February 11, 2011

SENATE BILL No. 34

DIGEST OF SB 34 (Updated February 9, 2011 1:08 pm - DI 106)

Citations Affected: IC 11-13; IC 31-30; IC 34-30.

Synopsis: Interstate compact for juveniles. Adopts the interstate compact for juveniles. Creates a national interstate commission for juveniles made up of the compact administrators from states that join the interstate compact. Delegates to the interstate compact the authority to adopt rules concerning the transfer of juvenile probationers and parolees between states. Adds members to the state council for interstate adult offender supervision. Provides that the state council for interstate adult offender supervision is also the council for interstate juvenile supervision. Requires an offender and juvenile offender to pay a $125 application fee to apply for a transfer out of state. Creates a $10 travel permit fee for an offender or delinquent child to travel to another state. Requires counties to establish a county offender transportation fund.

Effective: July 1, 2011.

Zakas, Broden, Head, Randolph

January 5, 2011, read first time and referred to Committee on Rules and Legislative Procedure.
January 13, 2011, amended; reassigned to Committee on Judiciary.
February 10, 2011, amended, reported favorably — Do Pass.

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February 11, 2011

First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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SENATE BILL No. 34

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 11-13-4.5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 1.5. The governor shall enter into a compact on behalf of the state with any other state in the form substantially as set forth in this section.**

ARTICLE I

DEFINITIONS

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

(1) "Bylaws" mean those bylaws established by the interstate commission for its governance or for directing or controlling the interstate commission's actions or conduct.

(2) "Compact administrator" means the individual in each compacting state appointed under the terms of this compact, responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the interstate

commission, and policies adopted by the state council under this compact.

(3) "Compacting state" means any state that has enacted the enabling legislation for this compact.

(4) "Commissioner" means the voting representative of each compacting state appointed under Article II of this compact.

(5) "Court" means any court having jurisdiction over a delinquent, neglected, or dependent child.

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

(7) "Interstate commission" means the interstate commission for juveniles established by this compact.

(8) "Juvenile" means any person defined as a juvenile in any member state or by the rules of the interstate commission, including the following terms and definitions:

(A) "Accused delinquent" means a person charged with an offense that if committed by an adult would be a criminal offense.

(B) "Adjudicated delinquent" means a person found to have committed an offense that if committed by an adult would be a criminal offense.

(C) "Accused status offender" means a person charged with an offense that would not be a criminal offense if committed by an adult.

(D) "Adjudicated status offender" means a person found to have committed an offense that would not be a criminal offense if committed by an adult.

(E) "Nonoffender" means a person in need of supervision who is not an accused or adjudicated status offender or delinquent.

(9) "Noncompacting state" means any state that has not enacted the enabling legislation for this compact.

(10) "Probation or parole" means any kind of supervision or conditional release of juveniles authorized by the laws of the compacting states.

(11) "Rules" means a written statement by the interstate

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commission adopted under Article V of this compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the interstate commission.

(12) "State" means a state of the United States, the District of Columbia, or any other territorial possession of the United States.

ARTICLE II

INTERSTATE COMMISSION FOR JUVENILES

(a) The interstate commission for juveniles is established.

(b) The interstate commission is a body corporate and joint agency of the compacting states. The interstate commission has all the responsibilities, powers, and duties set forth in this section, and additional powers as conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(c) The interstate commission consists of commissioners appointed by the appropriate appointing authority in each state under the rules and requirements of each compacting state and in consultation with the state council for interstate juvenile supervision set forth in this section. The commissioner is the compact administrator, deputy compact administrator, or designee from that state who serves on the interstate commission under the law of the compacting state.

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

(e) Each compacting state represented at any meeting of the interstate commission is entitled to one (1) vote. A majority of the compacting states constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the

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interstate commission.

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

(g) The interstate commission shall establish an executive committee that must include interstate commission officers, members, and others as determined by the bylaws. The executive committee has authority to act on behalf of the interstate commission during periods when the interstate commission is not in session, with the exception of rulemaking or making amendments to the compact. The executive committee oversees the day to day activities managed by the executive director and interstate commission staff, administers enforcement and compliance with the provisions of the compact, its bylaws and rules, and performs other duties as directed by the interstate commission or set forth in the bylaws.

