since 1937, the Interstate Compact for the Supervision of Parolees and Probationers has provided the sole statutory authority for regulating the transfer of adult parole and probation supervision across state boundaries. All 50 states are members of this interstate agreement, as are the District of Columbia, Puerto Rico and the U.S. Virgin Islands.

At 65-years old, the compact authority and structure are seriously outdated. With more than 4.5 million offenders on probation and parole, overseen by 3,285 different local probation and parole offices, and operated by more than 860 separate agencies, the compact is in need of significant revision. The current compact has no provisions for staff and has no national system or agency to monitor the flow of offenders from state to state. Violations are frequent. There is simply not a structure presently in place that can effectively monitor the movement of parolees and probationers across state lines.

The absence of an effective interstate compact had left states with limited controls on the movement of state and local probationers and parolees, but yet states were responsible and could be held liable for the movement and actions of these offenders. In fact, between 1997 and 1999, several states, through legislation or executive order, created their own probation systems or executive order, created their own parole and probation supervision across state boundaries. All 50 states are members of this interstate agreement, as are the District of Columbia, Puerto Rico and the U.S. Virgin Islands.

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A New Solution

In 1998, the National Institute of Corrections (NIC) Advisory Board, following several public hearings, directed its staff to begin pursuing a revision of the compact. Through the development of an Advisory Group, NIC facilitated a discussion among state officials and corrections policy experts, arriving at a list of recommendations for improvement and overhaul to the existing interstate compact. Through a partnership with The Council of State Governments (CSG), NIC and CSG developed and facilitated a Drafting Team of state officials to design a revised interstate compact — one that would include a modern administrative structure, that provided for rule-making and rule-changing over time, that required the development of a modern data collection and information sharing system among the states, and one that was adequately funded to carry out its tasks.

In creating the compact, the Drafting Team had two options for setting the structure of the compact. One placed the important details in the text and terms of the compact — these could not be amended without amending the agreement. This type of approach works well for things like establishing geographic boundaries. The other option created a system where the compact could react to changes over time without having to go through an amendment process. This alternative was the choice of the Drafting Team.

The disadvantage of this choice is that the interstate commission cannot convene until the compact is enacted, so it is impossible for compact rules to be known at the time it is adopted by a state/territory. The major advantage is that rules are made and maintained by states/territories choosing to enact the compact. The compact is not tied to a fixed set of rules that were made by an outside group before states/territories had the opportunity for input. Also, the rules can be dynamic and able to react to changing issues.

Compact Specifications

Developed in 1999, the new Interstate Compact for Adult Offender Supervision’s primary goals include:

- The establishment of an independent compact operating authority to administer ongoing compact activity, including a provision for staff support;
- Appointment of policymaking-level representatives of all member states to a national governing commission that meets annually to elect the compact operating authority members, and to attend to general business and rule-making procedures;
- Rule-making authority, provision for significant sanctions to support compact operations;
- A mandatory funding mechanism sufficient to support essential compact operations (staffing, data collection, training/education, etc.); and,
- The collection of standardized information.
Specifically, the compact mandates:
• A more efficient communications system among states and state agencies. It compels creation of a national database utilizing current communications technology that will allow states to share critical offender information.
• The revised compact facilitates state autonomy and national cooperation:
  a. By establishing State Councils, a state-appointed group that will oversee the interests of all three branches of government in that state, states can ensure that state officials are aware of the compact and that the state is taking full advantage of the compact’s structure and benefits.
  b. By participating in the National Commission, composed of voting members from all member states and territories, states will help to develop the means to identify, track and account for the controlled movement of offenders. The Commission would also promulgate rules for states as well as resolve disputes between states.
• States determine the structure, composition and budget of the State Councils.
• State Council membership must include at least one representative from the legislative, executive and judicial branches of government, victim groups and the Compact Administrator.
• Each state determines the qualifications of the Compact Administrator who shall be appointed either by the governor in consultation with the legislature and the judiciary or by the State Council.
• State dues in support of the National Commission are based on a formula to be developed by the state within the National Commission. Key components will include a state’s population and a state’s volume of interstate movement of offenders. Smaller states with a lower volume of offender movement could expect to pay less and a larger state with a higher volume of offender movement could expect to pay proportionately more.
• Rules and bylaws for the National Commission are developed and passed by the Commission and have the effect of law upon states. However, should a majority of states reject a rule, it will have no further force and effect in any compacting state. Existing rules and bylaws under the current compact will remain in effect during the first year until the Commission promulgates rules and bylaws that supercede the previous rules.
• The National Commission will have an Executive Committee, composed of Compact Administrators from member states.

