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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2003



ENROLLED

**COMMITTEE SUBSTITUTE
FOR**

House Bill No. 2705

(By Delegates Staton, Amores, Armstead, Fleischauer, R. Thompson, Webb and Webster)



Passed March 8, 2003

In Effect from Passage

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FOR

H. B. 2705

(BY DELEGATES STATON, AMORES, ARMSTEAD, FLEISCHAUER,
R. THOMPSON, WEBB AND WEBSTER)

[Passed March 8, 2003; in effect from passage.]

AN ACT to amend chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article seven, relating to the supervision of adult offenders; and authorizing and directing the governor to execute a compact for the supervision of adult offenders.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article seven, to read as follows:

**ARTICLE 7. INTERSTATE COMPACT FOR THE SUPERVISION OF
ADULT OFFENDERS.**

§28-7-1. Execution of interstate compact for the supervision of adult offenders.

1 The governor of this state is authorized and directed to
2 execute a compact on behalf of the state of West Virginia with
3 any state or states of the United States legally joining therein,
4 in form substantially as follows:

5 ARTICLE I. PURPOSE.

6 (a) The compacting states to this interstate compact
7 recognize that each state is responsible for the supervision of
8 adult offenders in the community who are authorized pursuant
9 to the bylaws and rules of this compact to travel across state
10 lines both to and from each compacting state in such a manner
11 as to track the location of offenders, transfer supervision
12 authority in an orderly and efficient manner, and when neces-
13 sary return offenders to the originating jurisdictions. The
14 compacting states also recognize that Congress, by enacting the
15 Crime Control Act, 4 U.S.C. § 112 (1965), has authorized and
16 encouraged compacts for cooperative efforts and mutual
17 assistance in the prevention of crime.

18 (b) It is the purpose of this compact and the interstate
19 commission created hereunder, through means of joint and
20 cooperative action among the compacting states:

21 (1) To provide the framework for the promotion of public
22 safety and protect the rights of victims through the control and
23 regulation of the interstate movement of offenders in the
24 community;

25 (2) To provide for the effective tracking, supervision, and
26 rehabilitation of these offenders by the sending and receiving
27 states; and

28 (3) To equitably distribute the costs, benefits and obliga-
29 tions of the compact among the compacting states.

30 (c) In addition, this compact will:

31 (1) Create an interstate commission which will establish
32 uniform procedures to manage the movement between states of
33 adults placed under community supervision and released to the
34 community under the jurisdiction of courts, paroling authorities,
35 corrections or other criminal justice agencies which will
36 promulgate rules to achieve the purpose of this compact;

37 (2) Ensure an opportunity for input and timely notice to
38 victims and to jurisdictions where defined offenders are
39 authorized to travel or to relocate across state lines;

40 (3) Establish a system of uniform data collection, access to
41 information on active cases by authorized criminal justice
42 officials, and regular reporting of compact activities to heads of
43 state councils, state executive, judicial, and legislative branches
44 and criminal justice administrators;

45 (4) Monitor compliance with rules governing interstate
46 movement of offenders and initiate interventions to address and
47 correct noncompliance; and

48 (5) Coordinate training and education regarding regulations
49 of interstate movement of offenders for officials involved in
50 such activity.

51 (d) The compacting states recognize that there is no "right"
52 of any offender to live in another state and that duly accredited
53 officers of a sending state may at all times enter a receiving
54 state and there apprehend and retake any offender under
55 supervision subject to the provisions of this compact and by-
56 laws and rules promulgated hereunder. It is the policy of the
57 compacting states that the activities conducted by the interstate
58 commission created herein are the formation of public policies
59 and are therefore public business.

60

ARTICLE II. DEFINITIONS.

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

63 (a) “Adult” means both individuals legally classified as
64 adults and juveniles treated as adults by court order, statute, or
65 operation of law.

66 (b) “Bylaws” means those bylaws established by the
67 interstate commission for its governance, or for directing or
68 controlling the interstate commission’s actions or conduct.

69 (c) “Compact administrator” means the individual in each
70 compacting state appointed pursuant to the terms of this
71 compact responsible for the administration and management of
72 the state’s supervision and transfer of offenders subject to the
73 terms of this compact, the rules adopted by the interstate
74 commission and policies adopted by the state council under this
75 compact.

76 (d) “Compacting state” means any state which has enacted
77 the enabling legislation for this compact.

