

HB0090 - Compact-adult offenders.

2001

*STATE OF  
WYOMING*

01LSO-0330

HOUSE BILL NO. HB0090

Compact-adult offenders.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to the interstate compact for the  
2 supervision of adult offenders; adopting the interstate  
3 compact; authorizing travel across state lines;  
4 transferring supervision among the compacting states;  
5 distributing the costs, benefits and obligations among the  
6 compacting states; creating an interstate commission;  
7 authorizing the promulgation of rules and regulations;  
8 establishing a system of uniform data collection; providing  
9 for regular reporting; and providing for an effective date.

10

11 *Be It Enacted by the Legislature of the State of Wyoming:*

12

13 **Section 1. Preamble**

14

15 Whereas: The interstate compact for the supervision of  
16 parolees and probationers was established in 1937, it is  
17 the earliest corrections "compact" established among the

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1 states and has not been amended since its adoption over  
2 sixty-two (62) years ago;

3

4 Whereas: This compact is the only vehicle for the  
5 controlled movement of adult parolees and probationers  
6 across state lines and it currently has jurisdiction over  
7 more than a quarter of a million offenders;

8

9 Whereas: The complexities of the compact have become more  
10 difficult to administer and many jurisdictions have  
11 expanded supervision expectations to include currently  
12 unregulated practices such as victim input, victim

13 notification requirements and sex offender registration;  
14  
15 Whereas: After hearings, national surveys and a detailed  
16 study by a task force appointed by the national institute  
17 of corrections, the overwhelming recommendation has been to  
18 amend the document to bring about an effective management  
19 capacity that addresses public safety concerns and offender  
20 accountability;  
21  
22 Whereas: Upon the adoption of this interstate compact for  
23 adult offender supervision, it is the intention of the  
24 legislature to repeal the previous interstate compact for

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1 the supervision of parolees and probationers on the  
2 effective date of this compact.  
3  
4 **Section 2.** W.S. 7-13-422 and 7-13-423 are created to  
5 read:  
6  
7 **7-13-422. Short title.**  
8  
9 This act may be cited as "The Interstate Compact for Adult  
10 Offender Supervision."  
11  
12 **7-13-423. Compact provisions generally.**  
13  
14 The interstate compact for the supervision of adult  
15 offenders as contained herein is hereby enacted into law  
16 and entered into on behalf of this state with any and all  
17 other states legally joining therein in a form  
18 substantially as follows.  
19  
20 **Article I**  
21 **Purpose**  
22  
23 (a) The compacting states to this interstate compact  
24 recognize that each state is responsible for the

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1 supervision of adult offenders in the community who are  
2 authorized pursuant to the bylaws and rules of this compact  
3 to travel across state lines both to and from each  
4 compacting state in such a manner as to track the location  
5 of offenders, transfer supervision authority in an orderly  
6 and efficient manner, and when necessary return offenders  
7 to the originating jurisdictions. The compacting states  
8 also recognize that congress, by enacting the Crime Control

9 Act, 4 U.S.C. § 112 (1965), has authorized and encouraged  
10 compacts for cooperative efforts and mutual assistance in  
11 the prevention of crime. It is the purpose of this compact  
12 and the interstate commission created hereunder, through  
13 means of joint and cooperative action among the compacting  
14 states: to provide the framework for the promotion of  
15 public safety and protect the rights of victims through the  
16 control and regulation of the interstate movement of  
17 offenders in the community; to provide for the effective  
18 tracking, supervision and rehabilitation of these offenders  
19 by the sending and receiving states; and to equitably  
20 distribute the costs, benefits and obligations of the  
21 compact among the compacting states. In addition, this  
22 compact will: create an interstate commission which will  
23 establish uniform procedures to manage the movement between  
24 states of adults placed under community supervision and

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1 released to the community under the jurisdiction of courts,  
2 paroling authorities, corrections or other criminal justice  
3 agencies which will promulgate rules to achieve the purpose  
4 of this compact; ensure an opportunity for input and timely  
5 notice to victims and to jurisdictions where defined  
6 offenders are authorized to travel or to relocate across  
7 state lines; establish a system of uniform data collection,  
8 access to information on active cases by authorized  
9 criminal justice officials and regular reporting of compact  
10 activities to heads of state councils, state executive,  
11 judicial and legislative branches and criminal justice  
12 administrators; monitor compliance with rules governing  
13 interstate movement of offenders and initiate interventions  
14 to address and correct noncompliance; and coordinate  
15 training and education regarding regulations of interstate  
16 movement of offenders for officials involved in such  
17 activity.

