CHAPTER 304

PAROLES AND PARDONS

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Cross−reference: See definitions in s. 301.01.
Cross−reference: See also chs. DOC 328 and PAC 1, Wis. adm. code.

304.01 Parole commission and commission chairperson; general duties. (1) The chairperson of the parole commission shall administer and supervise the commission and its activities and shall be the final parole−granting authority, except as provided in s. 304.02.

(2) The parole commission shall conduct regularly scheduled interviews to consider the parole of eligible inmates of the adult correctional institutions under the control of the department of corrections, eligible inmates transferred under ch. 51 and under the control of the department of health services and eligible inmates in any county house of correction. The department of corrections shall provide all of the following to the parole commission:

(a) Records relating to inmates which are in the custody of the department and are necessary to the conduct of the commission's responsibilities.

(b) Scheduling assistance for parole interviews at the correctional institutions.

(c) Clerical support related to the parole interviews.

(d) Appropriate physical space at the correctional institutions to conduct the parole interviews.

History: 1989 a. 31; 1995 a. 27 s. 9126 (19); 2007 a. 20 s. 9121 (6) (a); 2009 a. 28; 2011 a. 38.

304.02 Special action parole release. (1) The department shall use a special action release program to relieve crowding in state prisons by releasing certain prisoners to parole supervision using a procedure other than mandatory release under s. 302.11 or release under s. 304.06 (1) (b).

(2) The department shall promulgate rules for the special action release program, including eligibility criteria, procedures for the secretary to decide whether to grant a prisoner a special action release to parole supervision, procedures for notifying persons, offices or agencies under s. 304.06 (1) (c) and (g) of releases, and conditions of release. If applicable, the department shall also comply with s. 304.063.

(2m) A person released under this section, his or her residence, and any property under his or her control may be searched by a law enforcement officer at any time during his or her period of supervision if the officer reasonably suspects that the person is committing, is about to commit, or has committed a crime or a violation of a condition of parole. Any search conducted pursuant to this subsection shall be conducted in a reasonable manner and may not be arbitrary, capricious, or harassing. A law enforcement officer who conducts a search pursuant to this subsection shall, as soon as practicable after the search, notify the department.

(3) Notwithstanding any eligibility criteria prescribed by department rule, a prisoner is eligible for special action release to parole supervision without meeting the eligibility criteria if all of the following conditions are met:

(a) The prisoner population equals or exceeds the statewide prisoner population limit promulgated by rule under s. 301.055.

(b) The prisoner is not currently incarcerated regarding a felony conviction for an assaultive crime.

(c) The institution social worker or the probation, extended supervision and parole agent of record has reason to believe the prisoner will be able to maintain himself or herself in society without engaging in assaultive activity.

(d) The inmate is not granted a special action release more than 18 months before his or her expected release date under s. 302.11.

(e) The prisoner is eligible for release under s. 304.06 (1) (b).

(4) If a person is sentenced under s. 973.032, he or she is eligible for a release to parole supervision under this section and remains in the intensive sanctions program unless discharged by the department under s. 301.048 (6) (a).

(4m) A prisoner paroled under this section is subject to the restriction under s. 304.06 (2m), if applicable, relating to the counties to which prisoners may be paroled.

(5) Notwithstanding subs. (1) to (3), a prisoner who is serving a life sentence under s. 939.62 (2m) (c) or 973.014 (1) (c) or (1g) is not eligible for release to parole supervision under this section.

(6) Notwithstanding subs. (1) to (3), a prisoner is not eligible for release to parole supervision under this section if he or she is serving a bifurcated sentence under s. 973.01.

History: 1989 a. 31, 336; 1991 a. 39; 1993 a. 16, 79, 97, 289; 1995 a. 48; 1997 a. 275, 283, 326; 1999 a. 32; 2013 a. 79.

304.06 Paroles from state prisons and house of correction. (1) (a) In this subsection:

1. "Member of the family" means spouse, domestic partner under ch. 770, child, sibling, parent or legal guardian.

2. "Victim" means a person against whom a crime has been committed.

(b) Except as provided in s. 961.49 (2), 1999 stats., sub. (1m) or s. 302.045 (3), 302.05 (3) (b), 973.01 (6), or 973.0135, the parole commission may parole an inmate of the Wisconsin state prisons or any felon or any person serving at least one year or more in a county house of correction or a county reforestation camp organized under s. 303.07, when he or she has served 25 percent of the sentence imposed for the offense, or 6 months, whichever is greater. Except as provided in s. 939.62 (2m) (c) or 973.014 (1) (b) or (c), (1g) or (2), the parole commission may parole an inmate serving a life term when he or she has served 20 years, as modified by the formula under s. 302.11 (1) and subject to extension under s. 302.11 (1q) and (2), if applicable. The person serving the life

term shall be given credit for time served prior to sentencing under s. 973.155, including good time under s. 973.155 (4). The secretary may grant special action parole releases under s. 304.02. The department or the parole commission shall not provide any convicted offender or other person sentenced to the department's custody any parole eligibility or evaluation until the person has been confined at least 60 days following sentencing.

(c) If an inmate applies for parole under this subsection, the parole commission shall make a reasonable attempt to notify the following, if they can be found, in accordance with par. (d):

1. The office of the court that participated in the trial or that accepted the inmate's plea of guilty or no contest, whichever is applicable.

2. The office of the district attorney that participated in the trial of the inmate or that prepared for proceedings under s. 971.08 regarding the inmate's plea of guilty or no contest, whichever is applicable.

3. The victim of the crime committed by the inmate or, if the victim died as a result of the crime, an adult member of the victim's family or, if the victim is younger than 18 years old, the victim's parent or legal guardian, upon submission of a card under par. (f) requesting notification.

(d) 1. The notice under par. (c) shall inform the offices and persons under par. (c) 1. to 3. of the manner in which they may provide written statements under this subsection, shall inform persons under par. (c) 3. of the manner in which they may attend interviews or hearings and make statements under par. (eg) and shall inform persons under par. (c) 3. who are victims, or family members of victims, of crimes specified in s. 940.01, 940.03, 940.05, 940.225 (1), (2), or (3), 948.02 (1) or (2), 948.025, 948.06, or 948.07 of the manner in which they may have direct input in the parole decision−making process under par. (em). The parole commission shall provide notice under this paragraph for an inmate's first application for parole and, upon request, for subsequent applications for parole.

2. The notice shall be by 1st class mail to an office's or a person's last−known address sent at least 3 weeks before the interview or hearing upon the application for parole.

3. The notice shall state the name of the inmate, the date and term of the sentence and the date when the written statement must be received in order to be considered. If the notice is to an office under par. (c) 1. or 2., the notice shall also state the crime of which the inmate was convicted.

3g. If applicable, the notice shall state the date of the interview or hearing that the person may attend.

3m. If applicable, the notice shall state the manner in which the person may have direct input in the decision−making process for parole.

4. If the notice is for a first application for parole, the notice shall inform the offices and persons under par. (c) 1. to 3. that notification of subsequent applications for parole will be provided only upon request.

(e) The parole commission shall permit any office or person under par. (c) 1. to 3. to provide written statements. The parole commission shall give consideration to any written statements provided by any such office or person and received on or before the date specified in the notice. This paragraph does not limit the authority of the parole commission to consider other statements or information that it receives in a timely fashion.

(eg) The parole commission shall permit any person under par. (c) 3. to attend any interview or hearing on the application for parole of an applicable inmate and to make a statement at that interview or hearing.

(em) The parole commission shall promulgate rules that provide a procedure to allow any person who is a victim, or a family member of a victim, of a crime specified in s. 940.01, 940.03, 940.05, 940.225 (1), (2), or (3), 948.02 (1) or (2), 948.025, 948.06, or 948.07 to have direct input in the decision−making process for parole.

(f) The parole commission shall design and prepare cards for persons specified in par. (c) 3. to send to the commission. The cards shall have space for these persons to provide their names and addresses, the name of the applicable prisoner and any other information the parole commission determines is necessary. The parole commission shall provide the cards, without charge, to district attorneys. District attorneys shall provide the cards, without charge, to persons specified in par. (c) 3. These persons may send completed cards to the parole commission. All commission records or portions of records that relate to mailing addresses of these persons are not subject to inspection or copying under s. 19.35 (1). Before any written statement of a person specified in par. (c) 3. is made a part of the documentary record considered in connection with a parole hearing under this section, the parole commission shall obliterate from the statement all references to the mailing addresses of the person. A person specified in par. (c) 3. who attends an interview or hearing under par. (eg) may not be required to disclose at the interview or hearing his or her mailing addresses.

