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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2004



ENROLLED

House Bill No. 4055

(By Delegate Staton)



Passed March 13, 2004

In Effect Ninety Days from Passage

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H. B. 4055

(BY DELEGATE STATON)

[Passed March 13, 2004; in effect ninety days from passage.]

AN ACT to amend the code of West Virginia, 1931, as amended, by adding thereto a new article, designated §49-8A-1, §49-8A-2, §49-8A-3 and §49-8A-4, all relating to the supervision and return of juvenile offenders, juvenile runaways and other juveniles; authorizing and directing the governor to execute an interstate compact for the supervision and return of juvenile offenders, juvenile runaways and other juveniles; purpose; definitions; creation of the interstate commission for juveniles; powers and duties; bylaws; immunity; defense and indemnification; promulgation of rules; dispute resolution; annual assessment on member states; state council for interstate juvenile supervision; effective date; withdrawal from compact; default of a compact state; fines; suspension; termination; severability; binding effect of compact; and appointment of compact administrator.

Be it enacted by the Legislature of West Virginia:

That the code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §49-8A-1, §49-8A-2, §49-8A-3 and §49-8A-4, all to read as follows:

ARTICLE 8A. THE INTERSTATE COMPACT FOR JUVENILES.

§49-8A-1. Execution of interstate compact for juveniles.

1 The governor of this state is authorized and directed to
2 execute a compact on behalf of the state of West Virginia with
3 any state or states of the United States legally joining therein,
4 and substantially as follows:

ARTICLE I. PURPOSE.

1 (a) The compacting states to this interstate compact
2 recognize that each state is responsible for the proper supervi-
3 sion or return of juveniles, delinquents and status offenders who
4 are on probation or parole and who have absconded, escaped or
5 run away from supervision and control and in so doing have
6 endangered their own safety and the safety of others. The
7 compacting states also recognize that each state is responsible
8 for the safe return of juveniles who have run away from home
9 and in doing so have left their state of residence. The compact-
10 ing states also recognize that Congress, by enacting the Crime
11 Control Act, 4 U.S.C. Section 112 (1965), has authorized and
12 encouraged compacts for cooperative efforts and mutual
13 assistance in the prevention of crime.

14 (b) It is the purpose of this compact, through means of joint
15 and cooperative action among the compacting states:

16 (1) To ensure that the adjudicated juveniles and status
17 offenders subject to this compact are provided adequate
18 supervision and services in the receiving state as ordered by the
19 adjudicating judge or parole authority in the sending state;

20 (2) To ensure that the public safety interests of the citizens,
21 including the victims of juvenile offenders, in both the sending
22 and receiving states are adequately protected;

23 (3) To return juveniles who have run away, absconded or
24 escaped from supervision or control or have been accused of an
25 offense to the state requesting their return;

26 (4) To make contracts for the cooperative
27 institutionalization in public facilities in member states for
28 delinquent youth needing special services;

29 (5) To provide for the effective tracking and supervision of
30 juveniles;

31 (6) To equitably allocate the costs, benefits and obligations
32 of the compacting states;

33 (7) To establish procedures to manage the movement
34 between states of juvenile offenders released to the community
35 under the jurisdiction of courts, juvenile departments, or any
36 other criminal or juvenile justice agency which has jurisdiction
37 over juvenile offenders;

38 (8) To ensure immediate notice to jurisdictions where
39 defined offenders are authorized to travel or to relocate across
40 state lines;

41 (9) To establish procedures to resolve pending charges
42 (detainers) against juvenile offenders prior to transfer or release
43 to the community under the terms of this compact;

44 (10) To establish a system of uniform data collection on
45 information pertaining to juveniles subject to this compact that
46 allows access by authorized juvenile justice and criminal justice
47 officials, and regular reporting of compact activities to heads of
48 state executive, judicial, and legislative branches and juvenile
49 and criminal justice administrators;

50 (11) To monitor compliance with rules governing interstate
51 movement of juveniles and initiate interventions to address and
52 correct noncompliance;

53 (12) To coordinate training and education regarding the
54 regulation of interstate movement of juveniles for officials
55 involved in such activity; and

56 (13) To coordinate the implementation and operation of the
57 compact with the interstate compact for the placement of
58 children, the interstate compact for adult offender supervision
59 and other compacts affecting juveniles, particularly in those
60 cases where concurrent or overlapping supervision issues arise.

