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**HOUSE BILL 46**

**46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003**

**INTRODUCED BY**

Al Park

**AN ACT**

**RELATING TO JUVENILE JUSTICE; ENACTING THE INTERSTATE COMPACT  
FOR JUVENILES; REPEALING SECTIONS OF THE NMSA 1978.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

The Interstate Compact for Juveniles is enacted into law and entered into on behalf of New Mexico with any and all other states legally joining therein in a form substantially as follows:

**THE INTERSTATE COMPACT FOR JUVENILES**

**ARTICLE I – Purpose**

A. 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

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

9 B. It is the purpose of this compact, through means  
10 of joint and cooperative action among the compacting states,  
11 to:

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

17 (2) ensure that the public safety interests of  
18 the citizens, including the victims of juvenile offenders, in  
19 both the sending and receiving states are adequately protected;

20 (3) return juveniles who have run away,  
21 absconded or escaped from supervision or control or have been  
22 accused of an offense to the state requesting their return;

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

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

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

5 (7) establish procedures to manage the  
6 movement between states of juvenile offenders released to the  
7 community under the jurisdiction of courts, juvenile  
8 departments or any other criminal or juvenile justice agency  
9 that has jurisdiction over juvenile offenders;

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

13 (9) establish procedures to resolve pending  
14 charges against juvenile offenders prior to transfer or release  
15 to the community under the terms of this compact;

16 (10) establish a system of uniform data  
17 collection on information pertaining to juveniles subject to  
18 this compact that allows access by authorized juvenile justice  
19 and criminal justice officials, and regular reporting of  
20 compact activities to heads of state executive, judicial and  
21 legislative branches and juvenile and criminal justice  
22 administrators;

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

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1 (12) coordinate training and education  
2 regarding the regulation of interstate movement of juveniles  
3 for officials involved in that activity; and

4 (13) coordinate the implementation and  
5 operation of the compact with the Interstate Compact on the  
6 Placement of Children, the Interstate Compact for Adult  
7 Offender Supervision and other compacts affecting juveniles,  
8 particularly in those cases where concurrent or overlapping  
9 supervision issues arise.

10 C. It is the policy of the compacting states that  
11 the activities conducted by the interstate commission created  
12 herein are the formation of public policies and therefore are  
13 public business. Furthermore, the compacting states shall  
14 cooperate and observe their individual and collective duties  
15 and responsibilities for the prompt return and acceptance of  
16 juveniles subject to the provisions of this compact.

17 D. The provisions of this compact shall be  
18 reasonably and liberally construed to accomplish the purposes  
19 and policies of the compact.

20 ARTICLE II - Definitions

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

23 A. "bylaws" means those bylaws established by the  
24 interstate commission for its governance or for directing or  
25 controlling its actions or conduct;

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1           B. "commissioner" means the voting representative  
2 of each compacting state appointed pursuant to Article III of  
3 this compact;

4           C. "compact administrator" means the individual in  
5 each compacting state appointed pursuant to the terms of this  
6 compact, responsible for the administration and management of  
7 the state's supervision and transfer of juveniles subject to  
8 the terms of this compact, the rules adopted by the interstate  
9 commission and policies adopted by the state council under this  
10 compact;

11           D. "compacting state" means any state that has  
12 enacted the enabling legislation for this compact;

13           E. "court" means any court having jurisdiction over  
14 delinquent, neglected or dependent children;

15           F. "deputy compact administrator" means the  
16 individual, if any, in each compacting state appointed to act  
17 on behalf of a compact administrator pursuant to the terms of  
18 this compact and who is responsible for the administration and  
19 management of the state's supervision and transfer of juveniles  
20 subject to the terms of this compact, the rules adopted by the  
21 interstate commission and the policies adopted by the state  
22 council under this compact;

23           G. "interstate commission" means the interstate  
24 commission for juveniles created by Article III of this  
25 compact;

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1           H. "juvenile" means a person defined as a juvenile  
2 in any member state or by the rules of the interstate  
3 commission, including:

