

(To Resolve Conflicts)

B-Engrossed Senate Bill 107

Ordered by the House June 29
Including Senate Amendments dated March 4 and House Amendments
dated June 29 to resolve conflicts

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for Oregon Youth Authority)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Enacts Interstate Compact for Juveniles.

Establishes Interstate Compact for Juveniles Fund. Continuously appropriates moneys in fund to Oregon Youth Authority to meet financial obligations imposed on State of Oregon as result of participating in compact.

Designates Director of Oregon Youth Authority as compact administrator. Establishes Oregon State Council for Interstate Juvenile Supervision to advise compact administrator.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to interstate compacts; creating new provisions; amending ORS 417.030 and section 19, chapter ____, Oregon Laws 2009 (Enrolled House Bill 2175); appropriating money; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 417.030 is amended to read:

417.030. The Governor hereby is authorized and directed to execute for, on behalf of and in the name of the State of Oregon, a compact with any state or states legally joining therein in the form substantially as follows:

[_____]

The contracting states solemnly agree:

ARTICLE I

FINDINGS AND PURPOSES

That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to (1) cooperative supervision of delinquent juveniles on probation or parole; (2) the return, from one state to another, of delinquent juveniles who have escaped or absconded; (3) the return, from one state to another, of nondelinquent juveniles who have run away from home; and (4) additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 cooperatively. In carrying out the provisions of this compact the party states shall be guided by the
2 noncriminal, reformative and protective policies which guide their laws concerning delinquent, neg-
3 lected or dependent juveniles generally. It shall be the policy of the states party to this compact to co-
4 operate and observe their respective responsibilities for the prompt return and acceptance of juveniles
5 and delinquent juveniles who become subject to the provisions of this compact. The provisions of this
6 compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

7 **ARTICLE II**

8 **EXISTING RIGHTS AND REMEDIES**

9 *That all remedies and procedures provided in this compact shall be in addition to and not in*
10 *substitution for other rights, remedies and procedures and shall not be in derogation of parental rights*
11 *and responsibilities.*

12 **ARTICLE III**

13 **DEFINITIONS**

14 *That, for the purposes of this compact, "delinquent juvenile" means any juvenile who has been*
15 *adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to*
16 *the jurisdiction of the court that has made such adjudication or the jurisdiction or supervision of an*
17 *agency or institution pursuant to an order of such court; "probation or parole" means any kind of*
18 *conditional release of juveniles authorized under the laws of the states party hereto; "court" means any*
19 *court having jurisdiction over delinquent, neglected or dependent children; "state" means any state,*
20 *territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto*
21 *Rico; and "residence" or any variant thereof means a place at which a home or regular place of abode*
22 *is maintained.*

23 **ARTICLE IV**

24 **RETURN OF RUNAWAYS**

25 *(a) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not*
26 *been adjudged delinquent but who has run away without the consent of such parent, guardian, person*
27 *or agency may petition the appropriate court in the demanding state for the issuance of a requisition*
28 *for the return of the juvenile. The petition shall state the name and age of the juvenile, the name of the*
29 *petitioner and the basis of entitlement to the juvenile's custody, the circumstances of the running away*
30 *of the juvenile, location if known at the time application is made, and such other facts as may tend to*
31 *show that the juvenile who has run away is endangering the welfare of the juvenile or the welfare of*
32 *others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed*
33 *in duplicate, and shall be accompanied by two certified copies of the document or documents on which*
34 *the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letter of*
35 *guardianship, or custody decrees. Such further affidavits and other documents as may be deemed*
36 *proper may be submitted with such petition. The judge of the court to which this application is made*
37 *may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is*
38 *entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run*
39 *away without consent, whether or not the juvenile is an emancipated minor, and whether or not it is*
40 *in the best interest of the juvenile to compel a return to the state. If the judge determines, either with*
41 *or without a hearing, that the juvenile should be returned, the judge shall present to the appropriate*
42 *court or to the executive authority of the state where the juvenile is alleged to be located a written*
43 *requisition for the return of such juvenile. Such requisition shall set forth the name and age of the ju-*
44 *venile, the determination of the court that the juvenile has run away without the consent of a parent,*
45 *guardian, person or agency entitled to legal custody, and that it is in the best interest and for the*

