



## **Sub. H.B. 269**

124th General Assembly  
(As Passed by the General Assembly)

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**Effective date: January 25, 2002; Sections 1 and 2 effective July 24, 2002, or the effective date of the Interstate Compact for Adult Offender Supervision, whichever is later**

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### **ACT SUMMARY**

- Enacts legislation under which Ohio will join the Interstate Compact for Adult Offender Supervision and withdraw from the Interstate Compact for the Supervision of Parolees and Probationers effective upon the later of 180 days after the act's effective date or upon legislative enactment of the Interstate Compact for Adult Offender Supervision into law by 35 states.
- Establishes the Ohio Council for Interstate Adult Offender Supervision pursuant to the new Compact.
- Removes the authority of Ohio courts of record to release on bond an offender supervised under the Compact who is in custody in Ohio when a sending state places a hold warrant or a detainer warrant on the offender and that warrant does not provide that the offender may be released on bond pending return to the sending state, until the sending state withdraws the warrant.
- Removes the authority of a receiving state to grant a final release from supervision to any offender supervised under the Compact unless and until the final release has been approved by the supervising authority of the sending state, prohibits the sending state from unreasonably withholding the final release, and requires the sending state to promptly

communicate the release to the supervising authorities of the receiving state.

- Provides that no plan for any new jail, workhouse, or lockup or for a substantial addition or alteration to an existing jail, workhouse, or lockup may be adopted unless the officials responsible for adopting the plan have submitted the plan to the Department of Rehabilitation and Correction (DRC) for approval, and DRC, through its Division of Parole and Community Services or other designated division, has approved the plan.

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## CONTENT AND OPERATION

### Overview

Under the act, Ohio would enact and join the Interstate Compact for Adult Offender Supervision and repeal and withdraw from the Interstate Compact for the Supervision of Parolees and Probationers. The act also enacts a provision pertaining to state approval of plans for jails, workhouses, and lockups. The act's provisions take effect upon the later of 180 days after the act's effective date or upon legislative enactment of the Interstate Compact for Adult Offender Supervision into law by 35 states (Section 3).

### Interstate Compact for Adult Offender Supervision

The act enacts into law the "Interstate Compact for Adult Offender Supervision" and enters Ohio into the Compact with all other jurisdictions legally joining in the Compact in the form substantially as set forth in the act. The provisions of the Compact as contained in the act, which set forth findings and specify the organization, powers, duties, and activities of the compacting states, are described below (R.C. 5149.21).

### Purpose

The "compacting states" to the Compact recognize that each state is responsible for the supervision of "adult offenders" in the community who are authorized pursuant to the "bylaws" and "rules" of the Compact to travel across state lines both to and from each compacting state in such a manner as to track the location of offenders, transfer supervision authority in an orderly and efficient manner, and when necessary return offenders to the originating jurisdictions (see "Definitions," below, for definitions of the terms in quotation marks). The compacting states also recognize that the United States Congress, by enacting the "Crime Control Act," 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

It is the purpose of the Compact and the interstate commission created under the Compact (see below), through means of joint and cooperative action among the compacting states: to provide the framework for the promotion of public safety and protect the rights of victims through the control and regulation of the interstate movement of offenders in the community; to provide for the effective tracking, supervision, and rehabilitation of these offenders by the sending and receiving states; and to equitably distribute the costs, benefits, and obligations of the Compact among the compacting states.

In addition, the Compact does the following: creates an interstate commission to establish uniform procedures to manage the movement between states of adults placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies that will promulgate rules to achieve the purpose of the Compact; ensures an opportunity for input and timely notice to victims and to jurisdictions where defined offenders are authorized to travel or to relocate across state lines; establishes a system of uniform data collection, access to information on active cases by authorized criminal justice officials, and regular reporting of Compact activities to heads of state councils, state executive, judicial, and legislative branches and criminal justice administrators; monitors compliance with rules governing interstate movement of offenders and initiate interventions to address and correct noncompliance; and coordinates training and education regarding regulations of interstate movement of offenders for officials involved in such activity.

