

By Mr. Flaherty of Cambridge, petition of Charles F. Flaherty, Jr., for legislation to establish an interstate furlough compact. Human Services and Elderly Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Nine.

AN ACT TO ESTABLISH AN INTERSTATE FURLOUGH COMPACT.

Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same, as follows:

1 SECTION 1. Definitions: —

2 1. "State" means a State in the United States, the United States
3 of America, a Territory or possession of the United States, the
4 District of Columbia, and the Commonwealth of Puerto Rico.

5 2. "Sending State" means a State which is party to this compact
6 in which conviction or commitment was had except if confinement
7 be in another State, pursuant to the Interstate Corrections Com-
8 pact, in which event the sending State shall be determined by
9 contract between the parties of the Interstate Corrections Compact
10 agreement.

11 3. "Receiving State" means a State which is party to this com-
12 pact to which an inmate is sent for furlough.

13 4. "Inmate" means a person convicted of a crime who is commit-
14 ted under sentence to or confined in a penal or correctional
15 institution.

16 5. "Institution" means a penal or correctional facility, including
17 all those facilities normally used by adult correctional agencies for
18 the care and custody of inmates whether or not such facilities are
19 owned or operated by the agencies.

20 6. "Relative" means spouse, child including stepchild, adopted
21 child, or foster child, parents (including stepparents, adoptive
22 parents, or foster parents), brothers, sisters, and grandparents.

23 7. "Interstate furlough" means any out-of-state leave of an
24 inmate for a designated period in accordance with the require-

25 ments established by the appropriate officials of the sending State.
26 8. "Appropriate official" means a person designated by the
27 sending State to grant furloughs or by the receiving State to accept
28 or reject furloughs pursuant to this compact.

29 9. "Authorized person" means a person designated by law on
30 appointment for purposes of escorting, transferring, or retaking a
31 furloughed inmate.

32 10. "Medical emergency" means any illness, injury, incapacity,
33 or condition, physical or mental, of such a nature and gravity that
34 timely and immediate treatment of and attention to the illness is
35 required to prevent permanent injury, substantial harm, or death,
36 and which cannot be adequately treated or attended to, in a timely
37 manner, by the sending State.

38 11. "Escorted interstate furlough" means the transference of an
39 inmate in emergency situations, who does not meet the furlough
40 requirements of the sending State, to a State which is party to the
41 compact under escort or guard of an authorized person of the
42 sending State.

43 12. "Escapee" means an inmate who is on interstate furlough,
44 pursuant to this compact, and fails to return at the prescribed time
45 to the sending State or becomes a known absconder during the
46 period of his furlough.

47 13. "Violator" means an inmate who is on interstate furlough in
48 the receiving State, pursuant to this compact, and fails to abide by
49 the conditions of the furlough as established by the sending State.

1 SECTION 2. *Conditions for Furlough.*

2 (a) A furlough pursuant to this compact may be granted to an
3 inmate for the following reasons:

4 (1) To visit a critically ill relative.

5 (2) To attend a funeral of a relative.

6 (3) To obtain medical services of both a physiological and psy-
7 chiatric nature.

8 (4) To contact prospective employers.

9 (5) To secure a suitable residence for use upon discharge or
10 upon parole; if in the latter event, the inmate qualifies for the
11 Interstate Parole and Probation Compact.

12 (6) For any other reason which, in the opinion of the appro-
13 priate official of the sending State, is consistent with the rehabilita-
14 tion of the inmate.

15 (b) A furlough among States which are party to the compact
16 shall be granted for a period not to exceed 15 days, including travel
17 time; however, for emergency or other exigent circumstances and
18 at the written request of the furlougee, an extension may be
19 granted by the appropriate official of the sending State upon the
20 consent of the receiving State.

21 (c) For those inmates ineligible for an unescorted furlough, the
22 sending State, in emergency situations, as defined below, may
23 furlough those inmates under escort to a State which is party to this
24 compact. All inmates on escorted furlough shall be under the guard
25 and jurisdiction of an authorized person from the sending State
26 and shall be under the continuous supervision of that person as
27 consistent with Section 5.

