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



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

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

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



- 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  
11              departments, or any other criminal or juvenile justice  
12              agency that 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  
19              of 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  
21 and observe their individual and collective duties and  
22 responsibilities for the prompt return and acceptance of



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

5 **ARTICLE II**

6 **DEFINITIONS**

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

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

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

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



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

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

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

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

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

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



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

13           "Noncompacting state" means any state that has not enacted

14 the enabling legislation for this compact.

15           "Probation or parole" means any kind of supervision or

16 conditional release of juveniles authorized under the laws of

17 the compacting states.

18           "Rule" means a written statement by the interstate

19 commission adopted pursuant to article VI of this compact that

20 is of general applicability, implements, interprets, or

21 prescribes a policy or provision of the compact or an

22 organizational, procedural, or practice requirement of the



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

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

### 8 ARTICLE III

#### 9 INTERSTATE COMMISSION FOR JUVENILES

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

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





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

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

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



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

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

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

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



1           (g) Each member of the interstate commission may cast a  
2 vote to which that compacting state is entitled and participate  
3 in the business and affairs of the interstate commission. A  
4 member shall vote in person and shall not delegate a vote to  
5 another compacting state; provided that a commissioner, in  
6 consultation with the state council, shall appoint another  
7 authorized representative, in the absence of the commissioner  
8 from that state, to cast a vote on behalf of the compacting  
9 state at a specified meeting. The bylaws may provide for  
10 members' participation in meetings by telephone or other means  
11 of telecommunication or electronic communication.

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

19           (i) Public notice shall be given of all meetings and all  
20 meetings shall be open to the public, except as set forth in the  
21 rules or as otherwise provided in the compact. The interstate  
22 commission and any of its committees may close a meeting to the



1 public where it determines by two-thirds vote that an open  
2 meeting would be likely to:

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



1 (8) Disclose information, the premature disclosure of  
2 which would significantly endanger the stability of a  
3 regulated person or entity; or

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

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

19 (k) The interstate commission shall collect standardized  
20 data concerning the interstate movement of juveniles as directed  
21 through its rules that shall specify the data to be collected,  
22 the means of collection and data exchange, and reporting



1 requirements. The methods of data collection, exchange, and  
2 reporting, insofar as is reasonably possible, shall conform to  
3 up-to-date technology and the interstate commission shall  
4 coordinate their information functions with the appropriate  
5 repository of records.

6 **ARTICLE IV**

7 **POWERS AND DUTIES OF THE INTERSTATE COMMISSION**

8 The interstate commission shall have the following powers  
9 and duties:

- 10 (1) To provide for dispute resolution among compacting  
11 states;
- 12 (2) To adopt rules to effect the purposes and obligations  
13 as enumerated in this compact, which shall have the  
14 force and effect of statutory law and shall be binding  
15 in the compacting states to the extent and in the  
16 manner provided in this compact;
- 17 (3) To oversee, supervise, and coordinate the interstate  
18 movement of juveniles subject to the terms of this  
19 compact and any bylaws adopted and rules adopted by  
20 the interstate commission;
- 21 (4) To enforce compliance with the compact provisions, the  
22 rules adopted by the interstate commission, and the



1           bylaws, using all necessary and proper means,  
2           including the use of judicial process;  
3       (5) To establish and maintain offices that shall be  
4           located within one or more of the compacting states;  
5       (6) To purchase and maintain insurance and bonds;  
6       (7) To borrow, accept, hire, or contract for personnel  
7           services;  
8       (8) To establish and appoint committees and hire staff  
9           that the commission deems necessary for the carrying  
10          out of its functions, including an executive committee  
11          as required by article III, which shall have the power  
12          to act on behalf of the interstate commission in  
13          carrying out its powers and duties hereunder;  
14       (9) To elect or appoint officers, attorneys, employees,  
15          agents, or consultants; to fix their compensation,  
16          define their duties, and determine their  
17          qualifications; and to establish the interstate  
18          commission's personnel policies and programs relating  
19          to, inter alia, conflicts of interest, rates of  
20          compensation, and qualifications of personnel;



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





- 1 (18) To coordinate education, training, and public
- 2 awareness regarding the interstate movement of
- 3 juveniles for officials involved in such activity;
- 4 (19) To establish uniform standards for reporting,
- 5 collecting, and exchanging of data; and
- 6 (20) To maintain the interstate commission's corporate
- 7 books and records in accordance with the bylaws.

