

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

A Bill

Act 253 of 2001
SENATE BILL 252

5 By: Senator Everett
6
7

For An Act To Be Entitled

9 THE INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION
10 ACT.
11

Subtitle

12 THE INTERSTATE COMPACT FOR ADULT
13 OFFENDERS.
14
15

16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

ARTICLE I

PURPOSE

19
20
21 The compacting states to this Interstate Compact recognize that each
22 state is responsible for the supervision of adult offenders in the community
23 who are authorized pursuant to the bylaws and rules of this compact to travel
24 across state lines both to and from each compacting state in such a manner as
25 to track the location of offenders, transfer supervision authority in an
26 orderly and efficient manner, and when necessary return offenders to the
27 originating jurisdictions. The compacting states also recognize that Congress,
28 by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized
29 and encouraged compacts for cooperative efforts and mutual assistance in the
30 prevention of crime. It is the purpose of this compact and the Interstate
31 Commission created hereunder, through means of joint and cooperative action
32 among the compacting states to provide the framework for the promotion of
33 public safety and protect the rights of victims through the control and
34 regulation of the interstate movement of offenders in the community; to
35 provide for the effective tracking, supervision, and rehabilitation of these
36 offenders by the sending and receiving states; and to equitably distribute the

1 costs, benefits and obligations of the compact among the compacting states. In
 2 addition, this compact will create an Interstate Commission which will
 3 establish uniform procedures to manage the movement between states of adults
 4 placed under community supervision and released to the community under the
 5 jurisdiction of courts, paroling authorities, corrections or other criminal
 6 justice agencies which will promulgate rules to achieve the purpose of this
 7 compact; ensure an opportunity for input and timely notice to victims and to
 8 jurisdictions where defined offenders are authorized to travel or to relocate
 9 across state lines; establish a system of uniform data collection, access to
 10 information on active cases by authorized criminal justice officials, and
 11 regular reporting of compact activities to heads of state councils, state
 12 executive, judicial, and legislative branches and criminal justice
 13 administrators; monitor compliance with rules governing interstate movement of
 14 offenders and initiate interventions to address and correct non-compliance;
 15 and coordinate training and education regarding regulations of interstate
 16 movement of offenders for officials involved in such activity.

17 The compacting states recognize that there is no "right" of any offender
 18 to live in another state and that duly accredited officers of a sending state
 19 may at all times enter a receiving state and there apprehend and retake any
 20 offender under supervision subject to the provisions of this compact and
 21 bylaws and rules promulgated hereunder. It is the policy of the compacting
 22 states that the activities conducted by the Interstate Commission created
 23 herein are the formation of public policies and are therefore public business.

24
 25 ARTICLE II
 26 DEFINITIONS

27 As used in this compact, unless the context clearly requires a different
 28 construction:

29 (1) "Adult" means both individuals legally classified as adults and
 30 juveniles treated as adults by court order, statute, or operation of law;

31 (2) "By laws" mean those by-laws established by the Interstate
 32 Commission for its governance, or for directing or controlling the Interstate
 33 Commission's actions or conduct;

34 (3) "Compact Administrator" means the individual in each compacting
 35 state appointed pursuant to the terms of this compact responsible for the
 36 administration and management of the state's supervision and transfer of

1 offenders subject to the terms of this compact, the rules adopted by the
 2 Interstate Commission and policies adopted by the state council under this
 3 compact;

4 (4) "Compacting state" means any state which has enacted the enabling
 5 legislation for this compact;

6 (5) "Commissioner" means the voting representative of each compacting
 7 state appointed pursuant to Article III of this compact;

8 (6) "Interstate Commission" means the Interstate Commission for Adult
 9 offender Supervision established by this compact;

10 (7) "Member" means the commissioner of a compacting state or designee,
 11 who shall be a person officially connected with the commissioner;

12 (8) "Non compacting state" means any state which has not enacted the
 13 enabling legislation for this compact;

