



## Assembly

### Record of Committee Proceedings

#### **Committee on Corrections and the Courts**

##### **Assembly Bill 41**

Relating to: the Interstate Compact for Juveniles.

By Representatives Bies, Ainsworth, Gronemus, Krawczyk, F. Lasee, Lehman, Musser, Ott, Townsend and Van Roy; cosponsored by Senators Zien, A. Lasee and Lassa.

January 25, 2005      Referred to Committee on Corrections and the Courts.

March 23, 2005      **PUBLIC HEARING HELD**

Present:    (9)    Representatives Bies, Gundrum, Underheim,  
   Suder, LeMahieu, Pope-Roberts, Wasserman,  
   Seidel and Parisi.

Absent:    (1)    Representative Owens.

##### Appearances For

- Garey Bies — Rep., 1st Assembly District
- Shelley Hagan — WI Dept. of Corrections
- Rick Masters — Council of State Governments

##### Appearances Against

- None.

##### Appearances for Information Only

- None.

##### Registrations For

- None.

##### Registrations Against

- None.

November 2, 2005      **EXECUTIVE SESSION HELD**

Present:    (9)    Representatives Bies, Gundrum, Owens, Suder,  
   LeMahieu, Pope-Roberts, Wasserman, Seidel  
   and Parisi.

Absent:    (1)    Representative Underheim.

Moved by Representative Bies, seconded by Representative Owens  
that **Assembly Bill 41** be recommended for passage.

Ayes: (7) Representatives Bies, Gundrum, Owens,  
Pope-Roberts, Wasserman, Seidel and Parisi.  
Noes: (2) Representatives Suder and LeMahieu.  
Absent: (1) Representative Underheim.

PASSAGE RECOMMENDED, Ayes 7, Noes 2

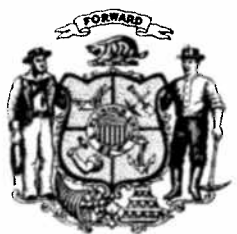
A handwritten signature in black ink, appearing to read 'Andrew Nowlan', written over a horizontal line.

Andrew Nowlan  
Committee Clerk





# WISCONSIN STATE LEGISLATURE



# OCONTO COUNTY



*A Place For You*

## Department of Health and Human Services

*..... promoting healthy and responsible families.*

501 Park Avenue  
Oconto, WI 54153-1612

920-834-7000  
920-834-7045 (no voice response TDD)  
920-834-6889 FAX

March 18, 2005

Representative Garey Bies  
Committee on Corrections and the Courts  
State Capitol  
Room 125 West  
P.O. Box 8952  
Madison, WI 53708

Dear Representative Bies:

RE: 2005 Assembly Bill 41

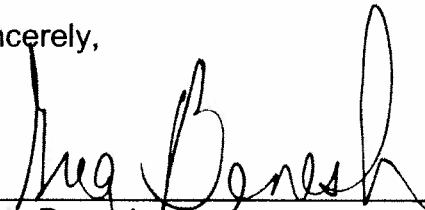
I am writing on behalf of the Oconto County Department of Health and Human Services and its Board of Directors.

We do not support 2005 Assembly Bill 41. This bill would create a new Interstate Compact for Juveniles and an Interstate Commission.

Additional costs for the operation of this Commission are undetermined. The fiscal estimate indicates that the Department of Corrections does not have enough money in its budget to cover the expenses.

We strongly oppose the creation of more bureaucracy without funding. We have to live within our means. Government should also live within their means. Thank you.

Sincerely,



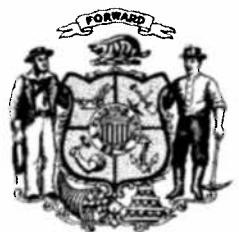
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Greg Benesh  
Deputy Director

GB/jmz



# WISCONSIN STATE LEGISLATURE



Department of Corrections Testimony on 2005 Assembly Bill 41:  
Ratification of New Interstate Compact on Juveniles  
Wednesday, March 23, 2005  
Assembly Committee on Corrections and the Courts

Division of Juvenile Corrections  
Shelley Hagan, Policy and Grants Coordinator

Thank you for the opportunity to speak on behalf of the Department of Corrections (DOC) in favor of AB 41.

The bill codifies the provisions of the proposed new Interstate Compact for Juveniles (ICJ), developed by the Council of State Governments (CSG). The new Compact goes into effect when 35 states have ratified it. To date, according to the CSG, 21 states have done so. It says Wisconsin will participate in and abide by the rules of an Interstate Commission for Juveniles. The Interstate Commission would have, in addition to rule-making authority, the power to take enforcement action against non-compliant Compact states. Some amount of data reporting would be required.

