

ACT 93

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:

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

**“CHAPTER
INTERSTATE COMPACT FOR JUVENILES**

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

**ARTICLE I
PURPOSE**

The compacting states to this interstate compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents, and status offenders who are on probation or parole and who have absconded, escaped, or run away from supervision and control and in so doing have endangered their own safety and the safety of others. The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence. The compacting states also recognize that Congress, by enacting the Crime Control Act,

4 United States Code Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

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

- (1) Ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state;
- (2) Ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected;
- (3) Return juveniles who have run away, absconded, or escaped from supervision or control, or have been accused of an offense to the state requesting their return;
- (4) 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 justice and criminal justice officials, and regular reporting of compact activities to heads of state executive, judicial, and legislative branches and juvenile and criminal justice administrators;
- (11) Monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance;
- (12) Coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity; and
- (13) Coordinate the implementation and operation of the compact with the interstate compact for the placement of children, the interstate compact for adult offender supervision, and other compacts affecting juveniles, particularly in those cases where concurrent or overlapping supervision issues arise.

It is the policy of the compacting states that the activities conducted by the interstate commission created herein are the formation of public policies and therefore are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact.

ARTICLE II DEFINITIONS

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

“Bylaws” means those bylaws established by the interstate commission for its governance, or for directing or controlling its actions or conduct.

“Commissioner” means the voting representative of each compacting state appointed pursuant to article III of this compact.

“Compact administrator” means the individual in each compacting state appointed pursuant to the terms of this compact, responsible for the administration and management of the state’s supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the interstate commission, and the policies adopted by the state council under this compact.

“Compacting state” means any state that has enacted the enabling legislation for this compact.

“Court” means any court having jurisdiction over delinquent, neglected, or dependent children.

“Deputy compact administrator” means the individual, if any, in each compacting state appointed to act on behalf of a compact administrator pursuant to the terms of this compact, responsible for the administration and management of the state’s supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the interstate commission, and the policies adopted by the state council under this compact.

“Interstate commission” means the interstate commission for juveniles created by article III of this compact.

“Juvenile” means any person defined as a juvenile in any member state or by the rules of the interstate commission, including:

- (1) An accused delinquent, who is a person charged with an offense that, if committed by an adult, would be a criminal offense;
- (2) An adjudicated delinquent, who is a person found to have committed an offense that, if committed by an adult, would be a criminal offense;
- (3) An accused status offender, who is a person charged with an offense that would not be a criminal offense if committed by an adult;
- (4) An adjudicated status offender, who is a person found to have committed an offense that would not be a criminal offense if committed by an adult; and
- (5) A nonoffender, who is a person in need of supervision who has not been accused or adjudicated as a status offender or delinquent.

“Noncompacting state” means any state that has not enacted the enabling legislation for this compact.

“Probation or parole” means any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.

“Rule” means a written statement by the interstate commission adopted pursuant to article VI of this compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact or an organizational, procedural, or practice requirement of the commission, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule.

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

ARTICLE III
INTERSTATE COMMISSION FOR JUVENILES

(a) The compacting states hereby create the interstate commission for juveniles. The commission shall be a body corporate and joint agency of the compacting states. The commission shall have all the responsibilities, powers, and duties set forth herein, and any additional powers that may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(b) The interstate commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the state council for interstate juvenile supervision created hereunder. The commissioner shall be the compact administrator, deputy compact administrator, or designee from that state who shall serve on the commission in that capacity under or pursuant to the applicable law of the compacting state.

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

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

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

(f) The interstate commission shall establish an executive committee, which shall include commission officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the interstate commission during periods when the interstate commission is not in session, with the exception of rulemaking or amendment to the compact. The executive committee shall:

- (1) Oversee the day-to-day activities of the administration of the compact managed by an executive director and interstate commission staff;
- (2) Administer enforcement and compliance with the provisions of the compact, its bylaws, and rules; and
- (3) Perform such other duties as directed by the interstate commission or set forth in the bylaws.

(g) Each member of the interstate commission may cast a vote to which that compacting state is entitled and participate in the business and affairs of the interstate commission. A member shall vote in person and shall not delegate a vote to another compacting state; provided that a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The bylaws may provide for members'

participation in meetings by telephone or other means of telecommunication or electronic communication.

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

(i) Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open 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 that is privileged or confidential;
- (4) Involve accusing any person of a crime, or formally censuring any person;
- (5) Disclose information of a personal nature 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 the person or entity;
- (8) Disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity; or
- (9) Specifically relate to the interstate commission's issuance of a subpoena, or its participation in a civil action or other legal proceeding.

