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Bills Included				
SB 28	SB 32	SB 64		

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

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SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 28** - 01/17/2001

Introduced by: The Committee on State Affairs at the request of the Department of
Corrections

1 FOR AN ACT ENTITLED, An Act to authorize South Dakota to participate in the revised
2 Interstate Compact for Adult Offender Supervision.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The Interstate Compact for Adult Offender Supervision is hereby enacted as
5 follows:

6 ARTICLE I

7 PURPOSE

8 The compacting states to this Interstate Compact recognize that each state is responsible for
9 the supervision of adult offenders in the community who are authorized pursuant to the bylaws
10 and rules of this compact to travel across state lines both to and from each compacting state in
11 such a manner as to track the location of offenders, transfer supervision authority in an orderly
12 and efficient manner, and when necessary return offenders to the originating jurisdictions. The
13 compacting states also recognized that Congress, by enacting the Crime Control Act, 4 U.S.C.
14 Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual

1 assistance in the prevention of crime. It is the purpose of this compact and the Interstate
2 Commission created hereunder, through means of joint and cooperative action among the
3 compacting states: to provide the framework for the promotion of public safety and protect the
4 rights of victims through the control and regulation of the interstate movement of offenders in
5 the community; to provide for the effective tracking, supervision, and rehabilitation of these
6 offenders by the sending and receiving states; and to equitably distribute the costs, benefits and
7 obligations of the compact among the compacting states.

8 In addition, this compact will: create an Interstate Commission which will establish uniform
9 procedures to manage the movement between states of adults placed under community
10 supervision and released to the community under the jurisdiction of courts, paroling authorities,
11 corrections, or other criminal justice agencies which will promulgate rules to achieve the purpose
12 of this compact; ensure an opportunity for input and timely notice to victims and to jurisdictions
13 where defined offenders are authorized to travel or to relocate across state lines; establish a
14 system of uniform data collection, access to information on active cases by authorized criminal
15 justice officials, and regular reporting of compact activities to heads of state councils, state
16 executive, judicial, and legislative branches and criminal justice administrators; monitor
17 compliance with rules governing interstate movement of offenders and initiate interventions to
18 address and correct noncompliance; and coordinate training and education regarding regulations
19 of interstate movement of offenders for officials involved in such activity.

20 The compacting states recognize that there is no "right" of any offender to live in another
21 state and that duly accredited officers of a sending state may at all times enter a receiving state
22 and there apprehend and retake any offender under supervision subject to the provisions of this
23 compact and bylaws and rules promulgated hereunder.

24 It is the policy of the compacting states that the activities conducted by the Interstate

1 Commission created herein are the formation of public policies and are therefore public business.

2 ARTICLE II

3 DEFINITIONS

4 As used in this compact, unless the context clearly requires a different construction:

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

7 (2) "By-laws" mean those by-laws established by the Interstate Commission for it
8 governance, or for directing or controlling the Interstate Commission's actions or
9 conduct;

10 (3) "Compact Administrator" means the individual in each compacting state appointed
11 pursuant to the terms of this compact responsible for the administration and
12 management of the state's supervision and transfer of offenders subject to the terms
13 of this compact, the rules adopted by the Interstate Commission and policies adopted
14 by the state council under this compact;

15 (4) "Compacting state" means any state which has enacted the enabling legislation for this
16 compact;

17 (5) "Commissioner" means the voting representative of each compacting state appointed
18 pursuant to Article III of this compact;

19 (6) "Interstate Commission" means the Interstate Commission for Adult Offender
20 Supervision established by this compact;

21 (7) "Member" means the commissioner of a compacting state or designee, who shall be
22 a person officially, connected with the commissioner;

23 (8) "Noncompacting state" means any state which has not enacted the enabling legislation
24 for this compact;

- 1 (9) "Offender" means an adult placed under or subject to, supervision as the result of the
2 commission of a criminal offense and released to the community under the jurisdiction
3 of courts, paroling authorities, corrections, or other criminal justice agencies;
- 4 (10) "Person" means any individual, corporation, business enterprise, or other legal entity,
5 either public or private;
- 6 (11) "Rules" means acts of the Interstate Commission, duly promulgated pursuant to
7 Article VIII of this compact, substantially affecting interested parties in addition to the
8 Interstate Commission, which shall have the force and effect of law in the compacting
9 states;
- 10 (12) "State" means a state of the United States, the District of Columbia, and any other
11 territorial possessions of the United States;
- 12 (13) "State council" means the resident members of the State Council for Interstate Adult
13 Offender Supervision created by each state under Article III of this compact.