4                   (1) an accused delinquent, who is a person  
5 charged with an offense that, if committed by an adult, would  
6 be a criminal offense;

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

10                   (3) an accused status offender, who is a  
11 person charged with an offense that would not be a criminal  
12 offense if committed by an adult;

13                   (4) an adjudicated status offender, who is a  
14 person found to have committed an offense that would not be a  
15 criminal offense if committed by an adult; and

16                   (5) a non-offender, who is a person in need of  
17 supervision who has not been accused or adjudicated as a status  
18 offender or delinquent;

19           I. "noncompacting state" means any state that has  
20 not enacted the enabling legislation for this compact;

21           J. "probation or parole" means any kind of  
22 supervision or conditional release of juveniles authorized  
23 under the laws of the compacting states;

24           K. "rule" means a written statement by the  
25 interstate commission promulgated pursuant to Article VI of

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1 this compact that is of general applicability, that implements,  
2 interprets or prescribes a policy or provision of the compact  
3 or an organizational, procedural or practice requirement of the  
4 commission, and that has the force and effect of statutory law  
5 in a compacting state. "Rule" includes the amendment, repeal  
6 or suspension of an existing rule; and

7 L. "state" means a state of the United States, the  
8 District of Columbia, the Commonwealth of Puerto Rico, the  
9 United States Virgin Islands, Guam, American Samoa and the  
10 Northern Marianas Islands.

11 ARTICLE III – Interstate Commission for Juveniles

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

20 B. The interstate commission shall consist of  
21 commissioners appointed by the appropriate appointing authority  
22 in each state pursuant to the rules and requirements of each  
23 compacting state and in consultation with the "state council  
24 for interstate juvenile supervision" created hereunder. The  
25 commissioner shall be the compact administrator, deputy compact

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1 administrator or designee from that state who shall serve on  
2 the interstate commission in such capacity under or pursuant to  
3 the applicable law of the compacting state.

4 C. In addition to the commissioners who are the  
5 voting representatives of each state, the interstate commission  
6 shall include individuals who are not commissioners, but who  
7 are members of interested organizations. Noncommissioner  
8 members shall include a member of the national organizations of  
9 governors, legislators, state chief justices, attorneys  
10 general, a member of the interstate compact for adult offender  
11 supervision, a member of the interstate compact for the  
12 placement of children, juvenile justice and juvenile  
13 corrections officials and crime victims. All noncommissioner  
14 members of the interstate commission shall be ex-officio,  
15 nonvoting members. The interstate commission may provide in  
16 its bylaws for 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  
20 of the interstate commission is entitled to one vote. A  
21 majority of the compacting states shall constitute a quorum for  
22 the transaction of business, unless a larger quorum is required  
23 by the bylaws of the interstate commission.

24 E. The interstate commission shall meet at least  
25 once each calendar year.

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1 The chairperson may call additional meetings and, upon the  
2 request of a simple majority of the compacting states, shall  
3 call additional meetings. Public notice shall be given of all  
4 meetings and meetings shall be open to the public.

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

17 G. Each member of the interstate commission shall  
18 have the right and power to cast a vote to which that  
19 compacting state is entitled and to participate in the business  
20 and affairs of the interstate commission. A member shall vote  
21 in person and shall not delegate a vote to another compacting  
22 state. However, a commissioner, in consultation with the state  
23 council, shall appoint another authorized representative, in  
24 the absence of the commissioner from that state, to cast a vote  
25 on behalf of the compacting state at a specified meeting. The

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1 bylaws may provide for members' participation in meetings by  
2 telephone or other means of telecommunication or electronic  
3 communication.

4 H. The interstate commission's bylaws shall  
5 establish conditions and procedures under which the interstate  
6 commission shall make its information and official records  
7 available to the public for inspection or copying. The  
8 interstate commission may exempt from disclosure any  
9 information or official records to the extent they would  
10 adversely affect personal privacy rights or proprietary  
11 interests.

