

Committee Substitute for
Committee Substitute for Senate Bill No. 306

An act relating to public protection; amending s. 944.605, F.S.; requiring that the state attorney and a victim's parent, guardian, next of kin, or lawful representative be notified under certain circumstances after the inmate who committed the crime is approved for community work release; amending s. 958.07, F.S.; authorizing the victim of a crime or the victim's parent, guardian, or next of kin to review the presentence investigation report under certain circumstances; amending s. 960.001, F.S.; requiring that a victim's parent, guardian, or representative be allowed to be informed, present, and heard in a criminal or juvenile proceeding; requiring that a crime victim or witness be informed of the address confidentiality program; requiring notice when an inmate is approved for community work release; requiring that the victim of a sex offense be informed of the right to have the courtroom cleared of certain persons when the victim is testifying about the offense; prescribing standing of certain persons to assert a victim's rights; amending s. 921.143, F.S.; prescribing the right of the parent or guardian of a minor victim, or the lawful representative of any of them, to appear and make a statement at a sentencing hearing; amending s. 944.606, F.S.; requiring notification of the victim, the victim's parent or guardian when the victim is a minor, the lawful representative of any of them, or the next of kin of a homicide victim when a sexual offender is being released; amending s. 948.10, F.S.; requiring notification of the victim, the victim's parent or guardian when the victim is a minor, or the next of kin of a homicide victim when an offender is placed on community control; amending s. 960.28, F.S.; prohibiting a medical provider who performs an initial forensic examination from billing the parent or guardian of a minor victim for that examination; amending s. 949.07, F.S.; providing a compact for the supervision of adult offenders; authorizing and directing the Governor to enter into the compact on behalf of the state; providing purpose; providing definitions; providing for an Interstate Commission; providing for governance of the commission; providing for a State Council for Interstate Adult Offender Supervision; providing for membership of the state council; specifying powers and duties of the Interstate Commission; providing for organization and operation of the commission; providing activities of the commission; authorizing the commission to adopt rules; providing for oversight, enforcement, and resolution of disputes between compacting states; providing for financing the activities of the commission; providing for the effective date of the compact; providing for withdrawal, default, or termination of member states; providing for judicial enforcement; providing for severability and construction of the compact; providing that the compact binds the member states; amending s. 949.071, F.S.; redefining the term "state" for purposes of the compact; creating s. 949.072, F.S.; establishing the State Council for Interstate Adult

Offender Supervision; providing for membership and duties; amending s. 949.08, F.S.; providing certain limitations on the amount paid by the state under the compact; amending s. 949.09, F.S.; redesignating ss. 949.07-949.08, F.S., as the "Interstate Compact for Adult Offender Supervision"; providing an effective date.

WHEREAS, the Interstate Compact for the Supervision of Parolees and Probationers was established in 1937, is the earliest corrections compact established among the states, and has not been amended since its adoption over 62 years ago, and

WHEREAS, the complexities of the compact have become more difficult to administer, and many jurisdictions have expanded supervision expectations to include practices that are currently unregulated, such a victim input, victim-notification requirements, and sex-offender registration, and

WHEREAS, upon the adoption of the Interstate Compact for Adult Offender Supervision, it is the intent of the Legislature to repeal the previous Interstate Compact for the Supervision of Parolees and Probationers on the effective date of this act, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 944.605, Florida Statutes, is amended to read:

944.605 Inmate release; notification.—

(1) Within 6 months before the release of an inmate from the custody of the Department of Corrections or a private correctional facility by expiration of sentence under s. 944.275, any release program provided by law, or parole under chapter 947, or as soon as possible if the offender is released earlier than anticipated, notification of such anticipated release date shall be made known by the Department of Corrections ~~appropriate agency~~ to the chief judge of the circuit in which the offender was sentenced, the appropriate state attorney, the original arresting law enforcement agency, the Department of Law Enforcement, and the sheriff as chief law enforcement officer of the county in which the inmate plans to reside. In addition, unless otherwise requested by the victim, the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, the victim's next of kin in the case of a homicide, or the personal representative of the victim, the state attorney ~~or, the Department of Corrections, the Control Release Authority, or the Parole Commission,~~ whichever is appropriate, shall notify such person within 6 months before the inmate's release, or as soon as possible if the offender is released earlier than anticipated, when the name and address of such victim, or the name and address of the parent, guardian, next of kin, or lawful representative of the victim has been furnished to the agency. The state attorney shall provide the latest address documented for the victim, or for the victim's parent, guardian, next of kin, or lawful representative, as applicable, to the sheriff with the other documents required by law for the delivery of inmates to those agencies for service of sentence. Upon request,

within 30 days after an inmate is approved for community work release, the state attorney, the victim, the victim's parent or guardian if the victim is a minor, the victim's next of kin in the case of a homicide, or the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor shall be notified that the inmate has been approved for community work release. For the purposes of this section, the Parole Commission or the Control Release Authority is the appropriate agency for any type of release it grants, and the Department of Corrections is the appropriate agency for any type of release it authorizes. This section does not imply any repeal or modification of any provision of law relating to notification of victims.

