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Title 2A.
Chapter 168.
Article 4.
Interstate Compact
for Adult Offender
Supervision
§§1-14 -
C.2A:168-26
to 2A:168-39

P.L. 2002, CHAPTER 111, *approved December 11, 2002*
Senate, No. 166 (*Second Reprint*)

1 AN ACT concerning probationers and parolees, supplementing Title 30
2 of the Revised Statutes and repealing various parts of the statutory
3 law.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. a. The Interstate Compact for Adult Offender Supervision is
9 hereby enacted into law and entered into with all other jurisdictions
10 legally joining therein in the form substantially as follows:

11

12 INTERSTATE COMPACT FOR ADULT OFFENDER
13 SUPERVISION

14

15 The Legislature hereby finds and declares the following:

16 The interstate compact for the supervision of Parolees and
17 Probationers was established in 1937; it is the earliest corrections
18 "compact" established among the states and has not been amended
19 since its adoption for over 62 years;

20 This compact is the only vehicle for the controlled movement of
21 adult parolees and probationers across state lines, and it currently has
22 jurisdiction over more than a quarter of a million offenders;

23 The complexities of the compact have become more difficult to
24 administer, and many jurisdictions have expanded supervision
25 expectations to include currently unregulated practices such as victim
26 input, victim notification requirements and sex offender registration;

27 After hearings, national surveys and a detailed study by a task force
28 appointed by the National Institute of Corrections, the overwhelming
29 recommendation has been to amend the document to bring about an
30 effective management capacity that addresses public safety concerns
31 and offender accountability; and

32 Upon the adoption of this Interstate Compact for Adult Offender
33 Supervision ¹by all states and territories of the United States¹, it is the

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SLP committee amendments adopted February 25, 2002.

² Assembly ALP committee amendments adopted September 19, 2002.

1 intention of the Legislature to repeal the previous Interstate Compact
2 for the Supervision of Parolees and Probationers ¹[on the effective
3 date of this Compact]¹.

4 b. This act shall be known and may be cited as the "Interstate
5 Compact for Adult Offender Supervision."

6 c. Article I. Purpose. The compacting states to this Interstate
7 Compact recognize that each state is responsible for the supervision
8 of adult offenders in the community who are authorized pursuant to
9 the bylaws and rules of this compact to travel across state lines both
10 to and from each compacting state in such a manner as to track the
11 location of offenders, transfer supervision authority in an orderly and
12 efficient manner and when necessary return offenders to the
13 originating jurisdictions.

14 The compacting states also recognize that Congress, by enacting
15 the Crime Control Act, 4 U.S.C. §112 (1965), has authorized and
16 encouraged compacts for cooperative efforts and mutual assistance in
17 the prevention of crime.

18 It is the purpose of this compact and the Interstate Commission
19 created hereunder, through means of joint and cooperative action
20 among the compacting states: to provide the framework for the
21 promotion of public safety and protect the rights of victims through
22 the control and regulation of the interstate movement of offenders in
23 the community; to provide for the effective tracking, supervision and
24 rehabilitation of these offenders by the sending and receiving states;
25 and to equitably distribute the costs, benefits and obligations of the
26 compact among the compacting states.

27 In addition, this compact will: create an Interstate Commission
28 which will establish uniform procedures to manage the movement
29 between states of adults placed under community supervision and
30 released to the community under the jurisdiction of courts, paroling
31 authorities, corrections or other criminal justice agencies which will
32 promulgate rules to achieve the purpose of this compact; ensure an
33 opportunity for input and timely notice to victims and to jurisdictions
34 where defined offenders are authorized to travel or to relocate across
35 state lines; establish a system of uniform data collection, access to
36 information on active cases by authorized criminal justice officials, and
37 regular reporting of compact activities to heads of state councils, state
38 executive, judicial and legislative branches and criminal justice
39 administrators; monitor compliance with rules governing interstate
40 movement of offenders and initiate interventions to address and
41 correct non-compliance; and coordinate training and education
42 regarding regulations of interstate movement of offenders for officials
43 involved in such activity.

44 The compacting states recognize that there is no "right" of any
45 offender to live in another state and that duly accredited officers of a
46 sending state may at all times enter a receiving state and there

1 apprehend and retake any offender under supervision subject to the
2 provisions of this compact and bylaws and rules promulgated
3 hereunder.

4 It is the policy of the compacting states that the activities conducted
5 by the Interstate Commission created herein are the formation of
6 public policies and are therefore public business.

7

8 2. Article II. Definitions.

9 As used in this compact, unless the context clearly requires a
10 different construction:

11 "Adult" means a person who is 18 years of age or older or a person
12 who is under 18 years of age who either by statute or court order is
13 considered an adult.

14 "By-laws" mean those by-laws established by the Interstate
15 Commission for its governance, or for directing or controlling the
16 Interstate Commission's actions or conduct.

17 "Compact administrator" means the individual in each compacting
18 state appointed pursuant to the terms of this compact responsible for
19 the administration and management of the State's supervision and
20 transfer of offenders subject to the terms of this compact, the rules
21 adopted by the Interstate Commission and policies adopted by the
22 State Council under this compact.

23 "Compacting state" means any state which has enacted the enabling
24 legislation for this compact.

25 "Commissioner" means the voting representative of each
26 compacting state appointed pursuant to Article III of this compact.

27 "Interstate Commission" means the Interstate Commission for Adult
28 Offender Supervision established by this compact.

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

32 "Non Compacting state" means any state which has not enacted the
33 enabling legislation for this compact.

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

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

40 "Rules" means acts of the Interstate Commission, duly promulgated
41 pursuant to Article VIII of this compact, substantially affecting
42 interested parties in addition to the Interstate Commission, which shall
43 have the force and effect of law in the compacting states.

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

46 "State Council" means the resident members of the State Council

1 for Interstate Adult Offender Supervision created by each state under
2 Article IV of this compact.

3

4 3. Article III. The Compact Commission.

5 a. The compacting states hereby create the "Interstate Commission
6 for Adult Offender Supervision." The Interstate Commission shall be
7 a body corporate and joint agency of the compacting states. The
8 Interstate Commission shall have all the responsibilities, powers and
9 duties set forth herein, including the power to sue and be sued, and
10 such additional powers as may be conferred upon it by subsequent
11 action of the respective legislatures of the compacting states in
12 accordance with the terms of this compact.

13 b. The Interstate Commission shall consist of Commissioners
14 selected and appointed by resident members of a State Council for
15 Interstate Adult Offender Supervision for each state. In addition to
16 the Commissioners who are the voting representatives of each state,
17 the Interstate Commission shall include individuals who are not
18 commissioners but who are members of interested organizations. Such
19 non-commissioner members shall include a member of the national
20 organizations of governors, legislators, state chief justices, attorneys
21 general and crime victims. All non-commissioner members of the
22 Interstate Commission shall be ex-officio (nonvoting) members. The
23 Interstate Commission may provide in its by-laws for such additional,
24 ex-officio, non-voting members as it deems necessary.

25 c. Each compacting state represented at any meeting of the
26 Interstate Commission is entitled to one vote. A majority of the
27 compacting states shall constitute a quorum for the transaction of
28 business, unless a larger quorum is required by the by-laws of the
29 Interstate Commission.

30 d. The Interstate Commission shall meet at least once each
31 calendar year. The chairman may call additional meetings and, upon
32 the request of 27 or more compacting states, shall call additional
33 meetings. Public notice shall be given of all meetings and meetings
34 shall be open to the public.

35 e. The Interstate Commission shall establish an Executive
36 Committee which shall include commission officers, members and
37 others as shall be determined by the by-laws. The Executive
38 Committee shall have the power to act on behalf of the Interstate
39 Commission during periods when the Interstate Commission is not in
40 session, with the exception of rulemaking or amendment to the
41 Compact. The Executive Committee shall oversee the day-to-day
42 activities managed by the Executive Director and Interstate
43 Commission staff, administer enforcement and compliance with the
44 provisions of the compact, its by-laws and as directed by the Interstate
45 Commission and perform other duties as directed by Commission or
46 set forth in the by-laws.

1 4. Article IV. The State Council.

2 a. There is hereby established the New Jersey State Council for
3 Interstate Adult Offender Supervision which shall consist of the
4 following members:

5 (1) ²[one member] two members² of the General Assembly ², no
6 more than one of whom shall be of the same political party.² appointed
7 by the Speaker of the General Assembly;

8 (2) ²[one member] two members² of the Senate ², no more than
9 one of whom shall be of the same political party.² appointed by the
10 President of the Senate;

11 (3) ¹[A sitting judge appointed by the Chief Justice of the New
12 Jersey Supreme Court] the Administrative Director of the Courts¹;

13 (4) the Commissioner of ²[the Department of]² Corrections or his
14 designee;

15 (5) a law enforcement officer and a representative from a crime
16 victim's organization, each appointed by the Governor with the advice
17 and consent of the Senate; and

18 (6) the Chairman of the State Parole Board ²[who, in addition to
19 serving as a member of the council, shall be appointed as the compact
20 administrator by the Governor]².

21 b. The Governor shall appoint a compact administrator who shall
22 serve at the pleasure of the Governor. The compact administrator may
23 be a member of the State Council or a State government official with
24 appropriate background and experience.² The compact administrator
25 ²[is] shall be² the compact commissioner and presiding officer of the
26 council and shall serve as the New Jersey Commissioner to the
27 Interstate Commission.

28 c. Members of the Council shall be appointed for terms of four
29 years and the terms of their successors shall be calculated from the
30 expiration of the incumbent's term. Members shall serve until their
31 successors are appointed and have qualified.

32 d. The State Council shall meet at least twice a year.

33 e. The State Council shall develop policies concerning the
34 operation of the compact within this State. The State Council may
35 adopt rules, including rules proposed by the commission for adoption
36 by this state, to implement the compact.

37 f. The State Council shall report annually to the Legislature
38 concerning the activities of the council and the Interstate Commission.

39

40 5. Article V. Powers and Duties of the Interstate Commission.

41 The Interstate Commission shall have the following powers:

42 a. To adopt a seal and suitable by-laws governing the
43 management and operation of the Interstate Commission;

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

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

1 6. Article VI. Organization and Operation of the Interstate
2 Commission.

3 a. By-laws. The Interstate Commission shall, by a majority of the
4 Members, within twelve months of the first Interstate Commission
5 meeting, adopt by-laws to govern its conduct as may be necessary or
6 appropriate to carry out the purposes of the Compact, including, but
7 not limited to:

8 (1) Establishing the fiscal year of the Interstate Commission.

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

11 (3) Providing reasonable standards and procedures for the
12 establishment of committees, and governing any general or specific
13 delegation of any authority or function of the Interstate Commission.

14 (4) Providing reasonable procedures for calling and conducting
15 meetings of the Interstate Commission, and ensuring reasonable notice
16 of each such meeting.

17 (5) Establishing the titles and responsibilities of the officers of the
18 Interstate Commission.

19 (6) Providing reasonable standards and procedures for the
20 establishment of the personnel policies and programs of the Interstate
21 Commission.

22 Notwithstanding any civil service or other similar laws of any
23 Compacting State, the by-laws shall exclusively govern the personnel
24 policies and programs of the Interstate Commission.

25 (7) Providing a mechanism for winding up the operations of the
26 Interstate Commission and the equitable return of any surplus funds
27 that may exist upon the termination of the Compact after the payment
28 or reserving of all of its debts and obligations.

29 (8) Providing transition rules for "start up" administration of the
30 compact.

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

33 b. Officers and Staff. The Interstate Commission shall, by a
34 majority of the members, elect from among its members a chairman
35 and a vice chairman, each of whom shall have such authorities and
36 duties as may be specified in the by-laws. The chairman, or in his
37 absence or disability, the vice chairman, shall preside at all meetings
38 of the Interstate Commission. The officers so elected shall serve
39 without compensation or remuneration from the Interstate
40 Commission; provided that, subject to the availability of budgeted
41 funds, the officers shall be reimbursed for any actual and necessary
42 costs and expenses incurred by them in the performance of their duties
43 and responsibilities as officers of the Interstate Commission.

44 The Interstate Commission shall, through its executive committee,
45 appoint or retain an executive director for such period, upon such
46 terms and conditions and for such compensation as the Interstate

1 Commission may deem appropriate. The executive director shall serve
2 as secretary to the Interstate Commission, and hire and supervise such
3 other staff as may be authorized by the Interstate Commission, but
4 shall not be a member.

5 c. Corporate Records of the Interstate Commission. The Interstate
6 Commission shall maintain its corporate books and records in
7 accordance with the by-laws.

8 d. Qualified Immunity, Defense and Indemnification. The members,
9 officers, executive director and employees of the Interstate
10 Commission shall be immune from suit and liability, either personally
11 or in their official capacity, for any claim for damage to or loss of
12 property or personal injury or other civil liability caused or arising out
13 of any actual or alleged act, error or omission that occurred within the
14 scope of Interstate Commission employment, duties or responsibilities;
15 provided, that nothing in this paragraph shall be construed to protect
16 any such person from suit or liability for any damage, loss, injury or
17 liability caused by the intentional or willful and wanton misconduct of
18 any such person.

19 The Interstate Commission shall defend the Commissioner of a
20 Compacting State, or his representatives or employees, or the
21 Interstate Commission's representatives or employees, in any civil
22 action seeking to impose liability, arising out of any actual or alleged
23 act, error or omission that occurred within the scope of Interstate
24 Commission employment, duties or responsibilities, or that the
25 defendant had a reasonable basis for believing occurred within the
26 scope of Interstate Commission employment, duties or responsibilities;
27 provided, that the actual or alleged act, error or omission did not
28 result from intentional wrongdoing on the part of such person.

29 The Interstate Commission shall indemnify and hold the
30 Commissioner of a Compacting State, the appointed designee or
31 employees, or the Interstate Commission's representatives or
32 employees, harmless in the amount of any settlement or judgment
33 obtained against such persons arising out of any actual or alleged act,
34 error or omission that occurred within the scope of Interstate
35 Commission employment, duties or responsibilities, or that such
36 persons had a reasonable basis for believing occurred within the scope
37 of Interstate Commission employment, duties or responsibilities,
38 provided, that the actual or alleged act, error or omission did not
39 result from gross negligence or intentional wrongdoing on the part of
40 such person.

41

42 7. Article VII. Activities of the Interstate Commission.

43 a. The Interstate Commission shall meet and take such actions as
44 are consistent with the provisions of this Compact.

45 b. Except as otherwise provided in this Compact and unless a
46 greater percentage is required by the By-laws, in order to constitute

1 an act of the Interstate Commission, such act shall have been taken at
2 a meeting of the Interstate Commission and shall have received an
3 affirmative vote of a majority of the members present.

4 c. Each Member of the Interstate Commission shall have the right
5 and power to cast a vote to which that Compacting State is entitled
6 and to participate in the business and affairs of the Interstate
7 Commission. A Member shall vote in person on behalf of the state and
8 shall not delegate a vote to another member state. However, a State
9 Council shall appoint another authorized representative, in the absence
10 of the commissioner from that state, to cast a vote on behalf of the
11 member state at a specified meeting. The By-laws may provide for
12 Members' participation in meetings by telephone or other means of
13 telecommunication or electronic communication. Any voting
14 conducted by telephone, or other means of telecommunication or
15 electronic communication shall be subject to the same quorum
16 requirements of meetings where members are present in person.

17 d. The Interstate Commission shall meet at least once during each
18 calendar year. The chairman of the Interstate Commission may call
19 additional meetings at any time and, upon the request of a majority of
20 the Members, shall call additional meetings.

21 e. The Interstate Commission's By-laws shall establish conditions
22 and procedures under which the Interstate Commission shall make its
23 information and official records available to the public for inspection
24 or copying. The Interstate Commission may exempt from disclosure
25 any information or official records to the extent they would adversely
26 affect personal privacy rights or proprietary interests. In promulgating
27 such Rules, the Interstate Commission may make available to law
28 enforcement agencies records and information otherwise exempt from
29 disclosure, and may enter into agreements with law enforcement
30 agencies to receive or exchange information or records subject to
31 nondisclosure and confidentiality provisions.

32 f. Public notice shall be given of all meetings and all meetings shall
33 be open to the public, except as set forth in the Rules or as otherwise
34 provided in the Compact. The Interstate Commission shall promulgate
35 Rules consistent with the principles contained in the "Government in
36 the Sunshine Act," 5 U.S.C. Section 552(b), as may be amended. The
37 Interstate Commission and any of its committees may close a meeting
38 to the public where it determines by two-thirds vote that an open
39 meeting would be likely to:

40 (1) relate solely to the Interstate Commission's internal personnel
41 practices and procedures;

42 (2) disclose matters specifically exempted from disclosure by
43 statute;

44 (3) disclose trade secrets or commercial or financial information
45 which is privileged or confidential;

46 (4) involve accusing any person of a crime, or formally censuring

1 any person;

2 (5) disclose information of a personal nature where disclosure
3 would constitute a clearly unwarranted invasion of personal privacy;

4 (6) disclose investigatory records compiled for law enforcement
5 purposes;

6 (7) disclose information contained in or related to examination,
7 operating or condition reports prepared by, or on behalf of or for the
8 use of, the Interstate Commission with respect to a regulated entity for
9 the purpose of regulation or supervision of such entity;

10 (8) disclose information, the premature disclosure of which would
11 significantly endanger the life of a person or the stability of a regulated
12 entity; or

13 (9) specifically relate to the Interstate Commission's issuance of a
14 subpoena, or its participation in a civil action or proceeding.

15 g. For every meeting closed pursuant to this provision, the
16 Interstate Commission's chief legal officer shall publicly certify that,
17 in his opinion, the meeting may be closed to the public, and shall
18 reference each relevant exemptive provision.

19 h. The Interstate Commission shall keep minutes which shall fully
20 and clearly describe all matters discussed in any meeting and shall
21 provide a full and accurate summary of any actions taken, and the
22 reasons therefor, including a description of each of the views
23 expressed on any item and the record of any roll call vote (reflected in
24 the vote of each Member on the question). All documents considered
25 in connection with any action shall be identified in such minutes.

26 i. The Interstate Commission shall collect standardized data
27 concerning the interstate movement of offenders as directed through
28 its By-laws and Rules which shall specify the data to be collected, the
29 means of collection and data exchange and reporting requirements.

30

31 8. Article VIII. Rulemaking Functions of the Interstate
32 Commission.

33 a. The Interstate Commission shall promulgate Rules in order to
34 effectively and efficiently achieve the purposes of the Compact
35 including transition rules governing administration of the compact
36 during the period in which it is being considered and enacted by the
37 states.

