

Senate Bill 107

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 **as introduced**.

Enacts Interstate Compact for Juveniles.
Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to interstate compacts; creating new provisions; amending ORS 417.030; 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 cooperatively. In carrying out the provisions of this compact the party states shall be guided by the noncriminal, reformatory and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

ARTICLE II

EXISTING RIGHTS AND REMEDIES

That all remedies and procedures provided in this compact shall be in addition to and not in

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 *substitution for other rights, remedies and procedures and shall not be in derogation of parental rights*
2 *and responsibilities.*

3 **ARTICLE III**
4 **DEFINITIONS**

5 *That, for the purposes of this compact, “delinquent juvenile” means any juvenile who has been*
6 *adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to*
7 *the jurisdiction of the court that has made such adjudication or the jurisdiction or supervision of an*
8 *agency or institution pursuant to an order of such court; “probation or parole” means any kind of*
9 *conditional release of juveniles authorized under the laws of the states party hereto; “court” means any*
10 *court having jurisdiction over delinquent, neglected or dependent children; “state” means any state,*
11 *territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto*
12 *Rico; and “residence” or any variant thereof means a place at which a home or regular place of abode*
13 *is maintained.*

14 **ARTICLE IV**
15 **RETURN OF RUNAWAYS**

16 *(a) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not*
17 *been adjudged delinquent but who has run away without the consent of such parent, guardian, person*
18 *or agency may petition the appropriate court in the demanding state for the issuance of a requisition*
19 *for the return of the juvenile. The petition shall state the name and age of the juvenile, the name of the*
20 *petitioner and the basis of entitlement to the juvenile’s custody, the circumstances of the running away*
21 *of the juvenile, location if known at the time application is made, and such other facts as may tend to*
22 *show that the juvenile who has run away is endangering the welfare of the juvenile or the welfare of*
23 *others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed*
24 *in duplicate, and shall be accompanied by two certified copies of the document or documents on which*
25 *the petitioner’s entitlement to the juvenile’s custody is based, such as birth certificates, letter of*
26 *guardianship, or custody decrees. Such further affidavits and other documents as may be deemed*
27 *proper may be submitted with such petition. The judge of the court to which this application is made*
28 *may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is*
29 *entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run*
30 *away without consent, whether or not the juvenile is an emancipated minor, and whether or not it is*
31 *in the best interest of the juvenile to compel a return to the state. If the judge determines, either with*
32 *or without a hearing, that the juvenile should be returned, the judge shall present to the appropriate*
33 *court or to the executive authority of the state where the juvenile is alleged to be located a written*
34 *requisition for the return of such juvenile. Such requisition shall set forth the name and age of the ju-*
35 *venile, the determination of the court that the juvenile has run away without the consent of a parent,*
36 *guardian, person or agency entitled to legal custody, and that it is in the best interest and for the*
37 *protection of such juvenile that the juvenile be returned. In the event that a proceeding for the adjudi-*
38 *cation of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time*
39 *when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon*
40 *its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal*
41 *custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall*
42 *in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition*
43 *shall be filed with the compact administrator of the demanding state, there to remain on file subject to*
44 *the provisions of law governing records of such court. Upon the receipt of a requisition demanding the*
45 *return of a juvenile who has run away, the court or the executive authority to whom the requisition is*

1 addressed shall issue an order to any peace officer or other appropriate person directing the person to
 2 take into custody and detain such juvenile. Such detention order must substantially recite the facts
 3 necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be de-
 4 livered over to the officer whom the court demanding shall have appointed to receive the juvenile, un-
 5 less the juvenile shall first be taken forthwith before a judge of a court in the state, who shall inform
 6 the juvenile of the demand made for the return of the juvenile, and who may appoint counsel or
 7 guardian ad litem for the juvenile. If the judge of such court shall find that the requisition is in order,
 8 the judge shall deliver such juvenile over to the officer whom the court demanding shall have appointed
 9 to receive the juvenile. The judge, however, may fix a reasonable time to be allowed for the purpose
 10 of testing the legality of the proceeding.