12 I. Public notice shall be given of all meetings and  
13 all meetings shall be open to the public, except as set forth  
14 in the rules or as otherwise provided in the compact. The  
15 interstate commission and any of its committees may close a  
16 meeting to the public when a determination is made by a  
17 two-thirds' vote that an open meeting would be likely to:

- 18 (1) relate solely to the interstate  
19 commission's internal personnel practices and procedures;  
20 (2) disclose matters specifically exempted  
21 from disclosure by statute;  
22 (3) disclose trade secrets or commercial or  
23 financial information that is privileged or confidential;  
24 (4) involve accusing a person of a crime or  
25 formally censuring a person;

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1 (5) disclose information of a personal nature  
2 when disclosure would constitute a clearly unwarranted invasion  
3 of personal privacy;

4 (6) disclose investigative records compiled  
5 for law enforcement purposes;

6 (7) disclose information contained in or  
7 related to examination reports, operating reports or condition  
8 reports prepared by, prepared on behalf of or prepared for the  
9 use of the interstate commission with respect to a regulated  
10 person or entity for the purpose of regulation or supervision  
11 of the person or entity;

12 (8) disclose information, the premature  
13 disclosure of which would significantly endanger the stability  
14 of a regulated person or entity; or

15 (9) specifically relate to the interstate  
16 commission's issuance of a subpoena or its participation in a  
17 civil action or other legal proceeding.

18 J. For every meeting closed pursuant to the  
19 provisions of Subsection I of this article, the interstate  
20 commission's legal counsel shall publicly certify that, in the  
21 legal counsel's opinion, the meeting may be closed to the  
22 public and shall reference each relevant provision set forth in  
23 Subsection I of this article. The interstate commission shall  
24 keep minutes that fully and clearly describe all matters  
25 discussed in a meeting and shall provide a full and accurate

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1 summary of actions taken and the reasons therefore, including a  
2 description of each of the views expressed on an item and the  
3 record of a roll call vote. All documents considered in  
4 connection with an action shall be identified in the minutes.

5 K. The interstate commission shall collect  
6 standardized data concerning the interstate movement of  
7 juveniles, as directed through its rules, which shall specify  
8 the data to be collected, the means of collection, data  
9 exchange and reporting requirements. The methods of data  
10 collection, data exchange and reporting shall, insofar as it is  
11 reasonably possible, conform to up-to-date technology and  
12 coordinate with information functions used by the appropriate  
13 repository of records.

14 ARTICLE IV -- Powers and Duties of the Interstate Commission  
15 The interstate commission shall:

16 A. provide for dispute resolution among compacting  
17 states;

18 B. promulgate rules to effect the purposes and  
19 obligations enumerated in this compact, which shall have the  
20 force and effect of statutory law and shall be binding in the  
21 compacting states to the extent and in the manner provided in  
22 this compact;

23 C. oversee, supervise and coordinate the interstate  
24 movement of juveniles subject to the terms of this compact and  
25 any bylaws adopted and rules promulgated by the interstate

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1        commi ssi on;

2                    D.    enforce compliance with compact provisions, the  
3        rules promulgated by the interstate commission and bylaws,  
4        using all necessary and proper means, including the use of  
5        judicial process;

6                    E.    establish and maintain offices that shall be  
7        located within one or more of the compacting states;

8                    F.    purchase and maintain insurance and bonds;

9                    G.    borrow, accept, hire or contract for personnel  
10        services;

11                   H.    establish and appoint committees and hire staff  
12        that it deems necessary for carrying out its functions,  
13        including an executive committee that shall have the power to  
14        act on behalf of the interstate commission in carrying out its  
15        powers and duties;

16                   I.    elect or appoint officers, attorneys, employees,  
17        agents or consultants and to fix their compensation, define  
18        their duties and determine their qualifications; and to  
19        establish the interstate commission's personnel policies and  
20        programs relating to conflicts of interest, rates of  
21        compensation and qualifications of personnel;

22                   J.    accept any and all donations and grants of  
23        money, equipment, supplies, materials and services and to  
24        receive, utilize and dispose of same;

25                   K.    lease, purchase, accept contributions or

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1 donations of, or otherwise to own, hold, improve or use any  
2 property, real, personal or mixed;

