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PENAL INSTITUTIONS

Pardons and Paroles: Provide for Enactment of the Interstate Compact for Adult Offender Supervision; Provide for Implementation of Such Compact; Create the Georgia State Council for Interstate Adult Offender Supervision; Provide for a Compact Administrator

CODE SECTIONS:	O.C.G.A. §§ 42-9-80, -82 (new)
BILL NUMBER:	HB 885
ACT NUMBER:	964
GEORGIA LAWS:	2002 Ga. Laws 1297
SUMMARY:	<p>The Act makes Georgia a participant in “The Interstate Compact for Adult Offender Supervision” and a member of the “Interstate Commission for Adult Offender Supervision.” The Act provides for the creation of a “State Council for Adult Offender Supervision” to oversee Georgia’s participation in the Commission. The Act empowers the Commission to promulgate rules which will have the force and effect of statutory law in Georgia. The Act further authorizes the Commission to enforce the provisions of the Compact and the rules promulgated thereunder by lawsuit, fines, and other means. The Act provides for indemnification, immunity, and legal representation for the Commission and the commissioners for acts within the scope of their duties. The Act provides for meeting times, and places, and public observance. The Act allows the Commission to levy and</p>

collect annual assessments from each Compacting state to cover the costs of Commission activities.

EFFECTIVE DATE: The latter of: July 1, 2002 or the enactment of the Compact by 35 states.

History

The following scenario is all too possible: a parolee in Nevada requests a transfer to Georgia to pursue a new field of employment.¹ In processing the paperwork, Nevada officials fail to include the fact that the parolee is a member of a notorious outlaw gang.² As a result of the lapse in communication, Georgia parole officials allow the parolee to live in a house frequented by other gang members.³

Shortly thereafter, while riding in a car with other gang members, the parolee is pulled over by a state trooper.⁴ Because Nevada authorities failed to forward the information concerning the parolee's notorious connections, the trooper has no warning about the depravity of the individual he has just pulled over.⁵ During the stop, the parolee pulls a gun and shoots the unsuspecting officer.⁶ This gut-wrenching scenario, and others like it, inspired Representative Curtis Jenkins to introduce HB 885 to make Georgia a member of the "Interstate Compact for Adult Offender Supervision."⁷

In reality, the idea of an interstate compact for monitoring the cross-border movements of adult offenders was not a new idea. The first Compact for the supervision of adult offenders was promulgated in 1937, and eventually, all fifty states adopted it.⁸ Georgia adopted

1. National Institute of Corrections, *Case Studies*, (May 19, 2002), at <http://www.statesnews.org/clip/policy/isc.htm>.

2. *Id.*

3. *Id.*

4. *Id.*

5. *Id.*

6. *Id.*

7. HB 885, as introduced, 2002 Ga. Gen. Assem.; Audio Recording of House Proceedings, Mar. 19, 2002 (remarks by Rep. Curtis Jenkins), at <http://www.state.ga.us/services/leg/audio/2002archive.html>.

8. O.C.G.A. § 42-9-71 (2001); see also National Institute of Corrections: *Context For Amending the Parole and Probation Interstate Compact*, (June 26, 2002), at

that Compact in 1950.⁹ Under its provisions, procedures were created for the exchange of information concerning the transport of adult offenders across state lines; however, no enforcement mechanism existed to ensure compliance.¹⁰ Consequently, states from which parolees were traveling were often lax in providing other states with important information pertaining to the parolee.¹¹ In the past, such miscommunications have given rise to scenarios like the one portrayed at the beginning of this section.¹²

While the 1937 Compact proved adequate for many years following its enactment, proponents of the new Compact contended that population growth and increased decentralization of parole agencies had left the old Compact and its more lax standards infirm and outdated.¹³ Proponents of the new Compact argued that as parole agencies became more spread out and increasingly bureaucratic, they also became less effective at disseminating information concerning migrating adult offenders.¹⁴ They further contended that because the 1937 Compact lacked any enforcement provisions to coerce member states to supply adequate information concerning the interstate movement of adult offenders, many agencies were unwilling to follow its procedures.¹⁵

Conversely, opponents of the new Compact criticized the creation of an independent Commission that functions outside of the control of its member states.¹⁶ These critics have argued that it vests too much power in the Interstate Commission to levy assessments and

<http://www.nicic.org/services/special/Compact-adult/background.htm>.

