

Approved:
Date 4-29-04

MINUTES OF THE HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE

The meeting was called to order by Chairman Ward Loyd at 1:30 p.m. on February 4, 2004 in Room 241-N of the Capitol.

All members were present.

Committee staff present:

Jill Wolters, Revisor of Statutes
Jerry Ann Donaldson, Legislative Research Department

Conferees appearing before the committee:

Kevin Graham, Attorney Generals Office
Richard Masters, The Council of State Government
James Frazier, Juvenile Justice Authority
Senator Derek Schmidt

Others attending:

See Attached List.

Senator Schmidt appeared before the committee to request a bill introduction. The bill has to do with child endangerment statute. (Attachment 1)

Representative Owens made the motion that this request should be introduced as a committee bill.
Representative Pauls seconded the motion. The motion carried.

Representative O'Malley requested a bill introduction that would further define imitation firearms allowed by law.

Representative Yoder made the motion that this request should be introduced as a committee bill.
Representative Huntington seconded the motion. The motion carried.

Kevin Graham, Attorney Generals office, appeared before the committee to request several bill introductions. (Attachment 2)

1. Absconding a crime
2. To amend KSA 21-4603d(f)
3. Increase the penalty of the solicitation of a child from a level 6 to a level 3
4. Require judicial districts to report restitution payments to the state on an annual basis

Representative Owens made the motion that this request should be introduced as a committee bill.
Representative Goering seconded the motion. The motion carried.

Representative Carlin request a bill introduction concerning penalty for third DUI.

Representative Kassbaum made the motion that this request should be introduced as a committee bill.
Representative Owens seconded the motion. The motion carried.

Chairman Loyd requested a bill introduction for Representative Hayzlett. The bill is similar to an act passed by the State of Oklahoma, and pertains to the use of photographs in a criminal homicide case. (Attachment 3)

Representative Pauls made the motion that this request should be introduced as a committee bill.
Representative Owens seconded the motion. The motion carried.

Chairman Loyd requested a introduction of two bills.

1. Field Tests allowed in as evidence at preliminary hearing.
2. Amending KSA 21-4710, allowing defendant to be sentenced with initial criminal history, not criminal history after appeal.

Representative Owens made the motion that this request should be introduced as a committee bill.

Representative Kassebaum seconded the motion. The motion carried.

HB 2485 -The interstate compact for juveniles

Chairman Loyd opened the hearing on **HB 2485**.

Richard Masters, Special Counsel to the Council of State Governments, appeared before the committee in favor of the bill. The video presented gave a breif overview of the compact. The Juvenile Compact was first enacted into law in 1955. (Attachment 4)

Three amendmentsto the current compact have been proposed over the years, regarding:

1. Runaways
2. Rendition
3. Out of state confinement

Not all of the amendment have been adopted by all states. Less than half the states have adopted all three amendments. The old compact statute has no enforcement provisions. The only state or federal law in the US for the transfer of juveniles under supervision.

Population covered:

- Juveniles placed on probation or parole and want to move to another state
- Juveniles who have absconded from probation or escaped from an institution in a state other that state which placed them under supervision
- Juveniles who have delinquency, neglect, or dependance proceedings pending against them and who runaway to another state
- Juveniles who require institutionalized care and/or special services in another state
- Juveniles who run away from home to another state

This updated compact addresses many deficiencies within the current juvenile compact system including enforcement, administration, finance, communications, data sharing and training. Specifically, this Compact provides for: (Attachment 5)

- The establishment of an independent compact authority to administer compact activity.
- A rule-making authority and a provision for significant sanctions to support compact operations.
- The establishment of state-level councils to provide oversight into compact operations.
- The collections of standardized information and information sharing systems.

In summary, The Interstate Compact for Juveniles provides the framework for promoting public safety, ensuring the welfare of juveniles, and protecting victims within the states through control and regulation of the interstate movement of juveniles.

James Frazier, Deputy Commissioner JJA, spoke in favor of the bill. (Attachment 6) He stated that the new revised Interstate Compact for Juveniles will further provide for the welfare and protection of juveniles and the public.

The current Kansas caseload of 244 cases is not expected to be impacted by this bill. The impact of the bill will result in a moderate increase in the workload of the current KJJAICJ. The effectiveness and efficiency of the office are expected to improve dramatically with the enactment of this new compact.

Chairman Loyd closed the hearing on **HB 2485**.

Representative Carter requested a bill introduction that concerns state vehicles being environmentally

sound.

Representative Carter made the motion that this request should be introduced as a committee bill. Representative Pauls seconded the motion. The motion carried. The request was withdrawn.

The meeting was adjourned at 3:00 PM. The next scheduled meeting is February 5, 2004.

HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE

GUEST LIST

DATE 2/4/2004

NAME	REPRESENTING
KEVIN GRAHAM	ATTY. GEN.
Julia Butler	KSC
Rosilyn James-Martin	SRS
Sarah Novascone	Federico
Kunlun Chang	KSC
Mark Gleeson	Judicial Branch
Christine Beece	Juv Justice Dept
James Frazier	"
Angela Clark	"
Rick Masters	CSG
Stuart Little	Ks County Corrections Assoc

Sen. Schmidt
2/4/2009
bill introduction

Sec. 1. K.S.A. 21-3608 is hereby amended to read as follows:

21-3608. (a) Endangering a child is:

- (1) Intentionally and unreasonably causing or permitting a child under the age of 18 years to be placed in a situation in which the child's body or health may be injured or endangered; or
- (2) Intentionally and unreasonably causing or permitting a child under the age of 18 years to be placed in a situation in which the child's life may be endangered; or
- (3) Knowingly and intentionally causing or permitting a child under the age of 18 years to be present where:

(A) A person is selling, offering for sale or having in such person's possession with intent to sell, deliver, distribute, prescribe, administer, dispense, ~~compound~~, ~~unlawfully~~ manufacture, or attempt to ~~unlawfully~~ manufacture any methamphetamine as defined by subsections (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto; or

(B) Drug paraphernalia or volatile, toxic or flammable chemicals are stored for the purpose of ~~unlawfully~~ manufacturing or attempting to ~~unlawfully~~ manufacture any methamphetamine as defined by subsections (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto.

(b) Nothing in this section shall be construed to mean a child is endangered for the sole reason the child's parent or guardian, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child.

(c) Endangering a child as defined by subsection (a)(1) is a class A person misdemeanor. Endangering a child as defined by subsection (a)(2) or (a)(3) is a severity level 9, person felony.

(d) As used in this section: "Manufacture" shall have the meaning ascribed to that term in K.S.A. 65-4101, and amendments thereto, and "drug paraphernalia" shall have the meaning ascribed to that term in K.S.A. 65-4150, and amendments thereto.

