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# 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 on  
15 probation or parole and who have absconded, escaped, or run away  
16 from supervision and control and in so doing have endangered  
17 their own safety and the safety of others. The compacting states  
18 also recognize that each state is responsible for the safe return



1 of juveniles who have run away from home and in doing so have  
2 left their state of residence. The compacting states also  
3 recognize that Congress, by enacting the Crime Control Act, 4  
4 U.S.C. Section 112 (1965), has authorized and encouraged compacts  
5 for cooperative efforts and mutual assistance in the prevention  
6 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 adequately  
17 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;



- 1 (4) Make contracts for the cooperative  
2 institutionalization in public facilities in member  
3 states for delinquent youth needing special services;
- 4 (5) Provide for the effective tracking and supervision of  
5 juveniles;
- 6 (6) Equitably allocate the costs, benefits, and  
7 obligations of the compacting states;
- 8 (7) Establish procedures to manage the movement between  
9 states of juvenile offenders released to the community  
10 under the jurisdiction of courts, juvenile departments,  
11 or any other criminal or juvenile justice agency that  
12 has jurisdiction over juvenile offenders;
- 13 (8) Ensure immediate notice to jurisdictions where defined  
14 offenders are authorized to travel or to relocate  
15 across state lines;
- 16 (9) Establish procedures to resolve pending charges  
17 (detainers) against juvenile offenders prior to  
18 transfer or release to the community under the terms of  
19 this compact;
- 20 (10) Establish a system of uniform data collection on  
21 information pertaining to juveniles subject to this  
22 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 and  
21 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 compact.

4 **ARTICLE II**

5 **DEFINITIONS**

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

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

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

17 "Commissioner" means the voting representative of each  
18 compacting state appointed pursuant to article III of this  
19 compact.

20 "Compacting state" means any state that has enacted the  
21 enabling legislation for this compact.



1 "Court" means any court having jurisdiction over delinquent,  
2 neglected, or dependent children.

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

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

12 "Juvenile" means any person defined as a juvenile in any  
13 member state or by the rules of the interstate commission,  
14 including:

- 15 (1) An accused delinquent, who is a person charged with an  
16 offense that, if committed by an adult, would be a  
17 criminal offense;
- 18 (2) An adjudicated delinquent, who is a person found to  
19 have committed an offense that, if committed by an  
20 adult, would be a criminal offense;



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

10           Noncompacting state" means any state that has not enacted

11 the enabling legislation for this compact.

12           Probation or parole" means any kind of supervision or

13 conditional release of juveniles authorized under the laws of the

14 compacting states.

15           Rule" means a written statement by the interstate

16 commission adopted pursuant to article VI of this compact that is

17 of general applicability, implements, interprets, or prescribes a

18 policy or provision of the compact, or an organizational,

19 procedural, or practice requirement of the Commission, and has

20 the force and effect of statutory law in a compacting state, and

21 includes the amendment, repeal, or suspension of an existing

22 rule.

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

5 **ARTICLE III**

6 **INTERSTATE COMMISSION FOR JUVENILES**

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

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





1 commission in such capacity under or pursuant to the applicable  
2 law of the compacting state.

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

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



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

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

18 (g) Each member of the interstate commission may cast a  
19 vote to which that compacting state is entitled and participate  
20 in the business and affairs of the interstate commission. A  
21 member shall vote in person and shall not delegate a vote to  
22 another compacting state; provided that a commissioner, in

1 consultation with the state council, shall appoint another  
2 authorized representative, in the absence of the commissioner  
3 from that state, to cast a vote on behalf of the compacting state  
4 at a specified meeting. The bylaws may provide for members'  
5 participation in meetings by telephone or other means of  
6 telecommunication or electronic communication.

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

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

20 (1) Relate solely to the interstate commission's internal  
21 personnel practices and procedures;



- 1           (2) Disclose matters specifically exempted from disclosure  
2                    by statute;
- 3           (3) Disclose trade secrets or commercial or financial  
4                    information which is privileged or confidential;
- 5           (4) Involve accusing any person of a crime, or formally  
6                    censuring any person;
- 7           (5) Disclose information of a personal nature where  
8                    disclosure would constitute a clearly unwarranted  
9                    invasion of personal privacy;
- 10          (6) Disclose investigative records compiled for law  
11                   enforcement purposes;
- 12          (7) Disclose information contained in or related to  
13                   examination, operating or condition reports prepared  
14                   by, or on behalf of, or for the use of, the interstate  
15                   commission with respect to a regulated person or entity  
16                   for the purpose of regulation or supervision of such  
17                   person or entity;
- 18          (8) Disclose information, the premature disclosure of which  
19                   would significantly endanger the stability of a  
20                   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 that  
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 the minutes.

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



1 technology and coordinate their information functions with the  
2 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 by  
16 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, including  
20 but not limited to, the use of judicial process;

21 (5) To establish and maintain offices that shall be located  
22 within one or more of the compacting states;



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





- 1 (19) To establish uniform standards for reporting,
- 2 collecting, and exchanging of data; and
- 3 (20) To maintain the interstate commission's corporate books
- 4 and records in accordance with the bylaws.

