

By: Representative Porter

To: Judiciary B

## HOUSE BILL NO. 577

1 AN ACT TO AUTHORIZE ANY COUNTY OR MUNICIPALITY TO CONTRACT  
2 WITH OTHER STATES FOR THE HOUSING AND CARE OF CHILDREN WHO HAVE  
3 COMMITTED DELINQUENT ACTS WHENEVER JUVENILE DETENTION FACILITIES  
4 WITHIN THIS STATE HAVE REACHED THEIR OPERATIONAL CAPACITY LIMIT;  
5 TO BRING FORWARD SECTION 43-25-101, MISSISSIPPI CODE OF 1972,  
6 WHICH IS THE INTERSTATE COMPACT FOR JUVENILES; AND FOR RELATED  
7 PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 **SECTION 1.** As used in this act, the following words shall  
10 have the meaning ascribed herein unless the context requires  
11 otherwise:

12 (a) "American Correctional Association Standards" means  
13 standards promulgated by the American Correctional Association.

14 (b) "Child" and "youth" are synonymous, and each means a  
15 person who has not reached his eighteenth birthday. A child who  
16 has not reached his eighteenth birthday and is on active duty for  
17 a branch of the armed services or is married is not considered a  
18 "child" or "youth" for the purposes of this act.

19 (c) "County" means the boards of supervisors of any  
20 county in the State of Mississippi.



21 (d) "Delinquent act" is any act, which if committed by  
22 an adult, is designated as a crime under state or federal law, or  
23 municipal or county ordinance other than offenses punishable by  
24 life imprisonment or death. A delinquent act includes escape from  
25 lawful detention and violations of the Uniform Controlled  
26 Substances Law and violent behavior.

27 (e) "Delinquent child" means a child who has reached  
28 his tenth birthday and who has committed a delinquent act.

29 (f) "Facility" means a jail or other incarceration  
30 facility that is used for the housing and care of juvenile  
31 offenders.

32 (g) "Municipality" means the governing authority of a  
33 municipality.

34 (h) "Operating capacity" means the total number of  
35 juvenile delinquents who can be safely and reasonably housed in  
36 facilities in the State of Mississippi.

37 **SECTION 2.** If juvenile detention centers are beyond  
38 operating capacity in any county and municipality within this  
39 state, then a county or municipality is authorized to contract  
40 with any other state or political subdivision thereof to provide  
41 for the housing, care and control in a facility of children who  
42 have committed delinquent acts. Such housing, care and control  
43 shall only occur if a child from this state has been adjudicated  
44 as a child who has committed a delinquent act and who does not  
45 have history of escape. The authority to contract, as authorized



in this section, may extend for time periods that are acceptable to the parties notwithstanding any provision or rule of law to the contrary, and to exercise all powers necessary or desirable in connection with the operation of a facility, including, but not limited to, the power to incarcerate children who have committed delinquent acts as defined in this act. Such children who are housed in a facility of another state shall remain subject to the jurisdiction of the youth court in the State of Mississippi that adjudicated the youth as a delinquent.

**SECTION 3.** (1) A facility in another state shall be designed, constructed, operated and maintained in accordance with American Correctional Association Standards and shall meet the requirements of Mississippi Juvenile Detention Facilities Act before such facility may be considered as a facility to house juvenile offenders.

(2) A facility in another state shall comply with all constitutional standards of the United States and with all court orders applicable to youthful offenders housed in the facility.

**SECTION 4.** Section 43-25-101, Mississippi Code of 1972, is brought forward as follows:

43-25-101. The Governor, on behalf of this state, may execute a compact in substantially the following form, and the Legislature signifies in advance its approval and ratification of the compact:

#### **THE INTERSTATE COMPACT FOR JUVENILES**



71 **ARTICLE I**

72 **PURPOSE**

73 The compacting states to this Interstate Compact recognize  
74 that each state is responsible for the proper supervision or  
75 return of juveniles, delinquents and status offenders who are on  
76 probation or parole and who have absconded, escaped or run away  
77 from supervision and control and in so doing have endangered their  
78 own safety and the safety of others. The compacting states also  
79 recognize that each state is responsible for the safe return of  
80 juveniles who have run away from home and in doing so have left  
81 their state of residence. The compacting states also recognize  
82 that Congress, by enacting the Crime Control Act, 4 USCS Section  
83 112 (1965), has authorized and encouraged compacts for cooperative  
84 efforts and mutual assistance in the prevention of crime.

