

**ADOPTION OF UNIFORM JUVENILE
COMPACT**

2004 GENERAL SESSION
STATE OF UTAH

Sponsor: David L. Gladwell

LONG TITLE

General Description:

This bill enacts the Interstate Compact for Juveniles.

Highlighted Provisions:

This bill:

- ▶ repeals and reenacts the Interstate Compact for Juveniles;
- ▶ establishes a compact operating authority to administer ongoing compact activity;
- ▶ provides for gubernatorial appointment of representatives on a national governing commission;
- ▶ provides rulemaking authority to the governing commission;
- ▶ provides for the collection of standardized information and information sharing systems;
- ▶ creates sanctions to support essential compact operations;
- ▶ allows for the coordination and cooperation with other interstate compacts; and
- ▶ provides for an effective date upon enactment by 35 states.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:



- 28 **55-12-100**, Utah Code Annotated 1953
- 29 **55-12-101**, Utah Code Annotated 1953
- 30 **55-12-102**, Utah Code Annotated 1953
- 31 **55-12-103**, Utah Code Annotated 1953
- 32 **55-12-104**, Utah Code Annotated 1953
- 33 **55-12-105**, Utah Code Annotated 1953
- 34 **55-12-106**, Utah Code Annotated 1953
- 35 **55-12-107**, Utah Code Annotated 1953
- 36 **55-12-108**, Utah Code Annotated 1953
- 37 **55-12-109**, Utah Code Annotated 1953
- 38 **55-12-110**, Utah Code Annotated 1953
- 39 **55-12-111**, Utah Code Annotated 1953
- 40 **55-12-112**, Utah Code Annotated 1953
- 41 **55-12-113**, Utah Code Annotated 1953

42 RENUMBERS AND AMENDS:

- 43 **55-12-114**, (Renumbered from 55-12-2, as enacted by Chapter 113, Laws of Utah 1955)
- 44 **55-12-115**, (Renumbered from 55-12-3, as enacted by Chapter 113, Laws of Utah 1955)
- 45 **55-12-116**, (Renumbered from 55-12-4, as enacted by Chapter 113, Laws of Utah 1955)
- 46 **55-12-117**, (Renumbered from 55-12-5, as enacted by Chapter 113, Laws of Utah 1955)
- 47 **55-12-118**, (Renumbered from 55-12-6, as enacted by Chapter 113, Laws of Utah 1955)

48 REPEALS:

- 49 **55-12-1**, as last amended by Chapter 170, Laws of Utah 1983



51 *Be it enacted by the Legislature of the state of Utah:*

52 Section 1. Section **55-12-100** is enacted to read:

53 **55-12-100. Interstate Compact for Juveniles -- Execution of compact.**

54 The governor is authorized and directed to execute a compact on behalf of this state
55 with any other state or states substantially in the form of this chapter.

56 Section 2. Section **55-12-101** is enacted to read:

57 **55-12-101. Article 1 -- Purpose.**

58 (1) The compacting states to this Interstate Compact recognize that each state is

59 responsible for the proper supervision or return of juveniles, delinquents, and status offenders
60 who are on probation or parole and who have absconded, escaped, or run away from
61 supervision and control and in so doing have endangered their own safety and the safety of
62 others.

63 (2) The compacting states also recognize that each state is responsible for the safe
64 return of juveniles who have run away from home and in doing so have left their state of
65 residence.

66 (3) The compacting states also recognize that Congress, by enacting the Crime Control
67 Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative
68 efforts and mutual assistance in the prevention of crime.

69 (4) It is the purpose of this compact, through means of joint and cooperative action
70 among the compacting states to:

71 (a) ensure that the adjudicated juveniles and status offenders subject to this compact
72 are provided adequate supervision and services in the receiving state as ordered by the
73 adjudicating judge or parole authority in the sending state;

74 (b) ensure that the public safety interests of the citizens, including the victims of
75 juvenile offenders, in both the sending and receiving states are adequately protected;

76 (c) return juveniles who have run away, absconded, or escaped from supervision or
77 control or have been accused of an offense to the state requesting their return;

78 (d) make contracts for the cooperative institutionalization in public facilities in
79 member states for delinquent youth needing special services;

80 (e) provide for the effective tracking and supervision of juveniles;

81 (f) equitably allocate the costs, benefits, and obligations of the compacting states;

82 (g) establish procedures to manage the movement between states of juvenile offenders
83 released to the community under the jurisdiction of courts, juvenile departments, or any other
84 criminal or juvenile justice agency which has jurisdiction over juvenile offenders;

85 (h) insure immediate notice to jurisdictions where defined offenders are authorized to
86 travel or to relocate across state lines;

87 (i) establish procedures to resolve pending charges (detainers) against juvenile
88 offenders prior to transfer or release to the community under the terms of this compact;