Section 2. Section 958.07, Florida Statutes, is amended to read:

958.07 Presentence report; access by defendant.—The defendant is entitled to an opportunity to present to the court facts which would materially affect the decision of the court to adjudicate the defendant a youthful offender. The defendant, his or her attorney, and the state shall be entitled to inspect all factual material contained in the comprehensive presentence report or diagnostic reports prepared or received by the department. The victim, the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, or the victim's next of kin in the case of a homicide may review the presentence investigation report as provided in s. 960.001(1)(g)2. The court may withhold from disclosure to the defendant and his or her attorney sources of information which have been obtained through a promise of confidentiality. In all cases in which parts of the report are not disclosed, the court shall state for the record the reasons for its action and shall inform the defendant and his or her attorney that information has not been disclosed.

Section 3. Paragraphs (a), (c), (e), (g), and (q) of subsection (1) and subsection (7) of section 960.001, Florida Statutes, are amended to read:

960.001 Guidelines for fair treatment of victims and witnesses in the criminal justice and juvenile justice systems.—

(1) The Department of Legal Affairs, the state attorneys, the Department of Corrections, the Department of Juvenile Justice, the Parole Commission, the State Courts Administrator and circuit court administrators, the Department of Law Enforcement, and every sheriff's department, police department, or other law enforcement agency as defined in s. 943.10(4) shall develop and implement guidelines for the use of their respective agencies, which guidelines are consistent with the purposes of this act and s. 16(b), Art. I of the State Constitution and are designed to implement the provisions of s. 16(b), Art. I of the State Constitution and to achieve the following objectives:

(a) Information concerning services available to victims of adult and juvenile crime.—Witness coordination offices as provided in s. 43.35 shall gather information regarding the following services in the geographic boundaries of their respective circuits and shall provide such information to each law enforcement agency with jurisdiction within such geographic boundaries. Law enforcement personnel shall ensure, through distribution

of a victim's rights information card or brochure at the crime scene, during the criminal investigation, and in any other appropriate manner, that victims are given, as a matter of course at the earliest possible time, information about:

1. The availability of crime victim compensation, when applicable;
2. Crisis intervention services, supportive or bereavement counseling, social service support referrals, and community-based victim treatment programs;
3. The role of the victim in the criminal or juvenile justice process, including what the victim may expect from the system as well as what the system expects from the victim;
4. The stages in the criminal or juvenile justice process which are of significance to the victim and the manner in which information about such stages can be obtained;
5. The right of a victim, who is not incarcerated, including the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, and the next of kin of a homicide victim, to be informed, to be present, and to be heard when relevant, at all crucial stages of a criminal or juvenile proceeding, to the extent that this right does not interfere with constitutional rights of the accused, as provided by s. 16(b), Art. I of the State Constitution;
6. In the case of incarcerated victims, the right to be informed and to submit written statements at all crucial stages of the criminal proceedings, parole proceedings, or juvenile proceedings; and
7. The right of a victim to a prompt and timely disposition of the case in order to minimize the period during which the victim must endure the responsibilities and stress involved to the extent that this right does not interfere with the constitutional rights of the accused.

(c) Information concerning protection available to victim or witness.—A victim or witness shall be furnished, as a matter of course, with information on steps that are available to law enforcement officers and state attorneys to protect victims and witnesses from intimidation. Victims of domestic violence shall also be given information about the address confidentiality program provided under s. 741.403.

(e) Advance notification to victim or relative of victim concerning judicial proceedings; right to be present.—Any victim, parent, guardian, or lawful representative ~~relative~~ of a minor who is a victim, or relative of a homicide victim shall receive from the appropriate agency, at the address found in the police report or the victim notification card if such has been provided to the agency, prompt advance notification, unless the agency itself does not have advance notification, of judicial and postjudicial proceedings relating to his or her case, including all proceedings or hearings relating to:

1. The arrest of an accused;

2. The release of the accused pending judicial proceedings or any modification of release conditions; and

3. Proceedings in the prosecution or petition for delinquency of the accused, including the filing of the accusatory instrument, the arraignment, disposition of the accusatory instrument, trial or adjudicatory hearing, sentencing or disposition hearing, appellate review, subsequent modification of sentence, collateral attack of a judgment, and, when a term of imprisonment, detention, or residential commitment is imposed, the release of the defendant or juvenile offender from such imprisonment, detention, or residential commitment by expiration of sentence or parole and any meeting held to consider such release.

