

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1029 Interstate Compact for Juveniles

**SPONSOR(S):** Brodeur

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 1494

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	13 Y, 0 N	Williams	Cunningham
2) Rulemaking & Regulation Subcommittee			
3) Judiciary Committee			

### SUMMARY ANALYSIS

In the early 1950's, a group of organizations sought to develop a uniform set of procedures to facilitate the return of juveniles who ran away to other states and to create a system in which juvenile offenders could be supervised in other states. This resulted in the enactment of the Interstate Compact on Juveniles (Compact).

In 1999, the Office of Juvenile Justice and Delinquency Prevention conducted a detailed survey of the states, uncovering many contentious issues within the Compact structure, and asked for recommendations to address these growing concerns. In 2003, a revised Compact was drafted to address these issues.

The requirements of the revised Compact are laid out in a series of articles which provide the purposes of the Compact; create the Interstate Commission for Juveniles (Commission) as the governing body for Compact activities; provide for the Commission's authority and responsibilities; provide a financing mechanism for the Commission; require each state to create a State Council for Interstate Juvenile Supervision (State Council); provide for enforcement of the Compact including imposition of fines and fees; and provide for judicial enforcement of the Compact that are binding by state authorities. The revised Compact further specified that it would become effective and binding upon legislative enactment of the Compact into law by no less than 35 states.

In 2005, Florida adopted the revised Compact when it enacted HB 577, entitled "The Interstate Compact for Juveniles," which created ss. 985.502 and 985.5025, F.S., (subsequently renumbered as ss. 985.802 and 985.8025, F.S.). The bill included a sunset provision that the law be repealed two years after the effective date of the Compact unless reviewed and saved from repeal through reenactment by the Legislature.

The Compact became effective on August 26, 2008, when Illinois became the 35<sup>th</sup> state to adopt the Compact. Since the Compact's enactment, the Florida Legislature has taken no action to reenact ss. 985.802 and 985.8025, F.S. Consequently, these statutes were repealed on August 26, 2010. As a result, Florida is no longer a member of the Compact and the mechanism by which Florida manages the interstate movement of juvenile offenders no longer exists.

HB 1029 reenacts s. 985.802, F.S., relating to Execution of Interstate Compact for Juveniles, and s. 985.8025, F.S., relating to State Council for Interstate Juvenile Offender Supervision. The bill does not include the two year sunset provision language of the repealed statute. As a result, Florida will once again be a member of the Compact which will allow Florida to regulate the interstate movement of juvenile delinquents and offenders in accordance with the Compact's provisions.

The bill does not appear to have a fiscal impact and is effective upon becoming a law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

In the early 1950's, *Parade* magazine published a series of articles entitled "Nobody's Children," which depicted the plight of runaways in America. Inspired by these articles and recognizing that action was needed, a group of organizations sought to develop a uniform set of procedures to facilitate the return of juveniles who ran away to other states and to create a system in which juvenile offenders could be supervised in other states.<sup>1</sup> Representatives from the Council of State Governments (CSG), National Council on Crime and Delinquency (formerly the National Probation and Parole Association), National Council of Juvenile and Family Court Judges, American Public Welfare Association, National Association of Attorneys General, and Adult Parole and Probation Compact Administrators Association drafted an Interstate Compact on Juveniles (Compact) to meet these needs.<sup>2</sup> The Compact was approved by these organizations in January 1955 and ratified by all 50 States, the District of Columbia, the Virgin Islands, and Guam by 1986.<sup>3</sup>

In 1999, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) conducted a detailed survey of the states, uncovering many contentious issues within the Compact structure, and asked for recommendations to address these growing concerns.<sup>4</sup> In 2000, a Compact Advisory Group was formed to assist in assessing interstate supervision options and alternatives, and to assist in identifying groups having an interest in effective interstate supervision.<sup>5</sup> They identified a revision of the existing Compact as the only option for long-term change.<sup>6</sup>

In 2001, CSG worked with OJJDP and the Association of Juvenile Compact Administrators (AJCA) to develop and facilitate a drafting team of state officials to begin the design of a revised Compact.<sup>7</sup> In 2002, the Compact language was finalized, and by 2003 the revised Compact was first available for introduction in the states.<sup>8</sup>

##### **The Revised Compact**

The requirements of the revised Compact are laid out in a series of articles which provide the purposes of the Compact; create the Interstate Commission for Juveniles (Commission) as the governing body for Compact activities; provide for the Commission's authority and responsibilities; provide a financing mechanism for the Commission; require each state to create a State Council for Interstate Juvenile Supervision (State Council); provide for enforcement of the Compact including imposition of fines and fees; and provide for judicial enforcement of the Compact that are binding by state authorities.<sup>9</sup>

The purpose of the revised Compact, through means of joint and cooperative action among the states participating in the Compact, is to:

- 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;

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<sup>1</sup> Office of Juvenile Justice and Delinquency Prevention Fact Sheet, *Interstate Compact on Juveniles*, September 2000 #12 (on file with Criminal Justice Subcommittee staff).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Interstate Commission for Juveniles, *ICJ History*. (<http://www.juvenilecompact.org/About/History.aspx>) (last accessed March 13, 2011.)

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Interstate Commission for Juveniles. *Serving Juveniles While Protecting Communities. Compact Statute*. (<http://www.juvenilecompact.org/LinkClick.aspx?fileticket=b9nFo9GaUco%3d&tabid=654>) (last accessed March 11, 2011).

- 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;
- 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;
- Make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services;
- Provide for the effective tracking and supervision of juveniles;
- Equitably allocate the costs, benefits and obligations of the compacting states;
- Establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders;
- Ensure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines;
- Establish procedures to resolve pending charges (detainers) against juvenile offenders prior to transfer or release to the community under the terms of this compact;
- Establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and criminal justice officials, and regular reporting of Compact activities to heads of state executive, judicial, and legislative branches and juvenile and criminal justice administrators;
- Monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance;
- Coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity; and
- Coordinate the implementation and operation of the compact with the Interstate Compact for the Placement of Children, the Interstate Compact for Adult Offender Supervision and other compacts affecting juveniles particularly in those cases where concurrent or overlapping supervision issues arise.<sup>10</sup>

The revised Compact further specified that it would become effective and binding upon legislative enactment of the Compact into law by no less than 35 states.<sup>11</sup>

### **Florida's Adoption of the Revised Compact**

In 2003, 12 states adopted the revised compact.<sup>12</sup> In 2004, an additional 10 states adopted the Compact, and in 2005 the Compact was adopted by 7 states, including Florida.<sup>13</sup> Two states adopted in each of the next three years, bringing the total by the end of 2008 to 35, the number of states necessary for the Compact to go into effect.

