

**INTERSTATE JUVENILE COMPACT**

2005 GENERAL SESSION

STATE OF UTAH

**Sponsor: Lyle W. Hillyard**

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**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:

**55-12-100**, Utah Code Annotated 1953



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

41 RENUMBERS AND AMENDS:

- 42           **55-12-114**, (Renumbered from 55-12-2, as enacted by Chapter 113, Laws of Utah 1955)
- 43           **55-12-115**, (Renumbered from 55-12-3, as enacted by Chapter 113, Laws of Utah 1955)
- 44           **55-12-116**, (Renumbered from 55-12-4, as enacted by Chapter 113, Laws of Utah 1955)
- 45           **55-12-117**, (Renumbered from 55-12-5, as enacted by Chapter 113, Laws of Utah 1955)
- 46           **55-12-118**, (Renumbered from 55-12-6, as enacted by Chapter 113, Laws of Utah 1955)

47 REPEALS:

- 48           **55-12-1**, as last amended by Chapter 170, Laws of Utah 1983



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

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

52                           **CHAPTER 12. INTERSTATE COMPACT FOR JUVENILES**

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

54           (1) This chapter is known as the "Interstate Compact for Juveniles."

55           (2) The governor is authorized and directed to execute a compact on behalf of this state

56 with any other state or states substantially in the form of this chapter.

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

58           **55-12-101. Article 1 -- Purpose.**

59           (1) The compacting states to this Interstate Compact recognize that each state is  
60 responsible for the proper supervision or return of juveniles, delinquents, and status offenders  
61 who are on probation or parole and who have absconded, escaped, or run away from  
62 supervision and control and in so doing have endangered their own safety and the safety of  
63 others.

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

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

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

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

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

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

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

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

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

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

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

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

90 (j) establish a system of uniform data collection on information pertaining to juveniles  
91 subject to this compact that allows access by authorized juvenile justice and criminal justice  
92 officials, and regular reporting of compact activities to heads of state executive, judicial, and  
93 legislative branches and juvenile and criminal justice administrators;

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

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

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

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

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

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

110 **55-12-102. Article 2 -- Definitions.**

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

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

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

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

121 (4) "Commissioner" means the voting representative of each compacting state  
122 appointed pursuant to Section 55-12-103.

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

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

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

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

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

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

138 (c) "adjudicated delinquent" meaning a person found to have committed an offense  
139 that, if committed by an adult, would be a criminal offense;

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

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

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

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

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

152 state, and includes the amendment, repeal, or suspension of an existing rule.

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

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

157 **55-12-103. Article 3 -- Interstate Commission for Juveniles.**

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

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

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

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

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

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

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

181 (8) Each compacting state represented at any meeting of the commission is entitled to  
182 one vote. A majority of the compacting states shall constitute a quorum for the transaction of

183 business, unless a larger quorum is required by the by-laws of the commission.

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

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

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

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

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

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

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

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

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

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

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

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

244 **55-12-104. Article 4 -- Powers and duties of the Interstate Commission.**



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

- 276           (16) adopt a seal and by-laws governing the management and operation of the  
277 commission;
- 278           (17) perform any functions necessary or appropriate to achieve the purposes of this  
279 compact;
- 280           (18) report annually to the legislatures, governors, judiciary, and state councils of the  
281 compacting states concerning the activities of the commission during the preceding year,  
282 including any recommendations that may have been adopted by the commission;
- 283           (19) coordinate education, training, and public awareness regarding the interstate  
284 movement of juveniles for officials involved in the activity;
- 285           (20) establish uniform standards for the reporting, collecting, and exchanging of data;  
286 and
- 287           (21) maintain its corporate books and records in accordance with the by-laws.
- 288       Section 6. Section **55-12-105** is enacted to read:
- 289       **55-12-105. Article 5 -- Organization and operation of the Interstate Commission.**
- 290       (1) Section A. By-laws
- 291       The Interstate Commission shall, by a majority of the members present and voting,  
292 within 12 months after the first commission meeting, adopt by-laws to govern its conduct as  
293 may be necessary or appropriate to carry out the purposes of the compact, including, but not  
294 limited to:
- 295           (a) establishing the fiscal year of the commission;
- 296           (b) establishing an executive committee and any other committees as necessary;
- 297           (c) providing for the establishment of committees governing any general or specific  
298 delegation of any authority or function of the commission;
- 299           (d) providing reasonable procedures for calling and conducting meetings of the  
300 commission, and ensuring reasonable notice of each meeting;
- 301           (e) establishing the titles and responsibilities of the officers of the commission;
- 302           (f) providing a mechanism for concluding the operations of the commission and the  
303 return of any surplus funds that may exist upon the termination of the compact after the  
304 payment and reserving of all of its debts and obligations;
- 305           (g) providing "start-up" rules for initial administration of the compact; and
- 306           (h) establishing standards and procedures for compliance and technical assistance in

307 carrying out the compact.

