

SENATE NO. 89

AN ACT ESTABLISHING THE INTERSTATE COMPACT FOR JUVENILES

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. Chapter 120 of the General Laws is hereby amended by inserting at the end thereof the
2 following sections: -

3 Interstate Compact for Juveniles Section 27. Purpose. The compacting states to this Interstate
4 Compact recognize that each state is responsible for the proper supervision or return of juveniles,
5 delinquents and status offenders who are on probation or parole and who have absconded, escaped or
6 run away from supervision and control and in so doing have endangered their own safety and the
7 safety of others. The compacting states also recognize that each state is responsible for the safe return
8 of juveniles who have run away from home and in doing so have left their state of residence. The
9 compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section
10 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in
11 the prevention of crime.

12 It is the purpose of this compact, through means of joint and cooperative action among the compacting
13 states to: (A) ensure that the adjudicated juveniles and status offenders subject to this compact are

14 provided adequate supervision and services in the receiving state as ordered by the adjudicating judge
15 or parole authority in the sending state; (B) ensure that the public safety interests of the citizens,
16 including the victims of juvenile offenders, in both the sending and receiving states are adequately
17 protected; (C) return juveniles who have run away, absconded or escaped from supervision or control
18 or have been accused of an offense to the state requesting their return; (D) make contracts for the
19 cooperative institutionalization in public facilities in member states for delinquent youth needing
20 special services; (E) provide for the effective tracking and supervision of juveniles; (F) equitably
21 allocate the costs, benefits and obligations of the compacting states; (G) establish procedures to
22 manage the movement between states of juvenile offenders released to the community under the
23 jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has
24 jurisdiction over juvenile offenders; (H) insure immediate notice to jurisdictions where defined
25 offenders are authorized to travel or to relocate across state lines; (I) establish procedures to resolve
26 pending charges (detainers) against juvenile offenders prior to transfer or release to the community
27 under the terms of this compact; (J) establish a system of uniform data collection on information
28 pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and
29 criminal justice officials, and regular reporting of Compact activities to heads of state executive,
30 judicial, and legislative branches and juvenile and criminal justice administrators; (K) monitor
31 compliance with rules governing interstate movement of juveniles and initiate interventions to address
32 and correct non-compliance; (L) coordinate training and education regarding the regulation of
33 interstate movement of juveniles for officials involved in such activity; and (M) coordinate the
34 implementation and operation of the compact with the Interstate Compact for the Placement of
35 Children, the Interstate Compact for Adult Offender Supervision and other compacts affecting
36 juveniles particularly in those cases where concurrent or overlapping supervision issues arise. It is the

37 policy of the compacting states that the activities conducted by the Interstate Commission created
38 herein are the formation of public policies and therefore are public business. Furthermore, the
39 compacting states shall cooperate and observe their individual and collective duties and
40 responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this
41 compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the
42 purposes and policies of the compact.

43 Section 28. Definitions. As used in sections 27 to 46 inclusive, unless the context clearly requires a
44 different construction, the following words shall have the following meanings:-

45 “By –laws”, those by-laws established by the Interstate Commission for its governance, or for
46 directing or controlling its actions or conduct.

47 "Compact Administrator", the individual in each compacting state appointed pursuant to the terms of
48 this compact, responsible for the administration and management of the state's supervision and transfer
49 of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission and
50 policies adopted by the State Council under this compact.

51 “Compacting State”, any state which has enacted the enabling legislation for this compact.

52 “Commissioner”, the voting representative of each compacting state appointed pursuant to Article III
53 of this compact.

54 "Court", any court having jurisdiction over delinquent, neglected, or dependent children.

55 "Deputy Compact Administrator", the individual, if any, in each compacting state appointed to act on
56 behalf of a Compact Administrator pursuant to the terms of this compact responsible for the

57 administration and management of the state's supervision and transfer of juveniles subject to the terms
58 of this compact, the rules adopted by the Interstate Commission and policies adopted by the State
59 Council under this compact.

60 "Interstate Commission", the Interstate Commission for Juveniles created by Article III of this
61 compact.