3 L. sell, convey, mortgage, pledge, lease, exchange,  
4 abandon or otherwise dispose of any property, real, personal or  
5 mixed;

6 M. establish a budget and make expenditures and  
7 levy dues as provided in Article VIII of this compact;

8 N. sue and be sued;

9 O. adopt a seal and bylaws governing the management  
10 and operation of the interstate commission;

11 P. perform functions as may be necessary or  
12 appropriate to achieve the purposes of this compact;

13 Q. report annually to the legislatures, governors,  
14 judiciary and state councils of the compacting states  
15 concerning the activities of the interstate commission during  
16 the preceding year. The reports shall also include  
17 recommendations that may have been adopted by the interstate  
18 commission;

19 R. coordinate education, training and public  
20 awareness regarding the interstate movement of juveniles for  
21 officials involved in that activity;

22 S. establish uniform standards for the reporting,  
23 collecting and exchanging of data; and

24 T. maintain its corporate books and records in  
25 accordance with the bylaws.

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1 administration of the compact; and

2 (8) establishing standards and procedures for  
3 compliance and technical assistance in carrying out the  
4 compact.

5 B. The interstate commission shall, by a majority  
6 of the members, elect annually from among its members a  
7 chairperson and a vice chairperson, each of whom shall have  
8 such authority and duties as may be specified in the bylaws.  
9 The chairperson or, in the chairperson's absence or disability,  
10 the vice chairperson shall preside at all meetings of the  
11 interstate commission. The officers elected shall serve  
12 without compensation or remuneration from the interstate  
13 commission; provided that, subject to the availability of  
14 budgeted funds, the officers shall be reimbursed for ordinary  
15 and necessary costs and expenses incurred by them in the  
16 performance of their duties and responsibilities as officers of  
17 the interstate commission.

18 C. The interstate commission, through its executive  
19 committee, shall appoint or retain an executive director, upon  
20 terms and conditions and for compensation as the interstate  
21 commission may deem appropriate. The executive director shall  
22 serve as secretary to the interstate commission, shall not be a  
23 member and shall hire and supervise other staff as may be  
24 authorized by the interstate commission.

25 D. The commission's executive director and

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1 employees shall be immune from suit and liability, either  
2 personally or in their official capacity, for any claim for  
3 damage to or loss of property or personal injury or other civil  
4 liability caused or arising out of or relating to any actual or  
5 alleged act, error or omission that occurred within the scope  
6 of interstate commission employment, or that the person had a  
7 reasonable basis for believing occurred within the scope of  
8 commission employment, duties or responsibilities; provided  
9 that the person shall not be protected from suit or liability  
10 for any damage, loss, injury or liability caused by the  
11 intentional or willful and wanton misconduct of the person.

12 E. The liability of any commissioner, or the  
13 employee or agent of a commissioner, acting within the scope of  
14 the person's employment or duties for acts, errors or omissions  
15 occurring within the person's state may not exceed the limits  
16 of liability set forth under the constitution and laws of that  
17 state for state officials, employees and agents. Nothing in  
18 this subsection shall be construed to protect the person from  
19 suit or liability for any damage, loss, injury or liability  
20 caused by the intentional or willful and wanton misconduct of  
21 the person.

22 F. The interstate commission shall defend the  
23 executive director or the employees or representatives of the  
24 interstate commission and, subject to the approval of the  
25 attorney general of the state represented by a commissioner of

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1 a compacting state, shall defend the commissioner or the  
2 commissioner's representatives or employees in a civil action  
3 seeking to impose liability arising out of an actual or alleged  
4 act, error or omission that occurred within the scope of  
5 interstate commission employment, duties or responsibilities,  
6 or that the defendant had a reasonable basis for believing  
7 occurred within the scope of interstate commission employment,  
8 duties, or responsibilities; provided that the actual or  
9 alleged act, error or omission did not result from intentional  
10 or willful and wanton misconduct on the part of the person.

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

24 ARTICLE VI – Rulemaking Functions of the Interstate Commission

25 A. The interstate commission shall promulgate and

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1 publish rules in order to effectively and efficiently achieve  
2 the purposes of the compact.

