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MGD: km

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V-Note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

In 2-26-01

LPS: *Proof all amended stats. w/ FOLIO. [except those in the Inserts]*

reg. cat.

1 AN ACT to renumber and amend 304.13 and 304.135; to amend 165.76 (1) (e),
 2 165.76 (1) (f), 165.76 (2) (b) 3m., 301.45 (1) (dh), 301.45 (2) (e) 2., 301.45 (3) (a)
 3 1m., 301.45 (3) (b) 2., 301.45 (5) (a) 1m., 304.137 (1) and 304.137 (2); and to
 4 create 304.13 (2m), 304.135 (1) (b), 304.16, and 801.14 (6) of the statutes;
 5 relating to: the interstate compact for adult offender supervision.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version. For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

~~CR 15, 1999~~
The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Insert 1-6

7 SECTION 1. 165.76 (1) (e) of the statutes, as affected by 1999 Wisconsin Act 9,
 is amended to read:
 8 165.76 (1) (e) Is released on parole or extended supervision or placed on
 9 probation in another state before January 1, 2000, and is on parole, extended

SECTION 1

(1) supervision or probation in this state from the other state under s. 304.13 or (1m),
 (2) 304.135 or 304.16 on or after July 9, 1996, for a violation of the law of the other state
 3 that the department of corrections determines, under s. 304.137 (1), is comparable
 (4) to a violation of s. 940.225 (1) or (2), 948.02 (1) or (2), or 948.025.

(5) SECTION 2. 165.76 (1) (f) of the statutes as created by 1999 Wisconsin Act 9

6 is amended to read:

7 165.76 (1) (f) Is released on parole or extended supervision or placed on
 8 probation in another state on or after January 1, 2000, and is on parole, extended
 (9) supervision, or probation in this state from the other state under s. 304.13 or (1m),
 (10) 304.135 or 304.16 for a violation of the law of the other state that the department of
 11 corrections determines, under s. 304.137 (2), would constitute a felony if committed
 12 by an adult in this state.

13 SECTION 3. 165.76 (2) (b) 3m. of the statutes is amended to read:

14 165.76 (2) (b) 3m. If the person is on parole, extended supervision, or probation
 (15) in this state from another state under s. 304.13 or (1m), 304.135 or 304.16, he or she
 16 shall provide the specimen under par. (a) at the office of a county sheriff as soon as
 17 practicable after entering this state, as directed by his or her probation, extended
 (18) supervision, and parole agent.

(19) SECTION 4. 301.45 (1) (dh) of the statutes is amended to read:

(20) 301.45 (1) (dh) Is on parole, extended supervision, or probation in this state
 (21) from another state under s. 304.13 or (1m), 304.135 or 304.16 on or after
 22 December 25, 1993, for a violation, or for the solicitation, conspiracy, or attempt to
 23 commit a violation, of the law of another state that is comparable to a violation of s.
 24 940.22 (2), 940.225 (1), (2) or (3), 944.06, 948.02 (1) or (2), 948.025, 948.05, 948.055,

Act 89

sex offense

(1) ~~948.06, 948.07, 948.08, 948.11 or 948.30~~ or that is comparable to a violation of s.
2 ~~940.30 or 940.31 if the victim was a minor and the person was not the victim's parent.~~

3 SECTION 5. 301.45 (2) (e) 2. of the statutes, as affected by 1999 Wisconsin Act
4 (Assembly Bill 99), is amended to read:
5 301.45 (2) (e) 2. If the person is on parole, extended supervision or probation
6 from another state under s. 304.13 ~~or (1m)~~, 304.135 or 304.16, before the person
7 enters this state.

*Amend
301.45 (e) 2.
insert
3-7*

8 SECTION 6. 301.45 (3) (a) 1m. of the statutes is amended to read:
9 301.45 (3) (a) 1m. If the person is on parole, extended supervision or probation
10 from another state under s. 304.13 ~~or (1m)~~, 304.135 or 304.16, he or she is subject to
11 this subsection upon entering this state.

12 SECTION 7. 301.45 (3) (b) 2. of the statutes is amended to read:
13 301.45 (3) (b) 2. The department shall notify a person who is being released
14 from prison because he or she has reached the expiration date of his or her sentence
15 and who is covered under sub. (1) of the need to comply with this section. Also,
16 probation, extended supervision and parole agents, aftercare agents and agencies
17 providing supervision shall notify any client who is covered under sub. (1) of the need
18 to comply with this section at the time the client is placed on probation, extended
19 supervision, parole, supervision or aftercare supervision or, if the client is on
20 probation, extended supervision or parole from another state under s. 304.13 ~~or (1m)~~,
21 304.135 or 304.16, when the client enters this state.

*Amend
301.43 (3)(b) 1m.
insert
3*

22 SECTION 8. 301.45 (5) (a) 1m of the statutes is amended to read:
23 301.45 (5) (a) 1m. If the person is on parole, extended supervision or probation
24 from another state under s. 304.13 ~~or (1m)~~, 304.135 or 304.16, 15 years after
25 discharge from that parole, extended supervision or probation.

