

By: Senator(s) Stogner, Smith, Hyde-Smith,
Jackson

To: Interstate and Federal
Cooperation; Appropriations

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 3009

1 AN ACT TO AUTHORIZE THE GOVERNOR TO EXECUTE THE INTERSTATE
2 COMPACT FOR ADULT OFFENDER SUPERVISION; TO PRESCRIBE ITS PURPOSE;
3 TO DEFINE CERTAIN TERMS; TO ESTABLISH THE COMPACT COMMISSION AND
4 PRESCRIBE ITS POWERS AND DUTIES; TO CREATE A STATE COUNCIL FOR
5 INTERSTATE ADULT OFFENDER SUPERVISION AND PRESCRIBE ITS POWERS AND
6 DUTIES; TO PROVIDE FOR THE ORGANIZATION AND OPERATION OF THE
7 INTERSTATE COMMISSION; AND FOR RELATED PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 **SECTION 1.** The Governor on behalf of this state is hereby
10 authorized to execute a compact, in substantially the following
11 form, and the Legislature hereby signifies in advance its approval
12 and ratification of such compact:

13 **THE INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION**

14 **ARTICLE I**

15 **PURPOSE**

16 The compacting states to this interstate compact recognize
17 that each state is responsible for the supervision of adult
18 offenders in the community who are authorized pursuant to the
19 bylaws and rules of this compact to travel across state lines both
20 to and from each compacting state in such a manner as to: track
21 the location of offenders, transfer supervision authority in an
22 orderly and efficient manner, and when necessary return offenders
23 to the originating jurisdictions.

24 The compacting states also recognize that Congress, by
25 enacting the Crime Control Act, 4 USCS Section 112 (1965), has
26 authorized and encouraged compacts for cooperative efforts and
27 mutual assistance in the prevention of crime.

28 It is the purpose of this compact and the Interstate
29 Commission created hereunder, through means of joint and



30 cooperative action among the compacting states: to provide the
31 framework for the promotion of public safety and protect the
32 rights of victims through the control and regulation of the
33 interstate movement of offenders in the community; to provide for
34 the effective tracking, supervision, and rehabilitation of these
35 offenders by the sending and receiving states; and to equitably
36 distribute the costs, benefits and obligations of the compact
37 among the compacting states.

38 In addition, this compact will: create a Interstate
39 Commission which will establish uniform procedures to manage the
40 movement between states of adults placed under community
41 supervision and released to the community under the jurisdiction
42 of courts, paroling authorities, corrections or other criminal
43 justice agencies which will promulgate rules to achieve the
44 purpose of this compact; ensure an opportunity for input and
45 timely notice to victims and to jurisdictions where defined
46 offenders are authorized to travel or to relocate across state
47 lines; establish a system of uniform data collection, access to
48 information on active cases by authorized criminal justice
49 officials, and regular reporting of compact activities to heads of
50 state councils, state executive, judicial, and legislative
51 branches and criminal justice administrators; monitor compliance
52 with rules governing interstate movement of offenders and initiate
53 interventions to address and correct noncompliance; and coordinate
54 training and education regarding regulations of interstate
55 movement of offenders for officials involved in such activity.

56 The compacting states recognize that there is no "right" of
57 any offender to live in another state and that duly accredited
58 officers of a sending state may at all times enter a receiving
59 state and there apprehend and retake any offender under
60 supervision subject to the provisions of this compact and bylaws
61 and rules promulgated hereunder.



62 It is the policy of the compacting states that the activities
63 conducted by the Interstate Commission created herein are the
64 formation of public policies and are therefore public business.

65 **ARTICLE II**

66 **DEFINITIONS**

67 As used in this compact, the following words and terms have
68 the following meanings, unless a different meaning clearly appears
69 from the context:

70 (A) "Adult" means both individuals legally classified as
71 adults and juveniles treated as adults by court order, statute, or
72 operation of law.

73 (B) "Bylaws" mean those bylaws established by the Interstate
74 Commission for its governance, or for directing or controlling the
75 Interstate Commission's actions or conduct.

76 (C) "Compact administrator" means the individual in each
77 compacting state appointed pursuant to the terms of this compact
78 responsible for the administration and management of the state's
79 supervision and transfer of offenders subject to the terms of this
80 compact, the rules adopted by the Interstate Commission and
81 policies adopted by the state council under this compact.

