

By: Representative McBride

To: Interstate Cooperation;
Corrections

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; 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, may
10 execute a compact, in substantially the following form, and the
11 Legislature signifies in advance its approval and ratification of
12 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
20 both to and from each compacting state in such a manner as to:
21 track the location of offenders; transfer supervision authority in
22 an orderly and efficient manner; and when necessary, return
23 offenders 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 under this compact, through means of joint and



30 cooperative action among the compacting states: to provide the
31 framework for the promotion of public safety and to 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 an interstate
39 commission that 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 that will promulgate rules to achieve the purpose
44 of this compact; ensure an opportunity for input and timely notice
45 to victims and to jurisdictions where defined offenders are
46 authorized to travel or to relocate across state lines; establish
47 a system of uniform data collection, access to information on
48 active cases by authorized criminal justice officials, and regular
49 reporting of compact activities to heads of state councils, state
50 executive, judicial and legislative branches and criminal justice
51 administrators; monitor compliance with rules governing interstate
52 movement of offenders and initiate interventions to address and
53 correct noncompliance; and coordinate training and education
54 regarding regulations of interstate movement of offenders for
55 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 enter a receiving state and
59 apprehend and retake any offender under supervision subject to the
60 provisions of this compact and bylaws and rules promulgated under
61 the compact.



62 It is the policy of the compacting states that the activities
63 conducted by the interstate commission created in this compact are
64 the formation of public policies and are therefore public
65 business.

66 **ARTICLE II**

67 **DEFINITIONS**

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

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

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

77 (c) "Compact administrator" means the individual in each
78 compacting state appointed under this compact who is responsible
79 for the administration and management of the state's supervision
80 and transfer of offenders subject to the terms of this compact,
81 the rules adopted by the interstate commission and policies
82 adopted by the state council under this compact.

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

85 (e) "Commissioner" means the voting representative of each
86 compacting state appointed under Article III of this 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 the commissioner's designee, who shall be a person officially
91 connected with the commissioner.

92 (h) "Noncompacting state" means any state that 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" mean 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
110 respective state council for interstate adult offender supervision
111 created by each state under Article III of this compact.

112 **ARTICLE III**

113 **THE COMPACT COMMISSION**

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

122 (B) The interstate commission shall consist of commissioners
123 selected and appointed by resident members of a state council for
124 interstate adult offender supervision or the Governor for each
125 state. While each member state may determine the membership of
126 its own state council, its membership must include at least one



127 (1) representative from the legislative, judicial and executive
128 branches of government, victims groups and compact administrators.
129 The Mississippi state council will be appointed by the compact
130 administrator. The compact administrator also may appoint
131 additional representatives to the state council when he deems such
132 appointments necessary. The commissioner of corrections or his
133 designee shall serve as the compact administrator and as the
134 state's commissioner on the interstate commission in such capacity
135 pursuant to applicable law of the member state. Each compacting
136 state retains the right to determine the qualifications of the
137 compact administrator who shall be appointed by the Governor.

138 The commissioner of corrections shall serve as compact
139 administrator and chairperson of the state council for interstate
140 adult offender supervision. If the commissioner of corrections
141 appoints a designee, the designee must be a deputy commissioner of
142 corrections or the division director in the office of community
143 corrections that has operational authority over the interstate
144 compact division.

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

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



159 (C) In addition to the commissioners who are the voting
160 representatives of each state, the interstate commission shall
161 include individuals who are not commissioners, but who are members
162 of interested organizations; the noncommissioner members must
163 include a member of the national organizations of governors,
164 legislators, state chief justices, attorneys general and crime
165 victims. All noncommissioner members of the interstate commission
166 shall be ex officio (nonvoting) members. The interstate
167 commission may provide in its bylaws for such additional, ex
168 officio (nonvoting) members as it deems necessary.

169 (D) Each compacting state represented at any meeting of the
170 interstate commission is entitled to one (1) vote. A majority of
171 the compacting states constitutes a quorum for the transaction of
172 business, unless a larger quorum is required by the bylaws of the
173 interstate commission.

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

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

191 **ARTICLE IV**



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

193 The interstate commission shall have the following powers:

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

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

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

202 (4) To enforce compliance with compact provisions,
203 interstate commission rules and bylaws, using all necessary and
204 proper means, including, but not limited to, the use of judicial
205 process.

206 (5) To establish and maintain offices.

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

208 (7) To borrow, accept or contract for services of
209 personnel, including, but not limited to, members and their
210 staffs.

