

Title 34-A: CORRECTIONS
Chapter 9: INTERSTATE COMPACTS

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Subchapter 1: UNIFORM INTERSTATE COMPACT ON JUVENILES

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SECTION HISTORY
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SECTION HISTORY

1983, c. 459, §6 (NEW). 2017, c. 127, §2 (RP).

Subchapter 2: NEW ENGLAND INTERSTATE CORRECTIONS COMPACT

§9201. PURPOSE AND POLICY--ARTICLE I

The party states, desiring by common action to fully utilize and improve their institutional facilities and provide adequate programs for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society and effecting economies in capital expenditures and operational costs. The purpose of this compact is to provide for the mutual development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders with the most economical use of human and material resources. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9202. DEFINITIONS--ARTICLE II

As used in this compact, unless the context otherwise indicates, the following terms have the following meanings. [1983, c. 459, §6 (NEW).]

1. Inmate. "Inmate" means a male or female offender who is committed, under sentence to or confined in a penal or correctional institution.

[1983, c. 459, §6 (NEW) .]

2. Institution. "Institution" means any penal or correctional facility, including, but not limited to, a facility for the mentally ill or mentally defective, in which inmates, as defined in subsection 1, may lawfully be confined.

[1983, c. 459, §6 (NEW) .]

3. Receiving state. "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction or court commitment was had.

[1983, c. 459, §6 (NEW) .]

4. Sending state. "Sending state" means a state party to this compact in which conviction or court commitment was had.

[1983, c. 459, §6 (NEW) .]

5. State. "State" means a state of the United States, located in New England, to wit, Maine, New Hampshire, Vermont, Massachusetts, Connecticut and Rhode Island.

[1983, c. 459, §6 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9203. CONTRACTS--ARTICLE III

Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for: [1983, c. 459, §6 (NEW) .]

1. Duration. Its duration;

[1983, c. 459, §6 (NEW) .]

2. Payments. Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance;

[1983, c. 459, §6 (NEW) .]

3. Employment. Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom;

[1983, c. 459, §6 (NEW) .]

4. Inmate delivery. Delivery and retaking of inmates; and

[1983, c. 459, §6 (NEW) .]

5. Other matters. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

[1983, c. 459, §6 (NEW) .]

Subject to legislative approval by the states concerned and prior to the construction or completion of construction of any institution or addition thereto by a party state, any other party state or states may contract therewith for the enlargement of the planned capacity of the institution or addition thereto, or for the inclusion therein of particular equipment or structures, and for the reservation of a specific percentum of the capacity of the institution to be kept available for use by inmates of the sending state or states so contracting. Any sending state so contracting may, to the extent that moneys are legally available therefor, pay to the receiving state a reasonable sum as consideration for such enlargement of capacity, or provision of equipment or structures, and reservation of capacity. Such payment may be in a lump sum or in installments as provided in the contract. [1983, c. 459, §6 (NEW) .]

The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith. [1983, c. 459, §6 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9204. PROCEDURES AND RIGHTS--ARTICLE IV

Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quarters and care or an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state. [1983, c. 459, §6 (NEW).]

The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution. [1983, c. 459, §6 (NEW).]

Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III. [1983, c. 459, §6 (NEW).]

Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact, including a conduct record of each inmate, and certify said record to the official designated by the sending state, in order that each inmate may have official review of his or her record in determining and altering the disposition of the inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state. [1983, c. 459, §6 (NEW).]

All inmates who may be confined in an institution pursuant to this compact shall be treated in a reasonable and humane manner and shall be treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which the inmate would have had if confined in an appropriate institution of the sending state. [1983, c. 459, §6 (NEW).]

Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to this paragraph, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state. [1983, c. 459, §6 (NEW).]

Any inmate confined pursuant to this compact shall be released within the territory of the sending state, unless the inmate and the sending and receiving states shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory. [1983, c. 459, §6 (NEW).]

Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if confined in any appropriate institution of the sending state located within such state. [1983, c. 459, §6 (NEW).]

The parent, guardian, trustee or other person or persons entitled under the laws of the sending state to act for, advise or otherwise function with respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9205. ACTS NOT REVIEWABLE IN RECEIVING STATE; EXTRADITION--ARTICLE V

Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to remove an inmate from an institution in the receiving state, there is pending against the inmate within such state any criminal charge or if the inmate is formally accused of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference. [1983, c. 459, §6 (NEW).]

Any inmate who escapes from an institution in which he is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition or rendition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9206. FEDERAL AID--ARTICLE VI

Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto and any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provision, provided that, if such program or activity is not part of the customary correctional regimen, the express consent of the appropriate official of the sending state shall be required therefor. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9207. ENTRY INTO FORCE--ARTICLE VII

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any 2 states from among the states of New England. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9208. WITHDRAWAL AND TERMINATION--ARTICLE VIII

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until one year after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to this compact. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9209. OTHER ARRANGEMENTS UNAFFECTED--ARTICLE IX

Nothing contained in this compact shall be construed to abrogate nor impair any agreement or other arrangement which a party state may have with a nonparty state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9210. CONSTRUCTION AND SEVERABILITY--ARTICLE X

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9221. RATIFICATION

The New England Interstate Corrections Compact is enacted into law and entered into by this State with any other of the states mentioned in Article II legally joining therein in the form substantially as provided in this subchapter. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9222. TITLE

This subchapter may be cited as the "New England Interstate Corrections Compact." [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9223. POWERS

The Commissioner of Corrections is authorized and directed to do all things necessary or incidental to the carrying out of the compact in every particular. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

Subchapter 3: INTERSTATE CORRECTIONS COMPACT**§9401. PURPOSE AND POLICY--ARTICLE I**

The party states, desiring by common action to fully utilize and improve their institutional facilities and provide adequate programs for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society and effecting economies in capital expenditures and operational costs. The purpose of this compact is to provide for the mutual development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders with the most economical use of human and material resources. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9402. DEFINITIONS--ARTICLE II

As used in this compact, unless the context clearly requires otherwise: [1983, c. 459, §6 (NEW).]

1. Inmate. "Inmate" means a male or female offender who is committed, under sentence to or confined in a penal or correctional institution;

[1983, c. 459, §6 (NEW) .]

2. Institution. "Institution" means any penal or correctional facility, including, but not limited to, a facility for the mentally ill or mentally defective, in which inmates, as defined in subsection 1, may lawfully be confined;

[1983, c. 459, §6 (NEW) .]

3. Receiving state. "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction or court commitment was had;

[1983, c. 459, §6 (NEW) .]

4. Sending state. "Sending state" means a state party to this compact in which conviction or court commitment was had; and

[1983, c. 459, §6 (NEW) .]

5. State. "State" means a state of the United States, the United States of America, a territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

[1983, c. 459, §6 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9403. CONTRACTS--ARTICLE III

Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. [1983, c. 459, §6 (NEW).]

1. Contract provisions. Any such contract shall provide for:

A. Its duration; [1983, c. 459, §6 (NEW).]

B. Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance; [1983, c. 459, §6 (NEW).]

C. Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom; [1983, c. 459, §6 (NEW).]

D. Delivery and retaking of inmates; and [1983, c. 459, §6 (NEW).]

E. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states. [1983, c. 459, §6 (NEW).]

The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

[1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9404. PROCEDURES AND RIGHTS--ARTICLE IV

Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quarters and care or an appropriate program of rehabilitation or treatment, the officials may direct that the confinement be within an institution within the territory of the other party state, the receiving state to act in that regard solely as agent for the sending state. [1983, c. 459, §6 (NEW).]

The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution. [1983, c. 459, §6 (NEW).]

Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III. [1983, c. 459, §6 (NEW).]

Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact, including a conduct record of each inmate, and certify the record to the official designated by the sending state, in order that each inmate may have official review of his or her

record in determining and altering the disposition of the inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state. [1983, c. 459, §6 (NEW).]

All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which the inmate would have had if confined in an appropriate institution of the sending state. [1983, c. 459, §6 (NEW).]

Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. The record, together with any recommendations of the hearing officials, shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this section, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state. [1983, c. 459, §6 (NEW).]

Any inmate confined pursuant to this compact shall be released within the territory of the sending state, unless the inmate and the sending and receiving states shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory. [1983, c. 459, §6 (NEW).]

Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if confined in any appropriate institution of the sending state located within such state. [1983, c. 459, §6 (NEW).]

The parent, guardian, trustee or other person or persons entitled under the laws of the sending state to act for, advise or otherwise function with respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9405. ACTS NOT REVIEWABLE IN RECEIVING STATE; EXTRADITION-- ARTICLE V

Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to remove an inmate from an institution in the receiving state, there is pending against the inmate within such state any criminal charge or if the inmate is formally accused of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference. [1983, c. 459, §6 (NEW).]

