

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1346

Short Title: Interstate Compact for Juveniles.

(Public)

Sponsors: Representative Haire.

Referred to: Judiciary III.

April 21, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE INTERSTATE COMPACT FOR JUVENILES.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Chapter 7B of the General Statutes is amended by adding the
5 following new Article to read:

6 "Article 40.

7 "Interstate Compact for Juveniles.

8 **"§ 7B-4000. Short title.**

9 This Article may be cited as "The Interstate Compact for Juveniles".

10 **"§ 7B-4001. Governor to execute Compact; form of Compact.**

11 The Governor of North Carolina is authorized and directed to execute a Compact on
12 behalf of the State of North Carolina with any state of the United States legally joining
13 therein in the form substantially as follows:

14 "Article I.

15 Purpose.

16 (a) The compacting states to this Interstate Compact recognize that each state is
17 responsible for the proper supervision or return of juveniles, delinquents, and status
18 offenders who are on probation or parole and who have absconded, escaped, or run
19 away from supervision and control and in so doing have endangered their own safety
20 and the safety of others. The compacting states also recognize that each state is
21 responsible for the safe return of juveniles who have run away from home and in doing
22 so have left their state of residence. The compacting states also recognize that Congress,
23 by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and
24 encouraged compacts for cooperative efforts and mutual assistance in the prevention of
25 crime.

26 (b) It is the purpose of this Compact, through means of joint and cooperative
27 action among the compacting states to:

28 (1) Ensure that the adjudicated juveniles and status offenders subject to
29 this Compact are provided adequate supervision and services in the

1 receiving state as ordered by the adjudicating judge or parole authority
2 in the sending state;

3 (2) Ensure that the public safety interests of the citizens, including the
4 victims of juvenile offenders, in both the sending and receiving states
5 are adequately protected;

6 (3) Return juveniles who have run away, absconded, or escaped from
7 supervision or control, or have been accused of an offense to the state
8 requesting their return;

9 (4) Make contracts for the cooperative institutionalization in public
10 facilities in member states for delinquent youth needing special
11 services;

12 (5) Provide for the effective tracking and supervision of juveniles;

13 (6) Equitably allocate the costs, benefits, and obligations of the
14 compacting states;

15 (7) Establish procedures to manage the movement between states of
16 juvenile offenders released to the community under the jurisdiction of
17 courts, juvenile departments, or any other criminal or juvenile justice
18 agency which has jurisdiction over juvenile offenders;

19 (8) Ensure immediate notice to jurisdictions where defined offenders are
20 authorized to travel or to relocate across state lines;

21 (9) Establish procedures to resolve pending charges (detainers) against
22 juvenile offenders prior to transfer or release to the community under
23 the terms of this Compact;

24 (10) Establish a system of uniform data collection on information
25 pertaining to juveniles subject to this Compact that allows access by
26 authorized juvenile justice and criminal justice officials, and regular
27 reporting of Compact activities to heads of state executive, judicial,
28 and legislative branches and juvenile and criminal justice
29 administrators;

30 (11) Monitor compliance with rules governing interstate movement of
31 juveniles and initiate interventions to address and correct
32 noncompliance;

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

35 (13) Coordinate the implementation and operation of the Compact with the
36 Interstate Compact for the Placement of Children, the Interstate
37 Compact for Adult Offender Supervision, and other compacts affecting
38 juveniles particularly in those cases where concurrent or overlapping
39 supervision issues arise.

40 (c) It is the policy of the compacting states that the activities conducted by the
41 Interstate Commission created herein are the formation of public policies and therefore
42 are public business. Furthermore, the compacting states shall cooperate and observe
43 their individual and collective duties and responsibilities for the prompt return and
44 acceptance of juveniles subject to the provisions of this Compact. The provisions of this

1 Compact shall be reasonably and liberally construed to accomplish the purposes and
2 policies of the Compact.

3 Article II.

4 Definitions.

5 As used in this Compact, unless the context clearly requires a different construction:

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

9 (2) "Compact Administrator" means the individual in each compacting
10 state appointed pursuant to the terms of this Compact responsible for
11 the administration and management of the state's supervision and
12 transfer of juveniles subject to the terms of this Compact, the rules
13 adopted by the Interstate Commission, and policies adopted by the
14 State Council under this Compact.

15 (3) "Compacting State" means any state which has enacted the enabling
16 legislation for this Compact.

