange for all prisoners to be informed in  
3 writing of the provisions of this Act, and for a record thereof to be placed in  
4 the prisoner's file.

1     Section 7. This Act shall be so construed as to effectuate its general pur-  
2 pose to make uniform the law of those states which enact it.

1     Section 8. This Act may be cited as the Uniform Mandatory Disposition of  
2 Detainers Act.

1     [Section 9. The following acts and parts of acts are hereby repealed:

2             (a)

3             (b)

4             (c)                                     ]

1     [Section 10. This Act shall take effect . . . . .]