(h) Each member of the interstate commission is entitled to cast a vote and to participate in the business and affairs of the interstate commission. A member shall vote in person and may not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

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

(j) Public notice shall be given of all meetings, and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission and its committees may close a meeting to the public if it determines by two-thirds (2/3) vote that an open meeting would likely:

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

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(2) disclose matters specifically exempted from disclosure by statute;

(3) disclose trade secrets or commercial or financial information that is privileged or confidential;

(4) involve accusing a person of a crime, or formally censuring a person;

(5) disclose information of a personal nature if the disclosure would constitute a clearly unwarranted invasion of personal privacy;

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

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

(8) disclose information prematurely and significantly endanger the stability of a regulated person or entity; or

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

(k) For every meeting closed under subsection (i), the interstate commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemption clause listed in subsection (i). The interstate commission shall keep minutes that describe all matters discussed in each meeting and shall provide a summary of any actions taken. The minutes must also include a description of the views expressed on any item and the record of any roll call vote indicating how each member voted in each vote. All documents considered in connection with any action must be identified in each set of minutes.

(l) The interstate commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rule that shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. The methods of data collection, exchange, and reporting shall conform to modern technology and coordinate the information functions with the appropriate repository of records.

ARTICLE III

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

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The interstate commission has the following powers and duties:

(1) To provide for dispute resolution among compacting states.

(2) To adopt rules that are binding in the compacting states to the extent and in the manner provided in this compact.

(3) To oversee, supervise, and coordinate the interstate movement of juveniles subject to the terms of this compact and any bylaws and rules adopted by the interstate commission.

(4) To enforce compliance with compact provisions, interstate commission rules, and bylaws, using all necessary and proper means, including but not limited to the use of judicial process.

(5) To establish and maintain offices.

(6) To purchase and maintain insurance and bonds.

(7) To borrow, accept, or contract for services of personnel, including, but not limited to, members and their staffs.

(8) To establish and appoint committees and hire staff it considers necessary for the carrying out of its functions, including, but not limited to, an executive committee as required by Article II of this compact that may act on behalf of the interstate commission in carrying out its powers and duties.

(9) To elect or appoint officers, attorneys, employees, agents, or consultants, to fix their compensation, define their duties, and determine their qualifications, and to establish the interstate commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel.

(10) To accept donations and grants of money, equipment, supplies, materials, and services and to receive, use, and dispose of them.

(11) To lease, purchase, accept contributions or donations of, or otherwise own, hold, improve, or use any real, personal, or mixed property.

(12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any real, personal, or mixed property.

(13) To establish a budget and make expenditures and levy dues as provided in Article VII of this compact.

(14) To sue and be sued.

(15) To adopt a seal and suitable bylaws governing the management and operation of the interstate commission.

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(16) To perform functions as necessary or appropriate to achieve the purposes of this compact.

(17) To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the interstate commission during the preceding year. Reports must include any recommendations that may have been adopted by the interstate commission.

(18) To coordinate education, training, and public awareness for officials involved in the interstate movement of juveniles.

(19) To establish uniform standards for the reporting, collecting, and exchanging of data.

(20) The interstate commission must maintain its corporate books and records in accordance with the bylaws.

ARTICLE IV
ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

Part A. Bylaws

The interstate commission shall, by a majority of the members, within twelve (12) months of the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including:

(1) establishing the fiscal year of the interstate commission;

(2) establishing an executive committee and other committees as necessary;

(3) providing reasonable standards and procedures:

(A) for the establishment of committees; and

(B) governing any general or specific delegation of any authority or function of the interstate commission;

(4) providing reasonable procedures for calling and conducting meetings of the interstate commission and ensuring reasonable notice of each meeting;

(5) establishing the titles and responsibilities of the officers of the interstate commission;

(6) providing a mechanism for concluding the operations of the interstate commission and the return of any surplus funds that may exist upon the termination of the compact after the payment and reserving of its debts and obligations;

(7) providing transition rules for a start-up administration of the compact; and

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

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Part B. Officers and Staff

(a) The interstate commission, by a majority of the members, shall elect from among its members a chairperson and a vice chairperson, each of whom has authority and duties as specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice chairperson, shall preside at all meetings of the interstate commission. The officers elected serve without compensation or remuneration from the interstate commission. However, subject to the availability of budgeted funds, the officers are entitled to be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the interstate commission.