61 (c) It is the policy of the compacting states that the activi-
62 ties conducted by the interstate commission created herein are
63 the formation of public policies and therefore are public
64 business. Furthermore, the compacting states shall cooperate
65 and observe their individual and collective duties and responsi-
66 bilities for the prompt return and acceptance of juveniles
67 subject to the provisions of this compact. The provisions of this
68 compact shall be reasonably and liberally construed to accom-
69 plish the purposes and policies of the compact.

ARTICLE II. DEFINITIONS.

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

3 (a) "Bylaws" means those bylaws established by the
4 interstate commission for its governance, or for directing or
5 controlling its actions or conduct.

6 (b) "Compact administrator" means the individual in each
7 compacting state appointed pursuant to the terms of this
8 compact, responsible for the administration and management of
9 the 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 this
12 compact.

13 (c) “Compacting state” means any state which has enacted
14 the enabling legislation for this compact.

15 (d) “Commissioner” means the voting representative of
16 each compacting state appointed pursuant to article III of this
17 compact.

18 (e) “Court” means any court having jurisdiction over
19 delinquent, neglected, or dependent children.

20 (f) “Deputy compact administrator” means the individual,
21 if any, in each compacting state appointed to act on behalf of a
22 compact administrator pursuant to the terms of this compact
23 responsible for the administration and management of the
24 state’s supervision and transfer of juveniles subject to the terms
25 of this compact, the rules adopted by the interstate commission
26 and policies adopted by the state council under this compact.

27 (g) “Interstate commission” means the interstate commis-
28 sion for juveniles created by Article III of this compact.

29 (h) “Juvenile” means any person defined as a juvenile in
30 any member state or by the rules of the interstate commission,
31 including:

32 (1) Accused delinquent – a person charged with an offense
33 that, if committed by an adult, would be a criminal offense;

34 (2) Adjudicated delinquent – a person found to have
35 committed an offense that, if committed by an adult, would be
36 a criminal offense;

37 (3) Accused status offender – a person charged with an
38 offense that would not be a criminal offense if committed by an
39 adult;

40 (4) Adjudicated status offender - a person found to have
41 committed an offense that would not be a criminal offense if
42 committed by an adult; and

43 (i) Nonoffender – a person in need of supervision who has
44 not been accused or adjudicated a status offender or delinquent.

45 (j) “Noncompacting state” means any state which has not
46 enacted the enabling legislation for this compact.

47 (k) “Probation or parole” means any kind of supervision or
48 conditional release of juveniles authorized under the laws of the
49 compacting states.

50 (l) “Rule” means a written statement by the interstate
51 commission promulgated pursuant to Article VI of this compact
52 that is of general applicability, implements, interprets or
53 prescribes a policy or provision of the compact, or an organiza-
54 tional, procedural, or practice requirement of the commission,
55 and has the force and effect of statutory law in a compacting
56 state, and includes the amendment, repeal, or suspension of an
57 existing rule.

58 (m) “State” means a state of the United States, the District
59 of Columbia (or its designee), the Commonwealth of Puerto
60 Rico, the U.S. Virgin Islands, Guam, American Samoa, and the
61 Northern Marianas Islands.

ARTICLE III. INTERSTATE COMMISSION FOR JUVENILES.

1 (a) The compacting states hereby create the “Interstate
2 Commission for Juveniles.” The commission shall be a body
3 corporate and joint agency of the compacting states. The

4 commission shall have all the responsibilities, powers and
5 duties set forth herein, and such additional powers as may be
6 conferred upon it by subsequent action of the respective
7 legislatures of the compacting states in accordance with the
8 terms of this compact.

9 (b) The interstate commission shall consist of commission-
10 ers appointed by the appropriate appointing authority in each
11 state pursuant to the rules and requirements of each compacting
12 state and in consultation with the state council for interstate
13 juvenile supervision created hereunder. The commissioner shall
14 be the compact administrator, deputy compact administrator or
15 designee from that state who shall serve on the interstate
16 commission in such capacity under or pursuant to the applicable
17 law of the compacting state.

18 (c) In addition to the commissioners who are the voting
19 representatives of each state, the interstate commission shall
20 include individuals who are not commissioners, but who are
21 members of interested organizations. Such noncommissioner
22 members must include a member of the national organizations
23 of governors, legislators, state chief justices, attorneys general,
24 interstate compact for adult offender supervision, interstate
25 compact for the placement of children, juvenile justice and
26 juvenile corrections officials, and crime victims. All
27 noncommissioner members of the interstate commission shall
28 be ex officio (nonvoting) members. The interstate commission
29 may provide in its bylaws for such additional ex officio
30 (nonvoting) members, including members of other national
31 organizations, in such numbers as shall be determined by the
32 commission.