85 It is the purpose of this compact, through means of joint and  
86 cooperative action among the compacting states to:

87 (a) Ensure that the adjudicated juveniles and status  
88 offenders subject to this compact are provided adequate  
89 supervision and services in the receiving state as ordered by the  
90 adjudicating judge or parole authority in the sending state;

91 (b) Ensure that the public safety interests of the  
92 citizens, including the victims of juvenile offenders, in both the  
93 sending and receiving states are adequately protected.



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

97 (d) Make contracts for the cooperative  
98 institutionalization in public facilities in member states for  
99 delinquent youth needing special services;

100 (e) Provide for the effective tracking and supervision  
101 of juveniles;

102 (f) Equitably allocate the costs, benefits and  
103 obligations of the compacting states;

104 (g) Establish procedures to manage the movement between  
105 states of juvenile offenders released to the community under the  
106 jurisdiction of courts, juvenile departments, or any other  
107 criminal or juvenile justice agency that has jurisdiction over  
108 juvenile offenders;

109 (h) Ensure immediate notice to jurisdictions where  
110 defined offenders are authorized to travel or to relocate across  
111 state lines;

112 (i) Establish procedures to resolve pending charges  
113 (detainers) against juvenile offenders before transfer or release  
114 to the community under the terms of this compact.

115 (j) Establish a system of uniform data collection on  
116 information pertaining to juveniles subject to this compact that  
117 allows access by authorized juvenile justice and criminal justice  
118 officials, and regular reporting of compact activities to heads of



state, executive, judicial, and legislative branches and juvenile and criminal justice administrators;

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

(l) Coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in that activity; and

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

It is the policy of the compacting states that the activities conducted by the Interstate Commission created by this compact are the formation of public policies and therefore are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact.

## **ARTICLE II**

### **DEFINITIONS**



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

(a) "Bylaws" means those bylaws established by the Interstate Commission for its governance, or for directing or controlling its actions or conduct.

(b) "Compact administrator" means the individual in each compacting state appointed under the terms of this compact, responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

(c) "Compacting state" means any state that has enacted the enabling legislation for this compact.

(d) "Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of this compact.

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

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



(g) "Interstate Commission" means the Interstate Commission for Juveniles created by Article III of this compact.

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

(i) Accused delinquent, which is a person charged with an offense that, if committed by an adult, would be a criminal offense;

(ii) Adjudicated delinquent, which is a person found to have committed an offense that, if committed by an adult, would be a criminal offense;

(iii) Accused status offender, which is a person charged with an offense that would not be a criminal offense if committed by an adult;

(iv) Adjudicated status offender, which is a person found to have committed an offense that would not be a criminal offense if committed by an adult; and

(v) Nonoffender, which is a person in need of supervision who has not been accused or adjudicated a status offender or delinquent.

(i) "Noncompacting state" means any state that has not enacted the enabling legislation for this compact.

(j) "Probation or parole" means any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.





(k) "Rules" means a written statement by the Interstate Commission promulgated under Article VI of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the commission, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal or suspension of an existing rule.

(l) "State" means a state of the United States, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa and the Northern Marianas Islands.

### **ARTICLE III**

#### **INTERSTATE COMMISSION FOR JUVENILES**

(1) The compacting states create the "Interstate Commission for Juveniles." The commission shall be a body corporate and joint agency of the compacting states. The commission shall have all the responsibilities, powers and duties set forth in this compact, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(2) The Interstate Commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the State Council for Interstate Juvenile Supervision created under this compact. The commissioner shall be



the compact administrator, deputy compact administrator or designee from that state who shall serve on the Interstate Commission in such capacity under the applicable law of the compacting state.

