

**CHAPTER 976**  
**UNIFORM ACTS IN CRIMINAL PROCEEDINGS**

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**976.01 Uniform act for the extradition of prisoners as witnesses.**

**(1) DEFINITIONS.** As used in this section:

(a) "Witness" means a person who is confined in a penal institution in any state and whose testimony is desired in another or state in any criminal proceeding or investigation by a grand jury or in any criminal action before a court.

(b) "Penal institutions" includes a jail, prison, penitentiary, house of correction or other place of penal detention.

**(2) SUMMONING WITNESS IN THIS NATION TO TESTIFY IN A TRIBE OR STATE.** A judge of a tribe or state court of record, which by its laws has made provision for commanding persons confined in penal institutions within that tribe or state to attend and testify in this Nation, may certify that there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court, that a person who is confined in a penal institution by this Nation may be a material witness in the proceeding, investigation or action, and that the person's presence will be required during a specified time. Upon presentation of the certificate to any judge having jurisdiction over the person confined, and upon notice to the attorney general, the judge in this Nation shall fix a time and place for a hearing and shall make an order directed to the person having custody of the prisoner requiring that the prisoner be produced before the judge at the hearing.

**(3) COURT ORDER.** If at the hearing the judge determines all of the following, the judge shall issue an order, with a copy of the certificate attached, directing the witness to attend and testify, directing the person having custody of the witness to produce the witness, in the court where the criminal action is pending, or where the grand jury investigation is pending, at a time and place specified in the order, and prescribing such conditions as the judge determines:

(a) That the witness may be material and necessary.

(b) That the witness's attending and testifying are not adverse to the interests of this Nation or to the health or legal rights of the witness.

(c) That the laws of the tribe or state in which the witness is requested to testify will give the witness protection from arrest and the service of civil and criminal process because of any act committed prior to the witness's arrival in the tribe or state under the order.

(d) That as a practical matter the possibility is negligible that the witness may be subject to arrest or to the service of civil or criminal process in any tribe or state through which the witness will be required to pass.

**(4) TERMS AND CONDITIONS.** The order to the witness and to the person having custody of the witness shall provide for the return of the witness at the conclusion of the witness's testimony,

proper safeguards on the witness's custody, and proper financial reimbursement or prepayment by the requesting jurisdiction for all expenses incurred in the production and return of the witness and may prescribe such other conditions as the judge thinks proper or necessary. The order shall not become effective until the judge of the tribe or state requesting the witness enters an order directing compliance with the conditions prescribed.

(5) EXCEPTIONS. This section does not apply to any person in this Nation confined as insane or mentally ill or as a defective delinquent.

(6) PRISONER FROM ANOTHER TRIBE OR STATE SUMMONED TO TESTIFY IN THIS NATION. If a person confined in a penal institution in any other tribe or state may be a material witness in a criminal action pending in a court of record or in a grand jury investigation in this Nation, a judge of the court may certify that there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court, that a person who is confined in a penal institution in the other tribe or state may be a material witness in the proceeding, investigation or action, and that the person's presence will be required during a specified time. The certificate shall be presented to a judge of a court of record in the other tribe or state having jurisdiction over the prisoner confined, and a notice shall be given to the attorney general of the tribe or state in which the prisoner is confined.

(7) COMPLIANCE. The judge of the court in this Nation may enter an order directing compliance with the terms and conditions prescribed by the judge of the tribe or state in which the witness is confined.

(8) EXEMPTION FROM ARREST AND SERVICE OF PROCESS. If a witness from another tribe or state comes into or passes through this Nation under an order directing the witness to attend and testify in this Nation or another tribe or state, the witness shall not while in this Nation pursuant to the order be subject to arrest or the service of process, civil or criminal, because of any act committed prior to the witness's arrival in this tribe or state under the order.

**976.02 Uniform act for the extradition of witnesses in criminal actions.**

(1) DEFINITIONS. "Witness" as used in this section includes a person whose testimony is desired in any proceeding or investigation by a grand jury or in a criminal action, prosecution or proceeding. "State" includes any territory of the United States and the District of Columbia. "Summons" includes a subpoena order or other notice requiring the appearance of a witness. "Tribe" includes any federally recognized tribe within the United States.