82 (D) "Compacting state" means any state which has enacted the
83 enabling legislation for this compact.

84 (E) "Commissioner" means the voting representative of each
85 compacting state appointed pursuant to Article III of this
86 compact.

87 (F) "Interstate Commission" means the Interstate Commission
88 for Adult Offender Supervision established by this compact.

89 (G) "Member" means the commissioner of a compacting state or
90 designee, who shall be a person officially connected with the
91 commissioner.

92 (H) "Noncompacting state" means any state which has not
93 enacted the enabling legislation for this compact.



94 (I) "Offender" means an adult placed under, or subject, to
95 supervision as the result of the commission of a criminal offense
96 and released to the community under the jurisdiction of courts,
97 paroling authorities, corrections, or other criminal justice
98 agencies.

99 (J) "Person" means any individual, corporation, business
100 enterprise, or other legal entity, either public or private.

101 (K) "Rules" means acts of the Interstate Commission, duly
102 promulgated pursuant to Article VII of this compact, substantially
103 affecting interested parties in addition to the Interstate
104 Commission, which shall have the force and effect of law in the
105 compacting states.

106 (L) "State" means a state of the United States, the District
107 of Columbia and any other territorial possessions of the United
108 States.

109 (M) "State council" means the resident members of the state
110 council for Interstate Adult Offender Supervision created by each
111 state under Article III of this compact.

112 **ARTICLE III**

113 **THE COMPACT COMMISSION**

114 (A) The compacting states hereby create the "Interstate
115 Commission for Adult Offender Supervision." The Interstate
116 Commission shall be a body corporate and joint agency of the
117 compacting states. The Interstate Commission shall have all the
118 responsibilities, powers and duties set forth herein, including
119 the power to sue and be sued, and such additional powers as may be
120 conferred upon it by subsequent action of the respective
121 legislatures of the compacting states in accordance with the terms
122 of this compact.

123 (B) The Interstate Commission shall consist of commissioners
124 selected and appointed by resident members of a state council for
125 Interstate Adult Offender Supervision or the Governor for each
126 state. While each member state may determine the membership of



127 its own state council, its membership must include at least one
128 (1) representative from the legislative, judicial, and executive
129 branches of government, victims groups and compact administrators.
130 In addition to members appointed by the state council or the
131 Governor, the state council shall include: the Chairman of the
132 Senate Corrections Committee, the Chairman of the House
133 Penitentiary Committee, one (1) Senator appointed by the President
134 of the Senate and one (1) member of the House of Representatives
135 appointed by the Speaker of the House. Each state council shall
136 appoint as its commissioner the compact administrator from that
137 state to serve on the Interstate Commission in such capacity under
138 or pursuant to applicable law of the member state. Each
139 compacting state retains the right to determine the qualifications
140 of the compact administrator who shall be appointed by the
141 Governor in consultation with the Legislature and the judiciary.

142 The term of office for State Council members shall be four
143 (4) years. The State Council shall meet at least twice a year.
144 The State Council may advise the compact administrator on
145 participation in the Interstate Commission activities and
146 administration of the compact. Members of the council are
147 entitled to reimbursement for travel and expenses related to the
148 Interstate Commission as provided by state law.

149 In addition to appointment of its commissioner to the
150 National Interstate Commission, each state council shall exercise
151 oversight and advocacy concerning its participation in Interstate
152 Commission activities and other duties as may be determined by
153 each member state, including, but not limited to, development of
154 policy concerning operations and procedures of the compact within
155 that state.

156 (C) In addition to the commissioners who are the voting
157 representatives of each state, the Interstate Commission shall
158 include individuals who are not commissioners, but who are members
159 of interested organizations; such noncommissioner members must



160 include a member of the national organizations of governors,
161 legislators, state chief justices, attorneys general and crime
162 victims. All noncommissioner members of the Interstate Commission
163 shall be ex officio (nonvoting) members. The Interstate
164 Commission may provide in its bylaws for such additional, ex
165 officio (nonvoting) members as it deems necessary.

166 (D) Each compacting state represented at any meeting of the
167 Interstate Commission is entitled to one (1) vote. A majority of
168 the compacting states shall constitute a quorum for the
169 transaction of business, unless a larger quorum is required by the
170 bylaws of the Interstate Commission.

