907B.2 Interstate compact for adult offender supervision.

The national interstate compact for adult offender supervision is enacted into law and entered into by this state with any other state or jurisdiction legally joining the compact in the form substantially as follows:

1. *Article I — Definitions.* As used in this compact, unless the context clearly requires otherwise:

a. Adult. *"Adult"* means both individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law.

b. Bylaws. *"Bylaws"* means those bylaws established by the interstate commission for its governance, or for directing or controlling the interstate commission's actions or conduct.

c. Compact administrator. *"Compact administrator"* means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the interstate commission, and policies adopted by the state council under this compact.

d. Compacting state. *"Compacting state"* means any state which has enacted the enabling legislation for this compact.

e. Commissioner. *"Commissioner"* means the voting representative of each compacting state appointed pursuant to article II of this compact.

f. Interstate commission. *"Interstate commission"* means the interstate commission for adult offender supervision established by this compact.

g. Member. *"Member"* means the commissioner of a compacting state or a designee, who shall be a person officially connected with the commissioner.

h. Noncompacting state. *"Noncompacting state"* means any state which has not enacted the enabling legislation for this compact.

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

j. Person. *"Person"* means any individual, corporation, business enterprise, or other legal entity, either public or private.

k. Rules. *"Rules"* means acts of the interstate commission, duly promulgated pursuant to article VII of this compact, substantially affecting interested parties in addition to the interstate commission, which shall have the force and effect of law in the compacting states.

l. State. *"State"* means a state of the United States, the District of Columbia, and any other territorial possessions of the United States.

m. State council. *"State council"* means the resident members of the state council for interstate adult offender supervision created by each state under article III of this compact.

2. *Article II — The compact commission.*

a. The compacting states hereby create the interstate commission for adult offender supervision. The interstate commission shall be a body corporate and joint agency of the compacting states. The interstate commission shall have all the responsibilities, powers, and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

b. The interstate commission shall consist of commissioners selected and appointed by resident members of a state council for interstate adult offender supervision for each state. The commission shall include at least one commissioner from a minority group.

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

d. Each compacting state represented at any meeting of the interstate commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the

transaction of business, unless a larger quorum is required by the bylaws of the interstate commission.

e. The interstate commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of twenty-seven or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

f. The interstate commission shall establish an executive committee which shall include commission officers, members, and others as shall be determined by the bylaws. The executive committee shall have the power to act on behalf of the interstate commission during periods when the interstate commission is not in session, with the exception of rulemaking and amendment to the compact. The executive committee oversees the day-to-day activities managed by the executive director and interstate commission staff, administers enforcement and compliance with the provisions of the compact, its bylaws, and as directed by the interstate commission, and performs other duties as directed by commission or set forth in the bylaws.

3. *Article III — The state council.* Each member state shall create a state council for interstate adult offender supervision which shall be responsible for the appointment of the commissioner who shall serve on the interstate commission from that state. Each state council shall appoint as its commissioner the compact administrator from that state to serve on the interstate commission in such capacity under or pursuant to applicable law of the member state. While each member state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and compact administrators. Each compacting state retains the right to determine the qualifications of the compact administrator who shall be appointed by the state council or by the governor in consultation with the legislature and the judiciary. In addition to appointment of its commissioner to the interstate commission, each state council shall exercise oversight and advocacy concerning its participation in interstate commission activities and other duties as may be determined by each member state, including but not limited to development of policy concerning operations and procedures of the compact within that state.

4. *Article IV — Powers and duties of the interstate commission.* The interstate commission shall have the following powers:

a. To adopt a seal and suitable bylaws governing the management and operation of the interstate commission.

b. To promulgate rules which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

c. To oversee, supervise, and coordinate the interstate movement of offenders subject to the terms of this compact and any bylaws adopted and rules promulgated by the interstate commission.

d. To enforce compliance with compact provisions, interstate commission rules, and bylaws, using all necessary and proper means, including but not limited to the use of judicial process.

e. To establish and maintain offices.

f. To purchase and maintain insurance and bonds.

g. To borrow, accept, or contract for services of personnel, including but not limited to members and their staffs.

h. To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions, including but not limited to an executive committee as required by article II which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties hereunder.

i. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties, and determine their qualifications; and to establish the interstate commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel.

j. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same.

k. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed.

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

m. To establish a budget and make expenditures and levy dues as provided in article IX of this compact.

n. To sue and be sued.

o. To provide for dispute resolution among compacting states.

p. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

q. To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission.

r. To coordinate education, training, and public awareness regarding the interstate movement of offenders for officials involved in such activity.

s. To establish uniform standards for the reporting, collecting, and exchanging of data.

