

# MAINE STATE LEGISLATURE

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# 120th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2001

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Legislative Document

No. 1081

H.P. 827

House of Representatives, February 22, 2001

**An Act to Adopt a New Interstate Compact Regarding Adults Who are on Probation or Parole.**

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Reference to the Committee on Criminal Justice suggested and ordered printed.

*Millicent M. MacFarland*

MILLICENT M. MacFARLAND, Clerk

Presented by Representative O'BRIEN of Augusta.  
Cosponsored by Senator McALEVEY of York and  
Representative MUSE of South Portland.

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

4 Sec. 1. 34-A MRSA c. 9, sub-c. VI is enacted to read:

6 SUBCHAPTER VI

8 INTERSTATE COMPACT FOR ADULT  
OFFENDER SUPERVISION

10 §9871. Short title--Article I

12 This subchapter may be known and cited as the "Interstate  
Compact for Adult Offender Supervision."

14 §9872. Definitions--Article II

16 As used in this subchapter, unless the context otherwise  
18 indicates, the following terms have the following meanings.

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

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

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

32 4. Compact administrator. "Compact administrator" means  
the individual in each compacting state appointed pursuant to the  
34 terms of this compact responsible for the administration and  
management of the state's supervision and transfer of offenders  
36 subject to the terms of this compact, the rules adopted by the  
interstate commission and policies adopted by the state council  
38 under this compact.

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

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

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

50

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

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

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

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

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

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

24           **§9873. Interstate Commission for Adult Offender Supervision--**  
25           **Article III**

26           **1. Commission created.** The compacting states hereby create  
27 the Interstate Commission for Adult Offender Supervision. The  
28 interstate commission is a body corporate and joint agency of the  
29 compacting states. The interstate commission has all the  
30 responsibilities, powers and duties set forth in this section,  
31 including the power to sue and be sued, and such additional  
32 powers as may be conferred upon it by subsequent action of the  
33 respective legislatures of the compacting states in accordance  
34 with the terms of this compact.

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

38           **3. Noncommissioner members.** In addition to the  
39 commissioners who are the voting representatives of each state,  
40 the interstate commission includes individuals who are not  
41 commissioners but who are members of interested organizations.  
42 These noncommissioner members must include a member of the

2 national organizations of governors, legislators, state chief  
3 justices, attorneys general and crime victims. All  
4 noncommissioner members of the interstate commission are ex  
5 officio, nonvoting members. The interstate commission may  
6 provide in its bylaws for such additional, ex officio, nonvoting  
7 members as it considers necessary.

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

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

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

32 **§9874. State council--Article IV**

33 Each member state shall create a State Council for  
34 Interstate Adult Offender Supervision that is responsible for the  
35 appointment of the commissioner who serves on the interstate  
36 commission from that state. Each state council shall appoint as  
37 its commissioner the compact administrator from that state to  
38 serve on the interstate commission in such capacity under or  
39 pursuant to applicable law of the member state. While each  
40 member state may determine the membership of its own state  
41 council, its membership must include at least one representative  
42 from the legislative, judicial and executive branches of  
43 government; victims groups; and the compact administrator. Each  
44 compacting state retains the right to determine the  
45 qualifications of the compact administrator who must be appointed  
46 by the state council or by the governor in consultation with the  
47 state council.

2 legislature and the judiciary. In addition to appointment of its  
3 commissioner to the interstate commission, each state council  
4 shall exercise oversight and advocacy concerning its  
5 participation in interstate commission activities and other  
6 duties as may be determined by each member state, including, but  
7 not limited to, development of policy concerning operations and  
8 procedures of the compact within that state.

10 **§9875. Powers of the interstate commission-- Article V**

12 The interstate commission has the following powers:

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

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

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

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

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

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

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

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

2 9. Elect or appoint officers, attorneys, employees, agents  
3 or consultants; establish personnel policies. To elect or  
4 appoint officers, attorneys, employees, agents or consultants; to  
5 fix their compensation, define their duties and determine their  
6 qualifications; and to establish the interstate commission's  
7 personnel policies and programs relating to, among other things,  
8 conflicts of interest, rates of compensation and qualifications  
9 of personnel;

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

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

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

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

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

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

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

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

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

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

2 §9876. Organization and operation of the interstate commission--  
3 Article VI

