

## HOUSE BILL No. 2485

By Representative Loyd

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AN ACT concerning crimes, criminal procedure and punishment; relating to the interstate compact for juveniles; repealing K.S.A. 38-1001, 38-1002, 38-1003, 38-1004, 38-1005, 38-1006 and 38-1007.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. This act may be cited as the Interstate Compact for Juveniles.

### THE INTERSTATE COMPACT FOR JUVENILES

#### ARTICLE 1

#### 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 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 move-

1 ment between states of juvenile offenders released to the community  
2 under the jurisdiction of courts, juvenile departments, or any other crim-  
3 inal or juvenile justice agency which has jurisdiction over juvenile offend-  
4 ers; (h) insure immediate notice to jurisdiction where defined offenders  
5 are authorized to travel or to relocate across state lines; (i) establish pro-  
6 cedures to resolve pending charges (detainers) against juvenile offenders  
7 prior to transfer or release to the community under the terms of this  
8 compact; (j) establish a system of uniform data collection on information  
9 pertaining to juveniles subject to this compact that allows access by au-  
10 thorized juvenile justice and criminal justice officials, and regular report-  
11 ing of Compact activities to heads of state executive, judicial, and legis-  
12 lative branches and juvenile and criminal justice administrators; (k)  
13 monitor compliance with rules governing interstate movement of juve-  
14 niles and initiate interventions to address and correct non-compliance; (l)  
15 coordinate training and education regarding the regulation of interstate  
16 movement of juveniles for officials involved in such activity; and (m) co-  
17 ordinate the implementation and operation of the compact with the Inter-  
18 state Compact for the Placement of Children, the Interstate Compact  
19 for Adult Offender Supervision and other compacts affecting juveniles  
20 particularly in those cases where concurrent or overlapping supervision  
21 issues arise. It is the policy of the compacting states that the activities  
22 conducted by the Interstate Commission created herein are the formation  
23 of public policies and therefore are public business. Furthermore, the  
24 compacting states shall cooperate and observe their individual and col-  
25 lective duties and responsibilities for the prompt return and acceptance  
26 of juveniles subject to the provisions of this compact. The provisions of  
27 this compact shall be reasonably and liberally construed to accomplish  
28 the purposes and policies of the compact.

29                                   ARTICLE II  
30                                   DEFINITIONS

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

33       (a) “By-laws” means: those by-laws established by the Interstate  
34 Commission for its governance, or for directing or controlling its actions  
35 or conduct.

36       (b) “Compact Administrator” means: the individual in each com-  
37 pacting state appointed pursuant to the terms of this compact, responsible  
38 for the administration and management of the state’s supervision and  
39 transfer of juveniles subject to the terms of this compact, the rules  
40 adopted by the Interstate Commission and policies adopted by the State  
41 Council under this compact.

42       (c) “Compacting State” means: any state which has enacted the en-  
43 abling legislation for this compact.

1 (d) “Commissioner” means: the voting representative of each com-  
2 pacting state appointed pursuant to Article III of this compact.

3 (e) “Court” means: any court having jurisdiction over delinquent, ne-  
4 glected, or dependent children.

5 (f) “Deputy Compact Administrator” means: the individual, if any, in  
6 each compacting state appointed to act on behalf of a Compact Admin-  
7 istrator pursuant to the terms of this compact responsible for the admin-  
8 istration and management of the state’s supervision and transfer of ju-  
9 veniles subject to the terms of this compact, the rules adopted by the  
10 Interstate Commission and policies adopted by the State Council under  
11 this compact.

12 (g) “Interstate Commission” means: the Interstate Commission for  
13 Juveniles created by Article III of this compact.

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

16 (1) Accused Delinquent - a person charged with an offense that, if  
17 committed by an adult, would be a criminal offense;

18 (2) Adjudicated Delinquent - a person found to have committed an  
19 offense that, if committed by an adult, would be a criminal offense;

20 (3) Accused Status Offender - a person charged with an offense that  
21 would not be a criminal offense if committed by an adult;

22 (4) Adjudicated Status Offender - a person found to have committed  
23 an offense that would not be a criminal offense if committed by an adult;  
24 and

25 (5) Non-Offender - a person in need of supervision who has not been  
26 accused or adjudicated a status offender or delinquent.