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

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



223 (10) To accept any and all donations and grants of
224 money, equipment, supplies, materials and services, and to
225 receive, utilize and dispose of same.

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

229 (12) To sell, convey, mortgage, pledge, lease,
230 exchange, abandon or otherwise dispose of any property, real,
231 personal or mixed.

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

234 (14) To sue and be sued.

235 (15) To provide for dispute resolution among compacting
236 states.

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

239 (17) To report annually to the legislatures, governors,
240 judiciary and state councils of the compacting states concerning
241 the activities of the interstate commission during the preceding
242 year. These reports shall include any recommendations that may
243 have been adopted by the interstate commission.

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

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

249 **ARTICLE V**

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

251 **Section A. Bylaws**

252 The interstate commission, by a majority of the members
253 within twelve (12) months of the first interstate commission
254 meeting, shall adopt such bylaws to govern its conduct as may be



255 necessary or appropriate to carry out the purposes of the compact,
256 including, but not limited to:

257 (a) Establishing the fiscal year of the interstate
258 commission;

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

261 (c) Providing reasonable standards and procedures: (i)
262 for the establishment of committees; and (ii) governing any
263 general or specific delegation of any authority or function of the
264 interstate commission;

265 (d) Providing reasonable procedures for calling and
266 conducting meetings of the interstate commission, and ensuring
267 reasonable notice of each commission meeting;

268 (e) Establishing the titles and responsibilities of the
269 officers of the interstate commission;

270 (f) Providing reasonable standards and procedures for
271 the establishment of the personnel policies and programs of the
272 interstate commission. Notwithstanding any civil service or other
273 similar laws of any compacting state, the bylaws shall govern
274 exclusively the personnel policies and programs of the interstate
275 commission;

276 (g) Providing a mechanism for concluding the operations
277 of the interstate commission and the equitable return of any
278 surplus funds that may exist upon the termination of the compact
279 after the payment or reserving, or both, of all of its debts and
280 obligations;

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

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

285 **Section B. Officers and Staff**

286 (1) The interstate commission shall elect from among its
287 members, by a majority of the members, a chairperson and a vice



288 chairperson, each of whom shall have such authorities and duties
289 as may be specified in the bylaws. The chairperson or, in the
290 chairperson's absence or disability, the vice chairperson, shall
291 preside at all meetings of the interstate commission. The
292 officers so elected shall serve without compensation or
293 remuneration from the interstate commission; however, subject to
294 the availability of budgeted funds, the officers shall be
295 reimbursed for any actual and necessary costs and expenses
296 incurred by them in the performance of their duties and
297 responsibilities as officers of the interstate commission.

298 (2) The interstate commission, through its executive
299 committee, shall appoint or retain an executive director for such
300 period, upon such terms and conditions and for such compensation
301 as the interstate commission may deem appropriate. The executive
302 director shall serve as secretary to the interstate commission,
303 and hire and supervise such other staff as may be authorized by
304 the interstate commission, but the executive director shall not be
305 a member of the interstate commission.

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

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

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

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



321 (2) The interstate commission shall defend the commissioner
322 of a compacting state, or the commissioner's representatives or
323 employees, or the interstate commission's representatives or
324 employees, in any civil action seeking to impose liability,
325 arising out of any actual or alleged act, error or omission that
326 occurred within the scope of interstate commission employment,
327 duties or responsibilities, or which the defendant had a
328 reasonable basis for believing occurred within the scope of
329 interstate commission employment, duties or responsibilities if
330 the actual or alleged act, error or omission did not result from
331 intentional wrongdoing on the part of such person.

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

344 **ARTICLE VI**

345 **ACTIVITIES OF THE INTERSTATE COMMISSION**

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

348 (2) Except as otherwise provided in this compact and unless
349 a greater percentage is required by the bylaws, in order to
350 constitute an act of the interstate commission, the act must be
351 taken at a meeting of the interstate commission and must receive
352 an affirmative vote of a majority of the members present.



353 (3) Each member of the interstate commission has the right
354 and power to cast a vote to which that compacting state is
355 entitled and to participate in the business and affairs of the
356 interstate commission. A member shall vote in person on behalf of
357 the state and may not delegate a vote to another member state.
358 However, the compact administrator shall appoint another
359 authorized representative, in the absence of the commissioner from
360 that state, to cast a vote on behalf of the member state at a
361 specified meeting. The bylaws may provide for members'
362 participation in meetings by telephone or other means of
363 telecommunication or electronic communication. Any voting
364 conducted by telephone or other means of telecommunication or
365 electronic communication shall be subject to the same quorum
366 requirements of meetings where members are present in person.

