



# House of Representatives

General Assembly

**File No. 528**

*January Session, 2003*

Substitute House Bill No. 6475

*House of Representatives, April 24, 2003*

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT ADOPTING THE INTERSTATE COMPACT FOR JUVENILES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2004, or upon enactment of the*  
2 *Interstate Compact for Juveniles by thirty-five jurisdictions, whichever is*  
3 *later*) The Interstate Compact for Juveniles is hereby enacted into law  
4 and entered into by this state with all jurisdictions legally joining  
5 therein, in the form substantially as follows:

6 ARTICLE I

7 PURPOSE

8 The compacting states to this Interstate Compact recognize that each  
9 state is responsible for the proper supervision or return of juveniles,  
10 delinquents and status offenders who are on probation or parole and  
11 who have absconded, escaped or run away from supervision and  
12 control and in so doing have endangered their own safety and the  
13 safety of others. The compacting states also recognize that each state is

14 responsible for the safe return of juveniles who have run away from  
15 home and in doing so have left their state of residence. The compacting  
16 states also recognize that Congress, by enacting the Crime Control Act,  
17 4 USC Section 112 (1965), has authorized and encouraged compacts for  
18 cooperative efforts and mutual assistance in the prevention of crime.

19 It is the purpose of this compact, through means of joint and  
20 cooperative action among the compacting states to: (A) Ensure that the  
21 adjudicated juveniles and status offenders subject to this compact are  
22 provided adequate supervision and services in the receiving state as  
23 ordered by the adjudicating judge or parole authority in the sending  
24 state; (B) ensure that the public safety interests of the citizens,  
25 including the victims of juvenile offenders, in both the sending and  
26 receiving states are adequately protected; (C) return juveniles who  
27 have run away, absconded or escaped from supervision or control or  
28 have been accused of an offense to the state requesting their return; (D)  
29 make contracts for the cooperative institutionalization in public  
30 facilities in member states for delinquent youth needing special  
31 services; (E) provide for the effective tracking and supervision of  
32 juveniles; (F) equitably allocate the costs, benefits and obligations of  
33 the compacting states; (G) establish procedures to manage the  
34 movement between states of juvenile offenders released to the  
35 community under the jurisdiction of courts, juvenile departments, or  
36 any other criminal or juvenile justice agency which has jurisdiction  
37 over juvenile offenders; (H) ensure immediate notice to jurisdictions  
38 where defined offenders are authorized to travel or to relocate across  
39 state lines; (I) establish procedures to resolve pending charges  
40 (detainers) against juvenile offenders prior to transfer or release to the  
41 community under the terms of this compact; (J) establish a system of  
42 uniform data collection on information pertaining to juveniles subject  
43 to this compact that allows access by authorized juvenile justice and  
44 criminal justice officials, and regular reporting of compact activities to  
45 heads of state executive, judicial and legislative branches and juvenile  
46 and criminal justice administrators; (K) monitor compliance with rules  
47 governing interstate movement of juveniles and initiate interventions  
48 to address and correct non-compliance; (L) coordinate training and

49 education regarding the regulation of interstate movement of juveniles  
50 for officials involved in such activity; and (M) coordinate the  
51 implementation and operation of the compact with the Interstate  
52 Compact for the Placement of Children, the Interstate Compact for  
53 Adult Offender Supervision and other compacts affecting juveniles  
54 particularly in those cases where concurrent or overlapping  
55 supervision issues arise. It is the policy of the compacting states that  
56 the activities conducted by the Interstate Commission created herein  
57 are the formation of public policies and therefore are public business.  
58 Furthermore, the compacting states shall cooperate and observe their  
59 individual and collective duties and responsibilities for the prompt  
60 return and acceptance of juveniles subject to the provisions of this  
61 compact. The provisions of this compact shall be reasonably and  
62 liberally construed to accomplish the purposes and policies of the  
63 compact.

64

ARTICLE II

65

DEFINITIONS

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

68 A. "Bylaws" means those bylaws established by the Interstate  
69 Commission for its governance, or for directing or controlling its  
70 actions or conduct.

71 B. "Compact administrator" means the individual in each  
72 compacting state appointed pursuant to the terms of this compact,  
73 responsible for the administration and management of the state's  
74 supervision and transfer of juveniles subject to the terms of this  
75 compact, the rules adopted by the Interstate Commission and policies  
76 adopted by the State Council under this compact.

77 C. "Compacting state" means any state which has enacted the  
78 enabling legislation for this compact.

79 D. "Commissioner" means the voting representative of each

80 compacting state appointed pursuant to Article III of this compact.

81 E. "Court" means any court having jurisdiction over delinquent,  
82 neglected or dependent children.

83 F. "Deputy compact administrator" means the individual, if any, in  
84 each compacting state appointed to act on behalf of a compact  
85 administrator pursuant to the terms of this compact responsible for the  
86 administration and management of the state's supervision and transfer  
87 of juveniles subject to the terms of this compact, the rules adopted by  
88 the Interstate Commission and policies adopted by the State Council  
89 under this compact.

90 G. "Interstate Commission" means the Interstate Commission for  
91 Juveniles created by Article III of this compact.

92 H. "Juvenile" means any person defined as a juvenile in any member  
93 state or by the rules of the Interstate Commission, including:

94 (1) Accused Delinquent: A person charged with an offense that, if  
95 committed by an adult, would be a criminal offense;

96 (2) Adjudicated Delinquent: A person found to have committed an  
97 offense that, if committed by an adult, would be a criminal offense;

98 (3) Accused Status Offender: A person charged with an offense that  
99 would not be a criminal offense if committed by an adult;

100 (4) Adjudicated Status Offender: A person found to have committed  
101 an offense that would not be a criminal offense if committed by an  
102 adult; and

103 (5) Non-Offender: A person in need of supervision who has not  
104 been accused or adjudicated a status offender or delinquent.

105 I. "Non-compacting state" means any state which has not enacted  
106 the enabling legislation for this compact.

107 J. "Probation or parole" means any kind of supervision or

108 conditional release of juveniles authorized under the laws of the  
109 compacting states.

110 K. "Rule" means a written statement by the Interstate Commission  
111 promulgated pursuant to Article VI of this compact that is of general  
112 applicability, implements, interprets or prescribes a policy or provision  
113 of the compact, or an organizational, procedural or practice  
114 requirement of the Interstate Commission, and has the force and effect  
115 of statutory law in a compacting state, and includes the amendment,  
116 repeal or suspension of an existing rule.

117 L. "State" means a state of the United States, the District of Columbia  
118 (or its designee), the Commonwealth of Puerto Rico, the United States  
119 Virgin Islands, Guam, American Samoa and the Northern Marianas  
120 Islands.

121 ARTICLE III

122 INTERSTATE COMMISSION FOR JUVENILES

123 A. The compacting states hereby create the "Interstate Commission  
124 for Juveniles". The Interstate Commission shall be a body corporate  
125 and joint agency of the compacting states. The Interstate Commission  
126 shall have all the responsibilities, powers and duties set forth herein,  
127 and such additional powers as may be conferred upon it by  
128 subsequent action of the respective legislatures of the compacting  
129 states in accordance with the terms of this compact.

130 B. The Interstate Commission shall consist of commissioners  
131 appointed by the appropriate appointing authority in each state  
132 pursuant to the rules and requirements of each compacting state and  
133 in consultation with the State Council for Interstate Juvenile  
134 Supervision created hereunder. The commissioner shall be the  
135 compact administrator, deputy compact administrator or designee  
136 from that state who shall serve on the Interstate Commission in such  
137 capacity under or pursuant to the applicable law of the compacting  
138 state.