28 (1) An emergency situation shall apply only to visit a critically ill
29 relative, to attend a funeral of a relative, or if a medical emergency
30 exists. In all such instances, the sending State shall first verify the
31 legitimacy of the request and if verified shall request the receiving
32 State to approve or reject the proposed furlough.

33 (2) Escorted furloughs granted for these reasons shall not
34 exceed four days, including travel time; however, for emergency or
35 other exigent circumstances and at the written request of the
36 inmate, an extension may be granted by the appropriate official of
37 the sending State upon the verification and consent of the appro-
38 priate official of the receiving State.

39 (d) Prior to the authorization of an inmate to go beyond the
40 limits of the State, the appropriate official shall obtain a written
41 waiver of extradition from the inmate waiving his right to be
42 extradited from any State to which he is furloughed or from any
43 State where he was apprehended.

44 (e) The grant of a stipulated period of furlough may be termi-

45 nated by either the sending or receiving State upon written showing
46 of cause. In those instances, the furloughed inmate shall be given
47 reasonable opportunity to obtain the information, including writ-
48 ten statements of witnesses and other documentation, which may
49 be of assistance to him/her in subsequent disciplinary hearings by
50 the sending State for those events or violations that caused termi-
51 nation of his furlough. Reasonable costs for gathering of the
52 information shall be chargeable to the furlougee or to the sending
53 State in the event of the furloughed inmate's inability to pay.

54 (f) Inmates from the sending State, who are on interstate fur-
55 lough in the receiving State, shall be subject to all the provisions of
56 laws and regulations applicable to those on interstate furlough
57 status within the receiving State, not inconsistent with the sentence
58 imposed.

1 SECTION 3. *Notification to the Receiving State, Requirement*
2 *for Consent.*

3 (a) In nonemergency situations, the appropriate official of the
4 sending State shall notify the appropriate official of the receiving
5 State in writing 30 days prior to the granting of the furlough,
6 requesting the receiving State to investigate the circumstances of
7 the proposed furlough plan. In these circumstances, the receiving
8 State shall respond in writing within 10 days prior to the proposed
9 furlough either accepting the inmate or stating the reasons for the
10 rejection.

11 (b) In emergency circumstances, as defined in Section 2(c)(1),
12 the appropriate official of the sending State shall, prior to granting
13 such furlough, (1) verify the legitimacy of the request, and (2) upon
14 verification, immediately notify and secure the consent of the
15 receiving State.

1 SECTION 4. *Contracts.* The appropriate official of a party
2 State may supplement but in no way abrogate the provisions of this
3 compact through one or more contracts with any other party State
4 for the furlough of inmates. The contracts may provide for:

5 (1) Duration.

6 (2) Terms and conditions of the furlough.

- 7 (3) Report of violations and escapes by furloughees.
8 (4) Costs, if any, to be incurred.
9 (5) Delivery and retaking of furloughees.
10 (6) Other matters as may be necessary and appropriate to fix the
11 jurisdictions, obligations, responsibilities, liabilities, and rights of
12 the sending and receiving States.

1 SECTION 5. *Jurisdiction; Powers; Liabilities; Rights.*

2 (a) As provided for by the laws, rules, and regulations of the
3 sending State, the furloughee will at all times be subject to the
4 jurisdiction of the appropriate officials and authorized persons of
5 the sending State who shall retain the powers over the furloughee
6 that they would normally exercise over the inmate were he on
7 intrastate furlough.

8 (b) The authorized person of a sending State may at all times
9 enter a receiving State and there apprehend and retake any person
10 on furlough. For that purpose no formalities will be required other
11 than establishing the authority of that person and the identity of
12 the furloughee to be retaken. All legal requirements to obtain
13 extradition of fugitives from justice are hereby expressly waived on
14 the part of the States party hereto as to such persons. The decision
15 of the sending State to retake a person on furlough shall be
16 conclusive upon and not reviewable within the receiving State,
17 provided, however, that if at the time when a State seeks to retake a
18 furloughee there should be pending against him within the
19 receiving State any criminal charge, or should he be suspected of
20 having committed within that State a criminal offense, he shall not
21 be retaken without the consent of the receiving State until dis-
22 charged from prosecution or imprisonment of the offense.