MEMORANDUM

To: Senator Schmidt

From: Patricia Biggs, Executive Director

Date: February 3, 2004

RE: Impact of Endangering Child (K.S.A. 21-3608) Proposed Change

SUMMARY OF BILL:

This bill will likely have an impact upon the Kansas Sentencing Guidelines Act (KSGA). This bill would make violation of K.S.A. 21-3608 (a) (1) a class A person misdemeanor and violation of subsections (a) (2) or (a) (3) a severity level 9, person felony.

Section 1 (a) (1) Intentionally and unreasonably causing or permitting a child under the age of 18 years to be placed in a situation in which the child's body or health may be injured or endangered; or

(a) (2) knowingly and unreasonably causing or permitting a child under 18 to be placed in a situation in which the child's life may be endangered; or

(a) (3) Knowing and intentionally causing or permitting a child under 18 to be present where:

(A) A person is selling, offering for sale, or has in their possession with intent to sell, deliver or distribute... unlawfully manufacture or attempt to manufacture any methamphetamine as defined by subsections (d) (3) or (f) (1) or K.S.A. 65-4107, and amendments thereto; or

(B) Dug paraphernalia or volatile, toxic or flammable chemicals are stored for the purpose of unlawfully manufacturing or attempting to manufacture methamphetamine as defined by subsections (d) (3) or (f) (1) of K.S.A. 65-4107, and amendments thereto.

(b) This section does not apply to a child's parent or guardian whom, in good faith, selects and depends on spiritual means alone through prayer, in accordance with tenets and practice of a recognized church or religious denomination, for the treatment or cure of a disease or remedial care of such child.

(c) Endangering a child in subsection (a) (1) is a class A person misdemeanor. Endangering a child in subsections (a) (2) or (a) (3) is a severity level 9, person felony.

(d) "Manufacture" as used in this section shall have the same meaning as the term in K.S.A. 65-4101 and "drug

1-2

paraphernalia" shall have the same meaning as the term in K.S.A. 65-4150.

IMPACT ON KANSAS SENTENCING COMMISSION:

Based on the current duties of the Kansas Sentencing Commission, the changes proposed in this bill will have no effect on the following:

1. The current operation or responsibilities of the Commission -- **The impact of the bill would have an immediate impact upon the workload of journal entry recording performed by the Commission staff due to the increased number of probationers. The exact quantity of this expected increase cannot be quantified at this time.**
2. The current budget of the Commission.
3. The current staffing and operating expenditure levels of the Commission.
4. The long-range fiscal estimates of the Commission.

IMPACT ON PRISON ADMISSIONS:

Increase by an estimated: **No Additional Admissions in FY 2005; 6 to 29 additional prison admissions in FY 2014.**

Potential to increase but cannot quantify

Decrease by an estimated:

Potential to decrease but cannot quantify

Remain the same

Note: The proposed language contained in the draft received includes two levels of endangering a child:

- Class A Misdemeanor: intentionally and unreasonably causing or permitting a child under the age of 18 years to be placed in a situation in which the child's body or health may be injured or endangered
- Nondrug Severity Level 9: knowingly and unreasonably causing or permitting a child under 18 to be placed in a situation in which the child's life may be endangered; or knowing and intentionally causing or permitting a child under 18 to present where drug sale, intent to sell, deliver, or distribute or manufacture or attempt to manufacture methamphetamines or allowing the presence of such a child around drug paraphernalia or chemicals used in the manufacture/attempt to manufacture methamphetamines.
- A person convicted of the crime as defined in subsections (a) (2) or (a) (3) will be sentenced to probation. The average length of the underlying prison sentence is assumed to be 10 months. The violation rate of the probation conditions within a 12 month period is assumed to be within the three scenarios presented:
 - **Scenario One:** It is assumed that **5 offenders** each year convicted of the crime as defined in subsections (a) (2) or (a) (3) will violate their probation conditions and be sentenced to prison.
 - **Scenario One** results in zero additional prison admissions in FY 2005 and 6 additional prison admissions in FY 2014.
 - **Scenario Two:** It is assumed that **15 offenders** each year convicted of the crime as defined in

- subsections (a) (2) or (a) (3) will violate their probation conditions and be sentenced to prison.
 - **Scenario Two** results in zero additional prison admissions in FY 2005 and 17 additional prison admissions in FY 2014.
- **Scenario Three:** It is assumed that **25 offenders** each year convicted of the crime as defined in subsections (a) (2) or (a) (3) will violate their probation conditions and be sentenced to prison.
 - **Scenario Three** results in zero additional prison admissions in FY 2005 and 29 additional prison admissions in FY 2014.

Presented below is the projected increase in admissions.

Prison Admission Impact Assessment

June of Each Year	Scenario #1 <i>5 probation violators/yr</i> Additional Admissions	Scenario #2 <i>15 probation violators/yr</i> Additional Admissions	Scenario #3 <i>25 probation violators/yr</i> Additional Admissions
2005	0	0	0
2006	3	8	13
2007	5	16	26
2008	5	16	27
2009	5	16	27
2010	5	16	27
2011	6	16	28
2012	6	17	28
2013	6	17	29
2014	6	17	29

IMPACT ON OFFENDER POPULATION LEVELS:

X have impact on offender population as noted below: **Zero additional prison beds needed in FY 2005; 5 to 20 additional beds needed by FY 2014.**

have the potential to impact offender population as noted below.

have minimal or no impact on offender population.

_____ have impact but cannot be quantified with data available.

Note:

Under the three scenarios presented above (Scenario one- 5 probation violators/year; Scenario two – 15 probation violators per year; Scenario three – 25 probation violators per year), and given the assumption that the underlying prison term for a severity level 9 probation condition violator is ten months, we would see an increased need of 5, 12, or 20 prison beds by the year FY 2014. No additional prison beds would be needed in FY 2005 under any of the three scenarios presented since there is, on average, a nine month delay between offense and sentencing dates and these offenders would need sufficient time to be placed on probation and have that probation revoked subsequently to achieve a prison admission and take up a prison bed.

Presented below are the assumptions, data findings, and prison bed impact for the changes proposed.

Key Assumptions:

- The target inmates as defined in this bill include any offenders convicted of the crime of endangering a child under K.S.A. 21-3608.
- Projected admission to prison is assumed to increase by an annual average of one point five percent. Bed space impacts are in relation to the baseline forecast produced in September 2003 and the revised in November 2003 by the Kansas Sentencing Commission.
- Percentage of the target inmate sentences served in prison is assumed to be 85 percent, which is in consistent with the projections released in September and revised in November 2003.
- Endangering a child as defined in subsection (a) (1) is a class A person misdemeanor.
- Endangering a child as defined in subsections (a) (2) or (a) (3) is a severity level 9, person felony.
- A person convicted of the crime as defined in subsections (a) (2) or (a) (3) will be sentenced to probation. The average length of the underlying prison sentence is assumed to be 10 months. The violation rate of the probation conditions within a 12 month period is assumed as the following:
 - **Scenario One:** It is assumed that **5 offenders** each year convicted of the crime as defined in subsections (a) (2) or (a) (3) will violate their probation conditions and be sentenced to prison.
 - **Scenario Two:** It is assumed that **15 offenders** each year convicted of the crime as defined in subsections (a) (2) or (a) (3) will violate their probation conditions and be sentenced to prison.
 - **Scenario Three:** It is assumed that **25 offenders** each year convicted of the crime as defined in subsections (a) (2) or (a) (3) will violate their probation conditions and be sentenced to prison.