The compacting states recognize that there is no "right" of any offender to live in another state and that duly accredited officers of a sending state are permitted at all times to enter a receiving state and in that state apprehend and retake any offender under supervision subject to the provisions of the Compact and bylaws and rules promulgated under the Compact. It is the policy of the compacting states that the activities conducted by the interstate commission created in the Compact are the formation of public policies and are therefore public business. (R.C. 5149.21, Article I.)

### **Interstate commission for adult offender supervision**

The compacting states create the "interstate commission for adult offender supervision." The interstate commission will be a body corporate and joint agency of the compacting states. The interstate commission will have all the responsibilities, powers, and duties set forth in the Compact, including the power to sue and be sued, and any additional powers that may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of the Compact.

The interstate commission will consist of commissioners selected and appointed by resident members of a state council for interstate adult offender supervision for each state.

In addition to the commissioners who are the voting representatives of each state, the interstate commission will include individuals who are not commissioners but who are members of interested organizations. The non-commissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, and crime victims.



All non-commissioner members of the interstate commission will be ex officio (nonvoting) members. The interstate commission will be permitted to provide in its bylaws for any additional, ex officio, nonvoting members that it deems necessary.

Each compacting state represented at any meeting of the interstate commission will be entitled to one vote. A majority of the compacting states will constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission. The interstate commission will meet at least once each calendar year. The chairperson will be permitted to call additional meetings and, upon the request of 27 or more compacting states, must call additional meetings. Public notice must be given of all meetings, and meetings must be open to the public.

The interstate commission will establish an executive committee, which must include commission officers, members, and others as determined by the bylaws. The executive committee will have the power to act on behalf of the interstate commission during periods when the interstate commission is not in session, with the exception of rulemaking or amendment to the Compact. The executive committee oversees the day-to-day activities managed by the executive director and interstate commission staff; administers enforcement and compliance with the provisions of the Compact, its bylaws, and as directed by the interstate commission; and performs other duties as directed by commission or set forth in the bylaws. (R.C. 5149.21, Article III.)

### **State council for interstate adult offender supervision**

**Provisions of Compact.** Each member state will create a state council for interstate adult offender supervision. The "Compact administrator" (see "**Definitions**," below) or the administrator's designee will be the commissioner of the state council to serve on the interstate commission. While each member state will be permitted to determine the membership of its own state council, its membership will be required to include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and Compact administrators. Each compacting state will retain the right to determine the qualifications of the Compact administrator who will be required to be appointed by the Governor. In addition to appointment of its commissioner to the national interstate commission, each state council will be required to exercise oversight and advocacy concerning its participation in interstate commission activities and other duties as may be determined by each member state, including, but not limited to, development of policy concerning operations and procedures of the Compact within that state. (R.C. 5149.21, Article IV.)



**Ohio's implementation of Compact.** In a provision separate from the Compact but related to the provisions described in the preceding paragraph, the act establishes the Ohio Council for Interstate Adult Offender Supervision. The Ohio Council will be comprised of seven members. One member will be the Ohio Compact administrator, or the administrator's designee. The Speaker of the House of Representatives will appoint one member, who will be a member of the House of Representatives. The President of the Senate will appoint one member, who will be a member of the Senate. The Chief Justice of the Supreme Court will appoint one member, who will be a member of the judiciary. The Governor will appoint three members, one of whom will be a representative of a crime victim's organization and one of whom will be from the executive branch. The Ohio Council will not be subject to existing R.C. 101.84 (not in the act), relative to the automatic sunseting of certain boards and commissions.

Each appointee to the Ohio Council will be appointed in consultation with the Department of Rehabilitation and Correction and will serve at the pleasure of the appointing authority. The Ohio Compact administrator, or the administrator's designee, will serve as commissioner of the Ohio Council and as Ohio's representative to the interstate commission. (R.C. 5149.22.)