(3) In addition to the commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners, but who are members of interested organizations. Those noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, Interstate Compact for Adult Offender for Adult Offender Supervision, Interstate Compact for the Placement of Children, juvenile justice and juvenile corrections officials and crime victims. All noncommissioner members of the Interstate Commission shall be ex officio nonvoting members. The Interstate Commission may provide in its bylaws for additional ex officio nonvoting members, including members of other national organizations, in such numbers as determined by the commission.

(4) Each compacting state represented at any meeting of the commission is entitled to one (1) vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

(5) The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the



request of a simple majority of the compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

(6) The Interstate Commission shall establish an executive committee, which shall include commission officers, members and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rule making and/or amendment to the compact. The executive committee shall oversee the day-to-day activities of the administration of the compact managed by an executive director and Interstate Commission staff; administers enforcement and compliance with the provisions of the compact, its bylaws and rules and performs such other duties as directed by the Interstate Commission or set forth in the bylaws.

(7) Each member of the Interstate Commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the Interstate Commission. A member shall vote in person and shall not delegate a vote to another compacting state. However, a commissioner, in consultation with the State Council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The bylaws may provide



for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

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

(9) Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two-thirds (2/3) vote that an open meeting would be likely to:

(a) Relate solely to the Interstate Commission's internal personnel practice and procedures;

(b) Disclose matters specifically exempted from disclosure by statute;

(c) Disclose trade secrets or commercial or financial information that is privileged or confidential;

(d) Involve accusing any person of a crime, or formally censuring any person;



290 (e) Disclose information of a personal nature where  
291 disclosure would constitute a clearly unwarranted invasion of  
292 personal privacy;

293 (f) Disclose investigative records compiled for law  
294 enforcement purposes;

295 (g) Disclose information contained in or related to  
296 examination, operating or condition reports prepared by, or on  
297 behalf of or for the use of, the Interstate Commission with  
298 respect to a regulated person or entity for the purpose of  
299 regulation or supervision of the person or entity;

300 (h) Disclose information, the premature disclosure of  
301 which would significantly endanger the stability of a regulated  
302 person or entity; or

303 (i) Specifically relate to the Interstate Commission's  
304 issuance of a subpoena, or its participation in a civil action or  
305 other legal proceeding.

306 (10) For every meeting closed under this provision, the  
307 Interstate Commission's legal counsel shall publicly certify that,  
308 in the legal counsel's opinion, the meeting may be closed to the  
309 public, and shall reference each relevant exemptive provision.  
310 The Interstate Commission shall keep minutes that shall fully and  
311 clearly describe all matters discussed in any meeting and shall  
312 provide a full and accurate summary of any actions taken, and the  
313 reasons therefor, including a description of each of the views  
314 expressed on any item and the record of any roll call vote



(reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in the minutes.

(11) The Interstate Commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules, which shall specify the data to be collected, the means of collection, data exchange and reporting requirements. Those methods of data collection, exchange and reporting shall, insofar as is reasonably possible, conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.

#### **ARTICLE IV**

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

The commission shall have the following powers and duties:

(a) To provide for dispute resolution among compacting states.

(b) To promulgate rules to effect the purposes and obligations as enumerated in this compact, which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

(c) To oversee, supervise and coordinate the interstate movement of juveniles subject to the terms of this compact and any bylaws adopted and rules promulgated by the Interstate Commission.



339           (d) To enforce compliance with the compact provisions,  
340 the rules promulgated by the Interstate Commission, and the  
341 bylaws, using all necessary and proper means, including, but not  
342 limited to, the use of judicial process.

343           (e) To establish and maintain offices, which shall be  
344 located within one or more of the compacting states.

345           (f) To purchase and maintain insurance and bonds.

346           (g) To borrow, accept, hire or contract for services of  
347 personnel.

348           (h) To establish and appoint committees and hire staff  
349 that it deems necessary for the carrying out of its functions  
350 including, but not limited to, an executive committee as required  
351 by Article III, which shall have the power to act on behalf of the  
352 Interstate Commission in carrying out its powers and duties under  
353 this compact.

354           (i) To elect or appoint officers, attorneys, employees,  
355 agents or consultants, and to fix their compensation, define their  
356 duties and determine their qualifications; and to establish  
357 the Interstate Commission's personnel policies and programs  
358 relating to, inter alia, conflicts of interest, rates of  
359 compensation and qualifications of personnel.