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

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

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

33 ARTICLE V

34 RETURN OF ESCAPEES AND ABSCONDERS

35 (a) That the appropriate person or authority from whose probation or parole supervision a delin-
 36 quent juvenile has absconded or from whose institutional custody the juvenile has escaped shall present
 37 to the appropriate court or to the executive authority of the state where the delinquent juvenile is al-
 38 leged to be located a written requisition for the return of such delinquent juvenile. Such requisition
 39 shall state the name and age of the delinquent juvenile, the particulars of adjudication as a delinquent
 40 juvenile, the circumstances of the breach of the terms of probation or parole or of escape from an in-
 41 stitution or agency vested with legal custody or supervision, and the location of such delinquent juve-
 42 nile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall
 43 be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal ad-
 44 judication, or order of commitment which subjects such delinquent juvenile to probation or parole or
 45 to the legal custody of the institution or agency concerned. Such further affidavits and other documents

1 as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be
2 filed with the compact administrator of the demanding state, there to remain on file subject to the
3 provisions of law governing records of the appropriate court. Upon the receipt of a requisition de-
4 manding the return of a delinquent juvenile who has absconded or escaped, the court or the executive
5 authority to whom the requisition is addressed shall issue an order to any peace officer or other ap-
6 propriate person directing the person to take into custody and detain such delinquent juvenile. Such
7 detention order must substantially recite the facts necessary to the validity of its issuance hereunder.
8 No delinquent juvenile detained upon such order shall be delivered over to the officer whom the ap-
9 propriate person or authority demanding shall have appointed to receive the juvenile, unless the juve-
10 nile shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform
11 the juvenile of the demand made for the return and who may appoint counsel or guardian ad litem. If
12 the judge of such court shall find that the requisition is in order, the judge shall deliver such delin-
13 quent juvenile over to the officer whom the appropriate person or authority demanding the juvenile
14 shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for
15 the purpose of testing the legality of the proceeding.

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

36 (b) That the state to which a delinquent juvenile is returned under this Article shall be responsible
37 for payment of the transportation costs of such return.

38 ARTICLE V

39 INTERSTATE RENDITION OF JUVENILES ALLEGED TO BE DELINQUENT

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

42 (b) All provisions and procedures of Articles V and VI of the Interstate Compact on Juveniles
43 shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation
44 of any criminal law. Any juvenile, charged with being a delinquent by reason of violating any criminal
45 law, shall be returned to the requesting state upon a requisition to the state where the juvenile may

1 *be found. A petition in such case shall be filed in a court of competent jurisdiction in the requesting*
 2 *state where the violation of criminal law is alleged to have been committed. The petition may be filed*
 3 *regardless of whether the juvenile has left the state before or after the filing of the petition. The req-*
 4 *uisition described in Article V of the Compact shall be forwarded by the judge of the court in which*
 5 *the petition has been filed.*

6 **ARTICLE VI**

7 **VOLUNTARY RETURN PROCEDURE**

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

27 **ARTICLE VII**

28 **COOPERATIVE SUPERVISION OF** 29 **PROBATIONERS AND PAROLEES**

30 *(a) That the duly constituted judicial and administrative authorities of a state party to this compact*
 31 *(herein called "sending state") may permit any delinquent juvenile within such state, placed on pro-*
 32 *bation or parole, to reside in any other state party to this compact (herein called "receiving state")*
 33 *while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent,*
 34 *guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes*
 35 *to reside within the receiving state. Before granting such permission, opportunity shall be given to the*
 36 *receiving state to make such investigations as it deems necessary. The authorities of the sending state*
 37 *shall send to the authorities of the receiving state copies of pertinent court orders, social case studies*
 38 *and all other available information which may be of value to and assist the receiving state in super-*
 39 *vising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to*
 40 *accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled*
 41 *to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted*
 42 *the sending state may transfer supervision accordingly.*

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

1 *for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain*
 2 *jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable*
 3 *inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian,*
 4 *person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to the*
 5 *juvenile being sent to another state; and (7) make provision for such other matters and details as shall*
 6 *be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.*

