

By: Representative McBride

To: Interstate Cooperation;  
Corrections

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 495

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; TO AUTHORIZE THE DEPARTMENT OF CORRECTIONS  
8 TO CHARGE A FEE FOR OFFENDERS WHO APPLY FOR TRANSFER UNDER THE  
9 INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION; TO BRING  
10 FORWARD SECTION 47-7-71, MISSISSIPPI CODE OF 1972, WHICH  
11 AUTHORIZES THE EXECUTION OF THE UNIFORM ACT FOR OUT-OF-STATE  
12 PAROLEE SUPERVISION; TO BRING FORWARD SECTION 47-7-73, MISSISSIPPI  
13 CODE OF 1972, WHICH REQUIRES THE DEPARTMENT OF CORRECTIONS TO  
14 NOTIFY COUNTY AND MUNICIPAL LAW ENFORCEMENT AGENCIES IN A COUNTY  
15 WHEN A PERSON IS PLACED ON PROBATION OR RELEASED ON PAROLE AND  
16 RESIDES IN THE COUNTY UNDER THE UNIFORM ACT FOR OUT-OF-STATE  
17 PAROLEE SUPERVISION; TO BRING FORWARD SECTION 47-7-47, MISSISSIPPI  
18 CODE OF 1972, WHICH AUTHORIZES CIRCUIT AND COUNTY COURTS TO PLACE  
19 OFFENDERS IN THE EARNED PROBATION PROGRAM; AND FOR RELATED  
20 PURPOSES.

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

22 **SECTION 1.** The Governor, on behalf of this state, may  
23 execute a compact, in substantially the following form, and the  
24 Legislature signifies in advance its approval and ratification of  
25 such compact:

**THE INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION**

**ARTICLE I**

**PURPOSE**

29 The compacting states to this interstate compact recognize  
30 that each state is responsible for the supervision of adult  
31 offenders in the community who are authorized, pursuant to the  
32 bylaws and rules of this compact, to travel across state lines  
33 both to and from each compacting state in such a manner as to:  
34 track the location of offenders; transfer supervision authority in  
35 an orderly and efficient manner; and when necessary, return  
36 offenders to the originating jurisdictions.

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

41           It is the purpose of this compact and the interstate  
42 commission created under this compact, through means of joint and  
43 cooperative action among the compacting states: to provide the  
44 framework for the promotion of public safety and to protect the  
45 rights of victims through the control and regulation of the  
46 interstate movement of offenders in the community; to provide for  
47 the effective tracking, supervision and rehabilitation of these  
48 offenders by the sending and receiving states; and to equitably  
49 distribute the costs, benefits and obligations of the compact  
50 among the compacting states.

51           In addition, this compact will: create an interstate  
52 commission that will establish uniform procedures to manage the  
53 movement between states of adults placed under community  
54 supervision and released to the community under the jurisdiction  
55 of courts, paroling authorities, corrections or other criminal  
56 justice agencies that will promulgate rules to achieve the purpose  
57 of this compact; ensure an opportunity for input and timely notice  
58 to victims and to jurisdictions where defined offenders are  
59 authorized to travel or to relocate across state lines; establish  
60 a system of uniform data collection, access to information on  
61 active cases by authorized criminal justice officials, and regular  
62 reporting of compact activities to heads of state councils, state  
63 executive, judicial and legislative branches and criminal justice  
64 administrators; monitor compliance with rules governing interstate  
65 movement of offenders and initiate interventions to address and  
66 correct noncompliance; and coordinate training and education  
67 regarding regulations of interstate movement of offenders for  
68 officials involved in such activity.

69           The compacting states recognize that there is no "right" of  
70 any offender to live in another state and that duly accredited  
71 officers of a sending state may enter a receiving state and  
72 apprehend and retake any offender under supervision subject to the  
73 provisions of this compact and bylaws and rules promulgated under  
74 the compact.

75           It is the policy of the compacting states that the activities  
76 conducted by the interstate commission created in this compact are  
77 the formation of public policies and are therefore public  
78 business.

79   **ARTICLE II**

80   **DEFINITIONS**

81           As used in this compact, the following words and terms have  
82 the following meanings, unless a different meaning clearly appears  
83 from the context:

84           (a) "Adult" means individuals legally classified as adults  
85 and juveniles treated as adults by court order, statute or  
86 operation of law.

87           (b) "Bylaws" mean those bylaws established by the interstate  
88 commission for its governance or for directing or controlling the  
89 interstate commission's actions or conduct.

90           (c) "Compact administrator" means the individual in each  
91 compacting state appointed under this compact who is responsible  
92 for the administration and management of the state's supervision  
93 and transfer of offenders subject to the terms of this compact,  
94 the rules adopted by the interstate commission and policies  
95 adopted by the state council under this compact.

96           (d) "Compacting state" means any state that has enacted the  
97 enabling legislation for this compact.

98           (e) "Commissioner" means the voting representative of each  
99 compacting state appointed under Article III of this compact.

100           (f) "Interstate commission" means the Interstate Commission  
101 for Adult Offender Supervision established by this compact.

102 (g) "Member" means the commissioner of a compacting state or  
103 the commissioner's designee, who shall be a person officially  
104 connected with the commissioner.

105 (h) "Noncompacting state" means any state that has not  
106 enacted the enabling legislation for this compact.

107 (i) "Offender" means an adult placed under, or subject to,  
108 supervision as the result of the commission of a criminal offense  
109 and released to the community under the jurisdiction of courts,  
110 paroling authorities, corrections or other criminal justice  
111 agencies.

