

AN ACT

To amend sections 2151.312, 2151.354, and 2152.26, to enact new sections 2151.56, 2151.57, 2151.58, and 2151.59 and to repeal sections 2151.56, 2151.57, 2151.58, 2151.59, 2151.60, and 2151.61 of the Revised Code to ratify, enact into law, and enter into as a party the Interstate Compact for Juveniles; to provide for certain entities and officials and assign certain responsibilities that relate to that Compact; to repeal the current Interstate Compact on Juveniles, and to declare an emergency.

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

SECTION 1. That sections 2151.312, 2151.354, and 2152.26 be amended and new sections 2151.56, 2151.57, 2151.58, and 2151.59 of the Revised Code be enacted to read as follows:

Sec. 2151.312. (A) A child alleged to be or adjudicated an unruly child may be held only in the following places:

- (1) A certified family foster home or a home approved by the court;
- (2) A facility operated by a certified child welfare agency;
- (3) Any other suitable place designated by the court.

(B)(1) Except as provided under division (C)(1) of section 2151.311 of the Revised Code, a child alleged to be or adjudicated a neglected child, an abused child, a dependent child, or an unruly child may not be held in any of the following facilities:

(a) A state correctional institution, county, multicounty, or municipal jail or workhouse, or other place in which an adult convicted of a crime, under arrest, or charged with a crime is held;

(b) A secure correctional facility.

(2) Except as provided under sections ~~2151.26~~ 2151.27 to ~~2151.61~~ 2151.59 of the Revised Code and division (B)(3) of this section and except when a case is transferred under section 2152.12 of the Revised Code, a child alleged to be or adjudicated an unruly child may not be held for more than twenty-four hours in a detention facility. A child alleged to be or

adjudicated a neglected child, an abused child, or a dependent child shall not be held in a detention facility.

(3) A child who is alleged to be or adjudicated an unruly child and who is taken into custody on a Saturday, Sunday, or legal holiday, as listed in section 1.14 of the Revised Code, may be held in a detention facility until the next succeeding day that is not a Saturday, Sunday, or legal holiday.

Sec. 2151.354. (A) If the child is adjudicated an unruly child, the court may:

(1) Make any of the dispositions authorized under section 2151.353 of the Revised Code;

(2) Place the child on community control under any sanctions, services, and conditions that the court prescribes, as described in division (A)(4) of section 2152.19 of the Revised Code, provided that, if the court imposes a period of community service upon the child, the period of community service shall not exceed one hundred seventy-five hours;

(3) Suspend the driver's license, probationary driver's license, or temporary instruction permit issued to the child for a period of time prescribed by the court and suspend the registration of all motor vehicles registered in the name of the child for a period of time prescribed by the court. A child whose license or permit is so suspended is ineligible for issuance of a license or permit during the period of suspension. At the end of the period of suspension, the child shall not be reissued a license or permit until the child has paid any applicable reinstatement fee and complied with all requirements governing license reinstatement.

(4) Commit the child to the temporary or permanent custody of the court;

(5) Make any further disposition the court finds proper that is consistent with sections 2151.312 and 2151.56 to ~~2151.61~~ 2151.59 of the Revised Code;

(6) If, after making a disposition under division (A)(1), (2), or (3) of this section, the court finds upon further hearing that the child is not amenable to treatment or rehabilitation under that disposition, make a disposition otherwise authorized under divisions (A)(1), (4), (5), and (8) of section 2152.19 of the Revised Code that is consistent with sections 2151.312 and 2151.56 to ~~2151.61~~ 2151.59 of the Revised Code.

(B) If a child is adjudicated an unruly child for committing any act that, if committed by an adult, would be a drug abuse offense, as defined in section 2925.01 of the Revised Code, or a violation of division (B) of section 2917.11 of the Revised Code, in addition to imposing, in its discretion, any other order of disposition authorized by this section, the

court shall do both of the following:

(1) Require the child to participate in a drug abuse or alcohol abuse counseling program;

(2) Suspend the temporary instruction permit, probationary driver's license, or driver's license issued to the child for a period of time prescribed by the court. The court, in its discretion, may terminate the suspension if the child attends and satisfactorily completes a drug abuse or alcohol abuse education, intervention, or treatment program specified by the court. During the time the child is attending a program as described in this division, the court shall retain the child's temporary instruction permit, probationary driver's license, or driver's license, and the court shall return the permit or license if it terminates the suspension.