(g) Before a person is released on parole under this subsection, the parole commission shall so notify the municipal police department and the county sheriff for the area where the person will be residing. The notification requirement under this paragraph does not apply if a municipal department or county sheriff submits to the parole commission a written statement waiving the right to be notified. If applicable, the department shall also comply with s. 304.063.

(1m) The parole commission may waive the 25 percent or 6−month service of sentence requirement under sub. (1) (b) under any of the following circumstances:

(a) If it determines that extraordinary circumstances warrant an early release and the sentencing court has been notified and permitted to comment upon the proposed recommendation.

(b) If the department recommends that the person be placed on parole that includes the condition under sub. (1x) and the commission orders that condition.

(1q) (a) In this subsection, "serious child sex offender" means a person who has been convicted of committing a crime specified in s. 948.02 (1) or (2) or 948.025 (1) against a child who had not attained the age of 13 years.

(b) The parole commission or the department may require as a condition of parole that a serious child sex offender undergo pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen. This paragraph does not prohibit the department from requiring pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen as a condition of probation.

(c) In deciding whether to grant a serious child sex offender release on parole under this subsection, the parole commission may not consider, as a factor in making its decision, that the offender is a proper subject for pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen or that the offender is willing to participate in pharmacological treatment using an antiandrogen or the chemical equivalent of an antiandrogen.

(1r) A person released under this section, his or her residence, and any property under his or her control may be searched by a law enforcement officer at any time during his or her period of supervision if the officer reasonably suspects that the person is committing, is about to commit, or has committed a crime or a violation of a condition of parole. Any search conducted pursuant to this subsection shall be conducted in a reasonable manner and may not be arbitrary, capricious, or harassing. A law enforcement officer who conducts a search pursuant to this subsection shall, as soon as practicable after the search, notify the department.

(1x) The parole commission may require as a condition of parole that the person is placed in the intensive sanctions program under s. 301.048. In that case, the person is in the legal custody of the department under that section and is subject to revocation of parole under sub. (3).

(1y) If a person is sentenced under s. 973.032, he or she is eligible for a release to parole supervision under this section and remains in the intensive sanctions program unless discharged by the department under s. 301.048 (6) (a).

(2) No prisoner under sub. (1) may be paroled until the parole commission is satisfied that the prisoner has adequate plans for suitable employment or to otherwise sustain himself or herself. The paroled prisoner shall report to the department in such manner and at such times as it requires.

(2m) (a) In this subsection, "serious sex offense" means a violation of s. 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.06 or 948.07 or a solicitation, conspiracy or attempt to commit a violation of s. 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.06 or 948.07.

(b) Except as provided in par. (c), no prisoner who is serving a sentence for a serious sex offense may be paroled to any county where there is a correctional institution that has a specialized sex offender treatment program.

(c) A prisoner serving a sentence for a serious sex offense may be paroled to a county where there is a correctional institution that has a specialized sex offender treatment program if that county is also the prisoner's county of residence.

(d) The parole commission or the department shall determine a prisoner's county of residence for the purposes of this subsection by doing all of the following:

1. The parole commission or the department shall consider residence as the voluntary concurrence of physical presence with intent to remain in a place of fixed habitation and shall consider physical presence as prima facie evidence of intent to remain.

2. The parole commission or the department shall apply the criteria for consideration of residence and physical presence under subd. 1. to the facts that existed on the date that the prisoner committed the serious sex offense that resulted in the sentence the prisoner is serving.

(3) Every paroled prisoner remains in the legal custody of the department unless otherwise provided by the department. If the department alleges that any condition or rule of parole has been violated by the prisoner, the department may take physical custody of the prisoner for the investigation of the alleged violation. If the department is satisfied that any condition or rule of parole has been violated it shall afford the prisoner such administrative hearings as are required by law. Unless waived by the parolee, the final administrative hearing shall be held before a hearing examiner from the division of hearings and appeals in the department of administration who is licensed to practice law in this state. The hearing examiner shall enter an order revoking or not revoking parole. Upon request by either party, the administrator of the division of hearings and appeals shall review the order. The hearing examiner may order that a deposition be taken by audiovisual means and allow the use of a recorded deposition under s. 967.04 (7) to (10). If the parolee waives the final administrative hearing, the secretary of corrections shall enter an order revoking or not revoking parole. If the examiner, the administrator upon review, or the secretary in the case of a waiver finds that the prisoner has violated the rules or conditions of parole, the examiner, the administrator upon review, or the secretary in the case of a waiver, may order the prisoner returned to prison to continue serving his or her sentence, or to continue on parole. If the prisoner claims or appears to be indigent, the department shall refer the prisoner to the authority for indigency determinations specified under s. 977.07 (1).

(3d) Upon demand prior to a revocation hearing under sub. (3), the district attorney shall disclose to a defendant the existence of any audiovisual recording of an oral statement of a child under s. 908.08 which is within the possession, custody or control of the state and shall make reasonable arrangements for the defendant and defense counsel to view the statement. If, after compliance with this subsection, the state obtains possession, custody or control of such a statement, the district attorney shall promptly notify the defendant of that fact and make reasonable arrangements for the defendant and defense counsel to view the statement.

(3e) The division of hearings and appeals in the department of administration shall make either an electronic or stenographic record of all testimony at each parole revocation hearing. The division shall prepare a written transcript of the testimony only at the request of a judge who has granted a petition for judicial review of the revocation decision. Each hearing notice shall include notice of the provisions of this subsection and a statement that any person who wants a written transcript may record the hearing at his or her own expense.

(3g) If a paroled prisoner signs a statement admitting a violation of a condition or rule of parole, the department may, as a sanction for the violation, confine the prisoner for up to 90 days in a regional detention facility or, with the approval of the sheriff, in a county jail. If the department confines the prisoner in a county jail under this subsection, the department shall reimburse the county for its actual costs in confining the prisoner from the appropriations under s. 20.410 (1) (ab) and (b). Notwithstanding s. 302.43, the prisoner is not eligible to earn good time credit on any period of confinement imposed under this subsection.

(3m) If the convicting court is informed by the department that a prisoner on parole has absconded and that the prisoner's whereabouts are unknown, the court may issue a capias for execution by the sheriff.

(4) (a) If any person convicted of a misdemeanor or traffic offense, any person convicted of a criminal offense and sentenced to 2 years or less in a house of correction or any person committed to a house of correction for treatment and rehabilitation for addiction to a controlled substance or controlled substance analog under ch. 961, during the period of confinement or treatment appears to have been rehabilitated or cured to the extent, in the opinion of the superintendent of the house of correction or the person in charge of treatment and rehabilitation of a prisoner at that institution, that the prisoner may be released, the prisoner may be released upon conditional parole. Before a person is released on conditional parole under this paragraph, the superintendent or person in charge of treatment and rehabilitation shall so notify the municipal police department and county sheriff for the area where the person will be residing. The notification requirement does not apply if a municipal department or county sheriff submits to the department a written statement waiving the right to be notified.

(b) Application for such conditional parole shall be made in writing by the superintendent of the house of correction to the court of commitment stating the facts justifying the application. The court shall proceed to take testimony in support of the application. If the judge is satisfied from the evidence that there is good reason to believe that the prisoner has been rehabilitated or cured to the extent that he or she may be released and that proper provision for employment and residence has been made for the prisoner, the judge may order the prisoner's release on parole to the superintendent of the house of correction, on such conditions to be stated in the order of release as the judge determines. In the event of violation of any such conditions by the prisoner, he or she shall be returned to the court and may be recommitted to the house of correction to serve the remainder of his or her sentence or for further treatment.

