

FINAL BILL REPORT

ESHB 1402

C 400 L 05

Synopsis as Enacted

Brief Description: Regulating supervision of offenders who travel or transfer to or from another state.

Sponsors: By House Committee on Criminal Justice & Corrections (originally sponsored by Representative O'Brien; by request of Sentencing Guidelines Commission).

House Committee on Criminal Justice & Corrections

House Committee on Appropriations

Senate Committee on Human Services & Corrections

Senate Committee on Ways & Means

Background:

Under Washington and other states' laws, criminal sentences commonly require a period of supervision after release from jail or prison. In Washington, the supervision of all adult felony and some nonfelony offenders is the responsibility of the Department of Corrections (DOC).

Offenders under supervision sometimes request to move from one state to another. For example, an offender may have family ties, job opportunities, or may have a residence in another state. For many years, states have recognized the desirability of permitting this movement while continuing to supervise these offenders.

In 1937, the Legislature enacted the original Interstate Compact for the Supervision of Parolees and Probationers (Compact) and joined with 49 other states including the District of Columbia, Puerto Rico, and the Virgin Islands to create a system of reciprocity in supervising offenders who move from one state to another. After years of working with the national Compact, it was found that there were many problems and that the Compact needed to be amended. As a result, nearly 60 years later, a new national Compact was adopted. The Washington Legislature amended its statutory language in 2001, and consequently joined 35 other states in the new Compact. As of the end of 2004, all 50 states had joined the new Compact in order to take on the responsibility for the supervision of adult offenders in the community who are authorized to travel across state lines both to and from compacting states.

The authority for Compact monitoring in Washington is under the Sentencing Guidelines Commission (SGC). The SGC's duties include reviewing the DOC's policies, recommending policies for the Compact administrator, and reporting annually to the Legislature about the Compact operations. In addition, each state has a Compact administrator, who maintains contact with counterparts in other states and handles requests for supervision, violation reports, and other business related to the Compact. (Washington's Compact administrator is located within the DOC.)

The Compact requires compacting states to supervise all felony and nonfelony offenders transferred to their state. The Compact permits each state (as a "sending state") to authorize offenders under supervision to move to other states when appropriate, after notifying the other state and securing its approval. It also requires each state (as a "receiving state") to approve such moves for appropriate reasons and to supervise the offenders on behalf of the states where they were sentenced. A receiving compacting state must accept an offender if the offender meets the criteria under the Compact. However, there are some very rare occasions when a "receiving" state can deny an application for supervision of an adult offender.

The Compact requires receiving states to notify sending states when offenders violate conditions of supervision and it also permits the sending states to bring offenders back for sanctions authorized under the sending state's law, subject to the receiving state's right to prosecute any new crimes they may have committed.

Compacting states are authorized to charge an application processing fee to offenders wishing to transfer his or her residence and supervision requirements to another state. In Washington, the DOC also charges offenders under the Compact a supervision fee to help recoup a portion of the cost of supervision. The supervision fee that is normally charged to offenders ranges from \$3 per month for risk level D (low-level felony) offenders to \$40 per month for misdemeanants offenders.

At the end of 2004, the DOC was supervising 2,500 felony offenders on behalf of other states under the Compact, while other states were supervising approximately 1,000 offenders on Washington's behalf. The DOC does not have the statutory authority to supervise nonfelony misdemeanor offenders on behalf of other states.

Summary:

The provisions relating to supervising offenders under the Compact are expanded. The DOC is authorized to supervise nonfelony as well as felony offenders transferring to Washington under the Compact.

The DOC must process applications for any felony or nonfelony offender wishing to transfer to or from Washington and may charge that offender a reasonable fee for processing the application. If a misdemeanor offender whose sentence has been deferred, requests permission to transfer to another state, the probation department must determine whether the transfer request falls under the realm of the Compact. If the request is subject to the Interstate Compact for Adult Supervision and the offender has been placed on probation for one year or more, the probation department designated to supervise the offender must:

- notify the DOC of the offender's request;
- provide the DOC with supporting documentation it requests for processing the offender's application;
- notify the offender of any fee due to the DOC for processing his or her application;
- cease supervision of the offender while the other state resumes supervision of the offender pursuant to the Compact; and

- resume supervision if the offender returns to Washington before his or her term of supervision has expired.

Any probationer or defendant that transfers to another state under the Compact must receive credit for any time served while being supervised by the other state.

If a probationer or defendant is returned to Washington at the request of the receiving state under the rules of the Compact, the DOC must be responsible for the cost of returning the person.

The State of Washington, the DOC, any city, and any county, are not liable for civil damages resulting from any act or omission authorized or required unless the act or omission constitutes gross negligence.

Votes on Final Passage:

House	97	0	
Senate	45	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 1, 2005