(C)(1) If a child is adjudicated an unruly child for being an habitual truant, in addition to or in lieu of imposing any other order of disposition authorized by this section, the court may do any of the following:

(a) Order the board of education of the child's school district or the governing board of the educational service center in the child's school district to require the child to attend an alternative school if an alternative school has been established pursuant to section 3313.533 of the Revised Code in the school district in which the child is entitled to attend school;

(b) Require the child to participate in any academic program or community service program;

(c) Require the child to participate in a drug abuse or alcohol abuse counseling program;

(d) Require that the child receive appropriate medical or psychological treatment or counseling;

(e) Make any other order that the court finds proper to address the child's habitual truancy, including an order requiring the child to not be absent without legitimate excuse from the public school the child is supposed to attend for five or more consecutive days, seven or more school days in one school month, or twelve or more school days in a school year and including an order requiring the child to participate in a truancy prevention mediation program.

(2) If a child is adjudicated an unruly child for being an habitual truant and the court determines that the parent, guardian, or other person having care of the child has failed to cause the child's attendance at school in violation of section 3321.38 of the Revised Code, in addition to any order of disposition authorized by this section, all of the following apply:

(a) The court may require the parent, guardian, or other person having care of the child to participate in any community service program,

preferably a community service program that requires the involvement of the parent, guardian, or other person having care of the child in the school attended by the child.

(b) The court may require the parent, guardian, or other person having care of the child to participate in a truancy prevention mediation program.

(c) The court shall warn the parent, guardian, or other person having care of the child that any subsequent adjudication of the child as an unruly or delinquent child for being an habitual or chronic truant may result in a criminal charge against the parent, guardian, or other person having care of the child for a violation of division (C) of section 2919.21 or section 2919.24 of the Revised Code.

Sec. 2151.56. The "interstate compact for juveniles" is hereby ratified, enacted into law, and entered into by the state of Ohio as a party to the compact with any other state that has legally joined in the compact as follows:

INTERSTATE COMPACT FOR JUVENILES

Article I -- Purpose

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

It is the policy of the compacting states that the activities conducted by the interstate commission for juveniles created by this compact are the formation of public policies and therefore are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact.

It is the purpose of this compact, through means of joint and cooperative action among the compacting states, to do all of the following:

(A) Ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving

state as ordered by the adjudicating judge or parole authority in the sending state;

(B) Ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected;

(C) Return juveniles who have run away, absconded, or escaped from supervision or control or have been accused of an offense to the state requesting their return;

(D) Make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services;

(E) Provide for the effective tracking and supervision of juveniles;

(F) Equitably allocate the costs, benefits, and obligations of the compacting states;

(G) Establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency that has jurisdiction over juvenile offenders;

(H) Ensure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines;

(I) Establish procedures to resolve pending charges, such as detainers, against juvenile offenders prior to transfer or release to the community under the terms of this compact;

(J) Establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and criminal justice officials and regular reporting of compact activities to heads of state executive, judicial, and legislative branches and juvenile justice and criminal justice administrators;

(K) Monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance;

(L) Coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity;

(M) Coordinate the implementation and operation of this compact with the interstate compact for the placement of children, the interstate compact for adult offender supervision, and other compacts affecting juveniles, particularly in those cases where concurrent or overlapping supervision issues arise.

Article II -- Definitions

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

(A) "Bylaws" means those bylaws established by the interstate

commission for its governance or for directing or controlling its actions or conduct.

(B) "Compact administrator" means the individual in each compacting state appointed pursuant to the terms of this compact who is responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the interstate commission under this compact, and policies adopted by the state council under this compact.

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

(D) "Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of this compact.

(E) "Court" means any court having jurisdiction over delinquent, neglected, or dependent children.

(F) "Interstate commission for juveniles" or "interstate commission" means the interstate commission for juveniles created by Article III of this compact.

