

STATE OF NEW YORK

7795

IN SENATE

May 12, 2010

Introduced by Sens. MONTGOMERY, DUANE, HUNTLEY, OPPENHEIMER, PARKER -- (at request of the Office of Children and Family Services) -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the executive law, in relation to the adoption of the interstate compact for juveniles by the state of New York; and to repeal chapter 155 of the laws of 1955 enacting the interstate compact on juveniles relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Chapter 155 of the laws of 1955, enacting the interstate  
2 compact on juveniles, is REPEALED.

3 § 2. The executive law is amended by adding a new section 501-e to  
4 read as follows:

5 § 501-e. Interstate compact for juveniles. The interstate compact for  
6 juveniles is hereby enacted into law and entered into with all other  
7 jurisdictions legally joining therein in a form substantially as  
8 follows:

9 THE INTERSTATE COMPACT FOR JUVENILES

10 ARTICLE I

11 PURPOSE

12 The compacting states to this interstate compact recognize that each  
13 state is responsible for the proper supervision or return of juveniles,  
14 delinquents and status offenders who are on probation or parole and who  
15 have absconded, escaped or run away from supervision and control and in  
16 so doing have endangered their own safety and the safety of others. The  
17 compacting states also recognize that each state is responsible for the  
18 safe return of juveniles who have run away from home and in doing so  
19 have left their state of residence. The compacting states also recognize  
20 that congress, by enacting the Crime Control Act, 4 U.S.C. Section 112  
21 (1965), has authorized and encouraged compacts for cooperative efforts  
22 and mutual assistance in the prevention of crime. It is the purpose of

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 this compact, through means of joint and cooperative action among the  
2 compacting states to:

3 A. ensure that the adjudicated juveniles and status offenders subject

4 to this compact are provided adequate supervision and services in the  
5 receiving state as ordered by the adjudicating judge or parole authority  
6 in the sending state;  
7 B. ensure that the public safety interests of the citizens, including  
8 the victims of juvenile offenders, in both the sending and receiving  
9 states are adequately protected;  
10 C. return juveniles who have run away, absconded or escaped from  
11 supervision or control or have been accused of an offense to the state  
12 requesting their return;  
13 D. make contracts for the cooperative institutionalization in public  
14 facilities in member states for delinquent youth needing special  
15 services;  
16 E. provide for the effective tracking and supervision of juveniles;  
17 F. equitably allocate the costs, benefits and obligations of the  
18 compacting states;  
19 G. establish procedures to manage the movement between states of juve-  
20 nile offenders released to the community under the jurisdiction of  
21 courts, juvenile departments, or any other criminal or juvenile justice  
22 agency which has jurisdiction over juvenile offenders;  
23 H. insure immediate notice to jurisdictions where defined offenders  
24 are authorized to travel or to relocate across state lines;  
25 I. establish procedures to resolve pending charges (detainers) against  
26 juvenile offenders prior to transfer or release to the community under  
27 the terms of this compact;  
28 J. establish a system of uniform data collection on information  
29 pertaining to juveniles subject to this compact that allows access by  
30 authorized juvenile justice and criminal justice officials, and regular  
31 reporting of compact activities to heads of state executive, judicial,  
32 and legislative branches and juvenile and criminal justice administra-  
33 tors;  
34 K. monitor compliance with rules governing interstate movement of  
35 juveniles and initiate interventions to address and correct noncompli-  
36 ance;  
37 L. coordinate training and education regarding the regulation of  
38 interstate movement of juveniles for officials involved in such activ-  
39 ity; and  
40 M. coordinate the implementation and operation of the compact with the  
41 interstate compact for the placement of children, the interstate compact  
42 for adult offender supervision and other compacts affecting juveniles  
43 particularly in those cases where concurrent or overlapping supervision  
44 issues arise.  
45 It is the policy of the compacting states that the activities  
46 conducted by the interstate commission created herein are the formation  
47 of public policies and therefore are public business. Furthermore, the  
48 compacting states shall cooperate and observe their individual and  
49 collective duties and responsibilities for the prompt return and accept-  
50 ance of juveniles subject to the provisions of this compact. The  
51 provisions of this compact shall be reasonably and liberally construed  
52 to accomplish the purposes and policies of the compact.