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

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

**ARTICLE IV
POWERS AND DUTIES OF THE INTERSTATE COMMISSION**

The interstate commission shall have the following powers and duties:

- (1) To provide for dispute resolution among compacting states;

- (2) To adopt rules to effect the purposes and obligations as enumerated in this compact, which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact;
- (3) To oversee, supervise, and coordinate the interstate movement of juveniles subject to the terms of this compact and any bylaws adopted and rules adopted by the interstate commission;
- (4) To enforce compliance with the compact provisions, the rules adopted by the interstate commission, and the bylaws, using all necessary and proper means, including the use of judicial process;
- (5) To establish and maintain offices that shall be located within one or more of the compacting states;
- (6) To purchase and maintain insurance and bonds;
- (7) To borrow, accept, hire, or contract for personnel services;
- (8) To establish and appoint committees and hire staff that the commission deems necessary for the carrying out of its functions, including an executive committee as required by article III, which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties hereunder;
- (9) To elect or appoint officers, attorneys, employees, agents, or consultants; to fix their compensation, define their duties, and determine their qualifications; and to establish the interstate commission's personnel policies and programs relating to, inter alia, conflicts of interest, rates of compensation, and qualifications of personnel;
- (10) To accept, receive, use, and dispose of any and all donations and grants of money, equipment, supplies, materials, and services;
- (11) To lease, purchase, or accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed;
- (12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;
- (13) To establish a budget and make expenditures and levy dues as provided in article VIII of this compact;
- (14) To sue and be sued;
- (15) To adopt a seal and bylaws governing the management and operation of the interstate commission;
- (16) To perform any functions that may be necessary or appropriate to achieve the purposes of this compact;
- (17) To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the interstate commission during the preceding year. The reports shall also include any recommendations that may have been adopted by the interstate commission;
- (18) To coordinate education, training, and public awareness regarding the interstate movement of juveniles for officials involved in such activity;
- (19) To establish uniform standards 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:

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

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

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

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

(b) The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of the person's employment or duties for acts,

errors, or omissions occurring within the person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. Nothing in this subsection shall be construed to protect any person from suit or liability for any damage, loss, injury, or liability caused by the intentional or wilful and wanton misconduct of the person.

(c) The interstate commission shall defend the executive director or the employees or representatives of the interstate commission and, subject to the approval of the attorney general of the state represented by any commissioner of a compacting state, shall defend the commissioner or the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities; provided that the actual or alleged act, error, or omission did not result from intentional or wilful and wanton misconduct on the part of the person.

(d) The interstate commission shall indemnify and hold the commissioner of a compacting state, or the commissioner's representatives or employees, or the interstate commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against those persons arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that those persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities; provided that the actual or alleged act, error, or omission did not result from intentional or wilful and wanton misconduct on the part of such persons.

ARTICLE VI

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(a) The interstate commission shall adopt and publish rules to effectively and efficiently achieve the 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 Procedure Act, 1981, 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 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.

(d) Not later than sixty days after a rule is adopted, any interested person may file a petition in the United States District Court for the District of Columbia or in the federal district court where the interstate commission's principal office is located for judicial review of the rule. If the court finds that the interstate commission's action is not supported by substantial evidence in the

rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this subsection, evidence is substantial if it would be considered substantial evidence under the Model State Administrative Procedure Act.

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

(f) Upon determination by the interstate commission that a state of emergency exists, the commission may adopt an emergency rule that becomes effective immediately upon adoption; provided that the usual rulemaking procedures provided in this article shall be retroactively applied to the rule as soon as reasonably possible, but no later than ninety days after the effective date of the emergency rule.

**ARTICLE VII
OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION
BY THE INTERSTATE COMMISSION**

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

(b) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. This compact and the rules adopted under this compact shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact that may affect the powers, responsibilities, or actions of the interstate commission, the commission is entitled to receive all service of process in the proceeding, and has standing to intervene in the proceeding for all purposes.

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

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

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

**ARTICLE VIII
FINANCE**

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

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

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

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

(d) The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws; provided that all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a licensed certified and licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the interstate commission.

