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I N S E N A T E

May 12, 2010

Introduced by Sens. MONTGOMERY, DUANE, HUNTLEY, OPPENHEIMER, PARKER --
(at request of the Office of Children and Family Services) -- read
twice and ordered printed, and when printed to be committed to the
Committee on Children and Families

AN ACT to amend the executive law, in relation to the adoption of the
interstate compact for juveniles by the state of New York; and to
repeal chapter 155 of the laws of 1955 enacting the interstate compact
on juveniles relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Chapter 155 of the laws of 1955, enacting the interstate
2 compact on juveniles, is REPEALED.

3 S 2. The executive law is amended by adding a new section 501-e to
4 read as follows:

5 S 501-E. INTERSTATE COMPACT FOR JUVENILES. THE INTERSTATE COMPACT FOR
6 JUVENILES IS HEREBY ENACTED INTO LAW AND ENTERED INTO WITH ALL OTHER
7 JURISDICTIONS LEGALLY JOINING THEREIN IN A FORM SUBSTANTIALLY AS
8 FOLLOWS:

9 THE INTERSTATE COMPACT FOR JUVENILES

10 ARTICLE I

11 PURPOSE

12 THE COMPACTING STATES TO THIS INTERSTATE COMPACT RECOGNIZE THAT EACH
13 STATE IS RESPONSIBLE FOR THE PROPER SUPERVISION OR RETURN OF JUVENILES,
14 DELINQUENTS AND STATUS OFFENDERS WHO ARE ON PROBATION OR PAROLE AND WHO
15 HAVE ABSCONDED, ESCAPED OR RUN AWAY FROM SUPERVISION AND CONTROL AND IN
16 SO DOING HAVE ENDANGERED THEIR OWN SAFETY AND THE SAFETY OF OTHERS. THE
17 COMPACTING STATES ALSO RECOGNIZE THAT EACH STATE IS RESPONSIBLE FOR THE
18 SAFE RETURN OF JUVENILES WHO HAVE RUN AWAY FROM HOME AND IN DOING SO
19 HAVE LEFT THEIR STATE OF RESIDENCE. THE COMPACTING STATES ALSO RECOGNIZE
20 THAT CONGRESS, BY ENACTING THE CRIME CONTROL ACT, 4 U.S.C. SECTION 112
21 (1965), HAS AUTHORIZED AND ENCOURAGED COMPACTS FOR COOPERATIVE EFFORTS
22 AND MUTUAL ASSISTANCE IN THE PREVENTION OF CRIME. IT IS THE PURPOSE OF

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD15804-03-0

1 THIS COMPACT, THROUGH MEANS OF JOINT AND COOPERATIVE ACTION AMONG THE
2 COMPACTING STATES TO:

3 A. ENSURE THAT THE ADJUDICATED JUVENILES AND STATUS OFFENDERS SUBJECT
4 TO THIS COMPACT ARE PROVIDED ADEQUATE SUPERVISION AND SERVICES IN THE
5 RECEIVING STATE AS ORDERED BY THE ADJUDICATING JUDGE OR PAROLE AUTHORITY
6 IN THE SENDING STATE;

7 B. ENSURE THAT THE PUBLIC SAFETY INTERESTS OF THE CITIZENS, INCLUDING
8 THE VICTIMS OF JUVENILE OFFENDERS, IN BOTH THE SENDING AND RECEIVING
9 STATES ARE ADEQUATELY PROTECTED;

10 C. RETURN JUVENILES WHO HAVE RUN AWAY, ABSCONDED OR ESCAPED FROM
11 SUPERVISION OR CONTROL OR HAVE BEEN ACCUSED OF AN OFFENSE TO THE STATE
12 REQUESTING THEIR RETURN;

13 D. MAKE CONTRACTS FOR THE COOPERATIVE INSTITUTIONALIZATION IN PUBLIC
14 FACILITIES IN MEMBER STATES FOR DELINQUENT YOUTH NEEDING SPECIAL
15 SERVICES;

16 E. PROVIDE FOR THE EFFECTIVE TRACKING AND SUPERVISION OF JUVENILES;

17 F. EQUITABLY ALLOCATE THE COSTS, BENEFITS AND OBLIGATIONS OF THE
18 COMPACTING STATES;

19 G. ESTABLISH PROCEDURES TO MANAGE THE MOVEMENT BETWEEN STATES OF JUVENILE
20 OFFENDERS RELEASED TO THE COMMUNITY UNDER THE JURISDICTION OF
21 COURTS, JUVENILE DEPARTMENTS, OR ANY OTHER CRIMINAL OR JUVENILE JUSTICE
22 AGENCY WHICH HAS JURISDICTION OVER JUVENILE OFFENDERS;

23 H. INSURE IMMEDIATE NOTICE TO JURISDICTIONS WHERE DEFINED OFFENDERS
24 ARE AUTHORIZED TO TRAVEL OR TO RELOCATE ACROSS STATE LINES;

25 I. ESTABLISH PROCEDURES TO RESOLVE PENDING CHARGES (DETAINERS) AGAINST
26 JUVENILE OFFENDERS PRIOR TO TRANSFER OR RELEASE TO THE COMMUNITY UNDER
27 THE TERMS OF THIS COMPACT;

28 J. ESTABLISH A SYSTEM OF UNIFORM DATA COLLECTION ON INFORMATION
29 PERTAINING TO JUVENILES SUBJECT TO THIS COMPACT THAT ALLOWS ACCESS BY
30 AUTHORIZED JUVENILE JUSTICE AND CRIMINAL JUSTICE OFFICIALS, AND REGULAR
31 REPORTING OF COMPACT ACTIVITIES TO HEADS OF STATE EXECUTIVE, JUDICIAL,
32 AND LEGISLATIVE BRANCHES AND JUVENILE AND CRIMINAL JUSTICE ADMINISTRATION;
33

34 K. MONITOR COMPLIANCE WITH RULES GOVERNING INTERSTATE MOVEMENT OF
35 JUVENILES AND INITIATE INTERVENTIONS TO ADDRESS AND CORRECT NONCOMPLIANCE;
36

37 L. COORDINATE TRAINING AND EDUCATION REGARDING THE REGULATION OF
38 INTERSTATE MOVEMENT OF JUVENILES FOR OFFICIALS INVOLVED IN SUCH ACTIVITY;
39 AND

40 M. COORDINATE THE IMPLEMENTATION AND OPERATION OF THE COMPACT WITH THE
41 INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN, THE INTERSTATE COMPACT
42 FOR ADULT OFFENDER SUPERVISION AND OTHER COMPACTS AFFECTING JUVENILES
43 PARTICULARLY IN THOSE CASES WHERE CONCURRENT OR OVERLAPPING SUPERVISION
44 ISSUES ARISE.