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ARTICLE II  
DEFINITIONS

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1 As used in this compact, unless the context clearly requires a differ-  
2 ent construction:  
3 A. "Bylaws" means those bylaws established by the interstate commis-

4 sion for its governance, or for directing or controlling its actions or  
5 conduct;

6 B. "Compact administrator" means the individual in each compacting  
7 state appointed pursuant to the terms of this compact, responsible for  
8 the administration and management of the state's supervision and trans-  
9 fer of juveniles subject to the terms of this compact, the rules adopted  
10 by the interstate commission and policies adopted by the state council  
11 under this compact;

12 C. "Compacting state" means any state which has enacted the enabling  
13 legislation for this compact;

14 D. "Commissioner" means the voting representative of each compacting  
15 state appointed pursuant to article III of this compact;

16 E. "Court" means any court having jurisdiction over delinquent,  
17 neglected, or dependent children;

18 F. "Deputy compact administrator" means the individual, if any, in  
19 each compacting state appointed to act on behalf of a compact adminis-  
20 trator pursuant to the terms of this compact responsible for the admin-  
21 istration and management of the state's supervision and transfer of  
22 juveniles subject to the terms of this compact, the rules adopted by the  
23 interstate commission and policies adopted by the state council under  
24 this compact;

25 G. "Interstate commission" means the interstate commission for juve-  
26 niles created by article III of this compact;

27 H. "Juvenile" means any person defined as a juvenile in any member  
28 state or by the rules of the interstate commission, including any:

29 1. "accused delinquent" which means a person charged with an offense  
30 that, if committed by an adult, would be a criminal offense;

31 2. "adjudicated delinquent" which means a person found to have commit-  
32 ted an offense that, if committed by an adult, would be a criminal  
33 offense;

34 3. "accused status offender" which means a person charged with an  
35 offense that would not be a criminal offense if committed by an adult;

36 4. "adjudicated status offender" which means a person found to have  
37 committed an offense that would not be a criminal offense if committed  
38 by an adult; and

39 5. "non-offender" which means a person in need of supervision who has  
40 not been accused or adjudicated a status offender or delinquent;

41 I. "Non-compacting state" means any state which has not enacted the  
42 enabling legislation for this compact;

43 J. "Probation" or "parole" means any kind of supervision or condi-  
44 tional release of juveniles authorized under the laws of the compacting  
45 states;

46 K. "Rule" means a written statement by the interstate commission  
47 promulgated pursuant to article VI of this compact that is of general  
48 applicability, implements, interprets or prescribes a policy or  
49 provision of the compact, or an organizational, procedural, or practical  
50 requirement of the commission, and has the force and effect of statutory  
51 law in a compacting state, and includes the amendment, repeal, or  
52 suspension of an existing rule; and

53 L. "State" means a state of the United States, the District of Colum-  
54 bia (or its designee), the Commonwealth of Puerto Rico, the U.S. Virgin  
55 Islands, Guam, American Samoa, and the Northern Marianas Islands.

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1 ARTICLE III

2 INTERSTATE COMMISSION FOR JUVENILES

3 A. The compacting states hereby create the "interstate commission for

4 juveniles." The commission shall be a body corporate and joint agency of  
5 the compacting states. The commission shall have all the responsibil-  
6 ities, powers and duties set forth herein, and such additional powers as  
7 may be conferred upon it by subsequent action of the respective legisla-  
8 tures of the compacting states in accordance with the terms of this  
9 compact.

10 B. The interstate commission shall consist of commissioners appointed  
11 by the appropriate appointing authority in each state pursuant to the  
12 rules and requirements of each compacting state and in consultation with  
13 the state council for interstate juvenile supervision created hereunder.  
14 The commissioner shall be the compact administrator, deputy compact  
15 administrator or designee from that state who shall serve on the inter-  
16 state 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 representatives  
19 of each state, the interstate commission shall include individuals who  
20 are not commissioners, but who are members of interested organizations.  
21 Such non-commissioner members must include a member of the national  
22 organizations of governors, legislators, state chief justices, attorneys  
23 general, interstate compact for adult offender supervision, interstate  
24 compact for the placement of children, juvenile justice and juvenile  
25 corrections officials, and crime victims. All non-commissioner members  
26 of the interstate commission shall be ex-officio (non-voting) members.  
27 The interstate commission may provide in its bylaws for such additional  
28 ex-officio (non-voting) members, including members of other national  
29 organizations, in such numbers as shall be determined by the commission.

30 D. Each compacting state represented at any meeting of the commission  
31 is entitled to one vote. A majority of the compacting states shall  
32 constitute a quorum for the transaction of business, unless a larger  
33 quorum is required by the bylaws of the interstate commission.

34 E. The commission shall meet at least once each calendar year. The  
35 chairperson may call additional meetings and, upon the request of a  
36 simple majority of the compacting states, shall call additional meet-  
37 ings. Public notice shall be given of all meetings and meetings shall be  
38 open to the public.