An inmate who escapes from an institution in which he is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of

extradition or rendition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent nor affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9406. FEDERAL AID--ARTICLE VI

Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto and any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provisions; provided that, if such program or activity is not part of the customary correctional regimen, the express consent of the appropriate official of the sending state shall be required therefor. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9407. ENTRY INTO FORCE--ARTICLE VII

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any 2 states. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9408. WITHDRAWAL AND TERMINATION--ARTICLE VIII

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until one year after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9409. OTHER ARRANGEMENTS UNAFFECTED--ARTICLE IX

Nothing contained in this compact shall be construed to abrogate nor impair any agreement or other arrangement which a party state may have with a nonparty state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9410. CONSTRUCTION AND SEVERABILITY--ARTICLE X

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. [1983, c. 459, §6 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW) .

§9421. RATIFICATION

The Interstate Corrections Compact is hereby enacted into law and entered into by this State with any other states legally joining therein. [1983, c. 459, §6 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW) .

§9422. TITLE

This subchapter may be cited as the "Interstate Corrections Compact." [1983, c. 459, §6 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW) .

§9423. POWERS

The Commissioner of Corrections, subject to the limitations provided under section 9424, is hereby authorized and directed to do all things necessary or incidental to the carrying out of the compact in every particular. [1983, c. 459, §6 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW) .

§9424. LIMITATIONS

The commissioner shall carry out the provisions of this compact in accordance with the following. [1983, c. 459, §6 (NEW) .]

1. Juveniles excluded. For purposes of this compact, no juvenile may be considered an inmate, as defined in section 9402.

[1983, c. 459, §6 (NEW) .]

2. Contracts. Any contracts made with one of the other party states for the confinement of inmates in Maine may provide for cash payments for the costs of the confinement whenever the total days for inmates placed in Maine by that state exceeds by 200 the number of days for inmates placed by Maine in that state. Otherwise, all contracts shall provide for an accrual of days earned by the respective states rather than cash payments.

[1983, c. 459, §6 (NEW) .]

3. Inmates. The commissioner may accept an inmate for confinement in Maine if, in the opinion of the commissioner, the inmate has demonstrated ties to this State which would justify the confinement, or the inmate's confinement in this State is in the best interests of the inmate or the State of Maine.

[1983, c. 459, §6 (NEW) .]

4. Transportation. The commissioner may permit any inmate who may be confined in another state under the provisions of the compact to pay the costs of transportation to the receiving state.

[1983, c. 459, §6 (NEW) .]

5. Facilities. The commissioner may not accept any inmate under the provisions of the compact when the confinement of that inmate would cause immediately, or in the near future would be likely to cause, a need for an increase in correctional facilities in this State.

[1983, c. 459, §6 (NEW) .]

6. Report. The commissioner shall annually, prior to February 1st, present a report to the joint standing committee of the Legislature having jurisdiction over health and institutional services describing any actions taken under the provisions of the compact during the previous year.

[1983, c. 459, §6 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW).

Subchapter 4: INTERSTATE COMPACT ON DETAINERS

Article 1: AGREEMENT

§9601. PURPOSE AND POLICY--ARTICLE I

The party states find that charges outstanding against a prisoner, detainees based on untried indictments, informations or complaints, and difficulties in securing speedy trials of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainees based on untried indictments, informations or complaints. The party states also find that proceedings with reference to such charges and detainees, when emanating from other jurisdictions, cannot properly be had in the absence of cooperative procedures. It is the further purpose of this agreement to provide such cooperative procedures.

[1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9602. DEFINITIONS--ARTICLE II

As used in this agreement, unless the context clearly requires otherwise, the following terms shall have the following meanings. [1983, c. 459, §6 (NEW).]

1. Receiving state. "Receiving state" shall mean the state in which trial is to be had on an indictment, information or complaint pursuant to Article III or Article IV.

[1983, c. 459, §6 (NEW) .]

2. Sending state. "Sending state" shall mean a state in which a prisoner is incarcerated at the time that he initiates a request for final disposition pursuant to Article III or at the time that a request for custody or availability is initiated pursuant to Article IV.

[1983, c. 459, §6 (NEW) .]

3. State. "State" shall mean a state of the United States, the United States of America, a territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

[1983, c. 459, §6 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW) .

§9603. REQUEST FOR FINAL DISPOSITION--ARTICLE III

1. Trial pending. Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial within 180 days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for final disposition to be made of the indictment, information or complaint, provided that, for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner and any decisions of the state parole agency relating to the prisoner.

[1983, c. 459, §6 (NEW) .]

2. Request for final disposition. The written notice and request for final disposition referred to in subsection 1 shall be given or sent by the prisoner to the warden, Commissioner of Corrections or other official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

[1983, c. 459, §6 (NEW) .]

3. Notification. The warden, Commissioner of Corrections or other official having custody of the prisoner shall promptly inform him of the source and contents of any detainer lodged against him and shall also inform him of his right to make a request for final disposition of the indictment, information or complaint on which the detainer is based.

[1983, c. 459, §6 (NEW) .]

4. Application. Any request for final disposition made by a prisoner pursuant to subsection 1 shall operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainees have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden, Commissioner of Corrections or other official having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this subsection shall be accompanied by copies of the prisoner's written notice, request and the certificate. If trial is not had on any

indictment, information or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

[1983, c. 459, §6 (NEW) .]

5. Waiver of extradition. Any request for final disposition made by a prisoner pursuant to subsection 1 shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of subsection 1 and a waiver of extradition to the receiving state to serve any sentence there imposed upon him, after completion of his term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of his body in any court where his presence may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with this agreement. Nothing in this subsection shall prevent the imposition of a concurrent sentence if otherwise permitted by law.

[1983, c. 459, §6 (NEW) .]

6. Escape. Escape from custody by the prisoner subsequent to his execution of the request for final disposition referred to in subsection 1 shall void the request.

[1983, c. 459, §6 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW) .

§9604. TEMPORARY CUSTODY--ARTICLE IV

1. Request. The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall be entitled to have a prisoner against whom he has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with Article V, subsection 1, upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated, provided that the court having jurisdiction of such indictment, information or complaint shall have duly approved, recorded and transmitted the request, and provided further that there shall be a period of 30 days after receipt by the appropriate authorities before the request be honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability, either upon his own motion or upon motion of the prisoner.

[1983, c. 459, §6 (NEW) .]

2. Certificate. Upon receipt of the officer's written request as provided in subsection 1, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner and any decisions of the state parole agency relating to the prisoner. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reasons therefor.

[1983, c. 459, §6 (NEW) .]

3. Time of trial. In respect of any proceeding made possible by this Article, trial shall be commenced within 120 days of the arrival of the prisoner in the receiving state, but, for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

[1983, c. 459, §6 (NEW) .]

4. Legality of delivery. Nothing contained in this Article shall be construed to deprive any prisoner of any right which he may have to contest the legality of his delivery as provided in subsection 1, but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not affirmatively consented to or ordered such delivery.

[1983, c. 459, §6 (NEW) .]

5. Order dismissing. If trial is not had on any indictment, information or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment pursuant to Article V, subsection 5, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

[1983, c. 459, §6 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW) .

§9605. DELIVERY--ARTICLE V

1. Request. In response to a request made under Article III or Article IV, the appropriate authority in a sending state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the state where such indictment, information or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in Article III. In the case of a federal prisoner, the appropriate authority in the receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in federal custody at the place for trial, whichever custodial arrangement may be approved by the custodian.

[1983, c. 459, §6 (NEW) .]

2. Identification; copy of indictment. The officer or other representative of a state accepting an offer of temporary custody shall present the following upon demand:

A. Proper identification and evidence of his authority to act for the state into whose temporary custody the prisoner is to be given; and [1983, c. 459, §6 (NEW) .]

B. A duly certified copy of the indictment, information or complaint on the basis of which the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made. [1983, c. 459, §6 (NEW) .]

[1983, c. 459, §6 (NEW) .]

3. Dismissed. If the appropriate authority shall refuse or fail to accept temporary custody of said person, or in the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in Article III or Article IV, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.

[1983, c. 459, §6 (NEW) .]

4. Purpose. The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for his attendance at court and while being transported to or from any place at which his presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

[1983, c. 459, §6 (NEW) .]

5. Return. At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state.

[1983, c. 459, §6 (NEW) .]

6. Time on sentence. During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run, but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow.

[1983, c. 459, §6 (NEW) .]

7. Escape. For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law.

[1983, c. 459, §6 (NEW) .]

8. Responsibility; costs. From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, informations or complaints are pending or in which trial is being had shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping and returning the prisoner. This subsection shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing in this subsection shall be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

[1983, c. 459, §6 (NEW) .]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9606. TIME PERIODS TOLLED--ARTICLE VI

In determining the duration and expiration dates of the time periods provided in Articles III and IV, the running of said time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter. [1983, c. 459, §6 (NEW).]

