

☛ **05hr_AC-CC_ab0041_pt02**



☛

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Corrections and the Courts...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**



Interstate Compact for Juveniles Resource Kit



The Council of State Governments



The Council of State Governments

THE INTERSTATE COMPACT FOR JUVENILES

Resource Kit

Table of Contents

1. The Interstate Compact for Juveniles: Language
2. Frequently Asked Questions
3. Case Studies
4. Fiscal Note
5. Projected State Assessments
6. Current AJCA Rules
7. Rosters
8. Resolutions, Endorsements and Articles
9. Original Compact Language (circa 1955)
10. Interstate Compact Background
11. Resource Guide

The Interstate Compact for Juveniles

Language

THE INTERSTATE COMPACT FOR JUVENILES

ARTICLE I

PURPOSE

The compacting states to this Interstate Compact recognize that each state is 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 compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence. The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

It is the purpose of this compact, through means of joint and cooperative action among the compacting states to: (A) ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state; (B) 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; (C) return juveniles who have run away, absconded or escaped from supervision or control or have been accused of an offense to the state requesting their return; (D) make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services; (E) provide for the effective tracking and supervision of juveniles; (F) equitably allocate the costs, benefits and obligations of the compacting states; (G) establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders; (H) insure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines; (I) establish procedures to resolve pending charges (detainers) against juvenile offenders prior to transfer or release to the community under the terms of this compact;

(J) establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and criminal justice officials, and regular reporting of Compact activities to heads of state executive, judicial, and legislative branches and juvenile and criminal justice administrators; (K) monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct non-compliance; (L) coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity; and (M) coordinate the implementation and operation of the compact with the Interstate Compact for the Placement of Children, the Interstate Compact for Adult Offender Supervision and other compacts affecting juveniles particularly in those cases where concurrent or overlapping supervision issues arise. It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and therefore are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact.

ARTICLE II

DEFINITIONS

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

- A. "By -laws" means: those by-laws established by the Interstate Commission for its governance, or for directing or controlling its actions or conduct.
- B. "Compact Administrator" means: the individual in each compacting state appointed pursuant to the terms of this compact, responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

- C. "Compacting State" means: any state which has enacted the enabling legislation for this compact.
- D. "Commissioner" means: the voting representative of each compacting state appointed pursuant to Article III of this compact.
- E. "Court" means: any court having jurisdiction over delinquent, neglected, or dependent children.
- F. "Deputy Compact Administrator" means: the individual, if any, in each compacting state appointed to act on behalf of a Compact Administrator pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.
- G. "Interstate Commission" means: the Interstate Commission for Juveniles created by Article III of this compact.
- H. "Juvenile" means: any person defined as a juvenile in any member state or by the rules of the Interstate Commission, including:
 - (1) Accused Delinquent – a person charged with an offense that, if committed by an adult, would be a criminal offense;
 - (2) Adjudicated Delinquent – a person found to have committed an offense that, if committed by an adult, would be a criminal offense;
 - (3) Accused Status Offender – a person charged with an offense that would not be a criminal offense if committed by an adult;
 - (4) Adjudicated Status Offender - a person found to have committed an offense that would not be a criminal offense if committed by an adult; and
 - (5) Non-Offender – a person in need of supervision who has not been accused or adjudicated a status offender or delinquent.
- I. "Non-Compacting state" means: any state which has not enacted the enabling legislation for this compact.

- J. "Probation or Parole" means: any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.
- K. "Rule" means: a written statement by the Interstate Commission promulgated pursuant to Article VI of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Commission, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule.
- L. "State" means: a state of the United States, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands.

ARTICLE III

INTERSTATE COMMISSION FOR JUVENILES

- A. The compacting states hereby create the "Interstate Commission for Juveniles." The commission shall be a body corporate and joint agency of the compacting states. The commission shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.
- B. The Interstate Commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the State Council for Interstate Juvenile Supervision created hereunder. The commissioner shall be the compact administrator, deputy compact administrator or designee from that state who shall serve on the Interstate Commission in such capacity under or pursuant to the applicable law of the compacting state.
- C. In addition to the commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners, but who are

members of interested organizations. Such non-commissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, Interstate Compact for Adult Offender Supervision, Interstate Compact for the Placement of Children, juvenile justice and juvenile corrections officials, and crime victims. All non-commissioner members of the Interstate Commission shall be ex-officio (non-voting) members. The Interstate Commission may provide in its by-laws for such additional ex-officio (non-voting) members, including members of other national organizations, in such numbers as shall be determined by the commission.

