S T A T E O F N E W Y O R K

8510

I N S E N A T E

November 10, 2010

Introduced by Sen. MONTGOMERY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the executive law, in relation to the adoption of the interstate compact for juveniles by the state of New York; to amend the family court act, in relation to appointment of attorneys for children; to repeal chapter 155 of the laws of 1955 relating to enacting the interstate compact on juveniles relating thereto; and providing for the repeal of certain provisions upon expiration thereof

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

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 Chapter 155 of the laws of 1955, enacting the interstate compact on juveniles, is REPEALED.

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

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

THE INTERSTATE COMPACT FOR JUVENILES

ARTICLE I

PURPOSE

THE COMPACTING STATES TO THIS INTERSTATE COMPACT RECOGNIZE THAT EACH STATE IS RESPONSIBLE 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. THE COMPACTING STATES ALSO RECOGNIZE THAT EACH STATE IS RESPONSIBLE FOR THE SAFE RETURN OF JUVENILES WHO HAVE RUN AWAY FROM HOME AND IN DOING SO HAVE LEFT THEIR STATE OF RESIDENCE. THE COMPACTING STATES ALSO RECOGNIZE THAT CONGRESS, BY ENACTING THE CRIME CONTROL ACT, 4 U.S.C. SECTION 112 (1965), HAS AUTHORIZED AND ENCOURAGED COMPACTS FOR COOPERATIVE EFFORTS 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.

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

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

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

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

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

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

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

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

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

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

J. ESTABLISH A SYSTEM OF UNIFORM DATA COLLECTION ON INFORMATION PERTAINING TO JUVENILES SUBJECT TO THIS COMPACT THAT ALLOWS ACCESS BY AUTHORIZED JUVENILE JUSTICE AND CRIMINAL JUSTICE 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 SUCH 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 HEREIN 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 PURSUANT TO 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 WHICH 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 PURSUANT TO 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 ANY:

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

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

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

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

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

I. "NON-COMPACTING STATE" MEANS ANY STATE WHICH 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. "RULE" MEANS A WRITTEN STATEMENT BY THE INTERSTATE COMMISSION PROMULGATED PURSUANT TO 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 PRACTICAL 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; AND

L. "STATE" MEANS A STATE OF THE UNITED STATES, 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.

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

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.

H. 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.

I. 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 VOTE THAT AN OPEN MEETING WOULD BE LIKELY TO:

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

2. DISCLOSE MATTERS SPECIFICALLY EXEMPTED FROM DISCLOSURE BY STATUTE;

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

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

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

6. DISCLOSE INVESTIGATIVE RECORDS COMPILED FOR LAW ENFORCEMENT PURPOSES;

7. DISCLOSE INFORMATION CONTAINED IN OR RELATED TO EXAMINATION, OPERATING OR CONDITION REPORTS PREPARED BY, OR ON BEHALF OF OR FOR THE USE OF, THE INTERSTATE COMMISSION WITH RESPECT TO A REGULATED PERSON OR ENTITY FOR THE PURPOSE OF REGULATION OR SUPERVISION OF SUCH PERSON OR ENTITY;

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

9. SPECIFICALLY RELATE TO THE INTERSTATE COMMISSION'S ISSUANCE OF A SUBPOENA, OR ITS PARTICIPATION IN A CIVIL ACTION OR OTHER LEGAL PROCEEDING.

J. FOR EVERY MEETING CLOSED PURSUANT TO THIS PROVISION, THE INTERSTATE COMMISSION'S LEGAL COUNSEL SHALL PUBLICLY CERTIFY THAT, IN THE LEGAL COUNSEL'S OPINION, THE MEETING MAY BE CLOSED TO THE PUBLIC, AND SHALL REFERENCE EACH RELEVANT EXEMPTIVE PROVISION. THE INTERSTATE COMMISSION SHALL KEEP MINUTES WHICH SHALL FULLY AND CLEARLY DESCRIBE ALL MATTERS DISCUSSED IN ANY MEETING AND SHALL PROVIDE A FULL AND ACCURATE SUMMARY OF ANY ACTIONS TAKEN, AND THE REASONS THEREFOR, INCLUDING A DESCRIPTION OF EACH OF THE VIEWS 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 SUCH MINUTES.

