

**INTERSTATE COMPACT FOR ADULT
OFFENDER SUPERVISION**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Gary F. Cox

This act modifies the Code of Criminal Procedure and a related provision regarding the Department of Corrections. The act establishes for Utah the Interstate Compact for Adult Offender Supervision and authorizes the governor to act on behalf of the state to join the compact. The act provides updated procedures for movement of adult parolees and probationers across state lines. The act creates the Interstate Compact Commission and the commission's functions and authority. The act provides for oversight and enforcement regarding participating states. This act takes effect the later of July 1, 2002, or upon the enactment of the compact into law by the thirty-fifth jurisdiction, in accordance with the compact provisions.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

64-13-6, as last amended by Chapter 279, Laws of Utah 1999

ENACTS:

77-28c-101, Utah Code Annotated 1953

77-28c-102, Utah Code Annotated 1953

77-28c-103, Utah Code Annotated 1953

77-28c-201, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **64-13-6** is amended to read:

64-13-6. Department duties.

(1) The department shall:

(a) protect the public through institutional care and confinement, and supervision in the

28 community of offenders where appropriate;

29 (b) implement court-ordered punishment of offenders;

30 (c) provide program opportunities for offenders;

31 (d) provide treatment for sex offenders who are found to be treatable based upon criteria
32 developed by the department;

33 (e) provide the results of ongoing assessment of sex offenders and objective diagnostic
34 testing to sentencing and release authorities;

35 (f) manage programs that take into account the needs and interests of victims, where
36 reasonable;

37 (g) supervise probationers and parolees as directed by statute and implemented by the
38 courts and the Board of Pardons and Parole;

39 (h) subject to Subsection (2), investigate criminal conduct involving offenders incarcerated
40 in a state correctional facility; ~~and~~

41 (i) cooperate and exchange information with other state, local, and federal law enforcement
42 agencies to achieve greater success in prevention and detection of crime and apprehension of
43 criminals[-]; and

44 (j) implement the provisions of Section 77-28c-102, the Interstate Compact for Adult
45 Offender Supervision.

46 (2) (a) By following the procedures in Subsection (2)(b), the department may investigate
47 the following occurrences at state correctional facilities:

48 (i) criminal conduct of departmental employees;

49 (ii) felony crimes resulting in serious bodily injury;

50 (iii) death of any person; or

51 (iv) aggravated kidnaping.

52 (b) Prior to investigating any occurrence specified in Subsection (2)(a), the department
53 shall:

54 (i) notify the sheriff or other appropriate law enforcement agency promptly after
55 ascertaining facts sufficient to believe an occurrence specified in Subsection (2)(a) has occurred;
56 and

57 (ii) obtain consent of the sheriff or other appropriate law enforcement agency to conduct
58 an investigation involving an occurrence specified in Subsection (2)(a).

59 (3) Upon request, the department shall provide copies of investigative reports of criminal
60 conduct to the sheriff or other appropriate law enforcement agencies.

61 (4) In accordance with Section 63-55-264, the department shall provide data to the
62 Commission on Criminal and Juvenile Justice to show the criteria for determining sex offender
63 treatability, the implementation and effectiveness of sex offender treatment, and the results of
64 ongoing assessment and objective diagnostic testing. The Commission on Criminal and Juvenile
65 Justice will then report these data to the Judiciary Interim Committee and to the appropriate
66 appropriations subcommittee annually.

67 (5) The Department of Corrections shall collect accounts receivable ordered by the district
68 court as a result of prosecution for a criminal offense according to the requirements and during the
69 time periods established in Subsection 77-18-1(9).