- D. Each compacting state represented at any meeting of the commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the by-laws of the Interstate Commission.
- E. The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.
- F. The Interstate Commission shall establish an executive committee, which shall include commission officers, members, and others as determined by the by-laws. The executive committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking and/or amendment to the compact. The executive committee shall oversee the day-to-day activities of the administration of the compact managed by an executive director and Interstate Commission staff; administers enforcement and compliance with the provisions of the compact, its by-laws and rules, and performs such other duties as directed by the Interstate Commission or set forth in the by-laws.
- G. Each member of the Interstate Commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the Interstate Commission. A member shall vote in person and shall not delegate a vote

to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The by-laws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

- H. The Interstate Commission's by-laws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.
- I. Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the Rules or as otherwise provided in the Compact. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:
 - 1. Relate solely to the Interstate Commission's internal personnel practices and procedures;
 - 2. Disclose matters specifically exempted from disclosure by statute;
 - 3. Disclose trade secrets or commercial or financial information which is privileged or confidential;
 - 4. Involve accusing any person of a crime, or formally censuring any person;
 - 5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - 6. Disclose investigative records compiled for law enforcement purposes;
 - 7. Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity;

8. Disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity; or
 9. Specifically relate to the Interstate Commission's issuance of a subpoena, or its participation in a civil action or other legal proceeding.
- J. For every meeting closed pursuant to this provision, the Interstate Commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefore, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.
- K. The Interstate Commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.

ARTICLE IV

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The commission shall have the following powers and duties:

1. To provide for dispute resolution among compacting states.
2. To promulgate rules to effect the purposes and obligations as enumerated in this compact, which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

3. To oversee, supervise and coordinate the interstate movement of juveniles subject to the terms of this compact and any by-laws adopted and rules promulgated by the Interstate Commission.
4. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the by-laws, using all necessary and proper means, including but not limited to the use of judicial process.
5. To establish and maintain offices which shall be located within one or more of the compacting states.
6. To purchase and maintain insurance and bonds.
7. To borrow, accept, hire or contract for services of personnel.
8. To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.
9. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to, inter alia, conflicts of interest, rates of compensation, and qualifications of personnel.
10. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.
11. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.
12. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.
13. To establish a budget and make expenditures and levy dues as provided in Article VIII of this compact.
14. To sue and be sued.

15. To adopt a seal and by-laws governing the management and operation of the Interstate Commission.
16. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.
17. To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.
18. To coordinate education, training and public awareness regarding the interstate movement of juveniles for officials involved in such activity.
19. To establish uniform standards of the reporting, collecting and exchanging of data.
20. The Interstate Commission shall maintain its corporate books and records in accordance with the By-laws.

ARTICLE V

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

Section A. By-laws

1. The Interstate Commission shall, by a majority of the members present and voting, within twelve months after the first Interstate Commission meeting, adopt by-laws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:
 - a. Establishing the fiscal year of the Interstate Commission;
 - b. Establishing an executive committee and such other committees as may be necessary;
 - c. Provide for the establishment of committees governing any general or specific delegation of any authority or function of the Interstate Commission;
 - d. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;

- e. Establishing the titles and responsibilities of the officers of the Interstate Commission;
- f. Providing a mechanism for concluding the operations of the Interstate Commission and the return of any surplus funds that may exist upon the termination of the Compact after the payment and/or reserving of all of its debts and obligations.
- g. Providing "start-up" rules for initial administration of the compact; and
- h. Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

Section B. Officers and Staff

1. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson and a vice chairperson, each of whom shall have such authority and duties as may be specified in the by-laws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.
2. The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a Member and shall hire and supervise such other staff as may be authorized by the Interstate Commission.

Section C. Qualified Immunity, Defense and Indemnification

1. The Commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of

property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that any such person shall not be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

2. The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. Nothing in this subsection shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.
3. The Interstate Commission shall defend the executive director or the employees or representatives of the Interstate Commission and, subject to the approval of the Attorney General of the state represented by any commissioner of a compacting state, shall defend such commissioner or the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.
4. The Interstate Commission shall indemnify and hold the commissioner of a compacting state, or the commissioner's representatives or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or

responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE VI

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

- A. The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.
- B. Rulemaking shall occur pursuant to the criteria set forth in this article and the by-laws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedures act, as the Interstate Commission deems appropriate consistent with due process requirements under the U.S. Constitution as now or hereafter interpreted by the U. S. Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the Commission.
- C. When promulgating a rule, the Interstate Commission shall, at a minimum:
 - 1. publish the proposed rule's entire text stating the reason(s) for that proposed rule;
 - 2. allow and invite any and all persons to submit written data, facts, opinions and arguments, which information shall be added to the record, and be made publicly available;
 - 3. provide an opportunity for an informal hearing if petitioned by ten (10) or more persons; and
 - 4. promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