K. 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 AND DATA EXCHANGE AND REPORTING REQUIREMENTS. SUCH 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;

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

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

F. TO PURCHASE AND MAINTAIN INSURANCE AND BONDS;

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

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

I. TO ELECT OR APPOINT SUCH OFFICERS, ATTORNEYS, EMPLOYEES, AGENTS, OR CONSULTANTS, AND TO FIX THEIR COMPENSATION, DEFINE THEIR DUTIES AND DETERMINE THEIR QUALIFICATIONS; AND TO ESTABLISH THE INTERSTATE COMMISSION'S PERSONNEL POLICIES AND PROGRAMS RELATING TO, INTER ALIA, CONFLICTS OF INTEREST, RATES OF COMPENSATION, AND QUALIFICATIONS OF PERSONNEL;

J. TO ACCEPT ANY AND ALL DONATIONS AND GRANTS OF MONEY, EQUIPMENT, SUPPLIES, MATERIALS, AND SERVICES, AND TO 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. SUCH REPORTS SHALL ALSO 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 SUCH ACTIVITY;

S. TO ESTABLISH UNIFORM STANDARDS OF THE REPORTING, COLLECTING AND EXCHANGING OF DATA; AND

T. THE INTERSTATE COMMISSION SHALL MAINTAIN ITS CORPORATE BOOKS AND 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 SUBDIVISION 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 ACTS, 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 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 SUBDIVISION, 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 SUPERSEDED BY THIS ACT SHALL BE NULL AND VOID TWELVE 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 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. THE COMPACTING STATES SHALL REPORT TO THE INTERSTATE COMMISSION ON ALL ISSUES AND ACTIVITIES NECESSARY FOR THE ADMINISTRATION OF THE COMPACT AS WELL AS ISSUES AND ACTIVITIES PERTAINING TO COMPLIANCE WITH THE PROVISIONS OF THE COMPACT AND ITS BYLAWS AND RULES.

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

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

ARTICLE VIII
FINANCE

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

B. THE INTERSTATE COMMISSION SHALL LEVY ON AND COLLECT AN 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 SAID ASSESSMENT.

C. THE INTERSTATE COMMISSION SHALL NOT INCUR ANY OBLIGATIONS OF ANY KIND PRIOR TO 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.

D. 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

EACH MEMBER STATE SHALL CREATE A STATE COUNCIL FOR INTERSTATE JUVENILE SUPERVISION. WHILE EACH STATE MAY DETERMINE THE MEMBERSHIP OF ITS OWN STATE COUNCIL, ITS MEMBERSHIP MUST INCLUDE AT LEAST ONE REPRESENTATIVE FROM THE LEGISLATIVE, JUDICIAL, AND EXECUTIVE BRANCHES OF GOVERNMENT, VICTIMS GROUPS, AND THE COMPACT ADMINISTRATOR, DEPUTY COMPACT ADMINISTRATOR OR DESIGNEE. EACH COMPACTING STATE RETAINS THE RIGHT TO DETERMINE THE QUALIFICATIONS OF THE COMPACT ADMINISTRATOR OR DEPUTY COMPACT ADMINISTRATOR. EACH STATE COUNCIL WILL ADVISE AND MAY EXERCISE OVERSIGHT AND ADVOCACY CONCERNING THAT STATE'S PARTICIPATION IN INTERSTATE COMMISSION ACTIVITIES AND OTHER DUTIES AS MAY BE DETERMINED BY THAT STATE, INCLUDING BUT NOT LIMITED TO, DEVELOPMENT OF POLICY CONCERNING OPERATIONS AND 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 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