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

(1) An "accused delinquent," which means a person charged with a violation of a law or municipal ordinance that, if committed by an adult, would be a criminal offense;

(2) An "adjudicated delinquent," which means a person found to have committed a violation of a law or municipal ordinance that, if committed by an adult, would be a criminal offense;

(3) An "accused status offender," which means a person charged with a violation of a law or municipal ordinance that would not be a criminal offense if committed by an adult;

(4) An "adjudicated status offender," which means a person found to have committed a violation of a law or municipal ordinance that would not be a criminal offense if committed by an adult;

(5) A "nonoffender," which means a person in need of supervision who is not an accused or adjudicated status offender or delinquent.

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

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

(J) "Rule" means a written statement by the interstate commission promulgated pursuant to Article VI of this compact that is of general

applicability, that implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the interstate commission, and that has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule.

(K) "State" means a state of the United States, the District of Columbia or its designee, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands.

Article III -- Interstate Commission for Juveniles

(A) The compacting states hereby create the "interstate commission for juveniles." The commission shall be a body corporate and joint agency of the compacting states. The commission shall have all the responsibilities, powers, and duties set forth in this compact, and any additional powers that may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(B) The interstate commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the state council for interstate juvenile supervision created in the state in accordance with this compact. The commissioners are the voting representatives of each state. The commissioner for a state shall be the compact administrator or designee from that state who shall serve on the interstate commission in such capacity under or pursuant to the applicable law of the compacting state.

(C) In addition to the commissioners, the interstate commission also shall include individuals who are not commissioners but who are members of interested organizations. The noncommissioner members shall include a member of the national organizations of governors, legislators, state chief justices, attorneys general, interstate compact for adult offender supervision, interstate compact for the placement of children, juvenile justice and juvenile corrections officials, and crime victims. All noncommissioner members of the interstate commission shall be ex officio, nonvoting members. The interstate commission may provide in its bylaws for such additional ex officio, nonvoting members, including members of other national organizations, in such numbers as shall be determined by the commission.

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

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

(F) The interstate commission shall establish an executive committee, which shall include commission officers, members, and others as determined by the interstate commission's bylaws. The executive committee shall have the power to act on behalf of the interstate commission during periods when the interstate commission is not in session, with the exception of any rulemaking or amendment to the compact. The executive committee shall do all of the following:

(1) Oversee the day-to-day activities of the administration of the compact, managed by an executive director and interstate commission staff;

(2) Administer enforcement and compliance with the provisions of this compact and the interstate commission's bylaws and rules;

(3) Perform any other duties as directed by the interstate commission or set forth in its bylaws.

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

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

(I) Public notice shall be given of all meetings of the interstate commission, and all of its meetings shall be open to the public, except as set forth in the commission's rules or as otherwise provided in this compact. The interstate commission and any of its committees may close a meeting to

the public when it determines by two-thirds vote that an open meeting would be likely to do any of the following:

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

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

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

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

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

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

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

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

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

(J) For every meeting closed pursuant to division (I) of this Article of this compact, the interstate commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public and shall reference each relevant exemptive provision. The interstate commission shall keep minutes that fully and clearly describe all matters discussed in any meeting and that provide a full and accurate summary of any actions taken, and the reasons for the actions, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in those minutes.

(K) The interstate commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules, which shall specify the data to be collected, the means of collection and data exchange, and reporting requirements. Such methods of data collection, exchange, and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate the interstate commission's information functions with the appropriate repository of records.

Article IV -- Powers and Duties of the Interstate Commission

The interstate commission shall maintain its corporate books and records in accordance with its bylaws.

The interstate commission shall have all of the following powers and duties:

(A) To provide for dispute resolution among compacting states;

(B) To promulgate rules to affect the purposes and obligations as enumerated in this compact, which rules shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact;

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

(D) To enforce compliance with the provisions of this compact, the rules promulgated by the interstate commission, and the interstate commission's bylaws, using all necessary and proper means, including but not limited to the use of judicial process;

(E) To establish and maintain offices, which shall be located within one or more of the compacting states;

(F) To purchase and maintain insurance and bonds;

(G) To borrow, accept, hire, or contract for services of personnel;

(H) To establish and appoint committees and hire staff that it considers necessary for the carrying out of its functions, including, but not limited to, an executive committee as required by Article III of this compact, which executive committee shall have the power to act on behalf of the interstate commission in carrying out its powers and duties under this compact;