171 (E) The Interstate Commission shall meet at least once each
172 calendar year. The chairperson may call additional meetings and,
173 upon the request of twenty-seven (27) or more compacting states,
174 shall call additional meetings. Public notice shall be given of
175 all meetings and meetings shall be open to the public.

176 (F) The Interstate Commission shall establish an executive
177 committee which shall include commission officers, members and
178 others as shall be determined by the bylaws. The executive
179 committee shall have the power to act on behalf of the Interstate
180 Commission during periods when the Interstate Commission is not in
181 session, with the exception of rule-making and/or amendment to the
182 compact. The executive committee oversees the day-to-day
183 activities managed by the executive director and Interstate
184 Commission staff; administers enforcement and compliance with the
185 provisions of the compact, its bylaws and as directed by the
186 Interstate Commission and performs other duties as directed by
187 commission or set forth in the bylaws.

188 **ARTICLE IV**

189 **POWERS AND DUTIES OF THE INTERSTATE COMMISSION**

190 The Interstate Commission shall have the following powers:

191 (1) To adopt a seal and suitable bylaws governing the
192 management and operation of the Interstate Commission.



193 (2) To promulgate rules which shall have the force and
194 effect of statutory law and shall be binding in the compacting
195 states to the extent and in the manner provided in this compact.

196 (3) To oversee, supervise and coordinate the interstate
197 movement of offenders subject to the terms of this compact and any
198 bylaws adopted and rules promulgated by the compact commission.

199 (4) To enforce compliance with compact provisions,
200 Interstate Commission rules, and bylaws, using all necessary and
201 proper means, including, but not limited to, the use of judicial
202 process.

203 (5) To establish and maintain offices.

204 (6) To purchase and maintain insurance and bonds.

205 (7) To borrow, accept, or contract for services of
206 personnel, including, but not limited to, members and their
207 staffs.

208 (8) To establish and appoint committees and hire staff
209 which it deems necessary for the carrying out of its functions
210 including, but not limited to, an executive committee as required
211 by Article III which shall have the power to act on behalf of the
212 Interstate Commission in carrying out its powers and duties
213 hereunder.

214 (9) To elect or appoint such officers, attorneys,
215 employees, agents, or consultants, and to fix their compensation,
216 define their duties and determine their qualifications; and to
217 establish the Interstate Commission's personnel policies and
218 programs relating to, among other things, conflicts of interest,
219 rates of compensation, and qualifications of personnel.

220 (10) To accept any and all donations and grants of
221 money, equipment, supplies, materials, and services, and to
222 receive, utilize, and dispose of same.

223 (11) To lease, purchase, accept contributions or
224 donations of, or otherwise to own, hold, improve or use any
225 property, real, personal or mixed.



258 (c) Providing reasonable standards and procedures: (i)
259 for the establishment of committees, and (ii) governing any
260 general or specific delegation of any authority or function of the
261 Interstate Commission;

262 (d) Providing reasonable procedures for calling and
263 conducting meetings of the Interstate Commission, and ensuring
264 reasonable notice of each such meeting;

265 (e) Establishing the titles and responsibilities of the
266 officers of the Interstate Commission;

267 (f) Providing reasonable standards and procedures for
268 the establishment of the personnel policies and programs of the
269 Interstate Commission. Notwithstanding any civil service or other
270 similar laws of any compacting state, the bylaws shall exclusively
271 govern the personnel policies and programs of the Interstate
272 Commission; and

273 (g) Providing a mechanism for concluding the operations
274 of the Interstate Commission and the equitable return of any
275 surplus funds that may exist upon the termination of the compact
276 after the payment and/or reserving of all of its debts and
277 obligations;

278 (h) Providing transition rules for "start up"
279 administration of the compact;

280 (i) Establishing standards and procedures for
281 compliance and technical assistance in carrying out the compact.

282 **Section B. Officers and Staff**

283 (1) The Interstate Commission shall, by a majority of the
284 members, elect from among its members a chairperson and a vice
285 chairperson, each of whom shall have such authorities and duties
286 as may be specified in the bylaws. The chairperson or, in his or
287 her absence or disability, the vice chairperson, shall preside at
288 all meetings of the Interstate Commission. The officers so
289 elected shall serve without compensation or remuneration from the
290 Interstate Commission; provided that, subject to the availability



291 of budgeted funds, the officers shall be reimbursed for any actual
292 and necessary costs and expenses incurred by them in the
293 performance of their duties and responsibilities as officers of
294 the Interstate Commission.

