

SENATE BILL REPORT

SJM 8026

As Passed Senate, February 11, 2010

Brief Description: Requesting the Interstate Commission for Adult Offender Supervision immediately initiate its emergency rule-making process.

Sponsors: Senators Regala, Hargrove, Brandland, Kohl-Welles, Stevens, Shin, Carrell, Hatfield, Jacobsen, Ranker, Oemig, Eide, Marr, McDermott, Haugen, Hobbs, Kilmer, Kline, Berkey, Kauffman, Prentice, Tom, Gordon, Fraser, McAuliffe, Franklin and Keiser.

Brief History:

Committee Activity: Human Services & Corrections: 2/02/10, 2/03/10 [DP].

Passed Senate: 2/11/10, 47-0.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Kauffman and McAuliffe.

Staff: Shani Bauer (786-7468)

Background: An interstate compact is an agreement between two or more states of the United States of America. The U.S. Constitution provides that "no state shall enter into an agreement or compact with another state" without the consent of Congress. Congress has enacted the Crime Control Act, 4 U.S.C. Section 112 (1965), which authorizes and encourages compacts for cooperative efforts and mutual assistance in the prevention of crime.

The Interstate Compact for the Supervision of Parolees and Probationers was originally drafted in 1937 and eventually adopted by all 50 states, including Washington. The compact has since been substantially redrafted into its current form, the Interstate Compact for Adult Offender Supervision. Washington adopted the new compact in 2005. By adopting the compact, the compact becomes the sole statutory authority for regulating the transfer of adult parole and probation supervision across state boundaries and has the force and effect of federal law. Any statute that is inconsistent with the compact is of no force and effect.

When a state approves the transfer of an offender, the receiving state must take the offender if: (1) the offender has a valid plan of supervision that he or she is in compliance with; (2) the

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offender is a resident of the receiving state or has resident family in the receiving state who are willing to assist the offender; and (3) the offender can obtain viable employment. The sending state must send the receiving state information sufficient for the receiving state to complete an investigation and ensure that the requirements for transfer are met.

Once the offender is transferred, the receiving state has an obligation to supervise the offender in the same manner as a similarly situated offender convicted in the receiving state.

A sending state may retake an offender at any time except when criminal charges are pending in the receiving state. If criminal charges are pending, the offender may not be retaken without the consent of the receiving state, the criminal charges are dismissed, the sentence has been satisfied, or the offender has been released to supervision. The sending state is required to retake an offender under two circumstances:

1. upon the request of the receiving state, when the offender is convicted of a new felony and has completed any term of incarceration for that offense; or
2. upon request of the receiving state and a showing that the offender has committed three or more significant violations arising from separate incidents that establish a pattern of non-compliance of the conditions of supervision.

All states participating in the Interstate Compact are represented in the Interstate Commission for Adult Offender Supervision (ICAOS) and have an equal vote in its governance. The Commission receives no federal funding and is financed through the payment of dues by each state. ICAOS conducts a two-year process for making updates to its rules. The next rulemaking process is scheduled for 2011, however, ICAOS may adopt emergency rules in the interim.

Summary of Bill: The Legislature requests that ICAOS immediately initiate its emergency rule-making process to consider and adopt rule amendments that will:

- provide the receiving state with all information known to the sending state about the criminal history and behavior of an offender whose transfer is sought; and
- vest the receiving state with the authority to determine when the receiving state can no longer safely supervise an offender and the offender must be returned to the sending state.

In the alternative, the Legislature requests that these issues be addressed through federal legislation.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Staff Summary of Public Testimony: PRO: There was some discussion about Washington seceding from the Compact which has severe and unintended consequences. This is a very reasoned and measured response to the problems that became evident in the Clemmons matter. DOC has already drafted the amendments to the rule that they would like ICAOS to consider and they will be sending those to the Commission in short order. We have also been

in contact with Washington's congressional delegation and they are looking at possibly addressing these issues. This Joint Memorial will support the congressional delegation and DOC in accomplishing what they need to do.

Persons Testifying: PRO: Scott Blonien, Assistant Secretary, Department of Corrections; Jean Soliz-Conklin, Sentencing Guidelines Commission.