(I) To elect or appoint officers, attorneys, employees, agents, or consultants, to fix their compensation, define their duties, and determine their qualifications, and to establish the interstate commission's personnel policies and programs relating to, inter alia, conflicts of interest, rates of compensation, and qualifications of personnel;

(J) To accept any and all donations and grants of money, equipment, supplies, materials, and services and to receive, utilize, and dispose of same;

(K) To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any real property, personal property, or mixed real and personal property;

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

(M) To establish a budget and make expenditures and levy dues as provided in Article VIII of this compact;

(N) To sue and be sued;

(O) To adopt a seal and bylaws governing the management and operation of the interstate commission;

(P) To perform any functions that may be necessary or appropriate to achieve the purposes of this compact;

(Q) To report annually to the legislatures, governors, judiciary, and state councils for interstate juvenile supervision of the compacting states concerning the activities of the interstate commission during the preceding year, and with the annual reports also including any recommendations that may have been adopted by the interstate commission.

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

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

Article V -- Organization and Operation of the Interstate Commission

Section A. Bylaws

The interstate commission, by a majority of the members present and voting and within twelve months after the first interstate commission meeting, shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of this compact, including, but not limited to, bylaws that do all of the following:

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

(2) Establish an executive committee and any other committees that may be necessary;

(3) Provide for the establishment of committees governing any general or specific delegation of any authority or function of the interstate commission;

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

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

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

(7) Provide start-up rules for initial administration of this compact;

(8) Establish standards and procedures for compliance and technical assistance in carrying out this compact.

Section B. Officers and Staff

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

(2) The interstate commission, through its executive committee, shall appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation as the interstate commission considers appropriate. The executive director shall serve as secretary to the interstate commission but shall not be a member of the interstate commission. The executive director shall hire and supervise such other staff as may be authorized by the interstate commission.

Section C. Qualified Immunity, Defense, and Indemnification

(1) Except as otherwise provided in this subsection, the interstate commission's executive director and each of its employees shall be immune from suit and liability, either personally or in the executive director's or employee's official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that the executive director or employee had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities. The executive director or an employee shall not be protected from suit or liability for any damage, loss, injury, or liability caused by the executive director's or employee's willful and wanton misconduct of any such person.

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

(3) Except as otherwise provided in this subsection, the interstate

commission shall defend the executive director or the employees or representatives of the interstate commission and, subject to the approval of the attorney general of the state represented by any commissioner of a compacting state, shall defend such commissioner or the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities. The duty to defend described in this division does not apply if the actual or alleged act, error, or omission in question resulted from intentional or willful and wanton misconduct on the part of the executive director, employee, or representative of the interstate commission or the commissioner of a compacting state or the commissioner's representatives or employees.

(4) Except as otherwise provided in this subsection, the interstate commission shall indemnify and hold the commissioner of a compacting state, or the commissioner's representatives or employees, or the interstate commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities. The duty to indemnify and hold harmless described in this division does not apply if the actual or alleged act, error, or omission in question resulted from intentional or willful and wanton misconduct on the part of the commissioner of a compacting state or the commissioner's representatives or employees or the interstate commission's representatives or employees.

Article VI -- Rulemaking Functions of the Interstate Commission

(A) The interstate commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of this compact.

(B) Rulemaking shall occur pursuant to the criteria set forth in this Article and the bylaws and rules adopted pursuant thereto. The rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or another administrative procedures act, as the interstate commission determines appropriate consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the United States Supreme Court. All rules and amendments

shall become binding as of the date specified, as published with the final version of the rule as approved by the interstate commission.

(C) When promulgating a rule, the interstate commission, at a minimum, shall do all of the following:

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

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

(3) Provide an opportunity for an informal hearing, if petitioned by ten or more persons;

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

(D) When the interstate commission promulgates a rule, not later than sixty days after the rule is promulgated, any interested person may file a petition in the United States district court for the District of Columbia or in the federal district court where the interstate commission's principal office is located, for judicial review of the rule. If the court finds that the interstate commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this division, evidence is substantial if it would be considered substantial evidence under the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000).