A victim, a victim's parent or guardian if the victim is a minor, a lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, or a victim's next of kin may not be excluded from any portion of any hearing, trial, or proceeding pertaining to the offense based solely on the fact that such person is subpoenaed to testify, unless, upon motion, the court determines such person's presence to be prejudicial. The appropriate agency with respect to notification under subparagraph 1. is the arresting law enforcement agency, and the appropriate agency with respect to notification under subparagraphs 2. and 3. is the Attorney General or state attorney, unless the notification relates to a hearing concerning parole, in which case the appropriate agency is the Parole Commission. The Department of Corrections, the Department of Juvenile Justice, or the sheriff is the appropriate agency with respect to release by expiration of sentence or any other release program provided by law. Any victim may waive notification at any time, and such waiver shall be noted in the agency's files.

~~(g)~~4. Consultation with victim or guardian or family of victim.—

1. In addition to being notified of the provisions of s. 921.143, the victim of a felony involving physical or emotional injury or trauma or, in a case in which the victim is a minor child or in a homicide, the guardian or family of the victim shall be consulted by the state attorney in order to obtain the views of the victim or family about the disposition of any criminal or juvenile case brought as a result of such crime, including the views of the victim or family about:

- a. The release of the accused pending judicial proceedings;
- b. Plea agreements;
- c. Participation in pretrial diversion programs; and
- d. Sentencing of the accused.

2. Upon request, the state attorney shall permit the victim, the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, or the victim's next of kin in the case of a homicide to review a copy of the presentence investigation report prior to the sentencing hearing if one was completed. Any confidential information that pertains to medical history, men-

tal health, or substance abuse and any information that pertains to any other victim shall be redacted from the copy of the report. Any person who reviews the report pursuant to this paragraph must maintain the confidentiality of the report and shall not disclose its contents to any person except statements made to the state attorney or the court.

3. When an inmate has been approved for community work release, the Department of Corrections shall, upon request and as provided in s. 944.605, notify the victim, the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, or the victim's next of kin if the victim is a homicide victim.

(q) Presence of victim advocate during discovery deposition; testimony of victim of a sexual offense.—At the request of the victim or the victim's parent, guardian, or lawful representative, the victim advocate designated by state attorney's office, sheriff's office, or municipal police department, or one representative from a not-for-profit victim services organization, including, but not limited to, rape crisis centers, domestic violence advocacy groups, and alcohol abuse or substance abuse groups shall be permitted to attend and be present during any deposition of the victim. The victim of a sexual offense shall be informed of the right to have the courtroom cleared of certain persons as provided in s. 918.16 when the victim is testifying concerning that offense.

(7) The victim of a crime, the victim's parent or guardian if the victim is a minor, and the state attorney, with the consent of the victim or the victim's parent or guardian if the victim is a minor, have standing to assert the rights of a crime victim which are provided by law or s. 16(b), Art. I of the State Constitution.

Section 4. Subsections (1) and (2) of section 921.143, Florida Statutes, are amended to read:

921.143 Appearance of victim or next of kin to make statement at sentencing hearing; submission of written statement.—

(1) At the sentencing hearing, and prior to the imposition of sentence upon any defendant who has been convicted of any felony or who has pleaded guilty or nolo contendere to any crime, including a criminal violation of a provision of chapter 316, the sentencing court shall permit the victim of the crime for which the defendant is being sentenced, the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, or the next of kin of the victim if the victim has died from causes related to the crime, to:

(a) Appear before the sentencing court for the purpose of making a statement under oath for the record; and

(b) Submit a written statement under oath to the office of the state attorney, which statement shall be filed with the sentencing court.

(2) The state attorney or any assistant state attorney shall advise all victims or, when appropriate, the victim's parent, guardian, their next of

kin, or lawful representative that statements, whether oral or written, shall relate to the facts of the case and the extent of any harm, including social, psychological, or physical harm, financial losses, loss of earnings directly or indirectly resulting from the crime for which the defendant is being sentenced, and any matter relevant to an appropriate disposition and sentence.