89 (j) establish a system of uniform data collection on information pertaining to juveniles

90 subject to this compact that allows access by authorized juvenile justice and criminal justice
91 officials, and regular reporting of compact activities to heads of state executive, judicial, and
92 legislative branches and juvenile and criminal justice administrators;

93 (k) monitor compliance with rules governing interstate movement of juveniles and
94 initiate interventions to address and correct noncompliance;

95 (l) coordinate training and education regarding the regulation of interstate movement of
96 juveniles for officials involved in such activity; and

97 (m) coordinate the implementation and operation of the compact with the Interstate
98 Compact for the Placement of Children, the Interstate Compact for Adult Offender
99 Supervision, and other compacts affecting juveniles particularly in those cases where
100 concurrent or overlapping supervision issues arise.

101 (5) It is the policy of the compacting states that the activities conducted by the
102 Interstate Commission created herein are the formation of public policies and, therefore, are
103 public business. Furthermore, the compacting states shall cooperate and observe their
104 individual and collective duties and responsibilities for the prompt return and acceptance of
105 juveniles subject to the provisions of this compact.

106 (6) The provisions of this compact shall be reasonably and liberally construed to
107 accomplish the purposes and policies of the compact.

108 Section 3. Section **55-12-102** is enacted to read:

109 **55-12-102. Article 2 -- Definitions.**

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

111 (1) "By-laws" means those by-laws established by the Interstate Commission for its
112 governance, or for directing or controlling its actions or conduct.

113 (2) "Compact Administrator" means the individual in each compacting state appointed
114 pursuant to the terms of this compact, responsible for the administration and management of
115 the state's supervision and transfer of juveniles subject to the terms of this compact, the rules
116 adopted by the Interstate Commission, and policies adopted by the State Council under this
117 compact.

118 (3) "Compacting State" means any state which has enacted the enabling legislation for
119 this compact.

120 (4) "Commissioner" means the voting representative of each compacting state

121 appointed pursuant to Section 55-12-103.

122 (5) "Court" means any court having jurisdiction over delinquent, neglected, or
123 dependent children.

124 (6) "Deputy Compact Administrator" means the individual, if any, in each compacting
125 state appointed to act on behalf of a Compact Administrator pursuant to the terms of this
126 compact responsible for the administration and management of the state's supervision and
127 transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate
128 Commission, and policies adopted by the State Council under this compact.

129 (7) "Interstate Commission" or "commission" means the Interstate Commission for
130 Juveniles created by Section 55-12-103.

131 (8) "Juvenile" means any person defined as a juvenile in any member state or by the
132 rules of the Interstate Commission, including:

133 (a) "accused delinquent" meaning a person charged with an offense that, if committed
134 by an adult, would be a criminal offense;

135 (b) "adjudicated delinquent" meaning a person found to have committed an offense
136 that, if committed by an adult, would be a criminal offense;

137 (c) "accused status offender" meaning a person charged with an offense that would not
138 be a criminal offense if committed by an adult;

139 (d) "adjudicated status offender" meaning a person found to have committed an offense
140 that would not be a criminal offense if committed by an adult; and

141 (e) "nonoffender" meaning a person in need of supervision who has not been accused
142 or adjudicated a status offender or delinquent.

143 (9) "Noncompacting state" means any state which has not enacted the enabling
144 legislation for this compact.

145 (10) "Probation or Parole" means any kind of supervision or conditional release of
146 juveniles authorized under the laws of the compacting states.

147 (11) "Rule" means a written statement by the Interstate Commission promulgated
148 pursuant to Section 55-12-106 that is of general applicability, implements, interprets, or
149 prescribes a policy or provision of the compact, or an organizational, procedural, or practice
150 requirement of the Commission, and has the force and effect of statutory law in a compacting
151 state, and includes the amendment, repeal, or suspension of an existing rule.

152 (12) "State" means a state of the United States, the District of Columbia, the
153 Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the
154 Northern Marianas Islands.

155 Section 4. Section **55-12-103** is enacted to read:

156 **55-12-103. Article 3 -- Interstate Commission for Juveniles.**

157 (1) The compacting states hereby create the "Interstate Commission for Juveniles."

158 (2) The commission shall be a body corporate and joint agency of the compacting
159 states.

160 (3) The commission shall have all the responsibilities, powers, and duties set forth
161 herein, and such additional powers as may be conferred upon it by subsequent action of the
162 respective legislatures of the compacting states in accordance with the terms of this compact.

163 (4) The commission shall consist of commissioners appointed by the appropriate
164 appointing authority in each state pursuant to the rules and requirements of each compacting
165 state and in consultation with the State Council for Interstate Juvenile Supervision created
166 hereunder.