78 (e) “Commissioner” means the voting representative of
79 each compacting state appointed pursuant to article III of this
80 compact.

81 (f) “Interstate commission” means the interstate commis-
82 sion for adult offender supervision established by this compact.

83 (g) “Member” means the commissioner of a compacting
84 state or designee, who shall be a person officially connected
85 with the commissioner.

86 (h) “Noncompacting state” means any state which has not
87 enacted the enabling legislation for this compact.

88 (i) "Offender" means an adult placed under, or subject, to
89 supervision as the result of the commission of a criminal
90 offense and released to the community under the jurisdiction of
91 courts, paroling authorities, corrections, or other criminal
92 justice agencies.

93 (j) "Person" means any individual, corporation, business
94 enterprise, or other legal entity, either public or private.

95 (k) "Rules" means acts of the interstate commission, duly
96 promulgated pursuant to article VIII of this compact, substan-
97 tially affecting interested parties in addition to the interstate
98 commission which shall have the force and effect of law in the
99 compacting states.

100 (l) "State" means a state of the United States, the District of
101 Columbia and any other territorial possessions of the United
102 States.

103 (m) "State council" means the resident members of the state
104 council for interstate adult offender supervision created by each
105 state under article III of this compact.

106 ARTICLE III. THE COMPACT COMMISSION.

107 (a) The compacting states hereby created the "Interstate
108 Commission for Adult Offender Supervision." The interstate
109 commission shall be a body corporate and joint agency of the
110 compacting states. The interstate commission shall have all the
111 responsibilities, powers and duties set forth herein, including
112 the power to sue and be sued, and such additional powers as
113 may be conferred upon it by subsequent action of the respective
114 legislatures of the compacting states in accordance with the
115 terms of this compact.

116 (b) The interstate commission shall consist of commission-
117 ers selected and appointed by resident members of a state

118 council for interstate adult offender supervision for each state.
119 In addition to the commissioners who are the voting representa-
120 tives of each state, the interstate commission shall include
121 individuals who are not commissioners but who are members
122 of interested organizations; such noncommissioner members
123 must include a member of the national organizations of
124 governors, legislators, state chief justices, attorneys general and
125 crime victims. All noncommissioner members of the interstate
126 commission shall be ex-officio (nonvoting) members. The
127 interstate commission may provide in its bylaws for such
128 additional, ex-officio, nonvoting members as it deems neces-
129 sary.

130 (c) Each compacting state represented at any meeting of the
131 interstate commission is entitled to one vote. A majority of the
132 compacting states shall constitute a quorum for the transaction
133 of business, unless a larger quorum is required by the bylaws of
134 the interstate commission.

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

140 (e) The interstate commission shall establish an executive
141 committee which shall include commission officers, members
142 and others as shall be determined by the bylaws. The executive
143 committee shall have the power to act on behalf of the interstate
144 commission during periods when the interstate commission is
145 not in session, with the exception of rule making and/or an
146 amendment to the compact. The executive committee oversees
147 the day-to-day activities managed by the executive director and
148 interstate commission staff; administers enforcement and
149 compliance with the provisions of the compact, its bylaws and

150 as directed by the interstate commission and performs other
151 duties as directed by the commission or set forth in the bylaws.

152 ARTICLE IV. THE STATE COUNCIL.

153 (a) Each member state shall create a state council for
154 interstate adult offender supervision which shall be responsible
155 for the appointment of the commissioner who shall serve on the
156 interstate commission from that state. Each state council shall
157 appoint as its commissioner the compact administrator from
158 that state to serve on the interstate commission in such capacity
159 under or pursuant to applicable law of the member state. While
160 each member state may determine the membership of its own
161 state council, its membership must include at least one repre-
162 sentative from the legislative, judicial, and executive branches
163 of government, victims groups and compact administrators.

164 (b) Each compacting state retains the right to determine the
165 qualifications of the compact administrator who shall be
166 appointed by the state council or by the governor in consulta-
167 tion with the Legislature and the judiciary.

168 (c) In addition to appointment of its commissioner to the
169 national interstate commission, each state council shall exercise
170 oversight and advocacy concerning its participation in interstate
171 commission activities and other duties as may be determined by
172 each member state including, but not limited to, development
173 of policy concerning operations and procedures of the compact
174 within that state.