27 (i) “Non-Compacting state” means: any state which has not enacted  
28 the enabling legislation for this compact.

29 (j) “Probation or Parole” means: any kind of supervision or condi-  
30 tional release of juveniles authorized under the laws of the compacting  
31 states.

32 (k) “Rule” means: a written statement by the Interstate Commission  
33 promulgated pursuant to Article VI of this compact that is of general  
34 applicability, implements, interprets or prescribes a policy or provision of  
35 the Compact, or an organizational, procedural, or practice requirement  
36 of the Commission, and has the force and effect of statutory law in a  
37 compacting state, and includes the amendment, repeal, or suspension of  
38 an existing rule.

39 (l) “State” means: a state of the United States, the District of Colum-  
40 bia (or its designee), the Commonwealth of Puerto Rico, the U.S. Virgin  
41 Islands, Guam, American Samoa, and the Northern Marianas Islands.

#### 42 ARTICLE III

#### 43 INTERSTATE COMMISSION FOR JUVENILES

1 (a) The compacting states hereby create the “Interstate Commission  
2 for Juveniles.” The commission shall be a body corporate and joint agency  
3 of the compacting states. The commission shall have all the responsibil-  
4 ities, powers and duties set forth herein, and such additional powers as  
5 may be conferred upon it by subsequent action of the respective legis-  
6 latures of the compacting states in accordance with the terms of this  
7 compact.

8 (b) The Interstate Commission shall consist of commissioners ap-  
9 pointed by the appropriate appointing authority in each state pursuant to  
10 the rules and requirements of each compacting state and in consultation  
11 with the State Council for Interstate Juvenile Supervision created here-  
12 under. The commissioner shall be the compact administrator, deputy  
13 compact administrator or designee from that state who shall serve on the  
14 Interstate Commission in such capacity under or pursuant to the appli-  
15 cable law of the compacting state.

16 (c) In addition to the commissioners who are the voting representa-  
17 tives of each state, the Interstate Commission shall include individuals  
18 who are not commissioners, but who are members of interested organi-  
19 zations. Such non-commissioner members must include a member of the  
20 national organizations of governors, legislators, state chief justices, attor-  
21 neys general, Interstate Compact for Adult Offender Supervision, Inter-  
22 state Compact for the Placement of Children, juvenile justice and juvenile  
23 corrections officials, and crime victims. All non-commissioner members  
24 of the Interstate Commission shall be ex-officio (non-voting) members.  
25 The Interstate Commission may provide in its by-laws for such additional  
26 ex-officio (non-voting) members, including members of other national  
27 organizations, in such numbers as shall be determined by the commission.

28 (d) Each compacting state represented at any meeting of the com-  
29 mission is entitled to one vote. A majority of the compacting states shall  
30 constitute a quorum for the transaction of business, unless a larger quo-  
31 rum is required by the by-laws of the Interstate Commission.

32 (e) The commission shall meet at least once each calendar year. The  
33 chairperson may call additional meetings and, upon the request of a sim-  
34 ple majority of the compacting states, shall call additional meetings. Public  
35 notice shall be given of all meetings and meetings shall be open to the  
36 public.

37 (f) The Interstate Commission shall establish an executive commit-  
38 tee, which shall include commission officers, members, and others as  
39 determined by the by-laws. The executive committee shall have the power  
40 to act on behalf of the Interstate Commission during periods when the  
41 Interstate Commission is not in session, with the exception of rulemaking  
42 and/or amendment to the compact. The executive committee shall over-  
43 see the day-to-day activities of the administration of the compact managed

1 by an executive director and Interstate Commission staff; administers  
2 enforcement and compliance with the provisions of the compact, its by-  
3 laws and rules, and performs such other duties as directed by the Inter-  
4 state Commission or set forth in the by-laws.