295 (2) The Interstate Commission shall, through its executive
296 committee, appoint or retain an executive director for such
297 period, upon such terms and conditions and for such compensation
298 as the Interstate Commission may deem appropriate. The executive
299 director shall serve as secretary to the Interstate Commission,
300 and hire and supervise such other staff as may be authorized by
301 the Interstate Commission, but shall not be a member.

302 **Section C. Corporate Records of the Interstate Commission**

303 The Interstate Commission shall maintain its corporate books
304 and records in accordance with the bylaws.

305 **Section D. Qualified Immunity, Defense and Indemnification**

306 (1) The members, officers, executive director and employees
307 of the Interstate Commission shall be immune from suit and
308 liability, either personally or in their official capacity, for
309 any claim for damage to or loss of property or personal injury or
310 other civil liability caused or arising out of any actual or
311 alleged act, error or omission that occurred within the scope of
312 Interstate Commission employment, duties or responsibilities;
313 provided, that nothing in this paragraph shall be construed to
314 protect any such person from suit and/or liability for any damage,
315 loss, injury or liability caused by the intentional or willful and
316 wanton misconduct of any such person.

317 (2) The Interstate Commission shall defend the commissioner
318 of a compacting state, or his or her representatives or employees,
319 or the Interstate Commission's representatives or employees, in
320 any civil action seeking to impose liability, arising out of any
321 actual or alleged act, error or omission that occurred within the
322 scope of Interstate Commission employment, duties or
323 responsibilities, or that the defendant had a reasonable basis for



324 believing occurred within the scope of Interstate Commission
325 employment, duties or responsibilities; provided, that the actual
326 or alleged act, error or omission did not result from intentional
327 wrongdoing on the part of such person.

328 (3) The Interstate Commission shall indemnify and hold the
329 commissioner of a compacting state, the appointed designee or
330 employees, or the Interstate Commission's representatives or
331 employees, harmless in the amount of any settlement or judgment
332 obtained against such persons arising out of any actual or alleged
333 act, error or omission that occurred within the scope of
334 Interstate Commission employment, duties or responsibilities, or
335 that such persons had a reasonable basis for believing occurred
336 within the scope of Interstate Commission employment, duties or
337 responsibilities, provided, that the actual or alleged act, error
338 or omission did not result from gross negligence or intentional
339 wrongdoing on the part of such person.

340 **ARTICLE VI**

341 **ACTIVITIES OF THE INTERSTATE COMMISSION**

342 (1) The Interstate Commission shall meet and take such
343 actions as are consistent with the provisions of this compact.

344 (2) Except as otherwise provided in this compact and unless
345 a greater percentage is required by the bylaws, in order to
346 constitute an act of the Interstate Commission, such act shall
347 have been taken at a meeting of the Interstate Commission and
348 shall have received an affirmative vote of a majority of the
349 members present.

350 (3) Each member of the Interstate Commission shall have the
351 right and power to cast a vote to which that compacting state is
352 entitled and to participate in the business and affairs of the
353 Interstate Commission. A member shall vote in person on behalf of
354 the state and shall not delegate a vote to another member state.
355 However, the compact administrator shall appoint another
356 authorized representative, in the absence of the commissioner from



357 that state, to cast a vote on behalf of the member state at a
358 specified meeting. The bylaws may provide for members'
359 participation in meetings by telephone or other means of
360 telecommunication or electronic communication. Any voting
361 conducted by telephone, or other means of telecommunication or
362 electronic communication shall be subject to the same quorum
363 requirements of meetings where members are present in person.

364 (4) The Interstate Commission shall meet at least once
365 during each calendar year. The chairperson of the Interstate
366 Commission may call additional meetings at any time and, upon the
367 request of a majority of the members, shall call additional
368 meetings.

369 (5) The Interstate Commission's bylaws shall establish
370 conditions and procedures under which the Interstate Commission
371 shall make its information and official records available to the
372 public for inspection or copying. The Interstate Commission may
373 exempt from disclosure any information or official records to the
374 extent they would adversely affect personal privacy rights or
375 proprietary interests. In promulgating such rules, the Interstate
376 Commission may make available to law enforcement agencies records
377 and information otherwise exempt from disclosure, and may enter
378 into agreements with law enforcement agencies to receive or
379 exchange information or records subject to nondisclosure and
380 confidentiality provisions.