8 **ARTICLE V**

9 **ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION**

10 **Section A. Bylaws.** The interstate commission, by a

11 majority of the members present and voting, and within twelve

12 months after the first interstate commission meeting, shall

13 adopt bylaws to govern its conduct as may be necessary or

14 appropriate to carry out the purposes of the compact, including:

- 15 (1) Establishing the fiscal year of the interstate
- 16 commission;
- 17 (2) Establishing an executive committee and any other
- 18 committees that may be necessary;
- 19 (3) Providing for the establishment of committees
- 20 governing any general or specific delegation of any
- 21 authority or function of the interstate commission;



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

15 **Section B. Officers and staff.** (a) The interstate  
16 commission, by a majority of the members, shall elect annually  
17 from among its members a chairperson and a vice chairperson,  
18 each of whom shall have such authority and duties as may be  
19 specified in the bylaws. The chairperson or, in the  
20 chairperson's absence or disability, the vice chairperson, shall  
21 preside at all meetings of the commission. The officers so  
22 elected shall serve without compensation or remuneration from



1 the interstate commission; provided that, subject to the  
2 availability of budgeted funds, the officers shall be reimbursed  
3 for any ordinary and necessary costs and expenses incurred by  
4 them in the performance of their duties and responsibilities as  
5 officers of the commission.

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

14 **Section C. Qualified immunity, defense, and**  
15 **indemnification.** (a) The interstate commission's executive  
16 director and employees shall be immune from suit and liability,  
17 either personally or in their official capacities, for any claim  
18 for damage to or loss of property or personal injury or other  
19 civil liability caused, arising out of, or relating to any  
20 actual or alleged act, error, or omission that occurred, or that  
21 the person had a reasonable basis for believing occurred within  
22 the scope of commission employment, duties, or responsibilities;



1 provided that nothing in this subsection shall be construed to  
2 protect any person from suit or liability for any damage, loss,  
3 injury, or liability caused by the intentional or wilful and  
4 wanton misconduct of the person.

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

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



1 defendant had a reasonable basis for believing occurred within  
2 the scope of interstate commission employment, duties, or  
3 responsibilities; provided that the actual or alleged act,  
4 error, or omission did not result from intentional or wilful and  
5 wanton misconduct on the part of the person.

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

19



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;



1           (3) Provide an opportunity for an informal hearing if  
2                   petitioned by ten or more persons; and

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

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

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



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

8 ARTICLE VII

9 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

10 BY THE INTERSTATE COMMISSION

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

17 (b) The courts and executive agencies in each compacting  
 18 state shall enforce this compact and shall take all actions  
 19 necessary and appropriate to effectuate the compact's purposes  
 20 and intent. This compact and the rules adopted under this  
 21 compact shall be received by all the judges, public officers,  
 22 commissions, and departments of the state government as evidence





1 of the authorized statute and administrative rules. All courts  
2 shall take judicial notice of the compact and the rules. In any  
3 judicial or administrative proceeding in a compacting state  
4 pertaining to the subject matter of this compact that may affect  
5 the powers, responsibilities, or actions of the interstate  
6 commission, the commission is entitled to receive all service of  
7 process in the proceeding, and has standing to intervene in the  
8 proceeding for all purposes.

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

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

21 (c) The interstate commission, in the reasonable exercise  
22 of its discretion, shall enforce the provisions and rules of



1 this compact using any or all means set forth in article XI of  
2 this compact.

3 **ARTICLE VIII**

4 **FINANCE**

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

8 (b) The interstate commission shall levy and collect an  
9 annual assessment from each compacting state to cover the cost  
10 of the internal operations and activities of the commission and  
11 its staff that shall be in a total amount sufficient to cover  
12 the interstate commission's annual budget as approved each year.  
13 The aggregate annual assessment amount shall be allocated based  
14 upon a formula to be determined by the interstate commission,  
15 taking into consideration the population of each compacting  
16 state and the volume of interstate movement of juveniles in each  
17 compacting state, and shall adopt rules binding upon all  
18 compacting states that govern the assessment.

