



Ohio Legislative Service Commission

Final Analysis

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- Reps.** Letson, Bubp, Murray, Okey, Szollosi, Stinziano, Mecklenborg, Stebelton, Huffman, Slaby, Amstutz, Anielski, Antonio, Barnes, Beck, Blair, Blessing, Carney, Celeste, DeGeeter, Derickson, Foley, Gardner, Garland, Goyal, Grossman, Hackett, C. Hagan, Hayes, Heard, Hottinger, Lundy, Maag, Mallory, McClain, McKenney, Milkovich, Newbold, O'Brien, Patmon, Pillich, Reece, Sears, Winburn, Yuko, Batchelder

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ACT SUMMARY

- Repeals the Interstate Compact on Juveniles and adopts the Interstate Compact for Juveniles.

TABLE OF CONTENTS

Introduction	2
Prior law	2
Operation of the act	3
Article I – Purpose	3
Article II – Definitions	5
Article III – Interstate Commission for Juveniles	6
Article IV – Commission powers and duties	9
Article V – Organization and operation of the Commission	10
Article VI – Rulemaking by the Commission	12
Article VII – Oversight, enforcement, and dispute resolution by the Commission	13
Article VIII – Finance	14
Article IX – State councils	14
Article X – Effective date and amendment	15
Article XI – Withdrawal, default, termination, and judicial enforcement	15
Article XII – Severability and construction	17
Article XIII – Binding effect of compact and other laws	17
Article XIV – Financial reimbursement	18
Miscellaneous changes	18
"Primary changes" listed on Council of State Governments web site	18

CONTENT AND OPERATION

Introduction

The act repeals the existing Interstate Compact on Juveniles and replaces it with the Interstate Compact for Juveniles, which by its terms became effective among its member states in 2008 when the 35th state adopted it. The total number of member states now exceeds 40. The compact was drafted under the auspices of the National Center for Interstate Compacts of the Council of State Governments.

Ohio adopted the Interstate Compact on Juveniles in 1957. The adopting legislation authorized the Governor to execute a compact with other states that adopted the compact in substantially the same form. The compact has been amended several times since then, but it remains largely as it was when adopted. Because the new compact nullifies existing rules governing the operation of the original compact and most states have joined the new compact, the compact to which Ohio belonged under prior law has few members.

Prior law

The purpose of the Interstate Compact on Juveniles, the original compact that was the law in Ohio before enactment of the act,¹ was to provide procedures for the return of nondelinquent runaway juveniles and delinquent juveniles who abscond or escape. Under prior law, the parent or other legal custodian of a juvenile who had not been adjudged delinquent but who had run away to another state without the consent of the custodian could petition a court in the custodian's state for the issuance of a requisition for the juvenile's return. The statute set forth the requirements for the petition and the nature of the requisition. If the judge determined that the juvenile should be returned, the judge had to present the requisition to the appropriate judicial or executive authority of the state where the juvenile was alleged to be located. If a proceeding for the adjudication of the juvenile as a delinquent, neglected, or dependent juvenile was pending in the court at the time the juvenile ran away, the court could issue a requisition for the return of the juvenile upon its own motion. Upon receipt of the requisition, the court or executive authority to whom the requisition was addressed had to order the detention of the juvenile and an appearance before a court. If the judge found that the requisition was in order, the judge had to deliver the juvenile over to the officer appointed by the court of the demanding state to receive the juvenile.

¹ R.C. 2151.56.

Prior law also permitted the detention of a juvenile without a requisition upon reasonable information that a person was a juvenile who had run away from another state that was a party to the compact. The statute required a court hearing to determine the status of the juvenile and established procedures for the juvenile's return.

Prior law included parallel provisions for cases involving delinquent juveniles who have absconded from probation or parole supervision or escaped from institutional custody and had fled to another state that had entered into the compact.

Other provisions of prior law provided for cooperative supervision of probationers and parolees, the appointment of compact administrators in each state to promulgate rules necessary to carry out the compact, the adoption of supplementary agreements, and other matters related to the administration of the compact.²

Operation of the act

The act repeals the entire prior compact and replaces it with the new compact. The new compact, rather than establishing procedures for the party states to follow, creates an Interstate Commission for Juveniles to adopt rules for dealing with the "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" and "the safe return of juveniles who have run away from home and in doing so have left their state of residence."³

The act sets forth the compact, consisting of 14 articles, as new R.C. 2151.56. This analysis provides the substance of each article, supplemented in several instances by other new sections of the Revised Code.

