

JAN 23 2009

S.B. NO. 109

A BILL FOR AN ACT

RELATING TO THE INTERSTATE COMPACT FOR JUVENILES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 INTERSTATE COMPACT FOR JUVENILES

6 § -1 Execution of compact. The governor is hereby
7 authorized and directed to execute a compact on behalf of the
8 State of Hawaii with any other state or states legally joining
9 them in the form substantially as follows:

10 ARTICLE I

11 PURPOSE

12 The compacting states to this interstate compact recognize
13 that each state is responsible for the proper supervision or
14 return of juveniles, delinquents, and status offenders who are
15 on probation or parole and who have absconded, escaped, or run
16 away from supervision and control and in so doing have
17 endangered their own safety and the safety of others. The
18 compacting states also recognize that each state is responsible

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1 for the safe return of juveniles who have run away from home and
2 in doing so have left their state of residence. The compacting
3 states also recognize that Congress, by enacting the Crime
4 Control Act, 4 U.S.C. Section 112 (1965), has authorized and
5 encouraged compacts for cooperative efforts and mutual
6 assistance in the prevention of crime.

7 It is the purpose of this compact, through means of joint
8 and cooperative action among the compacting states to:

- 9 (1) Ensure that the adjudicated juveniles and status
10 offenders subject to this compact are provided
11 adequate supervision and services in the receiving
12 state as ordered by the adjudicating judge or parole
13 authority in the sending state;
- 14 (2) Ensure that the public safety interests of the
15 citizens, including the victims of juvenile offenders,
16 in both the sending and receiving states are
17 adequately protected;
- 18 (3) Return juveniles who have run away, absconded, or
19 escaped from supervision or control, or have been
20 accused of an offense to the state requesting their
21 return;



- (4) Make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services;
- (5) Provide for the effective tracking and supervision of juveniles;
- (6) Equitably allocate the costs, benefits, and obligations of the compacting states;
- (7) 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) Ensure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines;
- (9) Establish procedures to resolve pending charges (detainers) against juvenile offenders prior to transfer or release to the community under the terms of this compact;
- (10) Establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile



1 justice and criminal justice officials, and regular
2 reporting of compact activities to heads of state
3 executive, judicial, and legislative branches and
4 juvenile and criminal justice administrators;

5 (11) Monitor compliance with rules governing interstate
6 movement of juveniles and initiate interventions to
7 address and correct noncompliance;

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

11 (13) Coordinate the implementation and operation of the
12 compact with the interstate compact for the placement
13 of children, the interstate compact for adult offender
14 supervision, and other compacts affecting juveniles,
15 particularly in those cases where concurrent or
16 overlapping supervision issues arise.

17 It is the policy of the compacting states that the
18 activities conducted by the interstate commission created herein
19 are the formation of public policies and therefore are public
20 business. Furthermore, the compacting states shall cooperate
21 and observe their individual and collective duties and
22 responsibilities for the prompt return and acceptance of



1 juveniles subject to the provisions of this compact. The
2 provisions of this compact shall be reasonably and liberally
3 construed to accomplish the purposes and policies of the
4 compact.

5 ARTICLE II

6 DEFINITIONS

7 As used in this compact, unless the context clearly
8 requires a different construction:

9 "Bylaws" means those bylaws established by the interstate
10 commission for its governance, or for directing or controlling
11 its actions or conduct.

12 "Commissioner" means the voting representative of each
13 compacting state appointed pursuant to article III of this
14 compact.

15 "Compact administrator" means the individual in each
16 compacting state appointed pursuant to the terms of this
17 compact, responsible for the administration and management of
18 the state's supervision and transfer of juveniles subject to the
19 terms of this compact, the rules adopted by the interstate
20 commission, and the policies adopted by the state council under
21 this compact.



1 "Compacting state" means any state that has enacted the
2 enabling legislation for this compact.

3 "Court" means any court having jurisdiction over
4 delinquent, neglected, or dependent children.

5 "Deputy compact administrator" means the individual, if
6 any, in each compacting state appointed to act on behalf of a
7 compact administrator pursuant to the terms of this compact,
8 responsible for the administration and management of the state's
9 supervision and transfer of juveniles subject to the terms of
10 this compact, the rules adopted by the interstate commission,
11 and the policies adopted by the state council under this
12 compact.

