

ASSEMBLY BILL 41 (LRB -1050)

An Act to amend 938.14; and to create 14.92, 15.145 (4), 20.410 (3) (d), 938.9985 and 938.999 of the statutes; relating to: the Interstate Compact for Juveniles. (FE)

2005

- 02-14. A. Introduced by Representatives **Bies, Ainsworth, Gronemus, Krawczyk, F. Lasee, Lehman, Musser, Ott, Townsend and Van Roy**; cosponsored by Senators **Zien, A. Lasee and Lassa**.
- 01-25. A. Read first time and referred to committee on Corrections and the Courts 41
- 01-27. A. Fiscal estimate received.
- 03-23. A. Public hearing held.
- 04-15. A. Assembly amendment 1 offered by Representative Gundrum (**LRB a0409**) 189
- 11-02. A. Executive action taken.

2006

- 01-19. A. Report passage recommended by committee on Corrections and the Courts, Ayes 7, Noes 2 729
- 01-19. A. Referred to joint committee on Finance 729
- 01-25. A. Executive action taken.
- 01-26. A. Report passage recommended by joint committee on Finance, Ayes 16, Noes 0 752
- 01-26. A. Referred to committee on Rules 752
- 01-31. A. Placed on calendar 2-2-2006 by committee on Rules.
- 02-02. A. Read a second time 784
- 02-02. A. Ordered to a third reading 784
- 02-02. A. Rules suspended 784
- 02-02. A. Read a third time and **passed**, Ayes 91, Noes 4 784
- 02-02. A. Ordered immediately messaged 785
- 02-03. S. Received from Assembly 582
- 02-03. S. Read first time and referred to committee on Judiciary, Corrections and Privacy 582
- 02-14. S. Public hearing held.
- 03-06. S. Executive action taken.
- 03-06. S. Report concurrence recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0.
- 03-06. S. Available for scheduling.
- 03-08. S. Placed on calendar 3-9-2006 by committee on Senate Organization.
- 03-09. S. Read a second time.
- 03-09. S. Ordered to a third reading.
- 03-09. S. Rules suspended.
- 03-09. S. Read a third time and **concurred in**, Ayes 32, Noes 1.
- 03-09. S. Ordered immediately messaged.
- 03-09. A. Received from Senate concurred in 937

**2005
ENROLLED BILL**

05en A B-41

ADOPTED DOCUMENTS:

Orig Engr SubAmdt

05-1050/1

Amendments to above (if none, write "NONE"): None

Corrections - show date (if none, write "NONE"): None

Topic Rel

3-13-06 *J.R. Miller*
Date Enrolling Drafter

ELECTRONIC PROCEDURE:

Follow automatic or manual enrolling procedures in *TEXT2000 Reference Guide, Document Specific Procedures, Ch. 20, Engrossing and Enrolling*

DISTRIBUTION:

HOUSE OF ORIGIN:

- 11 copies plus bill jacket
- Secretary of State's envelope containing 4 copies plus newspaper notice

REVISOR OF STATUTES:

- 5 copies

DEPARTMENT OF ADMINISTRATION:

- 2 copies

LRB:

- Drafting file original
- Drafting attorney 1 copy
- Legislative editors 1 copy each
- Reference section 1 copy
- Bill index librarian 1 copy

2005 ASSEMBLY BILL 41

January 25, 2005 - Introduced by Representatives BIES, AINSWORTH, GRONEMUS, KRAWCZYK, F. LASEE, LEHMAN, MUSSER, OTT, TOWNSEND and VAN ROY, cosponsored by Senators ZIEN, A. LASEE and LASSA. Referred to Committee on Corrections and the Courts.

- 1 **AN ACT to amend** 938.14; and **to create** 14.92, 15.145 (4), 20.410 (3) (d), 938.9985
2 and 938.999 of the statutes; **relating to:** the Interstate Compact for Juveniles.

Analysis by the Legislative Reference Bureau

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.

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

ASSEMBLY BILL 41

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 noncompacting 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.

ASSEMBLY BILL 41

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 14.92 of the statutes is created to read:

2 **14.92 Interstate Commission for Juveniles.** There is created an Interstate
3 Commission for Juveniles as specified in s. 938.999 (3). The member of the
4 commission representing this state shall be the compact administrator, as defined
5 in s. 938.999 (2) (c), the deputy compact administrator, as defined in s. 938.999 (2)
6 (f), or a designee, as specified in s. 938.999 (3) (b). The commission member shall
7 serve without compensation but shall be reimbursed from the appropriation account
8 under s. 20.410 (3) (a) for actual and necessary expenses incurred in the performance
9 of the commission member's duties. The commission shall have the powers, duties,
10 and responsibilities set forth in s. 938.999.

11 **SECTION 2.** 15.145 (4) of the statutes is created to read:

12 **15.145 (4) STATE BOARD FOR INTERSTATE JUVENILE SUPERVISION.** There is created
13 a state board for interstate juvenile supervision, which is attached to the department
14 of corrections under s. 15.03. The board shall consist of 5 members appointed for
15 3-year terms. The governor shall comply with the requirements of s. 938.999 (9)
16 when appointing members of the board. The board shall have the powers, duties, and
17 responsibilities set forth under s. 938.999.