Section 5. Paragraph (b) of subsection (3) of section 944.606, Florida Statutes, is amended to read:

944.606 Sexual offenders; notification upon release.—

(3)

(b) The department must provide the information described in subparagraph (a)1. to:

1. The sheriff of the county from where the sexual offender was sentenced;

2. The sheriff of the county and, if applicable, the police chief of the municipality, where the sexual offender plans to reside;

3. The Florida Department of Law Enforcement; ~~and~~

4. When requested, the victim of the offense, the victim's parent or legal guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, or the next of kin if the victim is a homicide victim; and

~~5.4.~~ Any person who requests such information,

either within 6 months prior to the anticipated release of a sexual offender, or as soon as possible if an offender is released earlier than anticipated. All such information provided to the Department of Law Enforcement must be available electronically as soon as the information is in the agency's database and must be in a format that is compatible with the requirements of the Florida Crime Information Center.

Section 6. Subsection (6) of section 948.10, Florida Statutes, is amended to read:

948.10 Community control programs.—

(6) Upon written request, when an offender is placed on community control, the department shall notify:

(a) The original arresting law enforcement agency;

(b) The sheriff or chief law enforcement officer of the county in which the offender is to be placed; ~~and~~

(c) The chief officer of any local law enforcement agency within whose jurisdiction the offender is to be placed.

(d) The victim of the offense, the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or the victim's parent or guardian if the victim is a minor, or the next of kin if the victim is a homicide victim.

Such notification shall include the name and street address of the offender, the length of supervision, and the nature of the offense. Update notification must be provided with respect to violation of the terms or conditions of the placement.

Section 7. Subsection (1) of section 960.28, Florida Statutes, is amended to read:

960.28 Payment for victims' initial forensic physical examinations.—

(1) A medical provider who performs an initial forensic physical examination may not bill a victim or the victim's parent or guardian if the victim is a minor directly or indirectly for that examination.

Section 8. Section 949.07, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 949.07, F.S., for present text.)

949.07 Compact for the supervision of adult offenders.—

(1) The Legislature finds and declares that this section is necessary for the immediate preservation of the public peace, health, and safety.

(2) The Governor is authorized and directed to enter into a compact on behalf of the state with any state of the United States legally joining therein in a form substantially as follows:

ARTICLE I PURPOSE

(1) The compacting states to this interstate compact recognize that each state is responsible for the supervision of adult offenders in the community who are authorized pursuant to the by-laws and rules of this 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. The compacting states also recognize that Congress, by enacting the "Crime Control Act," 4 U.S.C. s. 112, has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

(2) It is the purpose of this compact and the Interstate Commission created hereunder, 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.

(3) In addition, this compact:

(a) Creates an Interstate Commission that will establish uniform procedures and rules for managing the movement between states of adults placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities, corrections agencies, or other criminal justice agencies;

(b) 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;

(c) 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;

(d) Provides for monitoring compliance with rules governing interstate movement of offenders and initiating interventions to address and correct noncompliance; and

(e) Provides for coordinating training and education regarding regulations of interstate movement of offenders for officials involved in such activity.

(4) The compacting states recognize that offenders have no right to live in another state and that duly accredited officers of a sending state may at all times enter a receiving state and apprehend and retake any offender under supervision subject to the provisions of this compact and by-laws and rules adopted under this compact. It is the policy of the compacting states that the purpose of the Interstate Commission is the formation of public policies and that the commission's activities therefore constitute public business.

ARTICLE II DEFINITIONS

(1) As used in this compact, the term:

(a) "Adult" refers to individuals legally classified as adults and to juveniles treated as adults by court order, statute, or operation of law.

(b) "By-laws" means those by-laws established by the Interstate Commission for its governance or for directing or controlling the Interstate Commission's actions or conduct.

(c) "Compact administrator" means the individual in each compacting state appointed pursuant to the terms of this compact who is responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the

Interstate Commission, and policies adopted by the state council under this compact.

(d) “Compacting state” means any state that has enacted the enabling legislation for this compact.

(e) “Commissioner” means the voting representative of each compacting state appointed pursuant to article III of this compact.

(f) “Interstate Commission” means the Interstate Commission for Adult Offender Supervision established by this compact.

(g) “Member” means the commissioner of a compacting state or designee, who must be a person officially connected with the commissioner.

(h) “Noncompacting state” means any state that has not enacted the enabling legislation for this compact.

(i) “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 agencies, or other criminal justice agencies.

(j) “Person” means any individual, corporation, business enterprise, or other legal entity, either public or private.

(k) “Rules” means acts of the Interstate Commission, duly adopted pursuant to article VIII of this compact, substantially affecting interested parties in addition to the Interstate Commission, which shall have the force and effect of law in the compacting states.