*Amend 301.45 (5m)
Cal. L.
insert
3-25*

SECTION 9

1 SECTION 9. 304.13 of the statutes is renumbered 304.13 (1m), and 304.13 (1m)

2 (a) 4., (h) (intro.) and (i), as renumbered, are amended to read:

3 304.13 (1m) (a) 4. A resident of the receiving state, within the meaning of this
4 section subsection, is one who has been an actual inhabitant of such state
5 continuously for more than one year prior to coming to the sending state and has not
6 resided within the sending state more than 6 continuous months immediately
7 preceding the commission of the offense for which that person has been convicted.

8 (h) (intro.) In this section subsection:

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

11 SECTION 10. 304.13 (2m) of the statutes is created to read:

12 304.13 (2m) Subsection (1m) does not apply to this state's supervision of a
13 person ^{who is} on probation, parole, or extended supervision from another state or another
14 state's supervision of a person ^{who is} on probation, parole, or extended supervision from this
15 state if all of the following have occurred:

16 (a) The compact authorized by s. 304.16 [✓] is in effect.

17 (b) Both this state and the other state are parties to the compact under s.
18 304.16. [✓]

19 (c) The other state has renounced the compact entered into with this state
20 under sub. (1m). [✓]

21 SECTION 11. 304.135 of the statutes is renumbered 304.135 (1) (a) and amended
22 to read:

23 304.135 (1) (a) The If the compact authorized under s. 304.16 is not in effect,
24 the department may permit any person convicted of an offense within this state and
25 placed on probation or released on extended supervision or parole to reside in any

1 other state not a party to the compact authorized by s. 304.13 (1m) ✓ whenever the
2 authorities of the receiving state agree to assume the duties of visitation of and
3 supervision over the probationer, person on extended supervision ² or parolee,
4 governed by the same standards that prevail for its own probationers, persons on
5 extended supervision ² and parolees, on the same terms as are provided in s. 304.13
6 (1) and (2) (1m) (a) and (b), in the case of states signatory to the compact authorized
7 by s. 304.13 (1m).

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

18 SECTION 12. 304.135 (1) (b) of the statutes is created to read:

19 304.135 (1) (b) If the compact authorized under s. 304.16 is in effect, the
20 department may permit any person convicted of an offense within this state and
21 placed on probation or released on extended supervision or parole to reside in any
22 other state that is not a party to the compact authorized by s. 304.13 ^{Mark} (1m), or the
23 compact authorized under s. 304.16, whenever the authorities of the receiving state
24 agree to assume the duties of visitation of and supervision over the probationer,
25 person on extended supervision [✓] or parolee, governed by the same standards that

1 prevail for its own probationers, persons on extended supervision^v and parolees, on
 2 the same terms as are provided by rules promulgated by the interstate commission,
 3 as defined in s. 304.16 (2) (f),[✓] in the case of compacting states, as defined in s. 304.16
 4 (2) (e).

5 SECTION 13. 304.137 (1) of the statutes, ~~as affected by 1999 Wisconsin Act 9~~
 6 is amended to read:

7 304.137 (1) PERSONS RELEASED OR PLACED ON PROBATION BEFORE JANUARY 1, 2000.

8 If the department accepts supervision of a probationer, person on extended
 9 supervision² or parolee from another state under s. 304.13 or (1m), 304.135² or 304.16[✓]
 10 and the person was placed on probation or released on parole or extended supervision
 11 before January 1, 2000, the department shall determine whether the violation of law
 12 for which the person is on probation, extended supervision² or parole is comparable
 13 to a violation of s. 940.225 (1) or (2), 948.02 (1) or (2) or 948.025. If the department
 14 determines that a person on probation, extended supervision² or parole from another
 15 state who is subject to this subsection violated a law that is comparable to a violation
 16 of s. 940.225 (1) or (2), 948.02 (1) or (2) or 948.025, the department shall direct the
 17 probationer, person on extended supervision², or parolee to provide a biological
 18 specimen under s. 165.76.

19 SECTION 14. 304.137 (2) of the statutes, ~~as created by 1999 Wisconsin Act 9~~, is
 20 amended to read:

21 304.137 (2) PERSONS RELEASED OR PLACED ON PROBATION ON OR AFTER
 22 JANUARY 1, 2000. If the department accepts supervision of a probationer, person on
 23 extended supervision² or parolee from another state under s. 304.13 or (1m), 304.135²,
 24 or 304.16 and the person was placed on probation or released on parole or extended
 25 supervision on or after January 1, 2000, the department shall determine whether

Amended comment

1 the violation of law for which the person is on probation, extended supervision, or
 2 parole would constitute a felony if committed by an adult in this state. If the
 3 department determines that a person on probation, extended supervision, or parole
 4 from another state who is subject to this subsection violated a law that would
 5 constitute a felony if committed by an adult in this state, the department shall direct
 6 the probationer, person on extended supervision, or parolee to provide a biological
 7 specimen under s. 165.76.