19 (c) The interstate commission shall not incur any  
20 obligations of any kind prior to securing the funds adequate to  
21 meet the same; nor shall the interstate commission pledge the



1 credit of any of the compacting states, except by and with the  
2 authority of the compacting state.

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

12 **ARTICLE IX**

13 **THE STATE COUNCIL**

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

- 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;
- 5 (5) One member from the general public representing  
6 victims' groups, appointed by the governor, with the  
7 advice and consent of the senate;
- 8 (6) A prosecuting attorney or the prosecuting attorney's  
9 designee; provided that this appointment shall rotate  
10 every four years among the several counties, as  
11 follows: Honolulu, Hawaii, Maui, and Kauai;
- 12 (7) The attorney general, or the attorney general's  
13 designee;
- 14 (8) The state public defender, or the state public  
15 defender's designee; and
- 16 (9) The compact administrator, appointed by the governor,  
17 with the advice and consent of the senate and the  
18 chief justice.

19 With the exception of the members designated in paragraphs  
20 (4), (6), (7), (8), and (9), the terms of all members shall be  
21 for four years; provided that the victims' group representative  
22 and the compact administrator shall be subject to confirmation



1 proceedings under section 26-34. No person, except the compact  
2 administrator, shall be appointed consecutively to more than two  
3 terms.

4 (b) The state council shall exercise oversight and  
5 advocacy concerning its participation in commission activities  
6 and other duties that may be determined by the council,  
7 including development of policy concerning operations and  
8 procedures of the compact within the state. The council shall  
9 also have the authority to appoint a member other than the  
10 compact administrator to cast a vote on behalf of the State at  
11 meetings of the interstate commission in which the compact  
12 administrator is absent.

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

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**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.



1 ARTICLE XI

2 WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

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

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

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

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

21 (e) Reinstatement following withdrawal of any compacting  
22 state shall occur upon the withdrawing state reenacting the



1 compact or upon such later date as determined by the interstate  
2 commission.

3       **Section B. Technical assistance, fines, suspension,**  
4 **termination, and default.** (a) If the interstate commission  
5 determines that any compacting state has at any time defaulted  
6 in the performance of any of its obligations or responsibilities  
7 under this compact, or the bylaws or duly adopted rules, the  
8 interstate commission may impose any or all of the following  
9 penalties:

- 10       (1) Remedial training and technical assistance as directed  
11             by the interstate commission;
- 12       (2) Alternative dispute resolution;
- 13       (3) Fines, fees, and costs in such amounts as are deemed  
14             to be reasonable as fixed by the interstate  
15             commission; and
- 16       (4) Suspension or termination of membership in the  
17             compact, which shall be imposed only after all other  
18             reasonable means of securing compliance under the  
19             bylaws and rules have been exhausted and the  
20             interstate commission has therefore determined that  
21             the offending state is in default. Immediate notice  
22             of suspension shall be given by the interstate





1 commission to the governor, the chief justice or the  
2 chief judicial officer of the state, the majority and  
3 minority leaders of the defaulting state's  
4 legislature, and the state council. The grounds for  
5 default include but are not limited to failure of a  
6 compacting state to perform obligations or  
7 responsibilities imposed upon it by this compact, the  
8 bylaws, or duly adopted rules and any other grounds  
9 designated in commission bylaws and rules. The  
10 interstate commission shall immediately notify the  
11 defaulting state in writing of the penalty imposed by  
12 the interstate commission and of the default pending a  
13 cure of the default. The commission shall stipulate  
14 the conditions and the time period within which the  
15 defaulting state must cure its default. If the  
16 defaulting state fails to cure the default within the  
17 time period specified by the commission, the  
18 defaulting state shall be terminated from the compact  
19 upon an affirmative vote of a majority of the  
20 compacting states and all rights, privileges, and  
21 benefits conferred by this compact shall be terminated  
22 from the effective date of termination.