Findings:

- **Scenario One:** If **5 offenders** each year are convicted of the crime as defined in subsections (a) (2) or (a) (3) violate their probation conditions and are sentenced to prison, by the year 2005, there would be no additional beds needed and by the year 2014, there would be 5 additional beds needed.
- **Scenario Two:** If **15 offenders** each year are convicted of the crime as defined in subsections (a) (2) or (a) (3) violate their probation conditions and are sentenced to prison, by the year 2005, there would be no additional beds needed and by the year 2014, there would be 12 additional beds needed.
- **Scenario Three:** If **25 offenders** each year are convicted of the crime as defined in subsections (a) (2) or (a) (3) violate their probation conditions and are sentenced to prison, by the year 2005, there would be no additional beds needed and by the year 2014, there would be 20 additional beds needed.
- The bill have no immediate impact upon prison admissions or prison beds needed in the the year 2005.

The bill would result in additional 6, 17 and 29 prison admissions and additional 5, 12 and 20 prison beds by the year 2014 under each different scenario.

Bed Space Impact Assessment

June of Each Year	Scenario #1-	Scenario #2-15 offenders	Scenario #3-25 offenders
	<i>5 probation violators/yr</i>	<i>15 probation violators/yr</i>	<i>25 probation violators/yr</i>
	Additional Beds Needed	Additional Beds Needed	Additional Beds Needed
2005	0	0	0
2006	3	8	13
2007	3	11	19
2008	3	11	19
2009	3	11	19
2010	3	11	18
2011	5	12	19
2012	5	12	20
2013	5	12	20
2014	5	12	20

SUMMARY OF IMPACT:

- o Admissions: The impact of this bill will result in zero additional prison admissions in FY 2005 and 6 to 29 additional prison admissions by FY 2014.
- o Prison Beds: The impact of this bill will result in the need for zero additional prison beds in FY 2005 and 5 to 20 additional prison beds by FY 2014.



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

PHILL KLINE
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Legislative Proposals for Consideration of Bill Introduction

- Make absconding a crime. Currently, the act of absconding is not a crime in and of itself. The proposal would create a simple absconding crime, with a level 7 penalty. The simple absconding crime would be applicable to those individuals with a nonperson felony record. The proposal would create an aggravated absconding crime, which would carry a level 6 felony. This would be applicable for individuals who have a person felony conviction on their record.
- Amend K.S.A. 21-4603d(f) to require that any offender convicted of a new felony offense committed while the offender is incarcerated, on probation, parole or post-release supervision "shall" serve the sentence for the new conviction in prison, even if the new sentence would otherwise carry a presumptive probation sentence under sentencing and guidelines. This change in law should have a positive impact on preventing repeat felony property crime offenders as well as providing more substantial punishment for offenders who commit new crimes while on probation, parole and post-release.
- Increase the penalty of the solicitation of a child from a level 6 to a level 3.
- Require judicial districts to report restitution payments to the state on an annual basis.

STATE OF KANSAS

3

GARY K. HAYZLETT
REPRESENTATIVE, 122ND DISTRICT
GREELEY, HAMILTON, KEARNY,
SCOTT, & PARTS OF
HASKELL & FINNEY COUNTIES
P.O. BOX 66
LAKIN, KANSAS 67860
(620) 355-6297
STATE HOUSE—ROOM 115-S
TOPEKA, KANSAS 66612
(785) 296-7640



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
CHAIR: TRANSPORTATION
MEMBER: ENVIRONMENT
TOURISM AND PARKS
SELECT COMMITTEE ON KANSAS SECURITY

February 4, 2004

Chairman Loyd,

I would like to request a bill similar to an act passed by the State of Oklahoma. The name of the Oklahoma bill is the Kristi LeGrange Bill. It pertains to, and maybe clarifies the use of photographs in a criminal homicide case. I have included with my request a copy of the Oklahoma bill, also a letter from the Attorney General on the subject.

Thank you,

A handwritten signature in cursive script that reads "Gary".

Gary K. Hayzlett
Representative 122nd District



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

PHILL KLINE
ATTORNEY GENERAL

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January 23, 2004

Carl S. Helmle
9600 E RD 5
Johnson, Kansas 67855

Dear Mr. Helmle:

First, please accept my condolences on the loss of your daughter. I received your letter on December 22, 2003, and at that time I reviewed the copy of the Oklahoma law you attached, and I did some brief overview of Kansas law on the topic of whether a photo of a murder victim, taken when the victim was alive, could be shown to a jury during a murder trial. However, I did not get a response out to you at that time, and I apologize for the delay.

Today I spent some additional time searching our computer system here in the Attorney General's Office looking for any Kansas statutes that might directly address the issue of displaying a murder victim's photo. My research indicates that there is no statute on the books in Kansas at this time that is the equivalent of the Oklahoma law that you provided. While there is no law in Kansas that would prohibit a prosecutor from attempting to introduce into evidence during a trial a photo of a murder victim while the victim was alive, the trial judge presiding over the case would be responsible for making the decision as to whether to admit the photograph at trial or not. Therefore, it is possible that in one trial such a photograph would be admitted into evidence and allowed to be shown to the jury, but in a different county (or even a different trial in the same county) the judge may rule that the photo would not be admitted.

In response to your question, I can not think of a reason why having a law on the books in Kansas similar to the one passed in Oklahoma would not be beneficial. If a prosecutor in a particular case thinks that it would not be helpful to show a photograph of the victim then he/she could make that choice at the time of trial. I do not see any reason why you would not bring this matter to your state senator and state representative's attention.

Respectfully,

OFFICE OF THE ATTORNEY GENERAL
PHILL KLINE

Kevin A. Graham
Assistant Attorney General
Criminal Litigation Division

An Act

ENROLLED HOUSE

BILL NO. 2216

By: Morgan, Newport, Liotta,
Adkins, Claunch, Dank,
Peterson, Smith (Hopper),
Piatt, Phillips, Wilt,
Ingmire, Smaligo, Ervin,
Perry, Sullivan, DeWitt,
Nance, Hiett, O'Neal,
Jones, Tibbs, Webb,
Winchester, Miller (Doug),
Peters, Vaughn, Case,
Coleman, Young, Steele,
Maddux, Balkman, Benge,
Calvey, Davis, Ericson,
Ferguson, Friskup, Graves,
Greenwood, Hastings,
Pettigrew, Pope (Tim),
Roggow, Walker, Worthen and
Wright of the House

and

Coffee, Henry, Pruitt and
Shurden of the Senate

An Act relating to civil procedure; amending 12 O.S.
2001, Section 2403, which relates to exclusion of
relevant evidence; providing exception for certain
photographs; and providing an effective date.


BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 12 O.S. 2001, Section 2403, is
amended to read as follows:


Section 2403. Relevant evidence may be excluded if its
probative value is substantially outweighed by the danger of unfair
prejudice, confusion of the issues, misleading the jury, undue
delay, needless presentation of cumulative evidence, or unfair and
harmful surprise. However, in a prosecution for any criminal
homicide, an appropriate photograph of the victim while alive shall
be admissible evidence when offered by the district attorney to show
the general appearance and condition of the victim while alive.

SECTION 2. This act shall become effective November 1, 2002.

Passed the House of Representatives the 18th day of April, 2002.


Presiding Officer of the House of
Representatives

Passed the Senate the 9th day of April, 2002.

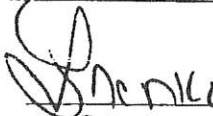

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 22nd
day of April, 20 02,
at 2:40, o'clock P.M.

By: Amanda Miller

Approved by the Governor of the State of Oklahoma the 23rd day of
April 20 02, at 1:25, o'clock P.M.


Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 23rd
day of April, 20 02,
at 1:52, o'clock P.M.

By: Amanda Miller

KANSAS LEGISLATURE

SENATE JUDICIARY COMMITTEE

HOUSE JUVENILE JUSTICE COMMITTEE

GREETING

GOOD MORNING MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE

I'M RICHARD MASTERS, SPECIAL COUNSEL TO THE COUNSEL OF STATE GOVERNMENTS

DAN SPRAGUE AND THE LEXINGTON HQ SEND THEIR WARM REGARDS

AS MANY OF YOU KNOW, CSG HAS PLAYED A KEY ROLE IN ASSISTING THE STATES IN THE DEVELOPMENT, IMPLEMENTATION AND ADMINISTRATION OF DOZENS OF INTERSTATE COMPACTS SINCE ITS FOUNDING IN 1933, INCLUDING THE COMPACT WHICH BRINGS US HERE TO THIS HEARING ROOM TODAY. THE INTERSTATE COMPACT FOR JUVENILES

REASONS WHY THE OLD COMPACT NEEDS TO BE REPLACED:

I. INCONSISTENT STATE LAWS

A. SINCE THE ADOPTION OF THE OLD JUVENILE COMPACT WHICH THIS LEGISLATION WILL REPLACE, WHICH WAS FIRST ENACTED INTO LAW IN 1955,

THREE AMENDMENTS HAVE BEEN PROPOSED:

- 1) RUNAWAYS
- 2) RENDITION
- 3) OUT OF STATE CONFINEMENT

HOWEVER NOT ALL THESE AMENDMENTS HAVE BEEN ADOPTED BY ALL STATES

IN FACT LESS THAN HALF THE STATES HAVE ADOPTED ALL THREE AMENDMENTS

SO THERE IS A LEGITIMATE QUESTION AS TO WHETHER OR NOT WE STILL HAVE AN AGREEMENT.

II. LACK OF ENFORCEMENT PROVISIONS

THERE ARE ALSO NO ENFORCEMENT PROVISIONS WHATSOEVER IN THE OLD COMPACT STATUTE

III. NO ADMINISTRATIVE BODY WITH AUTHORITY TO MAKE OR IMPLEMENT RULES OR ENFORCE THE PROVISIONS OF THE COMPACT

III. ANTIQUATED AND INCONSISTENT INFORMATION MANAGEMENT WHICH IS NOT TRANSFERRED IN A TIMELY MANNER

JUVENILE POPULATION COVERED - AT LEAST 20,000 CASES PER YEAR, THAT WE KNOW

ABOUT BASED ON PRESENT DATA COLLECTION WHICH IS INSUFFICIENT AT BEST.

THE ONLY STATE OR FEDERAL LAW IN THE U.S. FOR THE TRANSFER OF JUVENILES UNDER SUPERVISION

POPULATION COVERED

1. JUVENILES PLACED ON PROBATION OR PAROLE AND WANTS TO MOVE TO ANOTHER STATE;
2. JUVENILES WHO HAVE ABSCONDED FROM PROBATION OR ESCAPED FROM AN INSTITUTION IN A STATE OTHER THAN THAT STATE WHICH PLACED THEM UNDER SUPERVISION;
3. JUVENILES WHO HAVE A PENDING DELINQUENCY, NEGLECT, OR DEPENDANCY PROCEEDINGS PENDING AGAINST THEM AND WHO RUNAWAY TO ANOTHER STATE;
4. JUVENILES WHO REQUIRE INSTITUTIONALIZED CARE AND/OR SPECIAL SERVICES IN ANOTHER STATE;
5. JUVENILES WHO RUN AWAY FROM HOME TO ANOTHER STATE.

STAKEHOLDERS PARTICIPATING IN DRAFTING OF THE MODEL COMPACT BILL:

JUVENILE COMPACT ADMINISTRATORS - AJCA - INTRODUCE CHRIS
HUMAN SERVICE AGENCY REPS
CHILD WELFARE AGENCIES
VICTIMS GROUPS
DISTRICT ATTORNEYS - NDAA
ATTORNEYS GENERAL - NAAG
JUVENILE PAROLE AND PROBATION OFFICERS - APPA
JUVENILE COURT ADMINISTRATORS
JUVENILE COURT JUDGES
STATE LEGISLATORS - CSG, NCSL
LEGISLATIVE DRAFTERS, AND LEGISLATIVE COUNSEL
GOVERNOR'S OFFICES
ADMINISTRATIVE LAW EXPERTS
LAW ENFORCEMENT - SHERIFFS AND POLICE DEPARTMENTS
OTHER RELATED COMPACTS - ICAOS, ICPC
US DEPT OF JUSTICE - OJJDP, NIC

GENERAL INFORMATION ON INTERSTATE COMPACTS

1. COMPACTS AUTHORIZED BY ARTICLE I, SECTION 9, CLAUSE 3 OF THE U.S. CONSTITUTION.
2. APPROXIMATELY 200 COMPACTS IN EFFECT TODAY - KS MEMBER OF APPROX 24
3. EARLY COMPACTS PREDATED THE AMERICAN REVOLUTION - CONCERNEC
PRIMARILY WITH BOUNDARY DISPUTES AS WERE MOST OF THE COMPACTS ADOPTED
PRIOR TO THE 20TH CENTURY
4. THROUGHOUT THE 20TH CENTURY THE USE OF COMPACTS EXPANDED TO DEAL WITH
THE MANAGEMENT AND REGULATION OF PUBLIC POLICY MATTERS WHICH STATE
HAVE TRADITIONALLY HAD OVERSIGHT BUT WHICH PROBLEMS TRANSCEND THE
BOUNDARIES OF ANY ONE STATE.
5. COMPACTS ARE NOW USED FOR SUCH DIVERSE AREAS AS ENVIRONMENTAL
RESOURCE MANAGEMENT SUCH AS RIVER BASINS, LAKES AND OTHER WATERWAYS,
MULTISTATE TAXATION, TRANSPORTATION (PORT AUTHORITY OF NY-NJ) AND
CORRECTIONS AND CRIME CONTROL.

