



Robin M. Nichols

*Bill Analysis*  
Legislative Service Commission

## **H.B. 354**

125th General Assembly  
(As Introduced)

**Reps. Harwood, Cirelli, Allen, Collier, Seitz, Hartnett, Kearns, Ujvagi, Sferra,  
Brown, Barrett, Carano, Book**

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### **BILL SUMMARY**

- Enacts the Interstate Compact for Juveniles.
- Provides that the juvenile court has exclusive original jurisdiction under the Interstate Compact for Juveniles.

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### **CONTENT AND OPERATION**

#### **Interstate Compact on Juveniles**

(R.C. 2151.56(A))

Current law authorizes the Governor to execute a Compact on Juveniles with another state or states to provide for the welfare and protection of juveniles and the public. Ohio Governor C. William O'Neill executed the Compact on July 8, 1957. All U.S. states, Washington D.C., Guam, and the Virgin Islands have entered into the Compact.<sup>1</sup> The Compact on Juveniles is designed to specifically provide for (1) the cooperative supervision of delinquent juveniles on probation or parole, (2) the return from one state to another of delinquent juveniles who have escaped or absconded, and (3) the return from one state to another of juveniles who have run away from home. Any two or more states that enter into the Compact (party states) may also undertake additional measures to protect juveniles and the public. The provisions of the Compact on Juveniles are to be reasonably and liberally construed to accomplish these purposes.

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<sup>1</sup> This information was provided by Robyn Peterson, Ohio Interstate Compact Coordinator.

## **Interstate Compact for Juveniles**

(R.C. 2151.56(B))

The bill enacts the Interstate Compact for Juveniles.<sup>2</sup> The provisions of the Compact do not go into effect until it is enacted by 35 states. The bill provides for an effective date of July 1, 2004, or the date of enactment by the 35th state, whichever date is later. (*Interstate Compact for Juveniles*, Art. X, para. B.) Under the bill, any amendment of the Compact is not effective until it is enacted by all of the compacting states (*Interstate Compact for Juveniles*, Art. X, para. C).

### **Purpose**

States that enter into the Compact (compacting states) must cooperate and observe their responsibilities for the prompt return and acceptance of juveniles subject to the Compact. The Compact enumerates 13 purposes, including, among others, protecting the public safety in states sending and receiving juveniles under the Compact; returning juveniles who have run away, absconded, or escaped from supervision or control; making contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services; equitably allocating the costs, benefits, and obligations of the compacting states; and establishing a system of uniform data collection of information pertaining to juveniles subject to the Compact. (*Interstate Compact for Juveniles*, Art. I.)

### **State council for interstate juvenile supervision**

The Compact for Juveniles contained in the bill requires each member state to create a state council for interstate juvenile supervision. Although Council membership is determined by each individual state, the Compact requires that it include one representative each from the legislative, judicial, and executive branches of government; one representative of victims groups; and the Compact administrator, deputy compact administrator, or designee. The Council will advise and can exercise oversight and advocacy regarding the state's participation in the activities of the Interstate Commission for Juveniles, discussed below. (*Interstate Compact for Juveniles*, Art. IX.)

### **Interstate Commission for Juveniles**

Under the bill, the Compact is to create the Interstate Commission for Juveniles, which is to meet at least once each calendar year. The Commission includes both voting and nonvoting members, with the voting members being the commissioners from each compacting state. The bill requires that the

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<sup>2</sup> *The entire Compact is set forth in the bill (R.C. 2151.56(B)).*

commissioner be the compact administrator, deputy compact administrator, or a designee. (*Interstate Compact for Juveniles*, Art. III, paras. A, B, and E.)

The Compact states that the activities conducted by the Commission are the formation of public policies and are therefore public business. (*Interstate Compact for Juveniles*, Art. I.)

**Powers and duties of commission**. Among other things, the Commission is required to (*Interstate Compact for Juveniles*, Art. IV):

- (1) Provide for dispute resolution among compacting states;
- (2) Promulgate rules, which shall have the force and effect of statutory law;
- (3) Oversee, supervise, and coordinate the interstate movement of juveniles subject to the Compact;
- (4) Enforce compliance with the Compact provisions, as well as the Commission's rules and bylaws;
- (5) Purchase and maintain insurance and bonds;
- (6) Establish and appoint committees, including an executive committee;
- (7) Establish a budget and levy dues;
- (8) Report annually to legislatures, governors, judiciary, and state councils of compacting states regarding Commission activities.

The Compact also provides the Commission's executive director and employees with qualified immunity from civil suits arising out of actions or omissions that occurred, or that the person had a reasonable basis to believe occurred, within the scope of Commission employment. The immunity does not extend to intentional or willful and wanton misconduct. (*Interstate Compact for Juveniles*, Art. V, sec. C, para. 1.)