38 b. Rulemaking shall occur pursuant to the criteria set forth in this
39 Article and the By-laws and Rules adopted pursuant thereto. Such
40 rulemaking shall substantially conform to the principles of the federal
41 Administrative Procedure Act, 5 U.S.C.A. section 551 et seq., and the
42 federal Advisory Committee Act, 5 U.S.C.A. App. 2, section 1 et seq.,
43 as may be amended (hereinafter "APA").

44 c. All Rules and amendments shall become binding as of the date
45 specified in each Rule or amendment.

46 d. If a majority of the legislatures of the Compacting States rejects

1 a Rule, by enactment of a statute or resolution in the same manner
2 used to adopt the compact, then such Rule shall have no further force
3 and effect in any Compacting State.

4 e. When promulgating a Rule, the Interstate Commission shall:

5 (1) publish the proposed Rule stating with particularity the text
6 of the Rule which is proposed and the reason for the proposed
7 Rule;

8 (2) allow persons to submit written data, facts, opinions and
9 arguments, which information shall be publicly available;

10 (3) provide an opportunity for an informal hearing; and

11 (4) promulgate a final Rule and its effective date, if

12 appropriate, based on the rulemaking record.

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

21 f. Subjects to be addressed within 12 months after the first meeting
22 must at a minimum include:

23 (1) notice to victims and opportunity to be heard;

24 (2) offender registration and compliance;

25 (3) violations/returns;

26 (4) transfer procedures and forms;

27 (5) eligibility for transfer;

28 (6) collection of restitution and fees from offenders;

29 (7) data collection and reporting;

30 (8) the level of supervision to be provided by the receiving state;

31 (9) transition rules governing the operation of the compact and
32 the Interstate Commission during all or part of the period
33 between the effective date of the compact and the date on
34 which the last eligible state adopts the compact; and

35 (10) Mediation, arbitration and dispute resolution.

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

39 h. Upon determination by the Interstate Commission that an
40 emergency exists, it may promulgate an emergency rule which shall
41 become effective immediately upon adoption, provided that the usual
42 rulemaking procedures provided hereunder shall be retroactively
43 applied to said rule as soon as reasonably possible, in no event later
44 than 90 days after the effective date of the rule.

45
46 9. Article IX. Oversight, Enforcement and Dispute Resolution by

1 the Interstate Commission.

2 a. Oversight. The Interstate Commission shall oversee the
3 interstate movement of adult offenders in the compacting states and
4 shall monitor such activities being administered in Non-compacting
5 States which may significantly affect Compacting States.

6 The courts and executive agencies in each Compacting State shall
7 enforce this Compact and shall take all actions necessary and
8 appropriate to effectuate the Compact's purposes and intent. In any
9 judicial or administrative proceeding in a Compacting State pertaining
10 to the subject matter of this Compact which may affect the powers,
11 responsibilities or actions of the Interstate Commission, the Interstate
12 Commission shall be entitled to receive all service of process in any
13 such proceeding, and shall have standing to intervene in the
14 proceeding for all purposes.

15 b. Dispute Resolution. The Compacting States shall report to the
16 Interstate Commission on issues or activities of concern to them, and
17 cooperate with and support the Interstate Commission in the discharge
18 of its duties and responsibilities.

19 The Interstate Commission shall attempt to resolve any disputes or
20 other issues which are subject to the Compact and which may arise
21 among Compacting States and Non-compacting States.

22 The Interstate Commission shall enact a By-law or promulgate a
23 Rule providing for both mediation and binding dispute resolution for
24 disputes among the Compacting States.

25 c. Enforcement. The Interstate Commission, in the reasonable
26 exercise of its discretion, shall enforce the provisions of this compact
27 using any or all means set forth in Article XII, section b., of this
28 compact.

29

30 10. Article X. Finance.

31 a. The Interstate Commission shall pay or provide for the payment
32 of the reasonable expenses of its establishment, organization and
33 ongoing activities.

34 b. The Interstate Commission shall levy on and collect an annual
35 assessment from each Compacting State to cover the cost of the
36 internal operations and activities of the Interstate Commission and its
37 staff which must be in a total amount sufficient to cover the Interstate
38 Commission's annual budget as approved each year. The aggregate
39 annual assessment amount shall be allocated based upon a formula to
40 be determined by the Interstate Commission, taking into consideration
41 the population of the state and the volume of interstate movement of
42 offenders in each Compacting State and shall promulgate a Rule
43 binding upon all Compacting States which governs said assessment.

44 c. The Interstate Commission shall not incur any obligations of any
45 kind prior to securing the funds adequate to meet the same; nor shall
46 the Interstate Commission pledge the credit of any of the compacting

1 states, except by and with the authority of the compacting state.

2 d. The Interstate Commission shall keep accurate accounts of all
3 receipts and disbursements. The receipts and disbursements of the
4 Interstate Commission shall be subject to the audit and accounting
5 procedures established under its By-laws. However, all receipts and
6 disbursements of funds handled by the Interstate Commission shall be
7 audited yearly by a certified or licensed public accountant and the
8 report of the audit shall be included in and become part of the annual
9 report of the Interstate Commission.

10 e. (1) The Interstate compact for adult offender supervision fund
11 is established as a special fund in the State Treasury. The fund
12 consists of moneys appropriated for the purposes of meeting financial
13 obligations imposed on the State of New Jersey as a result of the
14 State's participation in this compact.

15 (2) An assessment levied or any other financial obligation imposed
16 under this compact is effective against the State of New Jersey only to
17 the extent that moneys to pay the assessment or meet the financial
18 obligation have been appropriated and deposited in the fund
19 established pursuant to paragraph (1) of this subsection.

20

21 11. Article XI. Compacting States, Effective Date and Amendment.

22 a. Any state, as defined in Article II of this compact, is eligible to
23 become a Compacting State.

24 b. The Compact shall become effective and binding upon legislative
25 enactment of the Compact into law by no less than 35 of the States.
26 The initial effective date shall be the later of July 1, 2001, or upon
27 enactment into law by the 35th 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 governors of
30 Non-member states or their designees will be invited to participate in
31 Interstate Commission activities on a non-voting basis prior to
32 adoption of the compact by all states and territories of the United
33 States.

34 c. Amendments to the Compact may be proposed by the Interstate
35 Commission for enactment by the Compacting States. No amendment
36 shall become effective and binding upon the Interstate Commission and
37 the Compacting States unless and until it is enacted into law by
38 unanimous consent of the Compacting States.

39

40 12. Article XII. Withdrawal, Default, Termination and Judicial
41 Enforcement.

42 a. Withdrawal. Once effective, the Compact shall continue in force
43 and remain binding upon each and every Compacting State; provided,
44 that a Compacting State may withdraw from the Compact
45 ("Withdrawing State") by enacting a statute specifically repealing the
46 statute which enacted the Compact into law.

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

2 The Withdrawing State shall immediately notify the Chairman of the
3 Interstate Commission in writing upon the introduction of legislation
4 repealing this Compact in the Withdrawing State.

5 The Interstate Commission shall notify the other Compacting States
6 of the Withdrawing State's intent to withdraw within sixty days of its
7 receipt thereof.

8 The Withdrawing State is responsible for all assessments,
9 obligations and liabilities incurred through the effective date of
10 withdrawal, including any obligations, the performance of which
11 extend beyond the effective date of withdrawal.

12 Reinstatement following withdrawal of any Compacting State shall
13 occur upon the Withdrawing State reenacting the Compact or upon
14 such later date as determined by the Interstate Commission

15 b. Default. If the Interstate Commission determines that any
16 Compacting State has at any time defaulted ("Defaulting State") in the
17 performance of any of its obligations or responsibilities under this
18 Compact, the By-laws or any duly promulgated Rules, the Interstate
19 Commission may impose any or all of the following penalties:

20 Fines, fees and costs in such amounts as are deemed to be
21 reasonable as fixed by the Interstate Commission;

22 Remedial training and technical assistance as directed by the
23 Interstate Commission; and

24 Suspension and termination of membership in the compact.

25 Suspension shall be imposed only after all other reasonable means
26 of securing compliance under the By-laws and Rules have been
27 exhausted. Immediate notice of suspension shall be given by the
28 Interstate Commission to the Governor, the Chief Justice or Chief
29 Judicial Officer of the state; the majority and minority leaders of the
30 defaulting state's legislature, and the State Council.

31 The grounds for default include, but are not limited to, failure of a
32 Compacting State to perform such obligations or responsibilities
33 imposed upon it by this compact, Interstate Commission By-laws, or
34 duly promulgated Rules. The Interstate Commission shall
35 immediately notify the Defaulting State in writing of the penalty
36 imposed by the Interstate Commission on the Defaulting State pending
37 a cure of the default. The Interstate Commission shall stipulate the
38 conditions and the time period within which the Defaulting State must
39 cure its default. If the Defaulting State fails to cure the default within
40 the time period specified by the Interstate Commission, in addition to
41 any other penalties imposed herein, the Defaulting State may be
42 terminated from the Compact upon an affirmative vote of a majority
43 of the Compacting States and all rights, privileges and benefits
44 conferred by this Compact shall be terminated from the effective date
45 of suspension.

46 Within sixty days of the effective date of termination of a

1 Defaulting State, the Interstate Commission shall notify the Governor,
2 the Chief Justice or Chief Judicial Officer and the Majority and
3 Minority Leaders of the Defaulting State's legislature and the state
4 council of such termination.

5 The Defaulting State is responsible for all assessments, obligations
6 and liabilities incurred through the effective date of termination
7 including any obligations, the performance of which extends beyond
8 the effective date of termination.

9 The Interstate Commission shall not bear any costs relating to the
10 Defaulting State unless otherwise mutually agreed upon between the
11 Interstate Commission and the Defaulting State.

12 Reinstatement following termination of any Compacting State
13 requires both a reenactment of the Compact by the Defaulting State
14 and the approval of the Interstate Commission pursuant to the Rules.

15 c. Judicial Enforcement. The Interstate Commission may, by
16 majority vote of the Members, initiate legal action in the United States
17 District Court for the District of Columbia or, at the discretion of the
18 Interstate Commission, in the Federal District where the Interstate
19 Commission has its offices to enforce compliance with the provisions
20 of the Compact, its duly promulgated Rules and By-laws, against any
21 Compacting State in default. In the event judicial enforcement is
22 necessary the prevailing party shall be awarded all costs of such
23 litigation including reasonable attorneys fees.

24 d. Dissolution of Compact. The Compact dissolves effective upon
25 the date of the withdrawal or default of the Compacting State which
26 reduces membership in the Compact to one Compacting State.

27 Upon the dissolution of this Compact, the Compact becomes null
28 and void and shall be of no further force or effect, and the business
29 and affairs of the Interstate Commission shall be wound up and any
30 surplus funds shall be distributed in accordance with the By-laws.

31

32 13. Article XIII. Severability and Construction. The provisions of
33 this Compact shall be severable, and if any phrase, clause, sentence or
34 provision is deemed unenforceable, the remaining provisions of the
35 Compact shall be enforceable.

36 The provisions of this Compact shall be liberally constructed to
37 effectuate its purposes.

38

39 14. Article XIV. Binding Effect of Compact and Other Laws.

40 a. Other Laws. Nothing herein prevents the enforcement of any
41 other law of a Compacting State that is not inconsistent with this
42 Compact.

43 All Compacting States' laws conflicting with this Compact are
44 superseded to the extent of the conflict.

45 b. Binding Effect of the Compact. All lawful actions of the
46 Interstate Commission, including all Rules and By-laws promulgated

1 by the Interstate Commission, are binding upon the Compacting
2 States.

3 All agreements between the Interstate Commission and the
4 Compacting States are binding in accordance with their terms.

5 Upon the request of a party to a conflict over meaning or
6 interpretation of Interstate Commission actions, and upon a majority
7 vote of the Compacting States, the Interstate Commission may issue
8 advisory opinions regarding such meaning or interpretation.

9 In the event any provision of this Compact exceeds the
10 constitutional limits imposed on the legislature of any Compacting
11 State, the obligations, duties, powers or jurisdiction sought to be
12 conferred by such provision upon the Interstate Commission shall be
13 ineffective and such obligations, duties, powers or jurisdiction shall
14 remain in the Compacting State and shall be exercised by the agency
15 thereof to which such obligations, duties, powers or jurisdiction are
16 delegated by law in effect at the time this Compact becomes effective.

17

18 ¹[15. The following are repealed:

19 N.J.S.2A:168-14 to 2A:168-17 both inclusive; and Laws of 1953,
20 c.83, ss.1 through 8 (C.2A:168-18 through C.2A:168-25).]¹

21

22 ¹[16.] 15.¹ This act shall take effect immediately.

23

24

25

26

27 Provides for the Interstate Compact for Adult Offender Supervision.

SENATE, No. 166

STATE OF NEW JERSEY
210th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2002 SESSION

Sponsored by:

Senator RICHARD H. BAGGER

District 21 (Essex, Morris, Somerset and Union)

SYNOPSIS

Provides for the Interstate Compact for Adult Offender Supervision.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



S166 BAGGER

2

1 **AN ACT** concerning probationers and parolees, supplementing Title 30
2 of the Revised Statutes and repealing various parts of the statutory
3 law.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. a. The Interstate Compact for Adult Offender Supervision is
9 hereby enacted into law and entered into with all other jurisdictions
10 legally joining therein in the form substantially as follows:

11
12 INTERSTATE COMPACT FOR ADULT OFFENDER
13 SUPERVISION

14
15 The Legislature hereby finds and declares the following:

16
17 The interstate compact for the supervision of Parolees and
18 Probationers was established in 1937, it is the earliest corrections
19 "compact" established among the states and has not been amended
20 since its adoption for over 62 years;

21
22 This compact is the only vehicle for the controlled movement of
23 adult parolees and probationers across state lines, and it currently has
24 jurisdiction over more than a quarter of a million offenders;

25
26 The complexities of the compact have become more difficult to
27 administer, and many jurisdictions have expanded supervision
28 expectations to include currently unregulated practices such as victim
29 input, victim notification requirements and sex offender registration;

30
31 After hearings, national surveys and a detailed study by a task force
32 appointed by the National Institute of Corrections, the overwhelming
33 recommendation has been to amend the document to bring about an
34 effective management capacity that addresses public safety concerns
35 and offender accountability; and

36
37 Upon the adoption of this Interstate Compact for Adult Offender
38 Supervision, it is the intention of the Legislature to repeal the previous
39 Interstate Compact for the Supervision of Parolees and Probationers
40 on the effective date of this Compact.

41
42 b. This act shall be known and may be cited as the "Interstate
43 Compact for Adult Offender Supervision."

44 c. Article I. Purpose. The compacting states to this Interstate
45 Compact recognize that each state is responsible for the supervision
46 of adult offenders in the community who are authorized pursuant to

1 the bylaws and rules of this compact to travel across state lines both
2 to and from each compacting state in such a manner as to track the
3 location of offenders, transfer supervision authority in an orderly and
4 efficient manner and when necessary return offenders to the
5 originating jurisdictions.

6 The compacting states also recognize that Congress, by enacting
7 the Crime Control Act, 4 U.S.C.A. section 112 (1965), has authorized
8 and encouraged compacts for cooperative efforts and mutual
9 assistance in the prevention of crime.

10 It is the purpose of this compact and the Interstate Commission
11 created hereunder, through means of joint and cooperative action
12 among the compacting states: to provide the framework for the
13 promotion of public safety and protect the rights of victims through
14 the control and regulation of the interstate movement of offenders in
15 the community; to provide for the effective tracking, supervision and
16 rehabilitation of these offenders by the sending and receiving states;
17 and to equitably distribute the costs, benefits and obligations of the
18 compact among the compacting states.

19 In addition, this compact will: create a Interstate Commission which
20 will establish uniform procedures to manage the movement between
21 states of adults placed under community supervision and released to
22 the community under the jurisdiction of courts, paroling authorities,
23 corrections or other criminal justice agencies which will promulgate
24 rules to achieve the purpose of this compact; ensure an opportunity for
25 input and timely notice to victims and to jurisdictions where defined
26 offenders are authorized to travel or to relocate across state lines;
27 establish a system of uniform data collection, access to information on
28 active cases by authorized criminal justice officials, and regular
29 reporting of compact activities to heads of state councils, state
30 executive, judicial and legislative branches and criminal justice
31 administrators; monitor compliance with rules governing interstate
32 movement of offenders and initiate interventions to address and
33 correct non-compliance; and coordinate training and education
34 regarding regulations of interstate movement of offenders for officials
35 involved in such activity.

36 The compacting states recognize that there is no "right" of any
37 offender to live in another state and that duly accredited officers of a
38 sending state may at all times enter a receiving state and there
39 apprehend and retake any offender under supervision subject to the
40 provisions of this compact and bylaws and rules promulgated
41 hereunder.

42 It is the policy of the compacting states that the activities conducted
43 by the Interstate Commission created herein are the formation of
44 public policies and are therefore public business.

45

46 2. Article II. Definitions.

S166 BAGGER

1 As used in this compact, unless the context clearly requires a
2 different construction:

3 "Adult" means a person who is 18 years of age or older or a person
4 who is under 18 years of age who either by statute or court order is
5 considered an adult.

6 "By-laws" mean those by-laws established by the Interstate
7 Commission for its governance, or for directing or controlling the
8 Interstate Commission's actions or conduct.

9 "Compact administrator" means the individual in each compacting
10 state appointed pursuant to the terms of this compact responsible for
11 the administration and management of the State's supervision and
12 transfer of offenders subject to the terms of this compact, the rules
13 adopted by the Interstate Commission and policies adopted by the
14 State Council under this compact.

15 "Compacting state" means any state which has enacted the enabling
16 legislation for this compact.

17 "Commissioner" means the voting representative of each
18 compacting state appointed pursuant to Article III of this compact.

19 "Interstate Commission" means the Interstate Commission for Adult
20 Offender Supervision established by this compact.

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

24 "Non Compacting state" means any state which has not enacted the
25 enabling legislation for this compact.

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

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

32 "Rules" means acts of the Interstate Commission, duly promulgated
33 pursuant to Article VIII of this compact, substantially affecting
34 interested parties in addition to the Interstate Commission, which shall
35 have the force and effect of law in the compacting states.

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

38 "State Council" means the resident members of the State Council
39 for Interstate Adult Offender Supervision created by each state under
40 Article III of this compact.

41

42 3. Article III. The Compact Commission.

43 a. The compacting states hereby create the "Interstate Commission
44 for Adult Offender Supervision." The Interstate Commission shall be
45 a body corporate and joint agency of the compacting states. The
46 Interstate Commission shall have all the responsibilities, powers and

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

5 b. The Interstate Commission shall consist of Commissioners
6 selected and appointed by resident members of a State Council for
7 Interstate Adult Offender Supervision for each state. In addition to
8 the Commissioners who are the voting representatives of each state,
9 the Interstate Commission shall include individuals who are not
10 commissioners but who are members of interested organizations. Such
11 non-commissioner members shall include a member of the national
12 organizations of governors, legislators, state chief justices, attorneys
13 general and crime victims. All non-commissioner members of the
14 Interstate Commission shall be ex-officio (nonvoting) members. The
15 Interstate Commission may provide in its by-laws for such additional,
16 ex-officio, non-voting members as it deems necessary.