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

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

21 (6) "Deputy Compact Administrator" means the individual, if any, in each
22 compacting state appointed to act on behalf of a Compact
23 Administrator pursuant to the terms of this compact responsible for the
24 administration and management of the state's supervision and transfer
25 of juveniles subject to the terms of this compact, the rules adopted by
26 the Interstate Commission, and policies adopted by the State Council
27 under this Compact.

28 (7) "Interstate Commission" means the Interstate Commission for
29 Juveniles created by Article III of this Compact.

30 (8) "Juvenile" means any person defined as a juvenile in any member state
31 or by the rules of the Interstate Commission, including:

32 a. Accused Delinquent – A person charged with an offense that, if
33 committed by an adult, would be a criminal offense;

34 b. Adjudicated Delinquent – A person found to have committed an
35 offense that, if committed by an adult, would be a criminal
36 offense;

37 c. Accused Status Offender – A person charged with an offense
38 that would not be a criminal offense if committed by an adult;

39 d. Adjudicated Status Offender – A person found to have
40 committed an offense that would not be a criminal offense if
41 committed by an adult; and

42 e. Nonoffender – A person in need of supervision who has not
43 been accused or adjudicated a status offender or delinquent.

- 1 (9) "Noncompacting State" means any state which has not enacted the
2 enabling legislation for this Compact.
- 3 (10) "Probation or Parole" means any kind of supervision or conditional
4 release of juveniles authorized under the laws of the compacting states.
- 5 (11) "Rule" means: a written statement by the Interstate Commission
6 promulgated pursuant to Article VI of this Compact that is of general
7 applicability, implements, interprets, or prescribes a policy or
8 provision of the Compact, or an organizational, procedural, or practice
9 requirement of the Commission, and has the force and effect of
10 statutory law in a compacting state, and includes the amendment,
11 repeal, or suspension of an existing rule.
- 12 (12) "State" means a state of the United States, the District of Columbia, or
13 its designee, the Commonwealth of Puerto Rico, the U.S. Virgin
14 Islands, Guam, American Samoa, and the Northern Marianas Islands.

Article III.

Interstate Commission for Juveniles.

17 (a) The compacting states hereby create the "Interstate Commission for
18 Juveniles." The Commission shall be a body corporate and joint agency of the
19 compacting states. The Commission shall have all the responsibilities, powers, and
20 duties set forth herein, and such additional powers as may be conferred upon it by
21 subsequent action of the respective legislatures of the compacting states in accordance
22 with the terms of this Compact.

23 (b) The Interstate Commission shall consist of commissioners appointed by the
24 appropriate appointing authority in each state pursuant to the rules and requirements of
25 each compacting state and in consultation with the State Council for Interstate Juvenile
26 Supervision created hereunder. The Commissioner shall be the compact administrator,
27 deputy compact administrator, or designee from that state who shall serve on the
28 Interstate Commission in such capacity under or pursuant to the applicable law of the
29 compacting state.

30 (c) In addition to the commissioners who are the voting representatives of each
31 state, the Interstate Commission shall include individuals who are not commissioners,
32 but who are members of interested organizations. Such noncommissioner members
33 must include a member of the national organizations of governors, legislators, state
34 chief justices, attorneys general, Interstate Compact for Adult Offender Supervision,
35 Interstate Compact for the Placement of Children, juvenile justice and juvenile
36 corrections officials, and crime victims. All noncommissioner members of the Interstate
37 Commission shall be ex officio, nonvoting, members. The Interstate Commission may
38 provide in its bylaws for such additional ex officio, nonvoting, members, including
39 members of other national organizations, in such numbers as shall be determined by the
40 Commission.

41 (d) Each compacting state represented at any meeting of the Commission is
42 entitled to one vote. A majority of the compacting states shall constitute a quorum for
43 the transaction of business, unless a larger quorum is required by the bylaws of the
44 Interstate Commission.

1 (e) The Commission shall meet at least once each calendar year. The chairperson
2 may call additional meetings and, upon the request of a simple majority of the
3 compacting states, shall call additional meetings. Public notice shall be given of all
4 meetings, and meetings shall be open to the public.