381 (6) Public notice shall be given of all meetings and all
382 meetings shall be open to the public, except as set forth in the
383 rules or as otherwise provided in the compact. The Interstate
384 Commission shall promulgate rules consistent with the principles
385 contained in the "Government in Sunshine Act," 5 USCS Section
386 552(b), as may be amended. The Interstate Commission and any of
387 its committees may close a meeting to the public where it
388 determines by two-thirds (2/3) vote that an open meeting would be
389 likely to: (a) relate solely to the Interstate Commission's



390 internal personnel practices and procedures; (b) disclose matters
391 specifically exempted from disclosure by statute; (c) disclosure
392 trade secrets or commercial or financial information which is
393 privileged or confidential; (d) involve accusing any person of a
394 crime, or formally censuring any person; (e) disclose information
395 of a personal nature where disclosure would constitute a clearly
396 unwarranted invasion of personal privacy; (f) disclose
397 investigatory records compiled for law enforcement purposes; (g)
398 disclose information contained in or related to examination,
399 operating or condition reports prepared by, or on behalf of or for
400 the use of, the Interstate Commission with respect to a regulated
401 entity for the purpose of regulation or supervision of such
402 entity; (h) disclose information, the premature disclosure of
403 which would significantly endanger the life of a person or the
404 stability of a regulated entity; (i) specifically relate to the
405 Interstate Commission's issuance of a subpoena, or its
406 participation in a civil action or proceeding.

407 (7) For every meeting closed pursuant to this provision, the
408 Interstate Commission's chief legal officer shall publicly certify
409 that, in his or her opinion, the meeting may be closed to the
410 public, and shall reference each relevant exemptive provision.
411 The Interstate Commission shall keep minutes which shall fully and
412 clearly describe all matters discussed in any meeting and shall
413 provide a full and accurate summary of any actions taken, and the
414 reasons therefor, including, a description of each of the views
415 expressed on any item and the record of any roll call vote
416 (reflected in the vote of each member on the question). All
417 documents considered in connection with any action shall be
418 identified in such minutes.

419 (8) The Interstate Commission shall collect standardized
420 data concerning the interstate movement of offenders as directed
421 through its bylaws and rules which shall specify the data to be



422 collected, the means of collection and data exchange and reporting
423 requirements.

424 ARTICLE VII

425 RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION

426 (1) The Interstate Commission shall promulgate rules in
427 order to effectively and efficiently achieve the purposes of the
428 compact including transition rules governing administration of the
429 compact during the period in which it is being considered and
430 enacted by the states;

431 (2) Rule-making shall occur pursuant to the criteria set
432 forth in this article and the bylaws and rules adopted pursuant
433 thereto. Such rule-making shall substantially conform to the
434 principles of the federal Administrative Procedure Act, 5 USCS
435 Section 551 et seq., and the Federal Advisory Committee Act, 5
436 USCS App. 2, Section 1 et seq., as may be amended (hereinafter
437 "APA").

438 (3) All rules and amendments shall become binding as of the
439 date specified in each Rule or amendment.

440 (4) If a majority of the legislatures of the compacting
441 states rejects a rule, by enactment of a statute or resolution in
442 the same manner used to adopt the compact, then such rule shall
443 have no further force and effect in any compacting state.

444 (5) When promulgating a rule, the Interstate Commission
445 shall: (a) publish the proposed rule stating with particularity
446 the text of the rule which is proposed and the reason for the
447 proposed rule; (b) allow persons to submit written data, facts,
448 opinions and arguments, which information shall be publicly
449 available; (c) provide an opportunity for an informal hearing; and
450 (d) promulgate a final rule and its effective date, if
451 appropriate, based on the rule-making record.

452 (6) Not later than sixty (60) days after a rule is
453 promulgated, any interested person may file a petition in the
454 United States District Court for the District of Columbia or in



455 the Federal District Court where the Interstate Commission's
456 principal office is located for judicial review of such rule. If
457 the court finds that the Interstate Commission's action is not
458 supported by substantial evidence, (as defined in the APA), in the
459 rule-making record, the court shall hold the rule unlawful and set
460 it aside.

