House Engrossed

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

CHAPTER 251

HOUSE BILL 2109

AN ACT

AMENDING SECTIONS 12-267 AND 31-467, ARIZONA REVISED STATUTES; RELATING TO THE INTERSTATE COMPACT FOR THE SUPERVISION OF ADULT OFFENDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 12-267, Arizona Revised Statutes, is amended to read:

12-267. Adult probation services fund; accounts; expenditure plan; use

A. The board of supervisors shall designate a chief fiscal officer who shall establish and administer an adult probation services fund consisting of:

1. County general fund appropriations for adult probation.

2. State appropriations for adult probation including:

(a) Monies for adult probation officers authorized by article 6 of this chapter.

(b) Monies for state aid for adult probation services authorized by this article.

(c) Monies for adult community punishment programs established pursuant to article 11 of this chapter.

(d) Monies for adult intensive probation pursuant to title 13, chapter 9.

3. Probation fees collected pursuant to section 13-901.

4. Federal monies provided for adult probation.

5. Adult probation monies from any other source.

B. The chief fiscal officer shall establish and maintain separate accounts in the fund showing receipts and expenditures of monies from each source listed in subsection A of this section. The presiding judge of the superior court shall annually present to the board of supervisors for approval a detailed expenditure plan for the adult probation services fund accounts. Any modifications to the expenditure plan affecting state appropriations shall be made in accordance with the rules and procedures established by the supreme court. Any modifications to the expenditure plan affecting county appropriated funds shall be made in accordance with the policies established by the county. The chief fiscal officer shall disburse monies from the fund accounts only at the direction of the presiding judge of the superior court. The chief fiscal officer of each county ~~shall~~, on or before August 31 of each year for the preceding fiscal year, SHALL submit an annual report to the supreme court showing the total amount of receipts and expenditures in each account of the adult probation services fund.

C. The state monies in the adult probation services fund shall be used in accordance with guidelines established by the supreme court or the granting authority.

D. State monies expended from the adult probation services fund shall be used to supplement, not supplant, county appropriations for the superior court adult probation department.

E. ~~Up to twenty-five thousand dollars annually deposited~~ MONIES in the adult probation services fund shall be used to pay the annual assessment on

member states of the interstate compact for the supervision of adult offenders established in section 31-467, ARTICLE X, subsection B.

F. County monies in the adult probation services fund shall be used in accordance with the fiscal policies and procedures established by the board of supervisors.

Sec. 2. Section 31-467, Arizona Revised Statutes, is amended to read:

31-467. Adoption of interstate compact for the supervision of adult offenders

The governor is authorized and directed to enter into a compact on behalf of the state of Arizona with any of the United States lawfully joined in the compact in a form substantially as follows:

ARTICLE I

PURPOSE

A. Arizona and the compacting states to this interstate compact recognize that each state is responsible for the supervision of adult offenders in the community who are authorized pursuant to the bylaws and rules of this compact to travel across state lines both to and from each compacting state in such a manner as to track the location of offenders, transfer supervision authority in an orderly and efficient manner and when necessary return offenders to the originating jurisdictions. The compacting states also recognize that Congress, by enacting the crime control act, 4 United States Code section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

B. It is the purpose of this compact and the interstate commission created under this compact, through means of joint and cooperative action among the compacting states, to do all of the following:

1. Provide the framework for the promotion of public safety and protect the rights of victims through the control and regulation of the interstate movement of offenders in the community.

2. Provide for the effective tracking, supervision and rehabilitation of these offenders by the sending and receiving states.

3. Equitably distribute the costs, benefits and obligations of the compact among the compacting states.

C. In addition, this compact will do all of the following:

1. Create an interstate commission that will establish uniform procedures to manage the movement between states of adults placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies that will promulgate rules to achieve the purpose of this compact.

2. Ensure an opportunity for input and timely notice to victims and to jurisdictions where defined offenders are authorized to travel or to relocate across state lines.

3. Establish a system of uniform data collection, access to information on active cases by authorized criminal justice officials and regular reporting of compact activities to heads of state councils, state

executive, judicial and legislative branches and criminal justice administrators.

4. Monitor compliance with rules governing interstate movement of offenders and initiate interventions to address and correct noncompliance.

5. Coordinate training and education regarding regulations of interstate movement of offenders for officials involved in such activity.

