

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Judiciary Committee

BILL: SB 274

SPONSOR: Senator Crist

SUBJECT: Interstate Compact for Juveniles

DATE: March 14, 2005 REVISED: 3/16/2005 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	Fav/1 amendment
2.	<u>Chinn</u>	<u>Maclure</u>	<u>JU</u>	Fav/2 amendments
3.	_____	_____	<u>GO</u>	_____
4.	_____	_____	<u>JA</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see last section for Summary of Amendments

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

Senate Bill 274 substantially amends s. 985.502, F.S., to revise and update the provisions of the current Interstate Compact on Juveniles (the “compact”), providing for cooperation among states in supervising and returning juveniles who have run away or escaped from detention across state boundaries. The revised compact creates an independent compact administrative agency, the Interstate Commission for Juveniles, authorized to enforce the compact and make rules necessary for the compact’s enforcement. Additionally, this bill creates s. 985.5025, F.S., which establishes the State Council for Interstate Juvenile Offender Supervision to comply with the requirements of Article IX of the compact. Senate Bill 274 also repeals several sections because the bill incorporates these sections into the new compact language it proposes.

For the compact to take effect, 35 states must pass the new compact language, though the bill provides for an effective date of July 1, 2005.

This bill substantially amends section 985.502 and creates section 985.5025, Florida Statutes. This bill repeals the following sections of the Florida Statutes: 985.503, 985.504, 985.505, 985.506, and 985.507.

II. Present Situation:

Part V of Chapter 985, F.S., (ss. 985.501-985.507, F.S.) contains the Interstate Compact on Juveniles (the “compact”). Specifically, Part V authorizes and directs the Governor to execute a compact on the state’s behalf and codifies the substantial form of the compact. This compact provides for the following procedures with respect to the movement of juveniles across state lines:

- Transfer of supervision of delinquent juveniles on probation or parole from one state to another;
- Extradition of juveniles who have been adjudicated by the court and escaped or absconded to other states while under a court’s jurisdiction;
- Return of non-delinquent runaways to their home state when informal arrangements cannot be made between the holding facility and the runaway’s parent or guardian; and
- Extradition of juveniles who may not have been adjudicated delinquent but who have been “charged” as being delinquent or have been found to be in need of services or supervision.

A private entity, the Council of State Governments (CSG), and a federal agency, the Office of Juvenile Justice and Delinquency Prevention (OJJDP), are the organizations overseeing the drafting and introduction of the updated compact among all the states. According to these oversight agencies, the current compact was written 48 years ago to serve a juvenile population that looks very different today. The current compact language authorizes state compact administrators to act jointly with other state administrators to adopt rules and regulations that are more effective in implementing the terms of the compact. The association created by the state compact administrators based upon this authority is the Association of Juvenile Compact Administrators (AJCA). However, the AJCA is not specifically authorized to function in an enforcement capacity, which leaves no avenue for disciplining states that do not follow the compact.

There is no central body that can provide uniform interpretation or legal opinion of the current laws, rules, and regulations when conflicts arise among states that are members of the compact. In addition, there are no legal consequences for violating the compact if, for instance, a participating state chooses not to cooperate or claims it has no funding to cooperate with other states in moving juveniles across state lines. There are also jurisdictions that have expanded supervision and program expectations to include victim input and notification requirements, as well as sex offender registration, but none of these activities are covered under the current compact law.

For the revised compact to go into effect, 35 states must pass the new compact language. According to the CSG and the OJJDP, 21 states have passed legislation revising and updating the interstate compact, and many more states, like Florida, are taking up the legislation for consideration. The CSG and the OJJDP estimate that by the spring or fall of 2006, enough states will have ratified the compact for it to take effect.

III. Effect of Proposed Changes:

Senate Bill 274 substantially amends s. 985.502, F.S., to reflect the revised and updated provisions of the Interstate Compact on Juveniles (the “compact”), which provides for cooperation among states in supervising and returning juveniles who have run away or escaped from detention across state boundaries. The revised compact:

- Creates the Interstate Commission for Juveniles (the “Interstate Commission”), which is an independent compact administrative agency with the authority to administer ongoing compact activity;
- Requires the Interstate Commission to establish an executive committee to oversee the day-to-day activities of the administration of the compact and to act on behalf of the Interstate Commission when it is not in session;
- Mandates that the Interstate Commission meet at least annually to attend to general business, rule-making, and enforcement procedures and that each member-state must appoint one voting commissioner to represent that state’s interests on the Interstate Commission;
- Delegates rule-making authority to the Interstate Commission and makes provisions for sanctions to administer and enforce the operation of the compact;
- Provides a mandatory funding mechanism sufficient to support essential compact operations (staffing, data collection, and training/education);
- Provides for collection of standardized information and information sharing systems.
- Provides for the coordination and cooperation with other interstate compacts which have “overlapping” jurisdiction (for example, the Interstate Compact on the Placement of Children and the Interstate Compact for Adult Offender Supervision); and
- Mandates states create a State Council for Interstate Juvenile Offender Supervision comprised of a compact administrator, a representative from each of the three branches of government, a victim’s advocate, and a parent of a youth not in the juvenile justice system, to oversee state participation in the activities of the Interstate Commission.