23 (c) The authorized person of the sending State or the receiving
24 State acting as agent for the sending State will be permitted to
25 transport inmates being retaken through any or all States party to
26 this compact without interference.

27 (d) The Governor of each State may designate an officer who,
28 acting jointly with the like officers of other party State, if and when
29 appointed, shall promulgate such rules and regulations as may be

30 deemed necessary to more effectively carry out the terms of this
31 compact.

32 (e) Appropriate officials and authorized persons of the receiv-
33 ing State shall act solely as agents of the sending State with respect
34 to jurisdiction over the liability for the furlougee. The jurisdic-
35 tion and liability of the sending and receiving States may be subject
36 to further contractual specifications by the sending and receiving
37 States as may be deemed necessary.

38 (f) The receiving State shall, upon a furlough violation of which
39 it has knowledge, promptly notify the sending State. The notifica-
40 tion should specify the nature of the violation and, if a crime has
41 been committed, shall, whenever possible, give the official and
42 furlougee's version of this act. If the grant of furlough is termi-
43 nated due to the violation, the right and responsibility to retake the
44 furlougee shall be that of the sending State but nothing contained
45 herein shall prevent the receiving State from assisting the sending
46 State toward retaking and returning the furlougee except in
47 instances where the receiving State shall subject the furlougee to
48 confinement for a crime allegedly committed during the furlough
49 within its boundaries. All costs in connection therewith shall be
50 chargeable to the sending State unless costs arise from an escape
51 from confinement in the receiving State.

52 (g) In the case of an escape to a jurisdiction other than the
53 sending or receiving State, the right and responsibility to retake the
54 escapee shall be that of the sending State, but nothing contained
55 herein shall be construed to prevent or affect the activities of
56 officers and agencies of any jurisdiction directed toward the appre-
57 hension and return of an escapee, except in instances where the
58 receiving State shall subject the furlougee to confinement for a
59 crime allegedly committed during furlough within its boundaries.

60 (h) The receiving State shall make all necessary arrangements to
61 secure overnight lodging in a state, county, or municipal facility for
62 escorted furlougees or, in exceptional circumstances, for unes-
63 corted furlougees when they would not have the availability of
64 overnight lodging.

1 SECTION 6. *Costs.*

2 (a) Costs arising out of a grant of a furlough for transportation,
3 lodgings, meals, and other related expenses shall be the sole
4 responsibility of the furlougee; however, in the event that the
5 furlougee is financially unable to pay for these expenses, such
6 costs may be assumed by the sending State.

7 (b) Extraordinary costs, other than those specified in Section
8 6(a) arising from the grant of furlough among party States shall be
9 the sole responsibility of the sending State. Such costs will gener-
10 ally be confined to emergency medical and special confinement and
11 transportation needs.

1 SECTION 7. *Binding and Continuing Force.* The contracting
2 States solemnly agree:

3 (1) That this compact shall become operative immediately upon
4 its execution by any State as between it and any other State or
5 States so executing. When executed it shall have the full force and
6 effect of law within such State, the form of execution to be in
7 accordance with the laws of the executing State.

8 (2) That this compact shall continue in force and remain bind-
9 ing upon each executing State until renounced by it. The duties and
10 obligations hereunder of a renouncing State shall continue as to
11 furlougees residing therein at the time of withdrawal until retaken
12 or finally discharged by the sending State. Renunciation of this
13 compact shall be by the same authority which executed it, by
14 sending a six-month notice in writing of its intention to withdraw
15 from the compact to the other States party hereto.

The first of these is the fact that the
 population of the country has increased
 rapidly since the year 1800. This is
 due to a variety of causes, the most
 important of which are the discovery
 of gold in California, the invention
 of the steam engine, and the
 opening of the Suez Canal. The
 discovery of gold in California
 attracted a large number of people
 to the country, and the invention
 of the steam engine made it possible
 to travel more rapidly and
 cheaply than ever before. The
 opening of the Suez Canal made
 it possible to travel from Europe
 to India and the East Indies
 more rapidly and cheaply than
 ever before. These three causes
 have all contributed to the
 rapid increase in the population
 of the country.