70 Section 2. Section **77-28c-101** is enacted to read:

71 **CHAPTER 28c. INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION**

72 **Part 1. Purpose and Functions**

73 **77-28c-101. Title.**

74 This chapter is known as the "Interstate Compact for Adult Offender Supervision."

75 Section 3. Section **77-28c-102** is enacted to read:

76 **77-28c-102. Preamble.**

77 PREAMBLE

78 Whereas: The Interstate Compact for the supervision of Parolees and Probationers was
79 established in 1937, it is the earliest corrections "compact" established among the states and has
80 not been amended since its adoption over 62 years ago;

81 Whereas: This compact is the only vehicle for the controlled movement of adult parolees
82 and probationers across state lines, and it currently has jurisdiction over more than a quarter of a
83 million offenders;

84 Whereas: The complexities of the compact have become more difficult to administer, and
85 many jurisdictions have expanded supervision expectations to include currently unregulated
86 practices such as victim input, victim notification requirements, and sex offender registration;

87 Whereas: After hearings, national surveys, and a detailed study by a task force appointed
88 by the National Institute of Corrections, the overwhelming recommendation has been to amend the
89 document to bring about an effective management capacity that addresses public safety concerns

90 and offender accountability;

91 Whereas: Upon the adoption of this Interstate Compact for Adult Offender Supervision,
92 it is the intention of the legislature to repeal the previous Interstate Compact for the Supervision
93 of Parolees and Probationers on the effective date of this Compact.

94 Section 4. Section **77-28c-103** is enacted to read:

95 **77-28c-103. Compact.**

96 ARTICLE I

97 PURPOSE

98 (a) The compacting states to this Interstate Compact recognize that each state is
99 responsible for the supervision of adult offenders in the community who are authorized pursuant
100 to the by-laws and rules of this compact to travel across state lines both to and from each
101 compacting state in such a manner as to track the location of offenders, transfer supervision
102 authority in an orderly and efficient manner, and when necessary, return offenders to the
103 originating jurisdictions. The compacting states also recognize that Congress, by enacting the
104 Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for
105 cooperative efforts and mutual assistance in the prevention of crime.

106 (b) It is the purpose of this compact and the Interstate Commission created hereunder,
107 through means of joint and cooperative action among the compacting states: To provide the
108 framework for the promotion of public safety and protect the rights of victims through the control
109 and regulation of the interstate movement of offenders in the community; to provide for the
110 effective tracking, supervision, and rehabilitation of these offenders by the sending and receiving
111 states; and to equitably distribute the costs, benefits, and obligations of the compact among the
112 compacting states.

113 (c) In addition, this compact will: Create an Interstate Commission which will establish
114 uniform procedures to manage the movement between states of adults placed under community
115 supervision and released to the community under the jurisdiction of courts, paroling authorities,
116 corrections, or other criminal justice agencies which will promulgate rules to achieve the purpose
117 of this compact; ensure an opportunity for input and timely notice to victims and to jurisdictions
118 where defined offenders are authorized to travel or to relocate across state lines; establish a system
119 of uniform data collection, access to information on active cases by authorized criminal justice
120 officials, and regular reporting of compact activities to heads of state councils, state executive,

121 judicial, and legislative branches, and criminal justice administrators; monitor compliance with
122 rules governing interstate movement of offenders and initiate interventions to address and correct
123 noncompliance; and coordinate training and education regarding regulations of interstate
124 movement of offenders for officials involved in such activity.

125 (d) The compacting states recognize that there is no "right" of any offender to live in
126 another state and that duly accredited officers of a sending state may at all times enter a receiving
127 state and there apprehend and retake any offender under supervision subject to the provisions of
128 this compact and by-laws and rules promulgated hereunder. It is the policy of the compacting
129 states that the activities conducted by the Interstate Commission created herein are the formation
130 of public policies and are therefore public business.

131 ARTICLE II

132 DEFINITIONS

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

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

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

138 (3) "Compact administrator" means the individual in each compacting state appointed
139 pursuant to the terms of this compact responsible for the administration and management of the
140 state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted
141 by the Interstate Commission and policies adopted by the state council under this compact.

142 (4) "Compacting state" means any state which has enacted the enabling legislation for this
143 compact.

144 (5) "Commissioner" means the voting representative of each compacting state appointed
145 pursuant to Article III of this compact.

146 (6) "Interstate Commission" means the Interstate Commission for Adult Offender
147 Supervision established by this compact.

148 (7) "Member" means the commissioner of a compacting state or designee, who shall be
149 a person officially connected with the commissioner.

150 (8) "Noncompacting state" means any state which has not enacted the enabling legislation
151 for this compact.

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

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

157 (11) "Rules" means acts of the Interstate Commission, duly promulgated pursuant to
158 Article VIII of this compact, substantially affecting interested parties in addition to the Interstate
159 Commission, which shall have the force and effect of law in the compacting states.

