

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:

- 1 Delete the title and insert the following:
2 A BILL FOR AN ACT to amend the Indiana Code concerning
3 corrections.
4 Delete everything after the enacting clause and insert the
5 following:
6 SECTION 1. IC 11-13-4.5-1.5 IS ADDED TO THE INDIANA
7 CODE AS A NEW SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2011]: **Sec. 1.5. The governor shall enter into**
9 **a compact on behalf of the state with any other state in the form**
10 **substantially as set forth in this section.**
11 **ARTICLE I**
12 **DEFINITIONS**
13 **As used in this compact, unless the context clearly requires a**
14 **different construction:**
15 **(1) "Bylaws" mean those bylaws established by the interstate**
16 **commission for its governance or for directing or controlling**
17 **the interstate commission's actions or conduct.**
18 **(2) "Compact administrator" means the individual in each**
19 **compacting state appointed under the terms of this compact,**
20 **responsible for the administration and management of the**
21 **state's supervision and transfer of juveniles subject to the**
22 **terms of this compact, the rules adopted by the interstate**
23 **commission, and policies adopted by the state council under**
24 **this compact.**
25 **(3) "Compacting state" means any state that has enacted the**
26 **enabling legislation for this compact.**

- 1 (4) "Commissioner" means the voting representative of each
- 2 compacting state appointed under Article II of this compact.
- 3 (5) "Court" means any court having jurisdiction over a
- 4 delinquent, neglected, or dependent child.
- 5 (6) "Deputy compact administrator" means the individual,
- 6 if any, in each compacting state appointed to act on behalf of
- 7 a compact administrator under the terms of this compact
- 8 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 policies adopted by the state council under
- 12 this compact.
- 13 (7) "Interstate commission" means the interstate commission
- 14 for juveniles established by this compact.
- 15 (8) "Juvenile" means any person defined as a juvenile in any
- 16 member state or by the rules of the interstate commission,
- 17 including the following terms and definitions:
- 18 (A) "Accused delinquent" means a person charged with
- 19 an offense that if committed by an adult would be a
- 20 criminal offense.
- 21 (B) "Adjudicated delinquent" means a person found to
- 22 have committed an offense that if committed by an adult
- 23 would be a criminal offense.
- 24 (C) "Accused status offender" means a person charged
- 25 with an offense that would not be a criminal offense if
- 26 committed by an adult.
- 27 (D) "Adjudicated status offender" means a person found
- 28 to have committed an offense that would not be a
- 29 criminal offense if committed by an adult.
- 30 (E) "Nonoffender" means a person in need of
- 31 supervision who is not an accused or adjudicated status
- 32 offender or delinquent.
- 33 (9) "Noncompacting state" means any state that has not
- 34 enacted the enabling legislation for this compact.
- 35 (10) "Probation or parole" means any kind of supervision or
- 36 conditional release of juveniles authorized by the laws of the
- 37 compacting states.
- 38 (11) "Rules" means a written statement by the interstate
- 39 commission adopted under Article V of this compact that is
- 40 of general applicability, implements, interprets, or prescribes
- 41 a policy or provision of the compact, or an organizational,
- 42 procedural, or practice requirement of the interstate
- 43 commission.
- 44 (12) "State" means a state of the United States, the District
- 45 of Columbia, or any other territorial possession of the United
- 46 States.

ARTICLE II

INTERSTATE COMMISSION FOR JUVENILES

- 47
- 48 (a) The interstate commission for juveniles is established.
- 49
- 50 (b) The interstate commission is a body corporate and joint

1 agency of the compacting states. The interstate commission has all
2 the responsibilities, powers, and duties set forth in this section, and
3 additional powers as conferred upon it by subsequent action of the
4 respective legislatures of the compacting states in accordance with
5 the terms of this compact.

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

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

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

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

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

49 (h) Each member of the interstate commission is entitled to
50 cast a vote and to participate in the business and affairs of the

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

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

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

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

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

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

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

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

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

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

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

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

44 (k) For every meeting closed under subsection (i), the
45 interstate commission's legal counsel shall publicly certify that, in
46 the legal counsel's opinion, the meeting may be closed to the public,
47 and shall reference each relevant exemption clause listed in
48 subsection (i). The interstate commission shall keep minutes that
49 describe all matters discussed in each meeting and shall provide a
50 summary of any actions taken. The minutes must also include a

1 description of the views expressed on any item and the record of
 2 any roll call vote indicating how each member voted in each vote.
 3 All documents considered in connection with any action must be
 4 identified in each set of minutes.

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

12 ARTICLE III

13 POWERS AND DUTIES OF THE INTERSTATE 14 COMMISSION

15 The interstate commission has the following powers and
 16 duties:

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

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

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

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

29 (5) To establish and maintain offices.

