



House of Representatives

General Assembly

File No. 21

February Session, 2000

House Bill No. 5127

House of Representatives, March 8, 2000

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

An Act Adopting The Interstate Compact For Adult Offender Supervision.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-133 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 [(a) The Governor is authorized and directed to execute a compact
4 on behalf of the state of Connecticut with any of the United States
5 legally joining therein in the form substantially as follows: A compact
6 entered into by and among the contracting states, signatories hereto,
7 with the consent of the Congress of the United States of America,
8 granted by an act entitled "An act granting the consent of Congress to
9 any two or more states to enter into agreements or compacts for
10 cooperative effort and mutual assistance in the prevention of crime
11 and for other purposes". The contracting states solemnly agree: (1)
12 That it shall be competent for the duly constituted judicial and
13 administrative authorities of a state party to this compact (herein

14 called "sending state"), to permit any person convicted of an offense
15 within such state and placed on probation or released on parole to
16 reside in any other state party to this compact (herein called "receiving
17 state"), while on probation or parole, if (A) such person is in fact a
18 resident of, or has his family residing within, and is able to obtain
19 employment within, the receiving state; (B) though such person is not
20 a resident of the receiving state and has no family residing therein, the
21 receiving state consents to allow him to reside therein; provided,
22 before such permission shall be granted, opportunity shall be granted
23 to the receiving state to investigate the home and prospective
24 employment of such person; a resident of the receiving state, within
25 the meaning of this section, being construed to be one who has been an
26 actual inhabitant of such state continuously for more than one year
27 prior to his coming to the sending state and who has not resided
28 within the sending state more than six continuous months
29 immediately preceding the commission of the offense for which he has
30 been convicted; (2) that each receiving state shall assume the duties of
31 visitation of and supervision over probationers or parolees of any
32 sending state and in the exercise of such duties will be governed by the
33 same standards that prevail for its own probationers and parolees; (3)
34 that duly accredited officers of a sending state may, at all times, enter a
35 receiving state and there apprehend and retake any person on
36 probation or parole, and for that purpose no formalities shall be
37 required other than establishing the authority of the officer and the
38 identity of the person to be retaken; all legal requirements to obtain
39 extradition of fugitives from justice are being expressly waived on the
40 part of the states party hereto, as to such persons and the decision of
41 the sending state to retake a person on probation or parole to be
42 conclusive upon and not reviewable within the receiving state;
43 provided, if, at the time when a state shall seek to retake a probationer
44 or parolee, there shall be pending against him within the receiving
45 state any criminal charge, or he shall be suspected of having
46 committed within such state a criminal offense, he shall not be retaken

47 without the consent of the receiving state until discharged from
48 prosecution or from imprisonment for such offense; (4) that the duly
49 accredited officers of the sending state shall be permitted to transport
50 prisoners being retaken through any and all states parties to this
51 compact, without interference; (5) that the governor of each contracting
52 state may designate an officer who, acting jointly with like officers of
53 other contracting states, if and when appointed, shall promulgate such
54 rules and regulations as may be deemed necessary to more effectively
55 carry out the terms of this compact; (6) that this compact shall become
56 operative immediately upon its execution by any state as between it
57 and any other state or states so executing and, when executed, it shall
58 have the full force and effect of law within such state, the form of
59 execution to be in accordance with the laws of the executing state; (7)
60 that this compact shall continue in force and remain binding upon each
61 executing state until renounced by it, that the duties and obligations
62 hereunder of a renouncing state shall continue as to parolees or
63 probationers residing therein at the time of withdrawal until they shall
64 be retaken or finally discharged by the sending state and that
65 renunciation of this compact shall be by the same authority which
66 executed it, by the sending of six months' notice in writing of its
67 intention to withdraw from the compact to each other state party
68 hereto. Whenever the duly constituted judicial and administrative
69 authorities in a sending state shall determine that incarceration of a
70 probationer or reincarceration of a parolee is necessary or desirable,
71 said officials may direct that the incarceration or reincarceration be in a
72 prison or other correctional institution within the territory of the
73 receiving state, such receiving state to act in that regard solely as agent
74 for the sending state.

75 (b) If any section, sentence, subdivision or clause of this section is
76 for any reason held invalid or to be unconstitutional, such decision
77 shall not affect the validity of the remaining portions of this section.

78 (c) Sections 54-132 to 54-138, inclusive, may be cited as the "Uniform

79 Act for Out-of-State Parolee Supervision".]

80 The Interstate Compact for Adult Offender Supervision is hereby
81 enacted into law and entered into by this state with all jurisdictions
82 legally joining therein, in the form substantially as follows:

83 ARTICLE I

84 PURPOSE

85 The compacting states to this Interstate Compact recognize that each
86 state is responsible for the supervision of adult offenders in the
87 community who are authorized pursuant to the bylaws and rules of
88 this compact to travel across state lines both to and from each
89 compacting state in such a manner as to: Track the location of
90 offenders, transfer supervision authority in an orderly and efficient
91 manner, and when necessary return offenders to the originating
92 jurisdictions.

93 The compacting states also recognize that Congress, by enacting the
94 Crime Control Act, 4 USC Section 112 (1965), has authorized and
95 encouraged compacts for cooperative efforts and mutual assistance in
96 the prevention of crime.

97 It is the purpose of this compact and the Interstate Commission
98 created hereunder, through means of joint and cooperative action
99 among the compacting states: To provide the framework for the
100 promotion of public safety and protect the rights of victims through
101 the control and regulation of the interstate movement of offenders in
102 the community; to provide for the effective tracking, supervision and
103 rehabilitation of these offenders by the sending and receiving states;
104 and to equitably distribute the costs, benefits and obligations of the
105 compact among the compacting states.

106 In addition, this compact will: Create an Interstate Commission
107 which will establish uniform procedures to manage the movement

108 between states of adults placed under community supervision and
109 released to the community under the jurisdiction of courts, paroling
110 authorities, corrections or other criminal justice agencies which will
111 promulgate rules to achieve the purpose of this compact; ensure an
112 opportunity for input and timely notice to victims and to jurisdictions
113 where defined offenders are authorized to travel or to relocate across
114 state lines; establish a system of uniform data collection, access to
115 information on active cases by authorized criminal justice officials and
116 regular reporting of compact activities to heads of state councils, state
117 executive, judicial and legislative branches and criminal justice
118 administrators; monitor compliance with rules governing interstate
119 movement of offenders and initiate interventions to address and
120 correct non-compliance; and coordinate training and education
121 regarding regulation of interstate movement of offenders for officials
122 involved in such activity.

123 The compacting states recognize that there is no right of any
124 offender to live in another state and that duly accredited officers of a
125 sending state may at all times enter a receiving state and there
126 apprehend and retake any offender under supervision subject to the
127 provisions of this compact and bylaws and rules promulgated
128 hereunder.

129 It is the policy of the compacting states that the activities conducted
130 by the Interstate Commission created herein are the formation of
131 public policies and are therefore public business.