History: 1971 c. 125, 219; 1973 c. 90, 198, 333; 1975 c. 156, 199; 1977 c. 29, 353, 418, 449; 1979 c. 356; 1981 c. 266; 1983 a. 27, 64, 197, 528, 538; 1985 a. 262 s. 8; 1987 a. 244 ss. 1 to 3, 7; 1987 a. 412; 1989 a. 31 ss. 1699 to 1700p; Stats. 1989 s. 304.06; 1989 a. 107, 122; 1991 a. 39; 1993 a. 79, 89, 97, 178, 194, 227, 289, 377, 479, 491; 1995 a. 27, 77, 352, 387, 444, 448; 1997 a. 133, 181, 237, 275, 283, 284, 326;

1999 a. 32; 2001 a. 109; 2003 a. 33; 2005 a. 42; 2009 a. 28, 276; 2011 a. 38; 2013 a. 79, 196.

Cross−reference: See also ch. PAC 1 and ss. DOC 330.02 and 331.01, Wis. adm. code.

A certiorari proceeding in the committing court to review a revocation of parole or probation is not a criminal proceeding. State ex rel. Hanson v. DHSS, 64 Wis. 2d 367, 219 N.W.2d 267 (1974).

Refusal by the parole board to grant discretionary parole is subject to judicial review. Failure to notify the prisoner of the standards and criteria applied to a parole application constituted a denial of due process. State ex rel. Tyznik v. DHSS, 71 Wis. 2d 169, 238 N.W.2d 66 (1976).

Every violation of probation or parole does not result in automatic revocation. Snajder v. State, 74 Wis. 2d 303, 246 N.W.2d 665 (1976).

A parole revocation hearing is not part of a criminal prosecution. Thus the full panoply of rights, including *Miranda* warnings and the exclusionary rule, are not applicable. State ex rel. Struzik v. DHSS, 77 Wis. 2d 216, 252 N.W.2d 660 (1977).

Neither the double jeopardy clause nor the doctrine of collateral estoppel precludes parole revocation on the grounds that the parolee's conduct related to an alleged crime for which the parolee was charged and acquitted. State ex rel. Flowers v. DHSS, 81 Wis. 2d 376, 260 N.W.2d 727 (1978).

Presentence incarceration due to indigency must be credited to a life sentence for the purpose of determining eligibility for parole. Wilson v. State, 82 Wis. 2d 657, 264 N.W.2d 234.

A parole agent's failure to act on knowledge of similar prior violations did not preclude revocation. Van Ermen v. DHSS, 84 Wis. 2d 57, 267 N.W.2d 17 (1978).

Prison inmates subject to parole rescission are entitled to *Morrissey−Gagnon* due process. State ex rel. Klinke v. H&SS Dept. 87 Wis. 2d 110, 273 N.W.2d 379 (Ct. App. 1978).

The secretary's authority to revoke under s. 57.06 (3), 1987 stats. [now s. 304.06 (3)] cannot be bound by an agent's representations. State ex rel. Lewis v. H&SS Dept. 89 Wis. 2d 220, 278 N.W.2d 232 (Ct. App. 1979).

A parole violation may not be proved entirely by unsubstantiated hearsay testimony. State ex rel. Henschel v. H&SS Dept. 91 Wis. 2d 268, 280 N.W.2d 785 (Ct. App. 1979).

Equal protection does not require symmetry in probation and parole systems. State v. Aderhold, 91 Wis. 2d 306, 284 N.W.2d 108 (Ct. App. 1979).

A probationer's due process right to prompt revocation proceedings was not triggered when the probationer was detained as result of unrelated criminal proceedings. State ex rel. Alvarez v. Lotter, 91 Wis. 2d 329, 283 N.W.2d 408 (Ct. App. 1979).

An inmate who entered into Mutual Agreement Program (MAP) "contract" for discretionary parole may not bring a civil action for breach of contract. Coleman v. Percy, 96 Wis. 2d 578, 292 N.W.2d 615 (1980).

A mandatory release parole violator may be required to serve beyond the final discharge date originally set by the trial court. State ex rel. Bieser v. Percy, 97 Wis. 2d 702, 295 N.W.2d 179 (Ct. App. 1980).

Because courts have exclusive criminal jurisdiction, criminal charges against a defendant were not collaterally estopped even though a parole revocation hearing examiner concluded that the defendant's acts did not merit parole revocation. State v. Spanbauer, 108 Wis. 2d 548, 322 N.W.2d 511 (Ct. App. 1982).

Due process was not violated by holding two revocation hearings dealing with the same conduct when the first hearing was based on facts and the second hearing was based on a conviction. State ex rel. Leroy v. DHSS, 110 Wis. 2d 291, 329 N.W.2d 229 (Ct. App. 1982).

The doctrine of issue preclusion should not be applied to findings in parole and probation revocation hearings to prevent criminal prosecutions on the same issue. State v. Terry, 2000 WI 250, 239 Wis. 2d 519, 620 N.W.2d 217.

Sub. (3) does not provide authority to the department of corrections to make and enforce rules binding on the division of hearings and appeals regarding the revocation of parole or period of reincarceration in contested cases. The decision to impose reincarceration time is solely that of the division of hearings and appeals, and a department of corrections manual has no binding effect upon it. George v. Schwarz, 2001 WI App 72, 242 Wis. 2d 450, 626 N.W.2d 57, 00−2711.

Sub. (1m) permits the waiver of the minimum sentence service requirement if certain conditions are met. Such a determination removes the parole eligibility conditions that would otherwise apply under sub. (1) (b), but it does not eliminate the necessity for a parole hearing. While the grant of parole might logically follow from a determination of extraordinary circumstances, the statute does not dictate that result. State ex rel. Szymanski v. Gamble, 2001 WI App 118, 244 Wis. 2d 272, 630 N.W.2d 570, 00−2272.

A rule that inmates must always be released from physical custody before any revocation is commenced would elevate form over substance. When inmates violate probation terms immediately and simultaneously with their scheduled mandatory release dates, the department of corrections may maintain continuous custody, even though that person's status changes from a prisoner serving a sentence to a parolee detained on a parole hold. Riesch v. Schwarz, 2005 WI 11, 278 Wis. 2d 24, 692 N.W.2d 219, 03−0920.

2011 Wis. Act 38 repealed or modified ss. 302.113 (2) (b) and 304.06 (1) (bg) 1., 2009 stats., which afforded certain prisoners convicted of Class F to Class I felonies an opportunity to earn early release from confinement, resulting in the petitioner being required to serve the full term of the initial confinement portion of his sentence. Because the law in effect when he was convicted afforded him the opportunity to be released earlier and the 2011 Act 38 modifications resulted in a significant risk of prolonging the defendant's incarceration, the portions of Act 38 that eliminated the defendant's eligibility for early release under the 2009 law violated the ex post facto clauses when applied to the defendant's offenses. Singh v. Kemper, 2014 WI App 43, 353 Wis. 2d 520, 846 N.W.2d 820, 13−1724.

Singh v. Kemper, 2014 WI App 43. affirmed in part, reversed in part by Singh v. Kemper 2016 WI 67, ___ Wis. 2d ___, 883 N.W.2d 86, 13−1724.

When required by the right to effectively present a defense, the state must issue, and for an indigent pay the costs of, compulsory process to obtain the attendance of witnesses on behalf of probationers and parolees at revocation proceedings. 63 Atty. Gen. 176.

When a probationer or parolee is charged with a crime and may have otherwise violated conditions of release, revocation hearings based on the non−criminal violations should be held without delay. 65 Atty. Gen. 20.

A convict has no constitutional right to be paroled. Greenholtz v. Nebraska Penal Inmates, 442 U.S. 1 (1979).

A state administrative rule imposing an absolute bar on international travel by parolees is constitutional. Williams v. State, 336 F.3d 576 (2003).

Probation and parole revocation in Wisconsin. 1977 WLR 503.

304.062 Ordering parolees and persons on extended supervision to perform community service work. **(1)** The department may order that a parolee or a person on extended supervision perform community service work for a public agency or a nonprofit charitable organization. An order may apply only if agreed to by the parolee or the person on extended supervision and the organization or agency. The department shall ensure that the parolee or the person on extended supervision is provided a written statement of the terms of the community service order and shall monitor the compliance of the parolee or person on extended supervision with the community service order.

(2) Any organization or agency acting in good faith to which a parolee or person on extended supervision is assigned under an order under this section has immunity from any civil liability in excess of $25,000 for acts or omissions by or impacting on the parolee or person on extended supervision. The department has immunity from any civil liability for acts or omissions by or impacting on the parolee or person on extended supervision regarding the assignment under this section.