45 IT IS THE POLICY OF THE COMPACTING STATES THAT THE ACTIVITIES
46 CONDUCTED BY THE INTERSTATE COMMISSION CREATED HEREIN ARE THE FORMATION
47 OF PUBLIC POLICIES AND THEREFORE ARE PUBLIC BUSINESS. FURTHERMORE, THE
48 COMPACTING STATES SHALL COOPERATE AND OBSERVE THEIR INDIVIDUAL AND
49 COLLECTIVE DUTIES AND RESPONSIBILITIES FOR THE PROMPT RETURN AND ACCEPTANCE
50 OF JUVENILES SUBJECT TO THE PROVISIONS OF THIS COMPACT. THE
51 PROVISIONS OF THIS COMPACT SHALL BE REASONABLY AND LIBERALLY CONSTRUED
52 TO ACCOMPLISH THE PURPOSES AND POLICIES OF THE COMPACT.

53 ARTICLE II
54 DEFINITIONS

1 AS USED IN THIS COMPACT, UNLESS THE CONTEXT CLEARLY REQUIRES A DIFFER-
2 ENT CONSTRUCTION:

3 A. "BYLAWS" MEANS THOSE BYLAWS ESTABLISHED BY THE INTERSTATE COMMIS-
4 SION FOR ITS GOVERNANCE, OR FOR DIRECTING OR CONTROLLING ITS ACTIONS OR
5 CONDUCT;

6 B. "COMPACT ADMINISTRATOR" MEANS THE INDIVIDUAL IN EACH COMPACTING
7 STATE APPOINTED PURSUANT TO THE TERMS OF THIS COMPACT, RESPONSIBLE FOR
8 THE ADMINISTRATION AND MANAGEMENT OF THE STATE'S SUPERVISION AND TRANS-
9 FER OF JUVENILES SUBJECT TO THE TERMS OF THIS COMPACT, THE RULES ADOPTED
10 BY THE INTERSTATE COMMISSION AND POLICIES ADOPTED BY THE STATE COUNCIL
11 UNDER THIS COMPACT;

12 C. "COMPACTING STATE" MEANS ANY STATE WHICH HAS ENACTED THE ENABLING
13 LEGISLATION FOR THIS COMPACT;

14 D. "COMMISSIONER" MEANS THE VOTING REPRESENTATIVE OF EACH COMPACTING
15 STATE APPOINTED PURSUANT TO ARTICLE III OF THIS COMPACT;

16 E. "COURT" MEANS ANY COURT HAVING JURISDICTION OVER DELINQUENT,
17 NEGLECTED, OR DEPENDENT CHILDREN;

18 F. "DEPUTY COMPACT ADMINISTRATOR" MEANS THE INDIVIDUAL, IF ANY, IN
19 EACH COMPACTING STATE APPOINTED TO ACT ON BEHALF OF A COMPACT ADMINIS-
20 TRATOR PURSUANT TO THE TERMS OF THIS COMPACT RESPONSIBLE FOR THE ADMIN-
21 ISTRATION AND MANAGEMENT OF THE STATE'S SUPERVISION AND TRANSFER OF
22 JUVENILES SUBJECT TO THE TERMS OF THIS COMPACT, THE RULES ADOPTED BY THE
23 INTERSTATE COMMISSION AND POLICIES ADOPTED BY THE STATE COUNCIL UNDER
24 THIS COMPACT;

25 G. "INTERSTATE COMMISSION" MEANS THE INTERSTATE COMMISSION FOR JUVENILES
26 CREATED BY ARTICLE III OF THIS COMPACT;

27 H. "JUVENILE" MEANS ANY PERSON DEFINED AS A JUVENILE IN ANY MEMBER
28 STATE OR BY THE RULES OF THE INTERSTATE COMMISSION, INCLUDING ANY:

29 1. "ACCUSED DELINQUENT" WHICH MEANS A PERSON CHARGED WITH AN OFFENSE
30 THAT, IF COMMITTED BY AN ADULT, WOULD BE A CRIMINAL OFFENSE;

31 2. "ADJUDICATED DELINQUENT" WHICH MEANS A PERSON FOUND TO HAVE COMMIT-
32 TED AN OFFENSE THAT, IF COMMITTED BY AN ADULT, WOULD BE A CRIMINAL
33 OFFENSE;

34 3. "ACCUSED STATUS OFFENDER" WHICH MEANS A PERSON CHARGED WITH AN
35 OFFENSE THAT WOULD NOT BE A CRIMINAL OFFENSE IF COMMITTED BY AN ADULT;

36 4. "ADJUDICATED STATUS OFFENDER" WHICH MEANS A PERSON FOUND TO HAVE
37 COMMITTED AN OFFENSE THAT WOULD NOT BE A CRIMINAL OFFENSE IF COMMITTED
38 BY AN ADULT; AND

39 5. "NON-OFFENDER" WHICH MEANS A PERSON IN NEED OF SUPERVISION WHO HAS
40 NOT BEEN ACCUSED OR ADJUDICATED A STATUS OFFENDER OR DELINQUENT;

41 I. "NON-COMPACTING STATE" MEANS ANY STATE WHICH HAS NOT ENACTED THE
42 ENABLING LEGISLATION FOR THIS COMPACT;

43 J. "PROBATION" OR "PAROLE" MEANS ANY KIND OF SUPERVISION OR CONDI-
44 TIONAL RELEASE OF JUVENILES AUTHORIZED UNDER THE LAWS OF THE COMPACTING
45 STATES;

46 K. "RULE" MEANS A WRITTEN STATEMENT BY THE INTERSTATE COMMISSION
47 PROMULGATED PURSUANT TO ARTICLE VI OF THIS COMPACT THAT IS OF GENERAL
48 APPLICABILITY, IMPLEMENTS, INTERPRETS OR PRESCRIBES A POLICY OR
49 PROVISION OF THE COMPACT, OR AN ORGANIZATIONAL, PROCEDURAL, OR PRACTICAL
50 REQUIREMENT OF THE COMMISSION, AND HAS THE FORCE AND EFFECT OF STATUTORY
51 LAW IN A COMPACTING STATE, AND INCLUDES THE AMENDMENT, REPEAL, OR
52 SUSPENSION OF AN EXISTING RULE; AND

53 L. "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF COLUM-
54 BIA (OR ITS DESIGNEE), THE COMMONWEALTH OF PUERTO RICO, THE U.S. VIRGIN
55 ISLANDS, GUAM, AMERICAN SAMOA, AND THE NORTHERN MARIANAS ISLANDS.

ARTICLE III

INTERSTATE COMMISSION FOR JUVENILES

A. THE COMPACTING STATES HEREBY CREATE THE "INTERSTATE COMMISSION FOR JUVENILES." THE COMMISSION SHALL BE A BODY CORPORATE AND JOINT AGENCY OF THE COMPACTING STATES. THE COMMISSION SHALL HAVE ALL THE RESPONSIBILITIES, POWERS AND DUTIES SET FORTH HEREIN, AND SUCH ADDITIONAL POWERS AS MAY BE CONFERRED UPON IT BY SUBSEQUENT ACTION OF THE RESPECTIVE LEGISLATURES OF THE COMPACTING STATES IN ACCORDANCE WITH THE TERMS OF THIS COMPACT.