5. *Article V — Organization and operation of the interstate commission.*

a. Bylaws. The interstate commission shall, by a majority of the members, within twelve months of the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

(1) Establishing the fiscal year of the interstate commission.

(2) Establishing an executive committee and such other committees as may be necessary.

(3) Providing reasonable standards and procedures:

(a) For the establishment of committees.

(b) Governing any general or specific delegation of any authority or function of the interstate commission.

(4) Providing reasonable procedures for calling and conducting meetings of the interstate commission, and ensuring reasonable notice of each such meeting.

(5) Establishing the titles and responsibilities of the officers of the interstate commission.

(6) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the interstate commission. Notwithstanding any civil service or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the interstate commission.

(7) Providing a mechanism for winding up the operations of the interstate commission and the equitable return of any surplus funds that may exist upon the termination of the compact after the payment or reserving of all of its debts and obligations.

(8) Providing transition rules for startup administration of the compact.

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

b. Officers and staff.

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

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

c. Corporate records of the interstate commission. The interstate commission shall maintain its corporate books and records in accordance with the bylaws.

d. Qualified immunity, defense and indemnification.

(1) The members, officers, executive director, and employees of the interstate commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities; provided that nothing in this subparagraph shall be construed to protect any such person from suit and liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

(2) The interstate commission shall defend the commissioner of a compacting state, or the commissioner's representatives or employees, or the interstate commission's representatives or employees, in any civil action seeking to impose liability, arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities; provided that the actual or alleged act, error, or omission did not result from intentional wrongdoing on the part of such person.

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

6. *Article VI — Activities of the interstate commission.*

a. The interstate commission shall meet and take such actions as are consistent with the provisions of this compact.

b. Except as otherwise provided in this compact and unless a greater percentage is required by the bylaws, in order to constitute an act of the interstate commission, such act shall have been taken at a meeting of the interstate commission and shall have received an affirmative vote of a majority of the members present.

c. Each member of the interstate commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the interstate commission. A member shall vote in person on behalf of the state and shall not delegate a vote to another member state. However, a state council shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the member state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings where members are present in person.

d. The interstate commission shall meet at least once during each calendar year. The chairperson of the interstate commission may call additional meetings at any time and, upon the request of a majority of the members, shall call additional meetings.

e. The interstate commission's bylaws shall establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. In promulgating such rules, the interstate commission may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

f. Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission shall promulgate rules consistent with the principles contained in the federal Government in the Sunshine Act, 5 U.S.C. §552(a)(6), as may be amended. The interstate commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

(1) Relate solely to the interstate commission's internal personnel practices and procedures.

(2) Disclose matters specifically exempted from disclosure by statute.

(3) Disclose trade secrets or commercial or financial information which is privileged or confidential.

(4) Involve accusing any person of a crime, or formally censuring any person.

(5) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

(6) Disclose investigatory records compiled for law enforcement purposes.

(7) Disclose information contained in or related to examination, operating, or condition reports prepared by, or on behalf of or for the use of, the interstate commission with respect to a regulated entity for the purpose of regulation or supervision of such entity.

(8) Disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity.

(9) Specifically relate to the interstate commission's issuance of a subpoena, or its participation in a civil action or proceeding.

g. For every meeting closed pursuant to this provision, the interstate commission's chief legal officer shall publicly certify that, in the officer's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The interstate commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote, reflected in the vote of each member on the question. All documents considered in connection with any action shall be identified in such minutes.

h. The interstate commission shall collect standardized data concerning the interstate movement of offenders as directed through its bylaws and rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements.

7. *Article VII — Rulemaking functions of the interstate commission.*

a. The interstate commission shall promulgate rules in order to effectively and efficiently achieve the purposes of the compact including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states.

b. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the federal Administrative Procedure Act, 5 U.S.C. §551 et seq., and the federal Advisory Committee Act, 5 U.S.C. app. 2, §1 et seq., as may be amended.

c. All rules and amendments shall become binding as of the date specified in each rule or amendment.

d. If a majority of the legislatures of the compacting states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

e. When promulgating a rule, the interstate commission shall do all of the following:

(1) Publish the proposed rule stating with particularity the text of the rule which is proposed and the reason for the proposed rule.

(2) Allow persons to submit written data, facts, opinions, and arguments, which information shall be publicly available.