62 "Juvenile", any person defined as a juvenile in any member state or by the rules of the Interstate
63 Commission, including:

64 (1) "Accused Delinquent", a person charged with an offense that, if committed by an adult, would
65 be a criminal offense;

66 (2) "Adjudicated Delinquent", a person found to have committed an offense that, if committed by
67 an adult, would be a criminal offense;

68 (3) "Accused Status Offender", a person charged with an offense that would not be a criminal
69 offense if committed by an adult;

70 (4) "Adjudicated Status Offender", a person found to have committed an offense that would not be
71 a criminal offense if committed by an adult; and

72 (5) "Non-Offender", a person in need of supervision who has not been accused or adjudicated
73 a status offender or delinquent.

74 "Non-Compacting state", any state which has not enacted the enabling legislation for this compact.

75 "Probation or Parole", any kind of supervision or conditional release of juveniles authorized under the
76 laws of the compacting states.

77 "Rule", a written statement by the Interstate Commission promulgated pursuant to Article VI of this
78 compact that is of general applicability, implements, interprets or prescribes a policy or provision of
79 the Compact, or an organizational, procedural, or practice requirement of the Commission, and has the
80 force and effect of statutory law in a compacting state, and includes the amendment, repeal, or
81 suspension of an existing rule.

82 "State", a state of the United States, the District of Columbia (or its designee), the Commonwealth of
83 Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands.

84 Section 29. The Compact Commission.

85 (a) The compacting states hereby create the "Interstate Commission for Juveniles." The commission
86 shall be a body corporate and joint agency of the compacting states. The commission shall have all the
87 responsibilities, powers and duties set forth herein, and such additional powers as may be conferred
88 upon it by subsequent action of the respective legislatures of the compacting states in accordance with
89 the terms of this compact.

90 (b) The Interstate Commission shall consist of commissioners appointed by the appropriate appointing
91 authority in each state pursuant to the rules and requirements of each compacting state and in
92 consultation with the State Council for Interstate Juvenile Supervision created hereunder. The
93 commissioner shall be the compact administrator, deputy compact administrator or designee from that
94 state who shall serve on the Interstate Commission in such capacity under or pursuant to the applicable
95 law of the compacting state.

96 (c) In addition to the commissioners who are the voting representatives of each state, the Interstate
97 Commission shall include individuals who are not commissioners, but who are members of interested
98 organizations. Such non-commissioner members must include a member of the national organizations
99 of governors, legislators, state chief justices, attorneys general, Interstate Compact for Adult Offender
100 Supervision, Interstate Compact for the Placement of Children, juvenile justice and juvenile
101 corrections officials, and crime victims. All non-commissioner members of the Interstate Commission
102 shall be ex-officio (non-voting) members. The Interstate Commission may provide in its by-laws for
103 such additional ex-officio (non-voting) members, including members of other national organizations,
104 in such numbers as shall be determined by the commission.

105 (d) Each compacting state represented at any meeting of the commission is entitled to one vote. A
106 majority of the compacting states shall constitute a quorum for the transaction of business, unless a
107 larger quorum is required by the by-laws of the Interstate Commission.

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

111 (f) The Interstate Commission shall establish an executive committee, which shall include commission
112 officers, members, and others as determined by the by-laws. The executive committee shall have the
113 power to act on behalf of the Interstate Commission during periods when the Interstate Commission is
114 not in session, with the exception of rulemaking and/or amendment to the compact. The executive
115 committee shall oversee the day-to-day activities of the administration of the compact managed by an
116 executive director and Interstate Commission staff; administers enforcement and compliance with the

117 provisions of the compact, its by-laws and rules, and performs such other duties as directed by the
118 Interstate Commission or set forth in the by-laws.

119 (g) Each member of the Interstate Commission shall have the right and power to cast a vote to which
120 that compacting state is entitled and to participate in the business and affairs of the Interstate
121 Commission. A member shall vote in person and shall not delegate a vote to another compacting
122 state. However, a commissioner, in consultation with the state council, shall appoint another
123 authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf
124 of the compacting state at a specified meeting. The by-laws may provide for members' participation
125 in meetings by telephone or other means of telecommunication or electronic communication.