In order to go into effect, the Adult Compact had to be enacted by a minimum of 35 states (per the language of the compact). The 35-state minimum was chosen by the Drafting Team as a significant enough number to compel the other 15 states to action once the threshold was met. A simple majority of the states (26) could have been used; however, with an existing system in place, this ran the risk of having two active systems controlling the same offender population, each used by half the country.

First introduced in January 2000, the Adult Compact was quickly enacted in several states, first being Colorado on April 10, 2000. A little more than 26 months later, the compact was enacted by its 35th state, Pennsylvania, on June 19, 2002. Although the compact has been enacted in record time (most interstate compacts and agreements take between five and seven years before they are enacted), considerable effort went into developing a national campaign to educate state policymakers about the need for change and how the revised compact would improve public safety in the states.

Concerns from the Field

Discussing enactment of the new compact generally raises two areas of concern. First, how will the field transition from the old interstate compact to the new?

A process is currently being devised by CSG and NIC to ensure that the interstate commission will be able to convene, organize and conduct business until such time that it is financially and organizationally self-sufficient. The current compact rules will be in effect for the first year, so there will not be supervision uncertainty or chaos. Legal provisions require continued supervision of offenders already in other states for the duration of their terms. For the first six
months, legal provisions permit states/territories to continue issuing travel permits and requests for supervision under existing terms of the compact; and it is possible that these practices could be extended by rule for an additional, albeit limited, period of time. The key message is that there will be an opportunity for orderly transition between the existing and replacement compacts.

Second, what happens if a state/territory is not among the original 35 or more states/territories enacting the new compact?

That state’s governor will be invited to send a representative to the interstate commission meetings, but the state/territory will not be entitled to vote until the revised compact is passed by that state’s legislature and signed by its governor. As indicated above, for a period of time that state will be able to continue doing interstate business with all states, but it is unlikely new compact states will see it in their interest to do that for an extended period of time. The drafters desire a full participation compact, and the new compact encourages cooperation with “old compact states” as much as is reasonably possible. It is clearly a decision of states whether or not they choose to join in the new compact. However, if a state anticipates that it will eventually join the compact, it is better to do it sooner rather than later so it has a vote at the table during the early stages when initial rules and decisions are made.

Modern Interstate Compacts

The Interstate Compact for Adult Offender Supervision is a new breed of interstate compact – one that empowers the states to maintain control over areas that rightly are their purview; one that seeks a modernized structure and promotes flexible rule-making procedures; one that promotes enforcement and accountability among the states and the offenders the compact controls; and one that uses modern communication and data sharing to more quickly and efficiently do the work of the compact.

While the theory and purpose behind interstate compacts has changed little over the last 226 years, modern compacts differ greatly, tackling broader public policy issues and forging state partnerships for problem solving and cooperation. The Interstate Compact for Adult Offender Supervision is one of this new breed, seeking new and innovative ways to enforce compact requirements, develop administrative oversight mechanisms, establish a compact framework that can evolve over time in a changing world, develop self-funding mechanisms for the states and work of the compact and increase the information sharing among the states on a given issue.

Modern interstate compact structure can contain many new areas, including the following:

1. Enforcement provisions can be specified in the compact language ranging from alternative dispute resolution mechanisms to fines and costs assessment, suspension and termination of membership in the compact and judicial enforcement including claims for injunctive relief, damages and declaratory judgment actions with the prevailing party to recover court costs and attorney fees.

2. A centralized national commission comprised of one voting member/commissioner from each state can oversee the day-to-day activities of the compact, adopt uniform compliance standards and requirements and promulgate rules that all states must follow as determined by the member states. The Commission can also enforce compliance among the member states and resolve disputes among the member states as well as coordinate training, education and public awareness of the compact and its mechanisms.

3. Rule-making authority and appropriate rule making procedures can be laid down by the compact and implemented by the national commission. Modern interstate compacts are being developed not as stop-gap measures, but rather as long-term solutions that can evolve over time, maintaining the ability to change with the needs of the states. If a compact is designed with an appropriate and strong framework, the rules and regulations can be adopted and changed as needed without significantly affecting the relationship among the member states.

4. Development and use of a national integrated information sharing systems can allow states to rapidly gather critical information. Technology and the Internet now make the sharing of information seamless and immediate. The growth of transportation and the shrinking of travel time globally have made several information mechanisms within existing compacts unable to cope with increased loads.

5. A mandatory funding mechanism for the compact to support essential compact operations (full-time staff, data collection, training/education, public awareness, compliance and enforcement) can be developed taking advantage of the economies-of-scale present when several states work cooperatively to solve similar problems and issues.

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As public policy issues become more complex and affect more states in our boundary-less world, new interstate compacts could prove to be the answer to several multi-state, regional and national policy problems. States should further utilize interstate compacts to address new problems and create new methods of interstate cooperation. If not, federal pre-emption in certain policy areas is a distinct possibility.

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**Bio**

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