5 (g) Each member of the Interstate Commission shall have the right  
6 and power to cast a vote to which that compacting state is entitled and  
7 to participate in the business and affairs of the Interstate Commission. A  
8 member shall vote in person and shall not delegate a vote to another  
9 compacting state. However, a commissioner, in consultation with the state  
10 council, shall appoint another authorized representative, in the absence  
11 of the commissioner from that state, to cast a vote on behalf of the com-  
12 pacting state at a specified meeting. The by-laws may provide for mem-  
13 bers' participation in meetings by telephone or other means of telecom-  
14 munication or electronic communication.

15 (h) The Interstate Commission's by-laws shall establish conditions  
16 and procedures under which the Interstate Commission shall make its  
17 information and official records available to the public for inspection or  
18 copying. The Interstate Commission may exempt from disclosure any  
19 information or official records to the extent they would adversely affect  
20 personal privacy rights or proprietary interests.

21 (i) Public notice shall be given of all meetings and all meetings shall  
22 be open to the public, except as set forth in the Rules or as otherwise  
23 provided in the Compact. The Interstate Commission and any of its com-  
24 mittees may close a meeting to the public where it determines by two-  
25 thirds vote that an open meeting would be likely to:

26 (1) Relate solely to the Interstate Commission's internal personnel  
27 practices and procedures;

28 (2) Disclose matters specifically exempted from disclosure by statute;

29 (3) Disclose trade secrets or commercial or financial information  
30 which is privileged or confidential;

31 (4) Involve accusing any person of a crime, or formally censuring any  
32 person;

33 (5) Disclose information of a personal nature where disclosure would  
34 constitute a clearly unwarranted invasion of personal privacy;

35 (6) Disclose investigative records compiled for law enforcement  
36 purposes;

37 (7) Disclose information contained in or related to examination, op-  
38 erating or condition reports prepared by, or on behalf of or for the use  
39 of, the Interstate Commission with respect to a regulated person or entity  
40 for the purpose of regulation or supervision of such person or entity;

41 (8) Disclose information, the premature disclosure of which would  
42 significantly endanger the stability of a regulated person or entity; or

43 (9) Specifically relate to the Interstate Commission's issuance of a

1 subpoena, or its participation in a civil action or other legal proceeding.

2 (j) For every meeting closed pursuant to this provision, the Interstate  
3 Commission's legal counsel shall publicly certify that, in the legal coun-  
4 sel's opinion, the meeting may be closed to the public, and shall reference  
5 each relevant exemptive provision. The Interstate Commission shall keep  
6 minutes which shall fully and clearly describe all matters discussed in any  
7 meeting and shall provide a full and accurate summary of any actions  
8 taken, and the reasons therefore, including a description of each of the  
9 views expressed on any item and the record of any roll call vote (reflected  
10 in the vote of each member on the question). All documents considered  
11 in connection with any action shall be identified in such minutes.

12 (k) The Interstate Commission shall collect standardized data con-  
13 cerning the interstate movement of juveniles as directed through its rules  
14 which shall specify the data to be collected, the means of collection and  
15 data exchange and reporting requirements. Such methods of data collec-  
16 tion, exchange and reporting shall insofar as is reasonably possible con-  
17 form to up-to-date technology, and coordinate its information functions  
18 with the appropriate repository of records.

#### 19 ARTICLE IV

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

21 The commission shall have the following powers and duties:

22 (1) To provide for dispute resolution among compacting states.

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

27 (3) To oversee, supervise and coordinate the interstate movement of  
28 juveniles subject to the terms of this compact and any by-laws adopted  
29 and rules promulgated by the Interstate Commission.

30 (4) To enforce compliance with the compact provisions, the rules  
31 promulgated by the Interstate Commission, and the by-laws, using all  
32 necessary and proper means, including but not limited to the use of ju-  
33 dicial process.

34 (5) To establish and maintain offices which shall be located within  
35 one or more of the compacting states.

36 (6) To purchase and maintain insurance and bonds.

37 (7) To borrow, accept, hire or contract for services of personnel.

38 (8) To establish and appoint committees and hire staff which it deems  
39 necessary for the carrying out of its functions including, but not limited  
40 to, an executive committee as required by Article III which shall have the  
41 power to act on behalf of the Interstate Commission in carrying out its  
42 power and duties hereunder.