14 ARTICLE III

15 THE COMPACT COMMISSION

16 The compacting states hereby create the "Interstate Commission for Adult Offender
17 Supervision." The Interstate Commission shall be a body corporate and joint agency of the
18 compacting states. The Interstate Commission shall have all the responsibilities, powers, and
19 duties set forth herein, including the power to sue and be sued, and such additional powers as
20 may be conferred upon it by subsequent action of the respective legislatures of the compacting
21 states in accordance with the terms of this compact.

22 The Interstate Commission shall consist of commissioners selected and appointed by resident
23 members of a State Council for Interstate Adult Offender Supervision for each state.

24 In addition to the commissioners who are the voting representatives of each state, the

1 Interstate Commission shall include individuals who are not commissioners but who are members
2 of interested organizations; such noncommissioner members must include a member of the
3 national organizations of governors, legislators, state chief justices, attorneys general, and crime
4 victims. All noncommissioner members of the Intestate Commission shall be ex-officio,
5 nonvoting members. The Interstate Commission may provide in its by-laws for such additional
6 ex-officio, nonvoting members as it deems necessary.

7 Each compacting state represented at any meeting of the Interstate Commission is entitled
8 to one vote. A majority of the compacting states shall constitute a quorum for the transaction
9 of business, unless a larger quorum is required by the by-laws of the Interstate Commission. The
10 Interstate Commission shall meet at least once each calendar year. The chairperson may call
11 additional meetings and, upon the request of twenty-seven or more compacting states, shall call
12 additional meetings. Public notice shall be given of all meetings and meetings shall be open to
13 the public.

14 The Interstate Commission shall establish an Executive Committee, which shall include
15 commission officers, members, and others as shall be determined by the by-laws. The Executive
16 Committee shall have the power to act on behalf of the Interstate Commission during periods
17 when the Interstate Commission is not in session, with the exception of rule making, amendment,
18 or both to the compact. The Executive Committee oversees the day-to-day activities managed
19 by the Executive Director and Interstate Commission staff; administers enforcement and
20 compliance with the provisions of the compact, its by-laws and as directed by the Interstate
21 Commission and performs other duties as directed by commission or set forth in the by-laws.

22 ARTICLE IV

23 THE STATE COUNCIL

24 Each member state shall create a State Council for Interstate Adult Offender Supervision,

1 which shall be responsible for the appointment of the commissioner who shall serve on the
2 Interstate Commission from that state. Each state council shall appoint as its commissioner the
3 Compact Administrator from that state to serve on the Interstate Commission in such capacity
4 under or pursuant to applicable law of the member state. While each member state may
5 determine the membership of its own state council, its membership must include at least one
6 representative from the legislative, judicial, and executive branches of government, victims
7 groups and compact administrators. Each compacting state retains the right to determine the
8 qualifications of the Compact Administrator who shall be appointed by the state council or by
9 the Governor in consultation with the Legislature and the Judiciary. In addition to appointment
10 of its commissioner to the National Interstate Commission, each state council shall exercise
11 oversight and advocacy concerning its participation in Interstate Commission activities and other
12 duties as may be determined by each member state including but not limited to, development of
13 policy concerning operations and procedures of the compact within that state.

14 ARTICLE V

15 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

16 The Interstate Commission shall have the following powers:

- 17 (1) To adopt a seal and suitable by-laws governing the management and operation of the
18 Interstate Commission;
- 19 (2) To promulgate rules which shall have the force and effect of statutory law and shall
20 be binding in the compacting states to the extent and in the manner provided in this
21 compact;
- 22 (3) To oversee, supervise, and coordinate the interstate movement of offenders subject
23 to the terms of this compact and any by-laws adopted and rules promulgated by the
24 compact commission;