33 (d) Each compacting state represented at any meeting of the
34 commission is entitled to one vote. A majority of the compact-
35 ing states shall constitute a quorum for the transaction of

36 business, unless a larger quorum is required by the bylaws of
37 the interstate commission.

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

43 (f) The interstate commission shall establish an executive
44 committee, which shall include commission officers, members,
45 and others as determined by the bylaws. The executive commit-
46 tee shall have the power to act on behalf of the interstate
47 commission during periods when the interstate commission is
48 not in session, with the exception of rule making and/or
49 amendment to the compact. The executive committee shall
50 oversee the day-to-day activities of the administration of the
51 compact managed by an executive director and interstate
52 commission staff; administers enforcement and compliance
53 with the provisions of the compact, its bylaws and rules, and
54 performs such other duties as directed by the interstate commis-
55 sion or set forth in the bylaws.

56 (g) Each member of the interstate commission shall have
57 the right and power to cast a vote to which that compacting
58 state is entitled and to participate in the business and affairs of
59 the interstate commission. A member shall vote in person and
60 shall not delegate a vote to another compacting state. However,
61 a commissioner, in consultation with the state council, shall
62 appoint another authorized representative, in the absence of the
63 commissioner from that state, to cast a vote on behalf of the
64 compacting state at a specified meeting. The bylaws may
65 provide for members' participation in meetings by telephone or
66 other means of telecommunication or electronic communica-
67 tion.

68 (h) The interstate commission's bylaws shall establish
69 conditions and procedures under which the interstate commis-
70 sion shall make its information and official records available to
71 the public for inspection or copying. The interstate commission
72 may exempt from disclosure any information or official records
73 to the extent they would adversely affect personal privacy rights
74 or proprietary interests.

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

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

83 (2) Disclose matters specifically exempted from disclosure
84 by statute;

85 (3) Disclose trade secrets or commercial or financial
86 information which is privileged or confidential;

87 (4) Involve accusing any person of a crime, or formally
88 censuring any person;

89 (5) Disclose information of a personal nature where
90 disclosure would constitute a clearly unwarranted invasion of
91 personal privacy;

92 (6) Disclose investigative records compiled for
93 law-enforcement purposes;

94 (7) Disclose information contained in or related to examina-
95 tion, operating or condition reports prepared by, or on behalf of
96 or for the use of, the interstate commission with respect to a

97 regulated person or entity for the purpose of regulation or
98 supervision of such person or entity;

99 (8) Disclose information, the premature disclosure of which
100 would significantly endanger the stability of a regulated person
101 or entity; or

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

105 (j) For every meeting closed pursuant to the provisions of
106 subsection (i) above, the interstate commission's legal counsel
107 shall publicly certify that, in the legal counsel's opinion, the
108 meeting may be closed to the public, and shall reference each
109 relevant exemptive provision. The interstate commission shall
110 keep minutes which shall fully and clearly describe all matters
111 discussed in any meeting and shall provide a full and accurate
112 summary of any actions taken, and the reasons therefore,
113 including a description of each of the views expressed on any
114 item and the record of any roll call vote (reflected in the vote of
115 each member on the question). All documents considered in
116 connection with any action shall be identified in such minutes.

117 (k) The interstate commission shall collect standardized
118 data concerning the interstate movement of juveniles as
119 directed through its rules which shall specify the data to be
120 collected, the means of collection and data exchange and
121 reporting requirements. Such methods of data collection,
122 exchange and reporting shall insofar as is reasonably possible
123 conform to up-to-date technology and coordinate its informa-
124 tion functions with the appropriate repository of records.

ARTICLE IV. POWERS AND DUTIES OF THE INTERSTATE COMMIS- SION.

1 The interstate commission shall have the following powers
2 and duties:

3 (a) To provide for dispute resolution among compacting
4 states.

5 (b) To promulgate rules to effect the purposes and obliga-
6 tions as enumerated in this compact, which shall have the force
7 and effect of statutory law and shall be binding in the compact-
8 ing states to the extent and in the manner provided in this
9 compact.

10 (c) To oversee, supervise and coordinate the interstate
11 movement of juveniles subject to the terms of this compact and
12 any bylaws adopted and rules promulgated by the interstate
13 commission.

14 (d) To enforce compliance with the compact provisions, the
15 rules promulgated by the interstate commission, and the bylaws,
16 using all necessary and proper means, including, but not limited
17 to, the use of judicial process.

18 (e) To establish and maintain offices which shall be located
19 within one or more of the compacting states.