112 (j) "Person" means any individual, corporation, business  
113 enterprise or other legal entity, either public or private.

114 (k) "Rules" mean acts of the interstate commission, duly  
115 promulgated pursuant to Article VII of this compact, substantially  
116 affecting interested parties in addition to the interstate  
117 commission, which shall have the force and effect of law in the  
118 compacting states.

119 (l) "State" means a state of the United States, the District  
120 of Columbia and any other territorial possessions of the United  
121 States.

122 (m) "State council" means the resident members of the  
123 respective state council for interstate adult offender supervision  
124 created by each state under Article III of this compact.

### 125 **ARTICLE III**

#### 126 **THE COMPACT COMMISSION**

127 (A) The compacting states create the "Interstate Commission  
128 for Adult Offender Supervision." The interstate commission shall  
129 be a body corporate and joint agency of the compacting states.  
130 The interstate commission shall have all the responsibilities,  
131 powers and duties set forth in this compact, including the power  
132 to sue and be sued, and such additional powers as may be conferred  
133 upon it by subsequent action of the respective legislatures of the  
134 compacting states in accordance with the terms of this compact.

135 (B) The interstate commission shall consist of commissioners  
136 selected and appointed by resident members of a state council for  
137 interstate adult offender supervision or the Governor for each  
138 state. While each member state may determine the membership of  
139 its own state council, its membership must include at least one  
140 (1) representative from the legislative, judicial and executive  
141 branches of government, victims groups and compact administrators.  
142 The Mississippi state council will be appointed by the compact  
143 administrator. The compact administrator also may appoint  
144 additional representatives to the state council when he deems such  
145 appointments necessary. The commissioner of corrections or his  
146 designee shall serve as the compact administrator and as the  
147 state's commissioner on the interstate commission in such capacity  
148 pursuant to applicable law of the member state. Each compacting  
149 state retains the right to determine the qualifications of the  
150 compact administrator who shall be appointed by the Governor.

151 The commissioner of corrections shall serve as compact  
152 administrator and chairperson of the state council for interstate  
153 adult offender supervision. If the commissioner of corrections  
154 appoints a designee, the designee must be a deputy commissioner of  
155 corrections or the division director in the office of community  
156 corrections that has operational authority over the interstate  
157 compact division.

158 The term of office for state council members shall be four  
159 (4) years. The state council shall meet at least twice a year.  
160 The state council may advise the compact administrator on  
161 participation in the interstate commission activities and  
162 administration of the compact. Members of the council are  
163 entitled to reimbursement for travel and expenses related to the  
164 interstate commission as provided by state law.

165 In addition to appointment of its commissioner to the  
166 National Interstate Commission, each state council shall exercise  
167 oversight and advocacy concerning its participation in interstate

168 commission activities and other duties as may be determined by  
169 each member state, including, but not limited to, development of  
170 policy concerning operations and procedures of the compact within  
171 that state.

172 (C) In addition to the commissioners who are the voting  
173 representatives of each state, the interstate commission shall  
174 include individuals who are not commissioners, but who are members  
175 of interested organizations; the noncommissioner members must  
176 include a member of the national organizations of governors,  
177 legislators, state chief justices, attorneys general and crime  
178 victims. All noncommissioner members of the interstate commission  
179 shall be ex officio (nonvoting) members. The interstate  
180 commission may provide in its bylaws for such additional, ex  
181 officio (nonvoting) members as it deems necessary.

182 (D) Each compacting state represented at any meeting of the  
183 interstate commission is entitled to one (1) vote. A majority of  
184 the compacting states constitutes a quorum for the transaction of  
185 business, unless a larger quorum is required by the bylaws of the  
186 interstate commission.

187 (E) The interstate commission shall meet at least once each  
188 calendar year. The chairperson may call additional meetings and,  
189 upon the request of twenty-seven (27) or more compacting states,  
190 shall call additional meetings. Public notice shall be given of  
191 all meetings and meetings shall be open to the public.

192 (F) The interstate commission shall establish an executive  
193 committee that shall include commission officers, members and  
194 others as determined by the bylaws. The executive committee has  
195 the power to act on behalf of the interstate commission during  
196 periods when the interstate commission is not in session, with the  
197 exception of rule-making or amendment to the compact, or both.  
198 The executive committee: oversees the day-to-day activities  
199 managed by the executive director and interstate commission staff;  
200 administers enforcement and compliance with the provisions of the

201 compact, its bylaws and as directed by the interstate commission;  
202 and performs other duties as directed by the commission or set  
203 forth in the bylaws.

204 **ARTICLE IV**

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

206 The interstate commission shall have the following powers:

207 (1) To adopt a seal and suitable bylaws governing the  
208 management and operation of the interstate commission.

209 (2) To promulgate rules that have the force and effect  
210 of statutory law and are binding in the compacting states to the  
211 extent and in the manner provided in this compact.

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

215 (4) To enforce compliance with compact provisions,  
216 interstate commission rules and bylaws, using all necessary and  
217 proper means, including, but not limited to, the use of judicial  
218 process.

219 (5) To establish and maintain offices.

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

221 (7) To borrow, accept or contract for services of  
222 personnel, including, but not limited to, members and their  
223 staffs.

224 (8) To establish and appoint committees and hire staff  
225 that it deems necessary for the carrying out of its functions  
226 including, but not limited to, an executive committee as required  
227 by Article III, which shall have the power to act on behalf of the  
228 interstate commission in carrying out its powers and duties  
229 hereunder.