14 (9) "Offender" means an adult placed under or subject to supervision as
 15 the result of the commission of a criminal offense and' released to the
 16 community under the jurisdiction of courts, paroling authorities, corrections,
 17 or other criminal justice agencies;

18 (10) "Person" means any individual, corporation, business enterprise,
 19 or other legal entity, either public or private;

20 (11) "Rules" means acts of the Interstate Commission, duly promulgated
 21 pursuant to Article VIII of this compact, substantially affecting interested
 22 parties in addition to the Interstate Commission, which shall have the force
 23 and effect of law in the compacting states;

24 (12) "State" means a state of the United States, the District of
 25 Columbia and any other territorial possessions of the United States; and

26 (13) "State council" means the resident members of the State Council
 27 for Interstate Adult Offender Supervision created by each state under Article
 28 III of this compact.

30 ARTICLE III

31 THE COMPACT COMMISSION

32 (a)(1) The compacting states hereby create the "Interstate Commission
 33 for Adult Offender Supervision."

34 (2) The Interstate Commission shall be a body corporate and joint
 35 agency of the compacting states.

36 (3) The Interstate Commission shall have all the

1 responsibilities, powers and duties set forth herein, including the power to
 2 sue and be sued, and such additional powers as may be conferred upon it by
 3 subsequent action of the respective legislatures of the compacting states in
 4 accordance with the terms of this compact.

5 (b) The Interstate Commission shall consist of commissioners selected
 6 and appointed by resident members of a state council for interstate adult
 7 offender supervision for each state.

8 (c)(1) In addition to the Commissioners who are the voting
 9 representatives of each state, the Interstate Commission shall include
 10 individuals who are not commissioners but who are members of interested
 11 organizations. Such non-commissioner members must include a member of the
 12 national organizations of governors, legislators, state chief justices,
 13 attorneys general and crime victims.

14 (2) All non-commissioner members of the Interstate Commission
 15 shall be ex-officio (nonvoting) members. The Interstate Commission may provide
 16 in its by-laws for such additional, ex-officio, non-voting members as it deems
 17 necessary.

18 (d)(1) Each compacting state represented at any meeting of the
 19 Interstate Commission is entitled to one vote.

20 (2) A majority of the compacting states shall constitute a quorum
 21 for the transaction of business, unless a larger quorum is required by the by-
 22 laws of the Interstate Commission.

23 (3) The Interstate Commission shall meet at least once each
 24 calendar year. The chairperson may call additional meetings and, upon the
 25 request of 27 or more compacting states, shall call additional meetings.

26 (4) Public notice shall be given of all meetings and meetings
 27 shall be open to the public.

28 (e)(1) The Interstate Commission shall establish an executive committee
 29 which shall include commission officers, members and others as shall be
 30 determined by the by-laws.

31 (2) The executive committee shall have the power to act on behalf
 32 of the Interstate Commission during periods when the Interstate Commission is
 33 not in session, with the exception of rulemaking and/or amendment to the
 34 compact.

35 (3) The executive committee oversees the day-to-day activities
 36 managed by the Executive Director and Interstate Commission staff administrators

1 enforcement and compliance with the provisions of the compact, its by-laws and
2 as directed by the Interstate Commission and performs other duties as directed
3 by the commission or set forth in the by-laws.

4
5 ARTICLE IV
6 THE STATE COUNCIL

7 (a) An Arkansas state council for the interstate adult offender
8 supervision is created, which shall consist of the following members:

9 (1) One non-elected representative of the legislative branch of
10 government appointed by the General Assembly pursuant to a process determined
11 by the Joint Rules Committee;

12 (2) One representative of the judicial branch of government, who
13 is not an acting judge, appointed by the Governor;

14 (3) The members of the Board of Correction and Community
15 Punishment, who will act as representatives of the executive branch of
16 government, appointed by the Governor;

17 (4) One representative from a victims group appointed by the
18 Governor; and

19 (5) The Director of the Department of Community Punishment who,
20 in addition to serving as a member of the council, shall be appointed by the
21 Governor as the compact administrator for the state.