7 **ARTICLE XI**

8 **ACCEPTANCE OF FEDERAL**
 9 **AND OTHER AID**

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

15 **ARTICLE XII**

16 **COMPACT ADMINISTRATORS**

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

20 **ARTICLE XIII**

21 **EXECUTION OF COMPACT**

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

25 **ARTICLE XIV**

26 **RENUNCIATION**

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

35 **ARTICLE XV**

36 **SEVERABILITY**

37 *That the provisions of this compact shall be severable and if any phrase, clause, sentence or pro-*
 38 *vision of this compact is declared to be contrary to the Constitution of any participating state or of the*
 39 *United States or the applicability thereof to any government, agency, person or circumstance is held*
 40 *invalid, the validity of the remainder of this compact and the applicability thereof to any government,*
 41 *agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to*
 42 *the Constitution of any state participating therein, the compact shall remain in full force and effect as*
 43 *to the remaining states and in full force and effect as to the state affected as to all severable matters.*

44 [_____]

1
2
3 **The contracting states solemnly agree:**

4 **THE INTERSTATE COMPACT FOR JUVENILES**

5 **ARTICLE I**

6 **PURPOSE**

7 **The compacting states to this Interstate Compact recognize that each state is responsi-**
8 **ble for the proper supervision or return of juveniles, delinquents and status offenders who**
9 **are on probation or parole and who have absconded, escaped or run away from supervision**
10 **and control and in so doing have endangered their own safety and the safety of others. The**
11 **compacting states also recognize that each state is responsible for the safe return of juve-**
12 **niles who have run away from home and in doing so have left their state of residence. The**
13 **compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C.**
14 **112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual as-**
15 **sistance in the prevention of crime.**

16 **It is the purpose of this compact, through means of joint and cooperative action among**
17 **the compacting states to:**

18 **A. Ensure that the adjudicated juveniles and status offenders subject to this compact are**
19 **provided adequate supervision and services in the receiving state as ordered by the adjudi-**
20 **cating judge or parole authority in the sending state;**

21 **B. Ensure that the public safety interests of the citizens, including the victims of juvenile**
22 **offenders, in both the sending and receiving states are adequately protected;**

23 **C. Return juveniles who have run away, absconded or escaped from supervision or con-**
24 **trol or have been accused of an offense to the state requesting their return;**

25 **D. Make contracts for the cooperative institutionalization in public facilities in member**
26 **states for delinquent youth needing special services;**

27 **E. Provide for the effective tracking and supervision of juveniles;**

28 **F. Equitably allocate the costs, benefits and obligations of the compacting states;**

29 **G. Establish procedures to manage the movement between states of juvenile offenders**
30 **released to the community under the jurisdiction of courts, juvenile departments, or any**
31 **other criminal or juvenile justice agency that has jurisdiction over juvenile offenders;**

32 **H. Ensure immediate notice to jurisdictions where defined offenders are authorized to**
33 **travel or to relocate across state lines;**

34 **I. Establish procedures to resolve pending charges (detainers) against juvenile offenders**
35 **prior to transfer or release to the community under the terms of this compact;**

36 **J. Establish a system of uniform data collection on information pertaining to juveniles**
37 **subject to this compact that allows access by authorized juvenile justice and criminal justice**
38 **officials, and regular reporting of Compact activities to heads of state executive, judicial and**
39 **legislative branches and juvenile and criminal justice administrators;**

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

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

44 **M. Coordinate the implementation and operation of the compact with the Interstate**
45 **Compact for the Placement of Children, the Interstate Compact for Adult Offender Super-**

1 vision and other compacts affecting juveniles particularly in those cases where concurrent
 2 or overlapping supervision issues arise. It is the policy of the compacting states that the
 3 activities conducted by the Interstate Commission created herein are the formation of public
 4 policies and therefore are public business. Furthermore, the compacting states shall coop-
 5 erate and observe their individual and collective duties and responsibilities for the prompt
 6 return and acceptance of juveniles subject to the provisions of this compact. The provisions
 7 of this compact shall be reasonably and liberally construed to accomplish the purposes and
 8 policies of the compact.