- 1 (4) To enforce compliance with compact provisions, Interstate Commission rules, and by-
2 laws, using all necessary and proper means, including but not limited to, the use of
3 judicial process;
- 4 (5) To establish and maintain offices;
- 5 (6) To purchase and maintain insurance and bonds;
- 6 (7) To borrow, accept, or contract for services of personnel, including members and their
7 staffs;
- 8 (8) To establish and appoint committees and hire staff which it deems necessary for the
9 carrying out of its functions including an executive committee as required by Article
10 III which shall have the power to act on behalf of the Interstate Commission in
11 carrying out its powers and duties hereunder;
- 12 (9) To elect or appoint such officers, attorneys, employees, agents, or consultants, and
13 to fix their compensation, define their duties and determine their qualifications; and
14 to establish the Interstate Commission's personnel policies and programs relating to,
15 among other things, conflicts of interest, rates of compensation, and qualifications of
16 personnel;
- 17 (10) To accept any and all donations and grants of money, equipment, supplies, materials,
18 and services, and to receive, utilize, and dispose of same;
- 19 (11) To lease, purchase, accept contributions or donations of, or otherwise to own, hold,
20 improve or use any property, real, personal or mixed;
- 21 (12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
22 any property, real, personal, or mixed;
- 23 (13) To establish a budget and make expenditures and levy dues as provided in Article X
24 of this compact;

- 1 (14) To sue and be sued;
- 2 (15) To provide for dispute resolution among compacting states;
- 3 (16) To perform such functions as may be necessary or appropriate to achieve the
- 4 purposes of this compact;
- 5 (17) To report annually to the legislatures, governors, judiciary, and state councils of the
- 6 compacting states concerning the activities of the Interstate Commission during the
- 7 preceding year. Such reports shall also include any recommendations that may have
- 8 been adopted by the Interstate Commission;
- 9 (18) To coordinate education, training, and public awareness regarding the interstate
- 10 movement of offenders for officials involved in such activity;
- 11 (19) To establish uniform standards for the reporting, collecting, and exchanging of data.

12 ARTICLE VI

13 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

14 Section A. By-laws

15 The Interstate Commission shall, by a majority of the members, within twelve months of the

16 first Interstate Commission meeting, adopt by-laws to govern its conduct as may be necessary

17 or appropriate to carry out the purposes of the compact, including:

- 18 (1) Establishing the fiscal year of the Interstate Commission;
- 19 (2) Establishing an executive committee and such other committees as may be necessary;
- 20 providing reasonable standards and procedures:
 - 21 (a) For the establishment of committees; and
 - 22 (b) Governing any general or specific delegation of any authority or function of the
 - 23 Interstate Commission;
- 24 (3) Providing reasonable procedures for calling and conducting meetings of the Interstate

- 1 Commission, and ensuring reasonable notice of each such meeting;
- 2 (4) Establishing the titles and responsibilities of the officers of the Interstate Commission;
- 3 (5) Providing reasonable standards and procedures for the establishment of the personnel
- 4 policies and programs of the Interstate Commission. Notwithstanding any civil service
- 5 or other similar laws of any compacting state, the by-laws shall exclusively govern the
- 6 personnel policies and programs of the Interstate Commission;
- 7 (6) Providing a mechanism for winding up the operations of the Interstate Commission
- 8 and the equitable return of any surplus funds that may exist upon the termination of
- 9 the compact after the payment reserving of all its debts and obligations or both;
- 10 (7) Providing transition rules for "start up" administration of the compact;
- 11 (8) Establishing standards and procedures for compliance and technical assistance in
- 12 carrying out the compact.

13 Section B. Officers and Staff

14 The Interstate Commission shall, by a majority of the members, elect from among its

15 members a chairperson and a vice chairperson, each of whom shall have such authorities and

16 duties as may be specified in the by-laws. The chairperson or, in his or her absence or disability,

17 the vice chairperson, shall preside at all meetings of the Interstate Commission. The officers so

18 elected shall serve without compensation or remuneration from the Interstate Commission;

19 subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and

20 necessary costs and expenses incurred by them in the performance of their duties and

21 responsibilities as officers of the Interstate Commission.

22 The Interstate Commission shall, through its executive committee, appoint or retain an

23 executive director for such period, upon such terms and conditions and for such compensation

24 as the Interstate Commission may deem appropriate. The executive director shall serve as

1 secretary to the Interstate Commission, and hire and supervise such other staff as may be
2 authorized by the Interstate Commission, but shall not be a member.