17 c. Each compacting state represented at any meeting of the
18 Interstate Commission is entitled to one vote. A majority of the
19 compacting states shall constitute a quorum for the transaction of
20 business, unless a larger quorum is required by the by-laws of the
21 Interstate Commission.

22 d. The Interstate Commission shall meet at least once each calendar
23 year. The chairman may call additional meetings and, upon the request
24 of 27 or more compacting states, shall call additional meetings. Public
25 notice shall be given of all meetings and meetings shall be open to the
26 public.

27 e. The Interstate Commission shall establish an Executive
28 Committee which shall include commission officers, members and
29 others as shall be determined by the by-laws. The Executive
30 Committee shall have the power to act on behalf of the Interstate
31 Commission during periods when the Interstate Commission is not in
32 session, with the exception of rulemaking or amendment to the
33 Compact. The Executive Committee shall oversee the day-to-day
34 activities managed by the Executive Director and Interstate
35 Commission staff, administer enforcement and compliance with the
36 provisions of the compact, its by-laws and as directed by the Interstate
37 Commission and perform other duties as directed by Commission or
38 set forth in the by-laws.

39

40 4. Article IV. The State Council.

41 a. There is hereby established the New Jersey State Council for the
42 Interstate Adult Offender Supervision which shall consist of the
43 following members:

44 (1) one member of the General Assembly appointed by the Speaker
45 of the General Assembly;

46 (2) one member of the Senate appointed by the President of the

S166 BAGGER

1 Senate;

2 (3) A sitting judge appointed by the Chief Justice of the New Jersey
3 Supreme Court;

4 (4) The Commissioner of the Department of Corrections or his
5 designee;

6 (5) A law enforcement officer and a representative from a crime
7 victim's organization, each appointed by the Governor with the advice
8 and consent of the Senate; and

9 (6) The Chairman of the State Parole Board who, in addition to
10 serving as a member of the council, shall be appointed as the compact
11 administrator by the Governor.

12 b. The compact administrator is the compact commissioner and
13 presiding officer of the council and shall serve as the New Jersey
14 Commissioner to the Interstate Commission.

15 c. Members of the Council shall be appointed for terms of four
16 years and the terms of their successors shall be calculated from the
17 expiration of the incumbent's term. Members shall serve until their
18 successors are appointed and have qualified.

19 d. The State Council shall meet at least twice a year.

20 e. The State Council shall develop policies concerning the operation
21 of the compact within this State. The State Council may adopt rules,
22 including rules proposed by the commission for adoption by this state,
23 to implement the compact.

24 f. The State Council shall report annually to the Legislature
25 concerning the activities of the council and the Interstate Commission.

26

27 5. Article V. Powers and Duties of the Interstate Commission.

28 The Interstate Commission shall have the following powers:

29 a. To adopt a seal and suitable by-laws governing the
30 management and operation of the Interstate Commission;

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

34 c. To oversee, supervise and coordinate the interstate movement of
35 offenders subject to the terms of this compact and any by-laws
36 adopted and rules promulgated by the compact commission;

37 d. To enforce compliance with compact provisions, Interstate
38 Commission rules, and by-laws, using all necessary and proper means,
39 including but not limited to, the use of judicial process;

40 e. To establish and maintain offices;

41 f. To purchase and maintain insurance and bonds;

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

44 h. To establish and appoint committees and hire staff which it
45 deems necessary for the carrying out of its functions including, but not
46 limited to, an executive committee as required by Article III which

S166 BAGGER

- 1 shall have the power to act on behalf of the Interstate Commission in
2 carrying out its powers and duties hereunder;
- 3 i. To elect or appoint such officers, attorneys, employees, agents,
4 or consultants, and to fix their compensation, define their duties and
5 determine their qualifications; and to establish the Interstate
6 Commission's personnel policies and programs relating to, among
7 other things, conflicts of interest, rates of compensation, and
8 qualifications of personnel;
- 9 j. To accept any and all donations and grants of money, equipment,
10 supplies, materials, and services, and to receive, utilize, and dispose of
11 same;
- 12 k. To lease, purchase, accept contributions or donations of, or
13 otherwise to own, hold, improve or use any property, real, personal,
14 or mixed;
- 15 l. To sell, convey, mortgage, pledge, lease, exchange, abandon, or
16 otherwise dispose of any property, real, personal or mixed;
- 17 m. To establish a budget and make expenditures and levy dues as
18 provided in Article X of this compact;
- 19 n. To sue and be sued;
- 20 o. To provide for dispute resolution among compacting states;
- 21 p. To perform such functions as may be necessary or appropriate to
22 achieve the purposes of this compact;
- 23 q. To report annually to the legislatures, governors, judiciary, and
24 state councils of the compacting states concerning the activities of the
25 Interstate Commission during the preceding year. Such reports shall
26 also include any recommendations that may have been adopted by the
27 Interstate Commission;
- 28 r. To coordinate education, training and public awareness regarding
29 the interstate movement of offenders for officials involved in such
30 activity; and
- 31 s. To establish uniform standards for the reporting, collecting, and
32 exchanging of data.
- 33
- 34 6. Article VI. Organization and Operation of the Interstate
35 Commission.
- 36 a. By-laws. The Interstate Commission shall, by a majority of the
37 Members, within twelve months of the first Interstate Commission
38 meeting, adopt by-laws to govern its conduct as may be necessary or
39 appropriate to carry out the purposes of the Compact, including, but
40 not limited to:
- 41 (1) Establishing the fiscal year of the Interstate Commission.
42 (2) Establishing an executive committee and such other committees
43 as may be necessary.
44 (3) Providing reasonable standards and procedures for the
45 establishment of committees, and governing any general or specific
46 delegation of any authority or function of the Interstate Commission.

S166 BAGGER

1 (4) Providing reasonable procedures for calling and conducting
2 meetings of the Interstate Commission, and ensuring reasonable notice
3 of each such meeting.

4 (5) Establishing the titles and responsibilities of the officers of the
5 Interstate Commission.

6 (6) Providing reasonable standards and procedures for the
7 establishment of the personnel policies and programs of the Interstate
8 Commission.

9 Notwithstanding any civil service or other similar laws of any
10 Compacting State, the by-laws shall exclusively govern the personnel
11 policies and programs of the Interstate Commission.

12 (7) Providing a mechanism for winding up the operations of the
13 Interstate Commission and the equitable return of any surplus funds
14 that may exist upon the termination of the Compact after the payment
15 or reserving of all of its debts and obligations.

16 (8) Providing transition rules for "start up" administration of the
17 compact.

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

20 b. Officers and Staff. The Interstate Commission shall, by a majority
21 of the members, elect from among its members a chairman and a vice
22 chairman, each of whom shall have such authorities and duties as may
23 be specified in the by-laws. The chairman, or in his absence or
24 disability, the vice chairman, shall preside at all meetings of the
25 Interstate Commission. The officers so elected shall serve without
26 compensation or remuneration from the Interstate Commission;
27 provided that, subject to the availability of budgeted funds, the officers
28 shall be reimbursed for any actual and necessary costs and expenses
29 incurred by them in the performance of their duties and responsibilities
30 as officers of the Interstate Commission.

31 The Interstate Commission shall, through its executive committee,
32 appoint or retain an executive director for such period, upon such
33 terms and conditions and for such compensation as the Interstate
34 Commission may deem appropriate. The executive director shall serve
35 as secretary to the Interstate Commission, and hire and supervise such
36 other staff as may be authorized by the Interstate Commission, but
37 shall not be a member.

38 c. Corporate Records of the Interstate Commission. The Interstate
39 Commission shall maintain its corporate books and records in
40 accordance with the by-laws.

41 d. Qualified Immunity, Defense and Indemnification. The members,
42 officers, executive director and employees of the Interstate
43 Commission shall be immune from suit and liability, either personally
44 or in their official capacity, for any claim for damage to or loss of
45 property or personal injury or other civil liability caused or arising out
46 of any actual or alleged act, error or omission that occurred within the

1 scope of Interstate Commission employment, duties or responsibilities;
2 provided, that nothing in this paragraph shall be construed to protect
3 any such person from suit or liability for any damage, loss, injury or
4 liability caused by the intentional or willful and wanton misconduct of
5 any such person.

6 The Interstate Commission shall defend the Commissioner of a
7 Compacting State, or his representatives or employees, or the
8 Interstate Commission's representatives or employees, in any civil
9 action seeking to impose liability, arising out of any actual or alleged
10 act, error or omission that occurred within the scope of Interstate
11 Commission employment, duties or responsibilities, or that the
12 defendant had a reasonable basis for believing occurred within the
13 scope of Interstate Commission employment, duties or responsibilities;
14 provided, that the actual or alleged act, error or omission did not
15 result from intentional wrongdoing on the part of such person.

16 The Interstate Commission shall indemnify and hold the
17 Commissioner of a Compacting State, the appointed designee or
18 employees, or the Interstate Commission's representatives or
19 employees, harmless in the amount of any settlement or judgment
20 obtained against such persons arising out of any actual or alleged act,
21 error or omission that occurred within the scope of Interstate
22 Commission employment, duties or responsibilities, or that such
23 persons had a reasonable basis for believing occurred within the scope
24 of Interstate Commission employment, duties or responsibilities,
25 provided, that the actual or alleged act, error or omission did not
26 result from gross negligence or intentional wrongdoing on the part of
27 such person.

28

29 7. Article VII. Activities of the Interstate Commission.

30 a. The Interstate Commission shall meet and take such actions as
31 are consistent with the provisions of this Compact.

32 b. Except as otherwise provided in this Compact and unless a
33 greater percentage is required by the By-laws, in order to constitute
34 an act of the Interstate Commission, such act shall have been taken at
35 a meeting of the Interstate Commission and shall have received an
36 affirmative vote of a majority of the members present.

37 c. Each Member of the Interstate Commission shall have the right
38 and power to cast a vote to which that Compacting State is entitled
39 and to participate in the business and affairs of the Interstate
40 Commission. A Member shall vote in person on behalf of the state and
41 shall not delegate a vote to another member state. However, a State
42 Council shall appoint another authorized representative, in the absence
43 of the commissioner from that state, to cast a vote on behalf of the
44 member state at a specified meeting. The By-laws may provide for
45 Members' participation in meetings by telephone or other means of
46 telecommunication or electronic communication. Any voting

S166 BAGGER

10

1 conducted by telephone, or other means of telecommunication or
2 electronic communication shall be subject to the same quorum
3 requirements of meetings where members are present in person.

4 d. The Interstate Commission shall meet at least once during each
5 calendar year. The chairman of the Interstate Commission may call
6 additional meetings at any time and, upon the request of a majority of
7 the Members, shall call additional meetings.

8 e. The Interstate Commission's By-laws shall establish conditions
9 and procedures under which the Interstate Commission shall make its
10 information and official records available to the public for inspection
11 or copying. The Interstate Commission may exempt from disclosure
12 any information or official records to the extent they would adversely
13 affect personal privacy rights or proprietary interests. In promulgating
14 such Rules, the Interstate Commission may make available to law
15 enforcement agencies records and information otherwise exempt from
16 disclosure, and may enter into agreements with law enforcement
17 agencies to receive or exchange information or records subject to
18 nondisclosure and confidentiality provisions.

19 f. Public notice shall be given of all meetings and all meetings shall
20 be open to the public, except as set forth in the Rules or as otherwise
21 provided in the Compact. The Interstate Commission shall promulgate
22 Rules consistent with the principles contained in the "Government in
23 the Sunshine Act," 5 U.S.C. Section 552(b), as may be amended. The
24 Interstate Commission and any of its committees may close a meeting
25 to the public where it determines by two-thirds vote that an open
26 meeting would be likely to:

27 (1) relate solely to the Interstate Commission's internal personnel
28 practices and procedures;

29 (2) disclose matters specifically exempted from disclosure by
30 statute;

31 (3) disclose trade secrets or commercial or financial information
32 which is privileged or confidential;

33 (4) involve accusing any person of a crime, or formally censuring
34 any person;

35 (5) disclose information of a personal nature where disclosure
36 would constitute a clearly unwarranted invasion of personal privacy;

37 (6) disclose investigatory records compiled for law enforcement
38 purposes;

39 (7) disclose information contained in or related to examination,
40 operating or condition reports prepared by, or on behalf of or for the
41 use of, the Interstate Commission with respect to a regulated entity for
42 the purpose of regulation or supervision of such entity;

43 (8) disclose information, the premature disclosure of which would
44 significantly endanger the life of a person or the stability of a regulated
45 entity; or

46 (9) specifically relate to the Interstate Commission's issuance of a

1 subpoena, or its participation in a civil action or proceeding.

2 g. For every meeting closed pursuant to this provision, the
3 Interstate Commission's chief legal officer shall publicly certify that,
4 in his opinion, the meeting may be closed to the public, and shall
5 reference each relevant exemptive provision.

6 h. The Interstate Commission shall keep minutes which shall fully
7 and clearly describe all matters discussed in any meeting and shall
8 provide a full and accurate summary of any actions taken, and the
9 reasons therefor, including a description of each of the views
10 expressed on any item and the record of any roll call vote (reflected in
11 the vote of each Member on the question). All documents considered
12 in connection with any action shall be identified in such minutes.

13 i. The Interstate Commission shall collect standardized data
14 concerning the interstate movement of offenders as directed through
15 its By-laws and Rules which shall specify the data to be collected, the
16 means of collection and data exchange and reporting requirements.

17

18 8. Article VIII. Rulemaking Functions of the Interstate
19 Commission.

20 a. The Interstate Commission shall promulgate Rules in order to
21 effectively and efficiently achieve the purposes of the Compact
22 including transition rules governing administration of the compact
23 during the period in which it is being considered and enacted by the
24 states.

25 b. Rulemaking shall occur pursuant to the criteria set forth in this
26 Article and the By-laws and Rules adopted pursuant thereto. Such
27 rulemaking shall substantially conform to the principles of the federal
28 Administrative Procedure Act, 5 U.S.C.A. section 551 et seq., and the
29 federal Advisory Committee Act, 5 U.S.C.A. App. 2, section 1 et seq.,
30 as may be amended (hereinafter "APA").

31 c. All Rules and amendments shall become binding as of the date
32 specified in each Rule or amendment.

33 d. If a majority of the legislatures of the Compacting States rejects
34 a Rule, by enactment of a statute or resolution in the same manner
35 used to adopt the compact, then such Rule shall have no further force
36 and effect in any Compacting State.

37 e. When promulgating a Rule, the Interstate Commission shall:

38 (1) publish the proposed Rule stating with particularity the text
39 of the Rule which is proposed and the reason for the proposed
40 Rule;

41 (2) allow persons to submit written data, facts, opinions and
42 arguments, which information shall be publicly available;

43 (3) provide an opportunity for an informal hearing; and

44 (4) promulgate a final Rule and its effective date, if
45 appropriate, based on the rulemaking record.

46 Not later than sixty days after a Rule is promulgated, any interested

1 person may file a petition in the United States District Court for the
2 District of Columbia or in the Federal District Court where the
3 Interstate Commission's principal office is located for judicial review
4 of such Rule. If the court finds that the Interstate Commission's action
5 is not supported by substantial evidence (as defined in the APA) in the
6 rulemaking record, the court shall hold the Rule unlawful and set it
7 aside.

8 f. Subjects to be addressed within 12 months after the first meeting
9 must at a minimum include:

- 10 (1) notice to victims and opportunity to be heard;
- 11 (2) offender registration and compliance;
- 12 (3) violations/returns;
- 13 (4) transfer procedures and forms;
- 14 (5) eligibility for transfer;
- 15 (6) collection of restitution and fees from offenders;
- 16 (7) data collection and reporting;
- 17 (8) the level of supervision to be provided by the receiving state;
- 18 (9) transition rules governing the operation of the compact and
19 the Interstate Commission during all or part of the period
20 between the effective date of the compact and the date on
21 which the last eligible state adopts the compact; and
- 22 (10) Mediation, arbitration and dispute resolution.

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

26 h. Upon determination by the Interstate Commission that an
27 emergency exists, it may promulgate an emergency rule which shall
28 become effective immediately upon adoption, provided that the usual
29 rulemaking procedures provided hereunder shall be retroactively
30 applied to said rule as soon as reasonably possible, in no event later
31 than 90 days after the effective date of the rule.

32
33 9. Article IX. Oversight, Enforcement and Dispute Resolution by
34 the Interstate Commission.

35 a. Oversight. The Interstate Commission shall oversee the
36 interstate movement of adult offenders in the compacting states and
37 shall monitor such activities being administered in Non-compacting
38 States which may significantly affect Compacting States.

39 The courts and executive agencies in each Compacting State shall
40 enforce this Compact and shall take all actions necessary and
41 appropriate to effectuate the Compact's purposes and intent. In any
42 judicial or administrative proceeding in a Compacting State pertaining
43 to the subject matter of this Compact which may affect the powers,
44 responsibilities or actions of the Interstate Commission, the Interstate
45 Commission shall be entitled to receive all service of process in any
46 such proceeding, and shall have standing to intervene in the

1 proceeding for all purposes.

2 b. Dispute Resolution. The Compacting States shall report to the
3 Interstate Commission on issues or activities of concern to them, and
4 cooperate with and support the Interstate Commission in the discharge
5 of its duties and responsibilities.

6 The Interstate Commission shall attempt to resolve any disputes or
7 other issues which are subject to the Compact and which may arise
8 among Compacting States and Non-compacting States.

9 The Interstate Commission shall enact a By-law or promulgate a
10 Rule providing for both mediation and binding dispute resolution for
11 disputes among the Compacting States.

12 c. Enforcement. The Interstate Commission, in the reasonable
13 exercise of its discretion, shall enforce the provisions of this compact
14 using any or all means set forth in Article XII, section b., of this
15 compact.

16

17 10. Article X. Finance.

18 a. The Interstate Commission shall pay or provide for the payment
19 of the reasonable expenses of its establishment, organization and
20 ongoing activities.

21 b. The Interstate Commission shall levy on and collect an annual
22 assessment from each Compacting State to cover the cost of the
23 internal operations and activities of the Interstate Commission and its
24 staff which must be in a total amount sufficient to cover the Interstate
25 Commission's annual budget as approved each year. The aggregate
26 annual assessment amount shall be allocated based upon a formula to
27 be determined by the Interstate Commission, taking into consideration
28 the population of the state and the volume of interstate movement of
29 offenders in each Compacting State and shall promulgate a Rule
30 binding upon all Compacting States which governs said assessment.