- D. Allow, not later than sixty days after a rule is promulgated, any interested person to file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this subsection, evidence is substantial if it would be considered substantial evidence under the Model State Administrative Procedures Act.
- E. If a majority of the legislatures of the compacting states rejects a rule, those states may, by enactment of a statute or resolution in the same manner used to adopt the compact, cause that such rule shall have no further force and effect in any compacting state.
- F. The existing rules governing the operation of the Interstate Compact on Juveniles superceded by this act shall be null and void twelve (12) months after the first meeting of the Interstate Commission created hereunder.
- G. Upon determination by the Interstate Commission that a state-of-emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than ninety (90) days after the effective date of the emergency rule.

ARTICLE VII

OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

Section A. Oversight

- 1. The Interstate Commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor such activities being administered in non-compacting states which may significantly affect compacting states.

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

Section B. Dispute Resolution

1. The compacting states shall report to the Interstate Commission on all issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its bylaws and rules.
2. The Interstate Commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and between compacting and non-compacting states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.
3. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in Article XI of this compact.

ARTICLE VIII

FINANCE

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

- B. The Interstate Commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state and shall promulgate a rule binding upon all compacting states which governs said assessment.
- C. The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.
- D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its by-laws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE IX

THE STATE COUNCIL

Each member state shall create a State Council for Interstate Juvenile Supervision. While each state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and the compact administrator, deputy compact administrator or designee. Each compacting state retains the right to determine the qualifications of the compact administrator or deputy compact administrator. Each state council will advise and may exercise oversight and advocacy concerning that state's participation in Interstate Commission activities and other duties

as may be determined by that state, including but not limited to, development of policy concerning operations and procedures of the compact within that state.

ARTICLE X

COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

- A. Any state, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands as defined in Article II of this compact is eligible to become a compacting state.
- B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 of the states. The initial effective date shall be the later of July 1, 2004 or upon enactment into law by the 35th jurisdiction. Thereafter it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states and territories of the United States.
- C. The Interstate Commission may propose amendments to the compact 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

WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

Section A. Withdrawal

- 1. Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided that a compacting state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.
- 2. The effective date of withdrawal is the effective date of the repeal.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof.
4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.
5. Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission

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

1. If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or the by-laws or duly promulgated rules, the Interstate Commission may impose any or all of the following penalties:
 - a. Remedial training and technical assistance as directed by the Interstate Commission;
 - b. Alternative Dispute Resolution;
 - c. Fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission; and
 - d. Suspension or termination of membership in the compact, which shall be imposed only after all other reasonable means of securing compliance under the by-laws and rules have been exhausted and the Interstate Commission has therefore determined that the offending state is in default. Immediate notice of suspension shall be given by the Interstate Commission to the Governor, the Chief Justice or the Chief Judicial Officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council. The grounds for default include, but are not limited to, failure of a compacting state to perform

such obligations or responsibilities imposed upon it by this compact, the by-laws, or duly promulgated rules and any other grounds designated in commission by-laws and rules. The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission and of the default pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination.

2. Within sixty days of the effective date of termination of a defaulting state, the Commission shall notify the Governor, the Chief Justice or Chief Judicial Officer, the Majority and Minority Leaders of the defaulting state's legislature, and the state council of such termination.
3. The defaulting state is responsible for all assessments, obligations and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.
4. The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.
5. Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

Section C. Judicial Enforcement

The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its offices, to enforce

compliance with the provisions of the compact, its duly promulgated rules and by-laws, against any compacting state in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorneys fees.

Section D. Dissolution of Compact

1. The compact dissolves effective upon the date of the withdrawal or default of the compacting state, which reduces membership in the compact to one compacting state.
2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and any surplus funds shall be distributed in accordance with the by-laws.

ARTICLE XII

SEVERABILITY AND CONSTRUCTION

- A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.
- B. The provisions of this compact shall be liberally construed to effectuate its purposes.

ARTICLE XIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

Section A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.
2. All compacting states' laws other than state Constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

Section B. Binding Effect of the Compact

1. All lawful actions of the Interstate Commission, including all rules and by-laws promulgated by the Interstate Commission, are binding upon the compacting states.