360           (j) To accept any and all donations and grants of  
361 money, equipment, supplies, materials and services, and to  
362 receive, utilize and dispose of it.



(k) To lease, purchase, accept contributions or donations of or otherwise to own, hold, improve or use any property, real, personal or mixed.

(l) To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed.

(m) To establish a budget and make expenditures and levy dues as provided in Article VIII of this compact.

(n) To sue and be sued.

(o) To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

(p) To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

(q) To report annually to the legislatures, governors, judiciary, and State Councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Those reports also shall include any recommendations that may have been adopted by the Interstate Commission.

(r) To coordinate education, training and public awareness regarding the interstate movement of juveniles for officials involved in that activity.

(s) To establish uniform standards of the reporting, collecting and exchanging of data.

(t) To maintain its corporate books and records in accordance with the bylaws.







(h) Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

(2) **Officers and Staff.** (a) The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson and a vice chairperson each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice chairperson shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; however, subject to the availability of budgeted funds, the officers shall be reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

(b) The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a member and shall hire and supervise such other staff as may be authorized by the Interstate Commission.

(3) **Qualified Immunity, Defense and Indemnification.** (a) The commission's executive director and employees shall be immune



438 from suit and liability, either personally or in their official  
439 capacity, for any claim for damage to or loss of property,  
440 personal injury or other civil liability caused or arising out of  
441 or relating to any actual or alleged act, error, or omission that  
442 occurred, or that the person had a reasonable basis for believing  
443 occurred within the scope of commission employment, duties or  
444 responsibilities; however, any such person shall not be protected  
445 from suit or liability for any damage, loss, injury or liability  
446 caused by the intentional or willful and wanton misconduct of any  
447 such person.

448           (b) The liability of any commissioner, or the employee  
449 of an agent of a commissioner, acting within the scope of the  
450 person's employment or duties for acts, errors or omissions  
451 occurring within the person's state, may not exceed the limits of  
452 liability set forth under the Constitution and laws of that state  
453 for state officials, employees and agents. Nothing in this  
454 subsection shall be construed to protect any such person from suit  
455 or liability for any damage, loss, injury or liability caused by  
456 the intentional or willful and wanton misconduct of any such  
457 person.

458           (c) The Interstate Commission shall defend the  
459 executive director or the employees or representatives of the  
460 Interstate Commission and, subject to the approval of the attorney  
461 general of the state represented by any commissioner of a  
462 compacting state, shall defend the commissioner or the



commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant has a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of the person.

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

## **ARTICLE VI**

### **RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION**



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

489           (2) Rule making shall occur using the criteria set forth in  
490 this article and the bylaws and rules adopted under this article.  
491 That rule making shall substantially conform to the principles of  
492 the "Model State Administrative Procedures Act," 1981 Act, Uniform  
493 Laws Annotated, Volume 15, page 1 (2000), or such other  
494 administrative procedures act, as the Interstate Commission deems  
495 appropriate consistent with due process requirements under the  
496 United States Constitution as now or hereafter interpreted by the  
497 United States Supreme Court. All rules and amendments shall  
498 become binding as of the date specified, as published with the  
499 final version of the rule as approved by the commission.

500           (3) When promulgating a rule, the Interstate Commission  
501 shall, at a minimum:

502                 (a) Publish the proposed rule's entire text stating the  
503 reason(s) for that proposed rule;

504                 (b) Allow and invite any and all persons to submit  
505 written data, facts, opinions, and arguments, which information  
506 shall be added to the record, and be made publicly available;

507                 (c) Provide an opportunity for an informal hearing if  
508 petitioned by ten (10) or more persons; and



509 (d) Promulgate a final rule and its effective date, if  
510 appropriate, based on input from state or local officials, or  
511 interested parties.

512 (4) Allow not later than sixty (60) days after a rule is  
513 promulgated, any interested person to file a petition in the  
514 United States District Court for the District of Columbia or in  
515 the Federal District Court where the Interstate Commission's  
516 principal office is located for judicial review of the rule. If  
517 the court finds that the Interstate Commission's action is not  
518 supported by substantial evidence in the rule-making record, the  
519 court shall hold the rule unlawful and set it aside. For purposes  
520 of this subsection, evidence is substantial if it would be  
521 considered substantial evidence under the Model State  
522 Administrative Procedures Act.