20 (f) To purchase and maintain insurance and bonds.

21 (g) To borrow, accept, hire or contract for services of
22 personnel.

23 (h) To establish and appoint committees and hire staff
24 which it deems necessary for the carrying out of its functions
25 including, but not limited to, an executive committee as
26 required by Article III which shall have the power to act on
27 behalf of the interstate commission in carrying out its powers
28 and duties hereunder.

29 (i) To elect or appoint such officers, attorneys, employees,
30 agents, or consultants, and to fix their compensation, define
31 their duties and determine their qualifications.

32 (j) To establish the interstate commission's personnel
33 policies and programs relating to, inter alia, conflicts of interest,
34 rates of compensation, and qualifications of personnel.

35 (k) To accept any and all donations and grants of money,
36 equipment, supplies, materials, and services, and to receive,
37 utilize, and dispose of it.

38 (l) To lease, purchase, accept contributions or donations of,
39 or otherwise to own, hold, improve or use any property, real,
40 personal, or mixed.

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

44 (n) To establish a budget and make expenditures and levy
45 dues as provided in Article VIII of this compact.

46 (o) To sue and be sued.

47 (p) To adopt a seal and bylaws governing the management
48 and operation of the interstate commission.

49 (q) To perform such functions as may be necessary or
50 appropriate to achieve the purposes of this compact.

51 (r) To report annually to the legislatures, governors,
52 judiciary, and state councils of the compacting states concern-
53 ing the activities of the interstate commission during the
54 preceding year. Such reports shall also include any recommen-
55 dations that may have been adopted by the interstate commis-
56 sion.

57 (s) To coordinate education, training and public awareness
58 regarding the interstate movement of juveniles for officials
59 involved in such activity.

60 (t) To establish uniform standards of the reporting, collect-
61 ing and exchanging of data.

62 (u) The interstate commission shall maintain its corporate
63 books and records in accordance with the bylaws.

**ARTICLE V. ORGANIZATION AND OPERATION OF THE INTERSTATE
COMMISSION.**

Section A. Bylaws.

1 (a) The interstate commission shall, by a majority of the
2 members present and voting, within twelve months after the
3 first interstate commission meeting, adopt bylaws to govern its
4 conduct as may be necessary or appropriate to carry out the
5 purposes of the compact, including, but not limited to:

6 (1) Establishing the fiscal year of the interstate commission;

7 (2) Establishing an executive committee and such other
8 committees as may be necessary to;

9 (3) Providing for the establishment of committees govern-
10 ing any general or specific delegation of any authority or
11 function of the interstate commission;

12 (4) Providing reasonable procedures for calling and
13 conducting meetings of the interstate commission, and ensuring
14 reasonable notice of each such meeting;

15 (5) Establishing the titles and responsibilities of the officers
16 of the interstate commission;

17 (6) Providing a mechanism for concluding the operations of
18 the interstate commission and the return of any surplus funds
19 that may exist upon the termination of the compact after the
20 payment and/or reserving of all of its debts and obligations.

21 (7) Providing “start-up” rules for initial administration of
22 the compact; and

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

Section B. Officers and Staff.

1 (b) (1) The interstate commission shall, by a majority of the
2 members, elect annually from among its members a chairperson
3 and a vice chairperson, each of whom shall have such authority
4 and duties as may be specified in the bylaws. The chairperson
5 or, in the chairperson’s absence or disability, the
6 vice-chairperson shall preside at all meetings of the interstate
7 commission. The officers so elected shall serve without
8 compensation or remuneration from the interstate commission;
9 provided that, subject to the availability of budgeted funds, the
10 officers shall be reimbursed for any ordinary and necessary
11 costs and expenses incurred by them in the performance of their
12 duties and responsibilities as officers of the interstate commis-
13 sion.

14 (2) The interstate commission shall, through its executive
15 committee, appoint or retain an executive director for such
16 period, upon such terms and conditions and for such compensa-
17 tion as the interstate commission may deem appropriate. The
18 executive director shall serve as secretary to the interstate
19 commission, but shall not be a member and shall hire and
20 supervise such other staff as may be authorized by the interstate
21 commission.

Section C. Qualified Immunity, Defense and Indemnification.

1 (c)(1) The commission’s executive director and employees
2 shall be immune from suit and liability, either personally or in
3 their official capacity, for any claim for damage to or loss of
4 property or personal injury or other civil liability caused or

5 arising out of or relating to any actual or alleged act, error, or
6 omission that occurred, or that such person had a reasonable
7 basis for believing occurred within the scope of commission
8 employment, duties, or responsibilities; provided, that any such
9 person shall not be protected from suit or liability for any
10 damage, loss, injury, or liability caused by the intentional or
11 willful and wanton misconduct of any such person.

