

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SENATE BILL 1227

AN ACT

AMENDING SECTION 31-467, ARIZONA REVISED STATUTES; RELATING TO THE INTERSTATE
COMPACT FOR THE SUPERVISION OF PAROLEES AND PROBATIONERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 31-467, Arizona Revised Statutes, is amended to
3 read:

4 31-467. Adoption of interstate compact for the supervision of
5 adult offenders

6 The governor is authorized and directed to enter into a compact on
7 behalf of the state of Arizona with any of the United States lawfully joined
8 in the compact in a form substantially as follows:

9 ARTICLE I

10 PURPOSE

11 A. Arizona and the compacting states to this interstate compact
12 recognize that each state is responsible for the supervision of adult
13 offenders in the community who are authorized pursuant to the bylaws and
14 rules of this compact to travel across state lines both to and from each
15 compacting state in such a manner as to track the location of offenders,
16 transfer supervision authority in an orderly and efficient manner and when
17 necessary return offenders to the originating jurisdictions. The compacting
18 states also recognize that Congress, by enacting the crime control act, 4
19 United States Code section 112 (1965), has authorized and encouraged compacts
20 for cooperative efforts and mutual assistance in the prevention of crime.

21 B. It is the purpose of this compact and the interstate commission
22 created under this compact, through means of joint and cooperative action
23 among the compacting states to do all of the following:

24 1. Provide the framework for the promotion of public safety and
25 protect the rights of victims through the control and regulation of the
26 interstate movement of offenders in the community.

27 2. Provide for the effective tracking, supervision and rehabilitation
28 of these offenders by the sending and receiving states.

29 3. Equitably distribute the costs, benefits and obligations of the
30 compact among the compacting states.

31 C. In addition, this compact will do all of the following:

32 1. Create an interstate commission that will establish uniform
33 procedures to manage the movement between states of adults placed under
34 community supervision and released to the community under the jurisdiction of
35 courts, paroling authorities, corrections or other criminal justice agencies
36 that will promulgate rules to achieve the purpose of this compact.

37 2. Ensure an opportunity for input and timely notice to victims and to
38 jurisdictions where defined offenders are authorized to travel or to relocate
39 across state lines.

40 3. Establish a system of uniform data collection, access to
41 information on active cases by authorized criminal justice officials and
42 regular reporting of compact activities to heads of state councils, state
43 executive, judicial and legislative branches and criminal justice
44 administrators.

1 compliance with the provisions of the compact, its bylaws and as directed by
2 the interstate commission and performs other duties as directed by the
3 commission or set forth in the bylaws.

4 ARTICLE IV

5 THE STATE COUNCIL

6 A. Arizona shall create a state council for interstate adult offender
7 supervision that is responsible for the appointment of the commissioner who
8 shall serve on the interstate commission from Arizona. The commissioner
9 shall be the compact administrator or designee.

10 B. The membership of the state council shall include one legislator
11 who is appointed by the speaker of the house of representatives, one
12 legislator who is appointed by the president of the senate, one victim's
13 advocate who is appointed by the governor, the deputy compact administrator
14 of the state department of corrections who is appointed by the director of
15 the state department of corrections, the deputy compact administrator of the
16 administrative office of the courts who is appointed by the director of the
17 administrative office of the courts, one judge who is appointed by the chief
18 justice of the supreme court, one sheriff appointed by the Arizona sheriff's
19 association and any other members determined by the state council.

20 C. The state council shall exercise oversight and advocacy concerning
21 Arizona's participation in interstate commission activities and other duties
22 as determined by the council's members including the development of policy
23 concerning operations and procedures of the compact within Arizona.

24 ARTICLE V

25 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

26 The interstate commission shall have the following powers and duties:

27 1. To adopt a seal and suitable bylaws governing the management and
28 operation of the interstate commission.

29 2. To promulgate rules and take action consistent with this compact.

30 3. To oversee, supervise and coordinate the interstate movement of
31 offenders subject to the terms of this compact and any bylaws adopted and
32 rules promulgated by the interstate commission.

33 4. To enforce compliance with compact provisions, interstate
34 commission rules and bylaws, using all necessary and proper means, including
35 judicial process.

36 5. To establish and maintain offices.

37 6. To purchase and maintain insurance and bonds.

38 7. To borrow, accept or contract for services of personnel, including
39 members and members' staffs.