523 (5) If a majority of the legislatures of the compacting  
524 states rejects a rule, those states may, by enactment of a statute  
525 or resolution in the same manner used to adopt the compact, cause  
526 that the rule shall have no further force and effect in any  
527 compacting state.

528 (6) The existing rules governing the operation of the  
529 Interstate Compact on Juveniles superceded by this compact shall  
530 be null and void twelve (12) months after the first meeting of the  
531 Interstate Commission created under this compact.

532 (7) Upon determination by the Interstate Commission that a  
533 state of emergency exists, it may promulgate an emergency rule



that shall become effective immediately upon adoption, provided that the usual rule-making procedures provided under this article retroactively applied to the rule as soon as reasonably possible, but no later than ninety (90) days after the effective date of the emergency rule.

## ARTICLE VII

### OVERSIGHT, ENFORCEMENT AND DISPUTES RESOLUTION

#### BY THE INTERSTATE COMMISSION

(1) **Oversight.** (a) The Interstate Commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor those activities being administered in noncompacting states that may significantly affect compacting states.

(b) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated under this compact shall be received by all the judges, public officers, commissions and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact that may affect the powers, responsibilities or actions of the Interstate Commission, it shall be entitled to



559 receive all service of process in any such proceeding, and shall  
560 have standing to intervene in the proceeding for all purposes.

561       (2) **Dispute Resolution.** (a) The compacting states shall  
562 report to the Interstate Commission on all issues and activities  
563 necessary for the administration of the compact, as well as issues  
564 and activities pertaining to compliance with the provisions of the  
565 compact and its bylaws and rules.

566       (b) The Interstate Commission shall attempt, upon the  
567 request of a compacting state, to resolve any disputes or other  
568 issues that are subject to the compact and that may arise among  
569 compacting states and between compacting and noncompacting states.  
570 The commission shall promulgate a rule providing for both  
571 mediation and binding dispute resolution for disputes among the  
572 compacting states.

573       (c) The Interstate Commission, in the reasonable  
574 exercise of its discretion, shall enforce the provisions and rules  
575 of this compact using any or all means set forth in Article XI of  
576 this compact.

## 577                                   **ARTICLE VIII**

### 578                                   **FINANCE**

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

582       (2) The Interstate Commission shall levy on and collect an  
583 annual assessment from each compacting state to cover the cost of





the internal operations and activities of the Interstate Commission and its staff, which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state, and shall promulgate a rule binding upon all compacting states which governs the assessment.

(3) The Interstate Commission shall not incur any obligations of any kind before securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

(4) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

## **ARTICLE IX**

### **THE STATE COUNCIL**



608           Each member state shall create a State Council for Interstate  
609 Juvenile Supervision. While each state may determine the  
610 membership of its own State Council, its membership must include  
611 at least one (1) representative from the legislative, judicial,  
612 and executive branches of government, victims groups, and the  
613 compact administrator or designee. Each compacting state retains  
614 the right to determine the qualifications of the compact  
615 administrator or deputy compact administrator. Each State Council  
616 will advise and may exercise oversight and advocacy concerning the  
617 state's participation in Interstate Commission activities and  
618 other duties as may be determined by that state, including, but  
619 not limited to, development of policy concerning operations and  
620 procedures of the compact within that state.

621                                   **ARTICLE X**

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

623           (1) Any state, the District of Columbia (or its designee),  
624 the Commonwealth of Puerto Rico, the United States Virgin Islands,  
625 Guam, American Samoa and the Northern Marianas Islands as defined  
626 in Article II of this compact is eligible to become a compacting  
627 state.

628           (2) The compact shall become effective and binding upon  
629 legislative enactment of the compact into law by no less than  
630 thirty-five (35) of the states. The initial effective date shall  
631 be the later of July 1, 2004, or upon enactment into law by the  
632 thirty-fifth jurisdiction. Thereafter, it shall become effective



and binding as to any other compacting state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis before adoption of the compact by all states and territories of the United States.