8 **SECTION 15.** 304.16 of the statutes is created to read:

9 **304.16 Interstate compact for adult offender supervision.** (1) ARTICLE

Handwritten notes: "8 m desk" in a circle with a line pointing to line 8; "Init. 3" and "Cap III" in a circle with a line pointing to line 10.

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

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

- (1) 2. Provide for the effective tracking, supervision, and rehabilitation of these
2 offenders by the sending and receiving states.
- (3) 3. Equitably distribute the costs, benefits, and obligations of the compact among
4 the compacting states.
- (5) (b) This compact will do all of the following:
- (6) 1. Create an interstate commission that will establish uniform procedures to
7 manage the movement between states of adults placed under community
8 supervision and released to the community under the jurisdiction of courts, paroling
(9) authorities or corrections or other criminal justice agencies and that will promulgate
10 rules to achieve the purpose of this compact.
- (11) 2. Ensure an opportunity for input and timely notice to victims and to
12 jurisdictions where defined offenders are authorized to travel or to relocate across
13 state lines.
- 14 3. Establish a system of uniform data collection, access to information on active
15 cases by authorized criminal justice officials, and regular reporting of compact
16 activities to heads of state councils, ^{or boards,} state executive, judicial, and legislative branches,
17 and ~~criminal justice administrators.~~ ^{the attorney general}
- 18 4. Monitor compliance with rules governing interstate movement of offenders
19 and intervene to address and correct noncompliance.
- 20 5. Coordinate training and education regarding the regulation of interstate
21 movement of offenders for officials involved in such activity.
- 22 (c) The compacting states recognize that there is no right of any offender to live
23 in another state and that duly accredited officers of a sending state may at any time
24 enter a receiving state to apprehend and retake any offender under supervision
25 subject to the provisions of this compact and to bylaws adopted and rules

1 promulgated under this section. ~~It is the policy of the compacting states that the~~
2 activities conducted by the interstate commission created in this section are the
3 formation of public policies and are ~~therefore~~ public business.

4 (2) ARTICLE II ^{which} DEFINITIONS. In this section:

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

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

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

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

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

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

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

24 (h) "Noncompacting state" means a state that has not enacted the enabling
25 legislation for this compact.

1 (i) "Offender" means an adult placed under or subject to supervision as the
 2 result of the commission of a criminal offense and released to the community under
 3 the jurisdiction of courts, paroling authorities, ^{the department of} a state's corrections, agency or other
 4 criminal justice agencies.

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

7 (k) Except as provided in sub. (8) (g), "rules" means acts of the interstate
 8 commission, duly promulgated under sub. (8) and substantially affecting interested
 9 parties in addition to the interstate commission, that shall have the force and effect
 10 of law in the compacting states.

11 (L) "State" means a state of the United States, the District of Columbia, or any
 12 other territorial possession of the United States.

13 (m) "State ^{board} council" means the state ^{board} council for interstate adult offender
 14 supervision ^{board} created by each state under sub. (4) and s. 15.145 (3)

15 (3) ARTICLE III - THE COMPACT COMMISSION. (a) The compacting states hereby
 16 create the interstate commission for adult offender supervision. The interstate
 17 commission shall be a body corporate and a joint agency of the compacting states.

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

22 (c) The interstate commission shall consist of commissioners selected and
 23 appointed by resident members of the state ^{board} council for their respective states. In
 24 addition to the commissioners who are the voting representatives of each state, the
 25 interstate commission shall include individuals who are not commissioners but who

1 are members of interested organizations. Noncommissioner members shall include
 2 a member of the national organizations of governors, legislators, state chief justices,
 3 attorneys general, and crime victims. All noncommissioner members of the
 4 interstate commission shall be nonvoting members. The interstate commission may
 5 provide in its bylaws for such additional, nonvoting members as it ~~deems~~ ^{considers} necessary.

6 (d) Each compacting state represented at any meeting of the interstate
 7 commission is entitled to one vote. A majority of the compacting states shall
 8 constitute a quorum for the transaction of business, unless a larger quorum is
 9 required by the bylaws of the interstate commission. The interstate commission
 10 shall meet at least once each year. The chairperson may call additional meetings
 11 and, upon the request of 27 or more compacting states, shall call additional meetings.
 12 Public notice shall be given of all meetings and, except as provided in sub. (7) (f),
 13 meetings shall be open to the public.

14 (e) The interstate commission shall establish an executive committee, which
 15 shall include commission officers, members, and others as determined by the bylaws.
 16 The executive committee shall have the power to act on behalf of the interstate
 17 commission during periods when the interstate commission is not in session, with
 18 the exception of rule making or amendments to the compact. The executive
 19 committee oversees the day-to-day activities managed by the executive director and
 20 interstate commission staff, administers enforcement and compliance with the
 21 provisions of the compact, with its bylaws, and as directed by the interstate
 22 commission, and performs other duties as directed by the interstate commission or
 23 set forth in the bylaws.