30 (6) To purchase and maintain insurance and bonds.

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

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

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

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

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

1 and technical assistance in carrying out the compact.

2 **Part B. Officers and Staff**

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

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

22 **Part C. Qualified Immunity, Defense, and Indemnification**

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

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

42 (c) The interstate commission shall defend the executive
43 director, the executive director's employees and representatives,
44 the commissioner of a compacting state, and the commissioner's
45 representatives or employees in any civil action seeking to impose
46 liability arising out of any actual or alleged act, error, or omission
47 that occurs within the scope of interstate commission employment,
48 duties, or responsibilities or that the defendant has a reasonable
49 basis for believing occurred within the scope of interstate
50 commission employment, duties, or responsibilities, as long as the

1 actual or alleged act, error, or omission did not result from
2 intentional wrongdoing on the part of the person.

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

15 ARTICLE V

16 RULEMAKING FUNCTIONS OF THE INTERSTATE 17 COMMISSION

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

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

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

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

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

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

35 (3) provide an opportunity for an informal hearing if
36 petitioned by ten (10) or more individuals; and

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

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

50 (f) If a majority of the legislatures of the compacting states

1 rejects a rule, those states may, by enactment of a statute or
2 resolution in the same manner used to adopt the compact, cause the
3 rule to be no longer in effect in any compacting state.

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

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

14 ARTICLE VI

15 OVERSIGHT, ENFORCEMENT, AND DISPUTE 16 RESOLUTION BY THE INTERSTATE COMMISSION

17 Part A. Oversight

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

23 (b) The courts and executive agencies in each compacting state
24 shall enforce this compact and shall take all actions necessary and
25 appropriate to effectuate the compact's purposes and intent. The
26 provisions of this compact and the rules adopted shall be received
27 by all the judges, public officers, commissions, and departments of
28 the state government as evidence of the authorized statute and
29 administrative rules. All courts shall take judicial notice of the
30 compact and the rules. In any judicial or administrative
31 proceeding in a compacting state pertaining to the subject matter
32 of this compact that may affect the powers, responsibilities, or
33 actions of the interstate commission, the interstate commission is
34 entitled to receive all service of process in any proceeding and has
35 standing to intervene in the proceeding for all purposes.

36 Part B. Dispute Resolution

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

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

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

ARTICLE VII

FINANCE

1
2
3 **(a) The interstate commission shall pay or provide for the**
4 **payment of the reasonable expenses of its establishment,**
5 **organization, and ongoing activities.**

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

17 **(c) The interstate commission may not incur any obligation of**
18 **any kind before securing the funds adequate to meet the obligation,**
19 **nor may the interstate commission pledge the credit of any**
20 **compacting state except by and with the authority of the**
21 **compacting state.**

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

ARTICLE VIII

THE STATE COUNCIL

30
31
32 **Each member state shall create a state council for interstate**
33 **juvenile supervision. While each state may determine the**
34 **membership of its own state council, its membership must include**
35 **at least one (1) representative from the legislative, judicial, and**
36 **executive branches of government and victims groups and the**
37 **compact administrator, deputy compact administrator, or**
38 **designee. Each compacting state retains the right to determine the**
39 **qualifications of the compact administrator or deputy compact**
40 **administrator. Each state council shall advise and may exercise**
41 **oversight and advocacy concerning the state's participation in**
42 **interstate commission activities and other duties as may be**
43 **determined by that state, including, but not limited to, the**
44 **development of policy concerning operations and procedures of the**
45 **compact within that state.**

ARTICLE IX

COMPACTING STATES

46
47
48 **(a) Any state, the District of Columbia (or its designee), the**
49 **Commonwealth of Puerto Rico, the United States Virgin Islands,**
50 **Guam, American Samoa, and the Northern Mariana Islands is**

1 eligible to become a compacting state.

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

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

17 ARTICLE X

18 WITHDRAWAL, DEFAULT, TERMINATION, AND 19 JUDICIAL ENFORCEMENT

20 Part A. Withdrawal

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

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

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

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

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

40 Part B. Technical Assistance, Fines, Suspension, Termination and 41 Default

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

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

49 (2) Alternative dispute resolution.

50 (3) Fines, fees, and costs levied upon the county responsible

1 for the default or upon the state, if the state is responsible for
2 the default, in amounts considered reasonable as fixed by the
3 interstate commission.

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

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

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

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

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

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

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

44 **Part C. Judicial Enforcement**

45 **The interstate commission may, by majority vote of the**
46 **members, initiate legal action in the United States District Court**
47 **for the District of Columbia or, at the discretion of the interstate**
48 **commission, in the federal district where the interstate commission**
49 **has its offices, to enforce compliance with this compact and its**
50 **adopted rules and bylaws against any compacting state in default.**

1 If judicial enforcement is necessary, the prevailing party shall be
2 awarded all costs of the litigation including reasonable attorney's
3 fees.