1 protection of such juvenile that the juvenile be returned. In the event that a proceeding for the adjudi-
 2 cation of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time
 3 when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon
 4 its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal
 5 custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall
 6 in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition
 7 shall be filed with the compact administrator of the demanding state, there to remain on file subject to
 8 the provisions of law governing records of such court. Upon the receipt of a requisition demanding the
 9 return of a juvenile who has run away, the court or the executive authority to whom the requisition is
 10 addressed shall issue an order to any peace officer or other appropriate person directing the person to
 11 take into custody and detain such juvenile. Such detention order must substantially recite the facts
 12 necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be de-
 13 livered over to the officer whom the court demanding shall have appointed to receive the juvenile, un-
 14 less the juvenile shall first be taken forthwith before a judge of a court in the state, who shall inform
 15 the juvenile of the demand made for the return of the juvenile, and who may appoint counsel or
 16 guardian ad litem for the juvenile. If the judge of such court shall find that the requisition is in order,
 17 the judge shall deliver such juvenile over to the officer whom the court demanding shall have appointed
 18 to receive the juvenile. The judge, however, may fix a reasonable time to be allowed for the purpose
 19 of testing the legality of the proceeding.

20 Upon reasonable information that a person is a juvenile who has run away from another state
 21 party to this compact without the consent of the parent, guardian, person or agency entitled to legal
 22 custody, such juvenile may be taken into custody without a requisition and brought forthwith before a
 23 judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and
 24 who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the
 25 order of the court, for the person's own protection and welfare, for such a time not exceeding 30 days
 26 as will enable the return to another state party to this compact pursuant to a requisition for the return
 27 from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away,
 28 there is pending in the state wherein the juvenile is found any criminal charge, or any proceeding to
 29 have the juvenile adjudicated a delinquent juvenile for an act committed in such state, or if the juvenile
 30 is suspected of having committed within such state a criminal offense or an act of juvenile delinquency,
 31 the juvenile shall not be returned without the consent of such state until discharged from prosecution
 32 or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delin-
 33 quency. The duly accredited officers of any state party to this compact, upon the establishment of their
 34 authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile
 35 through any and all states party to this compact, without interference. Upon the return to the state from
 36 which the juvenile ran away, the juvenile shall be subject to such further proceedings as may be ap-
 37 appropriate under the laws of that state.

38 (b) That the state to which a juvenile is returned under this Article shall be responsible for pay-
 39 ment of the transportation costs of such return.

40 (c) That "juvenile" as used in the Article means any person who is a minor under the law of the
 41 state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

42 ARTICLE V

43 RETURN OF ESCAPEES AND ABSCONDERS

44 (a) That the appropriate person or authority from whose probation or parole supervision a delin-
 45 quent juvenile has absconded or from whose institutional custody the juvenile has escaped shall present

1 to the appropriate court or to the executive authority of the state where the delinquent juvenile is al-
2 leged to be located a written requisition for the return of such delinquent juvenile. Such requisition
3 shall state the name and age of the delinquent juvenile, the particulars of adjudication as a delinquent
4 juvenile, the circumstances of the breach of the terms of probation or parole or of escape from an in-
5 stitution or agency vested with legal custody or supervision, and the location of such delinquent juve-
6 nile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall
7 be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal ad-
8 judication, or order of commitment which subjects such delinquent juvenile to probation or parole or
9 to the legal custody of the institution or agency concerned. Such further affidavits and other documents
10 as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be
11 filed with the compact administrator of the demanding state, there to remain on file subject to the
12 provisions of law governing records of the appropriate court. Upon the receipt of a requisition de-
13 manding the return of a delinquent juvenile who has absconded or escaped, the court or the executive
14 authority to whom the requisition is addressed shall issue an order to any peace officer or other ap-
15 propriate person directing the person to take into custody and detain such delinquent juvenile. Such
16 detention order must substantially recite the facts necessary to the validity of its issuance hereunder.
17 No delinquent juvenile detained upon such order shall be delivered over to the officer whom the ap-
18 propriate person or authority demanding shall have appointed to receive the juvenile, unless the juve-
19 nile shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform
20 the juvenile of the demand made for the return and who may appoint counsel or guardian ad litem. If
21 the judge of such court shall find that the requisition is in order, the judge shall deliver such delin-
22 quent juvenile over to the officer whom the appropriate person or authority demanding the juvenile
23 shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for
24 the purpose of testing the legality of the proceeding.