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

E. Compacting states recognize no offender may live in another state when acceptance criteria that has been established or adopted by the compacting state has not been met. It is the policy of the compacting states that the activities conducted by the interstate commission created in this compact are the formation of public policies and are therefore public business.

ARTICLE II

DEFINITIONS

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

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

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

3. "Commissioner" means the voting representative of each compacting state appointed pursuant to article IV of this compact.

4. "Compact administrator" means the director of the Arizona department of corrections, who is responsible for the administration and management of Arizona'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.

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

6. "Interstate commission" means the interstate commission for adult offender supervision established by this compact.

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

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

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

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

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

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

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

ARTICLE III

THE COMPACT COMMISSION

A. This compact creates the interstate commission for adult offender supervision. The interstate commission shall be a body corporate and joint agency of the compacting states. The interstate commission shall have all the responsibilities, powers and duties set forth in the compact, including the power to sue and be sued, and additional powers conferred on it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact. The interstate commission shall consist of commissioners selected and appointed by resident members of a state council for interstate adult offender supervision for each state. In addition to the commissioners who are the voting representatives of each state, the interstate commission shall include individuals who are not commissioners but who are members of interested organizations. The noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general and crime victims. All noncommissioner members of the interstate commission shall be ex officio, nonvoting members. The interstate commission may provide in its bylaws for any additional, ex officio, nonvoting members it deems necessary.

B. Each compacting state represented at any meeting of the interstate commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission. The interstate commission shall meet at least once each calendar year. The chairperson may call additional meetings and, on the request of twenty-seven or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

C. The interstate commission shall establish an executive committee that includes commission officers, members and others that are determined by the bylaws. The executive committee may act on behalf of the interstate commission during periods when the interstate commission is not in session, with the exception of rule making or amendment to the compact. The executive committee oversees the day-to-day activities managed by the executive director and interstate commission staff, administers enforcement and

compliance with the provisions of the compact, its bylaws and as directed by the interstate commission and performs other duties as directed by the commission or set forth in the bylaws.

ARTICLE IV

THE STATE COUNCIL

A. Arizona shall create a state council for interstate adult offender supervision that is responsible for the appointment of the commissioner who shall serve on the interstate commission from Arizona. The commissioner shall be the compact administrator or designee.

B. The membership of the state council shall include one legislator who is appointed by the speaker of the house of representatives, one legislator who is appointed by the president of the senate, one victim's advocate who is appointed by the governor, the deputy compact administrator of the state department of corrections who is appointed by the director of the state department of corrections, the deputy compact administrator of the administrative office of the courts who is appointed by the director of the administrative office of the courts, one judge who is appointed by the chief justice of the supreme court, one sheriff WHO IS appointed by the Arizona sheriff's association and any other members determined by the state council.

C. The state council shall exercise oversight and advocacy concerning Arizona's participation in interstate commission activities and other duties as determined by the council's members including the development of policy concerning operations and procedures of the compact within Arizona.

ARTICLE V

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission shall have the following powers and duties:

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

2. To promulgate rules and take action consistent with this compact.

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

4. To enforce compliance with compact provisions, interstate commission rules and bylaws, using all necessary and proper means, including judicial process.

5. To establish and maintain offices.

6. To purchase and maintain insurance and bonds.

7. To borrow, accept or contract for services of personnel, including members and members' staffs.

8. To establish and appoint committees and hire staff it deems necessary to carry out its functions, including an executive committee as required by article III that may act on behalf of the interstate commission in carrying out its powers and duties under this compact.

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

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

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

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

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

14. To sue and be sued.

15. To provide for dispute resolution among compacting states.

16. To perform functions necessary or appropriate to achieve the purposes of this compact.

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

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

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

ARTICLE VI
ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The interstate commission shall, by a majority vote of the members, within twelve months of the first interstate commission meeting, adopt bylaws to govern its conduct necessary or appropriate to carry out the purposes of the compact, including:

1. Establishing the fiscal year of the interstate commission.

2. Establishing an executive committee and other necessary committees.

3. Providing reasonable standards and procedures:

(a) For the establishment of committees, and

(b) Governing any general or specific delegation of any authority or function of the interstate commission.

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

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

6. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the interstate commission. Notwithstanding any civil service or other similar laws of any compacting

state, the bylaws shall exclusively govern the personnel policies and programs of the interstate commission.