22 (b) The state council shall appoint the compact administrator as the
23 Arkansas commissioner to the Interstate Commission, who shall serve on the
24 Interstate Commission in such capacity under or pursuant to the applicable law
25 of this state.

26 (c) The state council shall exercise oversight and advocacy concerning
27 its participation in interstate commission activities and other duties as may
28 be determined by the state council, including development of policy concerning
29 operations and procedures of the compact within this state.

30
31 ARTICLE V
32 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

33 The Interstate Commission shall have the following powers:

34 (1) To adopt a seal and suitable by-laws governing the management and
35 operation of the Interstate Commission.

36 (2) To promulgate rules which shall have the force and effect of

1 statutory law and shall be binding in the compacting states to the extent and
 2 in the manner provided in this compact.

3 (3) To oversee, supervise and coordinate the interstate movement of
 4 offenders subject to the terms of this compact and any by-laws adopted and
 5 rules promulgated by the compact commission.

6 (4) To enforce compliance with compact provisions, Interstate
 7 Commission rules and by-laws, using all necessary and proper means, including
 8 but not limited to, the use of judicial process.

9 (5) To establish and maintain offices.

10 (6) To purchase and maintain insurance and bonds.

11 (7) To borrow, accept, or contract for services of personnel,
 12 including, but not limited to, members and their staffs.

13 (8) To establish and appoint committees and hire staff which it deems
 14 necessary for the carrying out of its functions including, but not limited to,
 15 an executive committee as required by Article III which shall have the power
 16 to act on behalf of the Interstate Commission in carrying out its powers and
 17 duties hereunder.

18 (9) To elect or appoint such officers, attorneys, employees, agents, or
 19 consultants, and to fix their compensation, define their duties and determine
 20 their qualifications; and to establish the Interstate Commission's personnel
 21 policies and programs relating to, among other things, conflicts of interest,
 22 rates of compensation, and qualifications of personnel.

23 (10) To accept any and all donations and grants of money, equipment,
 24 supplies, materials, and services, and to receive, utilize, and dispose of
 25 same.

26 (11) To lease, purchase, accept contributions or donations of, or
 27 otherwise to own, hold, improve or use any property, real, personal, or mixed.

28 (12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or
 29 otherwise dispose of any property, real, personal or mixed.

30 (13) To establish a budget and make expenditures and levy dues as
 31 provided in Article X of this compact.

32 (14) To sue and be sued.

33 (15) To provide for dispute resolution among compacting states.

34 (16) To perform such functions as may be necessary or appropriate to
 35 achieve the purposes of this compact.

36 (17) To report annually to the legislatures, governors, judiciary, and

1 state councils of the compacting states concerning the activities of the
2 Interstate Commission during the preceding year. Such reports shall also
3 include any recommendations that may have been adopted by the Interstate
4 Commission.

5 (18) To coordinate education, training and public awareness regarding
6 the interstate movement of offenders for officials involved in such activity.

7 (19) To establish uniform standards for the reporting, collecting, and
8 exchanging of data.

9
10 ARTICLE VI

11 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

12
13 SECTION 1. By-laws.

14 (a) The Interstate Commission shall, by a majority of the members,
15 within twelve months of the first Interstate Commission meeting, adopt by-laws
16 to govern its conduct as may be necessary or appropriate to carry out the
17 purposes of the compact, including, but not limited to:

18 (1) Establishing the fiscal year of the Interstate Commission;

19 (2) Establishing an executive committee and such other committees
20 as may be necessary, providing reasonable standards and procedures:

21 (A) For the establishment of committees; and

22 (B) Governing any general or specific delegation of any
23 authority or function of the Interstate Commission;

24 (C) Providing reasonable procedures for calling and
25 conducting meetings of the Interstate Commission, and ensuring reasonable
26 notice of each such meeting; establishing the titles and responsibilities of
27 the officers of the Interstate Commission; providing reasonable standards and
28 procedures for the establishment of the personnel policies and programs of the
29 Interstate Commission. Notwithstanding any civil service or other similar laws
30 of any compacting state, the By-laws shall exclusively govern the personnel
31 policies and programs of the Interstate Commission; and

32 (D) Providing a mechanism for winding up the operations of
33 the Interstate Commission and the equitable return of any surplus funds that
34 may exist upon the termination of the compact after the payment and/or
35 reserving of all of its debts and obligations; providing transition rules for
36 "start up" administration of the compact; establishing standards and

1 procedures for compliance and technical assistance in carrying out the
 2 compact.

