

# Senate Study Bill 1111

## Bill Text

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1 1 Section 1. Section [422.7](#), subsection 12, paragraph c, Code  
1 2 2001, is amended to read as follows:  
1 3 c. An individual, whether or not domiciled in this state  
1 4 at the time of the hiring, who is on parole or probation and  
1 5 to whom the interstate

~~probation and parole~~  
~~compact for adult~~  
1 6 offenders under

~~section 907A.1~~

~~chapter 907B~~ applies.

1 7 Sec. 2. Section [422.7](#), subsection 12A, paragraph b, Code  
1 8 2001, is amended to read as follows:  
1 9 b. An individual, whether or not domiciled in this state  
1 10 at the time of the hiring, who is on parole or probation and  
1 11 to whom the interstate

~~probation and parole~~  
~~compact for adult~~  
1 12 offenders under

~~section 907A.1~~

~~chapter 907B~~ applies.

1 13 Sec. 3. Section [422.35](#), subsection 6, paragraph c, Code  
1 14 2001, is amended to read as follows:  
1 15 c. An individual, whether or not domiciled in this state  
1 16 at the time of the hiring, who is on parole or probation and  
1 17 to whom the interstate

~~probation and parole~~  
~~compact for adult~~  
1 18 offenders under

~~section 907A.1~~

~~chapter 907B~~ applies.

1 19 Sec. 4. Section [422.35](#), subsection 6A, paragraph b, Code  
1 20 2001, is amended to read as follows:  
1 21 b. An individual, whether or not domiciled in this state  
1 22 at the time of the hiring, who is on parole or probation and  
1 23 to whom the interstate

~~probation and parole~~  
~~compact for adult~~  
1 24 offenders under

~~section 907A.1~~

~~chapter 907B~~ applies.

1 25 Sec. 5. NEW SECTION. 907B.1 CITATION.  
1 26 This chapter may be cited as the "Interstate Compact for  
1 27 Adult Offender Supervision".  
1 28 Sec. 6. NEW SECTION. 907B.2 INTERSTATE COMPACT FOR ADULT  
1 29 OFFENDER SUPERVISION.  
1 30 The national interstate compact for adult offender  
1 31 supervision is enacted into law and entered into by this state  
1 32 with any other state or jurisdiction legally joining the

1 33 compact in the form substantially as follows:

1 34 ARTICLE I

1 35 DEFINITIONS

2 1 As used in this compact, unless the context clearly  
2 2 requires otherwise:

2 3 1. ADULT. "Adult" means both individuals legally  
2 4 classified as adults and juveniles treated as adults by court  
2 5 order, statute, or operation of law.

2 6 2. BYLAWS. "Bylaws" means those bylaws established by the  
2 7 interstate commission for its governance, or for directing or  
2 8 controlling the interstate commission's actions or conduct.

2 9 3. COMPACT ADMINISTRATOR. "Compact administrator" means  
2 10 the individual in each compacting state appointed pursuant to  
2 11 the terms of this compact responsible for the administration  
2 12 and management of the state's supervision and transfer of  
2 13 offenders subject to the terms of this compact, the rules  
2 14 adopted by the interstate commission and policies adopted by  
2 15 the state council under this compact.

2 16 4. COMPACTING STATE. "Compacting state" means any state  
2 17 which has enacted the enabling legislation for this compact.

2 18 5. COMMISSIONER. "Commissioner" means the voting  
2 19 representative of each compacting state appointed pursuant to  
2 20 article II of this compact.

2 21 6. INTERSTATE COMMISSION. "Interstate commission" means  
2 22 the interstate commission for adult offender supervision  
2 23 established by this compact.

2 24 7. MEMBER. "Member" means the commissioner of a  
2 25 compacting state or designee, who shall be a person officially  
2 26 connected with the commissioner.

2 27 8. NONCOMPACTING STATE. "Noncompacting state" means any  
2 28 state which has not enacted the enabling legislation for this  
2 29 compact.

2 30 9. OFFENDER. "Offender" means an adult placed under, or  
2 31 subject, to supervision as the result of the commission of a  
2 32 criminal offense and released to the community under the  
2 33 jurisdiction of courts, paroling authorities, corrections, or  
2 34 other criminal justice agencies.

2 35 10. PERSON. "Person" means any individual, corporation,  
3 1 business enterprise, or other legal entity, either public or  
3 2 private.

3 3 11. RULES. "Rules" means acts of the interstate  
3 4 commission, duly promulgated pursuant to article VII of this  
3 5 compact, substantially affecting interested parties in  
3 6 addition to the interstate commission, which shall have the  
3 7 force and effect of law in the compacting states.

3 8 12. STATE. "State" means a state of the United States,  
3 9 the District of Columbia and any other territorial possessions  
3 10 of the United States.

3 11 13. STATE COUNCIL. "State council" means the resident  
3 12 members of the state council for interstate adult offender  
3 13 supervision created by each state under article III of this  
3 14 compact.