40 8. To establish and appoint committees and hire staff it deems
41 necessary to carry out its functions, including an executive committee as
42 required by article III that may act on behalf of the interstate commission
43 in carrying out its powers and duties under this compact.

1 state, the bylaws shall exclusively govern the personnel policies and
2 programs of the interstate commission.

3 7. Providing a mechanism for winding up the operations of the
4 interstate commission and the equitable return of any surplus funds that
5 exist on the termination of the compact after paying or reserving all of its
6 debts and obligations.

7 8. Providing transition rules for start up administration of the
8 compact.

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

11 B. The interstate commission shall, by a majority vote of the members,
12 elect from among its members a chairperson and a vice-chairperson, each of
13 whom shall have the powers and duties specified in the bylaws. The
14 chairperson or, in the chairperson's absence or disability, the
15 vice-chairperson, shall preside at all meetings of the interstate commission.
16 The officers elected shall serve without compensation or remuneration from
17 the interstate commission. Subject to the availability of budgeted funds,
18 the officers shall be reimbursed for any actual and necessary costs and
19 expenses incurred by them in the performance of their duties and
20 responsibilities as officers of the interstate commission. The interstate
21 commission, through its executive committee, shall appoint or retain an
22 executive director for such period, on terms and conditions and for
23 compensation the interstate commission deems appropriate. The executive
24 director shall serve as secretary to the interstate commission, and hire and
25 supervise other staff authorized by the interstate commission, but shall not
26 be a member.

27 C. The interstate commission shall maintain its corporate books and
28 records in accordance with the bylaws.

29 D. The members, officers, executive director and employees of the
30 interstate commission shall be immune from suit and liability, either
31 personally or in their official capacity, for any claim for damage to or loss
32 of property or personal injury or other civil liability caused or arising out
33 of any actual or alleged act, error or omission that occurred within the
34 scope of interstate commission employment, duties or responsibilities. This
35 subsection shall not be construed to protect any person from suit or
36 liability for any damage, loss, injury or liability caused by the intentional
37 or willful and wanton misconduct of any person. The interstate commission
38 shall defend the commissioner of a compacting state, or his or her
39 representatives or employees, or the interstate commission's representatives
40 or employees, in any civil action seeking to impose liability, arising out of
41 any actual or alleged act, error or omission that occurred within the scope
42 of interstate commission employment, duties or responsibilities, or that the
43 defendant had a reasonable basis for believing occurred within the scope of
44 interstate commission employment, duties or responsibilities, if the actual
45 or alleged act, error or omission did not result from intentional wrongdoing

1 on the part of the person. The interstate commission shall indemnify and
2 hold the commissioner of a compacting state, the appointed designee or
3 employees, or the interstate commission's representatives or employees,
4 harmless in the amount of any settlement or judgment obtained against such
5 persons arising out of any actual or alleged act, error or omission that
6 occurred within the scope of interstate commission employment, duties or
7 responsibilities, or that such persons had a reasonable basis for believing
8 occurred within the scope of interstate commission employment, duties or
9 responsibilities, provided that the actual or alleged act, error or omission
10 did not result from gross negligence or intentional wrongdoing on the part of
11 the person.

12 ARTICLE VII

13 ACTIVITIES OF THE INTERSTATE COMMISSION

14 A. The interstate commission shall meet and take actions consistent
15 with the provisions of this compact.

16 B. Except as otherwise provided in this compact and unless a greater
17 percentage is required by the bylaws, in order to constitute an act of the
18 interstate commission, the act must be taken at a meeting of the interstate
19 commission and must receive an affirmative vote of a majority of the members
20 present.

21 C. Each member of the interstate commission has the right and power to
22 cast a vote to which that compacting state is entitled and to participate in
23 the business and affairs of the interstate commission. A member shall vote
24 in person on behalf of the state and shall not delegate a vote to another
25 member state. However, a state council shall appoint another authorized
26 representative, in the absence of the commissioner from that state, to cast a
27 vote on behalf of the member state at a specified meeting. The bylaws may
28 provide for members' participation in meetings by telephone or other means of
29 telecommunication or electronic communication. Any voting conducted by
30 telephone, or other means of telecommunication or electronic communication,
31 is subject to the same quorum requirements of meetings at which members are
32 present in person.