24 (4) ARTICLE IV - THE STATE ^{Board} ~~Council~~. Each member state shall create ^{There is created an} a state
 25 ~~council for~~ ^{board under s. 15.145(3)} interstate adult offender supervision, which shall be responsible for the

1 appointment of the commissioner who shall serve on the interstate commission from
 2 ~~that~~ ^{this} state. ~~Each~~ ^{The board} state ~~council~~ shall appoint as its commissioner the compact
 3 administrator from ~~that~~ ^{this} state to serve on the interstate commission in such capacity
 4 under applicable law of the member state. While each member state may determine
 5 the membership of its own state ~~council~~ ^{board} its membership must include at least the
 6 state's compact administrator and one representative from the legislative, judicial,
 7 and executive branches of government and victims groups. Each compacting state
 8 retains the right to determine the qualifications of the compact administrator, who
 9 shall be appointed by the state ~~council~~ ^{board} or by the ~~governor~~ ^{state} in consultation with the
 10 legislature and the judiciary. In addition to appointing its commissioner to the
 11 interstate commission, ~~each~~ ^{the} state ~~council~~ ^{board} shall exercise oversight and advocacy
 12 concerning its participation in interstate commission activities and other duties as
 13 may be determined by each member state, including ~~but not limited to~~ ^{the} development
 14 of policy concerning operations and procedures of the compact within that state.

15 (5) ARTICLE ^v ~~v~~ - ^{dash} POWERS AND DUTIES OF THE INTERSTATE COMMISSION. The
 16 interstate commission shall have all of the following powers:

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

19 (b) To promulgate rules, which shall have the force and effect of statutory law
 20 and shall be binding in the compacting states to the extent and in the manner
 21 provided in this compact.

22 (c) To oversee, supervise, and coordinate the interstate movement of offenders
 23 subject to the terms of this compact and to any bylaws adopted and rules
 24 promulgated by the interstate commission.

1 (d) To enforce compliance with compact provisions and interstate commission
2 rules and bylaws, using all necessary and proper means, including ~~but not limited~~
3 ~~to~~ the use of judicial process.

4 (e) To establish and maintain offices.

5 (f) To purchase and maintain insurance and bonds.

6 (g) To borrow, accept^v or contract for services of personnel, including ~~but not~~
7 ~~limited to~~ members and their staffs.

8 (h) To establish and appoint committees and hire staff that it ~~deems~~^{considers} necessary
9 for carrying out its functions, including ~~but not limited to~~ an executive committee as
10 required by sub. (3) (e).^v

11 (i) To elect or appoint officers, attorneys, employes, agents^e or consultants and
12 to fix their compensation, define their duties, and determine their qualifications.

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

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

18 (L) To lease, purchase, or accept contributions or donations of, or otherwise own,
19 hold, improve^v, or use, any property, ~~real, personal, or mixed.~~^{whether}

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

22 (n) To establish a budget and to make expenditures and levy ~~dues~~^{assessments} as provided
23 in sub. (10).

24 (o) To sue and be sued.

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

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

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

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

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

11 (6) ARTICLE VI - ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION.
dash

12 (a) *Bylaws*. The interstate commission shall, by a majority of the members and
13 within 12 months after the first interstate commission meeting, adopt bylaws to
14 govern its conduct as may be necessary or appropriate to carry out the purposes of
15 the compact, including ~~but not limited to~~ bylaws that do any of the following:

16 1. Establish the fiscal year of the interstate commission.

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

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

19 a. Establishing committees.

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

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

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

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

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

9 8. Provide for the initial administration of the compact.

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

12 (b) *Officers and staff.* 1. The interstate commission shall, by a majority of the
13 members, elect from among its members a chairperson and a vice chairperson, each
14 of whom shall have such authority and duties as may be specified in the bylaws. The
15 chairperson or, in his or her absence or disability, the vice chairperson shall preside
16 at all meetings of the interstate commission. The officers so elected shall serve
17 without compensation or remuneration from the interstate commission. Subject to
18 the availability of budgeted funds, the officers shall be reimbursed for any actual and
19 necessary costs and expenses incurred by them in the performance of their duties
20 and responsibilities as officers of the interstate commission.

21 2. The interstate commission shall, through its executive committee, appoint
22 or retain an executive director for such period, upon such terms and conditions, and
23 for such compensation as the interstate commission may ^{consider} ~~deem~~ appropriate. The
24 executive director shall serve as secretary to the interstate commission and shall hire

1 and supervise such other staff as may be authorized by the interstate commission but
2 shall not be a member.

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

5 (d) *Immunity, defense and indemnification.* 1. The voting and nonvoting
6 members, officers, executive director, and employees of the interstate commission
7 shall be immune from suit and liability, either personally or in their official capacity,
8 for any claim for damage, loss of property, personal injury, or other civil liability
9 caused or arising out of any actual or alleged act, error, or omission that occurred
10 within the scope of interstate commission employment, duties, or responsibilities.

