

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

**SESSION LAW 2008-189
SENATE BILL 1214**

**AN ACT TO AMEND THE INTERSTATE COMPACT FOR THE SUPERVISION OF
ADULT OFFENDERS.**

The General Assembly of North Carolina enacts:

SECTION 1. Article 4B of Chapter 148 of the General Statutes reads as rewritten:

"Article 4B.

"Interstate Compact for ~~the Supervision of Adult Offenders.~~ Adult Offender
Supervision.

"§ 148-65.4. Short title.

This Article may be cited as "The Interstate Compact for ~~the Supervision of Adult Offenders.~~ Adult Offender Supervision."

"§ 148-65.5. Governor to execute compact; form of compact.

The Governor of North Carolina is authorized and directed to execute a compact on behalf of the State of North Carolina with any state of the United States legally joining therein in the form substantially as follows:

Preamble.

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

Whereas: This compact is the only vehicle for the controlled movement of adult parolees and probationers across state lines, and it currently has jurisdiction over more than a quarter of a million offenders;

Whereas: The complexities of the compact have become more difficult to administer, and many jurisdictions have expanded supervision expectations to include currently unregulated practices such as victim input, victim notification requirements, and sex offender registration;

Whereas: After hearings, national surveys, and a detailed study by a task force appointed by the National Institute of Corrections, the overwhelming recommendation has been to amend the document to bring about an effective management capacity that addresses public safety concerns and offender accountability;

Whereas: The General Assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety. The Governor is hereby authorized and directed to enter into a compact on behalf of the State of North Carolina with any state of the United States and other territorial possessions of the United States legally joining therein in the form substantially as follows;

Whereas: Upon the adoption of this Interstate Compact for ~~the Supervision of Adult Offenders.~~ Adult Offender Supervision. it is the intention of the General Assembly to repeal the previous Interstate Compact for the Supervision of Parolees and Probationers one year after the effective date of this compact.

...

Article IV.
The State Council.

(a) Each member state shall create a State Council for Interstate Adult Offender Supervision that shall be responsible for the appointment of 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 from the legislative, judicial, and executive branches of government, victims groups, and compact administrators.

(b) Each compacting state retains the right to determine the qualifications of the Compact Administrator, who shall be appointed by the state council or by the Governor in consultation with the legislature and the judiciary. In addition to appointment of its own commissioner to the National Interstate Commission, each state council shall exercise oversight and advocacy concerning its participation in Interstate Commission activities and other duties as may be determined by each member state including, but not limited to, development of policy operations and procedures of the compact within that state.

"§ 148-65.6. Implementation of the compact.

(a) ~~The North Carolina State Council for Interstate Adult Offender Supervision shall be established, consisting of 11-14 members. The Secretary of Correction, or the Secretary's designee, shall serve as the Compact Administrator for the State of North Carolina and as North Carolina's Commissioner to the Interstate Compact Commission. The Secretary of Correction, or the Secretary's designee, is a member of the State Council and serves as chairperson of the State Council. North Carolina's Commissioner to the Interstate Compact Commission is a member of the State Council and serves as chair of the State Council.~~ The remaining members of the State Council shall consist of the following:

- (1) One member representing the executive branch, to be appointed by the Governor;
- (2) One member from a victim's assistance group, to be appointed by the Governor;
- (3) One at-large member, to be appointed by the Governor;
- (4) One member of the Senate, to be appointed by the President Pro Tempore of the Senate;
- (5) One member of the House of Representatives, to be appointed by the Speaker of the House of Representatives;
- (6) A superior court judge, to be appointed by the Chief Justice of the Supreme Court; ~~and~~
- (6a) A district court judge, to be appointed by the Chief Justice of the Supreme Court;
- (7) Four members representing the Division of Community Corrections, to be appointed by the Director of the Division of Community Corrections. ~~Corrections;~~
- (8) A district attorney, to be appointed by the Governor; and
- (9) A sheriff, to be appointed by the Governor.

(a1) The Governor, in consultation with the legislature and judiciary, shall appoint the Compact Administrator. The Compact Administrator shall be appointed by the State Council as North Carolina's Commissioner to the Interstate Compact Commission.

(b) The State Council shall meet at least twice a year and may also hold special meetings at the call of the chairperson. All terms are for three years.

(c) The State Council may advise the Compact Administrator on participation in the Interstate Commission activities and administration of the compact.

(d) The members of the State Council shall serve without compensation but shall be reimbursed for necessary travel and subsistence expenses in accordance with the policies of the Office of State Budget and Management.

(e) The State Council shall act in an advisory capacity to the Secretary of Correction concerning this State's participation in Interstate Commission activities and other duties as may be determined by each member state, including recommendations for policy concerning the operations and procedures of the compact within this State.

(f) The Governor shall by executive order provide for any other matters necessary for implementation of the compact at the time that it becomes effective, and, except as otherwise provided for in this section, the State Council may promulgate rules or regulations necessary to implement and administer the compact.

"§ 148-65.7. ~~Supervision fee. Fees.~~

(a) Persons convicted in this State who make a request for transfer to another state pursuant to the compact shall pay a transfer application of one hundred fifty dollars (\$150.00) for each transfer application submitted. The transfer application fee shall be paid to the Compact Commissioner upon submission of the transfer application. The Commissioner or the Commissioner's designee may waive the application fee if either the Commissioner or the Commissioner's designee finds that payment of the fee will constitute an undue economic burden on the offender.