175 ARTICLE V. POWERS AND DUTIES OF THE
176 INTERSTATE COMMISSION.

177 The interstate commission shall have the following powers:

178 (1) To adopt a seal and suitable bylaws governing the
179 management and operation of the interstate commission;

180 (2) To promulgate rules which shall have the force and
181 effect of statutory law and shall be binding in the compacting
182 states to the extent and in the manner provided in this compact;

183 (3) To oversee, supervise and coordinate the interstate
184 movement of offenders subject to the terms of this compact and
185 any bylaws adopted and rules promulgated by the compact
186 commission;

187 (4) To enforce compliance with compact provisions,
188 interstate commission rules, and bylaws, using all necessary and
189 proper means, including, but not limited to, the use of judicial
190 process;

191 (5) To establish and maintain offices;

192 (6) To purchase and maintain insurance and bonds;

193 (7) To borrow, accept or contract for services of personnel,
194 including, but not limited to, members and their staffs;

195 (8) To establish and appoint committees and hire staff
196 which it deems necessary for the carrying out of its functions
197 including, but not limited to, an executive committee as
198 required by article III which shall have the power to act on
199 behalf of the interstate commission in carrying out its powers
200 and duties hereunder;

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

207 (10) To accept any and all donations and grants of money,
208 equipment, supplies, materials, and services, and to receive,
209 utilize, and dispose of same;

210 (11) To lease, purchase, accept contributions or donations
211 of, or otherwise to own, hold, improve or use any property, real,
212 personal, or mixed;

213 (12) To sell, convey, mortgage, pledge, lease, exchange,
214 abandon, or otherwise dispose of any property, real, personal or
215 mixed;

216 (13) To establish a budget and make expenditures and levy
217 dues as provided in article X of this compact;

218 (14) To sue and be sued;

219 (15) To provide for dispute resolution among compacting
220 states;

221 (16) To perform such functions as may be necessary or
222 appropriate to achieve the purposes of this compact;

223 (17) To report annually to the legislatures, governors,
224 judiciary, and state councils of the compacting states concern-
225 ing the activities of the interstate commission during the
226 preceding year. Such reports shall also include any recommen-
227 dations that may have been adopted by the interstate commis-
228 sion;

229 (18) To coordinate education, training and public awareness
230 regarding the interstate movement of offenders for officials
231 involved in such activity; and

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

234 ARTICLE VI. ORGANIZATION AND OPERATION
235 OF THE INTERSTATE COMMISSION.

236 Section A. Bylaws.

237 (a)The interstate commission shall, by a majority of the
238 members, within twelve months of the first interstate commis-
239 sion meeting, adopt bylaws to govern its conduct as may be
240 necessary or appropriate to carry out the purposes of the
241 compact, including, but not limited to:

242 (1) Establishing the fiscal year of the interstate commission;

243 (2) Establishing an executive committee and such other
244 committees as may be necessary providing reasonable standards
245 and procedures:

246 (i) For the establishment of committees; and

247 (ii) Governing any general or specific delegation of any
248 authority or function of the interstate commission;

249 (3) Providing reasonable procedures for calling and
250 conducting meetings of the interstate commission, and ensuring
251 reasonable notice of each such meeting;

252 (4) Establishing the titles and responsibilities of the officers
253 of the interstate commission;

254 (5) Providing reasonable standards and procedures for the
255 establishment of the personnel policies and programs of the
256 interstate commission. Notwithstanding any civil service or
257 other similar laws of any compacting state, the bylaws shall
258 exclusively govern the personnel policies and programs of the
259 interstate commission;

260 (6) Providing a mechanism for winding up the operations
261 of the interstate commission and the equitable return of any

262 surplus funds that may exist upon the termination of the
263 compact after the payment and/or reserving of all of its debts
264 and obligations;

265 (7) Providing transition rules for “start up” administration
266 of the compact; and

267 (8) Establishing standards and procedures for compliance
268 and technical assistance in carrying out the compact.

269 Section B. Officers and Staff.

270 (b)(1) The interstate commission shall, by a majority of the
271 members, elect from among its members a chairperson and a
272 vice chairperson, each of whom shall have such authorities and
273 duties as may be specified in the bylaws. The chairperson or, in
274 his or her absence or disability, the vice chairperson, shall
275 preside at all meetings of the interstate commission. The
276 officers so elected shall serve without compensation or remuneration from the interstate commission: *Provided*, That subject
277 to the availability of budgeted funds, the officers shall be
278 reimbursed for any actual and necessary costs and expenses
279 incurred by them in the performance of their duties and
280 responsibilities as officers of the interstate commission.
281

282 (2) The interstate commission shall, through its executive
283 committee, appoint or retain an executive director for such
284 period, upon such terms and conditions and for such compensation as the interstate commission may deem appropriate. The
285 executive director shall serve as secretary to the interstate
286 commission, and hire and supervise such other staff as may be
287 authorized by the interstate commission, but shall not be a
288 member.
289

290 Section C. Corporate Records of the Interstate Commission.

291 (c) The interstate commission shall maintain its corporate
292 books and records in accordance with the bylaws.