230 (9) To elect or appoint such officers, attorneys,  
231 employees, agents or consultants and to fix their compensation,  
232 define their duties and determine their qualifications; and to  
233 establish the interstate commission's personnel policies and

234 programs relating to, among other things, conflicts of interest,  
235 rates of compensation and qualifications of personnel.

236 (10) To accept any and all donations and grants of  
237 money, equipment, supplies, materials and services, and to  
238 receive, utilize and dispose of same.

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

242 (12) To sell, convey, mortgage, pledge, lease,  
243 exchange, abandon or otherwise dispose of any property, real,  
244 personal or mixed.

245 (13) To establish a budget and make expenditures and  
246 levy dues as provided in Article IX of this compact.

247 (14) To sue and be sued.

248 (15) To provide for dispute resolution among compacting  
249 states.

250 (16) To perform such functions as may be necessary or  
251 appropriate to achieve the purposes of this compact.

252 (17) To report annually to the legislatures, governors,  
253 judiciary and state councils of the compacting states concerning  
254 the activities of the interstate commission during the preceding  
255 year. These reports shall include any recommendations that may  
256 have been adopted by the interstate commission.

257 (18) To coordinate education, training and public  
258 awareness regarding the interstate movement of offenders for  
259 officials involved in that activity.

260 (19) To establish uniform standards for the reporting,  
261 collecting and exchanging of data.

262 **ARTICLE V**

263 **ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION**

264 **Section A. Bylaws**

265 The interstate commission, by a majority of the members  
266 within twelve (12) months of the first interstate commission



267 meeting, shall adopt such bylaws to govern its conduct as may be  
268 necessary or appropriate to carry out the purposes of the compact,  
269 including, but not limited to:

270           (a) Establishing the fiscal year of the interstate  
271 commission;

272           (b) Establishing an executive committee and such other  
273 committees as may be necessary;

274           (c) Providing reasonable standards and procedures: (i)  
275 for the establishment of committees; and (ii) governing any  
276 general or specific delegation of any authority or function of the  
277 interstate commission;

278           (d) Providing reasonable procedures for calling and  
279 conducting meetings of the interstate commission, and ensuring  
280 reasonable notice of each commission meeting;

281           (e) Establishing the titles and responsibilities of the  
282 officers of the interstate commission;

283           (f) Providing reasonable standards and procedures for  
284 the establishment of the personnel policies and programs of the  
285 interstate commission. Notwithstanding any civil service or other  
286 similar laws of any compacting state, the bylaws shall govern  
287 exclusively the personnel policies and programs of the interstate  
288 commission;

289           (g) Providing a mechanism for concluding the operations  
290 of the interstate commission and the equitable return of any  
291 surplus funds that may exist upon the termination of the compact  
292 after the payment or reserving, or both, of all of its debts and  
293 obligations;

294           (h) Providing transition rules for the "start up"  
295 administration of the compact; and

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

298           **Section B. Officers and Staff**

299 (1) The interstate commission shall elect from among its  
300 members, by a majority of the members, a chairperson and a vice  
301 chairperson, each of whom shall have such authorities and duties  
302 as may be specified in the bylaws. The chairperson or, in the  
303 chairperson's absence or disability, the vice chairperson, shall  
304 preside at all meetings of the interstate commission. The  
305 officers so elected shall serve without compensation or  
306 remuneration from the interstate commission; however, subject to  
307 the availability of budgeted funds, the officers shall be  
308 reimbursed for any actual and necessary costs and expenses  
309 incurred by them in the performance of their duties and  
310 responsibilities as officers of the interstate commission.

311 (2) The interstate commission, through its executive  
312 committee, shall appoint or retain an executive director for such  
313 period, upon such terms and conditions and for such compensation  
314 as the interstate commission may deem appropriate. The executive  
315 director shall serve as secretary to the interstate commission,  
316 and hire and supervise such other staff as may be authorized by  
317 the interstate commission, but the executive director shall not be  
318 a member of the interstate commission.

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

320 The interstate commission shall maintain its corporate books  
321 and records in accordance with the bylaws.

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

323 (1) The members, officers, executive director and employees  
324 of the interstate commission shall be immune from suit and  
325 liability, either personally or in their official capacity, for  
326 any claim for damage to or loss of property or personal injury or  
327 other civil liability caused or arising out of any actual or  
328 alleged act, error or omission that occurred within the scope of  
329 interstate commission employment, duties or responsibilities;  
330 however, nothing in this paragraph may be construed to protect any  
331 such person from suit or liability, or both, for any damage, loss,

332 injury or liability caused by the intentional or willful and  
333 wanton misconduct of any such person.

334 (2) The interstate commission shall defend the commissioner  
335 of a compacting state, or the commissioner's representatives or  
336 employees, or the interstate commission's representatives or  
337 employees, in any civil action seeking to impose liability,  
338 arising out of any actual or alleged act, error or omission that  
339 occurred within the scope of interstate commission employment,  
340 duties or responsibilities, or which the defendant had a  
341 reasonable basis for believing occurred within the scope of  
342 interstate commission employment, duties or responsibilities if  
343 the actual or alleged act, error or omission did not result from  
344 intentional wrongdoing on the part of such person.

345 (3) The interstate commission shall indemnify and hold the  
346 commissioner of a compacting state, the appointed designee or  
347 employees, or the interstate commission's representatives or  
348 employees, harmless in the amount of any settlement or judgment  
349 obtained against such persons arising out of any actual or alleged  
350 act, error or omission that occurred within the scope of  
351 interstate commission employment, duties or responsibilities, or  
352 which such persons had a reasonable basis for believing occurred  
353 within the scope of interstate commission employment, duties or  
354 responsibilities if the actual or alleged act, error or omission  
355 did not result from gross negligence or intentional wrongdoing on  
356 the part of such person.