132 ARTICLE II

133 DEFINITIONS

134 As used in this compact, unless the context clearly requires a
135 different construction:

136 A. "Adult" means both individuals legally classified as adults and

137 juveniles treated as adults by court order, statute or operation of law.

138 B. "Bylaws" mean those bylaws established by the Interstate
139 Commission for its governance or for directing or controlling the
140 Interstate Commission's actions or conduct.

141 C. "Compact administrator" means the individual in each
142 compacting state appointed pursuant to the terms of this compact
143 responsible for the administration and management of the state's
144 supervision and transfer of offenders subject to the terms of this
145 compact, the rules adopted by the Interstate Commission and policies
146 adopted by the state council under this compact.

147 D. "Compacting state" means any state which has enacted the
148 enabling legislation for this compact.

149 E. "Commissioner" means the voting representative of each
150 compacting state appointed pursuant to Article III of this compact.

151 F. "Interstate Commission" means the Interstate Commission for
152 Adult Offender Supervision established by this compact.

153 G. "Member" means the commissioner of a compacting state or
154 designee, who shall be a person officially connected with the
155 commissioner.

156 H. "Noncompacting state" means any state which has not enacted
157 the enabling legislation for this compact.

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

162 J. "Person" means any individual, corporation, business enterprise,
163 or other legal entity, either public or private.

164 K. "Rules" means acts of the Interstate Commission, duly
165 promulgated pursuant to Article VII of this compact, substantially
166 affecting interested parties in addition to the Interstate Commission,
167 which shall have the force and effect of law in the compacting states.

168 L. "State" means a state of the United States, the District of Columbia
169 and any other territorial possession of the United States.

170 M. "State Council" means the resident members of the State Council
171 for Interstate Adult Offender Supervision created by each state under
172 Article III of this compact.

173 ARTICLE III

174 THE COMPACT COMMISSION

175 A. The compacting states hereby create the "Interstate Commission
176 for Adult Offender Supervision." The Interstate Commission shall be a
177 body corporate and joint agency of the compacting states. The
178 Interstate Commission shall have all the responsibilities, powers and
179 duties set forth herein, including the power to sue and be sued, and
180 such additional powers as may be conferred upon it by subsequent
181 action of the respective legislatures of the compacting states in
182 accordance with the terms of this compact.

183 B. The Interstate Commission shall consist of commissioners
184 selected and appointed by resident members of a State Council for
185 Interstate Adult Offender Supervision for each state. While each
186 member state may determine the membership of its own State Council,
187 its membership must include at least one representative from the
188 legislative, judicial and executive branches of government, victims
189 groups and compact administrators. Each State Council shall appoint
190 as its commissioner the compact administrator from that state to serve
191 on the Interstate Commission in such capacity under or pursuant to
192 applicable law of the member state. Each compacting state retains the

193 right to determine the qualifications of the compact administrator who
194 shall be appointed by the State Council or by the Governor in
195 consultation with the legislature and the judiciary.

196 In addition to appointment of its commissioner to the Interstate
197 Commission, each State Council shall exercise oversight and advocacy
198 concerning its participation in Interstate Commission activities and
199 other duties as may be determined by each member state, including,
200 but not limited to, development of policy concerning operations and
201 procedures of the compact within that state.

202 C. In addition to the commissioners who are the voting
203 representatives of each state, the Interstate Commission shall include
204 individuals who are not commissioners but who are members of
205 interested organizations; such non-commissioner members must
206 include a member of the national organizations of governors,
207 legislators, state chief justices, attorneys general and crime victims. All
208 non-commissioner members of the Interstate Commission shall be ex
209 officio, nonvoting, members. The Interstate Commission may provide
210 in its bylaws for such additional, ex officio, nonvoting members as it
211 deems necessary.

212 D. Each compacting state represented at any meeting of the
213 Interstate Commission is entitled to one vote. A majority of the
214 compacting states shall constitute a quorum for the transaction of
215 business, unless a larger quorum is required by the bylaws of the
216 Interstate Commission.

217 E. The Interstate Commission shall meet at least once each calendar
218 year. The chairperson may call additional meetings and, upon the
219 request of twenty-seven or more compacting states, shall call
220 additional meetings. Public notice shall be given of all meetings and
221 meetings shall be open to the public.

222 F. The Interstate Commission shall establish an executive committee

223 which shall include commission officers, members and others as shall
224 be determined by the bylaws. The executive committee shall have the
225 power to act on behalf of the Interstate Commission during periods
226 when the Interstate Commission is not in session, with the exception of
227 rulemaking and/or amendment to the compact. The executive
228 committee oversees the day-to-day activities managed by the executive
229 director and Interstate Commission staff; administers enforcement and
230 compliance with the provisions of the compact, its bylaws and as
231 directed by the Interstate Commission and performs other duties as
232 directed by the Interstate Commission or set forth in the bylaws.

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ARTICLE IV

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POWERS AND DUTIES OF THE INTERSTATE COMMISSION

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The Interstate Commission shall have the following powers:

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1. To adopt a seal and suitable bylaws governing the management
and operation of the Interstate Commission.

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2. 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.

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3. 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 compact commission.

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4. 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.

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5. To establish and maintain offices.

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6. To purchase and maintain insurance and bonds.

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7. To borrow, accept or contract for services of personnel, including,

250 but not limited to, members and their staffs.

251 8. To establish and appoint committees and hire staff which it
252 deems necessary for the carrying out of its functions including, but not
253 limited to, an executive committee as required by Article III which
254 shall have the power to act on behalf of the Interstate Commission in
255 carrying out its powers and duties hereunder.

256 9. To elect or appoint such officers, attorneys, employees, agents or
257 consultants, and to fix their compensation, define their duties and
258 determine their qualifications; and to establish the Interstate
259 Commission's personnel policies and programs relating to, among
260 other things, conflicts of interest, rates of compensation and
261 qualifications of personnel.

262 10. To accept any and all donations and grants of money,
263 equipment, supplies, materials and services, and to receive, utilize and
264 dispose of same.

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

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

270 13. To establish a budget and make expenditures and levy dues as
271 provided in Article IX of this compact.

272 14. To sue and be sued.

273 15. To provide for dispute resolution among compacting states.

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

276 17. To report annually to the legislatures, governors, judiciary and

277 state councils of the compacting states concerning the activities of the
278 Interstate Commission during the preceding year. Such reports shall
279 also include any recommendations that may have been adopted by the
280 Interstate Commission.

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

284 19. To establish uniform standards for the reporting, collecting and
285 exchanging of data.