3
 4 SECTION 2. Officers and Staff.

5 (a)(1) The Interstate Commission shall, by a majority of the members,
 6 elect from among its Members a chairperson and a vice chairperson, each of
 7 whom shall have such authorities and duties as may be specified in the by-
 8 laws.

9 (2) The chairperson or, in his or her absence or disability, the
 10 vice chairperson, shall preside at all meetings of the Interstate Commission.

11 (3) The officers so elected shall serve without compensation or
 12 remuneration from the Interstate Commission; provided that, subject to the
 13 availability of budgeted funds, the officers shall be reimbursed for any
 14 actual and necessary costs and expenses incurred by them in the performance of
 15 their duties and responsibilities as officers of the Interstate Commission.

16 (b)(1) The Interstate Commission shall, through its executive
 17 committee, appoint or retain an executive director for such period, upon such
 18 terms and conditions and for such compensation as the Interstate Commission
 19 may deem appropriate.

20 (2) The executive director shall serve as secretary to the
 21 Interstate Commission, and hire and supervise such other staff as may be
 22 authorized by the Interstate Commission, but shall not be a member.

23
 24 SECTION 3. Corporate Records of the Interstate Commission.

25 The Interstate Commission shall maintain its corporate books and records
 26 in accordance with the by-laws.

27
 28 SECTION 4. Qualified Immunity, Defense and Indemnification.

29 (a)(1) The members, officers, executive director and employees of the
 30 Interstate Commission shall be immune from suit and liability, either
 31 personally or in their official capacity, for any claim for damage to or loss
 32 of property or personal injury or other civil liability caused or arising out
 33 of any actual or alleged act, error or omission that occurred within the scope
 34 of Interstate Commission employment, duties or responsibilities; provided,
 35 that nothing in this paragraph shall be construed to protect any such person
 36 from suit and/or liability for any damage, loss, injury or liability caused by

1 the intentional or willful and wanton misconduct of any such person.

2 (2) The Interstate Commission shall defend the commissioner of a
3 compacting state, or his or her representatives or employees, or the
4 Interstate Commission's representatives or employees, in any civil action
5 seeking to impose liability, arising out of any actual or alleged act, error
6 or omission that occurred within the scope of Interstate Commission
7 employment, duties or responsibilities, or that the defendant had a reasonable
8 basis for believing occurred within the scope of Interstate Commission
9 employment, duties or responsibilities; provided, that the actual or alleged
10 act, error or omission did not result from intentional wrongdoing on the part
11 of such person.

12 (b) The Interstate Commission shall indemnify and hold the commissioner
13 of a compacting state, the appointed designee or employees, or the Interstate
14 Commission's representatives or employees, harmless in the amount of any
15 settlement or judgement obtained against such persons arising out of any
16 actual or alleged act, error or omission that occurred within the scope of
17 Interstate Commission employment, duties or responsibilities, or that such
18 persons had a reasonable basis for believing occurred within the scope of
19 Interstate Commission employment, duties or responsibilities; provided, that
20 the actual or alleged act, error or omission did not result from gross
21 negligence or intentional wrongdoing on the part of such person.

22
23 ARTICLE VII

24 ACTIVITIES OF THE INTERSTATE COMMISSION

25
26 (a) The Interstate Commission shall meet and take such actions as are
27 consistent with the provisions of this compact.