(2) SUMMONING WITNESS IN THIS NATION TO TESTIFY IN ANOTHER TRIBE OR STATE.

(a) If a judge of a court of record in any tribe or state which by its laws has made provision for commanding persons within that tribe or state to attend and testify in this Nation certifies under the seal of such court that there is a criminal prosecution pending in such court, or that a grand jury investigation has commenced or is about to commence, that a person being within the tribe or state is a material witness in such prosecution or grand jury investigation, and that the person's presence will be required for a specified number of days, upon presentation of such certificate to any judge of a court of record in the Nation in which such person is, such judge shall fix a time and place for a hearing and shall make an order directing the witness to appear at a time and place certain for the hearing.

(b) If at the hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or a grand jury investigation in the other tribe or state, and that the laws of the tribe or state in which the prosecution is pending, or grand jury investigation has commenced or is about to commence, and of any other tribe or state through which the witness may be required to pass by ordinary course of travel, will give to the witness protection from arrest and the service of civil and criminal process, the judge shall issue a summons, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending, or where a grand jury investigation has commenced or is about to commence, at a time and place specified in the summons. In any such hearing the certificate shall be prima facie evidence of all the facts stated therein.

(c) If said certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting tribe or state to assure the witness's attendance in the requesting tribe or state, such judge may, in lieu of notification of the hearing, direct that such witness be forthwith brought before the judge for said hearing; and the judge at the hearing being satisfied of the desirability of such custody and delivery, for which determination the certificate shall be prima facie proof of such desirability, may, in lieu of issuing subpoena or summons, order that said witness be forthwith taken into custody and delivered to an officer of the requesting tribe or state.

(d) If the witness, who is summoned as above provided, after being paid or tendered by some properly authorized person the sum of 10 cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and \$5 for each day that the witness is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the summons, the witness shall be punished as provided for the punishment of any witness who disobeys a summons issued from a court of record in this Nation.

### (3) WITNESS FROM ANOTHER TRIBE OR STATE SUMMONED TO TESTIFY IN THIS NATION.

(a) If a person in any tribe or state, which by its laws has made provision for commanding persons within its borders to attend and testify in criminal prosecutions, or grand jury investigations commenced or about to commence, in this Nation, is a material witness in a prosecution pending in a court of record in this Nation, or in a grand jury investigation which has commenced or is about to commence, a judge of such court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. Said certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of this Nation to assure the witness's attendance in this Nation. This certificate shall be presented to a judge of a court of record in the county or tribe in which the witness is found.

(b) If the witness is summoned to attend and testify in this Nation the witness shall be tendered the sum of 10 cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and \$5 for each day that the witness is required to travel and attend as a witness. A witness who has appeared in accordance with the summons shall not be required to remain within this Nation a longer period of time than otherwise ordered by the court. If such witness, after coming into this Nation, fails without good cause to attend and testify as directed in the summons, the witness shall be punished as provided for the punishment of any witness who disobeys a summons issued from a court of record in this Nation.

**(4) EXEMPTION FROM ARREST AND SERVICE OF PROCESS.**

**(a)** If a person comes into this Nation in obedience to a summons directing the person to attend and testify in this Nation the person shall not while in this Nation pursuant to such summons be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before the person's entrance into this Nation under the summons.

**(b)** If a person passes through this Nation while going to another tribe or state in obedience to a summons to attend and testify in that tribe or state or while returning therefrom, the person shall not while so passing through this Nation be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before the person's entrance to this Nation under the summons.

**976.03 Uniform criminal extradition act.**

**(1) DEFINITIONS.** In this section, "president" includes any person performing the functions of president by authority of the law of this Nation. "Executive authority" includes the president, and any person performing the functions of a governor in a state other than this Nation, and "state" referring to a state other than this Nation refers to any other state or territory organized or unorganized of the United States of America. "Tribe" includes any other federally recognized tribe within the United States.