139 C. In addition to the commissioners who are the voting  
140 representatives of each state, the Interstate Commission shall include  
141 individuals who are not commissioners, but who are members of  
142 interested organizations. Such non-commissioner members must  
143 include a member of the national organizations of governors,  
144 legislators, state chief justices, attorneys general, Interstate Compact  
145 for Adult Offender Supervision, Interstate Compact for the Placement  
146 of Children, juvenile justice and juvenile corrections officials, and  
147 crime victims. All non-commissioner members of the Interstate  
148 Commission shall be ex-officio (non-voting) members. The Interstate  
149 Commission may provide in its bylaws for such additional ex-officio  
150 (non-voting) members, including members of other national  
151 organizations, in such numbers as shall be determined by the Interstate  
152 Commission.

153 D. Each compacting state represented at any meeting of the  
154 Interstate Commission is entitled to one vote. A majority of the  
155 compacting states shall constitute a quorum for the transaction of  
156 business, unless a larger quorum is required by the bylaws of the  
157 Interstate Commission.

158 E. The Interstate Commission shall meet at least once each calendar  
159 year. The chairperson may call additional meetings and, upon the  
160 request of a simple majority of the compacting states, shall call  
161 additional meetings. Public notice shall be given of all meetings and  
162 meetings shall be open to the public.

163 F. The Interstate Commission shall establish an executive  
164 committee, which shall include Interstate Commission officers,  
165 members and others as determined by the bylaws. The executive  
166 committee shall have the power to act on behalf of the Interstate  
167 Commission during periods when the Interstate Commission is not in  
168 session, with the exception of rulemaking and/or amendment to the  
169 compact. The executive committee shall oversee the day-to-day  
170 activities of the administration of the compact managed by an  
171 executive director and Interstate Commission staff; administer

172 enforcement and compliance with the provisions of the compact, its  
173 bylaws and rules, and perform such other duties as directed by the  
174 Interstate Commission or set forth in the bylaws.

175 G. Each member of the Interstate Commission shall have the right  
176 and power to cast a vote to which that compacting state is entitled and  
177 to participate in the business and affairs of the Interstate Commission.  
178 A member shall vote in person and shall not delegate a vote to another  
179 compacting state. However, a commissioner, in consultation with the  
180 state council, shall appoint another authorized representative, in the  
181 absence of the commissioner from that state, to cast a vote on behalf of  
182 the compacting state at a specified meeting. The bylaws may provide  
183 for members' participation in meetings by telephone or other means of  
184 telecommunication or electronic communication.

185 H. The Interstate Commission's bylaws shall establish conditions  
186 and procedures under which the Interstate Commission shall make its  
187 information and official records available to the public for inspection  
188 or copying. The Interstate Commission may exempt from disclosure  
189 any information or official records to the extent they would adversely  
190 affect personal privacy rights or proprietary interests.

191 I. Public notice shall be given of all meetings and all meetings shall  
192 be open to the public, except as set forth in the rules or as otherwise  
193 provided in the compact. The Interstate Commission and any of its  
194 committees may close a meeting to the public where it determines by  
195 two-thirds vote that an open meeting would be likely to:

196 1. Relate solely to the Interstate Commission's internal personnel  
197 practices and procedures;

198 2. Disclose matters specifically exempted from disclosure by statute;

199 3. Disclose trade secrets or commercial or financial information  
200 which is privileged or confidential;

201 4. Involve accusing any person of a crime, or formally censuring any  
202 person;

203 5. Disclose information of a personal nature where disclosure would  
204 constitute a clearly unwarranted invasion of personal privacy;

205 6. Disclose investigative records compiled for law enforcement  
206 purposes;

207 7. Disclose information contained in or related to examination,  
208 operating or condition reports prepared by, or on behalf of or for the  
209 use of, the Interstate Commission with respect to a regulated person or  
210 entity for the purpose of regulation or supervision of such person or  
211 entity;

212 8. Disclose information, the premature disclosure of which would  
213 significantly endanger the stability of a regulated person or entity; or

214 9. Specifically relate to the Interstate Commission's issuance of a  
215 subpoena, or its participation in a civil action or other legal  
216 proceeding.

217 J. For every meeting closed pursuant to this provision, the Interstate  
218 Commission's legal counsel shall publicly certify that, in the legal  
219 counsel's opinion, the meeting may be closed to the public, and shall  
220 reference each relevant exemptive provision. The Interstate  
221 Commission shall keep minutes which shall fully and clearly describe  
222 all matters discussed in any meeting and shall provide a full and  
223 accurate summary of any actions taken, and the reasons therefor,  
224 including a description of each of the views expressed on any item and  
225 the record of any roll call vote (reflected in the vote of each member on  
226 the question). All documents considered in connection with any action  
227 shall be identified in such minutes.

228 K. The Interstate Commission shall collect standardized data  
229 concerning the interstate movement of juveniles as directed through its  
230 rules which shall specify the data to be collected, the means of  
231 collection and data exchange and reporting requirements. Such  
232 methods of data collection, exchange and reporting shall insofar as is  
233 reasonably possible conform to up-to-date technology and coordinate

234 its information functions with the appropriate repository of records.

235 ARTICLE IV

236 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

237 The Interstate Commission shall have the following powers and  
238 duties:

239 1. To provide for dispute resolution among compacting states.

240 2. To promulgate rules to effect the purposes and obligations as  
241 enumerated in this compact, which shall have the force and effect of  
242 statutory law and shall be binding in the compacting states to the  
243 extent and in the manner provided in this compact.

244 3. To oversee, supervise and coordinate the interstate movement of  
245 juveniles subject to the terms of this compact and any bylaws adopted  
246 and rules promulgated by the Interstate Commission.

247 4. To enforce compliance with the compact provisions, the rules  
248 promulgated by the Interstate Commission and the bylaws, using all  
249 necessary and proper means including, but not limited to, the use of  
250 judicial process.

251 5. To establish and maintain offices which shall be located within  
252 one or more of the compacting states.

253 6. To purchase and maintain insurance and bonds.

254 7. To borrow, accept, hire or contract for services of personnel.

255 8. To establish and appoint committees and hire staff which it  
256 deems necessary for the carrying out of its functions including, but not  
257 limited to, an executive committee as required by Article III which  
258 shall have the power to act on behalf of the Interstate Commission in  
259 carrying out its powers and duties hereunder.

260 9. To elect or appoint such officers, attorneys, employees, agents or

261 consultants, and to fix their compensation, define their duties and  
262 determine their qualifications; and to establish the Interstate  
263 Commission's personnel policies and programs relating to, inter alia,  
264 conflicts of interest, rates of compensation and qualifications of  
265 personnel.

266 10. To accept any and all donations and grants of money,  
267 equipment, supplies, materials and services, and to receive, utilize and  
268 dispose of it.

269 11. To lease, purchase, accept contributions or donations of, or  
270 otherwise to own, hold, improve or use any property, real, personal or  
271 mixed.

272 12. To sell, convey, mortgage, pledge, lease, exchange, abandon or  
273 otherwise dispose of any property, real, personal or mixed.

274 13. To establish a budget and make expenditures and levy dues as  
275 provided in Article VIII of this compact.

276 14. To sue and be sued.

277 15. To adopt a seal and bylaws governing the management and  
278 operation of the Interstate Commission.

279 16. To perform such functions as may be necessary or appropriate to  
280 achieve the purposes of this compact.

281 17. To report annually to the legislatures, governors, judiciary and  
282 state councils of the compacting states concerning the activities of the  
283 Interstate Commission during the preceding year. Such reports shall  
284 also include any recommendations that may have been adopted by the  
285 Interstate Commission.

286 18. To coordinate education, training and public awareness  
287 regarding the interstate movement of juveniles for officials involved in  
288 such activity.

289 19. To establish uniform standards of the reporting, collecting and

290 exchanging of data.

291 20. To maintain its corporate books and records in accordance with  
292 the bylaws.