286 ARTICLE V

287 ORGANIZATION AND OPERATION OF THE INTERSTATE 288 COMMISSION

289 Section A. Bylaws

290 1. The Interstate Commission shall, by a majority of the members,
291 within twelve months of the first Interstate Commission meeting,
292 adopt bylaws to govern its conduct as may be necessary or appropriate
293 to carry out the purposes of the compact, including, but not limited to:

294 a. Establishing the fiscal year of the Interstate Commission;

295 b. Establishing an executive committee and such other committees
296 as may be necessary;

297 c. Providing reasonable standards and procedures: (i) For the
298 establishment of committees, and (ii) governing any general or specific
299 delegation of any authority or function of the Interstate Commission;

300 d. Providing reasonable procedures for calling and conducting
301 meetings of the Interstate Commission, and ensuring reasonable notice
302 of each such meeting;

303 e. Establishing the titles and responsibilities of the officers of the
304 Interstate Commission;

305 f. Providing reasonable standards and procedures for the
306 establishment of the personnel policies and programs of the Interstate
307 Commission. Notwithstanding any civil service or other similar laws
308 of any compacting state, the bylaws shall exclusively govern the
309 personnel policies and programs of the Interstate Commission;

310 g. Providing a mechanism for winding up the operations of the
311 Interstate Commission and the equitable return of any surplus funds
312 that may exist upon the termination of the compact after the payment
313 and/or reserving of all of its debts and obligations;

314 h. Providing transition rules for "start up" administration of the
315 compact; and

316 i. Establishing standards and procedures for compliance and
317 technical assistance in carrying out the compact.

318 Section B. Officers and staff

319 1. The Interstate Commission shall, by a majority of the members,
320 elect from among its members a chairperson and a vice chairperson,
321 each of whom shall have such authority and duties as may be specified
322 in the bylaws. The chairperson or, in his or her absence or disability,
323 the vice chairperson, shall preside at all meetings of the Interstate
324 Commission. The officers so elected shall serve without compensation
325 or remuneration from the Interstate Commission; provided that,
326 subject to the availability of budgeted funds, the officers shall be
327 reimbursed for any actual and necessary costs and expenses incurred
328 by them in the performance of their duties and responsibilities as
329 officers of the Interstate Commission.

330 2. The Interstate Commission shall, through its executive committee,
331 appoint or retain an executive director for such period, upon such

332 terms and conditions and for such compensation as the Interstate
333 Commission may deem appropriate. The executive director shall serve
334 as secretary to the Interstate Commission, and hire and supervise such
335 other staff as may be authorized by the Interstate Commission, but
336 shall not be a member.

337 Section C. Corporate records of the Interstate Commission

338 The Interstate Commission shall maintain its corporate books and
339 records in accordance with the bylaws.

340 Section D. Qualified immunity, defense and indemnification

341 1. The members, officers, executive director and employees of the
342 Interstate Commission shall be immune from suit and liability, either
343 personally or in their official capacity, for any claim for damage to or
344 loss of property or personal injury or other civil liability caused or
345 arising out of any actual or alleged act, error or omission that occurred
346 within the scope of Interstate Commission employment, duties or
347 responsibilities; provided, that nothing in this paragraph shall be
348 construed to protect any such person from suit and/or liability for any
349 damage, loss, injury or liability caused by the intentional or wilful and
350 wanton misconduct of any such person.

351 2. The Interstate Commission shall defend the commissioner of a
352 compacting state, or his or her representatives or employees, or the
353 Interstate Commission's representatives or employees, in any civil
354 action seeking to impose liability, arising out of any actual or alleged
355 act, error or omission that occurred within the scope of Interstate
356 Commission employment, duties or responsibilities, or that the
357 defendant had a reasonable basis for believing occurred within the
358 scope of Interstate Commission employment, duties or responsibilities;
359 provided, that the actual or alleged act, error or omission did not result
360 from intentional wrongdoing on the part of such person.

361 3. The Interstate Commission shall indemnify and hold the
362 commissioner of a compacting state, the appointed designee or
363 employees, or the Interstate Commission's representatives or
364 employees, harmless in the amount of any settlement or judgment
365 obtained against such persons arising out of any actual or alleged act,
366 error or omission that occurred within the scope of Interstate
367 Commission employment, duties or responsibilities, or that such
368 persons had a reasonable basis for believing occurred within the scope
369 of Interstate Commission employment, duties or responsibilities,
370 provided, that the actual or alleged act, error or omission did not result
371 from gross negligence or intentional wrongdoing on the part of such
372 person.

373 ARTICLE VI

374 ACTIVITIES OF THE INTERSTATE COMMISSION

375 1. The Interstate Commission shall meet and take such actions as are
376 consistent with the provisions of this compact.

377 2. Except as otherwise provided in this compact and unless a greater
378 percentage is required by the bylaws, in order to constitute an act of
379 the Interstate Commission, such act shall have been taken at a meeting
380 of the Interstate Commission and shall have received an affirmative
381 vote of a majority of the members present.

382 3. Each member of the Interstate Commission shall have the right
383 and power to cast a vote to which that compacting state is entitled and
384 to participate in the business and affairs of the Interstate Commission.
385 A member shall vote in person on behalf of the state and shall not
386 delegate a vote to another member state. However, a State Council
387 shall appoint another authorized representative, in the absence of the
388 commissioner from that state, to cast a vote on behalf of the member
389 state at a specified meeting. The bylaws may provide for members'
390 participation in meetings by telephone or other means of

391 telecommunication or electronic communication. Any voting
392 conducted by telephone or other means of telecommunication or
393 electronic communication shall be subject to the same quorum
394 requirements of meetings where members are present in person.

395 4. The Interstate Commission shall meet at least once during each
396 calendar year. The chairperson of the Interstate Commission may call
397 additional meetings at any time and, upon the request of a majority of
398 the members, shall call additional meetings.

399 5. The Interstate Commission's bylaws shall establish conditions and
400 procedures under which the Interstate Commission shall make its
401 information and official records available to the public for inspection
402 or copying. The Interstate Commission may exempt from disclosure
403 any information or official records to the extent they would adversely
404 affect personal privacy rights or proprietary interests. In promulgating
405 such rules, the Interstate Commission may make available to law
406 enforcement agencies records and information otherwise exempt from
407 disclosure, and may enter into agreements with law enforcement
408 agencies to receive or exchange information or records subject to
409 nondisclosure and confidentiality provisions.

410 6. Public notice shall be given of all meetings and all meetings shall
411 be open to the public, except as set forth in the rules or as otherwise
412 provided in the compact. The Interstate Commission shall promulgate
413 rules consistent with the principles contained in the "Government in
414 Sunshine Act," 5 USC Section 552(b), as may be amended. The
415 Interstate Commission and any of its committees may close a meeting
416 to the public where it determines by two-thirds vote that an open
417 meeting would be likely to: a. Relate solely to the Interstate
418 Commission's internal personnel practices and procedures; b. disclose
419 matters specifically exempted from disclosure by statute; c. disclose
420 trade secrets or commercial or financial information which is
421 privileged or confidential; d. involve accusing any person of a crime,

422 or formally censuring any person; e. disclose information of a personal
423 nature where disclosure would constitute a clearly unwarranted
424 invasion of personal privacy; f. disclose investigatory records compiled
425 for law enforcement purposes; g. disclose information contained in or
426 related to examination, operating or condition reports prepared by, or
427 on behalf of or for the use of, the Interstate Commission with respect to
428 a regulated entity for the purpose of regulation or supervision of such
429 entity; h. disclose information, the premature disclosure of which
430 would significantly endanger the life of a person or the stability of a
431 regulated entity; i. specifically relate to the Interstate Commission's
432 issuance of a subpoena, or its participation in a civil action or
433 proceeding.