3 Section C. Corporate Records of the Interstate Commission.

4 The Interstate Commission shall maintain its corporate books and records in accordance with
5 the by-laws.

6 Section D. Qualified Immunity, Defense, and Indemnification

7 The members, officers, executive director, and employees of the Interstate Commission shall
8 be immune from suit and liability, either personally or in their official capacity, for any claim for
9 damage to or loss of property or personal injury or other civil liability caused or arising out of
10 any actual or alleged act, error or omission that occurred within the scope of Interstate
11 Commission employment, duties or responsibilities. However, nothing in this paragraph shall be
12 construed to protect any such person from suit or liability, or both for any damage, loss, injury,
13 or liability caused by the intentional or willful and wanton misconduct of any such person. The
14 Interstate Commission shall defend the commissioner of a compacting state, or his or her
15 representatives or employees, or the Interstate Commission's representatives or employee, in any
16 civil action seeking to impose liability, arising out of any actual or alleged act, error or omission
17 that occurred within the scope of Interstate Commission employment, duties or responsibilities,
18 or that the defendant had a reasonable basis for believing occurred within the scope of Interstate
19 Commission employment, duties or responsibilities, if the actual or alleged act, error or omission
20 did not result from intentional wrongdoing on the part of such person.

21 The Interstate Commission shall indemnify and hold the commissioner of a compacting state,
22 the appointed designee or employees, or the Interstate Commission's representatives or
23 employees, harmless in the amount of any settlement or judgement obtained against such persons
24 arising out of any actual or alleged act, error or omission that occurred within the scope of

1 Interstate Commission employment, duties or responsibilities, or that such persons had a
2 reasonable basis for believing occurred within the scope of Interstate Commission employment,
3 duties or responsibilities, provided, that the actual or alleged act, error or omission did not result
4 from gross negligence or intentional wrongdoing on the part of such person.

5 ARTICLE VII

6 ACTIVITIES OF THE INTERSTATE COMMISSION

7 The Interstate Commission shall meet and take such actions as are consistent with the
8 provisions of this compact.

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

13 Each member of the Interstate Commission shall have the right and power to cast a vote to
14 which that compacting state is entitled and to participate in the business and affairs of the
15 Interstate Commission. A member shall vote in person on behalf of the state and shall not
16 delegate a vote to another member state. However, a state council shall appoint another
17 authorized representative, in the absence of the commissioner from that state, to cast a vote on
18 behalf of the member state at a specified meeting. The by-laws may provide for member'
19 participation in meetings by telephone or other means of telecommunication or electronic
20 communication. Any voting conducted by telephone, or other means of telecommunication or
21 electronic communication shall be subject to the same quorum requirements of meetings where
22 members are present in person.

23 The Interstate Commission shall meet at least once during each calendar year. The
24 chairperson of the Interstate Commission may call additional meetings at any time and, upon the

1 request of a majority of the members, shall call additional meetings.

2 The Interstate Commission's by-laws shall establish conditions and procedures under which
3 the Interstate Commission shall make its information and official records available to the public
4 for inspection or copying. The Interstate Commission may exempt from disclosure any
5 information or official records to the extent they would adversely affect personal privacy rights
6 or proprietary interests. In promulgating such rules, the Interstate Commission may make
7 available to law enforcement agencies records and information otherwise exempt from
8 disclosure, and may enter into agreements with law enforcement agencies to receive or exchange
9 information or records subject to nondisclosure and confidentiality provisions.

10 Public notice shall be given of all meetings and all meetings shall be open to the public,
11 except as set forth in the rules or as otherwise provided in the compact. The Interstate
12 Commission shall promulgate rules consistent with the principles contained in the "Government
13 in Sunshine Act," 5 U.S.C. Section 552(b), as may be amended. The Interstate Commission and
14 any of its committees may close a meeting to the public where it is determines by two-thirds vote
15 that an open meeting would be likely to:

- 16 (1) Relate solely to the Interstate Commission's internal personnel practices and
17 procedures;
- 18 (2) Disclose matters specifically exempted from disclosure by statute;
- 19 (3) Disclose trade secrets or commercial or financial information which is privileged or
20 confidential;
- 21 (4) Involve accusing any person of a crime, or formally censuring any person;
- 22 (5) Disclose information of a personal nature where disclosure would constitute a clearly
23 unwarranted invasion of personal privacy;
- 24 (6) Disclose investigatory records compiled for law enforcement purposes;

- 1 (7) Disclose information contained in or related to examination, operating, or condition
2 reports prepared by, or on behalf of or for the use of, the Interstate Commission with
3 respect to a regulated entity for the purpose of regulation or supervision of such
4 entity;
- 5 (8) Disclose information, the premature disclosure of which would significantly endanger
6 the life of a person or the stability of a regulated entity;
- 7 (9) Specifically related to the Interstate Commission's issuance of a subpoena, or its
8 participation in a civil action or proceeding.