18

19 (b) The compacting states recognize that there is no  
20 "right" of any offender to live in another state and that  
21 duly accredited officers of a sending state may at all  
22 times enter a receiving state and there apprehend and  
23 retake any offender under supervision subject to the  
24 provisions of this compact and bylaws and rules promulgated

Page 5

1 hereunder. It is the policy of the compacting states that  
2 the activities conducted by the interstate commission  
3 created herein are the formation of public policies and are  
4 therefore public business.

5

6

## Article II

7

## Definitions

8

9 (a) As used in this compact, unless the context  
10 clearly requires a different construction:

11

12 (i) "Adult" means both individuals legally  
13 classified as adults and juveniles treated as adults by  
14 court order, statute or operation of law;

15

16 (ii) "By-laws" mean those by-laws established by  
17 the interstate commission for its governance or for  
18 directing or controlling the interstate commission's  
19 actions or conduct;

20

21 (iii) "Compact administrator" means the  
22 individual in each compacting state appointed pursuant to  
23 the terms of this compact responsible for the  
24 administration and management of the state's supervision

Page 6

1 and transfer of offenders subject to the terms of this  
2 compact, the rules adopted by the interstate commission and  
3 policies adopted by the state council under this compact;

4

5 (iv) "Compacting state" means any state which  
6 has enacted the enabling legislation for this compact;

7

8 (v) "Commissioner" means the voting  
9 representative of each compacting state appointed pursuant  
10 to Article III of this compact;

11

12 (vi) "Interstate commission" means the  
13 interstate commission for adult offender supervision  
14 established by this compact;

15

16 (vii) "Member" means the commissioner of a  
17 compacting state or designee, who shall be a person  
18 officially connected with the commissioner;

19

20 (viii) "Noncompacting state" means any state  
21 which has not enacted the enabling legislation for this  
22 compact;

23

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1 (ix) "Offender" means an adult placed under, or

2 subject to, supervision as the result of the commission of  
 3 a criminal offense and released to the community under the  
 4 jurisdiction of courts, paroling authorities, corrections  
 5 or other criminal justice agencies;

6  
 7 (x) "Person" means any individual, corporation,  
 8 business enterprise or other legal entity, either public or  
 9 private;

10  
 11 (xi) "Rules" means acts of the interstate  
 12 commission, duly promulgated pursuant to Article VIII of  
 13 this compact, substantially affecting interested parties in  
 14 addition to the interstate commission, which shall have the  
 15 force and effect of law in the compacting states;

16  
 17 (xii) "State" means a state of the United  
 18 States, the District of Columbia and any other territorial  
 19 possessions of the United States; and

20  
 21 (xiii) "State council" means the resident  
 22 members of the state council for interstate adult offender  
 23 supervision created by each state under Article III of this  
 24 compact.

Page 8

1 Article III  
 2 The Compact Commission  
 3

4 (a) The compacting states hereby create the  
 5 "interstate commission for adult offender supervision."  
 6 The interstate commission shall be a body corporate and  
 7 joint agency of the compacting states. The interstate  
 8 commission shall have all the responsibilities, powers and  
 9 duties set forth herein, including the power to sue and be  
 10 sued and such additional powers as may be conferred upon it  
 11 by subsequent action of the respective legislatures of the  
 12 compacting states in accordance with the terms of this  
 13 compact.  
 14

15 (b) The interstate commission shall consist of  
 16 commissioners selected and appointed by resident members of  
 17 a state council for interstate adult offender supervision  
 18 for each state.  
 19

20 (c) In addition to the commissioners who are the  
 21 voting representatives of each state, the interstate  
 22 commission shall include individuals who are not  
 23 commissioners but who are members of interested  
 24 organizations; such noncommissioner members must include a

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1 member of the national organizations of governors,  
2 legislators, state chief justices, attorneys general and  
3 crime victims. All noncommissioner members of the  
4 interstate commission shall be ex-officio (nonvoting)  
5 members. The interstate commission may provide in its by-  
6 laws for such additional, ex-officio, nonvoting members as  
7 it deems necessary.

8

9 (d) Each compacting state represented at any meeting  
10 of the interstate commission is entitled to one (1) vote. A  
11 majority of the compacting states shall constitute a quorum  
12 for the transaction of business, unless a larger quorum is  
13 required by the by-laws of the interstate commission. The  
14 interstate commission shall meet at least once each  
15 calendar year. The chairperson may call additional meetings  
16 and, upon the request of twenty-seven (27) or more  
17 compacting states, shall call additional meetings. Public  
18 notice shall be given of all meetings and meetings shall be  
19 open to the public.