293 Section D. Qualified Immunity, Defense and Indemnification.

294 (d)(1) The members, officers, executive director and
295 employees of the interstate commission shall be immune from
296 suit and liability, either personally or in their official capacity,
297 for any claim for damage to or loss of property or personal
298 injury or other civil liability caused or arising out of any actual
299 or alleged act, error or omission that occurred within the scope
300 of interstate commission employment, duties or responsibili-
301 ties: *Provided*, That nothing in this paragraph shall be construed
302 to protect any such person from suit and/or liability for any
303 damage, loss, injury or liability caused by the intentional or
304 willful and wanton misconduct of any such person.

305 (2) The interstate commission shall defend the commis-
306 sioner of a compacting state, or his or her representatives or
307 employees, or the interstate commission's representatives or
308 employees, in any civil action seeking to impose liability,
309 arising out of any actual or alleged act, error or omission that
310 occurred within the scope of interstate commission employ-
311 ment, duties or responsibilities, or that the defendant has a
312 reasonable basis for believing occurred within the scope of
313 interstate commission employment, duties or responsibilities:
314 *Provided*, That the actual or alleged act, error or omission did
315 not result from intentional wrongdoing on the part of such
316 person.

317 (3) The interstate commission shall indemnify and hold the
318 commissioner of a compacting state, the appointed designee or
319 employees, or the interstate commission's representatives or
320 employees, harmless in the amount of any settlement or
321 judgement obtained against such persons arising out of any
322 actual or alleged act, error or omission that occurred within the

323 scope of interstate commission employment, duties or responsi-
324 bilities, or that such persons had a reasonable basis for believ-
325 ing occurred within the scope of interstate commission employ-
326 ment, duties or responsibilities, provided, that the actual or
327 alleged act, error or omission did not result from gross negli-
328 gence or intentional wrongdoing on the part of such person.

329 ARTICLE VII. ACTIVITIES OF THE INTERSTATE COMMISSION.

330 (a) The interstate commission shall meet and take such
331 actions as are consistent with the provisions of this compact.

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

338 (c) Each member of the interstate commission shall have
339 the right and power to cast a vote to which that compacting
340 state is entitled and to participate in the business and affairs of
341 the interstate commission. A member shall vote in person on
342 behalf of the state and shall not delegate a vote to another
343 member state. However, a state council shall appoint another
344 authorized representative, in the absence of the commissioner
345 from that state, to cast a vote on behalf of the member state at
346 a specified meeting. The bylaws may provide for members'
347 participation in meetings by telephone or other means of
348 telecommunication or electronic communication. Any voting
349 conducted by telephone, or other means of telecommunication
350 or electronic communication shall be subject to the same
351 quorum requirements of meetings where members are present
352 in person.

353 (d) The interstate commission shall meet at least once
354 during each calendar year. The chairperson of the interstate

355 commission may call additional meetings at any time and, upon
356 the request of a majority of the members, shall call additional
357 meetings.

358 (e) The interstate commission's bylaws establish conditions
359 and procedures under which the interstate commission shall
360 make its information and official records available to the public
361 for inspection or copying. The interstate commission may
362 exempt from disclosure any information or official records to
363 the extent they would adversely affect personal privacy rights
364 or proprietary interests. In promulgating such rules, the
365 interstate commission may make available to law-enforcement
366 agencies records and information otherwise exempt from
367 disclosure, and may enter into agreements with law-enforce-
368 ment agencies to receive or exchange information or records
369 subject to nondisclosure and confidentiality provisions.