3 15 ARTICLE II

3 16 THE COMPACT COMMISSION

3 17 1. The compacting states hereby create the interstate  
3 18 commission for adult offender supervision. The interstate  
3 19 commission shall be a body corporate and joint agency of the  
3 20 compacting states. The interstate commission shall have all  
3 21 the responsibilities, powers and duties set forth herein,  
3 22 including the power to sue and be sued, and such additional  
3 23 powers as may be conferred upon it by subsequent action of the  
3 24 respective legislatures of the compacting states in accordance  
3 25 with the terms of this compact.

3 26 2. The interstate commission shall consist of  
3 27 commissioners selected and appointed by resident members of a  
3 28 state council for interstate adult offender supervision for  
3 29 each state.

3 30 3. In addition to the commissioners who are the voting  
3 31 representatives of each state, the interstate commission shall  
3 32 include individuals who are not commissioners but who are  
3 33 members of interested organizations; such noncommissioner  
3 34 members must include a member of the national organizations of  
3 35 governors, legislators, state chief justices, attorneys  
4 1 general, and crime victims. All noncommissioner members of  
4 2 the interstate commission shall be ex officio members. The  
4 3 interstate commission may provide in its bylaws for such  
4 4 additional, ex officio, nonvoting members as it deems  
4 5 necessary.

4 6 4. Each compacting state represented at any meeting of the  
4 7 interstate commission is entitled to one vote. A majority of  
4 8 the compacting states shall constitute a quorum for the  
4 9 transaction of business, unless a larger quorum is required by  
4 10 the bylaws of the interstate commission.

4 11 5. The interstate commission shall meet at least once each  
4 12 calendar year. The chairperson may call additional meetings  
4 13 and, upon the request of twenty-seven or more compacting  
4 14 states, shall call additional meetings. Public notice shall  
4 15 be given of all meetings and meetings shall be open to the  
4 16 public.

4 17 6. The interstate commission shall establish an executive  
4 18 committee which shall include commission officers, members and  
4 19 others as shall be determined by the bylaws. The executive  
4 20 committee shall have the power to act on behalf of the  
4 21 interstate commission during periods when the interstate  
4 22 commission is not in session, with the exception of rulemaking  
4 23 and amendment to the compact. The executive committee  
4 24 oversees the day-to-day activities managed by the executive  
4 25 director and interstate commission staff administers  
4 26 enforcement and compliance with the provisions of the compact  
4 27 its bylaws and as directed by the interstate commission and  
4 28 performs other duties as directed by commission or set forth  
4 29 in the bylaws.

#### 4 30 ARTICLE III

#### 4 31 THE STATE COUNCIL

4 32 Each member state shall create a state council for  
4 33 interstate adult offender supervision which shall be  
4 34 responsible for the appointment of the commissioner who shall  
4 35 serve on the interstate commission from that state. Each  
5 1 state council shall appoint as its commissioner the compact  
5 2 administrator from that state to serve on the interstate  
5 3 commission in such capacity under or pursuant to applicable  
5 4 law of the member state. While each member state may  
5 5 determine the membership of its own state council, its  
5 6 membership must include at least one representative from the  
5 7 legislative, judicial, and executive branches of government,  
5 8 victims groups and compact administrators. Each compacting  
5 9 state retains the right to determine the qualifications of the  
5 10 compact administrator who shall be appointed by the state  
5 11 council or by the governor in consultation with the  
5 12 legislature and the judiciary. In addition to appointment of  
5 13 its commissioner to the interstate commission, each state  
5 14 council shall exercise oversight and advocacy concerning its  
5 15 participation in interstate commission activities and other  
5 16 duties as may be determined by each member state including but  
5 17 not limited to, development of policy concerning operations  
5 18 and procedures of the compact within that state.

#### 5 19 ARTICLE IV

#### 5 20 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

5 21 The interstate commission shall have the following powers:

5 22 1. To adopt a seal and suitable bylaws governing the  
5 23 management and operation of the interstate commission.

5 24 2. To promulgate rules which shall have the force and  
5 25 effect of statutory law and shall be binding in the compacting  
5 26 states to the extent and in the manner provided in this