20

21 (e) The interstate commission shall establish an  
22 executive committee which shall include commission  
23 officers, members and others as shall be determined by the  
24 by-laws. The executive committee shall have the power to

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1 act on behalf of the interstate commission during periods  
2 when the interstate commission is not in session, with the  
3 exception of rulemaking and amendment to the compact. The  
4 executive committee oversees the day-to-day activities  
5 managed by the executive director and interstate commission  
6 staff; administers enforcement and compliance with the  
7 provisions of the compact, its by-laws and as directed by  
8 the interstate commission and performs other duties as  
9 directed by the interstate commission or set forth in the  
10 by-laws.

11

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#### Article IV The State Council

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Each member state shall create a state council for  
interstate adult offender supervision which shall be  
responsible for the appointment of the commissioner who  
shall serve on the interstate commission from that state.  
Each state council shall appoint as its commissioner the  
compact administrator from that state to serve on the  
interstate commission in such capacity under or pursuant to  
applicable law of the member state. While each member state

23 may determine the membership of its own state council, its  
24 membership must include at least one (1) representative

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1 from the legislative, judicial and executive branches of  
2 government, victims groups and compact administrators. Each  
3 compacting state retains the right to determine the  
4 qualifications of the compact administrator who shall be  
5 appointed by the state council or by the governor in  
6 consultation with the legislature and the judiciary. In  
7 addition to appointment of its commissioner to the national  
8 interstate commission, each state council shall exercise  
9 oversight and advocacy concerning its participation in  
10 interstate commission activities and other duties as may be  
11 determined by each member state, including but not limited  
12 to, development of policy concerning operations and  
13 procedures of the compact within that state.

14

15

#### Article V

16

#### Powers and Duties of the Interstate Commission

17

18 (a) The interstate commission shall have the  
19 following powers:

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24

(i) To adopt a seal and suitable by-laws  
governing the management and operation of the interstate  
commission;

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(ii) To promulgate rules which shall have the  
force and effect of statutory law and shall be binding in  
the compacting states to the extent and in the manner  
provided in this compact;

(iii) To oversee, supervise and coordinate the  
interstate movement of offenders subject to the terms of  
this compact and any by-laws adopted and rules promulgated  
by the compact commission;

(iv) To enforce compliance with compact  
provisions, interstate commission rules and by-laws, using  
all necessary and proper means, including but not limited  
to, the use of judicial process;

(v) To establish and maintain offices;

(vi) To purchase and maintain insurance and

19 bonds;

20

21 (vii) To borrow, accept or contract for services  
22 of personnel, including but not limited to, members and  
23 their staffs;

24

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1 (viii) To establish and appoint committees and  
2 hire staff which it deems necessary for the carrying out of  
3 its functions including, but not limited to, an executive  
4 committee as required by Article III which shall have the  
5 power to act on behalf of the interstate commission in  
6 carrying out its powers and duties hereunder;

7

8 (ix) To elect or appoint such officers,  
9 attorneys, employees, agents or consultants and to fix  
10 their compensation, define their duties and determine their  
11 qualifications; and to establish the interstate  
12 commission's personnel policies and programs relating to,  
13 among other things, conflicts of interest, rates of  
14 compensation and qualifications of personnel;

15

16 (x) To accept any and all donations and grants  
17 of money, equipment, supplies, materials and services and  
18 to receive, utilize and dispose of same;

19

20 (xi) To lease, purchase, accept contributions or  
21 donations of, or otherwise to own, hold, improve or use any  
22 property, real, personal or mixed;

23

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1 (xii) To sell, convey, mortgage, pledge, lease,  
2 exchange, abandon or otherwise dispose of any property,  
3 real, personal or mixed;

4

5 (xiii) To establish a budget and make  
6 expenditures and levy dues as provided in Article X of this  
7 compact;

8

9 (xiv) To sue and be sued;

10

11 (xv) To provide for dispute resolution among  
12 compacting states;

13

14 (xvi) To perform such functions as may be  
15 necessary or appropriate to achieve the purposes of this

16 compact;

17

18 (xvii) To report annually to the legislatures,  
19 governors, judiciary and state councils of the compacting  
20 states concerning the activities of the interstate  
21 commission during the preceding year. Such reports shall  
22 also include any recommendations that may have been adopted  
23 by the interstate commission;

24

Page 15

1 (xviii) To coordinate education, training and  
2 public awareness regarding the interstate movement of  
3 offenders for officials involved in such activity; and

4

5 (xix) To establish uniform standards for the  
6 reporting, collecting and exchanging of data.