**ARTICLE V**

**ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION**

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

- 13 (1) Establishing the fiscal year of the interstate
- 14 commission;
- 15 (2) Establishing an executive committee and other
- 16 necessary committees;
- 17 (3) Providing for the establishment of committees
- 18 governing the general or specific delegation of any
- 19 authority or function of the interstate commission;
- 20 (4) Providing reasonable procedures for calling and
- 21 conducting meetings of the interstate commission, and
- 22 ensuring reasonable notice of each 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 voting members, shall elect  
14 annually from among its voting members a chairperson and a vice  
15 chairperson, each of whom shall have authority and duties  
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 the  
20 interstate commission; provided that, subject to the availability  
21 of budgeted funds, the officers shall be reimbursed for any  
22 ordinary and necessary costs and expenses incurred by them in the



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

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

10 **Section C. Qualified immunity, defense, and**

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



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

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



1 or omission did not result from intentional or willful and wanton  
2 misconduct on the part of the person.

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

16 **ARTICLE VI**

17 **RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION**

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

21 (b) Rulemaking shall occur pursuant to the criteria set  
22 forth in this article and the bylaws and rules adopted pursuant



1 thereto. Rulemaking shall substantially conform to the  
2 principles of the Model State Administrative Procedure Act, 1981  
3 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or other  
4 administrative procedures act, as the interstate commission  
5 deems appropriate, consistent with due process requirements  
6 under the Constitution of the United States. All rules and  
7 amendments shall become binding as of the date specified, as  
8 published with the final version of the rule as approved by the  
9 commission.

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

- 11 (1) Publish the proposed rule's entire text stating the  
12 reason for the proposed rule;
- 13 (2) Allow persons to submit written data, facts, opinions,  
14 and arguments, which information shall be added to the  
15 record, and be made publicly available;
- 16 (3) Provide an opportunity for an informal hearing if  
17 petitioned by ten or more persons; and
- 18 (4) Adopt a final rule and its effective date, if  
19 appropriate, based on comment from state or local  
20 officials, or interested parties.

21 (d) Not later than sixty days after a rule is adopted, any  
22 interested person may file a petition in the United States



1 District Court for the District of Columbia or in the federal  
2 district court where the interstate commission's principal  
3 office is located for judicial review of the rule. If the court  
4 finds that the interstate commission's action is not supported  
5 by substantial evidence in the rulemaking record, the court  
6 shall hold the rule unlawful and set it aside. For purposes of  
7 this subsection, evidence is substantial if it would be  
8 considered substantial evidence under the Model State  
9 Administrative Procedures Act.

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

15 (f) The existing rules governing the operation of the  
16 interstate compact on juveniles superseded by this act are void  
17 twelve months after the first meeting of the interstate  
18 commission.

19 (g) Upon determination by the interstate commission that a  
20 state of emergency exists, the commission may adopt an emergency  
21 rule that becomes effective immediately upon adoption; provided  
22 that the usual rulemaking procedures provided in this article



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

4 **ARTICLE VII**

5 **OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION**

6 **BY THE INTERSTATE COMMISSION**

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

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





1 the powers, responsibilities, or actions of the interstate  
2 commission, the commission is entitled to receive all service of  
3 process in the proceeding, and has standing to intervene in the  
4 proceeding for all purposes.

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

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

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

21 **ARTICLE VIII**

22 **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 a rule binding upon all  
14 compacting states that governs 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 bylaws;  
2 provided that all receipts and disbursements of funds handled by  
3 the interstate commission shall be audited yearly by a licensed  
4 certified public accountant, and the report of the audit shall be  
5 included in and become part of the annual report of the  
6 interstate commission.

7 **ARTICLE IX**

8 **COMPACT ADMINISTRATOR AND STATE COUNCIL**

9 (a) The chief court administrator of the first circuit, or  
10 a designee, shall serve as the compact administrator. The  
11 compact administrator or designee shall serve as the State's  
12 commissioner to the interstate commission.

13 (b) The Hawaii state council for interstate juvenile  
14 supervision is established, consisting of six members. The  
15 compact administrator or designee is a member of the state  
16 council and serves as chairperson. The remaining members of the  
17 state council shall be composed of the following:

- 18 (1) One member of the house of representatives, appointed  
19 by the speaker of the house of representatives;  
20 (2) One member of the senate, appointed by the senate  
21 president;



1 (3) One member of the judiciary, appointed by the chief  
2 justice of the supreme court;

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

5 (5) One member from the general public representing  
6 victims' groups, appointed by the governor.

7 (c) With the exception of the compact administrator or  
8 designee, the term of office of a member shall be four years.

9 (d) The state council may advise the compact administrator  
10 or designee on participation in the commission activities and  
11 administration of the compact.