25 Upon reasonable information that a person is a delinquent juvenile who has absconded while on
26 probation or parole, or escaped from an institution or agency vested with legal custody or supervision
27 in any state party to this compact, such person may be taken into custody in any other state party to
28 this compact without a requisition. But in such event, the juvenile must be taken forthwith before a
29 judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who
30 shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order
31 of the court for such a time, not exceeding 90 days, as will enable detention under a detention order
32 issued on a requisition pursuant to this Article. If, at the time when a state seeks the return of a de-
33 linquent juvenile who has either absconded while on probation or parole or escaped from an institution
34 or agency vested with legal custody or supervision, there is pending in the state wherein the juvenile
35 is detained any criminal charge or any proceeding to have the juvenile adjudicated a delinquent juve-
36 nile for an act committed in such state, or if the juvenile is suspected of having committed within such
37 state a criminal offense or an act of juvenile delinquency, the juvenile shall not be returned without the
38 consent of such state until discharged from prosecution or other form of proceeding, imprisonment, de-
39 tention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state
40 party to this compact, upon the establishment of their authority and the identity of the delinquent ju-
41 venile being returned, shall be permitted to transport such delinquent juvenile through any and all
42 states party to this compact, without interference. Upon the return to the state from which the juvenile
43 escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be
44 appropriate under the laws of that state.

45 (b) That the state to which a delinquent juvenile is returned under this Article shall be responsible

1 *for payment of the transportation costs of such return.*

2 **ARTICLE V**

3 **INTERSTATE RENDITION OF JUVENILES ALLEGED TO BE DELINQUENT**

4 *(a) This amendment shall provide additional remedies, and shall be binding only as among and*
5 *between those party states which specifically execute the same.*

6 *(b) All provisions and procedures of Articles V and VI of the Interstate Compact on Juveniles*
7 *shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation*
8 *of any criminal law. Any juvenile, charged with being a delinquent by reason of violating any criminal*
9 *law, shall be returned to the requesting state upon a requisition to the state where the juvenile may*
10 *be found. A petition in such case shall be filed in a court of competent jurisdiction in the requesting*
11 *state where the violation of criminal law is alleged to have been committed. The petition may be filed*
12 *regardless of whether the juvenile has left the state before or after the filing of the petition. The req-*
13 *uisition described in Article V of the Compact shall be forwarded by the judge of the court in which*
14 *the petition has been filed.*

15 **ARTICLE VI**

16 **VOLUNTARY RETURN PROCEDURE**

17 *That any delinquent juvenile who has absconded while on probation or parole, or escaped from*
18 *an institution or agency vested with legal custody or supervision in any state party to this compact,*
19 *and any juvenile who has run away from any state party to this compact, who is taken into custody*
20 *without a requisition in another state party to this compact under the provisions of Article IV (a) or*
21 *of Article V (a) of this compact, may consent to the immediate return to the state from which the ju-*
22 *venile absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent ju-*
23 *venile and counsel or guardian ad litem if any, by executing or subscribing a writing, in the presence*
24 *of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and counsel*
25 *or guardian ad litem, if any, consent to the return to the demanding state. Before such consent shall*
26 *be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any,*
27 *shall inform the juvenile or delinquent juvenile of the rights under this compact. When the consent has*
28 *been duly executed, it shall be forwarded to and filed with the compact administrator of the state in*
29 *which the court is located and the judge shall direct the officer having the juvenile or delinquent ju-*
30 *venile in custody to deliver the juvenile to the duly accredited officer or officers of the state demanding*
31 *the return, and shall cause to be delivered to such officer or officers a copy of the consent. The court*
32 *may, however, upon the request of the state to which the juvenile or delinquent juvenile is being re-*
33 *turned order the juvenile to return unaccompanied to such state and shall provide the juvenile with a*
34 *copy of such court order; in such event a copy of the consent shall be forwarded to the compact ad-*
35 *ministrator of the state to which such juvenile or delinquent juvenile is ordered to return.*

36 **ARTICLE VII**

37 **COOPERATIVE SUPERVISION OF**
38 **PROBATIONERS AND PAROLEES**

39 *(a) That the duly constituted judicial and administrative authorities of a state party to this compact*
40 *(herein called "sending state") may permit any delinquent juvenile within such state, placed on pro-*
41 *bation or parole, to reside in any other state party to this compact (herein called "receiving state")*
42 *while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent,*
43 *guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes*
44 *to reside within the receiving state. Before granting such permission, opportunity shall be given to the*
45 *receiving state to make such investigations as it deems necessary. The authorities of the sending state*

1 shall send to the authorities of the receiving state copies of pertinent court orders, social case studies
2 and all other available information which may be of value to and assist the receiving state in super-
3 vising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to
4 accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled
5 to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted
6 the sending state may transfer supervision accordingly.