167 (5) The commissioner shall be the compact administrator, deputy compact
168 administrator, or designee from that state who shall serve on the commission in such capacity
169 under or pursuant to the applicable law of the compacting state.

170 (6) In addition to the commissioners who are the voting representatives of each state,
171 the commission shall include individuals who are not commissioners, but who are members of
172 interested organizations. Noncommissioner members shall include a member of the national
173 organizations of governors, legislators, state chief justices, attorneys general, Interstate
174 Compact for Adult Offender Supervision, Interstate Compact for the Placement of Children,
175 juvenile justice and juvenile corrections officials, and crime victims.

176 (7) All noncommissioner members of the commission shall be ex officio, nonvoting
177 members. The commission may provide in its by-laws for additional ex officio, nonvoting
178 members, including members of other national organizations, in numbers to be determined by
179 the commission.

180 (8) Each compacting state represented at any meeting of the commission is entitled to
181 one vote. A majority of the compacting states shall constitute a quorum for the transaction of
182 business, unless a larger quorum is required by the by-laws of the commission.

183 (9) The commission shall meet at least once each calendar year. The chairperson may
184 call additional meetings and, upon the request of a simple majority of the compacting states,
185 shall call additional meetings. Public notice shall be given of all meetings and meetings shall
186 be open to the public.

187 (10) The commission shall establish an executive committee, which shall include
188 commission officers, members, and others as determined by the by-laws. The executive
189 committee shall:

190 (a) have the power to act on behalf of the commission during periods when the
191 commission is not in session, with the exception of rulemaking or amendment to the compact;

192 (b) oversee the day-to-day activities of the administration of the compact managed by
193 an executive director and commission staff, which administers enforcement and compliance
194 with the provisions of the compact, its by-laws, and rules; and

195 (c) perform other duties as directed by the commission or set forth in the by-laws.

196 (11) Each member of the commission shall have the right and power to cast a vote to
197 which that compacting state is entitled and to participate in the business and affairs of the
198 commission. A member shall vote in person and may not delegate a vote to another
199 compacting state. However, a commissioner, in consultation with the state council, shall
200 appoint another authorized representative, in the absence of the commissioner from that state,
201 to cast a vote on behalf of the compacting state at a specified meeting. The by-laws may
202 provide for members' participation in meetings by telephone or other means of
203 telecommunication or electronic communication.

204 (12) The commission's by-laws shall establish conditions and procedures under which
205 the commission shall make its information and official records available to the public for
206 inspection or copying. The commission may exempt from disclosure any information or
207 official records to the extent they would adversely affect personal privacy rights or proprietary
208 interests.

209 (13) Public notice shall be given of all meetings and all meetings shall be open to the
210 public, except as set forth in the rules or as otherwise provided in the compact. The
211 commission and any of its committees may close a meeting to the public where it determines
212 by two-thirds vote that an open meeting would be likely to:

213 (a) relate solely to the commission's internal personnel practices and procedures;

- 214 (b) disclose matters specifically exempted from disclosure by statute;
215 (c) disclose trade secrets or commercial or financial information which is privileged or
216 confidential;
217 (d) involve accusing any person of a crime, or formally censuring any person;
218 (e) disclose information of a personal nature where disclosure would constitute a
219 clearly unwarranted invasion of personal privacy;
220 (f) disclose investigative records compiled for law enforcement purposes;
221 (g) disclose information contained in or related to examination, operating, or condition
222 reports prepared by, or on behalf of or for the use of, the commission with respect to a
223 regulated person or entity for the purpose of regulation or supervision of such person or entity;
224 (h) disclose information, the premature disclosure of which would significantly
225 endanger the stability of a regulated person or entity; or
226 (i) specifically relate to the commission's issuance of a subpoena, or its participation in
227 a civil action or other legal proceeding.

228 (14) For every meeting closed pursuant to this provision, the commission's legal
229 counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to
230 the public, and shall reference each relevant exemptive provision. The commission shall keep
231 minutes which shall fully and clearly describe all matters discussed in any meeting and shall
232 provide a full and accurate summary of any actions taken, and the reasons therefor, including a
233 description of each of the views expressed on any item and the record of any roll call vote,
234 reflected in the vote of each member on the question. All documents considered in connection
235 with any action shall be identified in the minutes.

236 (15) The commission shall collect standardized data concerning the interstate
237 movement of juveniles as directed through its rules which shall specify the data to be collected,
238 the means of collection, and data exchange and reporting requirements. Methods of data
239 collection, exchange, and reporting shall insofar as is reasonably possible conform to
240 up-to-date technology and coordinate its information functions with the appropriate repository
241 of records.