- 5 27 compact.
- 5 28 3. To oversee, supervise and coordinate the interstate  
5 29 movement of offenders subject to the terms of this compact and  
5 30 any bylaws adopted and rules promulgated by the interstate  
5 31 commission.
- 5 32 4. To enforce compliance with compact provisions,  
5 33 interstate commission rules, and bylaws, using all necessary  
5 34 and proper means, including but not limited to, the use of  
5 35 judicial process.
- 6 1 5. To establish and maintain offices.
- 6 2 6. To purchase and maintain insurance and bonds.
- 6 3 7. To borrow, accept, or contract for services of  
6 4 personnel, including, but not limited to, members and their  
6 5 staffs.
- 6 6 8. To establish and appoint committees and hire staff  
6 7 which it deems necessary for the carrying out of its functions  
6 8 including, but not limited to, an executive committee as  
6 9 required by article II which shall have the power to act on  
6 10 behalf of the interstate commission in carrying out its powers  
6 11 and duties hereunder.
- 6 12 9. To elect or appoint such officers, attorneys,  
6 13 employees, agents, or consultants, and to fix their  
6 14 compensation, define their duties and determine their  
6 15 qualifications; and to establish the interstate commission's  
6 16 personnel policies and programs relating to, among other  
6 17 things, conflicts of interest, rates of compensation, and  
6 18 qualifications of personnel.
- 6 19 10. To accept any and all donations and grants of money,  
6 20 equipment, supplies, materials, and services, and to receive,  
6 21 utilize, and dispose of same.
- 6 22 11. To lease, purchase, accept contributions or donations  
6 23 of, or otherwise to own, hold, improve or use any property,  
6 24 real, personal, or mixed.
- 6 25 12. To sell, convey, mortgage, pledge, lease, exchange,  
6 26 abandon, or otherwise dispose of any property, real, personal  
6 27 or mixed.
- 6 28 13. To establish a budget and make expenditures and levy  
6 29 dues as provided in article IX of this compact.
- 6 30 14. To sue and be sued.
- 6 31 15. To provide for dispute resolution among compacting  
6 32 states.
- 6 33 16. To perform such functions as may be necessary or  
6 34 appropriate to achieve the purposes of this compact.
- 6 35 17. To report annually to the legislatures, governors,  
7 1 judiciary, and state councils of the compacting states  
7 2 concerning the activities of the interstate commission during  
7 3 the preceding year. Such reports shall also include any  
7 4 recommendations that may have been adopted by the interstate  
7 5 commission.
- 7 6 18. To coordinate education, training and public awareness  
7 7 regarding the interstate movement of offenders for officials  
7 8 involved in such activity.
- 7 9 19. To establish uniform standards for the reporting,  
7 10 collecting, and exchanging of data.

7 11 ARTICLE V

7 12 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

- 7 13 1. BYLAWS. The interstate commission shall, by a majority  
7 14 of the members, within twelve months of the first interstate  
7 15 commission meeting, adopt bylaws to govern its conduct as may  
7 16 be necessary or appropriate to carry out the purposes of the  
7 17 compact, including, but not limited to:
- 7 18 a. Establishing the fiscal year of the interstate  
7 19 commission.
- 7 20 b. Establishing an executive committee and such other  
7 21 committees as may be necessary.
- 7 22 c. Providing reasonable standards and procedures:
- 7 23 (1) For the establishment of committees.

7 24 (2) Governing any general or specific delegation of any  
7 25 authority or function of the interstate commission;  
7 26 d. Providing reasonable procedures for calling and  
7 27 conducting meetings of the interstate commission, and ensuring  
7 28 reasonable notice of each such meeting.  
7 29 e. Establishing the titles and responsibilities of the  
7 30 officers of the interstate commission.  
7 31 f. Providing reasonable standards and procedures for the  
7 32 establishment of the personnel policies and programs of the  
7 33 interstate commission. Notwithstanding any civil service or  
7 34 other similar laws of any compacting state, the bylaws shall  
7 35 exclusively govern the personnel policies and programs of the  
8 1 interstate commission.  
8 2 g. Providing a mechanism for winding up the operations of  
8 3 the interstate commission and the equitable return of any  
8 4 surplus funds that may exist upon the termination of the  
8 5 compact after the payment or reserving of all of its debts and  
8 6 obligations.  
8 7 h. Providing transition rules for startup administration  
8 8 of the compact.  
8 9 i. Establishing standards and procedures for compliance  
8 10 and technical assistance in carrying out the compact.

8 11 2. OFFICERS AND STAFF.

8 12 a. The interstate commission shall, by a majority of the  
8 13 members, elect from among its members a chairperson and a vice  
8 14 chairperson, each of whom shall have such authorities and  
8 15 duties as may be specified in the bylaws. The chairperson or,  
8 16 in the chairperson's absence or disability, the vice  
8 17 chairperson, shall preside at all meetings of the interstate  
8 18 commission. The officers so elected shall serve without  
8 19 compensation or remuneration from the interstate commission;  
8 20 provided that, subject to the availability of budgeted funds,  
8 21 the officers shall be reimbursed for any actual and necessary  
8 22 costs and expenses incurred by them in the performance of  
8 23 their duties and responsibilities as officers of the  
8 24 interstate commission.

8 25 b. The interstate commission shall, through its executive  
8 26 committee, appoint or retain an executive director for such  
8 27 period, upon such terms and conditions and for such  
8 28 compensation as the interstate commission may deem  
8 29 appropriate. The executive director shall serve as secretary  
8 30 to the interstate commission, and hire and supervise such  
8 31 other staff as may be authorized by the interstate commission,  
8 32 but shall not be a member.

8 33 3. CORPORATE RECORDS OF THE INTERSTATE COMMISSION. The  
8 34 interstate commission shall maintain its corporate books and  
8 35 records in accordance with the bylaws.