293 ARTICLE V

294 ORGANIZATION AND OPERATION OF THE INTERSTATE  
295 COMMISSION

296 Section A. Bylaws

297 1. The Interstate Commission shall, by a majority of the members  
298 present and voting, within twelve months after the first Interstate  
299 Commission meeting, adopt bylaws to govern its conduct as may be  
300 necessary or appropriate to carry out the purposes of the compact,  
301 including, but not limited to:

302 a. Establishing the fiscal year of the Interstate Commission;

303 b. Establishing an executive committee and such other committees  
304 as may be necessary;

305 c. Providing for the establishment of committees governing any  
306 general or specific delegation of any authority or function of the  
307 Interstate Commission;

308 d. Providing reasonable procedures for calling and conducting  
309 meetings of the Interstate Commission, and ensuring reasonable notice  
310 of each such meeting;

311 e. Establishing the titles and responsibilities of the officers of the  
312 Interstate Commission;

313 f. Providing a mechanism for concluding the operations of the  
314 Interstate Commission and the return of any surplus funds that may  
315 exist upon the termination of the compact after the payment and/or  
316 reserving of all of its debts and obligations;

317 g. Providing "start-up" rules for initial administration of the  
318 compact; and

319 h. Establishing standards and procedures for compliance and  
320 technical assistance in carrying out the compact.

321 Section B. Officers and Staff

322 1. The Interstate Commission shall, by a majority of the members,  
323 elect annually from among its members a chairperson and a vice-  
324 chairperson, each of whom shall have such authority and duties as  
325 may be specified in the bylaws. The chairperson or, in the  
326 chairperson's absence or disability, the vice-chairperson shall preside  
327 at all meetings of the Interstate Commission. The officers so elected  
328 shall serve without compensation or remuneration from the Interstate  
329 Commission; provided that, subject to the availability of budgeted  
330 funds, the officers shall be reimbursed for any ordinary and necessary  
331 costs and expenses incurred by them in the performance of their duties  
332 and responsibilities as officers of the Interstate Commission.

333 2. The Interstate Commission shall, through its executive committee,  
334 appoint or retain an executive director for such period, upon such  
335 terms and conditions and for such compensation as the Interstate  
336 Commission may deem appropriate. The executive director shall serve  
337 as secretary to the Interstate Commission, but shall not be a member  
338 and shall hire and supervise such other staff as may be authorized by  
339 the Interstate Commission.

340 Section C. Qualified Immunity, Defense and Indemnification

341 1. The Interstate Commission's executive director and employees  
342 shall be immune from suit and liability, either personally or in their  
343 official capacity, for any claim for damage to or loss of property or  
344 personal injury or other civil liability caused or arising out of or  
345 relating to any actual or alleged act, error or omission that occurred, or  
346 that such person had a reasonable basis for believing occurred within  
347 the scope of Interstate Commission employment, duties or

348 responsibilities; provided, that any such person shall not be protected  
349 from suit or liability for any damage, loss, injury or liability caused by  
350 the intentional or wilful and wanton misconduct of any such person.

351 2. The liability of any commissioner, or the employee or agent of a  
352 commissioner, acting within the scope of such person's employment or  
353 duties for acts, errors or omissions occurring within such person's state  
354 may not exceed the limits of liability set forth under the Constitution  
355 and laws of that state for state officials, employees and agents. Nothing  
356 in this subsection shall be construed to protect any such person from  
357 suit or liability for any damage, loss, injury or liability caused by the  
358 intentional or wilful and wanton misconduct of any such person.

359 3. The Interstate Commission shall defend the executive director or  
360 the representatives or employees of the Interstate Commission and,  
361 subject to the approval of the Attorney General of the state represented  
362 by any commissioner of a compacting state, shall defend such  
363 commissioner or the commissioner's representatives or employees in  
364 any civil action seeking to impose liability arising out of any actual or  
365 alleged act, error or omission that occurred within the scope of  
366 Interstate Commission employment, duties or responsibilities, or that  
367 the defendant had a reasonable basis for believing occurred within the  
368 scope of Interstate Commission employment, duties or responsibilities,  
369 provided that the actual or alleged act, error or omission did not result  
370 from intentional or wilful and wanton misconduct on the part of such  
371 person.

372 4. The Interstate Commission shall indemnify and hold the  
373 commissioner of a compacting state, or the commissioner's  
374 representatives or employees, or the Interstate Commission's  
375 representatives or employees, harmless in the amount of any  
376 settlement or judgment obtained against such persons arising out of  
377 any actual or alleged act, error or omission that occurred within the  
378 scope of Interstate Commission employment, duties or responsibilities,  
379 or that such persons had a reasonable basis for believing occurred  
380 within the scope of Interstate Commission employment, duties or

381 responsibilities, provided that the actual or alleged act, error or  
382 omission did not result from intentional or wilful and wanton  
383 misconduct on the part of such persons.

384 ARTICLE VI

385 RULEMAKING FUNCTIONS OF THE INTERSTATE  
386 COMMISSION

387 A. The Interstate Commission shall promulgate and publish rules in  
388 order to effectively and efficiently achieve the purposes of the  
389 compact.

390 B. Rulemaking shall occur pursuant to the criteria set forth in this  
391 article and the bylaws and rules adopted pursuant thereto. Such  
392 rulemaking shall substantially conform to the principles of the "Model  
393 State Administrative Procedures Act", 1981 Act, Uniform Laws  
394 Annotated, Vol. 15, p. 1 (2000), or such other administrative  
395 procedures act, as the Interstate Commission deems appropriate  
396 consistent with due process requirements under the United States  
397 Constitution as now or hereafter interpreted by the United States  
398 Supreme Court. All rules and amendments shall become binding as of  
399 the date specified, as published with the final version of the rule as  
400 approved by the Interstate Commission.

401 C. When promulgating a rule, the Interstate Commission shall, at a  
402 minimum:

403 1. Publish the proposed rule's entire text stating the reason or  
404 reasons for that proposed rule;

405 2. Allow and invite any and all persons to submit written data, facts,  
406 opinions and arguments, which information shall be added to the  
407 record, and be made publicly available;

408 3. Provide an opportunity for an informal hearing if petitioned by  
409 ten or more persons; and

410 4. Promulgate a final rule and its effective date, if appropriate, based  
411 on input from state or local officials, or interested parties.

412 D. Allow, not later than sixty days after a rule is promulgated, any  
413 interested person to file a petition in the United States District Court  
414 for the District of Columbia or in the federal district court where the  
415 Interstate Commission’s principal office is located for judicial review of  
416 such rule. If the court finds that the Interstate Commission’s action is  
417 not supported by substantial evidence in the rulemaking record, the  
418 court shall hold the rule unlawful and set it aside. For purposes of this  
419 subsection, evidence is substantial if it would be considered substantial  
420 evidence under the Model State Administrative Procedures Act.

421 E. If a majority of the legislatures of the compacting states rejects a  
422 rule, those states may, by enactment of a statute or resolution in the  
423 same manner used to adopt the compact, cause that such rule shall  
424 have no further force and effect in any compacting state.

425 F. The existing rules governing the operation of the Interstate  
426 Compact on Juveniles superceded by this act shall be null and void  
427 twelve months after the first meeting of the Interstate Commission  
428 created hereunder.

429 G. Upon determination by the Interstate Commission that a state-of-  
430 emergency exists, it may promulgate an emergency rule which shall  
431 become effective immediately upon adoption, provided that the usual  
432 rulemaking procedures provided hereunder shall be retroactively  
433 applied to said rule as soon as reasonably possible, but no later than  
434 ninety days after the effective date of the emergency rule.

435 ARTICLE VII

436 OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY  
437 THE INTERSTATE COMMISSION

438 Section A. Oversight

439 1. The Interstate Commission shall oversee the administration and

440 operations of the interstate movement of juveniles subject to this  
441 compact in the compacting states and shall monitor such activities  
442 being administered in non-compacting states which may significantly  
443 affect compacting states.

444 2. The courts and executive agencies in each compacting state shall  
445 enforce this compact and shall take all actions necessary and  
446 appropriate to effectuate the compact's purposes and intent. The  
447 provisions of this compact and the rules promulgated hereunder shall  
448 be received by all the judges, public officers, commissions and  
449 departments of the state government as evidence of the authorized  
450 statute and administrative rules. All courts shall take judicial notice of  
451 the compact and the rules. In any judicial or administrative proceeding  
452 in a compacting state pertaining to the subject matter of this compact  
453 which may affect the powers, responsibilities or actions of the  
454 Interstate Commission, the Interstate Commission shall be entitled to  
455 receive all service of process in any such proceeding, and shall have  
456 standing to intervene in the proceeding for all purposes.