308 (2) Section B. Officers and Staff

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

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

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

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

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

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

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

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

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

356 **55-12-106. Article 6 -- Rulemaking functions of the Interstate Commission.**

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

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

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

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

369 (b) allow and invite any and all persons to submit written data, facts, opinions, and  
370 arguments, which information shall be added to the record, and be made publicly available;

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

373 (d) promulgate a final rule and its effective date, if appropriate, based on input from  
374 state or local officials, or interested parties.

375 (4) Not later than 60 days after a rule is promulgated, the commission shall allow any  
376 interested person to file a petition in the United States District Court for the District of  
377 Columbia or in the Federal District Court where the commission's principal office is located for  
378 judicial review of the rule. If the court finds that the commission's action is not supported by  
379 substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it  
380 aside. For purposes of this Subsection (4), evidence is substantial if it would be considered  
381 substantial evidence under the Model State Administrative Procedures Act.

382 (5) If a majority of the legislatures of the compacting states reject a rule, those states  
383 may, by enactment of a statute or resolution in the same manner used to adopt the compact,  
384 state that the rule shall have no further force and effect in any compacting state.

385 (6) The existing rules governing the operation of the Interstate Compact on Juveniles  
386 superceded by this act shall be null and void 12 months after the first meeting of the Interstate  
387 Commission created in this chapter.

388 (7) Upon determination by the Interstate Commission that a state of emergency exists,  
389 it may promulgate an emergency rule which shall become effective immediately upon  
390 adoption, provided that the usual rulemaking procedures shall be retroactively applied to the  
391 rule as soon as reasonably possible, but no later than 90 days after the effective date of the  
392 emergency rule.

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

394 **55-12-107. Article 7 -- Oversight, enforcement, and dispute resolution by the**  
395 **Interstate Commission.**

396 (1) Section A. Oversight

397 (a) The Interstate Commission shall oversee the administration and operations of the  
398 interstate movement of juveniles subject to this compact in the compacting states and shall  
399 monitor activities being administered in noncompacting states which may significantly affect

400 compacting states.

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

411 (2) Section B. Dispute Resolution

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

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

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

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

423 **55-12-108. Article 8 -- Finance.**

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

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

431 compacting state and the volume of interstate movement of juveniles in each compacting state.  
432 The commission shall promulgate a rule binding upon all compacting states which governs the  
433 assessment.

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

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

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

443 **55-12-109. Article 9 -- The state council.**

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

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

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

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

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

456 **55-12-110. Article 10 -- Compacting states, effective date, and amendment.**

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

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

462 2004 or upon enactment into law by the 35th jurisdiction. Thereafter it shall become effective  
463 and binding as to any other compacting state upon enactment of the compact into law by that  
464 state.

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

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

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

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

475 (1) Section A. Withdrawal

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

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

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

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

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

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

492 (a) If the Interstate Commission determines that any compacting state has at any time



493 defaulted in the performance of any of its obligations or responsibilities under this compact, or  
494 the by-laws or duly promulgated rules, the commission may impose any or all of the following  
495 penalties:

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

497 (ii) alternative dispute resolution;

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

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

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

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

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

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

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

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

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

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

524 (h) The commission may not bear any costs relating to the defaulting state unless  
525 otherwise mutually agreed upon in writing between the commission and the defaulting state.

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

529 (3) Section C. Judicial Enforcement

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

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

537 (4) Section D. Dissolution of Compact

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

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

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

544 **55-12-112. Article 12 -- Severability and construction.**

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

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

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

551 **55-12-113. Article 13 -- Binding effect of compact and other laws.**

552 (1) Section A. Other Laws

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

555 (b) All compacting states' laws other than state constitutions and other interstate  
556 compacts conflicting with this compact are superseded to the extent of the conflict.

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

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

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

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

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

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

573 **[55-12-2]. 55-12-114. Juvenile compact administrator.**

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

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

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

585 **[55-12-3]. 55-12-115. Supplementary agreements.**

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

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

596 [~~55-12-4~~]. **55-12-116. Financial arrangements.**

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

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

602 [~~55-12-5~~]. **55-12-117. Responsibility of parents.**

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

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

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

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

615 Section 20. **Repealer.**

616 This bill repeals:

617 Section 55-12-1, Execution of compact.

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**Legislative Review Note**  
as of 11-30-04 12:13 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

**State Impact**

An ongoing General Fund appropriation of \$12,000 to the Juvenile Courts for compact assessments is required to implement the provisions of this bill.

	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2006</u> <u>Revenue</u>	<u>FY 2007</u> <u>Revenue</u>
General Fund	\$12,000	\$12,000	\$0	\$0
<b>TOTAL</b>	<b>\$12,000</b>	<b>\$12,000</b>	<b>\$0</b>	<b>\$0</b>

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**Individual and Business Impact**

No fiscal impact.

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