(l) “State” means a state of the United States, the District of Columbia, and any other territorial possessions of the United States.

(m) “State council” means the resident members of the State Council for Interstate Adult Offender Supervision created by each state under article IV of this compact.

ARTICLE III THE COMPACT COMMISSION

(1) The compacting states hereby create the Interstate Commission for Adult Offender Supervision. The Interstate Commission shall be a body corporate and a joint agency of the compacting states. The Interstate Commission shall have all the responsibilities, powers, and duties set forth in this compact, including the power to sue and be sued, and such additional powers as are conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(2) The Interstate Commission shall 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 shall

include individuals who are not commissioners but who are members of interested organizations. Such noncommissioner members shall include a member of the national organizations of governors, legislators, state chief justices, attorneys general, and crime victims. All noncommissioner members of the Interstate Commission shall be ex officio, nonvoting members. The Interstate Commission may provide in its by-laws for such additional, ex officio, nonvoting members as it deems necessary.

(3) Each compacting state represented at any meeting of the Interstate Commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the by-laws of the Interstate Commission.

(4) The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of 27 or more compacting states, shall call additional meetings. Public notice shall be given of all meetings, and meetings shall be open to the public.

(5) The Interstate Commission shall establish an executive committee that shall include commission officers, members, and others as determined by the by-laws. The executive committee shall 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 and amendments 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 and its by-laws and as directed by the Interstate Commission; and performs other duties as directed by the Interstate Commission or set forth in the by-laws.

ARTICLE IV THE STATE COUNCIL

(1) Each member state shall create a State Council for Interstate Adult Offender Supervision, which shall appoint the commissioner who shall serve on the Interstate Commission from that state. Each state council shall appoint as its commissioner the compact administrator from that state to serve on the Interstate Commission in such capacity under or pursuant to applicable law of the member state. While each member state may determine the membership of its own state council, its membership must include at least one representative each from victims groups and compact administrators.

(2) The State Council for Interstate Adult Offender Supervision in this state shall consist of seven members. These members shall include the compact administrator, a representative from a victim's assistance organization, and one at-large member.

(a) The Secretary of Corrections, or the secretary's designee, shall serve as compact administrator and chairperson of the State Council for Interstate Adult Offender Supervision. If the Secretary of Corrections elects to appoint a designee, the designee shall be:

1. The Deputy Secretary of Corrections;
 2. The Director of the Office of Community Corrections; or
 3. The bureau chief in the Office of Community Corrections that has operational authority over the Interstate Compact Bureau.
- (b) The Governor shall appoint the remaining members of the State Council.
- (c) The term of office of a member is 4 years.
- (d) The State Council shall meet at least twice a year.
- (e) The State Council may advise the Compact Administrator on participation in the Interstate Commission activities and administration of the compact.
- (3) Members of the council are entitled to reimbursement for travel and expenses related to the Interstate Commission as provided by state law.
- (4) The State Council shall exercise oversight and advocacy concerning its participation in Interstate Commission activities and other duties as determined by each member state, including, but not limited to, development of policy concerning operations and procedures of the compact within that state.

ARTICLE V
POWERS AND DUTIES OF
THE INTERSTATE COMMISSION

- (1) The Interstate Commission may:
- (a) Adopt a seal and suitable by-laws governing the management and operation of the Interstate Commission.
 - (b) Adopt rules that shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.
 - (c) Oversee, supervise, and coordinate the interstate movement of offenders subject to the terms of this compact and any by-laws and rules adopted by the Interstate Commission.
 - (d) Enforce compliance with compact provisions, Interstate Commission rules, and by-laws using all necessary and proper means, including, but not limited to, the use of the judicial process.
 - (e) Establish and maintain offices.
 - (f) Purchase and maintain insurance and bonds.
 - (g) Borrow, accept, or contract for services of personnel, including, but not limited to, members and their staffs.

(h) Establish and appoint committees and hire staff that it deems necessary for the carrying out of its functions, including, but not limited to, an executive committee as required by article III, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties under this compact.

(i) Elect or appoint such officers, attorneys, employees, agents, or consultants as the commission considers necessary, and to fix their compensation, define their duties, and determine their qualifications, and to establish the commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel.

(j) Accept any and all donations and grants of money, equipment, supplies, materials, and services, and receive, use, and dispose of the same.

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

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

(m) Establish a budget and make expenditures and levy dues as provided in article X of this compact.

(n) Sue and be sued.

(o) Provide for dispute resolution among compacting states.

(p) Perform functions necessary or appropriate to achieve the purposes of this compact.

(q) Report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the commission during the preceding year. Such reports must also include any recommendations that may have been adopted by the commission.

