
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 the 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 this
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, who is responsible for the administration and
18 management of the state's supervision and transfer of juveniles
19 subject to the terms of this compact, the rules adopted by the
20 interstate commission, and the policies adopted by the state
21 council under 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, who
8 is responsible for the administration and management of the
9 state's supervision and transfer of juveniles subject to the
10 terms of this compact, the rules adopted by the interstate
11 commission, and the policies adopted by the state council under
12 this 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 would be a criminal offense if committed
20 by an adult;



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

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

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

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



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

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

8 **ARTICLE III**

9 **INTERSTATE COMMISSION FOR JUVENILES**

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

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



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

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

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



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

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

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

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



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

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

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



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



1 (9) Specifically relate to the interstate commission's
2 issuance of a subpoena or its participation in a civil
3 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 to
7 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 such minutes.

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



1 their information functions with the appropriate repository of
2 records, insofar as is reasonably possible.

3 **ARTICLE IV**

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

5 The commission shall have the following powers and duties:

- 6 (1) To provide for dispute resolution among compacting
7 states;
- 8 (2) To adopt rules to effect the purposes and obligations
9 as enumerated in this compact, which shall have the
10 force and effect of statutory law and shall be binding
11 in the compacting states to the extent and in the
12 manner provided in this compact;
- 13 (3) To oversee, supervise, and coordinate the interstate
14 movement of juveniles subject to the terms of this
15 compact and any bylaws adopted and rules promulgated
16 by the interstate commission;
- 17 (4) To enforce compliance with the compact provisions, the
18 rules adopted by the interstate commission, and the
19 bylaws, using all necessary and proper means,
20 including the use of judicial process;
- 21 (5) To establish and maintain offices that shall be
22 located 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
5 that the commission deems necessary for the carrying
6 out of its functions, including an executive committee
7 as required by article III, that shall have the power
8 to act on behalf of the interstate commission in
9 carrying out its powers and duties hereunder;
- 10 (9) To elect or appoint such officers, attorneys,
11 employees, agents, or consultants; to fix their
12 compensation, define their duties, and determine their
13 qualifications; and to establish the interstate
14 commission's personnel policies and programs relating
15 to, inter alia, conflicts of interest, rates of
16 compensation, and qualifications of personnel;
- 17 (10) To accept, receive, utilize, and dispose of any and
18 all donations and grants of money, equipment,
19 supplies, materials, and services;
- 20 (11) To lease, purchase, accept contributions or donations
21 of, or otherwise to own, hold, improve, or use any
22 property, real, personal, or mixed;



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



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

3 **ARTICLE V**

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

5 (a) **Bylaws.** The interstate commission, by a majority of
6 the members present and voting and within twelve months after
7 the first interstate commission meeting, shall adopt bylaws to
8 govern its conduct as may be necessary or appropriate to carry
9 out the purposes of the compact, including:

- 10 (1) Establishing the fiscal year of the interstate
11 commission;
- 12 (2) Establishing an executive committee and such other
13 committees as may be necessary;
- 14 (3) Providing for the establishment of committees
15 governing any general or specific delegation of any
16 authority or function of the interstate commission;
- 17 (4) Providing reasonable procedures for calling and
18 conducting meetings of the interstate commission and
19 ensuring reasonable notice of each such meeting;
- 20 (5) Establishing the titles and responsibilities of the
21 officers of the interstate commission;



- 1 (6) Providing a mechanism for concluding the operations of
2 the interstate commission and the return of any
3 surplus funds that may exist upon the termination of
4 the compact after the payment and reserving of all of
5 its debts and obligations;
- 6 (7) Providing "start-up" rules for initial administration
7 of the compact; and
- 8 (8) Establishing standards and procedures for compliance
9 and technical assistance in carrying out the compact.
- 10 (b) **Officers and staff.** The interstate commission:
- 11 (1) By a majority of the members, shall elect annually
12 from among its members a chairperson and a vice
13 chairperson, each of whom shall have such authority
14 and duties as may be specified in the bylaws. The
15 chairperson or in the chairperson's absence or
16 disability, the vice chairperson, shall preside at all
17 meetings of the commission. The officers so elected
18 shall serve without compensation or remuneration from
19 the interstate commission; provided that, subject to
20 the availability of budgeted funds, the officers shall
21 be reimbursed for any ordinary and necessary costs and
22 expenses incurred by them in the performance of their



1 duties and responsibilities as officers of the
2 commission; and

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

11 (c) **Qualified immunity, defense, and indemnification.**

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



1 from suit or liability for any damage, loss, injury,
2 or liability caused by the intentional or wilful and
3 wanton misconduct of the person.