2. All agreements between the Interstate Commission and the compacting states are binding in accordance with their terms.
3. Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the compacting states, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.
4. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Frequently Asked Questions

FREQUENTLY ASKED QUESTIONS CONCERNING THE INTERSTATE COMPACT FOR JUVENILES

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 35th 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:

Chris Holloway
The Office of Juvenile Justice and Delinquency Prevention
Phone: 202/305-9838
E-mail: holloway@ojp.usdoj.gov -OR-

Chad Foster
The Council of State Governments
Phone: 859/244-8032
E-mail: cfoster@csg.org

**Interstate Compact on Juveniles
State-by-State Status**

<u>State</u>	<u>Statute</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
Alabama	§§ AL Code 44-2-1	x		x		18
Alaska	A.S. §§ 47-15-019	x				18
Arizona	A.R.S. § 8-361	x				18
Arkansas	A.C.A. §§ 9-29-101			x		18
California	W.A.C.W. & I.C. § 1300	x		x	x	18
Colorado	C.R.S. §§ 24-60-701					16
Connecticut	C.G.S.A. § 46b-151a-q	x		x		18
Delaware	31 Del. C. §§ 5201					18
Florida	F.S.A. § 985.501	x	x	x	x	18
Georgia	O.C.G.A. §§ 39-3-1	x				18
Hawaii	HRS §§ 582-1	x		x	x	18
Idaho	I.C. §§ 16-190					17
Illinois	45 ILCS 10/0.1	x	x			18
Indiana	IC 31-37-23					18
Iowa	I.C.A. § 232.171	x		x	x	18
Kansas	K.S.A. 38-1002					18
Kentucky	KRS § 615.010	x	x	x		18
Louisiana	L.S.A.R.S. C.C. 1623					18
Maine	34-A M.R.S.A. § 9001	x		x		18
Maryland	Ms. Ann. Code Art. 26, § 10					17
Massachusetts	ALM Spec L 97:1	x	x	x		17
Michigan	M.C.L.A. § 3					18
Minnesota	M.S.A. §§ 260.51	x	x	x		18
Mississippi						17
Missouri	V.A.M.S. § 210.570	x		x		17
Montana						19
Nebraska	R.S.N. §§ 43-1001	x	x	x	x	19
Nevada	NRS 219.01					18
New Hampshire	RSA 169-A:1	x	x	x		18
New Jersey	N.J.S.A. § 17-28					18
New Mexico	NMSA 1978 §§ 32A-10-1	x		x	x	18
New York	N.Y. § 180					16
North Carolina	G.S. §§ 7B-2800	x		x	x	16
North Dakota	N.D.C.C. § 17-01					18
Ohio	RC 2151.56	x		x		18
Oklahoma	10 O.S. Stat. Ann. § 53					18
Oregon	ORS 417.030	x		x		18
Pennsylvania	62 P.S. § 731					18
Rhode Island	Gen. Laws 1956, §§ 14-6-1	x		x		18
South Carolina	Code 1976, § 20-7-8705					17
South Dakota	SDCL §§ 26-12-1	x		x		17
Tennessee	T.C.A. §§ 37-4-101					18
Texas	V.T.C.A. Family Code § 60.001	x	x	x		17
Utah	U.G.A. 1953, § 5-12-1	x		x		18
Vermont	V.S.A. 33 § 551	x	x	x		18
Virginia	Code 1950, §§ 16.1-323	x		x		18
Washington	RCW 13.24.010	x		x		18
West Virginia	Code: §§ 49-8-1	x		x		18
Wisconsin	W.S.A. 938.991	x		x		18
Wyoming	W.S. § 14-6-101	x		x		19
District of Columbia	DC Code §§ 32-1101	x	x	x		18
Guam	GCA § 30.82	x				18
Virgin Islands	3.39.1172	x	x	x		18
Puerto Rico	n/a					
N. Mariana Islands	n/a					
American Samoa	n/a					

KEY (X = signatory)

- A - Interstate Compact on Juveniles
- B - Runaway Amendment
- C - Rendition Amendment
- D - Out-of-State Confinement Amendment
- E - Age Offenders are Classified as Adults

Case Studies

THE INTERSTATE COMPACT FOR JUVENILES - CASE STUDIES

All types of juveniles may potentially be supervised under The Interstate Compact for Juveniles. The tragic problems caused by very serious juvenile offenders raise many public safety concerns for the states. The number of offender cases involving out-of-state juveniles has grown exponentially over the past few decades with the increase in the national highway system and air travel. Violent and non-violent offenders on probation and parole need to cross state lines every day and the compact is the only mechanism to insure continued supervision. Likewise, the compact insures the return of juvenile escapees and absconders to the supervising state, preventing those juveniles from committing other crimes or becoming victims themselves.

In addition to public safety, an important reason for supervision is to insure that each juvenile receives the best possible services to avoid future lawbreaking and/or to safeguard their well-being.

