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HSB 81

JUDICIARY

Succeeded By
SF/H

SENATE/HOUSE FILE _____

BY (PROPOSED DEPARTMENT OF
CORRECTIONS BILL)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act establishing the interstate compact for adult criminal
2 offender supervision and providing a contingent effective
3 date.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 422.7, subsection 12, paragraph c, Code
2 2001, is amended to read as follows:

3 c. An individual, whether or not domiciled in this state
4 at the time of the hiring, who is on parole or probation and
5 to whom the interstate ~~probation-and-parole~~ compact for adult
6 offenders under ~~section-907A-1~~ chapter 907B applies.

7 Sec. 2. Section 422.7, subsection 12A, paragraph b, Code
8 2001, is amended to read as follows:

9 b. An individual, whether or not domiciled in this state
10 at the time of the hiring, who is on parole or probation and
11 to whom the interstate ~~probation-and-parole~~ compact for adult
12 offenders under ~~section-907A-1~~ chapter 907B applies.

13 Sec. 3. Section 422.35, subsection 6, paragraph c, Code
14 2001, is amended to read as follows:

15 c. An individual, whether or not domiciled in this state
16 at the time of the hiring, who is on parole or probation and
17 to whom the interstate ~~probation-and-parole~~ compact for adult
18 offenders under ~~section-907A-1~~ chapter 907B applies.

19 Sec. 4. Section 422.35, subsection 6A, paragraph b, Code
20 2001, is amended to read as follows:

21 b. An individual, whether or not domiciled in this state
22 at the time of the hiring, who is on parole or probation and
23 to whom the interstate ~~probation-and-parole~~ compact for adult
24 offenders under ~~section-907A-1~~ chapter 907B applies.

25 Sec. 5. NEW SECTION. 907B.1 CITATION.

26 This chapter may be cited as the "Interstate Compact for
27 Adult Offender Supervision".

28 Sec. 6. NEW SECTION. 907B.2 INTERSTATE COMPACT FOR ADULT
29 OFFENDER SUPERVISION.

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

34 ARTICLE I
35 DEFINITIONS

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

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

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

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

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

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

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

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

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

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

35 10. PERSON. "Person" means any individual, corporation,

1 business enterprise, or other legal entity, either public or
2 private.

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

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

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

15 ARTICLE II

16 THE COMPACT COMMISSION

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

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

30 3. In addition to the commissioners who are the voting
31 representatives of each state, the interstate commission shall
32 include individuals who are not commissioners but who are
33 members of interested organizations; such noncommissioner
34 members must include a member of the national organizations of
35 governors, legislators, state chief justices, attorneys

1 general, and crime victims. All noncommissioner members of
2 the interstate commission shall be ex officio members. The
3 interstate commission may provide in its bylaws for such
4 additional, ex officio, nonvoting members as it deems
5 necessary.

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

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

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

30 ARTICLE III

31 THE STATE COUNCIL

32 Each member state shall create a state council for
33 interstate adult offender supervision which shall be
34 responsible for the appointment of the commissioner who shall
35 serve on the interstate commission from that state. Each

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

19 ARTICLE IV

20 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

21 The interstate commission shall have the following powers:

- 22 1. To adopt a seal and suitable bylaws governing the
23 management and operation of the interstate commission.
- 24 2. To promulgate rules which shall have the force and
25 effect of statutory law and shall be binding in the compacting
26 states to the extent and in the manner provided in this
27 compact.
- 28 3. To oversee, supervise and coordinate the interstate
29 movement of offenders subject to the terms of this compact and
30 any bylaws adopted and rules promulgated by the interstate
31 commission.
- 32 4. To enforce compliance with compact provisions,
33 interstate commission rules, and bylaws, using all necessary
34 and proper means, including but not limited to, the use of
35 judicial process.

- 1 5. To establish and maintain offices.
- 2 6. To purchase and maintain insurance and bonds.
- 3 7. To borrow, accept, or contract for services of
- 4 personnel, including, but not limited to, members and their
- 5 staffs.
- 6 8. To establish and appoint committees and hire staff
- 7 which it deems necessary for the carrying out of its functions
- 8 including, but not limited to, an executive committee as
- 9 required by article II which shall have the power to act on
- 10 behalf of the interstate commission in carrying out its powers
- 11 and duties hereunder.
- 12 9. To elect or appoint such officers, attorneys,
- 13 employees, agents, or consultants, and to fix their
- 14 compensation, define their duties and determine their
- 15 qualifications; and to establish the interstate commission's
- 16 personnel policies and programs relating to, among other
- 17 things, conflicts of interest, rates of compensation, and
- 18 qualifications of personnel.
- 19 10. To accept any and all donations and grants of money,
- 20 equipment, supplies, materials, and services, and to receive,
- 21 utilize, and dispose of same.
- 22 11. To lease, purchase, accept contributions or donations
- 23 of, or otherwise to own, hold, improve or use any property,
- 24 real, personal, or mixed.
- 25 12. To sell, convey, mortgage, pledge, lease, exchange,
- 26 abandon, or otherwise dispose of any property, real, personal
- 27 or mixed.
- 28 13. To establish a budget and make expenditures and levy
- 29 dues as provided in article IX of this compact.
- 30 14. To sue and be sued.
- 31 15. To provide for dispute resolution among compacting
- 32 states.
- 33 16. To perform such functions as may be necessary or
- 34 appropriate to achieve the purposes of this compact.
- 35 17. To report annually to the legislatures, governors,