**Rulemaking**. The Compact requires the Commission to promulgate and publish rules to achieve the purposes of the Compact. This rulemaking must substantially comply with the Model State Administrative Procedures Act, or any other administrative procedures act the Commission deems appropriate and consistent with federal due process. The Compact provides a publication and comment procedure for proposed rules, as well as a petition for judicial review of a promulgated rule. (*Interstate Compact for Juveniles*, Art. VI.)

**Oversight and dispute resolution.** Under the bill, after the effective date of the Compact, the Commission is responsible for overseeing the administration and operations of the interstate movement of juveniles subject to the Compact in the compacting states. The Compact and any rules promulgated pursuant to it must be received by all judges, public officers, commissions, and departments of the compacting state governments, and all courts must take judicial notice of the Compact and rules.<sup>3</sup> On request of a compacting state, the Commission must attempt to resolve disputes or issues subject to the Compact that may arise between compacting states or between compacting and non-compacting states. The Commission must promulgate a rule providing for both mediation and binding dispute resolution for disputes among compacting states. (*Interstate Compact for Juveniles*, Art. VII.)

**Finance and assessments.** Under the bill, the Commission is required to collect an annual assessment from each compacting state to cover the cost of internal operations. The total assessment must be sufficient to cover the Commission's annual budget as approved each year. Under the Compact, the Commission is not permitted to incur obligations before securing funds sufficient to satisfy the obligations. Moreover, the Commission is specifically prohibited from pledging the credit of a compacting state, except by and with the authority of the compacting state. The bill requires that there be an accurate account of all of the Commission's receipts and disbursements. The account must be audited annually by a certified or licensed public accountant, and the report of the audit is to become part of the Commission's annual report. (*Interstate Compact for Juveniles*, Art. VIII.)

### **Withdrawal**

A compacting state may withdraw from the Compact by repealing the statute enacting the Compact into state law. The withdrawal is effective the date of the repeal. On introduction of the legislation repealing the statute, the withdrawing state must immediately notify the Chairperson of the Interstate Commission for Juveniles in writing. Within 60 days of receiving the notice, the Commission must notify the other compacting states of the intention to withdraw. The withdrawing state is responsible for all assessments, obligations, and liabilities through the effective date of withdrawal. Further, the bill provides that any obligations the performance of which extends beyond the date of withdrawal must be honored. (*Interstate Compact for Juveniles*, Art. XI, sec. A.)

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<sup>3</sup> "Judicial notice" means "[a] court's acceptance, for purposes of convenience and without requiring a party's proof, of a well-known and indisputable fact; the courts power to accept such a fact[.]" *BLACK'S LAW DICTIONARY* 851 (7th ed. 1999).

**Default and termination.** If the Commission determines that a compacting state has defaulted in the performance of an obligation under the Compact, bylaws, or rules, the Commission may impose any or all of the following penalties:

- (1) Remedial training and technical assistance;
- (2) Alternative dispute resolution;
- (3) Fines, fees, and costs in the amounts deemed to be reasonable as fixed by the Commission;
- (4) Suspension or termination of membership in the Compact (this may be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted).

*(Interstate Compact for Juveniles, Art. XI, sec. B.)*

**Judicial enforcement.** Under the bill, the Commission, by majority vote of the members, can initiate legal action in the United States District Court for the District of Columbia or in the federal district where the Commission has its offices, to enforce compliance with the Compact, rules, or bylaws. The Compact provides that the prevailing party is to be awarded costs, including reasonable attorney's fees. *(Interstate Compact for Juveniles, Art. XI, sec. C.)*

#### **Effect of Compact on state laws**

Under the bill, the Interstate Compact for Juveniles does not prevent the enforcement of state law that is not inconsistent with the Compact. The Compact specifically provides that conflicting state law, *other than state constitutions and other state compacts*, is superceded by the Compact to the extent of the conflict. The Compact also generally provides that any provision of the Compact that exceeds the constitutional limits imposed on the legislature of a compacting state is ineffective. *(Interstate Compact for Juveniles, Art. XIII.)*

#### **Withdrawal from the Interstate Compact on Juveniles**

(R.C. 2151.56(C))

The bill requires the Governor, on the bill's effective date, to provide notice of the state's intention to withdraw from the Interstate Compact on Juveniles, in accordance with the terms of that Compact. The notice must state that the withdrawal will occur six months from the date of the notice, or when the state's participation in the Interstate Compact for Juveniles becomes effective, whichever date is later.

**Jurisdiction of the juvenile court**

(R.C. 2151.23)

The bill provides that the state's juvenile courts have exclusive original jurisdiction under the Interstate Compact for Juveniles.

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	12-16-03	p. 1337

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