Florida adopted the Compact when it enacted HB 577 (2005), entitled "The Interstate Compact for Juveniles," which created ss. 985.502 and 985.5025, F.S.<sup>14</sup> In addition to defining the purpose of the Compact and creating the Commission, the bill created the State Council to oversee Florida's participation in the activities of the Commission.<sup>15</sup> The State Council is comprised of eight members, including the Secretary of the Department of Juvenile Justice (or designee), who is to serve as chair of the State Council, the compact administrator (or designee), and the Executive Director of the Department of Law Enforcement (or designee).<sup>16</sup> The remaining five members are to be appointed by

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<sup>10</sup> The Council of State Governments. *Interstate Compact for Juveniles Resource Kit*, (<http://www.csg.org/knowledgecenter/docs/ncic/ICJ-ResourceKit.pdf>) (last accessed March 13, 2011.)

<sup>11</sup> *Id.*

<sup>12</sup> Interstate Commission for Juveniles, *ICJ History*. (<http://www.juvenilecompact.org/About/History.aspx>) (last accessed March 13, 2011.)

<sup>13</sup> *Id.*

<sup>14</sup> Ch. 2005-80, L.O.F. (Note: In 2006 ss. 985.502 and 985.5025, F.S., were renumbered as ss. 985.802 and 985.8025, F.S. See s.101, Ch. 2006-120, L.O.F.)

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

the Governor for four-year terms.<sup>17</sup> Currently Florida actively participates in the Commission but has no State Council.<sup>18</sup>

Because enacting the law resulted in the state being bound to rules of the Commission that had not yet been written,<sup>19</sup> the bill included a sunset provision that the law be repealed two years after the effective date of the Compact unless reviewed and saved from repeal through reenactment by the Legislature.<sup>20</sup>

The Compact became effective on August 26, 2008, when Illinois became the 35<sup>th</sup> state to adopt the Compact.<sup>21</sup> Since the Compact's enactment, the Florida Legislature has taken no action to reenact ss. 985.802 and 985.8025, F.S. Consequently, these statutes were repealed on August 26, 2010. As a result, Florida is no longer a member of the Compact and the mechanism by which Florida manages the interstate movement of juvenile offenders no longer exists.<sup>22</sup>

Rules have been adopted by the Commission to implement the Compact. A copy of the present rules are attached hereto. Notably, the rules purport to vest jurisdiction of interstate disputes in the Federal District Court for the District of Columbia; they also provide for mediation and arbitration of disputes. Also, the rules provide for fines to be assessed against states determined to have violated their Compact obligations.

#### **Effect of the bill**

HB 1029 reenacts s. 985.802, F.S., relating to Execution of Interstate Compact for Juveniles, and s. 985.8025, F.S., relating to State Council for Interstate Juvenile Offender Supervision. The bill does not include the two-year sunset provision.

As a result, Florida will once again be a member of the Compact which will allow Florida to regulate the interstate movement of juvenile delinquents and offenders in accordance with the Compact's provisions.

#### **B. SECTION DIRECTORY:**

Section 1. Reenact s. 985.802, F.S., relating to execution of interstate compact for juveniles.

Section 2. Reenacts s. 985.8025, F.S., relating to State Council for Interstate Juvenile Offender Supervision.

Section 3. The bill is effective upon becoming a law.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

None.

##### **2. Expenditures:**

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<sup>17</sup> *Id.*

<sup>18</sup> Department of Juvenile Justice 2011 Analysis of HB 1029 (on file with Criminal Justice Subcommittee Staff).

<sup>19</sup> The Rules and Regulations for Administration of the Interstate Compact on Juveniles were adopted on August 9, 2006. AJCA Policy and Procedure Manual (January 2007.) ([http://www.ajca.us/pdf/ajca\\_final\\_06\\_regs\\_07.pdf](http://www.ajca.us/pdf/ajca_final_06_regs_07.pdf)) (last accessed March 13, 2011.)

<sup>20</sup> Ch. 2005-80, L.O.F.

<sup>21</sup> Association of Juvenile Compact Administrators. Interstate Compact on Juveniles. September 2008.

([http://www.ajca.us/documents/new\\_compact\\_092008.pdf](http://www.ajca.us/documents/new_compact_092008.pdf)) (last accessed March 10, 2011).

<sup>22</sup> Department of Juvenile Justice 2011 Analysis of HB 1029 (on file with Criminal Justice Subcommittee Staff).

The Commission levies and collects annual assessment from each compacting state to cover the cost of internal operation and activities.<sup>23</sup> The annual assessment amount is allocated by a formula based on the population and juvenile movement of each state.<sup>24</sup> When HB 577 was enacted in 2005, the Department of Juvenile Justice (DJJ) estimated there would be a recurring cost of \$40,000 per year to cover the dues to the Commission and traveling expenses. DJJ reports HB 1029 will have no fiscal impact since the funds are already allocated for the Commission.<sup>25</sup>

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to: require the counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties and municipalities.

2. Other:

The Florida Constitution strictly limits delegations of Legislative power. By ratifying the Compact, the Legislature delegates some legislative power to the Commission, a body foreign to the State and its Constitution. However, the limits on delegation have not been construed with respect to an interstate compact under the Federal Constitution's compact clause.

The United States Constitution limits the authority of states to enter into interstate compacts:

No State shall, without the Consent of Congress, ... enter into any Agreement or Compact with another State....

Art. I, § 10, cl. 3. This provision ensures that interstate policies are endorsed by the national legislature. Pursuant to this provision, Congress has enacted 4 U.S.C. § 112 providing:

§ 112 Compacts between States for cooperation in prevention of crime; consent of Congress

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<sup>23</sup> Interstate Compact for Juveniles Resource Kit, *Fiscal Note*, Council of State Government. (<http://www.csg.org/knowledgecenter/docs/ncic/ICJ-ResourceKit.pdf>) (last accessed March 11, 2011).