9 1 4. QUALIFIED IMMUNITY, DEFENSE AND INDEMNIFICATION.

9 2 a. The members, officers, executive director and employees  
9 3 of the interstate commission shall be immune from suit and  
9 4 liability, either personally or in their official capacity,  
9 5 for any claim for damage to or loss of property or personal  
9 6 injury or other civil liability caused or arising out of any  
9 7 actual or alleged act, error or omission that occurred within  
9 8 the scope of interstate commission employment, duties or  
9 9 responsibilities; provided, that nothing in this paragraph  
9 10 shall be construed to protect any such person from suit and  
9 11 liability for any damage, loss, injury or liability caused by  
9 12 the intentional or willful and wanton misconduct of any such  
9 13 person.

9 14 b. The interstate commission shall defend the commissioner  
9 15 of a compacting state, or the commissioner's representatives  
9 16 or employees, or the interstate commission's representatives  
9 17 or employees, in any civil action seeking to impose liability,  
9 18 arising out of any actual or alleged act, error or omission  
9 19 that occurred within the scope of interstate commission  
9 20 employment, duties or responsibilities, or that the defendant

9 21 had a reasonable basis for believing occurred within the scope  
9 22 of interstate commission employment, duties or  
9 23 responsibilities; provided, that the actual or alleged act,  
9 24 error or omission did not result from intentional wrongdoing  
9 25 on the part of such person.

9 26 c. The interstate commission shall indemnify and hold the  
9 27 commissioner of a compacting state, the appointed designee or  
9 28 employees, or the interstate commission's representatives or  
9 29 employees, harmless in the amount of any settlement or  
9 30 judgment obtained against such persons arising out of any  
9 31 actual or alleged act, error or omission that occurred within  
9 32 the scope of interstate commission employment, duties or  
9 33 responsibilities, or that such persons had a reasonable basis  
9 34 for believing occurred within the scope of interstate  
9 35 commission employment, duties or responsibilities, provided,  
10 1 that the actual or alleged act, error or omission did not  
10 2 result from gross negligence or intentional wrongdoing on the  
10 3 part of such person.

#### 10 4 ARTICLE VI

##### 10 5 ACTIVITIES OF THE INTERSTATE COMMISSION

10 6 1. The interstate commission shall meet and take such  
10 7 actions as are consistent with the provisions of this compact.

10 8 2. Except as otherwise provided in this compact and unless  
10 9 a greater percentage is required by the bylaws, in order to  
10 10 constitute an act of the interstate commission, such act shall  
10 11 have been taken at a meeting of the interstate commission and  
10 12 shall have received an affirmative vote of a majority of the  
10 13 members present.

10 14 3. Each member of the interstate commission shall have the  
10 15 right and power to cast a vote to which that compacting state  
10 16 is entitled and to participate in the business and affairs of  
10 17 the interstate commission. A member shall vote in person on  
10 18 behalf of the state and shall not delegate a vote to another  
10 19 member state. However, a state council shall appoint another  
10 20 authorized representative, in the absence of the commissioner  
10 21 from that state, estate to cast a vote on behalf of the member  
10 22 state at a specified meeting. The bylaws may provide for  
10 23 members' participation in meetings by telephone or other means  
10 24 of telecommunication or electronic communication. Any voting  
10 25 conducted by telephone, or other means of telecommunication or  
10 26 electronic communication shall be subject to the same quorum  
10 27 requirements of meetings where members are present in person.

10 28 4. The interstate commission shall meet at least once  
10 29 during each calendar year. The chairperson of the interstate  
10 30 commission may call additional meetings at any time and, upon  
10 31 the request of a majority of the members, shall call  
10 32 additional meetings.

10 33 5. The interstate commission's bylaws shall establish  
10 34 conditions and procedures under which the interstate  
10 35 commission shall make its information and official records  
11 1 available to the public for inspection or copying. The  
11 2 interstate commission may exempt from disclosure any  
11 3 information or official records to the extent they would  
11 4 adversely affect personal privacy rights or proprietary  
11 5 interests. In promulgating such rules, the interstate  
11 6 commission may make available to law enforcement agencies  
11 7 records and information otherwise exempt from disclosure, and  
11 8 may enter into agreements with law enforcement agencies to  
11 9 receive or exchange information or records subject to  
11 10 nondisclosure and confidentiality provisions.

11 11 6. Public notice shall be given of all meetings and all  
11 12 meetings shall be open to the public, except as set forth in  
11 13 the rules or as otherwise provided in the compact. The  
11 14 interstate commission shall promulgate rules consistent with  
11 15 the principles contained in the federal Government in Sunshine  
11 16 Act, 5 U.S.C. } 552(6), as may be amended. The interstate  
11 17 commission and any of its committees may close a meeting to

11 18 the public where it determines by two-thirds vote that an open  
11 19 meeting would be likely to:

11 20 a. Relate solely to the interstate commission's internal  
11 21 personnel practices and procedures.

