

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 311

H.P. 254

House of Representatives, January 28, 2003

An Act to Adopt a New Interstate Compact Regarding Adults Who are on Probation and Parole

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

Millicent M. MacFarland

MILLICENT M. MacFARLAND

Clerk

Presented by Representative O'BRIEN of Augusta.

Cosponsored by Representatives: BUNKER of Kossuth Township, SNOWE-MELLO of Poland, TOBIN of Dexter.

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

4 **Sec. 1. 34-A MRSA c. 9, sub-c. 6** is enacted to read:

6 **SUBCHAPTER 6**

8 **INTERSTATE COMPACT FOR ADULT
OFFENDER SUPERVISION**

10 **§9871. Short title--Article 1**

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

14 **§9872. Definitions--Article 2**

16 As used in this subchapter, unless the context otherwise 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 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 controlling the interstate commission's actions or conduct.

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

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

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 the Interstate Commission for Adult Offender Supervision established in this subchapter.

44 7. **Member.** "Member" means the commissioner of a compacting 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 3

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 4**

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 interstate commission.

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 interstate commission--Article 5**

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;**

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

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

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

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

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

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

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

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

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

§9876. Organization and operation of interstate commission--

Article 6

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

A. Establishing the fiscal year of the interstate commission;

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

C. Providing reasonable standards and procedures:

(1) For the establishment of committees; and

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

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

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

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

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

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

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

2. Officers and staff. The following provisions govern 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.

14 B. The interstate commission shall, through its executive
16 committee, appoint or retain an executive director for such
18 period, upon such terms and conditions and for such
20 compensation as the interstate commission considers
22 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 interstate commission.
26 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.

44 B. The interstate commission shall defend the commissioner
46 of a compacting state, a commissioner's representatives or
48 employees or the interstate commission's representatives or
50 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.

21 **§9877. Activities of interstate commission--Article 7**

22
23 **1. Commission actions.** The interstate commission shall
24 meet and take such actions as are consistent with the provisions
25 of this compact. Except as otherwise provided in this compact
26 and unless a greater percentage is required by the bylaws, in
27 order to constitute an act of the interstate commission, the act
28 must have been taken at a meeting of the interstate commission
29 and must have received an affirmative vote of a majority of the
30 members present.

31
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
47 **3. Meeting.** The interstate commission shall meet at least
48 once during each calendar year. The chair of the interstate

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 or any of its committees.

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

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

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

10
11
12 **6. Public certification.** For every meeting closed pursuant
13 to subsection 5, the interstate commission's chief legal officer
14 shall publicly certify that, in the chief legal officer's
15 opinion, the meeting may be closed to the public and shall
16 reference each relevant exemptive provision of subsection 5. The
17 interstate commission shall keep minutes that fully and clearly
18 describe all matters discussed in any meeting and provide a full
19 and accurate summary of any actions taken and the reasons for
20 taking such actions, including a description of each of the views
21 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
23 documents considered in connection with any action must be
24 identified in the minutes.

25
26 **7. Collect data.** The interstate commission shall collect
27 data concerning the interstate movement of offenders as directed
28 through its bylaws and rules that must specify the data to be
29 collected, the means of collection and data exchange and
30 reporting requirements.

31 **§9878. Rule-making functions of interstate commission--**
32 **Article 8**

33
34
35 **1. Rules.** The interstate commission shall promulgate rules
36 in order to effectively and efficiently achieve the purposes of
37 the compact, including transitional rules governing
38 administration of the compact during the period in which it is
39 being considered and enacted by the state.

40
41 Rulemaking must occur pursuant to the criteria set forth in this
42 section and rules promulgated pursuant to this section. The
43 rulemaking must substantially conform to the principles of the
44 federal Administrative Procedure Act, 5 United States Code,
45 Section 551 et seq. and the federal Advisory Committee Act, 5
46 United States Code App. 2 Section 1 et seq., as may be amended,
47 referred to in this subchapter as the "APA."

48
49 All rules and amendments are binding on the date specified in
50 each rule or amendment.

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

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

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

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

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

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

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

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

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

29 B. Offender registration and compliance;

30 C. Violations and returns;

31 D. Transfer procedures and forms;

32 E. Eligibility for transfer;

33 F. Collection of restitution and fees from offenders;

34 G. Data collection and reporting;

35 H. The level of supervision to be provided by the receiving
36 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**
15 **interstate commission--Article 9**

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 10**

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

4
5 **2. Assessment.** The interstate commission shall levy and
6 collect an annual assessment from each compacting state to cover
7 the cost of the internal operations and activities of the
8 interstate commission and its staff, which must be sufficient to
9 cover the interstate commission's annual budget as approved each
10 year. The aggregate annual assessment amount must be allocated
11 based upon a formula to be determined by the interstate
12 commission, taking into consideration the population of the state
13 and the volume of interstate movement of offenders in each
14 compacting state and shall promulgate a rule binding upon all
15 compacting states that governs the assessment.

16
17 **3. Obligations.** The interstate commission may not incur
18 any obligations of any kind prior to securing the funds adequate
19 to meet the same obligations; nor may the interstate commission
20 pledge the credit of any of the compacting states, except by and
21 with the authority of the compacting state.

22
23 **4. Accounts.** The interstate commission shall keep accurate
24 accounts of all receipts and disbursements. The receipts and
25 disbursements of the interstate commission are subject to the
26 audit and accounting procedures established under its bylaws.
27 All receipts and disbursements of funds handled by the interstate
28 commission must be audited yearly by a certified or licensed
29 public accountant and the report of the audit must be included in
30 and become part of the annual report of the interstate commission.

31 **§9881. Compacting state; effective date; amendment--**
32 **Article 11**

33
34 **1. Eligibility.** Any state, as defined in section 9872, is
35 eligible to become a compacting state.

36
37 **2. Effective date.** The compact becomes effective and
38 binding upon enactment of the compact into law by no fewer than
39 35 of the states. The initial effective date is July 1, 2001, or
40 upon enactment into law by the 35th state, whichever is later.
41 After the initial effective date, the compact becomes effective
42 and binding, as to any other compacting state, upon enactment of
43 the compact into law by that state. The governors of nonmember
44 states or their designees will be invited to participate in
45 interstate commission activities on a nonvoting basis prior to
46 adoption of the compact by all states and territories of the
47 United States.

48
49 **3. Notification.** The executive director of the interstate
50

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 5 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 12**

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

36
37 2. Default. If the interstate commission determines that
38 any compacting state has at any time defaulted in the performance
39 of any of its obligations or responsibilities under this compact,
40 the bylaws or any duly promulgated rules, the interstate
41 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

48

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 of 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 13**

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

24 **§9884. Binding effect of compact and other laws--Article 14**

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

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

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

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

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.

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

14 SUMMARY

16 This bill creates the Interstate Compact for Adult Offender
17 Supervision.
18