3 B. Rulemaking shall occur pursuant to the criteria  
4 set forth in this article and the bylaws and rules adopted  
5 pursuant thereto. Rulemaking shall substantially conform to  
6 the principles of the "Model State Administrative Procedures  
7 Act", 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or  
8 other administrative procedures act, as the interstate  
9 commission deems appropriate, consistent with due process  
10 requirements under the United States constitution as now or  
11 hereafter interpreted by the United States supreme court. All  
12 rules and amendments shall become binding as of the date  
13 specified, as published with the final version of the rule as  
14 approved by the interstate commission.

15 C. When promulgating a rule, the interstate  
16 commission shall, at a minimum:

17 (1) publish the proposed rule's entire text  
18 stating the reasons for that proposed rule;

19 (2) allow and invite persons to submit written  
20 data, facts, opinions and arguments, which information shall be  
21 added to the record and be made publicly available;

22 (3) provide an opportunity for an informal  
23 hearing if petitioned by ten or more persons; and

24 (4) promulgate a final rule and its effective  
25 date, if appropriate, based on input from state or local

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1 officials or interested parties.

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

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

18 F. The existing rules governing the operation of  
19 the interstate compact on juveniles superseded by this act  
20 shall be null and void twelve months after the first meeting of  
21 the interstate commission created hereunder.

22 G. Upon determination by the interstate commission  
23 that a state of emergency exists, it may promulgate an  
24 emergency rule that shall become effective immediately upon  
25 adoption, provided that the usual rule making procedures

1 provided hereunder shall be retroactively applied to the rule  
2 as soon as reasonably possible, but no later than ninety days  
3 after the effective date of the emergency rule.

4 ARTICLE VII – Oversight, Enforcement And Dispute Resolution by  
5 The Interstate Commission

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

11 B. The courts and executive agencies in each  
12 compacting state shall enforce this compact and shall take all  
13 actions necessary and appropriate to effectuate the compact's  
14 purposes and intent. The provisions of this compact and the  
15 rules promulgated hereunder shall be received by all the  
16 judges, public officers, commissions and departments of the  
17 state government as evidence of the authorized statute and  
18 administrative rules. All courts shall take judicial notice of  
19 the compact and the rules. In a judicial or administrative  
20 proceeding in a compacting state pertaining to the subject  
21 matter of this compact that may affect the powers,  
22 responsibilities or actions of the interstate commission, it  
23 shall be entitled to receive all service of process in the  
24 proceeding and shall have standing to intervene in the  
25 proceeding for all purposes.

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1 C. The compacting states shall report to the  
2 interstate commission on all issues and activities necessary  
3 for the administration of the compact as well as issues and  
4 activities pertaining to compliance with the provisions of the  
5 compact and its bylaws and rules.

6 D. The interstate commission shall attempt, upon  
7 the request of a compacting state, to resolve any disputes or  
8 other issues that are subject to the compact and that may arise  
9 among compacting states and between compacting and  
10 noncompacting states. The commission shall promulgate a rule  
11 providing for both mediation and binding dispute resolution for  
12 disputes between the compacting states.

13 E. The interstate commission, in the reasonable  
14 exercise of its discretion, shall enforce the provisions and  
15 rules of this compact using any or all means set forth in  
16 Article XI of this compact.

17 ARTICLE VIII – Finance

18 A. The interstate commission shall pay or provide  
19 for the payment of the reasonable expenses of its  
20 establishment, organization and ongoing activities.

21 B. The interstate commission shall levy on and  
22 collect an annual assessment from each compacting state to  
23 cover the cost of the internal operations and activities of the  
24 interstate commission and its staff, which must be in a total  
25 amount sufficient to cover the interstate commission's annual

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1 budget as approved each year. The aggregate annual assessment  
2 amount shall be allocated based upon a formula to be determined  
3 by the interstate commission, taking into consideration the  
4 population of each compacting state and the volume of  
5 interstate movement of juveniles in each compacting state and  
6 shall promulgate a rule binding upon all compacting states that  
7 governs the assessment.