11 22 b. Disclose matters specifically exempted from disclosure  
11 23 by statute.

11 24 c. Disclosure trade secrets or commercial or financial  
11 25 information which is privileged or confidential.

11 26 d. Involve accusing any person of a crime, or formally  
11 27 censuring any person.

11 28 e. Disclose information of a personal nature where  
11 29 disclosure would constitute a clearly unwarranted invasion of  
11 30 personal privacy.

11 31 f. Disclose investigatory records compiled for law  
11 32 enforcement purposes.

11 33 g. Disclose information contained in or related to  
11 34 examination, operating or condition reports prepared by, or on  
11 35 behalf of or for the use of, the interstate commission with  
12 1 respect to a regulated entity for the purpose of regulation or  
12 2 supervision of such entity.

12 3 h. Disclose information, the premature disclosure of which  
12 4 would significantly endanger the life of a person or the  
12 5 stability of a regulated entity.

12 6 i. Specifically relate to the interstate commission's  
12 7 issuance of a subpoena, or its participation in a civil action  
12 8 or proceeding.

12 9 7. For every meeting closed pursuant to this provision,  
12 10 the interstate commission's chief legal officer shall publicly  
12 11 certify that, in the officer's opinion, the meeting may be  
12 12 closed to the public, and shall reference each relevant  
12 13 exemptive provision. The interstate commission shall keep  
12 14 minutes which shall fully and clearly describe all matters  
12 15 discussed in any meeting and shall provide a full and accurate  
12 16 summary of any actions taken, and the reasons therefor,  
12 17 including a description of each of the views expressed on any  
12 18 item and the record of any roll call vote, reflected in the  
12 19 vote of each member on the question. All documents considered  
12 20 in connection with any action shall be identified in such  
12 21 minutes.

12 22 8. The interstate commission shall collect standardized  
12 23 data concerning the interstate movement of offenders as  
12 24 directed through its bylaws and rules which shall specify the  
12 25 data to be collected, the means of collection and data  
12 26 exchange and reporting requirements.

#### 12 27 ARTICLE VII

##### 12 28 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

12 29 1. The interstate commission shall promulgate rules in  
12 30 order to effectively and efficiently achieve the purposes of  
12 31 the compact including transition rules governing  
12 32 administration of the compact during the period in which it is  
12 33 being considered and enacted by the states.

12 34 2. Rulemaking shall occur pursuant to the criteria set  
13 35 forth in this article and the bylaws and rules adopted  
13 1 pursuant thereto. Such rulemaking shall substantially conform  
13 2 to the principles of the federal Administrative Procedure Act,  
13 3 5 U.S.C. } 551 et seq., and the federal Advisory Committee  
13 4 Act, 5 U.S.C. app. 2, } 1 et seq., as may be amended.

13 5 3. All rules and amendments shall become binding as of the  
13 6 date specified in each rule or amendment.

13 7 4. If a majority of the legislatures of the compacting  
13 8 states rejects a rule, by enactment of a statute or resolution  
13 9 in the same manner used to adopt the compact, then such rule  
13 10 shall have no further force and effect in any compacting  
13 11 state.

13 12 5. When promulgating a rule, the interstate commission  
13 13 shall do all of the following:

13 14 a. Publish the proposed rule stating with particularity

13 15 the text of the rule which is proposed and the reason for the  
13 16 proposed rule.

13 17 b. Allow persons to submit written data, facts, opinions  
13 18 and arguments, which information shall be publicly available.

13 19 c. Provide an opportunity for an informal hearing.

13 20 d. Promulgate a final rule and its effective date, if  
13 21 appropriate, based on the rulemaking record.

13 22 6. Not later than sixty days after a rule is promulgated,  
13 23 any interested person may file a petition in the United States  
13 24 district court for the District of Columbia or in the United  
13 25 States district court where the interstate commission's  
13 26 principal office is located for judicial review of such rule.  
13 27 If the court finds that the interstate commission's action is  
13 28 not supported by substantial evidence, as defined in the  
13 29 federal Administrative Procedure Act, in the rulemaking  
13 30 record, the court shall hold the rule unlawful and set it  
13 31 aside.

13 32 7. Subjects to be addressed within twelve months after the  
13 33 first meeting must at a minimum include:

13 34 a. Notice to victims and opportunity to be heard.

13 35 b. Offender registration and compliance.

14 1 c. Violations and returns.

14 2 d. Transfer procedures and forms.

14 3 e. Eligibility for transfer.

14 4 f. Collection of restitution and fees from offenders.

14 5 g. Data collection and reporting.

14 6 h. The level of supervision to be provided by the  
14 7 receiving state.

14 8 i. Transition rules governing the operation of the compact  
14 9 and the interstate commission during all or part of the period  
14 10 between the effective date of the compact and the date on  
14 11 which the last eligible state adopts the compact.

