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By KYHL, MURRAY, HAGEDORN and
REPPERT

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

An Act relating to the adoption of the interstate compact on the mentally disordered offender and providing for the implementation thereof.

Be It Enacted by the General Assembly of the State of Iowa:

1 Section 1. The interstate compact on the mentally disordered
2 offender is hereby enacted into law and entered into with all
3 other jurisdictions legally joining therein, in the form sub-
4 stantially as follows:

5 The contracting states solemnly agree that:

6 ARTICLE I-PURPOSE AND POLICY

7 a. The party states, desiring by common action to improve
8 their programs for the care and treatment of mentally disordered
9 offenders, declare that it is the policy of each of the party
10 states to:

11 1. Strengthen their own programs and laws for the care and
12 treatment of the mentally disordered offender.

13 2. Encourage and provide for such care and treatment in the
14 most appropriate locations, giving due recognition to the need
15 to achieve adequacy of diagnosis, care, treatment, after-care
16 and auxiliary services and facilities and, to every extent prac-
17 ticable, to do so in geographic locations convenient for provid-
18 ing a therapeutic environment.

19 3. Authorize cooperation among the party states in providing
20 services and facilities, when it is found that cooperative pro-
21 grams can be more effective and efficient than programs separately
22 pursued.

23 4. Place each mentally disordered offender in a legal status
24 which will facilitate his care, treatment and rehabilitation.

25 5. Authorize research and training of personnel on a coopera-
26 tive basis, in order to improve the quality or quantity of person-
27 nel available for the proper staffing of programs, services and
28 facilities for mentally disordered offenders.

29 6. Care for and treat mentally disordered offenders under con-
30 ditions which will improve the public safety.

31 b. Within the policies set forth in this Article, it is the
32 purpose of this compact to:

33 1. Authorize negotiation, entry into, and operations under
34 contractual arrangements among any two or more of the party states
35 for the establishment and maintenance of cooperative programs in
36 any one or more of the fields for which specific provision is
37 made in the several articles of this compact.

38 2. Set the limits within which such contracts may operate, so
39 as to assure protection of the civil rights of mentally disordered
40 offenders and protection of the rights and obligations of the pub-
41 lic and of the party states.

42 3. Facilitate the proper disposition of criminal charges pend-
43 ing against mentally disordered offenders, so that programs for
44 their care, treatment and rehabilitation may be carried on effi-
45 ciently.

46 ARTICLE II-DEFINITIONS

47 As used in this compact:

48 a. "Mentally disordered offender" means a person who has been
49 determined, by adjudication or other method legally sufficient for
50 the purpose in the party state where the determination is made,
51 to be mentally ill and:

52 1. Is under sentence for the commission of crime; or

53 2. Who is confined or committed on account of the commission
54 of an offense for which, in the absence of mental illness, said
55 person would be subject to incarceration in a penal or correc-
56 tional facility.

57 b. "Patient" means a mentally disordered offender who is cared

58 for, treated, or transferred pursuant to this compact.

59 c. "Sending state" means a state party to this compact in
60 which the mentally disordered offender was convicted; or the
61 state in which he would be subject to trial on or conviction of
62 an offense, except for his mental condition; or, within the mean-
63 ing of Article V of this compact, the state whose authorities
64 have filed a petition in connection with an untried indictment,
65 information or complaint.

66 d. "Receiving state" means a state party to this compact to
67 which a mentally disordered offender is sent for care, after-care,
68 treatment or rehabilitation, or within the meaning of Article V
69 of this compact, the state in which a petition in connection with
70 an untried indictment, information or complaint has been filed.

71 ARTICLE III-CONTRACTS

72 a. Each party state may make one or more contracts with any
73 one or more of the other party states for the care and treatment
74 of mentally disordered offenders on behalf of a sending state in
75 facilities situated in receiving states, or for the participation
76 of such mentally disordered offenders in programs of after-care
77 on conditional release administered by the receiving state. Any
78 such contract shall provide for:

79 1. Its duration.

80 2. Payments to be made to the receiving state by the sending
81 state for patient care, treatment, and extraordinary services,
82 if any.

83 3. Determination of responsibility for ordering or permitting
84 the furnishing of extraordinary services, if any.

85 4. Participation in compensated activities, if any, available
86 to patients; the disposition or crediting of any payment received
87 by patients on account thereof; and the crediting of proceeds
88 from or disposal of any products resulting therefrom.

89 5. Delivery and retaking of mentally disordered offenders.

90 6. Such other matters as may be necessary and appropriate to
91 fix the obligations, responsibilities and rights of the sending
92 and receiving states.

