

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:

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

27 **ARTICLE I**

28 **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.