## 357 **ARTICLE VI**

### 358 **ACTIVITIES OF THE INTERSTATE COMMISSION**

359 (1) The interstate commission shall meet and take such  
360 actions as are consistent with this compact.

361 (2) Except as otherwise provided in this compact and unless  
362 a greater percentage is required by the bylaws, in order to  
363 constitute an act of the interstate commission, the act must be

364 taken at a meeting of the interstate commission and must receive  
365 an affirmative vote of a majority of the members present.

366 (3) Each member of the interstate commission has the right  
367 and power to cast a vote to which that compacting state is  
368 entitled and to participate in the business and affairs of the  
369 interstate commission. A member shall vote in person on behalf of  
370 the state and may not delegate a vote to another member state.  
371 However, the compact administrator shall appoint another  
372 authorized representative, in the absence of the commissioner from  
373 that state, to cast a vote on behalf of the member state at a  
374 specified meeting. The bylaws may provide for members'  
375 participation in meetings by telephone or other means of  
376 telecommunication or electronic communication. Any voting  
377 conducted by telephone or other means of telecommunication or  
378 electronic communication shall be subject to the same quorum  
379 requirements of meetings where members are present in person.

380 (4) The interstate commission shall meet at least once  
381 during each calendar year. The chairperson of the interstate  
382 commission may call additional meetings at any time and, upon the  
383 request of a majority of the members, shall call additional  
384 meetings.

385 (5) The interstate commission's bylaws shall establish  
386 conditions and procedures under which the interstate commission  
387 shall make its information and official records available to the  
388 public for inspection or copying. The interstate commission may  
389 exempt from disclosure any information or official records to the  
390 extent that they would adversely affect personal privacy rights or  
391 proprietary interests. In promulgating such rules, the interstate  
392 commission may make available to law enforcement agencies records  
393 and information otherwise exempt from disclosure, and may enter  
394 into agreements with law enforcement agencies to receive or  
395 exchange information or records subject to nondisclosure and  
396 confidentiality provisions.

397           (6) Public notice shall be given of all meetings and all  
398 meetings shall be open to the public, except as set forth in the  
399 rules or as otherwise provided in the compact. The interstate  
400 commission shall promulgate rules consistent with the principles  
401 contained in the "Government in Sunshine Act," 5 USCS Section  
402 552(b), as may be amended. The interstate commission and any of  
403 its committees may close a meeting to the public where it  
404 determines, by two-thirds (2/3) vote, that an open meeting would  
405 be likely to: (a) relate solely to the interstate commission's  
406 internal personnel practices and procedures; (b) disclose matters  
407 specifically exempted from disclosure by statute; (c) disclosure  
408 trade secrets or commercial or financial information which is  
409 privileged or confidential; (d) involve accusing any person of a  
410 crime or formally censuring any person; (e) disclose information  
411 of a personal nature where disclosure would constitute a clearly  
412 unwarranted invasion of personal privacy; (f) disclose  
413 investigatory records compiled for law enforcement purposes; (g)  
414 disclose information contained in or related to examination,  
415 operating or condition reports prepared by, or on behalf of or for  
416 the use of, the interstate commission with respect to a regulated  
417 entity for the purpose of regulation or supervision of such  
418 entity; (h) disclose information, the premature disclosure of  
419 which would significantly endanger the life of a person or the  
420 stability of a regulated entity; (i) specifically relate to the  
421 interstate commission's issuance of a subpoena, or its  
422 participation in a civil action or proceeding.

423           (7) For every meeting closed pursuant to this provision, the  
424 interstate commission's chief legal officer shall certify publicly  
425 that, in the legal officer's opinion, the meeting may be closed to  
426 the public and shall reference each relevant exemptive provision.  
427 The interstate commission shall keep minutes that shall describe  
428 fully and clearly, all matters discussed in any meeting and shall  
429 provide a full and accurate summary of any actions taken and the

430 reasons therefor, including, a description of each of the views  
431 expressed on any item and the record of any roll call vote  
432 (reflected in the vote of each member on the question). All  
433 documents considered in connection with any action shall be  
434 identified in such minutes.

435 (8) The interstate commission shall collect standardized  
436 data concerning the interstate movement of offenders as directed  
437 through its bylaws and rules, which shall specify the data to be  
438 collected, the means of collection and data exchange and reporting  
439 requirements.

#### 440 **ARTICLE VII**

##### 441 **RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION**

442 (1) The interstate commission shall promulgate rules in  
443 order to effectively and efficiently achieve the purposes of the  
444 compact, including transition rules governing administration of  
445 the compact during the period in which it is being considered and  
446 enacted by the states.

447 (2) Rule-making shall occur pursuant to the criteria set  
448 forth in this article and the bylaws and rules adopted pursuant  
449 thereto. Such rule-making shall substantially conform to the  
450 principles of the federal Administrative Procedure Act, 5 USCS  
451 Section 551 et seq., and the Federal Advisory Committee Act, 5  
452 USCS App. 2, Section 1 et seq., as may be amended (hereinafter  
453 "APA").

454 (3) All rules and amendments shall become binding as of the  
455 date specified in each rule or amendment.

456 (4) If a majority of the legislatures of the compacting  
457 states rejects a rule, by enactment of a statute or resolution in  
458 the same manner used to adopt the compact, then that rule shall  
459 have no further force and effect in any compacting state.