31 c. The Interstate Commission shall not incur any obligations of any
32 kind prior to securing the funds adequate to meet the same; nor shall
33 the Interstate Commission pledge the credit of any of the compacting
34 states, except by and with the authority of the compacting state.

35 d. The Interstate Commission shall keep accurate accounts of all
36 receipts and disbursements. The receipts and disbursements of the
37 Interstate Commission shall be subject to the audit and accounting
38 procedures established under its By-laws. However, all receipts and
39 disbursements of funds handled by the Interstate Commission shall be
40 audited yearly by a certified or licensed public accountant and the
41 report of the audit shall be included in and become part of the annual
42 report of the Interstate Commission.

43 e. (1) The Interstate compact for adult offender supervision fund is
44 established as a special fund in the State Treasury. The fund consists
45 of moneys appropriated for the purposes of meeting financial
46 obligations imposed on the State of New Jersey as a result of the

1 State's participation in this compact.

2 (2) An assessment levied or any other financial obligation imposed
3 under this compact is effective against the State of New Jersey only to
4 the extent that moneys to pay the assessment or meet the financial
5 obligation have been appropriated and deposited in the fund
6 established pursuant to paragraph (1) of this subsection.

7

8 11. Article XI. Compacting States, Effective Date and Amendment.

9 a. Any state, as defined in Article II of this compact, is eligible to
10 become a Compacting State.

11 b. The Compact shall become effective and binding upon legislative
12 enactment of the Compact into law by no less than 35 of the States.
13 The initial effective date shall be the later of July 1, 2001, or upon
14 enactment into law by the 35th jurisdiction. Thereafter it shall become
15 effective and binding, as to any other Compacting State, upon
16 enactment of the Compact into law by that State. The governors of
17 Non-member states or their designees will be invited to participate in
18 Interstate Commission activities on a non-voting basis prior to
19 adoption of the compact by all states and territories of the United
20 States.

21 c. Amendments to the Compact may be proposed by the Interstate
22 Commission for enactment by the Compacting States. No amendment
23 shall become effective and binding upon the Interstate Commission and
24 the Compacting States unless and until it is enacted into law by
25 unanimous consent of the Compacting States.

26

27 12. Article XII. Withdrawal, Default, Termination and Judicial
28 Enforcement.

29 a. Withdrawal. Once effective, the Compact shall continue in force
30 and remain binding upon each and every Compacting State; provided,
31 that a Compacting State may withdraw from the Compact
32 ("Withdrawing State") by enacting a statute specifically repealing the
33 statute which enacted the Compact into law.

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

35 The Withdrawing State shall immediately notify the Chairman of the
36 Interstate Commission in writing upon the introduction of legislation
37 repealing this Compact in the Withdrawing State.

38 The Interstate Commission shall notify the other Compacting States
39 of the Withdrawing State's intent to withdraw within sixty days of its
40 receipt thereof.

41 The Withdrawing State is responsible for all assessments,
42 obligations and liabilities incurred through the effective date of
43 withdrawal, including any obligations, the performance of which
44 extend beyond the effective date of withdrawal.

45 Reinstatement following withdrawal of any Compacting State shall
46 occur upon the Withdrawing State reenacting the Compact or upon

1 such later date as determined by the Interstate Commission

2 b. Default. If the Interstate Commission determines that any
3 Compacting State has at any time defaulted ("Defaulting State") in the
4 performance of any of its obligations or responsibilities under this
5 Compact, the By-laws or any duly promulgated Rules, the Interstate
6 Commission may impose any or all of the following penalties:

7 Fines, fees and costs in such amounts as are deemed to be
8 reasonable as fixed by the Interstate Commission;

9 Remedial training and technical assistance as directed by the
10 Interstate Commission; and

11 Suspension and termination of membership in the compact.

12 Suspension shall be imposed only after all other reasonable means
13 of securing compliance under the By-laws and Rules have been
14 exhausted. Immediate notice of suspension shall be given by the
15 Interstate Commission to the Governor, the Chief Justice or Chief
16 Judicial Officer of the state; the majority and minority leaders of the
17 defaulting state's legislature, and the State Council.

18 The grounds for default include, but are not limited to, failure of a
19 Compacting State to perform such obligations or responsibilities
20 imposed upon it by this compact, Interstate Commission By-laws, or
21 duly promulgated Rules. The Interstate Commission shall
22 immediately notify the Defaulting State in writing of the penalty
23 imposed by the Interstate Commission on the Defaulting State pending
24 a cure of the default. The Interstate Commission shall stipulate the
25 conditions and the time period within which the Defaulting State must
26 cure its default. If the Defaulting State fails to cure the default within
27 the time period specified by the Interstate Commission, in addition to
28 any other penalties imposed herein, the Defaulting State may be
29 terminated from the Compact upon an affirmative vote of a majority
30 of the Compacting States and all rights, privileges and benefits
31 conferred by this Compact shall be terminated from the effective date
32 of suspension.

33 Within sixty days of the effective date of termination of a
34 Defaulting State, the Interstate Commission shall notify the Governor,
35 the Chief Justice or Chief Judicial Officer and the Majority and
36 Minority Leaders of the Defaulting State's legislature and the state
37 council of such termination.

38 The Defaulting State is responsible for all assessments, obligations
39 and liabilities incurred through the effective date of termination
40 including any obligations, the performance of which extends beyond
41 the effective date of termination.

42 The Interstate Commission shall not bear any costs relating to the
43 Defaulting State unless otherwise mutually agreed upon between the
44 Interstate Commission and the Defaulting State.

45 Reinstatement following termination of any Compacting State
46 requires both a reenactment of the Compact by the Defaulting State

1 and the approval of the Interstate Commission pursuant to the Rules.

2 c. Judicial Enforcement. The Interstate Commission may, by
3 majority vote of the Members, initiate legal action in the United States
4 District Court for the District of Columbia or, at the discretion of the
5 Interstate Commission, in the Federal District where the Interstate
6 Commission has its offices to enforce compliance with the provisions
7 of the Compact, its duly promulgated Rules and By-laws, against any
8 Compacting State in default. In the event judicial enforcement is
9 necessary the prevailing party shall be awarded all costs of such
10 litigation including reasonable attorneys fees.

11 d. Dissolution of Compact. The Compact dissolves effective upon
12 the date of the withdrawal or default of the Compacting State which
13 reduces membership in the Compact to one Compacting State.

14 Upon the dissolution of this Compact, the Compact becomes null
15 and void and shall be of no further force or effect, and the business
16 and affairs of the Interstate Commission shall be wound up and any
17 surplus funds shall be distributed in accordance with the By-laws.

18

19 13. Article XIII. Severability and Construction. The provisions of
20 this Compact shall be severable, and if any phrase, clause, sentence or
21 provision is deemed unenforceable, the remaining provisions of the
22 Compact shall be enforceable.

23 The provisions of this Compact shall be liberally constructed to
24 effectuate its purposes.

25

26 14. Article XIV. Binding Effect of Compact and Other Laws.

27 a. Other Laws. Nothing herein prevents the enforcement of any
28 other law of a Compacting State that is not inconsistent with this
29 Compact.

30 All Compacting States' laws conflicting with this Compact are
31 superseded to the extent of the conflict.

32 b. Binding Effect of the Compact. All lawful actions of the
33 Interstate Commission, including all Rules and By-laws promulgated
34 by the Interstate Commission, are binding upon the Compacting
35 States.

36 All agreements between the Interstate Commission and the
37 Compacting States are binding in accordance with their terms.

38 Upon the request of a party to a conflict over meaning or
39 interpretation of Interstate Commission actions, and upon a majority
40 vote of the Compacting States, the Interstate Commission may issue
41 advisory opinions regarding such meaning or interpretation.

42 In the event any provision of this Compact exceeds the
43 constitutional limits imposed on the legislature of any Compacting
44 State, the obligations, duties, powers or jurisdiction sought to be
45 conferred by such provision upon the Interstate Commission shall be
46 ineffective and such obligations, duties, powers or jurisdiction shall

S166 BAGGER

17

1 remain in the Compacting State and shall be exercised by the agency
2 thereof to which such obligations, duties, powers or jurisdiction are
3 delegated by law in effect at the time this Compact becomes effective.

4
5 15. The following are repealed:

6 N.J.S.2A:168-14 to 2A:168-17 both inclusive; and Laws of 1953,
7 c.83, ss.1 through 8 (C.2A:168-18 through C.2A:168-25).

8
9 16. This act shall take effect immediately.

10
11
12 **STATEMENT**

13
14 This bill would enact the Interstate Compact for Adult Offender
15 Supervision.

16 This bill would repeal the current interstate compact for the
17 supervision of parolees and probationers, N.J.S.A.2A:168-14 through
18 2A:168-25, which was enacted in 1937. The National Institute of
19 Corrections, in collaboration with the Council of State Governments,
20 has developed a model Interstate Compact which mandates more
21 efficient communications between the states and state agencies. This
22 model legislation was developed after a year of public hearings,
23 research dialogue among legislators, attorneys generals, parole and
24 probation officials and victim's groups. This model legislation was
25 introduced in 43 states. The compact has been adopted by 24 states.
26 In order for the compact to become effective it must be adopted by 35
27 states.

28 The revised compact would provide for more efficient
29 communications between the States and State agencies. It would
30 provide for the creation of a national database, utilizing current
31 communications technology that which would allow states to share
32 critical offender information. The compact would require that a state
33 council be established which would oversee the interests of all three
34 branches of the government so as to ensure that state officials are
35 aware of the compact and are taking full advantage of the compact.
36 State council membership would include representation from the
37 legislative, judicial and executive branches and victim groups.

38 The compact would establish an independent compact operating
39 authority which would administer ongoing compact activity, including
40 a provision for staff support. A national governing commission would
41 be established which would meet annually to elect the compact
42 operating authority members and attend to general business and rule
43 making procedures. Members of this national commission would be
44 appointed by the Governor. Participation in the national commission
45 allows states to assist in the development of mechanisms by which the
46 states can identify, track and account for the movement of offenders.

S166 BAGGER

18

1 In addition, the compact provides for rule making authority and
2 provisions for significant sanctions to support essential compact
3 operations. It also provides for a mandatory funding mechanism
4 sufficient to support essential compact operations and compels
5 collection of standardized information.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 166

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 2002

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 166 (1R).

Senate Bill No. 166 (1R) enacts the Interstate Compact for Adult Offender Supervision.

The current interstate compact for the supervision of parolees and probationers, N.J.S.A.2A:168-14 through 2A:168-25, was enacted in 1937. The National Institute of Corrections, in collaboration with the Council of State Governments, has developed a model Interstate Compact which mandates more efficient communications between the states and state agencies than the current compact. This model legislation was developed after a year of public hearings, research and dialogue among legislators, attorneys general, parole and probation officials and victims' groups. This model legislation was introduced in 43 states. In order for the compact to become effective, it must be adopted by 35 states. The compact has been adopted by 38 states.

The revised compact would provide for more efficient communications between the states and state agencies. It would provide for the creation of a national database, utilizing current communications technology which would allow states to share critical offender information. The compact would require that a state council be established which would oversee the interests of all three branches of the government so as to ensure that state officials are aware of the compact and are taking full advantage of the compact. State council membership would include representation from the legislative, judicial and executive branches and victims' groups.

The compact would establish an independent compact operating authority which would administer ongoing compact activity, including a provision for staff support. A national governing commission would be established which would meet annually to elect the compact operating authority members and attend to general business and rule making procedures. Members of this national commission would be appointed by the Governor. Participation in the national commission allows states to assist in the development of mechanisms by which the

states can identify, track and account for the movement of offenders.

In addition, the compact provides for rule making authority and for significant sanctions to support essential compact operations. It also provides for a mandatory funding mechanism sufficient to support essential compact operations and compels collection of standardized information.

As reported by the committee, this bill is identical to the committee substitute for Assembly Bill Nos. 2163 and 1993, also reported by the committee on this same date.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) increase the membership of the New Jersey State Council for Interstate Adult Offenders by providing for the appointment of two members of the General Assembly, one from each party, and two members of the Senate, one from each party; the bill, as introduced, specified that one member of each house was to be appointed to the council;

(2) provide for the Governor to appoint the compact administrator, who is responsible for administering and managing the supervision and transfer of offenders under the compact; the appointee is to be a member of the State Council, which is established by the bill to develop policies concerning the operation of the compact in this State, or a State government official with appropriate background or experience; the bill, as introduced, required the Governor to appoint the Chairman of the State Parole Board to that position; and

(3) make a technical correction.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint]

SENATE, No. 166

STATE OF NEW JERSEY

DATED: OCTOBER 21, 2002

The Assembly Appropriations Committee reports favorably Senate Bill No. 166 (2R).

Senate Bill No. 166 (2R) enacts the Interstate Compact for Adult Offender Supervision.

The current interstate compact for the supervision of parolees and probationers, N.J.S.A.2A:168-14 through 2A:168-25, was enacted in 1937. The National Institute of Corrections, in collaboration with the Council of State Governments, has developed a model Interstate Compact which mandates more efficient communications between the states and state agencies than the current compact. This model legislation was developed after a year of public hearings, research and dialogue among legislators, attorneys general, parole and probation officials and victims' groups. This model legislation was introduced in 43 states. In order for the compact to become effective, it must be adopted by 35 states. The compact has been adopted by 38 states.

The revised compact provides for more efficient communications between the states and state agencies. It provides for the creation of a national database, utilizing current communications technology which would allow states to share critical offender information. The compact requires that a state council be established which would oversee the interests of all three branches of the government so as to ensure that state officials are aware of the compact and are taking full advantage of the compact. State council membership would include representation from the legislative, judicial and executive branches and victims' groups.

The compact establishes an independent compact operating authority which would administer ongoing compact activity, including a provision for staff support. A national governing commission would be established which would meet annually to elect the compact operating authority members and attend to general business and rule making procedures. Members of this national commission would be appointed by the Governor. Participation in the national commission allows states to assist in the development of mechanisms by which the states can identify, track and account for the movement of offenders.

In addition, the compact provides for rule making authority and for

significant sanctions to support essential compact operations. It also provides for a mandatory funding mechanism sufficient to support essential compact operations and compels collection of standardized information.

As reported by the committee, this legislation is identical to Assembly Bill Nos. 2163 and 1993 (ACS), also reported by the committee.

FISCAL IMPACT:

No fiscal information has been received on this subject matter. However, it has been stated that each state will be asked to pay annual dues to be members but the amount is not known at this time. Further, since this is a federal initiative, it is expected that most of the costs will be borne by the federal government.

SENATE LAW AND PUBLIC SAFETY AND VETERANS'
AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 166

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 25, 2002

The Senate Law and Public Safety and Veterans' Affairs Committee reports favorably and with committee amendments Senate Bill No. 166.

This bill enacts the Interstate Compact for Adult Offender Supervision.

The bill repeals the current interstate compact for the supervision of parolees and probationers, N.J.S.A.2A:168-14 through 2A:168-25, which was enacted in 1937. The National Institute of Corrections, in collaboration with the Council of State Governments, has developed a model Interstate Compact which mandates more efficient communications between the states and state agencies. This model legislation was developed after a year of public hearings, research and dialogue among legislators, attorneys general, parole and probation officials and victims' groups. This model legislation was introduced in 43 states. The compact has been adopted by 24 states. In order for the compact to become effective, it must be adopted by 35 states.

The revised compact would provide for more efficient communications between the states and state agencies. It would provide for the creation of a national database, utilizing current communications technology that which would allow states to share critical offender information. The compact would require that a state council be established which would oversee the interests of all three branches of the government so as to ensure that state officials are aware of the compact and are taking full advantage of the compact. State council membership would include representation from the legislative, judicial and executive branches and victims' groups.

The compact would establish an independent compact operating authority which would administer ongoing compact activity, including a provision for staff support. A national governing commission would be established which would meet annually to elect the compact operating authority members and attend to general business and rule making procedures. Members of this national commission would be appointed by the Governor. Participation in the national commission

allows states to assist in the development of mechanisms by which the states can identify, track and account for the movement of offenders.

In addition, the compact provides for rule making authority and for significant sanctions to support essential compact operations. It also provides for a mandatory funding mechanism sufficient to support essential compact operations and compels collection of standardized information.

The committee amendments remove a sitting judge and add the Administrative Director of the Courts as one of the members of the independent compact operating authority. The other committee amendments are technical in nature.

This bill was pre-filed for introduction in the 2002 legislative session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

LEGISLATIVE FISCAL ESTIMATE
 [Second Reprint]
SENATE, No. 166
STATE OF NEW JERSEY
210th LEGISLATURE

DATED: NOVEMBER 21, 2002

SUMMARY

Synopsis: Enacts the Interstate Compact for Adult Offender Supervision
Type of Impact: General Fund expenditure
Agencies Affected: Judiciary, State Parole Board, Department of Corrections

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Unknown	Unknown	Unknown

- ! The Office of Legislative Services (OLS) notes that since the Interstate Commission has yet to be formed, and the formula which will determine New Jersey's portion of the costs has not been developed, no estimate of the cost of entering into this compact can be made.
- ! The bill would enact the Interstate Compact for Adult Offender Supervision, an independent compact operating authority. A national governing commission would be established which would meet annually to elect the compact operating authority members and attend to general business and rule making procedures. New Jersey's members of this commission would be appointed by the Governor.
- ! The bill provides that the Interstate Commission shall levy and collect an annual assessment from each participating State sufficient to cover the cost of its internal operations, activities and staff contained in its budget as approved. 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 participating State.

BILL DESCRIPTION

Senate Bill No. 166 (2R) of 2002 would enact the Interstate Compact for Adult Offender

Supervision. The bill, modeled after legislation drafted by The National Institute of Corrections, in collaboration with the Council of State Governments, develops a model Interstate Compact which mandates more efficient communications between the states and state agencies than the current compact.

The revised compact would provide for more efficient communications between the states and state agencies. It would provide for the creation of a national database, utilizing current communications technology which would allow states to share offender information. The compact would require that a state council be established which would oversee the interests of all three branches of the government so as to ensure that state officials are aware of the compact and are taking full advantage of the compact. State council membership would include representation from the legislative, judicial and executive branches and victims' groups.

The compact would establish an independent operating authority which would administer ongoing compact activity, including a provision for staff support. A national governing commission would be established which would meet annually to elect the compact operating authority members and attend to general business and rule making procedures. New Jersey's members of this commission would be appointed by the Governor.

The compact provides for rule making authority and for significant sanctions to support essential operations.