Article I – Purpose

The compact includes an elaborate statement of purpose stating that its objective is the "joint and cooperative action among the compacting states" to accomplish all of the following:

(1) To ensure that the adjudicated juveniles and status offenders subject to the compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state;

² R.C. 2151.57 through 2151.61.

³ Article I.

(2) To 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;

(3) To 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;

(4) To make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services;

(5) To provide for the effective tracking and supervision of juveniles;

(6) To equitably allocate the costs, benefits, and obligations of the compacting states;

(7) To 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 that has jurisdiction over juvenile offenders;

(8) To ensure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines;

(9) To establish procedures to resolve pending charges, such as detainers, against juvenile offenders prior to transfer or release to the community under the terms of this compact;

(10) To 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 justice and criminal justice administrators;

(11) To monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance;

(12) To coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity;

(13) To coordinate the implementation and operation of this 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.

Article II – Definitions

As used in the compact, the following terms have the definitions set forth, unless the context clearly requires a different construction:

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

(2) "Compact administrator" means the individual in each compacting state appointed pursuant to the terms of the compact who is responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of the compact, the rules adopted by the Commission, and policies adopted by the state council.⁴

The act supplements this definition by requiring the Governor to appoint the Director of Youth Services as the compact administrator.⁵

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

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

The act supplements this definition by requiring the Governor to appoint the compact administrator, or to allow the compact administrator to appoint a designee, to serve as Ohio's commissioner on the Commission.⁶

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

(6) "Interstate commission for juveniles" or "interstate commission" means the Interstate Commission for Juveniles created by Article III.

(7) "Juvenile" means any person defined as a juvenile in any member state or by Commission's rules, including any of the following:

(a) An "accused delinquent," which means a person charged with a violation of a law or municipal ordinance that, if committed by an adult, would be a criminal offense;

⁴ See Article IX.

⁵ R.C. 2151.58(A).

⁶ R.C. 2151.58(B).

(b) An "adjudicated delinquent," which means a person found to have committed a violation of a law or municipal ordinance that, if committed by an adult, would be a criminal offense;

(c) An "accused status offender," which means a person charged with a violation of a law or municipal ordinance that would not be a criminal offense if committed by an adult;

(d) An "adjudicated status offender," which means a person found to have committed a violation of a law or municipal ordinance that would not be a criminal offense if committed by an adult;

(e) A "nonoffender," which means a person in need of supervision who is not an accused or adjudicated status offender or delinquent.

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

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

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

(11) "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

The new compact creates the Interstate Commission for Juveniles as a body corporate and joint agency of the compacting states and, in each state, a council for interstate juvenile supervision. The Commission has all the responsibilities, powers, and duties set forth in the compact and any additional powers that may be conferred upon the Commission by subsequent action of the respective legislatures of the compacting states in accordance with the terms of the compact. The Commission consists of commissioners appointed by the appropriate appointing authority in each state in consultation with the state's council. The commissioners are the voting representatives of each state. The commissioner for a state is the state's compact

administrator or designee who serves on the Commission who serves on the Commission in such capacity under or pursuant to the applicable law of the compacting state.

The Commission also includes ex officio nonvoting members who belong to 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. The Commission may provide in its bylaws for additional ex officio, nonvoting members including members of other national organizations, in numbers determined by the Commission.

Each compacting state represented at any meeting of the Commission is entitled to one vote. A majority of the compacting states constitutes a quorum for the transaction of business, unless a larger quorum is required by the Commission's bylaws.

The Commission must meet at least once a year. The chairperson may call additional meetings and, upon the request of a simple majority of the compacting states, must call additional meetings. Public notice must be given of all meetings, and all meetings are open to the public.

The Commission must establish an executive committee that includes Commission officers, members, and others as determined by its bylaws. The executive committee acts on behalf of the Commission when the Commission is not in session, except for rulemaking or amendment to the compact. The executive committee oversees the day-to-day activities of the executive director and staff; administers enforcement and compliance with the compact, bylaws, and rules; and performs any other duties as directed by the Commission or set forth in the bylaws.