It creates in Wisconsin a 5-member State Board for Interstate Compact Supervision attached to DOC, with membership appointed by the Governor to represent the executive, legislative and judicial branches of government, plus the state compact administrator/deputy administrator and a representative of crime victims' groups. No funding is provided to organize or staff the Board.



In Wisconsin, supervision of juveniles under the Interstate Compact is provided by the state Division of Juvenile Corrections (DJC) and by county human services departments. My Division administers the compact overall, and is the gatekeeper for ICJ placements into and out of Wisconsin as well as return of runaway youth. Under the Compact, on any given day there are 50 to 60 youth from other states being supervised by DJC, and another 70 to 100 supervised by Wisconsin counties.

As the agency that administers the Interstate Compact on Juveniles in Wisconsin, we're familiar with the weaknesses of the current Compact. These include lack of enforcement authority over states that provide ineffective supervision and transfer of juveniles, and the difficulty of implementing a hodgepodge of state laws and rules dealing with delinquent and status offender youth. The proposed bill would create a mechanism to address these problems as well as give a clearer picture of how the Interstate Compact is working and who is affected.

Costs can be anticipated for annual dues imposed by the Interstate Commission as well as to convene and staff the state Board. A first-year dues figure of \$17,000 was estimated for Wisconsin, which is currently not in our budget.

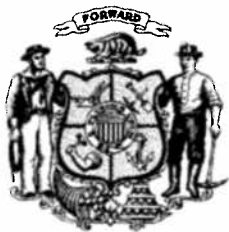
The provisions of the ICJ bill draft are very similar to what the Legislature enacted in the 2001 legislative session for adult interstate compact supervision, 2001 WI Act 96. The adult Interstate Commission is working to standardize certain issues that are long-standing points of contention for

states, such as supervision of misdemeanants, but resolving issues and disseminating the solutions can take years.

The legislatures of a majority of Compact states can, by their collective votes, override any rule promulgated by the Commission. States have the opportunity to end their Commission participation through legislative repeal of the enabling statutes. While participation in the new Compact might not bring immediate discernable benefit to Wisconsin and DJC, it may be that over time our state/agency's administration of the ICJ may become easier and more effective due to standardization of rules and procedures.



# WISCONSIN STATE LEGISLATURE





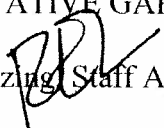
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## WISCONSIN LEGISLATIVE COUNCIL

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*Terry C. Anderson, Director*  
*Laura D. Rose, Deputy Director*

TO: REPRESENTATIVE GAREY BIES

FROM: Rachel E. Letzing, Staff Attorney 

RE: 2005 Assembly Bill 41, Relating to the Interstate Compact for Juveniles and Assembly Amendment 1

DATE: June 21, 2005

At your request, this memorandum describes the effect of Assembly Amendment 1 on Assembly Bill 41, relating to the Interstate Compact for Juveniles.

Assembly Bill 41 creates a new Interstate Compact for Juveniles that becomes effective on July 1, 2005 or when 35 states enact the compact, whichever is later. According to the Council of State Governments, 21 states have enacted the compact to date. Assembly Bill 41 updates the current Interstate Compact for Juveniles, set forth in s. 938.991, Stats., which provides procedures to regulate the movement across state lines of juveniles who: (1) have run away from home without consent of a parent or legal guardian; (2) are placed on probation or parole and want to reside in another state, or have absconded from probation or parole or escaped from an institution and is located in another state; (3) require institutional care and specialized services in another state; or (4) have a pending delinquency, neglect, or dependency hearing and runs away to another state.

The new Interstate Compact creates an Interstate Commission for Juveniles composed of one commissioner from each of the compacting states. Each compacting state has one vote on the Interstate Commission. Under the bill, the Interstate Commission has various powers and duties, including the power to adopt rules in order to effectively and efficiently achieve the purposes of the compact. The rules are binding in the compacting states and have the effect of statutory law. The bill provides that when the Interstate Commission is promulgating a rule, the Interstate Commission must do all of the following: (1) publish the entire text of the proposed rule and state the reason for the proposed rule; (2) allow and invite persons to submit written data, facts, opinions, and arguments which must be added to the rule-making record and be made publicly available; (3) provide an opportunity for an informal hearing if petitioned by 10 or more persons; and (4) promulgate a final rule based on the rule-making record, including input from state or local officials and other interested parties. The bill further provides that if a majority of the Legislatures of the compacting states reject a rule by enactment of a statute or

resolution in the same manner used to adopt the compact, then the rule will have no further effect in any compacting state.