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

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

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

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

19 **Section C. Judicial enforcement.** The interstate  
20 commission, by majority vote of the members, may initiate legal  
21 action in the United States District Court for the District of  
22 Columbia or, at the discretion of the interstate commission, in



1 the federal district court where the interstate commission has  
2 its offices, to enforce compliance with the provisions of the  
3 compact, and its duly adopted rules and bylaws, against any  
4 compacting state in default. If judicial enforcement is  
5 necessary, the prevailing party shall be awarded all costs of  
6 the litigation, including reasonable attorney's fees.

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

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

16 **ARTICLE XII**

17 **SEVERABILITY AND CONSTRUCTION**

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



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

3 ARTICLE XIII

4 BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

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

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



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

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

12 "§571-11 **Jurisdiction; children.** Except as otherwise  
13 provided in this chapter, the court shall have exclusive  
14 original jurisdiction in proceedings:

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



- 1 found, or in which the offense is alleged to have  
2 occurred[-] i
- 3 (2) Concerning any child living or found within the  
4 circuit:
- 5 (A) Who is neglected as to or deprived of educational  
6 services because of the failure of any person or  
7 agency to exercise that degree of care for which  
8 it is legally responsible;
- 9 (B) Who is beyond the control of the child's parent  
10 or other custodian or whose behavior is injurious  
11 to the child's own or others' welfare;
- 12 (C) Who is neither attending school nor receiving  
13 educational services required by law whether  
14 through the child's own misbehavior or  
15 nonattendance or otherwise; or
- 16 (D) Who is in violation of curfew[-] i
- 17 (3) To determine the custody of any child or appoint a  
18 guardian of any child[-] i
- 19 (4) For the adoption of a person under chapter 578[-] i
- 20 (5) For the termination of parental rights under sections  
21 571-61 to 571-63[-] i



- 1           (6) For judicial consent to the marriage, employment, or
- 2           enlistment of a child, when such consent is required
- 3           by law[-] i
- 4           (7) For the treatment or commitment of a mentally
- 5           defective, mentally retarded, or mentally ill
- 6           child[-] i
- 7           (8) Under the Interstate Compact on Juveniles under
- 8           chapter 582[-] or the Interstate Compact for Juveniles
- 9           under chapter        ; i
- 10          (9) For the protection of any child under chapter 587[-] i
- 11          and
- 12          (10) For a change of name as provided in section
- 13          574-5(a)(2)(C)."

14           SECTION 3. Section 571-32, Hawaii Revised Statutes, is

15 amended by amending subsection (e) to read as follows:

16           "(e) No child may be held after the filing of a petition

17 or motion, as specified in subsection (d) [~~of this section~~],

18 unless an order for continued detention or shelter has been made

19 by a judge after a court hearing. If there is probable cause to

20 believe that the child comes within section 571-11(1), the child

21 may be securely detained, following a court hearing, in a

22 detention facility for juveniles or may be held in a shelter.

1 If there is probable cause to believe that the child comes  
2 within section [~~571-11(2), or section 281-101.5,~~] 281-101.5 or  
3 571-11(2), the child may be held, following a court hearing, in  
4 a shelter but may not be securely detained in a detention  
5 facility for juveniles for longer than twenty-four hours,  
6 excluding weekends and holidays, unless the child is subject to  
7 the provisions of chapter 582, Interstate Compact on Juveniles,  
8 or chapter \_\_\_\_\_, Interstate Compact for Juveniles, or is  
9 allegedly in or has already been adjudicated for a violation of  
10 a valid court order, as provided under the federal Juvenile  
11 Justice and Delinquency Prevention Act of 1974, as amended."

12 SECTION 4. There is appropriated out of the general  
13 revenues of the State of Hawaii the sum of \$ \_\_\_\_\_ or so much  
14 thereof as may be necessary for fiscal year 2009-2010 and the  
15 same sum or so much thereof as may be necessary for fiscal year  
16 2010-2011 for the State's share of the administrative expenses  
17 of the Interstate Compact for Juveniles.

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

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

22 SECTION 6. This Act shall take effect on July 1, 2020.





S.B. NO. 109  
S.D. 2  
H.D. 3

**Report Title:**

Juvenile Interstate Compact

**Description:**

Adopts the new Interstate Compact for Juveniles and establishes the family court's jurisdiction under the compact. Appropriates funds. Takes effect July 1, 2020. (SB109 HD3)