History: 1995 a. 96; 1997 a. 283.

304.063 Notification prior to release on extended supervision or parole. **(1)** In this section:

(a) "Member of the family" means spouse, child, sibling, parent or legal guardian.

(b) "Victim" means a person against whom a crime has been committed.

(2) Before a prisoner is released on parole under s. 302.11, 304.02 or 304.06 or on extended supervision under s. 302.113 or 302.114, if applicable, for a violation of s. 940.01, 940.03, 940.05, 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.06, 948.07, or 948.085, the department shall make a reasonable attempt to notify all of the following persons, if they can be found, in accordance with sub. (3) and after receiving a completed card under sub. (4):

(a) The victim of the crime committed by the prisoner or, if the victim died as a result of the crime, an adult member of the victim's family or, if the victim is younger than 18 years old, the victim's parent or legal guardian.

(b) Any witness who testified against the prisoner in any court proceeding involving the offense.

(3) The department shall make a reasonable attempt to send the notice, postmarked at least 7 days before a prisoner is released on parole or extended supervision, to the last−known address of the persons under sub. (2).

(4) The department shall design and prepare cards for any person specified in sub. (2) to send to the department. The cards shall have space for any such person to provide his or her name and address, the name of the applicable prisoner and any other information the department determines is necessary. The department shall provide the cards, without charge, to district attorneys. District attorneys shall provide the cards, without charge, to persons specified in sub. (2). These persons may send completed cards to the department. All department records or portions of records that relate to mailing addresses of these persons are not subject to inspection or copying under s. 19.35 (1).

History: 1993 a. 97, 227, 479, 491; 1997 a. 181, 283; 2005 a. 277.

304.065 Offender release information. The department shall obtain computer software and use the software to provide local law enforcement agencies with information regarding offenders who have been released to or placed in the agencies' jurisdictions.

History: 1993 a. 98.

304.071 Military parole. (1) The parole commission may at any time grant a parole to any prisoner in any penal institution of this state, or the department may at any time suspend the supervision of any person who is on probation or parole to the department, if the prisoner or person on probation or parole is eligible for induction into the U.S. armed forces. The suspension of parole or probation shall be for the duration of his or her service in the armed forces; and the parole or probation shall again become effective upon his or her discharge from the armed forces in accordance with regulations prescribed by the department. If he or she receives an honorable discharge from the armed forces, the governor may discharge him or her and the discharge has the effect of a pardon. Upon the suspension of parole or probation by the department, the department shall issue an order setting forth the conditions under which the parole or probation is suspended, including instructions as to where and when and to whom the person on parole shall report upon discharge from the armed forces.

(2) If a prisoner is not eligible for parole under s. 961.49 (2), 1999 stats., or s. 939.62 (2m) (c), 973.01 (6), 973.014 (1) (c) or (1g) or 973.032 (5), he or she is not eligible for parole under this section.

History: 1989 a. 31 ss. 1702, 1703; Stats. 1989 s. 304.071; 1991 a. 39; 1993 a. 289; 1995 a. 48, 448; 1997 a. 283, 326; 1999 a. 32; 2001 a. 109; 2009 a. 28; 2011 a. 38.

304.072 Period of probation, extended supervision or parole tolled. (1) If the department of corrections in the case of a parolee, probationer or person on extended supervision who is reinstated or waives a hearing or the division of hearings and appeals in the department of administration in the case of a hearing determines that a parolee, probationer or person on extended supervision has violated the terms of his or her supervision, the department or division may toll all or any part of the period of time between the date of the violation and the date an order of revocation or reinstatement is entered, subject to credit according to the terms of s. 973.155 for any time the parolee, probationer or person on extended supervision spent confined in connection with the violation.

(2) If a parolee, probationer or person on extended supervision is alleged to have violated the terms of his or her supervision but the department or division determines that the alleged violation was not proven, the period between the alleged violation and the determination shall be treated as service of the probationary, extended supervision or parole period.

(3) Except as provided in s. 973.09 (3) (b), the department preserves jurisdiction over a probationer, parolee or person on extended supervision if it commences an investigation, issues a violation report or issues an apprehension request concerning an alleged violation prior to the expiration of the probationer's, parolee's or person's term of supervision.

(4) The sentence of a revoked parolee or person on extended supervision resumes running on the day he or she is received at a correctional institution subject to sentence credit for the period of custody in a jail, correctional institution or any other detention facility pending revocation according to the terms of s. 973.155.

(5) The sentence of a revoked probationer shall be credited with the period of custody in a jail, correctional institution or any other detention facility pending revocation and commencement of sentence according to the terms of s. 973.155.

History: 1975 c. 41, 199; 1977 c. 353; 1983 a. 528; 1989 a. 31 s. 1704; Stats. 1989 s. 304.072; 1989 a. 107; 1997 a. 283.

Cross−reference: See also s. DOC 331.01, Wis. adm. code.

The court could revoke a probation after the original probationary period had expired but the defendant had committed several crimes during the period. Williams v. State, 50 Wis. 2d 709, 184 N.W.2d 844 (1971).

Before the tolling statute applies, the department must make a final determination that a violation occurred. Locklear v. State, 87 Wis. 2d 392, 274 N.W.2d 898 (Ct. App. 1978).

When revocation proceedings were initiated prior to expiration of the parole period, parole was properly revoked after the period expired. State ex rel. Avery v. Percy, 99 Wis. 2d 459, 299 N.W.2d 886 (Ct. App. 1980).

The department may not grant jail credit where it is not provided for by statute. 71 Atty. Gen. 102.

NOTE: The preceding annotations concern s. 57.072, 1975 stats., [now s. 304.072] which was repealed and recreated by ch. 353, laws of 1977 and again by Act 528, laws of 1983.

Sub. (3) applies to all parole violations that occur before the offender's date of discharge from his or her entire sentence. DOC had jurisdiction to revoke a 2nd period of parole for a violation that the defendant committed during his first, and later revoked, period of parole when the violation was not discovered until the 2nd parole period. Department of Corrections v. Schwarz, 2005 WI 34, 279 Wis. 2d 223, 693 N.W.2d 703, 03−2001

A term of supervision under sub. (3) includes the nonconfinement and confinement time arising from the same sentencing decision. With regard to identifying a term of supervision, probation, incarceration, and extended supervision are each a component of the sentence. A person who initially serves a term of probation that is ultimately revoked, and following revocation serves a bifurcated prison term, can be revoked from that prison term's extended supervision component on the basis of a rules violation that occurred during the initial term of probation. McElvaney v. Schwarz, 2008 WI App 102, 313 Wis. 2d 125, 756 N.W.2d 441, 07−0415.

The "sentence" to which sub. (4) refers is the sentence that was issued by the circuit court subsequent to conviction. Sub. (4) looks back at a sentence earlier commenced. In this case when the defendant's parole was revoked, the indeterminate sentence for the defendant's felony conviction caused reincarceration. The reincarceration order did not establish reincarceration as a new sentence. Rather, it was a continuation of the sentence meted out by the circuit court judge. Therefore, if the defendant had not received all the sentence credit that was available to apply to the felony sentence when that sentence was imposed, he could have received it when his parole was revoked. State v. Obriecht, 2015 WI 66, 363 Wis. 2d 816, 867 N.W.2d 387, 13−1345.

304.074 Reimbursement fee for persons on probation, parole, and extended supervision. (2) The department shall charge a reasonable fee as determined by the department to probationers, parolees, and persons on extended supervision to partially reimburse the department for the costs of providing supervision and services and, as provided under s. 302.33 (2) (a) 3., to reimburse counties and tribal governing bodies. Subject to sub. (3m), the department shall collect moneys for the fees charged under this subsection and credit those moneys to the appropriation account under s. 20.410 (1) (gf).

NOTE: Sub. (2) is shown as affected by 2015 Wis. Acts 164 and 355, as merged by the legislative reference bureau under s. 13.92 (2) (i).

(3) The department may decide to waive for a period a fee under sub. (2) for reasons established under department policy, including if the person is unemployed, has a health issue or is disabled, or is participating in education or treatment−related programming.

(3m) The department may not collect a fee charged under this section until all restitution payments due pursuant to any order under s. 973.20 from the probationer, parolee, or person on extended supervision have been paid.