7

8 Article VI

9 Organization and Operation of the Interstate Commission

10

11 (a) Section A. By-laws. The interstate commission  
12 shall, by a majority of the members, within twelve (12)  
13 months of the first interstate commission meeting, adopt  
14 by-laws to govern its conduct as may be necessary or  
15 appropriate to carry out the purposes of the compact,  
16 including, but not limited to: establishing the fiscal  
17 year of the interstate commission; establishing an  
18 executive committee, such other committees as may be  
19 necessary and providing reasonable standards and  
20 procedures:

21

22 (i) For the establishment of committees;

23

Page 16

1 (ii) Governing any general or specific  
2 delegation of any authority or function of the interstate  
3 commission;

4

5 (iii) Providing reasonable procedures for  
6 calling and conducting meetings of the interstate  
7 commission and ensuring reasonable notice of each such  
8 meeting; establishing the titles and responsibilities of  
9 the officers of the interstate commission; providing  
10 reasonable standards and procedures for the establishment  
11 of the personnel policies and programs of the interstate  
12 commission. Notwithstanding any civil service or other

13 similar laws of any compacting state, the by-laws shall  
14 exclusively govern the personnel policies and programs of  
15 the interstate commission;

16  
17 (iv) Providing a mechanism for winding up the  
18 operations of the interstate commission and the equitable  
19 return of any surplus funds that may exist upon the  
20 termination of the compact after the payment and reserving  
21 of all of its debts and obligations;

22  
23 (v) Providing transition rules for "start up"  
24 administration of the compact; and

Page 17

1  
2 (vi) Establishing standards and procedures for  
3 compliance and technical assistance in carrying out the  
4 compact.

5  
6 (b) Section B. Officers and staff:

7  
8 (i) The interstate commission shall, by a  
9 majority of the members, elect from among its members a  
10 chairperson and a vice chairperson, each of whom shall have  
11 such authorities and duties as may be specified in the by-  
12 laws. The chairperson or, in his or her absence or  
13 disability, the vice chairperson, shall preside at all  
14 meetings of the interstate commission. The officers so  
15 elected shall serve without compensation or remuneration  
16 from the interstate commission; provided that, subject to  
17 the availability of budgeted funds, the officers shall be  
18 reimbursed for any actual and necessary costs and expenses  
19 incurred by them in the performance of their duties and  
20 responsibilities as officers of the interstate commission;

21  
22 (ii) The interstate commission shall, through  
23 its executive committee, appoint or retain an executive  
24 director for such period, upon such terms and conditions

Page 18

1 and for such compensation as the interstate commission may  
2 deem appropriate. The executive director shall serve as  
3 secretary to the interstate commission, and hire and  
4 supervise such other staff as may be authorized by the  
5 interstate commission, but shall not be a member.

6  
7 (c) Section C. Corporate records of the interstate  
8 commission. The interstate commission shall maintain its

9 corporate books and records in accordance with the by-laws.

10

11 (d) Section D. Qualified immunity, defense and  
12 indemnification:

13

14 (i) The members, officers, executive director  
15 and employees of the interstate commission shall be immune  
16 from suit and liability, either personally or in their  
17 official capacity, for any claim for damage to or loss of  
18 property or personal injury or other civil liability caused  
19 or arising out of any actual or alleged act, error or  
20 omission that occurred within the scope of interstate  
21 commission employment, duties or responsibilities;  
22 provided, that nothing in this paragraph shall be construed  
23 to protect any such person from suit and liability for any  
24 damage, loss, injury or liability caused by the intentional

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1 or willful and wanton misconduct of any such person. The  
2 interstate commission shall defend the commissioner of a  
3 compacting state, or his representatives or employees or  
4 the interstate commission's representatives or employees,  
5 in any civil action seeking to impose liability, arising  
6 out of any actual or alleged act, error or omission that  
7 occurred within the scope of interstate commission  
8 employment, duties or responsibilities or that the  
9 defendant had a reasonable basis for believing occurred  
10 within the scope of interstate commission employment,  
11 duties or responsibilities; provided, that the actual or  
12 alleged act, error or omission did not result from  
13 intentional wrongdoing on the part of such person;

14

15 (ii) The interstate commission shall indemnify  
16 and hold the commissioner of a compacting state, the  
17 appointed designee or employees or the interstate  
18 commission's representatives or employees, harmless in the  
19 amount of any settlement or judgment obtained against such  
20 persons arising out of any actual or alleged act, error or  
21 omission that occurred within the scope of interstate  
22 commission employment, duties or responsibilities, or that  
23 such persons had a reasonable basis for believing occurred  
24 within the scope of interstate commission employment,

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1 duties or responsibilities, provided, that the actual or  
2 alleged act, error or omission did not result from gross  
3 negligence or intentional wrongdoing on the part of such  
4 person.

5

6

## Article VII

7

## Activities of the Interstate Commission

8

9 (a) The interstate commission shall meet and take  
10 such actions as are consistent with the provisions of this  
11 compact.