5 (f) The Interstate Commission shall establish an executive committee, which
6 shall include commission officers, members, and others as determined by the bylaws.
7 The executive committee shall have the power to act on behalf of the Interstate
8 Commission during periods when the Interstate Commission is not in session, with the
9 exception of rule making and/or amendment to the Compact. The executive committee
10 shall oversee the day-to-day activities of the administration of the Compact managed by
11 an executive director and Interstate Commission staff, administer enforcement and
12 compliance with the provisions of the Compact, its bylaws and rules, and perform other
13 duties as directed by the Interstate Commission or set forth in the bylaws.

14 (g) Each member of the Interstate Commission shall have the right and power to
15 cast a vote to which that compacting state is entitled and to participate in the business
16 and affairs of the Interstate Commission. A member shall vote in person and shall not
17 delegate a vote to another compacting state. However, a commissioner, in consultation
18 with the state council, shall appoint another authorized representative, in the absence of
19 the commissioner from that state, to cast a vote on behalf of the compacting state at a
20 specified meeting. The bylaws may provide for members' participation in meetings by
21 telephone or other means of telecommunication or electronic communication.

22 (h) The Interstate Commission's bylaws shall establish conditions and procedures
23 under which the Interstate Commission shall make its information and official records
24 available to the public for inspection or copying. The Interstate Commission may
25 exempt from disclosure any information or official records to the extent they would
26 adversely affect personal privacy rights or proprietary interests.

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

- 31 (1) Relate solely to the Interstate Commission's internal personnel
32 practices and procedures;
- 33 (2) Disclose matters specifically exempted from disclosure by statute;
- 34 (3) Disclose trade secrets or commercial or financial information which is
35 privileged or confidential;
- 36 (4) Involve accusing any person of a crime, or formally censuring any
37 person;
- 38 (5) Disclose information of a personal nature where disclosure would
39 constitute a clearly unwarranted invasion of personal privacy;
- 40 (6) Disclose investigative records compiled for law enforcement purposes;
- 41 (7) Disclose information contained in or related to examination, operating
42 or condition reports prepared by, or on behalf of or for the use of, the
43 Interstate Commission with respect to a regulated person or entity for
44 the purpose of regulation or supervision of such person or entity;

- 1 (8) Disclose information, the premature disclosure of which would
2 significantly endanger the stability of a regulated person or entity; or
3 (9) Specifically relate to the Interstate Commission's issuance of a
4 subpoena or its participation in a civil action or other legal proceeding.

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

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

20 Article IV.

21 Powers and Duties of the Interstate Commission.

- 22 (a) The Interstate Commission shall have the following powers and duties:
23 (1) To provide for dispute resolution among compacting states.
24 (2) To promulgate rules to effect the purposes and obligations as
25 enumerated in this Compact, which shall have the force and effect of
26 statutory law and shall be binding in the compacting states to the
27 extent and in the manner provided in this Compact.
28 (3) To oversee, supervise, and coordinate the interstate movement of
29 juveniles subject to the terms of this Compact and any bylaws adopted
30 and rules promulgated by the Interstate Commission.
31 (4) To enforce compliance with the Compact provisions, the rules
32 promulgated by the Interstate Commission, and the bylaws, using all
33 necessary and proper means including, but not limited to, the use of
34 judicial process.
35 (5) To establish and maintain offices which shall be located within one or
36 more of the compacting states.
37 (6) To purchase and maintain insurance and bonds.
38 (7) To borrow, accept, hire, or contract for services of personnel.
39 (8) To establish and appoint committees and hire staff which it deems
40 necessary for the carrying out of its functions including, but not
41 limited to, an executive committee as required by Article III of this
42 Compact which shall have the power to act on behalf of the Interstate
43 Commission in carrying out its powers and duties hereunder.

- 1 (9) To elect or appoint such officers, attorneys, employees, agents, or
2 consultants, and to fix their compensation, define their duties, and
3 determine their qualifications; and to establish the Interstate
4 Commission's personnel policies and programs relating to, inter alia,
5 conflicts of interest, rates of compensation, and qualifications of
6 personnel.
- 7 (10) To accept any and all donations and grants of money, equipment,
8 supplies, materials, and services, and to receive, utilize, and dispose of
9 it.
- 10 (11) To lease, purchase, accept contributions or donations of, or otherwise
11 to own, hold, improve, or use any property, real, personal, or mixed.
- 12 (12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or
13 otherwise dispose of any property, real, personal, or mixed.
- 14 (13) To establish a budget and make expenditures and levy dues as
15 provided in Article VIII of this Compact.
- 16 (14) To sue and be sued.
- 17 (15) To adopt a seal and bylaws governing the management and operation
18 of the Interstate Commission.
- 19 (16) To perform such functions as may be necessary or appropriate to
20 achieve the purposes of this Compact.
- 21 (17) To report annually to the legislatures, governors, judiciary, and state
22 councils of the compacting states concerning the activities of the
23 Interstate Commission during the preceding year. Such reports shall
24 also include any recommendations that may have been adopted by the
25 Interstate Commission.
- 26 (18) To coordinate education, training, and public awareness regarding the
27 interstate movement of juveniles for officials involved in such activity.
- 28 (19) To establish uniform standards of the reporting, collecting, and
29 exchanging of data.
- 30 (b) The Interstate Commission shall maintain its corporate books and records in
31 accordance with the bylaws.