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

10 A. Establishing the fiscal year of the interstate  
11 commission;

12 B. Establishing an executive committee and such other  
13 committees as may be necessary;

14 C. Providing reasonable standards and procedures:

15 (1) For the establishment of committees; and

16 (2) Governing any general or specific delegation of  
17 any authority or function of the interstate commission;

18 D. Providing reasonable procedures for calling and  
19 conducting meetings of the interstate commission and  
20 ensuring reasonable notice of each such meeting;

21 E. Establishing the titles and responsibilities of the  
22 officers of the interstate commission;

23 F. Providing reasonable standards and procedures for the  
24 establishment of the personnel policies and programs of the  
25 interstate commission. Notwithstanding any civil service or  
26 other similar laws of any compacting state, the bylaws  
27 exclusively govern the personnel policies and programs of  
28 the interstate commission;

29 G. Providing a mechanism for winding up the operations of  
30 the interstate commission and the equitable return of any  
31 surplus funds that may exist upon the termination of the  
32 compact after the payment or reserving of all of its debts  
33 and obligations;

34 H. Providing transitional rules for administration of the  
35 compact when it first takes effect; and

36 I. Establishing standards and procedures for compliance and  
37 technical assistance in carrying out the compact.

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



2           A. The interstate commission shall, by a majority vote of  
4           the members, elect from among its members a chair and a  
6           vice-chair, each of whom has such authorities and duties as  
8           may be specified in the bylaws. The chair or, in the  
10           chair's absence or disability, the vice-chair shall preside  
12           at all meetings of the interstate commission. The officers  
14           so elected serve without compensation or remuneration from  
16           the interstate commission, provided that, subject to the  
18           availability of budgeted funds, the officers are reimbursed  
20           for any actual and necessary costs and expenses incurred by  
22           them in the performance of their duties and responsibilities  
          as officers of the interstate commission.

16           B. The interstate commission shall, through its executive  
18           committee, appoint or retain an executive director for such  
20           period, upon such terms and conditions and for such  
22           compensation as the interstate commission considers  
          appropriate. The executive director serves as secretary to  
          the interstate commission and may hire and supervise such  
          other staff as may be authorized by the interstate  
          commission but may not be a member.

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

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

32           A. The members, officers, executive director and employees  
34           of the interstate commission are immune from suit and  
36           liability, either personally or in their official capacity,  
38           for any claim for damage to or loss of property or personal  
40           injury or other civil liability caused or arising out of an  
42           actual or alleged act, error or omission that occurred  
44           within the scope of interstate commission employment, duties  
          or responsibilities. Nothing in this paragraph may be  
          construed to protect any such person from suit or liability  
          for any damage, loss, injury or liability caused by the  
          intentional or willful and wanton misconduct of any such  
          person.

46           B. The interstate commission shall defend the commissioner  
48           of a compacting state, a commissioner's representatives or  
50           employees or the interstate commission's representatives or  
          employees, in a civil action seeking to impose liability,  
          arising out of any actual or alleged act, error or omission  
          that occurred within the scope of interstate commission

2 employment, duties or responsibilities, or that the  
3 defendant had a reasonable basis for believing occurred  
4 within the scope of interstate commission employment, duties  
5 or responsibilities, if the actual or alleged act, error or  
6 omission did not result from intentional wrongdoing on the  
7 part of that person.

8 C. The interstate commission shall indemnify and hold the  
9 commissioner of a compacting state, the appointed designee  
10 or employee or the interstate commission's representative or  
11 employee, harmless in the amount of any settlement or  
12 judgment obtained against such a person arising out of any  
13 actual or alleged act, error or omission that occurred  
14 within the scope of interstate commission employment, duties  
15 or responsibilities or that such a person had a reasonable  
16 basis for believing occurred within the scope of interstate  
17 commission employment, duties or responsibilities, if the  
18 actual or alleged act, error or omission did not result from  
19 gross negligence or intentional wrongdoing on the part of  
20 that person.

22 **§9877. Activities of the interstate commission--Article VII**

24 1. Commission actions. The interstate commission shall  
25 meet and take such actions as are consistent with the provisions  
26 of this compact. Except as otherwise provided in this compact  
27 and unless a greater percentage is required by the bylaws, in  
28 order to constitute an act of the interstate commission, the act  
29 must have been taken at a meeting of the interstate commission  
30 and must have received an affirmative vote of a majority of the  
31 members present.