Assembly Amendment 1 provides that rules promulgated by the Interstate Commission shall not have the effect of statutory law and shall not be binding to the extent that those rules conflict with the common law, statutes, or rules of the State of Wisconsin.

As with any contract, there must be substantial similarity in the provisions of an interstate compact adopted by the Legislatures of the member states in order to provide sufficient evidence of mutual consent to the compact. If a state adopts an interstate compact the provisions of which are not substantially similar to the provisions of the compact enacted by other states, it appears that a court may find that the state's adoption of the Interstate Compact is ineffective. For example, the Pennsylvania State Legislature attempted to adopt a compact which included a provision authorizing the state to participate in the compact by an alternative method from the other member states. The court held that because of this material variation, the attempted adoption of the compact was null and void. [See *Sullivan v. DOT*, 708 A. 2d 481 (Pa. 1998).]

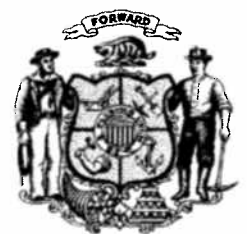
It appears that Assembly Amendment 1, by requiring that the rules adopted by the Interstate Commission do not supersede Wisconsin common law, statutes, or rules, would materially alter a fundamental aspect of the compact's rule-making authority and may likely be viewed as a material modification which may result in the compact being invalid in Wisconsin. If Wisconsin does not participate in the Interstate Compact for Juveniles, it appears that Wisconsin may not have a mechanism for sending juveniles who have run away or absconded to Wisconsin back to their home states, receiving information regarding juveniles who are sent to Wisconsin from other states, or facilitating the interstate movement of Wisconsin juveniles.

If you have any questions or need additional information, please contact me directly at the Legislative Council staff offices.

REL:jal



# WISCONSIN STATE LEGISLATURE



## Nowlan, Andrew

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**From:** Verette, Natalie  
**Sent:** Wednesday, October 26, 2005 2:52 PM  
**To:** Nowlan, Andrew  
**Subject:** AB 41

Hi Andrew,

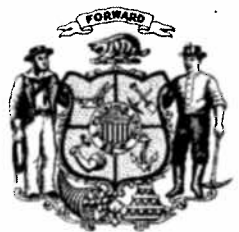
I know you scheduled AB 41 for the Exec next week, but I still wanted to get back to you. Donna is planning to support the bill. Let me know if you have further questions.

Thanks,

Natalie  
Rep. Seidel  
6-0654 / 409 North



WISCONSIN STATE LEGISLATURE







**Written Testimony of Representative Garey Bies  
Assembly Committee on Corrections and the Courts  
Assembly Bill 41 – Interstate Compact for Juveniles**

Fellow Committee members, I appreciate the opportunity to submit my testimony in support of Assembly Bill 41, relating to the Interstate Compact for Juveniles. I am going to provide only a few highlights of the legislation and leave the more detailed explanation to Mr. Rick Masters from the Council of State Governments.

First, the Interstate Compact for Compact for Juveniles governs how states are responsible for the proper supervision or return of juveniles, delinquents and status offenders who are on probation or parole and who have absconded, escaped or run away from supervision and control and in so doing have endangered their own safety and the safety of others.

The current juvenile compact was created in 1955 when only a few hundred juveniles were being apprehended or found in state other than where they were residents. Today, this number exceeds 20,000. The existing compact authority and structure is woefully outdated. Examples why the compact is outdated include:

- Limited knowledge of who is moving, where and when they are going;
- Limited agreement between state regarding what supervision means;
- Limited ability and commitment to notify victims, communities and law enforcement officials of the movement of juveniles;
- The Association of Juvenile Compact Administrators may identify failures to comply with established rules, but it is severely limited in its ability to enforce compliance when that becomes necessary; and
- No recognized authority to promulgate rules.

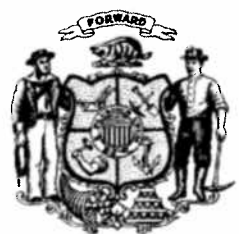
Once approval of the new Interstate Compact for Juveniles is achieved by 35 states, there will be several benefits, including:

- Better information systems regarding the number of juveniles be supervised by the states; and
- Better information systems will allow states to more easily provide appropriate supervision and care of juveniles.

Thank you, and I'd be happy to ~~answer any questions that you may have.~~ *First for Wisconsin!*



# WISCONSIN STATE LEGISLATURE



# Assembly Republican Majority Bill Summary

Draft

**Contact:** Andrew Nowlan, Office of Rep. Garey Bies

## **AB 41: Interstate Compact for Juveniles**

Relating to: the Interstate Compact for Juveniles.