D. 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 HAVE BEEN EXHAUSTED AND THE INTERSTATE COMMISSION HAS THEREFORE DETERMINED THAT THE OFFENDING STATE IS IN DEFAULT. IMMEDIATE NOTICE OF SUSPENSION SHALL BE GIVEN BY THE INTERSTATE COMMISSION TO THE GOVERNOR, THE CHIEF JUSTICE OR THE CHIEF JUDICIAL OFFICER OF THE STATE, THE MAJORITY AND MINORITY LEADERS OF THE DEFAULTING STATE'S LEGISLATURE, AND THE STATE COUNCIL. THE GROUNDS FOR DEFAULT INCLUDE, BUT ARE NOT LIMITED TO, FAILURE OF A COMPACTING STATE TO PERFORM SUCH OBLIGATIONS OR RESPONSIBILITIES IMPOSED UPON IT BY THIS COMPACT, THE BYLAWS, OR DULY PROMULGATED RULES AND ANY OTHER GROUNDS DESIGNATED IN COMMISSION BYLAWS AND RULES. THE INTERSTATE COMMISSION SHALL IMMEDIATELY NOTIFY THE DEFAULTING STATE IN WRITING OF THE PENALTY IMPOSED BY THE INTERSTATE COMMISSION AND OF THE DEFAULT PENDING A CURE OF THE DEFAULT. THE COMMISSION SHALL STIPULATE THE CONDITIONS AND THE TIME PERIOD WITHIN WHICH THE DEFAULTING STATE MUST CURE ITS DEFAULT. IF THE DEFAULTING STATE FAILS TO CURE THE DEFAULT WITHIN THE TIME PERIOD SPECIFIED BY THE COMMISSION, THE DEFAULTING STATE SHALL BE TERMINATED FROM THE COMPACT UPON AN AFFIRMATIVE VOTE OF A MAJORITY OF THE COMPACTING STATES AND ALL RIGHTS, PRIVILEGES AND BENEFITS CONFERRED BY THIS COMPACT SHALL BE TERMINATED FROM THE EFFECTIVE DATE OF TERMINATION.

2. WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF TERMINATION OF A DEFAULTING STATE, THE COMMISSION SHALL NOTIFY THE GOVERNOR, THE CHIEF JUSTICE OR CHIEF JUDICIAL OFFICER, THE MAJORITY AND MINORITY LEADERS OF THE DEFAULTING STATE'S LEGISLATURE, AND THE STATE COUNCIL OF SUCH TERMINATION.

3. 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.

4. 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.

5. 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.

C. 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 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. IN THE EVENT JUDICIAL ENFORCEMENT IS NECESSARY THE PREVAILING PARTY SHALL BE AWARDED ALL COSTS OF SUCH LITIGATION INCLUDING REASONABLE ATTORNEYS FEES.

D. DISSOLUTION OF COMPACT.

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

2. UPON THE DISSOLUTION OF THIS 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

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. The executive law is amended by adding a new section 501-f to read as follows:

S 501-F. COMMISSIONER FOR THE INTERSTATE COMPACT FOR JUVENILES. PURSUANT TO SUBDIVISION B OF ARTICLE III OF SECTION FIVE HUNDRED ONE-E OF THIS ARTICLE, THE COMMISSIONER SHALL BE APPOINTED BY THE GOVERNOR IN CONSULTATION WITH THE STATE COUNCIL ESTABLISHED PURSUANT TO ARTICLE IX OF SECTION FIVE HUNDRED ONE-E AND SECTION FIVE HUNDRED ONE-G OF THIS ARTICLE.

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

S 501-G. STATE COUNCIL FOR INTERSTATE JUVENILE SUPERVISION. 1. PURSUANT TO ARTICLE IX OF SECTION FIVE HUNDRED ONE-E OF THIS ARTICLE, THERE IS HEREBY CREATED WITHIN THE OFFICE OF CHILDREN AND FAMILY SERVICES A STATE COUNCIL FOR INTERSTATE JUVENILE SUPERVISION. THE COUNCIL SHALL CONSIST OF THE COMPACT ADMINISTRATOR AND TWELVE OTHER MEMBERS TO BE APPOINTED AS FOLLOWS:

(A) ONE LEGISLATIVE REPRESENTATIVE TO BE APPOINTED BY THE GOVERNOR UPON RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY;

(B) ONE LEGISLATIVE REPRESENTATIVE TO BE APPOINTED BY THE GOVERNOR UPON RECOMMENDATION OF THE TEMPORARY PRESIDENT OF THE SENATE;