B. THE INTERSTATE COMMISSION SHALL CONSIST OF COMMISSIONERS APPOINTED BY THE APPROPRIATE APPOINTING AUTHORITY IN EACH STATE PURSUANT TO THE RULES AND REQUIREMENTS OF EACH COMPACTING STATE AND IN CONSULTATION WITH THE STATE COUNCIL FOR INTERSTATE JUVENILE SUPERVISION CREATED HEREUNDER. THE COMMISSIONER SHALL BE THE COMPACT ADMINISTRATOR, DEPUTY COMPACT ADMINISTRATOR OR DESIGNEE FROM THAT STATE WHO SHALL SERVE ON THE INTERSTATE COMMISSION IN SUCH CAPACITY UNDER OR PURSUANT TO THE APPLICABLE LAW OF THE COMPACTING STATE.

C. IN ADDITION TO THE COMMISSIONERS WHO ARE THE VOTING REPRESENTATIVES OF EACH STATE, THE INTERSTATE COMMISSION SHALL INCLUDE INDIVIDUALS WHO ARE NOT COMMISSIONERS, BUT WHO ARE MEMBERS OF INTERESTED ORGANIZATIONS. SUCH NON-COMMISSIONER MEMBERS MUST INCLUDE A MEMBER OF THE NATIONAL ORGANIZATIONS OF GOVERNORS, LEGISLATORS, STATE CHIEF JUSTICES, ATTORNEYS GENERAL, INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION, INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN, JUVENILE JUSTICE AND JUVENILE CORRECTIONS OFFICIALS, AND CRIME VICTIMS. ALL NON-COMMISSIONER MEMBERS OF THE INTERSTATE COMMISSION SHALL BE EX-OFFICIO (NON-VOTING) MEMBERS. THE INTERSTATE COMMISSION MAY PROVIDE IN ITS BYLAWS FOR SUCH ADDITIONAL EX-OFFICIO (NON-VOTING) MEMBERS, INCLUDING MEMBERS OF OTHER NATIONAL ORGANIZATIONS, IN SUCH NUMBERS AS SHALL BE DETERMINED BY THE COMMISSION.

D. EACH COMPACTING STATE REPRESENTED AT ANY MEETING OF THE COMMISSION IS ENTITLED TO ONE VOTE. A MAJORITY OF THE COMPACTING STATES SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS, UNLESS A LARGER QUORUM IS REQUIRED BY THE BYLAWS OF THE INTERSTATE COMMISSION.

E. 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.

F. 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 RULEMAKING 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; ADMINISTER ENFORCEMENT AND COMPLIANCE WITH THE PROVISIONS OF THE COMPACT, ITS BYLAWS AND RULES, AND PERFORM SUCH OTHER DUTIES AS DIRECTED BY THE INTERSTATE COMMISSION OR SET FORTH IN THE BYLAWS.

G. 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

1 THE COMPACTING STATE AT A SPECIFIED MEETING. THE BYLAWS MAY PROVIDE FOR
2 MEMBERS' PARTICIPATION IN MEETINGS BY TELEPHONE OR OTHER MEANS OF TELE-
3 COMMUNICATION OR ELECTRONIC COMMUNICATION.

4 H. THE INTERSTATE COMMISSION'S BYLAWS SHALL ESTABLISH CONDITIONS AND
5 PROCEDURES UNDER WHICH THE INTERSTATE COMMISSION SHALL MAKE ITS INFORMA-
6 TION AND OFFICIAL RECORDS AVAILABLE TO THE PUBLIC FOR INSPECTION OR
7 COPYING. THE INTERSTATE COMMISSION MAY EXEMPT FROM DISCLOSURE ANY INFOR-
8 MATION OR OFFICIAL RECORDS TO THE EXTENT THEY WOULD ADVERSELY AFFECT
9 PERSONAL PRIVACY RIGHTS OR PROPRIETARY INTERESTS.

10 I. PUBLIC NOTICE SHALL BE GIVEN OF ALL MEETINGS AND ALL MEETINGS SHALL
11 BE OPEN TO THE PUBLIC, EXCEPT AS SET FORTH IN THE RULES OR AS OTHERWISE
12 PROVIDED IN THE COMPACT. THE INTERSTATE COMMISSION AND ANY OF ITS
13 COMMITTEES MAY CLOSE A MEETING TO THE PUBLIC WHERE IT DETERMINES BY
14 TWO-THIRDS VOTE THAT AN OPEN MEETING WOULD BE LIKELY TO:

15 1. RELATE SOLELY TO THE INTERSTATE COMMISSION'S INTERNAL PERSONNEL
16 PRACTICES AND PROCEDURES;

17 2. DISCLOSE MATTERS SPECIFICALLY EXEMPTED FROM DISCLOSURE BY STATUTE;

18 3. DISCLOSE TRADE SECRETS OR COMMERCIAL OR FINANCIAL INFORMATION WHICH
19 IS PRIVILEGED OR CONFIDENTIAL;

20 4. INVOLVE ACCUSING ANY PERSON OF A CRIME, OR FORMALLY CENSURING ANY
21 PERSON;

22 5. DISCLOSE INFORMATION OF A PERSONAL NATURE WHERE DISCLOSURE WOULD
23 CONSTITUTE A CLEARLY UNWARRANTED INVASION OF PERSONAL PRIVACY;

24 6. DISCLOSE INVESTIGATIVE RECORDS COMPILED FOR LAW ENFORCEMENT
25 PURPOSES;

26 7. DISCLOSE INFORMATION CONTAINED IN OR RELATED TO EXAMINATION, OPER-
27 ATING OR CONDITION REPORTS PREPARED BY, OR ON BEHALF OF OR FOR THE USE
28 OF, THE INTERSTATE COMMISSION WITH RESPECT TO A REGULATED PERSON OR
29 ENTITY FOR THE PURPOSE OF REGULATION OR SUPERVISION OF SUCH PERSON OR
30 ENTITY;

31 8. DISCLOSE INFORMATION, THE PREMATURE DISCLOSURE OF WHICH WOULD
32 SIGNIFICANTLY ENDANGER THE STABILITY OF A REGULATED PERSON OR ENTITY; OR

33 9. SPECIFICALLY RELATE TO THE INTERSTATE COMMISSION'S ISSUANCE OF A
34 SUBPOENA, OR ITS PARTICIPATION IN A CIVIL ACTION OR OTHER LEGAL PROCEED-
35 ING.