33 D. The interstate commission shall meet at least once during each
34 calendar year. The chairperson of the interstate commission may call
35 additional meetings at any time and, on the request of a majority of the
36 members, shall call additional meetings.

37 E. The interstate commission's bylaws shall establish conditions and
38 procedures under which the interstate commission shall make its information
39 and official records available to the public for inspection or copying. The
40 interstate commission may exempt from disclosure any information or official
41 records to the extent they would adversely affect personal privacy rights or
42 proprietary interests. In promulgating the rules, the interstate commission
43 may make available to law enforcement agencies records and information
44 otherwise exempt from disclosure, and may enter into agreements with law

1 enforcement agencies to receive or exchange information or records subject to
2 nondisclosure and confidentiality provisions.

3 F. Public notice shall be given of all meetings and all meetings shall
4 be open to the public, except as set forth in the rules or as otherwise
5 provided in the compact. The interstate commission shall promulgate rules
6 consistent with the principles contained in the government in THE sunshine
7 act (5 United States Code section 552b). The interstate commission and any
8 of its committees may close a meeting to the public if it determines by
9 two-thirds vote that an open meeting would be likely to:

10 1. Relate solely to the interstate commission's internal personnel
11 practices and procedures.

12 2. Disclose matters specifically exempted from disclosure by statute.

13 3. Disclose trade secrets or commercial or financial information that
14 is privileged or confidential.

15 4. Involve accusing any person of a crime, or formally censuring any
16 person.

17 5. Disclose information of a personal nature if disclosure would
18 constitute a clearly unwarranted invasion of personal privacy.

19 6. Disclose investigatory records compiled for law enforcement
20 purposes.

21 7. Disclose information contained in or related to examination,
22 operating or condition reports prepared by, or on behalf of or for the use
23 of, the interstate commission with respect to a regulated entity for the
24 purpose of regulation or supervision of the entity.

25 8. Disclose information, the premature disclosure of which would
26 significantly endanger the life of a person or the stability of a regulated
27 entity.

28 9. Specifically relate to the interstate commission's issuance of a
29 subpoena or its participation in a civil action or proceeding.

30 G. For every meeting closed pursuant to subsection F, the interstate
31 commission's chief legal officer shall publicly certify that, in the legal
32 officer's opinion, the meeting may be closed to the public and shall
33 reference each relevant exemptive provision. The interstate commission shall
34 keep minutes that shall fully and clearly describe all matters discussed in
35 any meeting and shall provide a full and accurate summary of any actions
36 taken, and the reasons for the actions taken, including a description of each
37 of the views expressed on any item and the record of any roll call vote,
38 reflected in the vote of each member on the question. All documents
39 considered in connection with any action shall be identified in the minutes.
40 The interstate commission shall collect standardized data concerning the
41 interstate movement of offenders as directed through its bylaws and rules
42 that specify the data to be collected, the means of collection and data
43 exchange and reporting requirements.

ARTICLE VIII

RULE MAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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3 A. The interstate commission shall promulgate rules to effectively and
4 efficiently achieve the purposes of the compact including transition rules
5 governing administration of the compact during the period in which it is
6 being considered and enacted by the states. Rule making shall occur pursuant
7 to the criteria set forth in this article and the bylaws and rules adopted
8 pursuant to this article. The rule making shall substantially conform to the
9 principles of the federal administrative procedure act, 5 U.S.C.S. section
10 551 et seq., and the federal advisory committee act, 5 U.S.C.S. App. 2,
11 section 1 et seq., as may be amended. All rules and amendments are binding
12 on the date specified in each rule or amendment.

13 B. If a majority of the legislatures of the compacting states rejects
14 a rule, by enactment of a statute or resolution in the same manner used to
15 adopt the compact, then the rule has no further force and effect in any
16 compacting state.

17 C. When promulgating a rule, the interstate commission shall:

18 1. Publish the proposed rule stating with particularity the text of
19 the rule that is proposed and the reason for the proposed rule.

20 2. Allow persons to submit written data, facts, opinions and
21 arguments, which shall be publicly available.

22 3. Provide an opportunity for an informal hearing.

23 4. Promulgate a final rule and its effective date, if appropriate,
24 based on the rule making record.