18 **SECTION 3.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
19 the following amounts for the purposes indicated:

ASSEMBLY BILL 41

2005-06 2006-07

1

2 **20.410 Corrections, department of**

3 (3) JUVENILE CORRECTIONAL SERVICES

4 (d) Interstate Compact for Juveniles

5 assessments

GPR A

-0-

-0-

6 **SECTION 4.** 20.410 (3) (d) of the statutes is created to read:

7 20.410 (3) (d) *Interstate Compact for Juveniles assessments.* The amounts in
8 the schedule to pay assessments levied by the interstate commission for juveniles
9 under s. 938.999 (8) (b).

10 **SECTION 5.** 938.14 of the statutes is amended to read:

11 **938.14 Jurisdiction over interstate compact proceedings.** The court has
12 exclusive jurisdiction over proceedings under the ~~interstate compact for juveniles~~
13 Interstate Compact on Juveniles under s. 938.991 and over proceedings under the
14 Interstate Compact for Juveniles under s. 938.999.

15 **SECTION 6.** 938.9985 of the statutes is created to read:

16 **938.9985 Renunciation of Interstate Compact on Juveniles.** Sections
17 938.991 to 938.998 do not apply to a juvenile from this state who is located in another
18 state and who is a runaway, as described in s. 938.991 (4), an escapee or absconder,
19 as described in s. 938.991 (5), a probationer, person on extended supervision, or
20 parolee under the supervision of that other state, as described in s. 938.991 (7), or
21 a juvenile charged as being a delinquent, as described in s. 938.998, or to a juvenile
22 from another state who is located in this state and who is a runaway, as described
23 in s. 938.991 (4), an escapee or absconder, as described in s. 938.991 (5), a probationer,
24 person on extended supervision, or parolee under the supervision of this state, as

ASSEMBLY BILL 41

1 described in s. 938.991 (7), or a juvenile charged as being a delinquent, as described
2 in s. 938.998, if all of the following have occurred:

3 (1) The Interstate Compact for Juveniles under s. 938.999 is in effect as
4 provided in s. 938.999 (10) (b).

5 (2) Both this state and the other state are parties to the Interstate Compact for
6 Juveniles under s. 938.999.

7 (3) Both this state and the other state have renounced the Interstate Compact
8 on Juveniles as provided under s. 938.991 (14).

9 **SECTION 7.** 938.999 of the statutes is created to read:

10 **938.999 Interstate Compact for Juveniles.** (1) **ARTICLE I — PURPOSE.** (a)
11 The compacting states to this interstate compact recognize that each state is
12 responsible for the proper supervision or return of juveniles, delinquents, and status
13 offenders who are on probation or parole and who have absconded, escaped, or run
14 away from supervision and control and in so doing have endangered their own safety
15 and the safety of others. The compacting states also recognize that each state is
16 responsible for the safe return of juveniles who have run away from home and in
17 doing so have left their state of residence. The compacting states also recognize that
18 the U.S. Congress, by enacting the Crime Control Act, 4 USC 112, has authorized and
19 encouraged compacts for cooperative efforts and mutual assistance in the prevention
20 of crime.

21 (b) It is the purpose of this compact, through means of joint and cooperative
22 action among the compacting states, to do all of the following:

23 1. Ensure that the adjudicated juveniles and status offenders who are subject
24 to this compact are provided with adequate supervision and services in the receiving
25 state as ordered by the adjudicating judge or parole authority in the sending state.

ASSEMBLY BILL 41

1 2. Ensure that the public safety interests of the citizens, including the victims
2 of juvenile offenders, in both the sending and receiving states are adequately
3 protected.

4 3. Return juveniles who have run away, absconded, or escaped from supervision
5 or control or who have been accused of an offense to the state requesting their return.

6 4. Make contracts for the cooperative institutionalization in public facilities in
7 member states of delinquent youth needing special services.

8 5. Provide for the effective tracking and supervision of juveniles.

9 6. Equitably allocate the costs, benefits, and obligations of the compact among
10 the compacting states.

11 7. Establish procedures to manage the movement between states of juvenile
12 offenders who are released to the community under the jurisdiction of courts,
13 juvenile departments, or other criminal or juvenile justice agencies that have
14 jurisdiction over juvenile offenders.

15 8. Ensure that immediate notice is given to jurisdictions where defined
16 offenders are authorized to travel or to relocate across state lines.

17 9. Establish procedures to resolve pending charges or detainers against
18 juvenile offenders before transfer or release to the community under this compact.

19 10. Establish a system of uniform data collection of information pertaining to
20 juveniles who are subject to this compact that allows access by authorized juvenile
21 justice and criminal justice officials and a system of regular reporting of compact
22 activities to heads of state executive, judicial, and legislative branches and juvenile
23 and criminal justice administrators.

24 11. Monitor compliance with the rules governing the interstate movement of
25 juveniles and intervene to address and correct any noncompliance with those rules.

ASSEMBLY BILL 41

1 12. Coordinate training and education regarding the regulation of the
2 interstate movement of juveniles for officials who are involved in that activity.