4 **Part D. Dissolution of Compact**

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

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

12 **ARTICLE XI**

13 **SEVERABILITY AND CONSTRUCTION**

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

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

19 **ARTICLE XII**

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

21 **Part A. Other Laws**

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

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

28 **Part B. Binding Effects of the Compact**

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

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

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

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

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

44 (1) the state council for interstate adult offender supervision
45 described in Article H subdivision (3) of this compact section 1
46 of this chapter (Article III of the interstate compact for adult
47 offender supervision); and

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

- 1 (b) The council consists of the following members:
- 2 (1) The commissioner of the department of correction.
- 3 (2) The executive director of the Indiana judicial center.
- 4 (3) The executive director of the Indiana criminal justice
- 5 institute.
- 6 (4) One (1) member of a victim's group appointed by the
- 7 governor upon recommendation of the executive director of the
- 8 Indiana criminal justice institute.
- 9 (5) The executive director of the Indiana sheriffs' association.
- 10 (6) The executive director of the public defender council of
- 11 Indiana.
- 12 (7) The executive director of the prosecuting attorneys council
- 13 of Indiana.
- 14 (8) One (1) member of the general assembly appointed by the
- 15 chairman of the legislative council. The legislative member
- 16 serves at the pleasure of the chairman of the legislative council.
- 17 (9) The compact administrator, if the compact administrator is
- 18 not already a member of the council.
- 19 **(10) The director of the department of child services.**
- 20 **(11) The president of the Indiana council of juvenile and**
- 21 **family court judges.**
- 22 (c) The executive director of the Indiana judicial center shall serve
- 23 as the chairperson of the council.
- 24 (d) The Indiana judicial center shall staff the council.
- 25 (e) The council shall meet at the call of the chairperson or upon
- 26 request by a majority of the members, but at least one (1) time per
- 27 calendar year.
- 28 (f) The commissioner of the department of correction shall appoint
- 29 sufficient deputy compact administrators to fulfill Indiana's obligations
- 30 under the interstate compact for adult offender supervision with respect
- 31 to out-of-state offenders who are on parole.
- 32 (g) The executive director of the Indiana judicial center shall
- 33 appoint sufficient deputy compact administrators to fulfill Indiana's
- 34 obligations under the interstate compact for adult offender supervision
- 35 with respect to out-of-state offenders who are on probation.
- 36 (h) The council has the following duties:
- 37 (1) The council shall receive the recommendation of the
- 38 commissioner of the department of correction and the executive
- 39 director of the Indiana judicial center concerning the
- 40 appointment of a compact administrator.
- 41 (2) The council shall appoint the compact administrator, who
- 42 shall serve as commissioner on the interstate commission. If the
- 43 compact administrator is unable to serve as commissioner at a
- 44 meeting of the interstate commission, the council shall designate
- 45 another person to serve in place of the compact administrator.
- 46 (3) The council shall oversee activities of the interstate
- 47 commission.
- 48 (4) The council may make recommendations concerning the
- 49 operation of the interstate compact within Indiana and to
- 50 facilitate the implementation of the rules and bylaws adopted by

- 1 the interstate commission.
- 2 **(5) The council shall carry out the duties of the state council**
 3 **under section 1.5 of this chapter.**
- 4 (i) The expenses of the council shall be paid from appropriations
 5 made to the Indiana judicial center.
- 6 (j) Each member of the council who is not a state employee is not
 7 entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b).
 8 The member is entitled to reimbursement for traveling expenses as
 9 provided under IC 4-13-1-4 and other expenses actually incurred in
 10 connection with the member's duties as provided in the state policies
 11 and procedures established by the Indiana department of administration
 12 and approved by the budget agency.
- 13 (k) Each member of the council who is a state employee but who
 14 is not a member of the general assembly is entitled to reimbursement
 15 for traveling expenses as provided under IC 4-13-1-4 and other
 16 expenses actually incurred in connection with the member's duties as
 17 provided in the state policies and procedures established by the Indiana
 18 department of administration and approved by the budget agency.
- 19 (l) Each member of the council who is a member of the general
 20 assembly is entitled to receive the same per diem, mileage, and travel
 21 allowances paid to legislative members of interim study committees
 22 established by the legislative council. Per diem, mileage, and travel
 23 allowances paid under this subsection shall be paid from appropriations
 24 made to the legislative council or the legislative services agency.
- 25 (m) A member of the council who is a member of the general
 26 assembly serves as a nonvoting member.
- 27 (n) The affirmative votes of a majority of the voting members
 28 appointed to the council are required for the committee to take action
 29 on any measure, including making a recommendation.
- 30 SECTION 3. IC 11-13-4.5-3 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3.(a) The state shall
 32 continue to meet its obligations under IC 11-13-4 (the interstate
 33 compact for the supervision of parolees and probationers) to those
 34 states that:
- 35 (1) continue to meet their obligations to the state of Indiana
 36 under IC 11-13-4; and
- 37 (2) have not approved the interstate compact for adult
 38 supervision after this chapter becomes effective.
- 39 **(b) The state shall continue to meet its obligations under**
 40 **IC 31-37-23 (the interstate compact on juveniles) to those states**
 41 **that:**
- 42 **(1) continue to meet their obligations to the state of Indiana**
 43 **under IC 31-37-23; and**
- 44 **(2) have not approved the interstate compact for juveniles**
 45 **after section 1.5 of this chapter becomes effective.**
- 46 SECTION 4. IC 11-13-4.5-4, AS AMENDED BY P.L.216-2007,
 47 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 48 JULY 1, 2011]: Sec. 4. (a) Except as provided in subsection (b), an
 49 Indiana offender **or delinquent child** on probation or parole who
 50 applies to be transferred out of state under the interstate compact for