1 judiciary, and state councils of the compacting states
2 concerning the activities of the interstate commission during
3 the preceding year. Such reports shall also include any
4 recommendations that may have been adopted by the interstate
5 commission.

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

9 19. To establish uniform standards for the reporting,
10 collecting, and exchanging of data.

11 ARTICLE V

12 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

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

18 a. Establishing the fiscal year of the interstate
19 commission.

20 b. Establishing an executive committee and such other
21 committees as may be necessary.

22 c. Providing reasonable standards and procedures:

23 (1) For the establishment of committees.

24 (2) Governing any general or specific delegation of any
25 authority or function of the interstate commission;

26 d. Providing reasonable procedures for calling and
27 conducting meetings of the interstate commission, and ensuring
28 reasonable notice of each such meeting.

29 e. Establishing the titles and responsibilities of the
30 officers of the interstate commission.

31 f. Providing reasonable standards and procedures for the
32 establishment of the personnel policies and programs of the
33 interstate commission. Notwithstanding any civil service or
34 other similar laws of any compacting state, the bylaws shall
35 exclusively govern the personnel policies and programs of the

1 interstate commission.

2 g. Providing a mechanism for winding up the operations of
3 the interstate commission and the equitable return of any
4 surplus funds that may exist upon the termination of the
5 compact after the payment or reserving of all of its debts and
6 obligations.

7 h. Providing transition rules for startup administration
8 of the compact.

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

11 2. OFFICERS AND STAFF.

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

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

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

1 4. QUALIFIED IMMUNITY, DEFENSE AND INDEMNIFICATION.

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

14 b. The interstate commission shall defend the commissioner
15 of a compacting state, or the commissioner's representatives
16 or employees, or the interstate commission's representatives
17 or employees, in any civil action seeking to impose liability,
18 arising out of any actual or alleged act, error or omission
19 that occurred within the scope of interstate commission
20 employment, duties or responsibilities, or that the defendant
21 had a reasonable basis for believing occurred within the scope
22 of interstate commission employment, duties or
23 responsibilities; provided, that the actual or alleged act,
24 error or omission did not result from intentional wrongdoing
25 on the part of such person.

26 c. The interstate commission shall indemnify and hold the
27 commissioner of a compacting state, the appointed designee or
28 employees, or the interstate commission's representatives or
29 employees, harmless in the amount of any settlement or
30 judgment obtained against such persons arising out of any
31 actual or alleged act, error or omission that occurred within
32 the scope of interstate commission employment, duties or
33 responsibilities, or that such persons had a reasonable basis
34 for believing occurred within the scope of interstate
35 commission employment, duties or responsibilities, provided,

1 that the actual or alleged act, error or omission did not
2 result from gross negligence or intentional wrongdoing on the
3 part of such person.

4 ARTICLE VI

5 ACTIVITIES OF THE INTERSTATE COMMISSION

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

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

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

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

33 5. The interstate commission's bylaws shall establish
34 conditions and procedures under which the interstate
35 commission shall make its information and official records

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

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

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

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

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

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

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

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

33 g. Disclose information contained in or related to
34 examination, operating or condition reports prepared by, or on
35 behalf of or for the use of, the interstate commission with

1 respect to a regulated entity for the purpose of regulation or
2 supervision of such entity.

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

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

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

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

27 ARTICLE VII

28 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

34 2. Rulemaking shall occur pursuant to the criteria set
35 forth in this article and the bylaws and rules adopted

1 pursuant thereto. Such rulemaking shall substantially conform
2 to the principles of the federal Administrative Procedure Act,
3 5 U.S.C. § 551 et seq., and the federal Advisory Committee
4 Act, 5 U.S.C. app. 2, § 1 et seq., as may be amended.