28 (b) Except as otherwise provided in this compact and unless a greater
29 percentage is required by the by-laws, in order to constitute an act of the
30 Interstate Commission, such act shall have been taken at a meeting of the
31 Interstate Commission and shall have received an affirmative vote of a
32 majority of the members present.

33 (c)(1) Each member of the Interstate Commission shall have the right
34 and power to cast a vote to which that compacting state is entitled and to
35 participate in the business and affairs of the Interstate Commission.

36 (2)(A) A member shall vote in person on behalf of the state and

1 shall not delegate a vote to another member state.

2 (B) However, a state council shall appoint another
3 authorized representative, in the absence of the commissioner from that state,
4 to cast a vote on behalf of the member state at a specified meeting.

5 (3) The by-laws may provide for members' participation in
6 meetings by telephone or other means of telecommunication or electronic
7 communication. Any voting conducted by telephone, or other means of
8 telecommunication or electronic communication, shall be subject to the same
9 quorum requirements of meetings where members are present in person.

10 (d) The Interstate Commission shall meet at least once during each
11 calendar year. The chairperson of the Interstate Commission may call
12 additional meetings at any time and, upon the request of a majority of the
13 members, shall call additional meetings.

14 (e)(1) The Interstate Commission's by-laws shall establish conditions
15 and procedures under which the Interstate Commission shall make its
16 information and official records available to the public for inspection or
17 copying.

18 (2) The Interstate Commission may exempt from disclosure any
19 information or official records to the extent they would adversely affect
20 personal privacy rights or proprietary interests.

21 (3) In promulgating such rules, the Interstate Commission may
22 make available to law enforcement agencies records and information otherwise
23 exempt from disclosure, and may enter into agreements with law enforcement
24 agencies to receive or exchange information or records subject to
25 nondisclosure and confidentiality provisions.

26 (f)(1) Public notice shall be given of all meetings, and all meetings
27 shall be open to the public, except as set forth in the rules or as otherwise
28 provided in the compact.

29 (2) The Interstate Commission shall promulgate rules consistent
30 with the principles contained in the "Government in Sunshine Act," 5 U.S.C.
31 Section 552(b), as may be amended.

32 (3) The Interstate Commission and any of its committees may close
33 a meeting to the public where it determines by two-thirds vote that an open
34 meeting would be likely to:

35 (A) Relate solely to the Interstate Commission's internal
36 personnel practices and procedures;

1 (B) Disclose matters specifically exempted from disclosure
 2 by statute; disclose trade secrets or commercial or financial information
 3 which is privileged or confidential;

4 (C) Involve accusing any person of a crime, or formally
 5 censuring any person;

6 (D) Disclose information of a personal nature where
 7 disclosure would constitute a clearly unwarranted invasion of personal
 8 privacy;

9 (E) Disclose investigatory records compiled for law
 10 enforcement purposes;

11 (F) Disclose information contained in or related to
 12 examination, operating or condition reports prepared by, on behalf of, or for
 13 the use of, the Interstate Commission with respect to a regulated entity for
 14 the purpose of regulation or supervision of such entity;

15 (G) Disclose information, the premature disclosure of which
 16 would significantly endanger the life of a person or the stability of a
 17 regulated entity;

18 (H) Specifically relate to the Interstate Commission's
 19 issuance of a subpoena, or its participation in a civil action or proceeding.

20 (g)(1) For every meeting closed pursuant to this provision, the
 21 Interstate Commission's chief legal officer shall publicly certify that, in
 22 his or her opinion, the meeting may be closed to the public, and shall
 23 reference each relevant exemptive provision.

24 (2) The Interstate Commission shall keep minutes which shall
 25 fully and clearly describe all matters discussed in any meeting and shall
 26 provide a full and accurate summary of any actions taken, and the reasons
 27 therefor, including a description of each of the views expressed on any item,
 28 and the record of any rollcall vote, reflected in the vote of each Member on
 29 the question.

30 (3) All documents considered in connection with any action shall
 31 be identified in such minutes.

32 (h) The Interstate Commission shall collect standardized data
 33 concerning the interstate movement of offenders as directed through its by-
 34 laws and rules which shall specify the data to be collected, the means of
 35 collection and data exchange and reporting requirements.