SALIENT POINTS OF NEW JUVENILE COMPACT LEGILATION:

- 1.) CODIFIES THE DISPARATE AMENDMENTS TO MAKE THE NEW COMPACT

CONSISTENT IN ALL MEMBER STATES

2.) CREATES AN ADMINISTRATIVE AGENCY WITH CLEAR AUTHORITY TO ADMINISTER THE COMPACT WITH PROVISION FOR FULL TIME STAFF SUPPORT

3.) PROVIDES RULEMAKING PROCEDURES SUBJECT TO STANDARD DUE PROCESS PROCEDURES CONFORMING TO THE MODEL STATE APA

4.) PROVIDES MEANINGFUL AND GRADUATED ENFORCEMENT WITH A CONTINUUM OF TOOLS RANGING FROM TRAINING AND TECHNICAL ASSISTANCE, TO ADR TO SUSPENSION AND TERMINATION FROM THE COMPACT, FINANCIAL PENALTIES, AND JUDICIAL ENFORCEMENT W/ ATTY. FEES AND COSTS ASSESSED AGAINST THE LOSING PARTY.

5.) PROVISION FOR STANDARDIZED INFORMATION COLLECTION, MANAGEMENT AND SHARING W/ 21ST CENTURY COMPUTERIZED TECHNOLOGY AND ELECTRONIC COMMUNICATION

6.) ADEQUATE RESOURCES FOR THE IMPLEMENTATION AND ADMINISTRATION OF THE COMPACT

KS - ESTIMATED DUES ALLOCATION IS \$17,000.00 BASED ON POPULATION AND NUMBER OF JUVENILE OFFENDER TRANSACTIONS.

The Interstate Compact for Juveniles *Solutions for the 21st Century*

The current Interstate Compact on Juveniles, a law adopted by your state, is nearly fifty years old and has never been revised. A revision to this out-dated compact has been drafted to resolve many of the problems currently being experienced across the country. Working with state legislators, juvenile justice practitioners, corrections officials, victims of crime, court administrators, and offices of state attorneys general, The Council of State Governments is proud to be part of reshaping this important contract among the states.

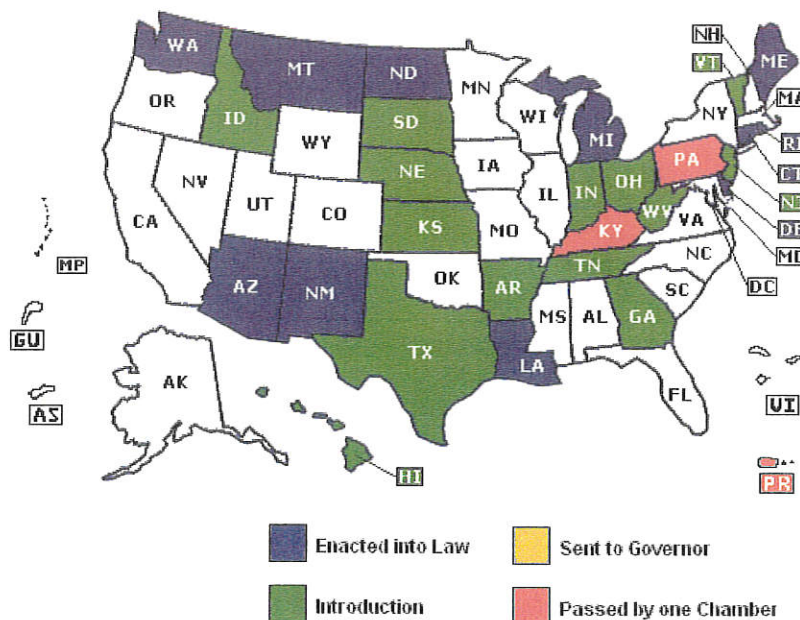
Established in 1955, the current Interstate Compact on Juveniles is not an effective instrument for use by today's juvenile justice system. Some of its language and methods are antiquated, its rules and procedures are not widely agreed to, followed, or understood and its structure and overall management is powerless to meet the real needs of juveniles within the modern justice system.

Since 2000, CSG and the Office of Juvenile Justice and Delinquency Prevention have led the effort to draft the new Interstate Compact for Juveniles. This updated Compact addresses many deficiencies within the current juvenile compact system, including enforcement, administration, finances, communications, data sharing and training. Specifically, this Compact provides for:

- The establishment of an independent compact authority to administer compact activity
- A rule-making authority and a provision for significant sanctions to support compact operations
- The establishment of state-level councils to provide oversight into compact operations
- The collection of standardized information and information sharing systems

In summary, The Interstate Compact for Juveniles provides the framework for promoting public safety, ensuring the welfare of juveniles, and protecting victims within the states through control and regulation of the interstate movement of juveniles.

2004 State Legislative Activity (As of January 27, 2004)



Up-to-date information, including state-by-state status and educational materials, can be accessed through CSG's web site, www.csg.org, keyword: Juveniles. Please contact Chad Foster, Policy Analyst with CSG, at (859) 244-8032 / cfoster@csg.org with questions or for more information.

THE INTERSTATE COMPACT FOR JUVENILES

ARTICLE I

PURPOSE

The compacting states to this Interstate Compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents and status offenders who are on probation or parole and who have absconded, escaped or run away from supervision and control and in so doing have endangered their own safety and the safety of others. The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence. The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

It is the purpose of this compact, through means of joint and cooperative action among the compacting states to: (A) ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state; (B) ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected; (C) return juveniles who have run away, absconded or escaped from supervision or control or have been accused of an offense to the state requesting their return; (D) make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services; (E) provide for the effective tracking and supervision of juveniles; (F) equitably allocate the costs, benefits and obligations of the compacting states; (G) establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders; (H) insure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines; (I) establish procedures to resolve pending charges (detainers) against juvenile offenders prior to transfer or release to the community under the terms of this compact;

(J) establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and criminal justice officials, and regular reporting of Compact activities to heads of state executive, judicial, and legislative branches and juvenile and criminal justice administrators; (K) monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct non-compliance; (L) coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity; and (M) coordinate the implementation and operation of the compact with the Interstate Compact for the Placement of Children, the Interstate Compact for Adult Offender Supervision and other compacts affecting juveniles particularly in those cases where concurrent or overlapping supervision issues arise. It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and therefore are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact.

ARTICLE II

DEFINITIONS

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

- A. "By-laws" means: those by-laws established by the Interstate Commission for its governance, or for directing or controlling its actions or conduct.
- B. "Compact Administrator" means: the individual in each compacting state appointed pursuant to 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.