3 13. Coordinate the implementation and operation of this compact with the
4 Interstate Compact on the Placement of Children under ss. 48.988 and 48.989, the
5 Interstate Compact for Adult Offender Supervision under s. 304.16, and other
6 compacts affecting juveniles, particularly in those cases in which concurrent or
7 overlapping supervision issues arise.

8 (c) It is the policy of the compacting states that the activities conducted by the
9 interstate commission are the formation of public policies and, therefore, are public
10 business. Furthermore, the compacting states shall cooperate with each other and
11 observe their individual and collective duties and responsibilities for the prompt
12 return and acceptance of juveniles who are subject to this compact.

13 (d) The compact shall be reasonably and liberally construed to accomplish the
14 purposes and policies of the compact.

15 **(2) ARTICLE II — DEFINITIONS.** In this section:

16 (a) “Bylaws” means the bylaws established by the interstate commission for its
17 governance or for directing or controlling its actions or conduct.

18 (b) “Commissioner” means the voting representative of each compacting state
19 appointed under sub. (3) (b).

20 (c) “Compact administrator” means the person appointed under this compact
21 in each compacting state who is responsible for the administration and management
22 of the state’s supervision and transfer of juveniles who are subject to this compact,
23 the rules, and the policies adopted by the state board under this compact.

24 (d) “Compacting state” means a state that has enacted the enabling legislation
25 for this compact.

ASSEMBLY BILL 41

1 (e) "Court" means a court having jurisdiction over delinquent, neglected, or
2 dependent juveniles.

3 (f) "Deputy compact administrator" means the person, if any, appointed in each
4 compacting state to act on behalf of a compact administrator in the administration
5 and management of the state's supervision and transfer of juveniles who are subject
6 to this compact, the rules, and the policies adopted by the state board under this
7 compact.

8 (g) "Interstate commission" means the interstate commission for juveniles
9 established under sub. (3) (a).

10 (h) "Juvenile" means a person who is defined as a juvenile under the law of any
11 compacting state or by the rules, including all of the following:

12 1. An accused delinquent. For purposes of this subdivision, "accused
13 delinquent" means a person who is charged with an offense that, if committed by an
14 adult, would be a criminal offense.

15 2. An adjudicated delinquent. For purposes of this subdivision, "adjudicated
16 delinquent" means a person who has been found to have committed an offense that,
17 if committed by an adult, would be a criminal offense.

18 3. An accused status offender. For purposes of this subdivision, "accused status
19 offender" means a person who is charged with an offense that would not be a criminal
20 offense if committed by an adult.

21 4. An adjudicated status offender. For purposes of this subdivision,
22 "adjudicated status offender" means a person who has been found to have committed
23 an offense that would not be a criminal offense if committed by an adult.

ASSEMBLY BILL 41

1 5. A nonoffender. For purposes of this subdivision, “nonoffender” means a
2 person who is in need of supervision, but who has not been charged with or found to
3 have committed an offense.

4 (i) “Noncompacting state” means a state that has not enacted the enabling
5 legislation for this compact.

6 (j) “Probation or parole” means any kind of supervision or conditional release
7 of a juvenile that is authorized under the laws of a compacting state.

8 (k) Except as provided in sub. (6) (f), “rule” means a written statement by the
9 interstate commission promulgated under sub. (6) that is of general applicability;
10 that implements, interprets, or prescribes a policy or provision of the compact or an
11 organizational, procedural, or practice requirement of the interstate commission;
12 and that has the force of statutory law in a compacting state. “Rule” includes the
13 amendment, repeal, or suspension of an existing rule.

14 (L) “State” means a state of the United States, the District of Columbia, the
15 Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American
16 Samoa, or the Northern Marianas Islands.

17 (m) “State board” means the state board for interstate juvenile supervision
18 created by each compacting state under sub. (9).

19 **(3) ARTICLE III – INTERSTATE COMMISSION FOR JUVENILES.** (a) There is created
20 the interstate commission for juveniles. The interstate commission shall be a body
21 corporate and joint agency of the compacting states. The interstate commission shall
22 have all of the responsibilities, powers, and duties specified in this section and such
23 additional powers as may be conferred upon the interstate commission by
24 subsequent action of the respective legislatures of the compacting states exercised
25 in accordance with this compact.

ASSEMBLY BILL 41

1 (b) The interstate commission shall consist of commissioners appointed by the
2 appropriate appointing authority in each compacting state under the requirements
3 of the compacting state and in consultation with the state board of the compacting
4 state. The commissioner shall be the compact administrator, deputy compact
5 administrator, or designee from the compacting state and shall serve on the
6 interstate commission in that capacity under the applicable law of the compacting
7 state.

8 (c) In addition to the commissioners who are the voting representatives of each
9 compacting state, the interstate commission shall include, as nonvoting members,
10 persons who are members of interested organizations. Those nonvoting members
11 shall include members of the national organizations of governors, legislators, state
12 supreme court chief justices, attorneys general, juvenile justice and juvenile
13 corrections officials, and crime victims and members of the Interstate Compact on
14 the Placement of Children and the Interstate Compact for Adult Offender
15 Supervision. The interstate commission may provide in the bylaws for the inclusion
16 of additional nonvoting members, including members of other national
17 organizations, in such numbers as may be determined by the interstate commission.