**Powers and duties of the interstate commission**

The interstate commission will have the power to do the following (R.C. 5149.21, Article V):

- (1) Adopt a seal and suitable bylaws governing the management and operation of the interstate commission;
- (2) Promulgate rules that have the force and effect of statutory law and are binding in the compacting states to the extent and in the manner provided in the Compact;
- (3) Oversee, supervise, and coordinate the interstate movement of offenders subject to the terms of the Compact and any bylaws adopted and rules promulgated by the compact commission;
- (4) Enforce compliance with Compact provisions, interstate commission rules, and bylaws, using all necessary and proper means, including, but not limited to, the use of judicial process;
- (5) Establish and maintain offices;
- (6) Purchase and maintain insurance and bonds;

(7) Borrow, accept, or contract for services of personnel, including, but not limited to, members and their staffs;

(8) Establish and appoint committees and hire staff that it considers necessary for the carrying out of its functions, including, but not limited to, an executive committee. The committees will have the power to act on behalf of the interstate commission in carrying out its powers and duties under the Compact.

(9) Elect or appoint any officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties, and determine their qualifications; and to establish the interstate commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel;

(10) Accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of those donations and grants;

(11) Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed;

(12) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

(13) Establish a budget and make expenditures and levy dues as provided in the Compact;

(14) Sue and be sued;

(15) Provide for dispute resolution among compacting states;

(16) Perform any functions that may be necessary or appropriate to achieve the purposes of the Compact;

(17) Report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the interstate commission during the preceding year. The reports also will be required to include any recommendations that may have been adopted by the interstate commission.

(18) Coordinate education, training, and public awareness regarding the interstate movement of offenders for officials involved in such activity;

(19) Establish uniform standards for the reporting, collecting, and exchanging of data.



**Organization and operation of the interstate commission**

**Bylaws.** The interstate commission must, by a majority of the members, within 12 months of the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Compact, including, but not limited to all of the following (R.C. 5149.21, Article VI(A)):

- (1) Establishing the fiscal year of the interstate commission;
- (2) Establishing an executive committee and any other committees that may be necessary;
- (3) Providing reasonable standards and procedures for the establishment of committees and governing any general or specific delegation of any authority or function of the interstate commission;
- (4) Providing reasonable procedures for calling and conducting meetings of the interstate commission and ensuring reasonable notice of each meeting;
- (5) Establishing the titles and responsibilities of the officers of the interstate commission;
- (6) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the interstate commission. Notwithstanding any civil service or other similar laws of any compacting state, the bylaws will exclusively govern the personnel policies and programs of the interstate commission.
- (7) Providing a mechanism for winding up the operations of the interstate commission and the equitable return of any surplus funds that may exist upon the termination of the Compact after the payment or reserving of all of its debts and obligations;
- (8) Providing transition rules for "start up" administration of the Compact;
- (9) Establishing standards and procedures for compliance and technical assistance in carrying out the Compact.

**Officers and staff.** The interstate commission will be required, by a majority of the members, to elect from among its members a chairperson and a vice chairperson, each of whom will have the authorities and duties as may be specified in the bylaws. The chairperson or, in his or her absence or disability, the vice chairperson, will preside at all meetings of the interstate commission. The officers so elected generally will serve without compensation or remuneration

from the interstate commission. But, subject to the availability of budgeted funds, the officers will be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the interstate commission.

The interstate commission will, through its executive committee, appoint or retain an executive director for the period, upon the terms and conditions, and for the compensation that the interstate commission considers appropriate. The executive director will serve as secretary to the interstate commission, and hire and supervise the other staff that may be authorized by the interstate commission, but will not be a member. (R.C. 5149.21, Article VI(B).)

**Corporate records of the interstate commission.** The interstate commission will maintain its corporate books and records in accordance with the bylaws (R.C. 5149.21, Article VI(C)).

**Qualified immunity, defense and indemnification.** The members, officers, executive director, and employees of the interstate commission will be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties, or responsibilities. Nothing in the provision described in this paragraph will be permitted to 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.

Upon the request of the Attorney General, the interstate commission will be required to assist in the defense of the commissioner of a compacting state, or the commissioner's representatives or employees, or the interstate commission's representatives or employees, in any civil action seeking to impose liability, arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities; provided, that the actual or alleged act, error, or omission did not result from intentional wrongdoing on the part of the person.