11 Nothing in this paragraph shall be construed to protect any such person from ~~suit~~ ^{st ex}
12 or liability for any damage, loss, injury, or liability caused by the intentional or ~~wilful~~
13 and wanton misconduct of any such person. ^{willful}

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

22 3. The interstate commission shall indemnify and hold the commissioner of a
23 compacting state, his or her representatives or employees, and the interstate
24 commission's representatives or employees harmless in the amount of any settlement
25 or judgment obtained against such persons arising out of any actual or alleged act,

1 error,[✓] or omission that occurred within the scope of interstate commission
2 employment, duties, or responsibilities or that such[✓] person had a reasonable basis for
3 believing occurred within the scope of interstate commission employment, duties[✓] or
4 responsibilities, unless the actual or alleged act, error,[✓] or omission resulted from
5 ~~gross negligence~~ or intentional wrongdoing on the part of such person. .

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

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

13 (c) Each member of the interstate commission shall have the right and power
14 to cast a vote to which that compacting state is entitled and to participate in the
15 business and affairs of the interstate commission. A member shall vote in person on
16 behalf of the state and shall not delegate a vote to another member state. However,
17 a state ~~council~~^{board} shall appoint another authorized representative, in the absence of the
18 commissioner from that state, to cast a vote on behalf of the member state at a
19 specified meeting. The bylaws may provide for members' participation in meetings
20 by telephone or other means of telecommunication or electronic communication. Any
21 voting conducted by telephone,[✓] or^{by} other means of telecommunication or electronic
22 communication,[✓] shall be subject to the same quorum requirements of meetings at
23 which members are present in person.

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

4 (e) The interstate commission's bylaws shall establish conditions and
5 procedures under which the interstate commission shall make its information and
6 official records available to the public for inspection or copying. The interstate
7 commission may exempt from disclosure any information or official records to the
8 extent ^{that} they would adversely affect personal privacy rights or proprietary interests.
9 In promulgating such rules, the interstate commission may make available to law
10 enforcement agencies records and information otherwise exempt from disclosure
11 and may enter into agreements with law enforcement agencies to receive or exchange
12 information or records subject to nondisclosure and confidentiality provisions.

13 (f) Public notice shall be given of all meetings and all meetings shall be open
14 to the public, except as set forth in the rules or as otherwise provided in the compact.
15 The interstate commission shall promulgate rules consistent with the principles
16 contained in the Government in Sunshine Act, 5 USC 552b, ~~it may be amended.~~ The
17 interstate commission and any of its committees may close a meeting to the public
18 if it determines by two-thirds vote that an open meeting would be likely to do any
19 of the following:

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

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

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

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

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

3 6. Disclose investigatory records compiled for law enforcement purposes.

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

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

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

12 (g) For every meeting closed under par. (f), the interstate commission's chief
13 legal officer shall publicly certify that, in his or her opinion, the meeting may be
14 closed to the public and shall reference each relevant exemptive provision. The
15 interstate commission shall keep minutes that shall fully and clearly describe all
16 matters discussed in any meeting and shall provide a full and accurate summary of
17 any actions taken and the reasons therefor, including a description of each of the
18 views expressed on any item and the record of any roll call vote, reflected in the vote
19 of each member on the question. All documents considered in connection with any
20 action shall be identified in such minutes.

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

1 (8) ARTICLE VIII - ^{mdash} RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION. (a)

2 The interstate commission shall promulgate rules in order to effectively and
3 efficiently achieve the purposes of the compact, including transition rules governing
4 administration of the compact during the period after it becomes effective in which
5 it is being considered and enacted by other states.

6 (b) Rule making shall occur under the criteria set forth in this subsection and
7 the bylaws and rules adopted under this subsection. Such rule making shall
8 substantially conform to the principles of the federal Administrative Procedure Act,
9 5 USC 551 ^{to 559} ~~et seq. as amended~~, and the federal Advisory Committee Act, P.L. 92-463,
10 reprinted in 5 USC appendix ~~as amended~~. All rules and amendments shall become
11 binding as of the date specified in each rule or amendment.

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

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

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

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

21 3. Provide an opportunity for an informal hearing.

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

24 (e) Not later than 60 days after a rule is promulgated, any interested person
25 may file a petition in the U.S. district court for the District of Columbia or in the

1 federal district court for the district in which the interstate commission's principal
2 office is located for judicial review of such rule. If the court finds that the interstate
3 commission's action is not supported by substantial evidence, as construed under the
4 federal Administrative Procedure Act, 5 USC 551 ^{to 559} ~~et seq~~ ^{as amended} in the
5 rule-making record, the court shall hold the rule unlawful and set it aside.