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

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

- 135 1) Relate solely to the Interstate Commission's internal personnel practices and procedures;
- 136 2) Disclose matters specifically exempted from disclosure by statute;

137 3) Disclose trade secrets or commercial or financial information which is privileged or confidential;

138 4) Involve accusing any person of a crime, or formally censuring any person;

139 5) Disclose information of a personal nature where disclosure would constitute a clearly
140 unwarranted invasion of personal privacy;

141 6) Disclose investigative records compiled for law enforcement purposes;

142 7) Disclose information contained in or related to examination, operating or condition reports
143 prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated
144 person or entity for the purpose of regulation or supervision of such person or entity;

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

147 9) Specifically relate to the Interstate Commission's issuance of a subpoena, or its participation in a
148 civil action or other legal proceeding.

149 (j) For every meeting closed pursuant to this provision, the Interstate Commission's legal counsel shall
150 publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall
151 reference each relevant exemptive provision. The Interstate Commission shall keep minutes which
152 shall fully and clearly describe all matters discussed in any meeting and shall provide a full and
153 accurate summary of any actions taken, and the reasons therefore, including a description of each of
154 the views expressed on any item and the record of any roll call vote (reflected in the vote of each
155 member on the question). All documents considered in connection with any action shall be identified
156 in such minutes.

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

162 Section 30. The Powers and Duties of the Interstate Commission. The commission shall have the
163 following powers and duties:

- 164 1) To provide for dispute resolution among compacting states.
- 165 2) To promulgate rules to effect the purposes and obligations as enumerated in this compact, which
166 shall have the force and effect of statutory law and shall be binding in the compacting states to the
167 extent and in the manner provided in this compact.
- 168 3) To oversee, supervise and coordinate the interstate movement of juveniles subject to the terms of
169 this compact and any by-laws adopted and rules promulgated by the Interstate Commission.
- 170 4) To enforce compliance with the compact provisions, the rules promulgated by the Interstate
171 Commission, and the by-laws, using all necessary and proper means, including but not limited to the
172 use of judicial process.
- 173 5) To establish and maintain offices which shall be located within one or more of the compacting
174 states.
- 175 6) To purchase and maintain insurance and bonds.

- 176 7) To borrow, accept, hire or contract for services of personnel.
- 177 8) To establish and appoint committees and hire staff which it deems necessary for the carrying out
178 of its functions including, but not limited to, an executive committee as required by Article III which
179 shall have the power to act on behalf of the Interstate Commission in carrying out its powers and
180 duties hereunder.
- 181 9) To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their
182 compensation, define their duties and determine their qualifications; and to establish the Interstate
183 Commission's personnel policies and programs relating to, inter alia, conflicts of interest, rates of
184 compensation, and qualifications of personnel.
- 185 10) To accept any and all donations and grants of money, equipment, supplies, materials, and
186 services, and to receive, utilize, and dispose of it.
- 187 11) To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or
188 use any property, real, personal, or mixed.
- 189 12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any
190 property, real, personal or mixed.
- 191 13) To establish a budget and make expenditures and levy dues as provided in Article VIII of this
192 compact.
- 193 14) To sue and be sued.

194 15) To adopt a seal and by-laws governing the management and operation of the Interstate
195 Commission.

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

198 17) To report annually to the legislatures, governors, judiciary, and state councils of the compacting
199 states concerning the activities of the Interstate Commission during the preceding year. Such reports
200 shall also include any recommendations that may have been adopted by the Interstate Commission.

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

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

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

206 Section 31. By-Laws of the Interstate Commission

207 The Interstate Commission shall, by a majority of the members present and voting, within twelve
208 months after the first Interstate Commission meeting, adopt by-laws to govern its conduct as may be
209 necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

210 1) Establishing the fiscal year of the Interstate Commission;

211 2) Establishing an executive committee and such other committees as may be necessary;

- 212 3) Provide for the establishment of committees governing any general or specific delegation of any
213 authority or function of the Interstate Commission;
- 214 4) Providing reasonable procedures for calling and conducting meetings of the Interstate
215 Commission, and ensuring reasonable notice of each such meeting;
- 216 5) Establishing the titles and responsibilities of the officers of the Interstate Commission;
- 217 6) Providing a mechanism for concluding the operations of the Interstate Commission and the
218 return of any surplus funds that may exist upon the termination of the Compact after the payment
219 and/or reserving of all of its debts and obligations.
- 220 7) Providing "start-up" rules for initial administration of the compact; and
- 221 8) Establishing standards and procedures for compliance and technical assistance in carrying out
222 the compact.