13 "Interstate commission" means the interstate commission for
14 juveniles created by article III of this compact.

15 "Juvenile" means any person defined as a juvenile in any
16 member state or by the rules of the interstate commission,
17 including:

18 (1) An accused delinquent, who is a person charged with an
19 offense that, if committed by an adult, would be a
20 criminal offense;



1 (2) An adjudicated delinquent, who is a person found to
2 have committed an offense that, if committed by an
3 adult, would be a criminal offense;

4 (3) An accused status offender, who is a person charged
5 with an offense that would not be a criminal offense
6 if committed by an adult;

7 (4) An adjudicated status offender, who is a person found
8 to have committed an offense that would not be a
9 criminal offense if committed by an adult; and

10 (5) A nonoffender, who is a person in need of supervision
11 who has not been accused or adjudicated as a status
12 offender or delinquent.

13 "Noncompacting state" means any state that has not enacted
14 the enabling legislation for this compact.

15 "Probation or parole" means any kind of supervision or
16 conditional release of juveniles authorized under the laws of
17 the compacting states.

18 "Rule" means a written statement by the interstate
19 commission adopted pursuant to article VI of this compact that
20 is of general applicability, implements, interprets, or
21 prescribes a policy or provision of the compact, or an
22 organizational, procedural, or practice requirement of the



1 commission, and has the force and effect of statutory law in a
2 compacting state, and includes the amendment, repeal, or
3 suspension of an existing rule.

4 "State" means a state of the United States, the District of
5 Columbia (or its designee), the Commonwealth of Puerto Rico, the
6 United States Virgin Islands, Guam, American Samoa, and the
7 Northern Marianas Islands.

8 ARTICLE III

9 INTERSTATE COMMISSION FOR JUVENILES

10 (a) The compacting states hereby create the interstate
11 commission for juveniles. The commission shall be a body
12 corporate and joint agency of the compacting states. The
13 commission shall have all the responsibilities, powers, and
14 duties set forth herein, and such additional powers as may be
15 conferred upon it by subsequent action of the respective
16 legislatures of the compacting states in accordance with the
17 terms of this compact.

18 (b) The interstate commission shall consist of
19 commissioners appointed by the appropriate appointing authority
20 in each state pursuant to the rules and requirements of each
21 compacting state and in consultation with the state council for
22 interstate juvenile supervision created hereunder. The



1 commissioner shall be the compact administrator, deputy compact
2 administrator, or designee from that state who shall serve on
3 the commission in such capacity under or pursuant to the
4 applicable law of the compacting state.

5 (c) In addition to the commissioners who are the voting
6 representatives of each state, the interstate commission shall
7 include individuals who are not commissioners, but who are
8 members of interested organizations. Noncommissioner members
9 shall include a member of the national organizations of
10 governors, legislators, state chief justices, attorneys general,
11 interstate compact for adult offender supervision, interstate
12 compact for the placement of children, juvenile justice and
13 juvenile corrections officials, and crime victims. All
14 noncommissioner members of the commission shall be ex-officio
15 nonvoting members. The interstate commission may provide in its
16 bylaws for such additional ex-officio nonvoting members,
17 including members of other national organizations, in such
18 numbers as shall be determined by the commission.

19 (d) Each compacting state represented at any meeting of
20 the commission is entitled to one vote. A majority of the
21 compacting states shall constitute a quorum for the transaction



1 of business, unless a larger quorum is required by the bylaws of
2 the interstate commission.

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

8 (f) The interstate commission shall establish an executive
9 committee, which shall include commission officers, members, and
10 others as determined by the bylaws. The executive committee
11 shall have the power to act on behalf of the interstate
12 commission during periods when the interstate commission is not
13 in session, with the exception of rulemaking or amendment to the
14 compact. The executive committee shall oversee the day-to-day
15 activities of the administration of the compact managed by an
16 executive director and interstate commission staff; administer
17 enforcement and compliance with the provisions of the compact,
18 its bylaws, and rules; and perform such other duties as directed
19 by the interstate commission or set forth in the bylaws.