Unfortunately, the current compact does not have an administrative process or governing structure in place with authority to hold member states accountable for compliance with their mutually agreed upon rules. There are more than 20,000 interstate compact cases processed annually. Consider the range and types of interstate supervision issues that arise and need to be governed effectively by rules agreed upon by member states:

- A 17-year-old juvenile parolee, serving a sentence for burglary and armed with a dangerous weapon, absconded from state supervision. The sending state issued a warrant for his arrest and extradition. One month later, the juvenile was picked up in another state for a minor traffic violation. The receiving state detained the youth in a detention center for juveniles and sent a notice to the youth's home state with details of his detainment and a request for transportation. Disagreements between both states over transportation payments ensued. Meanwhile, the local jurisdiction holding the juvenile ignored the interstate compact law and released the juvenile on grounds of local laws governing the detainment of out-of-state juveniles for misdemeanor charges. The juvenile walked away from the detention center unsupervised. While robbing a convenient store one year later, the juvenile shot and killed the store clerk. The juvenile remains locked-up in state prison today.
- A 15-year-old adjudicated juvenile received specialized and high-cost sex offender treatment and services in his state of residence. The terms of the juveniles' probation included weekly counseling and regular therapy by a state sanctioned non-profit organization. The father of the juvenile was fired from his employment and was forced to accept employment in another state. After hearing about the juveniles' need to move, the sending state terminated the juveniles' court order for treatment early due to the high-costs associated with the sex offender treatment and failed to notify the receiving state about the juvenile. Under the compact rules, sending states are obligated to fund necessary treatment, services and supervision for juveniles moving across state lines. As expected, the youth moved with his father unsupervised and without treatment. Not until he was adjudicated for another sex offense one year later did the receiving state find out about the youth's troubled past.
- The mother of a runaway filed a report with the National Crime Information Center. The 16-year-

old runaway was identified in a non-neighboring state three days later and was placed in temporary housing with minimal supervision. Youth workers in the receiving state discovered that the youth suffered from an extreme case of depression but could not provide needed therapy without permission by the youth's parents and payment by their home state. In the meantime, the mother was notified but lacked the funds to arrange for transportation to fly her daughter home. The youth's home state forbade the use of state funds for travel and other expenses for a runaway not in their custody. Likewise, the receiving state law required a lengthy legal process to handle custody issues for out-of-state runaways. One week later, the youth escaped from the temporary housing and supervision. Her remains were found three months later and it was determined that she committed suicide by consuming lethal amounts medicine.

- A 14-year-old juvenile was on probation for a gang related crime involving the murder of a citizen. After receiving a lenient sentence for providing fellow gang member names to local law enforcement, the juvenile began receiving threats on his life from the other gang members. To provide temporary protection for the juvenile, the sending state decided to relocate the youth to family in another state for an undetermined length of time. Before gaining approval from the receiving state, local authorities released the youth to family members in the receiving state without arranging for appropriate supervision. Two weeks later, the gang members found the 14-year-old in the receiving state, assaulted and hospitalized the youth, and made threats to the juveniles' extended family. Only after the assault and threats did local authorities realize that a juvenile probationer was located in their jurisdiction.
- A 16-year old juvenile was on probation for a shopping mall theft. She came from an abusive family and marks on her body reflected regular abuse by her parents. Local social services were ordered to provide the youth and her family with regular counseling and supervision. Midway through her probation period, the juvenile escaped to another state and was arrested for another theft one week later. The receiving state notified the youth's home state about the arrest. Under terms and rules of the current compact, the youth's home state is required to transport that youth under an appropriate level of supervision. In an attempt to save dollars, the youth's home state decided to buy a one-way bus ticket for the juvenile but decided not to provide an escort. The youth escaped while enroute home at a gas station and remains unaccounted for today.
- A 17-year-old juvenile absconded from his state of residence while on parole for drug possession and drug use. The juvenile was identified and picked-up in another state where 17-year-olds are considered adults. Under compact rules, juveniles are defined by their home state's laws, not the receiving states laws. The juvenile's home state issued a court order for the juvenile's detainment and extradition. Due to the lengthy and formal process to detain and transport juveniles, the youth's home state could not extradite the youth in a timely manner. Meanwhile, the local jurisdiction holding the juvenile released him on the grounds that he was an adult and their local law forbade them from detaining adults over a specified period of time without formal criminal charges. The juvenile was arrested three months later in the same state for cocaine possession and is now serving two new sentences for drug possession and use.