The interstate commission will be required to indemnify and hold harmless the commissioner of a compacting state, the appointed designee, or employees, or the interstate commission's representatives or employees, in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a

reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from gross negligence or intentional wrongdoing on the part of the person. (R.C. 5149.21, Article VI(D).)

**Activities of the interstate commission**

**Meetings and taking actions.** The interstate commission will be required to meet and take any actions that are consistent with the provisions of the Compact. Except as otherwise provided in the Compact and unless a greater percentage is required by the bylaws, in order to constitute an act of the interstate commission, the act must have been taken at a meeting of the interstate commission and have received an affirmative vote of a majority of the members present.

Each member of the interstate commission will have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the interstate commission. A member will be required to vote in person on behalf of the state and will be prohibited from delegating a vote to another member state. However, a state council will be required to appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the member state at a specified meeting. The bylaws will be permitted to provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone or other means of telecommunication or electronic communication will be subject to the same quorum requirements of meetings where members are present in person.

The interstate commission will be required to meet at least once during each calendar year. The chairperson of the interstate commission will be permitted to call additional meetings at any time and, upon the request of a majority of the members, will be required to call additional meetings.

The interstate commission will be required to collect standardized data concerning the interstate movement of offenders as directed through its bylaws and rules. The bylaws and rules will be required to specify the data to be collected, the means of collection and data exchange, and reporting requirements. (R.C. 5149.21, Article VII.)

**Open records and sunshine provisions.** The interstate commission's bylaws will be required to establish conditions and procedures under which the interstate commission must make its information and official records available to the public for inspection or copying. The interstate commission will be permitted to exempt from disclosure any information or official records to the extent they

would adversely affect personal privacy rights or proprietary interests. In promulgating those rules, the interstate commission will be permitted to make available to law enforcement agencies records and information otherwise exempt from disclosure and will be permitted to enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

Public notice will be required to be given of all meetings, and all meetings will be required to be open to the public, except as set forth in the rules or as otherwise provided in the Compact. The interstate commission will be required to promulgate rules consistent with the principles contained in the "Government in Sunshine Act," 5 U.S.C. Section 552(b), as amended. The interstate commission and any of its committees will be permitted to close a meeting to the public if it determines by two-thirds vote that an open meeting would be likely to do any of the following:

- (1) Relate solely to the interstate commission's internal personnel practices and procedures;
- (2) Disclose matters specifically exempted from disclosure by statute;
- (3) Disclose trade secrets or commercial or financial information that is privileged or confidential;
- (4) Involve accusing any person of a crime or formally censuring any person;
- (5) Disclose information of a personal nature if disclosure would constitute a clearly unwarranted invasion of personal privacy;
- (6) Disclose investigatory records compiled for law enforcement purposes;
- (7) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the interstate commission with respect to a regulated entity for the purpose of regulation or supervision of the regulated entity;
- (8) Disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity;
- (9) Specifically relate to the interstate commission's issuance of a subpoena or its participation in a civil action or proceeding.

For every meeting closed pursuant to this provision, the interstate commission's chief legal officer will be required to publicly certify that, in the



legal officer's opinion, the meeting may be closed to the public, and will be required to reference each relevant exemptive provision. The interstate commission will be required to keep minutes that fully and clearly describe all matters discussed in any meeting and provide a full and accurate summary of any actions taken, and the reasons for the actions, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action will be required to be identified in the minutes. (R.C. 5149.21, Article VII.)

**Rulemaking functions of the interstate commission**

**Generally.** The interstate commission will be required to promulgate rules in order to effectively and efficiently achieve the purposes of the Compact including transition rules governing administration of the Compact during the period in which it is being considered and enacted by the states.

Rulemaking will occur pursuant to the criteria set forth below and the bylaws and rules adopted under the Compact. The rulemaking will be required to substantially conform to the principles of the "Federal Administrative Procedure Act," 5 U.S.C.S. Section 551 et seq., and the "Federal Advisory Committee Act," 5 U.S.C.S. App. 2, section 1 et seq., as amended (hereinafter "APA"). All rules and amendments will become binding as of the date specified in each rule or amendment.