No provision of this agreement, and no remedy made available by this agreement, shall apply to any person who is adjudged to be mentally ill. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9607. RULES AND REGULATIONS--ARTICLE VII

Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide, within and without the state, information necessary to the effective operation of this agreement. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9608. EFFECTIVE DATE--ARTICLE VIII

This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by inmates or by state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9609. CONSTRUCTION--ARTICLE IX

This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

Article 2: PROVISIONS RELATING TO AGREEMENT

§9631. DESIGNATION OF COURTS

The phrase "appropriate court" as used in Article I, with reference to the courts of this State, shall mean the District Court or the Superior Court, as applicable. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9632. ENFORCEMENT AND COOPERATION BY COURTS AND AGENCIES

All courts, departments, agencies, officers and employees of this State and its political subdivisions shall enforce the agreement on detainers contained within Article I and cooperate with one another and with other party states in enforcing the agreement and effectuating its purpose. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9633. ESCAPE

Any person, who escapes or attempts to escape from custody while in another state pursuant to Article I, shall be subject to the penalties provided in Title 17-A, section 755, for escape or attempt to escape from the Maine State Prison. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9634. CHIEF ADMINISTRATIVE OFFICER TO GIVE OVER THE PERSON OF INMATE

The chief administrative officer of a correctional facility in Maine shall give over the person of any inmate thereof whenever so required by the operation of the agreement on detainees. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9635. COMMISSIONER OF CORRECTIONS TO MAKE RULES AND REGULATIONS

The Commissioner of Corrections is designated as the officer provided for in section 9607. [1983, c. 459, §6 (NEW).]

SECTION HISTORY

1983, c. 459, §6 (NEW).

§9636. HEARING

Any prisoner for whom a written request for temporary custody has been received pursuant to Article IV, is entitled to a hearing in the Superior Court prior to his delivery in accordance with Article V. The hearing shall be limited to the issue of whether there are reasonable grounds to believe the prisoner is in fact the person charged in the indictment, information or complaint of the demanding state. [1983, c. 581, §55 (NEW).]

SECTION HISTORY

1983, c. 581, §55 (NEW).

Subchapter 5: UNIFORM ACT FOR OUT-OF-STATE PAROLEE SUPERVISION**Article 1: COMPACT****§9801. CONDITIONS FOR RESIDENCE IN ANOTHER STATE--ARTICLE I
(REPEALED)**

SECTION HISTORY

1983, c. 459, §6 (NEW). 2003, c. 706, §B5 (RP).

**§9801-A. NOTIFICATION OF LAW ENFORCEMENT AGENCIES
(REPEALED)**

SECTION HISTORY

1997, c. 714, §5 (NEW). 2003, c. 706, §B5 (RP).

§9802. DUTIES OF RECEIVING STATE--ARTICLE II

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 2003, c. 706, §B5 (RP).

§9803. RETAKING--ARTICLE III

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 2003, c. 706, §B5 (RP).

§9804. TRANSPORTATION OF RETAKEN PERSONS--ARTICLE IV

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 2003, c. 706, §B5 (RP).

§9805. RULES AND REGULATIONS--ARTICLE V

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 2003, c. 706, §B5 (RP).

§9806. ENTRY INTO FORCE--ARTICLE VI

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 2003, c. 706, §B5 (RP).

§9807. RENUNCIATION--ARTICLE VII

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 2003, c. 706, §B5 (RP).

Article 2: PROVISIONS RELATING TO COMPACT

§9831. ACTION BY GOVERNOR

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 2003, c. 706, §B5 (RP).

§9832. STATE DEFINED

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 2003, c. 706, §B5 (RP).

§9833. SHORT TITLE

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 2003, c. 706, §B5 (RP).

Article 3: PRELIMINARY HEARING IN INTERSTATE
PROBATION AND PAROLE VIOLATION CASES

§9861. PRELIMINARY HEARING REQUIRED, DETENTION

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 735, §3 (AMD). 2003, c. 706, §B5 (RP).

§9862. PERSONS AUTHORIZED TO CONDUCT PRELIMINARY HEARING

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 2003, c. 706, §B5 (RP).

§9863. PROCEDURE AT PRELIMINARY HEARING

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 2003, c. 706, §B5 (RP).

§9864. RECIPROCAL PROVISIONS

(REPEALED)

SECTION HISTORY

1983, c. 459, §6 (NEW). 2003, c. 706, §B5 (RP).

Subchapter 6: INTERSTATE COMPACT
FOR ADULT OFFENDER SUPERVISION

§9871. SHORT TITLE--ARTICLE 1

This subchapter may be known and cited as the "Interstate Compact for Adult Offender Supervision."
[2003, c. 495, §1 (NEW).]

SECTION HISTORY

2003, c. 495, §1 (NEW).

§9872. DEFINITIONS--ARTICLE 2

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [2003, c. 495, §1 (NEW).]

1. Adult. "Adult" means both an individual legally classified as an adult and a juvenile treated as an adult by court order, statute or operation of law.

[2003, c. 495, §1 (NEW) .]

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

[2003, c. 495, §1 (NEW) .]

3. Commissioner. "Commissioner" means the voting representative of each compacting state appointed pursuant to section 9873.

[2003, c. 495, §1 (NEW) .]

4. Compact administrator. "Compact administrator" means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the interstate commission and policies adopted by the state council under this compact. The compact administrator for Maine is the Commissioner of Corrections or the commissioner's designee.

[2003, c. 706, Pt. B, §6 (AMD) .]

5. Compacting state. "Compacting state" means any state that has enacted the enabling legislation for this compact.

[2003, c. 495, §1 (NEW) .]

6. Interstate commission. "Interstate commission" means the Interstate Commission for Adult Offender Supervision established in this subchapter.

[2003, c. 495, §1 (NEW) .]

7. Member. "Member" means the commissioner of a compacting state or a designee who is a person officially connected with the commissioner.

[2003, c. 495, §1 (NEW) .]

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

[2003, c. 495, §1 (NEW) .]

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

[2003, c. 495, §1 (NEW) .]

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

[2003, c. 495, §1 (NEW) .]

11. Rules. "Rules" means acts of the interstate commission, duly promulgated pursuant to section 9878, substantially affecting interested parties in addition to the interstate commission that have the force and effect of law in the compacting states.

[2003, c. 495, §1 (NEW) .]

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

[2003, c. 495, §1 (NEW) .]

13. State council. "State council" means the resident members of the State Council for Interstate Adult Offender Supervision created by each state under section 9874.

[2003, c. 495, §1 (NEW) .]

SECTION HISTORY

2003, c. 495, §1 (NEW). 2003, c. 706, §B6 (AMD).

§9873. INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION-- ARTICLE 3

1. Commission created. The compacting states hereby create the Interstate Commission for Adult Offender Supervision. The interstate commission is a body corporate and joint agency of the compacting states. The interstate commission has all the responsibilities, powers and duties set forth in this section, 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.

[2003, c. 495, §1 (NEW) .]

2. Commissioners. The interstate commission consists of commissioners selected and appointed by the state council for each state.

[2003, c. 495, §1 (NEW) .]

3. Noncommissioner members. In addition to the commissioners who are the voting representatives of each state, the interstate commission includes individuals who are not commissioners but who are members of interested organizations. These 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 are ex officio, nonvoting members. The interstate commission may provide in its bylaws for such additional, ex officio, nonvoting members as it considers necessary.

[2003, c. 495, §1 (NEW) .]

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

[2003, c. 495, §1 (NEW) .]

5. Meetings. The interstate commission shall meet at least once each calendar year. The chair may call additional meetings and, upon the request of a majority of the members, shall call additional meetings. Public notice must be given of all meetings and meetings are open to the public.

[2003, c. 495, §1 (NEW) .]

6. Executive committee. The interstate commission shall establish an executive committee that includes commission officers, members and others as determined by the bylaws. The executive committee has 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 or amendments 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 the interstate commission or set forth in the bylaws.

[2003, c. 495, §1 (NEW) .]

SECTION HISTORY

2003, c. 495, §1 (NEW) .

§9874. STATE COUNCIL--ARTICLE 4

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

[2003, c. 495, §1 (NEW) .]

SECTION HISTORY

2003, c. 495, §1 (NEW) .

§9875. POWERS OF INTERSTATE COMMISSION--ARTICLE 5

The interstate commission has the following powers: [2003, c. 495, §1 (NEW) .]

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

[2003, c. 495, §1 (NEW) .]

2. Promulgate rules. To promulgate rules that have the force and effect of statutory law and are binding in the compacting states to the extent and in the manner provided in this compact;

[2003, c. 495, §1 (NEW) .]

3. Supervise interstate movement of offenders. To oversee, supervise and coordinate the interstate movement of offenders subject to the terms of this compact, any bylaws adopted and rules promulgated by the interstate commission;

[2003, c. 495, §1 (NEW) .]

4. Enforce compact, rules and bylaws. To enforce compliance with compact provisions and interstate commission rules and bylaws, using all necessary and proper means, including, but not limited to, the use of judicial process;

[2003, c. 495, §1 (NEW) .]

5. Establish and maintain offices. To establish and maintain offices;

[2003, c. 495, §1 (NEW) .]

6. Purchase and maintain insurance and bonds. To purchase and maintain insurance and bonds;

[2003, c. 495, §1 (NEW) .]

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

[2003, c. 495, §1 (NEW) .]

8. Establish and appoint committees; hire staff. To establish and appoint committees and hire staff that it considers necessary for carrying out its functions, including, but not limited to, an executive committee as required by section 9873 that has the power to act on behalf of the interstate commission in carrying out its powers and duties;

[2003, c. 495, §1 (NEW) .]