**(2) CRIMINALS TO BE DELIVERED UPON REQUISITION.** Subject to the qualifications of this section, and the provisions of the Ho-Chunk Nation Constitution controlling, it is the duty of the president of this Nation to have arrested and delivered up to the executive authority of any other tribe or state of the United States any person charged in that tribe or state with treason, felony or other crime, who has fled from justice and is found in this Nation.

**(3) FORM OF DEMAND.** No demand for the extradition of a person charged with a crime in another tribe or state shall be recognized by the president unless in writing alleging, except in cases arising under sub. (6), that the accused was present in the demanding tribe or state at the time of the commission of the alleged crime, and that thereafter the accused fled from the tribe or state, and accompanied by a copy of an indictment found or by an information supported by affidavit in the tribe or state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the executive authority of the demanding tribe or state that the person claimed has escaped from confinement or has broken the terms of the person's bail, probation, extended supervision or parole. The indictment, information or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that tribe or state; and the copy of indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority making the demand.

**(4) PRESIDENT MAY INVESTIGATE CASE.** When a demand shall be made upon the president of this Nation by the executive authority of another tribe or state for the surrender of a person so charged with a crime, the president may call upon the attorney general or any prosecuting officer in this Nation to investigate or assist in investigating the demand, and to report to the president the situation and circumstances of the person so demanded, and whether the person ought to be surrendered.

**(5) EXTRADITION OF PERSONS IMPRISONED OR AWAITING TRIAL IN ANOTHER TRIBE OR STATE OR WHO HAVE LEFT THE DEMANDING TRIBE OR STATE UNDER COMPULSION.**

**(a)** When it is desired to have returned to this Nation a person charged in this Nation with a crime, and such person is imprisoned or is held under criminal proceedings then pending against the person in another tribe or state, the president of this Nation may agree with the executive authority of such other tribe or state for the extradition of such person before the conclusion of such proceedings or the person's term of sentence in such other tribe or state, upon condition that such person be returned to such other tribe or state at the expense of this Nation as soon as the prosecution in this Nation is terminated.

**(b)** The president of this Nation may also surrender on demand of the executive authority of any other tribe or state any person in this Nation who is charged in the manner provided in sub. (23) with having violated the laws of the tribe or state whose executive authority is making the demand, even though such person left the demanding tribe or state involuntarily.

**(6) EXTRADITION OF PERSONS CHARGED WITH HAVING COMMITTED A CRIME IN THE DEMANDING TRIBE OR STATE BY ACTS DONE IN THIS OR SOME OTHER TRIBE OR STATE.** The president of this Nation may also surrender, on demand of the executive authority of any other tribe or state, any person in this Nation charged in such other tribe or state as provided in sub. (3) with committing an act in this Nation, or in a third tribe or state, intentionally resulting in a crime in the tribe or state whose executive authority is making the demand; and the provisions of this section not otherwise inconsistent shall apply to such cases, notwithstanding that the accused was not in that tribe or state at the time of the commission of the crime, and has not fled therefrom.

**(7) ISSUE OF PRESIDENTS WARRANT OF ARREST; ITS RECITALS.** If the president shall decide that the demand should be complied with, the president shall sign a warrant of arrest, which shall be sealed with the Nation's seal, and be directed to the chief of police, a sheriff, marshal, coroner or other person whom the president may think fit to entrust with the execution thereof; and the warrant must substantially recite the facts necessary to the validity of its issue.

**(8) MANNER AND PLACE OF EXECUTION.** The warrant shall authorize the officer or other person to whom directed to arrest the accused at any place where the accused may be found within the Nation and to command the aid of all officers and other officers with whom the Nation maintains a agreements, in the execution of the warrant, and to deliver the accused subject to this section, to the duly authorized agent of the demanding tribe or state.

**(9) AUTHORITY OF ARRESTING OFFICER.** Every such officer or other person empowered to make the arrest shall have the same authority in arresting the accused to command assistance therein, as sheriffs and other officers have by law in the execution of any criminal process directed to them, with the like penalties against those who refuse their assistance.