Fiscal Note

THE INTERSTATE COMPACT FOR JUVENILES

Fiscal Note

The estimated budget for the operation of the Interstate Compact Commission is **\$1,000,000**. This figure was calculated based on the following assumptions:

Staff Salaries and Benefits

The staff includes an Executive Director, General Counsel, Management and Information Systems Executive, Chief Financial Officer, Public Education and Media Relations Director, two Program Specialist and Clerical Staff. Total Estimated Annual Personnel Costs are \$396,500 plus benefits estimated at 30 percent (30%) of annual salaries or \$118,950, for a total of **\$515,450**.

Commission Meetings and Subcommittee Meetings

The National Commission, consisting of Commissioners from all member states, which formulates the policy, rules and regulations for the implementation and enforcement of the Interstate Compact is estimated to require two (2) Commission meetings of all state Commissioners plus staff during the first year of operation to permit sufficient time to adopt the Commission's Bylaws and Rules. It is also anticipated that various Subcommittees including, but not limited to, the Executive Committee, Steering Committee and Nominating Committee will meet an estimated three (3) times during the first year. The estimated travel costs for the first year, which includes transportation, lodging, meals and staff support, is **\$222,250**. It is estimated that elimination of transportation costs for the two (2) National Commission meetings would result in a 10 percent (10%) reduction in travel costs. Subsequent to the Commission's inaugural year, it is anticipated that the entire Commission will only meet annually.

Overhead (Rent and Utilities)

Overhead cost estimates are premised on the assumption of adequate furnished space including utilities for a ten person staff. Rent is calculated at a rate \$15.00 per square foot for finished office space and meeting rooms consisting of approximately 4,309 square feet and \$7.00 per square foot for storage, mail room, copy room, etc. consisting of approximately 1,095 square feet for a total overhead cost of **\$72,300**.

Office Equipment and Furnishings

Estimates for computers are premised upon a fully integrated system including five (5) desktop and five (5) laptop units equipped with software support, LAN access, Internet access, e-mail accounts, staff technical support, software updates/upgrades, and computer and application training. Copiers and furnishings (to the extent not included in Overhead) are based upon the assumption that these items will either be leased or purchased from governmental surplus if feasible. Total estimated cost for office equipment and furnishings is **\$190,000**.

Indirect Costs

In addition to the above mentioned costs, the Interstate Compact Commission can expect indirect costs for organizational expenses not associated with any particular project, but crucial to the functioning of the Commission as a whole. These indirect costs typically consist of accounting and bookkeeping services, human resource services, access to library and research facilities, and miscellaneous supplies and expenses. Based on the structure, location and association of the Interstate Commission with other/similar groups, the Commission can expect to pay an additional 15 percent (15%) to 27 percent (27%) of the estimated budget for annual indirect costs.

Per State Dues Allocation

The operating budget for the Interstate Compact will be allocated among the states pursuant to Article VIII of the Compact. This article provides for an annual assessment from each compacting state to cover the cost of the internal operations and activities of the Commission and its staff in an amount sufficient to cover the Commission's annual budget as approved each year. The allocation of the annual assessment amount for each state will be determined by the Commission, taking into account the population of each state, based on current U.S. Census data and the volume of interstate movement of offenders in each compacting state. Using this formula including the factors referenced here, the above budget estimate and assuming participation by a minimum of 35 and a maximum of 56 jurisdictions, the per state cost for funding the Interstate Compact is estimated to be in the range of \$12,000 to \$37,000 per state. However, because of the formula contained in the Compact, smaller states with a lower volume of movement would pay less than the average and larger states with a higher volume of movement would pay more than the average.

This cost analysis has been prepared only as an estimation based on the above assumptions with the aid of the Council of State Governments Budget Book FY 2002. The Interstate Commission created by the Compact, pursuant to Article VIII, will have the authority, subject to the agreement of the member states, to structure the Budget in a manner and at a funding level that it deems to be adequate to carry out the powers and duties of this Interstate Agency.

THE INTERSTATE COMPACT FOR JUVENILES

FISCAL NOTE

Budget Summary

Salary & Wages	\$515,450
Meetings (Commission & Committee's)	\$222,250
Computers, Copiers, Furniture, Etc.	\$190,000
Rent & Utilities	\$72,300
ESTIMATED BUDGET	\$1,000,000

Salaries

Executive Director	\$80,000
General Counsel	\$65,000
Management & Information Systems Executive	\$55,000
Chief Financial Officer	\$55,000
Public Education & Media Relations Director	\$55,000
Program Specialist x 2	\$64,500
Clerical Staff	\$22,000
Subtotal	\$396,500
Benefits (30% annual salaries)	\$118,950
TOTAL SALARY & BENEFITS	\$515,450