18 (d) Each compacting state represented at any meeting of the interstate
19 commission is entitled to one vote. A majority of the compacting states shall
20 constitute a quorum for the transaction of business, unless a larger quorum is
21 required by the bylaws.

22 (e) The interstate commission shall meet at least once each year. The
23 chairperson may call additional meetings and, upon the request of a simple majority
24 of the compacting states, shall call additional meetings. Public notice shall be given
25 of all meetings and, except as provided in par. (i), meetings shall be open to the public.

ASSEMBLY BILL 41

1 (f) The interstate commission shall establish an executive committee, which
2 shall include officers and members of the interstate commission and others as
3 determined by the bylaws. The executive committee may act on behalf of the
4 interstate commission during periods when the interstate commission is not in
5 session, with the exception of rule making and amending the compact. The executive
6 committee shall oversee the day-to-day activities of the administration of the
7 compact that are managed by an executive director and interstate commission staff;
8 administer enforcement of and compliance with the compact, the bylaws, and the
9 rules; and perform such other duties as directed by the interstate commission or as
10 specified in the bylaws.

11 (g) Each commissioner is entitled to cast the vote to which the compacting state
12 represented by the commissioner is entitled and to participate in the business and
13 affairs of the interstate commission. A commissioner shall vote in person and may
14 not delegate a vote to another compacting state, except that a commissioner, in
15 consultation with the state board of the commissioner's state, may appoint another
16 authorized representative, in the absence of the commissioner, to cast a vote on
17 behalf of the compacting state at a specified meeting. The bylaws may provide for
18 members' participation in meetings by telephone or by other means of
19 telecommunication or electronic communication.

20 (h) The bylaws shall establish conditions and procedures under which the
21 interstate commission shall make its information and official records available to the
22 public for inspection or copying. The interstate commission may exempt from
23 disclosure any information or official records to the extent that the information or
24 records would adversely affect personal privacy rights or proprietary interests.

ASSEMBLY BILL 41

1 (i) Public notice shall be given of all meetings, and all meetings shall be open
2 to the public, except as specified in the rules or as otherwise provided in the compact.
3 The interstate commission and any of its committees may close a meeting to the
4 public if the interstate commission or committee determines by a two-thirds vote
5 that an open meeting would be likely to do any of the following:

6 1. Relate solely to the interstate commission's internal personnel practices and
7 procedures.

8 2. Disclose matters that are specifically exempted from disclosure by statute.

9 3. Disclose trade secrets or commercial or financial information that is
10 privileged or confidential.

11 4. Involve accusing any person of a crime or formally censuring any person.

12 5. Disclose information that is of a personal nature, if disclosure of the
13 information would constitute a clearly unwarranted invasion of personal privacy.

14 6. Disclose investigative records that have been compiled for law enforcement
15 purposes.

16 7. Disclose information that is contained in or related to an examination,
17 operating, or condition report prepared by, on behalf of, or for the use of the interstate
18 commission with respect to a regulated person for the purpose of regulation or
19 supervision of that person.

20 8. Disclose information, the premature disclosure of which would significantly
21 endanger the stability of a regulated person.

22 9. Specifically relate to the interstate commission's issuance of a subpoena or
23 the participation of the interstate commission in a civil action or other legal
24 proceeding.

ASSEMBLY BILL 41

1 (j) For every meeting that is closed under par. (i), the interstate commission's
2 legal counsel shall publicly certify that, in the opinion of the legal counsel, the
3 meeting may be closed to the public and shall reference each provision under par. (i)
4 authorizing closure of the meeting. The interstate commission shall keep minutes
5 that shall fully and clearly describe all matters discussed in any meeting and shall
6 provide a full and accurate summary of any actions taken, and the reasons for those
7 actions, including a description of each of the views expressed on any item and the
8 record of any roll call vote reflecting the vote of each commissioner on the question.
9 All documents considered in connection with any action shall be identified in the
10 minutes.

11 (k) The interstate commission shall collect standardized data concerning the
12 interstate movement of juveniles as directed by the rules. The rules shall specify the
13 date to be collected and the means of collection and shall specify data exchange and
14 reporting requirements. Those methods of data collection, exchange, and reporting
15 shall, insofar as is reasonably possible, conform to up-to-date technology and shall
16 coordinate the interstate commission's information functions with the appropriate
17 repository of records.

18 (4) ARTICLE IV — POWERS AND DUTIES OF THE INTERSTATE COMMISSION. The
19 interstate commission shall have the power and duty to do all of the following:

20 (a) Provide for dispute resolution among compacting states.

21 (b) Promulgate rules to effect the purposes and obligations enumerated in this
22 compact, which rules shall have the effect of statutory law and shall be binding in
23 the compacting states to the extent and in the manner provided in this compact.

24 (c) Oversee, supervise, and coordinate the interstate movement of juveniles
25 who are subject to this compact, the bylaws, and the rules.

ASSEMBLY BILL 41

1 (d) Enforce compliance with the compact, the bylaws, and the rules, using all
2 necessary and proper means, including the use of judicial process.

3 (e) Establish and maintain offices that shall be located within one or more of
4 the compacting states.

5 (f) Purchase and maintain insurance and bonds.