7 (b) That each receiving state will assume the duties of visitation and of supervision over any such
8 delinquent juvenile and in the exercise of those duties will be governed by the same standards of
9 visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

10 (c) That, after consultation between the appropriate authorities of the sending state and of the re-
11 ceiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly ac-
12 credited officers of a sending state may enter a receiving state and there apprehend and retake any such
13 delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than
14 establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and
15 returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall
16 be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state
17 seeks to retake a delinquent juvenile on probation or parole, there is pending against the juvenile
18 within the receiving state any criminal charge or any proceeding to have the juvenile adjudicated a
19 delinquent juvenile for any act committed in such state, or if the juvenile is suspected of having com-
20 mitted within such state a criminal offense or an act of juvenile delinquency, the juvenile shall not be
21 returned without the consent of the receiving state until discharged from prosecution or other form of
22 proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly
23 accredited officers of the sending state shall be permitted to transport delinquent juveniles being so
24 returned through any and all states party to this compact, without interference.

25 (d) That the sending state shall be responsible under this Article for paying the costs of trans-
26 porting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the
27 sending state.

28 **ARTICLE VIII**

29 **RESPONSIBILITY FOR COSTS**

30 (a) That the provisions of Articles IV (b), V (b) and VII (d) of this compact shall not be construed
31 to alter or affect any internal relationship among the departments, agencies and officers of and in the
32 government of a party state, or between a party state and its subdivisions, as to the payment of costs,
33 or responsibilities therefor.

34 (b) That nothing in this compact shall be construed to prevent any party state or subdivision
35 thereof from asserting any right against any person, agency or other entity in regard to costs for which
36 such party state or subdivision thereof may be responsible pursuant to Articles IV (b), V (b) or VII
37 (d) of this compact.

38 **ARTICLE IX**

39 **DETENTION PRACTICES**

40 That, to every extent possible, it shall be the policy of states party to this compact that no juvenile
41 or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or
42 transported in association with criminal, vicious or dissolute persons.

43 **ARTICLE X**

44 **SUPPLEMENTARY AGREEMENTS**

45 That the duly constituted administrative authorities of a state party to this compact may enter into

1 *supplementary agreements with any other state or states party hereto for the cooperative care, treatment*
2 *and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve*
3 *the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment*
4 *and rehabilitation may be provided in an institution located within any state entering into such sup-*
5 *plementary agreement. Such supplementary agreements shall (1) provide the rates to be paid for the*
6 *care, treatment and custody of such delinquent juveniles, taking into consideration the character of fa-*
7 *ilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a*
8 *court hearing prior to the juvenile being sent to another state for care, treatment and custody; (3) pro-*
9 *vide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent*
10 *for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain*
11 *jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable*
12 *inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian,*
13 *person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to the*
14 *juvenile being sent to another state; and (7) make provision for such other matters and details as shall*
15 *be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.*

16 **ARTICLE XI**

17 **ACCEPTANCE OF FEDERAL**
18 **AND OTHER AID**

19 *That any state party to this compact may accept any and all donations, gifts and grants of money,*
20 *equipment and services from the federal or any local government, or any agency thereof and from any*
21 *person, firm or corporation, for any of the purposes and functions of this compact, and may receive and*
22 *utilize the same subject to the terms, conditions and regulations governing such donations, gifts and*
23 *grants.*

24 **ARTICLE XII**

25 **COMPACT ADMINISTRATORS**

26 *That the governor of each state party to this compact shall designate an officer who, acting jointly*
27 *with like officers of other party states, shall promulgate rules and regulations to carry out more effec-*
28 *tively the terms and provisions of this compact.*

29 **ARTICLE XIII**

30 **EXECUTION OF COMPACT**

31 *That this compact shall become operative immediately upon its execution by any state as between*
32 *it and any other state or states so executing. When executed it shall have the full force and effect of law*
33 *within such state, the form of execution to be in accordance with the laws of the executing state.*

34 **ARTICLE XIV**

35 **RENUNCIATION**

36 *That this compact shall continue in force and remain binding upon each executing state until re-*
37 *nounced by it. Renunciation of this compact shall be by the same authority which executed it, by*
38 *sending six months' notice in writing of its intention to withdraw from the compact to the other states*
39 *party hereto. The duties and obligations of a renouncing state under Article VII of this compact shall*
40 *continue as to parolees and probationers residing therein at the time of withdrawal until retaken or*
41 *finally discharged. Supplementary agreements entered into under Article X of this compact shall be*
42 *subject to renunciation as provided by such supplementary agreements, and shall not be subject to the*
43 *six months' renunciation notice of this Article.*