9. 1950 Ga. Laws 405, § 1 (found at O.C.G.A. § 42-9-71 (2001)).

10. See *The Interstate Compact For the Supervision of Parolees and Probationers*, (June 26, 2002), at <http://www.nicic.org/services/special/Compact-adult/Compact-1937.htm> (containing text of 1937 Compact).

11. See *id.*

12. See *id.*

13. See *id.*

14. See National Institute of Corrections Information Center, *A Field Evaluation Of The Interstate Compact For Probation and Parole: Findings From An NIC Survey*, 2-3 (1998).

15. See *id.*

16. Audio Recording of House Proceedings, Mar. 19, 2002 (remarks by Rep. Brian Joyce), at <http://www.state.ga.us/services/leg/audio/2002archive.htm>.

finer, thereby creating a “mini-U.N.” and undermining state sovereignty.¹⁷

Opponents of the new Compact further contended that as the Interstate Commission grows, the assessments associated with it will rise as well, thus creating a financial drain on state legislatures who will be subject to the Commission’s demands.¹⁸ In furthering that argument, they cited current projections that would require states like Georgia, to pay minimum annual assessments of \$39,000.¹⁹ Although these critics admit that the current problems under the 1937 Compact should be addressed, they would propose doing so by means other than creating an independent and autonomous Commission.²⁰

In response, proponents of the new Compact noted that at the time the bill was introduced to the Georgia House of Representatives, 26 states had already adopted the new version.²¹ Furthermore, proponents noted that with over 4 million people on parole nationwide, and an average of 10,305 adult offenders traveling either in or out of Georgia every year, a critical need existed for monitoring parolees’ interstate travel.²²

HB 885

Introduction

Representative Curtis Jenkins of the 110th District sponsored HB 885.²³ Representative Jenkins introduced the bill on the House floor

17. *Id.*

18. *Id.*

19. *Interstate Compact for Adult Offender Supervision State Dues Projection*, May 19, 2002, at <http://www.statesnews.org/clip/policy/ga.htm>.

20. Audio Recording of House Proceedings, Mar. 19, 2002 (remarks by Rep. Brian Joyce), at <http://www.state.ga.us/services/leg/audio/2002archive.htm>.

21. *Interstate Compact for Adult Offender Supervision State-by-State Status*, May 19, 2002, at <http://www.statesnews.org/clip/policy/ISC2.htm>; State of Georgia Final Composite Status Sheet, HB 885, Apr. 12, 2002.

22. *Interstate Compact for Adult Offender Supervision*, May 19, 2002, at <http://www.statesnews.org/clip/policy/isc.htm>; *Interstate Compact for Adult Offender Supervision: Georgia*, May 19, 2002, at <http://www.statesnews.org/clip/policy/ga.htm>.

23. HB 885, as introduced, 2002 Ga. Gen. Assem.

on March 12, 2001.²⁴ The House assigned the bill to its Special Judiciary Committee, which favorably reported the bill, as substituted.²⁵ The House adopted the Committee substitute, and passed the bill on March 19, 2002.²⁶

The Senate assigned HB 885 to its Judiciary Committee, which favorably reported the bill unchanged on April 3, 2002.²⁷ The Senate adopted HB 885 on April 10, 2002.²⁸ The General Assembly forwarded the bill to Governor Roy Barnes, who signed HB 885 on May 16, 2002.²⁹

Consideration by the House Special Judiciary Committee

After introduction, the House assigned HB 885 to its Special Judiciary Committee, chaired by Representative Jenkins.³⁰ The Special Judiciary Committee favorably reported the bill, as substituted, on March 8, 2001.³¹ As introduced, the bill repealed the “Uniform Act for Out-of-State Parolee Supervision” which is contained in Georgia Code Section 42-9-71, and replaced it with the new bill’s provisions.³² Also, the bill directed the Governor to withdraw from the “Uniform Act for Out-of-State Parolee Supervision” in accordance with the provisions of Georgia Code Section 42-9-71(7), after meeting the requirements for the enactment of HB 885.³³ As introduced, the bill directed the Governor to rely on a written confirmation from the National Institute of Corrections of the Department of United States Justice to determine whether those

24. State of Georgia Final Composite Status Sheet, HB 885, Apr. 12, 2002.

25. *Id.*

26. Georgia House of Representatives Voting Record, HB 885 (Mar. 19, 2002); State of Georgia Final Composite Status Sheet, HB 885, Apr. 12, 2002.