434 7. For every meeting closed pursuant to this provision, the Interstate
435 Commission's chief legal officer shall publicly certify that, in his or her
436 opinion, the meeting may be closed to the public, and shall reference
437 each relevant exemptive provision. The Interstate Commission shall
438 keep minutes which shall fully and clearly describe all matters
439 discussed in any meeting and shall provide a full and accurate
440 summary of any actions taken, and the reasons therefor, including a
441 description of each of the views expressed on any item and the record
442 of any roll call vote (reflected in the vote of each member on the
443 question). All documents considered in connection with any action
444 shall be identified in such minutes.

445 8. The Interstate Commission shall collect standardized data
446 concerning the interstate movement of offenders as directed through
447 its bylaws and rules which shall specify the data to be collected, the
448 means of collection and data exchange and reporting requirements.

449 ARTICLE VII

450 RULEMAKING FUNCTIONS OF THE INTERSTATE
451 COMMISSION

452 1. The Interstate Commission shall promulgate rules in order to
453 effectively and efficiently achieve the purposes of the compact
454 including transition rules governing administration of the compact
455 during the period in which it is being considered and enacted by the
456 states.

457 2. Rulemaking shall occur pursuant to the criteria set forth in this
458 article and the bylaws and rules adopted pursuant thereto. Such
459 rulemaking shall substantially conform to the principles of the federal
460 Administrative Procedure Act, 5 USC Section 551 et seq., and the
461 Federal Advisory Committee Act, 5 USC App. 2, Section 1 et seq., as
462 may be amended (hereinafter "APA").

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

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

469 5. When promulgating a rule, the Interstate Commission shall: a.
470 Publish the proposed rule stating with particularity the text of the rule
471 which is proposed and the reason for the proposed rule; b. allow
472 persons to submit written data, facts, opinions and arguments, which
473 information shall be publicly available; c. provide an opportunity for
474 an informal hearing; and d. promulgate a final rule and its effective
475 date, if appropriate, based on the rulemaking record.

476 6. Not later than sixty days after a rule is promulgated, any
477 interested person may file a petition in the United States District Court
478 for the District of Columbia or in the federal district court where the
479 Interstate Commission's principal office is located for judicial review of
480 such rule. If the court finds that the Interstate Commission's action is
481 not supported by substantial evidence, as defined in the APA, in the

482 rulemaking record, the court shall hold the rule unlawful and set it
483 aside.

484 7. Subjects to be addressed within twelve months after the first
485 meeting must at a minimum include: a. Notice to victims and
486 opportunity to be heard; b. offender registration and compliance; c.
487 violations/returns; d. transfer procedures and forms; e. eligibility for
488 transfer; f. collection of restitution and fees from offenders; g. data
489 collection and reporting; h. the level of supervision to be provided by
490 the receiving state; i. transition rules governing the operation of the
491 compact and the Interstate Commission during all or part of the period
492 between the effective date of the compact and the date on which the
493 last eligible state adopts the compact; j. mediation, arbitration and
494 dispute resolution.

495 The existing rules governing the operation of the previous compact
496 superseded by this act shall be null and void twelve months after the
497 first meeting of the Interstate Commission created hereunder.

498 8. Upon determination by the Interstate Commission that an
499 emergency exists, it may promulgate an emergency rule which shall
500 become effective immediately upon adoption, provided that the usual
501 rulemaking procedures provided hereunder shall be retroactively
502 applied to said rule as soon as reasonably possible, in no event later
503 than ninety days after the effective date of the rule.

504 ARTICLE VIII

505 OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY 506 THE 507 INTERSTATE COMMISSION

508 Section A. Oversight

509 1. The Interstate Commission shall oversee the interstate movement
510 of adult offenders in the compacting states and shall monitor such

511 activities being administered in noncompacting states which may
512 significantly affect compacting states.

513 2. The courts and executive agencies in each compacting state shall
514 enforce this compact and shall take all actions necessary and
515 appropriate to effectuate the compact's purposes and intent. In any
516 judicial or administrative proceeding in a compacting state pertaining
517 to the subject matter of this compact which may affect the powers,
518 responsibilities or actions of the Interstate Commission, the Interstate
519 Commission shall be entitled to receive all service of process in any
520 such proceeding, and shall have standing to intervene in the
521 proceeding for all purposes.

522 Section B. Dispute resolution

523 1. The compacting states shall report to the Interstate Commission
524 on issues or activities of concern to them, and cooperate with and
525 support the Interstate Commission in the discharge of its duties and
526 responsibilities.

527 2. The Interstate Commission shall attempt to resolve any disputes
528 or other issues which are subject to the compact and which may arise
529 among compacting states and noncompacting states.

530 3. The Interstate Commission shall enact a bylaw or promulgate a
531 rule providing for both mediation and binding dispute resolution for
532 disputes among the compacting states.

533 Section C. Enforcement

534 The Interstate Commission, in the reasonable exercise of its
535 discretion, shall enforce the provisions of this compact using any or all
536 means set forth in Article XI, Section B, of this compact.

537 ARTICLE IX

538

FINANCE

539 1. The Interstate Commission shall pay or provide for the payment
540 of the reasonable expenses of its establishment, organization and
541 ongoing activities.

542 2. The Interstate Commission shall levy on and collect an annual
543 assessment from each compacting state to cover the cost of the internal
544 operations and activities of the Interstate Commission and its staff
545 which must be in a total amount sufficient to cover the Interstate
546 Commission's annual budget as approved each year. The aggregate
547 annual assessment amount shall be allocated based upon a formula to
548 be determined by the Interstate Commission, taking into consideration
549 the population of the state and the volume of interstate movement of
550 offenders in each compacting state and shall promulgate a rule binding
551 upon all compacting states which governs said assessment.

552 3. The Interstate Commission shall not incur any obligations of any
553 kind prior to securing the funds adequate to meet the same; nor shall
554 the Interstate Commission pledge the credit of any of the compacting
555 states, except by and with the authority of the compacting state.

556 4. The Interstate Commission shall keep accurate accounts of all
557 receipts and disbursements. The receipts and disbursements of the
558 Interstate Commission shall be subject to the audit and accounting
559 procedures established under its bylaws. However, all receipts and
560 disbursements of funds handled by the Interstate Commission shall be
561 audited yearly by a certified or licensed public accountant and the
562 report of the audit shall be included in and become part of the annual
563 report of the Interstate Commission.

564

ARTICLE X

565 COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

566 1. Any state, as defined in Article II of this compact, is eligible to

567 become a compacting state.