36 J. FOR EVERY MEETING CLOSED PURSUANT TO THIS PROVISION, THE INTERSTATE
37 COMMISSION'S LEGAL COUNSEL SHALL PUBLICLY CERTIFY THAT, IN THE LEGAL
38 COUNSEL'S OPINION, THE MEETING MAY BE CLOSED TO THE PUBLIC, AND SHALL
39 REFERENCE EACH RELEVANT EXEMPTIVE PROVISION. THE INTERSTATE COMMISSION
40 SHALL KEEP MINUTES WHICH SHALL FULLY AND CLEARLY DESCRIBE ALL MATTERS
41 DISCUSSED IN ANY MEETING AND SHALL PROVIDE A FULL AND ACCURATE SUMMARY
42 OF ANY ACTIONS TAKEN, AND THE REASONS THEREFOR, INCLUDING A DESCRIPTION
43 OF EACH OF THE VIEWS EXPRESSED ON ANY ITEM AND THE RECORD OF ANY ROLL
44 CALL VOTE (REFLECTED IN THE VOTE OF EACH MEMBER ON THE QUESTION). ALL
45 DOCUMENTS CONSIDERED IN CONNECTION WITH ANY ACTION SHALL BE IDENTIFIED
46 IN SUCH MINUTES.

47 K. THE INTERSTATE COMMISSION SHALL COLLECT STANDARDIZED DATA CONCERN-
48 ING THE INTERSTATE MOVEMENT OF JUVENILES AS DIRECTED THROUGH ITS RULES
49 WHICH SHALL SPECIFY THE DATA TO BE COLLECTED, THE MEANS OF COLLECTION
50 AND DATA EXCHANGE AND REPORTING REQUIREMENTS. SUCH METHODS OF DATA
51 COLLECTION, EXCHANGE AND REPORTING SHALL INsofar AS IS REASONABLY POSSI-
52 BLE CONFORM TO UP-TO-DATE TECHNOLOGY AND COORDINATE ITS INFORMATION
53 FUNCTIONS WITH THE APPROPRIATE REPOSITORY OF RECORDS.

54 ARTICLE IV

55 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

1 A. THE COMMISSION SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

2 1. TO PROVIDE FOR DISPUTE RESOLUTION AMONG COMPACTING STATES;

3 2. TO PROMULGATE RULES TO EFFECT THE PURPOSES AND OBLIGATIONS AS
4 ENUMERATED IN THIS COMPACT, WHICH SHALL HAVE THE FORCE AND EFFECT OF
5 STATUTORY LAW AND SHALL BE BINDING IN THE COMPACTING STATES TO THE
6 EXTENT AND IN THE MANNER PROVIDED IN THIS COMPACT;

7 3. TO OVERSEE, SUPERVISE AND COORDINATE THE INTERSTATE MOVEMENT OF
8 JUVENILES SUBJECT TO THE TERMS OF THIS COMPACT AND ANY BYLAWS ADOPTED
9 AND RULES PROMULGATED BY THE INTERSTATE COMMISSION;

10 4. TO ENFORCE COMPLIANCE WITH THE COMPACT PROVISIONS, THE RULES
11 PROMULGATED BY THE INTERSTATE COMMISSION, AND THE BYLAWS, USING ALL
12 NECESSARY AND PROPER MEANS, INCLUDING BUT NOT LIMITED TO THE USE OF
13 JUDICIAL PROCESS;

14 5. TO ESTABLISH AND MAINTAIN OFFICES WHICH SHALL BE LOCATED WITHIN ONE
15 OR MORE OF THE COMPACTING STATES;

16 6. TO PURCHASE AND MAINTAIN INSURANCE AND BONDS;

17 7. TO BORROW, ACCEPT, HIRE OR CONTRACT FOR SERVICES OF PERSONNEL;

18 8. TO ESTABLISH AND APPOINT COMMITTEES AND HIRE STAFF WHICH IT DEEMS
19 NECESSARY FOR THE CARRYING OUT OF ITS FUNCTIONS INCLUDING, BUT NOT
20 LIMITED TO, AN EXECUTIVE COMMITTEE AS REQUIRED BY ARTICLE III OF THIS
21 COMPACT WHICH SHALL HAVE THE POWER TO ACT ON BEHALF OF THE INTERSTATE
22 COMMISSION IN CARRYING OUT ITS POWERS AND DUTIES HEREUNDER;

23 9. TO ELECT OR APPOINT SUCH OFFICERS, ATTORNEYS, EMPLOYEES, AGENTS, OR
24 CONSULTANTS, AND TO FIX THEIR COMPENSATION, DEFINE THEIR DUTIES AND
25 DETERMINE THEIR QUALIFICATIONS; AND TO ESTABLISH THE INTERSTATE COMMIS-
26 SION'S PERSONNEL POLICIES AND PROGRAMS RELATING TO, INTER ALIA,
27 CONFLICTS OF INTEREST, RATES OF COMPENSATION, AND QUALIFICATIONS OF
28 PERSONNEL;

29 10. TO ACCEPT ANY AND ALL DONATIONS AND GRANTS OF MONEY, EQUIPMENT,
30 SUPPLIES, MATERIALS, AND SERVICES, AND TO RECEIVE, UTILIZE, AND DISPOSE
31 OF IT;

32 11. TO LEASE, PURCHASE, ACCEPT CONTRIBUTIONS OR DONATIONS OF, OR
33 OTHERWISE TO OWN, HOLD, IMPROVE OR USE ANY PROPERTY, REAL, PERSONAL, OR
34 MIXED;

35 12. TO SELL, CONVEY, MORTGAGE, PLEDGE, LEASE, EXCHANGE, ABANDON, OR
36 OTHERWISE DISPOSE OF ANY PROPERTY, REAL, PERSONAL, OR MIXED;

37 13. TO ESTABLISH A BUDGET AND MAKE EXPENDITURES AND LEVY DUES AS
38 PROVIDED IN ARTICLE VIII OF THIS COMPACT;

39 14. TO SUE AND BE SUED;

40 15. TO ADOPT A SEAL AND BYLAWS GOVERNING THE MANAGEMENT AND OPERATION
41 OF THE INTERSTATE COMMISSION;

42 16. TO PERFORM SUCH FUNCTIONS AS MAY BE NECESSARY OR APPROPRIATE TO
43 ACHIEVE THE PURPOSES OF THIS COMPACT;

44 17. TO REPORT ANNUALLY TO THE LEGISLATURES, GOVERNORS, JUDICIARY, AND
45 STATE COUNCILS OF THE COMPACTING STATES CONCERNING THE ACTIVITIES OF THE
46 INTERSTATE COMMISSION DURING THE PRECEDING YEAR. SUCH REPORTS SHALL ALSO
47 INCLUDE ANY RECOMMENDATIONS THAT MAY HAVE BEEN ADOPTED BY THE INTERSTATE
48 COMMISSION;

49 18. TO COORDINATE EDUCATION, TRAINING AND PUBLIC AWARENESS REGARDING
50 THE INTERSTATE MOVEMENT OF JUVENILES FOR OFFICIALS INVOLVED IN SUCH
51 ACTIVITY;

52 19. TO ESTABLISH UNIFORM STANDARDS OF THE REPORTING, COLLECTING AND
53 EXCHANGING OF DATA; AND

54 20. THE INTERSTATE COMMISSION SHALL MAINTAIN ITS CORPORATE BOOKS AND
55 RECORDS IN ACCORDANCE WITH THE BYLAWS.