9. Elect or appoint officers, attorneys, employees, agents or consultants; establish personnel policies. To elect or appoint officers, attorneys, employees, agents or consultants; 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;

[2003, c. 495, §1 (NEW) .]

10. Accept donations. To accept donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of those donations and grants;

[2003, c. 495, §1 (NEW) .]

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

[2003, c. 495, §1 (NEW) .]

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

[2003, c. 495, §1 (NEW) .]

13. Establish budget. To establish a budget, make expenditures and levy assessments as provided in section 9880;

[2003, c. 495, §1 (NEW) .]

14. Sue and be sued. To sue and be sued;

[2003, c. 495, §1 (NEW) .]

15. Provide for dispute resolution. To provide for dispute resolution among compacting states;

[2003, c. 495, §1 (NEW) .]

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

[2003, c. 495, §1 (NEW) .]

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

[2003, c. 495, §1 (NEW) .]

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

[2003, c. 495, §1 (NEW) .]

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

[2003, c. 495, §1 (NEW) .]

SECTION HISTORY

2003, c. 495, §1 (NEW) .

§9876. ORGANIZATION AND OPERATION OF INTERSTATE COMMISSION-- ARTICLE 6

1. Bylaws. The interstate commission shall adopt bylaws, by a majority vote of the members, within 12 months of the first interstate commission meeting to govern its conduct as may be necessary or appropriate to carry out the purposes of this subchapter, including, but not limited to:

- A. Establishing the fiscal year of the interstate commission; [2003, c. 495, §1 (NEW) .]
- B. Establishing an executive committee and such other committees as may be necessary; [2003, c. 495, §1 (NEW) .]
- C. Providing reasonable standards and procedures:
 - (1) For the establishment of committees; and
 - (2) Governing any general or specific delegation of any authority or function of the interstate commission; [2003, c. 495, §1 (NEW) .]
- D. Providing reasonable procedures for calling and conducting meetings of the interstate commission and ensuring reasonable notice of each such meeting; [2003, c. 495, §1 (NEW) .]
- E. Establishing the titles and responsibilities of the officers of the interstate commission; [2003, c. 495, §1 (NEW) .]

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 exclusively govern the personnel policies and programs of the interstate commission; [2003, c. 495, §1 (NEW).]

G. Providing a mechanism for winding up the operations of the interstate commission and the equitable return of any surplus funds that may exist upon the termination of the compact after the payment or reserving of all of its debts and obligations; [2003, c. 495, §1 (NEW).]

H. Providing transitional rules for administration of the compact when it first takes effect; and [2003, c. 495, §1 (NEW).]

I. Establishing standards and procedures for compliance and technical assistance in carrying out the compact. [2003, c. 495, §1 (NEW).]

[2003, c. 495, §1 (NEW) .]

2. Officers and staff. The following provisions govern officers and staff.

A. The interstate commission shall, by a majority vote of the members, elect from among its members a chair and a vice-chair, each of whom has such authorities and duties as may be specified in the bylaws. The chair or, in the chair's absence or disability, the vice-chair shall preside at all meetings of the interstate commission. The officers so elected serve without compensation or remuneration from the interstate commission, provided that, subject to the availability of budgeted funds, the officers are 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. [2003, c. 495, §1 (NEW).]

B. The interstate commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the interstate commission considers appropriate. The executive director serves as secretary to the interstate commission and may hire and supervise such other staff as may be authorized by the interstate commission but may not be a member. [2003, c. 495, §1 (NEW).]

[2003, c. 495, §1 (NEW) .]

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

[2003, c. 495, §1 (NEW) .]

4. Qualified immunity, defense and indemnification. The following provisions govern qualified immunity, defense and indemnification.

A. The members, officers, executive director and employees of the interstate commission are 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 an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities. Nothing in this paragraph may be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of any such person. [2003, c. 495, §1 (NEW).]

B. The interstate commission shall defend the commissioner of a compacting state, a commissioner's representatives or employees or the interstate commission's representatives or employees, in a 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, if the actual or alleged act, error or omission did not result from intentional wrongdoing on the part of that person. [2003, c. 495, §1 (NEW).]

C. The interstate commission shall indemnify and hold the commissioner of a compacting state, the appointed designee or employee or the interstate commission's representative or employee, harmless in the amount of any settlement or judgment obtained against such a person 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 a person had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, if the actual or alleged act, error or omission did not result from gross negligence or intentional wrongdoing on the part of that person. [2003, c. 495, §1 (NEW).]

[2003, c. 495, §1 (NEW) .]

SECTION HISTORY

2003, c. 495, §1 (NEW).

§9877. ACTIVITIES OF INTERSTATE COMMISSION-- ARTICLE 7

1. Commission actions. The interstate commission shall meet and take such actions as are consistent with the provisions of this compact. 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, the act must have been taken at a meeting of the interstate commission and must have received an affirmative vote of a majority of the members present.

[2003, c. 495, §1 (NEW) .]

2. Members' rights. Each member of the interstate commission has the right and power to cast a vote to which the 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 may not delegate a vote to another member state. 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 is subject to the same quorum requirements of meetings when members are present in person.

[2003, c. 495, §1 (NEW) .]

3. Meeting. The interstate commission shall meet at least once during each calendar year. The chair 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.

[2003, c. 495, §1 (NEW) .]

4. Information; records available. The interstate commission's bylaws must 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 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.

[2003, c. 495, §1 (NEW) .]

5. Meeting notice. Public notice must be given of all meetings and all meetings are 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 the Sunshine Act, 5 United States Code, Section 552 (b), as amended. The interstate commission and any of its committees may close a meeting to the public when the interstate commission determines by 2/3 vote that an open meeting:

- A. Relates solely to the interstate commission's internal personnel practices and procedures; [2003 , c. 495 , §1 (NEW) .]
- B. May disclose matters specifically exempted from disclosure by statute; [2003 , c. 495 , §1 (NEW) .]
- C. May disclose trade secrets or commercial or financial information that is privileged or confidential; [2003 , c. 495 , §1 (NEW) .]
- D. May involve accusing a person of a crime or formally censuring a person; [2003 , c. 495 , §1 (NEW) .]
- E. May disclose information of a personal nature and that disclosure would constitute a clearly unwarranted invasion of personal privacy; [2003 , c. 495 , §1 (NEW) .]
- F. May disclose investigatory records compiled for law enforcement purposes; [2003 , c. 495 , §1 (NEW) .]
- G. May disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the interstate commission with respect to a regulated entity for the purpose of regulation or supervision of such entity; [2003 , c. 495 , §1 (NEW) .]
- H. May disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity; or [2003 , c. 495 , §1 (NEW) .]
- I. Specifically relates to the interstate commission's issuance of a subpoena or its participation in a civil action or proceeding. [2003 , c. 495 , §1 (NEW) .]

[2003 , c. 495 , §1 (NEW) .]

6. Public certification. For every meeting closed pursuant to subsection 5, the interstate commission's chief legal officer shall publicly certify that, in the chief legal officer's opinion, the meeting may be closed to the public and shall reference each relevant exemptive provision of subsection 5. The interstate commission shall keep minutes that fully and clearly describe all matters discussed in any meeting and provide a full and accurate summary of any actions taken and the reasons for taking such actions, including a description of each of the views expressed on any item and the record of any vote by roll call, reflected in the vote of each member on the question. All documents considered in connection with any action must be identified in the minutes.

[2003 , c. 495 , §1 (NEW) .]

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

[2003 , c. 495 , §1 (NEW) .]

SECTION HISTORY

2003 , c. 495 , §1 (NEW) .

§9878. RULE-MAKING FUNCTIONS OF INTERSTATE COMMISSION--ARTICLE 8

1. Rules. The interstate commission shall promulgate rules in order to effectively and efficiently achieve the purposes of the compact, including transitional rules governing administration of the compact during the period in which it is being considered and enacted by the state.

Rulemaking must occur pursuant to the criteria set forth in this section and rules promulgated pursuant to this section. The rulemaking must substantially conform to the principles of the federal Administrative Procedure Act, 5 United States Code, Section 551 et seq. and the federal Advisory Committee Act, 5 United States Code App. 2 Section 1 et seq., as may be amended, referred to in this subchapter as the "APA."

All rules and amendments are binding on the date specified in each rule or amendment.

[2003, c. 495, §1 (NEW) .]

2. Rule void. 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 the rule has no further effect in any compacting state.

[2003, c. 495, §1 (NEW) .]

3. Promulgation of rules. When promulgating a rule, the interstate commission shall:

A. Publish the proposed rule stating with particularity the text of the proposed rule and the reason for the proposed rule; [2003, c. 495, §1 (NEW).]

B. Allow persons to submit written data, facts, opinions and arguments, which information must be publicly available; [2003, c. 495, §1 (NEW).]

C. Provide an opportunity for an informal hearing; and [2003, c. 495, §1 (NEW).]

D. Promulgate a final rule and its effective date, if appropriate, based on the rule-making record. [2003, c. 495, §1 (NEW).]

[2003, c. 495, §1 (NEW) .]