If a majority of the legislatures of the compacting states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact, then the rule will have no further force and effect in any compacting state. (R.C. 5149.21, Article VIII(A).)

When promulgating a rule, the interstate commission will be required to do all of the following (R.C. 5149.21, Article VIII(A)):

- (1) Publish the proposed rule stating with particularity the text of the rule that is proposed and the reason for the proposed rule;
- (2) Allow persons to submit written data, facts, opinions and arguments, which information will be publicly available;
- (3) Provide an opportunity for an informal hearing;
- (4) Promulgate a final rule and its effective date, if appropriate, based on the rulemaking record.

Not later than 60 days after a rule is promulgated, any interested person will be permitted to file a petition in the United States District Court for the District of Columbia or in the federal district court where the interstate commission's principal office is located for judicial review of the rule. If the court finds that the interstate commission's action is not supported by substantial evidence, as defined in the APA, in the rulemaking record, the court will be required to hold the rule unlawful and set it aside. (R.C. 5149.21, Article VIII(B).)

Upon determination by the interstate commission that an emergency exists, it will be permitted to promulgate an emergency rule, and the emergency rule will be required to become effective immediately upon adoption, provided that the usual rulemaking procedures provided under the Compact will be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule (R.C. 5149.21, Article VIII(C)).

**Subjects to be addressed within 12 months.** Subjects to be addressed within 12 months after the interstate commission's first meeting will at a minimum include all of the following (R.C. 5149.21, Article VIII(B)):

- (1) Notice to victims and an opportunity to be heard;
- (2) Offender registration and compliance;
- (3) Violations and returns;
- (4) Transfer procedures and forms;
- (5) Eligibility for transfer;
- (6) Collection of restitution and fees from offenders;
- (7) Data collection and reporting;
- (8) The level of supervision to be provided by the receiving state;
- (9) Transition rules governing the operation of the Compact and the interstate commission during all or part of the period between the effective date of the Compact and the date on which the last eligible state adopts the Compact;
- (10) Mediation, arbitration, and dispute resolution.

**Rules of the Interstate Compact for the Supervision of Parolees and Probationers.** The existing rules governing the operation of the previous Compact superseded by the act and the new Compact (i.e., the Interstate Compact for the Supervision of Parolees and Probationers) will be null and void 12 months after



the first meeting of the interstate commission created under the new Compact (R.C. 5149.21, Article VIII(C)).

**Oversight, enforcement, and dispute resolution by the interstate commission**

**Oversight.** The interstate commission will oversee the interstate movement of adult offenders in the compacting states and will monitor such activities being administered in noncompacting states that may significantly affect compacting states.

The courts and executive agencies in each compacting state will be required to enforce the Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of the Compact that may affect the powers, responsibilities, or actions of the interstate commission, the interstate commission will be entitled to receive all service of process in any such proceeding and will have standing to intervene in the proceeding for all purposes. (R.C. 5149.21, Article IX(A).)

**Dispute resolution.** The compacting states will be required to report to the interstate commission on issues or activities of concern to them and cooperate with and support the interstate commission in the discharge of its duties and responsibilities. The interstate commission will attempt to resolve any disputes or other issues that are subject to the Compact and that may arise among compacting states and noncompacting states. The interstate commission will be required to enact a bylaw or promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states. (R.C. 5149.21, Article IX(B).)

**Enforcement.** The interstate commission, in the reasonable exercise of its discretion, will enforce the provisions of the Compact using any or all means set forth in Article XII, Division (B), of the Compact (see "**Default,**" below) (R.C. 5149.21, Article IX(C)).

**Finance**

The interstate commission will be required to pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities. The interstate commission will be required to levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the interstate commission and its staff. The annual assessment will be required to be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate

annual assessment amount will be required to be allocated based upon a formula to be determined by the interstate commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each compacting state, and will be required to promulgate a rule that is binding upon all compacting states and governs the assessment.

The interstate commission will be prohibited from incurring any obligations of any kind prior to securing the funds adequate to meet the obligation and from pledging the credit of any of the compacting states, except by and with the authority of the compacting state.