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

17 The Interstate Commission shall collect standardized data concerning the interstate
18 movement of offenders as directed through its by-laws and rules which shall specify the data to
19 be collected, the means of collection and data exchange and reporting requirements.

20 ARTICLE VIII

21 RULE MAKING FUNCTIONS OF THE INTERSTATE COMMISSION

22 The Interstate Commission shall promulgate rules in order to effectively and efficiently
23 achieve the purposes of the compact including transition rules governing administration of the
24 compact during the period in which it is being considered and enacted by the states.

1 Rule making shall occur pursuant to the criteria set forth in this article and the by-laws and
2 rules adopted pursuant thereto. Such rule making shall substantially conform to the principles
3 of the federal Administrative Procedure Act, 5 U.S.C.S. section 551 etseq., and the Federal
4 Advisory Committee Act, 5 U.S.C.S. app.2, section 1 et seq., as may be amended (hereinafter
5 "APA"). All rules and amendments shall become binding as of the date specified in each rule or
6 amendment.

7 If a majority of the legislatures of the compacting states rejects a rule, by enactment of a
8 statute or resolution in the same manner used to adopt the compact, then such rule shall have not
9 further force and effect in any compacting state.

10 When promulgating a rule, the Interstate Commission shall publish the proposed rule stating
11 with particularity the text of the rule which is proposed and the reason for the proposed rule;
12 allow persons to submit written data, facts, opinions, and arguments, which information shall be
13 publicly available; provide an opportunity for an informal hearing; and promulgate a final rule and
14 its effective date, if appropriate, based on the rule making record.

15 No later than sixty days after a rule is promulgated, any interested person may file a petition
16 in the United States District Court for the District of Columbia or in the Federal District Court
17 where the Interstate Commission's principle office is located for judicial review of such rule. If
18 the court finds that the Interstate Commission's action is not supported by substantial evidence,
19 (as defined in the APA), in the rule making record, the court shall hold the rule unlawful and set
20 it aside. Subjects to be addressed within twelve months after the first meeting must at a minimum
21 include:

- 22 (1) Notice to victims and opportunity to be heard;
- 23 (2) Offender registration and compliance;
- 24 (3) Violations/returns;

- 1 (4) Transfer procedures and forms;
- 2 (5) Eligibility for transfer;
- 3 (6) Collection of restitution and fees from offenders;
- 4 (7) Data collection and reporting;
- 5 (8) The level of supervision to be provided by the receiving state;
- 6 (9) Transition rules governing the operation of the compact and the Interstate
7 Commission during all or part of the period between the effective date of the compact
8 and the date on which the last eligible state adopts the compact; and
- 9 (10) Mediation, arbitration, and dispute resolution.

10 The existing rules governing the operation of the previous compact superceded by this Act
11 shall be null and void twelve months after the first meeting of the Interstate Commission created
12 hereunder.

13 Upon determination by the Interstate Commission that an emergency exists, it may
14 promulgate an emergency rule which shall become effective immediately upon adoption,
15 provided that the usual rule making procedures provided hereunder shall be retroactively applied
16 to said rule as soon as reasonably possible, in no event later than ninety days after the effective
17 date of the rule.

18 ARTICLE IX

19 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION BY THE
20 INTERSTATE COMMISSION

21 Section A. Oversight

22 The Interstate Commission shall oversee the interstate movement of adult offenders in the
23 compacting states and shall monitor such activities being administered in noncompacting states,
24 which may significantly affect compacting states.

1 The courts and executive agencies in each compacting state shall enforce this compact and
2 shall take all actions necessary and appropriate to effectuate the compact's purposes and intent.
3 In any judicial or administrative proceeding in a compacting state pertaining to the subject matter
4 of this compact which may affect the powers, responsibilities, or actions of the Interstate
5 Commission, the Interstate Commission shall be entitled to receive all service of process in any
6 such proceeding, and shall have standing to intervene in the proceedings for all purposes.

