INTERSTATE COMMISSION FOR
ADULT OFFENDER SUPERVISION

WHITE PAPER

State Liability: Why Your State Can Be Sanctioned Upon Violation of the Compact or the ICAOS Rules

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Executive Summary

The Interstate Compact for Adult Offender Supervision (ICAOS) provides the legal framework for the transfer and supervision of individuals on probation or parole across state lines. It ensures public safety, accountability, and effective management of supervised individuals who move between states. To maintain uniform application and integrity, ICAOS includes enforcement mechanisms, most notably, the authority to sanction member states that fail to comply with the Compact or its rules. This paper outlines the legal basis, process, and rationale for imposing sanctions, as well as the types of violations that can trigger enforcement action.

1. LEGAL AUTHORITY FOR SANCTIONS

1.1 Constitutional Foundation

ICAOS is a formal interstate compact enacted by all 50 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands, and carries the force of federal law once consented to by Congress. As such, member states are legally bound to comply with Compact rules and procedures.

1.2 Compact Statute

Article XI of the ICAOS statute provides the Interstate Commission with the authority to:

- Enforce compliance through rulemaking and adjudicatory procedures.
- Impose sanctions on member states in violation of the Compact, which may include remedial training, fines, suspension, or termination of membership.

1.3. Rule-based Authority

ICAOS Rule 6.102 explicitly authorizes the Commission to take corrective action when a state fails to comply with the Compact, rules, or bylaws. Sanctions are intended not as punishment, but as a means to ensure uniform and lawful application of the Compact nationwide.

2. CONDITIONS THAT MAY LEAD TO SANCTIONS

Sanctions may result from substantial or persistent noncompliance that undermines Compact operations or public safety. Examples include:

2.1 Systemic Rule Violations

Failure to adhere to established transfer and supervision procedures, such as:

- Repeatedly denying valid transfer requests.
- Failing to meet required timeframes under Compact rules.
- Courts authorizing supervised individuals to remain out of state beyond the 45-day rule limit for treatment, education, or employment.
- Sending states issuing warrants that do not have a nation wide pick-up radius.
- Sending states terminating supervision to avoid the retaking process.

2.2 Administrative Noncompliance

- Not submitting required reports, audits, or data.
- Failure to pay dues, appoint a Commissioner or maintain an active state council.
- Ignoring Commission directives or corrective action plans.

2.3 Public Safety and Liability Concerns

When a state ignores or fails to follow Compact rules and someone is harmed, for example, if an unsupervised person commits a new crime, it can lead to an investigation and possible sanctions. These situations put both the state and the Commission at legal and reputational risk.

3. Legal Foundation for State Accountability and Enforcement

3.1 Binding Nature of the Compact

By enacting the Interstate Compact for Adult Offender Supervision (ICAOS), each member state enters a binding contractual agreement that carries the force of federal law. Once adopted, the Compact and its duly promulgated rules supersede conflicting state laws and bind all branches of state government executive, legislative, and judicial to ensure compliance. Under long-standing Supreme Court precedent, including *Cuyler v. Adams* (1981) and *West Virginia ex rel. Dyer v. Sims* (1951), Congress's consent to an interstate compact elevates it to federal law. States cannot unilaterally modify, suspend, or reinterpret Compact obligations through local legislation, court orders, or administrative practice.

3.2Limits of Immunity

Judicial and qualified immunity protect individual judges and state officials from personal liability for actions taken in their official roles. However, these doctrines do not insulate the state itself

from responsibility for Compact violations. Once a state enacts the Compact, it remains legally accountable for the actions or omissions of its agents that conflict with Compact requirements. The Supreme Court reaffirmed this principle in *Alabama v. North Carolina* (2010), holding that member states are subject to enforcement and sanction by a duly authorized interstate commission.

3.3 Delegated Authority and Rulemaking

The Compact authorizes the Interstate Commission to adopt rules, establish procedures, and enforce compliance among member states. States have validly delegated this authority under the Compact Clause to ensure uniformity in interstate supervision. These rules, adopted through the Commission's established rulemaking process, have the same binding legal effect as the Compact itself. No state may disregard, reinterpret, or alter them unilaterally.

3.4 Enforcement and Remedies

The Compact empowers the Commission to use a graduated approach to enforcement. When a state fails to comply, the Commission may require remedial training, impose fines, suspend or terminate membership, or initiate judicial enforcement in federal court. Article XII expressly authorizes the Commission to pursue injunctive relief and recover litigation costs, including attorney's fees, when necessary to compel compliance. Federal courts recognize and enforce these provisions. In *ICAOS v. Tennessee Board of Probation and Parole* (E.D. Ky. 2005), the court issued a permanent injunction and awarded attorney's fees, holding that Compact rules operate as federal law under the Supremacy Clause.

3.5 Federal Enforcement Authority

Because Congress consented to ICAOS, federal courts have jurisdiction to interpret and enforce its terms. States cannot claim Eleventh Amendment immunity in actions brought by other states or the Commission for Compact violations (*Kansas v. Colorado*, 2001). Remedies for breach may include injunctive relief or monetary damages. The Supreme Court has consistently affirmed that states are bound to honor Compact obligations and that courts must enforce the Compact as written, regardless of equitable considerations (*Texas v. New Mexico*, 1983; *New Jersey v. New York*, 1998*).*

3.6 Implications for State Officials

Article I of the Compact charges state courts and executive agencies with enforcing its provisions and taking all necessary actions to fulfill its purposes ["shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and

intent”].

Judges, prosecutors, and supervision authorities must understand and apply ICAOS rules as binding law. Noncompliance not only undermines uniformity and public safety but also exposes the state to investigation, corrective action, or sanctions under Rule 6.103.