The interstate commission will be required to keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission will be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission will be required to be audited yearly by a certified or licensed public accountant, and the report of the audit will be required to be included in and become part of the annual report of the interstate commission. (R.C. 5149.21, Article X.)

#### **Compacting states, effective date and amendment**

Any "state" (see "**Definitions**" below) is eligible to become a compacting state. The Compact will become effective and binding upon legislative enactment of the Compact into law by no less than 35 states. The initial effective date will be the later of July 1, 2001, or upon enactment into law by the 35th jurisdiction. After the initial effective date, it will become effective and binding, as to any other compacting state, upon enactment of the Compact into law by that state. The governors of "nonmember states" or their designees will be invited to participate in interstate commission activities on a nonvoting basis prior to adoption of the Compact by all states and territories of the United States.

Amendments to the Compact may be proposed by the interstate commission for enactment by the compacting states. No amendment becomes effective and binding upon the interstate commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states. (R.C. 5149.21, Article XI.)

#### **Withdrawal**

Once effective, the Compact will continue in force and remain binding upon each and every compacting state; provided that a compacting state may withdraw from the Compact ("withdrawing state") by enacting a statute

specifically repealing the statute that enacted the Compact into law. The effective date of withdrawal is the effective date of the repeal.

The withdrawing state will be required to immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing the Compact in the withdrawing state. The interstate commission then will notify the other compacting states of the withdrawing state's intent to withdraw within 60 days of its receipt of the notice from the withdrawing state. The withdrawing state will be responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal. Reinstatement following withdrawal of any compacting state will occur upon the withdrawing state reenacting the Compact or upon any later date as determined by the interstate commission. (R.C. 5149.21, Article XII(A).)

### **Default**

**Penalties.** If the interstate commission determines that any compacting state has at any time defaulted ("defaulting state") in the performance of any of its obligations or responsibilities under the Compact, the bylaws, or any duly promulgated rules, the interstate commission may impose any or all of the following penalties (R.C. 5149.21, Article XII(B)):

(1) Fines, fees, and costs in any amounts that are determined to be reasonable as fixed by the interstate commission;

(2) Remedial training and technical assistance as directed by the interstate commission;

(3) Suspension and termination of membership in the Compact. Suspension will be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted. Immediate notice of suspension will be given by the interstate commission to the governor, the chief justice or chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council.

**Grounds for default, procedures.** The grounds for default include, but are not limited to, failure of a compacting state to perform the obligations or responsibilities imposed upon it by the Compact, interstate commission bylaws, or duly promulgated rules. The interstate commission will be required to immediately notify the defaulting state in writing of the penalty imposed by the interstate commission on the defaulting state pending a cure of the default. The interstate commission will be required to stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting

state fails to cure the default within the time period specified by the interstate commission, in addition to any other penalties imposed in the Compact, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the compacting states, and all rights, privileges, and benefits conferred by the Compact will be terminated from the effective date of suspension. Within 60 days of the effective date of termination of a defaulting state, the interstate commission will be required to notify the governor, the chief justice or chief judicial officer, the majority and minority leaders of the defaulting state's legislature, and the state council of the termination.

The defaulting state will be responsible for all assessments, obligations, and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

The interstate commission will not be required to bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the interstate commission and the defaulting state. Reinstatement following termination of any compacting state requires both a reenactment of the Compact by the defaulting state and the approval of the interstate commission pursuant to the rules. (R.C. 5149.21, Article XII(B).)

### **Judicial enforcement**

The interstate commission will be permitted, by majority vote of the members, to initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its offices to enforce compliance with the provisions of the Compact, its duly promulgated rules, and bylaws, against any compacting state in default. If judicial enforcement is necessary, the prevailing party will be required to be awarded all costs of the litigation including reasonable attorneys fees. (R.C. 5149.21, Article XII(C).)

### **Dissolution of Compact**

The Compact will dissolve effective upon the date of the withdrawal or default of the compacting state that reduces membership in the Compact to one compacting state. Upon the dissolution of the Compact, the Compact becomes null and void and will be of no further force or effect, and the business and affairs of the interstate commission will be required to be wound up, and any surplus funds be distributed in accordance with the bylaws. (R.C. 5149.21, Article XII(D).)