6 (g) Borrow, accept, hire, or contract for the services of personnel.

7 (h) Establish and appoint committees and hire staff that the interstate
8 commission considers necessary for carrying out its functions, including an executive
9 committee as required by sub. (3) (f), which shall have the power to act on behalf of
10 the interstate commission in carrying out the powers and duties of the interstate
11 commission under this compact.

12 (i) Elect or appoint officers, attorneys, employees, agents, or consultants; fix
13 their compensation, define their duties, and determine their qualifications; and
14 establish the personnel policies and programs of the interstate commission relating
15 to, among other things, conflicts of interest, rates of compensation, and qualifications
16 of personnel.

17 (j) Accept, receive, utilize, and dispose of donations and grants of money,
18 equipment, supplies, materials, and services.

19 (k) Lease, purchase, accept contributions or donations of, or otherwise own,
20 hold, improve, or use any property, real, personal, or mixed.

21 (L) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise
22 dispose of any property, real, personal, or mixed.

23 (m) Establish a budget and make expenditures and levy assessments as
24 provided in sub. (8).

25 (n) Sue and be sued.

ASSEMBLY BILL 41

1 (o) Adopt a seal and bylaws governing the management and operation of the
2 interstate commission.

3 (p) Perform such functions as may be necessary to achieve the purposes of this
4 compact.

5 (q) Report annually to the legislatures, governors, judiciary, and state boards
6 of the compacting states concerning the activities of the interstate commission
7 during the preceding year. Those reports shall also include any recommendations
8 that have been adopted by the interstate commission.

9 (r) Coordinate education, training, and public awareness regarding the
10 interstate movement of juveniles for officials who are involved in that activity.

11 (s) Establish uniform standards for reporting, collecting, and exchanging data.

12 (t) Maintain the corporate books and records of the interstate commission in
13 accordance with the bylaws.

14 **(5) ARTICLE V — ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION.**

15 (a) *Bylaws.* Within 12 months after the first meeting of the interstate commission,
16 the interstate commission shall, by a majority vote of the members present and
17 voting, adopt bylaws to govern the conduct of the interstate commission as may be
18 necessary to carry out the purposes of the compact, including bylaws that do all of
19 the following:

20 1. Establish the fiscal year of the interstate commission.

21 2. Establish an executive committee and such other committees as may be
22 necessary.

23 3. Provide for the establishment of committees governing any general or
24 specific delegation of any authority or function of the interstate commission.

ASSEMBLY BILL 41

1 4. Provide reasonable procedures for calling and conducting meetings of the
2 interstate commission and for ensuring reasonable notice of each meeting.

3 5. Establish the titles and responsibilities of the officers of the interstate
4 commission.

5 6. Provide a mechanism for concluding the operations of the interstate
6 commission and for returning any surplus funds that may exist upon the termination
7 of the compact after the payment or reserving of all of the debts and obligations of
8 the interstate commission.

9 7. Provide rules for the initial administration of the compact.

10 8. Establish standards and procedures for compliance and technical assistance
11 in carrying out the compact.

12 (b) *Officers and staff.* 1. The interstate commission shall, by a majority of the
13 members, elect annually from among its members a chairperson and a vice
14 chairperson, each of whom shall have such authority and duties as may be specified
15 in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice
16 chairperson shall preside at all meetings of the interstate commission. The officers
17 so elected shall serve without compensation or remuneration from the interstate
18 commission, except that, subject to the availability of budgeted funds, the officers
19 shall be reimbursed for any ordinary and necessary costs and expenses incurred by
20 them in the performance of their duties and responsibilities as officers of the
21 interstate commission.

22 2. The interstate commission shall, through its executive committee, appoint
23 or retain an executive director for such period, upon such terms and conditions, and
24 for such compensation as the interstate commission may consider appropriate. The
25 executive director shall serve as secretary to the interstate commission, but may not

ASSEMBLY BILL 41

1 be a member of the interstate commission, and shall hire and supervise such other
2 staff as may be authorized by the interstate commission.

3 (c) *Qualified immunity, defense, and indemnification.* 1. The executive
4 director, employees, and representatives of the interstate commission shall be
5 immune from suit and liability, either personally or in their official capacity, for any
6 claim for damage to or loss of property, personal injury, or other civil liability caused
7 by, arising out of, or relating to any actual or alleged act, error, or omission that
8 occurred within the scope of interstate commission employment, duties, or
9 responsibilities, or that the person had a reasonable basis for believing occurred
10 within the scope of interstate commission employment, duties, or responsibilities,
11 except that this subdivision does not protect any person from suit or liability for any
12 damage, loss, injury, or liability that is caused by the intentional or willful and
13 wanton misconduct of that person.

14 2. The liability of any commissioner, or the employee or agent of a
15 commissioner, acting within the scope of that person's employment or duties for any
16 act, error, or omission occurring within that person's state may not exceed the limits
17 of liability specified under the constitution and laws of that state for state officials,
18 employees, and agents, except that this subdivision does not protect any person from
19 suit or liability for any damage, loss, injury, or liability that is caused by the
20 intentional or willful and wanton misconduct of that person.