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

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

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

14 a. Publish the proposed rule stating with particularity
15 the text of the rule which is proposed and the reason for the
16 proposed rule.

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

19 c. Provide an opportunity for an informal hearing.

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

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

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

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

35 b. Offender registration and compliance.

- 1 c. Violations and returns.
- 2 d. Transfer procedures and forms.
- 3 e. Eligibility for transfer.
- 4 f. Collection of restitution and fees from offenders.
- 5 g. Data collection and reporting.
- 6 h. The level of supervision to be provided by the
- 7 receiving state.
- 8 i. Transition rules governing the operation of the compact
- 9 and the interstate commission during all or part of the period
- 10 between the effective date of the compact and the date on
- 11 which the last eligible state adopts the compact.
- 12 j. Mediation, arbitration and dispute resolution. The
- 13 existing rules governing the operation of the previous compact
- 14 superceded by this Act shall be null and void twelve months
- 15 after the first meeting of the interstate commission created
- 16 hereunder.

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

24 ARTICLE VIII

25 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

26 BY THE INTERSTATE COMMISSION

27 1. OVERSIGHT.

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

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

1 compacting state pertaining to the subject matter of this
2 compact which may affect the powers, responsibilities or
3 actions of the interstate commission, the interstate
4 commission shall be entitled to receive all service of process
5 in any such proceeding, and shall have standing to intervene
6 in the proceeding for all purposes.

7 2. DISPUTE RESOLUTION.

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

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

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

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

23 ARTICLE IX

24 FINANCE

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

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

1 population of the state and the volume of interstate movement
2 of offenders in each compacting state and shall promulgate a
3 rule binding upon all compacting states which governs the
4 assessment.

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

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

19 ARTICLE X

20 COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

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

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

34 3. Amendments to the compact maybe proposed by the
35 interstate commission for enactment by the compacting states.

1 No amendment shall become effective and binding upon the
2 interstate commission and the compacting states unless and
3 until it is enacted into law by unanimous consent of the
4 compacting states.

5 ARTICLE XI

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

8 1. WITHDRAWAL.

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

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

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

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

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

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

32 2. DEFAULT.

33 a. If the interstate commission determines that any
34 compacting state has at any time defaulted in the performance
35 of any of its obligations or responsibilities under this

1 compact, the bylaws or any duly promulgated rules the
2 interstate commission may impose any or all of the following
3 penalties:

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

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

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

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

1 executive council of such termination.

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

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

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

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

24 4. DISSOLUTION OF COMPACT.

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

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

33

ARTICLE XII

34

SEVERABILITY AND CONSTRUCTION

35

1. The provisions of this compact shall be severable, and

1 if any phrase, clause, sentence or provision is deemed
2 unenforceable, the remaining provisions of the compact shall
3 be enforceable.

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

6 ARTICLE XIII

7 BINDING EFFECT OF COMPACT AND OTHER LAWS

8 1. OTHER LAWS.

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

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

14 2. BINDING EFFECT OF THE COMPACT.

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

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

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

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

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

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

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

14 EXPLANATION

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

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

31 The chief justice of the supreme court shall appoint one
32 member to represent the judicial branch. The president of the
33 senate shall appoint one member to represent the senate. The
34 speaker of the house of representatives shall appoint one
35 member to represent the house of representatives. The

1 governor shall appoint one member to represent the executive
2 branch and one member to represent victim groups. The
3 governor, in consultation with the judicial and legislative
4 branches, shall appoint the compact administrator.

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

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

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

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HSB 81



THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF CORRECTIONS
W.L. KAUTZKY, DIRECTOR

DATE: December 26, 2000
TO: Members of the General Assembly
FROM: W.L. Kautzky
RE: Interstate Compact for Adult Offender Supervision

The existing Parole and Probation Interstate Compact was created in 1937 when only a few thousand offenders were being supervised in states other than where they were sentenced. Today, in the United States, over 4 million offenders are on probation and parole with the number of offenders who will cross state lines exceeding a quarter of a million.

The existing, unchanged compact that is only two pages in length, is considered to be seriously outdated. A year-long process of public hearings, research and informed dialogue among legislators, attorneys general, parole and probation officials and victim's rights groups met to compile the following primary goals of a revised Interstate Compact:

- The establishment of an independent compact operating authority to administer ongoing compact activity, including a provision for staff support.
- Policy making level appointment representations of all member states on a national governing commission which meets annually to elect the compact operating authority members, and to attend to general business and rule making procedures.
- Rule making authority, provisions for significant sanctions to support essential compact operations.
- Mandatory funding mechanism sufficient to support essential compact operations (staffing, data collection, training/education, etc.)
- Compel collection of standardized information.