36

ARTICLE VIII

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

(b)(1) Rulemaking shall occur pursuant to the criteria set forth in this article and the by-laws and rules adopted pursuant thereto.

(2) Such rulemaking shall substantially conform to the principles of the federal Administrative Procedure Act, 5 U.S.G.S. section 551 et seq., and the Federal Advisory Committee Act, 5 U.S.C.S. app. 2, section 1 et seq., as may be amended, hereinafter "APA".

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

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

(d) When promulgating a rule, the Interstate Commission shall:

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

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

(C) Provide an opportunity for an informal hearing; and

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

(e) Not later than sixty days after a Rule is promulgated, any interested person may file a petition in the United States District Court for the District of Columbia, or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence, as defined in the APA, in the rulemaking record, the court shall hold the rule unlawful and set it aside.

(f) Subjects to be addressed within twelve (12) months after the first meeting must at a minimum include:

- 1 (1) Notice to victims and opportunity to be heard;
- 2 (2) Offender registration and compliance;
- 3 (3) Violations or returns;
- 4 (4) Transfer procedures and forms;
- 5 (5) Eligibility for transfer;
- 6 (6) Collection of restitution and fees from offenders;
- 7 (7) Data collection and reporting;
- 8 (8) The level of supervision to be provided by the receiving

9 state;

10 (9) Transition rules governing the operation of the compact and
11 the Interstate Commission during all or part of the period between the
12 effective date of the compact and the date on which the last eligible state
13 adopts the compact; and

14 (10) Mediation, arbitration and dispute resolution.

15 (g) The existing rules governing the operation of the previous compact
16 superceded by this act shall be null and void twelve (12) months after the
17 first meeting of the Interstate Commission created hereunder.

18 (h) Upon determination by the Interstate Commission that an emergency
19 exists, it may promulgate an emergency rule which shall become effective
20 immediately upon adoption, provided that the usual rulemaking procedures
21 provided hereunder shall be retroactively applied to said rule as soon as
22 reasonably possible, in no event later than ninety (90) days after the
23 effective date of the rule.

24
25 ARTICLE IX

26 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

27
28 SECTION 1. Oversight.

29 (a) The Interstate Commission shall oversee the interstate movement of
30 adult offenders in the compacting states and shall monitor such activities
31 being administered in non-compacting states which may significantly affect
32 compacting states.

33 (b) The courts and executive agencies in each compacting state shall
34 enforce this compact and shall take all actions necessary and appropriate to
35 effectuate the compact's purposes and intent. In any judicial or
36 administrative proceeding in a compacting state pertaining to the subject

1 matter of this compact which may affect the powers, responsibilities or
2 actions of the Interstate Commission, the Interstate Commission shall be
3 entitled to receive all service of process in any such proceeding, and shall
4 have standing to intervene in the proceeding for all purposes.

5
6 SECTION 2. Dispute Resolution.

7 (a) The compacting states shall report to the Interstate Commission on
8 issues or activities of concern to them, and cooperate with and support the
9 Interstate Commission in the discharge of its duties and responsibilities.

10 (b) The Interstate Commission shall attempt to resolve any disputes or
11 other issues which are subject to the compact and which may arise among
12 compacting states and non-compacting states.

13 (c) The Interstate Commission shall enact a by-law or promulgate a rule
14 providing for both mediation and binding dispute resolution for disputes among
15 the compacting states.

16
17 SECTION 3. Enforcement.

18 The Interstate Commission in the reasonable exercise of its discretion,
19 shall enforce the provisions of this compact using any or all means set forth
20 in Article XII, Section B, of this compact.

21
22 ARTICLE X

23 FINANCE

24 (a) The Interstate Commission shall pay or provide for the payment of
25 the reasonable expenses of its establishment, organization and ongoing
26 activities.