- C. "Compacting State" means: any state which has enacted the enabling legislation for this compact.
- D. "Commissioner" means: the voting representative of each compacting state appointed pursuant to Article III of this compact.
- E. "Court" means: any court having jurisdiction over delinquent, neglected, or dependent children.
- F. "Deputy Compact Administrator" means: the individual, if any, in each compacting state appointed to act on behalf of a Compact Administrator pursuant to 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.
- G. "Interstate Commission" means: the Interstate Commission for Juveniles created by Article III of this compact.
- H. "Juvenile" means: any person defined as a juvenile in any member state or by the rules of the Interstate Commission, including:
 - (1) Accused Delinquent – a person charged with an offense that, if committed by an adult, would be a criminal offense;
 - (2) Adjudicated Delinquent – a person found to have committed an offense that, if committed by an adult, would be a criminal offense;
 - (3) Accused Status Offender – a person charged with an offense that would not be a criminal offense if committed by an adult;
 - (4) Adjudicated Status Offender - a person found to have committed an offense that would not be a criminal offense if committed by an adult; and
 - (5) Non-Offender – a person in need of supervision who has not been accused or adjudicated a status offender or delinquent.
- I. "Non-Compacting state" means: any state which has not enacted the enabling legislation for this compact.

- J. "Probation or Parole" means: any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.
- K. "Rule" means: a written statement by the Interstate Commission promulgated pursuant to Article VI 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 Commission, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule.
- L. "State" means: a state of the United States, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands.

ARTICLE III

INTERSTATE COMMISSION FOR JUVENILES

- A. The compacting states hereby create the "Interstate Commission for Juveniles." The commission shall be a body corporate and joint agency of the compacting states. The commission shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.
- B. The Interstate Commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the State Council for Interstate Juvenile Supervision created hereunder. The commissioner shall be the compact administrator, deputy compact administrator or designee from that state who shall serve on the Interstate Commission in such capacity under or pursuant to the applicable law of the compacting state.
- C. In addition to the commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners, but who are

members of interested organizations. Such non-commissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, Interstate Compact for Adult Offender Supervision, Interstate Compact for the Placement of Children, juvenile justice and juvenile corrections officials, and crime victims. All non-commissioner members of the Interstate Commission shall be ex-officio (non-voting) members. The Interstate Commission may provide in its by-laws for such additional ex-officio (non-voting) members, including members of other national organizations, in such numbers as shall be determined by the commission.

- D. Each compacting state represented at any meeting of the commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the by-laws of the Interstate Commission.
- E. The 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 shall be open to the public.
- F. The Interstate Commission shall establish an executive committee, which shall include commission officers, members, and others as determined by the by-laws. The executive committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking and/or amendment to the compact. The executive committee shall oversee the day-to-day activities of the administration of the compact managed by an executive director and Interstate Commission staff; administers enforcement and compliance with the provisions of the compact, its by-laws and rules, and performs such other duties as directed by the Interstate Commission or set forth in the by-laws.
- G. Each member of the Interstate Commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the Interstate Commission. A member shall vote in person and shall 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 by-laws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

- H. The Interstate Commission's by-laws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. 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.
- I. 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 any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:
 - 1. Relate solely to the Interstate Commission's internal personnel practices and procedures;
 - 2. Disclose matters specifically exempted from disclosure by statute;
 - 3. Disclose trade secrets or commercial or financial information which is privileged or confidential;
 - 4. Involve accusing any person of a crime, or formally censuring any person;
 - 5. Disclose information of a personal nature where 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 examination, operating or condition reports prepared by, or 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 such person or entity;

8. Disclose information, the premature disclosure of which would 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.
- J. For every meeting closed pursuant to this provision, 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 exemptive provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefore, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.
- K. The Interstate Commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.

ARTICLE IV

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The commission shall have the following powers and duties:

1. To provide for dispute resolution among compacting states.
2. To promulgate rules to effect the purposes and obligations as enumerated in this compact, which shall have the force and effect of statutory law and shall be 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 by-laws adopted and rules promulgated by the Interstate Commission.
4. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the by-laws, using all necessary and proper means, including but not limited to the use of judicial process.
5. To establish and maintain offices which shall be located within one or more of the compacting states.
6. To purchase and maintain insurance and bonds.
7. To borrow, accept, hire or contract for services of personnel.
8. To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.
9. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to, inter alia, conflicts of interest, rates of compensation, and qualifications of personnel.
10. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.
11. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.
12. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.
13. To establish a budget and make expenditures and levy dues as provided in Article VIII of this compact.
14. To sue and be sued.

15. To adopt a seal and by-laws governing the management and operation of the Interstate Commission.
16. To perform such functions as may be 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. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.
18. To coordinate education, training and public awareness regarding the interstate movement of juveniles for officials involved in such activity.
19. To establish uniform standards of the reporting, collecting and exchanging of data.
20. The Interstate Commission shall maintain its corporate books and records in accordance with the By-laws.

ARTICLE V

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

Section A. By-laws

1. The Interstate Commission shall, by a majority of the members present and voting, within twelve months after the first Interstate Commission meeting, adopt by-laws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:
 - a. Establishing the fiscal year of the Interstate Commission;
 - b. Establishing an executive committee and such other committees as may be necessary;
 - c. Provide for the establishment of committees governing any general or specific delegation of any authority or function of the Interstate Commission;
 - d. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;

- e. Establishing the titles and responsibilities of the officers of the Interstate Commission;
- f. 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/or reserving of all of its debts and obligations.
- g. Providing "start-up" rules for initial administration of the compact; and
- h. Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

Section B. Officers and Staff

1. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson and a vice chairperson, each of whom shall have such authority and duties as may be specified in the by-laws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.
2. The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a Member and shall hire and supervise such other staff as may be authorized by the Interstate Commission.

Section C. Qualified Immunity, Defense and Indemnification

1. The Commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of

property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that any such person shall not be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

2. The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. Nothing in this subsection shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.
3. The Interstate Commission shall defend the executive director or the employees or representatives of the Interstate Commission and, subject to the approval of the Attorney General of the state represented by any commissioner of a compacting state, shall defend such commissioner or 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 occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant 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 intentional or willful and wanton misconduct on the part of such person.
4. The Interstate Commission shall indemnify and hold the commissioner of a compacting state, or the commissioner's representatives or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or

responsibilities, or that such persons 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 intentional or willful and wanton misconduct on the part of such persons.

ARTICLE VI

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

- A. The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.
- B. Rulemaking shall occur pursuant to the criteria set forth in this article and the by-laws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedures act, as the Interstate Commission deems appropriate consistent with due process requirements under the U.S. Constitution as now or hereafter interpreted by the U. S. Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the Commission.
- C. When promulgating a rule, the Interstate Commission shall, at a minimum:
 - 1. publish the proposed rule's entire text stating the reason(s) for that proposed rule;
 - 2. allow and invite any and all persons to submit written data, facts, opinions and arguments, which information shall be added to the record, and be made publicly available;
 - 3. provide an opportunity for an informal hearing if petitioned by ten (10) or more persons; and
 - 4. promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

- D. Allow, not later than sixty days after a rule is promulgated, any interested person to 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 such 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.
- E. 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 that such rule shall have no further force and effect in any compacting state.
- F. The existing rules governing the operation of the Interstate Compact on Juveniles superceded by this act shall be null and void twelve (12) months after the first meeting of the Interstate Commission created hereunder.
- G. Upon determination by the Interstate Commission that a state-of-emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than ninety (90) days after the effective date of the emergency rule.