**(10) RIGHTS OF ACCUSED; APPLICATION FOR HABEAS CORPUS.** No person arrested upon such warrant may be delivered over to the agent whom the executive authority demanding the person shall have appointed to receive the person unless the person shall first be taken forthwith before a judge of a court of record in this Nation, who shall inform the person of the demand made for the person's surrender and of the crime with which the person is charged, and that the person has the

right to demand and procure legal counsel; and if the prisoner or the prisoner's counsel shall state that the prisoner desires to test the legality of the prisoner's arrest, the judge of such court of record shall fix a reasonable time to be allowed the prisoner within which to commence an action for habeas corpus. When such action is commenced, notice thereof, and of the time and place of hearing thereon, shall be given to the prosecuting officer of the tribe and to the said agent of the demanding tribe or state.

**(11) PENALTY FOR NONCOMPLIANCE WITH PRECEDING SECTION.** Any officer who delivers to the agent for extradition of the demanding tribe or state a person in the officer's custody under the president's warrant in disobedience to sub. (10) shall be guilty of a misdemeanor, and on conviction shall be fined not more than \$1,000, or be imprisoned not more than 6 months or both.

**(12) CONFINEMENT IN JAIL WHEN NECESSARY.**

**(a)** The officer or person executing the president's warrant of arrest, or the agent of the demanding tribal or state to whom the prisoner may have been delivered, may when necessary confine the prisoner in the jail of a county where the Nation maintains a housing agreement and the keeper of such jail must receive and safely keep the prisoner until the person having charge of the prisoner is ready to proceed on his or her route, such person being chargeable with the expense of keeping.

**(b)** The officer or agent of a demanding tribe or state to whom a prisoner may have been delivered following extradition proceedings in another tribe or state, or to whom a prisoner may have been delivered after waiving extradition in such other tribe or state, and who is passing through this Nation with such a prisoner for the purpose of immediately returning such prisoner to the demanding tribe or state may, when necessary, confine the prisoner in the jail of any county where the Nation maintains an agreement and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of the prisoner is ready to proceed on his or her route, such officer or agent, however, being chargeable with the expense of keeping; provided, however, that such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that the officer or agent is actually transporting such prisoner to the demanding tribe or state after a requisition by the executive authority of such demanding tribe or state. Such prisoner shall not be entitled to demand a new requisition while in this Nation.

**(13) ARREST PRIOR TO REQUISITION.** Whenever any person within this Nation shall be charged on the oath of any credible person before any judge of this Nation with the commission of any crime in any other tribe or state and, except in cases arising under sub. (6), with having fled from justice, or with having been convicted of a crime in that tribe or state and having escaped from confinement, or having broken the terms of his or her bail, probation, extended supervision or parole, or whenever complaint shall have been made before any judge in this Nation setting forth on the affidavit of any credible person in another tribe or state that a crime has been committed in such other tribe or state and that the accused has been charged in such tribe or state with the commission of the crime, and, except in cases arising under sub. (6), has fled from justice, or with having been convicted of a crime in that tribe or state and having escaped from confinement, or having broken the terms of his or her bail, probation, extended supervision or parole, and is believed to be in this Nation, the judge shall issue a warrant directed to any peace officer commanding the officer to apprehend the person named therein, wherever the person may be found in this Nation, and to bring the person before the same or any other judge or court who or which

may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit; and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

**(14) ARREST WITHOUT A WARRANT.** The arrest of a person may be lawfully made also by an officer or a private citizen without a warrant upon reasonable information that the accused stands charged in the courts of another tribe or state with a crime punishable by death or imprisonment for a term exceeding one year; but when so arrested the accused must be taken before a judge with all practicable speed and complaint must be made against the accused under oath setting forth the ground for the arrest as in sub. (13); and thereafter the accused's answer shall be heard as if the accused had been arrested on a warrant.