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

Part C. Qualified Immunity, Defense, and Indemnification

(a) The members, officers, executive director, and employees of the interstate commission are immune from suit and liability, either personally or in their official capacities, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act, error, or omission that occurs within the scope of interstate commission employment, duties, or responsibilities. However, this subsection may not be construed to protect any person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any person.

(b) The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of the person's employment or duties for acts, errors, or omissions occurring within the person's state may not exceed the limits of liability set forth under the constitution and law of that state for state officials, employees, and agents. This subsection may not be construed to protect any person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any the person.

(c) The interstate commission shall defend the executive director, the executive director's employees and representatives,

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the commissioner of a compacting state, and the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurs within the scope of interstate commission employment, duties, or responsibilities or that the defendant has a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, as long as the actual or alleged act, error, or omission did not result from intentional wrongdoing on the part of the person.

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

ARTICLE V

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

(b) Rulemaking shall occur under the criteria set forth in this article and the bylaws and rules adopted. Rulemaking must substantially conform to the principles of the Model State Administrative Procedures Act, 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or another administrative procedures act the interstate commission considers to be consistent with the due process requirement of the Constitution of the United States as interpreted by the United States Supreme Court.

(c) All rules and amendments become binding as of the date specified in each rule or amendment.

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

(1) publish the entire text of the proposed rule and the reason for the proposed rule;

(2) allow and invite individuals to submit written data, facts, opinions, and arguments, that shall be publicly available;

(3) provide an opportunity for an informal hearing if

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petitioned by ten (10) or more individuals; and

(4) adopt a final rule and its effective date, if appropriate, based on input from state and local officials or other interested parties.

(e) Not later than sixty (60) days after a rule is adopted, any interested person may file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the interstate commission's principal office is located for judicial review of the rule. If the court finds that the interstate commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this subsection, evidence is substantial if it would be considered substantial evidence under the Model State Administrative Procedures Act.

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

(g) The rules governing the operation of the interstate compact on juveniles superceded by this act are void twelve (12) months after the first meeting of the interstate commission created by this compact.

(h) Upon determination by the interstate commission that an emergency exists, it may adopt an emergency rule that becomes effective immediately upon adoption. However, the rulemaking procedures provided under this article shall be applied retroactively to the rule as soon as reasonably possible and not later than ninety (90) days after the effective date of the rule.

ARTICLE VI

OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

Part A. Oversight

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

(b) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules adopted shall be received by all the judges, public officers, commissions, and departments of

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

Part B. Dispute Resolution

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

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

(c) The interstate commission, in the reasonable exercise of its discretion, shall enforce this compact and rules of this compact as set forth in Article X of this compact.

ARTICLE VII

FINANCE

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

(b) The interstate commission shall levy and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the interstate commission and its staff that must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The total annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, taking into consideration the population of the compacting state and the volume of interstate movement of juveniles in each compacting state, and shall adopt a rule binding upon all compacting states that governs the assessment.

(c) The interstate commission may not incur any obligation of any kind before securing the funds adequate to meet the obligation, nor may the interstate commission pledge the credit of any

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compacting state except by and with the authority of the compacting state.

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

ARTICLE VIII

THE STATE COUNCIL

Each member state shall create a state council for interstate juvenile supervision. While each state may determine the membership of its own state council, its membership must include at least one (1) representative from the legislative, judicial, and executive branches of government and victims groups and the compact administrator, deputy compact administrator, or designee. Each compacting state retains the right to determine the qualifications of the compact administrator or deputy compact administrator. Each state council shall advise and may exercise oversight and advocacy concerning the state's participation in interstate commission activities and other duties as may be determined by that state, including, but not limited to, the development of policy concerning operations and procedures of the compact within that state.

ARTICLE IX

COMPACTING STATES

(a) Any state, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands is eligible to become a compacting state.