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

(F) The existing rules governing the operation of the interstate compact on juveniles that is superseded by this compact shall be null and void twelve months after the first meeting of the interstate commission created under this compact.

(G) Upon determination by the interstate commission that a state of emergency exists, it may promulgate an emergency rule. An emergency rule so promulgated shall become effective immediately upon adoption, provided that the usual rulemaking procedures specified in this Article shall be retroactively applied to the emergency rule as soon as reasonably possible, but not later than ninety days after the effective date of the emergency rule.

Article VII -- Oversight, Enforcement, and Dispute Resolution by the
Interstate Commission

A Oversight and Enforcement

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

(2) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate this compact's purposes and intent. The provisions of this compact and the rules promulgated under it shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact that may affect the powers, responsibilities, or actions of the interstate commission, the interstate commission shall be entitled to receive all service of process in the proceeding and shall have standing to intervene in the proceeding for all purposes.

Section B. Dispute Resolution

(1) The compacting states shall report to the interstate commission on all issues and activities necessary for the administration of this compact and on all issues and activities pertaining to compliance with the provisions of this compact and the interstate commission's bylaws and rules.

(2) The interstate commission, upon the request of a compacting state, shall attempt to resolve any disputes or other issues that are subject to this compact and that may arise among compacting states and between compacting and non-compacting states. The interstate commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

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

Article VIII -- Finance

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

(B) The interstate commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the interstate commission and its staff. The annual assessment shall be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined

by the interstate commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state. The interstate commission shall promulgate a rule binding upon all compacting states that governs the assessment.

(C) The interstate commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the obligations. The interstate commission shall not pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

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

Article IX -- The State Council

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

Article X – Compacting States, Effective Date, and Amendment

(A) Any state, as defined in Article II of this compact, is eligible to become a compacting state.

(B) This compact shall become effective and binding upon legislative enactment of the compact into law by no less than thirty-five of the states. The initial effective date shall be the later of July 1, 2004, or upon enactment into law by the thirty-fifth jurisdiction. Thereafter, this compact shall become effective and binding as to any other compacting state upon enactment of this compact into law by that state. The governors of non-compacting states or their designees shall be invited to participate in the activities of the interstate commission on a non-voting basis prior to adoption of this compact by all states.

(C) The interstate commission may propose amendments to this compact for enactment by the compacting states. No amendment shall become effective and binding upon the interstate commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

Article XI – Withdrawal, Default, Termination, and Judicial Enforcement

Section A. Withdrawal

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

(2) The effective date of withdrawal of a compacting state is the effective date of the state's repeal of the statute that enacted this compact into law.

(3) A compacting state that withdraws from this compact shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty days of the interstate commission's receipt of the notice from the withdrawing state.

(4) A compacting state that withdraws from this compact is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

(5) If a compacting state withdraws from this compact, reinstatement of the withdrawing state following withdrawal shall occur upon the withdrawing state reenacting this compact or upon such later date as determined by the interstate commission.

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

(1) If the interstate commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or under the interstate commission's bylaws or duly promulgated rules, the interstate commission may impose one or more of the following penalties:

(a) Remedial training and technical assistance as directed by the interstate commission;

(b) Alternative dispute resolution;

(c) Fines, fees, and costs in such amounts as are deemed to be

reasonable as fixed by the interstate commission:

(d) Suspension or termination of membership in this compact, provided that suspension or termination of membership shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted and the interstate commission has therefore determined that the offending state is in default. Immediate notice of suspension shall be given by the interstate commission to the governor of the defaulting state, its chief justice or the chief judicial officer, the majority and minority leaders of its state legislature, and the state council for interstate juvenile supervision. The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, by the interstate commission's bylaws, or by its duly promulgated rules, and any other grounds designated in commission bylaws and rules. The interstate commission shall immediately notify the defaulting state in writing of the penalty imposed by the interstate commission and of the default pending a cure of the default. The interstate commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the interstate commission, the defaulting state shall be terminated from this compact upon an affirmative vote of a majority of the compacting states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination.

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

(3) A defaulting compacting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including any obligations the performance of which extends beyond the effective date of termination.