The Iowa Department of Corrections supports this initiative that will assist in consistent interstate activity that involves the movement of criminal offenders through the use of compliance requirements, tracking of offenders, transfer of supervision authority and when necessary return of offenders to their originating jurisdictions.

Substituted for SF 221
3/19/01 (P. 681)

FEB 15 2001
Place On Calendar

HOUSE FILE 287
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 81)

Passed House, Date 2/27/01 Passed Senate, Date ^(P.681) 3-19-01
Vote: Ayes 98 Nays 0 Vote: Ayes 48 Nays 0
Approved March 26, 2001

A BILL FOR

1 An Act establishing the interstate compact for adult criminal
2 offender supervision and providing a contingent effective
3 date.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 287

1 Section 1. Section 422.7, subsection 12, paragraph c, Code
2 2001, is amended to read as follows:

3 c. An individual, whether or not domiciled in this state
4 at the time of the hiring, who is on parole or probation and
5 to whom the interstate ~~probation-and-parole~~ compact for adult
6 offenders under ~~section-907A-1~~ chapter 907B applies.

7 Sec. 2. Section 422.7, subsection 12A, paragraph b, Code
8 2001, is amended to read as follows:

9 b. An individual, whether or not domiciled in this state
10 at the time of the hiring, who is on parole or probation and
11 to whom the interstate ~~probation-and-parole~~ compact for adult
12 offenders under ~~section-907A-1~~ chapter 907B applies.

13 Sec. 3. Section 422.35, subsection 6, paragraph c, Code
14 2001, is amended to read as follows:

15 c. An individual, whether or not domiciled in this state
16 at the time of the hiring, who is on parole or probation and
17 to whom the interstate ~~probation-and-parole~~ compact for adult
18 offenders under ~~section-907A-1~~ chapter 907B applies.

19 Sec. 4. Section 422.35, subsection 6A, paragraph b, Code
20 2001, is amended to read as follows:

21 b. An individual, whether or not domiciled in this state
22 at the time of the hiring, who is on parole or probation and
23 to whom the interstate ~~probation-and-parole~~ compact for adult
24 offenders under ~~section-907A-1~~ chapter 907B applies.

25 Sec. 5. NEW SECTION. 907B.1 CITATION.

26 This chapter may be cited as the "Interstate Compact for
27 Adult Offender Supervision".

28 Sec. 6. NEW SECTION. 907B.2 INTERSTATE COMPACT FOR ADULT
29 OFFENDER SUPERVISION.

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

34 ARTICLE I
35 DEFINITIONS

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

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

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

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

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

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

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

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

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

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

35 10. PERSON. "Person" means any individual, corporation,

1 business enterprise, or other legal entity, either public or
2 private.

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

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

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

15 ARTICLE II

16 THE COMPACT COMMISSION

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

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

31 3. In addition to the commissioners who are the voting
32 representatives of each state, the interstate commission shall
33 include individuals who are not commissioners but who are
34 members of interested organizations; such noncommissioner
35 members must include a member of the national organizations of

1 governors, legislators, state chief justices, attorneys
2 general, and crime victims. All noncommissioner members of
3 the interstate commission shall be ex officio members. The
4 interstate commission may provide in its bylaws for such
5 additional, ex officio, nonvoting members as it deems
6 necessary.

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

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

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

31 ARTICLE III

32 THE STATE COUNCIL

33 Each member state shall create a state council for
34 interstate adult offender supervision which shall be
35 responsible for the appointment of the commissioner who shall

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

20 ARTICLE IV

21 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

- 22 The interstate commission shall have the following powers:
- 23 1. To adopt a seal and suitable bylaws governing the
24 management and operation of the interstate commission.
 - 25 2. To promulgate rules which shall have the force and
26 effect of statutory law and shall be binding in the compacting
27 states to the extent and in the manner provided in this
28 compact.
 - 29 3. To oversee, supervise and coordinate the interstate
30 movement of offenders subject to the terms of this compact and
31 any bylaws adopted and rules promulgated by the interstate
32 commission.
 - 33 4. To enforce compliance with compact provisions,
34 interstate commission rules, and bylaws, using all necessary
35 and proper means, including but not limited to, the use of