All fees collected pursuant to this section shall be deposited in the Interstate Compact Fund and shall be used only to support administration of the Interstate Compact.

The Interstate Compact Fund is established within the Department of Correction as a nonreverting, interest-bearing special revenue account. Accordingly, revenue in the Fund at the end of a fiscal year does not revert, and interest and other investment income earned by the Fund shall be credited to it. All moneys collected by the Department of Correction pursuant to this subsection shall be remitted to the State Treasurer to be deposited and held in this Fund. Moneys in the Fund shall be used to supplement funds otherwise available to the Department of Correction for the administration of the Interstate Compact.

(b) Persons supervised in this State pursuant to this compact shall pay the supervision fee specified in G.S. 15A-1374(c). The fee shall be paid to the clerk of court in the county in which the person initially receives supervision services in this State. The Commissioner or the Commissioner's designee may waive the fee if either the Commissioner or the Commissioner's designee finds that payment of the fee will constitute an undue economic burden on the offender.

"§ 148-65.8. Interstate parole and probation hearing procedures.

(a) Where supervision of an offender is being administered pursuant to the Interstate Compact for the ~~Supervision of Adult Offenders~~, Adult Offender Supervision, the appropriate judicial or administrative authorities in this State shall notify the Compact Administrator of the sending state whenever, in their view, consideration should be given to retaking or reincarceration for a parole, probation, or post-release supervision violation. Prior to the giving of any such notification, a hearing shall be held in accordance with this section within a reasonable time, unless such hearing is waived by the offender. ~~The appropriate officer or officers of this State shall, as soon as practicable following termination of any such hearing, report to the sending state, furnish a copy of the hearing record, and make recommendations regarding the disposition to be made of the offender by the sending state.~~ Pending any proceeding pursuant to this section, the appropriate officers of this State may take custody of and detain the offender involved for a period not to exceed 15 days prior to the ~~hearing and, if it appears to the hearing officer or officers that retaking or reincarceration is likely to follow, for such reasonable period after the hearing or waiver as may be necessary to arrange for the retaking or reincarceration.~~ hearing. The offender shall not be entitled to bail pending the hearing.

(b) Any hearing pursuant to this section may be before the Administrator of the Interstate Compact for ~~the Supervision of Adult Offenders~~, Adult Offender Supervision, a deputy of the Administrator, any other person appointed by the Administrator, or any person authorized pursuant to the laws of this State to hear cases of alleged parole, probation, or post-release supervision violation, except that no hearing officer shall be the person making the allegation of violation.

(c) With respect to any hearing pursuant to this section, the offender:

- (1) Shall have reasonable notice in writing of the nature and content of the allegations to be made, including notice that its purpose is to determine whether there is probable cause to believe that the offender has committed a violation that may lead to a revocation of parole, probation, or post-release supervision.
- (2) Shall be permitted to advise with any persons whose assistance the offender reasonably desires, prior to the hearing.
- (3) Shall have the right to confront and examine any persons who have made allegations against the offender, unless the hearing officer determines that such confrontation would present a substantial present or subsequent danger of harm to such person or persons.
- (4) May admit, deny, or explain the violation alleged and may present proof, including affidavits and other evidence, in support of the offender's contentions. ~~A record of the proceedings shall be made and preserved.~~

(c1) A record of the hearing shall be made and preserved. As soon as practicable following termination of any hearing conducted pursuant to this section or the waiver of such hearing, the appropriate officer or officers of this State shall report to the sending state, furnish a copy of the hearing record, and make recommendations regarding the disposition to be made of the offender by the sending state. If the hearing recommendation is to retake or reincarcerate the offender, the hearing officer or officers may detain the offender until notice is received from the sending state. If the sending state provides notice that it intends to retake or reincarcerate the offender, the offender shall remain in custody for such reasonable period after the hearing or waiver as may be necessary to arrange for the retaking or reincarceration.

(d) In any case of alleged parole or probation violation by a person being supervised in another state pursuant to the Interstate Compact for ~~the Supervision of Adult Offenders~~, Adult Offender Supervision, any appropriate judicial or administrative officer or agency in another state may hold a hearing on the alleged violation. Upon receipt of the record of a parole, probation, or post-release supervision violation hearing held in another state pursuant to a statute substantially similar to this section, that record shall have the same standing and effect as though the proceeding of which it is a record was had before the appropriate officer or officers in this State, and any recommendations contained in or accompanying the record shall be fully considered by the appropriate officer or officers of this State in making disposition of the matter.

"§ 148-65.9. North Carolina sentence to be served in another jurisdiction.

The Post-Release Supervision and Parole Commission, with the concurrence of the Secretary of Correction, may direct that the balance of any sentence imposed by the courts of this State shall be served concurrently with a sentence or sentences in another state or federal institution and may effect a transfer of custody of such individual to the other jurisdiction for such purpose. In the event the individual's sentence liability in the other jurisdiction terminates prior to the expiration of the individual's North Carolina sentence, the individual shall be either paroled (if eligible) or returned to the prison department of this State, in the discretion of the Post-Release Supervision and Parole Commission."

SECTION 2. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 17th day of
July, 2008.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 5:15 p.m. this 7th day of August, 2008