(4) The interstate commission shall not bear any costs relating to a defaulting compacting state unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

(5) If a defaulting compacting state is terminated, reinstatement of the defaulting state following termination requires both a reenactment of the compact by the defaulting state and the approval of the interstate commission pursuant to its rules.

Section C. Judicial Enforcement

The interstate commission, by majority vote of the members, may initiate legal action against any compacting state to enforce compliance with the provisions of this compact, and the interstate commission's duly promulgated rules and bylaws. Any such action, if initiated, shall be initiated in the United States district court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its offices. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of the litigation including reasonable attorney's fees.

D Dissolution of Compact

(1) This compact dissolves effective upon the date of the withdrawal or default of the compacting state, which reduces membership in this compact to one compacting state.

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

Article XII – Severability and Construction

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

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

Article XIII – Binding Effect of Compact and Other Laws

Section A. Other Laws

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

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

Section B. Binding Effect of the Compact

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

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

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

(4) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by that provision upon the interstate commission shall be ineffective and such obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency of that state to which such obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Article XIV – Financial Reimbursement

The state agency responsible for administering this compact shall have the legal authority to recoup fines, fees and costs imposed by the interstate commission as stated in Article XI, Section B, Subsection (1)(c) of this compact when the default in performance is the result of a decision made by an entity outside the jurisdiction of the agency administering this compact.

Sec. 2151.57. (A) As used in sections 2151.57 to 2151.59 of the Revised Code:

(1) "Interstate compact for juveniles" means the interstate compact for juveniles ratified, enacted into law, and entered into by this state pursuant to section 2151.56 of the Revised Code.

(2) "Bylaws," "commissioner," "compact administrator," and "interstate commission for juveniles" have the same meanings as in section 2151.56 of the Revised Code.

(B) The state council for interstate juvenile supervision is hereby established within the department of youth services. The council shall consist of the following members:

(1) One member who is the compact administrator or the designee of the compact administrator;

(2) One member of the house of representatives appointed by the speaker of the house of representatives;

(3) One member of the senate appointed by the president of the senate;

(4) One member who is a representative of the executive branch of state government, in addition to the member described in division (B)(1) of this section, appointed by the governor;

(5) One member who is a representative of the judiciary, who shall be a juvenile court judge appointed by the chief justice of the supreme court;

(6) One member who is a person who represents an organization that advocates for the rights of victims of crime or a delinquent act, appointed by the governor.

(C) The state council for interstate juvenile supervision shall advise and may exercise oversight and advocacy concerning this state's participation in

activities of the interstate commission for juveniles, shall develop policy for this state concerning operations and procedures of the interstate compact for juveniles within this state, and shall perform other duties assigned to state councils under that compact.

Sec. 2151.58. (A) The governor shall appoint the director of youth services as the compact administrator for the interstate compact for juveniles.

(B) The governor shall appoint the compact administrator or shall allow the compact administrator to appoint a designee to serve as the commissioner from this state on the interstate commission for juveniles.

Sec. 2151.59. (A) The department of youth services is the state agency responsible for administering the interstate compact for juveniles in this state.

(B) The department of youth services shall pay all of the following:

(1) The annual assessment charged to this state for participating in the interstate compact for juveniles;

(2) All fines, fees, or costs assessed against this state by the interstate commission for juveniles for any default in the performance of this state's obligations or responsibilities under the compact, the bylaws, or rules duly promulgated under the compact.

Sec. 2152.26. (A) Except as provided in divisions (B) and (F) of this section, a child alleged to be or adjudicated a delinquent child or a juvenile traffic offender may be held only in the following places:

(1) A certified foster home or a home approved by the court;

(2) A facility operated by a certified child welfare agency;

(3) Any other suitable place designated by the court.

(B) In addition to the places listed in division (A) of this section, a child alleged to be or adjudicated a delinquent child may be held in a detention facility for delinquent children that is under the direction or supervision of the court or other public authority or of a private agency and approved by the court and a child adjudicated a delinquent child may be held in accordance with division (F)(2) of this section in a facility of a type specified in that division. Division (B) of this section does not apply to a child alleged to be or adjudicated a delinquent child for chronic truancy, unless the child violated a lawful court order made pursuant to division (A)(6) of section 2152.19 of the Revised Code. Division (B) of this section also does not apply to a child alleged to be or adjudicated a delinquent child for being an habitual truant who previously has been adjudicated an unruly child for being an habitual truant, unless the child violated a lawful court order made pursuant to division (C)(1)(e) of section 2151.354 of the

Revised Code.