160 (12) "State" means a state of the United States, the District of Columbia, and any other
161 territorial possessions of the United States.

162 (13) "State council" means the resident members of the State Council for Interstate Adult
163 Offender Supervision created by each state under Article IV of this compact.

164 ARTICLE III

165 THE COMPACT COMMISSION

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

172 (b) The Interstate Commission shall consist of Commissioners selected and appointed by
173 resident members of a State Council for Interstate Adult Offender Supervision for each state. In
174 addition to the commissioners who are the voting representatives of each state, the Interstate
175 Commission shall include individuals who are not commissioners but who are members of
176 interested organizations. Such noncommissioner members must include a member of the national
177 organizations of governors, legislators, state chief justices, attorneys general, and crime victims.
178 All noncommissioner members of the Interstate Commission shall be ex-officio (nonvoting)
179 members. The Interstate Commission may provide in its by-laws for such additional, ex-officio,
180 nonvoting members as it deems necessary.

181 (c) Each compacting state represented at any meeting of the Interstate Commission is
182 entitled to one vote. A majority of the compacting states shall constitute a quorum for the

183 transaction of business, unless a larger quorum is required by the by-laws of the Interstate
184 Commission.

185 (d) The Interstate Commission shall meet at least once each calendar year. The
186 chairperson may call additional meetings and, upon the request of 27 or more compacting states,
187 shall call additional meetings. Public notice shall be given of all meetings and meetings shall be
188 open to the public.

189 (e) The Interstate Commission shall establish an executive committee which shall include
190 commission officers, members, and others as shall be determined by the by-laws. The Executive
191 Committee shall have the power to act on behalf of the Interstate Commission during periods when
192 the Interstate Commission is not in session, with the exception of rulemaking and/or amendment
193 to the Compact. The Executive Committee oversees the day-to-day activities managed by the
194 Executive Director and Interstate Commission staff; administers enforcement and compliance with
195 the provisions of the compact, its by-laws, and as directed by the Interstate Commission; and
196 performs other duties as directed by the Commission or set forth in the by-laws.

197 ARTICLE IV

198 THE STATE COUNCIL

199 (a) Each member state shall create a State Council for Interstate Adult Offender
200 Supervision which shall be responsible for the appointment of the commissioner who shall serve
201 on the Interstate Commission from that state. Each state council shall appoint as its commissioner
202 the Compact Administrator from that state to serve on the Interstate Commission in such capacity
203 under or pursuant to applicable law of the member state. While each member state may determine
204 the membership of its own state council, its membership must include at least one representative
205 from the legislative, judicial, and executive branches of government, victims groups, and compact
206 administrators.

207 (b) Each compacting state retains the right to determine the qualifications of the compact
208 administrator, who shall be appointed by the state council or by the Governor in consultation with
209 the legislature and the judiciary.

210 (c) In addition to appointment of its commissioner to the National Interstate Commission,
211 each state council shall exercise oversight and advocacy concerning its participation in Interstate
212 Commission activities and other duties as may be determined by each member state including, but
213 not limited to, development of policy concerning operations and procedures of the compact within

214 that state.

215 ARTICLE V

216 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

217 (a) The Interstate Commission shall have the following powers:

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

220 (2) To promulgate rules which shall have the force and effect of statutory law and shall
221 be binding in the compacting states to the extent and in the manner provided in this compact.

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

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

228 (5) To establish and maintain offices.

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

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

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

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

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

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

244 (12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose

245 of any property, real, personal, or mixed.

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

248 (14) To sue and be sued.

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

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

252 (17) To report annually to the legislatures, governors, judiciary, and state councils of the
253 compacting states concerning the activities of the Interstate Commission during the preceding year.
254 Such reports shall also include any recommendations that may have been adopted by the Interstate
255 Commission.

256 (18) To coordinate education, training, and public awareness regarding the Interstate
257 movement of offenders for officials involved in such activity.