242 Section 5. Section **55-12-104** is enacted to read:

243 **55-12-104. Article 4 -- Powers and duties of the Interstate Commission.**

244 The commission shall have the following powers and duties:

- 245 (1) provide for dispute resolution among compacting states;
- 246 (2) promulgate rules to effect the purposes and obligations as enumerated in this
247 compact, which shall have the force and effect of statutory law and shall be binding in the
248 compacting states to the extent and in the manner provided in this compact;
- 249 (3) oversee, supervise, and coordinate the interstate movement of juveniles subject to
250 the terms of this compact and any by-laws adopted and rules promulgated by the commission;
- 251 (4) enforce compliance with the compact provisions, the rules promulgated by the
252 commission, and the by-laws, using all necessary and proper means, including, but not limited
253 to, the use of judicial process;
- 254 (5) establish and maintain offices which shall be located within one or more of the
255 compacting states;
- 256 (6) purchase and maintain insurance and bonds;
- 257 (7) borrow, accept, hire, or contract for services of personnel;
- 258 (8) establish and appoint committees and hire staff which it considers necessary for the
259 carrying out of its functions including, but not limited to, an executive committee as required
260 by Section 55-12-103, which shall have the power to act on behalf of the commission in
261 carrying out its powers and duties hereunder;
- 262 (9) elect or appoint any officers, attorneys, employees, agents, or consultants, fix their
263 compensation, define their duties, and determine their qualifications;
- 264 (10) establish the commission's personnel policies and programs relating to, inter alia,
265 conflicts of interest, rates of compensation, and qualifications of personnel;
- 266 (11) accept any and all donations and grants of money, equipment, supplies, materials,
267 and services, and to receive, utilize, and dispose of them;
- 268 (12) lease, purchase, accept contributions or donations of, or otherwise to own, hold,
269 improve or use any property, real, personal, or mixed;
- 270 (13) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
271 any property, real, personal, or mixed;
- 272 (14) establish a budget and make expenditures and levy dues as provided in Section
273 55-12-108;
- 274 (15) sue and be sued;
- 275 (16) adopt a seal and by-laws governing the management and operation of the

276 commission;

277 (17) perform any functions necessary or appropriate to achieve the purposes of this

278 compact;

279 (18) report annually to the legislatures, governors, judiciary, and state councils of the

280 compacting states concerning the activities of the commission during the preceding year,

281 including any recommendations that may have been adopted by the commission;

282 (19) coordinate education, training, and public awareness regarding the interstate

283 movement of juveniles for officials involved in the activity;

284 (20) establish uniform standards for the reporting, collecting, and exchanging of data;

285 and

286 (21) maintain its corporate books and records in accordance with the by-laws.

287 Section 6. Section **55-12-105** is enacted to read:

288 **55-12-105. Article 5 -- Organization and operation of the Interstate Commission.**

289 (1) Section A. By-laws

290 The Interstate Commission shall, by a majority of the members present and voting,

291 within 12 months after the first commission meeting, adopt by-laws to govern its conduct as

292 may be necessary or appropriate to carry out the purposes of the compact, including, but not

293 limited to:

294 (a) establishing the fiscal year of the commission;

295 (b) establishing an executive committee and any other committees as necessary;

296 (c) providing for the establishment of committees governing any general or specific

297 delegation of any authority or function of the commission;

298 (d) providing reasonable procedures for calling and conducting meetings of the

299 commission, and ensuring reasonable notice of each meeting;

300 (e) establishing the titles and responsibilities of the officers of the commission;

301 (f) providing a mechanism for concluding the operations of the commission and the

302 return of any surplus funds that may exist upon the termination of the compact after the

303 payment and reserving of all of its debts and obligations;

304 (g) providing "start-up" rules for initial administration of the compact; and

305 (h) establishing standards and procedures for compliance and technical assistance in

306 carrying out the compact.

307 (2) Section B. Officers and Staff

308 (a) The Interstate Commission shall, by a majority of the members, elect annually from
309 among its members a chairperson and a vice chairperson, each of whom shall have the
310 authority and duties specified in the by-laws. The chairperson or, in the chairperson's absence
311 or disability, the vice chairperson shall preside at all meetings of the commission.

312 (b) The officers shall serve without compensation or remuneration from the
313 commission, provided that, subject to the availability of budgeted funds, the officers shall be
314 reimbursed for any ordinary and necessary costs and expenses incurred by them in the
315 performance of their duties and responsibilities as officers of the commission.

316 (c) The commission shall, through its executive committee, appoint or retain an
317 executive director for any time period, upon any terms and conditions, and for any
318 compensation as the commission may consider appropriate. The executive director shall serve
319 as secretary to the commission, but may not be a member and shall hire and supervise other
320 staff as authorized by the commission.