1 adult supervision **or the interstate compact for juveniles** shall pay an
 2 application fee of ~~seventy-five dollars (\$75)~~ **one hundred twenty-five**
 3 **dollars (\$125)**. The application fee shall be used to cover the costs of
 4 administering the interstate compact for adult offender supervision **and**
 5 **the interstate compact for juveniles**.

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

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

14 (d) An Indiana offender **or delinquent child** who is on parole shall
 15 pay the application fee to the department of correction.

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

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

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

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

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

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

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

5 **(c) A parolee shall pay the travel permit fee to the department**
 6 **of correction. The fee shall be deposited into the department of**
 7 **correction offender transportation fund.**

8 SECTION 6. IC 11-13-4.5-6 IS ADDED TO THE INDIANA
 9 CODE AS A NEW SECTION TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2011]: **Sec. 6. (a) The Indiana judicial center**
 11 **offender transportation fund is established for the purpose of**
 12 **defraying the costs of returning to the state probationers who**
 13 **violate their conditions of supervision under this chapter. The fund**
 14 **shall be administered by the Indiana judicial center established by**
 15 **IC 33-38-9-4.**

16 **(b) The expenses of administering the fund shall be paid from**
 17 **money in the fund.**

18 **(c) The treasurer of state shall invest the money in the fund not**
 19 **currently needed to meet the obligations of the fund in the same**
 20 **manner as other public funds may be invested.**

21 **(d) Money in the fund at the end of the fiscal year does not**
 22 **revert to the state general fund.**

23 SECTION 7. IC 11-13-4.5-7 IS ADDED TO THE INDIANA
 24 CODE AS A NEW SECTION TO READ AS FOLLOWS
 25 [EFFECTIVE JULY 1, 2011]: **Sec. 7. (a) The department of**
 26 **correction offender transportation fund is established for the**
 27 **purpose of defraying the costs of returning to the state parolees**
 28 **who violate their conditions of supervision under this chapter. The**
 29 **fund shall be administered by the department of correction.**

30 **(b) The expenses of administering the fund shall be paid from**
 31 **money in the fund.**

32 **(c) The treasurer of state shall invest the money in the fund not**
 33 **currently needed to meet the obligations of the fund in the same**
 34 **manner as other public funds may be invested.**

35 **(d) Money in the fund at the end of the fiscal year does not**
 36 **revert to the state general fund.**

37 SECTION 8. IC 11-13-4.5-8 IS ADDED TO THE INDIANA
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2011]: **Sec. 8. (a) The fiscal body of each**
 40 **county shall establish a county offender transportation fund for the**
 41 **purpose of defraying the costs of returning to the state**
 42 **probationers who violate their conditions of supervision under this**
 43 **chapter.**

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

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

50 SECTION 9. IC 31-30-1-1 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. A juvenile court has
 2 exclusive original jurisdiction, except as provided in sections 9, 10, 12,
 3 and 13 of this chapter, in the following:

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

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

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

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

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

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

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

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

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

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

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

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

31 (C) who is the subject of a pending child in need of services
 32 proceeding under IC 31-34.

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

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

37 (13) Other proceedings specified by law.

38 SECTION 10. IC 34-30-2-39.9 IS ADDED TO THE INDIANA
 39 CODE AS A NEW SECTION TO READ AS FOLLOWS
 40 [EFFECTIVE JULY 1, 2011]: **Sec. 39.9. IC 11-13-4.5-1.5**
 41 **(Concerning the interstate compact for juveniles).**

(Reference is to SB 34 as introduced.)

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

LONG, Chairperson