8 C. The interstate commission shall not incur  
9 obligations of any kind prior to securing the funds adequate to  
10 meet the same; nor shall the interstate commission pledge the  
11 credit of any of the compacting states, except by and with the  
12 authority of the compacting state.

13 D. The interstate commission shall keep accurate  
14 accounts of all receipts and disbursements. The receipts and  
15 disbursements of the interstate commission shall be subject to  
16 the audit and accounting procedures established under its  
17 bylaws. However, all receipts and disbursements of funds  
18 handled by the interstate commission shall be audited yearly by  
19 a certified or licensed public accountant and the report of the  
20 audit shall be included in and become part of the annual report  
21 of the interstate commission.

22 ARTICLE IX – The State Council

23 Each member state shall create a "state council for  
24 interstate juvenile supervision". While each state may  
25 determine the membership of its own state council, its

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1 membership must include at least one representative from the  
2 legislative, judicial and executive branches of government,  
3 victims groups and the compact administrator, deputy compact  
4 administrator or designee. Each compacting state retains the  
5 right to determine the qualifications of the compact  
6 administrator or deputy compact administrator. Each state  
7 council will advise and may exercise oversight and advocacy  
8 concerning that state's participation in interstate commission  
9 activities and other duties as may be determined by that state,  
10 including development of policy concerning operations and  
11 procedures of the compact within that state.

12 ARTICLE X – Compacting States, Effective Date and Amendment

13 A. Any state is eligible to become a compacting  
14 state. The compact shall become effective and binding upon  
15 legislative enactment of the compact into law by no less than  
16 thirty-five of the states. The initial effective date shall be  
17 the later of July 1, 2004 or upon enactment into law by the  
18 thirty-fifth jurisdiction. Thereafter, it shall become  
19 effective and binding as to any other compacting state upon  
20 enactment of the compact into law by that state. The governors  
21 of noncompacting states or their designees shall be invited to  
22 participate in the activities of the interstate commission on a  
23 nonvoting basis prior to adoption of the compact by all states  
24 and territories of the United States.

25 B. The interstate commission may propose amendments

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1 to the compact for enactment by the compacting states. An  
2 amendment shall not become effective and binding upon the  
3 interstate commission and the compacting states unless and  
4 until it is enacted into law by unanimous consent of the  
5 compacting states.

6 ARTICLE XI – Withdrawal, Default, Termination and Judicial  
7 Enforcement

8 A. Once effective, the compact shall continue in  
9 force and remain binding upon each and every compacting state;  
10 provided that a compacting state may withdraw from the compact  
11 by specifically repealing the statute that enacted the compact  
12 into law. The effective date of withdrawal is the effective  
13 date of the repeal. The withdrawing state shall immediately  
14 notify the chairperson of the interstate commission in writing  
15 upon the introduction of legislation repealing this compact in  
16 the withdrawing state. The interstate commission shall notify  
17 the other compacting states of the withdrawing state's intent  
18 to withdraw within sixty days of its receipt thereof. The  
19 withdrawing state is responsible for all assessments,  
20 obligations and liabilities incurred through the effective date  
21 of withdrawal, including any obligations, the performance of  
22 which extend beyond the effective date of withdrawal.  
23 Reinstatement following withdrawal of a compacting state shall  
24 occur upon the withdrawing state reenacting the compact or upon  
25 a later date as determined by the interstate commission.

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1           B. If the interstate commission determines that a  
2 compacting state has at any time defaulted in the performance  
3 of its obligations or responsibilities under this compact, or  
4 the bylaws or duly promulgated rules, the interstate commission  
5 may impose any or all of the following penalties:

6                   (1) remedial training and technical assistance  
7 as directed by the interstate commission;

8                   (2) alternative dispute resolution;

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

12                   (4) suspension or termination of membership in  
13 the compact, which shall be imposed only after all other  
14 reasonable means of securing compliance under the bylaws and  
15 rules have been exhausted and the interstate commission has  
16 therefore determined that the offending state is in default.