Each member of the Commission has the right to cast the vote of the member's state and to participate in the Commission's business. A member must vote in person, unless another authorized representative from the state is appointed for a specified meeting, and may not delegate a vote to another state. However, the Commission's bylaws may provide for participation in meetings by telecommunication or electronic communication.

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

The Commission and any of its committees may close a meeting to the public when it determines by two-thirds vote that an open meeting would be likely to do any of the following:

- (1) Relate solely to internal personnel practices and procedures;
- (2) Disclose matters specifically exempted from disclosure by statute;
- (3) Disclose trade secrets or commercial or financial information that is privileged or confidential;
- (4) Involve accusing any person of a crime or formally censuring any person;
- (5) Disclose information of a personal nature if 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, on behalf of, or for the use of the Commission with respect to a regulated person or entity for the purpose of regulation or supervision of the person or entity;
- (8) Disclose information the premature disclosure of which would significantly endanger the stability of a regulated person or entity;
- (9) Specifically relate to the Commission's issuance of a subpoena or its participation in a civil action or other legal proceeding.

For every closed meeting, the Commission's legal counsel must publicly certify that the meeting may be closed to the public and must reference each relevant exemptive provision. The Commission must keep minutes that fully and clearly describe all matters discussed in any meeting and that provide a full and accurate summary of any actions taken, and the reasons for the actions, including a description of each of the views expressed on any item and the record of any roll call vote. All documents considered in connection with any action must be identified in the minutes.

The Commission must collect standardized data concerning the interstate movement of juveniles as directed through its rules. The rules must specify the data to be collected, the means of collection and data exchange, and reporting requirements. The methods of data collection, exchange, and reporting, to the extent reasonably possible, must conform to up-to-date technology and coordinate the Commission's information functions with the appropriate repository of records.

Article IV – Commission powers and duties

The Commission must maintain its corporate books and records in accordance with its bylaws.

The compact confers upon the Commission the following powers and duties:

- (1) To provide for dispute resolution among the compacting states;
- (2) To promulgate rules to affect (it is not clear whether "affect" or "effect" is the appropriate word) the purposes and obligations set forth in the compact. The rules have the same force as statutory law and are binding in the compacting states to the extent and in the manner provided in the compact.
- (3) To oversee, supervise, and coordinate the interstate movement of juveniles, subject to the terms of the compact and the Commission's bylaws and rules;
- (4) To enforce compliance with the provisions of the compact and the Commission's bylaws and rules, using all necessary and proper means, including but not limited to judicial process;
- (5) To establish and maintain offices located in one or more of the compacting states;
- (6) To purchase and maintain insurance and bonds;
- (7) To borrow, accept, hire, or contract for services of personnel;
- (8) To establish and appoint committees and hire staff that it considers necessary for the carrying out of its functions, including, but not limited to, an executive committee having the power to act on behalf of the Commission in carrying out its powers and duties;
- (9) To elect or appoint officers, attorneys, employees, agents, or consultants, to fix their compensation, define their duties, and determine their qualifications, and to establish the Commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel;
- (10) To accept donations and grants of money, equipment, supplies, materials, and services;
- (11) To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any real property or personal property;

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

(13) To establish a budget and make expenditures and levy dues as provided in the compact;

(14) To sue and be sued;

(15) To adopt a seal and bylaws governing the management and operation of the Commission;

(16) To perform any functions that may be necessary or appropriate to achieve the purposes of the compact;

(17) To report annually to the legislatures, governors, judiciary, and state councils for interstate juvenile supervision of the compacting states concerning the activities of the Commission during the preceding year. The annual reports must include any recommendations that may have been adopted by the Commission.

(18) To coordinate education, training, and public awareness regarding the interstate movement of juveniles for officials involved in such activity;

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

Article V – Organization and operation of the Commission

Bylaws. The compact requires the Commission, by a majority of the members present and voting and within 12 months after the first meeting, to adopt bylaws to govern its conduct. The Commission adopted bylaws on December 17, 2008.⁷ According to the compact, the bylaws must do all of the following:

(1) Establish the Commission's fiscal year;

(2) Establish an executive committee and any other committees that may be necessary;

(3) Provide for the establishment of committees governing any general or specific delegation of any authority or function of the Commission;

(4) Provide reasonable procedures for calling and conducting Commission meetings and ensuring reasonable notice of each meeting;

⁷ See <http://www.csg.org/knowledgecenter/docs/ncic/BylawsasAdopted.pdf>.