12 (2) The liability of any commissioner, or the employee or
13 agent of a commissioner, acting within the scope of such
14 person's employment or duties for acts, errors, or omissions
15 occurring within such person's state may not exceed the limits
16 of liability set forth under the constitution and laws of that state
17 for state officials, employees, and agents. Nothing in this
18 subsection shall be construed to protect any such person from
19 suit or liability for any damage, loss, injury, or liability caused
20 by the intentional or willful and wanton misconduct of any such
21 person.

22 (3) The interstate commission shall defend the executive
23 director or the employees or representatives of the interstate
24 commission and, subject to the approval of the attorney general
25 of the state represented by any commissioner of a compacting
26 state, shall defend such commissioner or the commissioner's
27 representatives or employees in any civil action seeking to
28 impose liability arising out of any actual or alleged act, error or
29 omission that occurred within the scope of interstate commis-
30 sion employment, duties or responsibilities, or that the defen-
31 dant had a reasonable basis for believing occurred within the
32 scope of interstate commission employment, duties, or respon-
33 sibilities, provided that the actual or alleged act, error, or
34 omission did not result from intentional or willful and wanton
35 misconduct on the part of such person.

36 (4) The interstate commission shall indemnify and hold the
37 commissioner of a compacting state, or the commissioner's

38 representatives or employees, or the interstate commission's
39 representatives or employees, harmless in the amount of any
40 settlement or judgment obtained against such persons arising
41 out of any actual or alleged act, error, or omission that occurred
42 within the scope of interstate commission employment, duties,
43 or responsibilities, or that such persons had a reasonable basis
44 for believing occurred within the scope of interstate commis-
45 sion employment, duties, or responsibilities, provided that the
46 actual or alleged act, error, or omission did not result from
47 intentional or willful and wanton misconduct on the part of such
48 persons.

**ARTICLE VI. RULE-MAKING FUNCTIONS OF THE INTERSTATE COM-
MISSION.**

1 (a) The interstate commission shall promulgate and publish
2 rules in order to effectively and efficiently achieve the purposes
3 of the compact.

4 (b) Rule making shall occur pursuant to the criteria set forth
5 in this article and the bylaws and rules adopted pursuant
6 thereto. Such rule making shall substantially conform to the
7 principles of the "Model State Administrative Procedures Act,"
8 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or
9 such other administrative procedures act, as the interstate
10 commission deems appropriate consistent with due process
11 requirements under the U.S. Constitution as now or hereafter
12 interpreted by the U. S. Supreme Court. All rules and amend-
13 ments shall become binding as of the date specified, as pub-
14 lished with the final version of the rule as approved by the
15 commission.

16 (c) When promulgating a rule, the interstate commission
17 shall, at a minimum:

18 (1) Publish the proposed rule's entire text stating the
19 reason(s) for that proposed rule;

20 (2) Allow and invite any and all persons to submit written
21 data, facts, opinions and arguments, which information shall be
22 added to the record, and be made publicly available;

23 (3) Provide an opportunity for an informal hearing if
24 petitioned by ten (10) or more persons; and

25 (4) Promulgate a final rule and its effective date, if appro-
26 priate, based on input from state or local officials, or interested
27 parties.

28 (d) Allow, not later than sixty days after a rule is promul-
29 gated, any interested person to file a petition in the United
30 States District Court for the District of Columbia or in the
31 federal district court where the interstate commission's princi-
32 pal office is located for judicial review of such rule. If the court
33 finds that the interstate commission's action is not supported by
34 substantial evidence in the rule making record, the court shall
35 hold the rule unlawful and set it aside. For purposes of this
36 subsection, evidence is substantial if it would be considered
37 substantial evidence under the Model State Administrative
38 Procedures Act.

39 (e) If a majority of the legislatures of the compacting states
40 rejects a rule, those states may, by enactment of a statute or
41 resolution in the same manner used to adopt the compact, cause
42 that such rule shall have no further force and effect in any
43 compacting state.

44 (f) The existing rules governing the operation of the
45 Interstate Compact on Juveniles" superceded by this article
46 shall be null and void twelve months after the first meeting of
47 the interstate commission created hereunder.