The bill provides that the Interstate Commission shall levy and collect an annual assessment from each participating State sufficient to cover the cost of its internal operations, activities and staff contained in its budget as approved. 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 participating State.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None Received

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) notes that since the Interstate Commission has yet to be formed, and the formula which will determine New Jersey's portion of the costs has not been developed, no estimate of the cost of entering into this compact can be made.

Section: *Judiciary*

Analyst: *Anne C. Raughley*
Lead Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

S166 [2R]

3

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY, No. 2163

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED MARCH 26, 2002

Sponsored by:

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Mercer)

Co-Sponsored by:

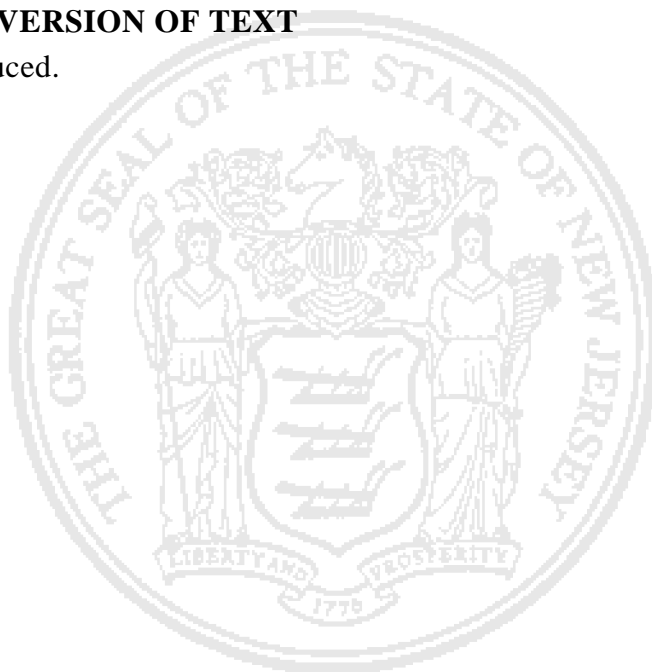
**Assemblymen Barnes, Diegnan, Chivukula, Egan and Assemblywoman
Previte**

SYNOPSIS

Enacts the Interstate Compact for Adult Offender Supervision.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT establishing the Interstate Compact for Adult Offender
2 Supervision and supplementing Title 30 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. a. The Interstate Compact for Adult Offender Supervision is
8 hereby enacted into law and entered into with all other jurisdictions
9 legally joining therein in the form substantially as follows:

10
11 INTERSTATE COMPACT FOR ADULT OFFENDER
12 SUPERVISION

13
14 The Legislature hereby finds and declares the following:

15 The interstate compact for the supervision of Parolees and
16 Probationers was established in 1937; it is the earliest corrections
17 "compact" established among the states and has not been amended
18 since its adoption for over 62 years;

19 This compact is the only vehicle for the controlled movement of
20 adult parolees and probationers across state lines, and it currently has
21 jurisdiction over more than a quarter of a million offenders;

22 The complexities of the compact have become more difficult to
23 administer, and many jurisdictions have expanded supervision
24 expectations to include currently unregulated practices such as victim
25 input, victim notification requirements and sex offender registration;

26 After hearings, national surveys and a detailed study by a task force
27 appointed by the National Institute of Corrections, the overwhelming
28 recommendation has been to amend the document to bring about an
29 effective management capacity that addresses public safety concerns
30 and offender accountability; and

31 Upon the adoption of this Interstate Compact for Adult Offender
32 Supervision by all states and territories of the United States, it is the
33 intention of the Legislature to repeal the previous Interstate Compact
34 for the Supervision of Parolees and Probationers.

35 b. This act shall be known and may be cited as the "Interstate
36 Compact for Adult Offender Supervision."

37 c. Article I. Purpose. The compacting states to this Interstate
38 Compact recognize that each state is responsible for the supervision
39 of adult offenders in the community who are authorized pursuant to
40 the bylaws and rules of this compact to travel across state lines both
41 to and from each compacting state in such a manner as to track the
42 location of offenders, transfer supervision authority in an orderly and
43 efficient manner and when necessary return offenders to the
44 originating jurisdictions.

45 The compacting states also recognize that Congress, by enacting
46 the Crime Control Act, 4 U.S.C. §112 (1965), has authorized and

1 encouraged compacts for cooperative efforts and mutual assistance in
2 the prevention of crime.

3 It is the purpose of this compact and the Interstate Commission
4 created hereunder, through means of joint and cooperative action
5 among the compacting states: to provide the framework for the
6 promotion of public safety and protect the rights of victims through
7 the control and regulation of the interstate movement of offenders in
8 the community; to provide for the effective tracking, supervision and
9 rehabilitation of these offenders by the sending and receiving states;
10 and to equitably distribute the costs, benefits and obligations of the
11 compact among the compacting states.

12 In addition, this compact will: create an Interstate Commission
13 which will establish uniform procedures to manage the movement
14 between states of adults placed under community supervision and
15 released to the community under the jurisdiction of courts, paroling
16 authorities, corrections or other criminal justice agencies which will
17 promulgate rules to achieve the purpose of this compact; ensure an
18 opportunity for input and timely notice to victims and to jurisdictions
19 where defined offenders are authorized to travel or to relocate across
20 state lines; establish a system of uniform data collection, access to
21 information on active cases by authorized criminal justice officials, and
22 regular reporting of compact activities to heads of state councils, state
23 executive, judicial and legislative branches and criminal justice
24 administrators; monitor compliance with rules governing interstate
25 movement of offenders and initiate interventions to address and
26 correct non-compliance; and coordinate training and education
27 regarding regulations of interstate movement of offenders for officials
28 involved in such activity.

29 The compacting states recognize that there is no "right" of any
30 offender to live in another state and that duly accredited officers of a
31 sending state may at all times enter a receiving state and there
32 apprehend and retake any offender under supervision subject to the
33 provisions of this compact and bylaws and rules promulgated
34 hereunder.

35 It is the policy of the compacting states that the activities conducted
36 by the Interstate Commission created herein are the formation of
37 public policies and are therefore public business.

38

39 2. Article II. Definitions.

40 As used in this compact, unless the context clearly requires a
41 different construction:

42 "Adult" means a person who is 18 years of age or older or a person
43 who is under 18 years of age who either by statute or court order is
44 considered an adult.

45 "By-laws" mean those by-laws established by the Interstate
46 Commission for its governance, or for directing or controlling the

1 Interstate Commission's actions or conduct.

2 "Compact administrator" means the individual in each compacting
3 state appointed pursuant to the terms of this compact responsible for
4 the administration and management of the State's supervision and
5 transfer of offenders subject to the terms of this compact, the rules
6 adopted by the Interstate Commission and policies adopted by the
7 State Council under this compact.

8 "Compacting state" means any state which has enacted the enabling
9 legislation for this compact.

10 "Commissioner" means the voting representative of each
11 compacting state appointed pursuant to Article III of this compact.

12 "Interstate Commission" means the Interstate Commission for Adult
13 Offender Supervision established by this compact.

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

17 "Non Compacting state" means any state which has not enacted the
18 enabling legislation for this compact.

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

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

25 "Rules" means acts of the Interstate Commission, duly promulgated
26 pursuant to Article VIII of this compact, substantially affecting
27 interested parties in addition to the Interstate Commission, which shall
28 have the force and effect of law in the compacting states.

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

31 "State Council" means the resident members of the State Council
32 for Interstate Adult Offender Supervision created by each state under
33 Article IV of this compact.

34

35 3. Article III. The Compact Commission.

36 a. The compacting states hereby create the "Interstate Commission
37 for Adult Offender Supervision." The Interstate Commission shall be
38 a body corporate and joint agency of the compacting states. The
39 Interstate Commission shall have all the responsibilities, powers and
40 duties set forth herein, including the power to sue and be sued, and
41 such additional powers as may be conferred upon it by subsequent
42 action of the respective legislatures of the compacting states in
43 accordance with the terms of this compact.

44 b. The Interstate Commission shall consist of Commissioners
45 selected and appointed by resident members of a State Council for
46 Interstate Adult Offender Supervision for each state. In addition to

1 the Commissioners who are the voting representatives of each state,
2 the Interstate Commission shall include individuals who are not
3 commissioners but who are members of interested organizations. Such
4 non-commissioner members shall include a member of the national
5 organizations of governors, legislators, state chief justices, attorneys
6 general and crime victims. All non-commissioner members of the
7 Interstate Commission shall be ex-officio (nonvoting) members. The
8 Interstate Commission may provide in its by-laws for such additional,
9 ex-officio, non-voting members as it deems necessary.

10 c. Each compacting state represented at any meeting of the
11 Interstate Commission is entitled to one vote. A majority of the
12 compacting states shall constitute a quorum for the transaction of
13 business, unless a larger quorum is required by the by-laws of the
14 Interstate Commission.

15 d. The Interstate Commission shall meet at least once each calendar
16 year. The chairman may call additional meetings and, upon the request
17 of 27 or more compacting states, shall call additional meetings. Public
18 notice shall be given of all meetings and meetings shall be open to the
19 public.

20 e. The Interstate Commission shall establish an Executive
21 Committee which shall include commission officers, members and
22 others as shall be determined by the by-laws. The Executive
23 Committee shall have the power to act on behalf of the Interstate
24 Commission during periods when the Interstate Commission is not in
25 session, with the exception of rulemaking or amendment to the
26 Compact. The Executive Committee shall oversee the day-to-day
27 activities managed by the Executive Director and Interstate
28 Commission staff, administer enforcement and compliance with the
29 provisions of the compact, its by-laws and as directed by the Interstate
30 Commission and perform other duties as directed by Commission or
31 set forth in the by-laws.

32
33 4. Article IV. The State Council.

34 a. There is hereby established the New Jersey State Council for
35 Interstate Adult Offender Supervision which shall consist of the
36 following members:

37 (1) two members of the General Assembly, no more than one of
38 whom shall be of the same political party, appointed by the Speaker of
39 the General Assembly;

40 (2) two members of the Senate, no more than one of whom shall
41 be of the same political party, appointed by the President of the
42 Senate;

43 (3) the Administrative Director of the Courts;

44 (4) the Commissioner of Corrections or his designee;

45 (5) a law enforcement officer and a representative from a crime
46 victim's organization, each appointed by the Governor with the advice

1 and consent of the Senate; and

2 (6) the Chairman of the State Parole Board.

3 b. The Governor shall appoint a compact administrator who shall
4 serve at the pleasure of the Governor. The compact administrator may
5 be a member of the State Council or a State government official with
6 appropriate background and experience. The compact administrator
7 shall be the compact commissioner and presiding officer of the council
8 and shall serve as the New Jersey Commissioner to the Interstate
9 Commission.

10 c. Members of the Council shall be appointed for terms of four
11 years and the terms of their successors shall be calculated from the
12 expiration of the incumbent's term. Members shall serve until their
13 successors are appointed and have qualified.

14 d. The State Council shall meet at least twice a year.

15 e. The State Council shall develop policies concerning the
16 operation of the compact within this State. The State Council may
17 adopt rules, including rules proposed by the commission for adoption
18 by this state, to implement the compact.

19 f. The State Council shall report annually to the Legislature
20 concerning the activities of the council and the Interstate Commission.

21

22 5. Article V. Powers and Duties of the Interstate Commission.

23 The Interstate Commission shall have the following powers:

24 a. To adopt a seal and suitable by-laws governing the management
25 and operation of the Interstate Commission;

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

29 c. To oversee, supervise and coordinate the interstate movement
30 of offenders subject to the terms of this compact and any by-laws
31 adopted and rules promulgated by the compact commission;

32 d. To enforce compliance with compact provisions, Interstate
33 Commission rules, and by-laws, using all necessary and proper means,
34 including but not limited to, the use of judicial process;

35 e. To establish and maintain offices;

36 f. To purchase and maintain insurance and bonds;

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

39 h. To establish and appoint committees and hire staff which it
40 deems necessary for the carrying out of its functions including, but not
41 limited to, an executive committee as required by Article III which
42 shall have the power to act on behalf of the Interstate Commission in
43 carrying out its powers and duties hereunder;

44 i. To elect or appoint such officers, attorneys, employees, agents,
45 or consultants, and to fix their compensation, define their duties and
46 determine their qualifications; and to establish the Interstate

- 1 Commission's personnel policies and programs relating to, among
2 other things, conflicts of interest, rates of compensation, and
3 qualifications of personnel;
- 4 j. To accept any and all donations and grants of money, equipment,
5 supplies, materials, and services, and to receive, utilize, and dispose of
6 same;
- 7 k. To lease, purchase, accept contributions or donations of, or
8 otherwise to own, hold, improve or use any property, real, personal,
9 or mixed;
- 10 l. To sell, convey, mortgage, pledge, lease, exchange, abandon, or
11 otherwise dispose of any property, real, personal or mixed;
- 12 m. To establish a budget and make expenditures and levy dues as
13 provided in Article X of this compact;
- 14 n. To sue and be sued;
- 15 o. To provide for dispute resolution among compacting states;
- 16 p. To perform such functions as may be necessary or appropriate
17 to achieve the purposes of this compact;
- 18 q. To report annually to the legislatures, governors, judiciary, and
19 state councils of the compacting states concerning the activities of the
20 Interstate Commission during the preceding year. Such reports shall
21 also include any recommendations that may have been adopted by the
22 Interstate Commission;
- 23 r. To coordinate education, training and public awareness
24 regarding the interstate movement of offenders for officials involved
25 in such activity; and
- 26 s. To establish uniform standards for the reporting, collecting, and
27 exchanging of data.
- 28
- 29 6. Article VI. Organization and Operation of the Interstate
30 Commission.
- 31 a. By-laws. The Interstate Commission shall, by a majority of the
32 Members, within twelve months of the first Interstate Commission
33 meeting, adopt by-laws to govern its conduct as may be necessary or
34 appropriate to carry out the purposes of the Compact, including, but
35 not limited to:
- 36 (1) Establishing the fiscal year of the Interstate Commission.
- 37 (2) Establishing an executive committee and such other committees
38 as may be necessary.
- 39 (3) Providing reasonable standards and procedures for the
40 establishment of committees, and governing any general or specific
41 delegation of any authority or function of the Interstate Commission.
- 42 (4) Providing reasonable procedures for calling and conducting
43 meetings of the Interstate Commission, and ensuring reasonable notice
44 of each such meeting.
- 45 (5) Establishing the titles and responsibilities of the officers of the
46 Interstate Commission.

1 (6) Providing reasonable standards and procedures for the
2 establishment of the personnel policies and programs of the Interstate
3 Commission.

4 Notwithstanding any civil service or other similar laws of any
5 Compacting State, the by-laws shall exclusively govern the personnel
6 policies and programs of the Interstate Commission.

7 (7) Providing a mechanism for winding up the operations of the
8 Interstate Commission and the equitable return of any surplus funds
9 that may exist upon the termination of the Compact after the payment
10 or reserving of all of its debts and obligations.

11 (8) Providing transition rules for "start up" administration of the
12 compact.

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

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

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

33 c. Corporate Records of the Interstate Commission. The Interstate
34 Commission shall maintain its corporate books and records in
35 accordance with the by-laws.

36 d. Qualified Immunity, Defense and Indemnification. The members,
37 officers, executive director and employees of the Interstate
38 Commission shall be immune from suit and liability, either personally
39 or in their official capacity, for any claim for damage to or loss of
40 property or personal injury or other civil liability caused or arising out
41 of any actual or alleged act, error or omission that occurred within the
42 scope of Interstate Commission employment, duties or responsibilities;
43 provided, that nothing in this paragraph shall be construed to protect
44 any such person from suit or liability for any damage, loss, injury or
45 liability caused by the intentional or willful and wanton misconduct of
46 any such person.

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

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

23

24 7. Article VII. Activities of the Interstate Commission.

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

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

32 c. Each Member of the Interstate Commission shall have the right
33 and power to cast a vote to which that Compacting State is entitled
34 and to participate in the business and affairs of the Interstate
35 Commission. A Member shall vote in person on behalf of the state and
36 shall not delegate a vote to another member state. However, a State
37 Council shall appoint another authorized representative, in the absence
38 of the commissioner from that state, to cast a vote on behalf of the
39 member state at a specified meeting. The By-laws may provide for
40 Members' participation in meetings by telephone or other means of
41 telecommunication or electronic communication. Any voting
42 conducted by telephone, or other means of telecommunication or
43 electronic communication shall be subject to the same quorum
44 requirements of meetings where members are present in person.

45 d. The Interstate Commission shall meet at least once during each
46 calendar year. The chairman of the Interstate Commission may call

1 additional meetings at any time and, upon the request of a majority of
2 the Members, shall call additional meetings.

3 e. The Interstate Commission's By-laws shall establish conditions
4 and procedures under which the Interstate Commission shall make its
5 information and official records available to the public for inspection
6 or copying. The Interstate Commission may exempt from disclosure
7 any information or official records to the extent they would adversely
8 affect personal privacy rights or proprietary interests. In promulgating
9 such Rules, the Interstate Commission may make available to law
10 enforcement agencies records and information otherwise exempt from
11 disclosure, and may enter into agreements with law enforcement
12 agencies to receive or exchange information or records subject to
13 nondisclosure and confidentiality provisions.

14 f. Public notice shall be given of all meetings and all meetings shall
15 be open to the public, except as set forth in the Rules or as otherwise
16 provided in the Compact. The Interstate Commission shall promulgate
17 Rules consistent with the principles contained in the "Government in
18 the Sunshine Act," 5 U.S.C. Section 552(b), as may be amended. The
19 Interstate Commission and any of its committees may close a meeting
20 to the public where it determines by two-thirds vote that an open
21 meeting would be likely to:

22 (1) relate solely to the Interstate Commission's internal personnel
23 practices and procedures;

24 (2) disclose matters specifically exempted from disclosure by
25 statute;

26 (3) disclose trade secrets or commercial or financial information
27 which is privileged or confidential;

28 (4) involve accusing any person of a crime, or formally censuring
29 any person;

30 (5) disclose information of a personal nature where disclosure
31 would constitute a clearly unwarranted invasion of personal privacy;

32 (6) disclose investigatory records compiled for law enforcement
33 purposes;

34 (7) disclose information contained in or related to examination,
35 operating or condition reports prepared by, or on behalf of or for the
36 use of, the Interstate Commission with respect to a regulated entity for
37 the purpose of regulation or supervision of such entity;

38 (8) disclose information, the premature disclosure of which would
39 significantly endanger the life of a person or the stability of a regulated
40 entity; or

41 (9) specifically relate to the Interstate Commission's issuance of a
42 subpoena, or its participation in a civil action or proceeding.

43 g. For every meeting closed pursuant to this provision, the
44 Interstate Commission's chief legal officer shall publicly certify that,
45 in his opinion, the meeting may be closed to the public, and shall
46 reference each relevant exemptive provision.