14 12 j. Mediation, arbitration and dispute resolution. The  
14 13 existing rules governing the operation of the previous compact  
14 14 superceded by this Act shall be null and void twelve months  
14 15 after the first meeting of the interstate commission created  
14 16 hereunder.

14 17 8. Upon determination by the interstate commission that an  
14 18 emergency exists, it may promulgate an emergency rule which  
14 19 shall become effective immediately upon adoption, provided  
14 20 that the usual rulemaking procedures provided hereunder shall  
14 21 be retroactively applied to said rule as soon as reasonably  
14 22 possible, in no event later than ninety days after the  
14 23 effective date of the rule.

#### 14 24 ARTICLE VIII

#### 14 25 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

#### 14 26 BY THE INTERSTATE COMMISSION

#### 14 27 1. OVERSIGHT.

14 28 a. The interstate commission shall oversee the interstate  
14 29 movement of adult offenders in the compacting states and shall  
14 30 monitor such activities being administered in noncompacting  
14 31 states which may significantly affect compacting states.

14 32 b. The courts and executive agencies in each compacting  
14 33 state shall enforce this compact and shall take all actions  
14 34 necessary and appropriate to effectuate the compact's purposes  
14 35 and intent. In any judicial or administrative proceeding in a  
15 1 compacting state pertaining to the subject matter of this  
15 2 compact which may affect the powers, responsibilities or  
15 3 actions of the interstate commission, the interstate  
15 4 commission shall be entitled to receive all service of process  
15 5 in any such proceeding, and shall have standing to intervene  
15 6 in the proceeding for all purposes.

#### 15 7 2. DISPUTE RESOLUTION.

15 8 a. The compacting states shall report to the interstate  
15 9 commission on issues or activities of concern to them, and  
15 10 cooperate with and support the interstate commission in the  
15 11 discharge of its duties and responsibilities.

15 12 b. The interstate commission shall attempt to resolve any  
15 13 disputes or other issues which are subject to the compact and  
15 14 which may arise among compacting states and noncompacting  
15 15 states.

15 16 c. The interstate commission shall enact a bylaw or  
15 17 promulgate a rule providing for both mediation and binding  
15 18 dispute resolution for disputes among the compacting states.

15 19 3. ENFORCEMENT. The interstate commission, in the  
15 20 reasonable exercise of its discretion, shall enforce the  
15 21 provisions of this compact using any or all means set forth in  
15 22 article XI, subsection 2, of this compact.

#### 15 23 ARTICLE IX

##### 15 24 FINANCE

15 25 1. The interstate commission shall pay or provide for the  
15 26 payment of the reasonable expenses of its establishment,  
15 27 organization and ongoing activities.

15 28 2. The interstate commission shall levy on and collect an  
15 29 annual assessment from each compacting state to cover the cost  
15 30 of the internal operations and activities of the interstate  
15 31 commission and its staff which must be in a total amount  
15 32 sufficient to cover the interstate commission's annual budget  
15 33 as approved each year. The aggregate annual assessment amount  
15 34 shall be allocated based upon a formula to be determined by  
15 35 the interstate commission, taking into consideration the  
16 1 population of the state and the volume of interstate movement  
16 2 of offenders in each compacting state and shall promulgate a  
16 3 rule binding upon all compacting states which governs the  
16 4 assessment.

16 5 3. The interstate commission shall not incur any  
16 6 obligations of any kind prior to securing the funds adequate  
16 7 to meet the same; nor shall the interstate commission pledge  
16 8 the credit of any of the compacting states, except by and with  
16 9 the authority of the compacting state.

16 10 4. The interstate commission shall keep accurate accounts  
16 11 of all receipts and disbursements. The receipts and  
16 12 disbursements of the interstate commission shall be subject to  
16 13 the audit and accounting procedures established under its  
16 14 bylaws. However, all receipts and disbursements of funds  
16 15 handled by the interstate commission shall be audited yearly  
16 16 by a certified or licensed public accountant and the report of  
16 17 the audit shall be included in and become part of the annual  
16 18 report of the interstate commission.

#### 16 19 ARTICLE X

##### 16 20 COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

16 21 1. Any state, as defined in article I of this compact, is  
16 22 eligible to become a compacting state.

16 23 2. The compact shall become effective and binding upon  
16 24 legislative enactment of the compact into law by no less than  
16 25 thirty-five of the states. The initial effective date shall  
16 26 be the later of July 1, 2002, or upon enactment into law by  
16 27 the thirty-fifth jurisdiction. Thereafter it shall become  
16 28 effective and binding, as to any other compacting state, upon  
16 29 enactment of the compact into law by that state. The  
16 30 governors of nonmember states or their designees will be  
16 31 invited to participate in interstate commission activities on  
16 32 a nonvoting basis prior to adoption of the compact by all  
16 33 states and territories of the United States.

16 34 3. Amendments to the compact maybe proposed by the  
16 35 interstate commission for enactment by the compacting states.  
17 1 No amendment shall become effective and binding upon the  
17 2 interstate commission and the compacting states unless and  
17 3 until it is enacted into law by unanimous consent of the  
17 4 compacting states.