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

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



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

- 10 (4) The interstate commission shall indemnify and hold the
11 commissioner of a compacting state, or the
12 commissioner's representatives or employees, or the
13 interstate commission's representatives or employees,
14 harmless in the amount of any settlement or judgment
15 obtained against those persons arising out of any
16 actual or alleged act, error, or omission that
17 occurred within the scope of interstate commission
18 employment, duties, or responsibilities, or that those
19 persons had a reasonable basis for believing occurred
20 within the scope of interstate commission employment,
21 duties, or responsibilities, provided that the actual
22 or alleged act, error, or omission did not result from



1 intentional or wilful and wanton misconduct on the
2 part of those persons.

3 **ARTICLE VI**

4 **RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION**

5 (a) The interstate commission shall adopt and publish
6 rules in order to effectively and efficiently achieve the
7 purposes of the compact.

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

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

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



1 (2) Allow persons to submit written data, facts, opinions,
2 and arguments that shall be added to the record and
3 made publicly available;

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

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

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

20 (e) If a majority of the legislatures of the compacting
21 states rejects a rule, those states, by enactment of a statute
22 or resolution in the same manner used to adopt the compact, may



1 cause the rule to have no further force and effect in any
2 compacting state.

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

10 **ARTICLE VII**

11 **OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION**

12 **BY THE INTERSTATE COMMISSION**

13 (a) **Oversight.**

14 (1) The interstate commission shall oversee the
15 administration and operations of the interstate movement of
16 juveniles subject to this compact in the compacting states and
17 shall monitor activities being administered in noncompacting
18 states that may significantly affect compacting states.

19 (2) The courts and executive agencies in each compacting
20 state shall enforce this compact and shall take all actions
21 necessary and appropriate to effectuate the compact's purposes



1 and intent. This compact and the rules adopted under this
2 compact shall be received by all the judges, public officers,
3 commissions, and departments of the state government as evidence
4 of the authorized statute and administrative rules. All courts
5 shall take judicial notice of the compact and the rules. In any
6 judicial or administrative proceeding in a compacting state
7 pertaining to the subject matter of this compact that may affect
8 the powers, responsibilities, or actions of the interstate
9 commission, the commission shall be entitled to receive all
10 service of process in the proceeding, and shall have standing to
11 intervene in the proceeding for all purposes.

12 (b) **Dispute resolution.**

13 (1) The compacting states shall report to the interstate
14 commission on all issues and activities necessary for
15 the administration of the compact as well as issues
16 and activities pertaining to compliance with the
17 compact and its bylaws and rules.

18 (2) Upon the request of a compacting state, the interstate
19 commission shall attempt to resolve any disputes or
20 other issues that are subject to the compact and that
21 may arise among compacting states and between
22 compacting and noncompacting states. The commission



1 shall adopt rules providing for both mediation and
2 binding dispute resolution for disputes among the
3 compacting states.

4 (3) In the reasonable exercise of its discretion, the
5 interstate commission shall enforce the provisions and
6 rules of this compact using any or all means set forth
7 in article XI of this compact.

8 **ARTICLE VIII**

9 **FINANCE**

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

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



1 compacting state, and shall adopt rules binding upon all
2 compacting states that govern the assessment.

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

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

17 **ARTICLE IX**

18 **THE STATE COUNCIL**

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



- 1 (1) One member of the house of representatives, appointed
2 by the speaker of the house of representatives;
- 3 (2) One member of the senate, appointed by the senate
4 president;
- 5 (3) One member of the judiciary, appointed by the chief
6 justice of the supreme court;
- 7 (4) The executive director of the office of youth
8 services, or the director's designee;
- 9 (5) One member from the general public representing
10 victims' groups, appointed by the governor;
- 11 (6) A prosecuting attorney or the prosecuting attorney's
12 designee; provided that this appointment shall rotate
13 every four years among the several counties, as
14 follows: Honolulu, Hawaii, Maui, and Kauai;
- 15 (7) The attorney general, or the attorney general's
16 designee;
- 17 (8) The state public defender, or the state public
18 defender's designee; and
- 19 (9) The compact administrator, appointed by the governor,
20 with the advice and consent of the senate and the
21 chief justice.