43 (9) To elect or appoint such officers, attorneys, employees, agents, or

1 consultants, and to fix their compensation, define their duties and deter-  
2 mine their qualifications; and to establish the Interstate Commission's  
3 personnel policies and programs relating to, inter alia, conflicts of interest,  
4 rates of compensation, and qualifications of personnel.

5 (10) To accept any and all donations and grants of money, equipment,  
6 supplies, materials, and services, and to receive, utilize, and dispose of it.

7 (11) To lease, purchase, accept contributions or donations of, or oth-  
8 erwise to own, hold, improve or use any property, real, personal, or mixed.

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

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

13 (14) To sue and be sued.

14 (15) To adopt a seal and by-laws governing the management and op-  
15 eration of the Interstate Commission.

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

18 (17) To report annually to the legislatures, governors, judiciary, and  
19 state councils of the compacting states concerning the activities of the  
20 Interstate Commission during the preceding year. Such reports shall also  
21 include any recommendations that may have been adopted by the Inter-  
22 state Commission.

23 (18) To coordinate education, training and public awareness regard-  
24 ing the interstate movement of juveniles for officials involved in such  
25 activity.

26 (19) To establish uniform standards of the reporting, collecting and  
27 exchanging of data.

28 (20) The Interstate Commission shall maintain its corporate books  
29 and records in accordance with the By-laws.

#### 30 ARTICLE V

#### 31 ORGANIZATION AND OPERATION OF THE 32 INTERSTATE COMMISSION

##### 33 Section (a) By-laws

34 (1) The Interstate Commission shall, by a majority of the members  
35 present and voting, within twelve months after the first Interstate Com-  
36 mission meeting, adopt by-laws to govern its conduct as may be necessary  
37 or appropriate to carry out the purposes of the compact, including, but  
38 not limited to:

39 (A) Establishing the fiscal year of the Interstate Commission;

40 (B) Establishing an executive committee and such other committees  
41 as may be necessary;

42 (C) Provide for the establishment of committees governing any gen-  
43 eral or specific delegation of any authority or function of the Interstate

1 Commission;

2 (D) Providing reasonable procedures for calling and conducting  
3 meetings of the Interstate Commission, and ensuring reasonable notice  
4 of each such meeting;

5 (E) Establishing the titles and responsibilities of the officers of the  
6 Interstate Commission;

7 (F) Providing a mechanism for concluding the operations of the In-  
8 terstate Commission and the return of any surplus funds that may exist  
9 upon the termination of the Compact after the payment and/or reserving  
10 of all of its debts and obligations.

11 (G) Providing “start-up” rules for initial administration of the com-  
12 pact; and

13 (H) Establishing standards and procedures for compliance and techni-  
14 cal assistance in carrying out the compact.

15 Section (b) Officers and Staff

16 (1) The Interstate Commission shall, by a majority of the members,  
17 elect annually from among its members a chairperson and a vice chair-  
18 person, each of whom shall have such authority and duties as may be  
19 specified in the by-laws. The chairperson or, in the chairperson’s absence  
20 or disability, the vice-chairperson shall preside at all meetings of the In-  
21 terstate Commission. The officers so elected shall serve without compen-  
22 sation or remuneration from the Interstate Commission; provided that,  
23 subject to the availability of budgeted funds, the officers shall be reim-  
24 bursed for any ordinary and necessary costs and expenses incurred by  
25 them in the performance of their duties and responsibilities as officers of  
26 the Interstate Commission.

27 (2) The Interstate Commission shall, through its executive commit-  
28 tee, appoint or retain an executive director for such period, upon such  
29 terms and conditions and for such compensation as the Interstate Com-  
30 mission may deem appropriate. The executive director shall serve as sec-  
31 retary to the Interstate Commission, but shall not be a Member and shall  
32 hire and supervise such other staff as may be authorized by the Interstate  
33 Commission.