457 Section B. Dispute Resolution

458 1. The compacting states shall report to the Interstate Commission  
459 on all issues and activities necessary for the administration of the  
460 compact as well as issues and activities pertaining to compliance with  
461 the provisions of the compact and the bylaws and rules of the  
462 Interstate Commission.

463 2. The Interstate Commission shall attempt, upon the request of a  
464 compacting state, to resolve any disputes or other issues which are  
465 subject to the compact and which may arise among compacting states  
466 and between compacting and non-compacting states. The Interstate  
467 Commission shall promulgate a rule providing for both mediation and  
468 binding dispute resolution for disputes among the compacting states.

469 3. The Interstate Commission, in the reasonable exercise of its  
470 discretion, shall enforce the provisions and rules of this compact using  
471 any or all means set forth in Article XI of this compact.

472

ARTICLE VIII

473

FINANCE

474       A. The Interstate Commission shall pay or provide for the payment  
475 of the reasonable expenses of its establishment, organization and  
476 ongoing activities.

477       B. The Interstate Commission shall levy on and collect an annual  
478 assessment from each compacting state to cover the cost of the internal  
479 operations and activities of the Interstate Commission and its staff  
480 which must be in a total amount sufficient to cover the Interstate  
481 Commission’s annual budget as approved each year. The aggregate  
482 annual assessment amount shall be allocated based upon a formula to  
483 be determined by the Interstate Commission, taking into consideration  
484 the population of each compacting state and the volume of interstate  
485 movement of juveniles in each compacting state and shall promulgate  
486 a rule binding upon all compacting states which governs said  
487 assessment.

488       C. The Interstate Commission shall not incur any obligations of any  
489 kind prior to securing the funds adequate to meet the same; nor shall  
490 the Interstate Commission pledge the credit of any of the compacting  
491 states, except by and with the authority of the compacting state.

492       D. The Interstate Commission shall keep accurate accounts of all  
493 receipts and disbursements. The receipts and disbursements of the  
494 Interstate Commission shall be subject to the audit and accounting  
495 procedures established under its bylaws. However, all receipts and  
496 disbursements of funds handled by the Interstate Commission shall be  
497 audited yearly by a certified or licensed public accountant and the  
498 report of the audit shall be included in and become part of the annual  
499 report of the Interstate Commission.

500

ARTICLE IX

501

THE STATE COUNCIL

502 Each member state shall create a State Council for Interstate Juvenile  
503 Supervision. While each state may determine the membership of its  
504 own state council, the membership of a state council must include at  
505 least one representative from the legislative, judicial and executive  
506 branches of government, victims groups, and the compact  
507 administrator, deputy compact administrator or designee. Each  
508 compacting state retains the right to determine the qualifications of the  
509 compact administrator or deputy compact administrator. Each state  
510 council will advise and may exercise oversight and advocacy  
511 concerning that state’s participation in Interstate Commission activities  
512 and other duties as may be determined by that state including, but not  
513 limited to, development of policy concerning operations and  
514 procedures of the compact within that state.

515 ARTICLE X

516 COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

517 A. Any state, the District of Columbia (or its designee), the  
518 Commonwealth of Puerto Rico, the United States Virgin Islands,  
519 Guam, American Samoa, and the Northern Marianas Islands as  
520 defined in Article II of this compact is eligible to become a compacting  
521 state.

522 B. The compact shall become effective and binding upon legislative  
523 enactment of the compact into law by not less than thirty-five states.  
524 The initial effective date shall be the later of July 1, 2004, or upon  
525 enactment into law by the thirty-fifth jurisdiction. Thereafter it shall  
526 become effective and binding as to any other compacting state upon  
527 enactment of the compact into law by that state. The governors of non-  
528 member states or their designees shall be invited to participate in the  
529 activities of the Interstate Commission on a non-voting basis prior to  
530 adoption of the compact by all states and territories of the United  
531 States.

532 C. The Interstate Commission may propose amendments to the  
533 compact for enactment by the compacting states. No amendment shall

534 become effective and binding upon the Interstate Commission and the  
535 compacting states unless and until it is enacted into law by unanimous  
536 consent of the compacting states.

537 ARTICLE XI

538 WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL  
539 ENFORCEMENT

540 Section A. Withdrawal

541 1. Once effective, the compact shall continue in force and remain  
542 binding upon each and every compacting state; provided that a  
543 compacting state may withdraw from the compact by specifically  
544 repealing the statute which enacted the compact into law.

545 2. The effective date of withdrawal is the effective date of the repeal.

546 3. The withdrawing state shall immediately notify the chairperson  
547 of the Interstate Commission in writing upon the introduction of  
548 legislation repealing this compact in the withdrawing state. The  
549 Interstate Commission shall notify the other compacting states of the  
550 withdrawing state's intent to withdraw within sixty days of its receipt  
551 thereof.

552 4. The withdrawing state is responsible for all assessments,  
553 obligations and liabilities incurred through the effective date of  
554 withdrawal, including any obligations, the performance of which  
555 extend beyond the effective date of withdrawal.

556 5. Reinstatement following withdrawal of any compacting state  
557 shall occur upon the withdrawing state reenacting the compact or  
558 upon such later date as determined by the Interstate Commission.

559 Section B. Technical Assistance, Fines, Suspension, Termination and  
560 Default

561 1. If the Interstate Commission determines that any compacting  
562 state has at any time defaulted in the performance of any of its

563 obligations or responsibilities under this compact, or the bylaws or  
564 duly promulgated rules, the Interstate Commission may impose any or  
565 all of the following penalties:

566       a. Remedial training and technical assistance as directed by the  
567 Interstate Commission;

568       b. Alternative Dispute Resolution;

569       c. Fines, fees and costs in such amounts as are deemed to be  
570 reasonable as fixed by the Interstate Commission; and

571       d. Suspension or termination of membership in the compact, which  
572 shall be imposed only after all other reasonable means of securing  
573 compliance under the bylaws and rules have been exhausted and the  
574 Interstate Commission has therefore determined that the offending  
575 state is in default. Immediate notice of suspension shall be given by the  
576 Interstate Commission to the Governor, the Chief Justice or the chief  
577 judicial officer of the state, the majority and minority leaders of the  
578 defaulting state's legislature, and the state council. The grounds for  
579 default include, but are not limited to, failure of a compacting state to  
580 perform such obligations or responsibilities imposed upon it by this  
581 compact, the bylaws, or duly promulgated rules and any other  
582 grounds designated in Interstate Commission bylaws and rules. The  
583 Interstate Commission shall immediately notify the defaulting state in  
584 writing of the penalty imposed by the Interstate Commission and of  
585 the default pending a cure of the default. The Interstate Commission  
586 shall stipulate the conditions and the time period within which the  
587 defaulting state must cure its default. If the defaulting state fails to  
588 cure the default within the time period specified by the Interstate  
589 Commission, the defaulting state shall be terminated from the compact  
590 upon an affirmative vote of a majority of the compacting states and all  
591 rights, privileges and benefits conferred by this compact shall be  
592 terminated from the effective date of termination.

593       2. Within sixty days of the effective date of termination of a  
594 defaulting state, the Interstate Commission shall notify the Governor,

595 the Chief Justice or chief judicial officer, the majority and minority  
596 leaders of the defaulting state's legislature, and the state council of  
597 such termination.

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

602 4. The Interstate Commission shall not bear any costs relating to the  
603 defaulting state unless otherwise mutually agreed upon in writing  
604 between the Interstate Commission and the defaulting state.

605 5. Reinstatement following termination of any compacting state  
606 requires both a reenactment of the compact by the defaulting state and  
607 the approval of the Interstate Commission pursuant to the rules.