20 (g) Each member of the interstate commission may cast a
21 vote to which that compacting state is entitled and participate
22 in the business and affairs of the interstate commission. A



1 member shall vote in person and shall not delegate a vote to
2 another compacting state; provided that a commissioner, in
3 consultation with the state council, shall appoint another
4 authorized representative, in the absence of the commissioner
5 from that state, to cast a vote on behalf of the compacting
6 state at a specified meeting. The bylaws may provide for
7 members' participation in meetings by telephone or other means
8 of telecommunication or electronic communication.

9 (h) The interstate commission's bylaws shall establish
10 conditions and procedures under which the interstate commission
11 shall make its information and official records available to the
12 public for inspection or copying. The interstate commission may
13 exempt from disclosure any information or official records to
14 the extent they would adversely affect personal privacy rights
15 or proprietary interests.

16 (i) Public notice shall be given of all meetings and all
17 meetings shall be open to the public, except as set forth in the
18 rules or as otherwise provided in the compact. The interstate
19 commission and any of its committees may close a meeting to the
20 public where it determines by two-thirds vote that an open
21 meeting would be likely to:



- (1) Relate solely to the interstate commission's internal personnel practices and procedures;
- (2) Disclose matters specifically exempted from disclosure by statute;
- (3) Disclose trade secrets or commercial or financial information which is privileged or confidential;
- (4) Involve accusing any person of a crime, or formally censuring any person;
- (5) Disclose information of a personal nature where 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, or on behalf of, or for the use of, the interstate commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity;
- (8) Disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity; or



1 (9) Specifically relate to the interstate commission's
2 issuance of a subpoena, or its participation in a
3 civil action or other legal proceeding.

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

16 (k) The interstate commission shall collect standardized
17 data concerning the interstate movement of juveniles as directed
18 through its rules which shall specify the data to be collected,
19 the means of collection and data exchange, and reporting
20 requirements. The methods of data collection, exchange, and
21 reporting shall, insofar as is reasonably possible, conform to



1 up-to-date technology and coordinate their information functions
2 with the appropriate repository of records.

3 ARTICLE IV

4 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

5 The commission shall have the following powers and duties:

- 6 (1) To provide for dispute resolution among compacting
7 states;
- 8 (2) To adopt rules to effect the purposes and obligations
9 as enumerated in this compact, which shall have the
10 force and effect of statutory law and shall be binding
11 in the compacting states to the extent and in the
12 manner provided in this compact;
- 13 (3) To oversee, supervise, and coordinate the interstate
14 movement of juveniles subject to the terms of this
15 compact and any bylaws adopted and rules promulgated
16 by the interstate commission;
- 17 (4) To enforce compliance with the compact provisions, the
18 rules adopted by the interstate commission, and the
19 bylaws, using all necessary and proper means,
20 including but not limited to the use of judicial
21 process;



- 1 (5) To establish and maintain offices which shall be
- 2 located within one or more of the compacting states;
- 3 (6) To purchase and maintain insurance and bonds;
- 4 (7) To borrow, accept, hire, or contract for services of
- 5 personnel;
- 6 (8) To establish and appoint committees and hire staff,
- 7 which the commission deems necessary for the carrying
- 8 out of its functions, including but not limited to an
- 9 executive committee as required by article III, which
- 10 shall have the power to act on behalf of the
- 11 interstate commission in carrying out its powers and
- 12 duties hereunder;
- 13 (9) To elect or appoint such officers, attorneys,
- 14 employees, agents, or consultants; to fix their
- 15 compensation, define their duties, and determine their
- 16 qualifications; and to establish the interstate
- 17 commission's personnel policies and programs relating
- 18 to, inter alia, conflicts of interest, rates of
- 19 compensation, and qualifications of personnel;
- 20 (10) To accept, receive, utilize, and dispose of any and
- 21 all donations and grants of money, equipment,
- 22 supplies, materials, and services;