(C)(1) Except as provided under division (C)(1) of section 2151.311 of the Revised Code or division (A)(5) of section 2152.21 of the Revised Code, a child alleged to be or adjudicated a juvenile traffic offender may not be held in any of the following facilities:

(a) A state correctional institution, county, multicounty, or municipal jail or workhouse, or other place in which an adult convicted of crime, under arrest, or charged with a crime is held.

(b) A secure correctional facility.

(2) Except as provided under this section, sections 2151.56 to ~~2151.61~~ 2151.59, and divisions (A)(5) and (6) of section 2152.21 of the Revised Code, a child alleged to be or adjudicated a juvenile traffic offender may not be held for more than twenty-four hours in a detention facility.

(D) Except as provided in division (F) of this section or in division (C) of section 2151.311, in division (C)(2) of section 5139.06 and section 5120.162, or in division (B) of section 5120.16 of the Revised Code, a child who is alleged to be or is adjudicated a delinquent child may not be held in a state correctional institution, county, multicounty, or municipal jail or workhouse, or other place where an adult convicted of crime, under arrest, or charged with crime is held.

(E) Unless the detention is pursuant to division (F) of this section or division (C) of section 2151.311, division (C)(2) of section 5139.06 and section 5120.162, or division (B) of section 5120.16 of the Revised Code, the official in charge of the institution, jail, workhouse, or other facility shall inform the court immediately when a child, who is or appears to be under the age of eighteen years, is received at the facility, and shall deliver the child to the court upon request or transfer the child to a detention facility designated by the court.

(F)(1) If a case is transferred to another court for criminal prosecution pursuant to section 2152.12 of the Revised Code, the child may be transferred for detention pending the criminal prosecution in a jail or other facility in accordance with the law governing the detention of persons charged with crime. Any child so held shall be confined in a manner that keeps the child beyond the range of touch of all adult detainees. The child shall be supervised at all times during the detention.

(2) If a person is adjudicated a delinquent child or juvenile traffic offender and the court makes a disposition of the person under this chapter, at any time after the person attains eighteen years of age, the person may be held under that disposition in places other than those specified in division (A) of this section, including, but not limited to, a county, multicounty, or

municipal jail or workhouse, or other place where an adult convicted of crime, under arrest, or charged with crime is held.

(3)(a) A person alleged to be a delinquent child may be held in places other than those specified in division (A) of this section, including, but not limited to, a county, multicounty, or municipal jail, if the delinquent act that the child allegedly committed would be a felony if committed by an adult, and if either of the following applies:

(i) The person attains eighteen years of age before the person is arrested or apprehended for that act.

(ii) The person is arrested or apprehended for that act before the person attains eighteen years of age, but the person attains eighteen years of age before the court orders a disposition in the case.

(b) If, pursuant to division (F)(3)(a) of this section, a person is held in a place other than a place specified in division (A) of this section, the person has the same rights to bail as an adult charged with the same offense who is confined in a jail pending trial.

SECTION 2. That existing sections 2151.312, 2151.354, and 2152.26 and sections 2151.56, 2151.57, 2151.58, 2151.59, 2151.60, and 2151.61 of the Revised Code are hereby repealed.

SECTION 3. Upon the effective date of this act, the versions of sections 2151.56, 2151.57, 2151.58, and 2151.59 of the Revised Code enacted in Section 1 of this act will replace the versions of those sections, and the versions of sections 2151.60 and 2151.61 of the Revised Code, in effect on the day immediately preceding the effective date of this act.

SECTION 4. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is that Ohio is one of only five states that have not yet enacted the Interstate Compact for Juveniles, which in most states has replaced the Interstate Compact on Juveniles. The rule that allows Ohio to cooperate with the member states of the new compact in the supervision of delinquent youth and the return of escapees, absconders, and runaways will expire on June 30, 2011. It is imperative that this act take effect by that date. Therefore, this act shall go into immediate effect.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

S. B. No. 122

129th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____