### **Severability and construction**

The provisions of the Compact are severable, and, if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the Compact are enforceable. The provisions of the Compact must be liberally constructed to effectuate its purposes. (R.C. 5149.21, Article XIII.)

### **Binding effect of Compact and other laws**

All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the compacting states. All agreements between the interstate commission and the compacting states will be binding in accordance with their terms.

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

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

The Compact states that nothing in the Compact prevents the enforcement of any other law of a compacting state that is not inconsistent with the Compact. All compacting states' laws conflicting with the Compact are superseded to the extent of the conflict. (R.C. 5149.21, Article XIV.)

### **Definitions**

As used in the Compact, unless the context clearly requires a different construction (R.C. 5149.21, Article II):

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

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

(3) "Compact administrator" means the individual in each compacting state who is appointed pursuant to the terms of the Compact and who is responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of the Compact, the rules adopted by the interstate commission, and policies adopted by the state council under the Compact.

(4) "Compacting state" means any state that has enacted the enabling legislation for the Compact.

(5) "Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of the Compact.

(6) "Interstate commission" means the interstate commission for adult offender supervision established by the Compact.

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

(8) "Noncompacting state" means any state that has not enacted the enabling legislation for the Compact.

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

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

(11) "Rules" means acts of the interstate commission, duly promulgated pursuant to Article VIII of the Compact, substantially affecting interested parties in addition to the interstate commission. The Compact provides that the rules have the force and effect of law in the compacting states.

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

(13) "State council" means the resident members of the state council for interstate adult offender supervision created by each state under Article III of the Compact.

### **Related regulations**

Under the act, in provisions separate from the Compact, when a sending state places a hold warrant or a detainer warrant on an offender supervised under

the Compact who is in custody in Ohio and that warrant does not provide that the offender may be released on bond pending return to the sending state, no Ohio court of record has authority to release the offender on bond until the sending state withdraws the warrant.

A receiving state has no authority to grant a final release from supervision to any offender supervised under the Compact unless and until the final release has been approved by the supervising authority of the sending state. The act prohibits the sending state from unreasonably withholding the final release and requires the sending state to promptly communicate the release to the supervising authorities of the receiving state. (R.C. 5149.24.)

### **Withdrawal from Interstate Compact for the Supervision of Parolees and Probationers**

#### **Operation of the act**

The act repeals the existing provisions in the Revised Code pertaining to the Interstate Compact for the Supervision of Parolees and Probationers and Ohio's membership in the Compact (R.C. 5149.17 (repealed in Section 2) and 5149.18).

The act states that, by amending R.C. 5149.18 and repealing R.C. 5149.17, Ohio withdraws from the Interstate Compact for the Supervision of Parolees and Probationers. Ohio's duties under that Compact continue as to parolees or probationers residing in Ohio at the time of withdrawal until they are retaken or finally discharged by the sending state. The act requires the Governor to immediately send notice in writing of Ohio's intention to withdraw from the Interstate Compact for the Supervision of Parolees and Probationers to the other states that are parties to the Compact. (Section 4.)

#### **Plans for jails, workhouses, and lockups**

The act prohibits the adoption of a plan for any new jail, workhouse, or lockup or for a substantial addition or alteration to an existing jail, workhouse, or lockup unless the officials responsible for adopting the plan have submitted the plan to the Department of Rehabilitation and Correction (DRC) for approval and DRC has approved the plan. DRC's Division of Parole and Community Services is to review and approve those plans unless DRC's Director assigns those duties to another division. (R.C. 5120.10.)

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-22-01	p. 446
Reported, H. Criminal Justice	06-13-01	pp. 661-662
Passed House (99-0)	06-20-01	pp. 691-692
Reported, S. Judiciary on Criminal Justice	09-20-01	pp. 897-898
Passed Senate (31-0)	10-02-01	p. 925
House concurred in Senate amendments (97-0)	10-10-01	pp. 894-895

01-hb269.124/kl