12

13 (b) Except as otherwise provided in this compact and  
14 unless a greater percentage is required by the by-laws, in  
15 order to constitute an act of the interstate commission,  
16 such act shall have been taken at a meeting of the  
17 interstate commission and shall have received an  
18 affirmative vote of a majority of the members present.

19

20 (c) Each member of the interstate commission shall  
21 have the right and power to cast a vote to which that  
22 compacting state is entitled and to participate in the  
23 business and affairs of the interstate commission. A member  
24 shall vote in person on behalf of the state and shall not

Page 21

1 delegate a vote to another member state. However, a state  
2 council shall appoint another authorized representative, in  
3 the absence of the commissioner from that state, to cast a  
4 vote on behalf of the member state at a specified meeting.  
5 The by-laws may provide for members' participation in  
6 meetings by telephone or other means of telecommunication  
7 or electronic communication. Any voting conducted by  
8 telephone or other means of telecommunication or electronic  
9 communication shall be subject to the same quorum  
10 requirements of meetings where members are present in  
11 person.

12

13 (d) The interstate commission shall meet at least  
14 once during each calendar year. The chairperson of the  
15 interstate commission may call additional meetings at any  
16 time and, upon the request of a majority of the members,  
17 shall call additional meetings.

18

19 (e) The interstate commission's by-laws shall  
20 establish conditions and procedures under which the  
21 interstate commission shall make its information and  
22 official records available to the public for inspection or  
23 copying. The interstate commission may exempt from  
24 disclosure any information or official records to the

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1 extent they would adversely affect personal privacy rights  
2 or proprietary interests. In promulgating such rules, the  
3 interstate commission may make available to law enforcement  
4 agencies records and information otherwise exempt from  
5 disclosure, and may enter into agreements with law  
6 enforcement agencies to receive or exchange information or  
7 records subject to nondisclosure and confidentiality  
8 provisions.

9

10 (f) Public notice shall be given of all meetings and  
11 all meetings shall be open to the public, except as set  
12 forth in the rules or as otherwise provided in the compact.  
13 The interstate commission shall promulgate rules consistent  
14 with the principles contained in the "Government in  
15 Sunshine Act", 5 U.S.C. § 552(b), as may be amended. The  
16 interstate commission and any of its committees may close a  
17 meeting to the public where it determines by two-thirds  
18 (2/3) vote that an open meeting would be likely to:

19

20 (i) Relate solely to the interstate commission's  
21 internal personnel practices and procedures;

22

23 (ii) Disclose matters specifically exempted from  
24 disclosure by statute;

Page 23

1

2 (iii) Disclose trade secrets or commercial or  
3 financial information which is privileged or confidential;

4

5 (iv) Involve accusing any person of a crime or  
6 formally censuring any person;

7

8 (v) Disclose information of a personal nature  
9 where disclosure would constitute a clearly unwarranted  
10 invasion of personal privacy;

11

12 (vi) Disclose investigatory records compiled for  
13 law enforcement purposes;

14

15 (vii) Disclose information contained in or  
16 related to examination, operating or condition reports  
17 prepared by, or on behalf of or for the use of, the  
18 interstate commission with respect to a regulated entity  
19 for the purpose of regulation or supervision of such  
20 entity;

21

22 (viii) Disclose information, the premature  
23 disclosure of which would significantly endanger the life  
24 of a person or the stability of a regulated entity; or

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1  
2 (ix) Specifically relate to the interstate  
3 commission's issuance of a subpoena or its participation in  
4 a civil action or proceeding.

5  
6 (g) For every meeting closed pursuant to this  
7 provision, the interstate commission's chief legal officer  
8 shall publicly certify that, in his opinion, the meeting  
9 may be closed to the public and shall reference each  
10 relevant exemptive provision. The interstate commission  
11 shall keep minutes which shall fully and clearly describe  
12 all matters discussed in any meeting and shall provide a  
13 full and accurate summary of any actions taken and the  
14 reasons therefore, including a description of each of the  
15 views expressed on any item and the record of any roll call  
16 vote (reflected in the vote of each member on the  
17 question). All documents considered in connection with any  
18 action shall be identified in such minutes.

19  
20 (h) The interstate commission shall collect  
21 standardized data concerning the interstate movement of  
22 offenders as directed through its by-laws and rules which  
23 shall specify the data to be collected, the means of  
24 collection and data exchange and reporting requirements.

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1  
2 Article VIII

3 Rulemaking Functions of the Interstate Commission  
4

5 (a) The interstate commission shall promulgate rules  
6 in order to effectively and efficiently achieve the  
7 purposes of the compact including transition rules  
8 governing administration of the compact during the period  
9 in which it is being considered and enacted by the states;

10  
11 (b) Rulemaking shall occur pursuant to the criteria  
12 set forth in this article and the by-laws and rules adopted  
13 pursuant thereto. Such rulemaking shall substantially  
14 conform to the principles of the federal Administrative  
15 Procedure Act, 5 U.S.C.S. § 551 et seq., and the Federal  
16 Advisory Committee Act, 5 U.S.C.S. app. 2, § 1 et seq., as  
17 may be amended (hereinafter "APA"). All rules and  
18 amendments shall become binding as of the date specified in  
19 each rule or amendment.