**(15) COMMITMENT TO AWAIT REQUISITION; BAIL.** If from the examination before the judge it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under sub. (6), that the person held has fled from justice, the judge must, by a warrant reciting the accusation, commit the person held to jail for such a time not exceeding 30 days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the president or governor on a requisition of the executive authority of the tribe or state having jurisdiction of the offense, unless the accused give bail as provided in sub. (16), or until the accused shall be legally discharged.

**(16) BAIL; IN WHAT CASES; CONDITIONS OF BOND.** Unless the offense with which the prisoner is charged is shown to be an offense punishable by maximum imprisonment under the laws of the Nation in which it was committed, a judge in this Nation may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as the judge deems proper, conditioned for the prisoner's appearance before the judge at a time specified in such bond, and for the prisoner's surrender, to be arrested upon the warrant of the president of this Nation.

**(17) EXTENSION OF TIME OF COMMITMENT; ADJOURNMENT.** If the accused is not arrested under warrant of the president by the expiration of the time specified in the warrant or bond, a judge may discharge the accused or may recommit the accused for a further period not to exceed 60 days, or may again take bail for the accused's appearance and surrender, as provided in sub. (16), but within a period not to exceed 60 days after the date of such new bond.

**(18) FORFEITURE OF BAIL.** If the prisoner is admitted to bail, and fails to appear and surrender himself or herself according to the conditions of his or her bond, the judge, by proper order, shall declare the bond forfeited and order the prisoner's immediate arrest without warrant if the prisoner be within this Nation. Recovery may be had on such bond in the name of the tribe or state as in the case of other bonds given by the accused in criminal proceedings within this Nation.

**(19) IF A PROSECUTION HAS ALREADY BEEN INSTITUTED IN THIS NATION.** If a criminal prosecution has been instituted against such person under the laws of this Nation and is still pending, the president at the president's discretion either may surrender the person on the demand of the executive authority of another tribe or state, or may hold the person until the person has been tried and discharged, or convicted and punished in this Nation.

**(20) GUILT OR INNOCENCE OF ACCUSED, WHEN INQUIRED INTO.** The guilt or innocence of the accused as to the crime of which the accused is charged may not be inquired into by the president or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as above provided shall have been presented to the president, except as it may be involved in identifying the person held as the person charged with the crime.

**(21) PRESIDENT MAY RECALL WARRANT OR ISSUE ALIAS.** The president may recall his or her warrant of arrest, or may issue another warrant whenever he or she deems proper.

**(22) FUGITIVES FROM THIS NATION, DUTY OF PRESIDENT.** Whenever the president of this Nation shall demand a person charged with crime or with escaping from confinement or breaking the terms of his or her bail, probation, extended supervision or parole in this Nation from the executive authority of any other tribe or state, or from the chief justice or an associate justice of the district court of the United States for the District of Columbia authorized to receive such demand under the laws of the United States, the president shall issue a warrant under the seal of this Nation, to some agent, commanding the agent to receive the person so charged if delivered to the agent and convey the person to the proper officer in this Nation in which the offense was committed.

**(23) MANNER OF APPLYING FOR REQUISITION.**

(a) When the return to this Nation of a person charged with crime in this Nation is required, the prosecuting attorney shall present to the president his or her written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against the person, and the approximate time, place and circumstances of its commission, the state in which the person is believed to be, including the location of the accused therein, at the time the application is made and certifying that, in the opinion of the said prosecuting attorney the ends of justice require the arrest and return of the accused to this Nation for trial, and that the proceeding is not instituted to enforce a private claim.

(b) When the return to this Nation is required of a person who has been convicted of a crime in this Nation and has escaped from confinement or broken the terms of his or her bail, probation, extended supervision or parole, the tribal prosecutor, probation and parole, or the warden of the institution or the chief of police or the sheriff of the county from which escape was made, shall present to the president a written application for a requisition for the return of the person, in which application shall be stated the name of the person, the crime of which the person was convicted, the circumstances of escape from confinement or of the breach of the terms of bail, probation, extended supervision or parole, and the tribe or state in which the person is believed to be, including the location of the person therein at the time application is made.