32 2. Members' rights. Each member of the interstate  
33 commission has the right and power to cast a vote to which the  
34 compacting state is entitled and to participate in the business  
35 and affairs of the interstate commission. A member shall vote in  
36 person on behalf of the state and may not delegate a vote to  
37 another member state. A state council shall appoint another  
38 authorized representative in the absence of the commissioner from  
39 that state to cast a vote on behalf of the member state at a  
40 specified meeting. The bylaws may provide for members'  
41 participation in meetings by telephone or other means of  
42 telecommunication or electronic communication. Any voting  
43 conducted by telephone or other means of telecommunication or  
44 electronic communication is subject to the same quorum  
45 requirements of meetings when members are present in person.

46 3. Meeting. The interstate commission shall meet at least  
47 once during each calendar year. The chair of the interstate  
48 commission shall preside at each meeting.

2 commission may call additional meetings at any time and, upon the  
3 request of a majority of the members, shall call additional  
4 meetings.

6 4. Information; records available. The interstate  
7 commission's bylaws must establish conditions and procedures  
8 under which the interstate commission shall make its information  
9 and official records available to the public for inspection or  
10 copying. The interstate commission may exempt from disclosure  
11 any information or official records to the extent they would  
12 adversely affect personal privacy rights or proprietary  
13 interests. In promulgating rules, the interstate commission may  
14 make available to law enforcement agencies records and  
15 information otherwise exempt from disclosure, and may enter into  
16 agreements with law enforcement agencies to receive or exchange  
17 information or records subject to nondisclosure and  
18 confidentiality provisions.

20 5. Meeting notice. Public notice must be given of all  
21 meetings and all meetings are open to the public, except as set  
22 forth in the rules or as otherwise provided in the compact. The  
23 interstate commission shall promulgate rules consistent with the  
24 principles contained in the Government in the Sunshine Act, 5  
25 United States Code, Section 552 (b), as amended. The interstate  
26 commission and any of its committees may close a meeting to the  
27 public when the interstate commission determines by 2/3 vote that  
28 an open meeting:

30 A. Relates solely to the interstate commission's internal  
31 personnel practices and procedures;

32 B. May disclose matters specifically exempted from  
33 disclosure by statute;

34 C. May disclose trade secrets or commercial or financial  
35 information that is privileged or confidential;

36 D. May involve accusing a person of a crime or formally  
37 censuring a person;

38 E. May disclose information of a personal nature and that  
39 disclosure would constitute a clearly unwarranted invasion  
40 of personal privacy;

41 F. May disclose investigatory records compiled for law  
42 enforcement purposes;

43 G. May disclose information contained in or related to  
44 examination, operating or condition reports prepared by, or  
45 on behalf of or for the use of, the interstate commission  
46 and any of its committees.

2 with respect to a regulated entity for the purpose of  
regulation or supervision of such entity;

4 H. May disclose information, the premature disclosure of  
which would significantly endanger the life of a person or  
6 the stability of a regulated entity; or

8 I. Specifically relates to the interstate commission's  
issuance of a subpoena or its participation in a civil  
10 action or proceeding.

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

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

32 **§9878. Rule-making functions of the interstate commission--**  
34 **Article VIII**

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

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

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

2           2. Rule void. If a majority of the legislatures of the  
2           compacting states rejects a rule, by enactment of a statute or  
4           resolution in the same manner used to adopt the compact, then the  
4           rule has no further effect in any compacting state.

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

10           A. Publish the proposed rule stating with particularity the  
12           text of the proposed rule and the reason for the proposed  
12           rule;

14           B. Allow persons to submit written data, facts, opinions  
14           and arguments, which information must be publicly available;

16           C. Provide an opportunity for an informal hearing; and

18           D. Promulgate a final rule and its effective date, if  
20           appropriate, based on the rule-making record.

22           4. Rule review. Not later than 60 days after a rule is  
24           promulgated, an interested person may file a petition in the  
24           United States District Court for the District of Columbia or in  
26           the federal district court where the interstate commission's  
26           principal office is located for judicial review of the rule. If  
28           the court finds that the interstate commission's action is not  
28           supported by substantial evidence, as defined in the APA, in the  
30           rule-making record, the court shall hold the rule unlawful and  
30           set it aside.