(C) A JUDICIAL REPRESENTATIVE TO BE APPOINTED BY THE GOVERNOR UPON RECOMMENDATION OF THE CHIEF JUDGE OF THE COURT OF APPEALS;

(D) THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES OR HIS OR HER DESIGNEE;

(E) THE EXECUTIVE DIRECTOR OF THE COUNCIL ON CHILDREN AND FAMILIES OR HIS OR HER DESIGNEE;

(F) THE DIRECTOR OF THE OFFICE OF PROBATION AND CORRECTIONAL ALTERNATIVES OR HIS OR HER DESIGNEE;

(G) THE DIRECTOR OF THE OFFICE OF VICTIM SERVICES OR HIS OR HER DESIGNEE;

(H) THE COMMISSIONER OF THE NEW YORK CITY ADMINISTRATION FOR CHILDREN'S SERVICES OR HIS OR HER DESIGNEE;

(I) A MEMBER OF THE NEW YORK JUVENILE JUSTICE ADVISORY GROUP AS DETERMINED BY A MAJORITY VOTE OF THE MEMBERS OF SUCH NEW YORK JUVENILE JUSTICE ADVISORY GROUP; AND

(J) THREE PERSONS APPOINTED BY THE GOVERNOR AS FOLLOWS: AN ATTORNEY APPOINTED UPON THE RECOMMENDATION OF THE NEW YORK STATE BAR ASSOCIATION WHO HAS REPRESENTED JUVENILES IN FAMILY COURT IN THIS STATE FOR A TOTAL OF AT LEAST FIVE YEARS, A PERSON APPOINTED UPON THE RECOMMENDATION OF THE STATEWIDE ADVISORY COMMITTEE ON COUNSEL FOR CHILDREN OF THE OFFICE OF COURT ADMINISTRATION, AND A PERSON APPOINTED UPON THE RECOMMENDATION OF THE NEW YORK CITY BAR ASSOCIATION.

2. THE COUNCIL SHALL ADVISE AND EXERCISE OVERSIGHT AND ADVOCACY CONCERNING THE STATE'S PARTICIPATION IN INTERSTATE COMMISSION ACTIVITIES AND OTHER DUTIES AS THE COUNCIL MAY DETERMINE, INCLUDING BUT NOT LIMITED TO, DEVELOPMENT OF POLICY CONCERNING THE OPERATIONS AND PROCEDURES OF THE COMPACT WITHIN THE STATE. THE APPOINTMENTS PROVIDED FOR IN THIS SECTION SHALL BE MADE WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION. EACH APPOINTED MEMBER OF THE COUNCIL SHALL SERVE A TERM OF FIVE YEARS. ANY MEMBER CHOSEN TO FILL A VACANCY CREATED OTHER THAN BY EXPIRATION OF TERM SHALL BE APPOINTED FOR THE UNEXPIRED TERM OF THE MEMBER WHOM HE OR SHE IS TO SUCCEED. VACANCIES CAUSED BY THE EXPIRATION OF TERM SHALL BE FILLED IN THE SAME MANNER AS ORIGINAL APPOINTMENTS AND FOR A TERM OF FIVE YEARS. THE COUNCIL MEMBERS SHALL SERVE WITHOUT SALARY BUT SHALL BE ENTITLED TO RECEIVE REIMBURSEMENT FOR TRAVEL AND OTHER RELATED EXPENSES ASSOCIATED WITH PARTICIPATION IN THE WORK OF THE COUNCIL.