27. State of Georgia Final Composite Status Sheet, HB 885, Apr. 12, 2002.

28. Georgia Senate Voting Record, HB 885 (Mar. 10, 2002); State of Georgia Final Composite Status Sheet, HB 885, Apr. 12, 2002.

29. 2002 Ga. Laws 1297, § 3, at 1312.

30. State of Georgia Final Composite Status Sheet, HB 885, Apr. 12, 2002.

31. *Id.*

32. See HB 885, as introduced, 2002 Ga. Gen. Assem.; O.C.G.A. § 42-9-71 (2001).

33. HB 885, as introduced, 2002 Ga. Gen. Assem.; O.C.G.A. § 42-9-71(7) (2001).

requirements had been met.³⁴ However, the Committee substitute contained no provisions for the repeal of any existing Georgia law.³⁵

The Committee substitute also added a section to the bill which would allow officers from an adult offender's sending state (offender's point of origin) to enter a receiving state (state to which offender transferred) at any time to retake the offender.³⁶ As a result, under the substitute, the receiving state would waive any legal limits on a sending state's ability to extradite an offender.³⁷

The new provisions further mandated that the decision of the sending state to retake an offender would not be subject to review by the receiving state, unless the offender was charged with a crime, or suspected of committing a crime, in the receiving state.³⁸ Under those conditions, the Committee substitute barred the sending state from retaking an offender without the receiving state's consent until either the prosecution and penalization of the offender was complete, or the receiving state dropped the charges.³⁹ The substitute further provided that officers of the sending state would be free to transfer the offender through any other state that was also a party to the Compact.⁴⁰

As introduced, HB 885 would have become effective on the latter of July 1, 2001, or the date upon which the thirty-fifth state joined the Compact.⁴¹ However, the Committee substitute revised the bill's effective date to the latter of July 1, 2002, or the date upon which the thirty-fifth state joined the Compact.⁴²

34. HB 885, as introduced, 2002 Ga. Gen. Assem.

35. *Compare* HB 885, as introduced, 2002 Ga. Gen. Assem., *with* HB 885 (HCS), 2002 Ga. Gen. Assem.

36. *Id.*

37. *Id.*

38. *Id.*

39. *Id.*

40. *Id.*

41. *See* HB 885, as introduced, 2002 Ga. Gen. Assem.

42. *Compare* HB 885, as introduced, 2002 Ga. Gen. Assem., *with* HB 885 (HCS), 2002 Ga. Gen. Assem.

Consideration by the House and Senate

The House adopted the committee substitute and passed HB 885, as substituted, without change on March 19, 2002.⁴³

The Senate passed the House version of HB 885, without change, on April 10, 2002.⁴⁴ Governor Roy Barnes signed HB 885 into law on May 16, 2002.

*The Act**Code Section 42-9-80*

The Act creates a new code section 42-9-80 which entitles the article as “The Interstate Compact for Adult Offender Supervision.”⁴⁵

Code Section 42-9-81

The Act creates a new Code section, 42-9-81, which directs the Governor to execute a Compact with any other state that passes legislation substantially similar to the Act itself.⁴⁶ The purpose of the Act is to create an Interstate Commission, which will be responsible for promulgating rules to ensure that each state upholds its responsibility for the supervision of adult offenders who travel across state lines.⁴⁷

The Act authorizes the Commission to create rules that have the effect of statutory law in the compacting states, and to equitably distribute the costs and obligations of monitoring the interstate travel of adult offenders among those states as well.⁴⁸ In addition, the Act authorizes the Commission to create rules providing for the