20  
21 (c) If a majority of the legislatures of the

22 compacting states rejects a rule, by enactment of a statute  
23 or resolution in the same manner used to adopt the compact,

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1 then such rule shall have no further force and effect in  
2 any compacting state.

3

4 (d) When promulgating a rule, the interstate  
5 commission shall:

6

7 (i) Publish the proposed rule stating with  
8 particularity the text of the rule which is proposed and  
9 the reason for the proposed rule:

10

11 (A) Allow persons to submit written data,  
12 facts, opinions and arguments, which information shall be  
13 publicly available;

14

15 (B) Provide an opportunity for an informal  
16 hearing; and

17

18 (C) Promulgate a final rule and its  
19 effective date, if appropriate, based on the rulemaking  
20 record.

21

22 (e) Not later than sixty (60) days after a rule is  
23 promulgated, any interested person may file a petition in  
24 the United States district court for the District of

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1 Columbia or in the federal district court where the  
2 interstate commission's principal office is located for  
3 judicial review of such rule. If the court finds that the  
4 interstate commission's action is not supported by  
5 substantial evidence, (as defined in the APA), in the  
6 rulemaking record, the court shall hold the rule unlawful  
7 and set it aside.

8

9 (f) Subjects to be addressed within twelve (12)  
10 months after the first meeting must at a minimum include:

11

12 (i) Notice to victims and opportunity to be  
13 heard;

14

15 (ii) Offender registration and compliance;

16

17 (iii) Violations/returns;

18

19 (iv) Transfer procedures and forms;  
 20  
 21 (v) Eligibility for transfer;  
 22  
 23 (vi) Collection of restitution and fees from  
 24 offenders;

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1  
 2 (vii) Data collection and reporting;  
 3  
 4 (viii) The level of supervision to be provided  
 5 by the receiving state;  
 6  
 7 (ix) Transition rules governing the operation of  
 8 the compact and the interstate commission during all or  
 9 part of the period between the effective date of the  
 10 compact and the date on which the last eligible state  
 11 adopts the compact; and  
 12  
 13 (x) Mediation, arbitration and dispute  
 14 resolution.  
 15  
 16 (g) The existing rules governing the operation of the  
 17 previous compact superceded by this act shall be null and  
 18 void twelve (12) months after the first meeting of the  
 19 interstate commission created hereunder.  
 20  
 21 (h) Upon determination by the interstate commission  
 22 that an emergency exists, it may promulgate an emergency  
 23 rule which shall become effective immediately upon  
 24 adoption, provided that the usual rulemaking procedures

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1 provided hereunder shall be retroactively applied to said  
 2 rule as soon as reasonably possible, in no event later than  
 3 ninety (90) days after the effective date of the rule.  
 4

5 Article IX  
 6 Oversight, Enforcement and Dispute Resolution by the  
 7 Interstate Commission  
 8

9 (a) Section A. Oversight:  
 10

11 (i) The interstate commission shall oversee the  
 12 interstate movement of adult offenders in the compacting  
 13 states and shall monitor such activities being administered  
 14 in noncompacting states which may significantly affect

15 compacting states;

16

17 (ii) The courts and executive agencies in each  
 18 compacting state shall enforce this compact and shall take  
 19 all actions necessary and appropriate to effectuate the  
 20 compact's purposes and intent. In any judicial or  
 21 administrative proceeding in a compacting state pertaining  
 22 to the subject matter of this compact which may affect the  
 23 powers, responsibilities or actions of the interstate  
 24 commission, the interstate commission shall be entitled to

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1 receive all service of process in any such proceeding and  
 2 shall have standing to intervene in the proceeding for all  
 3 purposes.

4

5 (b) Section B. Dispute resolution:

6

7 (i) The compacting states shall report to the  
 8 interstate commission on issues or activities of concern to  
 9 them and cooperate with and support the interstate  
 10 commission in the discharge of its duties and  
 11 responsibilities;

12

13 (ii) The interstate commission shall attempt to  
 14 resolve any disputes or other issues which are subject to  
 15 the compact and which may arise among compacting states and  
 16 noncompacting states;

17

18 (iii) The interstate commission shall enact a  
 19 by-law or promulgate a rule providing for both mediation  
 20 and binding dispute resolution for disputes among the  
 21 compacting states.