#### 17 5 ARTICLE XI

##### 17 6 WITHDRAWAL, DEFAULT, AND TERMINATION, AND JUDICIAL 17 7 ENFORCEMENT

17 8 1. WITHDRAWAL.

17 9 a. Once effective, the compact shall continue in force and  
17 10 retrain binding upon each and every compacting state;  
17 11 provided, that a compacting state may withdraw from the  
17 12 compact by enacting a statute specifically repealing the  
17 13 statute which enacted the compact into law.

17 14 b. The effective date of withdrawal is the effective date  
17 15 of the repeal.

17 16 c. The withdrawing state shall immediately notify the  
17 17 chairperson of the interstate commission in writing upon the  
17 18 introduction of legislation repealing this compact in the  
17 19 withdrawing state.

17 20 d. The interstate commission shall notify the other  
17 21 compacting states of the withdrawing state's intent to  
17 22 withdraw within sixty days of its receipt thereof.

17 23 e. The withdrawing state is responsible for all  
17 24 assessments, obligations and liabilities incurred through the  
17 25 effective date of withdrawal, including any obligations, the  
17 26 performance of which extend beyond the effective date of  
17 27 withdrawal.

17 28 f. Reinstatement following withdrawal of any compacting  
17 29 state shall occur upon the withdrawing state reenacting the  
17 30 compact or upon such later date as determined by the  
17 31 interstate commission.

17 32 2. DEFAULT.

17 33 a. If the interstate commission determines that any  
17 34 compacting state has at any time defaulted in the performance  
17 35 of any of its obligations or responsibilities under this  
18 1 compact, the bylaws or any duly promulgated rules the  
18 2 interstate commission may impose any or all of the following  
18 3 penalties:

18 4 (1) Fines, fees and costs in such amounts as are deemed to  
18 5 be reasonable as fixed by the interstate commission.

18 6 (2) Remedial training and technical assistance as directed  
18 7 by the interstate commission.

18 8 (3) Suspension and termination of membership in the  
18 9 compact. Suspension shall be imposed only after all other  
18 10 reasonable means of securing compliance under the bylaws and  
18 11 rules have been exhausted. Immediate notice of suspension  
18 12 shall be given by the interstate commission to the governor,  
18 13 the chief justice of the state; the majority and minority  
18 14 leaders of the defaulting state's legislature, and the  
18 15 executive council. The grounds for default include, but are  
18 16 not limited to, failure of a compacting state to perform such  
18 17 obligations or responsibilities imposed upon it by this  
18 18 compact, interstate commission bylaws, or duly promulgated  
18 19 rules. The interstate commission shall immediately notify the  
18 20 defaulting state in writing of the penalty imposed by the  
18 21 interstate commission on the defaulting state pending a cure  
18 22 of the default. The interstate commission shall stipulate the  
18 23 conditions and the time period within which the defaulting  
18 24 state must cure its default. If the defaulting state fails to  
18 25 cure the default within the time period specified by the  
18 26 interstate commission, in addition to any other penalties  
18 27 imposed herein, the defaulting state may be terminated from  
18 28 the compact upon an affirmative vote of a majority of the  
18 29 compacting states and all rights, privileges and benefits  
18 30 conferred by this compact shall be terminated from the  
18 31 effective date of suspension.

18 32 b. Within sixty days of the effective date of termination  
18 33 of a defaulting state, the interstate commission shall notify  
18 34 the governor, the chief justice, and the majority and minority  
18 35 leaders of the defaulting state's legislature and the  
19 1 executive council of such termination.

19 2 c. The defaulting state is responsible for all assessments,  
19 3 obligations and liabilities incurred through the effective  
19 4 date of termination including any obligations, the performance  
19 5 of which extends beyond the effective date of termination.

19 6 d. The interstate commission shall not bear any costs  
19 7 relating to the defaulting state unless otherwise mutually  
19 8 agreed upon between the interstate commission and the  
19 9 defaulting state.

19 10 e. Reinstatement following termination of any compacting  
19 11 state requires both a reenactment of the compact by the  
19 12 defaulting state and the approval of the interstate commission  
19 13 pursuant to the rules.

19 14 3. JUDICIAL ENFORCEMENT. The interstate commission may,  
19 15 by majority vote of the members, initiate legal action in the  
19 16 United States district court for the District of Columbia or,  
19 17 at the discretion of the interstate commission, in the United  
19 18 States district court where the interstate commission has its  
19 19 offices, to enforce compliance with the provisions of the  
19 20 compact, its duly promulgated rules and bylaws, against any  
19 21 compacting state in default. In the event judicial enforcement  
19 22 is necessary the prevailing party shall be awarded all costs  
19 23 of such litigation including reasonable attorneys fees.

19 24 4. DISSOLUTION OF COMPACT.

19 25 a. The compact dissolves effective upon the date of the  
19 26 withdrawal or default of the compacting state which reduces  
19 27 membership in the compact to one compacting state.