39 F. The interstate commission shall establish an executive committee,  
40 which shall include commission officers, members, and others as deter-  
41 mined by the bylaws. The executive committee shall have the power to  
42 act on behalf of the interstate commission during periods when the  
43 interstate commission is not in session, with the exception of rulemak-  
44 ing and/or amendment to the compact. The executive committee shall over-  
45 see the day-to-day activities of the administration of the compact  
46 managed by an executive director and interstate commission staff; admin-  
47 ister enforcement and compliance with the provisions of the compact, its  
48 bylaws and rules, and perform such other duties as directed by the  
49 interstate commission or set forth in the bylaws.

50 G. Each member of the interstate commission shall have the right and  
51 power to cast a vote to which that compacting state is entitled and to  
52 participate in the business and affairs of the interstate commission. A  
53 member shall vote in person and shall not delegate a vote to another  
54 compacting state. However, a commissioner, in consultation with the  
55 state council, shall appoint another authorized representative, in the  
56 absence of the commissioner from that state, to cast a vote on behalf of

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1 the compacting state at a specified meeting. The bylaws may provide for  
2 members' participation in meetings by telephone or other means of tele-

3 communication or electronic communication.

4 H. The interstate commission's bylaws shall establish conditions and  
5 procedures under which the interstate commission shall make its informa-  
6 tion and official records available to the public for inspection or  
7 copying. The interstate commission may exempt from disclosure any infor-  
8 mation or official records to the extent they would adversely affect  
9 personal privacy rights or proprietary interests.

10 I. Public notice shall be given of all meetings and all meetings shall  
11 be open to the public, except as set forth in the rules or as otherwise  
12 provided in the compact. The interstate commission and any of its  
13 committees may close a meeting to the public where it determines by  
14 two-thirds vote that an open meeting would be likely to:

15 1. relate solely to the interstate commission's internal personnel  
16 practices and procedures;

17 2. disclose matters specifically exempted from disclosure by statute;

18 3. disclose trade secrets or commercial or financial information which  
19 is privileged or confidential;

20 4. involve accusing any person of a crime, or formally censuring any  
21 person;

22 5. disclose information of a personal nature where disclosure would  
23 constitute a clearly unwarranted invasion of personal privacy;

24 6. disclose investigative records compiled for law enforcement  
25 purposes;

26 7. disclose information contained in or related to examination, oper-  
27 ating or condition reports prepared by, or on behalf of or for the use  
28 of, the interstate commission with respect to a regulated person or  
29 entity for the purpose of regulation or supervision of such person or  
30 entity;

31 8. disclose information, the premature disclosure of which would  
32 significantly endanger the stability of a regulated person or entity; or

33 9. specifically relate to the interstate commission's issuance of a  
34 subpoena, or its participation in a civil action or other legal proceed-  
35 ing.

36 J. For every meeting closed pursuant to this provision, the interstate  
37 commission's legal counsel shall publicly certify that, in the legal  
38 counsel's opinion, the meeting may be closed to the public, and shall  
39 reference each relevant exemptive provision. The interstate commission  
40 shall keep minutes which shall fully and clearly describe all matters  
41 discussed in any meeting and shall provide a full and accurate summary  
42 of any actions taken, and the reasons therefor, including a description  
43 of each of the views expressed on any item and the record of any roll  
44 call vote (reflected in the vote of each member on the question). All  
45 documents considered in connection with any action shall be identified  
46 in such minutes.

47 K. The interstate commission shall collect standardized data concern-  
48 ing the interstate movement of juveniles as directed through its rules  
49 which shall specify the data to be collected, the means of collection  
50 and data exchange and reporting requirements. Such methods of data  
51 collection, exchange and reporting shall insofar as is reasonably possi-  
52 ble conform to up-to-date technology and coordinate its information  
53 functions with the appropriate repository of records.