Article V.

Organization and Operation of the Interstate Commission.

34 (a) Bylaws. – The Interstate Commission shall, by a majority of the members
35 present and voting, within 12 months after the first Interstate Commission meeting,
36 adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the
37 purposes of the Compact, including, but not limited to:

- 38 (1) Establishing the fiscal year of the Interstate Commission;
39 (2) Establishing an executive committee and such other committees as
40 may be necessary;
41 (3) Providing for the establishment of committees governing any general
42 or specific delegation of any authority or function of the Interstate
43 Commission;

- 1 (4) Providing reasonable procedures for calling and conducting meetings
2 of the Interstate Commission and ensuring reasonable notice of each
3 such meeting;
4 (5) Establishing the titles and responsibilities of the officers of the
5 Interstate Commission;
6 (6) Providing a mechanism for concluding the operations of the Interstate
7 Commission and the return of any surplus funds that may exist upon
8 the termination of the Compact after the payment and/or reserving of
9 all of its debts and obligations;
10 (7) Providing "start-up" rules for initial administration of the Compact;
11 and
12 (8) Establishing standards and procedures for compliance and technical
13 assistance in carrying out the Compact.

14 (b) Officers and Staff. – The Interstate Commission shall, by a majority of the
15 members, elect annually from among its members a chairperson and a vice-chairperson,
16 each of whom shall have such authority and duties as may be specified in the bylaws.
17 The chairperson or, in the chairperson's absence or disability, the vice-chairperson shall
18 preside at all meetings of the Interstate Commission. The officers so elected shall serve
19 without compensation or remuneration from the Interstate Commission; provided that,
20 subject to the availability of budgeted funds, the officers shall be reimbursed for any
21 ordinary and necessary costs and expenses incurred by them in the performance of their
22 duties and responsibilities as officers of the Interstate Commission.

23 The Interstate Commission shall, through its executive committee, appoint or retain
24 an executive director for such period, upon such terms and conditions and for such
25 compensation as the Interstate Commission may deem appropriate. The executive
26 director shall serve as secretary to the Interstate Commission, but shall not be a member
27 and shall hire and supervise such other staff as may be authorized by the Interstate
28 Commission.

29 (c) Qualified Immunity, Defense, and Indemnification. – The Commission's
30 executive director and employees shall be immune from suit and liability, either
31 personally or in their official capacity, for any claim for damage to or loss of property or
32 personal injury or other civil liability caused or arising out of or relating to any actual or
33 alleged act, error, or omission that occurred, or that such person had a reasonable basis
34 for believing occurred within the scope of Commission employment, duties, or
35 responsibilities; provided, that any such person shall not be protected from suit or
36 liability for any damage, loss, injury, or liability caused by the intentional or willful and
37 wanton misconduct of any such person.

38 The liability of any commissioner, or the employee or agent of a commissioner,
39 acting within the scope of such person's employment or duties for acts, errors, or
40 omissions occurring within such person's state may not exceed the limits of liability set
41 forth under the Constitution and laws of that state for state officials, employees, and
42 agents. Nothing in this subsection shall be construed to protect any such person from
43 suit or liability for any damage, loss, injury, or liability caused by the intentional or
44 willful and wanton misconduct of any such person.

1 The Interstate Commission shall defend the executive director or the employees or
 2 representatives of the Interstate Commission and, subject to the approval of the
 3 Attorney General of the state represented by any commissioner of a compacting state,
 4 shall defend such commissioner or the commissioner's representatives or employees in
 5 any civil action seeking to impose liability arising out of any actual or alleged act, error,
 6 or omission that occurred within the scope of Interstate Commission employment,
 7 duties, or responsibilities, or that the defendant had a reasonable basis for believing
 8 occurred within the scope of Interstate Commission employment, duties, or
 9 responsibilities, provided that the actual or alleged act, error, or omission did not result
 10 from intentional or willful and wanton misconduct on the part of such person.