1 h. The Interstate Commission shall keep minutes which shall fully
2 and clearly describe all matters discussed in any meeting and shall
3 provide a full and accurate summary of any actions taken, and the
4 reasons therefor, including a description of each of the views
5 expressed on any item and the record of any roll call vote (reflected in
6 the vote of each Member on the question). All documents considered
7 in connection with any action shall be identified in such minutes.

8 i. The Interstate Commission shall collect standardized data
9 concerning the interstate movement of offenders as directed through
10 its By-laws and Rules which shall specify the data to be collected, the
11 means of collection and data exchange and reporting requirements.

12
13 8. Article VIII. Rulemaking Functions of the Interstate
14 Commission.

15 a. The Interstate Commission shall promulgate Rules in order to
16 effectively and efficiently achieve the purposes of the Compact
17 including transition rules governing administration of the compact
18 during the period in which it is being considered and enacted by the
19 states.

20 b. Rulemaking shall occur pursuant to the criteria set forth in this
21 Article and the By-laws and Rules adopted pursuant thereto. Such
22 rulemaking shall substantially conform to the principles of the federal
23 Administrative Procedure Act, 5 U.S.C.A. section 551 et seq., and the
24 federal Advisory Committee Act, 5 U.S.C.A. App. 2, section 1 et seq.,
25 as may be amended (hereinafter "APA").

26 c. All Rules and amendments shall become binding as of the date
27 specified in each Rule or amendment.

28 d. If a majority of the legislatures of the Compacting States rejects
29 a Rule, by enactment of a statute or resolution in the same manner
30 used to adopt the compact, then such Rule shall have no further force
31 and effect in any Compacting State.

32 e. When promulgating a Rule, the Interstate Commission shall:

33 (1) publish the proposed Rule stating with particularity the text of
34 the Rule which is proposed and the reason for the proposed Rule;

35 (2) allow persons to submit written data, facts, opinions and
36 arguments, which information shall be publicly available;

37 (3) provide an opportunity for an informal hearing; and

38 (4) promulgate a final Rule and its effective date, if appropriate,
39 based on the rulemaking record.

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

1 aside.

2 f. Subjects to be addressed within 12 months after the first meeting
3 must at a minimum include:

4 (1) notice to victims and opportunity to be heard;

5 (2) offender registration and compliance;

6 (3) violations/returns;

7 (4) transfer procedures and forms;

8 (5) eligibility for transfer;

9 (6) collection of restitution and fees from offenders;

10 (7) data collection and reporting;

11 (8) the level of supervision to be provided by the receiving state;

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

16 (10) Mediation, arbitration and dispute resolution.

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

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

26

27 9. Article IX. Oversight, Enforcement and Dispute Resolution by
28 the Interstate Commission.

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

33 The courts and executive agencies in each Compacting State shall
34 enforce this Compact and shall take all actions necessary and
35 appropriate to effectuate the Compact's purposes and intent. In any
36 judicial or administrative proceeding in a Compacting State pertaining
37 to the subject matter of this Compact which may affect the powers,
38 responsibilities or actions of the Interstate Commission, the Interstate
39 Commission shall be entitled to receive all service of process in any
40 such proceeding, and shall have standing to intervene in the
41 proceeding for all purposes.

42 b. Dispute Resolution. The Compacting States shall report to the
43 Interstate Commission on issues or activities of concern to them, and
44 cooperate with and support the Interstate Commission in the discharge
45 of its duties and responsibilities.

1 The Interstate Commission shall attempt to resolve any disputes or
2 other issues which are subject to the Compact and which may arise
3 among Compacting States and Non-compacting States.

4 The Interstate Commission shall enact a By-law or promulgate a
5 Rule providing for both mediation and binding dispute resolution for
6 disputes among the Compacting States.

7 c. Enforcement. The Interstate Commission, in the reasonable
8 exercise of its discretion, shall enforce the provisions of this compact
9 using any or all means set forth in Article XII, section b., of this
10 compact.

11

12 10. Article X. Finance.

13 a. The Interstate Commission shall pay or provide for the payment
14 of the reasonable expenses of its establishment, organization and
15 ongoing activities.

16 b. The Interstate Commission shall levy on and collect an annual
17 assessment from each Compacting State to cover the cost of the
18 internal operations and activities of the Interstate Commission and its
19 staff which must be in a total amount sufficient to cover the Interstate
20 Commission's annual budget as approved each year. The aggregate
21 annual assessment amount shall be allocated based upon a formula to
22 be determined by the Interstate Commission, taking into consideration
23 the population of the state and the volume of interstate movement of
24 offenders in each Compacting State and shall promulgate a Rule
25 binding upon all Compacting States which governs said assessment.

26 c. The Interstate Commission shall not incur any obligations of any
27 kind prior to securing the funds adequate to meet the same; nor shall
28 the Interstate Commission pledge the credit of any of the compacting
29 states, except by and with the authority of the compacting state.

30 d. The Interstate Commission shall keep accurate accounts of all
31 receipts and disbursements. The receipts and disbursements of the
32 Interstate Commission shall be subject to the audit and accounting
33 procedures established under its By-laws. However, all receipts and
34 disbursements of funds handled by the Interstate Commission shall be
35 audited yearly by a certified or licensed public accountant and the
36 report of the audit shall be included in and become part of the annual
37 report of the Interstate Commission.

38 e. (1) The Interstate compact for adult offender supervision fund
39 is established as a special fund in the State Treasury. The fund
40 consists of moneys appropriated for the purposes of meeting financial
41 obligations imposed on the State of New Jersey as a result of the
42 State's participation in this compact.

43 (2) An assessment levied or any other financial obligation imposed
44 under this compact is effective against the State of New Jersey only to
45 the extent that moneys to pay the assessment or meet the financial
46 obligation have been appropriated and deposited in the fund
47 established pursuant to paragraph (1) of this subsection.

1 11. Article XI. Compacting States, Effective Date and Amendment.

2 a. Any state, as defined in Article II of this compact, is eligible to
3 become a Compacting State.

4 b. The Compact shall become effective and binding upon legislative
5 enactment of the Compact into law by no less than 35 of the States.
6 The initial effective date shall be the later of July 1, 2001, or upon
7 enactment into law by the 35th jurisdiction. Thereafter it shall become
8 effective and binding, as to any other Compacting State, upon
9 enactment of the Compact into law by that State. The governors of
10 Non-member states or their designees will be invited to participate in
11 Interstate Commission activities on a non-voting basis prior to
12 adoption of the compact by all states and territories of the United
13 States.

14 c. Amendments to the Compact may be proposed by the Interstate
15 Commission for enactment by the Compacting States. No amendment
16 shall become effective and binding upon the Interstate Commission and
17 the Compacting States unless and until it is enacted into law by
18 unanimous consent of the Compacting States.

19

20 12. Article XII. Withdrawal, Default, Termination and Judicial
21 Enforcement.

22 a. Withdrawal. Once effective, the Compact shall continue in force
23 and remain binding upon each and every Compacting State; provided,
24 that a Compacting State may withdraw from the Compact
25 ("Withdrawing State") by enacting a statute specifically repealing the
26 statute which enacted the Compact into law.

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

28 The Withdrawing State shall immediately notify the Chairman of the
29 Interstate Commission in writing upon the introduction of legislation
30 repealing this Compact in the Withdrawing State.

31 The Interstate Commission shall notify the other Compacting States
32 of the Withdrawing State's intent to withdraw within sixty days of its
33 receipt thereof.

34 The Withdrawing State is responsible for all assessments,
35 obligations and liabilities incurred through the effective date of
36 withdrawal, including any obligations, the performance of which
37 extend beyond the effective date of withdrawal.

38 Reinstatement following withdrawal of any Compacting State shall
39 occur upon the Withdrawing State reenacting the Compact or upon
40 such later date as determined by the Interstate Commission

41 b. Default. If the Interstate Commission determines that any
42 Compacting State has at any time defaulted ("Defaulting State") in the
43 performance of any of its obligations or responsibilities under this
44 Compact, the By-laws or any duly promulgated Rules, the Interstate
45 Commission may impose any or all of the following penalties:

46 Fines, fees and costs in such amounts as are deemed to be
47 reasonable as fixed by the Interstate Commission;

1 Remedial training and technical assistance as directed by the
2 Interstate Commission; and

3 Suspension and termination of membership in the compact.

4 Suspension shall be imposed only after all other reasonable means
5 of securing compliance under the By-laws and Rules have been
6 exhausted. Immediate notice of suspension shall be given by the
7 Interstate Commission to the Governor, the Chief Justice or Chief
8 Judicial Officer of the state; the majority and minority leaders of the
9 defaulting state's legislature, and the State Council.

10 The grounds for default include, but are not limited to, failure of a
11 Compacting State to perform such obligations or responsibilities
12 imposed upon it by this compact, Interstate Commission By-laws, or
13 duly promulgated Rules. The Interstate Commission shall immediately
14 notify the Defaulting State in writing of the penalty imposed by the
15 Interstate Commission on the Defaulting State pending a cure of the
16 default. The Interstate Commission shall stipulate the conditions and
17 the time period within which the Defaulting State must cure its default.
18 If the Defaulting State fails to cure the default within the time period
19 specified by the Interstate Commission, in addition to any other
20 penalties imposed herein, the Defaulting State may be terminated from
21 the Compact upon an affirmative vote of a majority of the Compacting
22 States and all rights, privileges and benefits conferred by this Compact
23 shall be terminated from the effective date of suspension.

24 Within sixty days of the effective date of termination of a
25 Defaulting State, the Interstate Commission shall notify the Governor,
26 the Chief Justice or Chief Judicial Officer and the Majority and
27 Minority Leaders of the Defaulting State's legislature and the state
28 council of such termination.

29 The Defaulting State is responsible for all assessments, obligations
30 and liabilities incurred through the effective date of termination
31 including any obligations, the performance of which extends beyond
32 the effective date of termination.

33 The Interstate Commission shall not bear any costs relating to the
34 Defaulting State unless otherwise mutually agreed upon between the
35 Interstate Commission and the Defaulting State.

36 Reinstatement following termination of any Compacting State
37 requires both a reenactment of the Compact by the Defaulting State
38 and the approval of the Interstate Commission pursuant to the Rules.

39 c. Judicial Enforcement. The Interstate Commission may, by
40 majority vote of the Members, initiate legal action in the United States
41 District Court for the District of Columbia or, at the discretion of the
42 Interstate Commission, in the Federal District where the Interstate
43 Commission has its offices to enforce compliance with the provisions
44 of the Compact, its duly promulgated Rules and By-laws, against any
45 Compacting State in default. In the event judicial enforcement is
46 necessary the prevailing party shall be awarded all costs of such
47 litigation including reasonable attorneys fees.

1 d. Dissolution of Compact. The Compact dissolves effective upon
2 the date of the withdrawal or default of the Compacting State which
3 reduces membership in the Compact to one Compacting State.

4 Upon the dissolution of this Compact, the Compact becomes null
5 and void and shall be of no further force or effect, and the business
6 and affairs of the Interstate Commission shall be wound up and any
7 surplus funds shall be distributed in accordance with the By-laws.

8
9 13. Article XIII. Severability and Construction. The provisions of
10 this Compact shall be severable, and if any phrase, clause, sentence or
11 provision is deemed unenforceable, the remaining provisions of the
12 Compact shall be enforceable.

13 The provisions of this Compact shall be liberally constructed to
14 effectuate its purposes.

15
16 14. Article XIV. Binding Effect of Compact and Other Laws.

17 a. Other Laws. Nothing herein prevents the enforcement of any
18 other law of a Compacting State that is not inconsistent with this
19 Compact.

20 All Compacting States' laws conflicting with this Compact are
21 superseded to the extent of the conflict.

22 b. Binding Effect of the Compact. All lawful actions of the
23 Interstate Commission, including all Rules and By-laws promulgated
24 by the Interstate Commission, are binding upon the Compacting
25 States.

26 All agreements between the Interstate Commission and the
27 Compacting States are binding in accordance with their terms.

28 Upon the request of a party to a conflict over meaning or
29 interpretation of Interstate Commission actions, and upon a majority
30 vote of the Compacting States, the Interstate Commission may issue
31 advisory opinions regarding such meaning or interpretation.

32 In the event any provision of this Compact exceeds the
33 constitutional limits imposed on the legislature of any Compacting
34 State, the obligations, duties, powers or jurisdiction sought to be
35 conferred by such provision upon the Interstate Commission shall be
36 ineffective and such obligations, duties, powers or jurisdiction shall
37 remain in the Compacting State and shall be exercised by the agency
38 thereof to which such obligations, duties, powers or jurisdiction are
39 delegated by law in effect at the time this Compact becomes effective.

40
41 15. This act shall take effect immediately.

42
43
44 STATEMENT

45
46 This bill would enact the Interstate Compact for Adult Offender
47 Supervision.

1 The current interstate compact for the supervision of parolees and
2 probationers, N.J.S.A.2A:168-14 through 2A:168-25, was enacted in
3 1937. The National Institute of Corrections, in collaboration with the
4 Council of State Governments, has developed a model Interstate
5 Compact which mandates more efficient communications between the
6 states and state agencies than the current compact. This model
7 legislation was developed after a year of public hearings, research and
8 dialogue among legislators, attorneys general, parole and probation
9 officials and victims' groups. This model legislation was introduced in
10 43 states. The compact has been adopted by 24 states. In order for the
11 compact to become effective, it must be adopted by 35 states.

12 The revised compact would provide for more efficient
13 communications between the states and state agencies. It would
14 provide for the creation of a national database, utilizing current
15 communications technology that which would allow states to share
16 critical offender information. The compact would require that a state
17 council be established which would oversee the interests of all three
18 branches of the government so as to ensure that state officials are
19 aware of the compact and are taking full advantage of the compact.
20 State council membership would include representation from the
21 legislative, judicial and executive branches and victims' groups.

22 The compact would establish an independent compact operating
23 authority which would administer ongoing compact activity, including
24 a provision for staff support. A national governing commission would
25 be established which would meet annually to elect the compact
26 operating authority members and attend to general business and rule
27 making procedures. Members of this national commission would be
28 appointed by the Governor. Participation in the national commission
29 allows states to assist in the development of mechanisms by which the
30 states can identify, track and account for the movement of offenders.

31 In addition, the compact provides for rule making authority and for
32 significant sanctions to support essential compact operations. It also
33 provides for a mandatory funding mechanism sufficient to support
34 essential compact operations and compels collection of standardized
35 information.

ASSEMBLY, No. 1993

STATE OF NEW JERSEY

210th LEGISLATURE

INTRODUCED MARCH 4, 2002

Sponsored by:

Assemblyman THOMAS H. KEAN, JR.

District 21 (Essex, Morris, Somerset and Union)

Co-Sponsored by:

Assemblyman Munoz

SYNOPSIS

Provides for the Interstate Compact for Adult Offender Supervision.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/7/2002)

1 AN ACT concerning probationers and parolees, supplementing Title 30
2 of the Revised Statutes and repealing various parts of the statutory
3 law.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. The Interstate Compact for Adult Offender Supervision is
9 hereby enacted into law and entered into with all other jurisdictions
10 legally joining therein in the form substantially as follows:

11
12 INTERSTATE COMPACT FOR ADULT OFFENDER
13 SUPERVISION

14
15 The Legislature hereby finds and declares the following:

16 The interstate compact for the supervision of Parolees and
17 Probationers was established in 1937; it is the earliest corrections
18 "compact" established among the states and has not been amended
19 since its adoption for over 62 years;

20 This compact is the only vehicle for the controlled movement of
21 adult parolees and probationers across state lines, and it currently has
22 jurisdiction over more than a quarter of a million offenders;

23 The complexities of the compact have become more difficult to
24 administer, and many jurisdictions have expanded supervision
25 expectations to include currently unregulated practices such as victim
26 input, victim notification requirements and sex offender registration;

27 After hearings, national surveys and a detailed study by a task force
28 appointed by the National Institute of Corrections, the overwhelming
29 recommendation has been to amend the document to bring about an
30 effective management capacity that addresses public safety concerns
31 and offender accountability; and

32 Upon the adoption of this Interstate Compact for Adult Offender
33 Supervision by all states and territories of the United States, it is the
34 intention of the Legislature to repeal the previous Interstate Compact
35 for the Supervision of Parolees and Probationers.

36 b. This act shall be known and may be cited as the "Interstate
37 Compact for Adult Offender Supervision."

38 c. Article I. Purpose. The compacting states to this Interstate
39 Compact recognize that each state is responsible for the supervision
40 of adult offenders in the community who are authorized pursuant to
41 the bylaws and rules of this compact to travel across state lines both
42 to and from each compacting state in such a manner as to track the
43 location of offenders, transfer supervision authority in an orderly and
44 efficient manner and when necessary return offenders to the
45 originating jurisdictions.

1 The compacting states also recognize that Congress, by enacting
2 the Crime Control Act, 4 U.S.C. §112 (1965), has authorized and
3 encouraged compacts for cooperative efforts and mutual assistance in
4 the prevention of crime.

5 It is the purpose of this compact and the Interstate Commission
6 created hereunder, through means of joint and cooperative action
7 among the compacting states: to provide the framework for the
8 promotion of public safety and protect the rights of victims through
9 the control and regulation of the interstate movement of offenders in
10 the community; to provide for the effective tracking, supervision and
11 rehabilitation of these offenders by the sending and receiving states;
12 and to equitably distribute the costs, benefits and obligations of the
13 compact among the compacting states.

14 In addition, this compact will: create an Interstate Commission
15 which will establish uniform procedures to manage the movement
16 between states of adults placed under community supervision and
17 released to the community under the jurisdiction of courts, paroling
18 authorities, corrections or other criminal justice agencies which will
19 promulgate rules to achieve the purpose of this compact; ensure an
20 opportunity for input and timely notice to victims and to jurisdictions
21 where defined offenders are authorized to travel or to relocate across
22 state lines; establish a system of uniform data collection, access to
23 information on active cases by authorized criminal justice officials, and
24 regular reporting of compact activities to heads of state councils, state
25 executive, judicial and legislative branches and criminal justice
26 administrators; monitor compliance with rules governing interstate
27 movement of offenders and initiate interventions to address and
28 correct non-compliance; and coordinate training and education
29 regarding regulations of interstate movement of offenders for officials
30 involved in such activity.

31 The compacting states recognize that there is no "right" of any
32 offender to live in another state and that duly accredited officers of a
33 sending state may at all times enter a receiving state and there
34 apprehend and retake any offender under supervision subject to the
35 provisions of this compact and bylaws and rules promulgated
36 hereunder.

37 It is the policy of the compacting states that the activities conducted
38 by the Interstate Commission created herein are the formation of
39 public policies and are therefore public business.

40
41 2. Article II. Definitions.