21 3. The interstate commission shall defend the executive director, employees,
22 and representatives of the interstate commission, and, subject to the approval of the
23 attorney general of the state represented by any commissioner of a compacting state,
24 shall defend a commissioner and a commissioner's employees and agents, in any civil
25 action seeking to impose liability arising out of any actual or alleged act, error, or

ASSEMBLY BILL 41

1 omission that occurred within the scope of interstate commission employment,
2 duties, or responsibilities, or that the person had a reasonable basis for believing
3 occurred within the scope of interstate commission employment, duties, or
4 responsibilities, if the actual or alleged act, error, or omission did not result from the
5 intentional or willful and wanton misconduct of that person.

6 4. The interstate commission shall indemnify and hold harmless the
7 commissioner of a compacting state, the commissioner's employees and agents, and
8 the interstate commission's executive director, employees, and representatives in the
9 amount of any settlement or judgment obtained against those persons arising out of
10 any actual or alleged act, error, or omission that occurred within the scope of
11 interstate commission employment, duties, or responsibilities, or that the person
12 had a reasonable basis for believing occurred within the scope of interstate
13 commission employment, duties, or responsibilities, if the actual or alleged act, error,
14 or omission did not result from the intentional or willful and wanton misconduct of
15 that person.

16 **(6) ARTICLE VI — RULE-MAKING FUNCTION OF THE INTERSTATE COMMISSION.** (a)

17 The interstate commission shall promulgate and publish rules in order to effectively
18 and efficiently achieve the purposes of the compact.

19 (b) Rule making shall occur under the criteria specified in this subsection and
20 the bylaws and rules adopted under this subsection. Rule making shall substantially
21 conform to the principles of the Model State Administrative Procedure Act, 1981 Act,
22 Uniform Laws Annotated, volume 15, page 1, (2000), or any other administrative
23 procedure act that the interstate commission considers appropriate, consistent with
24 the due process requirements under the U.S. Constitution. All rules and

ASSEMBLY BILL 41

1 amendments to the rules shall become binding as of the date specified in the final
2 rule or amendment.

3 (c) When promulgating a rule, the interstate commission shall do all of the
4 following:

5 1. Publish the entire text of the proposed rule and state the reason for the
6 proposed rule.

7 2. Allow and invite persons to submit written data, facts, opinions, and
8 arguments, which shall be added to the rule-making record and be made publicly
9 available.

10 3. Provide an opportunity for an informal hearing, if petitioned by 10 or more
11 persons.

12 4. Promulgate a final rule and its effective date, if appropriate, based on the
13 rule-making record, including input from state or local officials and other interested
14 parties.

15 (d) Not later than 60 days after a rule is promulgated, any interested person
16 may file a petition in the U. S. district court for the District of Columbia or in the
17 federal district court for the district in which the interstate commission's principal
18 office is located for judicial review of that rule. If the court finds that the interstate
19 commission's action is not supported by substantial evidence in the rule-making
20 record, the court shall hold the rule unlawful and set the rule aside. For purposes
21 of this paragraph, evidence is substantial if the evidence would be considered
22 substantial evidence under the Model State Administrative Procedure Act.

23 (e) If a majority of the legislatures of the compacting states reject a rule by
24 enactment of a statute or resolution in the same manner used to adopt the compact,
25 the rule shall have no further effect in any compacting state.

ASSEMBLY BILL 41

1 (f) The rules governing the operation of the Interstate Compact on Juveniles
2 under ss. 938.991 to 938.998 shall be void 12 months after the first meeting of the
3 interstate commission.

4 (g) If the interstate commission determines that an emergency exists, the
5 interstate commission may promulgate an emergency rule that shall become
6 effective immediately upon promulgation, except that the usual rule-making
7 procedures provided under this subsection shall be retroactively applied to the rule
8 as soon as is reasonably possible, but no later than 90 days after the effective date
9 of the emergency rule.

10 (7) ARTICLE VII — OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION BY THE
11 INTERSTATE COMMISSION. (a) *Oversight and enforcement.* 1. The interstate
12 commission shall oversee the administration and operations of the interstate
13 movement of juveniles who are subject to this compact in the compacting states and
14 shall monitor those activities being administered in noncompacting states that may
15 significantly affect compacting states.

16 2. The courts and executive agencies in each compacting state shall enforce this
17 compact and shall take all actions that are necessary to effectuate the purposes and
18 intent of the compact. This compact and the rules shall be received by all of the
19 judges, public officers, commissions, and departments of each compacting state as
20 evidence of the authorized statute and administrative rules. All courts shall take
21 judicial notice of the compact and rules. In any judicial or administrative proceeding
22 in a compacting state pertaining to the subject matter of this compact that may affect
23 the powers, responsibilities, or actions of the interstate commission, the interstate
24 commission shall be entitled to receive all service of process in the proceeding and
25 shall have standing to intervene in the proceeding for all purposes.

ASSEMBLY BILL 41

1 (b) *Dispute resolution.* 1. The compacting states shall report to the interstate
2 commission on all issues and activities that are necessary for the administration of
3 the compact and on all issues and activities that pertain to compliance with this
4 compact, the bylaws, and the rules.