<sup>24</sup> *Id.*

<sup>25</sup> March 11, 2011 conversation with DJJ Legislative Affairs Director, Ana Maria Sanchez.

(a) The consent of Congress is hereby given to any two or more States to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of their respective criminal laws and policies, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts.

(b) For the purpose of this section, the term "States" means the several States and Alaska, Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and the District of Columbia.

This statute appears to authorize the Compact. But given that the Compact itself authorizes rulemaking and such rules were not before Congress when consent was given, it is unclear whether the provisions of 4 U.S.C. § 112 constitute consent to the enforcement of the rules.

#### B. RULE-MAKING AUTHORITY:

The Compact authorizes rulemaking by the Commission. According to the Compact, rules adopted under the Compact are binding as general law in the jurisdiction of member States.

While the Compact adopts the Model Administrative Procedures Act to regulate administrative rulemaking, the Commission retains discretion to select alternate procedures consistent with the minimal requirements of due process. Thus, there is no guarantee that proposed rules are made reasonably available for review by anyone other than the members of the Commission, that proposed rules be subject to amendment, or are otherwise subject to full deliberation by elected officials in the affected jurisdictions. Discussions with DJJ staff indicate that they are willing to submit proposed rules to House, Senate and Executive policy and budget offices prior to the Florida Commissioner's participating in adoption of any rules amendments. Yet rules binding in Florida may be adopted over Florida's objection. Thus, the option to withdraw from the Compact on six months notice is the only real protection from the imposition of unfriendly rules binding in the State of Florida.

Because Rules of Compact Administration are presently in effect, enactment of this bill will have the effect of ratifying those rules, making them binding on the people, officials and judges of this State. The present rules are attached..

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

# ATTACHMENT

## ICJ RULES INTERSTATE COMMISSION FOR JUVENILES

Commission for Juveniles  
PO Box 11910  
Lexington, KY 40578-1910  
Phone: 859-244-8029 / Fax: 859-244-8001  
[www.juvenilecompact.org](http://www.juvenilecompact.org)  
Email: [icj@csg.org](mailto:icj@csg.org)  
*Updated: February 4, 2011*

**([http://www.juvenilecompact.org/LinkClick.aspx?fileticket=QDbarg6\\_mEQ%3d&tabid=648](http://www.juvenilecompact.org/LinkClick.aspx?fileticket=QDbarg6_mEQ%3d&tabid=648))**

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## Section 100 Definitions

### ***RULE 1-101: Definitions***

As used in these rules, unless the context clearly requires a different construction:

Absconder: a juvenile probationer or parolee who hides, conceals, or absents him/herself with the intent to avoid legal process or authorized control.

Accused Delinquent: a person charged with an offense that, if committed by an adult, would be a criminal offense.

Accused Status Offender: a person charged with an offense that would not be a criminal offense if committed by an adult.

Adjudicated: a judicial finding, subsequent to proper judicial process, that a juvenile is a status offender or delinquent.

Adjudicated Delinquent: a person found to have committed an offense that, if committed by an adult, would be a criminal offense.

Adjudicated Status Offender: a person found to have committed an offense that would not be a criminal offense if committed by an adult; [e.g., child in need of supervision (CINS), (CHINS), person in need of supervision (PINS), deprived child, undisciplined child, etc.], and who are eligible for services under the provisions of the ICJ.

Affidavit: a written or printed declaration or statement of facts made voluntarily and confirmed by the oath or affirmation of the party making it, taken before an officer having authority to administer such oath.

Aftercare (temporary community placement): a condition in which a juvenile who has been committed in the sending state who is residing and being supervised in the community (for purposes of ICJ, see state committed).

By-laws: those by-laws established by the Interstate Commission for its governance, or for directing or controlling its actions or conduct.

Commission: a body corporate and joint agency made up of compacting states who has the responsibility, powers and duties set forth in the ICJ.

Commissioner: the voting representative of each compacting state appointed pursuant to Article III of this Compact.

Commitment: an order by a court of appropriate jurisdiction ordering the care, custody, and treatment of a juvenile to an agency or private or state institution maintained for such purpose.

Compact Administrator: the individual in each compacting state appointed pursuant to the terms of this Compact, responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this Compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this Compact.

Compacting State: any state which has enacted the enabling legislation for this Compact.

Cooperative Supervision: supervision provided by a receiving state as requested by a sending state.

Counsel (Legal): a state licensed attorney either privately retained or appointed by a court of competent jurisdiction to represent a juvenile or other party to a proceeding under this Compact.

Court: any court having jurisdiction over delinquent, neglected, or dependent children.

Court Order: an authorized order by a court of competent jurisdiction.

Custody: the status created by legal authorities for placement of a juvenile in a staff-secured or locked facility approved for the detention of juveniles.

Defaulting State: any state that fails to perform any of its obligations or responsibilities under this Compact, the by-laws or any duly promulgated rules.

Deferred Adjudication: a court decision at any point after the filing of a juvenile delinquency or status complaint that withholds or defers formal judgment and stipulates terms and/or conditions of supervision and are eligible for transfer.

Demanding State: the state having jurisdiction over a juvenile seeking the return of the juvenile either with or without pending delinquency charges.

Deputy Compact Administrator: the individual, if any, in each compacting state appointed to act on behalf of a Compact Administrator pursuant to the terms of this Compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this Compact.

Designee: a person who is authorized to act on behalf of the ICJ Commissioner or Administrator of any member state under the provisions of this compact, authorized by-laws, and rules.

Detainer: a document issued or made by a legally empowered officer of a court or other legal authority authorizing the proper agency to keep in its custody a person named therein.

Detention Order: an order entered by a court to detain a specified juvenile pending further orders or action by the court.

Emancipation: the legal status in which a minor has achieved independence from parents or legal guardians as determined by the laws of the home state.

Escapee: a juvenile who has made an unauthorized flight from a facility or agency's custody to which he has been committed by the court.

Executive Director: the Commission's principal administrator (as defined in the Compact).

Good Faith Effort: reasonable communication and cooperation of the home state with the holding state regarding the return of runaways, absconders, and escapees.