43. State of Georgia Final Composite Status Sheet, HB 885, Apr. 12, 2002.

44. *Id.*

45. O.C.G.A. § 42-9-80 (Supp. 2002)

46. O.C.G.A. § 42-9-81 (Supp. 2002).

47. *Id.*

48. *Id.*

protection and input of victims when adult offenders petition to travel into the jurisdictions where they reside.⁴⁹

Moreover, the Act provides for the creation of the Georgia State Council, to oversee the activities of the Interstate Commission and to ensure that its rules are properly executed.⁵⁰ The Council will also appoint an Interstate Commissioner who will serve as a voting representative to the Interstate Commission.⁵¹ In addition, the Act states that adult offenders have no “right” to live in a state other than the one in which they are initially detained.⁵² Consequently, officials from a sending state are free, at any time, to enter the receiving state and retake the offender, unless the receiving state suspects or has prosecuted the parolee.⁵³

The Act further provides that the “Interstate Commission for Adult Offender Supervision,” which shall be created by the compacting states, consists of Commissioners selected by the State Councils of the individual member states.⁵⁴ Although each state is only allowed one voting representative, the Commission must also include non-voting advisors from “the national organizations of governors, legislators, state chief justices, attorneys general and crime victims.”⁵⁵

The Act also requires that the Commission meet at least once per year, and authorizes additional meetings called by either the Commission chairperson or a vote of at least 27 compacting states.⁵⁶ In addition, the Act provides for the creation of an Executive Committee to act on behalf of the Interstate Commission when it is not in session and to oversee the day-to-day operations of the Commission’s staff.⁵⁷ The Executive Committee is also empowered

49. *Id.*

50. *Id.*

51. *Id.*

52. O.C.G.A. § 42-9-81 (Supp. 2002).

53. *Id.*

54. *Id.*

55. *Id.*

56. *Id.*

57. *Id.*

to force compacting states to comply with the rules promulgated by the Interstate Commission.⁵⁸

As noted, the Act creates the Georgia State Council, which is responsible for ensuring compliance with Commission rules, as well as appointing a Commissioner to the Interstate Commission.⁵⁹ However, the Act also requires the Council to choose and appoint the current Compact Administrator.⁶⁰ The Act provides that Council membership may be composed of various individuals as the state selects, but that it must include a representative from the legislative, judicial, and executive branches of government, as well as victim groups.⁶¹

The Act bestows a number of powers on the Interstate Commission, including the power to adopt a seal and by-laws to govern its own management, the power to create rules that shall have the force of law in compacting states, and the power to oversee and supervise the interstate movements of adult offenders.⁶² Additionally, the Commission is empowered to enforce compliance with the Compact provisions and rules promulgated thereunder by “all necessary and proper means, including but not limited to, the use of the judicial process.”⁶³

Included among its other powers is the ability to acquire and maintain offices, hire staff when necessary, lease, purchase, or sell real and personal property, and to coordinate education and public awareness concerning the operations and activities of the Commission.⁶⁴ An important provision of the Act allows the Commission to create a budget and levy dues against compacting states, and another provision gives it the power to “sue and be sued.”⁶⁵ The Act also grants the Commission the open-ended power

58. O.C.G.A. § 42-9-81 (Supp. 2002).

59. *Id.*

60. *Id.*; O.C.G.A. § 42-9-82(Supp. 2002).

61. O.C.G.A. § 42-9-81 (Supp. 2002).

62. *Id.*

63. *Id.*

64. O.C.G.A. § 42-9-81 (Supp. 2002).

65. *Id.*

to perform all “functions as may be necessary or appropriate” to the achievement of the Compact’s purposes.⁶⁶

The Act also provides that the members, officers, executive director, and employees of the Interstate Commission are immune from liability for any claim arising out of actions taken within the scope of their employment.⁶⁷ However, if the claimed injury arose from willful or intentional misconduct by one or more of those individuals, then the immunity is waived.⁶⁸