5 2. The interstate commission shall attempt, upon the request of a compacting
6 state, to resolve any dispute or other issue that is subject to the compact and that may
7 arise among compacting states or between compacting states and noncompacting
8 states. The commission shall promulgate a rule providing for both mediation and
9 binding dispute resolution for disputes among the compacting states.

10 3. The interstate commission, in the reasonable exercise of its discretion, shall
11 enforce this compact and the rules, using any or all of the means specified in sub. (11)
12 (b) and (c).

13 **(8) FINANCE.** (a) The interstate commission shall pay or provide for the
14 payment of the reasonable expenses of its establishment, organization, and ongoing
15 activities.

16 (b) The interstate commission shall levy on and collect from each compacting
17 state an annual assessment to cover the cost of the internal operations and activities
18 of the interstate commission and its staff. The aggregate amount of the annual
19 assessment shall be in an amount that is sufficient to cover the annual budget of the
20 interstate commission as approved each year and shall be allocated among the
21 compacting states based upon a formula to be determined by the interstate
22 commission, taking into consideration the population of each compacting state and
23 the volume of interstate movement of juveniles in each compacting state. The
24 interstate commission shall promulgate a rule binding on all compacting states that
25 governs the assessment.

ASSEMBLY BILL 41

1 (c) The interstate commission may not incur any obligations of any kind before
2 securing funds adequate to meet those obligations; nor may the interstate
3 commission pledge the credit of any compacting state, except by and with the
4 authority of the compacting state.

5 (d) The interstate commission shall keep accurate accounts of all receipts and
6 disbursements. The receipts and disbursements of the interstate commission shall
7 be subject to the audit and accounting procedures established under the bylaws. All
8 receipts and disbursements of funds handled by the interstate commission shall be
9 audited yearly by a certified or licensed public accountant, and the report of the audit
10 shall be included in and become part of the annual report of the interstate
11 commission.

12 (9) ARTICLE IX — THE STATE BOARD. Each compacting state shall create a state
13 board. Although each compacting state may determine the membership of its own
14 state board, the membership of the state board of each compacting state shall include
15 the compact administrator, the deputy compact administrator, or a designee, at least
16 one representative from the legislative, judicial, and executive branches of
17 government, and one representative of victims groups. Each compacting state
18 retains the right to determine the qualifications of the compact administrator and
19 deputy compact administrator. Each state board shall advise and may exercise
20 oversight and advocacy concerning that state's participation in interstate
21 commission activities and may exercise any other duties as may be determined by
22 that state, including the development of policy concerning the operations and
23 procedures of the compact within that state.

24 (10) ARTICLE X — COMPACTING STATES, EFFECTIVE DATE, AND AMENDMENT. (a) Any
25 state is eligible to become a compacting state.

ASSEMBLY BILL 41

1 (b) The compact shall become effective and binding upon legislative enactment
2 of the compact into law by no less than 35 of the states. The initial effective date of
3 the compact shall be July 1, 2005, or upon enactment into law by the 35th state,
4 whichever is later. After that initial effective date, the compact shall become
5 effective and binding as to any other compacting state upon enactment of the
6 compact into law by that compacting state. The governors of noncompacting states
7 or their designees shall be invited to participate in the activities of the interstate
8 commission on a nonvoting basis before adoption of the compact by all states.

9 (c) The interstate commission may propose amendments to the compact for
10 enactment by the compacting states. An amendment does not become effective and
11 binding upon the interstate commission and the compacting states until the
12 amendment is enacted into law by the unanimous consent of the compacting states.

13 **(11) ARTICLE XI — WITHDRAWAL, DEFAULT, JUDICIAL ENFORCEMENT, AND**
14 **DISSOLUTION.** (a) *Withdrawal.* 1. Once effective, the compact shall continue in effect
15 and remain binding upon each compacting state, except that a compacting state may
16 withdraw from the compact by specifically repealing the statute that enacted the
17 compact into law in that state and a compacting state's membership in the compact
18 may be suspended or terminated as provided in par. (b) 1. d. and 3. The effective date
19 of a withdrawal by a compacting state is the effective date of the repeal of the statute
20 that enacted the compact into law in that state.

21 2. A withdrawing state shall immediately notify the chairperson of the
22 interstate commission in writing upon the introduction of legislation repealing the
23 compact in the withdrawing state. The interstate commission shall notify the other
24 compacting states of the withdrawing state's intent to withdraw within 60 days after
25 receiving the written notice of intent to withdraw.

ASSEMBLY BILL 41

1 3. A withdrawing state is responsible for all assessments, obligations, and
2 liabilities incurred through the effective date of withdrawal, including any
3 obligations the performance of which extend beyond the effective date of the
4 withdrawal.

5 4. Reinstatement in the compact following the withdrawal of any compacting
6 state shall occur upon the withdrawing state reenacting the compact or upon such
7 later date as determined by the interstate commission.

8 (b) *Default.* 1. If the interstate commission determines that any compacting
9 state has at any time defaulted in the performance of any of its obligations or
10 responsibilities under this compact, the bylaws, or the rules, the interstate
11 commission may impose on the compacting state any or all of the following penalties:

12 a. Remedial training and technical assistance as directed by the interstate
13 commission.

14 b. Alternate dispute resolution.