7 Section B. Dispute Resolution.

8 The compacting states shall report to the Interstate Commission on issues or activities of
9 concern to them, and cooperate with and support the Interstate Commission in the discharge of
10 its duties and responsibilities.

11 The Interstate Commission shall attempt to resolve any disputes or other issues which are
12 subject to the compact and which may arise among compacting states and noncompacting states.

13 The Interstate Commission shall enact a by-law or promulgate a rule providing for both
14 mediation and binding dispute resolution for disputes among the compacting states.

15 Section C. Enforcement

16 The Interstate Commission, in the reasonable exercise of its' discretion, shall enforce the
17 provisions of this compact using any or all means set forth in Article XII, Section B of this
18 compact.

19 ARTICLE X

20 FINANCE

21 The Interstate Commission shall pay or provide for the payment of the reasonable expenses
22 of its establishment, organization, and on-going activities.

23 The Interstate Commission shall levy on and collect an annual assessment from each
24 compacting state to cover the cost of the internal operations and activities of the Interstate

1 Commission and its staff which must be in a total amount sufficient to cover the Interstate
2 Commission's annual budget as approved each year. The aggregate annual assessment amount
3 shall be allocated based upon a formula to be determined by the Interstate Commission, taking
4 into consideration the population of the state and the volume of interstate movement of offenders
5 in each compacting state and shall promulgate a rule binding upon all compacting states which
6 governs said assessment.

7 The Interstate Commission shall not incur any obligation of any kind prior to securing the
8 funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any
9 of the compacting states, except by and with the authority of the compacting state.

10 The Interstate Commission shall keep accurate accounts of all receipts and disbursements.
11 The receipts and disbursements of the Interstate Commission shall be subject to the audit and
12 accounting procedures established under its by-laws. However, all receipts and disbursements
13 of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed
14 public accountant and the report of the audit shall be included in and become part of the annual
15 report of the Interstate Commission.

16 ARTICLE XI

17 COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

18 Any state, as defined in Article II of this compact, is eligible to become a compacting state.
19 The compact shall become effective and binding upon legislative enactment of the compact into
20 law by no less than thirty-five of the states. The initial effective date shall be the later of July 1,
21 2001, or upon enactment into law by the thirty-fifth jurisdiction. Thereafter it shall become
22 effective and binding, as to any other compacting state, upon enactment of the compact into law
23 by that state. The governors of nonmember states or their designees will be invited to participate
24 in Interstate Commission activities on a nonvoting basis prior to adoption of the compact by all

1 states and territories of the United States.

2 Amendments to the compact may be proposed by the Interstate Commission for enactment
3 by the compacting states. No amendment shall become effective and binding upon the Interstate
4 Commission and the compacting states unless and until it is enacted into law by unanimous
5 consent of the compacting states.

6 ARTICLE XII

7 WITHDRAWAL, DEFAULT, TERMINATION, AND JUDICIAL ENFORCEMENT

8 Section A. Withdrawal

9 Once effective, the compact shall continue in force and remain binding upon each and every
10 compacting state. However, that a compacting state may withdraw from the compact
11 (withdrawing state) by enacting a statute specifically repealing the statute which enacted the
12 compact into law.

13 The effective date of withdrawal is the effective date of the repeal.

14 The withdrawing state shall immediately notify the chairperson of the Interstate Commission
15 in writing upon the introduction of legislation repealing this compact in the withdrawing state.
16 The Interstate Commission shall notify the other compacting states of the withdrawing state's
17 intent to withdraw within sixty days of its receipt thereof.

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

21 Reinstatement following withdrawal of any compacting state shall occur upon the
22 withdrawing state reenacting the compact or upon such later date as determined by the Interstate
23 Commission.

24 Section B. Default

1 If the Interstate Commission determines that any compacting state has at any time defaulted
2 (defaulting state) in the performance of any of its obligations or responsibilities under this
3 compact, the by-laws or any duly promulgated rules the Interstate Commission may impose any
4 or all of the following penalties: fines, fees, costs in such amounts as are deemed to be reasonable
5 as fixed by the Interstate Commission; remedial training and technical assistance as directed by
6 the Interstate Commission; suspension and termination of membership in the compact.