460 (5) When promulgating a rule, the interstate commission  
461 shall: (a) publish the proposed rule stating with particularity  
462 the text of the rule that is proposed and the reason for the

463 proposed rule; (b) allow persons to submit written data, facts,  
464 opinions and arguments, which information shall be publicly  
465 available; (c) provide an opportunity for an informal hearing; and  
466 (d) promulgate a final rule and its effective date, if  
467 appropriate, based on the rule-making record.

468 (6) Not later than sixty (60) days after a rule is  
469 promulgated, any interested person may file a petition in the  
470 United States District Court for the District of Columbia or in  
471 the federal district court where the interstate commission's  
472 principal office is located for judicial review of the rule. If  
473 the court finds that the interstate commission's action is not  
474 supported by substantial evidence (as defined in the APA) in the  
475 rule-making record, the court shall hold the rule unlawful and set  
476 it aside.

477 (7) Subjects to be addressed within twelve (12) months after  
478 the first meeting must include, at a minimum: (a) notice to  
479 victims and opportunity to be heard; (b) offender registration and  
480 compliance; (c) violations and returns; (d) transfer procedures  
481 and forms; (e) eligibility for transfer; (f) collection of  
482 restitution and fees from offenders; (g) data collection and  
483 reporting; (h) the level of supervision to be provided by the  
484 receiving state; (i) transition rules governing the operation of  
485 the compact and the interstate commission during all or part of  
486 the period between the effective date of the compact and the date  
487 on which the last eligible state adopts the compact; and (j)  
488 mediation, arbitration and dispute resolution.

489 The existing rules governing the operation of the previous  
490 compact superceded by this act shall be null and void twelve (12)  
491 months after the first meeting of the interstate commission  
492 created under this compact.

493 (8) Upon determination by the interstate commission that an  
494 emergency exists, the interstate commission may promulgate an  
495 emergency rule that shall become effective immediately upon

496 adoption; however, the usual rule-making procedures provided under  
497 this compact shall be applied retroactively to that rule as soon  
498 as reasonably possible, and in no event, later than ninety (90)  
499 days after the effective date of the rule.

## 500 **ARTICLE VIII**

### 501 **OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION BY THE** 502 **INTERSTATE COMMISSION**

#### 503 **Section A. Oversight**

504 (1) The interstate commission shall oversee the interstate  
505 movement of adult offenders in the compacting states and shall  
506 monitor such activities being administered in noncompacting states  
507 which significantly may affect compacting states.

508 (2) The courts and executive agencies in each compacting  
509 state shall enforce this compact and shall take all actions  
510 necessary and appropriate to effectuate the compact's purposes and  
511 intent. In any judicial or administrative proceeding in a  
512 compacting state pertaining to the subject matter of this compact  
513 which may affect the powers, responsibilities or actions of the  
514 interstate commission, the interstate commission shall be entitled  
515 to receive all service of process in any such proceeding and shall  
516 have standing to intervene in the proceeding for all purposes.

#### 517 **Section B. Dispute Resolution**

518 (1) The compacting states shall report to the interstate  
519 commission on issues or activities of concern to them and shall  
520 cooperate with and support the interstate commission in the  
521 discharge of its duties and responsibilities.

522 (2) The interstate commission shall attempt to resolve any  
523 disputes or other issues that are subject to the compact and which  
524 may arise among compacting states and noncompacting states.

525 (3) The interstate commission shall enact a bylaw or  
526 promulgate a rule providing for both mediation and binding dispute  
527 resolution for disputes among the compacting states.

#### 528 **Section C. Enforcement**



529           The interstate commission, in the reasonable exercise of its  
530 discretion, shall enforce the provisions of this compact using any  
531 or all means set forth in Article XI, Section B, of this compact.

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

533           The duly accredited officers of a sending state may enter a  
534 receiving state and apprehend and retake any person on probation  
535 or parole according to the laws of the United States. For that  
536 purpose, the sending state must establish the authority of the  
537 officer and the identity of the person or persons to be retaken.  
538 The person or persons must be afforded a preliminary hearing  
539 consistent with due process requirements under the United States  
540 Constitution as interpreted by the Supreme Court of the United  
541 States. All legal requirements to extradition of fugitives from  
542 justice are waived expressly on the part of states that are  
543 parties to this compact as to such persons. The decision of the  
544 sending state to retake a person on probation or parole is  
545 conclusive and not reviewable within the receiving state; however,  
546 if, at the time a state seeks to retake a probationer or parolee,  
547 there is pending against him within the receiving state a criminal  
548 charge or if he is suspected of having committed within that state  
549 a criminal offense, the probationer or parolee may not be retaken  
550 without the consent of the receiving state until the probationer  
551 or parolee is discharged from prosecution or from imprisonment for  
552 such offense. The duly accredited officers of the sending state  
553 may transport prisoners being retaken through any state that is a  
554 party to this compact without interference.

555           **ARTICLE IX**

556           **FINANCE**

557           (1) The interstate commission shall pay or provide for the  
558 payment of the reasonable expenses of its establishment,  
559 organization and ongoing activities.

560           (2) The interstate commission shall levy on and collect an  
561 annual assessment from each compacting state to cover the cost of

562 the internal operations and activities of the interstate  
563 commission and its staff, which levy must be in a total amount  
564 sufficient to cover the interstate commission's annual budget as  
565 approved each year. The aggregate annual assessment amount shall  
566 be allocated based upon a formula to be determined by the  
567 interstate commission, taking into consideration the population of  
568 the state and the volume of interstate movement of offenders in  
569 each compacting state. The interstate commission shall promulgate  
570 a rule binding upon all compacting states which governs the  
571 assessment.