321 (3) Section C. Qualified Immunity, Defense, and Indemnification

322 (a) The Interstate Commission's executive director and employees shall be immune
323 from suit and liability, either personally or in their official capacity, for any claim for damage
324 to or loss of property or personal injury or other civil liability caused or arising out of or
325 relating to any actual or alleged act, error, or omission that occurred, or that the person had a
326 reasonable basis for believing occurred within the scope of commission employment, duties, or
327 responsibilities; provided, that a person may not be protected from suit or liability for any
328 damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of
329 the person.

330 (b) The liability of any commissioner, or the employee or agent of a commissioner,
331 acting within the scope of the person's employment or duties for acts, errors, or omissions
332 occurring within the person's state may not exceed the limits of liability set forth under the
333 constitution and laws of that state for state officials, employees, and agents. Nothing in this
334 Subsection (3) shall be construed to protect any person from suit or liability for any damage,
335 loss, injury, or liability caused by the intentional or willful and wanton misconduct of the
336 person.

337 (c) The commission shall defend the executive director or the employees or

338 representatives of the commission and, subject to the approval of the attorney general of the
339 state represented by any commissioner of a compacting state, shall defend the commissioner or
340 the commissioner's representatives or employees in any civil action seeking to impose liability
341 arising out of any actual or alleged act, error, or omission that occurred within the scope of
342 commission employment, duties, or responsibilities, or that the defendant had a reasonable
343 basis for believing occurred within the scope of commission employment, duties, or
344 responsibilities, provided that the actual or alleged act, error, or omission did not result from
345 intentional or willful and wanton misconduct on the part of the person.

346 (d) The commission shall indemnify and hold the commissioner of a compacting state,
347 the commissioner's representatives or employees, or the commission's representatives or
348 employees harmless in the amount of any settlement or judgment obtained against the persons
349 arising out of any actual or alleged act, error, or omission that occurred within the scope of
350 commission employment, duties, or responsibilities, or that the persons had a reasonable basis
351 for believing occurred within the scope of commission employment, duties, or responsibilities,
352 provided that the actual or alleged act, error, or omission did not result from intentional or
353 willful and wanton misconduct on the part of the persons.

354 Section 7. Section **55-12-106** is enacted to read:

355 **55-12-106. Article 6 -- Rulemaking functions of the Interstate Commission.**

356 (1) The Interstate Commission shall promulgate and publish rules in order to
357 effectively and efficiently achieve the purposes of the compact.

358 (2) Rulemaking shall occur pursuant to the criteria set forth in this section and the
359 by-laws and rules adopted pursuant thereto. Rulemaking shall substantially conform to the
360 principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws
361 Annotated, Vol. 15, p.1 (2000), or any other administrative procedures act, as the commission
362 considers appropriate, consistent with due process requirements under the U.S. Constitution as
363 interpreted by the U. S. Supreme Court. All rules and amendments shall become binding as of
364 the date specified, as published with the final version of the rule as approved by the
365 commission.

366 (3) When promulgating a rule, the commission shall, at a minimum:

367 (a) publish the proposed rule's entire text stating the reasons for that proposed rule;

368 (b) allow and invite any and all persons to submit written data, facts, opinions, and

369 arguments, which information shall be added to the record, and be made publicly available;

370 (c) provide an opportunity for an informal hearing if petitioned by ten or more persons;

371 and

372 (d) promulgate a final rule and its effective date, if appropriate, based on input from

373 state or local officials, or interested parties.

374 (4) Not later than 60 days after a rule is promulgated, the commission shall allow any

375 interested person to file a petition in the United States District Court for the District of

376 Columbia or in the Federal District Court where the commission's principal office is located for

377 judicial review of the rule. If the court finds that the commission's action is not supported by

378 substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it

379 aside. For purposes of this Subsection (4), evidence is substantial if it would be considered

380 substantial evidence under the Model State Administrative Procedures Act.

381 (5) If a majority of the legislatures of the compacting states reject a rule, those states

382 may, by enactment of a statute or resolution in the same manner used to adopt the compact,

383 state that the rule shall have no further force and effect in any compacting state.

384 (6) The existing rules governing the operation of the Interstate Compact on Juveniles

385 superceded by this act shall be null and void 12 months after the first meeting of the Interstate

386 Commission created in this chapter.

387 (7) Upon determination by the Interstate Commission that a state of emergency exists,

388 it may promulgate an emergency rule which shall become effective immediately upon

389 adoption, provided that the usual rulemaking procedures shall be retroactively applied to the

390 rule as soon as reasonably possible, but no later than 90 days after the effective date of the

391 emergency rule.

392 Section 8. Section **55-12-107** is enacted to read:

393 **55-12-107. Article 7 -- Oversight, enforcement, and dispute resolution by the**

394 **Interstate Commission.**

395 (1) Section A. Oversight

396 (a) The Interstate Commission shall oversee the administration and operations of the

397 interstate movement of juveniles subject to this compact in the compacting states and shall

398 monitor activities being administered in noncompacting states which may significantly affect

399 compacting states.