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

8. Providing transition rules for start up administration of the compact.

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

B. The interstate commission shall, by a majority vote of the members, elect from among its members a chairperson and a vice-chairperson, each of whom shall have the powers and duties specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the interstate commission. The officers elected shall serve without compensation or remuneration from the interstate commission. Subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the interstate commission. The interstate commission, through its executive committee, shall appoint or retain an executive director for such period, on terms and conditions and for compensation the interstate commission deems appropriate. The executive director shall serve as secretary to the interstate commission, and hire and supervise other staff authorized by the interstate commission, but shall not be a member.

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

D. The members, officers, executive director and employees of the interstate commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused BY or arising out of any actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities. This subsection shall not be construed to protect any person from suit or liability for any damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of any person. The interstate commission shall defend the commissioner of a compacting state, or his or her representatives or employees, or the interstate commission's representatives or employees, in any civil action seeking to impose liability, arising out of any actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, if the actual or alleged act, error or omission did not result from intentional wrongdoing

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

ARTICLE VII

ACTIVITIES OF THE INTERSTATE COMMISSION

A. The interstate commission shall meet and take actions consistent with the provisions of this compact.

B. 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 be taken at a meeting of the interstate commission and must receive an affirmative vote of a majority of the members present.

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

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

E. The interstate commission's bylaws shall establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. In promulgating the 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.

F. Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission shall promulgate rules consistent with the principles contained in the government in the sunshine act (5 United States Code section 552b). The interstate commission and any of its committees may close a meeting to the public if it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the interstate commission's internal personnel practices and procedures.

2. Disclose matters specifically exempted from disclosure by statute.

3. Disclose trade secrets or commercial or financial information that is privileged or confidential.

4. Involve accusing any person of a crime, or formally censuring any person.

5. Disclose information of a personal nature if disclosure would constitute a clearly unwarranted invasion of personal privacy.

6. Disclose investigatory records compiled for law enforcement purposes.

7. 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 the entity.

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

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

G. For every meeting closed pursuant to subsection F, the interstate commission's chief legal officer shall publicly certify that, in the legal officer's opinion, the meeting may be closed to the public and shall reference each relevant exemptive provision. The interstate commission shall keep minutes that shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons for the actions taken, including a description of each of the views expressed on any item and the record of any roll call vote, reflected in the vote of each member on the question. All documents considered in connection with any action shall be identified in the minutes. The interstate commission shall collect standardized data concerning the interstate movement of offenders as directed through its bylaws and rules that specify the data to be collected, the means of collection and data exchange and reporting requirements.

ARTICLE VIII

RULE MAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. The interstate commission shall promulgate rules to effectively and efficiently achieve the purposes of the compact including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states. Rule making shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant to this article. The rule making shall substantially conform to the principles of the federal administrative procedure act, 5 U.S.C.S. section 551 et seq., and the federal advisory committee act, 5 U.S.C.S. App. 2, section 1 et seq., as may be amended. All rules and amendments are binding on the date specified in each rule or amendment.

B. 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.

C. When promulgating a rule, the interstate commission shall:

1. Publish the proposed rule stating with particularity the text of the rule that is proposed and the reason for the proposed rule.

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

3. Provide an opportunity for an informal hearing.

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

D. Not later than sixty days after a rule is promulgated, any interested person may file a petition in the United States district court for the District of Columbia or in the federal district court where the interstate commission's principal office is located for judicial review of the rule. If the court finds that the interstate commission's action is not supported by substantial evidence as defined in the federal administrative procedure act, in the rule making record, the court shall hold the rule unlawful and set it aside. Subjects to be addressed within twelve months after the first meeting must at a minimum include:

1. Notice to victims and opportunity to be heard.

2. Offender registration and compliance.

3. Violations and returns.

4. Transfer procedures and forms.

5. Eligibility for transfer.

6. Collection of restitution and fees from offenders.

7. Data collection and reporting.

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

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

10. Mediation, arbitration and dispute resolution.

E. The existing rules governing the operation of the previous compact superseded by this act shall be null and void twelve months after the first meeting of the interstate commission created under this compact.

F. On determination by the interstate commission that an emergency exists, it may promulgate an emergency rule that is effective immediately on adoption, provided that the usual rule making procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule.

ARTICLE IX

OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

A. The interstate commission shall oversee the interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in noncompacting states that 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 shall have standing to intervene in the proceeding for all purposes.