ARTICLE V

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. BYLAWS.

1. THE INTERSTATE COMMISSION SHALL, BY A MAJORITY OF THE MEMBERS PRESENT AND VOTING, WITHIN TWELVE MONTHS AFTER THE FIRST INTERSTATE COMMISSION MEETING, ADOPT BYLAWS TO GOVERN ITS CONDUCT AS MAY BE NECESSARY OR APPROPRIATE TO CARRY OUT THE PURPOSES OF THE COMPACT, INCLUDING, BUT NOT LIMITED TO:

A. ESTABLISHING THE FISCAL YEAR OF THE INTERSTATE COMMISSION;

B. ESTABLISHING AN EXECUTIVE COMMITTEE AND SUCH OTHER COMMITTEES AS MAY BE NECESSARY;

C. PROVIDING FOR THE ESTABLISHMENT OF COMMITTEES GOVERNING ANY GENERAL OR SPECIFIC DELEGATION OF ANY AUTHORITY OR FUNCTION OF THE INTERSTATE COMMISSION;

D. PROVIDING REASONABLE PROCEDURES FOR CALLING AND CONDUCTING MEETINGS OF THE INTERSTATE COMMISSION, AND ENSURING REASONABLE NOTICE OF EACH SUCH MEETING;

E. ESTABLISHING THE TITLES AND RESPONSIBILITIES OF THE OFFICERS OF THE INTERSTATE COMMISSION;

F. PROVIDING A MECHANISM FOR CONCLUDING THE OPERATIONS OF THE INTERSTATE COMMISSION AND THE RETURN OF ANY SURPLUS FUNDS THAT MAY EXIST UPON THE TERMINATION OF THE COMPACT AFTER THE PAYMENT AND/OR RESERVING OF ALL OF ITS DEBTS AND OBLIGATIONS;

G. PROVIDING "START-UP" RULES FOR INITIAL ADMINISTRATION OF THE COMPACT; AND

H. ESTABLISHING STANDARDS AND PROCEDURES FOR COMPLIANCE AND TECHNICAL ASSISTANCE IN CARRYING OUT THE COMPACT.

B. OFFICERS AND STAFF.

1. 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; PROVIDED THAT, 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.

2. 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.

C. QUALIFIED IMMUNITY, DEFENSE AND INDEMNIFICATION.

1. THE INTERSTATE COMMISSION'S EXECUTIVE DIRECTOR AND EMPLOYEES SHALL BE IMMUNE FROM SUIT AND LIABILITY, EITHER PERSONALLY OR IN THEIR OFFICIAL CAPACITY, FOR ANY CLAIM FOR DAMAGE TO OR LOSS OF PROPERTY OR PERSONAL INJURY OR OTHER CIVIL LIABILITY CAUSED OR ARISING OUT OF OR RELATING TO ANY ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT OCCURRED, OR THAT SUCH PERSON HAD A REASONABLE BASIS FOR BELIEVING OCCURRED WITHIN THE SCOPE OF INTERSTATE COMMISSION EMPLOYMENT, DUTIES, OR RESPONSIBILITIES; PROVIDED, THAT ANY SUCH PERSON SHALL NOT BE PROTECTED FROM SUIT

OR LIABILITY FOR ANY DAMAGE, LOSS, INJURY, OR LIABILITY CAUSED BY THE INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT OF ANY SUCH PERSON.

2. THE LIABILITY OF ANY COMMISSIONER, OR THE EMPLOYEE OR AGENT OF A COMMISSIONER, ACTING WITHIN THE SCOPE OF SUCH PERSON'S EMPLOYMENT OR DUTIES FOR ACTS, ERRORS, OR OMISSIONS OCCURRING WITHIN SUCH PERSON'S STATE MAY NOT EXCEED THE LIMITS OF LIABILITY SET FORTH UNDER THE CONSTITUTION AND LAWS OF THAT STATE FOR STATE OFFICIALS, EMPLOYEES, AND AGENTS. NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO PROTECT ANY SUCH PERSON FROM SUIT OR LIABILITY FOR ANY DAMAGE, LOSS, INJURY, OR LIABILITY CAUSED BY THE INTENTIONAL OR WILLFUL AND WANTON MISCONDUCT OF ANY SUCH PERSON.

3. THE INTERSTATE COMMISSION SHALL DEFEND THE EXECUTIVE DIRECTOR OR THE EMPLOYEES OR REPRESENTATIVES OF THE INTERSTATE COMMISSION AND, SUBJECT TO THE APPROVAL OF THE ATTORNEY GENERAL OF THE STATE REPRESENTED BY ANY COMMISSIONER OF A COMPACTING STATE, SHALL DEFEND SUCH 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 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 PERSON.

4. 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 SUCH 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 SUCH 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

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. THE INTERSTATE COMMISSION SHALL PROMULGATE AND PUBLISH RULES IN ORDER TO EFFECTIVELY AND EFFICIENTLY ACHIEVE THE PURPOSES OF THE COMPACT.

B. RULEMAKING SHALL OCCUR PURSUANT TO THE CRITERIA SET FORTH IN THIS ARTICLE AND THE BYLAWS AND RULES ADOPTED PURSUANT THERETO. SUCH RULEMAKING SHALL SUBSTANTIALLY CONFORM TO THE PRINCIPLES OF THE "MODEL STATE ADMINISTRATIVE PROCEDURES ACT," 1981 ACT, UNIFORM LAWS ANNOTATED, VOL. 15, P.1 (2000), OR SUCH OTHER ADMINISTRATIVE PROCEDURES ACT, AS THE INTERSTATE COMMISSION DEEMS APPROPRIATE, CONSISTENT WITH DUE PROCESS REQUIREMENTS UNDER THE UNITED STATES CONSTITUTION AS NOW OR HEREAFTER INTERPRETED BY THE UNITED STATES SUPREME COURT. ALL RULES AND AMENDMENTS SHALL BECOME BINDING AS OF THE DATE SPECIFIED, AS PUBLISHED WITH THE FINAL VERSION OF THE RULES AS APPROVED BY THE INTERSTATE COMMISSION.