(c) The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by 2 certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to a judge, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, probation and parole, warden, chief of police or sheriff may also attach such further affidavits and other documents in duplicate as he, she or it deems proper to be submitted with the application. One copy of the application, with the action of the president indicated by endorsement thereon, and one of the certified copies of the indictment, complaint, information and affidavits, or of the judgment of conviction or of the sentence shall be filed in the office of the president to remain of record in that office. The other copies of all papers shall be forwarded with the president's requisition.



**(24) EXPENSES OF EXTRADITION.** The compensation of the agent of the demanding tribe or state shall be \$8 per day for the time necessarily devoted to the performance of the agent's duties, and the agent's actual and necessary expenses, which compensation and expenses shall be allowed by the Nation if the crime was committed within its jurisdiction, upon presentation to said board of a verified account, stating the number of days the agent was engaged and the items of expense incurred while acting as such agent.

**(25) ASSISTANTS TO AGENT RETURNING FUGITIVE.** If the tribal prosecutor certifies in writing that it is necessary or desirable, one or more officers may accompany said agent and shall be entitled to compensation at the rate of \$5 per day, unless the legislature by resolution establishes a different rate, and to their actual and necessary expenses. Such compensation and expenses shall be claimed and allowed as provided in sub. (24) and the said certificate of the tribal prosecutor shall be attached to the verified account of such officer for such services. While so engaged, said officer shall be deemed an officer of this Nation and shall use all proper means to assist the agent to retain the custody of the prisoner.

**(26) EXEMPTION FROM CIVIL PROCESS.** A person brought into this Nation by, or after waiver of, extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceeding to answer which the person is being or has been returned, until the person has been convicted in the criminal proceeding, or, if acquitted, until the person has had reasonable opportunity to return to the tribe or state from which the person was extradited.

**(27) WRITTEN WAIVER OF EXTRADITION PROCEEDINGS.**

**(a)** Any person arrested in this Nation charged with having committed any crime in another tribe or state or alleged to have escaped from confinement, or broken the terms of his or her bail, probation, extended supervision or parole may waive the issuance and service of the warrant provided for in subs. (7) and (8) and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a trial court judge within this Nation a writing which states that the person consents to return to the demanding tribe or state; however, before such waiver shall be executed or subscribed by such person the judge shall inform such person of the person's rights to the issuance and service of a warrant of extradition and to commence an action for habeas corpus as provided in sub. (10).

**(b)** If and when such consent has been duly executed it shall forthwith be forwarded to the office of the president of this Nation and filed therein. 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 tribe or state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent. Nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding tribe or 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 tribe or state or of this Nation.

**(28) NONWAIVER BY THIS NATION.** Nothing in this section shall be deemed to constitute a waiver by this Nation of its right, power or privilege to try such demanded person for crime committed within this Nation, 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 crime committed within this Nation, nor shall any proceedings had under this section 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.

(29) NO RIGHT OF ASYLUM. After a person has been brought back to this Nation by, or after waiver of, extradition proceedings, the person may be tried in this Nation for other crimes which the person may be charged with having committed here, as well as that specified in the requisition for the person's extradition.

~~(30) INTERPRETATION. This section shall be so interpreted as to make uniform the law of those states which enact it.~~

#### **976.04 Uniform act on close pursuit.**

(1) Any member of a federally recognized tribe, duly organized state, county or municipal peace unit of another state of the United States who enters this Nation in close pursuit, and continues within this Nation such close pursuit, of a person in order to arrest the person on the grounds that the person is believed to have committed a felony in such other tribe or state, shall have the same authority to arrest and hold in custody such person, as members of a federally recognized tribe, duly organized state, county or municipal peace unit of the state or Nation have, to arrest and hold in custody a person on the grounds that the person has committed a felony in this Nation.