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

(s) Establish uniform standards for reporting, collecting, and exchanging data.

ARTICLE VI
ORGANIZATION AND OPERATION
OF THE INTERSTATE COMMISSION

(1) BY-LAWS.—The Interstate Commission, by a majority of the members, within 1 year after the first commission meeting, shall adopt by-laws to govern its conduct as necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

(a) Establishing the fiscal year of the commission.

(b) Establishing an executive committee and other committees as necessary and providing reasonable standards and procedures:

1. For the establishment of committees; and
2. Governing any general or specific delegation of any authority or function of the commission.

(c) Providing reasonable procedures for calling and conducting meetings of the commission and for ensuring reasonable notice of each meeting.

(d) Establishing the titles and responsibilities of the officers of the commission.

(e) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any compacting state, the by-laws shall exclusively govern the personnel policies and programs of the commission.

(f) Providing a mechanism for concluding the operations of the 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.

(g) Providing transition rules for the implementation of the compact.

(h) Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

(2) OFFICERS AND STAFF.—

(a) The Interstate Commission, by a majority of the members, shall elect from among its members a chairperson and a vice chairperson, each of whom shall have the authorities and duties specified in the by-laws. The chairperson or, in his or her absence or disability, the vice chairperson, shall preside at all meetings of the commission. The officers so elected shall serve without compensation or remuneration from the commission. However, subject to the availability of budgeted funds, the officers shall 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 commission.

(b) The commission, through its executive committee, shall appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation as the commission deems appropriate. The executive director shall serve as secretary to the commission and hire and supervise other staff as authorized by the commission, but may not be a member.

(3) CORPORATE RECORDS OF THE INTERSTATE COMMISSION.—
The Interstate Commission shall maintain its corporate books and records in accordance with the by-laws.

(4) QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION.—

(a) The members, officers, executive director, and employees of the Interstate Commission shall 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 commission employment, duties, or responsibilities. However, this paragraph does not 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.

(b) The Interstate Commission shall defend the commissioner of a compacting state, or his or her representatives or employees, or the 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, if the actual or alleged act, error, or omission did not result from intentional wrongdoing on the part of such person.

(c) The Interstate Commission shall indemnify and hold the commissioner of a compacting state, his or her appointed designee or employees, or the Interstate Commission's representatives harmless 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, if the actual or alleged act, error, or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

ARTICLE VII ACTIVITIES OF THE INTERSTATE COMMISSION

(1) The Interstate Commission shall meet and take such actions as are consistent with this compact.

(2) Except as otherwise provided in this compact and unless a greater percentage is required by the by-laws, in order to constitute an act of the Interstate Commission, such act must be taken at a meeting of the commission and must receive an affirmative vote of a majority of the members present.

(3) Each member of the commission may cast a vote to which that compacting state is entitled and may participate in the business and affairs of the commission. A member shall vote in person on behalf of the state and may not delegate a vote to another member state. However, a state council shall 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 by-laws may 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 tele-

communication or electronic communication is subject to the same quorum requirements as meetings where members are present in person.

(4) The Interstate Commission shall meet at least once during each calendar year. The chairperson of the commission may call additional meetings at any time and, upon the request of a majority of the members, shall call additional meetings.

(5) The Interstate Commission's by-laws shall establish conditions and procedures under which the commission shall make its information and official records available to the public for inspection or copying. The commission may exempt from disclosure any information or official records to the extent that they would adversely affect personal privacy rights or proprietary interests. In adopting such rules, the Interstate Commission may make available to law enforcement agencies records and information otherwise exempt from disclosure and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

(6) Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission shall adopt rules consistent with the principles contained in the "Government in Sunshine Act," 5 U.S.C. s. 552(b), as amended.

(a) The Interstate Commission shall 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 therefor, including a description of each of the views expressed on any item and the record of any roll call vote, reflecting the vote of each member on the question. All documents considered in connection with any action must be identified in the minutes.

(b) The Interstate Commission shall collect standardized data concerning the interstate movement of offenders as directed through its by-laws and rules, which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements.

ARTICLE VIII RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(1) The Interstate Commission shall adopt 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.

(2) Rulemaking shall occur pursuant to the criteria set forth in this article and the by-laws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the federal "Administrative Procedure Act," 5 U.S.C.S. s. 551 et seq., and the federal "Advisory Committee Act," 5 U.S.C.S. App. 2, s. 1 et seq., as amended. All rules and amendments take effect on the date specified in each rule or amendment.

(3) 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, such rule shall have no further force and effect in any compacting state.