22

23 (c) Section C. Enforcement.

24

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1 The interstate commission, in the reasonable exercise of  
 2 its discretion, shall enforce the provisions of this  
 3 compact using any or all means set forth in Article XII,  
 4 section B, of this compact.

5

6 Article X  
 7 Finance

8

9 (a) The interstate commission shall pay or provide  
 10 for the payment of the reasonable expenses of its

11 establishment, organization and ongoing activities.

12

13 (b) The interstate commission shall levy on and  
14 collect an annual assessment from each compacting state to  
15 cover the cost of the internal operations and activities of  
16 the interstate commission and its staff which must be in a  
17 total amount sufficient to cover the interstate  
18 commission's annual budget as approved each year. The  
19 aggregate annual assessment amount shall be allocated based  
20 upon a formula to be determined by the interstate  
21 commission, taking into consideration the population of the  
22 state and the volume of interstate movement of offenders in  
23 each compacting state and shall promulgate a rule binding  
24 upon all compacting states which governs said assessment.

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1

2 (c) The interstate commission shall not incur any  
3 obligations of any kind prior to securing the funds  
4 adequate to meet the same; nor shall the interstate  
5 commission pledge the credit of any of the compacting  
6 states, except by and with the authority of the compacting  
7 state.

8

9 (d) The interstate commission shall keep accurate  
10 accounts of all receipts and disbursements. The receipts  
11 and disbursements of the interstate commission shall be  
12 subject to the audit and accounting procedures established  
13 under its by-laws. However, all receipts and disbursements  
14 of funds handled by the interstate commission shall be  
15 audited yearly by a certified or licensed public accountant  
16 and the report of the audit shall be included in and become  
17 part of the annual report of the interstate commission.

18

19 Article XI

20 Compacting States, Effective Date and Amendment

21

22 (a) Any state, as defined in article II of this  
23 compact, is eligible to become a compacting state. The  
24 compact shall become effective and binding upon legislative

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1 enactment of the compact into law by no less than thirty-  
2 five (35) of the states. The initial effective date shall  
3 be the later of July 1, 2001, or upon enactment into law by  
4 the thirty-fifth jurisdiction. Thereafter it shall become  
5 effective and binding, as to any other compacting state,  
6 upon enactment of the compact into law by that state. The

7 governors of nonmember states or their designees will be  
8 invited to participate in interstate commission activities  
9 on a nonvoting basis prior to adoption of the compact by  
10 all states and territories of the United States.

11

12 (b) Amendments to the compact may be proposed by the  
13 interstate commission for enactment by the compacting  
14 states. No amendment shall become effective and binding  
15 upon the interstate commission and the compacting states  
16 unless and until it is enacted into law by unanimous  
17 consent of the compacting states.

18

19 Article XII

20 Withdrawal, Default, Termination and Judicial Enforcement

21

22 (a) Section A. Withdrawal:

23

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1 (i) Once effective, the compact shall continue  
2 in force and remain binding upon each and every compacting  
3 state; provided, that a compacting state may withdraw from  
4 the compact ("withdrawing state") by enacting a statute  
5 specifically repealing the statute which enacted the  
6 compact into law;

7

8 (ii) The effective date of withdrawal is the  
9 effective date of the repeal;

10

11 (iii) The withdrawing state shall immediately  
12 notify the chairperson of the interstate commission in  
13 writing upon the introduction of legislation repealing this  
14 compact in the withdrawing state. The interstate commission  
15 shall notify the other compacting states of the withdrawing  
16 state's intent to withdraw within sixty (60) days of its  
17 receipt thereof;

18

19 (iv) The withdrawing state is responsible for  
20 all assessments, obligations and liabilities incurred  
21 through the effective date of withdrawal, including any  
22 obligations, the performance of which extend beyond the  
23 effective date of withdrawal;

24

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1 (v) Reinstatement following withdrawal of any  
2 compacting state shall occur upon the withdrawing state  
3 reenacting the compact or upon such later date as

4 determined by the interstate commission.

5

6 (b) Section B. Default:

7

8 (i) If the interstate commission determines that  
9 any compacting state has at any time defaulted ("defaulting  
10 state") in the performance of any of its obligations or  
11 responsibilities under this compact, the by-laws or any  
12 duly promulgated rules, the interstate commission may  
13 impose any or all of the following penalties:

14

15 (A) Fines, fees and costs in such amounts  
16 as are deemed to be reasonable as fixed by the interstate  
17 commission;

18

19 (B) Remedial training and technical  
20 assistance as directed by the interstate commission;  
21 suspension and termination of membership in the compact.  
22 Suspension shall be imposed only after all other reasonable  
23 means of securing compliance under the by-laws and rules  
24 have been exhausted. Immediate notice of suspension shall

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1 be given by the interstate commission to the governor, the  
2 chief justice or chief judicial officer of the state, the  
3 majority and minority leaders of the defaulting state's  
4 legislature and the state council.