4. Rule review. Not later than 60 days after a rule is promulgated, an 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 the rule. If the court finds that the interstate commission's action is not supported by substantial evidence, as defined in the APA, in the rule-making record, the court shall hold the rule unlawful and set it aside.

[2003, c. 495, §1 (NEW) .]

5. Subjects to be addressed. 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; [2003, c. 495, §1 (NEW).]

B. Offender registration and compliance; [2003, c. 495, §1 (NEW).]

C. Violations and returns; [2003, c. 495, §1 (NEW).]

D. Transfer procedures and forms; [2003, c. 495, §1 (NEW).]

E. Eligibility for transfer; [2003, c. 495, §1 (NEW).]

F. Collection of restitution and fees from offenders; [2003, c. 495, §1 (NEW).]

G. Data collection and reporting; [2003, c. 495, §1 (NEW).]

H. The level of supervision to be provided by the receiving state; [2003, c. 495, §1 (NEW) .]

I. Transitional 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 that the last eligible state adopts the compact; and [2003, c. 495, §1 (NEW) .]

J. Mediation, arbitration and dispute resolution. [2003, c. 495, §1 (NEW) .]

[2003, c. 495, §1 (NEW) .]

6. Emergency rule. If the interstate commission determines that an emergency exists, it may promulgate an emergency rule that becomes effective immediately upon adoption as long as the usual rule-making procedures provided under this section are retroactively applied to the rule as soon as reasonably possible but no later than 90 days after the effective date of the rule.

[2003, c. 495, §1 (NEW) .]

SECTION HISTORY

2003, c. 495, §1 (NEW) .

§9879. OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY INTERSTATE COMMISSION-- ARTICLE 9

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

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 that may affect the powers, responsibilities or actions of the interstate commission, the interstate commission is entitled to receive all service of process in any such proceeding, and has standing to intervene in the proceeding for all purposes.

[2003, c. 495, §1 (NEW) .]

2. Dispute resolution. 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.

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

[2003, c. 495, §1 (NEW) .]

3. Enforcement. The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact using any or all means set forth in section 9882, subsection 2.

[2003, c. 495, §1 (NEW) .]

SECTION HISTORY

2003, c. 495, §1 (NEW) .

§9880. FINANCE--ARTICLE 10

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

[2003, c. 495, §1 (NEW) .]

2. Assessment. The interstate commission shall levy 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 sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount must 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 that governs the assessment.

[2003, c. 495, §1 (NEW) .]

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

[2003, c. 495, §1 (NEW) .]

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

[2003, c. 495, §1 (NEW) .]

SECTION HISTORY

2003, c. 495, §1 (NEW) .

§9881. COMPACTING STATE; EFFECTIVE DATE; AMENDMENT--ARTICLE 11

1. Eligibility. Any state, as defined in section 9872, is eligible to become a compacting state.

[2003, c. 495, §1 (NEW) .]

2. Effective date. The compact becomes effective and binding upon enactment of the compact into law by no fewer than 35 of the states. The initial effective date is July 1, 2001, or upon enactment into law by the 35th state, whichever is later. After the initial effective date, the compact becomes 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.

[2003, c. 495, §1 (NEW) .]

3. Notification. The executive director of the interstate commission shall notify the Secretary of State of the State of Maine upon enactment of the compact into law by no fewer than 35 states.

[2003, c. 495, §1 (NEW) .]

4. Nonapplicability.

[2005, c. 397, Pt. A, §41 (RP) .]

5. Amendment. Amendments to the compact may be proposed by the interstate commission for enactment by the compacting states. An amendment does not become effective and binding upon the interstate commission and the compacting states unless it is enacted into law by unanimous consent of the compacting states.

[2003, c. 495, §1 (NEW) .]

SECTION HISTORY

2003, c. 495, §1 (NEW). 2005, c. 397, §A41 (AMD).

§9882. WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT--ARTICLE 12

1. Withdrawal. Once effective, the compact continues in force and remains binding upon each compacting state. A compacting state may withdraw from the compact by enacting a statute specifically repealing the statute that enacted the compact into law. The effective date of withdrawal is the effective date of the repeal of the compact. The withdrawing state shall immediately notify the chair of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other compacting states of the withdrawing state's intent to withdraw within 60 days of its receipt of the withdrawal notice. 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 extends beyond the effective date of withdrawal. Reinstatement following withdrawal of any compacting state occurs on the withdrawing state's reenactment of the compact or upon a later date determined by the interstate commission.

[2003, c. 495, §1 (NEW) .]

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

A. Fines, fees and costs in such amounts as are determined to be reasonable as fixed by the interstate commission; [2003, c. 495, §1 (NEW).]

B. Remedial training and technical assistance as directed by the interstate commission; and [2003, c. 495, §1 (NEW).]

C. Suspension and termination of membership in the compact. Suspension is imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted. Immediate notice of suspension must 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 the 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 resolution of the default. The interstate commission shall stipulate the conditions and the time period within which the defaulting state shall resolve its default. If the defaulting state fails to resolve the default within the time period specified by the interstate commission, in addition to any other penalties imposed in this section 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 are terminated from the effective date of suspension.

Within 60 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; the majority and minority leaders of the defaulting state's legislature; and the state council of such termination.

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.

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

Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state's legislature and the approval of the interstate commission pursuant to the rules. [2003, c. 495, §1 (NEW).]

[2003, c. 495, §1 (NEW) .]

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

[2003, c. 495, §1 (NEW) .]

4. Dissolution of compact. The compact dissolves upon the date of the withdrawal or default of the compacting state that reduces membership in the compact to one compacting state. Upon the dissolution of this compact, the compact becomes void and has no further effect. The business and affairs of the interstate commission must be wound up and surplus funds must be distributed in accordance with the bylaws.

[2003, c. 495, §1 (NEW) .]

SECTION HISTORY

2003, c. 495, §1 (NEW) .

§9883. SEVERABILITY AND CONSTRUCTION--ARTICLE 13

The provisions of this compact are severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact are enforceable. The provisions of this compact are liberally constructed to effectuate its purposes. [2003, c. 495, §1 (NEW).]

SECTION HISTORY

2003, c. 495, §1 (NEW) .

§9884. BINDING EFFECT OF COMPACT AND OTHER LAWS--ARTICLE 14

1. Other laws. This compact does not prevent the enforcement of any other law of a compacting state that is not inconsistent with this compact. All compacting states' laws conflicting with this compact are superseded to the extent of the conflict.

[2003, c. 495, §1 (NEW) .]

2. Binding effect of compact. All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the compacting states. All agreements between the interstate commission and the compacting states are binding in accordance with their terms.

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.

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

[2003, c. 495, §1 (NEW) .]

SECTION HISTORY

2003, c. 495, §1 (NEW) .

§9885. NOTIFICATION OF LAW ENFORCEMENT AGENCIES

Prior to the department's consideration of a request under this compact, the department shall notify the district attorney for the district in which the person will reside; the sheriff for the county in which the person will reside; the chief of police of any municipality in which the person will reside; and the Department of Public Safety. [2003, c. 706, Pt. B, §7 (NEW) .]

SECTION HISTORY

2003, c. 706, §B7 (NEW) .

§9886. VIOLATION OF INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION

Violation of the requirements of an interstate compact for adult offender supervision as enacted by the sentencing state is a Class D crime as provided in Title 17-A, section 759. [2003, c. 706, Pt. B, §7 (NEW) .]

SECTION HISTORY

2003, c. 706, §B7 (NEW) .

§9887. SUPERVISION FEE

The department may impose on a person accepted for supervision under this compact a supervision fee of between \$10 and \$50 per month, as determined by the department, for the term of supervision by the department. In determining the amount of the fee, the department shall take into account the financial resources of the person and the nature of the burden the payment imposes. A request for transfer of supervision may not be denied solely because the person is not able to pay the fee. When a person fails to pay the supervision fee, the department may request the person's return to the sending state unless the failure to pay was not attributable to the person's willful refusal to pay or to a failure on the person's part to make a good faith effort to obtain the funds required for the payment. Fees received by the department pursuant to this section must be deposited into the department's adult community corrections account, which may not lapse. Fees deposited pursuant to this section must be used to defray costs associated with the supervision of persons accepted for transfer, including, but not limited to, the purchase of materials and equipment for and operation of electronic monitoring and substance testing programs, the purchase of materials, equipment and training for probation officers and administrative costs. [2011, c. 677, §1 (AMD) .]

SECTION HISTORY

2005, c. 329, §13 (NEW). 2011, c. 677, §1 (AMD) .

§9887-A. APPLICATION FEE

The department may impose on a person applying for transfer of supervision to another state under this compact an application fee of \$100. An application for transfer of supervision may not be denied solely because the person is not able to pay the fee. When a person fails to pay the application fee, the department may refuse to process the application unless the failure to pay was not attributable to the person's willful refusal to pay or to a failure on the person's part to make a good faith effort to obtain the funds required for the payment. Fees received by the department pursuant to this section must be deposited into the department's adult community corrections account, which may not lapse. Fees deposited pursuant to this section must be used to defray costs associated with processing the applications for transfer, including, but not limited to, the purchase of materials, equipment and training for probation officers and administrative costs. [2011, c. 677, §2 (NEW).]