By Representatives Bies, Ainsworth, Gronemus, Krawczyk, F. Lasee, Lehman, Musser, Ott, Townsend and Van Roy, cosponsored by Senators Zien, A. Lasee and Lassa.

**Date:** XXXX, 2005

### **BACKGROUND**

Under current law, the Interstate Compact on Juveniles provides procedures for the return to their home state of juveniles located in another state who are runaways, escapees from institutional custody, or absconders from supervision or from a charge of being a delinquent.

### **SUMMARY OF AB 41**

This bill creates a new Interstate Compact for Juveniles that becomes effective when 35 states enact the compact. Under the compact:

1. There is created a five member State Board for Interstate Juvenile Supervision (state board), attached to the Department of Corrections, composed of the compact administrator, the deputy compact administrator, or a designee; one representative from the legislative, judicial, and executive branches of government; and one representative of victims groups. The state board advises and exercises oversight and advocacy concerning the state's participation in the activities of the Interstate Commission for Juveniles, created under the bill, and exercises other duties as may be determined by the state, including the development of policy concerning the operations and procedures of the compact in this state.

2. There is created an Interstate Commission for Juveniles (interstate commission) composed of a commissioner from each of the compacting states. The commissioner for a compacting state shall be the compact administrator, the deputy compact administrator, or a designee from that compacting state. Each compacting state has one vote on the interstate commission. Under the bill, the interstate commission has various powers and duties, including the power and duty to do all of the following:

- a. Oversee, supervise, and coordinate the interstate movement of juveniles who are subject to the compact.
- b. Provide for dispute resolution among compacting states and between compacting states and non-compacting states.
- c. Levy assessments against compacting states to cover the costs of its operations and activities, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state.
- d. Report annually to the compacting states concerning the activities of the interstate commission in the preceding year.

3. The executive director, employees, and representatives of the interstate commission are immune from liability for any damages resulting from an act, error, or omission that occurred within the scope of the interstate commission employment, duties, or responsibilities, and the liability of a commissioner from a compacting state, or an employee or agent of that commissioner, for any act, error, or omission may not exceed the limits of

liability specified under the constitution and laws of the compacting state. The commission is required to defend, indemnify, and hold harmless the executive director, an employee, and a representative of the interstate commission, and, subject to the approval of the attorney general of a compacting state, a commissioner, or an employee or agent of that commissioner, who is sued in a civil action related to an act, error, or omission that occurred within the scope of the interstate commission employment, duties, or responsibilities.

4. The interstate commission may adopt rules that are binding on the compacting states. A majority of the legislatures of the compacting states may reject a rule. If that is done, the rule has no effect in any of the compacting states.

5. A state may withdraw from the compact by repealing the statute that created the compact.

6. If a compacting state fails to perform any of the state's obligations under the compact, the interstate commission may impose on the defaulting state remedial training and technical assistance, alternate dispute resolution, monetary penalties, or suspension or termination of the state's membership in the compact and may enforce compliance with the compact by bringing legal action in federal court against the defaulting state.

7. All lawful actions of the interstate commission, including all rules promulgated by the interstate commission and agreements between the interstate commission and the states, are binding on the compacting states, except that, if a provision of the compact exceeds a limit imposed by a state constitution, that provision is ineffective.

#### **AMENDMENTS**

There were no amendments offered in Committee.

#### **FISCAL EFFECT**

Under the new compact, each compacting state will have annual dues based on a formula that incorporates the state's total population and the volume of interstate movement of juveniles in each state. A fiscal estimate prepared by the Department of Corrections indicates that annual dues for Wisconsin under the new compact will be approximately \$17,000.

In addition to Wisconsin's annual dues, DOC anticipates additional, yet indeterminate costs associated with the 5-member interstate compact supervision board, standardizing the interstate movement of offenders and the development of a system of uniform data collection and dissemination.

#### **PROS**

1. Current compact is 50 years old: outdated and compromised by incomplete adoption of 3 subsequent amendments.
2. Will allow for better notification to victims, communities and law enforcement regarding movement of juveniles.
3. Better information systems regarding state-supervised juveniles will allow states to provide appropriate supervision and care.

4. Non-compacting states can be held liable for problems stemming from juveniles under state supervision.

#### **CONS**

1. Implementing the new compact in Wisconsin will incur costs in the form of annual dues (\$17,000) and costs associated with the work of the state compact supervision board.
2. In order to adopt the compact, the Wisconsin Legislature must pass a version substantially similar to the compact adopted by member states. Adoption of a materially altered compact would render the compact null and void in that state, such as occurred in Pennsylvania [*See Sullivan v. DOT*, 708 A. 2d 481 (Pa. 1998).]