44 **ARTICLE XV**

45 **SEVERABILITY**

1 subject to this compact that allows access by authorized juvenile justice and criminal justice
2 officials, and regular reporting of Compact activities to heads of state executive, judicial and
3 legislative branches and juvenile and criminal justice administrators;

4 K. Monitor compliance with rules governing interstate movement of juveniles and initiate
5 interventions to address and correct non-compliance;

6 L. Coordinate training and education regarding the regulation of interstate movement
7 of juveniles for officials involved in such activity; and

8 M. Coordinate the implementation and operation of the compact with the Interstate
9 Compact for the Placement of Children, the Interstate Compact for Adult Offender Super-
10 vision and other compacts affecting juveniles particularly in those cases where concurrent
11 or overlapping supervision issues arise. It is the policy of the compacting states that the
12 activities conducted by the Interstate Commission created herein are the formation of public
13 policies and therefore are public business. Furthermore, the compacting states shall coop-
14 erate and observe their individual and collective duties and responsibilities for the prompt
15 return and acceptance of juveniles subject to the provisions of this compact. The provisions
16 of this compact shall be reasonably and liberally construed to accomplish the purposes and
17 policies of the compact.

18 **ARTICLE II**
19 **DEFINITIONS**

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

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

23 B. "Compact administrator" means the individual in each compacting state appointed
24 pursuant to the terms of this compact, responsible for the administration and management
25 of the state's supervision and transfer of juveniles subject to the terms of this compact, the
26 rules adopted by the Interstate Commission and policies adopted by the State Council under
27 this compact.

28 C. "Compacting state" means any state that has enacted the enabling legislation for this
29 compact.

30 D. "Commissioner" means the voting representative of each compacting state appointed
31 pursuant to Article III of this compact.

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

34 F. "Deputy compact administrator" means the individual, if any, in each compacting
35 state appointed to act on behalf of a compact administrator pursuant to the terms of this
36 compact responsible for the administration and management of the state's supervision and
37 transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate
38 Commission and policies adopted by the State Council under this compact.

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

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

43 1. Accused delinquent - a person charged with an offense that, if committed by an adult,
44 would be a criminal offense;

45 2. Adjudicated delinquent - a person found to have committed an offense that, if com-

mitted 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 that 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 bylaws 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 bylaws of the Interstate Commission.

1 **E. The commission shall meet at least once each calendar year. The chairperson may call**
2 **additional meetings and, upon the request of a simple majority of the compacting states,**
3 **shall call additional meetings. Public notice shall be given of all meetings and meetings shall**
4 **be open to the public.**

5 **F. The Interstate Commission shall establish an executive committee, which shall include**
6 **commission officers, members and others as determined by the bylaws. The executive com-**
7 **mittee shall have the power to act on behalf of the Interstate Commission during periods**
8 **when the Interstate Commission is not in session, with the exception of rulemaking and/or**
9 **amendment to the compact. The executive committee shall oversee the day-to-day activities**
10 **of the administration of the compact managed by an executive director and Interstate Com-**
11 **mission staff; administers enforcement and compliance with the provisions of the compact,**
12 **its bylaws and rules, and performs such other duties as directed by the Interstate Commis-**
13 **sion or set forth in the bylaws.**

14 **G. Each member of the Interstate Commission shall have the right and power to cast a**
15 **vote to which that compacting state is entitled and to participate in the business and affairs**
16 **of the Interstate Commission. A member shall vote in person and shall not delegate a vote**
17 **to another compacting state. However, a commissioner, in consultation with the State**
18 **Council, shall appoint another authorized representative, in the absence of the commissioner**
19 **from that state, to cast a vote on behalf of the compacting state at a specified meeting. The**
20 **bylaws may provide for members' participation in meetings by telephone or other means of**
21 **telecommunication or electronic communication.**

22 **H. The Interstate Commission's bylaws shall establish conditions and procedures under**
23 **which the Interstate Commission shall make its information and official records available to**
24 **the public for inspection or copying. The Interstate Commission may exempt from disclosure**
25 **any information or official records to the extent they would adversely affect personal privacy**
26 **rights or proprietary interests.**