223 Section 32. Officers and Staff of the Interstate Commission

224 (a) The Interstate Commission shall, by a majority of the members, elect annually from among its
225 members a chairperson and a vice chairperson, each of whom shall have such authority and duties as
226 may be specified in the by-laws. The chairperson or, in the chairperson's absence or disability, the
227 vice-chairperson shall preside at all meetings of the Interstate Commission. The officers so elected
228 shall serve without compensation or remuneration from the Interstate Commission; provided that,
229 subject to the availability of budgeted funds, the officers shall be reimbursed for any ordinary and
230 necessary costs and expenses incurred by them in the performance of their duties and responsibilities
231 as officers of the Interstate Commission.

232 (b) The Interstate Commission shall, through its executive committee, appoint or retain an executive
233 director for such period, upon such terms and conditions and for such compensation as the Interstate
234 Commission may deem appropriate. The executive director shall serve as secretary to the Interstate
235 Commission, but shall not be a Member and shall hire and supervise such other staff as may be
236 authorized by the Interstate Commission.

237 Section 33. Qualified Immunity, Defense and Indemnification.

238 (a) The Commission's executive director and employees shall be immune from suit and liability, either
239 personally or in their official capacity, for any claim for damage to or loss of property or personal
240 injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or
241 omission that occurred, or that such person had a reasonable basis for believing occurred within the
242 scope of Commission employment, duties, or responsibilities; provided, that any such person shall not
243 be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or
244 willful and wanton misconduct of any such person.

245 (b) The liability of any commissioner, or the employee or agent of a commissioner, acting within the
246 scope of such person's employment or duties for acts, errors, or omissions occurring within such
247 person's state may not exceed the limits of liability set forth under the Constitution and laws of that
248 state for state officials, employees, and agents. Nothing in this subsection shall be construed to protect
249 any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional
250 or willful and wanton misconduct of any such person.

251 (c) The Interstate Commission shall defend the executive director or the employees or representatives
252 of the Interstate Commission and, subject to the approval of the Attorney General of the state

253 represented by any commissioner of a compacting state, shall defend such commissioner or the
254 commissioner's representatives or employees in any civil action seeking to impose liability arising out
255 of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission
256 employment, duties or responsibilities, or that the defendant had a reasonable basis for believing
257 occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided
258 that the actual or alleged act, error, or omission did not result from intentional or willful and wanton
259 misconduct on the part of such person.

260 (d) The Interstate Commission shall indemnify and hold the commissioner of a compacting state, or
261 the commissioner's representatives or employees, or the Interstate Commission's representatives or
262 employees, harmless in the amount of any settlement or judgment obtained against such persons
263 arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate
264 Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for
265 believing occurred within the scope of Interstate Commission employment, duties, or responsibilities,
266 provided that the actual or alleged act, error, or omission did not result from intentional or willful and
267 wanton misconduct on the part of such persons.

268 Section 34. Rulemaking Function of the Interstate Commission.

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

271 (b) Rulemaking shall occur pursuant to the criteria set forth in this article and the by-laws and rules
272 adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model
273 State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or

274 such other administrative procedures act, as the Interstate Commission deems appropriate consistent
275 with due process requirements under the U.S. Constitution as now or hereafter interpreted by the U. S.
276 Supreme Court. All rules and amendments shall become binding as of the date specified, as published
277 with the final version of the rule as approved by the Commission.

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

- 279 1) publish the proposed rule's entire text stating the reason(s) for that proposed rule;
- 280 2) allow and invite any and all persons to submit written data, facts, opinions and arguments, which
281 information shall be added to the record, and be made publicly available;
- 282 3) provide an opportunity for an informal hearing if petitioned by ten (10) or more persons; and
- 283 4) promulgate a final rule and its effective date, if appropriate, based on input from state or local
284 officials, or interested parties.

285 (d) Allow, not later than sixty days after a rule is promulgated, any interested person to file a petition
286 in the United States District Court for the District of Columbia or in the Federal District Court where
287 the Interstate Commission's principal office is located for judicial review of such rule. If the court
288 finds that the Interstate Commission's action is not supported by substantial evidence in the
289 rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this
290 subsection, evidence is substantial if it would be considered substantial evidence under the Model
291 State Administrative Procedures Act.