9 **ARTICLE II**
 10 **DEFINITIONS**

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

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

14 **B. "Compact administrator" means the individual in each compacting state appointed**
 15 **pursuant to the terms of this compact, responsible for the administration and management**
 16 **of the state's supervision and transfer of juveniles subject to the terms of this compact, the**
 17 **rules adopted by the Interstate Commission and policies adopted by the State Council under**
 18 **this compact.**

19 **C. "Compacting state" means any state that has enacted the enabling legislation for this**
 20 **compact.**

21 **D. "Commissioner" means the voting representative of each compacting state appointed**
 22 **pursuant to Article III of this compact.**

23 **E. "Court" means any court having jurisdiction over delinquent, neglected or dependent**
 24 **children.**

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

30 **G. "Interstate Commission" means the Interstate Commission for Juveniles created by**
 31 **Article III of this compact.**

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

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

36 **2. Adjudicated delinquent - a person found to have committed an offense that, if com-**
 37 **mitted by an adult, would be a criminal offense;**

38 **3. Accused status offender - a person charged with an offense that would not be a crim-**
 39 **inal offense if committed by an adult;**

40 **4. Adjudicated status offender - a person found to have committed an offense that would**
 41 **not be a criminal offense if committed by an adult; and**

42 **5. Non-offender - a person in need of supervision who has not been accused or adjudicated**
 43 **a status offender or delinquent.**

44 **I. "Non-compacting state" means any state that has not enacted the enabling legislation**
 45 **for this compact.**

1 of the administration of the compact managed by an executive director and Interstate Com-
2 mission staff; administers enforcement and compliance with the provisions of the compact,
3 its bylaws and rules, and performs such other duties as directed by the Interstate Commis-
4 sion or set forth in the bylaws.

5 G. Each member of the Interstate Commission shall have the right and power to cast a
6 vote to which that compacting state is entitled and to participate in the business and affairs
7 of the Interstate Commission. A member shall vote in person and shall not delegate a vote
8 to another compacting state. However, a commissioner, in consultation with the State
9 Council, shall appoint another authorized representative, in the absence of the commissioner
10 from that state, to cast a vote on behalf of the compacting state at a specified meeting. The
11 bylaws may provide for members' participation in meetings by telephone or other means of
12 telecommunication or electronic communication.

13 H. The Interstate Commission's bylaws shall establish conditions and procedures under
14 which the Interstate Commission shall make its information and official records available to
15 the public for inspection or copying. The Interstate Commission may exempt from disclosure
16 any information or official records to the extent they would adversely affect personal privacy
17 rights or proprietary interests.

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

- 22 1. Relate solely to the Interstate Commission's internal personnel practices and proce-
23 dures;
- 24 2. Disclose matters specifically exempted from disclosure by statute;
- 25 3. Disclose trade secrets or commercial or financial information that is privileged or
26 confidential;
- 27 4. Involve accusing any person of a crime, or formally censuring any person;
- 28 5. Disclose information of a personal nature where disclosure would constitute a clearly
29 unwarranted invasion of personal privacy;
- 30 6. Disclose investigative records compiled for law enforcement purposes;
- 31 7. Disclose information contained in or related to examination, operating or condition
32 reports prepared by, or on behalf of or for the use of, the Interstate Commission with re-
33 spect to a regulated person or entity for the purpose of regulation or supervision of such
34 person or entity;
- 35 8. Disclose information, the premature disclosure of which would significantly endanger
36 the stability of a regulated person or entity; or
- 37 9. Specifically relate to the Interstate Commission's issuance of a subpoena, or its par-
38 ticipation in a civil action or other legal proceeding.

39 J. For every meeting closed pursuant to this provision, the Interstate Commission's legal
40 counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed
41 to the public, and shall reference each relevant exemptive provision. The Interstate Com-
42 mission shall keep minutes that shall fully and clearly describe all matters discussed in any
43 meeting and shall provide a full and accurate summary of any actions taken, and the reasons
44 therefore, including a description of each of the views expressed on any item and the record
45 of any roll call vote (reflected in the vote of each member on the question). All documents

1 considered in connection with any action shall be identified in such minutes.

2 **K. The Interstate Commission shall collect standardized data concerning the interstate**
 3 **movement of juveniles as directed through its rules, which shall specify the data to be col-**
 4 **lected, the means of collection and data exchange and reporting requirements. Such methods**
 5 **of data collection, exchange and reporting shall insofar as is reasonably possible conform to**
 6 **up-to-date technology and coordinate its information functions with the appropriate reposi-**
 7 **tory of records.**

8 **ARTICLE IV**

9 **POWERS AND DUTIES OF THE INTERSTATE COMMISSION**

10 **The commission shall have the following powers and duties:**

11 **1. To provide for dispute resolution among compacting states.**

12 **2. To promulgate rules to effect the purposes and obligations as enumerated in this**
 13 **compact, which shall have the force and effect of statutory law and shall be binding in the**
 14 **compacting states to the extent and in the manner provided in this compact.**