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

31 **1. Relate solely to the Interstate Commission's internal personnel practices and proce-**
32 **dures;**

33 **2. Disclose matters specifically exempted from disclosure by statute;**

34 **3. Disclose trade secrets or commercial or financial information that is privileged or**
35 **confidential;**

36 **4. Involve accusing any person of a crime, or formally censuring any person;**

37 **5. Disclose information of a personal nature where disclosure would constitute a clearly**
38 **unwarranted invasion of personal privacy;**

39 **6. Disclose investigative records compiled for law enforcement purposes;**

40 **7. Disclose information contained in or related to examination, operating or condition**
41 **reports prepared by, or on behalf of or for the use of, the Interstate Commission with re-**
42 **spect to a regulated person or entity for the purpose of regulation or supervision of such**
43 **person or entity;**

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

1 remuneration from the Interstate Commission, provided that, subject to the availability of
2 budgeted funds, the officers shall be reimbursed for any ordinary and necessary costs and
3 expenses incurred by them in the performance of their duties and responsibilities as officers
4 of the Interstate Commission.

5 2. The Interstate Commission shall, through its executive committee, appoint or retain
6 an executive director for such period, upon such terms and conditions and for such com-
7 pensation as the Interstate Commission may deem appropriate. The executive director shall
8 serve as secretary to the Interstate Commission, but shall not be a member and shall hire
9 and supervise such other staff as may be authorized by the Interstate Commission.

10 **Section C. Qualified Immunity, Defense and Indemnification**

11 1. The Commission's executive director and employees shall be immune from suit and
12 liability, either personally or in their official capacity, for any claim for damage to or loss
13 of property or personal injury or other civil liability caused or arising out of or relating to
14 any actual or alleged act, error or omission that occurred, or that such person had a rea-
15 sonable basis for believing occurred within the scope of Commission employment, duties or
16 responsibilities, provided that any such person shall not be protected from suit or liability
17 for any damage, loss, injury or liability caused by the intentional or willful and wanton mis-
18 conduct of any such person.

19 2. The liability of any commissioner, or the employee or agent of a commissioner, acting
20 within the scope of such person's employment or duties for acts, errors or omissions oc-
21 ccurring within such person's state may not exceed the limits of liability set forth under the
22 Constitution and laws of that state for state officials, employees and agents. Nothing in this
23 subsection shall be construed to protect any such person from suit or liability for any dam-
24 age, loss, injury or liability caused by the intentional or willful and wanton misconduct of any
25 such person.

26 3. The Interstate Commission shall defend the executive director or the employees or
27 representatives of the Interstate Commission and, subject to the approval of the Attorney
28 General of the state represented by any commissioner of a compacting state, shall defend
29 such commissioner or the commissioner's representatives or employees in any civil action
30 seeking to impose liability arising out of any actual or alleged act, error or omission that
31 occurred within the scope of Interstate Commission employment, duties or responsibilities,
32 or that the defendant had a reasonable basis for believing occurred within the scope of
33 Interstate Commission employment, duties or responsibilities, provided that the actual or
34 alleged act, error or omission did not result from intentional or willful and wanton miscon-
35 duct on the part of such person.

36 4. The Interstate Commission shall indemnify and hold the commissioner of a compacting
37 state, or the commissioner's representatives or employees, or the Interstate Commission's
38 representatives or employees, harmless in the amount of any settlement or judgment ob-
39 tained against such persons arising out of any actual or alleged act, error or omission that
40 occurred within the scope of Interstate Commission employment, duties or responsibilities,
41 or that such persons had a reasonable basis for believing occurred within the scope of
42 Interstate Commission employment, duties or responsibilities, provided that the actual or
43 alleged act, error or omission did not result from intentional or willful and wanton miscon-
44 duct on the part of such persons.

45 **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 rule making 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 United States Constitution as now or hereafter interpreted by the United States 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 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 60 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 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 that 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 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 that may significantly affect compacting states.

1 the General Fund. All moneys in the fund are continuously appropriated to the Oregon Youth
2 Authority to be used for the purposes of meeting financial obligations imposed on the State
3 of Oregon as a result of the state's participation in this compact.

4 F. An assessment levied or any other financial obligation imposed under this compact is
5 effective against the State of Oregon only to the extent that moneys to pay the assessment
6 or meet the financial obligation have been appropriated and deposited in the Interstate
7 Compact for Juveniles Fund.