370 (f) Public notice shall be given of all meetings and all
371 meetings shall be open to the public, except as set forth in the
372 rules or as otherwise provided in the compact. The interstate
373 commission shall promulgate rules consistent with the princi-
374 pals contained in the "Government in Sunshine Act" 5 U.S.C.
375 § 552(b), as may be amended. The interstate commission and
376 any of its committees may close a meeting to the public where
377 it determines by two-thirds vote that an open meeting would be
378 likely to:

379 (1) Relate solely to the interstate commission's internal
380 personnel practices and procedures;

381 (2) Disclose matters specifically exempted from disclosure
382 by statute;

383 (3) Disclose trade secrets or commercial or financial
384 information which is privileged or confidential;

385 (4) Involve accusing any person of a crime, or formally
386 censuring any person;

387 (5) Disclose information of a personal nature where
388 disclosure would constitute a clearly unwarranted invasion of
389 personal privacy;

390 (6) Disclose investigatory records compiled for law-
391 enforcement purposes;

392 (7) Disclose information contained in or related to examina-
393 tion, operating or condition reports prepared by, or on behalf of
394 or for the use of, the interstate commission with respect to a
395 regulated entity for the purpose of regulation or supervision of
396 such entity;

397 (8) Disclose information, the premature disclosure of which
398 would significantly endanger the life of a person or the stability
399 of a regulated entity; and

400 (9) Specifically relate to the interstate commission's
401 issuance of a subpoena or its participation in a civil action or
402 proceeding.

403 (g) For every meeting closed pursuant to this provision, the
404 interstate commission's chief legal officer shall publicly certify
405 that, in his or her opinion, the meeting may be closed to the
406 public, and shall reference each relevant exemptive provision.
407 The interstate commission shall keep minutes which shall fully
408 and clearly describe all matters discussed in any meeting and
409 shall provide a full and accurate summary of any actions taken,
410 and the reasons therefor, including a description of each of the
411 views expressed on any item and the record of any roll call
412 (effective in the vote of each member on the question). All
413 documents considered in connection with any action shall be
414 identified in such minutes.

415 (h) The interstate commission shall collect standardized
416 data concerning the interstate movement of offenders as
417 directed through its bylaws and rules which shall specify the
418 data to be collected, the means of collection and data exchange
419 and reporting requirements.

420 ARTICLE VIII. RULE MAKING FUNCTIONS
421 OF THE INTERSTATE COMMISSION.

422 (a) The interstate commission shall promulgate rules in
423 order to effectively and efficiently achieve the purposes of the
424 compact including transition rules governing administration of
425 the compact during the period in which it is being considered
426 and enacted by the states;

427 (b) Rule making shall occur pursuant to the criteria set forth
428 in this article and the bylaws and rules adopted pursuant
429 thereto. Such rule making shall substantially conform to the
430 principles of the federal Administrative Procedure Act, 5 U.S.C.
431 § 551 et seq., and the Federal Advisory Committee Act, 5
432 U.S.C. app. 2, § 1 et seq., as may be amended (hereinafter
433 "APA"). All rules and amendments shall become binding as of
434 the date specified in each rule or amendment.

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

439 (d) When promulgating a rule, the interstate commission
440 shall:

441 (1) Publish the proposed rule stating with particularity the
442 text of the rule which is proposed and the reason for the
443 proposed rule;

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

- 446 (3) Provide an opportunity for an informal hearing; and
- 447 (4) Promulgate a final rule and its effective date, if appro-
448 priate, based on the rule making record.
- 449 (e) Not later than sixty days after a rule is promulgated, any
450 interested person may file a petition in the United States
451 District Court for the District of Columbia or in the Federal
452 District Court where the interstate commission's principal
453 office is located for judicial review of such rule. If the court
454 finds that the interstate commission's action is not supported by
455 substantial evidence, (as defined in the APA), in the rule
456 making record, the court shall hold the rule unlawful and set it
457 aside.
- 458 (f) Subjects to be addressed within twelve months after the
459 first meeting must at a minimum include:
- 460 (1) Notice to victims and opportunity to be heard;
- 461 (2) Offender registration and compliance;
- 462 (3) Violations/returns;
- 463 (4) Transfer procedures and forms;
- 464 (5) Eligibility for transfer;
- 465 (6) Collection of restitution and fees from offenders;
- 466 (7) Data collection and reporting;
- 467 (8) The level of supervision to be provided by the receiving
468 state;
- 469 (9) Transition rules governing the operation of the compact
470 and the interstate commission during all or part of the period

471 between the effective date of the compact and the date on which
472 the last eligible state adopts the compact; and

473 (10) Mediation, arbitration and dispute resolution.

474 (g) The existing rules governing the operation of the
475 previous compact superceded by this act shall be null and void
476 twelve months after the first meeting of the interstate commis-
477 sion created hereunder.