Commission & Committee Meetings

Meetings - Commission

Staff Support	\$4,750
Postage	\$520
Photocopy	\$500
Travel	\$42,000
Lodging/Food/Reception	\$30,000
Honoraria	\$7,500
Telecommunications	\$425
Printing	\$5,000
Subtotal x 2	\$181,390

Meetings - Subcommittees

Staff Support	\$3,000
Postage	\$300
Photocopy	\$300
Travel	\$4,500

Lodging/Food/Reception	\$3,500
Honoraria	\$1,420
Telecommunications	\$300
Printing	\$300
Subtotal x 3	\$40,860
TOTAL FOR ALL MEETINGS	\$222,250

Rent & Utilities

Mail Room (460 sq. ft. @ \$7.00 per sq. ft.)	\$3,220
Copy Room (460 sq. ft. @ \$7.00 per sq. ft.)	\$3,220
Storage (175 sq. ft. @ \$7.00 per sq. ft.)	\$1,225
Computer Room (375 sq. ft. @ \$15.00 sq. ft.)	\$5,625
Conference Room (510 sq. ft. @ \$15.00 sq. ft.)	\$7,650
Executive Director (980 sq. ft. @ \$15.00 sq. ft.)	\$14,700
Deputy Director (577 sq. ft. @ \$15.00 sq. ft.)	\$8,655
Program Specialist (150 sq. ft. @ \$15.00 sq. ft.)	\$2,250
General Counsel (577 sq. ft. @ \$15.00 sq. ft.)	\$8,655
CFO (350 sq. ft. @ \$15.00 sq. ft.)	\$5,250
MIS (330 sq. ft. @ \$15.00 sq. ft.)	\$4,950
PR & Media (330 sq. ft. @ \$15.00 sq. ft.)	\$4,950
Clerical (130 sq. ft. @ \$15.00 sq. ft.)	\$1,950
TOTAL	\$72,300

Equipment

Desktop Computers x 5	\$15,000
Laptop Computers x 5	\$15,000
Copiers, Servers & Supplies	\$100,000
Furniture & Equipment	\$60,000
TOTAL	\$190,000

Projected State Assessments

**Interstate Compact for Juveniles
State Dues Projection**

11/15/2002

<u>State</u>	<u>Projected Dues per State 1</u>	<u>State Dues Ratio 2</u>	<u>State Population 3</u>	<u>U.S. Population 3</u>	<u>State Juvenile Transactions 4</u>	<u>U.S. Juvenile Transactions 4</u>
Northern Marianas (a)	\$12,000	0.000133	43000	285230516	3	25870
American Samoa (a)	\$12,000	0.000139	46000	285230516	3	25870
U.S. Virgin Islands (c)	\$12,000	0.000314	102000	285230516	7	25870
Guam	\$12,000	0.000407	133000	285230516	9	25870
Wyoming (c)	\$12,000	0.001639	493782	285230516	40	25870
Alaska	\$12,000	0.002065	626932	285230516	50	25870
Vermont	\$12,000	0.002285	608827	285230516	63	25870
Hawaii	\$12,000	0.002839	1211537	285230516	37	25870
North Dakota	\$12,000	0.002865	642200	285230516	90	25870
Dist. of Columbia	\$12,000	0.003052	572059	285230516	106	25870
South Dakota	\$12,000	0.003604	754844	285230516	118	25870
Maine	\$12,000	0.004129	1274923	285230516	98	25870
Rhode Island	\$12,000	0.004196	1048319	285230516	122	25870
Delaware	\$12,000	0.004447	783600	285230516	159	25870
Nebraska (b)	\$12,000	0.005126	1711263	285230516	110	25870
New Hampshire	\$12,000	0.005201	1235786	285230516	157	25870
Montana	\$12,000	0.005428	902195	285230516	199	25870
West Virginia (c)	\$12,000	0.006030	1808344	285230516	148	25870
New Mexico (c)	\$12,000	0.006069	1819046	285230516	149	25870
Utah (c)	\$12,000	0.007452	2233169	285230516	183	25870
Connecticut	\$12,000	0.008115	3405565	285230516	111	25870
Idaho	\$12,000	0.008975	1293953	285230516	347	25870
Mississippi	\$12,000	0.009393	2844658	285230516	228	25870
Iowa	\$17,000	0.010290	2926324	285230516	267	25870
Nevada	\$17,000	0.011195	1998257	285230516	398	25870
Kansas (b)	\$17,000	0.011207	2688418	285230516	336	25870
Oklahoma (c)	\$17,000	0.011519	3450654	285230516	283	25870
Puerto Rico (a)	\$17,000	0.011663	3808610	285230516	258	25870
Arkansas	\$17,000	0.012669	2673400	285230516	413	25870
Kentucky	\$17,000	0.014449	4041769	285230516	381	25870
Louisiana	\$17,000	0.014618	4468976	285230516	351	25870
Alabama	\$17,000	0.016184	4447100	285230516	434	25870
Minnesota (c)	\$17,000	0.016413	4919479	285230516	403	25870
Massachusetts (b)	\$17,000	0.016503	6349097	285230516	278	25870
Wisconsin	\$17,000	0.016650	5363675	285230516	375	25870
South Carolina	\$17,000	0.017122	4012012	285230516	522	25870
Tennessee (c)	\$17,000	0.018980	5689283	285230516	466	25870
Missouri	\$17,000	0.020960	5595211	285230516	577	25870
Colorado	\$22,000	0.023118	4301261	285230516	806	25870
Indiana	\$22,000	0.023183	6080485	285230516	648	25870
Maryland	\$22,000	0.024263	5296486	285230516	775	25870
Arizona	\$22,000	0.025461	5130632	285230516	852	25870
Virginia	\$22,000	0.025570	7078515	285230516	681	25870