11 The Interstate Commission shall indemnify and hold the commissioner of a
 12 compacting state, or the commissioner's representatives or employees, or the Interstate
 13 Commission's representatives or employees, harmless in the amount of any settlement
 14 or judgment obtained against such persons arising out of any actual or alleged act, error,
 15 or omission that occurred within the scope of Interstate Commission employment,
 16 duties, or responsibilities, or that such persons had a reasonable basis for believing
 17 occurred within the scope of Interstate Commission employment, duties, or
 18 responsibilities, provided that the actual or alleged act, error, or omission did not result
 19 from intentional or willful and wanton misconduct on the part of such persons.

20 Article VI.

21 Rule-Making Functions of the Interstate Commission.

22 (a) The Interstate Commission shall promulgate and publish rules in order to
 23 effectively and efficiently achieve the purposes of the Compact.

24 (b) Rule making shall occur pursuant to the criteria set forth in this Article and
 25 the bylaws and rules adopted pursuant thereto. Such rule making shall substantially
 26 conform to the principles of the "Model State Administrative Procedures Act," 1981
 27 Act, Uniform Laws Annotated, Vol. 16, p. 1 (2000), or such other administrative
 28 procedures acts, as the Interstate Commission deems appropriate consistent with due
 29 process requirements under the United States Constitution as now or hereafter
 30 interpreted by the United States Supreme Court. All rules and amendments shall
 31 become binding as of the date specified, as published with the final version of the rule
 32 as approved by the Commission.

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

- 34 (1) Publish the proposed rule's entire text stating the reason for that
 35 proposed rule;
 36 (2) Allow and invite any and all persons to submit written data, facts,
 37 opinions, and arguments, which information shall be added to the
 38 record and be made publicly available;
 39 (3) Provide an opportunity for an informal hearing if petitioned by 10 or
 40 more persons;
 41 (4) Promulgate a final rule and its effective date, if appropriate, based on
 42 input from state or local officials, or interested parties; and
 43 (5) Allow, not later than 60 days after a rule is promulgated, any interested
 44 person to file a petition in the United States District Court for the

1 District of Columbia or in the Federal District Court where the
2 Interstate Commission's principal office is located for judicial review
3 of such rule.

4 If the court finds that the Interstate Commission's action is not supported by
5 substantial evidence in the rule-making record, the court shall hold the rule unlawful
6 and set it aside. For purposes of this subsection, evidence is substantial if it would be
7 considered substantial evidence under the Model State Administrative Procedures Act.

8 (e) If a majority of the legislatures of the compacting states rejects a rule, those
9 states may, by enactment of a statute or resolution in the same manner used to adopt the
10 Compact, cause that rule to have no further force and effect in any compacting state.

11 (f) The existing rules governing the operation of the Interstate Compact on
12 Juveniles superceded by this act shall be null and void 12 months after the first meeting
13 of the Interstate Commission created hereunder.

14 (g) Upon determination by the Interstate Commission that a state of emergency
15 exists, it may promulgate an emergency rule which shall become effective immediately
16 upon adoption, provided that the usual rule-making procedures provided hereunder shall
17 be retroactively applied to said rule as soon as reasonably possible but no later than 90
18 days after the effective date of the emergency rule.

19 Article VII.

20 Oversight, Enforcement, and Dispute Resolution by the Interstate Commission.

21 (a) Oversight. – The Interstate Commission shall oversee the administration and
22 operations of the interstate movement of juveniles subject to this Compact in the
23 compacting states and shall monitor such activities being administered in
24 noncompacting states which may significantly affect compacting states.

25 The courts and executive agencies in each compacting state shall enforce this
26 Compact and shall take all actions necessary and appropriate to effectuate the Compact's
27 purposes and intent. The provisions of this Compact and the rules promulgated
28 hereunder shall be received by all the judges, public officers, commissions, and
29 departments of the state government as evidence of the authorized statute and
30 administrative rules, and all courts shall take judicial notice of the Compact and the
31 rules. In any judicial or administrative proceeding in a compacting state pertaining to
32 the subject matter of this Compact which may affect the powers, responsibilities, or
33 actions of the Interstate Commission, it shall be entitled to receive all service of process
34 in any such proceeding and shall have standing to intervene in the proceeding for all
35 purposes.