54 ARTICLE IV

55 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

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1 A. The commission shall have the following powers and duties:

- 2 1. To provide for dispute resolution among compacting states;
- 3 2. To promulgate rules to effect the purposes and obligations as
- 4 enumerated in this compact, which shall have the force and effect of
- 5 statutory law and shall be binding in the compacting states to the
- 6 extent and in the manner provided in this compact;
- 7 3. To oversee, supervise and coordinate the interstate movement of
- 8 juveniles subject to the terms of this compact and any bylaws adopted
- 9 and rules promulgated by the interstate commission;
- 10 4. To enforce compliance with the compact provisions, the rules
- 11 promulgated by the interstate commission, and the bylaws, using all
- 12 necessary and proper means, including but not limited to the use of
- 13 judicial process;
- 14 5. To establish and maintain offices which shall be located within one
- 15 or more of the compacting states;
- 16 6. To purchase and maintain insurance and bonds;
- 17 7. To borrow, accept, hire or contract for services of personnel;
- 18 8. To establish and appoint committees and hire staff which it deems
- 19 necessary for the carrying out of its functions including, but not
- 20 limited to, an executive committee as required by article III of this
- 21 compact which shall have the power to act on behalf of the interstate
- 22 commission in carrying out its powers and duties hereunder;
- 23 9. To elect or appoint such officers, attorneys, employees, agents, or
- 24 consultants, and to fix their compensation, define their duties and
- 25 determine their qualifications; and to establish the interstate commis-
- 26 sion's personnel policies and programs relating to, inter alia,
- 27 conflicts of interest, rates of compensation, and qualifications of
- 28 personnel;
- 29 10. To accept any and all donations and grants of money, equipment,
- 30 supplies, materials, and services, and to receive, utilize, and dispose
- 31 of it;
- 32 11. To lease, purchase, accept contributions or donations of, or
- 33 otherwise to own, hold, improve or use any property, real, personal, or
- 34 mixed;
- 35 12. To sell, convey, mortgage, pledge, lease, exchange, abandon, or
- 36 otherwise dispose of any property, real, personal, or mixed;
- 37 13. To establish a budget and make expenditures and levy dues as
- 38 provided in article VIII of this compact;
- 39 14. To sue and be sued;
- 40 15. To adopt a seal and bylaws governing the management and operation
- 41 of the interstate commission;
- 42 16. To perform such functions as may be necessary or appropriate to
- 43 achieve the purposes of this compact;
- 44 17. To report annually to the legislatures, governors, judiciary, and
- 45 state councils of the compacting states concerning the activities of the
- 46 interstate commission during the preceding year. Such reports shall also
- 47 include any recommendations that may have been adopted by the interstate
- 48 commission;
- 49 18. To coordinate education, training and public awareness regarding
- 50 the interstate movement of juveniles for officials involved in such
- 51 activity;
- 52 19. To establish uniform standards of the reporting, collecting and
- 53 exchanging of data; and
- 54 20. The interstate commission shall maintain its corporate books and
- 55 records in accordance with the bylaws.

2                   ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

3       A. Bylaws.

4       1. The interstate commission shall, by a majority of the members pres-  
5 ent and voting, within twelve months after the first interstate commis-  
6 sion meeting, adopt bylaws to govern its conduct as may be necessary or  
7 appropriate to carry out the purposes of the compact, including, but not  
8 limited to:

9       a. establishing the fiscal year of the interstate commission;

10       b. establishing an executive committee and such other committees as  
11 may be necessary;

12       c. providing for the establishment of committees governing any general  
13 or specific delegation of any authority or function of the interstate  
14 commission;

15       d. providing reasonable procedures for calling and conducting meetings  
16 of the interstate commission, and ensuring reasonable notice of each  
17 such meeting;

18       e. establishing the titles and responsibilities of the officers of the  
19 interstate commission;

20       f. providing a mechanism for concluding the operations of the inter-  
21 state commission and the return of any surplus funds that may exist upon  
22 the termination of the compact after the payment and/or reserving of all  
23 of its debts and obligations;

24       g. providing "start-up" rules for initial administration of the  
25 compact; and

26       h. establishing standards and procedures for compliance and technical  
27 assistance in carrying out the compact.

28       B. Officers and staff.

29       1. The interstate commission shall, by a majority of the members,  
30 elect annually from among its members a chairperson and a vice-chairper-  
31 son, each of whom shall have such authority and duties as may be speci-  
32 fied in the bylaws. The chairperson or, in the chairperson's absence or  
33 disability, the vice-chairperson shall preside at all meetings of the  
34 interstate commission. The officers so elected shall serve without  
35 compensation or remuneration from the interstate commission; provided  
36 that, subject to the availability of budgeted funds, the officers shall  
37 be reimbursed for any ordinary and necessary costs and expenses incurred  
38 by them in the performance of their duties and responsibilities as offi-  
39 cers of the interstate commission.

40       2. The interstate commission shall, through its executive committee,  
41 appoint or retain an executive director for such period, upon such terms  
42 and conditions and for such compensation as the interstate commission  
43 may deem appropriate. The executive director shall serve as secretary to  
44 the interstate commission, but shall not be a member and shall hire and  
45 supervise such other staff as may be authorized by the interstate  
46 commission.