#### **SUPPORTERS**

Rep. Garey Bies, author; Sen. Dave Zien, lead co-sponsor; Wisconsin Department of Corrections; Rick Masters — Council of State Governments.

#### **OPPOSITION**

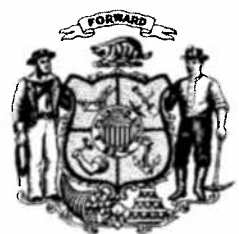
There were no registrations or appearances in opposition to Assembly Bill 41

#### **HISTORY**

Assembly Bill 41 was introduced on 1-25-2005, and referred to the Assembly Committee on Corrections and the Courts. A public hearing was held on 3-23-2005. On 11-02-2005, the Committee voted 7-2 [Rep. Underheim Absent, Reps. Suder and LeMahieu voting no] to recommend passage of AB 41.



# WISCONSIN STATE LEGISLATURE



## FREQUENTLY ASKED QUESTIONS CONCERNING THE INTERSTATE COMPACT FOR JUVENILES

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### 1. A juvenile compact already exists. Why should we replace it?

**Answer:** The existing Interstate Compact on Juvenile was created in 1955 when only a few hundred juveniles were being apprehended or found in states other than where they were residents or where their cases were adjudicated. Today that number exceeds twenty thousand (20,000) juveniles. In addition, the existing compact authority and structure are seriously outdated.

Examples include:

- Limited knowledge of who is moving, where and when they are going;
- Limited agreement between states regarding what supervision means;
- Limited ability and commitment to notify victims, communities and law enforcement officials of the movement of juveniles;
- The Association of Juvenile Compact Administrators may identify failures to comply with established rules, but it is severely limited in its ability to enforce compliance when that becomes necessary; and
- No recognized authority to promulgate rules.

### 2. Why is it important to replace the compact right away?

**Answer:** Because the existing interstate agreement has been severely compromised by individual state actions; incomplete adoption of three (3) subsequent amendments to the compact; and inability to promptly gather and transmit data concerning these juveniles or enforce provisions for their care and supervision. As soon as the new compact takes effect the 35 (or more) participating states will promptly commence administrative, by-law and rule making decisions to address these deficiencies.

- Since 1958, three amendments to the compact have been drafted and only a few states have adopted all three with a majority adopting only one or two. This lack of uniformity has created substantial inconsistency in interpretation and application of the existing compact. There is no longer a common agreement between states concerning what types of juveniles can be sent to other states for supervision, and no authority to hold other states accountable for following existing compact rules. The existing compact will soon become so dysfunctional that a nationwide system for tracking and monitoring this population will not exist at all. In 2000, a nationwide effort to develop workable alternatives to the existing system commenced and materialized in 2002 with an amended compact entitled *The Interstate Compact for Juveniles*. Without passage of the new interstate compact, individual states will resume addressing concerns by enacting various statutes and executive orders, and even the appearance of interstate cooperation in managing these juveniles will cease.

- The new compact language was subject to critique and comment from a mailing to 200 individuals, agencies and associations. Transition and timing activities were identified as major concerns. As a result, the final compact language raises the number of required jurisdictions (states, the District of Columbia, Puerto Rico or territories) to 35 before implementation; and added July 1, 2004 as the "earliest implementation date" so that states could evaluate and consider their participation.
- After July 1, 2004, the Compact will take effect once it has been enacted into law by the 35<sup>th</sup> jurisdiction. States that have passed the compact will join together and begin making administrative decisions, by-laws, and the rules to govern signatory states. Non-member states may be present to voice their concerns, but may not vote. When a state joins the compact, after the initial 35, they will have an equal voice in all subsequent rule making matters, but will inherit the decisions made by other states during the start-up phase.

**3. We keep hearing that there are over 20,000 juveniles in states other than where they were adjudicated. How reliable is that number and is it changing?**

**Answer:** Nobody can accurately answer this question. The lack of reliable interstate data has long been a problem. The National Institute of Corrections' Information Center completed a survey of states in 1999, the beginning of the project. At that time, the estimated number of individual cases being supervised in other states totaled 15,000. This number does not include juveniles who moved to another state without going through the transfer process or had been issued travel permits, figures that are currently impossible to gather.

The Association of Juvenile Compact Administrators gathers statistics annually on the number of compact transfer requests for juveniles entering and exiting compacting states. According to statistics gathered from July 1, 2001 to June 30, 2002, there were an estimated 25,870 interstate compact transactions. Travel permits are cases not officially transferred, even though the juvenile has been authorized to travel to another state for a period of time. The universal opinion of compact and agency administrators consulted was that more individuals were in the travel category than in the supervised group. Therefore, it is safe to assume that the 20,000 figure is an extremely low estimate of the interstate movement of adjudicated juveniles.