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

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

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

302 Section 35. Oversight and Enforcement by the Interstate Commission.

303 (a) The Interstate Commission shall oversee the administration and operations of the interstate
304 movement of juveniles subject to this compact in the compacting states and shall monitor such
305 activities being administered in non-compacting states which may significantly affect compacting
306 states.

307 (b) The courts and executive agencies in each compacting state shall enforce this compact and shall
308 take all actions necessary and appropriate to effectuate the compact's purposes and intent. The
309 provisions of this compact and the rules promulgated hereunder shall be received by all the judges,
310 public officers, commissions, and departments of the state government as evidence of the authorized
311 statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In
312 any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this

313 compact which may affect the powers, responsibilities or actions of the Interstate Commission, it shall
314 be entitled to receive all service of process in any such proceeding, and shall have standing to
315 intervene in the proceeding for all purposes.

316 Section 36. Dispute Resolution by the Interstate Commission.

317 (a) The compacting states shall report to the Interstate Commission on all issues and activities
318 necessary for the administration of the compact as well as issues and activities pertaining to
319 compliance with the provisions of the compact and its bylaws and rules.

320 (b) The Interstate Commission shall attempt, upon the request of a compacting state, to resolve any
321 disputes or other issues which are subject to the compact and which may arise among compacting
322 states and between compacting and non-compacting states. The commission shall promulgate a rule
323 providing for both mediation and binding dispute resolution for disputes among the compacting states.

324 (c) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions
325 and rules of this compact using any or all means set forth in Article XI of this compact.

326 Section 37. Finance of the Interstate Commission

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

329 (b) The Interstate Commission shall levy on and collect an annual assessment from each compacting
330 state to cover the cost of the internal operations and activities of the Interstate Commission and its staff
331 which must be in a total amount sufficient to cover the Interstate Commission's annual budget as
332 approved each year. The aggregate annual assessment amount shall be allocated based upon a formula

333 to be determined by the Interstate Commission, taking into consideration the population of each
334 compacting state and the volume of interstate movement of juveniles in each compacting state and
335 shall promulgate a rule binding upon all compacting states which governs said assessment.

336 (d) The Interstate Commission shall not incur any obligations of any kind prior to securing the funds
337 adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the
338 compacting states, except by and with the authority of the compacting state.

339 (e) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The
340 receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting
341 procedures established under its by-laws. However, all receipts and disbursements of funds handled by
342 the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the
343 report of the audit shall be included in and become part of the annual report of the Interstate
344 Commission.

345 Section 38. The State Council. Each member state shall create a State Council for Interstate Juvenile
346 Supervision. While each state may determine the membership of its own state council, its membership
347 must include at least one representative from the legislative, judicial, and executive branches of
348 government, victims groups, and the compact administrator, deputy compact administrator or
349 designee. Each compacting state retains the right to determine the qualifications of the compact
350 administrator or deputy compact administrator. Each state council will advise and may exercise
351 oversight and advocacy concerning that state's participation in Interstate Commission activities and
352 other duties as may be determined by that state, including but not limited to, development of policy
353 concerning operations and procedures of the compact within that state.

354 Section 39. Compacting States, Effective Date and Amendment.

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

358 (b) The compact shall become effective and binding upon legislative enactment of the compact into
359 law by no less than 35 of the states. The initial effective date shall be the later of July 1, 2004 or upon
360 enactment into law by the 35th jurisdiction. Thereafter it shall become effective and binding as to any
361 other compacting state upon enactment of the compact into law by that state. The governors of non-
362 member states or their designees shall be invited to participate in the activities of the Interstate
363 Commission on a non-voting basis prior to adoption of the compact by all states and territories of the
364 United States.

365 (c) The Interstate Commission may propose amendments to the compact for enactment by the
366 compacting states. No amendment shall become effective and binding upon the Interstate
367 Commission and the compacting states unless and until it is enacted into law by unanimous consent of
368 the compacting states.

369 Section 40. Withdrawal.

370 (a) Once effective, the compact shall continue in force and remain binding upon each and every
371 compacting state; provided that a compacting state may withdraw from the compact by specifically
372 repealing the statute which enacted the compact into law.

373 (b) The effective date of withdrawal is the effective date of the repeal.

374 (c) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in
375 writing upon the introduction of legislation repealing this compact in the withdrawing state. The
376 Interstate Commission shall notify the other compacting states of the withdrawing state's intent to
377 withdraw within sixty days of its receipt thereof.