568 2. The compact shall become effective and binding upon legislative
569 enactment of the compact into law by no less than thirty-five of the
570 states. The initial effective date shall be the later of July 1, 2001, or
571 upon enactment into law by the thirty-fifth jurisdiction. Thereafter it
572 shall become effective and binding, as to any other compacting state,
573 upon enactment of the compact into law by that state. The governors
574 of nonmember states or their designees will be invited to participate in
575 Interstate Commission activities on a nonvoting basis prior to adoption
576 of the compact by all states and territories of the United States.

577 3. Amendments to the compact may be proposed by the Interstate
578 Commission for enactment by the compacting states. No amendment
579 shall become effective and binding upon the Interstate Commission
580 and the compacting states unless and until it is enacted into law by
581 unanimous consent of the compacting states.

582 ARTICLE XI

583 WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL
584 ENFORCEMENT

585 Section A. Withdrawal

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

591 2. The effective date of withdrawal is the effective date of the repeal.

592 3. The withdrawing state shall immediately notify the chairperson
593 of the Interstate Commission in writing upon the introduction of
594 legislation repealing this compact in the withdrawing state.

595 4. The Interstate Commission shall notify the other compacting
596 states of the withdrawing state's intent to withdraw within sixty days
597 of its receipt thereof.

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

602 6. Reinstatement following withdrawal of any compacting state
603 shall occur upon the withdrawing state reenacting the compact or
604 upon such later date as determined by the Interstate Commission.

605 Section B. Default

606 1. If the Interstate Commission determines that any compacting
607 state has at any time defaulted ("defaulting state") in the performance
608 of any of its obligations or responsibilities under this compact, the
609 bylaws or any duly promulgated rules, the Interstate Commission may
610 impose any or all of the following penalties:

611 a. Fines, fees and costs in such amounts as are deemed to be
612 reasonable as fixed by the Interstate Commission;

613 b. Remedial training and technical assistance as directed by the
614 Interstate Commission;

615 c. Suspension and termination of membership in the compact.
616 Suspension shall be imposed only after all other reasonable means of
617 securing compliance under the bylaws and rules have been exhausted.
618 Immediate notice of suspension shall be given by the Interstate
619 Commission to the Governor, the Chief Justice or chief judicial officer
620 of the state; the majority and minority leaders of the defaulting state's
621 legislature, and the State Council. The grounds for default include, but
622 are not limited to, failure of a compacting state to perform such
623 obligations or responsibilities imposed upon it by this compact,

624 Interstate Commission bylaws, or duly promulgated rules. The
625 Interstate Commission shall immediately notify the defaulting state in
626 writing of the penalty imposed by the Interstate Commission on the
627 defaulting state pending a cure of the default. The Interstate
628 Commission shall stipulate the conditions and the time period within
629 which the defaulting state must cure its default. If the defaulting state
630 fails to cure the default within the time period specified by the
631 Interstate Commission, in addition to any other penalties imposed
632 herein, the defaulting state may be terminated from the compact upon
633 an affirmative vote of a majority of the compacting states and all
634 rights, privileges and benefits conferred by this compact shall be
635 terminated from the effective date of suspension.

636 2. Within sixty days of the effective date of termination of a
637 defaulting state, the Interstate Commission shall notify the Governor,
638 the Chief Justice or chief judicial officer and the majority and minority
639 leaders of the defaulting state's legislature and the State Council of
640 such termination.

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

645 4. The Interstate Commission shall not bear any costs relating to the
646 defaulting state unless otherwise mutually agreed upon between the
647 Interstate Commission and the defaulting state.

648 5. Reinstatement following termination of any compacting state
649 requires both a reenactment of the compact by the defaulting state and
650 the approval of the Interstate Commission pursuant to the rules.

651 Section C. Judicial enforcement

652 The Interstate Commission may, by majority vote of the members,

653 initiate legal action in the United States District Court for the District of
654 Columbia or, at the discretion of the Interstate Commission, in the
655 federal district where the Interstate Commission has its offices to
656 enforce compliance with the provisions of the compact, its duly
657 promulgated rules and bylaws, against any compacting state in
658 default. In the event judicial enforcement is necessary the prevailing
659 party shall be awarded all costs of such litigation including reasonable
660 attorneys' fees.

661 Section D. Dissolution of compact

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

665 2. Upon the dissolution of this compact, the compact becomes null
666 and void and shall be of no further force or effect, and the business and
667 affairs of the Interstate Commission shall be wound up and any
668 surplus funds shall be distributed in accordance with the bylaws.

669 ARTICLE XII

670 SEVERABILITY AND CONSTRUCTION

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

674 2. The provisions of this compact shall be liberally construed to
675 effectuate its purposes.

676 ARTICLE XIII

677 BINDING EFFECT OF COMPACT AND OTHER LAWS

678 Section A. Other laws

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

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

683 Section B. Binding effect of the compact

684 1. All lawful actions of the Interstate Commission, including all
685 rules and bylaws promulgated by the Interstate Commission, are
686 binding upon the compacting states.

687 2. All agreements between the Interstate Commission and the
688 compacting states are binding in accordance with their terms.

689 3. Upon the request of a party to a conflict over meaning or
690 interpretation of Interstate Commission actions, and upon a majority
691 vote of the compacting states, the Interstate Commission may issue
692 advisory opinions regarding such meaning or interpretation.

693 4. In the event any provision of this compact exceeds the
694 constitutional limits imposed on the legislature of any compacting
695 state, the obligations, duties, powers or jurisdiction sought to be
696 conferred by such provision upon the Interstate Commission shall be
697 ineffective and such obligations, duties, powers or jurisdiction shall
698 remain in the compacting state and shall be exercised by the agency
699 thereof to which such obligations, duties, powers or jurisdiction are
700 delegated by law in effect at the time this compact becomes effective.

701 Sec. 2. Sections 54-132 and 54-134 to 54-138b, inclusive, of the
702 general statutes are repealed.

703 Sec. 3. This act shall take effect the later of July 1, 2001, or upon
704 enactment of the Interstate Compact for Adult Offender Supervision
705 by thirty-five jurisdictions.

JUD Committee Vote: Yea 37 Nay 0 JF

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Cost

Affected Agencies: Judicial Department, Board of Parole

Municipal Impact: None

Explanation

State Impact:

The bill would result in a minimum annual cost of \$25,000 to the state related to Connecticut's assessment for the cost of participating in the Interstate Compact for Adult Offender Supervision. This amount is based on full participation by the 50 states, five territories and the District of Columbia to support a budget of \$1.4 million for 10 staff and associated expenses to operate the compact. Connecticut's share, like other states, is determined according to a formula based on a state's population and number of offenders crossing the state's borders.

A minimum of 35 states is needed to implement the compact. If less than full participation by the 56 jurisdictions occurs, Connecticut's cost would presumably be greater than \$25,000. Legislation to adopt the compact is currently pending in 13 other states.