608 Section C. Judicial Enforcement

609 The Interstate Commission may, by majority vote of the members,  
610 initiate legal action in the United States District Court for the District of  
611 Columbia or, at the discretion of the Interstate Commission, in the  
612 federal district where the Interstate Commission has its offices, to  
613 enforce compliance with the provisions of the compact, its duly  
614 promulgated rules and bylaws, against any compacting state in  
615 default. In the event judicial enforcement is necessary, the prevailing  
616 party shall be awarded all costs of such litigation including reasonable  
617 attorney's fees.

618 Section D. Dissolution of Compact

619 1. The compact dissolves effective upon the date of the withdrawal  
620 or default of the compacting state, which reduces membership in the  
621 compact to one compacting state.

622 2. Upon the dissolution of this compact, the compact becomes null  
623 and void and shall be of no further force or effect, and the business and  
624 affairs of the Interstate Commission shall be concluded and any

625 surplus funds shall be distributed in accordance with the bylaws.

626 ARTICLE XII

627 SEVERABILITY AND CONSTRUCTION

628 A. The provisions of this compact shall be severable, and if any  
629 phrase, clause, sentence or provision is deemed unenforceable, the  
630 remaining provisions of the compact shall be enforceable.

631 B. The provisions of this compact shall be liberally construed to  
632 effectuate its purposes.

633 ARTICLE XIII

634 BINDING EFFECT OF COMPACT AND OTHER LAWS

635 Section A. Other Laws

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

638 2. All compacting states' laws other than state constitutions and  
639 other interstate compacts conflicting with this compact are superseded  
640 to the extent of the conflict.

641 Section B. Binding Effect of the Compact

642 1. All lawful actions of the Interstate Commission, including all  
643 rules and bylaws promulgated by the Interstate Commission, are  
644 binding upon the compacting states.

645 2. All agreements between the Interstate Commission and the  
646 compacting states are binding in accordance with their terms.

647 3. Upon the request of a party to a conflict over meaning or  
648 interpretation of Interstate Commission actions, and upon a majority  
649 vote of the compacting states, the Interstate Commission may issue  
650 advisory opinions regarding such meaning or interpretation.

651 4. In the event any provision of this compact exceeds the  
652 constitutional limits imposed on the legislature of any compacting  
653 state, the obligations, duties, powers or jurisdiction sought to be  
654 conferred by such provision upon the Interstate Commission shall be  
655 ineffective and such obligations, duties, powers or jurisdiction shall  
656 remain in the compacting state and shall be exercised by the agency  
657 thereof to which such obligations, duties, powers or jurisdiction are  
658 delegated by law in effect at the time this compact becomes effective.

659 Sec. 2. Section 17a-6 of the general statutes is repealed and the  
660 following is substituted in lieu thereof (*Effective July 1, 2004, or upon*  
661 *enactment of the Interstate Compact for Juveniles by thirty-five jurisdictions,*  
662 *whichever is later*):

663 The commissioner or the commissioner's designee shall:

664 (a) Establish or contract for the use of a variety of facilities and  
665 services for identification, evaluation, discipline, rehabilitation,  
666 aftercare, treatment and care of children and youth in need of the  
667 department's services;

668 (b) Administer in a coordinated and integrated manner all  
669 institutions and facilities which are or may come under the jurisdiction  
670 of the department and may appoint advisory groups for any such  
671 institution or facility;

672 (c) Encourage the development of programs and the establishment  
673 of facilities for children and youth by public or private agencies and  
674 groups;

675 (d) Enter into cooperative arrangements with public or private  
676 agencies outside the state;

677 (e) Insure that all children under the commissioner's supervision  
678 have adequate food, clothing, shelter and adequate medical, dental,  
679 psychiatric, psychological, social, religious and other services;

680 (f) Provide, in the commissioner's discretion, needed service to any

681 municipality, agency, or person, whether or not such person is  
682 committed to the commissioner;

683 (g) Adopt and enforce regulations and establish rules for the  
684 internal operation and administration of the department in accordance  
685 with chapter 54;

686 (h) Undertake, contract for or otherwise stimulate research  
687 concerning children and youth;

688 (i) Subject to the provisions of chapter 67, appoint such professional,  
689 technical and other personnel as may be necessary for the efficient  
690 operation of the department;

691 (j) Coordinate the activities of the department with those of other  
692 state departments, municipalities and private agencies concerned with  
693 providing services for children and youth and their families;

694 (k) Act as administrator of the [Interstate Compact on Juveniles  
695 established by section 46b-151a, when so designated by the Governor  
696 in accordance with section 46b-151c] Interstate Compact for Juveniles  
697 under section 1 of this act;

698 (l) Provide or arrange for the provision of suitable education for  
699 every child under the commissioner's supervision, either in public  
700 schools, special educational programs, private schools, educational  
701 programs within the institutions or facilities under the commissioner's  
702 jurisdiction, or work and training programs otherwise provided by  
703 law. The suitability of educational programs provided by the  
704 commissioner shall be subject to review by the Department of  
705 Education;

706 (m) Submit to the state advisory council for its comment proposals  
707 for new policies or programs and the proposed budget for the  
708 department;

709 (n) Have any and all other powers and duties as are necessary to  
710 administer the department and implement the purposes of sections

711 17a-1 to 17a-26, inclusive, and 17a-28 to 17a-49, inclusive;

712 (o) Conduct and render a final decision in administrative hearings;  
713 and

714 (p) Provide programs for juvenile offenders that are gender specific  
715 in that they comprehensively address the unique needs of a targeted  
716 gender group.

717 Sec. 3. Section 17a-96 of the general statutes is repealed and the  
718 following is substituted in lieu thereof (*Effective July 1, 2004, or upon*  
719 *enactment of the Interstate Compact for Juveniles by thirty-five jurisdictions,*  
720 *whichever is later*):

721 The institutions having custody of such children and the agencies  
722 and persons licensed by authority of sections 17a-90 to 17a-124,  
723 inclusive, 17a-145 to 17a-155, inclusive, and 17a-175 to 17a-182,  
724 inclusive, 17a-185 [and 46b-151 to 46b-151g, inclusive,] shall make such  
725 reports to the Commissioner of Children and Families at such  
726 reasonable times and in such form and covering such data as the  
727 commissioner directs. The commissioner and his deputy and agents  
728 shall supervise the placing of such children in foster homes. The  
729 commissioner may place children who have not been properly placed  
730 in homes suitable for their care and protection. In placing any child in  
731 a foster home, the commissioner shall, if practicable, select a home of  
732 like religious faith to that of the parent or parents of such child, if such  
733 faith is known or ascertainable by the exercise of reasonable care.

734 Sec. 4. Subsection (f) of section 46b-149 of the general statutes is  
735 repealed and the following is substituted in lieu thereof (*Effective July*  
736 *1, 2004, or upon enactment of the Interstate Compact for Juveniles by thirty-*  
737 *five jurisdictions, whichever is later*):

738 (f) If it appears from the allegations of a petition or other sworn  
739 affirmations that there is: (1) A strong probability that the child may do  
740 something that is injurious to himself prior to court disposition; (2) a  
741 strong probability that the child will run away prior to the hearing; or

742 (3) a need to hold the child for another jurisdiction, a judge may vest  
 743 temporary custody of such child in some suitable person or agency. No  
 744 nondelinquent juvenile runaway from another state may be held in a  
 745 state-operated detention home in accordance with the provisions of  
 746 [sections 46b-151 to 46b-151g, inclusive, Interstate Compact on  
 747 Juveniles] section 1 of this act, the Interstate Compact for Juveniles. A  
 748 hearing on temporary custody shall be held not later than ten days  
 749 after the date on which a judge signs an order of temporary custody.  
 750 Following such hearing, the judge may order that the child's  
 751 temporary custody continue to be vested in some suitable person or  
 752 agency. Any expenses of temporary custody shall be paid in the same  
 753 manner as provided in subsection (b) of section 46b-129.