15 c. Forfeitures, fees, and costs in such amounts as are considered to be
16 reasonable and as are fixed by the interstate commission.

17 d. Suspension or termination of membership in the compact, which may be
18 imposed only after all other reasonable means of securing compliance under the
19 bylaws and rules have been exhausted and the interstate commission has
20 determined that the offending state is in default. Immediate notice of suspension
21 shall be given by the interstate commission to the governor of the defaulting state,
22 the chief justice of the supreme court or the chief judicial officer of that state, the
23 majority and minority leaders of the legislature of that state, and the state board of
24 that state.

ASSEMBLY BILL 41

1 2. The grounds for default include the failure of a compacting state to perform
2 any obligations or responsibilities imposed upon the compacting state by this
3 compact, the bylaws, or the rules and any other ground designated in the bylaws or
4 rules.

5 3. If the interstate commission determines that a compacting state has
6 defaulted, the interstate commission shall immediately notify the defaulting state
7 in writing of the default and of the penalty imposed by the interstate commission
8 pending a cure of the default. The interstate commission shall stipulate the
9 conditions under which and the time period within which the defaulting state shall
10 cure its default. If the defaulting state fails to cure the default within the time period
11 specified by the interstate commission, the defaulting state shall be terminated from
12 the compact upon an affirmative vote of a majority of the compacting states, and all
13 rights, privileges, and benefits conferred by this compact shall be terminated
14 beginning on the effective date of termination. Within 60 days after the effective date
15 of termination of a defaulting state, the interstate commission shall notify the
16 governor of the defaulting state, the chief justice of the supreme court or the chief
17 judicial officer of that state, the majority and minority leaders of the legislature of
18 that state, and the state board of that state of the termination.

19 4. A defaulting state is responsible for all assessments, obligations, and
20 liabilities incurred through the effective date of termination, including any
21 obligations the performance of which extends beyond the effective date of
22 termination.

23 5. The interstate commission shall not bear any costs relating to a defaulting
24 state unless otherwise mutually agreed upon in writing between the interstate
25 commission and the defaulting state.

ASSEMBLY BILL 41

1 6. Reinstatement following termination of any compacting state requires both
2 a reenactment of the compact by the defaulting state and the approval of the
3 interstate commission under the rules.

4 (c) *Judicial enforcement.* The interstate commission may, by a majority vote
5 of the members, initiate legal action in the U.S. district court for the District of
6 Columbia or, at the discretion of the interstate commission, in the federal district
7 court for the district in which the interstate commission has its offices to enforce
8 compliance with the compact, the bylaws, and the rules against any compacting state
9 that is in default. If judicial enforcement is necessary, the prevailing party shall be
10 awarded all costs of the litigation, including reasonable attorney fees.

11 (d) *Dissolution.* The compact dissolves effective upon the date of a withdrawal
12 or default of a compacting state that reduces membership in the compact to one
13 compacting state. Upon dissolution of the compact, the compact becomes void and
14 shall be of no further effect, the business and affairs of the interstate commission
15 shall be concluded, and any surplus funds shall be distributed in accordance with the
16 bylaws.

17 (12) **ARTICLE XII – CONSTRUCTION.** The provisions of this compact shall be
18 liberally construed to effectuate the purposes of the compact.

19 (13) **ARTICLE XIII – BINDING EFFECT OF COMPACT AND OTHER LAWS.** (a) *Other*
20 *laws.* This compact does not prevent the enforcement of any other law of a
21 compacting state that is not inconsistent with this compact. All compacting states'
22 laws, other than state constitutions and other interstate compacts, that conflict with
23 this compact are superseded to the extent of the conflict.

24 (b) *Binding effect of the compact.* 1. All lawful actions of the interstate
25 commission, including the bylaws and rules, are binding upon the compacting states.

ASSEMBLY BILL 41

1 2. All agreements between the interstate commission and the compacting
2 states are binding in accordance with their terms.

3 3. Upon the request of a party to a conflict over the meaning or interpretation
4 of an interstate commission action and upon a majority vote of the compacting states,
5 the interstate commission may issue an advisory opinion regarding that meaning or
6 interpretation.

7 4. If a provision of this compact exceeds the constitutional limits imposed on
8 the legislature of any compacting state, the obligations, duties, powers, or
9 jurisdiction sought to be conferred by that provision upon the interstate commission
10 shall be ineffective, and those obligations, duties, powers, or jurisdiction shall
11 remain in the compacting state and shall be exercised by the agency of the
12 compacting state to which those obligations, duties, powers, or jurisdiction are
13 delegated by the law that is in effect at the time that this compact becomes effective.

14 **SECTION 8. Nonstatutory provisions.**

15 (1) STATE BOARD FOR INTERSTATE JUVENILE SUPERVISION; INITIAL TERMS OF MEMBERS.
16 Notwithstanding the length of terms specified for the members of the state board for
17 interstate juvenile supervision under section 15.145 (4) of the statutes, as created by
18 this act, one of the initial members shall be appointed for a term expiring on May 1,
19 2006, 2 of the initial members shall be appointed for a term expiring on May 1, 2007,
20 and 2 of the initial members shall be appointed for a term expiring on May 1, 2008.

21

(END)