48 (g) Upon determination by the interstate commission that
49 a state-of-emergency exists, it may promulgate an emergency
50 rule which shall become effective immediately upon adoption,

51 provided that the usual rule-making procedures provided
52 hereunder shall be retroactively applied to said rule as soon as
53 reasonably possible, but no later than ninety days after the
54 effective date of the emergency rule.

ARTICLE VII. OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION.

Section A. Oversight.

1 (a)(1) The interstate commission shall oversee the adminis-
2 tration and operations of the interstate movement of juveniles
3 subject to this compact in the compacting states and shall
4 monitor such activities being administered in noncompacting
5 states which may significantly affect compacting states.

6 (2) The courts and executive agencies in each compacting
7 state shall enforce this compact and shall take all actions
8 necessary and appropriate to effectuate the compact's purposes
9 and intent.

10 (3) The provisions of this compact and the rules promul-
11 gated hereunder shall be received by all the judges, public
12 officers, commissions, and departments of the state government
13 as evidence of the authorized statute and administrative rules.
14 All courts shall take judicial notice of the compact and the
15 rules.

16 (4) In any judicial or administrative proceeding in a
17 compacting state pertaining to the subject matter of this
18 compact which may affect the powers, responsibilities or
19 actions of the interstate commission, it shall be entitled to
20 receive all service of process in any such proceeding, and shall
21 have standing to intervene in the proceeding for all purposes.

Section B. Dispute Resolution.

1 (b)(1) The compacting states shall report to the interstate
2 commission on all issues and activities necessary for the
3 administration of the compact as well as issues and activities
4 pertaining to compliance with the provisions of the compact
5 and its bylaws and rules.

6 (2) The interstate commission shall attempt, upon the
7 request of a compacting state, to resolve any disputes or other
8 issues which are subject to the compact and which may arise
9 among compacting states and between compacting and
10 noncompacting states. The commission shall promulgate a rule
11 providing for both mediation and binding dispute resolution for
12 disputes among the compacting states.

13 (3) The interstate commission, in the reasonable exercise of
14 its discretion, shall enforce the provisions and rules of this
15 compact using any or all means set forth in Article XI of this
16 compact.

ARTICLE VIII. FINANCE.

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

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

16 (c) The interstate commission shall not incur any obliga-
17 tions of any kind prior to securing the funds adequate to meet
18 the same; nor shall the interstate commission pledge the credit
19 of any of the compacting states, except by and with the author-
20 ity of the compacting state.

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

ARTICLE IX. THE STATE COUNCIL.

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

ARTICLE X. COMPACTING STATES, EFFECTIVE DATE AND AMEND- MENT.

1 (a) Any state, the District of Columbia (or its designee), the
2 Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam,
3 American Samoa, and the Northern Marianas Islands as defined
4 in Article II of this compact is eligible to become a compacting
5 state.

6 (b) The compact shall become effective and binding upon
7 legislative enactment of the compact into law by no less than
8 thirty-five of the states. The initial effective date shall be the
9 later of the first day of July, two thousand four, or upon
10 enactment into law by the thirty-fifth jurisdiction. Thereafter it
11 shall become effective and binding as to any other compacting
12 state upon enactment of the compact into law by that state. The
13 governors of nonmember states or their designees shall be
14 invited to participate in the activities of the interstate commis-
15 sion on a nonvoting basis prior to adoption of the compact by
16 all states and territories of the United States.

17 (c) The interstate commission may propose amendments to
18 the compact for enactment by the compacting states. No
19 amendment shall become effective and binding upon the
20 interstate commission and the compacting states unless and
21 until it is enacted into law by unanimous consent of the
22 compacting states.

**ARTICLE XI. WITHDRAWAL, DEFAULT, TERMINATION AND JUDI-
CIAL ENFORCEMENT.**

Section A. Withdrawal.

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

6 (2) The effective date of withdrawal is the effective date of
7 the repeal.

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

14 (4) The withdrawing state is responsible for all assessments,
15 obligations and liabilities incurred through the effective date of
16 withdrawal, including any obligations, the performance of
17 which extend beyond the effective date of withdrawal.

18 (5) Reinstatement following withdrawal of any compacting
19 state shall occur upon the withdrawing state reenacting the
20 compact or upon such later date as determined by the interstate
21 commission.