42 As used in this compact, unless the context clearly requires a
43 different construction:

44 "Adult" means a person who is 18 years of age or older or a person
45 who is under 18 years of age who either by statute or court order is
46 considered an adult.

1 "By-laws" mean those by-laws established by the Interstate
2 Commission for its governance, or for directing or controlling the
3 Interstate Commission's actions or conduct.

4 "Compact administrator" means the individual in each compacting
5 state appointed pursuant to the terms of this compact responsible for
6 the administration and management of the State's supervision and
7 transfer of offenders subject to the terms of this compact, the rules
8 adopted by the Interstate Commission and policies adopted by the
9 State Council under this compact.

10 "Compacting state" means any state which has enacted the enabling
11 legislation for this compact.

12 "Commissioner" means the voting representative of each
13 compacting state appointed pursuant to Article III of this compact.

14 "Interstate Commission" means the Interstate Commission for Adult
15 Offender Supervision established by this compact.

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

19 "Non Compacting state" means any state which has not enacted the
20 enabling legislation for this compact.

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

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

27 "Rules" means acts of the Interstate Commission, duly promulgated
28 pursuant to Article VIII of this compact, substantially affecting
29 interested parties in addition to the Interstate Commission, which shall
30 have the force and effect of law in the compacting states.

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

33 "State Council" means the resident members of the State Council
34 for Interstate Adult Offender Supervision created by each state under
35 Article IV of this compact.

36

37 3. Article III. The Compact Commission.

38 a. The compacting states hereby create the "Interstate Commission
39 for Adult Offender Supervision." The Interstate Commission shall be
40 a body corporate and joint agency of the compacting states. The
41 Interstate Commission shall have all the responsibilities, powers and
42 duties set forth herein, including the power to sue and be sued, and
43 such additional powers as may be conferred upon it by subsequent
44 action of the respective legislatures of the compacting states in
45 accordance with the terms of this compact.

1 b. The Interstate Commission shall consist of Commissioners
2 selected and appointed by resident members of a State Council for
3 Interstate Adult Offender Supervision for each state. In addition to
4 the Commissioners who are the voting representatives of each state,
5 the Interstate Commission shall include individuals who are not
6 commissioners but who are members of interested organizations. Such
7 non-commissioner members shall include a member of the national
8 organizations of governors, legislators, state chief justices, attorneys
9 general and crime victims. All non-commissioner members of the
10 Interstate Commission shall be ex-officio (nonvoting) members. The
11 Interstate Commission may provide in its by-laws for such additional,
12 ex-officio, non-voting members as it deems necessary.

13 c. Each compacting state represented at any meeting of the
14 Interstate Commission is entitled to one vote. A majority of the
15 compacting states shall constitute a quorum for the transaction of
16 business, unless a larger quorum is required by the by-laws of the
17 Interstate Commission.

18 d. The Interstate Commission shall meet at least once each calendar
19 year. The chairman may call additional meetings and, upon the request
20 of 27 or more compacting states, shall call additional meetings. Public
21 notice shall be given of all meetings and meetings shall be open to the
22 public.

23 e. The Interstate Commission shall establish an Executive
24 Committee which shall include commission officers, members and
25 others as shall be determined by the by-laws. The Executive
26 Committee shall have the power to act on behalf of the Interstate
27 Commission during periods when the Interstate Commission is not in
28 session, with the exception of rulemaking or amendment to the
29 Compact. The Executive Committee shall oversee the day-to-day
30 activities managed by the Executive Director and Interstate
31 Commission staff, administer enforcement and compliance with the
32 provisions of the compact, its by-laws and as directed by the Interstate
33 Commission and perform other duties as directed by Commission or
34 set forth in the by-laws.

35

36 4. Article IV. The State Council.

37 a. There is hereby established the New Jersey State Council for
38 Interstate Adult Offender Supervision which shall consist of the
39 following members:

40 (1) one member of the General Assembly appointed by the Speaker
41 of the General Assembly;

42 (2) one member of the Senate appointed by the President of the
43 Senate;

44 (3) the Administrative Director of the Courts;

45 (4) the Commissioner of the Department of Corrections or his
46 designee;

1 (5) a law enforcement officer and a representative from a crime
2 victim's organization, each appointed by the Governor with the advice
3 and consent of the Senate; and

4 (6) the Chairman of the State Parole Board who, in addition to
5 serving as a member of the council, shall be appointed as the compact
6 administrator by the Governor.

7 b. The compact administrator is the compact commissioner and
8 presiding officer of the council and shall serve as the New Jersey
9 Commissioner to the Interstate Commission.

10 c. Members of the Council shall be appointed for terms of four
11 years and the terms of their successors shall be calculated from the
12 expiration of the incumbent's term. Members shall serve until their
13 successors are appointed and have qualified.

14 d. The State Council shall meet at least twice a year.

15 e. The State Council shall develop policies concerning the operation
16 of the compact within this State. The State Council may adopt rules,
17 including rules proposed by the commission for adoption by this state,
18 to implement the compact.

19 f. The State Council shall report annually to the Legislature
20 concerning the activities of the council and the Interstate Commission.

21
22 5. Article V. Powers and Duties of the Interstate Commission.

23 The Interstate Commission shall have the following powers:

24 a. To adopt a seal and suitable by-laws governing the
25 management and operation of the Interstate Commission;

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

29 c. To oversee, supervise and coordinate the interstate movement
30 of offenders subject to the terms of this compact and any by-laws
31 adopted and rules promulgated by the compact commission;

32 d. To enforce compliance with compact provisions, Interstate
33 Commission rules, and by-laws, using all necessary and proper means,
34 including but not limited to, the use of judicial process;

35 e. To establish and maintain offices;

36 f. To purchase and maintain insurance and bonds;

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

39 h. To establish and appoint committees and hire staff which it
40 deems necessary for the carrying out of its functions including, but not
41 limited to, an executive committee as required by Article III which
42 shall have the power to act on behalf of the Interstate Commission in
43 carrying out its powers and duties hereunder;

44 i. To elect or appoint such officers, attorneys, employees, agents,
45 or consultants, and to fix their compensation, define their duties and
46 determine their qualifications; and to establish the Interstate

- 1 Commission's personnel policies and programs relating to, among
2 other things, conflicts of interest, rates of compensation, and
3 qualifications of personnel;
- 4 j. To accept any and all donations and grants of money, equipment,
5 supplies, materials, and services, and to receive, utilize, and dispose of
6 same;
- 7 k. To lease, purchase, accept contributions or donations of, or
8 otherwise to own, hold, improve or use any property, real, personal,
9 or mixed;
- 10 l. To sell, convey, mortgage, pledge, lease, exchange, abandon, or
11 otherwise dispose of any property, real, personal or mixed;
- 12 m. To establish a budget and make expenditures and levy dues as
13 provided in Article X of this compact;
- 14 n. To sue and be sued;
- 15 o. To provide for dispute resolution among compacting states;
- 16 p. To perform such functions as may be necessary or appropriate
17 to achieve the purposes of this compact;
- 18 q. To report annually to the legislatures, governors, judiciary, and
19 state councils of the compacting states concerning the activities of the
20 Interstate Commission during the preceding year. Such reports shall
21 also include any recommendations that may have been adopted by the
22 Interstate Commission;
- 23 r. To coordinate education, training and public awareness
24 regarding the interstate movement of offenders for officials involved
25 in such activity; and
- 26 s. To establish uniform standards for the reporting, collecting, and
27 exchanging of data.
- 28
- 29 6. Article VI. Organization and Operation of the Interstate
30 Commission.
- 31 a. By-laws. The Interstate Commission shall, by a majority of the
32 Members, within twelve months of the first Interstate Commission
33 meeting, adopt by-laws to govern its conduct as may be necessary or
34 appropriate to carry out the purposes of the Compact, including, but
35 not limited to:
- 36 (1) Establishing the fiscal year of the Interstate Commission.
- 37 (2) Establishing an executive committee and such other committees
38 as may be necessary.
- 39 (3) Providing reasonable standards and procedures for the
40 establishment of committees, and governing any general or specific
41 delegation of any authority or function of the Interstate Commission.
- 42 (4) Providing reasonable procedures for calling and conducting
43 meetings of the Interstate Commission, and ensuring reasonable notice
44 of each such meeting.
- 45 (5) Establishing the titles and responsibilities of the officers of the
46 Interstate Commission.

1 (6) Providing reasonable standards and procedures for the
2 establishment of the personnel policies and programs of the Interstate
3 Commission.

4 Notwithstanding any civil service or other similar laws of any
5 Compacting State, the by-laws shall exclusively govern the personnel
6 policies and programs of the Interstate Commission.

7 (7) Providing a mechanism for winding up the operations of the
8 Interstate Commission and the equitable return of any surplus funds
9 that may exist upon the termination of the Compact after the payment
10 or reserving of all of its debts and obligations.

11 (8) Providing transition rules for "start up" administration of the
12 compact.

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

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

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

33 c. Corporate Records of the Interstate Commission. The Interstate
34 Commission shall maintain its corporate books and records in
35 accordance with the by-laws.

36 d. Qualified Immunity, Defense and Indemnification. The members,
37 officers, executive director and employees of the Interstate
38 Commission shall be immune from suit and liability, either personally
39 or in their official capacity, for any claim for damage to or loss of
40 property or personal injury or other civil liability caused or arising out
41 of any actual or alleged act, error or omission that occurred within the
42 scope of Interstate Commission employment, duties or responsibilities;
43 provided, that nothing in this paragraph shall be construed to protect
44 any such person from suit or liability for any damage, loss, injury or
45 liability caused by the intentional or willful and wanton misconduct of
46 any such person.

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

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

23

24 7. Article VII. Activities of the Interstate Commission.

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

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

32 c. Each Member of the Interstate Commission shall have the right
33 and power to cast a vote to which that Compacting State is entitled
34 and to participate in the business and affairs of the Interstate
35 Commission. A Member shall vote in person on behalf of the state and
36 shall not delegate a vote to another member state. However, a State
37 Council shall appoint another authorized representative, in the absence
38 of the commissioner from that state, to cast a vote on behalf of the
39 member state at a specified meeting. The By-laws may provide for
40 Members' participation in meetings by telephone or other means of
41 telecommunication or electronic communication. Any voting
42 conducted by telephone, or other means of telecommunication or
43 electronic communication shall be subject to the same quorum
44 requirements of meetings where members are present in person.

45 d. The Interstate Commission shall meet at least once during each
46 calendar year. The chairman of the Interstate Commission may call

1 additional meetings at any time and, upon the request of a majority of
2 the Members, shall call additional meetings.

3 e. The Interstate Commission's By-laws shall establish conditions
4 and procedures under which the Interstate Commission shall make its
5 information and official records available to the public for inspection
6 or copying. The Interstate Commission may exempt from disclosure
7 any information or official records to the extent they would adversely
8 affect personal privacy rights or proprietary interests. In promulgating
9 such Rules, the Interstate Commission may make available to law
10 enforcement agencies records and information otherwise exempt from
11 disclosure, and may enter into agreements with law enforcement
12 agencies to receive or exchange information or records subject to
13 nondisclosure and confidentiality provisions.

14 f. Public notice shall be given of all meetings and all meetings shall
15 be open to the public, except as set forth in the Rules or as otherwise
16 provided in the Compact. The Interstate Commission shall promulgate
17 Rules consistent with the principles contained in the "Government in
18 the Sunshine Act," 5 U.S.C. Section 552(b), as may be amended. The
19 Interstate Commission and any of its committees may close a meeting
20 to the public where it determines by two-thirds vote that an open
21 meeting would be likely to:

22 (1) relate solely to the Interstate Commission's internal personnel
23 practices and procedures;

24 (2) disclose matters specifically exempted from disclosure by
25 statute;

26 (3) disclose trade secrets or commercial or financial information
27 which is privileged or confidential;

28 (4) involve accusing any person of a crime, or formally censuring
29 any person;

30 (5) disclose information of a personal nature where disclosure
31 would constitute a clearly unwarranted invasion of personal privacy;

32 (6) disclose investigatory records compiled for law enforcement
33 purposes;

34 (7) disclose information contained in or related to examination,
35 operating or condition reports prepared by, or on behalf of or for the
36 use of, the Interstate Commission with respect to a regulated entity for
37 the purpose of regulation or supervision of such entity;

38 (8) disclose information, the premature disclosure of which would
39 significantly endanger the life of a person or the stability of a regulated
40 entity; or

41 (9) specifically relate to the Interstate Commission's issuance of a
42 subpoena, or its participation in a civil action or proceeding.

43 g. For every meeting closed pursuant to this provision, the
44 Interstate Commission's chief legal officer shall publicly certify that,
45 in his opinion, the meeting may be closed to the public, and shall
46 reference each relevant exemptive provision.

1 h. The Interstate Commission shall keep minutes which shall fully
2 and clearly describe all matters discussed in any meeting and shall
3 provide a full and accurate summary of any actions taken, and the
4 reasons therefor, including a description of each of the views
5 expressed on any item and the record of any roll call vote (reflected in
6 the vote of each Member on the question). All documents considered
7 in connection with any action shall be identified in such minutes.

8 i. The Interstate Commission shall collect standardized data
9 concerning the interstate movement of offenders as directed through
10 its By-laws and Rules which shall specify the data to be collected, the
11 means of collection and data exchange and reporting requirements.

12
13 8. Article VIII. Rulemaking Functions of the Interstate
14 Commission.

15 a. The Interstate Commission shall promulgate Rules in order to
16 effectively and efficiently achieve the purposes of the Compact
17 including transition rules governing administration of the compact
18 during the period in which it is being considered and enacted by the
19 states.

20 b. Rulemaking shall occur pursuant to the criteria set forth in this
21 Article and the By-laws and Rules adopted pursuant thereto. Such
22 rulemaking shall substantially conform to the principles of the federal
23 Administrative Procedure Act, 5 U.S.C.A. section 551 et seq., and the
24 federal Advisory Committee Act, 5 U.S.C.A. App. 2, section 1 et seq.,
25 as may be amended (hereinafter "APA").

26 c. All Rules and amendments shall become binding as of the date
27 specified in each Rule or amendment.

28 d. If a majority of the legislatures of the Compacting States rejects
29 a Rule, by enactment of a statute or resolution in the same manner
30 used to adopt the compact, then such Rule shall have no further force
31 and effect in any Compacting State.

32 e. When promulgating a Rule, the Interstate Commission shall:

33 (1) publish the proposed Rule stating with particularity the text of
34 the Rule which is proposed and the reason for the proposed Rule;

35 (2) allow persons to submit written data, facts, opinions and
36 arguments, which information shall be publicly available;

37 (3) provide an opportunity for an informal hearing; and

38 (4) promulgate a final Rule and its effective date, if appropriate,
39 based on the rulemaking record.

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

1 aside.

2 f. Subjects to be addressed within 12 months after the first meeting
3 must at a minimum include:

4 (1) notice to victims and opportunity to be heard;

5 (2) offender registration and compliance;

6 (3) violations/returns;

7 (4) transfer procedures and forms;

8 (5) eligibility for transfer;

9 (6) collection of restitution and fees from offenders;

10 (7) data collection and reporting;

11 (8) the level of supervision to be provided by the receiving state;

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

16 (10) Mediation, arbitration and dispute resolution.

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

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

26

27 9. Article IX. Oversight, Enforcement and Dispute Resolution by
28 the Interstate Commission.

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

33 The courts and executive agencies in each Compacting State shall
34 enforce this Compact and shall take all actions necessary and
35 appropriate to effectuate the Compact's purposes and intent. In any
36 judicial or administrative proceeding in a Compacting State pertaining
37 to the subject matter of this Compact which may affect the powers,
38 responsibilities or actions of the Interstate Commission, the Interstate
39 Commission shall be entitled to receive all service of process in any
40 such proceeding, and shall have standing to intervene in the
41 proceeding for all purposes.

42 b. Dispute Resolution. The Compacting States shall report to the
43 Interstate Commission on issues or activities of concern to them, and
44 cooperate with and support the Interstate Commission in the discharge
45 of its duties and responsibilities.

1 The Interstate Commission shall attempt to resolve any disputes or
2 other issues which are subject to the Compact and which may arise
3 among Compacting States and Non-compacting States.

4 The Interstate Commission shall enact a By-law or promulgate a
5 Rule providing for both mediation and binding dispute resolution for
6 disputes among the Compacting States.

7 c. Enforcement. The Interstate Commission, in the reasonable
8 exercise of its discretion, shall enforce the provisions of this compact
9 using any or all means set forth in Article XII, section b., of this
10 compact.

11

12 10. Article X. Finance.

13 a. The Interstate Commission shall pay or provide for the payment
14 of the reasonable expenses of its establishment, organization and
15 ongoing activities.

16 b. The Interstate Commission shall levy on and collect an annual
17 assessment from each Compacting State to cover the cost of the
18 internal operations and activities of the Interstate Commission and its
19 staff which must be in a total amount sufficient to cover the Interstate
20 Commission's annual budget as approved each year. The aggregate
21 annual assessment amount shall be allocated based upon a formula to
22 be determined by the Interstate Commission, taking into consideration
23 the population of the state and the volume of interstate movement of
24 offenders in each Compacting State and shall promulgate a Rule
25 binding upon all Compacting States which governs said assessment.

26 c. The Interstate Commission shall not incur any obligations of any
27 kind prior to securing the funds adequate to meet the same; nor shall
28 the Interstate Commission pledge the credit of any of the compacting
29 states, except by and with the authority of the compacting state.

30 d. The Interstate Commission shall keep accurate accounts of all
31 receipts and disbursements. The receipts and disbursements of the
32 Interstate Commission shall be subject to the audit and accounting
33 procedures established under its By-laws. However, all receipts and
34 disbursements of funds handled by the Interstate Commission shall be
35 audited yearly by a certified or licensed public accountant and the
36 report of the audit shall be included in and become part of the annual
37 report of the Interstate Commission.

38 e. (1) The Interstate compact for adult offender supervision fund
39 is established as a special fund in the State Treasury. The fund
40 consists of moneys appropriated for the purposes of meeting financial
41 obligations imposed on the State of New Jersey as a result of the
42 State's participation in this compact.

43 (2) An assessment levied or any other financial obligation imposed
44 under this compact is effective against the State of New Jersey only to
45 the extent that moneys to pay the assessment or meet the financial
46 obligation have been appropriated and deposited in the fund
47 established pursuant to paragraph (1) of this subsection.

1 11. Article XI. Compacting States, Effective Date and Amendment.

2 a. Any state, as defined in Article II of this compact, is eligible to
3 become a Compacting State.

