

shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or 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 detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for his attendance at court and while being transported to or from any place at which his 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 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 may allow.

“(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 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 State receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending State, the 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. The provisions of this paragraph shall govern unless the States concerned shall 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 State, or between a party State and its subdivisions, as to the payment of costs, or responsibilities therefor.

#### “ARTICLE VI

“(a) In determining the duration and expiration dates of the time periods provided in articles III and IV of this agreement, 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.

#### “ARTICLE VII

“Each State party to this agreement shall designate an officer who, acting jointly with like officers of other party 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 State, information necessary to the effective operation of this agreement.

#### “ARTICLE VIII

“This agreement shall enter into full force and effect as to a party State when such State has enacted the same into law. A 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 State officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof.

#### “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 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 State party hereto, the agreement shall remain in full force and effect as to the remaining States and in full force and effect as to the State affected as to all severable matters.”

(Pub. L. 91-538, §2, Dec. 9, 1970, 84 Stat. 1397.)

### **§3. Definition of term “Governor” for purposes of United States and District of Columbia**

The term “Governor” as used in the agreement on detainers shall mean with respect to the United States, the Attorney General, and with respect to the District of Columbia, the Mayor of the District of Columbia.

(Pub. L. 91-538, §3, Dec. 9, 1970, 84 Stat. 1402.)

#### TRANSFER OF FUNCTIONS

“Mayor of the District of Columbia” substituted in text for “Commissioner of the District of Columbia” pursuant to section 421 of Pub. L. 93-198, Office of Commissioner of District of Columbia, as established by Reorg. Plan No. 3, of 1967, abolished as of noon Jan. 2, 1975, by Pub. L. 93-198, title VII, §711, Dec. 24, 1973, 87 Stat. 818, and replaced by Office of Mayor of District of Columbia by section 421 of Pub. L. 93-198.

### **§4. Definition of term “appropriate court”**

The term “appropriate court” as used in the agreement on detainers shall mean with respect to the United States, the courts of the United States, and with respect to the District of Columbia, the courts of the District of Columbia, in which indictments, informations, or com-

plaints, for which disposition is sought, are pending.

(Pub. L. 91-538, § 4, Dec. 9, 1970, 84 Stat. 1402.)

**§ 5. Enforcement and cooperation by courts, departments, agencies, officers, and employees of United States and District of Columbia**

All courts, departments, agencies, officers, and employees of the United States and of the District of Columbia are hereby directed to enforce the agreement on detainees and to cooperate with one another and with all party States in enforcing the agreement and effectuating its purpose.

(Pub. L. 91-538, § 5, Dec. 9, 1970, 84 Stat. 1402.)

**§ 6. Regulations, forms, and instructions**

For the United States, the Attorney General, and for the District of Columbia, the Mayor of the District of Columbia, shall establish such regulations, prescribe such forms, issue such instructions, and perform such other acts as he deems necessary for carrying out the provisions of this Act.

(Pub. L. 91-538, § 6, Dec. 9, 1970, 84 Stat. 1403.)

TRANSFER OF FUNCTIONS

“Mayor of the District of Columbia” substituted in text for “Commissioner of the District of Columbia” pursuant to section 421 of Pub. L. 93-198. Office of Commissioner of District of Columbia, as established by Reorg. Plan No. 3 of 1967, abolished as of noon Jan. 2, 1975, by Pub. L. 93-198, title VII, § 711, Dec. 24, 1973, 87 Stat. 818, and replaced by Office of Mayor of District of Columbia by section 421 of Pub. L. 93-198.

**§ 7. Reservation of right to alter, amend, or repeal**

The right to alter, amend, or repeal this Act is expressly reserved.

(Pub. L. 91-538, § 7, Dec. 9, 1970, 84 Stat. 1403.)

**§ 8. Effective Date**

This Act shall take effect on the ninetieth day after the date of its enactment.

(Pub. L. 91-538, § 8, Dec. 9, 1970, 84 Stat. 1403.)

REFERENCES IN TEXT

The date of its enactment, referred to in text, means Dec. 9, 1970.

**§ 9. Special Provisions when United States is a Receiving State**

Notwithstanding any provision of the agreement on detainees to the contrary, in a case in which the United States is a receiving State—

(1) any order of a court dismissing any indictment, information, or complaint may be with or without prejudice. In determining whether to dismiss the case with or without prejudice, the court shall consider, among others, each of the following factors: The seriousness of the offense; the facts and circumstances of the case which led to the dismissal; and the impact of a reprosecution on the administration of the agreement on detainees and on the administration of justice; and

(2) it shall not be a violation of the agreement on detainees if prior to trial the prisoner is returned to the custody of the sending State pursuant to an order of the appropriate court issued after reasonable notice to the prisoner and the United States and an opportunity for a hearing.

(Pub. L. 91-538, § 9, as added Pub. L. 100-690, title VII, § 7059, Nov. 18, 1988, 102 Stat. 4403.)