B. 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 bylaws or promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

C. The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact using any or all means set forth in article XII, subsection B of this compact.

ARTICLE X

FINANCE

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

B. The interstate commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the interstate commission and its staff that must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based on 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 on all compacting states that governs the assessment. ANY INCREASE IN Arizona's assessment shall ~~not exceed twenty-five thousand five hundred dollars per year unless~~ BE approved by the state council. ~~and appropriated by the legislature~~ THE STATE COUNCIL SHALL NOTIFY THE JOINT LEGISLATIVE BUDGET COMMITTEE OF ANY INCREASE IN THE ASSESSMENT.

C. The interstate commission shall not incur any obligations of any kind before securing the funds adequate to meet the obligations and shall not pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

D. 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. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

ARTICLE XI

COMPACTING STATES, EFFECTIVE DATE AND AMENDMENTS

A. Any state, as defined in article II of this compact, is eligible to become a compacting state. The compact shall become effective and binding on legislative enactment of the compact into law by no less than thirty-five states. The initial effective date shall be the later of July 1, 2001, or on enactment into law by the thirty-fifth state. Thereafter it is effective and binding, as to any other compacting state, on enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in interstate commission activities on a nonvoting basis before adoption of the compact by all states and territories of the United States.

B. Amendments to the compact may be proposed by the interstate commission for enactment by the compacting states. No amendment is effective and binding on the interstate commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

ARTICLE XII

WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

A. Once effective, the compact shall continue in force and remain binding on 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. The withdrawing state shall immediately notify the chairperson of the interstate commission in writing on 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 sixty days of its receipt thereof. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal. Reinstatement following withdrawal of any compacting state shall occur on the withdrawing state reenacting the compact or on such later date determined by the interstate commission.

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

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

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

3. Suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted. Immediate notice of suspension shall be given by the interstate commission to the governor, the chief justice 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 failure of a compacting state to perform obligations or responsibilities imposed on it by this compact, interstate commission bylaws or duly promulgated rules. The interstate commission shall immediately notify the defaulting state in writing of the penalty imposed by the interstate commission on the defaulting state pending a cure of the default. The interstate commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the interstate commission, in addition to any other penalties imposed in this subsection, the defaulting state may be terminated from the compact on an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of suspension. Within sixty days of the effective date of termination of a defaulting state, the interstate commission shall notify the governor, the chief justice or chief judicial officer and the majority and minority leaders of the defaulting state's legislature and the state council of the 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 shall not bear any costs relating to the defaulting state unless otherwise mutually agreed on 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 and the approval of the interstate commission pursuant to the rules.

C. The interstate commission, by majority vote of the members, may 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 or its duly promulgated rules and bylaws, against any compacting state in default. If judicial enforcement is necessary, the prevailing party shall be awarded all costs of the litigation including reasonable attorney fees.

D. The compact dissolves effective on the date of the withdrawal or default of the compacting state that reduces membership in the compact to one compacting state. On the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect and the business and affairs of the interstate commission shall be wound up and any surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XIII

SEVERABILITY AND CONSTRUCTION

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

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

ARTICLE XIV

EFFECT OF COMPACT

A. This compact does not diminish the constitutional authority of the Arizona legislature.

B. This compact is not contrary to any law of the state of Arizona. Notwithstanding any other law of the state of Arizona, this compact shall govern the interstate supervision of adult offenders.

C. The interstate commission shall promulgate rules and take action consistent with this compact that are binding on the state of Arizona as to the interstate supervision of adult offenders unless and to the extent the rules or action conflict with Arizona statutes.

D. Nothing in this section prevents the enforcement of any other Arizona law that is not inconsistent with this compact.

E. All agreements between the interstate commission and the compacting states are binding in accordance with the terms of the agreement. On the request of a party to a conflict over meaning or interpretation of interstate commission actions, and on a majority vote of the compacting states, the interstate commission may issue advisory opinions regarding such meaning or interpretation.

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

APPROVED BY THE GOVERNOR JUNE 6, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 6, 2008.

on Reconsideration

Passed the House February 11, 20 08

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate June 2, 20 08

by the following vote: 18 Ayes,

7 Nays, 5 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

3rd day of June, 20 08

at 11:22 o'clock A M.

Secretary to the Governor

Approved this 6 day of

June 2008

at 10:05 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 6 day of June, 20 08

at 12:59 o'clock P M.

Secretary of State

H.B. 2109