Additionally, this bill creates s. 985.5025, F.S., which establishes the State Council for Interstate Juvenile Offender Supervision (the “council”) to comply with the requirements of Article IX of the compact as follows:

- Requires that the council consist of seven members comprised of the Secretary of Juvenile Justice, the compact administrator or his or her designee, the Executive Director of the Department of Law Enforcement or his or her designee, and four remaining members to be appointed by the Governor, who may delegate this appointment power to the Secretary of Juvenile Justice;
- Provides that appointees may include one victim’s advocate, employees of the Department of Children and Family Services, employees of the Department of Law Enforcement who work with missing or exploited children, and a parent;
- Applies provisions of public records/open meetings requirements to the council’s proceedings and records;
- Supplies terms of office, record storage, property transfer, and reimbursement for travel and per diem expenses; and
- Creates additional duties and responsibilities for the compact administrator.

According to the Department of Juvenile Justice (DJJ), this bill will provide better enforcement and accountability measures, provide more training to local and state juvenile justice officials, and improve the speed and quality of communication through the use of technology. Florida currently operates under the rules and regulations of the AJCA, but there is no enforcement for other member states that choose not to follow these rules and regulations. If the new compact language is passed and ratified by the requisite 35 states, the rules and regulations promulgated by the Interstate Commission will become binding law on Florida.

Senate Bill 274 repeals the following sections, because comparable provisions are incorporated elsewhere in the body of the revised compact:

- s. 985.503, F.S., authorizing the Governor to designate a juvenile compact administrator;
- s. 985.504, F.S., authorizing the compact administrator to enter into supplementary agreements with officials in others states;
- s. 985.505, F.S., relating to financial arrangements to be made by the compact administrator;
- s. 985.506, F.S., mandating enforcement of the compact by courts, departments, agencies, and subdivisions of the state; and
- s. 985.507, F.S., relating to additional procedures for return of juveniles not precluded by the compact.

This bill provides for an effective date of July 1, 2005, though the compact itself requires 35 states to ratify the compact before it has full force and effect.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Senate Bill 274 creates s. 985.5025(5), F.S., which applies the provisions of s. 24, Article I of the State Constitution and Chapter 119 and s. 286.011, F.S., to the State Council for Interstate Juvenile Offender Supervision, making the proceedings and records of the council open and subject to disclosure under the public meetings and records laws.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Department of Juvenile Justice, there will be a state fiscal impact as a result of this legislation; however, it will not affect the budget until after 35 states have passed the legislation and the Interstate Commission on Juveniles (the “Interstate Commission”) has been established. It is anticipated that by the spring or fall of 2006, 35 states will have passed the revised compact language, and dues will begin to be paid to the Interstate Commission. The dues are based upon the population served, and it is estimated that the fiscal impact to Florida will be \$37,000 annually. This amount may be reduced, depending on whether the Interstate Commission decides to use the staff that is used for the Interstate Compact for Adult Offender Supervision.

VI. Technical Deficiencies:

On page 26, lines 23-25, the Legislature may wish to revise the language to reflect that the remaining members of the State Council for Interstate Juvenile Offender Supervision are to be appointed *by* the Governor, instead of *for* the Governor as the bill now reads. Additionally, in the same lines, the bill currently reads that “the Governor may *for any year* delegate the power of appointment...” This language could be amended to clarify the Legislature’s intent regarding the Governor’s authority to delegate the appointment power to the Secretary of Juvenile Justice.

VII. Related Issues:**Rule-Making Authority**

The Interstate Compact for Juveniles (the “compact”) authorizes the Interstate Commission for Juveniles (the “Interstate Commission”) to adopt and publish rules in order to effectively and efficiently achieve the purposes of the compact. The compact states that 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 such other administrative procedures act as the Interstate Commission deems appropriate consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the United States Supreme Court.”¹ The rules and amendments become binding as of the date specified.

Florida’s Role in the Compact

The Department of Juvenile Justice (DJJ) states that Florida has the largest number of juveniles that are subject to the “Interstate Compact on Juveniles,” and therefore the state will be greatly affected by passage of this new law. Currently, Florida sends more requests for supervision transfer than it receives. According to DJJ, if Florida does not adopt this legislation by the time it has been passed by 35 other states, it will negatively affect the state’s juvenile justice system and the juvenile offenders leaving and entering the state. The DJJ states that not passing this

¹ Senate Bill 274, page 15, line 25, through page 16, line 1.

legislation will also affect juvenile extradition and the return of non-delinquent runaways to and from Florida, possibly creating a greater liability for Florida with regard to the offenders leaving the state under Florida court jurisdiction.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

Barcode 871818 by Criminal Justice:

Changes the effective date of the bill to July 1, 2005, *or upon enactment of the compact into law by the 35th compacting state, whichever occurs later*, thus ensuring the law does not become effective until the compact is adopted by 35 compacting states.

Barcode 813324 by Judiciary:

Corrects language to reflect that certain members of the State Council for Interstate Juvenile Offender Supervision are to be appointed *by* the Governor, instead of *for* the Governor. Additionally, the language clarifies the Legislature's intent regarding the Governor's authority to delegate the appointment power to the Secretary of Juvenile Justice.

Barcode 384746 by Judiciary:

Adds a sunset provision to repeal ss. 985.502 and 985.5025, F.S., two years after the effective date of this act unless reviewed and saved from repeal through reenactment by the Legislature.
(WITH TITLE AMENDMENT)

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