(b) The compact becomes effective and binding upon legislative enactment of the compact into law by at least thirty-five (35) states. The initial effective date is the later of July 1, 2004, or upon enactment into law by the thirty-fifth jurisdiction. Thereafter, the compact becomes effective and binding on any other compacting state upon enactment of the compact into law by that state. The governors of nonmember states or their designees are invited to participate in interstate commission activities on a nonvoting basis before adoption of the compact by all states and territories of the United States.

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(c) Amendments to the compact may be proposed by the interstate commission for enactment by the compacting states. No amendment becomes effective and binding upon the interstate commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

ARTICLE X

WITHDRAWAL, DEFAULT, TERMINATION, AND JUDICIAL ENFORCEMENT

Part A. Withdrawal

(a) Once effective, the compact continues in force and remains binding upon every compacting state. A compacting state may withdraw from the compact by enacting a statute specifically repealing the statute that enacted the compact into law.

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

(c) The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other compacting states of the withdrawing state's intent to withdraw not later than sixty (60) days after receiving the written notice.

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

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

Part B. Technical Assistance, Fines, Suspension, Termination and Default

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

(1) Remedial training and technical assistance as directed by the interstate commission.

(2) Alternative dispute resolution.

(3) Fines, fees, and costs levied upon the county responsible for the default or upon the state, if the state is responsible for the default, in amounts considered reasonable as fixed by the interstate commission.

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(4) Suspension or termination of membership as described in subsection (b).

(b) Suspension or termination of membership in the compact may be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted. Immediate notice of suspension shall be given by the interstate commission to the governor, the chief justice or the chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council.

(c) The grounds for default include, but are not limited to, failure of a compacting state to perform the obligations or responsibilities imposed upon it by this compact, interstate commission bylaws, or adopted rules. The interstate commission shall immediately notify the defaulting state in writing of the penalty imposed by the interstate commission on the defaulting state pending a cure of the default. The interstate commission shall stipulate the conditions the defaulting state must meet to cure its default, and specify the time when these conditions must be met. If the defaulting state fails to cure the default within the time specified by the interstate commission, in addition to any other penalties imposed in this compact, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compacting states, and all rights, privileges, and benefits conferred by this compact are terminated from the effective date of suspension.

(d) Within sixty (60) days of the effective date of termination of a defaulting state, the interstate commission shall notify the governor, the chief justice or the chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council of the termination.

(e) The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including any obligations that extend beyond the effective date of termination.

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

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

Part C. Judicial Enforcement

The interstate commission may, by majority vote of the

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

Part D. Dissolution of Compact

(a) This compact dissolves effective on the date of the withdrawal or default of the compacting state that reduces membership in the compact to one (1) compacting state.

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

ARTICLE XI

SEVERABILITY AND CONSTRUCTION

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

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

ARTICLE XII

BINDING EFFECT OF COMPACT AND OTHER LAWS

Part A. Other Laws

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

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

Part B. Binding Effects of the Compact

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

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

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

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interpretation.

(d) Any provision of this compact that violates the Constitution of the State of Indiana is ineffective in Indiana.

SECTION 2. IC 11-13-4.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) As used in this section, "council" refers to:

(1) the state council for interstate adult offender supervision described in ~~Article II subdivision (3) of this compact~~ **section 1 of this chapter (Article III of the interstate compact for adult offender supervision); and**

(2) the state council for interstate juvenile supervision described in section 1.5 of this chapter (Article VIII of the interstate compact for juveniles).

(b) The council consists of the following members:

(1) The commissioner of the department of correction.

(2) The executive director of the Indiana judicial center.

(3) The executive director of the Indiana criminal justice institute.

(4) One (1) member of a victim's group appointed by the governor upon recommendation of the executive director of the Indiana criminal justice institute.

(5) The executive director of the Indiana sheriffs' association.

(6) The executive director of the public defender council of Indiana.

(7) The executive director of the prosecuting attorneys council of Indiana.

(8) One (1) member of the general assembly appointed by the chairman of the legislative council. The legislative member serves at the pleasure of the chairman of the legislative council.

(9) The compact administrator, if the compact administrator is not already a member of the council.