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

259 ARTICLE VI

260 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

261 (a) By-laws. The Interstate Commission shall, by a majority of the members, within 12
262 months of the first Interstate Commission meeting, adopt by-laws to govern its conduct as may be
263 necessary or appropriate to carry out the purposes of the compact including, but not limited to:

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

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

267 (i) For the establishment of committees, and

268 (ii) Governing any general or specific delegation of any authority or function of the
269 Interstate Commission;

270 (3) Providing reasonable procedures for calling and conducting meetings of the Interstate
271 Commission, and ensuring reasonable notice of each such meeting;

272 (4) Establishing the titles and responsibilities of the officers of the Interstate Commission;

273 (5) Providing reasonable standards and procedures for the establishment of the personnel
274 policies and programs of the Interstate Commission. Notwithstanding any civil service or other
275 similar laws of any compacting state, the by-laws shall exclusively govern the personnel policies

276 and programs of the Interstate Commission; and

277 (6) Providing a mechanism for winding up the operations of the Interstate Commission and
278 the equitable return of any surplus funds that may exist upon the termination of the compact after
279 the payment and/or reserving of all of its debts and obligations;

280 (7) Providing transition rules for "start up" administration of the compact;

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

283 (b) Officers and Staff.

284 (1) The Interstate Commission shall, by a majority of the members, elect from among its
285 members a chairperson and a vice chairperson, each of whom shall have such authorities and
286 duties as may be specified in the by-laws. The chairperson or, in his or her absence or disability,
287 the vice chairperson, shall preside at all meetings of the Interstate Commission. The officers so
288 elected shall serve without compensation or remuneration from the Interstate Commission;
289 provided that subject to the availability of budgeted funds, the officers shall be reimbursed for any
290 actual and necessary costs and expenses incurred by them in the performance of their duties and
291 responsibilities as officers of the Interstate Commission.

292 (2) The Interstate Commission shall, through its executive committee, appoint or retain
293 an executive director for such period, upon such terms and conditions and for such compensation
294 as the Interstate Commission may deem appropriate. The executive director shall serve as
295 secretary to the Interstate Commission, and hire and supervise such other staff as may be
296 authorized by the Interstate Commission, but shall not be a member.

297 (c) Corporate Records of the Interstate Commission. The Interstate Commission shall
298 maintain its corporate books and records in accordance with the by-laws.

299 (d) Qualified Immunity, Defense, and Indemnification.

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

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

315 (3) The Interstate Commission shall indemnify and hold the commissioner of a compacting
316 state, the appointed designee, or employees, or the Interstate Commission's representatives or
317 employees, harmless in the amount of any settlement or judgement obtained against such persons
318 arising out of any actual or alleged act, error, or omission that occurred within the scope of
319 Interstate Commission employment, duties, or responsibilities, or that such persons had a
320 reasonable basis for believing occurred within the scope of Interstate Commission employment,
321 duties, or responsibilities, provided, that the actual or alleged act, error, or omission did not result
322 from gross negligence or intentional wrongdoing on the part of such person.

323 ARTICLE VII

324 ACTIVITIES OF THE INTERSTATE COMMISSION

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

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

331 (c) Each member of the Interstate Commission shall have the right and power to cast a vote
332 to which that Compacting State is entitled and to participate in the business and affairs of the
333 Interstate Commission. A member shall vote in person on behalf of the state and shall not delegate
334 a vote to another member state. However, a state council shall appoint another authorized
335 representative, in the absence of the commissioner from that state, to cast a vote on behalf of the
336 member state at a specified meeting. The by-laws may provide for members' participation in
337 meetings by telephone or other means of telecommunication or electronic communication. Any

338 voting conducted by telephone, or other means of telecommunication or electronic communication,
339 shall be subject to the same quorum requirements of meetings where members are present in
340 person.

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

344 (e) The Interstate Commission's by-laws shall establish conditions and procedures under
345 which the Interstate Commission shall make its information and official records available to the
346 public for inspection or copying. The Interstate Commission may exempt from disclosure any
347 information or official records to the extent they would adversely affect personal privacy rights or
348 proprietary interests. In promulgating such rules, the Interstate Commission may make available
349 to law enforcement agencies records and information otherwise exempt from disclosure, and may
350 enter into agreements with law enforcement agencies to receive or exchange information or records
351 subject to nondisclosure and confidentiality provisions.