27 (b)(1) The Interstate Commission shall levy on and collect an annual
28 assessment from each compacting state to cover the cost of the internal
29 operations and activities of the Interstate Commission and its staff which
30 must be in a total amount sufficient to cover the Interstate Commission's
31 annual budget as approved each year.

32 (2) The aggregate annual assessment amount shall be allocated
33 based upon a formula to be determined by the Interstate Commission, taking
34 into consideration the population of the state and the volume of interstate
35 movement of offenders in each compacting state and shall promulgate a Rule
36 binding upon all compacting states which governs said assessment.

1 (c) The Interstate Commission shall not incur any obligations of any
 2 kind prior to securing the funds adequate to meet the same; nor shall the
 3 Interstate Commission pledge the credit of any of the compacting states,
 4 except by and with the authority of the compacting state.

5 (d)(1) The Interstate Commission shall keep accurate accounts of all
 6 receipts and disbursements.

7 (2) The receipts and disbursements of the Interstate Commission
 8 shall be subject to the audit and accounting procedures established under its
 9 by-laws. However, all receipts and disbursements of funds handled by the
 10 Interstate Commission shall be audited yearly by a certified or licensed
 11 public accountant and the report of the audit shall be included in and become
 12 part of the annual report of the Interstate Commission.

13
 14 ARTICLE XI

15 COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

16
 17 (a)(1) Any state, as defined in Article II of this compact, is eligible
 18 to become a compacting state.

19 (2) The compact shall become effective and binding upon
 20 legislative enactment of the compact into law by no less than 35 of the
 21 states.

22 (3) The initial effective date shall be the later of July 1,
 23 2001, or upon enactment into law by the 35th jurisdiction. Thereafter it shall
 24 become effective and binding, as to any other compacting state, upon enactment
 25 of the compact into law by that state.

26 (4) The governors of Non-member states or their designees will be
 27 invited to participate in Interstate Commission activities on a non-voting
 28 basis prior to adoption of the compact by all states and territories of the
 29 United States.

30 (b)(1) Amendments to the compact may be proposed by the Interstate
 31 Commission for enactment by the compacting states.

32 (2) No amendment shall become effective and binding upon the
 33 Interstate Commission and the compacting states unless and until it is enacted
 34 into law by unanimous consent of the compacting states.

35
 36 ARTICLE XII

1 WITHDRAWAL, DEFAULT, TERMINATION, AND JUDICIAL ENFORCEMENT

2
3 SECTION 1. Withdrawal.

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

8 (b) The effective date of withdrawal is the effective date of the
9 repeal.

10 (c)(1) The withdrawing state shall immediately notify the chairperson
11 of the Interstate Commission in writing upon the introduction of legislation
12 repealing this compact in the withdrawing state.

13 (2) The Interstate Commission shall notify the other compacting
14 states of the withdrawing state's intent to withdraw within sixty days of its
15 receipt thereof.

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

20 (e) Reinstatement following withdrawal of any compacting state shall
21 occur upon the withdrawing state reenacting the compact or upon such later
22 date as determined by the Interstate Commission.

23
24 SECTION 2. Default.

25 (a) If the Interstate Commission determines that any compacting state
26 has at any time defaulted "Defaulting State" in the performance of any of its
27 obligations or responsibilities under this compact, the by-laws or any duly
28 promulgated rules, the Interstate Commission may impose any or all of the
29 following penalties:

30 (1) Fines, fees and costs in such amounts as are deemed to be
31 reasonable as fixed by the Interstate Commission;

32 (2) Remedial training and technical assistance as directed by the
33 Interstate Commission; and

34 (3) Suspension and termination of membership in the compact.

35 (A) Suspension shall be imposed only after all other
36 reasonable means of securing compliance under the by-laws and rules have been

1 exhausted.

2 (B) Immediate notice of suspension shall be given by the
 3 Interstate Commission to the Governor, the Chief Justice or Chief Judicial
 4 Officer of the state, the majority and minority leaders of the defaulting
 5 state's legislature, and the state council.