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

1 (b)(1) If the interstate commission determines that any
2 compacting state has at any time defaulted in the performance
3 of any of its obligations or responsibilities under this compact,
4 or the bylaws or duly promulgated rules, the interstate commis-
5 sion may impose any or all of the following penalties:

6 (A) Remedial training and technical assistance as directed
7 by the interstate commission;

8 (B) Alternative dispute resolution;

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

11 (D) Suspension or termination of membership in the
12 compact. Suspension or termination of membership in the
13 compact shall be imposed only after all other reasonable means
14 of securing compliance under the bylaws and rules have been
15 exhausted and the interstate commission has therefore deter-
16 mined that the offending state is in default. Immediate notice of
17 suspension shall be given by the interstate commission to the
18 governor, the chief justice or the chief judicial officer of the
19 state, the majority and minority leaders of the defaulting state's
20 legislature, and the state council.

21 (2) The grounds for default include, but are not limited to,
22 failure of a compacting state to perform such obligations or
23 responsibilities imposed upon it by this compact, the bylaws, or
24 duly promulgated rules and any other grounds designated in
25 commission bylaws and rules.

26 (3) The interstate commission shall immediately notify the
27 defaulting state in writing of the penalty imposed by the
28 interstate commission and of the default pending a cure of the
29 default.

30 (4) The commission shall stipulate the conditions and the
31 time period within which the defaulting state must cure its
32 default. If the defaulting state fails to cure the default within the
33 time period specified by the commission, the defaulting state
34 shall be terminated from the compact upon an affirmative vote
35 of a majority of the compacting states and all rights, privileges
36 and benefits conferred by this compact shall be terminated from
37 the effective date of termination.

38 (5) Within sixty days of the effective date of termination of
39 a defaulting state, the commission shall notify the governor, the
40 chief justice or chief judicial officer, the majority and minority
41 leaders of the defaulting state's legislature, and the state council
42 of such termination.

43 (6) The defaulting state is responsible for all assessments,
44 obligations and liabilities incurred through the effective date of
45 termination including any obligations, the performance of
46 which extends beyond the effective date of termination.

47 (7) The interstate commission shall not bear any costs
48 relating to the defaulting state unless otherwise mutually agreed
49 upon in writing between the interstate commission and the
50 defaulting state.

51 (8) Reinstatement following termination of any compacting
52 state requires both a reenactment of the compact by the default-
53 ing state and the approval of the interstate commission pursuant
54 to the rules.

Section C. Judicial Enforcement.

1 (c) The interstate commission may, by majority vote of the
2 members, initiate legal action in the United States District
3 Court for the District of Columbia or, at the discretion of the
4 interstate commission, in the federal district where the interstate
5 commission has its offices, to enforce compliance with the
6 provisions of the compact, its duly promulgated rules and
7 bylaws, against any compacting state in default. In the event
8 judicial enforcement is necessary the prevailing party shall be
9 awarded all costs of such litigation including reasonable
10 attorneys fees.

Section D. Dissolution of Compact.

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

4 (2) Upon the dissolution of this compact, the compact
5 becomes null and void and shall be of no further force or effect,
6 and the business and affairs of the interstate commission shall

7 be concluded and any surplus funds shall be distributed in
8 accordance with the bylaws.

ARTICLE XII. SEVERABILITY AND CONSTRUCTION.

1 (a) The provisions of this compact shall be severable, and
2 if any phrase, clause, sentence or provision is deemed unen-
3 forceable, the remaining provisions of the compact shall be
4 enforceable.

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

ARTICLE XIII. BINDING EFFECT OF COMPACT AND OTHER LAWS.

Section A. Other Laws.

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

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

Section B. Binding Effect of the Compact.

1 (b)(1) All lawful actions of the interstate commission,
2 including all rules and bylaws promulgated by the interstate
3 commission, are binding upon the compacting states.

4 (2) All agreements between the interstate commission and
5 the compacting states are binding in accordance with their
6 terms.

7 (3) Upon the request of a party to a conflict over meaning
8 or interpretation of interstate commission actions, and upon a
9 majority vote of the compacting states, the interstate commis-

10 sion may issue advisory opinions regarding such meaning or
11 interpretation.

12 (4) In the event any provision of this compact exceeds the
13 constitutional limits imposed on the legislature of any compact-
14 ing state, the obligations, duties, powers or jurisdiction sought
15 to be conferred by such provision upon the interstate commis-
16 sion shall be ineffective and such obligations, duties, powers or
17 jurisdiction shall remain in the compacting state and shall be
18 exercised by the agency thereof to which such obligations,
19 duties, powers or jurisdiction are delegated by law in effect at
20 the time this compact becomes effective.

§49-8A-2. State council for interstate juvenile supervision.