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

- 8 1. Notice to victims and opportunity to be heard.
- 9 2. Offender registration and compliance.
- 10 3. Violations and returns.
- 11 4. Transfer procedures and forms.
- 12 5. Eligibility for transfer.
- 13 6. Collection of restitution and fees from offenders.
- 14 7. Data collection and reporting.
- 15 8. The level of supervision to be provided by the receiving state.
- 16 9. Transition rules governing the operation of the compact and the interstate
17 commission during all or part of the period between the effective date of the compact
18 and the date on which the last eligible state adopts the compact.
- 19 10. Mediation, arbitration, and dispute resolution.

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

23 (h) Upon determination by the interstate commission that an emergency
24 exists, it may promulgate an emergency rule, which shall become effective
25 immediately upon adoption, provided that the usual rule-making procedures

1 provided under this subsection shall be retroactively applied to the rule as soon as
2 reasonably possible and in no event later than 90 days after the effective date of the
3 rule.

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

9 2. The courts and executive agencies in each compacting state shall enforce this
10 compact and shall take all actions necessary and appropriate to effectuate the
11 compact's purposes and intent. In any judicial or administrative proceeding in a
12 compacting state pertaining to the subject matter of this compact that may affect the
13 powers, responsibilities, or actions of the interstate commission, the interstate
14 commission shall be entitled to receive all service of process in any such proceeding
15 and shall have standing to intervene in the proceeding for all purposes.

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

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

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

1 (c) *Enforcement.* The interstate commission, in the reasonable exercise of its
2 discretion, shall enforce the provisions of this compact using any or all means set
3 forth in sub. (12). *mdash*

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

7 (b) The interstate commission shall levy on and collect an annual assessment ✓
8 from each compacting state to cover the cost of the internal operations and activities
9 of the interstate commission and its staff, which must be in a total amount sufficient
10 to cover the interstate commission's annual budget as approved each year. The
11 aggregate annual assessment amount shall be allocated based upon a formula to be
12 determined by the interstate commission, taking into consideration the population
13 of the state and the volume of interstate movement of offenders in each compacting
14 state. The interstate commission shall promulgate a rule *that is* binding upon all
15 compacting states *and* that governs the assessment.

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

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

1 shall be included in and become part of the annual report of the interstate
2 commission.

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

5 (b) The compact shall become effective and binding upon legislative enactment
6 of the compact into law by no less than 35 of the states. The initial effective date shall
7 be July 1, 2001, or upon enactment into law by the ~~thirty-fifth~~ jurisdiction, ^{the effective date of this paragraph ... I revisor inserts} 35th ^{date},
8 whichever is later. Thereafter it shall become effective and binding, as to any other
9 compacting state, upon enactment of the compact into law by that state. The
10 governors of nonmember states or their designees will be invited to participate in
11 interstate commission activities on a nonvoting basis prior to adoption of the compact
12 by all states.

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

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

21 2. a. A compacting state may withdraw from the compact by enacting a ~~statute~~ ^{law}
22 specifically repealing ~~the statute that enacted the compact into law.~~ ^{this section}

23 b. The effective date of withdrawal is the effective date of the repeal.

24 c. The withdrawing state shall immediately notify the chairperson of the
25 interstate commission in writing upon the introduction of legislation [✓] repealing this

1 compact in the withdrawing state. The interstate commission shall notify the other
2 compacting states of the withdrawing state's intent to withdraw within 60 days after
3 receiving the written notice.

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

7 e. Reinstatement following withdrawal of any compacting state shall occur
8 upon the withdrawing state reenacting the compact or upon such later date as
9 determined by the interstate commission.

10 (b) *Default.* 1. If the interstate commission determines that any compacting
11 state has at any time defaulted in the performance of any of its obligations or
12 responsibilities under this compact, under the bylaws, or under any duly
13 promulgated rules, the interstate commission may impose any or all of the following
14 penalties:

15 a. Fines, fees, and costs in such amounts as are ^{considered} ~~deemed to be~~ reasonable and
16 as fixed by the interstate commission.

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

19 c. Suspension or termination of membership in the compact Suspension shall
20 be imposed only after all other reasonable means of securing compliance under the
21 bylaws and rules have been exhausted. Immediate notice of suspension shall be
22 given by the interstate commission to the governor, the chief justice of ~~the~~ ^{Supreme Court} chief judicial
23 ~~officer~~ of the ~~state~~, the majority and minority leaders of the defaulting state's
24 legislature, and the state ~~council~~ ^{board}.

1 2. The grounds for default include ~~but are not limited to~~ failure of a compacting
2 state to perform obligations or responsibilities imposed upon it by this compact,
3 interstate commission bylaws[✓] or duly promulgated rules.

4 3. If it determines that a compacting state has defaulted, the interstate
5 commission shall immediately notify the defaulting state in writing of the penalty
6 imposed by the interstate commission on the defaulting state pending a cure of the
7 default. The interstate commission shall stipulate the conditions under which and
8 the time period within which the defaulting state must cure its default. If the
9 defaulting state fails to cure the default within the time period specified by the
10 interstate commission, in addition to any other penalties imposed herein, the
11 defaulting state may be terminated from the compact upon an affirmative vote of a
12 majority of the compacting states, and all rights, privileges, and benefits conferred
13 by this compact shall be terminated from the effective date of termination. Within
14 ~~sixty~~^{thirty} days after the effective date of termination of a defaulting state, the interstate
15 commission shall notify the governor, the chief justice ^{of the supreme court} ~~or chief judicial officer~~, the
16 majority and minority leaders of the defaulting state's legislature[✓] and the state
17 ~~council~~^{board} of the termination.