- 1 judicial process.
- 2 5. To establish and maintain offices.
- 3 6. To purchase and maintain insurance and bonds.
- 4 7. To borrow, accept, or contract for services of
5 personnel, including, but not limited to, members and their
6 staffs.
- 7 8. To establish and appoint committees and hire staff
8 which it deems necessary for the carrying out of its functions
9 including, but not limited to, an executive committee as
10 required by article II which shall have the power to act on
11 behalf of the interstate commission in carrying out its powers
12 and duties hereunder.
- 13 9. To elect or appoint such officers, attorneys,
14 employees, agents, or consultants, and to fix their
15 compensation, define their duties and determine their
16 qualifications; and to establish the interstate commission's
17 personnel policies and programs relating to, among other
18 things, conflicts of interest, rates of compensation, and
19 qualifications of personnel.
- 20 10. To accept any and all donations and grants of money,
21 equipment, supplies, materials, and services, and to receive,
22 utilize, and dispose of same.
- 23 11. To lease, purchase, accept contributions or donations
24 of, or otherwise to own, hold, improve or use any property,
25 real, personal, or mixed.
- 26 12. To sell, convey, mortgage, pledge, lease, exchange,
27 abandon, or otherwise dispose of any property, real, personal
28 or mixed.
- 29 13. To establish a budget and make expenditures and levy
30 dues as provided in article IX of this compact.
- 31 14. To sue and be sued.
- 32 15. To provide for dispute resolution among compacting
33 states.
- 34 16. To perform such functions as may be necessary or
35 appropriate to achieve the purposes of this compact.

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

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

10 19. To establish uniform standards for the reporting,
11 collecting, and exchanging of data.

12 ARTICLE V

13 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

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

19 a. Establishing the fiscal year of the interstate
20 commission.

21 b. Establishing an executive committee and such other
22 committees as may be necessary.

23 c. Providing reasonable standards and procedures:

24 (1) For the establishment of committees.

25 (2) Governing any general or specific delegation of any
26 authority or function of the interstate commission;

27 d. Providing reasonable procedures for calling and
28 conducting meetings of the interstate commission, and ensuring
29 reasonable notice of each such meeting.

30 e. Establishing the titles and responsibilities of the
31 officers of the interstate commission.

32 f. Providing reasonable standards and procedures for the
33 establishment of the personnel policies and programs of the
34 interstate commission. Notwithstanding any civil service or
35 other similar laws of any compacting state, the bylaws shall

1 exclusively govern the personnel policies and programs of the
2 interstate commission.

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

8 h. Providing transition rules for startup administration
9 of the compact.

10 i. Establishing standards and procedures for compliance
11 and technical assistance in carrying out the compact.

12 2. OFFICERS AND STAFF.

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

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

34 3. CORPORATE RECORDS OF THE INTERSTATE COMMISSION. The
35 interstate commission shall maintain its corporate books and

1 records in accordance with the bylaws.

2 4. QUALIFIED IMMUNITY, DEFENSE AND INDEMNIFICATION.

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

15 b. The interstate commission shall defend the commissioner
16 of a compacting state, or the commissioner's representatives
17 or employees, or the interstate commission's representatives
18 or employees, in any civil action seeking to impose liability,
19 arising out of any actual or alleged act, error or omission
20 that occurred within the scope of interstate commission
21 employment, duties or responsibilities, or that the defendant
22 had a reasonable basis for believing occurred within the scope
23 of interstate commission employment, duties or
24 responsibilities; provided, that the actual or alleged act,
25 error or omission did not result from intentional wrongdoing
26 on the part of such person.

27 c. The interstate commission shall indemnify and hold the
28 commissioner of a compacting state, the appointed designee or
29 employees, or the interstate commission's representatives or
30 employees, harmless in the amount of any settlement or
31 judgment obtained against such persons arising out of any
32 actual or alleged act, error or omission that occurred within
33 the scope of interstate commission employment, duties or
34 responsibilities, or that such persons had a reasonable basis
35 for believing occurred within the scope of interstate

1 commission employment, duties or responsibilities, provided,
2 that the actual or alleged act, error or omission did not
3 result from gross negligence or intentional wrongdoing on the
4 part of such person.

5 ARTICLE VI

6 ACTIVITIES OF THE INTERSTATE COMMISSION

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

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

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

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

34 5. The interstate commission's bylaws shall establish
35 conditions and procedures under which the interstate

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

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

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

23 b. Disclose matters specifically exempted from disclosure
24 by statute.

25 c. Disclose trade secrets or commercial or financial
26 information which is privileged or confidential.

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

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

32 f. Disclose investigatory records compiled for law
33 enforcement purposes.

34 g. Disclose information contained in or related to
35 examination, operating or condition reports prepared by, or on

1 behalf of or for the use of, the interstate commission with
2 respect to a regulated entity for the purpose of regulation or
3 supervision of such entity.

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

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

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

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

28 ARTICLE VII

29 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

35 2. Rulemaking shall occur pursuant to the criteria set

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

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

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

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

15 a. Publish the proposed rule stating with particularity
16 the text of the rule which is proposed and the reason for the
17 proposed rule.