36 (b) Dispute Resolution. – The compacting states shall report to the Interstate
37 Commission on all issues and activities necessary for the administration of the Compact
38 as well as issues and activities pertaining to compliance with the provisions of the
39 Compact and its bylaws and rules.

40 The Interstate Commission shall attempt, upon the request of a compacting state, to
41 resolve any disputes or other issues which are subject to the Compact and which may
42 arise among compacting states and between compacting and noncompacting states. The
43 Commission shall promulgate a rule providing for both mediation and binding dispute
44 resolution for disputes among the compacting states.

1 The Interstate Commission, in the reasonable exercise of its discretion, shall enforce
2 the provisions and rules of this Compact using any or all means set forth in Article XI of
3 this Compact.

4 Article VIII.

5 Finance.

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

8 (b) The Interstate Commission shall levy on and collect an annual assessment
9 from each compacting state to cover the cost of the internal operations and activities of
10 the Interstate Commission and its staff which must be in a total amount sufficient to
11 cover the Interstate Commission's annual budget as approved each year. The aggregate
12 annual assessment amount shall be allocated based upon a formula to be determined by
13 the Interstate Commission, taking into consideration the population of each compacting
14 state and the volume of interstate movement of juveniles in each compacting state and
15 shall promulgate a rule binding upon all compacting states which governs said
16 assessment.

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

21 (d) The Interstate Commission shall keep accurate accounts of all receipts and
22 disbursements. The receipts and disbursements of the Interstate Commission shall be
23 subject to the audit and accounting procedures established under its bylaws. However,
24 all receipts and disbursements of funds handled by the Interstate Commission shall be
25 audited yearly by a certified or licensed public accountant, and the report of the audit
26 shall be included in and become part of the annual report of the Interstate Commission.

27 Article IX.

28 The State Council.

29 Each member state shall create a State Council for Interstate Juvenile Supervision.
30 While each state may determine the membership of its own state council, its
31 membership must include at least one representative from the legislative, judicial, and
32 executive branches of government, victims groups, and the compact administrator,
33 deputy compact administrator, or designee. Each compacting state retains the right to
34 determine the qualifications of the compact administrator or deputy compact
35 administrator. Each state council will advise and may exercise oversight and advocacy
36 concerning that state's participation in Interstate Commission activities and other duties
37 as may be determined by that state, including, but not limited to, development of policy
38 concerning operations and procedures of the Compact within that state.

39 Article X.

40 Compacting States, Effective Date, and Amendment.

41 (a) Any state, the District of Columbia, or its designee, the Commonwealth of
42 Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern
43 Marianas Islands, as defined in Article II of this Compact, is eligible to become a
44 compacting state.

1 (b) The Compact shall become effective and binding upon legislative enactment
2 of the Compact into law by no less than 35 of the states. The initial effective date shall
3 be the later of July 1, 2004, or upon enactment into law by the 35th jurisdiction.
4 Thereafter, it shall become effective and binding as to any other compacting state upon
5 enactment of the Compact into law by that state. The governors of nonmember states or
6 their designees shall be invited to participate in the activities of the Interstate
7 Commission on a nonvoting basis prior to adoption of the Compact by all states and
8 territories of the United States.

9 (c) The Interstate Commission may propose amendments to the Compact for
10 enactment by the compacting states. No amendment shall become effective and binding
11 upon the Interstate Commission and the compacting states unless and until it is enacted
12 into law by unanimous consent of the compacting states.

13 Article XI.

14 Withdrawal, Default, Termination, and Judicial Enforcement.

15 (a) Withdrawal. – Once effective, the Compact shall continue in force and
16 remain binding upon each and every compacting state; provided that a compacting state
17 may withdraw from the Compact by specifically repealing the statute which enacted the
18 Compact into law.

19 The effective date of withdrawal is the effective date of the repeal.

20 The withdrawing state shall immediately notify the chairperson of the Interstate
21 Commission in writing upon the introduction of legislation repealing this Compact in
22 the withdrawing state. The Interstate Commission shall notify the other compacting
23 states of the withdrawing state's intent to withdraw within 60 days of its receipt thereof.