572 (3) The interstate commission shall not incur any  
573 obligations of any kind before securing the funds adequate to meet  
574 the obligations. The interstate commission may not pledge the  
575 credit of any of the compacting states, except by and with the  
576 authority of the compacting state.

577 (4) The interstate commission shall keep accurate accounts  
578 of all receipts and disbursements. The receipts and disbursements  
579 of the interstate commission shall be subject to the audit and  
580 accounting procedures established under its bylaws. However, all  
581 receipts and disbursements of funds handled by the interstate  
582 commission shall be audited yearly by a certified or licensed  
583 public accountant, and the report of the audit shall be included  
584 in and become part of the annual report of the interstate  
585 commission.

## 586 **ARTICLE X**

### 587 **COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT**

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

590 (2) The compact shall become effective and binding upon  
591 legislative enactment of the compact into law by no less than  
592 thirty-five (35) of the states. The initial effective date shall  
593 be the later of July 1, 2004, or upon enactment into law by the  
594 thirty-fifth jurisdiction. Thereafter, it shall become effective

595 and binding, as to any other compacting state, upon enactment of  
596 the compact into law by that state. The governors of nonmember  
597 states or their designees will be invited to participate in  
598 interstate commission activities on a nonvoting basis before  
599 adoption of the compact by all states and territories of the  
600 United States.

601 (3) Amendments to the compact may be proposed by the  
602 interstate commission for enactment by the compacting states. No  
603 amendment shall become effective and binding upon the interstate  
604 commission and the compacting states unless it is enacted into law  
605 by unanimous consent of the compacting states.

#### 606 **ARTICLE XI**

#### 607 **WITHDRAWAL, DEFAULT, TERMINATION, AND JUDICIAL ENFORCEMENT**

#### 608 **Section A. Withdrawal**

609 (1) Once effective, the compact shall continue in force and  
610 remain binding upon every compacting state; however, a compacting  
611 state may withdraw from the compact ("withdrawing state") by  
612 enacting a statute specifically repealing the statute that enacted  
613 the compact into law.

614 (2) The effective date of withdrawal is the effective date  
615 of the repeal.

616 (3) The withdrawing state shall notify immediately the  
617 chairperson of the interstate commission in writing upon the  
618 introduction of legislation repealing this compact in the  
619 withdrawing state.

620 (4) The interstate commission shall notify the other  
621 compacting states of the withdrawing state's intent to withdraw  
622 within sixty (60) days of its receipt of the notification.

623 (5) The withdrawing state is responsible for all  
624 assessments, obligations and liabilities incurred through the  
625 effective date of withdrawal, including any obligations, the  
626 performance of which extend beyond the effective date of  
627 withdrawal.

628 (6) Reinstatement following withdrawal of any compacting  
629 state shall occur upon the withdrawing state reenacting the  
630 compact or upon such later date as determined by the interstate  
631 commission.

632 **Section B. Default**

633 (1) If the interstate commission determines that any  
634 compacting state has at any time defaulted ("defaulting state") in  
635 the performance of any of its obligations or responsibilities  
636 under this compact, the bylaws or any duly promulgated rules, the  
637 interstate commission may impose any or all of the following  
638 penalties:

639 (a) Fines, fees and costs in such amounts as are deemed  
640 to be reasonable, as fixed by the interstate commission;

641 (b) Remedial training and technical assistance as  
642 directed by the interstate commission;

643 (c) Suspension and termination of membership in the  
644 compact. Suspension shall be imposed only after all other  
645 reasonable means of securing compliance under the bylaws and rules  
646 have been exhausted. Immediate notice of suspension shall be  
647 given by the interstate commission: to the Governor, the Chief  
648 Justice or chief judicial officer of the state; the majority and  
649 minority leaders of the defaulting state's Legislature; and the  
650 state council. The grounds for default include, but are not  
651 limited to, failure of a compacting state to perform such  
652 obligations or responsibilities imposed upon it by this compact,  
653 interstate commission bylaws or duly promulgated rules. The  
654 interstate commission shall immediately notify the defaulting  
655 state in writing of the penalty imposed by the interstate  
656 commission on the defaulting state pending a cure of the default.  
657 The interstate commission shall stipulate the conditions and the  
658 time period within which the defaulting state must cure its  
659 default. If the defaulting state fails to cure the default within  
660 the time period specified by the interstate commission, in

661 addition to any other penalties imposed, the defaulting state may  
662 be terminated from the compact upon an affirmative vote of a  
663 majority of the compacting states and all rights, privileges and  
664 benefits conferred by this compact shall be terminated from the  
665 effective date of suspension.

666 (2) Within sixty (60) days of the effective date of  
667 termination of a defaulting state, the interstate commission shall  
668 notify the governor, the chief justice or chief judicial officer  
669 and the majority and minority leaders of the defaulting state's  
670 legislature and the state council of such termination.

671 (3) The defaulting state is responsible for all assessments,  
672 obligations and liabilities incurred through the effective date of  
673 termination including any obligations, the performance of which  
674 extends beyond the effective date of termination.

675 (4) The interstate commission shall not bear any costs  
676 relating to the defaulting state unless otherwise mutually agreed  
677 upon between the interstate commission and the defaulting state.

678 (5) Reinstatement following termination of any compacting  
679 state requires both a reenactment of the compact by the defaulting  
680 state and the approval of the interstate commission pursuant to  
681 the rules.