367 (4) The interstate commission shall meet at least once
368 during each calendar year. The chairperson of the interstate
369 commission may call additional meetings at any time and, upon the
370 request of a majority of the members, shall call additional
371 meetings.

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

384 (6) Public notice shall be given of all meetings and all
385 meetings shall be open to the public, except as set forth in the



386 rules or as otherwise provided in the compact. The interstate
387 commission shall promulgate rules consistent with the principles
388 contained in the "Government in Sunshine Act," 5 USCS Section
389 552(b), as may be amended. The interstate commission and any of
390 its committees may close a meeting to the public where it
391 determines, by two-thirds (2/3) vote, that an open meeting would
392 be likely to: (a) relate solely to the interstate commission's
393 internal personnel practices and procedures; (b) disclose matters
394 specifically exempted from disclosure by statute; (c) disclosure
395 trade secrets or commercial or financial information which is
396 privileged or confidential; (d) involve accusing any person of a
397 crime or formally censuring any person; (e) disclose information
398 of a personal nature where disclosure would constitute a clearly
399 unwarranted invasion of personal privacy; (f) disclose
400 investigatory records compiled for law enforcement purposes; (g)
401 disclose information contained in or related to examination,
402 operating or condition reports prepared by, or on behalf of or for
403 the use of, the interstate commission with respect to a regulated
404 entity for the purpose of regulation or supervision of such
405 entity; (h) disclose information, the premature disclosure of
406 which would significantly endanger the life of a person or the
407 stability of a regulated entity; (i) specifically relate to the
408 interstate commission's issuance of a subpoena, or its
409 participation in a civil action or proceeding.

410 (7) For every meeting closed pursuant to this provision, the
411 interstate commission's chief legal officer shall certify publicly
412 that, in the legal officer's opinion, the meeting may be closed to
413 the public and shall reference each relevant exemptive provision.
414 The interstate commission shall keep minutes that shall describe
415 fully and clearly, all matters discussed in any meeting and shall
416 provide a full and accurate summary of any actions taken and the
417 reasons therefor, including, a description of each of the views
418 expressed on any item and the record of any roll call vote



419 (reflected in the vote of each member on the question). All
420 documents considered in connection with any action shall be
421 identified in such minutes.

422 (8) The interstate commission shall collect standardized
423 data concerning the interstate movement of offenders as directed
424 through its bylaws and rules, which shall specify the data to be
425 collected, the means of collection and data exchange and reporting
426 requirements.

427 **ARTICLE VII**

428 **RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION**

429 (1) The interstate commission shall promulgate rules in
430 order to effectively and efficiently achieve the purposes of the
431 compact, including transition rules governing administration of
432 the compact during the period in which it is being considered and
433 enacted by the states.

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

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

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

447 (5) When promulgating a rule, the interstate commission
448 shall: (a) publish the proposed rule stating with particularity
449 the text of the rule that is proposed and the reason for the
450 proposed rule; (b) allow persons to submit written data, facts,
451 opinions and arguments, which information shall be publicly



452 available; (c) provide an opportunity for an informal hearing; and
453 (d) promulgate a final rule and its effective date, if
454 appropriate, based on the rule-making record.

455 (6) Not later than sixty (60) days after a rule is
456 promulgated, any interested person may file a petition in the
457 United States District Court for the District of Columbia or in
458 the federal district court where the interstate commission's
459 principal office is located for judicial review of the rule. If
460 the court finds that the interstate commission's action is not
461 supported by substantial evidence (as defined in the APA) in the
462 rule-making record, the court shall hold the rule unlawful and set
463 it aside.

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

476 The existing rules governing the operation of the previous
477 compact superceded by this act shall be null and void twelve (12)
478 months after the first meeting of the interstate commission
479 created under this compact.

480 (8) Upon determination by the interstate commission that an
481 emergency exists, the interstate commission may promulgate an
482 emergency rule that shall become effective immediately upon
483 adoption; however, the usual rule-making procedures provided under
484 this compact shall be applied retroactively to that rule as soon



485 as reasonably possible, and in no event, later than ninety (90)
486 days after the effective date of the rule.

487 **ARTICLE VIII**

488 **OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION BY THE**
489 **INTERSTATE COMMISSION**

490 **Section A. Oversight**

491 (1) The interstate commission shall oversee the interstate
492 movement of adult offenders in the compacting states and shall
493 monitor such activities being administered in noncompacting states
494 which significantly may affect compacting states.