1 With the exception of the members designated in paragraphs
2 (4), (6), (7), (8), and (9), the terms of all members shall be
3 for four years; provided that the victims' group representative
4 and the compact administrator shall be subject to confirmation
5 proceedings under section 26-34. No person, except the compact
6 administrator, shall be appointed consecutively to more than two
7 terms.

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

17 (c) Expenditures by the council, including the amount
18 fixed annually as the equal contribution of each member to the
19 compact, shall be made upon warrants issued by the state
20 comptroller based upon vouchers approved by any one of the
21 commissioners. A proposed program for the State's continuing
22 participation in the activities of the interstate commission for



1 juvenile supervision, including a budget request, shall be
2 submitted by the commissioners to each regular session of the
3 legislature.

4 **ARTICLE X**

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

6 (a) Any state, the District of Columbia (or its designee),
7 the Commonwealth of Puerto Rico, the United States Virgin
8 Islands, Guam, American Samoa, and the Northern Marianas Islands
9 as defined in article II of this compact is eligible to become a
10 compacting state.

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



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

6 **ARTICLE XI**

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

8 (a) **Withdrawal.**

9 (1) Once effective, the compact shall continue in force
10 and remain binding upon each and every compacting
11 state; provided that a compacting state may withdraw
12 from the compact by specifically repealing the statute
13 which enacted the compact into law.

14 (2) The effective date of withdrawal is the effective date
15 of the repeal.

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



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

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

10 (b) **Technical assistance, fines, suspension, termination,**
11 **and default.**

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

18 (A) Remedial training and technical assistance as
19 directed by the interstate commission;

20 (B) Alternative dispute resolution;



1 (C) Fines, fees, and costs in such amounts as are
2 deemed to be reasonable as fixed by the
3 interstate commission; and

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



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

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

20 (3) The defaulting state is responsible for all
21 assessments, obligations, and liabilities incurred
22 through the effective date of termination including



1 any obligations, the performance of which extends
2 beyond the effective date of termination.

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

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

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

21 (d) **Dissolution of compact.**



1 (1) The compact dissolves effective upon the date of the
2 withdrawal or default of the compacting state, which
3 reduces membership in the compact to one compacting
4 state.

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

10 **ARTICLE XII**

11 **SEVERABILITY AND CONSTRUCTION**

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

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

18 **ARTICLE XIII**

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

20 (a) **Other laws.**



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

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

8 (b) **Binding effect of the compact.**

9 (1) All lawful actions of the interstate commission,
10 including all rules and bylaws adopted by the
11 interstate commission, are binding upon the compacting
12 states.

13 (2) All agreements between the interstate commission and
14 the compacting states are binding in accordance with
15 their terms.

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

21 (4) If any provision of this compact exceeds the
22 constitutional limits imposed on the legislature of



1 any compacting state, the obligations, duties, powers,
2 or jurisdiction sought to be conferred by the
3 provision upon the interstate commission shall be
4 ineffective and such obligations, duties, powers, or
5 jurisdiction shall remain in the compacting state and
6 shall be exercised by the agency thereof to which the
7 obligations, duties, powers, or jurisdiction are
8 delegated by law in effect at the time this compact
9 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[-];
- 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[-];
- 17 (3) To determine the custody of any child or appoint a
18 guardian of any child[-];
- 19 (4) For the adoption of a person under chapter 578[-];
- 20 (5) For the termination of parental rights under sections
21 571-61 to 571-63[-];



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

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

15 "(e) No child may be held after the filing of a petition
16 or motion, as specified in subsection (d) ~~[of this section]~~,
17 unless an order for continued detention or shelter has been made
18 by a judge after a court hearing. If there is probable cause to
19 believe that the child comes within section 571-11(1), the child
20 may be securely detained, following a court hearing, in a
21 detention facility for juveniles or may be held in a shelter.
22 If there is probable cause to believe that the child comes



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

11 SECTION 4. Chapter 582, Hawaii Revised Statutes, is
12 repealed.

13 SECTION 5. There is appropriated out of the general
14 revenues of the State of Hawaii the sum of \$15,000 or so much
15 thereof as may be necessary for fiscal year 2009-2010 and the
16 same sum or so much thereof as may be necessary for fiscal year
17 2010-2011 for the State's share of the administrative expenses
18 of the Interstate Compact for Juveniles.

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

21 SECTION 6. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 7. This Act shall take effect on January 1, 2046.



Report Title:

Juvenile Interstate Compact

Description:

Adopts the new Interstate Compact for Juveniles and establishes the family court's jurisdiction under the compact. (HB297 HD1)