32           5. Subjects to be addressed. Subjects to be addressed  
34           within 12 months after the first meeting must, at a minimum,  
34           include:

36           A. Notice to victims and opportunity to be heard;

38           B. Offender registration and compliance;

40           C. Violations and returns;

42           D. Transfer procedures and forms;

44           E. Eligibility for transfer;

46           F. Collection of restitution and fees from offenders;

48           G. Data collection and reporting;

50           H. The level of supervision to be provided by the receiving  
50           state;

2 I. Transitional rules governing the operation of the  
3 compact and the interstate commission during all or part of  
4 the period between the effective date of the compact and the  
5 date that the last eligible state adopts the compact; and

6 J. Mediation, arbitration and dispute resolution.

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

14 **§9879. Oversight, enforcement and dispute resolution by the**  
15 **interstate commission--Article IX**

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

22 The courts and executive agencies in each compacting state shall  
23 enforce this compact and shall take all actions necessary and  
24 appropriate to effectuate the compact's purposes and intent. In  
25 any judicial or administrative proceeding in a compacting state  
26 pertaining to the subject matter of this compact that may affect  
27 the powers, responsibilities or actions of the interstate  
28 commission, the interstate commission is entitled to receive all  
29 service of process in any such proceeding, and has standing to  
30 intervene in the proceeding for all purposes.

32 2. Dispute resolution. The compacting states shall report  
33 to the interstate commission on issues or activities of concern  
34 to them, and cooperate with and support the interstate commission  
35 in the discharge of its duties and responsibilities.

38 The interstate commission shall attempt to resolve any disputes  
39 or other issues that are subject to the compact and that may  
40 arise among compacting states and noncompacting states. The  
41 interstate commission shall enact a bylaw or promulgate a rule  
42 providing for both mediation and binding dispute resolution for  
43 disputes among the compacting states.

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

50 **§9880. Finance--Article X**

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

6           2. Assessment. The interstate commission shall levy and  
7 collect an annual assessment from each compacting state to cover  
8 the cost of the internal operations and activities of the  
9 interstate commission and its staff, which must be sufficient to  
10 cover the interstate commission's annual budget as approved each  
11 year. The aggregate annual assessment amount must be allocated  
12 based upon a formula to be determined by the interstate  
13 commission, taking into consideration the population of the state  
14 and the volume of interstate movement of offenders in each  
15 compacting state and shall promulgate a rule binding upon all  
16 compacting states that governs the assessment.

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

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

32 §9881. Compacting state; effective date; amendment--  
33 Article XI

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

38           2. Effective date. The compact becomes effective and  
39 binding upon enactment of the compact into law by no fewer than  
40 35 of the states. The initial effective date is July 1, 2001, or  
41 upon enactment into law by the 35th state, whichever is later.  
42 After the initial effective date, the compact becomes effective  
43 and binding, as to any other compacting state, upon enactment of  
44 the compact into law by that state. The governors of nonmember  
45 states or their designees will be invited to participate in  
46 interstate commission activities on a nonvoting basis prior to  
47 adoption of the compact by all states and territories of the  
48 United States.

50           3. Notification. The executive director of the interstate

2 commission shall notify the Secretary of State of the State of  
3 Maine upon enactment of the compact into law by no fewer than 35  
4 states.

6 4. Nonapplicability. When this subchapter takes effect,  
7 subchapter V no longer applies.

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

14 **§9882. Withdrawal, default, termination and judicial enforcement**  
15 **--Article XII**

16 1. Withdrawal. Once effective, the compact continues in  
17 force and remains binding upon each compacting state. A  
18 compacting state may withdraw from the compact by enacting a  
19 statute specifically repealing the statute that enacted the  
20 compact into law. The effective date of withdrawal is the  
21 effective date of the repeal of the compact. The withdrawing  
22 state shall immediately notify the chair of the interstate  
23 commission in writing upon the introduction of legislation  
24 repealing this compact in the withdrawing state. The interstate  
25 commission shall notify the other compacting states of the  
26 withdrawing state's intent to withdraw within 60 days of its  
27 receipt of the withdrawal notice. The withdrawing state is  
28 responsible for all assessments, obligations and liabilities  
29 incurred through the effective date of withdrawal, including any  
30 obligations the performance of which extends beyond the effective  
31 date of withdrawal. Reinstatement following withdrawal of any  
32 compacting state occurs on the withdrawing state's reenactment of  
33 the compact or upon a later date determined by the interstate  
34 commission.

