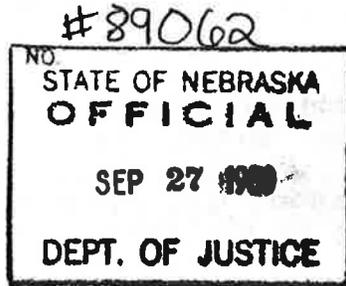


DEPARTMENT OF JUSTICE

STATE OF NEBRASKA
TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509

ROBERT M. SPIRE
Attorney General
A. EUGENE CRUMP
Deputy Attorney General



DATE: September 21, 1989

SUBJECT: Interstate Probation Supervision

REQUESTED BY: Carol Schoenleber
Nebraska Probation Administration

WRITTEN BY: Robert M. Spire, Attorney General
Linda L. Willard, Assistant Attorney General

You have inquired of this office whether the maximum length of probation allowed in Nebraska determines the length of supervision the state extends to incoming interstate probation clients. It is our determination that Nebraska statutes on length of probation sentences do not affect the supervision of probationers received through interstate transfers and supervised by Nebraska Probation Officers.

Neb.Rev.Stat. §29-2263 (Reissue 1985) sets the maximum term of probation to which a Nebraska court can sentence an individual tried and convicted by the courts of the state. This statute is directed to the sentencing court only and places guidelines on the Nebraska courts in sentencing. It does not address the length of time for which probation officers can or should supervise an individual. It is possible under Nebraska law that an individual could receive consecutive terms of probation and be supervised for more than five years.

The interstate supervision of probation clients is permissible under the Uniform Act for Out-of-State Parolee Supervision Neb.Rev.Stat. §29-2637 et.seq. (Reissue 1985). Subsection 2 of Section 29-2637 does state that the receiving state will be governed in the exercise of its duties "by the same standards that prevail for its own probationers and parolees." The standards referenced, however, are those associated with the duties of

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William L. Howland
Marilyn B. Hutchinson
Donald E. Hyde

Kimberly A. Klein
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Charles E. Lowe
Lisa D. Martin-Price
Steven J. Moeller
Harold I. Mosher
Fredrick F. Neid

Bernard L. Packett
Marie C. Pawol
Kenneth W. Payne
Douglas J. Peterson
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Mark D. Starr
John R. Thompson
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Linda L. Willard

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visitation and supervision. In other words, the receiving state must provide the same level of visitation and supervision to probationers received from another state through the compact as they do to those probationers sentenced by the courts of the receiving state. Discrepancies between the states in regard to the maximum sentence allowable is not addressed in the statute. However, the section which you cited from the Compact Administrators Association's manual, Section 401.1, indicates the intent that the receiving state respect and enforce the sentence of the sending state. Therefore, it is our determination that the Nebraska Probation Administration may continue to supervise a probationer received under the Compact according to the sending state's length of sentence even when the sentence exceeds the Nebraska statutory maximum.

Respectfully yours,

ROBERT M. SPIRE
Attorney General



Linda L. Willard
Assistant Attorney General

APPROVED:



Attorney General

28-4-7