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

20 c. Provide an opportunity for an informal hearing.

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

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

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

35 a. Notice to victims and opportunity to be heard.

- 1 b. Offender registration and compliance.
- 2 c. Violations and returns.
- 3 d. Transfer procedures and forms.
- 4 e. Eligibility for transfer.
- 5 f. Collection of restitution and fees from offenders.
- 6 g. Data collection and reporting.
- 7 h. The level of supervision to be provided by the
- 8 receiving state.
- 9 i. Transition rules governing the operation of the compact
- 10 and the interstate commission during all or part of the period
- 11 between the effective date of the compact and the date on
- 12 which the last eligible state adopts the compact.
- 13 j. Mediation, arbitration and dispute resolution. The
- 14 existing rules governing the operation of the previous compact
- 15 superceded by this Act shall be null and void twelve months
- 16 after the first meeting of the interstate commission created
- 17 hereunder.

18 8. Upon determination by the interstate commission that an

19 emergency exists, it may promulgate an emergency rule which

20 shall become effective immediately upon adoption, provided

21 that the usual rulemaking procedures provided hereunder shall

22 be retroactively applied to said rule as soon as reasonably

23 possible, in no event later than ninety days after the

24 effective date of the rule.

ARTICLE VIII

OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

BY THE INTERSTATE COMMISSION

1. OVERSIGHT.

29 a. The interstate commission shall oversee the interstate

30 movement of adult offenders in the compacting states and shall

31 monitor such activities being administered in noncompacting

32 states which may significantly affect compacting states.

33 b. The courts and executive agencies in each compacting

34 state shall enforce this compact and shall take all actions

35 necessary and appropriate to effectuate the compact's purposes

1 and intent. In any judicial or administrative proceeding in a
2 compacting state pertaining to the subject matter of this
3 compact which may affect the powers, responsibilities or
4 actions of the interstate commission, the interstate
5 commission shall be entitled to receive all service of process
6 in any such proceeding, and shall have standing to intervene
7 in the proceeding for all purposes.

8 2. DISPUTE RESOLUTION.

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

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

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

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

24 ARTICLE IX

25 FINANCE

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

29 2. The interstate commission shall levy on and collect an
30 annual assessment from each compacting state to cover the cost
31 of the internal operations and activities of the interstate
32 commission and its staff which must be in a total amount
33 sufficient to cover the interstate commission's annual budget
34 as approved each year. The aggregate annual assessment amount
35 shall be allocated based upon a formula to be determined by

1 the interstate commission, taking into consideration the
2 population of the state and the volume of interstate movement
3 of offenders in each compacting state and shall promulgate a
4 rule binding upon all compacting states which governs the
5 assessment.

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

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

20 ARTICLE X

21 COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

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

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

35 3. Amendments to the compact may be proposed by the

1 interstate commission for enactment by the compacting states.
2 No amendment shall become effective and binding upon the
3 interstate commission and the compacting states unless and
4 until it is enacted into law by unanimous consent of the
5 compacting states.

6 ARTICLE XI

7 WITHDRAWAL, DEFAULT, AND TERMINATION, AND JUDICIAL
8 ENFORCEMENT

9 1. WITHDRAWAL.

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

15 b. The effective date of withdrawal is the effective date
16 of the repeal.

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

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

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

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

33 2. DEFAULT.

34 a. If the interstate commission determines that any
35 compacting state has at any time defaulted in the performance

1 of any of its obligations or responsibilities under this
2 compact, the bylaws or any duly promulgated rules the
3 interstate commission may impose any or all of the following
4 penalties:

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

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

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

33 b. Within sixty days of the effective date of termination
34 of a defaulting state, the interstate commission shall notify
35 the governor, the chief justice, and the majority and minority

1 leaders of the defaulting state's legislature and the
2 executive council of such termination.

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

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

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

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

25 4. DISSOLUTION OF COMPACT.

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

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

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ARTICLE XII
SEVERABILITY AND CONSTRUCTION

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

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

7 ARTICLE XIII

8 BINDING EFFECT OF COMPACT AND OTHER LAWS

9 1. OTHER LAWS.

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

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

15 2. BINDING EFFECT OF THE COMPACT.

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

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

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

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

1 compact becomes effective.

2 Sec. 7. NEW SECTION. 907B.3 STATE COUNCIL.

3 The state council established in section 907B.2 shall
4 consist of five members plus the compact administrator. The
5 council shall include at least one member from a minority
6 group. The chief justice of the supreme court shall appoint
7 one member to represent the judicial branch. The president of
8 the senate shall appoint one member to represent the senate.
9 The speaker of the house of representatives shall appoint one
10 member to represent the house of representatives. The
11 governor shall appoint one member to represent the executive
12 branch, and one member to represent crime victim groups. The
13 governor, in consultation with the legislative and judicial
14 branches, shall also appoint the compact administrator.