ARTICLE IX THE STATE COUNCIL

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

- (1) One member of the house of representatives, appointed by the speaker of the house of representatives;
- (2) One member of the senate, appointed by the senate president;
- (3) One member of the judiciary appointed by the chief justice of the supreme court;
- (4) The executive director of the office of youth services, or the director's designee;
- (5) One member from the general public representing victims' groups, appointed by the governor, with the advice and consent of the senate;
- (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 that may be determined by the council, including development of policy concerning operations and procedures of the compact within the state. The council shall also have the authority to appoint a member other than the compact administrator to cast a vote on behalf of the State at meetings of the interstate commission in which the compact administrator is absent.

(c) Expenditures by the council, including the amount fixed annually as the equal contribution of each member to the compact, shall be made upon

warrants issued by the state comptroller based upon vouchers approved by any one of the commissioners. A proposed program for the State's continuing participation in the activities of the interstate commission for juvenile supervision, including a budget request, shall be submitted by the commissioners to each regular session of the legislature.

ARTICLE X

COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

(a) Any state, as defined in article II of this compact, is eligible to become a compacting state.

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

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

ARTICLE XI

WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

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

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

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

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

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

Section B. Technical assistance, fines, suspension, termination, and default.

(a) If the interstate commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or the bylaws or duly adopted rules, the interstate commission may impose any or all of the following penalties:

- (1) Remedial training and technical assistance as directed by the interstate commission;
- (2) Alternative dispute resolution;
- (3) Fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the interstate commission; and

(4) Suspension or termination of membership in the compact, which shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted and the interstate commission has therefore determined that the offending state is in default. Immediate notice of suspension shall be given by the interstate commission to the governor, the chief justice or the chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council. The grounds for default include but are not limited to failure of a compacting state to perform obligations or responsibilities imposed upon it by this compact, the bylaws, or duly adopted rules and any other grounds designated in commission bylaws and rules. The interstate commission shall immediately notify the defaulting state in writing of the penalty imposed by the interstate commission and of the default pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination.

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

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

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

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

Section C. Judicial enforcement. The interstate commission, by majority vote of the members, may initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district court where the interstate commission has its offices, to enforce compliance with the provisions of the compact, and its duly adopted rules and bylaws, against any compacting state in default. If judicial enforcement is necessary, the prevailing party shall be awarded all costs of the litigation, including reasonable attorney's fees.

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

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

**ARTICLE XII
SEVERABILITY AND CONSTRUCTION**

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

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

**ARTICLE XIII
BINDING EFFECT OF COMPACT AND OTHER LAWS**

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

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

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

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

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

(d) If any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by the provision upon the interstate commission shall be ineffective and the obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which the obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective."

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

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

- (1) Concerning any person who is alleged to have committed an act prior to achieving eighteen years of age which would constitute a violation or attempted violation of any federal, state, or local law or municipal ordinance. Regardless of where the violation occurred, jurisdiction may be taken by the court of the circuit where the person resides, is living, or is found, or in which the offense is alleged to have occurred[-];
- (2) Concerning any child living or found within the circuit:
 - (A) Who is neglected as to or deprived of educational services because of the failure of any person or agency to exercise that degree of care for which it is legally responsible;
 - (B) Who is beyond the control of the child's parent or other custodian or whose behavior is injurious to the child's own or others' welfare;
 - (C) Who is neither attending school nor receiving educational services required by law whether through the child's own misbehavior or nonattendance or otherwise; or

- (D) Who is in violation of curfew[-];
- (3) To determine the custody of any child or appoint a guardian of any child[-];
 - (4) For the adoption of a person under chapter 578[-];
 - (5) For the termination of parental rights under sections 571-61 to 571-63[-];
 - (6) For judicial consent to the marriage, employment, or enlistment of a child, when such consent is required by law[-];
 - (7) For the treatment or commitment of a mentally defective, mentally retarded, or mentally ill child[-];
 - (8) Under the Interstate Compact on Juveniles under chapter 582[-] or the Interstate Compact for Juveniles under chapter :
 - (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;~~] 281-101.5 or 571-11(2), 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 longer than twenty-four hours, excluding weekends and holidays, unless the child is subject to the provisions of chapter 582, Interstate Compact on Juveniles, or chapter , Interstate Compact for Juveniles, or is allegedly in or has already been adjudicated for a violation of a valid court order, as provided under the federal Juvenile Justice and Delinquency Prevention Act of 1974, as amended.”

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$12,000 or so much thereof as may be necessary for fiscal year 2009-2010 and the sum of \$12,480 or so much thereof as may be necessary for fiscal year 2010-2011 for the State’s share of the administrative expenses of the Interstate Compact for Juvenile.

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

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2009.

(Approved June 5, 2009.)