461 (7) Subjects to be addressed within twelve (12) months after
462 the first meeting must at a minimum include: (a) notice to
463 victims and opportunity to be heard; (b) offender registration and
464 compliance; (c) violations/returns; (d) transfer procedures and
465 forms; (e) eligibility for transfer; (f) collection of restitution
466 and fees from offenders; (g) data collection and reporting; (h)
467 the level of supervision to be provided by the receiving state;
468 (i) transition rules governing the operation of the compact and
469 the Interstate Commission during all or part of the period between
470 the effective date of the compact and the date on which the last
471 eligible state adopts the compact; (j) mediation, arbitration and
472 dispute resolution.

473 The existing rules governing the operation of the previous
474 compact superceded by this act shall be null and void twelve (12)
475 months after the first meeting of the Interstate Commission
476 created hereunder.

477 (8) Upon determination by the Interstate Commission that an
478 emergency exists, it may promulgate an emergency rule which shall
479 become effective immediately upon adoption, provided that the
480 usual rule-making procedures provided hereunder shall be
481 retroactively applied to said rule as soon as reasonably possible,
482 in no event later than ninety (90) days after the effective date
483 of the rule.

484 **ARTICLE VIII**

485 **OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION BY THE**

486 **INTERSTATE COMMISSION**

487 **Section A. Oversight**



488 (1) The Interstate Commission shall oversee the interstate
489 movement of adult offenders in the compacting states and shall
490 monitor such activities being administered in noncompacting states
491 which may significantly affect compacting states.

492 (2) The courts and executive agencies in each compacting
493 state shall enforce this compact and shall take all actions
494 necessary and appropriate to effectuate the compact's purposes and
495 intent. In any judicial or administrative proceeding in a
496 compacting state pertaining to the subject matter of this compact
497 which may affect the powers, responsibilities or actions of the
498 Interstate Commission, the Interstate Commission shall be entitled
499 to receive all service of process in any such proceeding, and
500 shall have standing to intervene in the proceeding for all
501 purposes.

502 **Section B. Dispute Resolution**

503 (1) The compacting states shall report to the Interstate
504 Commission on issues or activities of concern to them, and
505 cooperate with and support the Interstate Commission in the
506 discharge of its duties and responsibilities.

507 (2) The Interstate Commission shall attempt to resolve any
508 disputes or other issues which are subject to the compact and
509 which may arise among compacting states and noncompacting states.

510 (3) The Interstate Commission shall enact a bylaw or
511 promulgate a rule providing for both mediation and binding dispute
512 resolution for disputes among the compacting states.

513 **Section C. Enforcement**

514 The Interstate Commission, in the reasonable exercise of its
515 discretion, shall enforce the provisions of this compact using any
516 or all means set forth in Article XI, Section B, of this compact.

517 **Section D. Retaking Cases From Another Jurisdiction**

518 The duly accredited officers of a sending state may at all
519 times enter a receiving state and there apprehend and retake any
520 person on probation or parole, according to laws of the United



521 States. For that purpose the sending state shall be required to
522 establish the authority of the officer and the identity of the
523 person(s) to be retaken and such person shall be afforded a
524 preliminary hearing consistent with due process requirements under
525 the United States Constitution as now or hereafter interpreted by
526 the Supreme Court of the United States. All legal requirements to
527 extradition of fugitives from justice are hereby expressly waived
528 on the part of states party hereto, as to such persons. The
529 decision of the sending state to retake a person on probation or
530 parole shall be conclusive upon and not reviewable within the
531 receiving state; however, if at the time when a state seeks to
532 retake a probationer or parolee there should be pending against
533 him within the receiving state any criminal charge, or he should
534 be suspected of having committed within such state a criminal
535 offense, he shall not be retaken without the consent of the
536 receiving state until discharged from prosecution or from
537 imprisonment for such offense. The duly accredited officers of
538 the sending state will be permitted to transport prisoners being
539 retaken through any and all states parties to this compact without
540 interference.

541 **ARTICLE IX**

542 **FINANCE**

543 (1) The Interstate Commission shall pay or provide for the
544 payment of the reasonable expenses of its establishment,
545 organization and ongoing activities.