- (5) Establish the titles and responsibilities of the Commission's officers;
- (6) Provide a mechanism for concluding the Commission's operations and the return of any surplus funds that may exist upon the termination of the compact after the payment or reserving of all of its debts and obligations, or both;
- (7) Provide start-up rules for initial administration of the compact;
- (8) Establish standards and procedures for compliance and technical assistance in carrying out the compact.

Officers and Staff. The compact requires the Commission, by a majority of the members, to elect annually from among its members a chairperson and a vice chairperson, each having the authority and duties specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice chairperson presides at all meetings. The officers serve without compensation from the Commission, but if budgeted funds are available, they are reimbursed for any ordinary and necessary expenses incurred in the performance of their duties. The executive committee must appoint or retain an executive director upon such terms as the Commission considers appropriate. The executive director serves as secretary to, but not as a member of, the Commission and hires and supervises staff as authorized by the Commission.

Qualified Immunity, Defense, and Indemnification. The compact generally provides the Commission's executive director and employees immunity from liability, personally and 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 the executive director or employee had a reasonable basis for believing occurred, within the scope of Commission employment, duties, or responsibilities. The immunity does not extend to liability resulting from willful and wanton misconduct.

The compact specifies that the liability of any commissioner, or employee or agent of a commissioner, acting within the scope of that person's employment or duties for acts, errors, or omissions occurring within that 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. This provision may not be construed to protect a person from liability resulting from the person's intentional or willful and wanton misconduct.

The compact generally requires the Commission to defend the Commission's executive director, employees, and representatives and, subject to the approval of the attorney general of the state represented by any commissioner of a compacting state, to defend the commissioner or the commissioner's representatives or employees in any

civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities. The duty to defend does not apply if the actual or alleged act, error, or omission resulted from intentional or willful and wanton misconduct.

Under the compact, the Commission generally must indemnify and hold the commissioner of a compacting state, or the commissioner's representatives or employees, or the 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 Commission employment, duties, or responsibilities, or that the persons had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities. The duty to indemnify and hold harmless does not apply if the actual or alleged act, error, or omission in question resulted from intentional or willful and wanton misconduct.

Article VI – Rulemaking by the Commission

The compact requires the Commission to promulgate and publish rules to carry out the purposes of this compact. Rules must be made in substantial conformity to the principles of the Model State Administrative Procedures Act, 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or another administrative procedures act, as the Commission determines appropriate, consistent with due process requirements under the U.S. Constitution. All rules and amendments become binding as of a specified date as published with the final version of the rule as approved by the Commission.

When promulgating a rule, the Commission, at a minimum, must do all of the following:

(1) Publish the proposed rule's entire text and state the reasons for that proposed rule;

(2) Allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information must 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.

The compact allows any interested person, not later than 60 days after a rule is promulgated, to file a petition in the U.S. District Court for the District of Columbia or in the federal district court where the Commission's principal office is located, for judicial review of the rule. If the court finds that the Commission's action is not supported by substantial evidence in the rulemaking record, the court must set the rule aside. Evidence is substantial if it would be considered substantial evidence under the Model State Administrative Procedures Act.

If a majority of the legislatures of the compacting states rejects a rule, those states, by enactment of a statute or resolution in the same manner used to adopt the compact, may cause the rule to have no further force in any compacting state.

The compact nullifies existing rules governing the operation of the current Interstate Compact on Juveniles as of 12 months after the first meeting of the Commission.

The compact permits the Commission to adopt an emergency rule if it finds that a state of emergency exists. An emergency rule becomes effective, provided that the usual rulemaking procedures are retroactively applied to the emergency rule as soon as reasonably possible, but not more than 90 days after the effective date of the emergency rule.

Article VII – Oversight, enforcement, and dispute resolution by the Commission

Oversight and Enforcement. The compact gives the Commission the duty to oversee the administration and operations of the interstate movement of juveniles subject to the compact in the compacting states and to monitor activities being administered in noncompacting states that may significantly affect compacting states. It requires the courts and executive agencies in each compacting state to enforce the compact and to take all actions necessary and appropriate to effectuate the compact's purposes and intent. The compact requires judges, public officers, commissions, and departments of the state government to receive the provisions of the compact and the rules promulgated under it as evidence of the authorized statute and administrative rules. All courts must take judicial notice of the compact and rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of the compact that may affect the powers, responsibilities, or actions of the Commission, the Commission is entitled to receive all service of process in the proceeding and has standing to intervene in the proceeding for all purposes.