378 1) The withdrawing state is responsible for all assessments, obligations and liabilities incurred
379 through the effective date of withdrawal, including any obligations, the performance of which extend
380 beyond the effective date of withdrawal.

381 2) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing
382 state reenacting the compact or upon such later date as determined by the Interstate Commission.

383 Section 41. Technical Assistance, Fines, Suspension, Termination and Default.

384 (a) If the Interstate Commission determines that any compacting state has at any time defaulted in the
385 performance of any of its obligations or responsibilities under this compact, or the by-laws or duly
386 promulgated rules, the Interstate Commission may impose any or all of the following penalties:

387 1) Remedial training and technical assistance as directed by the Interstate Commission;

388 2) Alternative Dispute Resolution;

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

391 4) Suspension or termination of membership in the compact, which shall be imposed only after all
392 other reasonable means of securing compliance under the by-laws and rules have been exhausted and

393 the Interstate Commission has therefore determined that the offending state is in default. Immediate
394 notice of suspension shall be given by the Interstate Commission to the Governor, the Chief Justice or
395 the Chief Judicial Officer of the state, the majority and minority leaders of the defaulting state's
396 legislature, and the state council. The grounds for default include, but are not limited to, failure of a
397 compacting state to perform such obligations or responsibilities imposed upon it by this compact, the
398 by-laws, or duly promulgated rules and any other grounds designated in commission by-laws and
399 rules. The Interstate Commission shall immediately notify the defaulting state in writing of the
400 penalty imposed by the Interstate Commission and of the default pending a cure of the default. The
401 commission shall stipulate the conditions and the time period within which the defaulting state must
402 cure its default. If the defaulting state fails to cure the default within the time period specified by the
403 commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a
404 majority of the compacting states and all rights, privileges and benefits conferred by this compact shall
405 be terminated from the effective date of termination.

406 (b) Within sixty days of the effective date of termination of a defaulting state, the Commission shall
407 notify the Governor, the Chief Justice or Chief Judicial Officer, the Majority and Minority Leaders of
408 the defaulting state's legislature, and the state council of such termination.

409 (c) The defaulting state is responsible for all assessments, obligations and liabilities incurred through
410 the effective date of termination including any obligations, the performance of which extends beyond
411 the effective date of termination.

412 (d) The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise
413 mutually agreed upon in writing between the Interstate Commission and the defaulting state.

414 (e) Reinstatement following termination of any compacting state requires both a reenactment of the
415 compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

416 >Section 42. Judicial Enforcement. The Interstate Commission may, by majority vote of the members,
417 initiate legal action in the United States District Court for the District of Columbia or, at the discretion
418 of the Interstate Commission, in the federal district where the Interstate Commission has its offices, to
419 enforce compliance with the provisions of the compact, its duly promulgated rules and by-laws,
420 against any compacting state in default. In the event judicial enforcement is necessary the prevailing
421 party shall be awarded all costs of such litigation including reasonable attorneys fees.

422 Section 43. Dissolution of the Compact

423 (a) The compact dissolves effective upon the date of the withdrawal or default of the compacting state,
424 which reduces membership in the compact to one compacting state.

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

428 Section 44. Severability and Construction.

429 (a) The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision
430 is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

431 (b) The provisions of this compact shall be liberally construed to effectuate its purposes.

432 Section 45. Effect of Compact on Other Laws.

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

435 (b) All compacting states' laws other than state Constitutions and other interstate compacts conflicting
436 with this compact are superseded to the extent of the conflict.

437 Section 46. Binding Effect of the Compact.

438 (a) All lawful actions of the Interstate Commission, including all rules and by-laws promulgated by the
439 Interstate Commission, are binding upon the compacting states.

440 (b) All agreements between the Interstate Commission and the compacting states are binding in
441 accordance with their terms.

442 (c) Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission
443 actions, and upon a majority vote of the compacting states, the Interstate Commission may issue
444 advisory opinions regarding such meaning or interpretation.

445 (d) In the event any provision of this compact exceeds the constitutional limits imposed on the
446 legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be
447 conferred by such provision upon the Interstate Commission shall be ineffective and such obligations,
448 duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency
449 thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the
450 time this compact becomes effective.