SECTION HISTORY

2011, c. 677, §2 (NEW).

§9887-B. BIOLOGICAL SAMPLE FOR DNA ANALYSIS

A person accepted for supervision under this compact shall submit to having a DNA sample taken only if that person is convicted of a crime punishable by imprisonment for one year or more. The DNA sample may be taken at any time following commencement of the supervision period as directed by the person's probation officer. All other provisions of Title 25, chapter 194 govern the collection and use of the DNA sample as applicable. [2011, c. 677, §3 (NEW).]

SECTION HISTORY

2011, c. 677, §3 (NEW).

§9888. ADMINISTRATIVE PRELIMINARY HEARING

Whenever it appears that a person accepted for supervision under this compact arrested for an alleged violation of a supervision condition is entitled under the compact to a determination of whether there is probable cause to believe the person has violated a condition of that person's supervision, the determination must be made at an administrative preliminary hearing meeting the requirements of the compact and held before an official designated by the Commissioner of Corrections within 5 days after the arrest, excluding Saturdays, Sundays and holidays. [2007, c. 344, §11 (NEW).]

SECTION HISTORY

2007, c. 344, §11 (NEW).

Subchapter 7: THE INTERSTATE COMPACT FOR JUVENILES**§9901. SHORT TITLE -- ARTICLE 1**

This subchapter may be known and cited as "the Interstate Compact for Juveniles," which is referred to in this subchapter as "the compact." [2003, c. 500, §1 (NEW).]

SECTION HISTORY

2003, c. 500, §1 (NEW).

§9902. DEFINITIONS -- ARTICLE 2

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [2003, c. 500, §1 (NEW).]

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

[2003, c. 500, §1 (NEW) .]

2. Commissioner. "Commissioner" means the voting representative of each compacting state appointed pursuant to section 9903.

[2003, c. 500, §1 (NEW) .]

3. Compact administrator. "Compact administrator" means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the interstate commission and policies adopted by the state council under this compact. The compact administrator for Maine is the Commissioner of Corrections or the commissioner's designee.

[2003, c. 706, Pt. B, §8 (AMD) .]

4. Compacting state. "Compacting state" means any state that has enacted the enabling legislation for this compact.

[2003, c. 500, §1 (NEW) .]

5. Court. "Court" means a court having jurisdiction over juveniles.

[2003, c. 500, §1 (NEW) .]

6. Deputy compact administrator. "Deputy compact administrator" means the individual, if any, in each compacting state appointed to act on behalf of a compact administrator pursuant to the terms of this compact responsible for the administration and management of the State's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the interstate commission and policies adopted by the state council under this compact.

[2003, c. 500, §1 (NEW) .]

7. Interstate commission. "Interstate commission" means the Interstate Commission for Juveniles established in this subchapter.

[2003, c. 500, §1 (NEW) .]

8. Juvenile. "Juvenile" means any person defined as a juvenile in any member state or by the rules of the interstate commission, including:

A. An accused delinquent who is a person charged with an offense that, if committed by an adult, would be a criminal offense; [2003, c. 500, §1 (NEW).]

B. An adjudicated delinquent who is a person found to have committed an offense that, if committed by an adult, would be a criminal offense; [2003, c. 500, §1 (NEW).]

C. An accused status offender who is a person charged with an offense that would not be a criminal offense if committed by an adult; [2003, c. 500, §1 (NEW).]

D. An adjudicated status offender who is a person found to have committed an offense that would not be a criminal offense if committed by an adult; and [2003, c. 500, §1 (NEW).]

E. A nonoffender who is a person in need of supervision who has not been accused or adjudicated as a status offender or delinquent. [2003, c. 500, §1 (NEW) .]

[2003, c. 500, §1 (NEW) .]

9. Noncompacting state. "Noncompacting state" means any state that has not enacted the enabling legislation for this compact.

[2003, c. 500, §1 (NEW) .]

10. Probation or parole. "Probation" or "parole" means any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.

[2003, c. 500, §1 (NEW) .]

11. Rule. "Rule" means a written statement by the interstate commission promulgated pursuant to section 9904 that is of general applicability; implements, interprets or prescribes a policy or provision of the compact or an organizational, procedural or practice requirement of the interstate commission; and has the force of statutory law in a compacting state, including the ability to amend, repeal or suspend an existing rule.

[2003, c. 500, §1 (NEW) .]

12. State. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa and the Northern Marianas Islands.

[2003, c. 500, §1 (NEW) .]

13. State council. "State council" means the resident members of the state council for interstate juvenile supervision created by each state under section 9909.

[2003, c. 500, §1 (NEW) .]

SECTION HISTORY

2003, c. 500, §1 (NEW). 2003, c. 706, §B8 (AMD).

§9903. INTERSTATE COMMISSION FOR JUVENILES -- ARTICLE 3

1. Commission created. The compacting states hereby create the Interstate Commission for Juveniles. The commission is a body corporate and joint agency of the compacting states. The commission has all the responsibilities, powers and duties set forth in this section, 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.

[2003, c. 500, §1 (NEW) .]

2. Commissioners. The interstate commission consists of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the state council. The commissioner is the compact administrator, deputy compact administrator or designee from that state who serves on the interstate commission in such capacity under or pursuant to the applicable law of the compacting state.

[2003, c. 500, §1 (NEW) .]

3. Noncommissioner members. In addition to the commissioners who are the voting representatives of each state, the interstate commission includes individuals who are not commissioners but who are members of interested organizations. Those noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general; members of the Interstate Compact for Adult Offender Supervision and Interstate Compact for the Placement of Children; juvenile justice and juvenile corrections officials; and crime victims. All noncommissioner members of the interstate commission are ex officio, nonvoting members. The interstate commission may provide in its bylaws for such additional ex officio, nonvoting members, including members of other national organizations, as it considers necessary.

[2003, c. 500, §1 (NEW) .]

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

[2003, c. 500, §1 (NEW) .]

5. Meetings. The interstate commission shall meet at least once each calendar year. The chair may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice must be given of all meetings and meetings are open to the public.

[2003, c. 500, §1 (NEW) .]

6. Executive committee. The interstate commission shall establish an executive committee that includes commission officers, members and others as determined by the bylaws. The executive committee has power to act on behalf of the interstate commission during periods when the interstate commission is not in session, with the exception of rulemaking or amendments to the compact. The executive committee oversees the day-to-day activities of the administration of the compact managed by the executive director and interstate commission staff; administers enforcement and compliance with the provisions of the compact, its bylaws and rules; and performs other duties as directed by the interstate commission or as set forth in the bylaws.

[2003, c. 500, §1 (NEW) .]

7. Member participation. Each commissioner of the interstate commission has the right and power to cast a vote to which the commissioner's state is entitled and to participate in the business and affairs of the interstate commission. A commissioner must vote in person and may not delegate a vote to another compacting state, except a commissioner, in consultation with the state council, may appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

[2003, c. 500, §1 (NEW) .]

8. Public access to interstate commission records and information. The interstate commission's bylaws must 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.

[2003, c. 500, §1 (NEW) .]

9. Public notice. Public notice of all meetings must be given and all meetings are open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission and any of its committees may close a meeting to the public where it determines by 2/3 vote that an open meeting would be likely to:

- A. Relate solely to the interstate commission's internal personnel practices and procedures; [2003, c. 500, §1 (NEW) .]
- B. Disclose matters specifically exempted from disclosure by statute; [2003, c. 500, §1 (NEW) .]
- C. Disclose trade secrets or commercial or financial information that is privileged or confidential; [2003, c. 500, §1 (NEW) .]
- D. Involve accusing a person of a crime, or formally censuring a person; [2003, c. 500, §1 (NEW) .]
- E. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy; [2003, c. 500, §1 (NEW) .]
- F. Disclose investigative records compiled for law enforcement purposes; [2003, c. 500, §1 (NEW) .]
- G. Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the interstate commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity; [2003, c. 500, §1 (NEW) .]
- H. Disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity; or [2003, c. 500, §1 (NEW) .]
- I. Specifically relate to the interstate commission's issuance of a subpoena or its participation in a civil action or other legal proceeding. [2003, c. 500, §1 (NEW) .]

[2003, c. 500, §1 (NEW) .]

10. Process for closed meetings. For every meeting closed pursuant to subsection 9, the interstate commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The interstate commission shall keep minutes that fully and clearly describe all matters discussed in any meeting and 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. All documents considered in connection with any action must be identified in such minutes.

[2003, c. 500, §1 (NEW) .]

11. Data collection; records. The interstate commission shall collect standardized data concerning the interstate movement of juveniles as directed through rules specifying the data to be collected, the means of collection and data exchange and the reporting requirements. These methods of data collection, exchange and reporting must, insofar as is reasonably possible, conform to up-to-date technology and coordinate the interstate commission's information functions with the appropriate repository of records.

[2003, c. 1, §36 (COR) .]

SECTION HISTORY

RR 2003, c. 1, §36 (COR). 2003, c. 500, §1 (NEW).