(10) The director of the department of child services.

(11) The president of the Indiana council of juvenile and family court judges.

(c) The executive director of the Indiana judicial center shall serve as the chairperson of the council.

(d) The Indiana judicial center shall staff the council.

(e) The council shall meet at the call of the chairperson or upon request by a majority of the members, but at least one (1) time per calendar year.

(f) The commissioner of the department of correction shall appoint sufficient deputy compact administrators to fulfill Indiana's obligations under the interstate compact for adult offender supervision with respect

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to out-of-state offenders who are on parole.

(g) The executive director of the Indiana judicial center shall appoint sufficient deputy compact administrators to fulfill Indiana's obligations under the interstate compact for adult offender supervision with respect to out-of-state offenders who are on probation.

(h) The council has the following duties:

(1) The council shall receive the recommendation of the commissioner of the department of correction and the executive director of the Indiana judicial center concerning the appointment of a compact administrator.

(2) The council shall appoint the compact administrator, who shall serve as commissioner on the interstate commission. If the compact administrator is unable to serve as commissioner at a meeting of the interstate commission, the council shall designate another person to serve in place of the compact administrator.

(3) The council shall oversee activities of the interstate commission.

(4) The council may make recommendations concerning the operation of the interstate compact within Indiana and to facilitate the implementation of the rules and bylaws adopted by the interstate commission.

(5) The council shall carry out the duties of the state council under section 1.5 of this chapter.

(i) The expenses of the council shall be paid from appropriations made to the Indiana judicial center.

(j) Each member of the council who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(k) Each member of the council who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(l) Each member of the council who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel

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allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

(m) A member of the council who is a member of the general assembly serves as a nonvoting member.

(n) The affirmative votes of a majority of the voting members appointed to the council are required for the committee to take action on any measure, including making a recommendation.

SECTION 3. IC 11-13-4.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3.**(a)** The state shall continue to meet its obligations under IC 11-13-4 (the interstate compact for the supervision of parolees and probationers) to those states that:

(1) continue to meet their obligations to the state of Indiana under IC 11-13-4; and

(2) have not approved the interstate compact for adult supervision after this chapter becomes effective.

(b) The state shall continue to meet its obligations under IC 31-37-23 (the interstate compact on juveniles) to those states that:

(1) continue to meet their obligations to the state of Indiana under IC 31-37-23; and

(2) have not approved the interstate compact for juveniles after section 1.5 of this chapter becomes effective.

SECTION 4. IC 11-13-4.5-4, AS AMENDED BY P.L.216-2007, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) Except as provided in subsection (b), an Indiana offender **or delinquent child** on probation or parole who applies to be transferred out of state under the interstate compact for adult supervision **or the interstate compact for juveniles** shall pay an application fee of ~~seventy-five dollars ($75).~~ **one hundred twenty-five dollars ($125).** The application fee shall be used to cover the costs of administering the interstate compact for adult offender supervision **and the interstate compact for juveniles.**

(b) An offender **or delinquent child** who has been found indigent by a trial court at the time the offender applies to be transferred out of state under the interstate compact for adult supervision **or the interstate compact for juveniles** may, at the court's discretion, be required to pay a lesser amount of the cost of the application fee under subsection (a).

(c) An Indiana offender **or delinquent child** who is on probation shall pay the application fee to the county probation department.

(d) An Indiana offender **or delinquent child** who is on parole shall

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pay the application fee to the department of correction.

(e) The application fee paid by an Indiana offender **or delinquent child** who is on probation shall be transferred to the county treasurer. The county treasurer shall deposit fifty percent (50%) of the money collected under this subsection into the county ~~supplemental adult probation services~~ **offender transportation** fund and shall transmit the remaining fifty percent (50%) of the money collected under this subsection to the Indiana judicial center for deposit in the general fund, to be used to cover the cost of administering the interstate compact for adult offender supervision **and the interstate compact for juveniles.**

(f) The executive director of the Indiana judicial center shall submit a proposed budget for expenditure of the money deposited in the general fund under this section to the budget agency in accordance with IC 4-12-1.