8 **ARTICLE IX**
9 **THE STATE COUNCIL**

10 A. The Director of the Oregon Youth Authority, or the director's designee, shall serve
11 as the compact administrator for the State of Oregon and as Oregon's commissioner to the
12 Interstate Commission.

13 B. The Oregon State Council for Interstate Juvenile Supervision is established, consisting
14 of seven members. The Director of the Oregon Youth Authority, or the director's designee,
15 is a member of the State Council and serves as chairperson of the State Council. Of the re-
16 maining members of the State Council:

17 1. The Governor shall appoint three members, one of whom must represent a crime vic-
18 tims' organization; and

19 2. The Chief Justice of the Supreme Court, the President of the Senate and the Speaker
20 of the House of Representatives shall each appoint one member.

21 C. The term of office of a member is four years.

22 D. The State Council shall meet at least once each calendar year.

23 E. The State Council may advise the compact administrator on participation in the
24 Interstate Commission activities and administration of the compact.

25 F. Members of the State Council are entitled to expenses as provided in ORS 292.495. Any
26 legislative members are entitled to payment of compensation and expense reimbursement
27 under ORS 171.072, payable from funds appropriated to the Legislative Assembly.

28 G. The State Council is subject to the provisions of ORS 291.201 to 291.222 and 291.232 to
29 291.260.

30 H. The Oregon Youth Authority shall provide staff support for the State Council.

31 **ARTICLE X**
32 **COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT**

33 A. Any state, the District of Columbia (or its designee), the Commonwealth of Puerto
34 Rico, the U.S. Virgin Islands, Guam, American Samoa and the Northern Marianas Islands
35 as defined in Article II of this compact is eligible to become a compacting state.

36 B. The compact shall become effective and binding upon legislative enactment of the
37 compact into law by no fewer than 35 of the states. The initial effective date shall be the
38 later of July 1, 2004, or upon enactment into law by the 35th jurisdiction. Thereafter it shall
39 become effective and binding as to any other compacting state upon enactment of the com-
40 pact into law by that state. The governors of non-member states or their designees shall be
41 invited to participate in the activities of the Interstate Commission on a non-voting basis
42 prior to adoption of the compact by all states and territories of the United States.

43 C. The Interstate Commission may propose amendments to the compact for enactment
44 by the compacting states. No amendment shall become effective and binding upon the
45 Interstate Commission and the compacting states unless and until it is enacted into law by

1 unanimous consent of the compacting states.

2 **ARTICLE XI**

3 **WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT**

4 **Section A. Withdrawal**

5 1. Once effective, the compact shall continue in force and remain binding upon each and
6 every compacting state, provided that a compacting state may withdraw from the compact
7 by specifically repealing the statute that enacted the compact into law.

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

9 3. The withdrawing state shall immediately notify the chairperson of the Interstate
10 Commission in writing upon the introduction of legislation repealing this compact in the
11 withdrawing state. The Interstate Commission shall notify the other compacting states of
12 the withdrawing state's intent to withdraw within 60 days of its receipt thereof.

13 4. The withdrawing state is responsible for all assessments, obligations and liabilities in-
14 curred through the effective date of withdrawal, including any obligations, the performance
15 of which extend beyond the effective date of withdrawal.

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

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

20 1. If the Interstate Commission determines that any compacting state has at any time
21 defaulted in the performance of any of its obligations or responsibilities under this compact,
22 or the bylaws or duly promulgated rules, the Interstate Commission may impose any or all
23 of the following penalties:

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

25 b. Alternative Dispute Resolution;

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

28 d. Suspension or termination of membership in the compact, which shall be imposed only
29 after all other reasonable means of securing compliance under the bylaws and rules have
30 been exhausted and the Interstate Commission has therefore determined that the offending
31 state is in default. Immediate notice of suspension shall be given by the Interstate Commis-
32 sion to the Governor, the Chief Justice or the Chief Judicial Officer of the state, the majority
33 and minority leaders of the defaulting state's legislature and the State Council. The grounds
34 for default include, but are not limited to, failure of a compacting state to perform such
35 obligations or responsibilities imposed upon it by this compact, the bylaws or duly
36 promulgated rules and any other grounds designated in commission bylaws and rules. The
37 Interstate Commission shall immediately notify the defaulting state in writing of the penalty
38 imposed by the Interstate Commission and of the default pending a cure of the default. The
39 commission shall stipulate the conditions and the time period within which the defaulting
40 state must cure its default. If the defaulting state fails to cure the default within the time
41 period specified by the commission, the defaulting state shall be terminated from the com-
42 pact upon an affirmative vote of a majority of the compacting states and all rights, privileges
43 and benefits conferred by this compact shall be terminated from the effective date of ter-
44 mination.