(4) When adopting a rule, the Interstate Commission shall:

(a) Publish the proposed rule stating with particularity the text of the rule that is proposed and the reason for the proposed rule;

(b) Allow persons to submit written data, facts, opinions, and arguments, which information must be publicly available;

(c) Provide an opportunity for an informal hearing; and

(d) Adopt a final rule and its effective date, if appropriate, based on the rulemaking record. Not later than 60 days after a rule is adopted, any interested person may 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 such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence, as defined in the federal Administrative Procedure Act, in the rulemaking record, the court shall hold the rule unlawful and set it aside. Subjects to be addressed within 12 months after the first meeting must, at a minimum, include:

1. Notice to victims and 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; and

10. Mediation, arbitration, and dispute resolution.

(5) The existing rules governing the operation of the previous compact superseded by this act shall be null and void 12 months after the first meeting of the Interstate Commission created under this compact.

(6) Upon determination by the Interstate Commission that an emergency exists, it may adopt an emergency rule that takes effect immediately upon

adoption. However, the usual rulemaking procedures provided under this compact must be retroactively applied to the rule as soon as reasonably possible, but not later than 90 days after the effective date of the rule.

ARTICLE IX
OVERSIGHT, ENFORCEMENT, AND
DISPUTE RESOLUTION BY THE
INTERSTATE COMMISSION

(1) OVERSIGHT.—

(a) The Interstate Commission shall oversee the interstate movement of adult offenders in the compacting states and shall monitor activities being administered in noncompacting states which may significantly affect compacting states.

(b) The courts and executive agencies in each compacting state shall enforce this compact and shall 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 this compact which may affect the powers, responsibilities, or actions of the Interstate Commission, the commission is entitled to receive all service of process in any such proceeding and has standing to intervene in the proceeding for all purposes.

(2) DISPUTE RESOLUTION.—

(a) The compacting states shall report to the Interstate Commission on issues or activities of concern to them and cooperate with and support the commission in the discharge of its duties and responsibilities.

(b) The Interstate Commission shall attempt to resolve any disputes or other issues that are subject to the compact and that arise among compacting states and noncompacting states.

(c) The Interstate Commission shall enact a by-law or adopt a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

(3) ENFORCEMENT.—The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact using any or all means set forth in article XII (2) of this compact.

ARTICLE X
FINANCE

(1) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The Interstate Commission shall 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, which must be in a total amount sufficient to cover the Interstate Commission's annual

budget as approved each year. The aggregate annual assessment amount shall 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. The Interstate Commission shall adopt a rule that is binding upon all compacting states and that governs the assessment.

(3) The Interstate Commission may not incur any obligations of any kind prior to securing the funds adequate to meet the obligations, and the Interstate Commission may not pledge the credit of any of the compacting states except by and with the authority of the compacting state.

(4) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its by-laws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit must be included in and become part of the annual report of the commission.

ARTICLE XI COMPACTING STATES, EFFECTIVE DATE, AND AMENDMENT

(1) Any state, as defined in article II of this compact, is eligible to become a compacting state.

(2) The compact shall become effective and binding upon legislative enactment of the compact into law by not less than 35 of the states. The initial effective date shall be the later of July 1, 2001, or upon enactment into law by the 35th jurisdiction. Thereafter, the compact shall 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.

(3) Amendments to the compact may be proposed by the Interstate Commission for enactment by the compacting states. An amendment does not become effective and binding upon the Interstate Commission or the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

ARTICLE XII WITHDRAWAL, DEFAULT, TERMINATION, AND JUDICIAL ENFORCEMENT

(1) WITHDRAWAL.—

(a) Once effective, the compact shall continue in force and remain binding upon each and every compacting state. However, a compacting state may withdraw from the compact by enacting a law specifically repealing the statute that enacted the compact into law.

(b) The effective date of withdrawal is the effective date of the repeal.

(c) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within 60 days after its receipt of the notice.

(d) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred by it through the effective date of withdrawal, including any obligations the performance of which extend beyond the effective date of withdrawal.

(e) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

(2) DEFAULT.—

(a) If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, the by-laws, or any adopted rules, the commission may impose any or all of the following penalties:

1. Fines, fees, or costs in amounts deemed 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 shall be imposed only after all other reasonable means of securing compliance under the by-laws and rules have been exhausted. Immediate notice of suspension shall 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.

(b) 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 this compact or by Interstate Commission by-laws or rules. The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the commission on the defaulting state pending a cure of the default. The commission shall 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 specified by the commission, in addition to any other penalties imposed 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 this compact shall be terminated from the effective date of suspension. Within 60 days after the effective date of termination of a defaulting state, the Interstate Commission must 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 such termination.