Dispute Resolution. The compact requires the compacting states to report to the Commission on all issues and activities necessary for the administration of the compact

or pertaining to compliance with the compact, bylaws, and rules. At the request of a compacting state, the Commission must attempt to resolve any disputes or other issues that are subject to the compact and that may arise among compacting states and between compacting and non-compacting states. The Commission must promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states. In the reasonable exercise of its discretion, the Commission must enforce the compact and rules using the means set forth in Article XI.

Article VIII – Finance

To pay or provide for the payment of the reasonable expenses of the Commission's establishment, organization, and ongoing activities, the compact directs the Commission to collect an annual assessment from each compacting state. The assessment, governed by a Commission rule, is to be in a total amount sufficient to cover the Commission's approved annual budget. The aggregate annual assessment amount must be allocated on the basis of a formula to be determined by the Commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state.

The compact prohibits the Commission from incurring any obligations before securing the funds adequate to meet the obligations and from pledging the credit of any compacting state without the authority of that state.

The compact requires the Commission to keep accurate accounts of all receipts and disbursements, which must be made subject to audit and accounting procedures established in the bylaws. All receipts and disbursements must be audited annually by a certified or licensed public accountant, and the report of the audit must be included in the Commission's annual report.

Article IX – State councils

Article IX requires each compacting state to create a state council for interstate juvenile supervision. Each state may determine the membership of its own state council, but the membership must include at least one representative each from the legislative, judicial, and executive branches of government, and victims groups, as well as the compact administrator or designee. Each state may determine the qualifications of the compact administrator for the state. A state council must advise and may exercise oversight and advocacy concerning that state's participation in Commission activities and [perform?] such other duties as may be required by the state, including but not limited to, development of policy concerning operations and procedures of the compact within the state.

R.C. 2151.57 in the act establishes the State Council for Interstate Juvenile Supervision in the Department of Youth Services. The Council consists of the following six members:

- (1) The compact administrator or the designee of the compact administrator;
- (2) A member of the House of Representatives appointed by the Speaker;
- (3) A member of the Senate appointed by the President;
- (4) A representative of the executive branch of state government, in addition to the member described in paragraph (1), above, appointed by the Governor;
- (5) A juvenile court judge appointed by the chief justice of the supreme court;
- (6) A person who represents an organization that advocates for the rights of victims of crime or a delinquent act, appointed by the Governor.

The Council advises and may exercise oversight and advocacy concerning Ohio's participation in activities of the Commission, develops policy for Ohio concerning operations and procedures of the compact within Ohio, and performs other duties assigned to state councils under the compact.

Article X – Effective date and amendment

The compact provides that it becomes effective and binding upon legislative enactment of the compact by 35 states. The 35th state adopted the compact in 2008, and the compact is now in effect among more than 40 states.⁸ The Commission may propose amendments to the compact for enactment by the compacting states. No amendment becomes effective and binding upon the 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

Withdrawal. A compacting state may withdraw from this compact by specifically repealing the statute that enacted the compact. The effective date of that withdrawal is the effective date of the state's repeal of that statute. A state that withdraws from the compact must immediately notify the chairperson of the Commission in writing upon the introduction of the repealing legislation, and the Commission, within 60 days after receiving the notice, must notify the other compacting states. A state that withdraws from the compact is responsible for all

⁸ See the map and summary at the web site of the Council of State Governments, http://www.csg.org/programs/policyprograms/NCIC/interstatecompact_juveniles.aspx.

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. Reinstatement of a withdrawing state occurs upon the reenactment of the compact by the withdrawing state or upon such later date as the Commission determines.

Technical assistance, fines, suspension, termination, and default. If the Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under the compact, bylaws, or rules, it may impose one or more of the following penalties:

- (1) Remedial training and technical assistance as directed by the Commission;
- (2) Alternative dispute resolution;
- (3) Fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the Commission;
- (4) Suspension or termination of membership in the compact after all other reasonable means of securing compliance have been exhausted and the Commission has determined that the offending state is in default. The Commission must give immediate notice of suspension to the governor of the defaulting state, its chief justice or the chief judicial officer, the majority and minority leaders of its legislature, and the state Council for Interstate Juvenile Supervision. The grounds for default include, but are not limited to, failure of a compacting state to perform obligations or responsibilities imposed on it by the compact, bylaws, or rules and any other grounds designated in the bylaws and rules. The Commission must immediately notify the defaulting state in writing of the penalty imposed and of the default pending a cure of the default. The Commission must 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 specified period, it is terminated from the compact upon an affirmative vote of a majority of the compacting states.