- 1 (11) To lease, purchase, accept contributions or donations
2 of, or otherwise to own, hold, improve, or use any
3 property, real, personal, or mixed;
- 4 (12) To sell, convey, mortgage, pledge, lease, exchange,
5 abandon, or otherwise dispose of any property, real,
6 personal, or mixed;
- 7 (13) To establish a budget and make expenditures and levy
8 dues as provided in article VIII of this compact;
- 9 (14) To sue and be sued;
- 10 (15) To adopt a seal and bylaws governing the management
11 and operation of the interstate commission;
- 12 (16) To perform such functions as may be necessary or
13 appropriate to achieve the purposes of this compact;
- 14 (17) To report annually to the legislatures, governors,
15 judiciary, and state councils of the compacting states
16 concerning the activities of the interstate commission
17 during the preceding year. The reports shall also
18 include any recommendations that may have been adopted
19 by the interstate commission;
- 20 (18) To coordinate education, training and public awareness
21 regarding the interstate movement of juveniles for
22 officials involved in such activity;



(19) To establish uniform standards for reporting,
collecting, and exchanging of data; and

(20) To maintain the interstate commission's corporate
books and records in accordance with the bylaws.

ARTICLE V

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

Section A. Bylaws. The interstate commission, by a
majority of the members present and voting, and within twelve
months after the first interstate commission meeting, shall
adopt bylaws to govern its conduct as may be necessary or
appropriate to carry out the purposes of the compact, including,
but not limited to:

(1) Establishing the fiscal year of the interstate
commission;

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

(3) Providing for the establishment of committees
governing any general or specific delegation of any
authority or function of the interstate commission;

(4) Providing reasonable procedures for calling and
conducting meetings of the interstate commission, and
ensuring reasonable notice of each such meeting;



- 1 (5) Establishing the titles and responsibilities of the
2 officers of the interstate commission;
- 3 (6) Providing a mechanism for concluding the operations of
4 the interstate commission and the return of any
5 surplus funds that may exist upon the termination of
6 the compact after the payment and reserving of all of
7 its debts and obligations;
- 8 (7) Providing "start-up" rules for initial administration
9 of the compact; and
- 10 (8) Establishing standards and procedures for compliance
11 and technical assistance in carrying out the compact.

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



1 them in the performance of their duties and responsibilities as
2 officers of the commission.

3 (b) The interstate commission, through its executive
4 committee, shall appoint or retain an executive director for
5 such period, upon such terms and conditions, and for such
6 compensation as the commission may deem appropriate. The
7 executive director shall serve as secretary to the commission,
8 and shall hire and supervise such other staff as may be
9 authorized by the interstate commission, but shall not be a
10 member.

11 Section C. Qualified immunity, defense, and
12 indemnification. (a) The interstate commission's executive
13 director and employees shall be immune from suit and liability,
14 either personally or in their official capacities, for any claim
15 for damage to or loss of property or personal injury or other
16 civil liability caused or arising out of or relating to any
17 actual or alleged act, error, or omission that occurred, or that
18 the person had a reasonable basis for believing occurred within
19 the scope of commission employment, duties, or responsibilities;
20 provided that nothing in this subsection shall be construed to
21 protect any person from suit or liability for any damage, loss,



1 injury, or liability caused by the intentional or willful and
2 wanton misconduct of the person.

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

12 (c) The interstate commission shall defend the executive
13 director or the employees or representatives of the interstate
14 commission and, subject to the approval of the attorney general
15 of the state represented by any commissioner of a compacting
16 state, shall defend the commissioner or the commissioner's
17 representatives or employees in any civil action seeking to
18 impose liability arising out of any actual or alleged act,
19 error, or omission that occurred within the scope of interstate
20 commission employment, duties, or responsibilities, or that the
21 defendant had a reasonable basis for believing occurred within
22 the scope of interstate commission employment, duties, or



1 responsibilities, provided that the actual or alleged act,
2 error, or omission did not result from intentional or willful
3 and wanton misconduct on the part of the person.

4 (d) The interstate commission shall indemnify and hold the
5 commissioner of a compacting state, or the commissioner's
6 representatives or employees, or the interstate commission's
7 representatives or employees, harmless in the amount of any
8 settlement or judgment obtained against those persons arising
9 out of any actual or alleged act, error, or omission that
10 occurred within the scope of interstate commission employment,
11 duties, or responsibilities, or that those persons had a
12 reasonable basis for believing occurred within the scope of
13 interstate commission employment, duties, or responsibilities,
14 provided that the actual or alleged act, error, or omission did
15 not result from intentional or willful and wanton misconduct on
16 the part of such persons.