Guardian ad litem: a person appointed by a court to look after the best interest of the juvenile.

Hearing: a court proceeding in which issues of fact or law are to be determined, in which parties against whom proceedings are initiated have notice and a right to be heard and which may result in a final order.

Holding State: the state having physical possession of a juvenile.

Home Evaluation/Investigation: a legal and social evaluation and subsequent report of findings to determine if placement in a proposed and specified resource home/place is in the best interest of the juvenile and the community.

Home State: the state where the parent(s), guardian(s), person, or agency having legal custody of the juvenile is residing or undertakes to reside.

Interstate Commission: the Interstate Commission for Juveniles created by Article III of this Compact.

Interstate Compact for Juveniles (ICJ): the agreement pertaining to the legally authorized transfer of supervision and care, as well as the return of juveniles from one state to another, which has been adopted by all member states that have enacted legislation in substantially the same language.

Juvenile: a person defined as a juvenile in any member state or by the rules of the Interstate Commission, including accused juvenile delinquents, adjudicated delinquents, accused status offenders, adjudicated status offenders, non-offenders, non-adjudicated juveniles, and non-delinquent juveniles.

Juvenile Sex Offender: a juvenile having been adjudicated for an offense involving sex or of a sexual nature.

Legal Custodian: the agency and/or person(s) who has been ordered or given authority by the appropriate court to render care, custody, and/or treatment to a juvenile.

Legal Guardian: a person legally responsible for the care and management of the person, or the estate, or both, of a child during minority or for the purpose and duration expressed in the order of guardianship.

Legal Jurisdiction: the authority a court has to preside over the proceeding and the power to render a decision pertaining to one or more specified offenses with which a juvenile has been charged.

Non-Adjudicated Juveniles: all juveniles who are under juvenile court jurisdiction as defined by the sending state, and who have been assigned terms of supervision and are eligible for services pursuant to the provisions of the Interstate Compact for Juveniles.

Non-Compacting state: any state which has not enacted the enabling legislation for this compact.

Non-Delinquent Juvenile: any person who has not been adjudged or adjudicated delinquent.

Non-Offender: a person in need of supervision who has not been accused or adjudicated a status offender or delinquent.

Notice: Advanced notification given to a party, either written or verbal, in regards to the future of an ICJ case.

Peace Officer: sheriffs, deputies, constables, marshals, police officers, and other officers whose duty is to enforce and preserve public safety.

Petition: an application in writing for an order of the court stating the circumstances upon which it is founded.

Physical Custody: the detainment of a juvenile by virtue of lawful process or authority.

Pick-Up Order: an order authorizing law enforcement officials to apprehend a specified person.

Private Provider: any person or organization contracted by the sending or receiving state to provide supervision and/or services to juveniles.

Probation/Parole: any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.

Promulgate: to put a law or regulation into effect by formal public announcement and publication.

Receiving State: a state to which a juvenile is sent for supervision under provision of the ICJ.

Relocate: when a juvenile remains in another state for more than 90 consecutive days in any 12 month period.

Requisition: a demand in writing or formal request sent to the ICJ Administrator or Executive Authority for the return of a non-delinquent runaway, probation or parole absconder, escapee, or juvenile charged as delinquent.

Residence: in general, a place at which a home or regular place of abode is maintained. A juvenile's state of residence is that of the parent, guardian, person or agency entitled to his legal custody. A parent, guardian, person, or agency's state of residency is where that person or agency resides or undertakes to reside.

Retaking: the act of a sending state physically removing a juvenile, or causing to have a juvenile removed, from a receiving state.

Runaway: a child under the juvenile jurisdictional age limit established by the state, who has run away from his/her place of residence, without the consent of the parent, guardian, person, or agency entitled to his/her legal custody.

Rule: a written statement by the Commission promulgated pursuant to Article VI of this Compact that is of general applicability, implements, interprets or prescribes a policy or provision of the Compact, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule.

Secure Facility: a facility which is approved for the holding of juveniles and is one which is either staff-secured or locked and which prohibits a juvenile in custody from leaving.

Sending State: a state which has sent or is in the process of sending a juvenile to another state for supervision under the provisions of the ICJ.

**State:** a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands.

**State Committed (Parole):** Any delinquent juvenile committed to a correctional facility that is conditionally released from an institutional setting or community supervision as authorized under the law of the sending state.

**Status Offense:** conduct which is illegal for juveniles but not illegal for adults, such as breaking curfew, running away, disobeying parents, truancy, etc.

**Substantial Compliance:** a juvenile who is sufficiently in compliance with the terms and conditions of his or her supervision so as not to result in initiation of revocation of supervision proceedings by the sending or receiving state.

**Termination:** the discharge from supervision of a juvenile probationer or parolee by the proper authority in the sending state upon expiration of a court order or upon expiration of the period of probation/parole or following receipt of recommendations from the receiving state with proper notice to, or communication with, the receiving state.

**Travel Permit:** written permission granted to a juvenile authorizing the juvenile to temporarily travel from one state to another.

**Voluntary Return:** the return of the juvenile runaway, escapee, absconder, or juvenile charged as a delinquent to his home state and denotes that he consents to return there voluntarily.

**Warrant:** an order authorizing any law enforcement or peace officer to apprehend and detain a specified juvenile.

***History: Adopted December 2, 2009, effective March 1, 2010;***

***“Deferred Adjudication” adopted September 15, 2010, effective January 1, 2011;***

***“Probation/Parole” amended September 15, 2010, effective January 1, 2011;***

***“Relocate” adopted September 15, 2010, effective January 1, 2011;***

***“Retaking” adopted September 15, 2010, effective January 1, 2011;***

***“Substantial Compliance” adopted September 15, 2010, effective January 1, 2011.***

## Section 200 Dues Formula and Data Collection

### ***RULE 2-101: Dues Formula***

1. The Commission shall determine the formula to be used in calculating the annual assessments to be paid by states. Public notice of any proposed revision to the approved dues formula shall be given at least 30 days prior to the Commission meeting at which the proposed revision will be considered.
2. The Commission shall consider the population of the states and the volume of juvenile transfers between states in determining and adjusting the assessment formula.
3. The approved formula and resulting assessments for all member states shall be distributed by the Commission to each member state annually.
4. The dues formula shall be—  $(\text{Population of the state} / \text{Population of the United States})$  plus  $(\text{Number of juveniles sent from and received by a state} / \text{total number of offenders sent from and received by all states})$  divided by two.