**4. Will there be more juveniles under interstate supervision as a result of the new compact?**

**Answer:** Enacting the compact will not directly affect the number of juveniles under interstate supervision. However, several things could happen:

- The information system that will be developed will equip states with reliable data about how many of their juveniles are being supervised in other states, and how many they are



supervising for other states. Reliable data may indicate that a different number of juveniles are actually under supervision.

- A number of juveniles are currently in other states and transferred to other states unbeknownst to compact administrators and without formal authority by the interstate compact. The goal of bringing states into compliance with mutually agreed upon rules will result in an increase in the number of compact cases as the states account for these "stealth" movers and provide appropriate supervision and care.

**5. Will the new compact eliminate the problems experienced under the current compact, and how will member states assure compliance?**

**Answer:** Nobody can guarantee elimination of all problems experienced under the current compact. The proposed compact will have in place a staff and committee structure that will permit swift identification of potential problems and a manageable process for addressing concerns of member states in a timely manner. This ability to attend to compliance concerns in the early stages will identify and avert major conflicts.

With regard to authority, the revised compact clarifies that the member states will have a contractual obligation to comply with the terms of the compact as well as the by-laws and all rules promulgated by the National Commission. The new compact provides various tools (Article XI, Sections B & C), which provide for compliance and enforcement of the compact. These range from technical assistance, mediation and arbitration to suspension, termination, and legal action in federal court that will result in recovery of legal fees and costs by the prevailing party.

**6. States do not have similar structures and systems to supervise juveniles. What effect will this have on interstate compact enforcement?**

**Answer:** States are organized differently and have unique systems in place to supervise and manage their juvenile population. Some states have juvenile supervision within the department of corrections and elsewhere it is with a child protective services or welfare agency. Some states have probation within judicial districts, and in others it is a county executive function. However, an interstate compact is state law and the compact law supersedes conflicting state and local laws. It does not matter which branch or level of government provides the supervision services, the compact must be followed and enforced. Compliance requirements apply equally to any agency providing supervision in a state that has enacted the compact.

**7. Why is it necessary to have State Councils?**

**Answer:** State Councils address at least three significant problems:

- Interstate supervision is unknown outside the agency or agencies where deputy compact administrators work. Consequently, in many states there is scant awareness that interstate issues are a significant public concern until a horrific crime occurs.
- Each state has one designated compact administrator, yet interstate compact compliance is not exclusively an issue for one state agency. In many instances juvenile supervision takes place in separate agencies within the executive branch, or in different (executive and judicial) branches and levels of government (state and county). Extradition funding and decision-making may be administered elsewhere. Judges and juvenile supervision agencies are obligated to observe compact rules regardless of where compact administration is housed. An ongoing awareness of interstate supervision issues is necessary in many areas of state government.
- Interstate supervision is a significant public policy concern that it merits the working knowledge of all State Council members, including victims of crime. However, states individually determine the specific role and membership of their State Council.

The states have discretion to decide whether the State Council is to be a separately constituted body or whether it assigns the duties of the State Council to an existing state entity, provided that representation from the executive, legislative and judicial branches of government and victims groups is present as required under the compact. The requirement for a State Council does not assume creation of a new or costly bureaucracy.

#### **8. Who will be my state's commissioner?**

**Answer:** The commissioner will be that person appointed by the State Council or the governor under Article III (B), subject to qualifications determined by each state.

#### **9. The National Commission will develop the by-laws and regulations after the new compact becomes operational. Isn't that expecting states to "sign-up blindly" before knowing the rules. Why is this necessary?**

**Answer:** The most effective way to manage the movement of juveniles is through an enforceable compact between states that results from member states' ongoing participation in administrative and rule-making duties. Therein lies the "Catch 22". States, through the National Commission, cannot write the rules and regulations until the new compact exists and the initial member states are known. However, this also means that states must pass the legislation and then trust the process in place to develop appropriate rules during the compact's first twelve-months of existence. The alternative of including all the rules in the compact itself would not only sacrifice state input and participation in the development of those rules, but it would also require each compacting state the burdensome task of legislatively approving these rule changes.

States are currently obligated to a full set of rules as developed and passed by compact administrators through the Association of Juvenile Compact Administrators. These rules were passed without any "Sunshine" or open-meeting provisions or conventional administrative law constraints as outlined in the new compact. As the new compact is ratified and the 35th jurisdiction is reached, it is expected that many of the rules for the new compact will be similar, if not identical, to the old rules as they are currently written. In fact, the new compact states that the existing rules governing the operation of the Interstate Compact on Juveniles will be null and void after twelve (12) months from the first meeting of the Interstate Commission. For more information on the current rules, please visit: <http://www.ajca.us>.