Furthermore, the Act requires the Interstate Commission to defend any Commissioner, Commissioner’s employee, and/or any employee of the Interstate Commission from civil suit.⁶⁹ However, this duty only extends to claims arising from actions that were either within the scope of the individual’s employment, or that the individual reasonably believed to be within the scope of his employment.⁷⁰ Consequently, the duty is waived if the claim arises from the intentional wrongdoing of the individual.⁷¹

Similarly, the Act requires the Interstate Commission to indemnify the aforementioned parties for judgments or settlements rendered against them that arise out of actions taken by the individual within the scope of his employment, or that he reasonably believed to be within the scope of his employment.⁷² However, the duty to indemnify does not extend to cases where the individual committed an intentional wrong or acted with gross negligence.⁷³

The Act also creates a presumption that, unless another provision of the Compact expressly states otherwise, all acts of the Interstate Commission must be supported by an affirmative majority of the members present.⁷⁴ The Act also provides that each Member state

66. *Id.*

67. *Id.*

68. *Id.*

69. *Id.*

70. O.C.G.A. § 42-9-81 (Supp. 2002).

71. *Id.*

72. *Id.*

73. *Id.*

74. *Id.*

shall have one vote, which cannot be delegated to another Member state.⁷⁵

In addition, all information and records concerning the Commission are considered public documents, and thus, open to inspection, unless the Commission determines that the information is exempt from disclosure.⁷⁶ Disclosure exemptions will be provided for any documents or information that would “adversely affect personal privacy rights or proprietary interests.”⁷⁷ However, in the event that certain information is exempt from public disclosure, the Act provides that the Commission may nonetheless make the information available to law enforcement agencies, if the agency agrees to keep the information confidential.⁷⁸

The Act also stipulates that all meetings of the Interstate Commission be open to the public, except as otherwise provided by the Compact or later rules promulgated by the Commission.⁷⁹ The Act does allow the Interstate Commission committee to determine, by a two-thirds vote, that one of nine conditions exist for closing a meeting; then such meetings will not be open to the public.⁸⁰

According to the nine conditions provided by the Act, a meeting can be closed to the public if it is “likely to:”

(1) only involve internal practices and procedures of the Commission; (2) disclose matters deemed confidential by statute; (3) disclose privileged or confidential financial information or trade secrets; (4) involve accusing a person of a crime or formally censuring a person; (5) disclose personal information, the disclosure of which would constitute an unwarranted invasion of personal privacy; (6) disclose law enforcement investigatory records; (7) disclose information relating to reports concerning regulation or supervision of an entity that is regulated by the Commission; (8) disclose information that could endanger the life of a person or the

75. *Id.*

76. *See* O.C.G.A. § 42-9-81 (2002).

77. *Id.*

78. *Id.*

79. *Id.*

80. *Id.*

stability of a regulated entity; or (9) disclose information that specifically relates to the issuance of a subpoena by the Commission, or its participation in a civil proceeding.⁸¹

The Act further requires that where a meeting is closed to the public, the Commission keep accurate and detailed minutes of every matter discussed during that meeting.⁸² In addition, the Act mandates that the Commission's chief legal counsel certify that he or she believes the closed proceeding meets one or all of the preceding conditions.⁸³ Moreover, in delivering his opinion the chief legal counsel must note each of the exemptions that allowed for the meeting's closure.⁸⁴

The Act also requires the Commission to promulgate rules to further the purposes of the Compact.⁸⁵ However, the Act provides that where a majority of legislatures of the member states vote to reject a rule, then the rule will have no force in any of the Compacting states.⁸⁶

Additionally, the Act requires that Rules promulgated by the Interstate Commission be published and accompanied by the reasoning supporting the rule's creation.⁸⁷ In addition, the Act requires the Commission to allow both supporters and opponents of the proposed rule to publicly provide arguments and data for and against it and to provide the opportunity for an informal hearing.⁸⁸ Finally, the Act mandates that the Commission promulgate a final rule, as well as a date upon which the rule becomes effective.⁸⁹

Nonetheless, under the Act's provisions, an interested individual may, within sixty days, after a rule's promulgation, challenge the rule in either the Federal District Court for the District of Columbia, or the Federal District Court where the Commission's principal office is

81. *Id.*

82. *See* O.C.G.A. § 42-9-81 (2002).