(4m) (a) If a probationer, parolee or person on extended supervision who owes unpaid fees to the department under sub. (2) is discharged from probation or from his or her sentence before the department collects the unpaid fees, the department shall, at the time of discharge, issue a notice to the probationer, parolee or person on extended supervision that states that he or she owes unpaid fees under sub. (2) and that he or she is responsible for the payment of the unpaid fees. The notice under this paragraph shall be issued with the certificate of discharge required under s. 304.078 or 973.09 (5).

(b) The department may request the attorney general to bring a civil action to recover unpaid fees owed to the department under sub. (2) by a person who has been discharged from probation or from his or her sentence and who, at the time of discharge, owed the department unpaid fees under sub. (2). Before requesting the attorney general to bring a civil action under this paragraph, the department shall deduct any fees owed to the department that were inaccurately assessed against the person.

(5) The department shall promulgate rules providing the procedure and timing for collecting fees charged under sub. (2).

History: 1995 a. 27; 1997 a. 27, 283; 2001 a. 109; 2003 a. 33; 2015 a. 55, 164, 355; s. 13.92 (2) (i).

Article I, section 9m, of the Wisconsin Constitution provides for restitution only insofar as the legislature confers such rights through statute. The legislature makes restitution available to crime victims under s. 973.20 and other statutes, but crime victims are not guaranteed restitution in every instance. Section 973.20 (12) (b) makes clear that restitution payments take priority over specific statutory fees, surcharges, fines, and costs, but the priority scheme does not include supervision fees under this section. OAG 2−15.

304.078 Restoration of civil rights of convicted persons. (1) In this section:

(a) "Imprisonment" includes parole and extended supervision.

(b) "Jailer" has the meaning given in s. 302.372 (1) (b).

(2) Except as provided in sub. (3), every person who is convicted of a crime obtains a restoration of his or her civil rights by serving out his or her term of imprisonment or otherwise satisfying his or her sentence. The certificate of the department or other responsible supervising agency that a convicted person has served his or her sentence or otherwise satisfied the judgment against him or her is evidence of that fact and that the person is restored to his or her civil rights. The department or other agency shall list in the person's certificate rights which have been restored and which have not been restored. Persons who served out their terms of imprisonment or otherwise satisfied their sentences prior to August 14, 1947, are likewise restored to their civil rights from and after September 25, 1959.

(3) If a person is disqualified from voting under s. 6.03 (1) (b), his or her right to vote is restored when he or she completes the term of imprisonment or probation for the crime that led to the disqualification. The department or, if the person is sentenced to a county jail or house of correction, the jailer shall inform the person in writing at the time his or her right to vote is restored under this subsection.

History: 1987 a. 226; 1989 a. 31 s. 1706; Stats. 1989 s. 304.078; 2003 a. 121.

A person convicted of a crime whose sentence has been satisfied may vote. 61 Atty. Gen. 260.

A convicted felon whose civil rights have been restored pursuant to 57.078 [now s. 304.078] is barred from the office of notary public unless he or she has been pardoned. 63 Atty. Gen. 74.

The operation of this section on a prior conviction is irrelevant to a conviction for which a prior conviction is a predicate. Roehl v. U.S. 977 F.2d 375 (1992).

304.08 Applications for pardon; regulations. All applications for pardon of any convict serving sentence of one year or more, except for pardons to be granted within 10 days next before the time when the convict would be otherwise entitled to discharge pursuant to law, shall be made and conducted in the manner hereinafter prescribed, and according to such additional regulations as may from time to time be prescribed by the governor.

History: 1989 a. 31 s. 1707; Stats. 1989 s. 304.08.

Executive clemency in Wisconsin. Bauer, 1973 WLR 1154.

304.09 Notice of pardon application. (1) In this section:

(a) "Member of the family" means spouse, domestic partner under ch. 770, child, sibling, parent or legal guardian.

(b) "Victim" means a person against whom a crime has been committed.

(2) The notice of the pardon application shall state the name of the convict, the crime of which he or she was convicted, the date and term of sentence and the date if known, when the application is to be heard by the governor. The notice shall be served on the following persons, if they can be found:

(a) The judge who participated in the trial of the convict.

(b) The district attorney who participated in the trial of the convict.

(c) The victim or, if the victim is dead, an adult member of the victim's family.

(3) The notice shall inform the persons under sub. (2) of the manner in which they may provide written statements or participate in any applicable hearing. The applicant shall serve notice on the persons under sub. (2) (a) and (b) at least 3 weeks before the hearing of the application. The governor shall make a reasonable attempt to serve notice on the person under sub. (2) (c) at least 3 weeks before the hearing of the application. The notice shall be published at least once each week for 2 successive weeks before the hearing in a newspaper of general circulation in the county where the offense was committed. If there is no such newspaper, the notice shall be posted in a conspicuous place on the door of the courthouse of the county for 3 weeks before the hearing and published once each week for 2 consecutive weeks before the hearing in a newspaper published in an adjoining county. Publication as required in this subsection shall be completed by a date designated by the governor. The date shall be a reasonable time prior to the hearing date.

History: 1983 a. 364; 1989 a. 31 s. 1708; Stats. 1989 s. 304.09; 1997 a. 181; 2009 a. 28.

304.10 Pardon application papers; victim's statement. (1) An application for pardon shall be accompanied by the following papers:

(a) Notice of application and acknowledgments or affidavits showing due service and affidavits showing due publication and posting whenever required;

(b) A certified copy of the court record entries, the indictment or information, and any additional papers on file in the court, if obtainable, as the governor requires;

(c) A full sworn statement by the applicant of all facts and reasons upon which the application is based;

(d) Written statements by the judge and the district attorney who tried the case, if obtainable, indicating their views regarding the application and stating any circumstances within their knowledge in aggravation or extenuation of the applicant's guilt;

(e) A certificate of the keeper of the prison where the applicant has been confined showing whether the applicant has conducted himself or herself in a peaceful and obedient manner.

(2) When a victim or member of the victim's family receives notice under s. 304.09 (3), he or she may provide the governor with written statements indicating his or her views regarding the application and stating any circumstances within his or her knowledge in aggravation or extenuation of the applicant's guilt. Upon receipt of any such statement, the governor shall place the statement with the other pardon application papers.

(3) Any statement or paper containing a reference to the address of a victim or a member of the victim's family which is contained in a statement or other paper accompanying a pardon application is not subject to s. 19.35 and shall be closed to the public. The governor, using the procedure under s. 19.36 (6), shall delete any reference to the address in any statement or paper made public.

History: 1983 a. 364; 1989 a. 31 s. 1709; Stats. 1989 s. 304.10; 1991 a. 269, 316; 1995 a. 224.

304.11 Conditional pardon; enforcement. (1) In case a pardon is granted upon conditions the governor may issue a warrant to carry the conditions into effect.

(2) If it appears to the governor during the term of the sentence that the convicted person violated or failed to comply with any such condition, the governor may issue a warrant to any sheriff commanding the sheriff to arrest the convicted person and bring the convicted person before the governor.

(3) If upon inquiry it further appears to the governor that the convicted person has violated or failed to comply with any of those conditions, the governor may issue his or her warrant remanding the person to the institution from which discharged, and the person shall be confined and treated as though no pardon had been granted, except that the person loses any applicable good time which he or she had earned. If the person is returned to prison, the person is subject to the same limitations as a revoked parolee under s. 302.11 (7). The department shall determine the period of incarceration under s. 302.11 (7) (am). If the governor determines the person has not violated or failed to comply with the conditions, the person shall be discharged subject to the conditional pardon.

History: 1983 a. 528; 1989 a. 31 s. 1710; Stats. 1989 s. 304.11; 1991 a. 316; 2001 a. 109.

304.115 Emergency removal. When an emergency exists which in the opinion of the secretary makes it advisable, the secretary may permit the temporary removal of a convicted person for

such period and upon such conditions as the secretary determines. The secretary may delegate this authority to the deputy and the wardens and superintendents of the state prisons.

History: 1989 a. 31 s. 1711; Stats. 1989 s. 304.115.

Cross−reference: See also s. DOC 325.02, Wis. adm. code.