478 (h) Upon determination by the interstate commission that
479 an emergency exists, it may promulgate an emergency rule
480 which shall become effective immediately upon adoption,
481 provided that the usual rule-making procedures provided
482 hereunder shall be retroactively applied to said rule as soon as
483 reasonably possible, in no event later than ninety days after the
484 effective date of the rule.

485 ARTICLE IX. OVERSIGHT, ENFORCEMENT,
486 AND DISPUTE RESOLUTION BY
487 THE INTERSTATE COMMISSION.

488 Section A. Oversight.

489 (a)(1) The interstate commission shall oversee the interstate
490 movement of adult offenders in the compacting states and shall
491 monitor such activities being administered in noncompacting
492 states which may significantly affect compacting states.

493 (2) The courts and executive agencies in each compacting
494 state shall enforce this compact and shall take all actions
495 necessary and appropriate to effectuate the compact's purposes
496 and intent. In any judicial or administrative proceeding in a
497 compacting state pertaining to the subject matter of this
498 compact which may affect the powers, responsibilities or
499 actions of the interstate commission, the interstate commission
500 shall be entitled to receive all service of process in any such

501 proceeding, and shall have standing to intervene in the proceed-
502 ing for all purposes.

503 Section B. Dispute Resolution.

504 (b)(1) The compacting states shall report to the interstate
505 commission on issues or activities of concern to them, and
506 cooperate with and support the interstate commission on the
507 discharge of its duties and responsibilities.

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

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

515 Section C. Enforcement.

516 (c) The interstate commission, in the reasonable exercise of
517 its discretion, shall enforce the provisions of this compact using
518 any or all means set forth in article XII, section B, of this
519 compact.

520 ARTICLE X. FINANCE.

521 (a) The interstate commission shall pay or provide for the
522 payment of the reasonable expenses of its establishment
523 organization and ongoing activities.

524 (b) The interstate commission shall levy on and collect an
525 annual assessment from each compacting state to cover the cost
526 of the internal operations and activities of the interstate com-
527 mission and its staff which must be in a total amount sufficient
528 to cover the interstate commission's annual budget as approved

529 each year. The aggregate annual assessment amount shall be
530 allocated based upon a formula to be determined by the
531 interstate commission, taking into consideration the population
532 of the state and the volume of interstate movement of offenders
533 in each compacting state and shall promulgate a rule binding
534 upon all compacting states which governs said assessment.

535 (c) The interstate commission shall not incur any obliga-
536 tions of any kind prior in securing the funds adequate to meet
537 the same; nor shall the interstate commission pledge the credit
538 of any of the compacting states, except by and with the author-
539 ity of the compacting state.

540 (d) The interstate commission shall keep accurate accounts
541 of all receipts and disbursements. The receipts and disburse-
542 ments of the interstate commission shall be subject to the audit
543 and accounting procedures established under its bylaws.
544 However, all receipts and disbursements of funds handled by
545 the interstate commission shall be audited yearly by a certified
546 or licensed public accountant and the report of the audit shall be
547 included in and become part of the annual report of the inter-
548 state commission.

549 ARTICLE XI. COMPACTING STATES, EFFECTIVE DATE
550 AND AMENDMENT.

551 (a) Any state, as defined in article II of this compact, is
552 eligible to become a compacting state.

553 (b) The compact shall become effective and binding upon
554 legislative enactment of the compact into law by no less than
555 thirty-five of the states. The initial effective date shall be the
556 later of the first day of July, two thousand one, or upon enact-
557 ment into law by the thirty-fifth jurisdiction. Thereafter it shall
558 become effective and binding, as to any other compacting state,
559 upon enactment of the compact into law by that state. The
560 governors of nonmember states or their designees will be

561 invited to participate in interstate commission activities on a
562 non-voting basis prior to adoption of the compact by all states
563 and territories of the United States.

564 (c) Amendments to the compact may be proposed by the
565 interstate commission for enactment by the compacting states.
566 No amendment shall become effective and binding upon the
567 interstate commission and the compacting states unless and
568 until it is enacted into law by unanimous consent of the
569 compacting states.

570 ARTICLE XII. WITHDRAWAL, DEFAULT,
571 TERMINATION, AND JUDICIAL ENFORCEMENT.

572 Section A. Withdrawal.

573 (a)(1) Once effective, the compact shall continue in force
574 and remain binding upon each and every compacting state:
575 *Provided*, That a compacting state may withdraw from the
576 compact (“withdrawing state”) by enacting a statute specifically
577 repealing the statute which enacted the compact into law.