19 28 b. Upon the dissolution of this compact, the compact  
19 29 becomes null and void and shall be of no further force or  
19 30 effect, and the business and affairs of the interstate  
19 31 commission shall be wound up and any surplus funds shall be  
19 32 distributed in accordance with the bylaws.

#### 19 33 ARTICLE XII

##### 19 34 SEVERABILITY AND CONSTRUCTION

19 35 1. The provisions of this compact shall be severable, and  
20 1 if any phrase, clause, sentence or provision is deemed  
20 2 unenforceable, the remaining provisions of the compact shall  
20 3 be enforceable.

20 4 2. The provisions of this compact shall be liberally  
20 5 constructed to effectuate its purposes.

#### 20 6 ARTICLE XIII

##### 20 7 BINDING EFFECT OF COMPACT AND OTHER LAWS

20 8 1. OTHER LAWS.

20 9 a. Nothing herein prevents the enforcement of any other law  
20 10 of a compacting state that is not inconsistent with this  
20 11 compact.

20 12 b. All compacting states' laws conflicting with this  
20 13 compact are superseded to the extent of the conflict.

20 14 2. BINDING EFFECT OF THE COMPACT.

20 15 a. All lawful actions of the interstate commission,  
20 16 including all rules and bylaws promulgated by the interstate  
20 17 commission, are binding upon the compacting states.

20 18 b. All agreements between the interstate commission and  
20 19 the compacting states are binding in accordance with their  
20 20 terms.

20 21 c. Upon the request of a party to a conflict over meaning  
20 22 or interpretation of interstate commission actions, and upon a  
20 23 majority vote of the compacting states, the interstate  
20 24 commission may issue advisory opinions regarding such meaning  
20 25 or interpretation.

20 26 d. In the event any provision of this compact exceeds the  
20 27 constitutional limits imposed on the legislature of any  
20 28 compacting state, the obligations, duties, powers or  
20 29 jurisdiction sought to be conferred by such provision upon the  
20 30 interstate commission shall be ineffective and such  
20 31 obligations, duties, powers or jurisdiction shall remain in  
20 32 the compacting state and shall be exercised by the agency  
20 33 thereof to which such obligations, duties, powers or  
20 34 jurisdiction are delegated by law in effect at the time this  
20 35 compact becomes effective.

21 1 Sec. 7. NEW SECTION. 907B.3 STATE COUNCIL.

21 2 The state council shall consist of five members plus the

21 3 compact administrator. The chief justice of the supreme court  
21 4 shall appoint one member to represent the judicial branch.  
21 5 The president of the senate shall appoint one member to  
21 6 represent the senate. The speaker of the house of  
21 7 representatives shall appoint one member to represent the  
21 8 house of representatives. The governor shall appoint one  
21 9 member to represent the executive branch, and one member to  
21 10 represent crime victim groups. The governor, in consultation  
21 11 with the legislative and judicial branches, shall also appoint  
21 12 the compact administrator.

21 13 Sec. 8. Chapter 907A, Code 2001, is repealed.

21 14 EXPLANATION

21 15 This bill establishes the interstate compact for adult  
21 16 criminal offender supervision.

21 17 The bill creates an interstate commission which will  
21 18 establish uniform procedures to manage the movement of adult  
21 19 offenders between states who have been placed on probation or  
21 20 parole. The bill provides that the commission shall oversee  
21 21 the interstate movement of offenders in the compacting states  
21 22 and monitor activities in noncompacting states which may  
21 23 significantly affect the compacting state. The bill provides  
21 24 that each state shall establish a state council to appoint the  
21 25 person who will represent the state on the interstate  
21 26 commission. The council is also responsible for developing  
21 27 policies and procedures related to the operation of the  
21 28 commission in this state. The bill provides that the  
21 29 membership of each state council shall include five members,  
21 30 plus the compact administrator.

21 31 The chief justice of the supreme court shall appoint one  
21 32 member to represent the judicial branch. The president of the  
21 33 senate shall appoint one member to represent the senate. The  
21 34 speaker of the house of representatives shall appoint one  
21 35 member to represent the house of representatives. The  
22 1 governor shall appoint one member to represent the executive  
22 2 branch and one member to represent victim groups. The  
22 3 governor, in consultation with the judicial and legislative  
22 4 branches, shall appoint the compact administrator.

22 5 The bill provides that the commission shall receive notice  
22 6 of any court proceedings which may affect the responsibilities  
22 7 or actions of the commission and shall have standing to  
22 8 intervene in such proceedings.

22 9 The bill provides that each compact state shall pay an  
22 10 annual assessment to the commission. The assessment shall be  
22 11 based upon the population of the state and the volume of  
22 12 interstate movement of offenders from the state.

22 13 The bill takes effect on July 1, 2002, or when 35 states  
22 14 have enacted the compact into law, whichever is later.

22 15 LSB 1130DP 79

22 16 jm/cf/24.1