1 (a) Upon the effective date of the interstate compact for
2 juveniles, there shall be created a state council for interstate
3 juvenile supervision. Said state council shall be comprised of a
4 total of nine members, to be selected and designated as follows:

5 (1) Two members designated by the state Legislature, one
6 of whom shall be named and appointed by the speaker of the
7 House, and the other of whom shall be designated by the
8 president of the Senate;

9 (2) Two members designated by the judiciary, both of
10 whom shall be named and appointed by the chief justice of the
11 supreme court of appeals of West Virginia;

12 (3) The compact administrator or a designee of the compact
13 administrator;

14 (4) Four members to be designated and appointed by the
15 governor, two of whom must be representatives of state
16 agencies dealing with juvenile corrections, juvenile placement
17 or juvenile services, and one of whom must be a representative
18 of a victims' group.

19 (b) Within ninety days of the effective date of this compact,
20 the state council shall meet and designate a commissioner who
21 shall represent the state as the compacting state's voting
22 representative under Article III of this compact.

23 (c) The state council will exercise oversight and advocacy
24 concerning West Virginia's participation in interstate commis-
25 sion activities and rule makings, and engage in other duties and
26 activities as determined by its members, including, but not
27 limited to, the development of policy concerning the operations
28 and procedures for implementing the compact and interstate
29 commission rules within West Virginia.

§49-8A-3. Appointment of compact administrator.

1 (a) Upon and after the effective date of the interstate
2 compact for juveniles, the governor is hereby authorized and
3 empowered to designate an officer who shall be the compact
4 administrator and who, acting jointly with like offices of the
5 other party states, shall be responsible for the administration
6 and management of this state's supervision and transfer of
7 juveniles subject to the terms of this compact, the rules adopted
8 by the interstate commission and the policies adopted by the
9 state council under this compact. Said compact administrator
10 shall serve subject to the will and pleasure of the governor, and
11 must meet the minimum qualifications for the position of
12 compact administrator, as established by the state council. The
13 compact administrator is hereby authorized, empowered and
14 directed to cooperate with all departments, agencies and
15 officers of and in the government of this state and its subdivi-
16 sions in facilitating the proper administration of the compact or
17 of any supplementary agreement or agreements entered into by
18 this state hereunder.

19 (b) Until such time as the state council has met and estab-
20 lished minimum qualifications for the position of compact

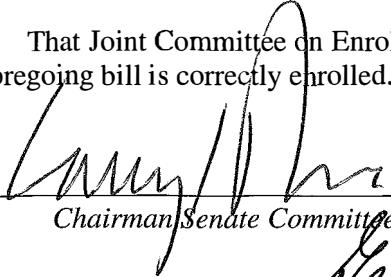
21 administrator the individual or administrator who has been
22 designated to act as the juvenile compact administrator for the
23 interstate compact on juveniles, pursuant to section three,
24 article eight of this chapter, may perform the duties and
25 responsibilities of compact administrator under this article.

26 (c) Until such time as the state council has met and desig-
27 nated a commissioner to vote on behalf of the state of West
28 Virginia at the interstate commission, the individual or adminis-
29 trator who has been designated to act as the juvenile compact
30 administrator for the interstate compact on juveniles, pursuant
31 to section three, article eight of this chapter, shall function as
32 the acting commissioner for the state of West Virginia before
33 the interstate commission formed under the new compact.

**§49-8A-4. Notification of the effective date of the interstate
compact for juveniles.**

1 Within ten days of the date that the thirty-fifth state adopts
2 legislation approving this compact, the appointed or designated
3 juvenile compact administrator under section three, article eight
4 of this chapter shall advise the governor, the chief justice of the
5 supreme court of appeals of West Virginia, the speaker of the
6 House of Delegates and the president of the Senate of the
7 effective date of this compact.

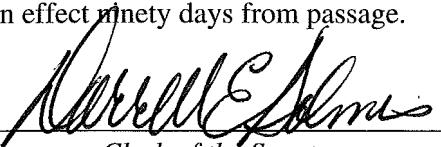
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee

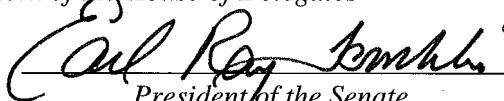

Chairman House Committee

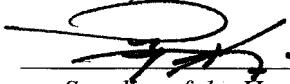
Originating in the House.

In effect ninety days from passage.

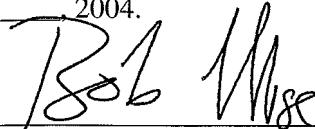

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 6th
day of April 2004.


Governor

PRESENTED TO THE
GOVERNOR

Date 4/2/04

Time 2:15pm