34 Section (c) Qualified Immunity, Defense and Indemnification

35 (1) The Commission’s executive director and employees shall be im-  
36 mune from suit and liability, either personally or in their official capacity,  
37 for any claim for damage to or loss of property or personal injury or other  
38 civil liability caused or arising out of or relating to any actual or alleged  
39 act, error, or omission that occurred, or that such person had a reasonable  
40 basis for believing occurred within the scope of Commission employment,  
41 duties, or responsibilities; provided, that any such person shall not be  
42 protected from suit or liability for any damage, loss, injury, or liability  
43 caused by the intentional or willful and wanton misconduct of any such



1 person.

2 (2) The liability of any commissioner, or the employee or agent of a  
3 commissioner, acting within the scope of such person's employment or  
4 duties for acts, errors, or omissions occurring within such person's state  
5 may not exceed the limits of liability set forth under the Constitution and  
6 laws of that state for state officials, employees, and agents. Nothing in  
7 this subsection shall be construed to protect any such person from suit  
8 or liability for any damage, loss, injury, or liability caused by the inten-  
9 tional or willful and wanton misconduct of any such person.

10 (3) The Interstate Commission shall defend the executive director or  
11 the employees or representatives of the Interstate Commission and, sub-  
12 ject to the approval of the Attorney General of the state represented by  
13 any commissioner of a compacting state, shall defend such commissioner  
14 or the commissioner's representatives or employees in any civil action  
15 seeking to impose liability arising out of any actual or alleged act, error  
16 or omission that occurred within the scope of Interstate Commission em-  
17 ployment, duties or responsibilities, or that the defendant had a reason-  
18 able basis for believing occurred within the scope of Interstate Commis-  
19 sion employment, duties, or responsibilities, provided that the actual or  
20 alleged act, error, or omission did not result from intentional or willful  
21 and wanton misconduct on the part of such person.

22 (4) The Interstate Commission shall indemnify and hold the com-  
23 missioner of a compacting state, or the commissioner's representatives or  
24 employees, or the Interstate Commission's representatives or employees,  
25 harmless in the amount of any settlement or judgment obtained against  
26 such persons arising out of any actual or alleged act, error, or omission  
27 that occurred within the scope of Interstate Commission employment,  
28 duties, or responsibilities, or that such persons had a reasonable basis for  
29 believing occurred within the scope of Interstate Commission employ-  
30 ment, duties, or responsibilities, provided that the actual or alleged act,  
31 error, or omission did not result from intentional or willful and wanton  
32 misconduct on the part of such persons.

#### 33 ARTICLE VI

#### 34 RULEMAKING FUNCTIONS OF THE 35 INTERSTATE COMMISSION

36 (a) The Interstate Commission shall promulgate and publish rules in  
37 order to effectively and efficiently achieve the purposes of the compact.

38 (b) Rulemaking shall occur pursuant to the criteria set forth in this  
39 article and the by-laws and rules adopted pursuant thereto. Such rule-  
40 making shall substantially conform to the principles of the "Model State  
41 Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol.  
42 15,p.1 (2000), or such other administrative procedures act, as the Inter-  
43 state Commission deems appropriate consistent with due process require-

1 ments under the U.S. Constitution as now or hereafter interpreted by the  
2 U.S. Supreme Court. All rules and amendments shall become binding as  
3 of the date specified, as published with the final version of the rule as  
4 approved by the Commission.

5 (c) When promulgating a rule, the Interstate Commission shall, at a  
6 minimum:

7 (1) publish the proposed rule's entire text stating the reason(s) for  
8 that proposed rule;

9 (2) allow and invite any and all persons to submit written data, facts,  
10 opinions and arguments, which information shall be added to the record,  
11 and be made publicly available;

12 (3) provide an opportunity for an informal hearing if petitioned by  
13 ten (10) or more persons; and

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

16 (d) Allow, not later than sixty days after a rule is promulgated, any  
17 interested person to file a petition in the United States District Court of  
18 the District of Columbia or in the Federal District Court where the Inter-  
19 state Commission's principal office is located for judicial review of such  
20 rule. If the court finds that the Interstate Commission's action is not  
21 supported by substantial evidence in the rulemaking record, the court  
22 shall hold the rule unlawful and set it aside. For purposes of this subsec-  
23 tion, evidence is substantial if it would be considered substantial evidence  
24 under the Model State Administrative Procedures Act.