304.12 Execution and record of warrants. When a convicted person is pardoned or the person's sentence is commuted, or the person is remanded to prison for the violation of any of the conditions of that person's pardon, the officer to whom the warrant is issued after executing it shall make return thereon to the governor forthwith and shall file with the clerk of the court in which the offender was convicted a certified copy of the warrant and return, and the clerk shall enter and file the same with the records of the case.

History: 1989 a. 31 s. 1712; Stats. 1989 s. 304.12; 1991 a. 316.

304.13 Uniform act for out−of−state parolee supervision; state compacts. (1m) The governor of this state is authorized and directed to enter into a compact on behalf of this state with any state of the United States legally joining therein in the form substantially as follows:

A COMPACT.

Entered into by and among the contracting states, signatories hereto, with the consent of the congress of the United States of America, granted by an act entitled "An act granting the consent of congress to any two or more states to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and for other purposes".

The contracting states solemnly agree:

(a) That it shall be competent for the duly constituted judicial and administrative authorities of a sending state to permit any person convicted of an offense within the sending state and placed on probation or released on extended supervision or parole to reside in any receiving state while on probation, extended supervision or parole, if:

1. Such person is in fact a resident of or has family residing within the receiving state and can obtain employment there; or

2. Though not a resident of the receiving state and not having family residing there, the receiving state consents to such person being sent there.

3. Before granting such permission, opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person.

4. A resident of the receiving state, within the meaning of this subsection, is one who has been an actual inhabitant of such state continuously for more than one year prior to coming to the sending state and has not resided within the sending state more than 6 continuous months immediately preceding the commission of the offense for which that person has been convicted.

(b) That each receiving state will assume the duties of visitation of and supervision over probationers, persons on extended supervision or parolees of any sending state and in the exercise of those duties will be governed by the same standards that prevail for its own probationers, persons on extended supervision and parolees.

(c) That the duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any person on probation, extended supervision or parole. For that purpose no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice are expressly waived on the part of states party hereto, as to such persons. The decision of the sending state to retake a person on probation, extended supervision or parole shall be conclusive upon and not reviewable within the receiving state; provided, however, that if at the time when a state seeks to retake a probationer, person on extended supervision or parolee there should be pending against that person within the receiving state any criminal charge, or that person should be suspected of having committed within such state a criminal offense, that person shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense.

(d) That the duly accredited officers of the sending state will be permitted to transport prisoners being retaken through any and all such states parties to this compact, without interference.

(e) That the governor of each state may designate an officer who, acting jointly with like officers of other contracting states, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this compact.

(f) That this compact shall become operative immediately upon its ratification by any state as between it and any other state or states so ratifying. When ratified it shall have the full force and effect of law within such state, the form of ratification to be in accordance with the laws of the ratifying state.

(g) That this compact shall continue in force and remain binding upon such ratifying state until renounced by it. The duties and obligations hereunder of a renouncing state shall continue as to parolees, persons on extended supervision or probationers residing therein at the time of withdrawal or until finally discharged by the sending state. Renunciation of this compact shall be by the same authority which ratified it, by sending 6 months' notice in writing of its intention to withdraw the compact to the other states party thereto.

(h) In this subsection:

1. "Receiving state" means a party to this compact other than a sending state.

2. "Sending state" means a party to this compact permitting its probationers, persons on extended supervision and parolees to reside in a receiving state.

(i) This subsection may be cited as the "Uniform Act for Out−of−State Parolee Supervision".

(2m) Subsection (1m) does not apply to this state's supervision of a person who is on probation, parole, or extended supervision from another state or another state's supervision of a person who is on probation, parole, or extended supervision from this state if all of the following have occurred:

(a) The compact authorized by s. 304.16 is in effect.

(b) Both this state and the other state are parties to the compact under s. 304.16.

(c) The other state has renounced the compact entered into with this state under sub. (1m).

History: 1979 c. 89; 1983 a. 189; 1989 a. 31 s. 1713; Stats. 1989 s. 304.13; 1991 a. 316; 1997 a. 283; 2001 a. 96.

Cross−reference: See Appendix for a list of states which have ratified this compact.

The statutory distinction between parolees out−of−state under s. 57.13 [now s. 304.13] and absconding parolees, which denies extradition to the former but not the latter, is a constitutionally valid classification under *Omernik* test. State ex rel. Niederer v. Cady, 72 Wis. 2d 311, 240 N.W.2d 626 (1976).

Although the sending state could retake a compact parolee under s. 57.13 [now s. 304.13] without process, if it chooses to extradite the parolee it must meet extradition requirements. State ex rel. Reddin v. Meekma, 99 Wis. 2d 56, 298 N.W.2d 192 (Ct. App. 1980).

Affirmed. 102 Wis. 2d 358, 306 N.W.2d 664 (1981).

Preapproval of an interstate probation transfer is contemplated by this provision, but when the probationer had consented to the transfer of probation supervision to Wisconsin, compliance with the statute was not required. State v. Martinez, 198 Wis. 2d 222, 542 N.W.2d 215 (Ct. App. 1995), 94−3006.

A probationer, like a parolee, is entitled to a preliminary and a final revocation hearing. Gagnon v. Scarpelli, 411 U.S. 778.

304.135 Out−of−state supervision of parolees and persons on extended supervision without compact. (1) (a) If the compact authorized under s. 304.16 is not in effect, the department may permit any person convicted of an offense within this state and placed on probation or released on extended supervision or parole to reside in any other state not a party to the compact authorized by s. 304.13 (1m) whenever the authorities of the receiving state agree to assume the duties of visitation of and supervision over the probationer, person on extended supervision, or parolee, governed by the same standards that prevail for its own probationers, persons on extended supervision, and parolees, on

the same terms as are provided in s. 304.13 (1m) (a) and (b), in the case of states signatory to the compact authorized by s. 304.13 (1m).

(b) If the compact authorized under s. 304.16 is in effect, the department may permit any person convicted of an offense within this state and placed on probation or released on extended supervision or parole to reside in any other state that is not a party to the compact authorized by s. 304.13 (1m), or the compact authorized under s. 304.16, whenever the authorities of the receiving state agree to assume the duties of visitation of and supervision over the probationer, person on extended supervision, or parolee, governed by the same standards that prevail for its own probationers, persons on extended supervision, and parolees, on the same terms as are provided by rules promulgated by the interstate commission, as defined in s. 304.16 (2) (f), in the case of compacting states, as defined in s. 304.16 (2) (e).

(2) Before permitting any probationer, person on extended supervision, or parolee to leave this state under sub. (1), the department shall obtain from him or her a signed agreement to return to this state upon demand of the department and an irrevocable waiver of all procedure incidental to extradition. The department may, in a manner comparable to that provided in sub. (1), receive for supervision probationers, persons on extended supervision, and parolees convicted in a state that is not a party to the compact authorized by s. 304.13 (1m) or the compact authorized by s. 304.16, and shall have the same custody and control of those persons as it has over probationers, persons on extended supervision, and parolees of this state.

History: 1989 a. 31 s. 1714; Stats. 1989 s. 304.135; 1997 a. 283; 2001 a. 96.

A probation order to spend 3 years in India doing charitable work exceeded the trial court's authority. State v. Dean, 102 Wis. 2d 300, 306 N.W.2d 286 (Ct. App. 1981).

304.137 Determination concerning submission of human biological specimen. (1) PERSONS RELEASED OR PLACED ON PROBATION BEFORE JANUARY 1, 2000. If the department accepts supervision of a probationer, person on extended supervision, or parolee from another state under s. 304.13 (1m), 304.135, or 304.16 and the person was placed on probation or released on parole or extended supervision before January 1, 2000, the department shall determine whether the violation of law for which the person is on probation, extended supervision, or parole is comparable to a violation of s. 940.225 (1) or (2), 948.02 (1) or (2), 948.025, or 948.085. If the department determines that a person on probation, extended supervision, or parole from another state who is subject to this subsection violated a law that is comparable to a violation of s. 940.225 (1) or (2), 948.02 (1) or (2), 948.025, or 948.085, the department shall direct the probationer, person on extended supervision, or parolee to provide a biological specimen under s. 165.76.