Connecticut's cost would occur no earlier than July 1, 2001.

OLR Bill Analysis

HB 5127

AN ACT ADOPTING THE INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION.**SUMMARY:**

This bill creates a new system for Connecticut and other states adopting the compact for supervising adult offenders in the community who are authorized by the compact to travel to other states. Its stated purpose is to (1) track offenders, (2) effectively transfer supervision, and (3) return offenders to their original jurisdiction when necessary.

The bill replaces the existing compact. It eliminates the specific provisions in current law on the supervision of out-of-state offenders and creates the Interstate Commission for Adult Offender Supervision which is required to make rules to cover these general areas. In addition, it repeals all current rules 12 months after the commission's first meeting and requires the commission to adopt the new rules during this period.

Under the bill, the commission consists of a commissioner from each state adopting the compact and other members that represent certain organizations. Only the commissioners can vote on commission actions. The commission's executive committee is responsible for daily operations. The bill includes requirements for adopting rules, holding meetings, enforcing the compact, and collecting annual assessments from compact states for the commission's budget.

The bill also creates the State Council for Interstate Adult Offender Supervision to oversee the state's participation in the interstate commission.

EFFECTIVE DATE: When a 35th jurisdiction enacts the compact but no earlier than July 1, 2001.

ELIMINATING SPECIFIC PROVISIONS IN CURRENT LAW

The bill eliminates the governor's authority to enter a compact with other states to allow states that release people on probation or parole (sending states) to permit them to live in and be supervised by other states (receiving states). It eliminates the right of an out-of-state parolee or probationer to reside in the state only if he is (1) a resident of, or has family and can get a job in, the state or (2) not a resident and has no family in the receiving state but has the state's permission. It also eliminates the authority of the receiving state to investigate the home and prospective employment of the person desiring to move before granting permission.

The bill eliminates provisions in current law relating to:

1. retaking offenders,
2. directing incarceration in a receiving state,
3. treatment of offenders and guarantee of rights,
4. reimbursement of costs,
5. allowing the state to make rules and regulations,
6. allowing officers designated by the governors of compact states to adopt rules and regulations to carry out the compact,
7. issuing warrants to detain a person, and
8. criminal penalties for a parolee residing in the state without permission when the law requires it.

The bill also eliminates the state's duty to comply with the compact until it is renounced but its duties and obligations toward parolees and probationers from other states continue until the sending state retakes them. In addition, it eliminates the state's duty to give six months written notice of its intention to withdraw.

PURPOSE

The bill recognizes that the U.S. Congress authorized and encouraged compacts for cooperative efforts and mutual assistance in preventing crime. It also recognizes that each state is responsible for supervising adult offenders in the community who are authorized by the compact's bylaws and rules to travel across state lines between compact states in order to track their location, transfer supervisory authority in an orderly and efficient manner, and return offenders to their original jurisdiction when necessary.

The bill's stated purpose is to:

1. promote public safety and protect victim's rights by controlling and regulating interstate movement of offenders in the community;
2. effectively track, supervise, and rehabilitate offenders;
3. equitably distribute the costs, benefits, and obligations of the compact among the compact states;
4. create an interstate commission that will establish uniform procedures to manage the movement between states of adult offenders under the jurisdiction of courts, parole authorities, corrections, and other criminal justice agencies;
5. ensure an opportunity for input and timely notice to victims and jurisdictions where defined offenders are authorized to travel or relocate;
6. establish a uniform system of data collection and access to information on active cases by authorized criminal justice officials;
7. regularly report on compact activities to heads of state councils, state executive, judicial, and legislative branches, and criminal justice administrators;
8. monitor compliance with rules on interstate movement of offenders and intervene to correct noncompliance; and

9. coordinate training and education for officials on regulating the interstate movement of offenders.

The bill also states that the compact recognizes that an offender does not have a right to live in another state and state officers can enter another compact state to retake an offender, subject to the compact's provisions, rules, and bylaws.

DEFINITIONS

The bill applies to "offenders" who are (1) adults under or subject to supervision because they committed a crime and (2) released to the community under jurisdiction of the courts, parole authorities, corrections, or other criminal justice agencies. An "adult" is someone legally classified as an adult or a juvenile treated as an adult by court order, statute, or law.

The bill allows any "state" to join the compact. It defines "states" as any U.S. state, the District of Columbia, and any U.S. territorial possession. Current law applies to states, Puerto Rico, the Virgin Islands, and the District of Columbia (all are members).

STATE COUNCIL

The bill creates a State Council for Interstate Adult Offender Supervision in each compact state. It allows each state to determine the members of the council but requires at least one representative from the legislative, judicial, and executive branches, victims groups, and compact administrators. The council oversees and advocates its participation in Interstate Commission activities and duties, as well as other duties as the state determines, including development of policy on compact operations and procedures in the state.

COMPACT ADMINISTRATOR

Under the bill, the compact administrator is the person in each compact state responsible for administering and managing the state's supervision and transfer of offenders under the compact, commission rules, and policies adopted by the state council. Each state can determine the qualifications of the compact administrator, who is appointed by the council or the governor in consultation with the

legislature and judiciary. The council must appoint the compact administrator as its commissioner to serve on the Interstate Commission.

INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION

Organization

The bill creates the Interstate Commission for Adult Offender Supervision as a corporate body and joint agency of the compact states. The commission consists of commissioners selected by the state council in each state and members of interested organizations, which must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, and crime victims. The commissioner is the voting representative of each compact state. Each state has one vote. Other members do not vote. The commission can add other members through its bylaws. Governors of nonmember states or their designees will be invited to participate in commission activities (but cannot vote) prior to adoption of the compact by all states and U.S. territories.

A majority of the commission members must elect a chairperson and vice-chairperson from its members. Bylaws specify the authority and duties of each. The chairperson presides at all meetings but the vice-chairperson presides if the chairperson is absent or disabled. These officers receive no compensation from the commission but are reimbursed for necessary costs and expenses in the performance of their duties and responsibilities subject to available funds.

The bill requires the commission to meet at least once every calendar year. The chairperson can call additional meeting and must do so if at least 27 states or a majority of the members request one.

Executive Committee

The bill requires the commission to establish an executive committee to act on its behalf when it is not in session. The executive committee oversees daily activities; ensures compliance with the compact and bylaws; and performs other duties as directed by the commission or

the bylaws. But the executive committee cannot amend the compact or make rules. The committee consists of officers, members, and others as specified by the bylaws. The executive director and commission staff manage the committee.

Executive Director

The bill requires the committee to appoint or retain an executive director. The commission determines his period of service, employment terms, and compensation. He serves as secretary for the commission and hires and supervises staff authorized by the commission. He is not a member of the commission.