17 ARTICLE VI

18 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

19 (a) The interstate commission shall adopt and publish
20 rules in order to effectively and efficiently achieve the
21 purposes of the compact.



(b) Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Rulemaking shall substantially conform to the principles of the Model State Administrative Procedures Act, 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedures act, as the interstate commission deems appropriate, consistent with due process requirements under the Constitution of the United States. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the commission.

(c) When adopting a rule, the interstate commission shall:

(1) Publish the proposed rule's entire text stating the reason for the proposed rule;

(2) Allow persons to submit written data, facts, opinions, and arguments, which information shall 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; and

(4) Adopt a final rule and its effective date, if appropriate, based on comment from state or local officials, or interested parties.



1 (d) Not later than sixty days after a rule is adopted, any
2 interested person may file a petition in the United States
3 District Court for the District of Columbia or in the federal
4 district court where the interstate commission's principal
5 office is located for judicial review of the rule. If the court
6 finds that the interstate commission's action is not supported
7 by substantial evidence in the rulemaking record, the court
8 shall hold the rule unlawful and set it aside. For purposes of
9 this subsection, evidence is substantial if it would be
10 considered substantial evidence under the Model State
11 Administrative Procedures Act.

12 (e) If a majority of the legislatures of the compacting
13 states rejects a rule, those states, by enactment of a statute
14 or resolution in the same manner used to adopt the compact, may
15 cause the rule to have no further force and effect in any
16 compacting state.

17 (f) Upon determination by the interstate commission that a
18 state of emergency exists, the commission may adopt an emergency
19 rule that becomes effective immediately upon adoption; provided
20 that the usual rulemaking procedures provided in this article
21 shall be retroactively applied to the rule as soon as reasonably



1 possible, but no later than ninety days after the effective date
2 of the emergency rule.

3 ARTICLE VII

4 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

5 BY THE INTERSTATE COMMISSION

6 Section A. Oversight. (a) The interstate commission
7 shall oversee the administration and operations of the
8 interstate movement of juveniles subject to this compact in the
9 compacting states and shall monitor activities being
10 administered in noncompacting states that may significantly
11 affect compacting states.

12 (b) The courts and executive agencies in each compacting
13 state shall enforce this compact and shall take all actions
14 necessary and appropriate to effectuate the compact's purposes
15 and intent. This compact and the rules adopted under this
16 compact shall be received by all the judges, public officers,
17 commissions, and departments of the state government as evidence
18 of the authorized statute and administrative rules. All courts
19 shall take judicial notice of the compact and the rules. In any
20 judicial or administrative proceeding in a compacting state
21 pertaining to the subject matter of this compact that may affect
22 the powers, responsibilities, or actions of the interstate



1 commission, the commission is entitled to receive all service of
2 process in the proceeding, and has standing to intervene in the
3 proceeding for all purposes.

4 **Section B. Dispute resolution.** (a) The compacting states
5 shall report to the interstate commission on all issues and
6 activities necessary for the administration of the compact as
7 well as issues and activities pertaining to compliance with the
8 compact and its bylaws and rules.

9 (b) The interstate commission, upon the request of a
10 compacting state, shall attempt to resolve any disputes or other
11 issues that are subject to the compact and that may arise among
12 compacting states and between compacting and noncompacting
13 states. The commission shall adopt rules providing for both
14 mediation and binding dispute resolution for disputes among the
15 compacting states.

16 (c) The interstate commission, in the reasonable exercise
17 of its discretion, shall enforce the provisions and rules of
18 this compact using any or all means set forth in article XI of
19 this compact.

20 **ARTICLE VIII**

21 **FINANCE**



1 (a) The interstate commission shall pay or provide for the
2 payment of the reasonable expenses of its establishment,
3 organization, and ongoing activities.

4 (b) The interstate commission shall levy on and collect an
5 annual assessment from each compacting state to cover the cost
6 of the internal operations and activities of the commission and
7 its staff that shall be in a total amount sufficient to cover
8 the interstate commission's annual budget as approved each year.

9 The aggregate annual assessment amount shall be allocated based
10 upon a formula to be determined by the interstate commission,
11 taking into consideration the population of each compacting
12 state and the volume of interstate movement of juveniles in each
13 compacting state, and shall adopt rules binding upon all
14 compacting states that govern the assessment.