18 4. The defaulting state is responsible for all assessments, obligations, and
19 liabilities incurred through the effective date of termination, including any
20 obligations the performance of which extends beyond the effective date of
21 termination.

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

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

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

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

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

19 (13) ARTICLE XIII - ~~SEVERABILITY AND CONSTRUCTION.~~ The provisions of this
20 compact shall be severable, and if any phrase, clause, sentence or provision is
21 deemed unenforceable, the remaining provisions of the compact shall be enforceable

22 No. 11 (13) The provisions of this compact shall be liberally constructed to effectuate
23 its purposes.

1 (14) ~~ARTICLE XIV~~ ^{mdash} ~~BINDING EFFECT OF COMPACT AND OTHER LAWS.~~ (a) *Other laws.*

2 1. Nothing in this compact prevents the enforcement of any other law of a compacting
3 state that is not inconsistent with this compact.

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

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

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

11 3. Upon the request of a party to a conflict over meaning or interpretation of
12 interstate commission actions, and upon a majority vote of the compacting states, the
13 interstate commission may issue advisory opinions regarding such meaning or
14 interpretation.

15 4. In the event ^{that} any provision of this compact exceeds the constitutional limits
16 imposed on the legislature of any compacting state, the obligations, duties, powers,
17 or jurisdiction sought to be conferred by such provision upon the interstate
18 commission shall be ineffective, and such obligations, duties, powers, or jurisdiction
19 shall remain in the compacting state and shall be exercised by the agency thereof to
20 which such obligations, duties, powers, or jurisdiction are delegated by law in effect
21 at the time ^{that} this compact becomes effective.

22 (15) ~~ARTICLE XV~~ ^{mdash} ~~SHORT TITLE.~~ This section may be cited as the "Interstate
23 Compact for Adult Offender Supervision".

24 SECTION 16. 801.14 (6) of the statutes is created to read:

1 801.14 (6) If an action pertaining to the subject matter of the compact
2 authorized under s. 304.16 may affect the powers, responsibilities, or actions of the
3 interstate commission, as defined in s. 304.16 (2) (f), the plaintiff shall deliver or mail
4 a copy of the complaint to the interstate commission at its last-known address.

5

(END)



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304.16 Compact

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insert 1-6:

SECTION 1. 15.145 (3) of the statutes is created to read:

15.145 (3) INTERSTATE ADULT OFFENDER SUPERVISION BOARD. There is created an interstate adult offender supervision board which is attached to the department of corrections under s. 15.03. The board shall consist of 7 members appointed for 4-year terms. The governor shall comply with the requirements of s. 304.16 (4) when appointing members of the board. The board shall have the powers, duties and responsibilities set forth under s. 304.16.

insert 3-7:

SECTION 2. 301.45 (2) (e) 2. of the statutes is amended to read:

301.45 (2) (e) 2. If the person is on parole, extended supervision, probation, or other supervision from another state under s. 304.13 (1m), 304.135, 304.16, or 938.988, before the person enters this state.

History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283; 1999 a. 9, 89, 156, 186; s. 13.93 (2) (c).

insert 3-25:

SECTION 3. 301.45 (3) (a) 1m. of the statutes is amended to read:

301.45 (3) (a) 1m. If the person is on parole, extended supervision, probation, or other supervision from another state under s. 304.13 (1m), 304.135, 304.16, or 938.988, he or she is subject to this subsection upon entering this state.

History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283; 1999 a. 9, 89, 156, 186; s. 13.93 (2) (c).

SECTION 4. 301.45 (3) (b) 2. of the statutes is amended to read:

301.45 (3) (b) 2. The department shall notify a person who is being released from prison in this state because he or she has reached the expiration date of his or

1 her sentence and who is covered under sub. (1g) of the need to comply with the
 2 requirements of this section. Also, probation, extended supervision[✓] and parole
 3 agents, aftercare agents[✓] and agencies providing supervision shall notify any client
 4 who is covered under sub. (1g) of the need to comply with the requirements of this
 5 section at the time^{that} the client is placed on probation, extended supervision, parole,
 6 supervision[✓] or aftercare supervision or, if the client is on probation, extended
 7 supervision, parole[✓] or other supervision from another state under s. 304.13 (1m),
 8 304.135, 304.16, or 938.988, when the client enters this state.