754 Sec. 5. (*Effective July 1, 2004, or upon enactment of the Interstate*  
 755 *Compact for Juveniles by thirty-five jurisdictions, whichever is later*)  
 756 Sections 46b-151 to 46b-151g, inclusive, of the general statutes are  
 757 repealed.

This act shall take effect as follows:	
Section 1	<i>July 1, 2004, or upon enactment of the Interstate Compact for Juveniles by thirty-five jurisdictions, whichever is later</i>
Sec. 2	<i>July 1, 2004, or upon enactment of the Interstate Compact for Juveniles by thirty-five jurisdictions, whichever is later</i>
Sec. 3	<i>July 1, 2004, or upon enactment of the Interstate Compact for Juveniles by thirty-five jurisdictions, whichever is later</i>
Sec. 4	<i>July 1, 2004, or upon enactment of the Interstate Compact for Juveniles by thirty-five jurisdictions, whichever is later</i>
Sec. 5	<i>July 1, 2004, or upon enactment of the Interstate Compact for Juveniles by thirty-five jurisdictions, whichever is later</i>

**Statement of Legislative Commissioners:**

Technical changes were made in section 1 for consistency, and sections 2 to 4, inclusive, were added to reflect the proposed repeal of the current compact and the enactment of a new compact.

**JUD**      *Joint Favorable Subst.-LCO*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Type	FY 05 \$ [1]	FY 06 \$ [1]
Children & Families, Dept.	GF - Cost	\$11,600 - \$19,600	\$11,600 - \$19,600
Attorney General	GF - None	None	None
Judicial Dept.	GF - None	None	None

Note: GF=General Fund

[1] Or during the fiscal year of enactment by 35 jurisdictions, whichever is later.

**Municipal Impact:** None

**Explanation**

This bill replaces a preexisting Interstate Compact on Juveniles with a new interstate agreement developed by the Council of State Governments (CSG) in cooperation with the U.S. Office of Juvenile Justice and Delinquency Prevention. The new Compact becomes effective when ratified by thirty-five states.

An Interstate Commission for Juveniles (ICJ) will be formed and its costs will be allocated to member states via an annual assessment. The amount of Connecticut’s assessment will be determined by the Commission after consideration of the population of each state and the volume of interstate movement of offenders in each compacting state. Based on preliminary estimates compiled by the CSG, Connecticut’s annual membership assessment may range between \$12,000 - \$20,000, depending upon the number of other participating states. This represents a cost increase of \$11,600 - \$19,600 as Connecticut currently pays ICJ dues of \$400 annually.

Each member state will be responsible for transmitting standardized data concerning the interstate movement of juveniles to the Interstate

Commission. It is expected that Department of Children and Families (DCF), as the state's Compact Administrator, will be able to accommodate this requirement within its anticipated budgetary resources.

While it cannot be determined at this time which state agencies will be asked to participate in a newly created State Council for Interstate Juvenile Supervision, it is anticipated that its operation will occur without appreciably increasing expenditures of any affected state agency. Since DCF currently pays to send a staff person to a national compact meeting each year, no additional transportation expenses are anticipated to result from attendance of a voting representative at national Commission meetings.

The new Compact specifies rules and procedures concerning the interstate movement of juveniles. It is not expected to substantially alter the duties or procedures of the Judicial Department as currently practiced such that additional appropriations would be required.

The Interstate Commission created in accordance with the bill would be responsible, subject to the approval of the Connecticut Attorney General, for defending the state's voting representative (the Commissioner of the Department of Children and Families). It is anticipated that the Office of the Attorney General would be able to handle this review or participate in any cases under the bill without needing additional appropriations.

Finally, the new Compact authorizes the Interstate Commission to collect fines, fees and costs in amounts it deems reasonable from any compacting state that it finds has defaulted in the performance of any of its obligations. Should such a finding ever be made, a potential indeterminate future cost to Connecticut may result.

**OLR Bill Analysis**

sHB 6475

**AN ACT ADOPTING THE INTERSTATE COMPACT FOR JUVENILES****SUMMARY:**

This bill adopts the Interstate Compact for Juveniles, which will replace existing state laws on the later of July 1, 2004 or when 35 states (which under the bill includes Puerto Rico, Washington, D.C., and all U.S. territories) adopt it. It establishes the Interstate Commission for Juveniles to administer and enforce the compact and authorizes this body to make rules and adopt bylaws to accomplish the purposes the bill specifies. Its primary purpose is to ensure that juvenile delinquents, status offenders, and other youngsters in need of supervision are adequately supervised and given access to services when they relocate in other states.

The commission's rules must address its operating authority and composition, compact states' mutual rights and responsibilities, enforcement of compact provisions, and monetary assessments to fund the commission's operations. These rules have the force of law in all compact states. The bill requires compact states to set up state councils to advise and provide oversight at the state level.

Once adopted by the 35 states, the compact remains binding until all but one either repeal their enacting legislation or have their membership terminated for not complying with the compact.

The current Interstate Compact on Juveniles, which Connecticut adopted in 1957, imposes statutory requirements, procedures, and court and agency standards on participating states when they send juveniles to other states or seek the return of juvenile runaways or escapees ("sending states") and those to which such children have relocated ("receiving states"). The bill eliminates these statutes, instead authorizing the commission to regulate these activities.

It permits the commission to hire staff to carry out its functions, and gives it specific authority to sanction non-compliant states. The current compact does not provide for administrative staff or contain an

enforcement mechanism.

The bill contains severability provisions that allow portions to remain in effect when others are found to be unlawful or unconstitutional. It also declares ineffective a compact provision in any state where the provision exceeds the state legislature's constitutional authority to delegate powers to other entities. It specifies that if this occurs, the state agency that had jurisdiction and control over the activity at the time the compact became effective retains these powers.

The bill also makes conforming changes, eliminating statutory references to the current compact and its activities.

EFFECTIVE DATE: July 1, 2004, or upon enactment of the compact by 35 jurisdictions, whichever is later.

### **PURPOSE**

The bill states that the compact's purpose is, through joint and cooperative action among compacting states, to:

1. ensure that juvenile delinquents and status offenders (youngsters charged with offenses that would not be crimes if committed by adults) covered by the compact get adequate supervision and services in receiving states in accordance with orders issued by a judge or parole authority in the sending state;
2. ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected;
3. return to a requesting state juveniles who have run away, absconded or escaped from supervision or control, or have been accused of an offense in that state;
4. contract with one another to provide institutional care for delinquent youth in need of special services;
5. effectively track and supervise juveniles;
6. equitably allocate costs, benefits, and obligations among compacting states;

7. establish procedures to manage the movement between states of juvenile offenders released into the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency that has jurisdiction over juvenile offenders;
8. ensure immediate notice to receiving states when a sending state permits a juvenile offender to travel or relocate there;
9. establish procedures to resolve pending charges from other states (detainers) against juvenile offenders before they are transferred or released into the community;
10. establish a uniform data collection system for information about juveniles subject to the compact to which authorized juvenile and criminal justice officials have access, and regularly report on compact activities to heads of state executive, judicial, and legislative branches and juvenile and criminal justice administrators;
11. monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance;
12. coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activities; and
13. coordinate the compact's implementation and operation with the Interstate Compact for the Placement of Children, the Interstate Compact for Adult Offender Supervision, and other compacts affecting juveniles, particularly in cases where concurrent or overlapping supervision issues arise.

Under the bill, a juvenile is anyone a compact state defines as such. Juveniles include (1) accused and adjudicated delinquents and status offenders and (2) non-offenders found to be in need of supervision.

The bill specifies that the commission's activities form compacting states' public policies and constitute public business. Participating states must observe their individual and collective duties to promptly

accept or return juveniles covered by the compact. The bill also directs that compact provisions be liberally construed to accomplish its purposes.

### **INTERSTATE COMMISSION FOR JUVENILES**

The bill establishes the Interstate Commission for Juveniles, making it a body corporate and joint agency of the compact states.

