

By: Representative Malone

To: Corrections

HOUSE BILL NO. 764

1 AN ACT TO AUTHORIZE THE GOVERNOR TO EXECUTE THE INTERSTATE
2 CORRECTIONS COMPACT; TO PROVIDE ITS PURPOSE AND POLICY; TO DEFINE
3 CERTAIN TERMS; TO AUTHORIZE CONTRACTING BETWEEN COMPACTING STATES;
4 TO PROVIDE CERTAIN PROCEDURES AND RIGHTS; TO PROVIDE THAT CERTAIN
5 ACTS OF THE SENDING STATE ARE NOT REVIEWABLE IN THE RECEIVING
6 STATE; TO PROVIDE THAT STATES MAY ACCEPT FEDERAL AID; AND FOR
7 RELATED PURPOSES.

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

9 **SECTION 1.** The Governor, on behalf of this state may execute
10 the Interstate Corrections Compact, with any and all states
11 legally joining therein, in substantially the following form and
12 the Legislature signifies in advance its approval and ratification
13 of such compact:

14 **INTERSTATE CORRECTIONS COMPACT**

15 **Article I**

16 **Purpose and Policy**

17 The party states, desiring by common action to fully utilize
18 and improve their institutional facilities and provide adequate
19 programs for the confinement, treatment and rehabilitation of
20 various types of offenders, declare that it is the policy of each
21 of the party states to provide such facilities and programs on a
22 basis of cooperation with one another, thereby serving the best
23 interests of such offenders and of society and effecting economies
24 in capital expenditures and operational costs. The purpose of
25 this compact is to provide for the mutual development and
26 execution of such programs of cooperation for the confinement,
27 treatment and rehabilitation of offenders with the most economical
28 use of human and material resources.

29 **Article II**

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Definitions

As used in this compact, unless the context clearly requires otherwise:

(a) "State" means a state of the United States, the United States of America, a territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico;

(b) "Sending state" means a state party to this compact in which conviction or court commitment was had;

(c) "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction or court commitment was had;

(d) "Inmate" means a male or female offender who is committed, under sentence to or confined in, a penal or correctional institution; and

(e) "Institution" means any penal or correctional facility, including, but not limited to, a facility for the mentally ill or mentally defective, in which inmates defined in (d) above may lawfully be confined.

Article III

Contracts

(1) Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

(a) Its duration;

(b) Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance.

(c) Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by

62 inmates on account thereof; and the crediting of proceeds from or
63 disposal of any products resulting therefrom;

64 (d) Delivery and retaking of inmates; and

65 (e) Such other matters as may be necessary and
66 appropriate to fix the obligations, responsibilities and rights of
67 the sending and receiving states.

68 (2) The terms and provisions of this compact entered into by
69 the authority of or pursuant thereto, and nothing in any such
70 contract shall be inconsistent therewith.

71 **Article IV**

72 **Procedures and Rights**

73 (1) Whenever the duly constituted authorities in a state
74 party to this compact, and which has entered into a contract
75 pursuant to Article III, shall decide that confinement in, or
76 transfer of an inmate to, an institution within the territory of
77 another party state is necessary or desirable in order to provide
78 adequate quarters and care or an appropriate program of
79 rehabilitation or treatment, said officials may direct that the
80 confinement be within an institution within the territory of said
81 other party state, the receiving state to act in that regard
82 solely as agent for the sending state.

83 (2) The appropriate officials of any state party to this
84 compact shall have access, at all reasonable times, to any
85 institution in which it has a contractual right to confine inmates
86 for the purpose of inspecting the facilities thereof and visiting
87 such of its inmates as may be confined in the institution.

88 (3) Inmates confined in an institution pursuant to the terms
89 of this compact shall at all times be subject to the jurisdiction
90 of the sending state and may at any time be removed therefrom for
91 transfer to a prison or other institution within the sending
92 state, for transfer to another institution in which the sending
93 state may have a contractual or other right to confine inmates,
94 for release on probation or parole, for discharge or for any other

95 purpose permitted by the laws of the sending state, provided, that
96 the sending state shall continue to be obligated to such payments
97 as may be pursuant to the terms of any contract entered into under
98 the terms of Article III.

99 (4) Each receiving state shall provide regular reports to
100 each sending state on the inmates of that sending state in
101 institutions pursuant to this compact including a conduct record
102 of each inmate and certify said record to the official designated
103 by the sending state, in order that each inmate may have official
104 review of his or her record in determining and altering the
105 disposition of said inmate in accordance with the law which may
106 obtain in the sending state and in order that the same may be a
107 source of information for the sending state.

108 (5) All inmates who may be confined in an institution
109 pursuant to the provisions of this compact shall be treated in a
110 reasonable and humane manner and shall be treated equally with
111 such similar inmates of the receiving state as may be confined in
112 the same institution. The fact of confinement in a receiving
113 state shall not deprive any inmate so confined of any legal rights
114 which said inmate would have had if in an appropriate institution
115 of the sending state.