(3) Provide an opportunity for an informal hearing.

(4) Promulgate a final rule and its effective date, if appropriate, based on the rulemaking record.

f. Not later than sixty days after a rule is promulgated, any interested person may file a petition in the United States district court for the District of Columbia or in the United

States district court where the interstate commission's principal office is located for judicial review of such rule. If the court finds that the interstate commission's action is not supported by substantial evidence, as defined in the federal Administrative Procedure Act, in the rulemaking record, the court shall hold the rule unlawful and set it aside.

g. Subjects to be addressed within twelve months after the first meeting must at a minimum include:

(1) Notice to victims and opportunity to be heard.

(2) Offender registration and compliance.

(3) Violations and returns.

(4) Transfer procedures and forms.

(5) Eligibility for transfer.

(6) Collection of restitution and fees from offenders.

(7) Data collection and reporting.

(8) The level of supervision to be provided by the receiving state.

(9) Transition rules governing the operation of the compact and the interstate commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact.

(10) Mediation, arbitration and dispute resolution. The existing rules governing the operation of the previous compact superseded by this compact shall be null and void twelve months after the first meeting of the interstate commission created hereunder.

h. Upon determination by the interstate commission that an emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule.

8. *Article VIII — Oversight, enforcement, and dispute resolution by the interstate commission.*

a. Oversight.

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

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

b. Dispute resolution.

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

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

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

c. Enforcement. The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact using any or all means set forth in article XI, paragraph "*b*", of this compact.

9. *Article IX — Finance.*

a. The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

b. The interstate commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the interstate commission and its staff, which must be in a total amount sufficient to cover

the interstate commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each compacting state, and shall promulgate a rule binding upon all compacting states which governs the assessment.

c. The interstate commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the interstate commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

d. The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

10. *Article X — Compacting states, effective date and amendment.*

a. Any state, as defined in article I of this compact, is eligible to become a compacting state.

b. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than thirty-five of the states. The initial effective date shall be the later of July 1, 2002, or upon enactment into law by the thirty-fifth jurisdiction. Thereafter it shall become effective and binding, as to any other compacting state, upon enactment of the compact into law by that state. The governors of nonmember states or their designees will be invited to participate in interstate commission activities on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

c. Amendments to the compact may be proposed by the interstate commission for enactment by the compacting states. No amendment shall become effective and binding upon the interstate commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

11. *Article XI — Withdrawal, default, and termination, and judicial enforcement.*

a. Withdrawal.

(1) Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided that a compacting state may withdraw from the compact by enacting a statute specifically repealing the statute which enacted the compact into law.

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

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

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

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

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

b. Default.

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

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

(b) Remedial training and technical assistance as directed by the interstate commission.

(c) Suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted. Immediate notice of suspension shall be given by the interstate

commission to the governor, the chief justice of the state, the majority and minority leaders of the defaulting state's legislature, and the executive council. The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, interstate commission bylaws, or duly promulgated rules. The interstate commission shall immediately notify the defaulting state in writing of the penalty imposed by the interstate commission on the defaulting state pending a cure of the default. The interstate commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the interstate commission, in addition to any other penalties imposed herein, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of suspension.

(2) Within sixty days of the effective date of termination of a defaulting state, the interstate commission shall notify the governor, the chief justice, and the majority and minority leaders of the defaulting state's legislature, and the executive council of such termination.

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

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

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

c. Judicial enforcement. The interstate commission may, by majority vote of the members, initiate legal action in the United States district court for the District of Columbia or, at the discretion of the interstate commission, in the United States district court where the interstate commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules, and bylaws, against any compacting state in default. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

d. Dissolution of compact.

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

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

12. *Article XII — Severability and construction.*

a. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

b. The provisions of this compact shall be liberally constructed to effectuate its purposes.

13. *Article XIII — Binding effect of compact and other laws.*

a. Other laws.

(1) Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

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

b. Binding effect of the compact.

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

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

(3) Upon the request of a party to a conflict over meaning or interpretation of interstate commission actions, and upon a majority vote of the compacting states, the interstate commission may issue advisory opinions regarding such meaning or interpretation.

(4) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by such provision upon the interstate commission shall be ineffective and such obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

2001 Acts, ch 15, §6; 2001 Acts, 2nd Ex, ch 6, §25, 26, 37; 2003 Acts, ch 108, §120 – 122; 2008 Acts, ch 1032, §201; 2014 Acts, ch 1092, §196

Referred to in **§907B.3**