(2) If an arrest is made in this Nation by an officer of another tribe or state in accordance with sub. (1), the officer shall without unnecessary delay take the person arrested before a trial court judge, who shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If the judge determines that the arrest was lawful the judge shall commit the person arrested to await for a reasonable time the issuance of an extradition warrant by the governor of a state or tribe or admit the person to bail for such purpose. If the judge determines that the arrest was unlawful, the judge shall discharge the person arrested.

(3) Subsection (1) shall not be construed so as to make unlawful any arrest in this Nation which would otherwise be lawful.

(4) For the purpose of this section, "state" includes the District of Columbia. "Tribe" includes any federally recognized tribe within the United States.

(5) "Close pursuit" as used in this section includes fresh pursuit as defined by the common law, and also the pursuit of a person who has committed a felony or who is reasonably suspected of having committed a felony. It also includes the pursuit of a person suspected of having committed a supposed felony, though no felony has actually been committed, if there are reasonable grounds for believing that a felony has been committed. Close pursuit as used herein shall not necessarily imply instant pursuit, but pursuit without unreasonable delay.

(6) This section shall be cited as the "Uniform Act on Close Pursuit".

**976.05 Agreement on detainers.** The agreement on detainers is hereby enacted into law and entered into by this Nation with all other jurisdictions legally joined therein in the form substantially as follows:

The contracting parties solemnly agree that:

(1) ARTICLE I. The party tribes or 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 tribes or 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 tribes or 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.

(2) ARTICLE II. As used in this agreement:

(a) "Receiving tribe or state" means the tribe or state in which trial is to be had on an indictment, information or complaint under sub. (3) or (4).

(b) "Sending tribe or state" means a tribe or state in which a prisoner is incarcerated at the time that the prisoner initiates a request for final disposition under sub. (3) or at the time that a request for custody or availability is initiated under sub. (4).

(c) "State" means a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; and the Commonwealth of Puerto Rico. "Tribe" includes any federally recognized tribe located within the United States.

(3) ARTICLE III.

(a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party tribe or state, and whenever during the continuance of the term of imprisonment there is pending in any other party tribe or state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, the prisoner shall be brought to trial within 180 days after the prisoner has 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 or her imprisonment and his or her request for a final disposition to be made of the indictment, information or complaint, but for good cause shown in open court, the prisoner or the prisoner's 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 or date of release to extended supervision of the prisoner and any decisions of probation and parole relating to the prisoner.

(b) The written notice and request for final disposition referred to in par. (a) shall be given or sent by the prisoner to probation and parole, or warden, or other official having custody of the prisoner, 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 department, or warden, or other official having custody of the prisoner shall promptly inform the prisoner of the source and contents of any detainer lodged against the prisoner and shall also inform the prisoner of the prisoner's 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 under par. (a) 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 tribe or state to whose prosecuting official the request for final disposition is specifically directed. Probation and parole, or warden, or other official having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the tribe or 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 under par. (a) shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of par. (d), and a waiver of extradition to the receiving tribe or state to serve any sentence there imposed upon the prisoner after completion of the prisoner's term of imprisonment in the sending tribe or state. The request for final disposition shall also constitute a consent by the prisoner to the production of the prisoner's body in any court where the prisoner's 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 the prisoner's execution of the request for final disposition referred to in par. (a) shall void the request.

#### (4) 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 the officer has lodged a detainer and who is serving a term of imprisonment in any party tribe or state made available in accordance with sub. (5) (a) upon presentation of a written request for temporary custody or availability to the appropriate authorities of the tribe or state in which the prisoner is incarcerated: provided that the court having jurisdiction of such indictment, information or complaint has duly approved, recorded and transmitted the request: and that there shall be a period of 30 days after receipt by the appropriate authorities before the request is honored, within which period the governor of the sending tribe or state may disapprove the request for temporary custody or availability, either upon the president's or governor's own motion or upon motion of the prisoner.