24 The withdrawing state is responsible for all assessments, obligations, and liabilities
25 incurred through the effective date of withdrawal, including any obligations, the
26 performance of which extend beyond the effective date of withdrawal.

27 Reinstatement following withdrawal of any compacting state shall occur upon the
28 withdrawing state reenacting the Compact or upon such later date as determined by the
29 Interstate Commission.

30 (b) Technical Assistance, Fines, Suspension, Termination, and Default. – If the
31 Interstate Commission determines that any compacting state has at any time defaulted in
32 the performance of any of its obligations or responsibilities under this Compact, or the
33 bylaws or duly promulgated rules, the Interstate Commission may impose any or all of
34 the following penalties:

35 (1) Remedial training and technical assistance as directed by the Interstate
36 Commission;

37 (2) Alternative Dispute Resolution;

38 (3) Fines, fees, and costs in such amounts as are deemed to be reasonable
39 as fixed by the Interstate Commission; and

40 (4) Suspension or termination of membership in the Compact, which shall
41 be imposed only after all other reasonable means of securing
42 compliance under the bylaws and rules have been exhausted and the
43 Interstate Commission has therefore determined that the offending
44 state is in default. Immediate notice of suspension shall be given by the

1 Interstate Commission to the Governor, the Chief Justice, or the Chief
2 Judicial Officer of the state, the majority and minority leaders of the
3 defaulting state's legislature, and the state council.

4 The grounds for default include, but are not limited to, failure of a compacting state
5 to perform such obligations or responsibilities imposed upon it by this Compact, the
6 bylaws, or duly promulgated rules, and any other grounds designated in Commission
7 bylaws and rules. The Interstate Commission shall immediately notify the defaulting
8 state in writing of the penalty imposed by the Interstate Commission and of the default
9 pending a cure of the default. The Commission shall stipulate the conditions and the
10 time period within which the defaulting state must cure its default. If the defaulting state
11 fails to cure the default within the time period specified by the Commission, the
12 defaulting state shall be terminated from the Compact upon an affirmative vote of a
13 majority of the compacting states, and all rights, privileges, and benefits conferred by
14 this Compact shall be terminated from the effective date of termination.

15 Within 60 days of the effective date of termination of a defaulting state, the
16 Commission shall notify the Governor, the Chief Justice or Chief Judicial Officer, the
17 majority and minority leaders of the defaulting state's legislature, and the state council
18 of the termination.

19 The defaulting state is responsible for all assessments, obligations, and liabilities
20 incurred through the effective date of termination, including any obligations, the
21 performance of which extends beyond the effective date of termination.

22 The Interstate Commission shall not bear any costs relating to the defaulting state
23 unless otherwise mutually agreed upon in writing between the Interstate Commission
24 and the defaulting state.

25 Reinstatement following termination of any compacting state requires both a
26 reenactment of the Compact by the defaulting state and the approval of the Interstate
27 Commission pursuant to the rules.

28 (c) Judicial Enforcement. – The Interstate Commission may, by majority vote of
29 the members, initiate legal action in the United States District Court for the District of
30 Columbia or, at the discretion of the Interstate Commission, in the federal district where
31 the Interstate Commission has its offices to enforce compliance with the provisions of
32 the Compact and its duly promulgated rules and bylaws, against any compacting state in
33 default. In the event judicial enforcement is necessary, the prevailing party shall be
34 awarded all costs of such litigation, including reasonable attorneys' fees.

35 (d) Dissolution of Compact. – The Compact dissolves effective upon the date of
36 the withdrawal or default of the compacting state, which reduces membership in the
37 Compact to one compacting state.

38 Upon the dissolution of this Compact, the Compact becomes null and void and shall
39 be of no further force or effect, and the business and affairs of the Interstate
40 Commission shall be concluded, and any surplus funds shall be distributed in
41 accordance with the bylaws.

42 Article XII.

43 Severability and Construction.

1 (a) The provisions of this Compact shall be severable, and if any phrase, clause,
2 sentence, or provision is deemed unenforceable, the remaining provisions of the
3 Compact shall be enforceable.

4 (b) The provisions of this Compact shall be liberally construed to effectuate its
5 purposes.

6 Article XIII.

7 Binding Effect of Compact and Other Laws.

8 (a) Other Laws. – Nothing herein prevents the enforcement of any other law of a
9 compacting state that is not inconsistent with this Compact.

10 All compacting states' laws, other than state Constitutions and other interstate
11 compacts, conflicting with this Compact are superseded to the extent of the conflict.