9 History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283; 1999 a. 9, 89, 156, 186; s. 13.93 (2) (c).

SECTION 5. 301.45 (5m) (a) 1. of the statutes is amended to read:

10 301.45 (5m) (a) 1. If the person is on parole, extended supervision, probation[✓]
 11 or other supervision from another state under s. 304.13 (1m), 304.135, 304.16, or
 12 938.988, 15 years after discharge from that parole, extended supervision, probation[✓]
 13 or other supervision or the period of time[✓] that the person is in this state, whichever
 14 is less.

History: 1995 a. 440 ss. 26 to 49, 53 to 74; Stats. 1995 s. 301.45; 1997 a. 3, 35, 130, 191, 237, 283; 1999 a. 9, 89, 156, 186; s. 13.93 (2) (c).

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SECTION 1. Nonstatutory provisions.

(1) Notwithstanding the length of terms specified for the members of the interstate adult offender supervision board under ~~§~~^{section} 15.145 (3) of the statutes, as created by this act, 3 of the initial members shall be appointed for terms expiring on May 1, 2003, and the other 4 initial members shall be appointed for terms expiring on May 1, 2005.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

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kmj

March 31, 2000

create 15.145 (9)
check to see if other
krefs: to: 304.13 or .135
check to see if new
offenses to X-ref. with 304.22(2), .225 (1), (2) or (3)...

See 304.16 (4).

~~George~~ the compact does not state

1. Section 304.16 (4) leaves open the manner by which Wisconsin's compact administrator is to be appointed. How do you want him or her to be appointed? Also, who will be the members of Wisconsin's state ~~council~~ board?

2. Under s. 304.16 (6) (d) 3., the interstate commission is required to indemnify certain individuals for liability stemming from their interstate commission employment, duties, or responsibilities, unless the liability stems from the individual's gross negligence or intentional wrongdoing. Section 304.16 (6) (d) 2. requires the commission to defend such an individual in a civil action, but the exception does not refer to cases of gross negligence. In other words, the compact requires the interstate commission to defend an individual even if the civil action alleges that the individual was ~~grossly negligent~~ intentionally injured ^{some one else}. Wisconsin does not use "gross negligence."

I suspect that the Council of State Governments (CSG) intended for the exception in subd. 2. to be the same as the exception in subd. 3. But given that the bill creates a compact, Wisconsin cannot unilaterally correct this inconsistency. Other states would also need to make the same change in their bills or statutes for the correction to be effective. ^{these}

3. The bill does not make an appropriation for Wisconsin's share of the interstate commission's expenses. One will ~~will~~ ultimately be required, however, under s. 304.16 (10) (b), after implementing legislation is enacted by 35 states (at which point the compact takes effect).

of sections 304.16
subsections (3) and (9) have many duplicate provisions. See Subs. (3)(d) and (9)(e).

Michael Dsida
Legislative Attorney
Phone: (608) 266-9867

RPW

In addition, the compact provides immunity to the interstate commission members, director, and employees for acts or omissions which occurred ^{or} ~~in~~ ^{or} ~~in~~ their duties, except for injuries caused by intentional or willful and wanton misconduct, a different standard.

How many members shall be on the board? What are their terms?

Generally, this type of detail is created in ch. 15. I created a 9-member board, with 4-year terms, appointed by the governor with staggered terms.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2280/P2dn
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March 23, 2001

1. Section 304.16 (4) leaves open the manner by which Wisconsin's compact administrator is to be appointed. See 304.16 (4). How do you want him or her to be appointed? Also, the compact does not state who will be the members of Wisconsin's state board? How many members shall be on the board. What are their terms? Generally, this type of detail is created in ch. 15. I create a 7-member board, with 4-year terms, appointed by the governor, with staggered terms. OK?

2. Under s. 304.16 (6) (d) 3., the interstate commission is required to indemnify certain individuals for liability stemming from their interstate commission employment, duties, or responsibilities, unless the liability stems from the individual's gross negligence or intentional wrongdoing. Wisconsin does not use "gross negligence." Section 304.16 (6) (d) 2. requires the commission to defend such an individual in a civil action, but the exception does not refer to cases of gross negligence. In other words, the compact requires the interstate commission to defend an individual even if the civil action alleges that the individual intentionally injured someone. In addition, the compact provides immunity to the interstate commission members, director, and employees for acts or omissions which occurred as part of their duties, except for injuries caused by intentional or willful and wanton misconduct; a different standard.

I suspect that the Council of State Governments (CSG) intended for the exception in subd. 2. to be the same as the exception in subd. 3. But given that the bill creates a compact, Wisconsin cannot unilaterally correct these inconsistencies. Other states would also need to make the same change in their bills or statutes for the correction to be effective.

3. The bill does not make an appropriation for Wisconsin's share of the interstate commission's expenses. One will ultimately be required, however, under s. 304.16 (10) (b), after implementing legislation is enacted by 35 states (at which point the compact takes effect).

4. Subsections (3) and (7) of s. 304.16 have many duplicate provisions. See subs. (3) (d) and (7) (c).

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Steve Bauer 2209 PD 15

Missy Walker
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Contract rda

Apt of 1 by sec. of PD C

change 2 to 5 members on board

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