83. *Id.*

84. *Id.*

85. *Id.*

86. *Id.*

87. *Id.*

88. O.C.G.A. § 42-9-81 (2002).

89. *Id.*

located.⁹⁰ If, after review, the court finds that the rule is not supported by “substantial evidence,” then it may find it unlawful and set it aside.⁹¹

The Act lists ten issues that must be entertained by the Commission within twelve months of its first meeting. Among those subjects, the Act requires the Commission to address victim notification, offender registration, transfer eligibility for adult offenders, and dispute resolution between member states.⁹² Furthermore, although the Act does not expressly repeal the “Uniform Act for Out of State Parolee Supervision,” it does provide that the rules created thereunder shall be “null and void twelve months” after the Commission’s first meeting.⁹³

Finally, in regards to the rule-making power of the Commission, the Act provides that if the Interstate Commission determines that an emergency exists, it may create an “emergency rule” that becomes effective immediately upon adoption.⁹⁴ However, the Act also requires that such rules be subjected to normal rule-making procedures within ninety days after creation.⁹⁵

In addition, the Act requires courts and executive agencies in Georgia to enforce the Compact and the rules promulgated thereunder.⁹⁶ Moreover, the Act provides that the Interstate Commission receive all services of process, as well as have standing to intervene in all administrative or judicial proceedings involving issues that could affect the “powers, responsibilities, or actions of the [Commission].”⁹⁷ Similarly, the Act mandates the Interstate Commission to create rules providing for mediation and dispute resolution among members of the Commission.⁹⁸

90. O.C.G.A. § 42-9-81 (2002).

91. *Id.*

92. *Id.*

93. *Id.*

94. O.C.G.A. § 42-9-81 (2002).

95. *Id.*

96. *Id.*

97. *Id.*

98. *Id.*

Regarding extradition, the Act provides that officers from a sending state may enter the receiving state and retake an adult offender at anytime.⁹⁹ Furthermore, the Act expressly waives all pre-existing legal requirements for extraditing fugitive adult offenders where both the sending and receiving states are members to the Compact.¹⁰⁰

The Act goes on to express that a receiving state has no power to review the decision of a sending state to retake an adult offender, unless the offender is either suspected of having committed a crime in the receiving state, or is a defendant in a criminal prosecution by the receiving state.¹⁰¹ In the event that either of these exceptions applies, the Act mandates that the offender shall not be taken, unless the receiving state consents to his extradition, or he is discharged from prosecution or imprisonment for the crime.¹⁰² In addition, the Act states that officers of a receiving state shall be allowed to transport a retaken offender through any state that is a member to the Compact without hindrance.¹⁰³

As previously noted, the Act allows the Interstate Commission to levy and collect annual dues from each member state to cover the costs of its annual budget.¹⁰⁴ While the Act allows the Commission to choose the formula to be used for determining each state's assessment, it also provides that such a formula consider the population of the state as well as the amount of offender traffic moving in and out of it.¹⁰⁵ In addition, the Act prohibits the Commission from incurring debts for which payment is not secured, and forbids it from "pledging the credit" of any member state without that state's permission.¹⁰⁶ Also, the Act mandates that the Commission shall be audited on an annual basis, and that such

99. *Id.*

100. *See* O.C.G.A. § 42-9-81 (Supp. 2002).

101. *Id.*

102. *Id.*

103. *Id.*

104. *Id.*

105. *Id.*

106. *See* O.C.G.A. § 42-9-81 (2002).

findings shall be part of the Commission's annual report to its members.¹⁰⁷

The Act further stipulates that the Compact shall not become binding upon Georgia until it has been enacted by at least 34 other states.¹⁰⁸ Moreover, the Act mandates that it will not become effective in Georgia until the latter of July 1, 2002, or the date upon which enacted by the thirty-fifth state.¹⁰⁹ The Act also provides that the Compact cannot be amended without unanimous consent of all member states.¹¹⁰