***History: Adopted December 2, 2009, effective March 1, 2010***

### ***RULE 2-102: Data Collection***

1. As required by Article III (K) of the compact, member states shall gather, maintain and report data regarding the interstate movement of juveniles who are supervised under this compact and the return of juveniles who have absconded, escaped or fled to avoid prosecution or run away. Each member state shall report annually by July 31<sup>st</sup>.
2. Runaways, escapees, absconders and juveniles charged as delinquent:
  - a. The total number of runaways, escapees, absconders and juveniles charged as delinquent located in and located out of the reporting state processed during the reporting period.
  - b. The total number of Requisitions (Form I and Form II) sent from and received by the reporting state during the reporting period.
  - c. The total number of juveniles who were not returned per Requisition (Form I and Form II) by or to the reporting state during the reporting period.
  - d. The reason(s) the juvenile was not returned per Requisition (Form I and II) by or to the reporting state during the reporting period.
3. Airport Supervision:
  - a. The total number of airport supervision requests met during the reporting period.
4. Parole Supervision:
  - a. The total number of incoming parole cases received from other states for investigation and/or supervision during the reporting period and the number which were sex offender related.
  - b. The total number of outgoing parole cases sent from the reporting state for investigation and/or

supervision during the reporting period and the number which were sex offender related.

- c. The total number of incoming parole cases terminated during the reporting period.
- d. The total number of outgoing parole cases terminated during the reporting period.
- e. The number of incoming / outgoing failed placements for violations and the number of incoming / outgoing returned.
- f. The number of incoming / outgoing failed placements for reasons other than violations and the number of incoming / outgoing returned.

5. Probation Supervision:

- a. The total number of incoming probation cases received from other states for investigation and/or supervision during the reporting period and the number which were sex offender related.
- b. The total number of outgoing probation cases sent from the reporting state for investigation and/or supervision during the reporting period and the number which were sex offender related.
- c. The total number of incoming probation cases terminated during the reporting period.
- d. The total number of outgoing probation cases terminated during the reporting period.
- e. The number of incoming / outgoing failed placements for violations and the number of incoming / outgoing returned.
- f. The number of incoming / outgoing failed placements for reasons other than violations and the number of incoming / outgoing returned.

6. Institutionalization:

- a. The total number of juveniles from their state who are institutionalized in a public facility in other states during the reporting period.
- b. The total number of juveniles from other states who are institutionalized in a public facility in their state during the reporting period.

7. Out-of-State Confinement:

- a. The total number of juveniles from the reporting state confined in other states during the reporting period.
- b. The total number of juveniles from other states confined in the reporting state during the reporting period.

8. This Rule will not expire until the Electronic Information System approved by the Commission is fully implemented and functional.

***History: Adopted September 15, 2010, effective January 1, 2011*** 13

## Section 300 Forms

### ***RULE 3-101: Approved Forms***

The following forms have been approved and adopted by the Commission, and shall be used as appropriate in all cases processed through the Interstate Compact for Juveniles:

- Form I (Requisition for Runaway Juvenile)
- Form II (Requisition for Escapee or Absconder/Juvenile Charged with Being Delinquent)
- Form III (Consent for Voluntary Return by Runaway, Escapee or Absconder)
- Form IV (Parole or Probation Investigation Request)
- Form V (Report of Sending State Upon Parolee or Probationer Being Sent to the Receiving State)
- Form IA/VI (Application for Compact Services/Memorandum of Understanding and Waiver)
- Form VII (Travel Permit)
- Form VIII (Home Evaluation)
- Form IX (Quarterly Progress or Violation Report)

Applications prepared on other than officially approved forms may be returned for revision. Official forms may be found at: [www.juvenilecompact.org](http://www.juvenilecompact.org)

***History: Deferred adoption December 3, 2009, adopted use of AJCA forms (with revisions to logo, compact and rule notations) in interim; amended September 15, 2010, effective January 1, 2011***

### ***RULE 3-102: Optional Forms***

Use of the following forms is optional:

- Petition for Hearing on Requisition for Runaway Juvenile
- Order Setting Hearing for Runaway Juvenile
- Petition for Requisition to Return Juvenile (Form A)
- Petition for Hearing on Requisition for Escapee, Absconder, or Juvenile Charged as Delinquent
- Order Setting Hearing for Escapee Absconder, or Juvenile Charged as Delinquent
- Juvenile Rights
- Case Closure Notification

***History: Deferred adoption December 3, 2009, adopted use of AJCA forms (with revisions to logo, compact and rule notations) in interim; amended September 15, 2010, effective January 1, 2011*** 15

**RULE 3-103: Form Modifications or Revisions**

1. Forms approved and adopted by the Interstate Commission for Juveniles may not be changed, altered or otherwise modified and no other forms may be substituted for approved forms.
2. Form revisions shall:
  - a. Be adopted by majority vote of the members of the Commission; and
  - b. Be submitted in the same manner as outlined in Rule 7-101 for the adoption of Rules and Amendments.

**History: Adopted September 15, 2010, effective January 1, 2011**

## **Section 400 Transfer of Supervision**

**RULE 4-101: Processing Referrals**

1. Each state that is a party to the ICJ shall process all referrals involving juveniles, for whom services have been requested, provided those juveniles are under juvenile jurisdiction in the sending state.
2. No state shall permit the transfer of supervision of a juvenile eligible for transfer except as provided by the Compact and these rules. A sending state shall request transfer of a juvenile, who is eligible for transfer of supervision to a receiving state under the compact. Terms of eligibility are defined as:
  - a. A plan inclusive of relocating to another state for a period exceeding ninety (90) consecutive days in any twelve (12) month period; and
  - b. Who has more than ninety (90) days or an indefinite period of supervision remaining at the time the sending state submits the transfer request.
3. All cases being transferred to another state are pursuant to the ICJ except cases involving concurrent jurisdiction under the Interstate Compact on Placement of Children, known as ICPC. A juvenile who is not eligible for transfer under this Compact is not subject to these rules and remains subject to the laws and regulations of the state responsible for the juvenile's supervision.