25 D. Not later than sixty days after a rule is promulgated, any
26 interested person may file a petition in the United States district court for
27 the District of Columbia or in the federal district court where the
28 interstate commission's principal office is located for judicial review of
29 the rule. If the court finds that the interstate commission's action is not
30 supported by substantial evidence as defined in the federal administrative
31 procedure act, in the rule making record, the court shall hold the rule
32 unlawful and set it aside. Subjects to be addressed within twelve months
33 after the first meeting must at a minimum include:

34 1. Notice to victims and opportunity to be heard.

35 2. Offender registration and compliance.

36 3. Violations and returns.

37 4. Transfer procedures and forms.

38 5. Eligibility for transfer.

39 6. Collection of restitution and fees from offenders.

40 7. Data collection and reporting.

41 8. The level of supervision to be provided by the receiving state.

42 9. Transition rules governing the operation of the compact and the
43 interstate commission during all or part of the period between the effective
44 date of the compact and the date on which the last eligible state adopts the
45 compact.

1 commission, taking into consideration the population of the state and the
2 volume of interstate movement of offenders in each compacting state and shall
3 promulgate a rule binding on all compacting states that governs the
4 assessment. Arizona's assessment shall not exceed twenty-five thousand FIVE
5 HUNDRED dollars per year unless approved by the state council and
6 appropriated by the legislature.

7 C. The interstate commission shall not incur any obligations of any
8 kind before securing the funds adequate to meet the obligations and shall not
9 pledge the credit of any of the compacting states, except by and with the
10 authority of the compacting state.

11 D. The interstate commission shall keep accurate accounts of all
12 receipts and disbursements. The receipts and disbursements of the interstate
13 commission are subject to the audit and accounting procedures established
14 under its bylaws. However, all receipts and disbursements of funds handled
15 by the interstate commission shall be audited yearly by a certified or
16 licensed public accountant and the report of the audit shall be included in
17 and become part of the annual report of the interstate commission.

18 ARTICLE XI

19 COMPACTING STATES, EFFECTIVE DATE AND AMENDMENTS

20 A. Any state, as defined in article II of this compact, is eligible to
21 become a compacting state. The compact shall become effective and binding on
22 legislative enactment of the compact into law by no less than thirty-five
23 states. The initial effective date shall be the later of July 1, 2001, or on
24 enactment into law by the thirty-fifth state. Thereafter it is effective and
25 binding, as to any other compacting state, on enactment of the compact into
26 law by that state. The governors of nonmember states or their designees
27 shall be invited to participate in interstate commission activities on a
28 nonvoting basis before adoption of the compact by all states and territories
29 of the United States.

30 B. Amendments to the compact may be proposed by the interstate
31 commission for enactment by the compacting states. No amendment is effective
32 and binding on the interstate commission and the compacting states unless and
33 until it is enacted into law by unanimous consent of the compacting states.

34 ARTICLE XII

35 WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

36 A. Once effective, the compact shall continue in force and remain
37 binding on each compacting state. A compacting state may withdraw from the
38 compact by enacting a statute specifically repealing the statute that enacted
39 the compact. The effective date of withdrawal is the effective date of the
40 repeal. The withdrawing state shall immediately notify the chairperson of
41 the interstate commission in writing on the introduction of legislation
42 repealing this compact in the withdrawing state. The interstate commission
43 shall notify the other compacting states of the withdrawing state's intent to
44 withdraw within sixty days of its receipt thereof. The withdrawing state is
45 responsible for all assessments, obligations and liabilities incurred through

1 the effective date of withdrawal, including any obligations, the performance
2 of which extend beyond the effective date of withdrawal. Reinstatement
3 following withdrawal of any compacting state shall occur on the withdrawing
4 state reenacting the compact or on such later date determined by the
5 interstate commission.

6 B. If the interstate commission determines that any compacting state
7 has at any time defaulted in the performance of any of its obligations or
8 responsibilities under this compact, the bylaws or any duly promulgated rules
9 the interstate commission may impose any or all of the following penalties:

10 1. Fines, fees and costs in amounts deemed to be reasonable as fixed
11 by the interstate commission.

12 2. Remedial training and technical assistance as directed by the
13 interstate commission.