93 b. Prior to the construction or completion of construction
94 of any facility for mentally disordered offenders or addition to
95 such facility by a party state, any other party state or states
96 may contract therewith for the enlargement of the planned capacity
97 of the facility or addition thereto, or for the inclusion therein
98 of particular equipment or structures, and for the reservation of
99 a specific percentum of the capacity of the facility to be kept
100 available for use by patients of the sending state or states so
101 contracting. Any sending state so contracting may, to the extent
102 that monies are legally available therefor, pay to the receiving
103 state, a reasonable sum as consideration for such enlargement of
104 capacity, or provision of equipment or structures, and reservation
105 of capacity. Such payment may be in a lump sum or in installments
106 as provided in the contract.

107 c. A party state may contract with any one or more other party
108 states for the training of professional or other personnel whose
109 services, by reason of such training, would become available for
110 or be improved in respect of ability to participate in the care
111 and treatment of mentally disordered offenders. Such contracts
112 may provide for such training to take place at any facility being
113 operated or to be operated for the care and treatment of mentally
114 disordered offenders; at any institution or facility having re-
115 sources suitable for the offering of such training; or may provide
116 for the separate establishment of training facilities, provided
117 that no such separate establishment shall be undertaken, unless
118 it is determined that an appropriate existing facility or insti-
119 tution cannot be found at which to conduct the contemplated pro-
120 gram. Any contract entered into pursuant to this paragraph shall
121 provide for:

- 122 1. The administration, financing, and precise nature of the
123 program.
- 124 2. The status and employment or other rights of the trainees.
- 125 3. All other necessary matters.

126 d. No contract entered into pursuant to this compact shall be
127 inconsistent with any provision thereof.

128 ARTICLE IV-PROCEDURES AND RIGHTS

129 a. Whenever the duly constituted judicial or administrative
130 authorities in a state party to this compact, and which has en-
131 tered into a contract pursuant to Article III, shall decide that
132 custody, care and treatment in, or transfer of a patient to, a
133 facility within the territory of another party state, or con-
134 ditional release for after-care in another party state is neces-
135 sary in order to provide adequate care and treatment or is de-
136 sirable in order to provide an appropriate program of therapy or
137 other treatment, or is desirable for clinical reasons, said of-
138 ficials may direct that the custody, care and treatment be within
139 a facility or in a program of after-care within the territory of
140 said other party state, the receiving state to act in that regard
141 solely as agent for the sending state.

142 b. The appropriate officials of any state party to this com-
143 pact shall have access, at all reasonable times, to any facility
144 in which it has a contractual right to secure care or treatment
145 of patients for the purpose of inspection and visiting such of its
146 patients as may be in the facility or served by it.

147 c. Except as otherwise provided in Article VI, patients in a
148 facility pursuant to the terms of this compact shall at all times
149 be subject to the jurisdiction of the sending state and may at
150 any time be removed for transfer to a facility within the sending
151 state, for transfer to another facility in which the sending
152 state may have a contractual or other right to secure care and
153 treatment of patients, for release on after-care or other condi-
154 tional status, for discharge, or for any other purpose permitted
155 by the laws of the sending state: provided that the sending state
156 shall continue to be obligated to such payments as may be required
157 pursuant to the terms of any contract entered into under the terms
158 of Article III.

159 d. Each receiving state shall provide regular reports to each
160 sending state on the patients of that sending state in facilities
161 pursuant to this compact including a psychiatric and behavioral
162 record of each patient and certify said record to the official

163 designated by the sending state, in order that each patient may
164 have the benefit of his or her record in determining and altering
165 the disposition of said patient in accordance with the law which
166 may obtain in the sending state and in order that the same may be
167 a source of information for the sending state.

168 e. All patients who may be in a facility or receiving after-
169 care from a facility pursuant to the provisions of this compact
170 shall be treated in a reasonable and humane manner and shall be
171 cared for, treated and supervised in accordance with the stand-
172 ards pertaining to the program administered at the facility. The
173 fact of presence in a receiving state shall not deprive any patient
174 of any legal rights which said patient would have had if in custody
175 or receiving care, treatment or supervision as appropriate in the
176 sending state.

177 f. Any hearing or hearings to which a patient present in a
178 receiving state pursuant to this compact may be entitled by the
179 laws of the sending state shall be had before the appropriate
180 authorities of the sending state, or of the receiving state if
181 authorized by the sending state. The receiving state shall pro-
182 vide adequate facilities for such hearings as may be conducted by
183 the appropriate officials of a sending state. In the event such
184 hearing or hearings are had before officials of the receiving
185 state, the governing law shall be that of the sending state and
186 a record of the hearing or hearings as prescribed by the sending
187 state shall be made. Said record together with any recommendations
188 of the hearing officials shall be transmitted forthwith to the of-
189 ficial or officials before whom the hearing would have been had
190 if it had taken place in the sending state. In any and all pro-
191 ceedings had pursuant to the provisions of this paragraph, the
192 officials of the receiving state shall act solely as agents of
193 the sending state and no final determination shall be made in any
194 matter except by the appropriate officials of the sending state.
195 Costs of records made pursuant to this paragraph shall be borne
196 by the sending state.