#### ***Commission's Powers and Duties***

Under the bill, the commission has the power to:

1. resolve disputes among compact states;
2. make rules, which have the force and effect of statutory law and are binding on the compact states to the extent and in the manner the compact provides;
3. oversee, supervise, and coordinate the interstate movement of juveniles subject to the compact's terms and any bylaws and rules the commission adopts;
4. enforce the compact and commission rules and bylaws, using all means necessary, including court enforcement procedures;
5. establish and maintain offices;
6. purchase and maintain insurance and bonds;
7. borrow, accept, hire, or contract for personnel services;
8. establish and appoint committees and hire staff;
9. elect or appoint officers, attorneys, employees, agents, or consultants and set their salaries, define their duties, and determine their qualifications, and establish personnel policies and programs relating to conflicts of interest, pay rates, and job qualifications;
10. accept and use donations and grants of money, equipment, supplies, material, and services;

11. lease, purchase, accept contributions or donations of, or otherwise own, hold, improve, or use any property, real, personal, or mixed;
12. sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of property;
13. establish a budget, make expenditures, and levy dues (which appear to be called "assessments" in other parts of the bill);
14. sue and be sued;
15. adopt a seal and bylaws governing the commission's management and operation;
16. perform necessary and appropriate functions to achieve the compact's purposes;
17. report annually to the legislatures, governors, judiciary, and state councils of the compact states on its activities, including any recommendations it adopted during that year;
18. coordinate education, training, and public awareness of the interstate movement of juveniles for officials involved in such activities;
19. establish, by rule, uniform standards for reporting, collecting, and exchanging data that reasonably conform with current technology and coordinate its information functions with other record keepers; and
20. maintain its corporate books and records in accordance with its bylaws.

Compact states may give the commission additional powers by following the bill's procedures. It appears that this would be accomplished by amending the compact in conformity with a commission proposal to do so.

### ***Finances and Records***

The bill requires the commission to pay the reasonable expenses of its establishment, organization, and ongoing activities. It must collect an

annual assessment from each compacting state to cover its internal operations, activities, and staffing costs as set forth in its yearly budget. It must adopt a rule allocating the aggregate annual assessment amount among compacting states using a formula that considers each state's population and the volume of its interstate cases.

Under the bill, the commission cannot incur any obligations of any kind until it has adequate means to pay for them. It cannot pledge the credit of any compact state, unless that state authorizes this.

The bill requires the commission to keep accurate accounts of all receipts and disbursements. Its financial records are subject to audit and accounting procedures that must be established under its bylaws. A certified or licensed public accountant must also audit these records every year. The auditor's report must be included in the commission's annual report.

### ***Commission Members***

Under the bill, the commission consists of commissioners that each participating state appoints under its own rules and in consultation with its State Council for Interstate Juvenile Supervision, which the compact also creates (see below). Commissioners are the states' voting representatives and must be either their state's compact administrator, deputy compact administrator, or a designee who serves on the commission pursuant to his state's law.

The bill requires the commission also to include non-commissioner members, including members representing national organizations of (1) governors; (2) legislators; (3) state chief justices; (4) attorneys general; (5) Adult Offender Supervision and Child Placement compact, juvenile justice, and juvenile correction officials; and (6) crime victims. These members cannot vote. The commission's bylaws may provide for more nonvoting members, including members of other national organizations.

### ***Commission Meetings***

Under the bill, the commission must meet at least once a year. Its chairperson may call more meetings, and must do so if a majority of compacting states asks. The commission's bylaws may authorize members to participate in meetings by telephone or other electronic

means. The public must get notice of all meetings and be permitted to attend them unless a commission rule or compact provision provides otherwise.

**Closed Meetings.** Under the bill, the public can be excluded if the commission or one of its committees determines, by two-thirds vote, that an open meeting would be likely to:

1. relate solely to the commission's internal personnel practices and procedures;
2. disclose matters specifically exempted from disclosure by statute;
3. disclose trade secrets or privileged or confidential commercial or financial information;
4. involve accusing anyone of a crime or formally censuring anyone;
5. disclose personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy;
6. disclose investigative records compiled for law enforcement purposes;
7. disclose information about a regulated person or entity contained in or related to examination, operating, or condition reports prepared by, for, or for the use of, the commission for the purpose of regulating or supervising such person or entity;
8. prematurely disclose information, which would significantly endanger the stability of a regulated person or entity; or
9. specifically relate to the commission's issuance of a subpoena or its participation in a civil action or other legal proceeding.

Whenever a meeting is closed for one of these reasons, the bill requires the commission's legal counsel to publicly certify that, in his opinion, the meeting may be closed and the specific compact provision permitting this. The commission must keep minutes that fully and clearly describe what was discussed; actions taken and the reasons, including a description of each of the views expressed; and the record of any roll call vote. The minutes must also identify all documents

considered in connection with any action taken.

### ***Voting***

The bill gives each compact state one vote at commission meetings. A majority of the compact states must be present to transact business, unless the compact's bylaws require a larger quorum.

Members must vote in person and cannot delegate a vote to another compact state. A state commissioner who does not attend a meeting must appoint an authorized representative to vote on his behalf. He must do this in consultation with his state council.

## **COMMISSION ORGANIZATION AND OPERATION**

### ***Bylaws***

Under the bill, the commission must adopt bylaws to effect the compact's purposes within 12 months after its first meeting. A majority of the members present and voting must approve them. The bylaws must include provisions establishing:

1. the commission's fiscal year;
2. an executive and other committees;
3. committees governing any general or specific delegation of any authority or function of the commission;
4. reasonable procedures for calling and conducting commission meetings, and ensuring reasonable notice of each meeting;
5. a mechanism for concluding the commission's operations and returning any surplus funds when the compact terminates and has paid or reserved all of its debts and obligations;
6. "start-up" rules for initial administration of the compact;
7. standards and procedures for compliance and technical assistance in carrying out the compact; and
8. titles and responsibilities of commission officers. (Other provisions

in the bill confer duties on commission officials holding the titles chair- and vice-chairperson and secretary.)

The bylaws must also establish conditions and procedures for disclosing the commission's official records and information. They may exempt any information or public records if disclosure would adversely affect personal privacy rights or proprietary interests.

### **Officers**

Under the bill, the commission must elect annually, by majority vote, a chairperson and vice-chairperson whose duties are specified in the bylaws. These officers may be commission members and serve without pay, but the commission must reimburse them for ordinary and necessary expenses associated with their duties if funds are available. The chairperson presides at all commission meetings. If he is absent or disabled, the vice-chairperson presides.

### **Executive Committee**

The bill requires the commission to establish an executive committee. The committee must include commission officers, members, and others specified in commission bylaws. The committee can act on behalf of the commission when it is not in session, but cannot make rules or amend the compact. It must (1) oversee routine compact administration that the commission's executive director and his staff manage, (2) administer enforcement and compliance with the compact and its bylaws and rules, and (3) perform other functions as directed by the commission or specified in its bylaws.

**Commission Staff.** Under the bill, the executive committee must appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation as the commission deems appropriate. The executive director serves as commission secretary, but cannot be a commission member. He must hire and supervise other staff as authorized by the commission.

### **Rulemaking**

Under the bill, the commission must adopt and publish its rules. It must follow procedures that substantially conform to the 1981 version of the Model State Administrative Procedures Act, or another

administrative procedures act the commission deems appropriate as long as it satisfies constitutional due process requirements. All rules and amendments become binding on the date specified in their final, published version approved by the commission.

When promulgating a rule, the commission must, at a minimum:

1. publish the proposed rule's entire text stating the reason or reasons for the rule;
2. allow and invite anyone to submit written data, facts, opinions, and arguments, which become part of its public record;
3. hold an informal hearing if at least 10 people ask for one; and
4. base its final rule and effective date, if appropriate, on input from state or local officials or interested parties.