§9904. POWERS AND DUTIES OF INTERSTATE COMMISSION -- ARTICLE 4

1. Powers and duties. The interstate commission has the following powers and duties:

- A. To provide for dispute resolution among compacting states; [2003, c. 500, §1 (NEW).]
- B. To promulgate rules to effect the purposes and obligations as enumerated in this compact, which have the force of statutory law and are binding in the compacting states to the extent and in the manner provided in this compact; [2003, c. 500, §1 (NEW).]
- C. To oversee, supervise and coordinate the interstate movement of juveniles subject to the terms of this compact and any bylaws adopted and rules promulgated by the interstate commission; [2003, c. 500, §1 (NEW).]
- D. To enforce compliance with the compact provisions, the rules promulgated by the interstate commission and the bylaws, using all necessary and proper means, including, but not limited to, the use of judicial process; [2003, c. 500, §1 (NEW).]
- E. To establish and maintain offices that are located within one or more of the compacting states; [2003, c. 500, §1 (NEW).]
- F. To purchase and maintain insurance and bonds; [2003, c. 500, §1 (NEW).]
- G. To borrow, accept, hire or contract for services of personnel; [2003, c. 500, §1 (NEW).]
- H. To establish and appoint committees and hire staff that the interstate commission deems necessary for the carrying out of its functions, including, but not limited to, an executive committee as required by section 9903 that has the power to act on behalf of the interstate commission in carrying out its powers and duties hereunder; [2003, c. 500, §1 (NEW).]
- I. To elect or appoint officers, attorneys, employees, agents or consultants and to fix their compensation, define their duties and determine their qualifications; [2003, c. 500, §1 (NEW).]
- J. 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; [2003, c. 500, §1 (NEW).]
- K. To accept any donations and grants of money, equipment, supplies, materials and services and to receive, utilize and dispose of donations and grants; [2003, c. 500, §1 (NEW).]
- L. To lease, purchase, accept contributions or donations of or otherwise to own, hold, improve or use any property, real, personal or mixed; [2003, c. 500, §1 (NEW).]
- M. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed; [2003, c. 500, §1 (NEW).]
- N. To establish a budget and make expenditures and levy dues as provided in section 9908; [2003, c. 500, §1 (NEW).]
- O. To sue and be sued; [2003, c. 500, §1 (NEW).]
- P. To adopt a seal and bylaws governing the management and operation of the interstate commission; [2003, c. 500, §1 (NEW).]
- Q. To perform functions necessary or appropriate to achieve the purposes of this compact; [2003, c. 500, §1 (NEW).]
- R. 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. Annual reports must also include any recommendations that may have been adopted by the interstate commission; [2003, c. 500, §1 (NEW).]
- S. To coordinate education, training and public awareness regarding the interstate movement of juveniles for officials involved in such activity; [2003, c. 500, §1 (NEW).]

T. To establish uniform standards for reporting, collecting and exchanging data; and [2003, c. 500, §1 (NEW).]

U. To maintain its corporate books and records in accordance with the bylaws. [2003, c. 500, §1 (NEW).]

[2003, c. 500, §1 (NEW) .]

SECTION HISTORY

2003, c. 500, §1 (NEW).

§9905. ORGANIZATION AND OPERATION OF INTERSTATE COMMISSION -- ARTICLE 5

1. Bylaws. The interstate commission shall adopt bylaws by a majority of the members present and voting, within 12 months after the first interstate commission meeting, to govern its conduct as may be necessary or appropriate to carry out the purposes of this subchapter, including, but not limited to:

A. Establishing the fiscal year of the interstate commission; [2003, c. 500, §1 (NEW).]

B. Establishing an executive committee and other necessary committees; [2003, c. 500, §1 (NEW).]

C. Providing for the establishment of committees governing general or specific delegation of any authority or function of the interstate commission; [2003, c. 500, §1 (NEW).]

D. Providing reasonable procedures for calling and conducting meetings of the interstate commission and ensuring reasonable notice of each meeting; [2003, c. 500, §1 (NEW).]

E. Establishing the titles and responsibilities of the officers of the interstate commission; [2003, c. 500, §1 (NEW).]

F. Providing a mechanism for concluding the operations of the interstate commission and the return of any surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations; [2003, c. 500, §1 (NEW).]

G. Providing start-up rules for initial administration of the compact; and [2003, c. 500, §1 (NEW).]

H. Establishing standards and procedures for compliance and technical assistance in carrying out the compact. [2003, c. 500, §1 (NEW).]

[2003, c. 500, §1 (NEW) .]

2. Officers and staff. The following provisions govern officers and staff.

A. The interstate commission shall, by a majority of the members, elect annually from among its members a chair and a vice-chair, each of whom has such authority and duties as may be specified in the bylaws. The chair or, in the chair's absence or disability, the vice-chair shall preside at all meetings of the interstate commission. The officers so elected serve without compensation or remuneration from the interstate commission, provided that, subject to the availability of budgeted funds, the officers are reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the interstate commission. [2003, c. 500, §1 (NEW).]

B. The interstate commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the interstate commission considers appropriate. The executive director serves as secretary to the interstate commission and may hire and supervise such other staff as may be authorized by the interstate commission but may not be a member. [2003, c. 500, §1 (NEW).]

[2003, c. 500, §1 (NEW) .]

3. Qualified immunity, defense and indemnification. The following provisions govern qualified immunity, defense and indemnification.

A. The interstate commission's executive director and employees are 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 an actual or alleged act, error or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of interstate commission employment, duties or responsibilities. Nothing in this paragraph may be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of any such person. [2003, c. 500, §1 (NEW).]

B. The liability of a commissioner or employee or agent of a commissioner, acting within the scope of such person's employment or duties, for acts, errors or omissions occurring within such person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees and agents. Nothing in this paragraph may be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of any such person. [2003, c. 500, §1 (NEW).]

C. The interstate commission shall defend the executive director or the employees or representatives of the interstate commission and, subject to the approval of the attorney general of the state represented by any commissioner of a compacting state, shall defend such commissioner or the commissioner's representatives or employees in a 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, if the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of such person. [2003, c. 500, §1 (NEW).]

D. The interstate commission shall indemnify and hold the commissioner of a compacting state, or the commissioner representative or employee, or the interstate commission representative or employee, 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, if the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of such persons. [2003, c. 500, §1 (NEW).]

[2003, c. 500, §1 (NEW) .]

SECTION HISTORY

2003, c. 500, §1 (NEW).

§9906. RULE-MAKING FUNCTIONS OF INTERSTATE COMMISSION -- ARTICLE 6

1. Rules. The interstate commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

Rulemaking must occur pursuant to the criteria set forth in this section and the bylaws and rules adopted pursuant to this section. The rulemaking must substantially conform to the principles of the federal Administrative Procedure Act, 5 United States Code, Section 551 et seq. and the federal Advisory Committee Act, 5 United States Code App. 2 Section 1 et seq., as may be amended, referred to in this subchapter as "the APA," or other administrative procedures act that the interstate commission determines appropriate consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the United States Supreme Court.

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

[2003, c. 500, §1 (NEW) .]

2. Promulgation of rules. When adopting a rule, the interstate commission shall:

A. Publish the proposed rule stating with particularity the text of the proposed rule and the reason for the proposed rule; [2003, c. 500, §1 (NEW) .]

B. Allow persons to submit written data, facts, opinions and arguments, which must be added to the record and made publicly available; [2003, c. 500, §1 (NEW) .]

C. Provide an opportunity for an informal hearing, if petitioned by 10 or more persons; and [2003, c. 500, §1 (NEW) .]

D. Promulgate a final rule and its effective date, if appropriate, based on the rule-making record, including input from state or local officials and other interested parties. [2003, c. 500, §1 (NEW) .]

[2003, c. 500, §1 (NEW) .]

3. Rule review. No later than 60 days after a rule is promulgated, an 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 the rule. If the court finds that the interstate commission's action is not supported by substantial evidence in the rule-making record as defined in the APA, the court shall hold the rule unlawful and set it aside.

[2003, c. 500, §1 (NEW) .]

4. Rule void. 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 the rule has no further force and effect in any compacting state.

[2003, c. 500, §1 (NEW) .]

5. Existing rules suspended. The existing rules governing the operation of the Interstate Compact for Juveniles superseded by this subchapter are void 12 months after the first meeting of the interstate commission.

[2003, c. 500, §1 (NEW) .]

6. Emergency rule. If the interstate commission determines that an emergency exists, it may promulgate an emergency rule that becomes effective immediately upon adoption as long as the usual rule-making procedures provided under this section are retroactively applied to the rule as soon as reasonably possible but not later than 90 days after the effective date of the emergency rule.

[2003, c. 500, §1 (NEW) .]

SECTION HISTORY

2003, c. 500, §1 (NEW) .

§9907. OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY INTERSTATE COMMISSION -- ARTICLE 7

1. Oversight. The interstate commission shall oversee the interstate movement of juveniles in the compacting states and shall monitor activities being administered in noncompacting states that may significantly affect compacting states.

[2003, c. 500, §1 (NEW) .]

2. Enforcement. 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. The provisions of this compact and the rules promulgated hereunder must be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. Courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact that may affect the powers, responsibilities or actions of the interstate commission, the interstate commission is to receive all service of process in any such proceeding and has standing to intervene in the proceeding for all purposes.