15 **3. To oversee, supervise and coordinate the interstate movement of juveniles subject to**
 16 **the terms of this compact and any bylaws adopted and rules promulgated by the Interstate**
 17 **Commission.**

18 **4. To enforce compliance with the compact provisions, the rules promulgated by the**
 19 **Interstate Commission and the bylaws, using all necessary and proper means, including but**
 20 **not limited to the use of judicial process.**

21 **5. To establish and maintain offices that shall be located within one or more of the**
 22 **compacting states.**

23 **6. To purchase and maintain insurance and bonds.**

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

25 **8. To establish and appoint committees and hire staff that it deems necessary for the**
 26 **carrying out of its functions including, but not limited to, an executive committee as re-**
 27 **quired by Article III that shall have the power to act on behalf of the Interstate Commission**
 28 **in carrying out its powers and duties hereunder.**

29 **9. To elect or appoint such officers, attorneys, employees, agents or consultants, and to**
 30 **fix their compensation, define their duties and determine their qualifications; and to estab-**
 31 **lish the Interstate Commission's personnel policies and programs relating to, inter alia,**
 32 **conflicts of interest, rates of compensation and qualifications of personnel.**

33 **10. To accept any and all donations and grants of money, equipment, supplies, materials**
 34 **and services, and to receive, utilize and dispose of them.**

35 **11. To lease, purchase, accept contributions or donations of, or otherwise to own, hold,**
 36 **improve or use any property, real, personal or mixed.**

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

39 **13. To establish a budget and make expenditures and levy dues as provided in Article VIII**
 40 **of this compact.**

41 **14. To sue and be sued.**

42 **15. To adopt a seal and bylaws governing the management and operation of the Interstate**
 43 **Commission.**

44 **16. To perform such functions as may be necessary or appropriate to achieve the pur-**
 45 **poses of this compact.**

Section C. Qualified Immunity, Defense and Indemnification

1 **1. The Commission’s executive director and employees shall be immune from suit and**
2 **liability, either personally or in their official capacity, for any claim for damage to or loss**
3 **of property or personal injury or other civil liability caused or arising out of or relating to**
4 **any actual or alleged act, error or omission that occurred, or that such person had a rea-**
5 **sonable basis for believing occurred within the scope of Commission employment, duties or**
6 **responsibilities, provided that any such person shall not be protected from suit or liability**
7 **for any damage, loss, injury or liability caused by the intentional or willful and wanton mis-**
8 **conduct of any such person.**

9
10 **2. The liability of any commissioner, or the employee or agent of a commissioner, acting**
11 **within the scope of such person’s employment or duties for acts, errors or omissions oc-**
12 **curring within such person’s state may not exceed the limits of liability set forth under the**
13 **Constitution and laws of that state for state officials, employees and agents. Nothing in this**
14 **subsection shall be construed to protect any such person from suit or liability for any dam-**
15 **age, loss, injury or liability caused by the intentional or willful and wanton misconduct of any**
16 **such person.**

17 **3. The Interstate Commission shall defend the executive director or the employees or**
18 **representatives of the Interstate Commission and, subject to the approval of the Attorney**
19 **General of the state represented by any commissioner of a compacting state, shall defend**
20 **such commissioner or the commissioner’s representatives or employees in any civil action**
21 **seeking to impose liability arising out of any actual or alleged act, error or omission that**
22 **occurred within the scope of Interstate Commission employment, duties or responsibilities,**
23 **or that the defendant had a reasonable basis for believing occurred within the scope of**
24 **Interstate Commission employment, duties or responsibilities, provided that the actual or**
25 **alleged act, error or omission did not result from intentional or willful and wanton miscon-**
26 **duct on the part of such person.**

27 **4. The Interstate Commission shall indemnify and hold the commissioner of a compacting**
28 **state, or the commissioner’s representatives or employees, or the Interstate Commission’s**
29 **representatives or employees, harmless in the amount of any settlement or judgment ob-**
30 **tained against such persons 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 such persons 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 persons.**

ARTICLE VI**RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION**

36
37
38 **A. The Interstate Commission shall promulgate and publish rules in order to effectively**
39 **and efficiently achieve the purposes of the compact.**