Oregon	\$22,000	0.027528	3421399	285230516	1114	25870
North Carolina	\$22,000	0.028297	8049313	285230516	734	25870
Washington	\$22,000	0.029215	5894121	285230516	977	25870
New Jersey (b)	\$22,000	0.030251	8414350	285230516	802	25870
Michigan (c)	\$27,000	0.033154	9938444	285230516	814	25870
Georgia	\$27,000	0.034161	8186453	285230516	1025	25870
Ohio	\$27,000	0.035538	11353140	285230516	809	25870
New York (b)	\$32,000	0.042562	18976457	285230516	481	25870
Pennsylvania	\$32,000	0.042653	12281054	285230516	1093	25870
Illinois (b)	\$32,000	0.042741	12419293	285230516	1085	25870
Florida	\$37,000	0.061956	15982378	285230516	1756	25870
Texas	\$37,000	0.065447	20851820	285230516	1495	25870
California	\$37,000	0.091150	33871648	285230516	1644	25870

\$1,017,000

1 - Based on total projected operating budget

2 - $(\text{State population} / \text{U.S. Population} + \text{State Juvenile Transactions} / \text{Total U.S. Juvenile Transactions}) / 2$

3 - Population data; U.S. Dept. of Commerce & U.S. Census Bureau; Census 2000

4 - Compact populations as of June 30, 2002

(a) - Territory and Puerto Rico data is projected based on an average state juvenile transaction to population ratio (1:14,778)

(b) - Incomplete data provided; additional numbers projected based on all states

(c) - State data not available; projected based on an average state juvenile transaction to population ratio (1:12,207)

Case load in WI is in the low-med area

50 approved by state

100 others

100 out of state

Cost ~ \$1 million for new compact. Nationally.

This would put an enforcement mech for states in non-compliance

Either comply, fined, sued

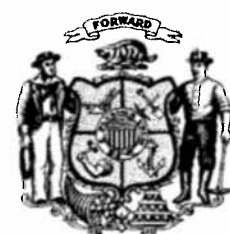
Info system would be challenge for WI since we lack
tech system currently.

Template draft looks a good place to start.

5 states have passed.



WISCONSIN STATE LEGISLATURE



3 piece-meal attempts to modify current compact & those mods were not adopted by all states which has created additional problems.

There is no meaningful enforcement of current compact.

Also provides numerous options for dispute resolution, ultimately to injunctive relief in the courts.

Very important will be the modernization of information maintenance as well as communication.

Rules

↳ State Reps

↳ Majority of states veto rule

Current commission has no oversight whatsoever. New legisl would provide oversight.

Give this commission ability
to raise fees on its own
such a good idea?

Don't like a rule?

- Majority Veto
 - judicial challenge
 - Withdrawal from compact
-

Delete sue & be sued language.

What can be amend w/out
jeap compact?

- > Fee cap
 - > what does not ~~radically~~
change
-

2001 Act 96
Advt Compact

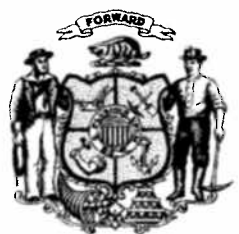
Effect @ 35 mem

5-member state bid attached to DOC

Members appointed by Gov.



WISCONSIN STATE LEGISLATURE



AB 41

AYE

No

Bies

¹⁰/₂₀ Suder

¹⁰/₂₀ Owens

Parisi

Gundrum

Wasserman

Pope-Roberts