15 Sec. 8. Chapter 907A, Code 2001, is repealed.

16 EXPLANATION

17 This bill establishes the interstate compact for adult
18 criminal offender supervision.

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

34 The chief justice of the supreme court shall appoint one
35 member to represent the judicial branch. The president of the

1 senate shall appoint one member to represent the senate. The
2 speaker of the house of representatives shall appoint one
3 member to represent the house of representatives. The
4 governor shall appoint one member to represent the executive
5 branch and one member to represent victim groups. The
6 governor, in consultation with the judicial and legislative
7 branches, shall appoint the compact administrator.

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

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

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

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HOUSE FILE 287
FISCAL NOTE

A fiscal note for **House File 287** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 287 replaces the current Interstate Compact for parole and probation. The Bill creates an independent Compact authority to administer ongoing compact activity, including a provision for staff support. The Bill provides policy-making level appointments for all member states that are represented on a national governing commission. The commission meets annually to elect the Compact operating authority members, and to attend to general business and rule-making procedures. The Bill requires the collection of standardized information from participating states.

ASSUMPTIONS

1. House File 287 provides a mandatory funding mechanism to support compact operations.
2. The funding source will be the operating budgets of the eight Community-Based Corrections (CBC) District Departments.
3. The majority of states will enact the Compact.
4. State dues will be based on state population and Compact activity.

FISCAL IMPACT

The annual General Fund cost for Iowa is approximately \$25,000.

SOURCES

U.S. Department of Justice, National Institute of Corrections
Iowa Department of Corrections

(LSB 1130hv, BAL)

FILED FEBRUARY 19, 2001

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 287

AN ACT

ESTABLISHING THE INTERSTATE COMPACT FOR ADULT CRIMINAL
OFFENDER SUPERVISION AND PROVIDING A CONTINGENT EFFECTIVE
DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 422.7, subsection 12, paragraph c, Code
2001, is amended to read as follows:

c. An individual, whether or not domiciled in this state
at the time of the hiring, who is on parole or probation and
to whom the interstate probation-and-parole compact for adult
offenders under ~~section-907A~~ chapter 907B applies.

Sec. 2. Section 422.7, subsection 12A, paragraph b, Code
2001, is amended to read as follows:

b. An individual, whether or not domiciled in this state
at the time of the hiring, who is on parole or probation and
to whom the interstate probation-and-parole compact for adult
offenders under ~~section-907A~~ chapter 907B applies.

Sec. 3. Section 422.35, subsection 6, paragraph c, Code
2001, is amended to read as follows:

c. An individual, whether or not domiciled in this state
at the time of the hiring, who is on parole or probation and
to whom the interstate probation-and-parole compact for adult
offenders under ~~section-907A~~ chapter 907B applies.

Sec. 4. Section 422.35, subsection 6A, paragraph b, Code
2001, is amended to read as follows:

b. An individual, whether or not domiciled in this state
at the time of the hiring, who is on parole or probation and
to whom the interstate probation-and-parole compact for adult
offenders under ~~section-907A~~ chapter 907B applies.

Sec. 5. NEW SECTION. 907B.1 CITATION.

This chapter may be cited as the "Interstate Compact for
Adult Offender Supervision".

Sec. 6. NEW SECTION. 907B.2 INTERSTATE COMPACT FOR ADULT
OFFENDER SUPERVISION.

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

ARTICLE I

DEFINITIONS

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

1. ADULT. "Adult" means both individuals legally
classified as adults and juveniles treated as adults by court
order, statute, or operation of law.
2. BYLAWS. "Bylaws" means those bylaws established by the
interstate commission for its governance, or for directing or
controlling the interstate commission's actions or conduct.
3. COMPACT ADMINISTRATOR. "Compact administrator" means
the individual in each compacting state appointed pursuant to
the terms of this compact responsible for the administration
and management of the state's supervision and transfer of
offenders subject to the terms of this compact, the rules
adopted by the interstate commission and policies adopted by
the state council under this compact.
4. COMPACTING STATE. "Compacting state" means any state
which has enacted the enabling legislation for this compact.
5. COMMISSIONER. "Commissioner" means the voting
representative of each compacting state appointed pursuant to
article II of this compact.
6. INTERSTATE COMMISSION. "Interstate commission" means
the interstate commission for adult offender supervision
established by this compact.
7. MEMBER. "Member" means the commissioner of a
compacting state or designee, who shall be a person officially
connected with the commissioner.