ARTICLE VII

OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

Section A. Oversight

- 1. 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 such activities being administered in non-compacting states which may significantly affect compacting states.

2. 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 promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of 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 which may affect the powers, responsibilities or actions of the Interstate Commission, it shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

Section B. Dispute Resolution

1. The compacting states shall report to the Interstate Commission on all issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its bylaws and rules.
2. The Interstate Commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and between compacting and non-compacting states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.
3. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in Article XI of this compact.

ARTICLE VIII

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 on 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 which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state and shall promulgate a rule binding upon all compacting states which governs said assessment.
- C. The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the compacting states, 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 shall be subject to the audit and accounting procedures established under its by-laws. 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 shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE IX
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 representative from the legislative, judicial, and executive branches of government, 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 will advise and may exercise oversight and advocacy concerning that state's participation in Interstate Commission activities and other duties

as may be determined by that state, including but not limited to, development of policy concerning operations and procedures of the compact within that state.

ARTICLE X

COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

- A. Any state, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands as defined in Article II of this compact is eligible to become a compacting state.
- B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 of the states. The initial effective date shall be the later of July 1, 2004 or upon enactment into law by the 35th jurisdiction. Thereafter it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states and territories of the United States.
- C. The Interstate Commission may propose amendments to the compact for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

ARTICLE XI

WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

Section A. Withdrawal

- 1. Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided that a compacting state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.
- 2. The effective date of withdrawal is the effective date of the repeal.

3. 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 within sixty days of its receipt thereof.
4. 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 extend beyond the effective date of withdrawal.
5. Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission

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

1. 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, or the by-laws or duly promulgated rules, the Interstate Commission may impose any or all of the following penalties:
 - a. Remedial training and technical assistance as directed by the Interstate Commission;
 - b. Alternative Dispute Resolution;
 - c. Fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission; and
 - d. Suspension or termination of membership in the compact, which shall be imposed only after all other reasonable means of securing compliance under the by-laws and rules have been exhausted and the Interstate Commission has therefore determined that the offending state is in default. 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. The grounds for default include, but are not limited to, failure of a compacting state to perform

such obligations or responsibilities imposed upon it by this compact, the by-laws, or duly promulgated rules and any other grounds designated in commission by-laws and rules. The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission and of the default pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall 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 shall be terminated from the effective date of termination.

2. Within sixty days of the effective date of termination of a defaulting state, the Commission shall notify the Governor, the Chief Justice or Chief Judicial Officer, the Majority and Minority Leaders of the defaulting state's legislature, and the state council of such termination.
3. The defaulting state is responsible for all assessments, obligations and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.
4. The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.
5. 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 pursuant to the rules.

Section C. Judicial Enforcement

The Interstate Commission may, by majority vote of the 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 the provisions of the compact, its duly promulgated rules and by-laws, against any compacting state in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorneys fees.

Section D. Dissolution of Compact

1. The compact dissolves effective upon the date of the withdrawal or default of the compacting state, which reduces membership in the compact to one compacting state.
2. Upon the dissolution of this compact, the compact becomes null and void and shall be 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 by-laws.

ARTICLE XII

SEVERABILITY AND CONSTRUCTION

- A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.
- B. The provisions of this compact shall be liberally construed to effectuate its purposes.

ARTICLE XIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

Section A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.
2. All compacting states' laws other than state Constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

Section B. Binding Effect of the Compact

1. All lawful actions of the Interstate Commission, including all rules and by-laws promulgated by the Interstate Commission, are binding upon the compacting states.

2. All agreements between the Interstate Commission and the compacting states are binding in accordance with their terms.
3. 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 such meaning or interpretation.
4. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes effective.

3

Juvenile Justice Authority



INTERSTATE COMPACT ON JUVENILES House Bill 2485

February 4, 2003

Denise L. Everhart, Commissioner
James Frazier, Deputy Commissioner

Kansas Juvenile Justice Authority
Interstate Compact On Juveniles
February 4, 2004

The Kansas Juvenile Justice Authority (KJJA) supports House Bill 2485. The bill requires KJJA to adopt and participate in Interstate Compact on Juveniles (ICJ) within the revised rules, regulations and articles as outlined in the new ICJ.

The Kansas ICJ office, operated by the Juvenile Justice Authority, has sole responsibility in providing oversight for all juveniles who leave or come into the state under ICJ provisions. The ICJ provides for the welfare and protection of juveniles and the public by providing for the cooperative supervision of probationers and parolees (conditional release offenders), and the prompt and safe return of juveniles who have run away, escaped or absconded.

The new/revised Interstate Compact for Juveniles will further provide for the welfare and protection of juveniles and the public by:

- Holding signatory states accountable for adhering to the ICJ rules/regulations and articles with violating states facing possible sanctions such as fines and/or suspension/termination of membership to the new compact.
- Allowing for compact administrators to make contracts for the cooperative institutionalization of delinquent youth needing special services in public facilities in member states. The task is currently being handled through SRS/Interstate compact for the Placement of Children.
- Providing an improved tracking/data system through uniform, computerized reporting, making communication between states faster and more efficient.
- Providing oversight from the legislative, judicial and executive branch of government, as well as victims' groups.

The current Kansas caseload of 244 cases is not expected to be impacted by this bill; however, HB 2485 will result in a moderate increase in the workload of the current KJJA ICJ. The effectiveness and efficiency of the office are expected to improve dramatically with the enactment of this new compact. Changes forseen include:

Accountability. One of the flaws of the current compact is that it has no authority to hold states accountable for the implementation of ICJ rules/regulations and articles. The new compact will make signatory states accountable for adhering to the ICJ rules/regulations and articles. Those states violating the new compact rules/regulations and articles may be sanctioned with fines and/or suspension/termination of membership to the new compact. To assure that Kansas adheres to the new compact in a timely manner, an assistant is needed to provide a timely response to incoming and outgoing requests for supervision, requests for home evaluations, progress reports and in meeting the five (5) day return time frame for runaway juveniles.

New Cases. It is not unusual to find a number of out-of-state juvenile probationers/parolees residing in Kansas or Kansas' juvenile probationers/parolees residing in other states, unbeknownst to compact administrators and without formal authority by the interstate compact. It is the goal of the new compact to bring states into compliance with mutually agreed upon rules, resulting in an increase in the number of compact cases as the states account for these "stealth" moves and provide appropriate supervision and care. The new compact also calls for compact administrators to make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services. The task is currently being handled through SRS/Interstate Compact for the Placement of Children.