Within 60 days of the effective date of termination of a defaulting state, the Commission must give notice of the termination to the defaulting state's governor, chief justice or chief judicial officer, majority and minority leaders of the state legislature, and Council for Interstate Juvenile Supervision.

A 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. The Commission does not bear any costs relating to a defaulting state unless otherwise

mutually agreed upon in writing between the Commission and the state. If a defaulting state is terminated, reinstatement requires both a reenactment of the compact by the state and the approval of the Commission pursuant to its rules.

Judicial enforcement. The Commission, by majority vote, may initiate legal action against any compacting state to enforce compliance with the compact, bylaws, and rules. The action must be brought in the U.S. District Court for the District of Columbia or, at the discretion of the Commission, in the federal district where the Commission has its offices. If judicial enforcement is necessary, the prevailing party is awarded all costs of the litigation including reasonable attorney's fees.

Dissolution of compact. The compact dissolves when, as a result of withdrawals or defaults, membership is reduced to one state. Upon dissolution, the business and affairs of the Commission are concluded, and any surplus funds must be distributed in accordance with the bylaws.

Article XII – Severability and construction

The provisions of the compact are severable. If any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact remain enforceable. The compact is to be liberally construed to effectuate its purposes.

Article XIII – Binding effect of compact and other laws

Nothing in the compact prevents the enforcement of any other law of a compacting state that is not inconsistent with the compact. All of a compacting state's laws, other than the state constitution and other interstate compacts, conflicting with the compact are superseded to the extent of the conflict.

All lawful actions of the Commission, the Commission's rules and bylaws, and all agreements between the Commission and the compacting states are binding in accordance with their terms.

Upon the request of a party to a conflict over the meaning or interpretation of Commission actions, and upon a majority vote of the compacting states, the Commission may issue advisory opinions regarding that meaning or interpretation.

If any provision of the compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred on the Commission by that provision are ineffective and the obligations, duties, powers, or jurisdiction remain in the compacting state and are exercised by the agency of that state to which the obligations, duties, powers, or jurisdiction are delegated by the law in effect at the time the compact becomes effective.

Article XIV – Financial reimbursement

The act includes an Article XIV of the compact that is not in the compact composed by the National Center on Interstate Compacts. Article XIV grants the state agency responsible for administering the compact the legal authority to recoup fines, fees, and costs imposed on a defaulting state by the Commission when the default in performance is the result of a decision made by an entity outside the jurisdiction of the agency administering the compact.

The act designates the Department of Youth Services as the state agency responsible for administering the compact in Ohio and requires the Department to pay the annual assessment charged for participating in the compact⁹ and all fines, fees, or costs assessed against Ohio by the Commission for any default in the performance of Ohio's obligations or responsibilities under the compact, bylaws, or rules.¹⁰

Miscellaneous changes

The act makes cross-reference and other nonsubstantive changes to existing sections of the Revised Code.¹¹

"Primary changes" listed on Council of State Governments web site

The Council of State Governments, on its web site (http://www.csg.org/programs/policyprograms/NCIC/interstatecompact_juveniles.aspx), lists the following "primary changes" made by the new compact to the original compact:

The establishment of an independent compact operating authority to administer ongoing compact activity, including a provision for staff support.

Gubernatorial appointments of representatives for all member states on a national governing commission. The commission would meet annually to elect the compact operating authority members, and to attend to general business and rule making procedures.

Rule-making authority, provision for significant sanctions to support essential compact operations.

⁹ See Article VIII.

¹⁰ See Article XI; R.C. 2151.59.

¹¹ R.C. 2151.312, 2151.354, and 2152.26.

Mandatory funding mechanism sufficient to support essential compact operations (staffing, data collection, training/education, etc.).

Compel collection of standardized information.

HISTORY

ACTION	DATE
Introduced	03-16-11
Reported, S. Judiciary – Civil Justice	05-12-11
Passed Senate (33-0)	05-24-11
Reported, H. Judiciary & Ethics	06-15-11
Passed House (96-0)	06-23-11

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