40 **B. Rulemaking shall occur pursuant to the criteria set forth in this article and the by-**
41 **laws and rules adopted pursuant thereto. Such rule making shall substantially conform to**
42 **the principles of the “Model State Administrative Procedures Act,” 1981 Act, Uniform Laws**
43 **Annotated, Vol. 15, p.1 (2000), or such other administrative procedures act, as the Interstate**
44 **Commission deems appropriate consistent with due process requirements under the United**
45 **States Constitution as now or hereafter interpreted by the United States Supreme Court.**

1 All rules and amendments shall become binding as of the date specified, as published with
 2 the final version of the rule as approved by the Commission.

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

4 1. Publish the proposed rule’s entire text stating the reason(s) for that proposed rule;

5 2. Allow and invite any and all persons to submit written data, facts, opinions and argu-
 6 ments, which information shall be added to the record, and be made publicly available;

7 3. Provide an opportunity for an informal hearing if petitioned by 10 or more persons;
 8 and

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

11 D. Allow, not later than 60 days after a rule is promulgated, any interested person to file
 12 a petition in the United States District Court for the District of Columbia or in the Federal
 13 District Court where the Interstate Commission’s principal office is located for judicial re-
 14 view of such rule. If the court finds that the Interstate Commission’s action is not supported
 15 by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and
 16 set it aside. For purposes of this subsection, evidence is substantial if it would be considered
 17 substantial evidence under the Model State Administrative Procedures Act.

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

21 F. The existing rules governing the operation of the Interstate Compact on Juveniles
 22 superceded by this Act shall be null and void 12 months after the first meeting of the
 23 Interstate Commission created hereunder.

24 G. Upon determination by the Interstate Commission that a state of emergency exists,
 25 it may promulgate an emergency rule that shall become effective immediately upon adoption,
 26 provided that the usual rulemaking procedures provided hereunder shall be retroactively
 27 applied to said rule as soon as reasonably possible, but no later than 90 days after the ef-
 28 fective date of the emergency rule.

29 **ARTICLE VII**

30 **OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION**

31 **BY THE INTERSTATE COMMISSION**

32 **Section A. Oversight**

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

37 2. The courts and executive agencies in each compacting state shall enforce this compact
 38 and shall take all actions necessary and appropriate to effectuate the compact’s purposes and
 39 intent. The provisions of this compact and the rules promulgated hereunder shall be re-
 40 ceived by all the judges, public officers, commissions and departments of the state govern-
 41 ment as evidence of the authorized statute and administrative rules. All courts shall take
 42 judicial notice of the compact and the rules. In any judicial or administrative proceeding in
 43 a compacting state pertaining to the subject matter of this compact that may affect the
 44 powers, responsibilities or actions of the Interstate Commission, it shall be entitled to re-
 45 ceive all service of process in any such proceeding, and shall have standing to intervene in

1 the proceeding for all purposes.

2 **Section B. Dispute Resolution**

3 1. The compacting states shall report to the Interstate Commission on all issues and
4 activities necessary for the administration of the compact as well as issues and activities
5 pertaining to compliance with the provisions of the compact and its bylaws and rules.

6 2. The Interstate Commission shall attempt, upon the request of a compacting state, to
7 resolve any disputes or other issues that are subject to the compact and that may arise
8 among compacting states and between compacting and non-compacting states. The commis-
9 sion shall promulgate a rule providing for both mediation and binding dispute resolution for
10 disputes among the compacting states.

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

14 **ARTICLE VIII**

15 **FINANCE**

16 A. The Interstate Commission shall payor provide for the payment of the reasonable ex-
17 penses of its establishment, organization and ongoing activities.

18 B. The Interstate Commission shall levy on and collect an annual assessment from each
19 compacting state to cover the cost of the internal operations and activities of the Interstate
20 Commission and its staff, which must be in a total amount sufficient to cover the Interstate
21 Commission's annual budget as approved each year. The aggregate annual assessment
22 amount shall be allocated based upon a formula to be determined by the Interstate Com-
23 mission, taking into consideration the population of each compacting state and the volume
24 of interstate movement of juveniles in each compacting state and shall promulgate a rule
25 binding upon all compacting states that governs said assessment.