(3) The Interstate Commission may propose amendments to the compact for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

#### **ARTICLE XI**

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

(1) **Withdrawal.** (a) Once effective, the compact shall continue in force and remain binding upon each and every compacting state; however, a compacting state may withdraw from the compact by specifically repealing the statute that enacted the compact into law.

(b) The effective date of withdrawal is the effective date of the repeal.

(c) The withdrawing state shall immediately notify the Chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the



other compacting states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.

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

(e) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

(2) **Technical Assistance, Fines, Suspension, Termination and Default.** (a) If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or the bylaws or duly promulgated rules, the Interstate Commission may impose any or all of the following penalties:

(i) Remedial training and technical assistance as directed by the Interstate Commission;

(ii) Alternative dispute resolution;

(iii) Fines, fees and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission; and

(iv) Suspension or termination of membership in the compact, which shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules



682 have been exhausted and the Interstate Commission has therefore  
683 determined that the offending state is in default. Immediate  
684 notice of suspension shall be given by the Interstate Commission  
685 to the governor, the chief justice or the chief judicial officer  
686 of the state, the majority and minority leaders of the defaulting  
687 state's legislature and the State Council. The grounds for  
688 default include, but are not limited to, failure of a compacting  
689 state to perform the obligations or responsibilities imposed upon  
690 it by this compact, the bylaws or duly promulgated rules and any  
691 other grounds designated in commission bylaws and rules. The  
692 Interstate Commission shall immediately notify the defaulting  
693 state in writing of the penalty imposed by the Interstate  
694 Commission and of the default pending a cure of the default. The  
695 commission shall stipulate the conditions and the time period  
696 within which the defaulting state must cure its default. If the  
697 defaulting state fails to cure the default within the time period  
698 specified by the commission, the defaulting state shall be  
699 terminated from the compact upon an affirmative vote of a majority  
700 of the compacting states and all rights, privileges and benefits  
701 conferred by this compact shall be terminated from the effective  
702 date of termination.

703 (b) Within sixty (60) days of the effective date of  
704 termination of a defaulting state, the commission shall notify the  
705 governor, the chief justice or the chief judicial officer, the



majority and minority leaders of the defaulting state's legislature, and the State Council of that termination.

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

(d) The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

(e) Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

(3) **Judicial Enforcement.** The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district court where the Interstate Commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules and bylaws, against any compacting state in default. If judicial enforcement is necessary, the prevailing party shall be awarded all costs of the litigation, including reasonable attorney's fees.



(4) **Dissolution of Compact.** (a) The compact dissolves effective upon the date of the withdrawal or default of the compacting state, which reduces membership in the compact to one (1) compacting state.

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

## **ARTICLE XII**

### **SEVERABILITY AND CONSTRUCTION**

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

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

## **ARTICLE XIII**

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

(1) **Other Laws.** (a) Nothing in this compact prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

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



756           (2)   **Binding Effect of the Compact.**   (a)   All lawful actions  
757 of the Interstate Commission, including all rules and bylaws  
758 promulgated by the Interstate Commission, are binding upon the  
759 compacting states.

760                   (b)   All agreements between the Interstate Commission  
761 and the compacting states are binding in accordance with their  
762 terms.

763                   (c)   Upon the request of a party to a conflict over  
764 meaning or interpretation of Interstate Commission actions, and  
765 upon a majority vote of the compacting states, the Interstate  
766 Commission may issue advisory opinions regarding that meaning or  
767 interpretation.

768                   (d)   If any provision of this compact exceeds the  
769 constitutional limits imposed on the legislature of any compacting  
770 state, the obligations, duties, powers or jurisdiction sought to  
771 be conferred by that provision upon the Interstate Commission  
772 shall be ineffective and those obligations, duties, powers or  
773 jurisdiction shall remain in the compacting state and shall be  
774 exercised by the agency thereof to which those obligations,  
775 duties, powers or jurisdiction are delegated by law in effect at  
776 the time this compact becomes effective.

777           **SECTION 5.**   This act shall take effect and be in force from  
778 and after July 1, 2025.