C. WHEN PROMULGATING A RULE, THE INTERSTATE COMMISSION SHALL, AT A MINIMUM:

1. PUBLISH THE PROPOSED RULE'S ENTIRE TEXT STATING THE REASON OR REASONS FOR THAT PROPOSED RULE;

2. ALLOW AND INVITE ANY AND ALL PERSONS TO SUBMIT WRITTEN DATA, FACTS, OPINIONS AND ARGUMENTS, WHICH INFORMATION SHALL BE ADDED TO THE RECORD, AND BE MADE PUBLICLY AVAILABLE;

3. PROVIDE AN OPPORTUNITY FOR AN INFORMAL HEARING IF PETITIONED BY TEN (10) OR MORE PERSONS;

4. PROMULGATE A FINAL RULE AND ITS EFFECTIVE DATE, IF APPROPRIATE, BASED ON INPUT FROM STATE OR LOCAL OFFICIALS, OR INTERESTED PARTIES; AND

5. ALLOW, NOT LATER THAN SIXTY DAYS AFTER A RULE IS PROMULGATED, ANY INTERESTED PERSON TO FILE A PETITION IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA OR IN THE FEDERAL DISTRICT COURT WHERE THE INTERSTATE COMMISSION'S PRINCIPAL OFFICE IS LOCATED FOR JUDICIAL REVIEW OF SUCH RULE. IF THE COURT FINDS THAT THE INTERSTATE COMMISSION'S ACTION IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE IN THE RULEMAKING RECORD, THE COURT SHALL HOLD THE RULE UNLAWFUL AND SET IT ASIDE. FOR PURPOSES OF THIS SUBSECTION, EVIDENCE IS SUBSTANTIAL IF IT WOULD BE CONSIDERED SUBSTANTIAL EVIDENCE UNDER THE MODEL STATE ADMINISTRATIVE PROCEDURES ACT.

D. IF A MAJORITY OF THE LEGISLATURES OF THE COMPACTING STATES REJECTS A RULE, THOSE STATES MAY, BY ENACTMENT OF A STATUTE OR RESOLUTION IN THE SAME MANNER USED TO ADOPT THE COMPACT, CAUSE SUCH RULE TO HAVE NO FURTHER FORCE AND EFFECT IN ANY COMPACTING STATE.

E. THE EXISTING RULES GOVERNING THE OPERATION OF THE INTERSTATE COMPACT ON JUVENILES SUPERCEDED BY THIS ACT SHALL BE NULL AND VOID TWELVE (12) MONTHS AFTER THE FIRST MEETING OF THE INTERSTATE COMMISSION CREATED HEREUNDER.

F. UPON DETERMINATION BY THE INTERSTATE COMMISSION THAT A STATE OF EMERGENCY EXISTS, IT MAY PROMULGATE AN EMERGENCY RULE WHICH SHALL BECOME EFFECTIVE IMMEDIATELY UPON ADOPTION, PROVIDED THAT THE USUAL RULEMAKING PROCEDURES PROVIDED HEREUNDER SHALL BE RETROACTIVELY APPLIED TO SAID RULE AS SOON AS REASONABLY POSSIBLE, BUT NO LATER THAN NINETY (90) DAYS AFTER THE EFFECTIVE DATE OF THE EMERGENCY RULE.

ARTICLE VII

OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

A. OVERSIGHT.

1. THE INTERSTATE COMMISSION SHALL OVERSEE THE ADMINISTRATION AND OPERATIONS OF THE INTERSTATE MOVEMENT OF JUVENILES SUBJECT TO THIS COMPACT IN THE COMPACTING STATES AND SHALL MONITOR SUCH ACTIVITIES BEING ADMINISTERED IN NON-COMPACTING STATES WHICH MAY SIGNIFICANTLY AFFECT COMPACTING STATES.

2. 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 HEREUNDER 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 WHICH MAY AFFECT THE POWERS, RESPONSIBILITIES, OR ACTIONS OF THE INTERSTATE COMMISSION, IT SHALL BE ENTITLED TO RECEIVE ALL SERVICE OF PROCESS IN ANY SUCH PROCEEDING, AND SHALL HAVE STANDING TO INTERVENE IN THE PROCEEDING FOR ALL PURPOSES.

B. DISPUTE RESOLUTION.

1 1. THE COMPACTING STATES SHALL REPORT TO THE INTERSTATE COMMISSION ON
2 ALL ISSUES AND ACTIVITIES NECESSARY FOR THE ADMINISTRATION OF THE
3 COMPACT AS WELL AS ISSUES AND ACTIVITIES PERTAINING TO COMPLIANCE WITH
4 THE PROVISIONS OF THE COMPACT AND ITS BYLAWS AND RULES.

5 2. THE INTERSTATE COMMISSION SHALL ATTEMPT, UPON THE REQUEST OF A
6 COMPACTING STATE, TO RESOLVE ANY DISPUTES OR OTHER ISSUES WHICH ARE
7 SUBJECT TO THE COMPACT AND WHICH MAY ARISE AMONG COMPACTING STATES AND
8 BETWEEN COMPACTING AND NON-COMPACTING STATES. THE COMMISSION SHALL
9 PROMULGATE A RULE PROVIDING FOR BOTH MEDIATION AND BINDING DISPUTE
10 RESOLUTION FOR DISPUTES AMONG THE COMPACTING STATES.

11 3. THE INTERSTATE COMMISSION, IN THE REASONABLE EXERCISE OF ITS
12 DISCRETION, SHALL ENFORCE THE PROVISIONS AND RULES OF THIS COMPACT USING
13 ANY OR ALL MEANS SET FORTH IN ARTICLE XI OF THIS COMPACT.

14 ARTICLE VIII

15 FINANCE

16 A. THE INTERSTATE COMMISSION SHALL PAY OR PROVIDE FOR THE PAYMENT OF
17 THE REASONABLE EXPENSES OF ITS ESTABLISHMENT, ORGANIZATION AND ONGOING
18 ACTIVITIES.

19 B. THE INTERSTATE COMMISSION SHALL LEVY ON AND COLLECT AN ANNUAL
20 ASSESSMENT FROM EACH COMPACTING STATE TO COVER THE COST OF THE INTERNAL
21 OPERATIONS AND ACTIVITIES OF THE INTERSTATE COMMISSION AND ITS STAFF
22 WHICH MUST BE IN A TOTAL AMOUNT SUFFICIENT TO COVER THE INTERSTATE
23 COMMISSION'S ANNUAL BUDGET AS APPROVED EACH YEAR. THE AGGREGATE ANNUAL
24 ASSESSMENT AMOUNT SHALL BE ALLOCATED BASED UPON A FORMULA TO BE DETER-
25 MINED BY THE INTERSTATE COMMISSION, TAKING INTO CONSIDERATION THE POPU-
26 LATION OF EACH COMPACTING STATE AND THE VOLUME OF INTERSTATE MOVEMENT OF
27 JUVENILES IN EACH COMPACTING STATE AND SHALL PROMULGATE A RULE BINDING
28 UPON ALL COMPACTING STATES WHICH GOVERNS SAID ASSESSMENT.

29 C. THE INTERSTATE COMMISSION SHALL NOT INCUR ANY OBLIGATIONS OF ANY
30 KIND PRIOR TO SECURING THE FUNDS ADEQUATE TO MEET THE SAME; NOR SHALL
31 THE INTERSTATE COMMISSION PLEDGE THE CREDIT OF ANY OF THE COMPACTING
32 STATES, EXCEPT BY AND WITH THE AUTHORITY OF THE COMPACTING STATE.