6 (b)(1) The grounds for default include, but are not limited to, failure
 7 of a compacting state to perform such obligations or responsibilities imposed
 8 upon it by this compact, Interstate Commission by-laws, or duly promulgated
 9 rules.

10 (2) The Interstate Commission shall immediately notify the
 11 defaulting state in writing of the penalty imposed by the Interstate
 12 Commission on the defaulting state pending a cure of the default.

13 (3) The Interstate Commission shall stipulate the conditions and
 14 the time period within which the defaulting state must cure its default. If
 15 the Defaulting State fails to cure the default within the time period
 16 specified by the Interstate Commission, in addition to any other penalties
 17 imposed herein, the defaulting state may be terminated from the compact upon
 18 an affirmative vote of a majority of the compacting states and all rights,
 19 privileges and benefits conferred by this compact shall be terminated from the
 20 effective date of suspension.

21 (4) Within sixty days of the effective date of termination of a
 22 defaulting state, the Interstate Commission shall notify the Governor, the
 23 Chief Justice or Chief Judicial Officer, and the Majority and Minority Leaders
 24 of the defaulting state's legislature and the state council of such
 25 termination.

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

30 (d)(1) The Interstate Commission shall not bear any costs relating to
 31 the defaulting state unless otherwise mutually agreed upon between the
 32 Interstate Commission and the defaulting state.

33 (2) Reinstatement following termination of any compacting state
 34 requires both a reenactment of the compact by the defaulting state and the
 35 approval of the Interstate Commission pursuant to the rules.

36

1 SECTION 3. Judicial Enforcement.

2 (a)(1) The Interstate Commission may, by majority vote of the members,
3 initiate legal action in the United States District Court for the District of
4 Columbia or, at the discretion of the Interstate Commission, in the Federal
5 District where the Interstate Commission has its offices, to enforce
6 compliance with the provisions of the compact, its duly promulgated rules and
7 by-laws, against any compacting state in default.

8 (2) In the event judicial enforcement is necessary the prevailing
9 party shall be awarded all costs of such litigation, including reasonable
10 attorneys fees.

11
12 SECTION 4. Dissolution of Compact.

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

16 (b) Upon the dissolution of this compact, the compact becomes null and
17 void and shall be of no further force or effect, and the business and affairs
18 of the Interstate Commission shall be wound up and any surplus funds shall be
19 distributed in accordance with the by-laws.

20
21 ARTICLE XIII

22 SEVERABILITY AND CONSTRUCTION

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

26 (b) The provisions of this compact shall be liberally constructed to
27 effectuate its purposes.

28
29 ARTICLE XIV

30 BINDING EFFECT OF COMPACT AND OTHER LAWS

31
32 SECTION 1. Other Laws.

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

35 (b) All compacting states' laws conflicting with this Compact are
36 superseded to the extent of the conflict.

1 (c) Arkansas Code 16-93-901 through 903 is repealed.

2
3 SECTION 2. Binding Effect of the Compact.

4 (a) All lawful actions of the Interstate Commission, including all
5 rules and by-laws promulgated by the Interstate Commission, are binding upon
6 the compacting states.

7 (b) All agreements between the Interstate Commission and the compacting
8 states are binding in accordance with their terms.

9 (c) Upon the request of a party to a conflict over meaning or
10 interpretation of Interstate Commission actions, and upon a majority vote of
11 the compacting states, the Interstate Commission may issue advisory opinions
12 regarding such meaning or interpretation.

13 (d) In the event any provision of this compact exceeds the
14 constitutional limits imposed on the legislature of any compacting state, the
15 obligations, duties, powers or jurisdiction sought to be conferred by such
16 provision upon the Interstate Commission shall be ineffective and such
17 obligations, duties, powers or jurisdiction shall remain in the compacting
18 state and shall be exercised by the agency thereof to which such obligations,
19 duties, powers or jurisdiction are delegated by law in effect at the time this
20 compact becomes effective.

21
22
23 APPROVED: 2/15/2001
24
25
26
27
28
29
30
31
32
33
34
35
36