In accordance with the Act, Georgia may withdraw from the Compact by enacting a statute that specifically repeals the Act itself.¹¹¹ The withdrawal shall be effective immediately upon passage of such legislation.¹¹² The Act requires that upon the introduction of legislation to repeal the Compact, the withdrawing state must immediately notify the Chairperson of the Commission in writing.¹¹³ Within 60 days of receipt of the notice to withdraw, the Commission is required to notify all other member states of the withdrawing state's intent to withdraw.¹¹⁴

While a state may withdraw at anytime, it is nonetheless liable for all assessments and obligations incurred through the effective date of its withdrawal.¹¹⁵ Conversely, a withdrawn state may reinstate itself as a member of the Compact by passing legislation that specifically re-enacts the Compact.¹¹⁶

In the event that the Interstate Commission determines that a member state has "defaulted" on any of its obligations, the Act allows the Commission to impose three specific penalties upon that state.¹¹⁷ The Commission may fine a state, subject it to "remedial training,"

107. *Id.*

108. *Id.*

109. *Id.*

110. *Id.*

111. *Id.*

112. O.C.G.A. § 42-9-81 (Supp. 2002).

113. *Id.*

114. *Id.*

115. *Id.*

116. *Id.*

117. *Id.*

and/or suspend or terminate the state's membership in the Compact.¹¹⁸ However, the Act notes that suspension shall not be wielded unless "all other reasonable means of securing compliance" have been exercised.¹¹⁹

The Act provides that the grounds for default include failure of a member state to meet its responsibilities under the Compact, Commission by-laws, or Commission rules.¹²⁰ Should a member state be found in default, the Commission is required to notify that state in writing, and supply it with provisions for how the state may cure its default.¹²¹ The Commission must also give the state a specified time period for curing the default.¹²² However, if a state fails to cure within the given period, then the Act allows the Commission to terminate the state's membership by a majority vote of the other member states.¹²³ Following termination, a state may only be reinstated if its legislature re-enacts the statute and the Commission approves reinstatement.¹²⁴

The Act provides that the Interstate Commission may file suit against a defaulting state in either the United States District Court for the District of Columbia or the Federal District court where the Commission's offices are located, if supported by a majority vote of the member states.¹²⁵ Moreover, the Act specifies that where the Commission brings a suit against a member state, legal fees and reasonable attorney's fees shall be awarded to the prevailing party.¹²⁶

Additionally, the Act provides that any laws of a member state that conflict with the Compact's provisions, are "superseded to the extent of the conflict."¹²⁷ Similarly, the Act provides that all rules, by-laws, and actions promulgated by the Commission shall be legally binding

118. O.C.G.A. § 42-9-81 (Supp. 2002).

119. *Id.*

120. *Id.*

121. *Id.*

122. *Id.*

123. *Id.*

124. O.C.G.A. § 42-9-81 (Supp. 2002).

125. *Id.*

126. *Id.*

127. *Id.*

on all member states.¹²⁸ However, where a party requests an interpretation of a rule or act passed by the Commission, a majority vote by the member states will compel the Commission to issue an advisory opinion on the matter.¹²⁹ Additionally, where any provision of the Compact is found to be contrary to the constitution of any member state, the Commission's powers found thereunder shall be ineffective as to that state, and those powers shall be conferred on the agency to whom they were delegated at the time the state adopted the Compact.¹³⁰

Code Section 42-9-82

Finally, the Act stipulates that the Governor shall be responsible for establishing the "initial composition, terms, and compensation of the Georgia State Council for Interstate Adult Offender Supervision," as well as the "qualifications, term, and compensation" for the Compact Administrator.¹³¹ However, the Act also mandates that the Speaker of the House and the President of the Senate shall jointly make any appointment to the Council that represents the legislative branch.¹³² Similarly, the Chief Justice of the Georgia Supreme Court shall make all appointments to any position representing the judiciary.¹³³ In addition, the Act assigns the State Council the responsibility for choosing and appointing the Compact Administrator.¹³⁴

David Walker

128. *Id.*

129. *Id.*

130. O.C.G.A. § 42-9-82 (Supp. 2002).

131. O.C.G.A. § 42-9-82 (Supp. 2002).

132. *Id.*

133. *Id.*

134. *Id.*