Commission Powers

The bill grants the commission the power to:

1. oversee, supervise, and coordinate the interstate movement of offenders who are subject to the compact and bylaws;
2. enforce compliance with the compact, rules, and bylaws using all necessary and proper means, including judicial process;
3. adopt rules with the effect of statutory law that bind the compact states;
4. adopt bylaws for managing and operating the commission;
5. do what is necessary or appropriate to achieve the compact's purposes;
6. provide for dispute resolution among compact states;
7. establish uniform standards for reporting, collecting, and exchanging data;
8. establish a budget, make expenditures, and levy dues;
9. report annually to legislatures, governors, judiciary, and state

councils in the compact states on the commission's activities during the preceding year (including any recommendations adopted by the commission);

10. coordinate education, training, and public awareness regarding the interstate movement of offenders for officials involved in these activities;
11. establish and appoint committees and hire necessary staff to carry out its functions including an executive committee;
12. elect or appoint officers, attorneys, employees, agents, or consultants, fix their compensation, duties, and qualifications, and establish personnel policies and programs (including on such topics as conflicts of interest, rates of compensation, and qualifications);
13. borrow, accept, or contract for personnel service including members and their staff;
14. establish and maintain offices;
15. sue and be sued;
16. purchase and maintain insurance and bonds;
17. accept donations and grants of money, equipment, supplies, materials, and services and receive, use, and dispose of them;
18. lease, purchase, and accept donations of property and own, improve, mortgage, or otherwise dispose of property; and
19. adopt a seal.

The bill allows the legislatures of the compact states to grant the commission additional powers. It also requires the commission to monitor activities in non-compact states that could significantly affect compact states.

Commission Actions

The bill requires a majority of the compact states to be present for the commission to conduct business. But the bylaws can require more. The commission must meet and take actions consistent with the compact. The bill requires the commission's actions to be taken at a meeting and receive the vote of a majority of the members present, unless the bylaws require a greater percentage. Each member participates in the business of the commission and casts his state's vote. A member must vote in person and cannot delegate a vote to another member state. The state council must appoint an authorized representative to vote for the state at a specified meeting if the state's commissioner is absent. Bylaws can allow participation in meetings by telephone or other telecommunication or electronic communication. Any voting done in this manner still requires a majority of the compact states to conduct business.

The bill requires the commission to collect standardized data on the interstate movement of offenders. The commission's bylaws and rules must specify the data to be collected, means of collection and data exchange, and reporting requirements.

RULEMAKING

The bill defines "rules" as commission acts substantially affecting interested parties in addition to the commission that have the force and effect of law in the compact states. All rules and amendments are binding on the date they specify. A rule has no force in any compact state if a majority of the legislatures in the compact states reject it by statute or resolution in the same manner used to adopt the compact.

Required Rules

The bill repeals the rules governing operation of the current compact 12 months after the commission's first meeting. Within 12 months of the first meeting, the bill requires the commission to address the following topics:

1. notice to victims and the 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. levels of supervision receiving states must provide;
9. transition rules for operating the compact and the commission for all or part of the time between the compact's effective date and the date when the last eligible state adopts the compact; and
10. mediation, arbitration, and dispute resolution.

Adopting Rules

Under the bill, the commission must adopt rules to effectively and efficiently achieve the compact's purposes. Rulemaking must follow the compact provisions, bylaws, and rules and must substantially conform to the principles of the federal Administrative Procedure Act (APA) and the federal Advisory Committee Act.

To adopt a rule, the bill requires the commission to (1) publish the proposed rule, its text, and the reason for the rule; (2) allow submission of written data, facts, opinions, and arguments (this information must be publicly available); (3) provide opportunity for an informal hearing; and (4) adopt a final rule that includes an effective date based on the rulemaking record.

The bill allows any interested person to file for judicial review of a rule within 60 days in the U.S. District Court for the District of Columbia or the federal district court where the commission's principal office is located. The court must find the rule unlawful if the commission's action is not supported by substantial evidence in the rulemaking record, as defined in the APA.

If the commission determines an emergency exists, the bill allows it to pass an emergency rule effective immediately on adoption. But the usual rulemaking procedures must be applied retroactively to the rule as soon as reasonably possible and no later than 90 days after the rule's effective date.

BYLAWS

The bill defines "bylaws" as those bylaws that establish the commission's governance or direct or control its actions or conduct. It requires the commission, by a majority of its members, to adopt bylaws to govern its conduct as necessary and appropriate to carry out the compact's purposes within 12 months of its first meeting. The bill does not limit the subjects of these bylaws but requires them to establish:

1. the commission's fiscal year,
2. an executive committee and other necessary committees,
3. reasonable standards and procedures for establishing committees and governing delegations of the commission's authority or functions,
4. reasonable procedures for calling and conducting meetings and ensuring reasonable notice of meetings,
5. titles and responsibilities of commission officers,
6. reasonable standards and procedures for establishing the commission's personnel policies and programs (these bylaws govern notwithstanding any civil service or similar laws in the compact state),
7. a mechanism for winding up the commission's operations if the compact terminates and the equitable return of surplus funds after paying or reserving debts and obligations,
8. transition rules for start-up administration of the compact, and

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

The bill requires the commission to keep its corporate books and records according to the bylaws.

MEETINGS

The bill requires that all commission meetings be open to the public unless the rules or the compact provide otherwise. The commission must give public notice of a meeting and must adopt rules consistent with the principles of the federal Government in Sunshine Act.

The bill allows the commission or a committee to close a meeting to the public when, by a two-thirds vote, it determines that the meeting is likely to:

1. relate solely to the commission's internal personnel practices and procedures;
2. disclose matters specifically exempt from disclosure by statute;
3. disclose trade secrets or privileged or confidential commercial or financial information;
4. involve accusing a person of a crime or formally censuring a person;
5. disclose personal information that would be a clearly unwarranted invasion of personal privacy;
6. disclose investigatory records compiled for law enforcement purposes;
7. disclose information in or related to examination, operating, or condition reports prepared for the commission for purposes of regulating or supervising an entity;
8. prematurely disclose information that would significantly endanger the life of a person or the stability of a regulated entity; or

9. specifically relate to the commission's issuance of a subpoena or participation in a civil action or proceeding.

The bill requires the commission's chief legal officer to publicly certify that it is his opinion that a meeting can be closed to the public. He must reference the relevant provisions.

It also requires the commission to keep minutes that (1) fully and clearly describe all matters discussed; (2) fully and accurately summarize all actions taken, the reason for them, a description of the views expressed on any item, and any roll call votes; and (3) identify all documents the commission considered regarding actions.

COMMISSION RECORDS

The bill requires the commission to establish conditions and procedures for making information and official records available to the public for inspection or copying. The commission can exempt information from disclosure to the extent it would adversely affect personal privacy rights or proprietary interests. But it can disclose this information to law enforcement agencies and make agreements with them subject to nondisclosure and confidentiality provisions.

FINANCE

The bill requires the commission to pay, or provide for payment of, the reasonable expenses of its establishment, organization, and activities. It must collect annual assessments from compact states for the cost of its internal operations and activities and to cover its annual budget. A commission rule must establish the process for making aggregate annual assessments using a formula that considers the population and the volume of interstate movement of offenders in each compact state.

