

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 451

H. P. 358

House of Representatives, February 16, 1977

On Motion of Mr. Goodwin of South Berwick referred to the Committee on Health and Institutional Services. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Jackson of Yarmouth.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

**AN ACT Empowering the State of Maine to Enter into the Interstate
Corrections Compact.**

Be it enacted by the People of the State of Maine, as follows:

34. MRSA c. 74 is enacted to read:

**CHAPTER 74
INTERSTATE CORRECTIONS COMPACT**

§ 1351. 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.

§ 1352. Definitions—Article II

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

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

cluding 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.

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.

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

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.

§ 1353. 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.

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

A. Its duration;

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;

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 a disposal of any products resulting therefrom;

D. Delivery and retaking of inmates; and

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

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.

§ 1354. 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.

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.

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.

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.

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.

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.

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.

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.

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.

§ 1355. 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.

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.

§ 1356. 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.

§ 1357. 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.

§ 1358. 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.

§ 1539. 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.

§ 1360. 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.

§ 1361. Ratification

The Interstate Corrections Compact is hereby enacted into law and entered into by this State with any other states legally joining therein.

§ 1362. Title

This chapter may be cited as the Interstate Corrections Compact.

§ 1363. Powers

The Commissioner of Mental Health and Corrections is hereby authorized and directed to do all things necessary or incidental to the carrying out of the compact in every particular, and he may in his discretion delegate this authority to the Director of the Bureau of Corrections.

STATEMENT OF FACT

Historically, the Bureau of Corrections has had occasional requests from inmates confined at a correctional institution within the State of Maine to be transferred to their place of permanent residence which was outside of the New England Compact jurisdiction. As we were not a party to the Interstate Corrections Compact these requests could not be honored.

There are also occasional requests for Maine citizens convicted of offenses in other states to be transferred to Maine to serve their sentence.

The favorable consideration of this bill will give corrections a more adequate tool for realistic treatment of an offender. If a man has no family to visit him, no opportunity for realistic furlough plans and cannot participate in work release in the area in which he is going to live, it is very difficult to make a legitimate program classification plan for him.

This bill will allow the transfer of out-of-state offenders to their home jurisdictions.