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

42 A. Fines, fees and costs in such amounts as are determined  
43 to be reasonable as fixed by the interstate commission;

44 B. Remedial training and technical assistance as directed  
45 by the interstate commission; and



2 C. Suspension and termination of membership in the  
3 compact. Suspension is imposed only after all other  
4 reasonable means of securing compliance under the bylaws and  
5 rules have been exhausted. Immediate notice of suspension  
6 must be given by the interstate commission to the governor,  
7 the chief justice or chief judicial officer of the state;  
8 the majority and minority leaders of the defaulting state's  
9 legislature; and the state council. The grounds for default  
10 include, but are not limited to, failure of a compacting  
11 state to perform the obligations or responsibilities imposed  
12 upon it by this compact, interstate commission bylaws or  
13 duly promulgated rules. The interstate commission shall  
14 immediately notify the defaulting state in writing of the  
15 penalty imposed by the interstate commission on the  
16 defaulting state pending a resolution of the default. The  
17 interstate commission shall stipulate the conditions and the  
18 time period within which the defaulting state shall resolve  
19 its default. If the defaulting state fails to resolve the  
20 default within the time period specified by the interstate  
21 commission, in addition to any other penalties imposed in  
22 this section the defaulting state may be terminated from the  
23 compact upon an affirmative vote of a majority of the  
24 compacting states and all rights, privileges and benefits  
25 conferred by this compact are terminated from the effective  
26 date of suspension.

27 Within 60 days of the effective date of termination of a  
28 defaulting state, the interstate commission shall notify the  
29 governor, the chief justice or chief judicial officer; the  
30 majority and minority leaders of the defaulting state's  
31 legislature; and the state council of such termination.

32 The defaulting state is responsible for all assessments,  
33 obligations and liabilities incurred through the effective  
34 date of termination, including any obligations the  
35 performance of which extends beyond the effective date of  
36 termination.

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

40 Reinstatement following termination of any compacting state  
41 requires both a reenactment of the compact by the defaulting  
42 state's legislature and the approval of the interstate  
43 commission pursuant to the rules.

44 **3. Judicial enforcement.** The interstate commission may, by  
45 majority vote of the members, initiate legal action in the United  
46 States District Court for the District of Columbia or, at the  
47 discretion of the interstate commission, in the federal district  
48 court for the state in which the compacting state is located.

2 court where the interstate commission has its offices to enforce  
3 compliance with the provisions of the compact, its duly  
4 promulgated rules and its bylaws against any compacting state in  
5 default. In the event judicial enforcement is necessary, the  
6 prevailing party must be awarded all costs of such litigation,  
7 including reasonable attorney's fees.

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

16 **§9883. Severability and construction--Article XIII**

17 The provisions of this compact are severable, and if any  
18 phrase, clause, sentence or provision is deemed unenforceable,  
19 the remaining provisions of the compact are enforceable. The  
20 provisions of this compact are liberally constructed to  
21 effectuate its purposes.

24 **§9884. Binding effect of compact and other laws--Article XIV**

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

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

36 Upon the request of a party to a conflict over meaning or  
37 interpretation of interstate commission actions, and upon a  
38 majority vote of the compacting states, the interstate commission  
39 may issue advisory opinions regarding such meaning or  
40 interpretation.

41 If a provision of this compact exceeds the constitutional limits  
42 imposed on the legislature of any compacting state, the  
43 obligations, duties, powers or jurisdiction to be conferred by  
44 such provision upon the interstate commission are ineffective.  
45 The obligations, duties, powers or jurisdiction remain in the  
46 compacting state and are exercised by the agency of the  
47 compacting state.

2 compacting states to which the obligations, duties, powers or  
3 jurisdiction are delegated by law in effect at the time this  
4 compact becomes effective.

5       **Sec. 2. Legislative intent.** The text and numbering of the  
6 Interstate Compact for Adult Offender Supervision have been  
7 changed to conform to Maine statutory conventions. The changes  
8 are technical in nature and it is the intent of the Legislature  
9 that this Act be interpreted as substantively the same as the  
10 original compact.

12

14

### SUMMARY

16

This bill creates the Interstate Compact for Adult Offender  
Supervision.

18