Training. Local law enforcement agencies, juvenile detention centers, court service officers, community case managers, juvenile intake offices and intensive supervision probation officers will require training on the new compact rules and regulations. This will require traveling time out of the office.

New Technology. One of the main problems voiced by ICJ administrators, agency administrators and field staff is that business conducted through the compact is too slow (see Executive Summary of *Perspectives from the Field on the Interstate Compact on Juveniles*). The new compact calls for a more timely method of sharing of information on juvenile transfers to "insure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines." (Article I) To assist with facilitating a more timely method of information sharing, the new compact will establish a better tracking/data system through uniform, computerized reporting. Additionally, the compact calls for all ICJ offices to have a scanner, thus allowing documents to be scanned and emailed over the Internet. This will require the ICJ compact administrator to spend time entering the data in the tracking system and scanning the numerous documents associated with the request for supervision by another state.

State Council. The new compact calls for each compacting state to form a State Council to provide oversight and advocacy concerning that state's participation in Interstate Commission activities and other duties as may be determined by that state, including but not limited to development of policy concerning operations and procedures of the compact within that state. The State Council shall consist of one (1) representative from the legislative, judicial and executive branch of government, victims groups and the compact administrator, deputy compact administrator or designee.

The following additional duties and responsibilities will create the need for an additional employee to assist with the implementation of the new Interstate Compact on Juveniles:

- New responsibility for the placement of juvenile offenders in treatment facilities, which is currently handled by SRS.
- Increase in cases as a tracking system is implemented, allowing states to more accurately account for juvenile offenders being supervised through ICJ.
- Increase in time spent on seeing that responses to requests for supervision and the return of runaway juveniles are met in a timelier manner, avoiding imposition of penalties by the Interstate Commission.
- Increase in time spent on training local law enforcement agencies, juvenile detention centers, court service officers, community case managers, juvenile intake offices and intensive supervision probation officers on the new compact rules/regulations and articles.
- Increase in time spent entering data into the new juvenile tracking system and in scanning documents to improve the timely manner in which information is shared between compact states.
- Time spent in participating in the newly formed State Council.

The new ICJ Commission can enact additional duties, when/if the new compact is passed.

The fiscal Impact is estimated at \$46,700. (See attached fiscal impact report).

Thank you for your consideration of this bill. It would allow for the Interstate Compact on Juveniles system in Kansas to be a much more effective tool for the Kansas Juvenile Justice Authority, Social and Rehabilitation Services, as well as the other states who are members of the Compact.

James Frazier, Deputy Commissioner of Operations

EXECUTIVE SUMMARY

The Interstate Compact on Juveniles, referred to as the ICJ or Compact, was established in 1955 to manage the interstate movement of adjudicated youth, the return of non-adjudicated runaway youth, and the return of youth to states where they were charged with delinquent acts. As the population managed by the ICJ has grown, various juvenile justice authorities have identified problems associated with the Compact. At the same time these concerns were growing, the Association of Juvenile Compact Administrators, which governs the Compact, and members of the Council of Juvenile Correctional Administrators tracked the review of a similar compact that manages the interstate movement of adult probationers and parolees. The adult compact manages larger numbers of cases, but is similar in many ways to the ICJ.

Review of the adult compact included a national survey in 1998 to collect statistics on compact activity and to solicit opinions from officials at various levels of corrections organizations. The results were useful in documenting problem areas and opinions from the field for changes desired with the adult compact. Through an arrangement between the Office of Juvenile Justice and Delinquency Prevention and the National Institute of Corrections, the NIC Information Center conducted a similar survey on the Interstate Compact on Juveniles. The current project included surveys of three audiences within the juvenile justice system.

1. Juvenile Compact administrators,
2. Juvenile justice agency administrators, and
3. Field staff of juvenile justice agencies.

Summary of Survey Findings

- The ICJ manages an estimated 15,000 active cases that have been transferred from the state where a youth was adjudicated to another state for supervision (approximately one case is managed by the ICJ to every 7.7 cases managed by the adult compact).
- States responding to the survey indicate that approximately one-third of the requests to transfer cases are denied by the receiving states.
- On average, 1.59 full-time staff positions are assigned to manage Compact business at the state level.
- Using the same nine-point rating scale, all three surveyed groups rated the overall Compact performance as slightly above the mid-point, in the "Adequate" range.
- The most common problems cited with the Compact are listed below.
 1. Conducting business through the Compact is too slow and cumbersome.
 2. Response of sending states to violations, and efforts to return violators to sending states, present a range of conflicts and inconsistent practices.
 3. Too many youth are allowed to relocate before receiving states receive notice of the move or have approved the transfer.
- The most common recommendations to improve the Compact are listed below.
 1. Better enforcement and accountability measures.
 2. More training regarding the Compact for local judges and other state and local juvenile justice officials.
 3. Improve the quality and speed of communication procedures within the Compact.



JUVENILE JUSTICE AUTHORITY
DENISE L. EVERHART, COMMISSIONER

KATHLEEN SEBELIUS, GOVERNOR

MEMORANDUM

TO: Duane A. Goossen, Director of Budget
Attn: Keith Bradshaw

FROM: Denise L. Everhart, Commissioner

SUBJECT: Fiscal Note on House Bill 2485

DATE: January 12, 2004

SUMMARY OF THE BILL'S PROVISIONS

This bill establishes Kansas as a member state of the new Interstate Compact for Juveniles (ICJ) for the purpose of providing proper supervision or return of juveniles, delinquents and status offenders who are on probation or parole and who absconded, escaped or ran away from supervision and control and in so doing have endangered their safety and/or the safety of others. The State will be a member of the Interstate Commission for Juveniles.

The bill requires members of the Interstate Commission to pay or provide for the state's assessment of the expenses of its establishment, organization and on-going expenses.

IMPACT ON JUVENILE JUSTICE AUTHORITY OPERATIONS

The Juvenile Justice Authority (JJA) is the administrative agency for ICJ in Kansas. HB 2485 will result in an increase in the workload for the JJA interstate compact office.

BUDGET IMPACT

The projected cost of this bill is \$46,700 annually. The cost includes the state's assessment for establishing the new Interstate Commission and its annual operating expenses, the formation and operation of a state council, participant's training, office supplies and one additional FTE. These expenses are broken down as follows:

Fiscal Note HB 2485 – Interstate Compact
Page two

- Projected State Assessment (establish and maintain new National Commission and overhead) \$17,000
- Formation of State Council (travel, lodging, dining expenses at yearly meeting) \$1,000
- Senior Administrative Specialist salary \$25,000
- Computer, printer, office supplies, office space \$1,700
- Training: ICJ Conference (held twice annually) \$1,000
- In-State Training (travel, guidebook, etc.) \$1,000

COMMENTS

The Juvenile Justice Authority supports this bill. Currently JJA is a member of the Association of Juvenile Compact Administrators (AJCA). Kansas averages 336 juvenile transactions per year with ICJ. It is essential that Kansas be a part of and has a functional role in the re-organization of the new interstate Compact.