**History: Adopted December 2, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011**

**RULE 4-101A: Transfer of Students**

1. Juveniles as defined in Rule 1-101, eligible for transfer as defined by Rule 4-101, who have been accepted as full-time students at a secondary school, or accredited university/college, or state licensed specialized training program and can provide proof of enrollment, shall be considered for supervision by the receiving state.
2. Supervision shall be provided the juvenile according to Rule 4-104.
3. If the juvenile's placement fails, procedures to return the juvenile shall be made by the sending state according to Rule 6-104.

**History: Adopted September 15, 2010, effective January 1, 2011**



**RULE 4-102: Sending and Receiving Referrals**

Each ICJ Office shall forward all its cases within five (5) business days of receipt. Each ICJ Office shall adhere to the following screening process when sending and receiving referrals:

1. Each ICJ Office shall develop policies/procedures on how to handle ICJ matters within their state.
2. Each ICJ Office shall ensure all requests and coordination for ICJ supervision are between ICJ Offices.
3. The ICJ Office in the sending state shall comply with the rules listed below:
  - a. State Committed (Parole) Cases – The ICJ Office in the sending state shall ensure the following referral documents are complete and forwarded to the receiving state or electronic transfer if mutually agreed upon, in duplicate forty five (45) calendar days prior to the juvenile's anticipated arrival: Form IV, Form IA/VI and Order of Commitment. The ICJ Office in the sending state should also provide duplicate copies, (if available) of the Petition and/or Arrest Report(s), Legal and Social History, and any other pertinent information deemed to be of benefit to the receiving state. Parole conditions, if not already included, shall be forwarded to the receiving state upon the juvenile's release from an institution. Form V shall be forwarded prior to placement in the receiving state.
  - b. Probation Cases – The ICJ Office in the sending state shall ensure the following referral documents are complete and forwarded to the receiving state or electronic transfer if mutually agreed upon, in duplicate, within five (5) business days of receipt: Form IV, Form IA/VI, Order of Adjudication and Disposition, Conditions of Probation and Petition and/or Arrest Report(s). The ICJ Office in the sending state should also provide duplicate copies (if available) of Legal and Social History, and any other pertinent information deemed to be of benefit to the receiving state. Form V shall be forwarded prior to placement if the juvenile is not already residing in the receiving state.
4. The sending state shall be responsive and timely in forwarding additional documentation at the request of the receiving state.
5. The receiving state's ICJ Office shall request its local offices complete a home evaluation within thirty (30) calendar days after receipt of referral.
6. The receiving state's ICJ Office shall, within forty five (45) calendar days of receipt of the referral, make a reasonable effort to forward to the sending state the home evaluation along with the final approval or disapproval of the request for cooperative supervision.

**History: Adopted December 2, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011**

**RULE 4-103: Transfer of Supervision Procedures**

1. Cooperative supervision shall not be provided without written approval from the receiving state's ICJ Office. The sending state shall maintain responsibility until supervision is accepted by the receiving state.
2. When it appears necessary to request an emergency transfer of supervision, the sending state's ICJ Office shall be responsible for verifying that an emergency actually exists. If so, referral information should be provided to the receiving state's ICJ Office as expeditiously as possible, along with an explanation of the nature of the emergency.
3. When transferring a juvenile sex offender who has been adjudicated of a sex related offense, the sending state shall not allow the juvenile to transfer to the receiving state until the sending state's request for transfer of supervision has been approved, or reporting instructions have been issued by the receiving state unless Rule 4-103(2) is applicable.

4. When transferring a juvenile sex offender, documentation should be provided to the receiving state in duplicate: Form IA/VI, Form IV, Form V, Order of Adjudication and Disposition, Conditions of Probation, Petition and/or Arrest Report, Risk Assessment, Safety Plan Specific Assessments (if available), Legal and Social History information pertaining to the criminal behavior, Victim Information, i.e., sex, age, relationship to the offender, sending state's current or recommended Supervision and Treatment Plan, and all other pertinent materials. NOTE: Parole conditions shall be forwarded to the receiving state upon the juvenile's release from an institution.
5. In conducting home evaluations for juvenile sex offenders, the receiving state shall ensure compliance with local policies or laws to issuing reporting instructions. If the proposed residence is unsuitable, the receiving state may deny acceptance referred to in Rule 4-104 (7).
6. A juvenile sex offender shall abide by the registration laws in the receiving state, i.e., felony or sex offender registration, notification or DNA testing.
7. A juvenile sex offender who fails to register when required will be subject to the laws of the receiving state.
8. The receiving state shall receive a travel permit at least 48 hours prior to the juvenile sex offender's departure from the sending state with the exception of emergency circumstances. A travel permit shall not be granted by the sending state until reporting instructions are issued by the receiving state.

***History: Adopted December 2, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011***

***RULE 4-104: Cooperative Supervision/Services Requirements***

1. After accepting supervision, the receiving state will assume the duties of visitation and supervision over any juvenile, including juvenile sex offenders, and in exercise of those duties will be governed by the same standards of visitation and supervision that prevails for its own juveniles released on probation or parole.
2. Both the sending and receiving states shall have the authority to enforce terms of probation/parole, which may include the imposition of detention time in the receiving state. Any costs incurred from any enforcement sanctions shall be the responsibility of the state seeking to impose such sanctions.
3. The receiving state shall furnish written progress reports to the sending state on no less than a quarterly basis. Additional reports shall be sent in cases where there are concerns regarding the juvenile or there has been a change in placement.
4. Neither sending states nor receiving states shall impose a supervision fee on any juvenile who is supervised under the provisions of the ICJ.
5. The sending state shall be financially responsible for treatment services ordered either by the court or paroling authority in the sending state when they are not available through the supervising agency in the receiving state or cannot be obtained through Medicaid, private insurance, or other payor. The initial referral shall clearly state who will be responsible for purchasing treatment services.
6. The age of majority and duration of supervision are determined by the sending state. Where circumstances require the receiving court to detain any juvenile under the ICJ, the type of incarceration shall be determined by the laws regarding the age of majority in the receiving state.
7. In conducting home evaluations for sex offenders, the receiving state shall ensure compliance with local policies or laws prior to issuing reporting instructions. If the proposed residence is unsuitable, the receiving state may deny acceptance.