The new compact will create a governing structure with the capacity and authority to effectively manage rule making and compliance by member states. Rule making authority is left to representatives of those states that choose to enact the compact. The compact creates a process for rules to be made and enforced and when necessary, to be modified without returning to each state legislature. However, as a safeguard of states authority, the compact drafters created a provision for a majority of state legislatures to nullify any rule passed by the National Commission.

**10. Will the new compact enable states to deny transfer of juveniles into their state?**

**Answer:** Yes, states will only be obligated to accept juveniles classified and transferred under the provisions of the compact, its by-laws, and rules. Transfer denials, which contradict the terms of the compact and its rules, will not be permitted and would subject any non-compliant state to enforcement action as determined by the National Commission.

**11. What control will states have over the National Commission?**

**Answer:** It is important to remember that the National Commission is comprised of one voting representative from each member state. All proposed rules of the National Commission are required to be published in advance. Therefore, your state will have every opportunity for input before a vote is taken, and any member state will have the opportunity to have their position heard and to vote for passage or rejection of rules, by-laws and routine business. The standard for passage is a majority of members present at a meeting, unless a greater percentage is established in the by-laws (Article V).

Three relevant provisions are also included:

- Article VI concerning individual rules: "If a majority of the legislatures of the compacting states reject a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state."

- Article X concerning amending the compact itself: “Amendments to the compact may be proposed by the Interstate Commission for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.”
- Article XI: “...a compacting state may withdraw from the compact by enacting a statute specifically repealing the statute which enacted the compact into law.”

**12. What are the limitations, if any, on the ability of the commissioner to sue member states (injunctive as well as mandatory relief)? What assurances can be given to states considering adoption?**

**Answer:** No unilateral authority is given to an individual commissioner to sue another state. The National Commission is empowered, under Article XI (b) and Article XI (c) to enforce the compact against any member state, in the exercise of its reasonable discretion, through a variety of means ranging from alternative dispute resolution to judicial enforcement. Under Article XI (c) judicial enforcement is authorized by majority vote of the National Commission members in the U.S. District Court where the National Commission headquarters is located or the District of Columbia to enforce the provisions of the Compact, its by-laws and rules. Both injunctive relief and monetary damages may be sought and the prevailing party is entitled to an award of costs including reasonable attorney's fees. However, the intent of the Drafting Committee was that disputes under the compact be resolved at the lowest level, and with the least severe action necessary to ensure compliance.

**13. Can any of the language in the new compact be changed or must all states use identical language? Can my state pass only certain parts of the revised compact?**

**Answer:** Generally, the compact language must be identical with regard to the substantive provisions of the agreement. However, the enabling legislation, which embodies that agreement, does not have to be uniform in all party states and can be utilized to fit variations into the compactual pattern. The enabling legislation can be used to condition the impact of a compact in a particular state. While these allowances may be made for format, the operative language of the agreement must be identical from state-to-state; otherwise these material differences in language in any state statute purporting to adopt the compact could render it “void” or “voidable”. The compact also contains a provision in Article XIII (B) (4) which preserves the limits placed on the Legislature's obligations, duties, powers, or jurisdiction under the constitution of that state.

**14. Does the compact language conform to state constitutional language?**

**Answer:** The compact language was drafted with cognizance of state constitutional requirements common to most state constitutions such as separation of powers, delegation of

power, and debt limitations. The validity of the state authority to enter into compacts and delegate authority to an interstate agency was specifically recognized and unanimously upheld by the U.S. Supreme Court in *West Virginia vs. Sims*, 341 U.S. 22 (1951). This decision also approves of a provision practically identical to the provisions of Article X of the Interstate Compact for Adult Offender Supervision concerning constitutional debt limitations. Under Article XIII (B)(4), provisions of the compact exceeding the constitutional limits imposed on the legislature of any state are ineffective.

**15. Aren't we creating an expensive bureaucracy without the promise of anything better than what we already have?**

**Answer:** Key concerns with the existing compact are accountability for member states and the ability to promulgate and enforce compact rules. An interstate compact that cannot assure compliance by member states is in effect a "toothless tiger." Despite remarkable efforts by those working in compact administration to hold the system together, governance issues have evolved to the point that greater compact authority is essential for states to function effectively. This illustrates the need for a national office to oversee administrative issues. Nothing in the drafting process requires an expansive bureaucracy, although it will create an administrative structure that will hold member states accountable for compliance. Given the degree of dissatisfaction with the current compact, many feel that a realistic question is whether the existing compact will survive if it is not replaced quickly. At the state-level, nothing mandates an expansive bureaucracy.