47       C. Qualified immunity, defense and indemnification.

48       1. The interstate commission's executive director and employees shall  
49 be immune from suit and liability, either personally or in their offi-  
50 cial capacity, for any claim for damage to or loss of property or  
51 personal injury or other civil liability caused or arising out of or  
52 relating to any actual or alleged act, error, or omission that occurred,  
53 or that such person had a reasonable basis for believing occurred within  
54 the scope of interstate commission employment, duties, or responsibil-  
55 ities; provided, that any such person shall not be protected from suit

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1       or liability for any damage, loss, injury, or liability caused by the

2 intentional or willful and wanton misconduct of any such person.

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

12 3. The interstate commission shall defend the executive director or  
13 the employees or representatives of the interstate commission and,  
14 subject to the approval of the attorney general of the state represented  
15 by any commissioner of a compacting state, shall defend such commission-  
16 er or the commissioner's representatives or employees in any civil  
17 action seeking to impose liability arising out of any actual or alleged  
18 act, error, or omission that occurred within the scope of interstate  
19 commission employment, duties, or responsibilities, or that the defend-  
20 ant had a reasonable basis for believing occurred within the scope of  
21 interstate commission employment, duties, or responsibilities, provided  
22 that the actual or alleged act, error, or omission did not result from  
23 intentional or willful and wanton misconduct on the part of such person.

24 4. The interstate commission shall indemnify and hold the commissioner  
25 of a compacting state, or the commissioner's representatives or employ-  
26 ees, or the interstate commission's representatives or employees, harm-  
27 less in the amount of any settlement or judgment obtained against such  
28 persons arising out of any actual or alleged act, error, or omission  
29 that occurred within the scope of interstate commission employment,  
30 duties, or responsibilities, or that such persons had a reasonable basis  
31 for believing occurred within the scope of interstate commission employ-  
32 ment, duties, or responsibilities, provided that the actual or alleged  
33 act, error, or omission did not result from intentional or willful and  
34 wanton misconduct on the part of such persons.

35 ARTICLE VI

36 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

37 A. The interstate commission shall promulgate and publish rules in  
38 order to effectively and efficiently achieve the purposes of the  
39 compact.

40 B. Rulemaking shall occur pursuant to the criteria set forth in this  
41 article and the bylaws and rules adopted pursuant thereto. Such rulemak-  
42 ing shall substantially conform to the principles of the "Model State  
43 Administrative Procedures Act," 1981 act, uniform laws annotated, vol.  
44 15, p.1 (2000), or such other administrative procedures act, as the  
45 interstate commission deems appropriate, consistent with due process  
46 requirements under the United States Constitution as now or hereafter  
47 interpreted by the United States supreme court. All rules and amendments  
48 shall become binding as of the date specified, as published with the  
49 final version of the rules as approved by the interstate commission.

50 C. When promulgating a rule, the interstate commission shall, at a  
51 minimum:

52 1. publish the proposed rule's entire text stating the reason or  
53 reasons for that proposed rule;

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1 2. allow and invite any and all persons to submit written data, facts,  
2 opinions and arguments, which information shall be added to the record,

3 and be made publicly available;

4 3. provide an opportunity for an informal hearing if petitioned by ten  
5 (10) or more persons;

6 4. promulgate a final rule and its effective date, if appropriate,  
7 based on input from state or local officials, or interested parties; and

8 5. allow, not later than sixty days after a rule is promulgated, any  
9 interested person to file a petition in the United States district court  
10 for the District of Columbia or in the federal district court where the  
11 interstate commission's principal office is located for judicial review  
12 of such rule. If the court finds that the interstate commission's action  
13 is not supported by substantial evidence in the rulemaking record, the  
14 court shall hold the rule unlawful and set it aside. For purposes of  
15 this subsection, evidence is substantial if it would be considered  
16 substantial evidence under the model state administrative procedures  
17 act.

18 D. If a majority of the legislatures of the compacting states rejects  
19 a rule, those states may, by enactment of a statute or resolution in the  
20 same manner used to adopt the compact, cause such rule to have no  
21 further force and effect in any compacting state.

22 E. The existing rules governing the operation of the interstate  
23 compact on juveniles superceded by this act shall be null and void  
24 twelve (12) months after the first meeting of the interstate commission  
25 created hereunder.