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

20 (d) The interstate commission shall keep accurate accounts
21 of all receipts and disbursements. The receipts and
22 disbursements of the interstate commission shall be subject to



1 the audit and accounting procedures established under its
2 bylaws; provided that all receipts and disbursements of funds
3 handled by the interstate commission shall be audited yearly by
4 a licensed certified and licensed public accountant, and the
5 report of the audit shall be included in and become part of the
6 annual report of the interstate commission.

7 ARTICLE IX

8 THE STATE COUNCIL

9 (a) The Hawaii state council for interstate juvenile
10 supervision is established, and shall be placed administratively
11 in the judiciary. The council shall be composed of nine members
12 to be appointed as follows:

13 (1) One member of the house of representatives, appointed
14 by the speaker of the house of representatives;

15 (2) One member of the senate, appointed by the senate
16 president;

17 (3) One member of the judiciary appointed by the chief
18 justice of the supreme court;

19 (4) The executive director of the office of youth
20 services, or the director's designee;

21 (5) One member from the general public representing
22 victims' groups, appointed by the governor;



(6) A prosecuting attorney or the prosecuting attorney's designee; provided that this appointment shall rotate every four years among the several counties, as follows: Honolulu, Hawaii, Maui, and Kauai;

(7) The attorney general, or the attorney general's designee;

(8) The state public defender, or the state public defender's designee; and

(9) The compact administrator, appointed by the governor, with the advice and consent of the senate and the chief justice.

With the exception of the members designated in paragraphs (4), (6), (7), (8), and (9), the terms of all members shall be for four years; provided that the victims' group representative and the compact administrator shall be subject to confirmation proceedings under section 26-34. No person, except the compact administrator, shall be appointed consecutively to more than two terms.

(b) The state council shall exercise oversight and advocacy concerning its participation in commission activities and other duties as may be determined by the council, including development of policy concerning operations and procedures of



1 the compact within the State. The council shall also have the
2 authority to appoint a member other than the compact
3 administrator to cast a vote on behalf of the State at meetings
4 of the interstate commission in which the compact administrator
5 is absent.

6 (c) Expenditures by the council, including the amount
7 fixed annually as the equal contribution of each member to the
8 compact, shall be made upon warrants issued by the state
9 comptroller based upon vouchers approved by any one of the
10 commissioners. A proposed program for the State's continuing
11 participation in the activities of the interstate commission for
12 juvenile supervision, including a budget request, shall be
13 submitted by the commissioners to each regular session of the
14 legislature.

15 **ARTICLE X**

16 **COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT**

17 (a) Any state, the District of Columbia (or its designee),
18 the Commonwealth of Puerto Rico, the United States Virgin
19 Islands, Guam, American Samoa, and the Northern Marianas Islands
20 as defined in article II of this compact is eligible to become a
21 compacting state.



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

12 (c) The interstate commission may propose amendments to
13 the compact for enactment by the compacting states. No
14 amendment shall become effective and binding upon the interstate
15 commission and the compacting states unless and until it is
16 enacted into law by unanimous consent of the compacting states.

17 ARTICLE XI

18 WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

19 Section A. Withdrawal. (a) Once effective, the compact
20 shall continue in force and remain binding upon each and every
21 compacting state; provided that a compacting state may withdraw



1 ("withdrawing state") from the compact by specifically repealing
2 the statute which enacted the compact into law.

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

5 (c) The withdrawing state shall immediately notify the
6 chairperson of the interstate commission in writing upon the
7 introduction of legislation repealing this compact in the
8 withdrawing state. The interstate commission shall notify the
9 other compacting states of the withdrawing state's intent to
10 withdraw within sixty days of its receipt thereof.

11 (d) The withdrawing state is responsible for all
12 assessments, obligations, and liabilities incurred through the
13 effective date of withdrawal, including any obligations, the
14 performance of which extend beyond the effective date of
15 withdrawal.

16 (e) Reinstatement following withdrawal of any compacting
17 state shall occur upon the withdrawing state reenacting the
18 compact or upon such later date as determined by the interstate
19 commission.