352 (f) Public notice shall be given of all meetings and all meetings shall be open to the public,
353 except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission
354 shall promulgate rules consistent with the principles contained in the "Government in Sunshine
355 Act," 5 U.S.C. Section 552(b), as may be amended. The Interstate Commission and any of its
356 committees may close a meeting to the public where it determines by two-thirds vote that an open
357 meeting would be likely to:

358 (1) Relate solely to the Interstate Commission's internal personnel practices and
359 procedures;

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

361 (3) Disclose trade secrets or commercial or financial information which is privileged or
362 confidential;

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

364 (5) Disclose information of a personal nature where disclosure would constitute a clearly
365 unwarranted invasion of personal privacy;

366 (6) Disclose investigatory records compiled for law enforcement purposes;

367 (7) Disclose information contained in or related to examination, operating, or condition
368 reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a

369 regulated entity for the purpose of regulation or supervision of such entity;

370 (8) Disclose information, the premature disclosure of which would significantly endanger
371 the life of a person or the stability of a regulated entity;

372 (9) Specifically relate to the Interstate Commission's issuance of a subpoena, or its
373 participation in a civil action or proceeding.

374 (g) For every meeting closed pursuant to this provision, the Interstate Commission's chief
375 legal officer shall publicly certify that, in his or her opinion, the meeting may be closed to the
376 public, and shall reference each relevant provision authorizing closure of the meeting. The
377 Interstate Commission shall keep minutes which shall fully and clearly describe all matters
378 discussed in any meeting and shall provide a full and accurate summary of any actions taken, and
379 the reasons therefor, including a description of each of the views expressed on any item and the
380 record of any roll call vote (reflected in the vote of each member on the question). All documents
381 considered in connection with any action shall be identified in such minutes.

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

385 ARTICLE VIII

386 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

390 (b) Rulemaking shall occur pursuant to the criteria set forth in this article and the by-laws
391 and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles
392 of the federal Administrative Procedure Act, 5 U.S.C.S. Section 551 et seq., and the Federal
393 Advisory Committee Act, 5 U.S.C.S. App. 2, Section 1 et seq., as may be amended (hereinafter
394 "APA"). All rules and amendments shall become binding as of the date specified in each rule or
395 amendment.

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

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

- 400 (1) Publish the proposed rule, stating with particularity the text of the rule which is
401 proposed and the reason for the proposed rule;
- 402 (2) Allow persons to submit written data, facts, opinions, and arguments, which
403 information shall be publicly available;
- 404 (3) Provide an opportunity for an informal hearing; and
- 405 (4) Promulgate a final rule and its effective date, if appropriate, based on the rulemaking
406 record. Not later than 60 days after a rule is promulgated, any interested person may file a petition
407 in the United States District Court for the District of Columbia or in the Federal District Court
408 where the Interstate Commission's principal office is located for judicial review of such rule. If
409 the court finds that the Interstate Commission's action is not supported by substantial evidence, (as
410 defined in the APA), in the rulemaking record, the court shall hold the rule unlawful and set it
411 aside.
- 412 (e) Subjects to be addressed within 12 months after the first meeting must at a minimum
413 include:
- 414 (i) notice to victims and opportunity to be heard;
415 (ii) offender registration and compliance;
416 (iii) violations/returns;
417 (iv) transfer procedures and forms;
418 (v) eligibility for transfer;
419 (vi) collection of restitution and fees from offenders;
420 (vii) data collection and reporting;
421 (viii) the level of supervision to be provided by the receiving state;
422 (ix) transition rules governing the operation of the compact and the Interstate Commission
423 during all or part of the period between the effective date of the compact and the date on which the
424 last eligible state adopts the compact; and
- 425 (x) mediation, arbitration, and dispute resolution.
- 426 (f) The existing rules governing the operation of the previous compact superceded by this
427 act shall be null and void 12 months after the first meeting of the Interstate Commission created
428 hereunder.
- 429 (g) Upon determination by the Interstate Commission that an emergency exists, it may
430 promulgate an emergency rule which shall become effective immediately upon adoption, provided

431 that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule
432 as soon as reasonably possible, in no event later than 90 days after the effective date of the rule.