26 F. Upon determination by the interstate commission that a state of  
27 emergency exists, it may promulgate an emergency rule which shall become  
28 effective immediately upon adoption, provided that the usual rulemaking  
29 procedures provided hereunder shall be retroactively applied to said  
30 rule as soon as reasonably possible, but no later than ninety (90) days  
31 after the effective date of the emergency rule.

32 ARTICLE VII

33 OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY THE INTERSTATE  
34 COMMISSION

35 A. Oversight.

36 1. The interstate commission shall oversee the administration and  
37 operations of the interstate movement of juveniles subject to this  
38 compact in the compacting states and shall monitor such activities being  
39 administered in non-compacting states which may significantly affect  
40 compacting states.

41 2. The courts and executive agencies in each compacting state shall  
42 enforce this compact and shall take all actions necessary and appropri-  
43 ate to effectuate the compact's purposes and intent. The provisions of  
44 this compact and the rules promulgated hereunder shall be received by  
45 all the judges, public officers, commissions, and departments of the  
46 state government as evidence of the authorized statute and administra-  
47 tive rules. All courts shall take judicial notice of the compact and the  
48 rules. In any judicial or administrative proceeding in a compacting  
49 state pertaining to the subject matter of this compact which may affect  
50 the powers, responsibilities, or actions of the interstate commission,  
51 it shall be entitled to receive all service of process in any such  
52 proceeding, and shall have standing to intervene in the proceeding for  
53 all purposes.

54 B. Dispute resolution.

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1 1. The compacting states shall report to the interstate commission on  
2 all issues and activities necessary for the administration of the

3 compact as well as issues and activities pertaining to compliance with  
4 the provisions of the compact and its bylaws and rules.

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

11 3. The interstate commission, in the reasonable exercise of its  
12 discretion, shall enforce the provisions and rules of this compact using  
13 any or all means set forth in article XI of this compact.

14 ARTICLE VIII

15 FINANCE

16 A. The interstate commission shall pay or provide for the payment of  
17 the reasonable expenses of its establishment, organization and ongoing  
18 activities.

19 B. The interstate commission shall levy on and collect an annual  
20 assessment from each compacting state to cover the cost of the internal  
21 operations and activities of the interstate commission and its staff  
22 which must be in a total amount sufficient to cover the interstate  
23 commission's annual budget as approved each year. The aggregate annual  
24 assessment amount shall be allocated based upon a formula to be deter-  
25 mined by the interstate commission, taking into consideration the popu-  
26 lation of each compacting state and the volume of interstate movement of  
27 juveniles in each compacting state and shall promulgate a rule binding  
28 upon all compacting states which governs said assessment.

29 C. The interstate commission shall not incur any obligations of any  
30 kind prior to securing the funds adequate to meet the same; nor shall  
31 the interstate commission pledge the credit of any of the compacting  
32 states, except by and with the authority of the compacting state.

33 D. The interstate commission shall keep accurate accounts of all  
34 receipts and disbursements. The receipts and disbursements of the inter-  
35 state commission shall be subject to the audit and accounting procedures  
36 established under its bylaws. However, all receipts and disbursements  
37 of funds handled by the interstate commission shall be audited yearly by  
38 a certified or licensed public accountant and the report of the audit  
39 shall be included in and become part of the annual report of the inter-  
40 state commission.

41 ARTICLE IX

42 THE STATE COUNCIL

43 Each member state shall create a state council for interstate juvenile  
44 supervision. While each state may determine the membership of its own  
45 state council, its membership must include at least one representative  
46 from the legislative, judicial, and executive branches of government,  
47 victims groups, and the compact administrator, deputy compact adminis-  
48 trator or designee. Each compacting state retains the right to determine  
49 the qualifications of the compact administrator or deputy compact admin-  
50 istrator. Each state council will advise and may exercise oversight and  
51 advocacy concerning that state's participation in interstate commission  
52 activities and other duties as may be determined by that state, includ-  
53 ing but not limited to, development of policy concerning operations and  
54 procedures of the compact within that state.

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1 ARTICLE X

2 COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

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

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

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

22 ARTICLE XI

23 WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

24 A. Withdrawal.

25 1. Once effective, the compact shall continue in force and remain  
26 binding upon each and every compacting state; provided that a compacting  
27 state may withdraw from the compact by specifically repealing the stat-  
28 ute which enacted the compact into law.

29 2. The effective date of withdrawal is the effective date of the  
30 repeal.

31 3. The withdrawing state shall immediately notify the chairperson of  
32 the interstate commission in writing upon the introduction of legis-  
33 lation repealing this compact in the withdrawing state. The interstate  
34 commission shall notify the other compacting states of the withdrawing  
35 state's intent to withdraw within sixty (60) days of its receipt there-  
36 of.