[2003, c. 500, §1 (NEW) .]

3. Dispute resolution. The compacting states shall report to the interstate commission on issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its bylaws and rules.

The interstate commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues that are subject to the compact and that may arise among compacting states and noncompacting states. The interstate commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

[2003, c. 500, §1 (NEW) .]

4. Commission enforcement. The interstate commission shall enforce the provisions and rules of this compact using all means set forth in section 9911.

[2003, c. 500, §1 (NEW) .]

SECTION HISTORY

2003, c. 500, §1 (NEW).

§9908. FINANCE -- ARTICLE 8

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

[2003, c. 500, §1 (NEW) .]

2. Assessment. The interstate commission shall levy 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 sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the

interstate commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state and shall promulgate a rule binding upon all compacting states that governs the assessment.

[2003, c. 500, §1 (NEW) .]

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

[2003, c. 500, §1 (NEW) .]

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

[2003, c. 500, §1 (NEW) .]

SECTION HISTORY

2003, c. 500, §1 (NEW).

§9909. STATE COUNCIL -- ARTICLE 9

Each compacting state shall create a state council for interstate juvenile supervision. While each 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 the compact administrator or the compact administrator's designee. Each compacting state retains the right to determine the qualifications of the compact administrator or deputy compact administrator. Each state council shall advise and may exercise oversight and advocacy concerning that state's participation in interstate commission activities and other duties as may be determined by that state, including, but not limited to, development of policy concerning operations and procedures of the compact within that state. [2003, c. 500, §1 (NEW) .]

SECTION HISTORY

2003, c. 500, §1 (NEW).

§9910. COMPACTING STATE; EFFECTIVE DATE; AMENDMENT -- ARTICLE 10

1. Eligibility. Any state, as defined in section 9902, is eligible to become a compacting state.

[2003, c. 500, §1 (NEW) .]

2. Effective date. The compact becomes effective and binding upon enactment of the compact into law by no fewer than 35 of the states. The initial effective date is July 1, 2004 or upon enactment into law by the 35th state, whichever is later. After the initial effective date, the compact becomes 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 the activities of the interstate commission on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

[2003, c. 500, §1 (NEW) .]

3. Amendment. The interstate commission may propose amendments to the compact for enactment by the compacting states. An amendment does not 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.

[2003, c. 500, §1 (NEW) .]

SECTION HISTORY

2003, c. 500, §1 (NEW).

§9911. WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT -- ARTICLE 11

1. Withdrawal. Once effective, the compact continues in force and remains binding upon each compacting state. A compacting state may withdraw from the compact by enacting a statute specifically repealing the statute that enacted the compact. The effective date of withdrawal is the effective date of the repeal of the compact. The withdrawing state shall immediately notify the chair of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other compacting states of the withdrawing state's intent to withdraw within 60 days of its receipt of the withdrawal notice. 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 extends beyond the effective date of withdrawal. Reinstatement following withdrawal of any compacting state occurs on the withdrawing state's reenactment of the compact or upon a later date determined by the interstate commission.

[2003, c. 500, §1 (NEW) .]

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

A. Remedial training and technical assistance as directed by the interstate commission; [2003, c. 500, §1 (NEW) .]

B. Alternative dispute resolution; [2003, c. 500, §1 (NEW) .]

C. Fines, fees and costs in such amounts as are determined to be reasonable as fixed by the interstate commission; and [2003, c. 500, §1 (NEW) .]

D. Suspension or termination of membership in the compact. Suspension is imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted and the interstate commission has determined that the offending state is in default. Immediate notice of suspension must be given by the interstate commission to the governor, the chief justice or the 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 the obligations or responsibilities imposed upon it by this compact, the 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 resolution of the default. The interstate commission shall stipulate the conditions and the time period within which the defaulting state shall resolve its default. If the defaulting state fails to resolve the default within the time period specified by the interstate commission, 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 are terminated from the effective date of termination.

Within 60 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, the majority and minority leaders of the defaulting state's legislature and the state council of such termination.

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.

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

Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state's legislature and the approval of the interstate commission pursuant to the rules. [2003, c. 500, §1 (NEW).]

[2003, c. 500, §1 (NEW) .]

3. Judicial enforcement. The interstate commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the interstate commission, in the 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 must be awarded all costs of such litigation including reasonable attorney's fees.

[2003, c. 500, §1 (NEW) .]

4. Dissolution of compact. The compact dissolves upon the date of the withdrawal or default of the compacting state that reduces membership in the compact to one compacting state. Upon the dissolution of this compact, the compact becomes void and has no further force or effect. The business and affairs of the interstate commission must be concluded and surplus funds must be distributed in accordance with the bylaws.

[2003, c. 500, §1 (NEW) .]

SECTION HISTORY

2003, c. 500, §1 (NEW) .

§9912. SEVERABILITY AND CONSTRUCTION -- ARTICLE 12

The provisions of this compact are severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact are enforceable. The provisions of this compact are liberally constructed to effectuate its purposes. [2003, c. 500, §1 (NEW).]

SECTION HISTORY

2003, c. 500, §1 (NEW) .

§9913. BINDING EFFECT OF COMPACT AND OTHER LAWS -- ARTICLE 13

1. Other laws. This compact does not prevent the enforcement of any other law of a compacting state that is not inconsistent with this compact. All compacting states' laws, other than state constitutions and other interstate compacts, conflicting with this compact are superseded to the extent of the conflict.

[2003, c. 500, §1 (NEW) .]

2. Binding effect of compact. All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the compacting states. All agreements between the interstate commission and the compacting states are binding in accordance with their terms.

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.

If a provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction to be conferred by such provision upon the interstate commission is ineffective. The obligations, duties, powers or jurisdiction remains in the compacting state and is exercised by the agency of the compacting state to which the obligations, duties, powers or jurisdiction is delegated by law in effect at the time this compact becomes effective.

[2003, c. 500, §1 (NEW) .]

SECTION HISTORY

2003, c. 500, §1 (NEW).

Subchapter 8: STATE COUNCILS

§9921. STATE COUNCIL FOR ADULT OFFENDER SUPERVISION ESTABLISHED

The State Council for Adult Offender Supervision, referred to in this section as "the council," is established to provide oversight and guidance to the State's participation in the Interstate Compact for Adult Offender Supervision. [2011, c. 676, §1 (AMD).]

1. Membership. The council consists of 7 members as follows:

A. The Senate chair of the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters or the chair's designee; [2011, c. 676, §1 (AMD).]

B. The House chair of the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters or the chair's designee; [2011, c. 676, §1 (AMD).]

C. Three members who are appointed by the commissioner for a term of 4 years, or until a successor is appointed, and who are eligible for reappointment at the discretion of the commissioner:

(1) One prosecutor;

(2) One representative of a statewide association representing victims of crime; and

(3) One representative representing law enforcement; [2011, c. 676, §1 (AMD).]

D. The compact administrator for the Interstate Compact for Adult Offender Supervision, who may be a designee appointed by the commissioner to administer the Interstate Compact for Adult Offender Supervision; and [2011, c. 676, §1 (AMD).]

E. The Associate Commissioner for Adult Services or the associate commissioner's designee. [2011, c. 676, §1 (AMD).]

F. [2011, c. 676, §1 (RP).]

The council shall invite the Chief Justice of the Supreme Judicial Court to designate a trial judge to act as advisor to the council.

[2011, c. 676, §1 (AMD) .]

SECTION HISTORY

2003, c. 706, §B9 (NEW). 2011, c. 676, §1 (AMD).

§9922. STATE COUNCIL FOR JUVENILE SUPERVISION ESTABLISHED

The State Council for Juvenile Supervision, referred to in this section as "the council," is established to provide oversight and guidance to the State's participation in the Interstate Compact for Juveniles. [2011 , c. 676 , §2 (NEW) .]

1. Membership. The council consists of 7 members as follows:

A. The Senate chair of the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters or the chair's designee; [2011 , c. 676 , §2 (NEW) .]

B. The House chair of the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters or the chair's designee; [2011 , c. 676 , §2 (NEW) .]

C. Three members who are appointed by the commissioner for a term of 4 years, or until a successor is appointed, who are eligible for reappointment at the discretion of the commissioner and who are members of the Juvenile Justice Advisory Group appointed by the Governor under section 1209:

(1) One prosecutor;

(2) One representative of a statewide association representing victims of crime; and

(3) One representative representing law enforcement; [2011 , c. 676 , §2 (NEW) .]

D. The compact administrator for the Interstate Compact for Juveniles, who may be a designee appointed by the commissioner to administer the Interstate Compact for Juveniles; and [2011 , c. 676 , §2 (NEW) .]

E. The Associate Commissioner for Juvenile Services or the associate commissioner's designee. [2011 , c. 676 , §2 (NEW) .]

The council shall invite the Chief Justice of the Supreme Judicial Court to designate a trial judge to act as advisor to the council.

[2011 , c. 676 , §2 (NEW) .]

SECTION HISTORY

2011 , c. 676 , §2 (NEW) .

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