33 D. THE INTERSTATE COMMISSION SHALL KEEP ACCURATE ACCOUNTS OF ALL
34 RECEIPTS AND DISBURSEMENTS. THE RECEIPTS AND DISBURSEMENTS OF THE INTER-
35 STATE COMMISSION SHALL BE SUBJECT TO THE AUDIT AND ACCOUNTING PROCEDURES
36 ESTABLISHED UNDER ITS BYLAWS. HOWEVER, ALL RECEIPTS AND DISBURSEMENTS
37 OF FUNDS HANDLED BY THE INTERSTATE COMMISSION SHALL BE AUDITED YEARLY BY
38 A CERTIFIED OR LICENSED PUBLIC ACCOUNTANT AND THE REPORT OF THE AUDIT
39 SHALL BE INCLUDED IN AND BECOME PART OF THE ANNUAL REPORT OF THE INTER-
40 STATE COMMISSION.

41 ARTICLE IX

42 THE STATE COUNCIL

43 EACH MEMBER STATE SHALL CREATE A STATE COUNCIL FOR INTERSTATE JUVENILE
44 SUPERVISION. WHILE EACH STATE MAY DETERMINE THE MEMBERSHIP OF ITS OWN
45 STATE COUNCIL, ITS MEMBERSHIP MUST INCLUDE AT LEAST ONE REPRESENTATIVE
46 FROM THE LEGISLATIVE, JUDICIAL, AND EXECUTIVE BRANCHES OF GOVERNMENT,
47 VICTIMS GROUPS, AND THE COMPACT ADMINISTRATOR, DEPUTY COMPACT ADMINIS-
48 TRATOR OR DESIGNEE. EACH COMPACTING STATE RETAINS THE RIGHT TO DETERMINE
49 THE QUALIFICATIONS OF THE COMPACT ADMINISTRATOR OR DEPUTY COMPACT ADMIN-
50 ISTRATOR. EACH STATE COUNCIL WILL ADVISE AND MAY EXERCISE OVERSIGHT AND
51 ADVOCACY CONCERNING THAT STATE'S PARTICIPATION IN INTERSTATE COMMISSION
52 ACTIVITIES AND OTHER DUTIES AS MAY BE DETERMINED BY THAT STATE, INCLUD-
53 ING BUT NOT LIMITED TO, DEVELOPMENT OF POLICY CONCERNING OPERATIONS AND
54 PROCEDURES OF THE COMPACT WITHIN THAT STATE.

ARTICLE X

COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

A. ANY STATE, THE DISTRICT OF COLUMBIA (OR ITS DESIGNEE), THE COMMONWEALTH OF PUERTO RICO, THE U.S. VIRGIN ISLANDS, GUAM, AMERICAN SAMOA, AND THE NORTHERN MARIANAS ISLANDS AS DEFINED IN ARTICLE II OF THIS COMPACT IS ELIGIBLE TO BECOME A COMPACTING STATE.

B. THE COMPACT SHALL BECOME EFFECTIVE AND BINDING UPON LEGISLATIVE ENACTMENT OF THE COMPACT INTO LAW BY NO LESS THAN THIRTY-FIVE OF THE STATES. THE INITIAL EFFECTIVE DATE SHALL BE THE LATER OF JULY FIRST, TWO THOUSAND FOUR OR UPON ENACTMENT INTO LAW BY THE 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 NON-MEMBER STATES OR THEIR DESIGNEES SHALL BE INVITED TO PARTICIPATE IN THE ACTIVITIES OF THE INTERSTATE COMMISSION ON A NONVOTING BASIS PRIOR TO ADOPTION OF THE COMPACT BY ALL STATES AND TERRITORIES OF THE UNITED STATES.

C. 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

A. WITHDRAWAL.

1. ONCE EFFECTIVE, THE COMPACT SHALL CONTINUE IN FORCE AND REMAIN BINDING UPON EACH AND EVERY COMPACTING STATE; PROVIDED THAT A COMPACTING STATE MAY WITHDRAW FROM THE COMPACT BY SPECIFICALLY REPEALING THE STATUTE WHICH ENACTED THE COMPACT INTO LAW.

2. THE EFFECTIVE DATE OF WITHDRAWAL IS THE EFFECTIVE DATE OF THE REPEAL.

3. 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.

4. 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.

5. 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.

B. TECHNICAL ASSISTANCE, FINES, SUSPENSION, TERMINATION AND DEFAULT.

1. 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:

A. REMEDIAL TRAINING AND TECHNICAL ASSISTANCE AS DIRECTED BY THE INTERSTATE COMMISSION;

B. ALTERNATIVE DISPUTE RESOLUTION;

C. FINES, FEES, AND COSTS IN SUCH AMOUNTS AS ARE DEEMED TO BE REASONABLE AS FIXED BY THE INTERSTATE COMMISSION; AND

1 D. SUSPENSION OR TERMINATION OF MEMBERSHIP IN THE COMPACT, WHICH SHALL
2 BE IMPOSED ONLY AFTER ALL OTHER REASONABLE MEANS OF SECURING COMPLIANCE
3 UNDER THE BYLAWS AND RULES HAVE BEEN EXHAUSTED AND THE INTERSTATE
4 COMMISSION HAS THEREFORE DETERMINED THAT THE OFFENDING STATE IS IN
5 DEFAULT. IMMEDIATE NOTICE OF SUSPENSION SHALL BE GIVEN BY THE INTERSTATE
6 COMMISSION TO THE GOVERNOR, THE CHIEF JUSTICE OR THE CHIEF JUDICIAL
7 OFFICER OF THE STATE, THE MAJORITY AND MINORITY LEADERS OF THE DEFAULT-
8 ING STATE'S LEGISLATURE, AND THE STATE COUNCIL. THE GROUNDS FOR DEFAULT
9 INCLUDE, BUT ARE NOT LIMITED TO, FAILURE OF A COMPACTING STATE TO
10 PERFORM SUCH OBLIGATIONS OR RESPONSIBILITIES IMPOSED UPON IT BY THIS
11 COMPACT, THE BYLAWS, OR DULY PROMULGATED RULES AND ANY OTHER GROUNDS
12 DESIGNATED IN COMMISSION BYLAWS AND RULES. THE INTERSTATE COMMISSION
13 SHALL IMMEDIATELY NOTIFY THE DEFAULTING STATE IN WRITING OF THE PENALTY
14 IMPOSED BY THE INTERSTATE COMMISSION AND OF THE DEFAULT PENDING A CURE
15 OF THE DEFAULT. THE COMMISSION SHALL STIPULATE THE CONDITIONS AND THE
16 TIME PERIOD WITHIN WHICH THE DEFAULTING STATE MUST CURE ITS DEFAULT. IF
17 THE DEFAULTING STATE FAILS TO CURE THE DEFAULT WITHIN THE TIME PERIOD
18 SPECIFIED BY THE COMMISSION, THE DEFAULTING STATE SHALL BE TERMINATED
19 FROM THE COMPACT UPON AN AFFIRMATIVE VOTE OF A MAJORITY OF THE COMPACT-
20 ING STATES AND ALL RIGHTS, PRIVILEGES AND BENEFITS CONFERRED BY THIS
21 COMPACT SHALL BE TERMINATED FROM THE EFFECTIVE DATE OF TERMINATION.

