

LOWER BRULE SIOUX TRIBAL COURT EXTRADITION



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LOWER BRULE SIOUX TRIBE EXTRADITION

SECTION 1

A demand from the Lower Brule Sioux Tribe for the extradition of a person charged with a crime in another state or reservation shall be in writing directed to the chairman of the Lower Brule Sioux Tribe alleging that the accused is charged with a crime and was legally present in the demanding jurisdiction at the time of the alleged crime; he or she was in or thereafter left the demanding jurisdiction to the Lower Brule Reservation; and is accompanied by a copy of the charging document certified as to its correctness and filing by the appropriate clerk of courts. The writing shall be signed by the governor of the State or Chairman of the Tribe.

SECTION 2

When a demand shall be made upon the Chairman of the Lower Brule Sioux Tribe for the extradition of an accused, the Chairman may call upon Lower Brule Sioux law enforcement or any other person or body to investigate or assist in investigating the demand and to provide a report concerning the situation and circumstances of the person so demanded and whether he or she ought to be surrendered.

SECTION 3

The Chairman of the Lower Brule Sioux Tribe has the discretion to refer the question of whether or not the demand for extradition of the accused should be honored to the Lower Brule Sioux Tribal Council to hear such matter. If the matter is referred, the council, person, or body shall have the power set forth in the preceding paragraph. The decision of the Council, person, or body shall be final.

SECTION 4

If it is decided by the Chairman of the Lower Brule Sioux Tribe or his or her lawful delegate that the demand should be complied with, the Chairman or delegate shall sign a warrant of arrest directed to any peace officer or person having authority to execute arrest warrants. The warrant must recite that the accused is charged with a particular crime in a particular demanding jurisdiction and that the person's extradition is being sought from the Lower Brule Sioux Tribe.

SECTION 5

No person arrested upon the above-described extradition warrant shall be delivered over to the demanding jurisdiction prior to being brought before the Lower Brule Sioux Tribal Court which shall inform the person of his or her surrender and of the crime for which the person is charged, and that the person has the right to procure legal counsel at his or her own expense.

SECTION 6

The Lower Brule Sioux Tribal Court may admit to bail the accused demanded under such conditions as it deems appropriate.

SECTION 7

If the accused demands it, a hearing shall be held as soon as practicable after his or her Initial Appearance before the Lower Brule Sioux Tribal Court at which time the demanding jurisdiction shall be required to establish probable cause that the accused committed the crime for which the extradition is demanded and the accused shall be given the opportunity to raise any legal defense that he or she might have to the request for extradition.

SECTION 8

Any person arrested on the Lower Brule Sioux Indian Reservation for having committed a crime in another demand jurisdiction may waive all extradition proceedings by executing a written waiver in the presence of a Tribal Judge. Before a waiver is executed, the accused shall be informed of his or her rights under this Lower Brule Sioux Tribal Extradition Law.

SECTION 9

Nothing in this extradition law shall prevent an accused person from returning voluntarily and without formality to the demanding jurisdiction.

SECTION 10

If the Lower Brule Sioux Tribal Court shall order that the accused be returned to the demanding jurisdiction, the accused shall be allowed to appeal that decision under ordinary appellate procedures to the Lower Brule Sioux Tribal Appellate Court. The accused's return shall be delayed until the appeal has been decided, and the person, in the discretion of the Court, may be admitted to bail pending the appeal.

SECTION 11

Whenever the Chairman of the Lower Brule Sioux Tribe shall demand from the State of South Dakota a person charged with a crime against the Lower Brule Sioux Tribe, the Chairman shall sign a written request for extradition stating that the accused person was legally present on the Lower Brule Sioux Indian Reservation at the time of the alleged crime and that he or she remains in or thereafter fled to South Dakota to avoid prosecution. The request shall be accompanied by a copy of any arrest warrant, by a copy of any judgment of conviction or sentence imposed, if applicable, and by a sworn statement from a Reservation judicial officer that the person claimed has escaped or evaded confinement, or broken the terms of probation, bail, or parole, or that the individual has been charged with committing a specific offense under the laws of the Lower Brule Sioux Tribe.

SECTION 12

The request for extradition shall be transmitted to the Lower Brule Sioux Tribal Court which under signature of a Tribal Judge shall file said request with the presiding Judge of the Circuit Court of South Dakota where the accused is located.

SECTION 13

Nothing in this extradition law shall prevent the Lower Brule Sioux Tribe from following any other procedure lawful in nature to secure the return of a person from any jurisdiction other than South Dakota or from any other Indian Reservation provided said person is charged with committing a crime or otherwise evading lawful criminal procedures of the Lower Brule Sioux Tribe.