116 (6) Any hearing or hearings to which an inmate confined
117 pursuant to this compact may be entitled by the laws of the
118 sending state may be had before the appropriate authorities of the
119 sending state, or of the receiving state if authorized by the
120 sending state. The receiving state shall provide adequate
121 facilities for such hearings as may be conducted by the
122 appropriate officials of a sending state. In the event such
123 hearing or hearings are had before officials of the receiving
124 state, the governing law shall be that of the sending state and a
125 record of the hearing or hearings as prescribed by the sending
126 state shall be made. Said record together with any
127 recommendations of the hearing officials shall be transmitted

128 forthwith to the official or officials before whom the hearing
129 would have been had if it had taken place in the sending state.
130 In any and all proceedings had pursuant to the provisions of this
131 subdivision, the officials of the receiving state shall act solely
132 as agents of the sending state and no final determination shall be
133 made in any matter except by the appropriate officials of the
134 sending state.

135 (7) Any inmate confined pursuant to this compact shall be
136 released within the territory of the sending state unless the
137 inmate, and the sending and receiving states, shall agree upon
138 release in some other place. The sending state shall bear the
139 cost of such return to its territory.

140 (8) Any inmate confined pursuant to the terms of this
141 compact shall have any and all rights to participate in and derive
142 any benefits or incur or be relieved of any obligations, or have
143 such obligations modified or his status changed on account of any
144 action or proceedings in which he could have participated if
145 confined in any appropriate institution of the sending state
146 located within such state.

147 (9) The parent, guardian, trustee or other person or persons
148 entitled under the laws of the sending state to act for, advise or
149 otherwise function with respect to any inmate shall not be
150 deprived of or restricted in his exercise of any power in respect
151 of any inmate confined pursuant to the terms of this compact.

152 **Article V**

153 **Acts Not Reviewable in Receiving State: Extradition**

154 (1) Any decisions of the sending state in respect of any
155 matter over which it retains jurisdiction pursuant to this compact
156 shall be conclusive upon and not reviewable within the receiving
157 state, but if at the time the sending state seeks to remove an
158 inmate from an institution in the receiving state there is pending
159 against the inmate within such state any criminal charge or if the
160 inmate is formally accused of having committed within such state a

161 criminal offense, the inmate shall not be returned without the
162 consent of the receiving state until discharged from prosecution
163 or other form of proceeding, imprisonment or detention for such
164 offense. The duly accredited officers of the sending state shall
165 be permitted to transport inmates pursuant to this compact through
166 any and all states' party to this compact without interference.

167 (2) An inmate who escapes from an institution in which he is
168 confined pursuant to this compact shall be deemed a fugitive from
169 the sending state and from the state in which the institution is
170 situated. In the case of an escape to a jurisdiction other than
171 the sending or receiving state, the responsibility for institution
172 of extradition or rendition proceedings shall be that of the
173 sending state, but nothing contained herein shall be construed to
174 prevent or affect the activities of officers and agencies of any
175 jurisdiction directed toward the apprehension and return of an
176 escapee.

177 **Article VI**

178 **Federal Aid**

179 Any state party to this compact may accept federal aid for
180 use in connection with any institution or program, the use of
181 which is or may be affected by this compact or any contract
182 pursuant hereto and any inmate in a receiving state pursuant to
183 this compact may participate in any such federally aided program
184 or activity for which the sending or the receiving state have made
185 contractual provision; provided, that if such program or activity
186 is not part of the customary correctional regimen the express
187 consent of the appropriate official of the sending state shall be
188 required therefrom.

189 **Article VII**

190 **Entry into Force**

191 This compact shall enter into force and become effective and
192 binding upon the states so acting when it has been enacted into
193 law by any two (2) states. Thereafter, this compact shall enter

194 into force and become effective and binding as to any other of
195 said states upon similar action by such state.

196 **Article VIII**

197 **Withdrawal and Termination**

198 This compact shall continue in force and remain binding upon
199 a party state until it shall have enacted a statute repealing the
200 same and providing for the sending of formal written notice of
201 withdrawal from the compact to the appropriate officials of all
202 other party states. An actual withdrawal shall not take effect
203 until one (1) year after the notices provided in said statute have
204 been sent. Such withdrawal shall not relieve the withdrawing
205 state from its obligations assumed hereunder prior to the
206 effective date of withdrawal. Before the effective date of
207 withdrawal, a withdrawing state shall remove to its territory, at
208 its own expense, such inmates as it may have confined pursuant to
209 the provisions of this compact.

210 **Article IX**

211 **Other Arrangement Unaffected**

212 Nothing contained in this compact shall be construed to
213 abrogate or impair any agreement or other arrangement which a
214 party state may have with a nonparty state for the confinement,
215 rehabilitation or treatment of inmates nor to repeal any other
216 laws of a party state authorizing the making of cooperative
217 institutional arrangements.

218 **Article X**

219 **Construction and Severability**

220 The provisions of this compact shall be liberally construed
221 and shall be severable. If any phrase, clause, sentence or
222 provision of this compact is declared to be contrary to the
223 constitution of any participating state or of the United States or
224 the applicability thereof to any government, agency, person or
225 circumstance is held invalid, the validity of the remainder of
226 this compact and the applicability thereof to any government,

227 agency, person or circumstance shall not be affected thereby. If
228 this compact shall be held contrary to the constitution of any
229 state participating therein, the compact shall remain in full
230 force and effect as to the remaining states and in full force and
231 effect as to the state affected as to all severable matters.

232 **SECTION 2.** This act shall take effect and be in force from
233 and after July 1, 2005.