22 2. WITHIN SIXTY (60) DAYS OF THE EFFECTIVE DATE OF TERMINATION OF A
23 DEFAULTING STATE, THE COMMISSION SHALL NOTIFY THE GOVERNOR, THE CHIEF
24 JUSTICE OR CHIEF JUDICIAL OFFICER, THE MAJORITY AND MINORITY LEADERS OF
25 THE DEFAULTING STATE'S LEGISLATURE, AND THE STATE COUNCIL OF SUCH TERMI-
26 NATION.

27 3. THE DEFAULTING STATE IS RESPONSIBLE FOR ALL ASSESSMENTS, OBLI-
28 GATIONS AND LIABILITIES INCURRED THROUGH THE EFFECTIVE DATE OF TERMI-
29 NATION INCLUDING ANY OBLIGATIONS, THE PERFORMANCE OF WHICH EXTENDS
30 BEYOND THE EFFECTIVE DATE OF TERMINATION.

31 4. THE INTERSTATE COMMISSION SHALL NOT BEAR ANY COSTS RELATING TO THE
32 DEFAULTING STATE UNLESS OTHERWISE MUTUALLY AGREED UPON IN WRITING
33 BETWEEN THE INTERSTATE COMMISSION AND THE DEFAULTING STATE.

34 5. REINSTATEMENT FOLLOWING TERMINATION OF ANY COMPACTING STATE
35 REQUIRES BOTH A REENACTMENT OF THE COMPACT BY THE DEFAULTING STATE AND
36 THE APPROVAL OF THE INTERSTATE COMMISSION PURSUANT TO THE RULES.

37 C. JUDICIAL ENFORCEMENT.

38 THE INTERSTATE COMMISSION MAY, BY MAJORITY VOTE OF THE MEMBERS, INITI-
39 ATE LEGAL ACTION IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
40 COLUMBIA OR, AT THE DISCRETION OF THE INTERSTATE COMMISSION, IN THE
41 FEDERAL DISTRICT WHERE THE INTERSTATE COMMISSION HAS ITS OFFICES, TO
42 ENFORCE COMPLIANCE WITH THE PROVISIONS OF THE COMPACT, ITS DULY PROMUL-
43 GATED RULES AND BYLAWS, AGAINST ANY COMPACTING STATE IN DEFAULT. IN THE
44 EVENT JUDICIAL ENFORCEMENT IS NECESSARY THE PREVAILING PARTY SHALL BE
45 AWARDED ALL COSTS OF SUCH LITIGATION INCLUDING REASONABLE ATTORNEYS
46 FEES.

47 D. DISSOLUTION OF COMPACT.

48 1. THE COMPACT DISSOLVES EFFECTIVE UPON THE DATE OF THE WITHDRAWAL OR
49 DEFAULT OF ANY COMPACTING STATE, WHICH REDUCES MEMBERSHIP IN THE COMPACT
50 TO ONE COMPACTING STATE.

51 2. UPON THE DISSOLUTION OF THIS COMPACT, THE COMPACT BECOMES NULL AND
52 VOID AND SHALL BE OF NO FURTHER FORCE OR EFFECT, AND THE BUSINESS AND
53 AFFAIRS OF THE INTERSTATE COMMISSION SHALL BE CONCLUDED AND ANY SURPLUS
54 FUNDS SHALL BE DISTRIBUTED IN ACCORDANCE WITH THE BYLAWS.

ARTICLE XII

SEVERABILITY AND CONSTRUCTION

A. 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.

B. THE PROVISIONS OF THIS COMPACT SHALL BE LIBERALLY CONSTRUED TO EFFECTUATE ITS PURPOSES.

ARTICLE XIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

A. OTHER LAWS.

1. NOTHING HEREIN PREVENTS THE ENFORCEMENT OF ANY OTHER LAW OF A COMPACTING STATE THAT IS NOT INCONSISTENT WITH THIS COMPACT.

2. ALL COMPACTING STATES' LAWS OTHER THAN STATE CONSTITUTIONS AND OTHER INTERSTATE COMPACTS CONFLICTING WITH THIS COMPACT ARE SUPERSEDED TO THE EXTENT OF THE CONFLICT.

B. BINDING EFFECT OF THE COMPACT.

1. ALL LAWFUL ACTIONS OF THE INTERSTATE COMMISSION, INCLUDING ALL RULES AND BYLAWS PROMULGATED BY THE INTERSTATE COMMISSION, ARE BINDING UPON THE COMPACTING STATES.

2. ALL AGREEMENTS BETWEEN THE INTERSTATE COMMISSION AND THE COMPACTING STATES ARE BINDING IN ACCORDANCE WITH THEIR TERMS.

3. UPON THE REQUEST OF A PARTY TO A CONFLICT OVER MEANING OR INTERPRETATION OF INTERSTATE COMMISSION ACTIONS, AND UPON A MAJORITY VOTE OF THE COMPACTING STATES, THE INTERSTATE COMMISSION MAY ISSUE ADVISORY OPINIONS REGARDING SUCH MEANING OR INTERPRETATION.

4. IN THE EVENT ANY PROVISION OF THIS COMPACT EXCEEDS THE CONSTITUTIONAL LIMITS IMPOSED ON THE LEGISLATURE OF ANY COMPACTING STATE, THE OBLIGATIONS, DUTIES, POWERS OR JURISDICTION SOUGHT TO BE CONFERRED BY SUCH PROVISION UPON THE INTERSTATE COMMISSION SHALL BE INEFFECTIVE AND SUCH OBLIGATIONS, DUTIES, POWERS OR JURISDICTION SHALL REMAIN IN THE COMPACTING STATE AND SHALL BE EXERCISED BY THE AGENCY THEREOF TO WHICH SUCH OBLIGATIONS, DUTIES, POWERS OR JURISDICTION ARE DELEGATED BY LAW IN EFFECT AT THE TIME THIS COMPACT BECOMES EFFECTIVE.

S 3. This act shall take effect on the thirtieth day after it shall have become a law; provided, however, nothing herein shall disrupt services, supervision or return of juveniles, delinquents and status offenders agreed to under the repealed 1955 interstate compact on juveniles prior to the effective date herein, or preclude the state of New York from entering into appropriate agreements with non-compact member states for the proper supervision or return of juveniles, delinquents and status offenders who are on probation or parole and who have absconded, escaped or run away from supervision and control and in so doing have endangered their own safety and the safety of others.