3. THE STATE COUNCIL FOR INTERSTATE JUVENILE SUPERVISION SHALL PROVIDE AN ANNUAL REPORT ON OR BEFORE THE FIRST DAY OF JANUARY, TWO THOUSAND ELEVEN, AND THE FIRST DAY OF JANUARY EACH YEAR THEREAFTER, TO THE GOVERNOR, THE SPEAKER OF THE ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, THE MINORITY LEADER IN THE ASSEMBLY, THE MINORITY LEADER IN THE SENATE AND THE CHIEF JUDGE OF THE COURT OF APPEALS ON THE OPERATIONS OF THE COUNCIL PERTAINING TO JUVENILES SUBJECT TO THE INTERSTATE COMPACT FOR JUVENILES. SUCH REPORT SHALL INCLUDE AN EVALUATION OF THE IMPLEMENTATION AND OPERATION OF THE INTERSTATE COMPACT FOR JUVENILES AND THE RULES ADOPTED BY THE INTERSTATE COMMISSION; A DESCRIPTION OF THE POLICIES ADOPTED BY THE STATE COUNCIL UNDER THE COMPACT; THE DATA COLLECTED BY THE INTERSTATE COMMISSION AND THE COUNCIL; THE STATUS OF AND INTERSTATE MOVEMENT OF JUVENILES SUBJECT TO THE COMPACT, INCLUDING THE NUMBER OF JUVENILES SUBJECT TO THE COMPACT AND THE SUPERVISION STATUS OF SUCH JUVENILES, AND, WHERE AVAILABLE, STATISTICAL INFORMATION ON THE AGE, ETHNIC AND RACIAL BACKGROUND, EDUCATION, AND INSTITUTIONAL OR CRIMINAL HISTORY OF THE JUVENILES SUBJECT TO THE COMPACT. THE REPORT SHALL FURTHER INCLUDE THE COUNCIL'S EVALUATION OF THE EFFICIENCY AND EFFECTIVENESS OF THE INTERSTATE COMPACT FOR JUVENILES AND SHALL MAKE RECOMMENDATIONS CONCERNING THE OPERATIONS, PROCEDURES AND THIS STATE'S CONTINUED INCLUSION IN THE INTERSTATE COMPACT FOR JUVENILES.

S 5. The executive law is amended by adding a new section 501-h to read as follows:

S 501-H. DETENTION AND APPOINTMENT OF AN ATTORNEY FOR THE CHILD IN PROCEEDINGS INVOLVING YOUTH GOVERNED BY THE INTERSTATE COMPACT FOR JUVENILES. 1. IF A YOUTH IS DETAINED UNDER THE INTERSTATE COMPACT FOR JUVENILES ESTABLISHED PURSUANT TO SECTION FIVE HUNDRED ONE-E OF THIS ARTICLE, HE OR SHE SHALL BE BROUGHT BEFORE THE APPROPRIATE COURT WITHIN SEVENTY-TWO HOURS OR THE NEXT DAY THE COURT IS IN SESSION, WHICHEVER IS SOONER, AND SHALL BE ADVISED BY THE JUDGE OF HIS OR HER RIGHT TO REMAIN SILENT, HIS OR HER RIGHT TO BE REPRESENTED BY COUNSEL OF HIS OR HER OWN CHOOSING, AND OF THE RIGHT TO HAVE AN ATTORNEY ASSIGNED IN ACCORD WITH, AS APPLICABLE, SECTION TWO HUNDRED FORTY-NINE OF THE FAMILY COURT ACT OR ARTICLE EIGHTEEN-B OF THE COUNTY LAW. THE YOUTH SHALL BE ALLOWED A REASONABLE TIME TO RETAIN COUNSEL, CONTACT HIS OR HER PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR HIS OR HER CARE OR AN APPROPRIATE ADULT, AND THE JUDGE MAY ADJOURN THE PROCEEDINGS FOR SUCH PURPOSES. PROVIDED, HOWEVER, THAT NOTHING IN THIS SECTION SHALL BE DEEMED TO REQUIRE A YOUTH TO CONTACT HIS OR HER PARENTS OR OTHER PERSON OR PERSONS LEGALLY RESPONSIBLE FOR HIS OR HER CARE. PROVIDED FURTHER, HOWEVER, THAT COUNSEL SHALL BE ASSIGNED IMMEDIATELY, AND CONTINUE TO REPRESENT THE YOUTH UNTIL ANY RETAINED COUNSEL APPEARS. THE COURT SHALL SCHEDULE A COURT APPEARANCE FOR THE YOUTH NO LATER THAN TEN DAYS AFTER THE INITIAL COURT APPEARANCE, AND EVERY TEN DAYS THEREAFTER, WHILE THE YOUTH IS DETAINED PURSUANT TO THE INTERSTATE COMPACT FOR JUVENILES UNLESS ANY SUCH APPEARANCE IS WAIVED BY THE ATTORNEY FOR THE CHILD.