5

6 (ii) The grounds for default include, but are  
7 not limited to, failure of a compacting state to perform  
8 such obligations or responsibilities imposed upon it by  
9 this compact, interstate commission by-laws or duly  
10 promulgated rules. The interstate commission shall  
11 immediately notify the defaulting state in writing of the  
12 penalty imposed by the interstate commission on the  
13 defaulting state pending a cure of the default. The  
14 interstate commission shall stipulate the conditions and  
15 the time period within which the defaulting state must cure  
16 its default. If the defaulting state fails to cure the  
17 default within the time period specified by the interstate  
18 commission, in addition to any other penalties imposed  
19 herein, the defaulting state may be terminated from the  
20 compact upon an affirmative vote of a majority of the  
21 compacting states and all rights, privileges and benefits  
22 conferred by this compact shall be terminated from the  
23 effective date of suspension. Within sixty (60) days of the  
24 effective date of termination of a defaulting state, the

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1 interstate commission shall notify the governor, the chief  
 2 justice or chief judicial officer, the majority and  
 3 minority leaders of the defaulting state's legislature and  
 4 the state council of such termination;

5  
 6 (iii) The defaulting state is responsible for  
 7 all assessments, obligations and liabilities incurred  
 8 through the effective date of termination including any  
 9 obligations, the performance of which extends beyond the  
 10 effective date of termination;

11  
 12 (iv) The interstate commission shall not bear  
 13 any costs relating to the defaulting state unless otherwise  
 14 mutually agreed upon between the interstate commission and  
 15 the defaulting state. Reinstatement following termination  
 16 of any compacting state requires both a reenactment of the  
 17 compact by the defaulting state and the approval of the  
 18 interstate commission pursuant to the rules.

19  
 20 (c) Section C. Judicial enforcement. The interstate  
 21 commission may, by majority vote of the members, initiate  
 22 legal action in the United States district court for the  
 23 District of Columbia or, at the discretion of the  
 24 interstate commission, in the federal district where the

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1 interstate commission has its offices to enforce compliance  
 2 with the provisions of the compact, its duly promulgated  
 3 rules and by-laws, against any compacting state in default.  
 4 In the event judicial enforcement is necessary, the  
 5 prevailing party shall be awarded all costs of such  
 6 litigation including reasonable attorneys fees.

7  
 8 (d) Section D. Dissolution of compact:

9  
 10 (i) The compact dissolves effective upon the  
 11 date of the withdrawal or default of the compacting state  
 12 which reduces membership in the compact to one (1)  
 13 compacting state;

14  
 15 (ii) Upon the dissolution of this compact, the  
 16 compact becomes null and void and shall be of no further  
 17 force or effect, the business and affairs of the interstate  
 18 commission shall be wound up and any surplus funds shall be  
 19 distributed in accordance with the by-laws.

20  
 21 Article XIII  
 22 Severability and Construction  
 23

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1 (a) The provisions of this compact shall be  
2 severable, and if any phrase, clause, sentence or provision  
3 is deemed unenforceable, the remaining provisions of the  
4 compact shall be enforceable.

5  
6 (b) The provisions of this compact shall be liberally  
7 constructed to effectuate its purposes.

8  
9 Article XIV

10 Binding Effect of Compact and Other Laws

11  
12 (a) Section A. Other laws:

13  
14 (i) Nothing herein prevents the enforcement of  
15 any other law of a compacting state that is not  
16 inconsistent with this compact;

17  
18 (ii) All compacting states' laws conflicting  
19 with this compact are superseded to the extent of the  
20 conflict.

21  
22 (b) Section B. Binding effect of the compact:  
23

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1 (i) All lawful actions of the interstate  
2 commission, including all rules and by-laws promulgated by  
3 the interstate commission, are binding upon the compacting  
4 states;

5  
6 (ii) All agreements between the interstate  
7 commission and the compacting states are binding in  
8 accordance with their terms;

9  
10 (iii) Upon the request of a party to a conflict  
11 over meaning or interpretation of interstate commission  
12 actions and upon a majority vote of the compacting states,  
13 the interstate commission may issue advisory opinions  
14 regarding such meaning or interpretation;

15  
16 (iv) In the event any provision of this compact  
17 exceeds the constitutional limits imposed on the  
18 legislature of any compacting state, the obligations,  
19 duties, powers or jurisdiction sought to be conferred by  
20 such provision upon the interstate commission shall be  
21 ineffective and the obligations, duties, powers or  
22 jurisdiction shall remain in the compacting state and shall