(2) PERSONS RELEASED OR PLACED ON PROBATION ON OR AFTER JANUARY 1, 2000. If the department accepts supervision of a probationer, person on extended supervision, or parolee from another state under s. 304.13 (1m), 304.135, or 304.16 and the person was placed on probation or released on parole or extended supervision on or after January 1, 2000, the department shall determine whether the violation of law for which the person is on probation, extended supervision, or parole would constitute a felony if committed by an adult in this state. If the department determines that a person on probation, extended supervision, or parole from another state who is subject to this subsection violated a law that would constitute a felony if committed by an adult in this state, the department shall direct the probationer, person on extended supervision, or parolee to provide a biological specimen under s. 165.76.

History: 1995 a. 440; 1997 a. 283; 1999 a. 9; 2001 a. 96; 2005 a. 277.

304.14 Cooperative return of parole, extended supervision and probation violators. The secretary may deputize any person regularly employed by another state to act as an officer and agent of this state in effecting the return of any person who has violated the terms and conditions of parole, extended supervision or probation as granted by this state. In any matter relating to the return of such person, any agent so deputized shall have all the powers of a police officer of this state. Any deputization pursuant to this section shall be in writing and any person authorized to act as an agent under this section shall carry formal evidence of the deputization and shall produce the same upon demand.

History: 1989 a. 31 s. 1715; Stats. 1989 s. 304.14; 1991 a. 316; 1997 a. 283.

304.16 Interstate compact for adult offender supervision. (1) ARTICLE I — PURPOSE. (a) The compacting states to this interstate compact recognize that each state is responsible for the supervision, in the community, of adult offenders who are authorized under the bylaws and rules of this compact to travel across state lines to and from each compacting state in such a manner as to enable each compacting state to track the location of offenders, transfer supervision authority in an orderly and efficient manner, and, when necessary, return offenders to their original jurisdictions. The compacting states recognize also that congress, by enacting the Crime Control Act, 4 USC 112, has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime. It is the purpose of this compact and the interstate commission created under sub. (3), through means of joint and cooperative action among the compacting states, to do all of the following:

1. 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.

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

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

(b) This compact will do all of the following:

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

2. Ensure 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.

3. Establish 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 or boards, state executive, judicial, and legislative branches, and the attorney general.

4. Monitor compliance with rules governing interstate movement of offenders and intervene to address and correct noncompliance.

5. Coordinate training and education regarding the regulation of interstate movement of offenders for officials involved in such activity.

(c) The compacting states recognize that there is no right of any offender to live in another state and that duly accredited officers of a sending state may at any time enter a receiving state to apprehend and retake any offender under supervision subject to the provisions of this compact and to bylaws adopted and rules promulgated under this section. The activities conducted by the interstate commission created in this section are the formation of public policies and are public business.

(2) ARTICLE II — DEFINITIONS. In this section:

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

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

(c) "Commissioner" means the voting representative of each compacting state appointed under sub. (3).

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

(e) "Compacting state" means any state that has enacted the enabling legislation for this compact.

(f) "Interstate commission" means the interstate commission for adult offender supervision established by this compact.

(g) Unless the context indicates otherwise, "member" means the commissioner of a compacting state or a designee of the commissioner who is employed by the compacting state to assist in the administration of the compact.

(h) "Noncompacting state" means a 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, the department of corrections, or other criminal justice agencies.

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

(k) Except as provided in sub. (8) (g), "rules" means acts of the interstate commission, duly promulgated under sub. (8) and substantially affecting interested parties in addition to the interstate commission, that 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, or any other territorial possession of the United States.

(m) "State board" means the interstate adult offender supervision board created under sub. (4) and s. 15.145 (3).

(3) ARTICLE III — THE COMPACT COMMISSION. (a) 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.

(b) The interstate commission has all of the responsibilities, powers, and duties set forth in this section, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(c) The interstate commission shall consist of commissioners selected and appointed by resident members of the state board for their respective states. 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. 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 nonvoting members. The interstate commission may provide in its bylaws for such additional, nonvoting members as it considers necessary.

(d) 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 bylaws of the interstate commission. The interstate commission shall meet at least once each 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, except as provided in sub. (7) (f), meetings shall be open to the public.

(e) The interstate commission shall establish an executive committee, which shall include commission officers, members, and others as determined by the bylaws. 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 rule making or 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, with its bylaws, and as directed by the interstate commission, and performs other duties as directed by the interstate commission or set forth in the bylaws.

(4) ARTICLE IV — THE STATE BOARD. There is created an interstate adult offender supervision board under s. 15.145 (3), which shall be responsible for the appointment of the commissioner who shall serve on the interstate commission from this state. The state board shall appoint as its commissioner the compact administrator from this state to serve on the interstate commission in such capacity under applicable law of the member state. While each member state may determine the membership of its own state board, its membership must include at least the state's compact administrator and one representative from the legislative, judicial, and executive branches of government and victims groups. Each compacting state retains the right to determine the qualifications of the compact administrator, who shall be appointed by the governor in consultation with the legislature and the judiciary. In addition to appointing its commissioner to the interstate commission, the state board shall exercise oversight and advocacy concerning its participation in interstate commission activities and other duties as may be determined by each member state, including the development of policy concerning operations and procedures of the compact within that state.

(5) ARTICLE V — POWERS AND DUTIES OF THE INTERSTATE COMMISSION. The interstate commission shall have all of the following powers:

(a) To adopt a seal and suitable bylaws governing the management and operation of the interstate commission.

(b) To promulgate rules, which 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) To oversee, supervise, and coordinate the interstate movement of offenders subject to the terms of this compact and to any bylaws adopted and rules promulgated by the interstate commission.

(d) To enforce compliance with compact provisions and interstate commission rules and bylaws, using all necessary and proper means, including the use of judicial process.

(e) To establish and maintain offices.

(f) To purchase and maintain insurance and bonds.

(g) To borrow, accept, or contract for services of personnel, including members and their staffs.

(h) To establish and appoint committees and hire staff that it considers necessary for carrying out its functions, including an executive committee as required by sub. (3) (e).

(i) To elect or appoint officers, attorneys, employees, agents, or consultants and to fix their compensation, define their duties, and determine their qualifications.

(j) To establish the interstate commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel.

(k) To accept, receive, utilize, and dispose of donations and grants of money, equipment, supplies, materials, and services.

(L) To lease, purchase, or accept contributions or donations of, or otherwise own, hold, improve, or use, any property, whether real, personal, or mixed.

(m) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed.

(n) To establish a budget and to make expenditures and levy assessments as provided in sub. (10).

(o) To sue and be sued.

(p) To provide for dispute resolution among compacting states.

(q) To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

(r) To report annually to the legislatures, governors, judiciary, and state councils or boards of the compacting states concerning the activities of the interstate commission during the preceding year. Such reports shall include also any recommendations adopted by the interstate commission.

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

(t) To establish uniform standards for the reporting, collecting, and exchanging of data.

(6) ARTICLE VI — ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION. (a) *Bylaws.* The interstate commission shall, by a majority of the members and within 12 months after the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including bylaws that do any of the following:

1. Establish the fiscal year of the interstate commission.

2. Establish an executive committee and other committees as may be necessary.

3. Provide reasonable standards and procedures for doing all of the following:

a. Establishing committees.

b. Governing any general or specific delegation of any authority or function of the interstate commission.

4. Provide reasonable procedures for calling and conducting meetings of the interstate commission and for ensuring reasonable notice of each meeting.

5. Establish the titles and responsibilities of the officers of the interstate commission.

6. Provide reasonable standards and procedures for the establishment of the personnel policies and programs of the interstate commission. Notwithstanding any civil service or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the interstate commission.

7. Provide a mechanism for winding up the operations of the interstate commission and the equitable return of any surplus funds that may exist upon the termination of the compact after the payment or the reserving of all of its debts and obligations.

8. Provide for the initial administration of the compact.

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

(b) *Officers and staff.* 1. The interstate commission shall, by a majority of the members, elect from among its members a chairperson and a vice chairperson, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in his or her absence or disability, the vice chairperson shall preside at all meetings of the interstate commission. The officers so elected shall serve without compensation or remuneration from the interstate commission. 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 interstate commission.

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

(c) *Corporate records of the interstate commission.* The interstate commission shall maintain its corporate books and records in accordance with the bylaws.