197 g. Any patient confined pursuant to this compact shall be

198 released within the territory of the sending state unless the
199 patient, and the sending and receiving states, shall agree upon
200 release in some other place. The sending state shall bear the
201 cost of such return to its territory.

202 h. Any patient pursuant to the terms of this compact shall
203 be subject to civil process and shall have any and all rights
204 to sue, be sued and participate in and derive any benefits or
205 incur or be relieved of any obligations or have such obligations
206 modified or his status changed on account of any action or pro-
207 ceeding in which he could have participated if in any appropriate
208 facility of the sending state or being supervised therefrom, as
209 the case may be, located within such state.

210 i. The parent, guardian, trustee, or other person or persons
211 entitled under the laws of the sending state to act for, advise,
212 or otherwise function with respect to any patient shall not be
213 deprived of or restricted in his exercise of any power in respect
214 of any patient pursuant to the terms of this compact.

215 ARTICLE V-DISPOSITION OF CHARGES

216 a. Whenever the authorities responsible for the care and treat-
217 ment of a mentally disordered offender, whether convicted or adju-
218 dicated in the state or subject to care, after-care, treatment or
219 rehabilitation pursuant to a contract, are of the opinion that
220 charges based on untried indictments, informations or complaints
221 in another party state present obstacles to the proper care and
222 treatment of a mentally disordered offender or to the planning
223 or execution of a suitable program for him, such authorities may
224 petition the appropriate court in the state where the untried in-
225 dictment, information or complaint is pending for prompt disposi-
226 tion thereof. If the mentally disordered offender is a patient
227 in a receiving state, the appropriate authorities of the sending
228 state, upon recommendation of the appropriate authorities in the
229 receiving state, shall, if they concur in the recommendation, file
250 the petition contemplated by this paragraph.

231 b. The court shall hold a hearing on the petition within
232 thirty (30) days of the filing thereof. Such hearing shall be

235 only to determine whether the proper safeguarding and advancement
234 of the public interest; the condition of the mentally disordered
235 offender, and the prospects for more satisfactory care, treatment
236 and rehabilitation of him warrant disposition of the untried in-
237 dictment, information or complaint prior to termination of the
238 defendant's status as a mentally disordered offender in the send-
239 ing state. The prosecuting officer of the jurisdiction from which
240 the untried indictment, information or complaint is pending, the
241 petitioning authorities, and such other persons as the court may
242 determine shall be entitled to be heard.

243 c. Upon any hearing pursuant to this Article, the court may
244 order such adjournments or continuances as may be necessary for
245 the examination or observation of the mentally disordered offender
246 or for the securing of necessary evidence. In granting or denying
247 any such adjournment or continuance, the court shall give primary
248 consideration to the purposes of this compact, and more practic-
249 ularly to the need for expeditious determination of the legal
250 and mental status of a mentally disordered offender so that his
251 care, treatment and discharge to the community only under condi-
252 tions which will be consonant with the public safety may be im-
253 plemented.

254 d. The presence of a mentally disordered offender within a
255 state wherein a petition is pending or being heard pursuant to
256 this Article, or his presence within any other state through which
257 he is being transported in connection with such petition or hear-
258 ing, shall be only for the purposes of this compact, and no court,
259 agency or person shall have or obtain jurisdiction over such men-
260 tally disordered offender for any other purpose by reason of his
261 presence pursuant to this Article. The mentally disordered of-
262 fender shall, at all times, remain in the custody of the sending
263 state. Any acts of officers, employees, or agencies of the re-
264 ceiving state in providing or facilitating detention, housing or
265 transportation for the mentally disordered offender shall be only
266 as agents for the sending state.

267 e. Promptly upon conclusion of the hearing the court shall

268 dismiss the untried indictment, information or complaint, if it
269 finds that the purposes enumerated in paragraph b. of this Art-
270 icle would be served thereby. Otherwise, the court shall make
271 such order with respect to the petition and the untried indict-
272 ment, information or complaint as may be appropriate in the cir-
273 cumstances and consistent with the status of the defendant as a
274 mentally disordered offender in the custody of and subject to the
275 jurisdiction of the sending state.