400 (b) The courts and executive agencies in each compacting state shall enforce this
401 compact and take all actions necessary and appropriate to effectuate the compact's purposes
402 and intent. The provisions of this compact and the rules promulgated hereunder shall be
403 received by all the judges, public officers, commissions, and departments of the state
404 government as evidence of the authorized statute and administrative rules. All courts shall take
405 judicial notice of the compact and the rules. In any judicial or administrative proceeding in a
406 compacting state pertaining to the subject matter of this compact which may affect the powers,
407 responsibilities, or actions of the commission, it shall be entitled to receive all service of
408 process in any proceeding, and shall have standing to intervene in the proceeding for all
409 purposes.

410 (2) Section B. Dispute Resolution

411 (a) The compacting states shall report to the Interstate Commission on all issues and
412 activities necessary for the administration of the compact as well as issues and activities
413 pertaining to compliance with the provisions of the compact and its by-laws and rules.

414 (b) The Interstate Commission shall attempt, upon the request of a compacting state, to
415 resolve any disputes or other issues which are subject to the compact and which may arise
416 among compacting states and between compacting and noncompacting states. The commission
417 shall promulgate a rule providing for both mediation and binding dispute resolution for
418 disputes among the compacting states.

419 (c) The commission, in the reasonable exercise of its discretion, shall enforce the
420 provisions and rules of this compact using any or all means set forth in Section 55-12-109.

421 Section 9. Section **55-12-108** is enacted to read:

422 **55-12-108. Article 8 -- Finance.**

423 (1) The Interstate Commission shall pay or provide for the payment of the reasonable
424 expenses of its establishment, organization, and ongoing activities.

425 (2) The commission shall levy on and collect an annual assessment from each
426 compacting state to cover the cost of the internal operations and activities of the commission
427 and its staff which shall be in a total amount sufficient to cover the commission's annual budget
428 as approved each year. The aggregate annual assessment amount shall be allocated based upon
429 a formula to be determined by the commission, taking into consideration the population of each
430 compacting state and the volume of interstate movement of juveniles in each compacting state.

431 The commission shall promulgate a rule binding upon all compacting states which governs the
432 assessment.

433 (3) The commission may not incur any obligations of any kind prior to securing the
434 funds adequate to meet the obligations, nor shall the commission pledge the credit of any of the
435 compacting states, except by and with the authority of the compacting state.

436 (4) The commission shall keep accurate accounts of all receipts and disbursements.
437 The receipts and disbursements of the commission shall be subject to the audit and accounting
438 procedures established under its by-laws. All receipts and disbursements of funds handled by
439 the commission shall be audited yearly by a certified or licensed public accountant and the
440 report of the audit shall be included in and become part of the annual report of the commission.

441 Section 10. Section **55-12-109** is enacted to read:

442 **55-12-109. Article 9 -- The state council.**

443 (1) Each member state shall create a State Council for Interstate Juvenile Supervision.

444 (2) While each state may determine the membership of its own state council, its
445 membership shall include at least one representative from the legislative, judicial, and
446 executive branches of government, victims groups, and the compact administrator, deputy
447 compact administrator, or designee.

448 (3) Each compacting state retains the right to determine the qualifications of the
449 compact administrator or deputy compact administrator.

450 (4) Each state council shall advise and may exercise oversight and advocacy
451 concerning that state's participation in commission activities and other duties determined by
452 that state, including but not limited to, development of policy concerning operations and
453 procedures of the compact within that state.

454 Section 11. Section **55-12-110** is enacted to read:

455 **55-12-110. Article 10 -- Compacting states, effective date, and amendment.**

456 (1) Any state, the District of Columbia, the Commonwealth of Puerto Rico, the U.S.
457 Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands as defined in
458 Section 55-12-102 is eligible to become a compacting state.

459 (2) The compact shall become effective and binding upon legislative enactment of the
460 compact into law by no less than 35 states. The initial effective date shall be the later of July 1,
461 2004 or upon enactment into law by the 35th jurisdiction. Thereafter it shall become effective

462 and binding as to any other compacting state upon enactment of the compact into law by that
463 state.

464 (3) The governors of nonmember states or their designees shall be invited to participate
465 in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the
466 compact by all states and territories of the United States.

467 (4) The commission may propose amendments to the compact for enactment by the
468 compacting states. No amendment shall become effective and binding upon the commission
469 and the compacting states unless and until it is enacted into law by unanimous consent of the
470 compacting states.

471 Section 12. Section **55-12-111** is enacted to read:

472 **55-12-111. Article 11 -- Withdrawal, default, termination, and judicial**
473 **enforcement.**

474 (1) Section A. Withdrawal

475 (a) Once effective, the compact shall continue in force and remain binding upon each
476 and every compacting state.