8. Juvenile restitution payments or court fines are to be paid directly from the juvenile/juvenile's family to the adjudicating court or agency in the sending state. Supervising officers in the receiving state shall encourage the juvenile to make regular payments in accordance with the court order of the sending state. The sending state shall provide the specific payment schedule and payee information to the receiving state.
9. Supervision for the sole purpose of collecting restitution is not a justifiable reason to open a case.

***History: Adopted December 2, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011***

### **References**

*ICJ Advisory Opinion*

1-2010 A supervising state is permitted to impose graduated sanctions upon any juvenile transferred under the compact if such standards are also applied to its own delinquent juveniles.

### ***RULE 4-105: Communication Requirements Between States***

1. All communications between states, whether verbal or written, on ICJ issues shall be transmitted between the respective ICJ Offices.
2. Communication may occur between local jurisdictions with the prior approval of the ICJ Offices in both states. An e-mail copy of the correspondence must be sent to the ICJ Administrator's Office in both states.
3. Communication regarding ICJ business shall respect the confidentiality rules of sending and receiving states.

***History: Adopted December 2, 2009, effective March 1, 2010***

### ***RULE 4-106: Closure of Cases***

1. The sending state has sole authority to discharge/terminate its juveniles with the exception of when a juvenile is convicted of a crime and sentenced under the jurisdiction of the adult court of the receiving state and the adult sentence is longer than the juvenile sentence. In such cases, the receiving state may close the supervision and administration of its ICJ case once it has notified the sending state, in writing, and provided the sending state with a copy of the adult court order.
2. After the receiving state has accepted a probation/parole case for supervision, the sending state shall complete placement within 90 calendar days. If the placement is not made in the receiving state within this timeframe, the receiving state may close the case with written notice to the sending state. The sending state may request an extension beyond the 90 calendar day timeframe, providing an appropriate explanation, or may resubmit the referral at a later date.
3. Cases which terminate due to expiration of a court order or upon expiration of the period of parole or probation may be closed by the receiving state without further action by the sending state. In such cases, the receiving state shall forward a summary report to the sending state, and notify the sending state in writing that, unless otherwise notified, the case will be closed due to the expiration of the court order within five (5) business days.
4. The receiving state may submit to the sending state a request for the early release of the juvenile from probation or parole. In such cases, the sending state shall be provided the opportunity to consider the matter, to advise the court of jurisdiction or state agency of the request, and to make known any

objection or concern before the case is closed. Any decision to release a juvenile from probation/parole early shall be made by the appropriate authority in the sending state. The sending state will forward a copy of the discharge report or notification to close based on the receiving state's recommendation or, if the request to close has been denied, provide a written explanation, within sixty (60) calendar days as to why the juvenile cannot be released from probation/parole.

5. Files of closed cases shall be maintained in the ICJ Office for one (1) year after closure before they can be destroyed.

***History: Adopted December 2, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011***

***RULE 4-107: Victim Notification***

Victim notification requirements are the responsibility of the sending state in accordance with the laws and policies of that state. The sending state shall request information as necessary to fulfill victim notification requirements. The receiving state will respond to the requests from the sending state within five (5) business days.

***History: Adopted December 2, 2009, effective March 1, 2010; amended January 5, 2011, effective February 4, 2011***

## **Section 500 Supervision in Receiving State**

***RULE 5-101: Authority to Accept/Deny Supervision***

1. Only the receiving state's ICJ Administrator or designee shall authorize or deny supervision of a juvenile by that state after considering a recommendation by the investigating officer.
2. The receiving state's ICJ Administrator's or authorized agent's signature is required on or with the home evaluation form that approved or denied supervision of a juvenile by that state.
3. Supervision cannot be denied based solely on the juvenile's age or the offense.
4. Supervision may be denied when the home evaluation reveals that the proposed placement is unsuitable or that the juvenile is not in substantial compliance with the terms and conditions of supervision required by the sending or receiving state.
5. Supervision shall be accepted by a receiving state when a juvenile has no custodial parent or legal guardian remaining in the sending state and the juvenile does have a custodial parent or legal guardian residing in the receiving state.
6. Upon receipt of acceptance of supervision from the receiving state, and within five (5) business days prior to the juvenile's departure if the youth is not already residing in the receiving state, the sending state shall provide reporting instructions to the juvenile, and provide written notification of the juvenile's departure to the receiving state.
7. If a legal custodian remains in the sending state and the placement in the receiving state fails, the sending state's ICJ Office shall facilitate transportation arrangements for the return of the juvenile(s) within five (5) business days in accordance with these rules.

***History: Adopted December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011***

***RULE 5-102: Travel Permits***

The purpose of this section is for the protection of the public. Travel permits shall be mandatory in the following instances:

1. An ICJ Travel Permit shall be issued for any appropriate purpose, including but not limited to testing a proposed placement. The permit shall not exceed ninety (90) calendar days, with a referral packet to be received by the receiving state's ICJ Office within thirty (30) calendar days of the effective date of the Travel Permit.
2. Travel Permits shall be issued for visits that exceed forty-eight (48) hours. Travel Permits shall contain instructions requiring the juvenile, who is subject to the terms of the ICJ, to return to the sending state.
  - a. The maximum length of stay under these conditions shall not exceed ninety (90) calendar days.
  - b. When a Travel Permit exceeds thirty (30) calendar days, the sending state shall provide specific reporting instructions for the juvenile to maintain contact with his/her supervising agency.
3. Regardless of length of stay, travel permits shall be issued to all juveniles subject to the terms of the ICJ for all visits in cases in which the adjudicated offense(s) includes any of the following:
  - a. Sex-related offenses;
  - b. Violent offenses that have resulted in personal injury or death;
  - c. Offenses committed with a weapon; or
  - d. Juveniles committed to state custody.
4. Authorization for out-of-state travel shall be approved by the probation officer, parole officer or court designee supervising the juvenile in the sending state. The authorized Travel Permit shall be provided and received prior to the juvenile's movement.
5. The receiving state's ICJ Office shall forward the Travel Permit, as necessary, to the jurisdiction of the visit.