12 **ARTICLE X**

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

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

19 (b) The compact shall become effective and binding upon  
20 legislative enactment of the compact into law by no less than  
21 thirty-five of the states. The initial effective date shall be  
22 the later of July 1, 2004, or upon enactment into law by the



1 thirty-fifth jurisdiction. Thereafter, it shall become effective  
 2 and binding, as to any other compacting state, upon enactment of  
 3 the compact into law by that state. The governors of nonmember  
 4 states or their designees shall be invited to participate in the  
 5 activities of the interstate commission on a nonvoting basis  
 6 prior to adoption of the compact by all states and territories of  
 7 the United States.

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

13 **ARTICLE XI**

14 **WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT**

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

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



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

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

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

16 **Section B. Technical assistance, fines, suspension,**  
17 **termination, and default.** (a) If the interstate commission  
18 determines that any compacting state has defaulted in the  
19 performance of any of its obligations or responsibilities under  
20 this compact, or the bylaws or duly adopted rules, the interstate  
21 commission may impose any or all of the following penalties:



- 1 (1) Remedial training and technical assistance as directed  
2 by the interstate commission;
- 3 (2) Alternative dispute resolution;
- 4 (3) Fines, fees, and costs in amounts deemed to be  
5 reasonable by the interstate commission; and
- 6 (4) Suspension or termination of membership in the compact,  
7 which shall be imposed only after all other reasonable  
8 means of securing compliance under the bylaws and rules  
9 have been exhausted and the interstate commission has  
10 therefore determined that the offending state is in  
11 default. Immediate notice of suspension shall be given  
12 by the interstate commission to the governor, the chief  
13 justice or the chief judicial officer of the State, the  
14 majority and minority leaders of the defaulting state's  
15 legislature, and the state council. The grounds for  
16 default include, but are not limited to, failure of a  
17 compacting state to perform obligations or  
18 responsibilities imposed upon it by this compact, the  
19 bylaws, or duly adopted rules and any other grounds  
20 designated in commission bylaws and rules. The  
21 interstate commission shall immediately notify the  
22 defaulting state in writing of the penalty imposed by



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

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

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





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

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

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

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



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

6 **ARTICLE XII**

7 **SEVERABILITY AND CONSTRUCTION**

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

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

14 **ARTICLE XIII**

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

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

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



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

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

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

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

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



1           "§571-11 **Jurisdiction; children.** Except as otherwise  
2 provided in this chapter, the court shall have exclusive  
3 original jurisdiction in proceedings:

4           (1) Concerning any person who is alleged to have committed  
5 an act prior to achieving eighteen years of age which  
6 would constitute a violation or attempted violation of  
7 any federal, state, or local law or municipal  
8 ordinance. Regardless of where the violation  
9 occurred, jurisdiction may be taken by the court of  
10 the circuit where the person resides, is living, or is  
11 found, or in which the offense is alleged to have  
12 occurred.

13           (2) Concerning any child living or found within the  
14 circuit:

15           (A) Who is neglected as to or deprived of educational  
16 services because of the failure of any person or  
17 agency to exercise that degree of care for which  
18 it is legally responsible;

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

- 1 (C) Who is neither attending school nor receiving
- 2 educational services required by law whether
- 3 through the child's own misbehavior or
- 4 nonattendance or otherwise; or
- 5 (D) Who is in violation of curfew.
- 6 (3) To determine the custody of any child or appoint a
- 7 guardian of any child.
- 8 (4) For the adoption of a person under chapter 578.
- 9 (5) For the termination of parental rights under sections
- 10 571-61 to 571-63.
- 11 (6) For judicial consent to the marriage, employment, or
- 12 enlistment of a child, when such consent is required
- 13 by law.
- 14 (7) For the treatment or commitment of a mentally
- 15 defective, mentally retarded, or mentally ill child.
- 16 (8) Under the Interstate Compact on Juveniles under
- 17 chapter 582.
- 18 (9) For the protection of any child under chapter 587.
- 19 (10) For a change of name as provided in section 574-
- 20 5(a)(2)(C).
- 21 (11) Under the interstate compact for juveniles established
- 22 in chapter \_\_\_\_\_."



1 SECTION 3. New statutory material is underscored.

2 SECTION 4. This Act shall take effect:

3 (1) Upon the enactment into law of the interstate compact  
4 for juveniles by the thirty-fifth state of the first  
5 thirty-five states enacting the compact into law; and

6 (2) Upon the statewide publication of an executive order by  
7 the governor stating that the interstate compact for  
8 juveniles has taken effect according to the provisions  
9 of article X(b) of the compact. The governor shall  
10 transmit copies of the executive order to the president  
11 of the senate, the speaker of the house of  
12 representatives, and the chief justice of the supreme  
13 court.

14

INTRODUCED BY: Calvin K. Day

BY REQUEST

JAN 29 2006



HB2493

**Report Title:**

Juveniles; Interstate Compact

**Description:**

Enacts interstate compact for juveniles to be adopted under certain conditions.