2. ALL YOUTH SUBJECT TO PROCEEDINGS GOVERNED BY THE INTERSTATE COMPACT FOR JUVENILES ESTABLISHED PURSUANT TO SECTION FIVE HUNDRED ONE-E OF THIS ARTICLE SHALL BE APPOINTED AN ATTORNEY PURSUANT TO, AS APPLICABLE, SECTION TWO HUNDRED FORTY-NINE OF THE FAMILY COURT ACT OR ARTICLE EIGHTEEN-B OF THE COUNTY LAW IF INDEPENDENT LEGAL REPRESENTATION IS NOT AVAILABLE TO SUCH YOUTH.

S 6. Subdivision (a) of section 249 of the family court act, as amended by chapter 41 of the laws of 2010, is amended to read as follows:

(a) In a proceeding under article three, seven, ten or ten-A of this act or where a revocation of an adoption consent is opposed under section one hundred fifteen-b of the domestic relations law or in any proceeding under section three hundred fifty-eight-a, three hundred eighty-three-c, three hundred eighty-four or three hundred eighty-four-b of the social services law or when a minor is sought to be placed in protective custody under section one hundred fifty-eight of this act OR IN ANY PROCEEDING WHERE A MINOR IS DETAINED UNDER OR GOVERNED BY THE INTERSTATE COMPACT FOR JUVENILES ESTABLISHED PURSUANT TO SECTION FIVE HUNDRED ONE-E OF THE EXECUTIVE LAW, the family court shall appoint an attorney to represent a minor who is the subject of the proceeding or who is sought to be placed in protective custody, if independent legal representation is not available to such minor. In any proceeding to extend or continue the placement of a juvenile delinquent or person in need of supervision pursuant to section seven hundred fifty-six or 353.3 of this act or any proceeding to extend or continue a commitment to the custody of the commissioner of mental health or the commissioner of [mental retardation and] PEOPLE WITH developmental disabilities pursuant to section 322.2 of this act, the court shall not permit the respondent to waive the right to be represented by counsel chosen by the respondent, respondent's parent, or other person legally responsible for the respondent's care, or by assigned counsel. In any other proceeding in which the court has jurisdiction, the court may appoint an attorney to represent the child, when, in the opinion of the family court judge,

such representation will serve the purposes of this act, if independent legal counsel is not available to the child. The family court on its own motion may make such appointment.

S 7. Section 249-a of the family court act, as amended by chapter 41 of the laws of 2010, is amended to read as follows:

S 249-a. Waiver of counsel. A minor who is a subject of a juvenile delinquency or person in need of supervision proceeding OR IN ANY PROCEEDING WHERE A MINOR IS DETAINED UNDER OR GOVERNED BY THE INTERSTATE COMPACT FOR JUVENILES ESTABLISHED PURSUANT TO SECTION FIVE HUNDRED ONE-E OF THE EXECUTIVE LAW shall be presumed to lack the requisite knowledge and maturity to waive the appointment of an attorney. This presumption may be rebutted only after an attorney has been appointed and the court determines after a hearing at which the attorney appears and participates and upon clear and convincing evidence that (a) the minor understands the nature of the charges, the possible dispositional alternatives and the possible defenses to the charges, (b) the minor possesses the maturity, knowledge and intelligence necessary to conduct his or her own defense, and (c) waiver is in the best interest of the minor.

S 8. This act shall take effect on the thirtieth day after it shall have become a law and shall expire September 1, 2013 when upon such date the provisions of this act shall be deemed repealed; provided, however, that notwithstanding the provisions of article 5 of the general construction law, on September 1, 2013 the provisions of chapter 155 of the laws of 1955, as repealed by section one of this act, are hereby revived and shall continue in full force and effect as such provisions existed on June 1, 2010; provided, further, 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 such effective date, 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.