433 ARTICLE IX

434 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION BY THE

435 INTERSTATE COMMISSION

436 (a) Oversight.

437 (1) The Interstate Commission shall oversee the Interstate movement of adult offenders
438 in the compacting states and shall monitor such activities being administered in noncompacting
439 states which may significantly affect compacting states.

440 (2) The courts and executive agencies in each compacting state shall enforce this compact
441 and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent.

442 In any judicial or administrative proceeding in a compacting state pertaining to the subject matter
443 of this compact which may affect the powers, responsibilities, or actions of the Interstate
444 Commission, the Interstate Commission shall be entitled to receive all service of process in any
445 such proceeding, and shall have standing to intervene in the proceeding for all purposes.

446 (b) Dispute Resolution.

447 (1) The compacting states shall report to the Interstate Commission on issues or activities
448 of concern to them, and cooperate with and support the Interstate Commission in the discharge of
449 its duties and responsibilities.

450 (2) The Interstate Commission shall attempt to resolve any disputes or other issues which
451 are subject to the compact and which may arise among compacting states and noncompacting
452 states.

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

455 (c) Enforcement. The Interstate Commission, in the reasonable exercise of its discretion,
456 shall enforce the provisions of this compact using any or all means set forth in Article XII (b) of
457 this compact.

458 ARTICLE X

459 FINANCE

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

462 (b) The Interstate Commission shall levy on and collect an annual assessment from each
463 compacting state to cover the cost of the internal operations and activities of the Interstate
464 Commission and its staff which must be in a total amount sufficient to cover the Interstate
465 Commission's annual budget as approved each year. The aggregate annual assessment amount
466 shall be allocated based upon a formula to be determined by the Interstate Commission, taking into
467 consideration the population of the state and the volume of interstate movement of offenders in
468 each compacting state and shall promulgate a rule binding upon all compacting states which
469 governs said assessment.

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

473 (d) The Interstate Commission shall keep accurate accounts of all receipts and
474 disbursements. The receipts and disbursements of the Interstate Commission shall be subject to
475 the audit and accounting procedures established under its by-laws. However, all receipts and
476 disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified
477 or licensed public accountant and the report of the audit shall be included in and become part of
478 the annual report of the Interstate Commission.

479 ARTICLE XI

480 COMPACTING STATES, EFFECTIVE DATE, AND AMENDMENT

481 (a) Any state, as defined in Article II of this compact, is eligible to become a compacting
482 state.

483 (b) The compact shall become effective and binding upon legislative enactment of the
484 compact into law by no less than 35 of the states. The initial effective date shall be the later of July
485 1, 2001, or upon enactment into law by the thirty-fifth jurisdiction. Thereafter it shall become
486 effective and binding, as to any other compacting state, upon enactment of the compact into law
487 by that state. The governors of nonmember states or their designees will be invited to participate
488 in Interstate Commission activities on a nonvoting basis prior to adoption of the compact by all
489 states and territories of the United States.

490 (c) Amendments to the compact may be proposed by the Interstate Commission for
491 enactment by the compacting states. No amendment shall become effective and binding upon the
492 Interstate Commission and the compacting states unless and until it is enacted into law by

493 unanimous consent of the compacting states.

494 ARTICLE XII

495 WITHDRAWAL, DEFAULT, TERMINATION, AND JUDICIAL ENFORCEMENT

496 (a) Withdrawal.

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

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

502 (3) The withdrawing state shall immediately notify the chairperson of the Interstate
503 Commission in writing upon the introduction of legislation repealing this compact in the
504 withdrawing state. The Interstate Commission shall notify the other compacting states of the
505 withdrawing state's intent to withdraw within 60 days of its receipt thereof.

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

509 (5) Reinstatement following withdrawal of any compacting state shall occur upon the
510 withdrawing state reenacting the compact or upon such later date as determined by the Interstate
511 Commission.

512 (b) Default.