477 (b) A compacting state may withdraw from the compact by specifically repealing the
478 statute which enacted the compact into law. The effective date of withdrawal is the effective
479 date of the repeal.

480 (c) The withdrawing state shall immediately notify the chairperson of the Interstate
481 Commission in writing upon the introduction of legislation repealing the compact in the
482 withdrawing state. The commission shall notify the other compacting states of the
483 withdrawing state's intent to withdraw within 60 days of its receipt thereof.

484 (d) The withdrawing state is responsible for all assessments, obligations, and liabilities
485 incurred through the effective date of withdrawal, including any obligations, the performance
486 of which extend beyond the effective date of withdrawal.

487 (e) Reinstatement following withdrawal of any compacting state shall occur upon the
488 withdrawing state reenacting the compact or upon a later date as determined by the
489 commission.

490 (2) Section B. Technical Assistance, Fines, Suspension, Termination, and Default

491 (a) If the Interstate Commission determines that any compacting state has at any time
492 defaulted in the performance of any of its obligations or responsibilities under this compact, or

493 the by-laws or duly promulgated rules, the commission may impose any or all of the following
494 penalties:

495 (i) remedial training and technical assistance as directed by the commission;

496 (ii) alternative dispute resolution;

497 (iii) fines, fees, and costs in amounts considered to be reasonable as fixed by the
498 commission; and

499 (iv) suspension or termination of membership in the compact.

500 (b) Suspension or termination of membership in the compact shall be imposed only
501 after all other reasonable means of securing compliance under the by-laws and rules have been
502 exhausted and the commission has determined that the offending state is in default.

503 (c) Immediate notice of suspension shall be given by the commission to the governor,
504 the chief justice, or the chief judicial officer of the state, the majority and minority leaders of
505 the defaulting state's legislature, and the state council.

506 (d) The grounds for default include, but are not limited to, failure of a compacting state
507 to perform obligations or responsibilities imposed upon it by this compact, the by-laws, or duly
508 promulgated rules, and any other grounds designated in commission by-laws and rules.

509 (i) The commission shall immediately notify the defaulting state in writing of the
510 penalty imposed by the commission and of the default pending a cure of the default.

511 (ii) The commission shall stipulate the conditions and the time period within which the
512 defaulting state must cure its default.

513 (e) If the defaulting state fails to cure the default within the time period specified by the
514 commission, the defaulting state shall be terminated from the compact upon an affirmative vote
515 of a majority of the compacting states and all rights, privileges, and benefits conferred by this
516 compact shall be terminated upon the effective date of termination.

517 (f) Within 60 days of the effective date of termination of a defaulting state, the
518 commission shall notify the governor, the chief justice or chief judicial officer, the majority and
519 minority leaders of the defaulting state's legislature, and the state council of the termination.

520 (g) The defaulting state is responsible for all assessments, obligations, and liabilities
521 incurred through the effective date of termination including any obligations, the performance of
522 which extends beyond the effective date of termination.

523 (h) The commission may not bear any costs relating to the defaulting state unless

524 otherwise mutually agreed upon in writing between the commission and the defaulting state.

525 (i) Reinstatement following termination of any compacting state requires both a
526 reenactment of the compact by the defaulting state and the approval of the commission
527 pursuant to the rules.

528 (3) Section C. Judicial Enforcement

529 (a) The Interstate Commission may, by majority vote of the members, initiate legal
530 action in the United States District Court for the District of Columbia or, at the discretion of
531 the Interstate Commission, in the federal district where the Interstate Commission has its
532 offices, to enforce compliance with the provisions of the compact, its duly promulgated rules
533 and by-laws, against any compacting state in default.

534 (b) In the event judicial enforcement is necessary, the prevailing party shall be awarded
535 all costs of litigation, including reasonable attorneys' fees.

536 (4) Section D. Dissolution of Compact

537 (a) The compact dissolves effective upon the date of the withdrawal or default of a
538 compacting state, which reduces membership in the compact to one compacting state.

539 (b) Upon the dissolution of this compact, the compact becomes null and void and shall
540 be of no further force or effect, the business and affairs of the Interstate Commission shall be
541 concluded, and any surplus funds shall be distributed in accordance with the by-laws.

542 Section 13. Section **55-12-112** is enacted to read:

543 **55-12-112. Article 12 -- Severability and construction.**

544 (1) The provisions of this compact shall be severable, and if any phrase, clause,
545 sentence, or provision is considered unenforceable, the remaining provisions of the compact
546 shall be enforceable.

547 (2) The provisions of this compact shall be liberally construed to effectuate its
548 purposes.

549 Section 14. Section **55-12-113** is enacted to read:

550 **55-12-113. Article 13 -- Binding effect of compact and other laws.**

551 (1) Section A. Other Laws

552 (a) Nothing herein prevents the enforcement of any other law of a compacting state that
553 is not inconsistent with this compact.