7 Suspension shall be imposed only after all other reasonable means of securing compliance
8 under the by-laws and rules have been exhausted. Immediate notice of suspension shall be given
9 by the Interstate Commission to the Governor, the Chief Justice, or Chief Judicial Officer of the
10 state; the majority and minority leaders of the defaulting state's Legislature, and the state council.

11 The grounds for default include but are not limited to, failure of a compacting state to
12 perform such obligations or responsibilities imposed upon it by this compact, Interstate
13 Commission by-laws, or duly promulgated rules. The Interstate Commission shall immediately
14 notify the defaulting state in writing of the penalty imposed by the Interstate Commission on the
15 defaulting state pending a cure of the default. The Interstate Commission shall stipulate the
16 conditions and the time period within which the defaulting state must cure its default. If the
17 defaulting state fails to cure the default within the time period specified by the Interstate
18 Commission, in addition to any other penalties imposed herein, the defaulting state may be
19 terminated from the compact upon an affirmative vote of a majority of the compacting states and
20 all rights, privileges, and benefits conferred by this compact shall be terminated from the effective
21 date of suspension. Within sixty days of the effective date of termination of a defaulting state,
22 the Interstate Commission shall notify the Governor, the Chief Justice, or Chief Judicial Officer
23 and the Majority and Minority Leaders of the defaulting state's Legislature and the state council
24 of such termination.

1 The defaulting state is responsible for all assessments, obligations, and liabilities incurred
2 through the effective date of termination including any obligations, the performance of which
3 extends beyond the effective date of termination.

4 The Interstate Commission shall not bear any costs relating to the defaulting state unless
5 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
7 compact by the defaulting state and the approval of the Interstate Commission pursuant to the
8 rules.

9 Section C. Judicial Enforcement

10 The Interstate Commission may, by majority vote of the members, initiate legal action in the
11 United States District Court for the District of Columbia or, at the discretion of the Interstate
12 Commission, in the Federal District where the Interstate Commission has its offices to enforce
13 compliance with the provisions of the compact, its duly promulgated rules and by-laws, against
14 any compacting state in default. In the event judicial enforcement is necessary the prevailing
15 party shall be awarded all costs of such litigation including reasonable attorneys' fees.

16 Section D. Dissolution of Compact

17 The compact dissolves effective upon the date of the withdrawal or default of the compacting
18 state, which reduces the membership in the compact to one compacting state.

19 Upon the dissolution of this compact, the compact becomes null and void and shall be of no
20 further force or effect, and the business and affairs of the Interstate Commission shall be wound
21 up and any surplus funds shall be distributed in accordance with the by-laws.

22 ARTICLE XIII

23 SEVERABILITY AND CONSTRUCTION

24 The provisions of this compact shall be severable, and if any phrase, clause, sentence, or

1 provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

2 The provisions of this compact shall be liberally constructed to effectuate its purposes.

3 ARTICLE XIV

4 BINDING EFFECT OF COMPACT AND OTHER LAWS

5 Section A. Other Laws

6 Nothing herein prevents the enforcement of any other law of a compacting state that is not
7 inconsistent with this compact.

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

10 Section B. Binding Effect of the Compact

11 All lawful actions of the Interstate Commission, including all rules and by-laws promulgated
12 by the Interstate Commission, are binding upon the compacting states.

13 All agreements between the Interstate Commission and the compacting states are binding in
14 accordance with their terms.

15 Upon the request of a party to a conflict over meaning or interpretation of the Interstate
16 Commission actions, and upon a majority vote of the compacting states, the Interstate
17 Commission may issue advisory opinions regarding such meaning or interpretation.

18 In the event any provision of this compact exceeds the constitutional limits imposed on the
19 legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be
20 conferred by such provision upon the Interstate Commission shall be ineffective and such
21 obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be
22 exercised by the agency thereof to which such obligations, duties, powers, or jurisdiction are
23 delegated by law in effect at the time this compact becomes effective.