276 f. No fact or other matter established or adjudicated at any
277 hearing pursuant to this Article, or in connection therewith,
278 shall be deemed established or adjudicated, nor shall the same
279 be admissible in evidence, in any subsequent prosecution of the
280 untried indictment, information or complaint concerned in a peti-
281 tion filed pursuant to this Article unless:

282 1. The defendant or his duly empowered legal representative
283 requested or expressly acquiesced in the making of the petition,
284 and was afforded an opportunity to participate in person in the
285 hearing; or

286 2. The defendant himself offers or consents to the intro-
287 duction of the determination or adjudication at such subsequent
288 proceedings.

289 ARTICLE VI-ACTS NOT REVIEWABLE IN RECEIVING STATE; RETURN

290 a. Any decision of the sending state in respect of any matter
291 over which it retains jurisdiction pursuant to this compact shall
292 be conclusive upon and not reviewable within the receiving state,
293 but if at the time the sending state seeks to remove a patient
294 from the receiving state there is pending against the patient
295 within such state any criminal charge or if the patient is sus-
296 pected of having committed within such state a criminal offense,
297 the patient shall not be returned without the consent of the re-
298 ceiving state until discharged from prosecution or other form of
299 proceeding, imprisonment or detention for such offense. The duly
300 accredited officers of the sending state shall be permitted to
301 transport patients pursuant to this compact through any and all
302 states party to this compact without interference.

303 b. A patient who escapes while receiving care and treatment
304 or who violates provisions of after-care by leaving the jurisdic-
305 tion, or while being detained or transported pursuant to this com-
306 pact shall be deemed an escapee from the sending state and from
307 the state in which the facility is situated or the after-care was
308 being provided. In the case of an escape to a jurisdiction other
309 than the sending or receiving state, the responsibility for return
310 shall be that of the sending state, but nothing contained herein
311 shall be construed to prevent or affect the activities of officers
312 and agencies of any jurisdiction directed toward the apprehension
313 and return of an escapee.

314 ARTICLE VII-FEDERAL AID

315 Any state party to this compact may accept federal aid for use
316 in connection with any facility or program, the use of which is
317 or may be affected by this compact or any contract pursuant thereto
318 and any patient in a receiving state pursuant to this compact may
319 participate in any such federally aided program or activity for
320 which the sending and receiving states have made contractual pro-
321 vision: provided that if such program or activity is not part
322 of the customary regimen of the facility, or program the express
323 consent of the appropriate official of the sending state shall
324 be required therefor.

325 ARTICLE VIII-ENTRY INTO FORCE

326 This compact shall enter into force and become effective and
327 binding upon the states so acting when it has been enacted into
328 law by any two states from among the states of Illinois, Indiana,
329 Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska,
330 North Dakota, Ohio, South Dakota and Wisconsin. Thereafter, this
331 compact shall enter into force and become effective and binding
332 as to any other of said states, or any other state upon similar
333 action by such state.

334 ARTICLE IX-WITHDRAWAL AND TERMINATION

335 This compact shall continue in force and remain binding upon
336 a party state until it shall have enacted a statute repealing the
337 same and providing for the sending of formal written notice of

338 withdrawal from the compact to the appropriate officials of all
339 other party states. An actual withdrawal shall not take effect
340 until two (2) years after the notices provided in said statute
341 have been sent. Such withdrawal shall not relieve the withdraw-
342 ing state from its obligations assumed hereunder prior to the
343 effective date of withdrawal. Before the effective date of with-
344 drawal, a withdrawing state shall remove to its territory, at its
345 own expense, such patients as it may have in other party states
346 pursuant to the provisions of this compact.

347 ARTICLE X-OTHER ARRANGEMENTS UNAFFECTED

348 Nothing contained in this compact shall be construed to abro-
349 gate or impair any agreement or other arrangement which a party
350 state may have with a nonparty state for the custody, care, treat-
351 ment, rehabilitation or after-care of patients nor to repeal any
352 other laws of a party state authorizing the making of cooperative
353 arrangements.

354 ARTICLE XI-CONSTRUCTION AND SEVERABILITY

355 The provisions of this compact shall be liberally construed
356 and shall be severable. If any phrase, clause, sentence or pro-
357 vision of this compact is declared to be contrary to the constitu-
358 tion of any participating state or of the United States or the
359 applicability thereof to any government, agency, person or circum-
360 stance is held invalid, the validity of the remainder of this
361 compact and the applicability thereof to any government, agency,
362 person or circumstance shall not be affected thereby. If this
363 compact shall be held contrary to the constitution of any state
364 participating therein, the compact shall remain in full force
365 and effect as to the remaining states and in full force and effect
366 as to the state affected as to all severable matters.

367 Sec. 2. The board of control may negotiate and enter into
368 contracts on behalf of this state pursuant to Article III of the
369 compact and may perform such contracts; provided that no funds,
370 personnel, facilities, equipment, supplies, or materials shall
371 be pledged for, committed, or used on account of any such con-
372 tract, unless legally available therefor.