37 4. The withdrawing state is responsible for all assessments, obli-  
38 gations and liabilities incurred through the effective date of with-  
39 drawal, including any obligations, the performance of which extend  
40 beyond the effective date of withdrawal.

41 5. Reinstatement following withdrawal of any compacting state shall  
42 occur upon the withdrawing state reenacting the compact or upon such  
43 later date as determined by the interstate commission.

44 B. Technical assistance, fines, suspension, termination and default.

45 1. If the interstate commission determines that any compacting state  
46 has at any time defaulted in the performance of any of its obligations  
47 or responsibilities under this compact, or the bylaws or duly promulgat-  
48 ed rules, the interstate commission may impose any or all of the follow-  
49 ing penalties:

50 a. Remedial training and technical assistance as directed by the  
51 interstate commission;

52 b. Alternative dispute resolution;

53 c. Fines, fees, and costs in such amounts as are deemed to be reason-  
54 able as fixed by the interstate commission; and

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1 d. Suspension or termination of membership in the compact, which shall

2 be imposed only after all other reasonable means of securing compliance  
3 under the bylaws and rules have been exhausted and the interstate  
4 commission has therefore determined that the offending state is in  
5 default. Immediate notice of suspension shall be given by the interstate  
6 commission to the governor, the chief justice or the chief judicial  
7 officer of the state, the majority and minority leaders of the default-  
8 ing state's legislature, and the state council. The grounds for default  
9 include, but are not limited to, failure of a compacting state to  
10 perform such obligations or responsibilities imposed upon it by this  
11 compact, the bylaws, or duly promulgated rules and any other grounds  
12 designated in commission bylaws and rules. The interstate commission  
13 shall immediately notify the defaulting state in writing of the penalty  
14 imposed by the interstate commission and of the default pending a cure  
15 of the default. The commission shall stipulate the conditions and the  
16 time period within which the defaulting state must cure its default. If  
17 the defaulting state fails to cure the default within the time period  
18 specified by the commission, the defaulting state shall be terminated  
19 from the compact upon an affirmative vote of a majority of the compact-  
20 ing states and all rights, privileges and benefits conferred by this  
21 compact shall be terminated from the effective date of termination.

22 2. Within sixty (60) days of the effective date of termination of a  
23 defaulting state, the commission shall notify the governor, the chief  
24 justice or chief judicial officer, the majority and minority leaders of  
25 the defaulting state's legislature, and the state council of such termi-  
26 nation.

27 3. The defaulting state is responsible for all assessments, obli-  
28 gations and liabilities incurred through the effective date of termi-  
29 nation including any obligations, the performance of which extends  
30 beyond the effective date of termination.

31 4. The interstate commission shall not bear any costs relating to the  
32 defaulting state unless otherwise mutually agreed upon in writing  
33 between the interstate commission and the defaulting state.

34 5. Reinstatement following termination of any compacting state  
35 requires both a reenactment of the compact by the defaulting state and  
36 the approval of the interstate commission pursuant to the rules.

37 C. Judicial enforcement.

38 The interstate commission may, by majority vote of the members, initi-  
39 ate legal action in the United States district court for the District of  
40 Columbia or, at the discretion of the interstate commission, in the  
41 federal district where the interstate commission has its offices, to  
42 enforce compliance with the provisions of the compact, its duly promul-  
43 gated rules and bylaws, against any compacting state in default. In the  
44 event judicial enforcement is necessary the prevailing party shall be  
45 awarded all costs of such litigation including reasonable attorneys  
46 fees.

47 D. Dissolution of compact.

48 1. The compact dissolves effective upon the date of the withdrawal or  
49 default of any compacting state, which reduces membership in the compact  
50 to one compacting state.

51 2. Upon the dissolution of this compact, the compact becomes null and  
52 void and shall be of no further force or effect, and the business and  
53 affairs of the interstate commission shall be concluded and any surplus  
54 funds shall be distributed in accordance with the bylaws.

3 A. The provisions of this compact shall be severable, and if any  
4 phrase, clause, sentence or provision is deemed unenforceable, the  
5 remaining provisions of the compact shall be enforceable.

6 B. The provisions of this compact shall be liberally construed to  
7 effectuate its purposes.

8 ARTICLE XIII

9 BINDING EFFECT OF COMPACT AND OTHER LAWS

10 A. Other laws.

11 1. Nothing herein prevents the enforcement of any other law of a  
12 compacting state that is not inconsistent with this compact.