546 (2) The Interstate Commission shall levy on and collect an
547 annual assessment from each compacting state to cover the cost of
548 the internal operations and activities of the Interstate
549 Commission and its staff which must be in a total amount
550 sufficient to cover the Interstate Commission's annual budget as
551 approved each year. The aggregate annual assessment amount shall
552 be allocated based upon a formula to be determined by the
553 Interstate Commission, taking into consideration the population of



554 the state and the volume of interstate movement of offenders in
555 each compacting state and shall promulgate a rule binding upon all
556 compacting states which governs said assessment. After the
557 initial assessment, any increase in the annual assessment shall be
558 subject to an appropriation by the compacting state legislature.

559 (3) The Interstate Commission shall not incur any
560 obligations of any kind prior to securing the funds adequate to
561 meet the same; nor shall the Interstate Commission pledge the
562 credit of any of the compacting states, except by and with the
563 authority of the compacting state.

564 (4) The Interstate Commission shall keep accurate accounts
565 of all receipts and disbursements. The receipts and disbursements
566 of the Interstate Commission shall be subject to the audit and
567 accounting procedures established under its bylaws. However, all
568 receipts and disbursements of funds handled by the Interstate
569 Commission shall be audited yearly by a certified or licensed
570 public accountant and the report of the audit shall be included in
571 and become part of the annual report of the Interstate Commission.

572 **ARTICLE X**

573 **COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT**

574 (1) Any state, as defined in Article II of this compact, is
575 eligible to become a compacting state.

576 (2) The compact shall become effective and binding upon
577 legislative enactment of the compact into law by no less than
578 thirty-five (35) of the states. The initial effective date shall
579 be the later of July 1, 2001, or upon enactment into law by the
580 thirty-fifth jurisdiction. Thereafter it shall become effective
581 and binding, as to any other compacting state, upon enactment of
582 the compact into law by that state. The governors of nonmember
583 states or their designees will be invited to participate in
584 Interstate Commission activities on a nonvoting basis prior to
585 adoption of the compact by all states and territories of the
586 United States.



587 (3) Amendments to the compact may be proposed by the
588 Interstate Commission for enactment by the compacting states. No
589 amendment shall become effective and binding upon the Interstate
590 Commission and the compacting states unless and until it is
591 enacted into law by unanimous consent of the compacting states.

592 **ARTICLE XI**

593 **WITHDRAWAL, DEFAULT, TERMINATION, AND JUDICIAL ENFORCEMENT**

594 **Section A. Withdrawal**

595 (1) Once effective, the compact shall continue in force and
596 remain binding upon each and every compacting state; provided,
597 that a compacting state may withdraw from the compact
598 ("withdrawing state") by enacting a statute specifically repealing
599 the statute which enacted the compact into law.

600 (2) The effective date of withdrawal is the effective date
601 of the repeal.

602 (3) The withdrawing state shall immediately notify the
603 chairperson of the Interstate Commission in writing upon the
604 introduction of legislation repealing this compact in the
605 withdrawing state.

606 (4) The Interstate Commission shall notify the other
607 compacting states of the withdrawing state's intent to withdraw
608 within sixty (60) days of its receipt thereof.

609 (5) The withdrawing state is responsible for all
610 assessments, obligations and liabilities incurred before the
611 effective date of withdrawal, including any obligations, the
612 performance of which extend beyond the effective date of
613 withdrawal.

614 (6) Reinstatement following withdrawal of any compacting
615 state shall occur upon the withdrawing state reenacting the
616 compact or upon such later date as determined by the Interstate
617 Commission.

618 **Section B. Default**



619 (1) If the Interstate Commission determines that any
620 compacting state has at any time defaulted ("defaulting state") in
621 the performance of any of its obligations or responsibilities
622 under this compact, the bylaws or any duly promulgated rules, the
623 Interstate Commission may impose any or all of the following
624 penalties:

625 (a) Fines, fees and costs in such amounts as are deemed
626 to be reasonable as fixed by the Interstate Commission;

627 (b) Remedial training and technical assistance as
628 directed by the Interstate Commission;