The bill prohibits the commission from incurring obligations before it has adequate funds and from pledging credit to a compact state without that state's authority.

The bill requires the commission to keep accurate accounts of all receipts and disbursements and subject to audit and accounting

procedures established by the bylaws. The records must be audited yearly by a certified or licensed public accountant and the audit report must be included in the commission's annual report.

EFFECTIVE DATE

The bill makes the compact effective when at least 35 states enact it into law but no sooner than July 1, 2001. It is effective for a state later adopting the compact when that state enacts the compact.

AMENDMENT

The bill allows the commission to propose amendments for the compact states to enact. An amendment is effective and binding when it is enacted into law by unanimous consent of the compact states.

ENFORCEMENT AND DEFAULT

The bill requires the commission to enforce the compact by reasonably exercising its discretion. It allows the commission to impose the following penalties if the commission determines that a state defaulted in performance of its obligations or responsibilities:

1. reasonable fines, fees, and costs fixed by the commission;
2. remedial training and technical assistance directed by the commission; and
3. suspension and termination of membership in the compact.

SUSPENSION AND TERMINATION

The bill requires the commission to exhaust all other reasonable means of securing compliance under the bylaws and rules before suspending a state. The commission must immediately notify the governor, chief justice or chief judicial officer, majority and minority leaders of the legislature, and the state council. Grounds for default include failure to perform obligations and responsibilities imposed by the compact, bylaws, or rules. The commission must notify the state of the penalty in writing pending a cure, stipulate conditions, and provide a period of time for the state to cure the default. If the default is not cured, a vote

of a majority of the compact states can terminate the state from the compact in addition to the other penalties. In that case, all rights, privileges, and benefits of the compact are terminated on the effective date of suspension.

The bill requires the commission to notify the governor, chief justice or chief judicial officers, majority and minority leaders of the legislature, and the state council within 60 days of the effective date of termination. A defaulting state is responsible for all assessments, obligations, and liabilities incurred before the effective date of termination, including any obligation that continues to be performed beyond the effective date. The commission does not bear any costs relating to the defaulting state unless the commission and state mutually agree otherwise.

The bill allows a state's reinstatement after termination if the state reenacts the compact and the commission, according to its rules, approves it.

JUDICIAL ENFORCEMENT

The bill allows the commission, by a majority vote, to initiate legal action to enforce compliance with the compact, rules, and bylaws in the U.S. District Court for the District of Columbia or the federal district where it has its offices. The prevailing party must be awarded all costs of litigation, including reasonable attorneys' fees.

The bill requires courts and executive agencies in compact states to enforce the compact and take all necessary and appropriate actions to effectuate the compact's purpose and intent. The commission must be entitled to receive service of process and have standing to intervene for all purposes in any judicial or administrative proceeding pertaining to the subject matter of the compact that might affect the commission's powers, responsibilities, or actions.

DISPUTES

The bill requires compact states to report to the commission on issues or activities that concern them and to cooperate and support the commission's duties and responsibilities. The commission must

attempt to resolve any disputes subject to the compact that arise among compact and non-compact states. The commission must enact a bylaw or rule providing for mediation and binding dispute resolution of disputes among compact states.

WITHDRAWAL

Under the bill, the compact is binding on all compact states once it is effective. The bill allows states to withdraw by enacting a statute specifically repealing the statute that enacted the compact. Withdrawal is effective on the date of repeal. The withdrawing state must immediately notify the commission chairperson in writing when legislation repealing the compact is introduced. The commission must then notify other compact states of the withdrawing state's intention to withdraw within 60 days. A withdrawing state is responsible for all assessments, obligations, and liabilities incurred before the effective date of withdrawal, including any obligation that continues to be performed beyond the effective date. A state is reinstated when it reenacts the compact or on a later date determined by the commission.

DISSOLUTION OF THE COMPACT

Under the bill, the compact is dissolved when, due to withdrawal or default, only one state remains a member of the compact. On dissolution, the compact has no further effect and the commission must wind up its business and distribute any surplus funds according to the bylaws.

QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION

The bill protects commission members, officers, employees, and the executive director from suit and personal or official liability for acts or omissions within the scope of commission employment, duties, or responsibilities. This applies to claims of damage or loss of property, personal injury, or other civil liability. But it does not apply when the person's misconduct is intentional or willful and wanton.

The bill also requires the commission to defend a compact state's commissioner, his representative or employees, and the commission's representatives or employees for acts or omissions that are or that the

defendant reasonably believed were within the scope of commission employment, duty, or responsibility. This applies to any civil action for liability. But it does not apply to intentional wrongdoing.

The bill also requires the commission to indemnify and hold harmless a compact state's commissioner, his appointed designee or employees, or commission representatives or employees for any settlement or judgment based on acts or omissions that are, or that the defendant reasonably believed were, within the scope of commission employment, duties, or responsibilities. But it does not apply to cases of gross negligence or intentional wrongdoing.

BINDING EFFECT OF COMPACT AND OTHER LAWS

The bill supercedes state law to the extent it conflicts with the compact, but it does not prevent enforcement of other laws that are consistent with the compact.

The bill makes all lawful actions of the Interstate Commission binding on the compact states. This includes rules and bylaws. All agreements between the commission and compact states are binding.

SEVERABILITY AND CONSTRUCTION

Under the bill, the compact's provisions are severable and if any provision is ruled unenforceable, the other provisions remain enforceable. The compact must be liberally construed to give effect to its purposes.

CONFLICTS

If there is a conflict over the meaning or interpretation of a commission action, the bill allows a party to the conflict to request an advisory opinion. The commission can issue an advisory opinion on the vote of a majority of the compact states.

If any compact provision exceeds a legislature's constitutional limits, the bill makes that provision's obligations, duties, powers, or jurisdiction ineffective. The obligation, duty, power, or jurisdiction remains in the state and belongs to the agency to which it is legally

delegated at the time the compact is effective.

BACKGROUND

Current Compact

The current compact, the “Uniform Act for Out-of-State Parolee Supervision,” is in force in all 50 states, Puerto Rico, the Virgin Islands, and the District of Columbia.

Federal Administrative Procedure Act (APA)

The APA governs practice and proceedings before federal administrative agencies. It includes provisions on conducting hearings and adopting rules. Rulemaking generally requires public notice, an opportunity for interested people to submit written information or make oral presentations, and publication of the rule before its effective date.

Agency actions under the APA’s rulemaking provisions are subject to court review under the “substantial evidence” standard. Under this standard, the record is the basis for the decision and the court considers whether substantial evidence supports the agency’s decision.

Federal Advisory Committee Act

The federal Advisory Committee Act provides rules for creating, terminating, and operating advisory committees. It includes procedures for meetings, notices, and adopting regulations and rules.

Federal Government in Sunshine Act

The federal Government in Sunshine Act generally requires that government agency meetings be open to the public with reasonable access to the records of proceedings.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Report
Yea 37 Nay 0