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

504 **Section B. Dispute Resolution**

505 (1) The compacting states shall report to the interstate
506 commission on issues or activities of concern to them and shall
507 cooperate with and support the interstate commission in the
508 discharge of its duties and responsibilities.

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

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

515 **Section C. Enforcement**



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

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

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

542 **ARTICLE IX**

543 **FINANCE**

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

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



549 the internal operations and activities of the interstate
550 commission and its staff, which levy must be in a total amount
551 sufficient to cover the interstate commission's annual budget as
552 approved each year. The aggregate annual assessment amount shall
553 be allocated based upon a formula to be determined by the
554 interstate commission, taking into consideration the population of
555 the state and the volume of interstate movement of offenders in
556 each compacting state. The interstate commission shall promulgate
557 a rule binding upon all compacting states which governs the
558 assessment.

559 (3) The interstate commission shall not incur any
560 obligations of any kind before securing the funds adequate to meet
561 the obligations. The interstate commission may not 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
571 in and become part of the annual report of the interstate
572 commission.

573 **ARTICLE X**

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

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

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



582 and binding, as to any other compacting state, upon enactment of
583 the compact into law by that state. The governors of nonmember
584 states or their designees will be invited to participate in
585 interstate commission activities on a nonvoting basis before
586 adoption of the compact by all states and territories of the
587 United States.

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

593 **ARTICLE XI**

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

595 **Section A. Withdrawal**

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

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

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

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

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



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

619 **Section B. Default**

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

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

628 (b) Remedial training and technical assistance as
629 directed by the interstate commission;

630 (c) Suspension and termination of membership in the
631 compact. Suspension shall be imposed only after all other
632 reasonable means of securing compliance under the bylaws and rules
633 have been exhausted. Immediate notice of suspension shall be
634 given by the interstate commission: to the Governor, the Chief
635 Justice or chief judicial officer of the state; the majority and
636 minority leaders of the defaulting state's Legislature; and the
637 state council. The grounds for default include, but are not
638 limited to, failure of a compacting state to perform such
639 obligations or responsibilities imposed upon it by this compact,
640 interstate commission bylaws or duly promulgated rules. The
641 interstate commission shall immediately notify the defaulting
642 state in writing of the penalty imposed by the interstate
643 commission on the defaulting state pending a cure of the default.
644 The interstate commission shall stipulate the conditions and the
645 time period within which the defaulting state must cure its
646 default. If the defaulting state fails to cure the default within
647 the time period specified by the interstate commission, in



648 addition to any other penalties imposed, the defaulting state may
649 be terminated from the compact upon an affirmative vote of a
650 majority of the compacting states and all rights, privileges and
651 benefits conferred by this compact shall be terminated from the
652 effective date of suspension.

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

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

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

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

669 **Section C. Judicial Enforcement**

670 The interstate commission by majority vote of the members,
671 may initiate legal action in the United States District Court for
672 the District of Columbia or, at the discretion of the interstate
673 commission, in the federal district where the interstate
674 commission has its offices to enforce compliance with the compact,
675 its duly promulgated rules and bylaws against any compacting state
676 in default. If judicial enforcement is necessary, the prevailing
677 party shall be awarded all costs of the litigation, including
678 reasonable attorney's 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 construed to effectuate its purposes.

696 **ARTICLE XIII**

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

698 **Section A. Other Laws**

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

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

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

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

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

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



713 commission may issue advisory opinions regarding such meaning or
714 interpretation.

715 (4) If any provision of this compact exceeds the
716 constitutional limits imposed on the legislature of any compacting
717 state, the obligations, duties, powers or jurisdiction sought to
718 be conferred by such provision upon the interstate commission
719 shall be ineffective, and such obligations, duties, powers or
720 jurisdiction shall remain in the compacting state and shall be
721 exercised by the agency of that state to which the obligations,
722 duties, powers or jurisdiction are delegated by law in effect at
723 the time this compact becomes effective.

724 **SECTION 2.** Pursuant to the Interstate Compact for Adult
725 Offender Supervision, the Department of Corrections may assume the
726 duties of supervision over offenders of any sending state who were
727 convicted of misdemeanors. The Department of Corrections may not
728 supervise offenders convicted of misdemeanors of states that are
729 not participating in the compact.

730 **SECTION 3.** This act shall take effect and be in force from
731 and after July 1, 2004.