629 (c) Suspension and termination of membership in the
630 compact. Suspension shall be imposed only after all other
631 reasonable means of securing compliance under the bylaws and rules
632 have been exhausted. Immediate notice of suspension shall be
633 given by the Interstate Commission to the governor, the chief
634 justice or chief judicial officer of the state; the majority and
635 minority leaders of the defaulting state's legislature, and the
636 state council. The grounds for default include, but are not
637 limited to, failure of a compacting state to perform such
638 obligations or responsibilities imposed upon it by this compact,
639 Interstate Commission bylaws, or duly promulgated rules. The
640 Interstate Commission shall immediately notify the defaulting
641 state in writing of the penalty imposed by the Interstate
642 Commission on the defaulting state pending a cure of the default.
643 The Interstate Commission shall stipulate the conditions and the
644 time period within which the defaulting state must cure its
645 default. If the defaulting state fails to cure the default within
646 the time period specified by the Interstate Commission, in
647 addition to any other penalties imposed herein, the defaulting
648 state may be terminated from the compact upon an affirmative vote
649 of a majority of the compacting states and all rights, privileges
650 and benefits conferred by this compact shall be terminated from
651 the effective date of suspension.



652 (2) Within sixty (60) days of the effective date of
653 termination of a defaulting state, the Interstate Commission shall
654 notify the governor, the chief justice or chief judicial officer
655 and the majority and minority leaders of the defaulting state's
656 legislature and the state council of such termination.

657 (3) The defaulting state is responsible for all assessments,
658 obligations and liabilities incurred before the effective date of
659 termination including any obligations, the performance of which
660 extends beyond the effective date of termination.

661 (4) The Interstate Commission shall not bear any costs
662 relating to the defaulting state unless otherwise mutually agreed
663 upon between the Interstate Commission and the defaulting state.

664 (5) Reinstatement following termination of any compacting
665 state requires both a reenactment of the compact by the defaulting
666 state and the approval of the Interstate Commission pursuant to
667 the rules.

668 **Section C. Judicial Enforcement**

669 The Interstate Commission may, by majority vote of the
670 members, initiate legal action in the United States District Court
671 for the District of Columbia or, at the discretion of the
672 Interstate Commission, in the federal district where the
673 Interstate Commission has its offices to enforce compliance with
674 the provisions of the compact, its duly promulgated rules and
675 bylaws, against any compacting state in default. In the event
676 judicial enforcement is necessary the prevailing party shall be
677 awarded all costs of such litigation including reasonable
678 attorneys fees.

679 **Section D. Dissolution of Compact**

680 (1) The compact dissolves effective upon the date of the
681 withdrawal or default of the compacting state which reduces
682 membership in the compact to one (1) compacting state.

683 (2) Upon the dissolution of this compact, the compact
684 becomes null and void and shall be of no further force or effect,



685 and the business and affairs of the Interstate Commission shall be
686 concluded and any surplus funds shall be distributed in accordance
687 with the bylaws.

688 **ARTICLE XII**

689 **SEVERABILITY AND CONSTRUCTION**

690 (1) The provisions of this compact shall be severable, and
691 if any phrase, clause, sentence or provision is deemed
692 unenforceable, the remaining provisions of the compact shall be
693 enforceable.

694 (2) The provisions of this compact shall be liberally
695 constructed to effectuate its purposes.

696 **ARTICLE XIII**

697 **BINDING EFFECT OF COMPACT AND OTHER LAWS**

698 **Section A. Other Laws**

699 (1) Nothing herein prevents the enforcement of any other law
700 of a compacting state that is not inconsistent with this compact.

701 (2) All compacting states' laws conflicting with this
702 compact are superseded to the extent of the conflict.

703 **Section B. Binding Effect of the Compact**

704 (1) All lawful actions of the Interstate Commission,
705 including all rules and bylaws promulgated by the Interstate
706 Commission, are binding upon the compacting states.

707 (2) All agreements between the Interstate Commission and the
708 compacting states are binding in accordance with their terms.

709 (3) Upon the request of a party to a conflict over meaning
710 or interpretation of Interstate Commission actions, and upon a
711 majority vote of the compacting states, the Interstate Commission
712 may issue advisory opinions regarding such meaning or
713 interpretation.

714 (4) In the event any provision of this compact exceeds the
715 constitutional limits imposed on the legislature of any compacting
716 state, the obligations, duties, powers or jurisdiction sought to
717 be conferred by such provision upon the Interstate Commission



718 shall be ineffective and such obligations, duties, powers or
719 jurisdiction shall remain in the compacting state and shall be
720 exercised by the agency thereof to which such obligations, duties,
721 powers or jurisdiction are delegated by law in effect at the time
722 this compact becomes effective.

723 **SECTION 2.** This act shall take effect and be in force from
724 and after July 1, 2002, and shall stand repealed on June 30, 2002.