13 2. All compacting states' laws other than state constitutions and  
14 other interstate compacts conflicting with this compact are superseded  
15 to the extent of the conflict.

16 B. Binding effect of the compact.

17 1. All lawful actions of the interstate commission, including all  
18 rules and bylaws promulgated by the interstate commission, are binding  
19 upon the compacting states.

20 2. All agreements between the interstate commission and the compacting  
21 states are binding in accordance with their terms.

22 3. Upon the request of a party to a conflict over meaning or interpre-  
23 tation of interstate commission actions, and upon a majority vote of the  
24 compacting states, the interstate commission may issue advisory opinions  
25 regarding such meaning or interpretation.

26 4. In the event any provision of this compact exceeds the constitu-  
27 tional limits imposed on the legislature of any compacting state, the  
28 obligations, duties, powers or jurisdiction sought to be conferred by  
29 such provision upon the interstate commission shall be ineffective and  
30 such obligations, duties, powers or jurisdiction shall remain in the  
31 compacting state and shall be exercised by the agency thereof to which  
32 such obligations, duties, powers or jurisdiction are delegated by law in  
33 effect at the time this compact becomes effective.

34 § 3. This act shall take effect on the thirtieth day after it shall  
35 have become a law; provided, however, nothing herein shall disrupt  
36 services, supervision or return of juveniles, delinquents and status  
37 offenders agreed to under the repealed 1955 interstate compact on juve-  
38 niles prior to the effective date herein, or preclude the state of New  
39 York from entering into appropriate agreements with non-compact member  
40 states for the proper supervision or return of juveniles, delinquents  
41 and status offenders who are on probation or parole and who have  
42 absconded, escaped or run away from supervision and control and in so  
43 doing have endangered their own safety and the safety of others.

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**NEW YORK STATE SENATE**  
**INTRODUCER'S MEMORANDUM IN SUPPORT**  
**submitted in accordance with Senate Rule VI. Sec 1**

**BILL NUMBER:** S7795

**SPONSOR:** MONTGOMERY

**TITLE OF BILL:**

An act to amend the executive law, in relation to the adoption of the interstate compact for juveniles by the state of New York; and to repeal

chapter 155 of the laws of 1955 enacting the interstate compact on juveniles relating thereto

**PURPOSE OF THE BILL:**

This bill would enact the most current Interstate Compact for Juveniles (New ICJ), which governs the management, monitoring, and supervision of juveniles, delinquents and status offenders who are on probation or parole and the return of those who have absconded) escaped or run away to another state; and provide for the return of non-adjudicated juveniles who have run away from home to another state.

**SUMMARY OF PROVISIONS:**

Section 1 of the bill would repeal Chapter 155 of the Laws of 1955, as amended by Chapter 753 of the Laws of 1981, authorizing and directing the Governor of New York State to execute an Interstate Compact for Juveniles with other states.

Section 2 of the bill would add a new section 501-e to the Executive Law, adopting the provisions of the New ICJ in New York to replace the 1955 Interstate Compact for Juveniles (1955 ICJ).

Section 3 of the bill would provide that it would become effective 30 days after enactment.

**EXISTING LAW:**

Chapter 155 of the Laws of 1955 enacted the 1955 ICJ in New York State. All 50 states and the District of Columbia adopted the 1955 ICJ. The Office of Children and Family Services (OCFS) is the New York State compact administrator for the 1955 ICJ, with the assistance of the Division of Probation and Correctional Alternatives.

Chapter 753 of the Laws of 1981 added a provision to the 1955 ICJ pertaining to interstate rendition of juveniles alleged to be delinquent.

The New ICJ legislation was proposed in 2002 to address problems between states in enforcing the 1955 ICJ. The New ICJ took effect for its member states when adopting legislation.

This legislation also repeals the 1955 ICJ upon enactment of the New ICJ, as the 1955 Compact may be inconsistent with permanent rules adopted by the Commission. However, repealing the 1955 ICJ will not disrupt on-going supervision of juveniles, delinquents and status offenders initiated under the 1955 compact or preclude New York from entering into appropriate agreements with non-compact member states.

**BUDGET IMPLICATIONS:**

ICJ member states are assessed an annual dues to support the Commission.

The amount of dues is set based on the population of the member state and the frequency of the state's use of the ICJ. If New York State adopts the ICJ, the State's fee is anticipated to be approximately \$32,000 a year. This cost may be offset by savings associated with the State being able to take advantage of the ICJ rate for the transport of youth and not needing to negotiate individual rates with other states.

**EFFECTIVE DATE:**

This bill would take effect 30 days after enactment.