#### 682 **Section C. Judicial Enforcement**

683 The interstate commission by majority vote of the members,  
684 may initiate legal action in the United States District Court for  
685 the District of Columbia or, at the discretion of the interstate  
686 commission, in the federal district where the interstate  
687 commission has its offices to enforce compliance with the compact,  
688 its duly promulgated rules and bylaws against any compacting state  
689 in default. If judicial enforcement is necessary, the prevailing  
690 party shall be awarded all costs of the litigation, including  
691 reasonable attorney's fees.

#### 692 **Section D. Dissolution of Compact**

693 (1) The compact dissolves effective upon the date of the  
694 withdrawal or default of the compacting state which reduces  
695 membership in the compact to one (1) compacting state.

696 (2) Upon the dissolution of this compact, the compact  
697 becomes null and void and shall be of no further force or effect,  
698 and the business and affairs of the interstate commission shall be  
699 concluded and any surplus funds shall be distributed in accordance  
700 with the bylaws.

## 701 **ARTICLE XII**

### 702 **SEVERABILITY AND CONSTRUCTION**

703 (1) The provisions of this compact shall be severable, and  
704 if any phrase, clause, sentence or provision is deemed  
705 unenforceable, the remaining provisions of the compact shall be  
706 enforceable.

707 (2) The provisions of this compact shall be liberally  
708 construed to effectuate its purposes.

## 709 **ARTICLE XIII**

### 710 **BINDING EFFECT OF COMPACT AND OTHER LAWS**

#### 711 **Section A. Other Laws**

712 (1) Nothing in this compact prevents the enforcement of any  
713 other law of a compacting state which is not inconsistent with  
714 this compact.

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

#### 717 **Section B. Binding Effect of the Compact**

718 (1) All lawful actions of the interstate commission,  
719 including all rules and bylaws promulgated by the interstate  
720 commission, are binding upon the compacting states.

721 (2) All agreements between the interstate commission and the  
722 compacting states are binding in accordance with their terms.

723 (3) Upon the request of a party to a conflict over the  
724 meaning or interpretation of interstate commission actions, and  
725 upon a majority vote of the compacting states, the interstate

726 commission may issue advisory opinions regarding such meaning or  
727 interpretation.

728 (4) If any provision of this compact exceeds the  
729 constitutional limits imposed on the legislature of any compacting  
730 state, the obligations, duties, powers or jurisdiction sought to  
731 be conferred by such provision upon the interstate commission  
732 shall be ineffective, and such obligations, duties, powers or  
733 jurisdiction shall remain in the compacting state and shall be  
734 exercised by the agency of that state to which the obligations,  
735 duties, powers or jurisdiction are delegated by law in effect at  
736 the time this compact becomes effective.

737 **SECTION 2.** Pursuant to the Interstate Compact for Adult  
738 Offender Supervision, the Department of Corrections may assume the  
739 duties of supervision over offenders of any sending state who were  
740 convicted of misdemeanors. The Department of Corrections may not  
741 supervise offenders convicted of misdemeanors of states that are  
742 not participating in the compact.

743 **SECTION 3.** Pursuant to the Interstate Compact for Adult  
744 Offender Supervision, the Department of Corrections may charge a  
745 one-time application fee in the amount of Thirty-five Dollars  
746 (\$35.00) to each offender applying for out-of-state transfer under  
747 the Interstate Compact for Adult Offender Adult Supervision.  
748 Payments received under this section shall be deposited into a  
749 special fund which is created in the State Treasury. Monies in  
750 the fund shall be expended by the Department of Corrections, upon  
751 appropriation by the Legislature, to defray costs incurred by the  
752 department under the Interstate Compact for Adult Offender  
753 Supervision. Unexpended amounts remaining in the special fund at  
754 the end of a fiscal year shall not lapse into the State General  
755 Fund, and any interest earned or investment earnings on amounts in  
756 the special fund shall be deposited to the credit of the special  
757 fund.

758           **SECTION 4.** Section 47-7-71, Mississippi Code of 1972, is  
759 brought forward as follows:

760           47-7-71. I. The Governor of this state is hereby authorized  
761 and directed to execute a compact on behalf of the State of  
762 Mississippi with any of the United States legally joining therein  
763 in the form substantially as follows:

764                           **A Compact**

765           Entered into by and among the contracting states, signatories  
766 hereto, with the consent of the Congress of the United States of  
767 America, granted by an act entitled "An act granting the consent  
768 of Congress to any two (2) or more states to enter into agreements  
769 or compacts for cooperative effort and mutual assistance in the  
770 prevention of crime and for other purposes."

771           The contracting states solemnly agree:

772                   (1) That it shall be competent for the duly constituted  
773 judicial and administrative authorities of a state party to this  
774 compact (herein called "sending state"), to permit any person  
775 convicted of an offense within such state and placed on probation  
776 or released on parole to reside in any other state party to this  
777 compact (herein called "receiving state"), while on probation or  
778 parole, if

779                           (a) Such person is in fact a resident of or has  
780 his family residing within the receiving state and can obtain  
781 employment there;

782                           (b) Though not a resident of the receiving state  
783 and not having his family residing there, the receiving state  
784 consents to such person being sent there.

785           Before granting such permission, opportunity shall be granted  
786 to the receiving state to investigate the home and prospective  
787 employment of such person.

788           A resident of the receiving state, within the meaning of this  
789 section, is one who has been an actual inhabitant of such state  
790 continuously for more than one (1) year prior to his coming to the



791 sending state and has not resided within the sending state more  
792 than six (6) continuous months immediately preceding the  
793 commission of the offense for which he has been convicted.