20 Section B. Technical assistance, fines, suspension,
21 termination, and default. (a) If the interstate commission
22 determines that any compacting state has at any time defaulted



1 in the performance of any of its obligations or responsibilities
2 under this compact, or the bylaws or duly adopted rules, the
3 interstate commission may impose any or all of the following
4 penalties:

5 (1) Remedial training and technical assistance as directed
6 by the interstate commission;

7 (2) Alternative dispute resolution;

8 (3) Fines, fees, and costs in such amounts as are deemed
9 to be reasonable as fixed by the interstate
10 commission; and

11 (4) Suspension or termination of membership in the
12 compact, which shall be imposed only after all other
13 reasonable means of securing compliance under the
14 bylaws and rules have been exhausted and the
15 interstate commission has therefore determined that
16 the offending state is in default. Immediate notice
17 of suspension shall be given by the interstate
18 commission to the governor, the chief justice or the
19 chief judicial officer of the state, the majority and
20 minority leaders of the defaulting state's
21 legislature, and the state council. The grounds for
22 default include but are not limited to failure of a



1 compacting state to perform such obligations or
2 responsibilities imposed upon it by this compact, the
3 bylaws, or duly adopted rules and any other grounds
4 designated in commission bylaws and rules. The
5 interstate commission shall immediately notify the
6 defaulting state in writing of the penalty imposed by
7 the interstate commission and of the default pending a
8 cure of the default. The commission shall stipulate
9 the conditions and the time period within which the
10 defaulting state must cure its default. If the
11 defaulting state fails to cure the default within the
12 time period specified by the commission, the
13 defaulting state shall be terminated from the compact
14 upon an affirmative vote of a majority of the
15 compacting states and all rights, privileges, and
16 benefits conferred by this compact shall be terminated
17 from the effective date of termination.

18 (b) Within sixty days of the effective date of termination
19 of a defaulting state, the interstate commission shall notify
20 the governor, the chief justice or chief judicial officer, the
21 majority and minority leaders of the defaulting state's
22 legislature, and the state council of such termination.



1 (c) The defaulting state is responsible for all
2 assessments, obligations, and liabilities incurred through the
3 effective date of termination including any obligations, the
4 performance of which extends beyond the effective date of
5 termination.

6 (d) The interstate commission shall not bear any costs
7 relating to the defaulting state unless otherwise mutually
8 agreed upon in writing between the interstate commission and the
9 defaulting state.

10 (e) Reinstatement following termination of any compacting
11 state requires both a reenactment of the compact by the
12 defaulting state and the approval of the interstate commission
13 pursuant to the rules.

14 **Section C. Judicial enforcement.** The interstate
15 commission, by majority vote of the members, may initiate legal
16 action in the United States District Court for the District of
17 Columbia or, at the discretion of the interstate commission, in
18 the federal district court where the interstate commission has
19 its offices, to enforce compliance with the provisions of the
20 compact, and its duly adopted rules and bylaws, against any
21 compacting state in default. If judicial enforcement is



1 necessary, the prevailing party shall be awarded all costs of
2 the litigation, including reasonable attorney's fees.

3 **Section D. Dissolution of compact.** (a) The compact
4 dissolves effective upon the date of the withdrawal or default
5 of the compacting state, which reduces membership in the compact
6 to one compacting state.

7 (b) Upon the dissolution of this compact, the compact
8 becomes void and shall be of no further effect, and the business
9 and affairs of the interstate commission shall be concluded and
10 any surplus funds shall be distributed in accordance with the
11 bylaws.

12 **ARTICLE XII**

13 **SEVERABILITY AND CONSTRUCTION**

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

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

20 **ARTICLE XIII**

21 **BINDING EFFECT OF COMPACT AND OTHER LAWS**



1 **Section A. Other laws.** (a) Nothing herein prevents the
2 enforcement of any other law of a compacting state that is not
3 inconsistent with this compact.

4 (b) All compacting states' laws other than state
5 constitutions and other interstate compacts conflicting with
6 this compact are superseded to the extent of the conflict.

7 **Section B. Binding effect of the compact.** (a) All lawful
8 actions of the interstate commission, including all rules and
9 bylaws adopted by the interstate commission, are binding upon
10 the compacting states.

11 (b) All agreements between the interstate commission and
12 the compacting states are binding in accordance with their
13 terms.