25 (e) If a majority of the legislatures of the compacting states rejects a  
26 rule, those states may, by enactment of a statute or resolution in the same  
27 manner used to adopt the compact, cause that such rule shall have no  
28 further force and effect in any compacting state.

29 (f) The existing rules governing the operation of the Interstate Com-  
30 pact on Juveniles superseded by this act shall be null and void twelve (12)  
31 months after the first meeting of the Interstate Commission created  
32 hereunder.

33 (g) Upon determination by the Interstate Commission that a state-  
34 of-emergency exists, it may promulgate an emergency rule which shall  
35 become effective immediately upon adoption, provided that the usual  
36 rulemaking procedures provided hereunder shall be retroactively applied  
37 to said rule as soon as reasonably possible, but no later than ninety (90)  
38 days after the effective date of the emergency rule.

#### 39 ARTICLE VII

#### 40 OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION 41 BY THE INTERSTATE COMMISSION

#### 42 Section (a) Oversight

43 (1) The Interstate Commission shall oversee the administration and

1 operations of the interstate movement of juveniles subject to this compact  
2 in the compacting states and shall monitor such activities being admin-  
3 istered in non-compacting states which may significantly affect compact-  
4 ing states.

5 (2) The courts and executive agencies in each compacting state shall  
6 enforce this compact and shall take all actions necessary and appropriate  
7 to effectuate the compact's purposes and intent. The provisions of this  
8 compact and the rules promulgated hereunder shall be received by all  
9 the judges, public officers, commissions, and departments of the state  
10 government as evidence of the authorized statute and administrative  
11 rules. All courts shall take judicial notice of the compact and the rules.  
12 In any judicial or administrative proceeding in a compacting state per-  
13 taining to the subject matter of this compact which may affect the powers,  
14 responsibilities or actions of the Interstate Commission, it shall be entitled  
15 to receive all service of process in any such proceeding, and shall have  
16 standing to intervene in the proceeding for all purposes.

17 Section (b) Dispute Resolution

18 (1) The compacting states shall report to the Interstate Commission  
19 on all issues and activities necessary for the administration of the compact  
20 as well as issues and activities pertaining to compliance with the provisions  
21 of the compact and its bylaws and rules.

22 (2) The Interstate Commission shall attempt, upon the request of a  
23 compacting state, to resolve any disputes or other issues which are subject  
24 to the compact and which may arise among compacting states and be-  
25 tween compacting and non-compacting states. The commission shall  
26 promulgate a rule providing for both mediation and binding dispute res-  
27 olution for disputes among the compacting states.

28 (3) The Interstate Commission, in the reasonable exercise of its dis-  
29 cretion, shall enforce the provisions and rules of this compact using any  
30 or all means set forth in Article XI of this compact.

31 ARTICLE VIII

32 FINANCE

33 (a) The Interstate Commission shall pay or provide for the payment  
34 of the reasonable expenses of its establishment, organization and ongoing  
35 activities.

36 (b) The Interstate Commission shall levy on and collect an annual  
37 assessment from each compacting state to cover the cost of the internal  
38 operations and activities of the Interstate Commission and its staff which  
39 must be in a total amount sufficient to cover the Interstate Commission's  
40 annual budget as approved each year. The aggregate annual assessment  
41 amount shall be allocated based upon a formula to be determined by the  
42 Interstate Commission, taking into consideration the population of each  
43 compacting state and the volume of interstate movement of juveniles in

1 each compacting state and shall promulgate a rule binding upon all com-  
2 pacting states which governs said assessment.

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

7 (d) The Interstate Commission shall keep accurate accounts of all  
8 receipts and disbursements. The receipts and disbursements of the In-  
9 terstate Commission shall be subject to the audit and accounting proce-  
10 dures established under its by-laws. However, all receipts and disburse-  
11 ments of funds handled by the Interstate Commission shall be audited  
12 yearly by a certified or licensed public accountant and the report of the  
13 audit shall be included in and become part of the annual report of the  
14 Interstate Commission.