4 b. The Compact shall become effective and binding upon legislative
5 enactment of the Compact into law by no less than 35 of the States.
6 The initial effective date shall be the later of July 1, 2001, or upon
7 enactment into law by the 35th jurisdiction. Thereafter it shall become
8 effective and binding, as to any other Compacting State, upon
9 enactment of the Compact into law by that State. The governors of
10 Non-member states or their designees will be invited to participate in
11 Interstate Commission activities on a non-voting basis prior to
12 adoption of the compact by all states and territories of the United
13 States.

14 c. Amendments to the Compact may be proposed by the Interstate
15 Commission for enactment by the Compacting States. No amendment
16 shall become effective and binding upon the Interstate Commission and
17 the Compacting States unless and until it is enacted into law by
18 unanimous consent of the Compacting States.

19

20 12. Article XII. Withdrawal, Default, Termination and Judicial
21 Enforcement.

22 a. Withdrawal. Once effective, the Compact shall continue in force
23 and remain binding upon each and every Compacting State; provided,
24 that a Compacting State may withdraw from the Compact
25 ("Withdrawing State") by enacting a statute specifically repealing the
26 statute which enacted the Compact into law.

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

28 The Withdrawing State shall immediately notify the Chairman of the
29 Interstate Commission in writing upon the introduction of legislation
30 repealing this Compact in the Withdrawing State.

31 The Interstate Commission shall notify the other Compacting States
32 of the Withdrawing State's intent to withdraw within sixty days of its
33 receipt thereof.

34 The Withdrawing State is responsible for all assessments,
35 obligations and liabilities incurred through the effective date of
36 withdrawal, including any obligations, the performance of which
37 extend beyond the effective date of withdrawal.

38 Reinstatement following withdrawal of any Compacting State shall
39 occur upon the Withdrawing State reenacting the Compact or upon
40 such later date as determined by the Interstate Commission

41 b. Default. If the Interstate Commission determines that any
42 Compacting State has at any time defaulted ("Defaulting State") in the
43 performance of any of its obligations or responsibilities under this
44 Compact, the By-laws or any duly promulgated Rules, the Interstate
45 Commission may impose any or all of the following penalties:

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

3 Remedial training and technical assistance as directed by the
4 Interstate Commission; and

5 Suspension and termination of membership in the compact.

6 Suspension shall be imposed only after all other reasonable means
7 of securing compliance under the By-laws and Rules have been
8 exhausted. Immediate notice of suspension shall be given by the
9 Interstate Commission to the Governor, the Chief Justice or Chief
10 Judicial Officer of the state; the majority and minority leaders of the
11 defaulting state's legislature, and the State Council.

12 The grounds for default include, but are not limited to, failure of a
13 Compacting State to perform such obligations or responsibilities
14 imposed upon it by this compact, Interstate Commission By-laws, or
15 duly promulgated Rules. The Interstate Commission shall immediately
16 notify the Defaulting State in writing of the penalty imposed by the
17 Interstate Commission on the Defaulting State pending a cure of the
18 default. The Interstate Commission shall stipulate the conditions and
19 the time period within which the Defaulting State must cure its default.
20 If the Defaulting State fails to cure the default within the time period
21 specified by the Interstate Commission, in addition to any other
22 penalties imposed herein, the Defaulting State may be terminated from
23 the Compact upon an affirmative vote of a majority of the Compacting
24 States and all rights, privileges and benefits conferred by this Compact
25 shall be terminated from the effective date of suspension.

26 Within sixty days of the effective date of termination of a
27 Defaulting State, the Interstate Commission shall notify the Governor,
28 the Chief Justice or Chief Judicial Officer and the Majority and
29 Minority Leaders of the Defaulting State's legislature and the state
30 council of such termination.

31 The Defaulting State is responsible for all assessments, obligations
32 and liabilities incurred through the effective date of termination
33 including any obligations, the performance of which extends beyond
34 the effective date of termination.

35 The Interstate Commission shall not bear any costs relating to the
36 Defaulting State unless otherwise mutually agreed upon between the
37 Interstate Commission and the Defaulting State.

38 Reinstatement following termination of any Compacting State
39 requires both a reenactment of the Compact by the Defaulting State
40 and the approval of the Interstate Commission pursuant to the Rules.

41 c. Judicial Enforcement. The Interstate Commission may, by
42 majority vote of the Members, initiate legal action in the United States
43 District Court for the District of Columbia or, at the discretion of the
44 Interstate Commission, in the Federal District where the Interstate
45 Commission has its offices to enforce compliance with the provisions
46 of the Compact, its duly promulgated Rules and By-laws, against any
47 Compacting State in default. In the event judicial enforcement is

1 necessary the prevailing party shall be awarded all costs of such
2 litigation including reasonable attorneys fees.

3 d. Dissolution of Compact. The Compact dissolves effective upon
4 the date of the withdrawal or default of the Compacting State which
5 reduces membership in the Compact to one Compacting State.

6 Upon the dissolution of this Compact, the Compact becomes null
7 and void and shall be of no further force or effect, and the business
8 and affairs of the Interstate Commission shall be wound up and any
9 surplus funds shall be distributed in accordance with the By-laws.

10

11 13. Article XIII. Severability and Construction. The provisions of
12 this Compact shall be severable, and if any phrase, clause, sentence or
13 provision is deemed unenforceable, the remaining provisions of the
14 Compact shall be enforceable.

15 The provisions of this Compact shall be liberally constructed to
16 effectuate its purposes.

17

18 14. Article XIV. Binding Effect of Compact and Other Laws.

19 a. Other Laws. Nothing herein prevents the enforcement of any
20 other law of a Compacting State that is not inconsistent with this
21 Compact.

22 All Compacting States' laws conflicting with this Compact are
23 superseded to the extent of the conflict.

24 b. Binding Effect of the Compact. All lawful actions of the
25 Interstate Commission, including all Rules and By-laws promulgated
26 by the Interstate Commission, are binding upon the Compacting
27 States.

28 All agreements between the Interstate Commission and the
29 Compacting States are binding in accordance with their terms.

30 Upon the request of a party to a conflict over meaning or
31 interpretation of Interstate Commission actions, and upon a majority
32 vote of the Compacting States, the Interstate Commission may issue
33 advisory opinions regarding such meaning or interpretation.

34 In the event any provision of this Compact exceeds the
35 constitutional limits imposed on the legislature of any Compacting
36 State, the obligations, duties, powers or jurisdiction sought to be
37 conferred by such provision upon the Interstate Commission shall be
38 ineffective and such obligations, duties, powers or jurisdiction shall
39 remain in the Compacting State and shall be exercised by the agency
40 thereof to which such obligations, duties, powers or jurisdiction are
41 delegated by law in effect at the time this Compact becomes effective.

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43 15. This act shall take effect immediately.

STATEMENT

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This bill enacts the Interstate Compact for Adult Offender Supervision.

The bill repeals the current interstate compact for the supervision of parolees and probationers, N.J.S.A.2A:168-14 through 2A:168-25, which was enacted in 1937. The National Institute of Corrections, in collaboration with the Council of State Governments, has developed a model Interstate Compact which mandates more efficient communications between the states and state agencies. This model legislation was developed after a year of public hearings, research and dialogue among legislators, attorneys general, parole and probation officials and victims' groups. This model legislation was introduced in 43 states. The compact has been adopted by 24 states. In order for the compact to become effective, it must be adopted by 35 states.

The revised compact would provide for more efficient communications between the states and state agencies. It would provide for the creation of a national database, utilizing current communications technology that which would allow states to share critical offender information. The compact would require that a state council be established which would oversee the interests of all three branches of the government so as to ensure that state officials are aware of the compact and are taking full advantage of the compact. State council membership would include representation from the legislative, judicial and executive branches and victims' groups.

The compact would establish an independent compact operating authority which would administer ongoing compact activity, including a provision for staff support. A national governing commission would be established which would meet annually to elect the compact operating authority members and attend to general business and rule making procedures. Members of this national commission would be appointed by the Governor. Participation in the national commission allows states to assist in the development of mechanisms by which the states can identify, track and account for the movement of offenders.

In addition, the compact provides for rule making authority and for significant sanctions to support essential compact operations. It also provides for a mandatory funding mechanism sufficient to support essential compact operations and compels collection of standardized information.

The committee amendments remove a sitting judge and add the Administrative Director of the Courts as one of the members of the independent compact operating authority. The other committee amendments are technical in nature.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, Nos. 2163 and 1993**

STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 2002

The Assembly Law and Public Safety Committee reports favorably an Assembly Committee Substitute for Assembly Bill Nos. 2163 and 1993.

This Assembly Committee substitute for Assembly Bill No. 2163 and Assembly Bill No. 1993 enacts the Interstate Compact for Adult Offender Supervision.

The current interstate compact for the supervision of parolees and probationers, N.J.S.A.2A:168-14 through 2A:168-25, was enacted in 1937. The National Institute of Corrections, in collaboration with the Council of State Governments, has developed a model Interstate Compact which mandates more efficient communications between the states and state agencies than the current compact. This model legislation was developed after a year of public hearings, research and dialogue among legislators, attorneys general, parole and probation officials and victims' groups. This model legislation was introduced in 43 states. In order for the compact to become effective, it must be adopted by 35 states. The compact has been adopted by 38 states.

The revised compact would provide for more efficient communications between the states and state agencies. It would provide for the creation of a national database, utilizing current communications technology which would allow states to share critical offender information. The compact would require that a state council be established which would oversee the interests of all three branches of the government so as to ensure that state officials are aware of the compact and are taking full advantage of the compact. State council membership would include representation from the legislative, judicial and executive branches and victims' groups.

The compact would establish an independent compact operating authority which would administer ongoing compact activity, including a provision for staff support. A national governing commission would be established which would meet annually to elect the compact operating authority members and attend to general business and rule making procedures. Members of this national commission would be appointed by the Governor. Participation in the national commission allows states to assist in the development of mechanisms by which the

states can identify, track and account for the movement of offenders.

In addition, the compact provides for rule making authority and for significant sanctions to support essential compact operations. It also provides for a mandatory funding mechanism sufficient to support essential compact operations and compels collection of standardized information.

As reported by the committee, this substitute is identical to Senate Bill No. 166 (1R), also reported by the committee on this same date.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, Nos. 2163 and 1993**

STATE OF NEW JERSEY

DATED: OCTOBER 21, 2002

The Assembly Appropriations Committee reports favorably Assembly Bill Nos. 2163 and 1993 (ACS).

Assembly Bill Nos. 2163 and 1993 (ACS) enacts the Interstate Compact for Adult Offender Supervision.

The current interstate compact for the supervision of parolees and probationers, N.J.S.A.2A:168-14 through 2A:168-25, was enacted in 1937. The National Institute of Corrections, in collaboration with the Council of State Governments, has developed a model Interstate Compact which mandates more efficient communications between the states and state agencies than the current compact. This model legislation was developed after a year of public hearings, research and dialogue among legislators, attorneys general, parole and probation officials and victims' groups. This model legislation was introduced in 43 states. In order for the compact to become effective, it must be adopted by 35 states. The compact has been adopted by 38 states.

The revised compact provides for more efficient communications between the states and state agencies. It provides for the creation of a national database, utilizing current communications technology which would allow states to share critical offender information. The compact requires that a state council be established which would oversee the interests of all three branches of the government so as to ensure that state officials are aware of the compact and are taking full advantage of the compact. State council membership would include representation from the legislative, judicial and executive branches and victims' groups.

The compact establishes an independent compact operating authority which would administer ongoing compact activity, including a provision for staff support. A national governing commission would be established which would meet annually to elect the compact operating authority members and attend to general business and rule making procedures. Members of this national commission would be appointed by the Governor. Participation in the national commission allows states to assist in the development of mechanisms by which the states can identify, track and account for the movement of offenders.

In addition, the compact provides for rule making authority and for significant sanctions to support essential compact operations. It also provides for a mandatory funding mechanism sufficient to support essential compact operations and compels collection of standardized information.

As reported by the committee, this legislation is identical to Senate Bill No. 166 (2R), also reported by the committee.

FISCAL IMPACT:

No fiscal information has been received on this subject matter. However, it has been stated that each state will be asked to pay annual dues to be members but the amount is not known at this time. Further, since this is a federal initiative, it is expected that most of the costs will be borne by the federal government.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2163 and 1993
STATE OF NEW JERSEY
210th LEGISLATURE

DATED: DECEMBER 11, 2002

SUMMARY

Synopsis: Enacts the Interstate Compact for Adult Offender Supervision
Type of Impact: General Fund expenditure
Agencies Affected: Judiciary, State Parole Board, Department of Corrections

Office of Legislative Services Estimate

Fiscal Impact	Year 1	Year 2	Year 3
State Cost	Unknown	Unknown	Unknown

- ! The Office of Legislative Services (OLS) notes that since the Interstate Commission has yet to be formed, and the formula which will determine New Jersey's portion of the costs has not been developed, no estimate of the cost of entering into this compact can be made.
- ! The bill would enact the Interstate Compact for Adult Offender Supervision, an independent compact operating authority. A national governing commission would be established which would meet annually to elect the compact operating authority members and attend to general business and rule making procedures. New Jersey's members of this commission would be appointed by the Governor.
- ! The bill provides that the Interstate Commission shall levy and collect an annual assessment from each participating State sufficient to cover the cost of its internal operations, activities and staff contained in its budget as approved. 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 participating State.

BILL DESCRIPTION

Assembly Committee Substitute for Assembly Bill Nos. 2163 and 1993 of 2002 would enact the Interstate Compact for Adult Offender Supervision.

The bill, modeled after legislation drafted by The National Institute of Corrections, in collaboration with the Council of State Governments, develops a model Interstate Compact

which mandates more efficient communications between the states and state agencies than the current compact.

The revised compact would provide for more efficient communications between the states and state agencies. It would provide for the creation of a national database, utilizing current communications technology which would allow states to share offender information. The compact would require that a state council be established which would oversee the interests of all three branches of the government so as to ensure that state officials are aware of the compact and are taking full advantage of the compact. State council membership would include representation from the legislative, judicial and executive branches and victims' groups.

The compact would establish an independent operating authority which would administer ongoing compact activity, including a provision for staff support. A national governing commission would be established which would meet annually to elect the compact operating authority members and attend to general business and rule making procedures. New Jersey's members of this commission would be appointed by the Governor.

The compact provides for rule making authority and for significant sanctions to support essential operations.

The bill provides that the Interstate Commission shall levy and collect an annual assessment from each participating State sufficient to cover the cost of its internal operations, activities and staff contained in its budget as approved. 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 participating State.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None Received

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services notes that since the Interstate Commission has yet to be formed, and the formula which will determine New Jersey's portion of the costs has not been developed, no estimate of the cost of entering into this compact can be made.

Section: *Judiciary*

Analyst: *Anne C. Raughley*
Lead Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

439.561 Interstate Compact for Adult Offender Supervision.

- (1) The Governor of this Commonwealth is authorized and directed to execute a compact on behalf of the Commonwealth with any of the United States legally joining therein in the form substantially as follows:

ARTICLE I

PURPOSE

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

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

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

In addition, this compact will: create a interstate commission which will establish uniform procedures to manage the movement between states of adults placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies which will promulgate rules to achieve the purpose of this compact; ensure an opportunity for input and timely notice to victims and to jurisdictions where defined offenders are authorized to travel or to relocate across state lines; establish a system of uniform data collection, access to information on active cases by authorized criminal justice officials, and regular reporting of compact activities to heads of state councils, state executive, judicial, and legislative branches and criminal justice administrators; monitor compliance with rules governing interstate movement of offenders and initiate interventions to address and correct noncompliance; and coordinate training and education regarding regulations of interstate movement of offenders for officials involved in such activity.

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

It is the policy of the compacting states that the activities conducted by the interstate commission created herein are the formation of public policies and are therefore public business.

ARTICLE II

DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

M. "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 III

THE COMPACT COMMISSION

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

compact.

B. The interstate commission shall consist of commissioners selected and appointed by resident members of a state council for interstate adult offender supervision for each state. 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 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. 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 national 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.

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

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

E. The interstate commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of 27 or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

F. The interstate commission shall establish an executive committee which shall include commission officers, members, and others as shall be determined by the bylaws. The executive committee shall have the power to act on behalf of the interstate commission during periods when the interstate commission is not in session, with the exception of rulemaking and/or 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 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 compact 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 III 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

Section A. Bylaws

1. 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:
 - (i) For the establishment of committees, and
 - (ii) 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 and/or reserving of all of its debts and obligations;
- h. Providing transition rules for "start up" administration of the compact; and
- i. Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

Section B. Officers and Staff

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

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

Section C. Corporate Records of the Interstate Commission

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

Section D. Qualified Immunity, Defense, and Indemnification

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

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

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

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 "Government in Sunshine Act," 5 U.S.C. Section 552(b), 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 conditions 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; or
- 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 his or her 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. Sections 551 et seq., and the Federal Advisory Committee Act, 5 U.S.C. App. 2, Sections 1 et seq., as may be amended (hereinafter "APA").

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

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:

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

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

c. Provide an opportunity for an informal hearing; and

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

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 Federal District Court where the interstate commission's principal office is located for judicial review of such rule. If the court finds that the interstate commission's action is not

supported by substantial evidence (as defined in the APA) in the rulemaking record, the court shall hold the rule unlawful and set it aside.

7. Subjects to be addressed within 12 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/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 superseded by this compact shall be null and void twelve (12) 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 90 days after the effective date of the rule.

ARTICLE VIII
OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION
BY THE INTERSTATE COMMISSION

Section A. Oversight

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

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

Section B. Dispute Resolution

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

the discharge of its duties and responsibilities.

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

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

Section C. Enforcement

The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact using any or all means set forth in Article XI, Section B, 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 said 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 II 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 35 of the states. The initial effective date shall be the later of July 1, 2001, 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 the 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, TERMINATION,
AND JUDICIAL ENFORCEMENT

Section A. Withdrawal

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

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

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

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

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

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

Section B. Default

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

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

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

c. Suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted. Immediate notice of suspension shall be given by the interstate commission to the governor, the chief justice or chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council. The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact,

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

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

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

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

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

Section C. Judicial Enforcement

The interstate commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district 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.

Section D. Dissolution of Compact

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

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

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

Section A. Other Laws

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

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

Section B. Binding Effect of the Compact

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

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

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

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

(2) This compact may be cited as the Interstate Compact for Adult Offender Supervision.

Effective: June 19, 2002

History: Created 2000 Ky. Acts ch. 473, sec. 1, effective June 19, 2002.

Legislative Research Commission Note (6/19/2002). Under 2000 Ky. Acts ch. 473, sec. 4, this section "takes effect the later of July 1, 2001, or upon enactment of the Interstate Compact for Adult Offender Supervision, in substantially the form set out in [this section], by no less than thirty-five states, as that term is defined in [this section]." On June 19, 2002, the thirty-fifth state enacted the compact, and this section took effect.