578 (2) The effective date of withdrawal is the effective date of
579 the repeal.

580 (3) The withdrawing state shall immediately notify the
581 chairperson of the interstate commission in writing upon the
582 introduction of legislation repealing this compact in the
583 withdrawing state. The interstate commission shall notify the
584 other compacting states of the withdrawing state’s intent to
585 withdraw within sixty days of its receipt thereof.

586 (4) The withdrawing state is responsible for all assessments,
587 obligations and liabilities incurred through the effective date of
588 withdrawal, including any obligations, the performance of
589 which extend beyond the effective date of withdrawal.

590 (5) Reinstatement following withdrawal of any compacting
591 state shall occur upon the withdrawing state reenacting the
592 compact or upon such later date as determined by the interstate
593 commission.

594 Section B. Default

595 (b)(1) If the interstate commission determines that any
596 compacting state has at any time defaulted (“defaulting state”)
597 in the performance of any of its obligations or responsibilities
598 under this compact, the bylaws or any duly promulgated rules
599 the interstate commission may impose any or all of the follow-
600 ing penalties:

601 (A) Fines, fees and costs in such amounts as are deemed to
602 be reasonable as fixed by the interstate commission;

603 (B) Remedial training and technical assistance as directed
604 by the interstate commission; and

605 (C) Suspension and termination of membership in the
606 compact. Suspension shall be imposed only after all other
607 reasonable means of securing compliance under the bylaws and
608 rules have been exhausted. Immediate notice of suspension
609 shall be given by the interstate commission to the governor, the
610 chief justice or chief judicial officer of the state, the majority
611 and minority leaders of the defaulting state’s legislature, and
612 the state council.

613 (2) The grounds for default include, but are not limited to,
614 failure of a compacting state to perform such obligations or
615 responsibilities imposed upon it by the compact, interstate
616 commission bylaws, or duly promulgated rules. The interstate
617 commission shall immediately notify the defaulting state in
618 writing of the penalty imposed by the interstate commission on
619 the defaulting state pending a cure of the default. The interstate
620 commission shall stipulate the conditions and the time period

621 within which the defaulting state must cure its default. If the
622 defaulting state fails to cure the default within the time period
623 specified by the interstate commission, in addition to any other
624 penalties imposed herein, the defaulting state may be termi-
625 nated from the compact upon an affirmative vote of a majority
626 of the compacting states and all rights, privileges and benefits
627 conferred by this compact shall be terminated from the effective
628 date of suspension. Within sixty days of the effective date of
629 termination of a defaulting state, the interstate commission shall
630 notify the governor, the chief justice or chief judicial officer
631 and the majority and minority leaders of the defaulting state's
632 legislature and the state council of such termination.

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

637 (4) The interstate commission shall not bear any costs
638 relating to the defaulting state unless otherwise mutually agreed
639 upon between the interstate commission and the defaulting
640 state. Reinstatement following termination of any compacting
641 state requires both a reenactment of the compact by the default-
642 ing state and the approval of the interstate commission pursuant
643 to the rules.

644 Section C. Judicial Enforcement.

645 (c) The interstate commission shall not bear any costs
646 relating to the defaulting state unless otherwise mutually agreed
647 upon between the interstate commission and the defaulting
648 state. Reinstatement following termination of any compacting
649 state requires both a reenactment of the compact by the default-
650 ing state and the approval of the interstate commission pursuant
651 to the rules. The interstate commission may, by majority vote
652 of the members, initiate legal action in the United States

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

661 Section D. Dissolution of Compact.

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

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

670 ARTICLE XIII. SEVERABILITY AND CONSTRUCTION.

671 (a) The provisions of this compact shall be severable, and
672 if any phrase, clause, sentence or provision is deemed unen-
673 forceable, the remaining provisions of the compact shall be
674 enforceable.

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

677 ARTICLE XIV. BINDING EFFECT OF
678 COMPACT AND OTHER LAWS.

679 Section A. Other laws.

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

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

685 Section B. Binding Effect of the Compact

686 (b)(1) All lawful actions of the interstate commission,
687 including all rules and by-laws promulgated by the interstate
688 commission, are binding upon the compacting states.