17 Immediate notice of suspension shall be given by the interstate  
18 commission to the governor, the chief justice or the chief  
19 judicial officer of the state, the majority and minority  
20 leaders of the defaulting state's legislature and the state  
21 council.

22           C. The grounds for default include failure of a  
23 compacting state to perform obligations or responsibilities  
24 imposed upon it by this compact, the bylaws or duly promulgated  
25 rules and any other grounds designated in commission bylaws and

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1 rules. The interstate commission shall immediately notify the  
2 defaulting state in writing of the penalty imposed by the  
3 interstate commission and of the default pending a cure of the  
4 default. The commission shall stipulate the conditions and the  
5 time period within which the defaulting state must cure its  
6 default. If the defaulting state fails to cure the default  
7 within the time period specified by the interstate commission,  
8 the defaulting state shall be terminated from the compact upon  
9 an affirmative vote of a majority of the compacting states and  
10 all rights, privileges and benefits conferred by this compact  
11 shall be terminated from the effective date of termination.

12 D. Within sixty days of the effective date of  
13 termination of a defaulting state, the interstate commission  
14 shall notify the governor, the chief justice or chief judicial  
15 officer of the state, the majority and minority leaders of the  
16 defaulting state's legislature and the state council of the  
17 termination.

18 E. The defaulting state is responsible for all  
19 assessments, obligations and liabilities incurred through the  
20 effective date of termination, including any obligations that  
21 extend beyond the effective date of termination.

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

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1           G. Reinstatement following termination of a  
2 compacting state requires both a reenactment of the compact by  
3 the defaulting state and the approval of the interstate  
4 commission pursuant to the rules.

5           H. The interstate commission may, by majority vote  
6 of the members, initiate legal action in the United States  
7 district court for the District of Columbia or, at the  
8 discretion of the interstate commission, in the federal  
9 district where the interstate commission has its offices, to  
10 enforce compliance with the provisions of the compact, its duly  
11 promulgated rules and bylaws, against any compacting state in  
12 default. In the event judicial enforcement is necessary, the  
13 prevailing party shall be awarded all costs of the litigation,  
14 including reasonable attorneys fees.

15           I. The compact dissolves effective upon the date of  
16 the withdrawal or default of the compacting state, which  
17 reduces membership in the compact to one compacting state.  
18 Upon the dissolution of this compact, the compact becomes null  
19 and void and shall be of no further force or effect, and the  
20 business and affairs of the interstate commission shall be  
21 concluded and any surplus funds shall be distributed in  
22 accordance with the bylaws.

23           ARTICLE XII – Severability and Construction

24           A. The provisions of this compact shall be  
25 severable and if any phrase, clause, sentence or provision is

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1 deemed unenforceable, the remaining provisions of the compact  
2 shall be enforceable.

3 B. The provisions of this compact shall be  
4 liberally construed to effectuate its purposes.

5 ARTICLE XIII – Binding Effect of Compact and Other Laws

6 A. Nothing herein prevents the enforcement of any  
7 other law of a compacting state that is not inconsistent with  
8 this compact. All compacting states' laws other than state  
9 constitutions and other interstate compacts conflicting with  
10 this compact are superseded to the extent of the conflict.

11 B. All lawful actions of the interstate commission,  
12 including all rules and bylaws promulgated by the interstate  
13 commission, are binding upon the compacting states.

14 C. All agreements between the interstate commission  
15 and the compacting states are binding in accordance with their  
16 terms.

17 D. Upon the request of a party to a conflict over  
18 meaning or interpretation of interstate commission actions, and  
19 upon a majority vote of the compacting states, the interstate  
20 commission may issue advisory opinions regarding the meaning or  
21 interpretation.

22 E. In the event a provision of this compact exceeds  
23 the constitutional limits imposed on the legislature of a  
24 compacting state, the obligations, duties, powers or  
25 jurisdiction sought to be conferred by the provision upon the

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

6 ARTICLE XIV – Repeal

7 Sections 32A-10-1 through 32A-10-8 NMSA 1978 (being Laws  
8 1973, Chapter 238, Sections 1 through 8, as amended) are  
9 repealed.

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