26 C. The Interstate Commission shall not incur any obligations of any kind prior to secur-
27 ing the funds adequate to meet the same, nor shall the Interstate Commission pledge the
28 credit of any of the compacting states, except by and with the authority of the compacting
29 state.

30 D. The Interstate Commission shall keep accurate accounts of all receipts and disburse-
31 ments. The receipts and disbursements of the Interstate Commission shall be subject to the
32 audit and accounting procedures established under its bylaws. However, all receipts and dis-
33 bursements of funds handled by the Interstate Commission shall be audited yearly by a cer-
34 tified or licensed public accountant and the report of the audit shall be included in and
35 become part of the annual report of the Interstate Commission.

36 **ARTICLE IX**

37 **THE STATE COUNCIL**

38 Each member state shall create a State Council for Interstate Juvenile Supervision.
39 While each state may determine the membership of its own state council, its membership
40 must include at least one representative from the legislative, judicial and executive branches
41 of government, victims groups, and the compact administrator, deputy compact administra-
42 tor or designee. Each compacting state retains the right to determine the qualifications of
43 the compact administrator or deputy compact administrator. Each state council will advise
44 and may exercise oversight and advocacy concerning that state's participation in Interstate
45 Commission activities and other duties as may be determined by that state, including but

1 not limited to, development of policy concerning operations and procedures of the compact
 2 within that state.

3 **ARTICLE X**

4 **COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT**

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

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

15 **C. The Interstate Commission may propose amendments to the compact for enactment**
 16 **by the compacting states. No amendment shall become effective and binding upon the**
 17 **Interstate Commission and the compacting states unless and until it is enacted into law by**
 18 **unanimous consent of the compacting states.**

19 **ARTICLE XI**

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

21 **Section A. Withdrawal**

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

25 **2. The effective date of withdrawal is the effective date of the repeal.**

26 **3. The withdrawing state shall immediately notify the chairperson of the Interstate**
 27 **Commission in writing upon the introduction of legislation repealing this compact in the**
 28 **withdrawing state. The Interstate Commission shall notify the other compacting states of**
 29 **the withdrawing state's intent to withdraw within 60 days of its receipt thereof.**

30 **4. The withdrawing state is responsible for all assessments, obligations and liabilities in-**
 31 **curring through the effective date of withdrawal, including any obligations, the performance**
 32 **of which extend beyond the effective date of withdrawal.**

33 **5. Reinstatement following withdrawal of any compacting state shall occur upon the**
 34 **withdrawing state reenacting the compact or upon such later date as determined by the**
 35 **Interstate Commission.**

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

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

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

42 **b. Alternative Dispute Resolution;**

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

45 **d. Suspension or termination of membership in the compact, which shall be imposed only**

1 after all other reasonable means of securing compliance under the bylaws and rules have
 2 been exhausted and the Interstate Commission has therefore determined that the offending
 3 state is in default. Immediate notice of suspension shall be given by the Interstate Commis-
 4 sion to the Governor, the Chief Justice or the Chief Judicial Officer of the state, the majority
 5 and minority leaders of the defaulting state's legislature and the State Council. The grounds
 6 for default include, but are not limited to, failure of a compacting state to perform such
 7 obligations or responsibilities imposed upon it by this compact, the bylaws or duly
 8 promulgated rules and any other grounds designated in commission bylaws and rules. The
 9 Interstate Commission shall immediately notify the defaulting state in writing of the penalty
 10 imposed by the Interstate Commission and of the default pending a cure of the default. The
 11 commission shall stipulate the conditions and the time period within which the defaulting
 12 state must cure its default. If the defaulting state fails to cure the default within the time
 13 period specified by the commission, the defaulting state shall be terminated from the com-
 14 pact upon an affirmative vote of a majority of the compacting states and all rights, privileges
 15 and benefits conferred by this compact shall be terminated from the effective date of ter-
 16 mination.

17 2. Within 60 days of the effective date of termination of a defaulting state, the commis-
 18 sion shall notify the Governor, the Chief Justice or Chief Judicial Officer, the majority and
 19 minority leaders of the defaulting state's legislature and the State Council of such termi-
 20 nation.

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

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

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

30 Section C. Judicial Enforcement

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

38 Section D. Dissolution of Compact

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

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

44 ARTICLE XII

45 SEVERABILITY AND CONSTRUCTION