45 2. Within 60 days of the effective date of termination of a defaulting state, the commis-

1 sion shall notify the Governor, the Chief Justice or Chief Judicial Officer, the majority and
2 minority leaders of the defaulting state's legislature and the State Council of such termi-
3 nation.

4 3. The defaulting state is responsible for all assessments, obligations and liabilities in-
5 curred through the effective date of termination including any obligations, the performance
6 of which extends beyond the effective date of termination.

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

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

13 **Section C. Judicial Enforcement**

14 The Interstate Commission may, by majority vote of the members, initiate legal action
15 in the United States District Court for the District of Columbia or, at the discretion of the
16 Interstate Commission, in the federal district where the Interstate Commission has its of-
17 fices, to enforce compliance with the provisions of the compact, its duly promulgated rules
18 and bylaws, against any compacting state in default. In the event judicial enforcement is
19 necessary the prevailing party shall be awarded all costs of such litigation including reason-
20 able attorneys fees.

21 **Section D. Dissolution of Compact**

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

24 2. Upon the dissolution of this compact, the compact becomes null and void and shall be
25 of no further force or effect, and the business and affairs of the Interstate Commission shall
26 be concluded and any surplus funds shall be distributed in accordance with the bylaws.

27 **ARTICLE XII**

28 **SEVERABILITY AND CONSTRUCTION**

29 A. The provisions of this compact shall be severable, and if any phrase, clause, sentence
30 or provision is deemed unenforceable, the remaining provisions of the compact shall be en-
31 forceable.

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

33 **ARTICLE XIII**

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

35 **Section A. Other Laws**

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

38 2. All compacting states' laws other than state Constitutions and other interstate com-
39 pacts conflicting with this compact are superseded to the extent of the conflict.

40 **Section B. Binding Effect of the Compact**

41 1. All lawful actions of the Interstate Commission, including all rules and bylaws
42 promulgated by the Interstate Commission, are binding upon the State of Oregon unless
43 contrary to the Oregon Constitution.

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

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

4 **4. In the event any provision of this compact exceeds the constitutional limits imposed**
5 **on the legislature of any compacting state, the obligations, duties, powers or jurisdiction**
6 **sought to be conferred by such provision upon the Interstate Commission shall be ineffective**
7 **and such obligations, duties, powers or jurisdiction shall remain in the compacting state and**
8 **shall be exercised by the agency thereof to which such obligations, duties, powers or juris-**
9 **isdiction are delegated by law in effect at the time this compact becomes effective.**

10 **5. The State of Oregon is bound by the bylaws and rules promulgated under this compact**
11 **only to the extent that the operation of the bylaws and rules does not impose an obligation**
12 **exceeding any limitation on state power or authority contained in the Oregon Constitution**
13 **as interpreted by the state courts of Oregon.**

14
15
16 **SECTION 2. Notwithstanding the amendments to ORS 417.030 by section 1 of this 2009**
17 **Act, ORS 417.030 (2007 Edition) applies to non-compacting states as defined in Article II of**
18 **the Interstate Compact for Juveniles.**

19 **SECTION 3.** If House Bill 2175 becomes law, section 19, chapter ____, Oregon Laws 2009 (En-
20 rolled House Bill 2175), is amended to read:

21 **Sec. 19.** [(1)] Before granting permission to a sending state to authorize [*a delinquent juvenile*]
22 **an adjudicated delinquent** on probation or parole to reside in this state, the Juvenile Compact
23 Administrator described in ORS 417.040 shall determine whether the **adjudicated** delinquent [*juve-*
24 *venile*] is required to report as a sex offender under ORS 181.595, 181.596 or 181.597. If the **adjudicated**
25 delinquent [*juvenile*] is required to report as a sex offender, the Juvenile Compact Administrator
26 shall, before granting permission for the **adjudicated** delinquent [*juvenile*] to reside in this state,
27 make a diligent effort to ensure that the sending state notifies the **adjudicated** delinquent
28 [*juvenile*] of the obligation to report.

29 [(2) *As used in this section, “delinquent juvenile,” “probation or parole” and “sending state” have*
30 *the meanings given those terms in ORS 417.030.*]

31 **SECTION 4. This 2009 Act being necessary for the immediate preservation of the public**
32 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
33 **on its passage.**