**16. The new compact establishes the need for a data-sharing/information system. What type of information system will be necessary?**

**Answer:** With the assistance of a Management and Information Systems consultant, a working committee of compact administrators has developed a plan for a comprehensive, secure and affordable information system. Development and maintenance of the information system would be part of the National Commission funding and responsibility. The system utilizes an "open technology" design and implementation of an Internet-based system accessible by industry standard software products. In some state compact offices, the minimal technology already exists. In others, it could be achieved with minimal enhancements of existing systems and for the balance, an initial investment of \$2000 - \$3,000 would provide the capacity to utilize form templates and to transmit and receive the information via an Internet e-mail connection. The working committee was sensitive to privacy concerns of transferred information, potential costs, and the reality that states utilize the full range of hardware and software products. Similar Internet-based systems are used extensively in the medical field and successfully accommodate these same concerns. The system is being designed so that the state compact office must be automated, while regional or field offices may use the system if they have access to the minimal equipment. Determination of privacy policies regarding the resulting national database will be made by states through the National Commission's enactment of rules and/or by-laws.

**17. Will the National Commission's rulemaking authority allow it to preempt a state's privacy laws?**

**Answer:** Under Article VI the National Commission's rulemaking authority is subject to the provisions of the *Model State Administrative Procedures Act, 1981 Act Uniform Laws Annotated, Vol. 15, p.1 (2000)*, or such other Administrative Procedures Act as it deems appropriate and consistent with the requirements of due process. It is anticipated that rules promulgated by the National Commission would not conflict with state privacy laws except to the extent that any particular state privacy law is in direct contravention of a compact rule pertaining to the transfer and supervision of juveniles under the compact. In that case, the provisions of the Compact would supersede the conflicting state law provision under Article XIII (A) (2). It is not possible to predict what specific rules of the Interstate Commission will possibly conflict with a particular provision of the privacy laws of a particular state until a specific rule has been promulgated and a specific state privacy law has been identified.

**18. How much will the new compact cost my state?**

**Answer:** Based on a preliminary estimate contained within the fiscal note, the start-up costs to establish the National Commission will cost approximately \$1 million. Support for the National Commission will come from state dues as determined by the National Commission as contained in the compact (Article VIII, (B)). Funding support for each State Council will be determined by individual state based on their specific needs and circumstances, (e.g. some states currently have existing mechanisms and/or councils that could absorb the duties of the proposed State Councils with some minor modifications).

**19. Are there any the hidden costs associated with the new compact?**

**Answer:** There are no costs mandated aside from the annual state assessment. However, it is possible that states might encounter additional costs. Examples may include:

- The proposed commission budget would pay for the voting representative from each member state to attend National Commission meetings. If a state decided to send more than one person to the meetings, the additional travel and per diem costs would be the responsibility of that state. However, states currently pay for their voting representative to attend meetings.
- The additional costs anticipated are limited to travel and per diem for members to meet within their state. It is possible that a state could decide to create a more formal structure and additional costs could be incurred.
- It is possible after examining the current level of state commitment to their centralized interstate compact administrative function that a state may determine they need more or a different level of staff assigned to that function. No additional staff would be required by

adoption of the new compact, but in many states it has long been an under-funded activity.

- It is possible that more juveniles could be under supervision if compact requirements are faithfully followed and all juveniles going to other states are processed through the compact. It is not anticipated that numbers under supervision would increase (as a result of enacting the compact) to the point that additional community supervision staff will be required. Also, it is anticipated that automation will reduce the per-case work-effort required.
- The information system is discussed in question 16. The system is being designed so that it may be accessed from common computers and will not require specialized equipment. The state compact office will require a computer and scanner and the system is being designed so that regional and field supervision units could also use the automated information system. Necessary state compact office equipment is estimated to cost \$2,000 - \$3,000 and compact administrators estimate that only a few states currently lack this equipment in their compact office.

**20. Can a state create a law that limits its costs to the National Commission?**

**Answer:** To the extent costs exceed a defined limit imposed by the constitution of a state on the legislature, such a provision could be determined under state law based on Article XIII (B)(4).

**21. How can we determine the current status of efforts to implement The Interstate Compact for Juveniles?**

**Answer:** Thirty-five jurisdictions (states, the District of Columbia, Puerto Rico and territories) must pass this legislation before it may take effect. The 2003 legislative session will be the first time states have an opportunity to consider the revised compact. A current "State-by State" status page may be accessed on the Internet at: <http://www.csg.org/>. Also, you may contact either of the two individuals listed in the final portion of this document.

Questions may be directed to:

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