15 **ARTICLE IX**  
16 **THE STATE COUNCIL**

17 Each member state shall create a State Council for Interstate Juvenile  
18 Supervision. While each state may determine the membership of its own  
19 state council, its membership must include at least one representative  
20 from the legislative, judicial, and executive branches of government, vic-  
21 tims groups, and the compact administrator, deputy compact administra-  
22 tor or designee. Each compacting state retains the right to determine the  
23 qualifications of the compact administrator or deputy compact adminis-  
24 trator. Each state council will advise and may exercise oversight and ad-  
25 vocacy concerning that state's participation in Interstate Commission ac-  
26 tivities and other duties as may be determined by that state, including  
27 but not limited to, development of policy concerning operations and pro-  
28 cedures of the compact within that state.

29 **ARTICLE X**  
30 **COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT**

31 (a) Any state, the District of Columbia (or its designee), the Com-  
32 monwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Sa-  
33 moa, and the Northern Marianas Islands as defined in Article II of this  
34 compact is eligible to become a compacting state.

35 (b) The compact shall become effective and binding upon legislative  
36 enactment of the compact into law by no less than 35 of the states. The  
37 initial effective date shall be the later of July 1, 2004 or upon enactment  
38 into law by the 35th jurisdiction. Thereafter it shall become effective and  
39 binding as to any other compacting state upon enactment of the compact  
40 into law by that state. The governors of non-member states or their des-  
41 ignees shall be invited to participate in the activities of the Interstate  
42 Commission on a non-voting basis prior to adoption of the compact by  
43 all states and territories of the United States.

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

#### 6 ARTICLE XI

#### 7 WITHDRAWAL, DEFAULT, TERMINATION AND 8 JUDICIAL ENFORCEMENT

##### 9 Section (a) Withdrawal

10 (1) Once effective, the compact shall continue in force and remain  
11 binding upon each and every compacting state; provided that a compact-  
12 ing state may withdraw from the compact by specifically repealing the  
13 statute which enacted the compact into law.

14 (2) The effective date of withdrawal is the effective date of the repeal.

15 (3) The withdrawing state shall immediately notify the chairperson of  
16 the Interstate Commission in writing upon the introduction of legislation  
17 repealing this compact in the withdrawing state. The Interstate Commis-  
18 sion shall notify the other compacting states of the withdrawing state's  
19 intent to withdraw within sixty days of its receipt thereof.

20 (4) The withdrawing state is responsible for all assessments, obliga-  
21 tions and liabilities incurred through the effective date of withdrawal,  
22 including any obligations, the performance of which extend beyond the  
23 effective date of withdrawal.

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

##### 27 Section (b) Technical Assistance, Fines, Suspension, Termination 28 and Default

29 (1) If the Interstate Commission determines that any compacting  
30 state has at any time defaulted in the performance of any of its obligations  
31 or responsibilities under this compact, or the by-laws or duly promulgated  
32 rules, the Interstate Commission may impose any or all of the following  
33 penalties:

34 (A) Remedial training and technical assistance as directed by the In-  
35 terstate Commission;

36 (B) Alternative Dispute Resolution;

37 (C) Fines, fees, and costs in such amounts as are deemed to be rea-  
38 sonable as fixed by the Interstate Commission; and

39 (D) Suspension or termination of membership in the compact, which  
40 shall be imposed only after all other reasonable means of securing com-  
41 pliance under the by-laws and rules have been exhausted and the Inter-  
42 state Commission has therefore determined that the offending state is in  
43 default. Immediate notice of suspension shall be given by the Interstate