14 (c) Upon the request of a party to a conflict over the
15 meaning or interpretation of interstate commission actions, and
16 upon a majority vote of the compacting states, the interstate
17 commission may issue advisory opinions regarding the meaning or
18 interpretation.

19 (d) If any provision of this compact exceeds the
20 constitutional limits imposed on the legislature of any
21 compacting state, the obligations, duties, powers, or
22 jurisdiction sought to be conferred by the provision upon the



1 interstate commission shall be ineffective and such obligations,
2 duties, powers or jurisdiction shall remain in the compacting
3 state and shall be exercised by the agency thereof to which the
4 obligations, duties, powers, or jurisdiction are delegated by
5 law in effect at the time this compact becomes effective."

6 SECTION 2. Section 571-11, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§571-11 Jurisdiction; children. Except as otherwise
9 provided in this chapter, the court shall have exclusive
10 original jurisdiction in proceedings:

11 (1) Concerning any person who is alleged to have committed
12 an act prior to achieving eighteen years of age which
13 would constitute a violation or attempted violation of
14 any federal, state, or local law or municipal
15 ordinance. Regardless of where the violation
16 occurred, jurisdiction may be taken by the court of
17 the circuit where the person resides, is living, or is
18 found, or in which the offense is alleged to have
19 occurred[-];

20 (2) Concerning any child living or found within the
21 circuit:



1 (A) Who is neglected as to or deprived of educational
2 services because of the failure of any person or
3 agency to exercise that degree of care for which
4 it is legally responsible;

5 (B) Who is beyond the control of the child's parent
6 or other custodian or whose behavior is injurious
7 to the child's own or others' welfare;

8 (C) Who is neither attending school nor receiving
9 educational services required by law whether
10 through the child's own misbehavior or
11 nonattendance or otherwise; or

12 (D) Who is in violation of curfew[-] i;

13 (3) To determine the custody of any child or appoint a
14 guardian of any child[-] i;

15 (4) For the adoption of a person under chapter 578 [-] i;

16 (5) For the termination of parental rights under sections
17 571-61 to 571-63 [-] i;

18 (6) For judicial consent to the marriage, employment, or
19 enlistment of a child, when such consent is required
20 by law [-] i;



(7) For the treatment or commitment of a mentally defective, mentally retarded, or mentally ill child[-];

(8) Under the Interstate Compact [~~on~~] for Juveniles under chapter [582-] ____;

(9) For the protection of any child under chapter 587[-];
and

(10) For a change of name as provided in section 574-5(a)(2)(C)."

SECTION 3. Section 571-32, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) No child may be held after the filing of a petition or motion, as specified in subsection (d) [~~of this section~~], unless an order for continued detention or shelter has been made by a judge after a court hearing. If there is probable cause to believe that the child comes within section 571-11(1), the child may be securely detained, following a court hearing, in a detention facility for juveniles or may be held in a shelter. If there is probable cause to believe that the child comes within section 571-11(2), or section 281-101.5, the child may be held, following a court hearing, in a shelter but may not be securely detained in a detention facility for juveniles for



1 longer than twenty-four hours, excluding weekends and holidays,
2 unless the child is subject to the provisions of chapter [582,
3 ~~Interstate Compact on Juveniles,~~] Interstate Compact for
4 Juveniles, or is allegedly in or has already been adjudicated
5 for a violation of a valid court order, as provided under the
6 federal Juvenile Justice and Delinquency Prevention Act of 1974,
7 as amended."

8 SECTION 4. Chapter 582, Hawaii Revised Statutes, is
9 repealed.

10 SECTION 5. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$15,000 or so much
12 thereof as may be necessary for fiscal year 2009-2010 and the
13 same sum or so much thereof as may be necessary for fiscal year
14 2010-2011 for the State's share of the administrative expenses
15 of the Interstate Compact for Juveniles.

16 The sums appropriated shall be expended by the judiciary
17 for the purposes of this Act.

18 SECTION 6. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



1 SECTION 7. This Act shall take effect on July 1, 2009.

2

INTRODUCED BY: _____

By Request



Report Title:

Juvenile Interstate Compact

Description:

Adopts the new Interstate Compact for Juveniles and establishes the family court's jurisdiction under the compact.