12 (b) Binding Effect of the Compact. – All lawful actions of the Interstate
13 Commission, including all rules and bylaws promulgated by the Interstate Commission,
14 are binding upon the compacting states.

15 All agreements between the Interstate Commission and the compacting states are
16 binding in accordance with their terms.

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

20 In the event any provision of this Compact exceeds the constitutional limits imposed
21 on the legislature of any compacting state, the obligations, duties, powers, or
22 jurisdiction sought to be conferred by such provision upon the Interstate Commission
23 shall be ineffective, and such obligations, duties, powers, or jurisdiction shall remain in
24 the compacting state and shall be exercised by the agency thereof to which such
25 obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this
26 Compact becomes effective."

27 **§ 7B-4002. Implementation of the Compact.**

28 (a) The North Carolina State Council for Interstate Juvenile Supervision is
29 hereby established. The Secretary of the Department of Juvenile Justice and
30 Delinquency Prevention, or the Secretary's designee, shall serve as the Compact
31 Administrator for the State of North Carolina and as North Carolina's Commissioner to
32 the Interstate Compact Commission. The Secretary of the Department of Juvenile
33 Justice and Delinquency Prevention, or the Secretary's designee, is a member of the
34 State Council and serves as chairperson of the State Council. In addition to the
35 chairperson, the State Council shall consist of 10 members as follows:

- 36 (1) One member representing the executive branch, to be appointed by the
37 Governor;
- 38 (2) One member from a victim's assistance group, to be appointed by the
39 Governor;
- 40 (3) One at-large member, to be appointed by the Governor;
- 41 (4) One member of the Senate, to be appointed by the President Pro
42 Tempore of the Senate;
- 43 (5) One member of the House of Representatives, to be appointed by the
44 Speaker of the House of Representatives;

1 (6) A district court judge, to be appointed by the Chief Justice of the
2 Supreme Court; and

3 (7) Four members representing the juvenile court counselors, to be
4 appointed by the Secretary of the Department of Juvenile Justice and
5 Delinquency Prevention.

6 (b) The State Council shall meet at least twice a year and may also hold special
7 meetings at the call of the chairperson. All terms are for three years.

8 (c) The State Council may advise the Compact Administrator on participation in
9 the Interstate Commission activities and administration of the Compact.

10 (d) The members of the State Council shall serve without compensation but shall
11 be reimbursed for necessary travel and subsistence expenses in accordance with the
12 policies of the Office of State Budget and Management.

13 (e) The State Council shall act in an advisory capacity to the Secretary of the
14 Department of Juvenile Justice and Delinquency Prevention concerning this State's
15 participation in Interstate Commission activities and other duties as may be determined
16 by each member state, including recommendations for policy concerning the operations
17 and procedures of the compact within this State.

18 (f) The Governor shall by executive order provide for any other matters
19 necessary for implementation of the Compact at the time that it becomes effective, and,
20 except as otherwise provided for in this section, the State Council may promulgate rules
21 or regulations necessary to implement and administer the Compact."

22 **SECTION 2.** G.S. 7B-1501(14) reads as rewritten:

23 "(14) Interstate Compact ~~on~~for Juveniles. – An agreement ratified by ~~50~~ 35
24 or more states ~~and the District of Columbia~~ providing a formal means
25 of returning a juvenile, who is an absconder, escapee, or runaway, to
26 the juvenile's home state, and codified in Article ~~28~~ 40 of this
27 Chapter."

28 **SECTION 3.** Article 28 of Chapter 7B of the General Statutes is repealed.

29 **SECTION 4.** The Secretary of the Department of Juvenile Justice and
30 Delinquency Prevention shall notify the Revisor of Statutes when The Interstate
31 Compact for Juveniles becomes effective under the terms of the Compact.

32 **SECTION 5.** This act shall not be construed to obligate the General
33 Assembly to appropriate funds to implement the provisions of this act. The Department
34 of Juvenile Justice and Delinquency Prevention shall implement the provisions of this
35 act with funds that are otherwise appropriated or available to the Department.

36 **SECTION 6.** Sections 1 and 2 of this act become effective only when 35
37 states have adopted The Interstate Compact for Juveniles, as set forth in the Compact.
38 Section 3 of this act becomes effective one year after the effective date of Section 1 of
39 this act. The remainder of this act is effective when it becomes law.