1 Commission to the Governor, the Chief Justice or the Chief Judicial Of-  
2 ficer of the state, the majority and minority leaders of the defaulting  
3 state's legislature, and the state council. The grounds for default include,  
4 but are not limited to, failure of a compacting state to perform such  
5 obligations or responsibilities imposed upon it by this compact, the by-  
6 laws, or duly promulgated rules and any other grounds designated in  
7 commission by-laws and rules. The Interstate Commission shall imme-  
8 diately notify the defaulting state in writing of the penalty imposed by  
9 the Interstate Commission and of the default pending a cure of the de-  
10 fault. The commission shall stipulate the conditions and the time period  
11 within which the defaulting state must cure its default. If the defaulting  
12 state fails to cure the default within the time period specified by the  
13 commission, the defaulting state shall be terminated from the compact  
14 upon an affirmative vote of a majority of the compacting states and all  
15 rights, privileges and benefits conferred by this compact shall be termi-  
16 nated from the effective date of termination.

17 (2) Within sixty days of the effective date of termination of a default-  
18 ing state, the Commission shall notify the Governor, the Chief Justice or  
19 Chief Judicial Officer, the Majority and Minority Leaders of the default-  
20 ing state's legislature, and the state council of such termination.

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

25 (4) The Interstate Commission shall not bear any costs relating to the  
26 defaulting state unless otherwise mutually agreed upon in writing be-  
27 tween the Interstate Commission and the defaulting state.

28 (5) Reinstatement following termination of any compacting state re-  
29 quires both a reenactment of the compact by the defaulting state and the  
30 approval of the Interstate Commission pursuant to the rules.

#### 31 Section (c) Judicial Enforcement

32 The Interstate Commission may, by majority vote of the members,  
33 initiate legal action in the United States District Court for the District of  
34 Columbia or, at the discretion of the Interstate Commission, in the fed-  
35 eral district where the Interstate Commission has its offices, to enforce  
36 compliance with the provisions of the compact, its duly promulgated rules  
37 and by-laws, against any compacting state in default. In the event judicial  
38 enforcement is necessary the prevailing party shall be awarded all costs  
39 of such litigation including reasonable attorneys fees.

#### 40 Section (d) Dissolution of Compact

41 (1) The compact dissolves effective upon the date of the withdrawal  
42 or default of the compacting state, which reduces membership in the  
43 compact to one compacting state.

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

#### 5 ARTICLE XII

#### 6 SEVERABILITY AND CONSTRUCTION

7 (a) The provisions of this compact shall be severable, and if any  
8 phrase, clause, sentence or provision is deemed unenforceable, the re-  
9 maining provisions of the compact shall be enforceable.

10 (b) The provisions of this compact shall be liberally construed to ef-  
11 fectuate its purposes.

#### 12 ARTICLE XIII

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

##### 14 Section (a) Other Laws

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

17 (2) All compacting states' laws other than state Constitutions and  
18 other interstate compacts conflicting with this compact are superseded to  
19 the extent of the conflict.

##### 20 Section (b) Binding Effect of the Compact

21 (1) All lawful actions of the Interstate Commission, including all rules  
22 and by-laws promulgated by the Interstate Commission, are binding upon  
23 the compacting states.

24 (2) All agreements between the Interstate Commission and the com-  
25 pacting states are binding in accordance with their terms.

26 (3) Upon the request of a party to a conflict over meaning or inter-  
27 pretation of Interstate Commission actions, and upon a majority vote of  
28 the compacting states, the Interstate Commission may issue advisory  
29 opinions regarding such meaning or interpretation.

30 (4) In the event any provision of this compact exceeds the constitu-  
31 tional limits imposed on the legislature of any compacting state, the ob-  
32 ligations, duties, powers or jurisdiction sought to be conferred by such  
33 provision upon the Interstate Commission shall be ineffective and such  
34 obligations, duties, powers or jurisdiction shall remain in the compacting  
35 state and shall be exercised by the agency thereof to which such obliga-  
36 tions, duties, powers or jurisdiction are delegated by law in effect at the  
37 time this compact becomes effective.

38 Sec. 2. K.S.A. 38-1001, 38-1002, 38-1003, 38-1004, 38-1005, 38-  
39 1006 and 38-1007 are hereby repealed.

40 Sec. 3. This act shall take effect and be in force from and after the  
41 later of July 1, 2004, or upon enactment into law by the 35th state and  
42 its publication in the statute book.