(g) The application fee paid by an Indiana offender **or delinquent child** who is on parole shall be deposited into the general fund to be used to cover the cost of administering the interstate compact for adult offender supervision **and the interstate compact for juveniles.**

(h) The commissioner of the department of correction shall submit a proposed budget for expenditure of the money deposited in the general fund under this section to the budget agency in accordance with IC 4-12-1.

(i) The judicial center and the department of correction shall develop a process to ensure that a sex or violent offender who transfers to or out of Indiana under the compact will be registered appropriately.

SECTION 5. IC 11-13-4.5-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 5. (a) Any offender or delinquent child who is residing in Indiana under the interstate compact for adult supervision or the interstate compact for juveniles and who requests a travel permit to travel to another state shall pay a travel permit fee of ten dollars ($10). In the case of illness or death in the probationer's family, the court or the department of correction may waive the travel permit fee for hardship.**

(b) A probationer shall pay the travel permit fee to the probation department. The probation department shall transfer the fee to the county treasurer for deposit into the county offender transportation fund.

(c) A parolee shall pay the travel permit fee to the department of correction. The fee shall be deposited into the general fund.

SECTION 6. IC 11-13-4.5-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 2011]: **Sec. 8. (a) The fiscal body of each county shall establish a county offender transportation fund for the purpose of defraying the costs of returning to the state probationers who violate their conditions of supervision under this chapter.**

(b) The fiscal body of the county shall appropriate money from the county offender transportation fund to the probation department as requested.

(c) Any money remaining in the fund at the end of the year does not revert to any other fund but continues in the county offender transportation fund.

SECTION 7. IC 31-30-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. A juvenile court has exclusive original jurisdiction, except as provided in sections 9, 10, 12, and 13 of this chapter, in the following:

(1) Proceedings in which a child, including a child of divorced parents, is alleged to be a delinquent child under IC 31-37.

(2) Proceedings in which a child, including a child of divorced parents, is alleged to be a child in need of services under IC 31-34.

(3) Proceedings concerning the paternity of a child under IC 31-14.

(4) Proceedings under the interstate compact on juveniles under IC 31-37-23.

(5) Proceedings governing the participation of a parent, guardian, or custodian in a program of care, treatment, or rehabilitation for a child under IC 31-34-16 or IC 31-37-15.

(6) Proceedings under IC 31-34-4, IC 31-34-5, IC 31-37-5, and IC 31-37-6 governing the detention of a child before a petition has been filed.

(7) Proceedings to issue a protective order under IC 31-32-13.

(8) Proceedings in which a child less than sixteen (16) years of age is alleged to have committed an act that would be a misdemeanor traffic offense if committed by an adult.

(9) Proceedings in which a child is alleged to have committed an act that would be an offense under IC 9-30-5 if committed by an adult.

(10) Guardianship of the person proceedings for a child:

(A) who has been adjudicated as a child in need of services;

(B) for whom a juvenile court has approved a permanency plan under IC 31-34-21-7 that provides for the appointment of a guardian of the person; and

(C) who is the subject of a pending child in need of services

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proceeding under IC 31-34.

(11) Proceedings concerning involuntary drug and alcohol treatment under IC 31-32-16.

(12) **Proceedings under the interstate compact for juveniles under IC 11-13-4.5-1.5.**

(13) Other proceedings specified by law.

SECTION 8. IC 34-30-2-39.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 39.9. IC 11-13-4.5-1.5 (Concerning the interstate compact for juveniles).**

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COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 34, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Judiciary.

(Reference is to SB 34 as introduced.)

LONG, Chairperson

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 34, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 19, line 8, reset in roman "general fund,".

Page 19, line 9, delete "Indiana judicial center offender transportation fund,".

Page 19, line 17, reset in roman "general".

Page 19, line 17, delete "department".

Page 19, line 18, delete "of correction offender transportation".

Page 19, line 23, reset in roman "general".

Page 19, line 23, delete "department of correction offender transportation".

Page 19, line 42, delete "department of" and insert "**general fund.**".

Page 20, delete lines 1 through 30.

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Page 20, line 40, delete "(b)" and insert "**(c)**".
Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 34 as printed January 14, 2011.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 0.

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