(d) *Immunity, defense, and indemnification.* 1. The voting and nonvoting 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, loss of property, personal injury, or other civil liability caused or arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities. Nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

2. The interstate commission shall defend the commissioner of a compacting state, his or her representatives or employees, and the interstate commission's representatives or employees in any civil action seeking to impose liability and 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 person had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, unless the actual or alleged act, error, or omission resulted from intentional wrongdoing on the part of such person.

3. The interstate commission shall indemnify and hold the commissioner of a compacting state, his or her representatives or employees, and the interstate commission's representatives or employees 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 person had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, unless the actual or alleged act, error, or omission resulted from intentional wrongdoing on the part of such person.

(7) ARTICLE VII — ACTIVITIES OF THE INTERSTATE COMMISSION. (a) The interstate commission shall meet and take such actions as are consistent with the provisions of this compact.

(b) Except as otherwise provided in this compact and unless a greater percentage is required by the bylaws, in order to constitute an act of the interstate commission, such act shall have been taken at a meeting of the interstate commission and shall have received an affirmative vote of a majority of the members present.

(c) Each member of the interstate commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the interstate commission. A member shall vote in person on behalf of the state and shall not delegate a vote to another member state. However, a state board 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 bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone, or by other means of telecommunication or electronic communication, shall be subject to the same quorum requirements of meetings at which members are present in person.

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

(e) The interstate commission's bylaws shall establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate 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 promulgating 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.

(f) 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 promulgate rules consistent with the principles contained in the Government in Sunshine Act, 5 USC 552b. The interstate commission and any of its committees may close a meeting to the public if it determines by two−thirds vote that an open meeting would be likely to do any of the following:

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

2. Disclose matters specifically exempted from disclosure by statute.

3. Disclose a trade secret or commercial or financial information that is privileged or confidential.

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

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

6. Disclose investigatory records compiled for law enforcement purposes.

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

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

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

(g) For every meeting closed under par. (f), the interstate commission's chief legal officer shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall reference each relevant exemptive provision. The interstate commission shall keep minutes that shall fully and clearly describe all matters discussed in any meeting and shall 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, reflected in the vote of each member on the question. All documents considered in connection with any action shall be identified in such minutes.

(h) The interstate commission shall collect standardized data concerning the interstate movement of offenders as directed through its bylaws and rules that shall specify the data to be collected, the means of collection, and data exchange and reporting requirements.

(8) ARTICLE VIII — RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION. (a) The interstate commission shall promulgate rules in order to effectively and efficiently achieve the purposes of the compact, including transition rules governing administration of the compact during the period after it becomes effective in which it is being considered and enacted by other states.

(b) Rule making shall occur under the criteria set forth in this subsection and the bylaws and rules adopted under this subsection. Such rule making shall substantially conform to the principles of the federal Administrative Procedure Act, 5 USC 551 to 559, and the federal Advisory Committee Act, P.L. 92−463, reprinted in 5 USC appendix. All rules and amendments shall become binding as of the date specified in each rule or amendment.

(c) If a majority of the legislatures of the compacting states reject a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

(d) When promulgating a rule, the interstate commission shall do all of the following:

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

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

3. Provide an opportunity for an informal hearing.

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

(e) Not later than 60 days after a rule is promulgated, any interested person may file a petition in the U.S. district court for the District of Columbia or in the federal district court for the district in which 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 construed under the federal Administrative Procedure Act, 5 USC 551 to 559, in the rule−making record, the court shall hold the rule unlawful and set it aside.

(f) Subjects to be addressed within 12 months after the first meeting must at a minimum include all of the following:

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.

10. Mediation, arbitration, and dispute resolution.

(g) The existing rules governing the operation of the compact authorized under s. 304.13 (1m) shall be null and void with respect to adult offenders traveling between compacting states 12 months after the first meeting of the interstate commission.

(h) Upon determination by the interstate commission that an emergency exists, it may promulgate an emergency rule, which shall become effective immediately upon adoption, provided that the usual rule−making procedures provided under this subsection shall be retroactively applied to the rule as soon as reasonably possible and in no event later than 90 days after the effective date of the rule.

(9) ARTICLE IX — OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION. (a) *Oversight.* 1. The interstate commission shall oversee the interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in noncompacting states that may significantly affect compacting states.

2. 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 that may affect the powers, responsibilities, or actions of the interstate commission, the interstate commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes.

(b) *Dispute resolution.* 1. The compacting states shall report to the interstate commission on issues or activities of concern to them and cooperate with and support the interstate commission in the discharge of its duties and responsibilities.

2. The interstate commission shall attempt to resolve any disputes or other issues that are subject to the compact or that may arise among compacting states and noncompacting states.

3. The interstate commission shall enact a bylaw or promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

(c) *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 sub. (12).

(10) ARTICLE X — FINANCE. (a) The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(b) 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 promulgate a rule that is binding upon all compacting states and that governs the assessment.

(c) The interstate commission may not incur any obligations of any kind prior to securing the funds adequate to meet them, nor may the interstate commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

(d) The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the interstate commission.

(11) ARTICLE XI — COMPACTING STATES, EFFECTIVE DATE, AND AMENDMENT. (a) Any state is eligible to become a compacting state.

(b) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 of the states. The initial effective date shall be upon enactment into law by the 35th jurisdiction. Thereafter it 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.

(c) Amendments to the compact may be proposed by the interstate commission for enactment by the compacting states. No amendment shall become effective and binding upon the interstate commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

(12) ARTICLE XII — WITHDRAWAL, DEFAULT, TERMINATION, AND JUDICIAL ENFORCEMENT. (a) *Withdrawal.* 1. Except as provided in subd. 2. and par. (b) 1. c. and 3., once effective, the compact shall continue in force and remain binding upon each and every compacting state.

2. a. A compacting state may withdraw from the compact by enacting a law specifically repealing this section.

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 receiving the written notice.

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

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.

(b) *Default.* 1. 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, under the bylaws, or under any duly promulgated rules, the interstate commission may impose any or all of the following penalties:

a. Forfeitures, fees, and costs in such amounts as are considered reasonable and as fixed by the interstate commission.

b. Remedial training and technical assistance as directed by the interstate commission.

c. Suspension or termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted. Immediate notice of suspension shall be given by the interstate commission to the governor, the chief justice of the supreme court, the majority and minority leaders of the defaulting state's legislature, and the state board.

2. The grounds for default include failure of a compacting state to perform obligations or responsibilities imposed upon it by this compact, interstate commission bylaws, or duly promulgated rules.

3. If it determines that a compacting state has defaulted, the interstate commission shall immediately notify the defaulting state in writing of the penalty imposed by the interstate commission on the defaulting state pending a cure of the default. The interstate commission shall stipulate the conditions under which and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the interstate commission, in addition to any other penalties imposed herein, 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 termination. Within 60 days after the effective date of termination of a defaulting state, the interstate commission shall notify the governor, the chief justice of the supreme court, the majority and minority leaders of the defaulting state's legislature, and the state board of the termination.

4. 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.

5. The interstate commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the interstate commission and the defaulting state.

6. Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the interstate commission under the rules.

(c) *Judicial enforcement.* The interstate commission may, by majority vote of the members, initiate legal action in the U.S. district court for the District of Columbia, or, at the discretion of the interstate commission, in the federal district court for the district in which the interstate commission has its offices, to enforce compliance with the provisions of the compact and duly promulgated rules and bylaws against any compacting state in default. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

(d) *Dissolution of compact.* 1. The compact dissolves effective upon the date of the withdrawal or default of the compacting state that reduces membership in the compact to one compacting state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, the business and affairs of the interstate commission shall be wound up, and any surplus funds shall be distributed in accordance with the bylaws.

(13) ARTICLE XIII — CONSTRUCTION. The provisions of this compact shall be liberally constructed to effectuate its purposes.

(14) ARTICLE XIV — BINDING EFFECT OF COMPACT AND OTHER LAWS. (a) *Other laws.* 1. Nothing in this compact prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

2. All compacting states' laws conflicting with this compact are superseded to the extent of the conflict.

(b) *Binding effect of the compact.* 1. All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the compacting states.

2. All agreements between the interstate commission and the compacting states are binding in accordance with their terms.

3. 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.

4. In the event that 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 that this compact becomes effective.

(15) ARTICLE XV — SHORT TITLE. This section may be cited as the "Interstate Compact for Adult Offender Supervision."

History: 2001 a. 96.