(b) Upon receipt of the officer's written request under par. (a), 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 or date of release to extended supervision of the prisoner, and any decisions of the tribal or state parole agency relating to the prisoner. Said authorities simultaneously shall furnish all other officers and

appropriate courts in the receiving tribe or state who 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 to any proceeding made possible by this subsection, trial shall be commenced within 120 days of the arrival of the prisoner in the receiving tribe or state, but for good cause shown in open court, the prisoner or the prisoner's counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

(d) Nothing contained in this subsection shall be construed to deprive any prisoner of any right which the prisoner may have to contest the legality of the prisoner's delivery under par. (a), but such delivery may not be opposed or denied on the grounds that the executive authority of the sending tribe or 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 under sub. (5) (e), 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.

#### **(5) ARTICLE V.**

(a) In response to a request made under sub. (3) or (4), the appropriate authority in a sending tribe or state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the tribe or 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 under sub. (3). 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 tribe or state accepting an offer of temporary custody shall present the following upon demand:

1. Proper identification and evidence of his or her authority to act for the tribe or 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 refuses or fails to accept temporary custody of said 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 sub. (3) or (4), 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 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 for prosecution on any other charge or charges arising out of the same transaction. Except for the prisoner's attendance at court and while being transported to or from any place at which the prisoner's 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 tribe or 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 allows.

(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 tribe or 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 tribe or state received custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending tribe or state, the tribe or 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. This paragraph shall govern unless the tribes or states concerned 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 tribe or state, or between a party tribe or state and its subdivisions, as to the payment of costs, or responsibilities therefor.

**(6) ARTICLE VI.**

(a) In determining the duration and expiration dates of the time periods provided in subs. (3) and (4), the running of said 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.

**(7) ARTICLE VII.** Each tribe or state party to this agreement shall designate an officer who, acting jointly with like officers of other party tribes or 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 tribe or state, information necessary to the effective operation of this agreement.

**(8) ARTICLE VIII.** This agreement shall enter into full force as to a party tribe or state when such tribe or state has entered into an agreement with the Nation or is authorized by that jurisdiction's law. A tribe or 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 tribal or state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof.

**(9) 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 tribe or 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 tribe or state party hereto, the agreement shall remain in full force as to the remaining states and in full force as to the state affected as to all severable matters.

(10) In this section:

(a) "Appropriate court", with reference to the courts of this Nation, means the trial court.

(11) All courts, departments, agencies, officers and employees of this Nation and its political subdivisions are hereby directed to enforce the agreement on detainees and to cooperate with one another and with other parties in enforcing the agreement and effectuating its purpose.

(12) Nothing in this section or in the agreement on detainees shall be construed to require the application of s. 939.62 to any person on account of any conviction had in a proceeding brought to final disposition by reason of the use of said agreement.

(13) Any prisoner who while in another tribe or state as a result of the application of the agreement on detainees escapes from lawful custody shall be punished as though such escape had occurred within this Nation.

(14) Probation and parole shall give over the person of any inmate of any penal or correctional institution under its jurisdiction whenever so required by the operation of the agreement on detainees.

(15) Copies of this section shall, upon its approval, be transmitted to the president of this Nation and the Nation's attorney general, and the governor or leader of each tribe or state, the tribe or state's attorney general and the secretary of state of the United States, the tribal council, and the council of state governments.

**976.06 Agreement on detainees; additional procedure.** Following receipt of the officer's written request as provided in s. 976.05 (4) (a), the prisoner shall forthwith be taken before a judge of a court of record of this Nation, who shall inform the prisoner of the request for temporary custody or availability, the crime with which charged and that the prisoner has the right to petition the governor to deny the request, to contest the request and to demand and procure legal counsel. If the prisoner or the prisoner's counsel shall state that the prisoner or the prisoner and counsel desire to test the legality of granting temporary custody or availability, the judge shall set a date for hearing which shall be not later than the expiration of the 30-day period established by s. 976.05 (4) (a). If a hearing is set, notice of the hearing shall be given to the appropriate officer of the tribe or state requesting temporary custody or availability and to the authorities having custody of the prisoner in this Nation. The scope of any hearing or ruling under this section shall be confined to the request for temporary custody or availability, and to the identification of the person sought by the requesting state, but shall not encompass the guilt or innocence of the prisoner as to the crime charged by the requesting state.