689 (2) All agreements between the interstate commission and
690 the compacting states are binding in accordance with their
691 terms.

692 (3) Upon the request of a party to a conflict over meaning
693 or interpretation of interstate commission actions, and upon a
694 majority vote of the compacting states, the interstate commis-
695 sions may issue advisory opinions regarding such meaning or
696 interpretation.

697 (4) In the event any provision of this compact exceeds the
698 constitutional limits imposed on the legislature of any compact-
699 ing state, the obligations, duties, powers or jurisdiction sought
700 to be conferred by such provision upon the interstate commis-
701 sion shall be ineffective and such obligations, duties, powers or
702 jurisdiction shall remain in the compacting state and shall be
703 exercised by the agency thereto to which such obligations,
704 duties, powers or jurisdiction are delegated by law in effect at
705 the time this compact becomes effective.

**§28-7-2. State council for interstate adult offender supervi-
sion.**

1 (a) Within thirty days of the effective date of this
2 article, there shall be created a state council for interstate
3 adult offender supervision. Said state council shall be
4 comprised of a total of nine members, to be selected and
5 designated as follows:

6 (1) Two members designated by the state Legislature,
7 one of whom shall be named and appointed by the speaker
8 of the House, and the other of whom shall be designated by
9 the president of the Senate;

10 (2) Two members designated by the judiciary, both of
11 whom shall be named and appointed by the chief justice of
12 the supreme court of appeals of West Virginia;

13 (3) The compact administrator or a designee of the
14 compact administrator;

15 (4) Four members to be designated and appointed by
16 the governor, two of whom must be representatives of state
17 agencies dealing with adult corrections, parole or proba-
18 tion, and one of whom must be a representative of a
19 victims' group.

20 (b) Within sixty days of the effective date of this
21 article, the state council shall meet and designate a com-
22 missioner who shall represent the state as the compacting
23 state's voting representative under article III of this
24 compact.

25 (c) The state council will exercise oversight and
26 advocacy concerning West Virginia's participation in
27 interstate commission activities and rule makings, and
28 engage in other duties and activities as determined by its

29 members, including, but not limited to, the development of
30 policy concerning the operations and procedures for
31 implementing the compact and interstate commission rules
32 within West Virginia.

§28-7-3. Appointment of compact administrator.

1 (a) Upon and after the effective date of the interstate
2 compact for adult offender supervision, the governor is hereby
3 authorized and empowered to designate an officer who shall be
4 the compact administrator and who, acting jointly with like
5 offices of the other party states, shall be responsible for the
6 administration and management of this state's supervision and
7 transfer of adult offenders subject to the terms of this compact,
8 the rules adopted by the interstate commission and the policies
9 adopted by the state council under this compact. Said compact
10 administrator shall serve subject to the will and pleasure of the
11 governor, and must meet the minimum qualifications for the
12 position of compact administrator, as established by the state
13 council. The compact administrator is hereby authorized,
14 empowered and directed to cooperate with all departments,
15 agencies and officers of and in the government of this state and
16 its subdivisions in facilitating the proper administration of the
17 compact or of any supplementary agreement or agreements
18 entered into by this state hereunder.

19 (b) Until such time as the state council has met and estab-
20 lished minimum qualifications for the position of compact
21 administrator, the individual or administrator who has been
22 designated by the governor to act as the compact administrator
23 for the supervision of out-of-state parolees and probationers,
24 pursuant to section one, article six of this chapter, may perform
25 the duties and responsibilities of compact administrator under
26 this article.

27 (c) Until such time as the state council has met and desig-
28 nated a commissioner to vote on behalf of the state of West
29 Virginia at the interstate commission, the individual or adminis-
30 trator who has been designated to act as the compact adminis-
31 trator for the supervision of out-of-state parolees and probation-
32 ers, pursuant to section one, article six of this chapter, shall
33 function as the acting commissioner for the state of West
34 Virginia before the interstate commission formed under the new
35 compact.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Lucy Mann
Chairman Senate Committee

Greg Butcher
Chairman House Committee

Originating in the House.

In effect from passage

Dorrell Stephens
Clerk of the Senate

Suzanne M. Bost
Clerk of the House of Delegates

Carl Ray Tomblin
President of the Senate

Robert Stivers
Speaker of the House of Delegates

The within *is approved* this the *27th*
day of *March*, 2003.

Bob Wise
Governor

PRESENTED TO THE
GOVERNOR

Date 3/26/03

Time 3:57 pm