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

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

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

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

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

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

ARTICLE II

THE COMPACT COMMISSION

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

2. The interstate commission shall consist of commissioners selected and appointed by resident members of a

state council for interstate adult offender supervision for each state. The commission shall include at least one commissioner from a minority group.

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

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

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

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

performs other duties as directed by commission or set forth in the bylaws.

ARTICLE III
THE STATE COUNCIL

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

ARTICLE IV

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission shall have the following powers:

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

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 interstate commission.

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.

5. To establish and maintain offices.

6. To purchase and maintain insurance and bonds.

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

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

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

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

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

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

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

14. To sue and be sued.

15. To provide for dispute resolution among compacting states.

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

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

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

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

ARTICLE V

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

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

a. Establishing the fiscal year of the interstate commission.

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

c. Providing reasonable standards and procedures:

(1) For the establishment of committees.

(2) Governing any general or specific delegation of any authority or function of the interstate commission;

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

e. Establishing the titles and responsibilities of the officers of the interstate commission.

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

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

h. Providing transition rules for startup administration of the compact.

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

2. OFFICERS AND STAFF.

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

b. The interstate commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the interstate commission may deem appropriate. The executive director shall serve as secretary

to the interstate commission, and hire and supervise such other staff as may be authorized by the interstate commission, but shall not be a member.

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

4. QUALIFIED IMMUNITY, DEFENSE AND INDEMNIFICATION.

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

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

c. The interstate commission shall indemnify and hold the commissioner of a compacting state, the appointed designee or employees, or the interstate commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any

actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, provided, that the actual or alleged act, error or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

ARTICLE VI

ACTIVITIES OF THE INTERSTATE COMMISSION

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

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

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

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

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

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

- a. Relate solely to the interstate commission's internal personnel practices and procedures.
- b. Disclose matters specifically exempted from disclosure by statute.
- c. Disclose trade secrets or commercial or financial information which is privileged or confidential.
- d. Involve accusing any person of a crime, or formally censuring any person.
- e. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.
- f. Disclose investigatory records compiled for law enforcement purposes.

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

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

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

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

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

ARTICLE VII

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

1. 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.

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

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

4. 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.

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

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.

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

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

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

a. Notice to victims and opportunity to be heard.

b. Offender registration and compliance.

c. Violations and returns.

d. Transfer procedures and forms.

e. Eligibility for transfer.

f. Collection of restitution and fees from offenders.

g. Data collection and reporting.

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

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

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

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

ARTICLE VIII

OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

BY THE INTERSTATE COMMISSION

1. OVERSIGHT.

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

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

compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the interstate commission, the interstate commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

2. DISPUTE RESOLUTION.

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

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

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

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

ARTICLE IX
FINANCE

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

2. The interstate commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the interstate commission and its staff which must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, taking into consideration the population of the state and the volume of interstate movement

of offenders in each compacting state and shall promulgate a rule binding upon all compacting states which governs the assessment.

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

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

ARTICLE X

COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

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

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

3. Amendments to the compact may be proposed by the interstate commission for enactment by the compacting states. No amendment shall become effective and binding upon the interstate commission and the compacting states unless and

until it is enacted into law by unanimous consent of the compacting states.

ARTICLE XI

WITHDRAWAL, DEFAULT, AND TERMINATION, AND JUDICIAL ENFORCEMENT

1. WITHDRAWAL.

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

b. The effective date of withdrawal is the effective date of the repeal.

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

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

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

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

2. DEFAULT.

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

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

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

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

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

c. The defaulting state is responsible for all assessments, obligations and liabilities incurred through the effective date of termination including any obligations, the

performance of which extends beyond the effective date of termination.

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

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

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

4. DISSOLUTION OF COMPACT.

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

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

ARTICLE XII

SEVERABILITY AND CONSTRUCTION

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

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

ARTICLE XIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

1. OTHER LAWS.

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

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

2. BINDING EFFECT OF THE COMPACT.

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

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

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

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

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

The state council established in section 907B.2 shall consist of five members plus the compact administrator. The council shall include at least one member from a minority

group. The chief justice of the supreme court shall appoint one member to represent the judicial branch. The president of the senate shall appoint one member to represent the senate. The speaker of the house of representatives shall appoint one member to represent the house of representatives. The governor shall appoint one member to represent the executive branch, and one member to represent crime victim groups. The governor, in consultation with the legislative and judicial branches, shall also appoint the compact administrator.

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

BRENT SIEGRIST
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 287, Seventy-ninth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved March 26, 2001

THOMAS J. VILSACK
Governor