513 (1) If the Interstate Commission determines that any compacting state has at any time
514 defaulted ("defaulting state") in the performance of any of its obligations or responsibilities under
515 this compact, the by-laws, or any duly promulgated rules, the Interstate Commission may impose
516 any or all of the following penalties:

517 (i) Fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the
518 Interstate Commission;

519 (ii) Remedial training and technical assistance as directed by the Interstate Commission;

520 (iii) Suspension and termination of membership in the compact. Suspension shall be
521 imposed only after all other reasonable means of securing compliance under the by-laws and rules
522 have been exhausted. Immediate notice of suspension shall be given by the Interstate Commission
523 to the governor, the chief justice or chief judicial officer of the state, the majority and minority

524 leaders of the defaulting state's legislature, and the state council.

525 (2) The grounds for default include, but are not limited to, failure of a compacting state
526 to perform such obligations or responsibilities imposed upon it by this compact, Interstate
527 Commission by-laws, or duly promulgated rules. The Interstate Commission shall immediately
528 notify the defaulting state in writing of the penalty imposed by the Interstate Commission on the
529 defaulting state pending a cure of the default. The Interstate Commission shall stipulate the
530 conditions and the time period within which the defaulting state must cure its default. If the
531 defaulting state fails to cure the default within the time period specified by the Interstate
532 Commission, in addition to any other penalties imposed herein, the defaulting state may be
533 terminated from the compact upon an affirmative vote of a majority of the compacting states and
534 all rights, privileges, and benefits conferred by this compact shall be terminated from the effective
535 date of suspension. Within 60 days of the effective date of termination of a defaulting state, the
536 Interstate Commission shall notify the governor, the chief justice or chief judicial officer, and the
537 majority and minority leaders of the defaulting state's legislature and the state council of such
538 termination.

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

542 (4) The Interstate Commission shall not bear any costs relating to the defaulting state
543 unless otherwise mutually agreed upon between the Interstate Commission and the defaulting state.
544 Reinstatement following termination of any compacting state requires both a reenactment of the
545 compact by the defaulting state and the approval of the Interstate Commission pursuant to the
546 rules.

547 (c) Judicial Enforcement. The Interstate Commission may, by majority vote of the
548 members, initiate legal action in the United States District Court for the District of Columbia or,
549 at the discretion of the Interstate Commission, in the federal district where the Interstate
550 Commission has its offices, to enforce compliance with the provisions of the compact and its duly
551 promulgated rules and by-laws, against any compacting state in default. In the event judicial
552 enforcement is necessary the prevailing party shall be awarded all costs of such litigation including
553 reasonable attorneys' fees.

554 (d) Dissolution of Compact.

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

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

560 ARTICLE XIII

561 SEVERABILITY AND CONSTRUCTION

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

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

566 ARTICLE XIV

567 BINDING EFFECT OF COMPACT AND OTHER LAWS

568 (a) Other Laws.

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

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

573 (b) Binding Effect of the Compact.

574 (1) All lawful actions of the Interstate Commission, including all rules and by-laws
575 promulgated by the Interstate Commission, are binding upon the compacting states.

576 (2) All agreements between the Interstate Commission and the compacting states are
577 binding in accordance with their terms.

578 (3) Upon the request of a party to a conflict over meaning or interpretation of Interstate
579 Commission actions, and upon a majority vote of the compacting states, the Interstate Commission
580 may issue advisory opinions regarding such meaning or interpretation.

581 (4) In the event any provision of this compact exceeds the constitutional limits imposed
582 on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought
583 to be conferred by such provision upon the Interstate Commission shall be ineffective and such
584 obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be
585 exercised by the agency thereof to which such obligations, duties, powers, or jurisdiction are

586 delegated by law in effect at the time this compact becomes effective.

587 Section 5. Section **77-28c-201** is enacted to read:

588 **Part 2. Authority of the Governor to Enter Into Compact**

589 **77-28c-201. Authority of governor to join compact.**

590 The governor of Utah is authorized and directed to execute a compact on behalf of this state
591 with any other state or states joining the Interstate Compact for Adult Offender Supervision as
592 provided in Section 77-28c-103.

593 Section 6. **Effective date.**

594 The initial effective date shall be the later of July 1, 2001, or upon the enactment of the
595 compact contained in Section 77-28c-103 into law by the thirty-fifth jurisdiction in accordance
596 with the compact provisions.

Legislative Review Note
as of 11-9-00 7:29 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Committee Note

The Law Enforcement and Criminal Justice Interim Committee recommended this bill.