

By: Representative McBride

To: Interstate Cooperation;
Corrections

HOUSE BILL NO. 495
(As Sent to Governor)

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; AND FOR RELATED
10 PURPOSES.

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

12 **SECTION 1.** The Governor, on behalf of this state, may
13 execute a compact, in substantially the following form, and the
14 Legislature signifies in advance its approval and ratification of
15 such compact:

THE INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION

ARTICLE I

PURPOSE

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

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

31 It is the purpose of this compact and the interstate
32 commission created under this compact, through means of joint and
33 cooperative action among the compacting states: to provide the
34 framework for the promotion of public safety and to protect the
35 rights of victims through the control and regulation of the
36 interstate movement of offenders in the community; to provide for
37 the effective tracking, supervision and rehabilitation of these
38 offenders by the sending and receiving states; and to equitably
39 distribute the costs, benefits and obligations of the compact
40 among the compacting states.

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

59 The compacting states recognize that there is no "right" of
60 any offender to live in another state and that duly accredited
61 officers of a sending state may enter a receiving state and
62 apprehend and retake any offender under supervision subject to the

63 provisions of this compact and bylaws and rules promulgated under
64 the compact.

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

69 **ARTICLE II**

70 **DEFINITIONS**

71 As used in this compact, the following words and terms have
72 the following meanings, unless a different meaning clearly appears
73 from the context:

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

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

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

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

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

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

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

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

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

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

104 (k) "Rules" mean acts of the interstate commission, duly
105 promulgated pursuant to Article VII of this compact, substantially
106 affecting interested parties in addition to the interstate
107 commission, which shall have the force and effect of law in the
108 compacting states.

109 (1) "State" means a state of the United States, the District
110 of Columbia and any other territorial possessions of the United
111 States.

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

ARTICLE III

THE COMPACT COMMISSION

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

125 (B) The interstate commission shall consist of commissioners
126 selected and appointed by resident members of a state council for
127 interstate adult offender supervision or the Governor for each

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

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

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

155 In addition to appointment of its commissioner to the
156 National Interstate Commission, each state council shall exercise
157 oversight and advocacy concerning its participation in interstate
158 commission activities and other duties as may be determined by
159 each member state, including, but not limited to, development of

160 policy concerning operations and procedures of the compact within
161 that state.

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

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

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

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

192 and performs other duties as directed by the commission or set
193 forth in the bylaws.

194 **ARTICLE IV**

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

196 The interstate commission shall have the following powers:

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

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

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

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

209 (5) To establish and maintain offices.

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

211 (7) To borrow, accept or contract for services of
212 personnel, including, but not limited to, members and their
213 staffs.

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

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

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

226 (10) To accept any and all donations and grants of
227 money, equipment, supplies, materials and services, and to
228 receive, utilize and dispose of same.

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

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

237 (14) To sue and be sued.

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

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

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

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

ARTICLE V

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

Section A. Bylaws

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

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

260 (a) Establishing the fiscal year of the interstate
261 commission;

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

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

268 (d) Providing reasonable procedures for calling and
269 conducting meetings of the interstate commission, and ensuring
270 reasonable notice of each commission meeting;

271 (e) Establishing the titles and responsibilities of the
272 officers of the interstate commission;

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

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

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

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

288 **Section B. Officers and Staff**

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

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

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

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

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

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

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

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

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

347 **ARTICLE VI**

348 **ACTIVITIES OF THE INTERSTATE COMMISSION**

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

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

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

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

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

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

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

413 (7) For every meeting closed pursuant to this provision, the
414 interstate commission's chief legal officer shall certify publicly
415 that, in the legal officer's opinion, the meeting may be closed to
416 the public and shall reference each relevant exemptive provision.
417 The interstate commission shall keep minutes that shall describe
418 fully and clearly, all matters discussed in any meeting and shall
419 provide a full and accurate summary of any actions taken and the

420 reasons therefor, including, a description of each of the views
421 expressed on any item and the record of any roll call vote
422 (reflected in the vote of each member on the question). All
423 documents considered in connection with any action shall be
424 identified in such minutes.

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

430 **ARTICLE VII**

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

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

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

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

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

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

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

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

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

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

483 (8) Upon determination by the interstate commission that an
484 emergency exists, the interstate commission may promulgate an
485 emergency rule that shall become effective immediately upon

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

490 **ARTICLE VIII**

491 **OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION BY THE**
492 **INTERSTATE COMMISSION**

493 **Section A. Oversight**

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

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

507 **Section B. Dispute Resolution**

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

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

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

518 **Section C. Enforcement**

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

Section D. Retaking Cases From Another Jurisdiction

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

ARTICLE IX

FINANCE

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

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

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

562 (3) The interstate commission shall not incur any
563 obligations of any kind before securing the funds adequate to meet
564 the obligations. The interstate commission may not pledge the
565 credit of any of the compacting states, except by and with the
566 authority of the compacting state.

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

576 **ARTICLE X**

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

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

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

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

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

596 **ARTICLE XI**

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

598 **Section A. Withdrawal**

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

604 (2) The effective date of withdrawal is the effective date
605 of the repeal.

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

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

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

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

622 **Section B. Default**

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

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

631 (b) Remedial training and technical assistance as
632 directed by the interstate commission;

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

647 The interstate commission shall stipulate the conditions and the
648 time period within which the defaulting state must cure its
649 default. If the defaulting state fails to cure the default within
650 the time period specified by the interstate commission, in

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

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

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

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

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

Section C. Judicial Enforcement

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

Section D. Dissolution of Compact

683 (1) The compact dissolves effective upon the date of the
684 withdrawal or default of the compacting state which reduces
685 membership in the compact to one (1) compacting state.

686 (2) Upon the dissolution of this compact, the compact
687 becomes null and void and shall be of no further force or effect,
688 and the business and affairs of the interstate commission shall be
689 concluded and any surplus funds shall be distributed in accordance
690 with the bylaws.

ARTICLE XII

SEVERABILITY AND CONSTRUCTION

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

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

ARTICLE XIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

Section A. Other Laws

702 (1) Nothing in this compact prevents the enforcement of any
703 other law of a compacting state which is not inconsistent with
704 this compact.

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

Section B. Binding Effect of the Compact

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

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

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

716 commission may issue advisory opinions regarding such meaning or
717 interpretation.

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

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

733 **SECTION 3.** Pursuant to the Interstate Compact for Adult
734 Offender Supervision, the Department of Corrections may charge a
735 one-time application fee in the amount of Thirty-five Dollars
736 (\$35.00) to each offender applying for out-of-state transfer under
737 the Interstate Compact for Adult Offender Adult Supervision.
738 Payments received under this section shall be deposited into a
739 special fund which is created in the State Treasury. Monies in
740 the fund shall be expended by the Department of Corrections, upon
741 appropriation by the Legislature, to defray costs incurred by the
742 department under the Interstate Compact for Adult Offender
743 Supervision. Unexpended amounts remaining in the special fund at
744 the end of a fiscal year shall not lapse into the State General
745 Fund, and any interest earned or investment earnings on amounts in
746 the special fund shall be deposited to the credit of the special
747 fund.

748 **SECTION 4.** This act shall take effect and be in force from
749 and after July 1, 2004.