794 (2) That each receiving state will assume the duties of  
795 visitation of and supervision over probationers or parolees of any  
796 sending state and in the exercise of those duties will be governed  
797 by the same standards that prevail for its own probationers and  
798 parolees.

799 (3) That duly accredited officers of a sending state  
800 may at all times enter a receiving state and there apprehend and  
801 retake any person on probation or parole. For that purpose no  
802 formalities will be required other than establishing the authority  
803 of the officer and the identity of the person to be retaken. All  
804 legal requirements to obtain extradition of fugitives from justice  
805 are hereby expressly waived on the part of states party hereto, as  
806 to such persons. The decision of the sending state to retake a  
807 person on probation or parole shall be conclusive upon and not  
808 reviewable within the receiving state; provided, however, that if  
809 at the time when a state seeks to retake a probationer or parolee  
810 there should be pending against him within the receiving state any  
811 criminal charge, or he should be suspected of having committed  
812 within such state a criminal offense, he shall not be retaken  
813 without the consent of the receiving state until discharged from  
814 prosecution or from imprisonment for such offense.

815 (4) That the duly accredited officers of the sending  
816 state will be permitted to transport prisoners being retaken  
817 through any and all states parties to this compact, without  
818 interference.

819 (5) That the governor of each state may designate an  
820 officer who, acting jointly with like officers of other  
821 contracting states, if and when appointed, shall promulgate such  
822 rules and regulations as may be deemed necessary to more  
823 effectively carry out the terms of this compact.

824           (6) That this compact shall become operative  
825 immediately upon its execution by any state as between it and any  
826 other state or states so executing. When executed it shall have  
827 the full force and effect of law within such state, the form of  
828 execution to be in accordance with the laws of the executing  
829 state.

830           (7) That this compact shall continue in force and  
831 remain binding upon each executing state until renounced by it.  
832 The duties and obligations hereunder of a renouncing state shall  
833 continue as to parolees or probationers residing therein at the  
834 time of withdrawal until retaken or finally discharged by the  
835 sending state. Renunciation of this compact shall be by the same  
836 authority which executed it, by sending six (6) months' notice in  
837 writing of its intention to withdraw from the compact to the other  
838 state party hereto.

839           II. This section may be cited as the uniform act for  
840 out-of-state parolee supervision.

841           **SECTION 5.** Section 47-7-73, Mississippi Code of 1972, is  
842 brought forward as follows:

843           47-7-73. The Department of Corrections shall notify the  
844 sheriff of the county and the police chief of each municipality in  
845 the county when a person is placed on probation or released on  
846 parole to reside in the county under the Uniform Act for  
847 Out-of-state Parolee Supervision.

848           **SECTION 6.** Section 47-7-47, Mississippi Code of 1972, is  
849 brought forward as follows:

850           47-7-47. (1) The judge of any circuit court may place an  
851 offender on a program of earned probation after a period of  
852 confinement as set out herein and the judge may seek the advice of  
853 the commissioner and shall direct that the defendant be under the  
854 supervision of the department.

855           (2) (a) Any circuit court or county court may, upon its own  
856 motion, acting upon the advice and consent of the commissioner not

857 earlier than thirty (30) days nor later than one (1) year after  
858 the defendant has been delivered to the custody of the department,  
859 to which he has been sentenced, suspend the further execution of  
860 the sentence and place the defendant on earned probation, except  
861 when a death sentence or life imprisonment is the maximum penalty  
862 which may be imposed or if the defendant has been confined two (2)  
863 or more times for the conviction of a felony on a previous  
864 occasion in any court or courts of the United States and of any  
865 state or territories thereof or has been convicted of a felony  
866 involving the use of a deadly weapon.

867 (b) The authority granted in this subsection shall be  
868 exercised by the judge who imposed sentence on the defendant, or  
869 his successor.

870 (c) The time limit imposed by paragraph (a) of this  
871 subsection is not applicable to those defendants sentenced to the  
872 custody of the department prior to April 14, 1977. Persons who  
873 are convicted of crimes that carry mandatory sentences shall not  
874 be eligible for earned probation.

875 (3) When any circuit or county court places an offender on  
876 earned probation, the court shall give notice to the Mississippi  
877 Department of Corrections within fifteen (15) days of the court's  
878 decision to place the offender on earned probation. Notice shall  
879 be delivered to the central office of the Mississippi Department  
880 of Corrections and to the regional office of the department which  
881 will be providing supervision to the offender on earned probation.

882 (4) If the court places any person on probation or earned  
883 probation, the court may order the person, as a condition of  
884 probation, to a period of confinement and treatment at a private  
885 or public agency or institution, either within or without the  
886 state, which treats emotional, mental or drug-related problems.  
887 Any person who, as a condition of probation, is confined for  
888 treatment at an out-of-state facility shall be supervised pursuant  
889 to Section 47-7-71, and any person confined at a private agency

890 shall not be confined at public expense. Time served in any such  
891 agency or institution may be counted as time required to meet the  
892 criteria of subsection (2)(a).

893 (5) If the court places any person on probation or earned  
894 probation, the court may order the person to make appropriate  
895 restitution to any victim of his crime or to society through the  
896 performance of reasonable work for the benefit of the community.

897 (6) If the court places any person on probation or earned  
898 probation, the court may order the person, as a condition of  
899 probation, to submit, as provided in Section 47-5-601, to any type  
900 of breath, saliva or urine chemical analysis test, the purpose of  
901 which is to detect the possible presence of alcohol or a substance  
902 prohibited or controlled by any law of the State of Mississippi or  
903 the United States.

904 **SECTION 7.** This act shall take effect and be in force from  
905 and after July 1, 2004.