14 3. Suspension and termination of membership in the compact.
15 Suspension shall be imposed only after all other reasonable means of securing
16 compliance under the bylaws and rules have been exhausted. Immediate notice
17 of suspension shall be given by the interstate commission to the governor,
18 the chief justice or chief judicial officer of the state, the majority and
19 minority leaders of the defaulting state's legislature and the state council.
20 The grounds for default include failure of a compacting state to perform
21 obligations or responsibilities imposed on it by this compact, interstate
22 commission bylaws or duly promulgated rules. The interstate commission shall
23 immediately notify the defaulting state in writing of the penalty imposed by
24 the interstate commission on the defaulting state pending a cure of the
25 default. The interstate commission shall stipulate the conditions and the
26 time period within which the defaulting state must cure its default. If the
27 defaulting state fails to cure the default within the time period specified
28 by the interstate commission, in addition to any other penalties imposed in
29 this subsection, the defaulting state may be terminated from the compact on
30 an affirmative vote of a majority of the compacting states and all rights,
31 privileges and benefits conferred by this compact shall be terminated from
32 the effective date of suspension. Within sixty days of the effective date of
33 termination of a defaulting state, the interstate commission shall notify the
34 governor, the chief justice or chief judicial officer and the majority and
35 minority leaders of the defaulting state's legislature and the state council
36 of the termination. The defaulting state is responsible for all assessments,
37 obligations and liabilities incurred through the effective date of
38 termination including any obligations, the performance of which extends
39 beyond the effective date of termination. The interstate commission shall
40 not bear any costs relating to the defaulting state unless otherwise mutually
41 agreed on between the interstate commission and the defaulting state.
42 Reinstatement following termination of any compacting state requires both a
43 reenactment of the compact by the defaulting state and the approval of the
44 interstate commission pursuant to the rules.

1 C. The interstate commission, by majority vote of the members, may
2 initiate legal action in the United States district court for the District of
3 Columbia or, at the discretion of the interstate commission, in the federal
4 district where the interstate commission has its offices to enforce
5 compliance with the provisions of the compact or its duly promulgated rules
6 and bylaws, against any compacting state in default. If judicial enforcement
7 is necessary, the prevailing party shall be awarded all costs of the
8 litigation including reasonable attorney fees.

9 D. The compact dissolves effective on the date of the withdrawal or
10 default of the compacting state that reduces membership in the compact to one
11 compacting state. On the dissolution of this compact, the compact becomes
12 null and void and shall be of no further force or effect and the business and
13 affairs of the interstate commission shall be wound up and any surplus funds
14 shall be distributed in accordance with the bylaws.

15 ARTICLE XIII

16 SEVERABILITY AND CONSTRUCTION

17 A. The provisions of this compact shall be severable, and if any
18 phrase, clause, sentence or provision is deemed unenforceable, the remaining
19 provisions of the compact shall be enforceable.

20 B. The provisions of this compact shall be liberally constructed to
21 effectuate its purposes.

22 ARTICLE XIV

23 EFFECT OF COMPACT

24 A. This compact does not diminish the constitutional authority of the
25 Arizona legislature.

26 B. This compact is not contrary to any law of the state of Arizona.
27 Notwithstanding any other law of the state of Arizona, this compact shall
28 govern the interstate supervision of adult offenders.

29 C. The interstate commission shall promulgate rules and take action
30 consistent with this compact that are binding on the state of Arizona as to
31 the interstate supervision of adult offenders unless and to the extent the
32 rules or action conflict with Arizona statutes.

33 D. Nothing in this section prevents the enforcement of any other
34 Arizona law that is not inconsistent with this compact.

35 E. All agreements between the interstate commission and the compacting
36 states are binding in accordance with the terms of the agreement. On the
37 request of a party to a conflict over meaning or interpretation of interstate
38 commission actions, and on a majority vote of the compacting states, the
39 interstate commission may issue advisory opinions regarding such meaning or
40 interpretation.

41 F. If any provision of this compact exceeds the constitutional limits
42 imposed on the legislature of any compacting state, the obligations, duties,
43 powers or jurisdiction sought to be conferred by the provision on the
44 interstate commission is ineffective and the obligations, duties, powers or
45 jurisdiction shall remain in the compacting state and shall be exercised by

1 the agency to which the obligations, duties, powers or jurisdiction are
2 delegated by law in effect at the time this compact becomes effective.

3 Sec. 2. Emergency

4 This act is an emergency measure that is necessary to preserve the
5 public peace, health or safety and is operative immediately as provided by
6 law.