(c) The defaulting state is 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.

(d) The Interstate Commission may not 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 a reenactment of the compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

(3) JUDICIAL ENFORCEMENT.—The Interstate Commission, by majority vote of the members, may 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 for the commission's adopted rules and by-laws against any compacting state in default. If judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

(4) DISSOLUTION OF COMPACT.—

(a) The compact dissolves on the date of the withdrawal or default of the compacting state which reduces membership in the compact to one compacting state.

(b) Upon the dissolution of this compact, the compact becomes null and void and shall have no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and any surplus funds shall be distributed in accordance with the by-laws.

ARTICLE XIII SEVERABILITY AND CONSTRUCTION

(1) The provisions of this compact are severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact are enforceable.

(2) The provisions of this compact shall be liberally construed to carry out its purposes.

ARTICLE XIV BINDING EFFECT OF COMPACT AND OTHER LAWS

(1) OTHER LAWS.—

(a) Nothing in this compact prevents the enforcement of any other law of a compacting state which is not inconsistent with this compact.

(b) Any law of a compacting state which conflicts with this compact is superseded to the extent of the conflict.

(2) BINDING EFFECT OF THE COMPACT.—

(a) All lawful actions of the Interstate Commission, including all rules and by-laws adopted by the Interstate Commission, are binding upon the compacting states.

(b) All agreements between the Interstate Commission and the compacting states are binding in accordance with the terms of the agreements.

(c) 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.

(d) If any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective, and such obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Section 9. Section 949.071, Florida Statutes, is amended to read:

949.071 Definition of “state” as used in s. 949.07; further declaration relating to interstate compacts.—

~~(1) It is hereby declared that~~ The term “state,” as used in s. 949.07, relating to and authorizing and directing the Governor to enter into an interstate compact in behalf of Florida with any state of the United States for out-of-state supervision of probationers and parolees, and prescribing the form to be substantially used for any such compact, means any one of the several states, ~~and the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia, and any other territorial possession of the United States.~~

(2) It is hereby recognized and further declared that pursuant to the consent and authorization contained in s. 111(b) of Title 4 of the United States Code as added by Pub. L. No. 970-84th Congress, Ch. 941-2d Session, this state shall be a party to the said Interstate Compact for Adult Offender the Supervision, of parolees and probationers with any additional jurisdiction legally joining in the compact therein when such jurisdiction enacts the shall have enacted said compact in accordance with the terms thereof.

Section 10. Section 949.072, Florida Statutes, is created to read:

949.072 State Council for Interstate Adult Offender Supervision.—

(1) The Secretary of Corrections, or the secretary’s designee, shall serve as the compact administrator for the state and as the state’s commissioner to the Interstate Commission for Adult Offender Supervision.

(2) The State Council for Interstate Adult Offender Supervision is established and shall consist of seven members. The Secretary of Corrections, or the secretary's designee, shall serve as chairperson of the state council. The Governor shall appoint the remaining members of the state council, which must include a representative of a victim's assistance organization.

(a) Each member shall be appointed to a 4-year term of office. In order to achieve staggered terms, of those members first appointed, three members shall be appointed for terms of 2 years each, and three members shall be appointed for terms of 4 years each.

(b) The state council shall meet at least twice a year.

(c) The members of the state council shall serve without compensation, but are entitled to reimbursement for travel and per diem expenses in accordance with s. 112.061.

Section 11. Section 949.08, Florida Statutes, is amended to read:

949.08 Department of Corrections to enact rules and regulations relating to compacts; limitation on assessments.—

(1) The Department of Corrections may adopt ~~shall have power and shall be charged with the duty of promulgating such rules and expend regulations and the expenditures of funds as may be deemed necessary~~ to carry out the terms, conditions, and intents of a compact entered into by the state pursuant to s. 949.07.

(2) Notwithstanding subsection (2) of article X of s. 949.07, the state shall reduce the amount paid as the state's assessment under the compact entered into under s. 949.07 so that the total collected from the annual assessment does not exceed the amount appropriated for the assessment by the Legislature for any single fiscal year.

Section 12. Section 949.09, Florida Statutes, is amended to read:

949.09 Short title: ss. 949.07-949.08.—Sections 949.07-949.08 may be cited shall be known as the "Interstate Compact for Adult Offender Uniform Law for Out-of-state Probation and Parole Supervision."

Section 13. This act shall take effect July 1, 2001.

Approved by the Governor June 13, 2001.

Filed in Office Secretary of State June 13, 2001.