24 Section 2. This provisions of this Act are effective, and the provisions of chapter 24-16 are

- 1 simultaneously repealed on July 1, 2001, or the final ratification of the compact pursuant to
- 2 Article XI, whichever occurs later.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0284

SENATE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 32** - 01/17/2001

Introduced by: The Committee on Health and Human Services at the request of the
Department of Human Services

1 FOR AN ACT ENTITLED, An Act to revise the notice of hearing requirements pertaining to
2 costs on petitions for authority to administer psychotropic medication.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 27A-12-3.14 be amended to read as follows:

5 27A-12-3.14. Certified copies of the petition and notice of hearing shall be personally served
6 by the sheriff on the person immediately upon the filing of the petition. The notice of hearing shall
7 include the following:

- 8 (1) Notice of the time, date, and place of hearing and directing the person to appear in
9 person;
- 10 (2) Notice of the person's right to be represented by an attorney at ~~his~~ the person's own
11 expense or appointed by the court if ~~he~~ the person is indigent;
- 12 (3) Notice of the person's right to seek an opinion of an independent psychiatrist at ~~his~~ the
13 person's own expense or at the expense of ~~his~~ the person's county of residence if ~~he~~ the
14 person is indigent; and

1 (4) Notice that the costs of any ~~commitment~~ post-commitment proceedings, treatment,
2 medication, and any hearing related to the medication, any post-commitment
3 proceeding, including a habeas corpus proceeding, the costs of compensation for the
4 attorney appointed to represent the person, and any other costs associated with any
5 post-commitment proceeding, are that person's responsibility, and that a lien for the
6 amount of these costs may be filed upon the person's real and personal property to
7 insure payment.

8 Upon the filing of the petition the court shall immediately appoint counsel for the person if
9 counsel has not been retained. A date shall be set for the hearing within fifteen days of the filing
10 of the petition, and this hearing shall be a priority on the court calendar. Allowance for any
11 additional time shall be limited to one seven-day continuance, and shall be restrictively granted,
12 only upon a showing of good cause for delay.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0223 **SENATE AGRICULTURE AND NATURAL RESOURCES**
COMMITTEE ENGROSSED NO. SB 64 - 01/17/2001

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
Department of Agriculture

1 FOR AN ACT ENTITLED, An Act to authorize the Department of Agriculture and the
2 Department of Game, Fish and Parks to designate certain species as needing both control and
3 protection.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. Terms used in this chapter mean:

6 (1) "Departments," the Department of Game, Fish, and Parks and the Department of
7 Agriculture;

8 (2) "Species of management concern," a species designated by the secretary of the
9 Department of Agriculture and the Game, Fish and Parks Commission as a species
10 which shares the dual status of requiring both control and protection.

11 Section 2. The secretary of the Department of Agriculture and the Game, Fish and Parks
12 Commission shall establish, by rules promulgated pursuant to chapter 1-26, a list of species of
13 management concern. In determining whether a species should be listed, the following factors are
14 to be considered:

1 (1) Whether the species or its habitat, or both are of value ecologically and aesthetically
2 and at the same time burdensome for property owners; and

3 (2) Whether the species may warrant protection at times and control at others depending
4 on the rate of reproduction, climate, disease, population viability, and other factors.

5 Section 3. Rules promulgated pursuant to section 2 of this Act shall be conducted jointly by
6 both the Department of Agriculture and the Game, Fish and Parks Commission, including joint
7 notice, publication, hearings, and decision-making.

8 Section 4. If so requested, the departments may render assistance and advice regarding species
9 of management concern including:

10 (1) Providing information to the public and property owners regarding the species of
11 management concern and its characteristics, ecosystem values, and habitat; and

12 (2) Providing assistance in the development of conservation plans or control projects
13 regarding the species of management concern.

14 Section 5. The following acts or omissions constitute nuisances:

15 (1) Engaging in practices which allow or cause a species of management concern to
16 encroach upon the property of another or injure or endanger the property of another;
17 or

18 (2) Failure to control the species of management concern thereby causing encroachment
19 on the property of another or causing injury to or endangering the property of another.

20 Section 6. In addition to any other remedies at law, the remedies set forth in chapter 21-10
21 apply to the nuisances described in section 5 of this Act. These remedies include civil action,
22 including injunctive relief and recovery of damages, and abatement. Abatement, if ordered by the
23 court, shall include reimbursement for any reasonable and necessary costs incurred in abating the
24 nuisance.

- 1 Section 7. Designation as a species of management concern abrogates any previous
- 2 designation as a weed or pest.