Under the bill, the commission's procedures must give any interested person 60 days after a rule is promulgated to file a petition for judicial review of it. Suits must be filed in the federal district court for the District of Columbia or in the federal district court where the commission's principal office is located. The court must set aside rules that are not supported by substantial evidence in the rulemaking record. The bill specifies that the standard for deciding whether evidence is substantial is the same as under the Model State Administrative Procedures Act.

**Emergency Rules.** The bill authorizes the commission to promulgate rules that take effect immediately when it determines that a state of emergency exists. It must follow the usual rulemaking procedures and apply them retroactively as soon as reasonably possible, but no later than 90 days after the emergency rule's effective date.

**Other Rules.** The bill also gives the commission's organizational, procedural, or practice requirements the force of law in compact states. It does not require that the commission adopt these requirements in accordance with the procedures described above.

**Legislative Rejection of Commission Rule.** The bill specifies that compact states can overrule commission rules. To do this, a majority of their legislatures must enact legislation rejecting the rule. They must

follow the same legislative procedures that they used to adopt the compact. When this occurs, the commission cannot enforce the rule in any compact state.

***Superceding Current Compact Rules.*** Under the bill, existing rules governing the operation of the Interstate Compact on Juveniles become null and void 12 months after the commission's first meeting.

### ***Oversight, Dispute Resolution, And Qualified Immunity***

***Oversight.*** The bill directs the commission to oversee the administration and operations of the interstate movement of juveniles subject to the compact in the compact states. It must also monitor similar activities in non-compact states if they may significantly affect compact states.

Under the bill, courts and executive agencies in each compact state must enforce the compact and take all actions needed to effectuate its purposes and intent. All judges, public officers, commissions, and state departments must take judicial notice (i.e., accept without requiring further evidence) of the compact's provisions and rules. Complaints and other pleadings must be served on the commission in any judicial or administrative proceeding in a compact state that pertains to the compact's subject matter and may affect the commission's powers, responsibilities, or actions. In such cases, the bill gives the commission standing to intervene in the proceeding for all purposes.

***Dispute Resolution.*** Under the bill, compact states must report to the commission on all issues and activities needed to administer the compact as well as issues and activities pertaining to compliance with it and the commission's bylaws and rules.

The commission must attempt to resolve any disputes or other issues subject to the compact if a compact state requests this. Its rules must provide for both mediation and binding dispute resolution for disputes arising among the compact states. It must also attempt to resolve any disputes or other issues that are subject to the compact involving compacting and non-compact states.

***Qualified Immunity, Defenses, and Indemnification.*** The bill gives the commission's executive director and employees immunity from

suit and liability, either personally or in their official capacity, for any claim for property damage or loss, personal injury, or other civil liability arising out of any actual or alleged act, error, or omission that occurred, or that a person had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities. The bill exempts from immunity suits arising from their intentional or willful and wanton misconduct.

The bill also caps liability of any commissioner or his employee or agent, acting within the scope of his employment or duties for acts, errors, or omissions occurring in that person's state at the limits that state's law places on state officials, employees, and agents. It exempts from the caps liability for intentional or willful and wanton misconduct.

The bill requires the commission to defend the executive director and commission representatives (who are not further described in the bill) and employees, presumably in any civil, criminal, or administrative proceeding brought against them. It must also defend commissioners and their representatives or employees if the attorney general of the state the commissioner represents approves this when the civil suit arises from their official acts.

The commission must also indemnify these entities for the amount of any settlement or judgment obtained against them in suits or other claims arising out of the performance of their official duties, so long as their misconduct was not intentional or willful and wanton.

## **THE STATE COUNCIL**

The bill requires each compacting state to create a state council for interstate juvenile supervision. Each state may determine the membership of its own state council, but it must include at least one representative from victims groups and each branch of government and either the compact administrator, deputy administrator, or a designee. Under the bill, states retain the right to determine the administrator and deputy administrator's qualifications.

The state council advises and may oversee or advocate for the state's participation in commission activities. The state may give the council other duties, including developing policy for the state's compact operations and procedures.

## **JOINING THE COMPACT**

The bill makes the compact effective and binding when enacted by legislatures in at least 35 states or July 1, 2004, whichever is later. After it becomes effective, more states can join by enacting the compact into law. The compact becomes binding on them when their enabling act becomes law.

Under the bill, governors of states that have not joined the compact, or their designees, can participate in commission activities on a non-voting basis until their states join the compact.

## **AMENDING THE COMPACT**

The bill allows the commission to propose compact amendments for legislative enactment in the compact states. It specifies that amendments do not become effective or binding until they are unanimously enacted into law by all of the compacting states.

## **WITHDRAWING FROM THE COMPACT**

Under the bill, states that have joined the compact are bound by its terms unless they repeal the statute that enacted the compact. The effective date of the repeal is the effective date of their withdrawal from the compact. Withdrawing states must immediately give the commission's chairperson written notice when a bill repealing the compact is introduced in their legislatures. The commission must notify the other compacting states within 60 days of receiving this notice.

The bill specifies that the withdrawing state is responsible for all assessments, obligations, and liabilities it incurred up to the date of withdrawal, including obligations to perform activities that extend beyond the effective date of withdrawal.

States that have withdrawn from the compact may rejoin by reenacting the compact or at a later date as determined by the commission.

## **DEFAULTS AND OTHER PENALTIES**

Under the bill, if the commission determines that any compacting state has failed to perform any of its obligations under the compact, its

bylaws, or rules, it may impose:

1. remedial training and technical assistance;
2. alternative dispute resolution;
3. fines, fees, and costs in amounts the commission deems reasonable;  
or
4. suspension or termination of compact membership.

### ***Defaults***

The commission can find a state in default for (1) failing to perform duties imposed by the compact or the commission's bylaws or rules; (2) other grounds designated in its bylaws and rules; and (3) other unspecified reasons. The commission must give a defaulting state immediate written notice of its penalty and the deadline for curing the default. If the state does not meet the deadline, a majority of the compact states may vote to terminate its compact membership. All rights, privileges, and benefits end on the effective date of the termination.

### ***Suspension and Terminations***

The bill specifies that suspension or membership termination cannot occur until all other reasonable means of securing compliance have been exhausted and the commission has determined that the offending state is in default. The commission must immediately notify a suspended state's governor, chief judicial officer, legislative majority and minority leaders, and the state council of its action. It must give the same officials notice within 60 days of its decision to terminate a state's membership for noncompliance.

Under the bill, defaulting states are responsible for all assessments, obligations, and liabilities incurred up to the effective date of termination, including any obligations that were to be performed after the date of termination. It specifies that the commission does not bear any costs relating to defaulting states unless both entities agree to this in writing.

States that have been terminated can rejoin the compact by reenacting

the compact and getting the commission's approval under its rules.

### ***Court Enforcement***

The bill authorizes the commission to file enforcement actions against defaulting states in the U.S. District Court for the District of Columbia if a majority of compact members vote to do so. The bill also gives the commission the discretion to file the suit in the federal district where the commission's offices are located instead. The bill specifies that the prevailing party in an enforcement action is entitled to recover its litigation costs and reasonable attorneys fees.

### **DISSOLVING THE COMPACT**

Under the bill, the compact dissolves when only one state remains a member. When this occurs, it becomes null and void and has no further force or effect. The commission must then conclude its affairs and distribute any surplus funds in accordance with its bylaws.

### **SEVERABILITY**

The bill specifies that its provisions are severable. If any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions remain in force.

### **BINDING EFFECT OF COMPACT AND OTHER LAWS**

The bill specifies that all of the commission's lawful actions, including its rules and bylaws, are binding on compact states. It makes agreements between the commission and such states binding in accordance with their terms.

The bill also specifies that it does not prevent the enforcement of compact states' laws that are not inconsistent with it. But it supercedes all their conflicting laws, except state constitutions and other interstate compacts.

The bill permits parties who disagree about the meaning or interpretation of the commission's actions to request the commission to issue an advisory opinion on the issue in dispute. The commission may issue such opinions upon a majority vote of compacting states.

### **COMMITTEE ACTION**

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Judiciary Committee

Joint Favorable Report

Yea 36    Nay 0