554 (b) All compacting states' laws other than state constitutions and other interstate

555 compacts conflicting with this compact are superseded to the extent of the conflict.

556 (2) Section B. Binding Effect of the Compact

557 (a) All lawful actions of the commission, including all rules and by-laws promulgated
558 by the commission, are binding upon the compacting states.

559 (b) All agreements between the commission and the compacting states are binding in
560 accordance with their terms.

561 (c) Upon the request of a party to a conflict over meaning or interpretation of
562 commission actions, and upon a majority vote of the compacting states, the commission may
563 issue advisory opinions regarding the meaning or interpretation.

564 (d) In the event any provision of this compact exceeds the constitutional limits imposed
565 on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction
566 sought to be conferred by the provision upon the commission shall be ineffective and the
567 obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be
568 exercised by the agency thereof to which the obligations, duties, powers, or jurisdiction are
569 delegated by law in effect at the time this compact becomes effective.

570 Section 15. Section **55-12-114**, which is renumbered from Section 55-12-2 is
571 renumbered and amended to read:

572 **[55-12-2]. 55-12-114. Juvenile compact administrator.**

573 (1) Pursuant to [said] this compact, the governor is [hereby] authorized and empowered
574 to designate [an officer who shall be the] a compact administrator and who, acting jointly with
575 like [officers] administrators of other party states, shall promulgate rules and regulations to
576 carry out more effectively the terms of the compact. [Said] The compact administrator shall
577 serve subject to the pleasure of the governor.

578 (2) The compact administrator is [hereby] authorized, empowered and directed to
579 cooperate with all departments, agencies and officers of and in the government of this state and
580 its subdivisions in facilitating the proper administration of the compact or of any
581 supplementary agreement or agreements entered into by this state [thereunder].

582 Section 16. Section **55-12-115**, which is renumbered from Section 55-12-3 is
583 renumbered and amended to read:

584 **[55-12-3]. 55-12-115. Supplementary agreements.**

585 The compact administrator is [hereby] authorized and empowered to enter into

586 supplementary agreements with appropriate officials of other states pursuant to the compact. In
587 the event that [~~such~~] the supplementary agreement [~~shall require~~] requires or [~~contemplate~~]
588 contemplates the use of any institution or facility of this state or [~~require~~] requires or
589 [~~contemplate~~] contemplates the provision of any service by this state, [~~said~~] the supplementary
590 agreement shall have no force or effect until approved by the head of the department or agency
591 under whose jurisdiction said institution or facility is operated or whose department or agency
592 will be charged with the rendering of such service.

593 Section 17. Section **55-12-116**, which is renumbered from Section 55-12-4 is
594 renumbered and amended to read:

595 ~~[55-12-4].~~ **55-12-116. Financial arrangements.**

596 The compact administrator, subject to the approval of the Department of Finance, may
597 make or arrange for any payments necessary to discharge any financial obligations imposed
598 upon this state by the compact or by any supplementary agreement entered into [~~thereunder~~].

599 Section 18. Section **55-12-117**, which is renumbered from Section 55-12-5 is
600 renumbered and amended to read:

601 ~~[55-12-5].~~ **55-12-117. Responsibility of parents.**

602 The compact administrator is authorized to take appropriate action to recover from
603 parents or guardians, any and all costs expended by the state, or any of its subdivisions, to
604 return a delinquent or nondelinquent juvenile to this state, for care provided pursuant to any
605 supplementary agreement [~~herein authorized~~], or for care pending the return of [~~such~~] the
606 juvenile to this state.

607 Section 19. Section **55-12-118**, which is renumbered from Section 55-12-6 is
608 renumbered and amended to read:

609 ~~[55-12-6].~~ **55-12-118. Responsibilities of state courts, departments, agencies,**
610 **and officers.**

611 The courts, departments, agencies and officers of this state and its subdivisions shall
612 enforce this compact and [~~shall~~] do all things appropriate to the effectuation of its purposes and
613 intent which may be within their respective jurisdictions.

614 Section 20. **Repealer.**

615 This bill repeals:

616 Section **55-12-1, Execution of compact.**

Legislative Review Note

as of 2-3-04 9:27 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

State Impact

As the states adopt the Interstate Compact for Juveniles, it is expected that the Commission will assign each state fees for its operating funds, estimated to be at least \$10,000 for Utah.

	<u>FY 2005</u> <u>Approp.</u>	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2005</u> <u>Revenue</u>	<u>FY 2006</u> <u>Revenue</u>
General Fund	\$10,000	\$10,000	\$0	\$0
TOTAL	\$10,000	\$10,000	\$0	\$0

Individual and Business Impact

No fiscal impact.