***History: Adopted December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011***

**Section 600 Return of Juveniles**

The home/demanding state's ICJ Office shall return all of its juveniles according to one of the following methods.

***RULE 6-101: Release of Non-delinquent Juveniles to Parent or Legal Guardian***

1. All remedies and procedures provided by this Compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities. To this end, the following rules shall apply:
  - a. Juvenile authorities may release a non-delinquent juvenile to their parent/legal guardian within the first 24-hours (excluding weekends and holidays) of detainment without applying Rule 6-102, except in cases where abuse or neglect is suspected by holding authorities.

b. If the juvenile remains in custody beyond 24 hours, the holding state's ICJ Office shall be contacted.

2. Non-delinquent juveniles who are endangering themselves or others held beyond 24 hours shall be held in secure facilities until returned by the home/demanding state.

**History: Adopted December 3, 2009, effective March 1, 2010; amended January 5, 2011, effective February 4, 2011**

**RULE 6-102: Voluntary Return of Out-of-State Juveniles**

Once an out-of-state juvenile is found and detained, the following procedures shall apply:

1. The holding state's ICJ Office shall be advised of juvenile detainment. The holding state's ICJ Office shall contact the home/demanding state's ICJ Office advising them of case specifics.
2. The home/demanding state's ICJ Office shall immediately initiate measures to determine juvenile's residency and jurisdictional facts in that state.
3. At a court hearing (physical or electronic), the judge in the holding state shall inform the juvenile of his/her rights under the compact using the ICJ Juvenile Rights Forms or an alternate, comparable procedure. The court may elect to appoint counsel or a guardian ad litem to represent the juvenile in this process.
4. If in agreement with the return, the juvenile will sign the approved ICJ Form III, consenting to voluntarily return.
5. When consent has been duly executed, it shall be forwarded to and filed with the Compact administrator, or designee, of the holding state. The holding state's Compact office shall in turn, forward a copy of the consent to the Compact administrator, or designee, of the home/demanding state.
6. The home/demanding state shall be responsive to the holding state's court orders in effecting the return of its juveniles. Each ICJ Office shall have policies/procedures in place involving the return of juveniles that will ensure the safety of the public and juveniles.
7. Juveniles are to be returned by the home/demanding state in a safe manner and within five (5) business days of receiving a completed Form III. This time period may be extended up to an additional five (5) business days with approval from both ICJ Offices.

**History: Adopted December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; amended January 5, 2011, effective February 4, 2011**

**RULE 6-103: Non-Voluntary Return of Out-of-State Juveniles**

The following shall apply to all juveniles in custody who refuse to voluntarily return to their home/demanding state; or juveniles whose whereabouts are known, but are not in custody:

1. The appropriate person or authority in the home/demanding state shall prepare a written requisition within sixty (60) calendar days of notification: (a) of refusal of the juvenile to voluntarily return as prescribed in Rule 6-102, or (b) to request that a court take into custody a juvenile that is allegedly located in their jurisdiction.
2. Juveniles held in detention, pending non-voluntary return to the demanding state, may be held for a maximum of ninety (90) calendar days. The home/demanding state's office shall maintain regular contact with the authorities preparing the requisition to ensure accurate preparation and timely delivery of said documents to minimize detention time.

3. When the juvenile is a non-delinquent runaway, the parent/legal guardian or custodial agency must petition the court of jurisdiction in the home/demanding state for a requisition.
  - a. The petitioner may use Form A, Petition for Requisition to Return Runaway Juvenile, or other petition. The petition must state the juvenile's name and date of birth, the name of the petitioner, and the basis of entitlement to the juvenile's custody, the circumstances of his/her running away, his/her location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his/her own welfare or the welfare of others and is not an emancipated minor.
  - b. The petition shall be verified by affidavit and executed in duplicate.
  - c. The petition is to be accompanied by two certified copies of the document(s) on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees.
  - d. Other affidavits and other documents may be submitted with such petition.
4. The home/demanding state's appropriate state authority shall initiate the requisition process upon notification by the holding state's ICJ Office that a non-delinquent juvenile in custody refuses to voluntarily return and the parent or legal guardian in the home/demanding state is unable or refuses to initiate the requisition process.
5. The judge in the home/demanding state shall determine if:
  - a. The petitioner is entitled to legal custody of the juvenile;
  - b. The juvenile ran away without consent;
  - c. The juvenile is an emancipated minor; and
  - d. It is in the best interest of the juvenile to compel his/her return to the state.
6. When it is determined that the juvenile should be returned, the judge in the home/demanding state shall sign the Form I, Requisition for Runaway Juvenile in duplicate.
7. When the juvenile is an absconder, escapee or accused of being delinquent, the appropriate authority shall present to the appropriate court Form II, Requisition for Escapee or Absconder or Juvenile Accused of Being Delinquent, where the juvenile is alleged to be located. The requisition shall be verified by affidavit, signed in duplicate, and shall be accompanied by two (2) certified copies of supporting documents that show entitlement to the juvenile, for two complete, separate requisition packets. Examples may include:
  - a. Judgment
  - b. Order of Adjudication
  - c. Order of Commitment
  - d. Petition Alleging Delinquency
  - e. Other affidavits and documents may be submitted with such requisition.

8. Upon receipt of the requisition, the home/demanding state's ICJ Office shall ensure the requisition packets are in order. The ICJ Office retains one copy of the packet and forwards two copies of the requisition packets to the ICJ Office of the state where the juvenile is located. The ICJ Office of the state where the juvenile is located will forward one requisition packet which is accompanied by one certified copy of supporting documents to the appropriate court.
9. If not already detained, the court shall order the juvenile be held pending a hearing on the requisition.
10. A hearing in the state where the juvenile is located shall occur within thirty (30) calendar days of receipt of the requisition. This time period may be extended with the approval of both ICJ Offices. The court in the holding state shall inform the juvenile of the demand made for his/her return and may elect to appoint counsel or a guardian ad litem. The purpose of said hearing is to determine if the requisition is in order.
  - a. If the requisition is found to be in order by the court, the judge shall order the juvenile's return to the home/demanding state.
  - b. If the requisition is denied, the judge shall issue written findings detailing the reason(s) for denial.
11. In all cases, the order concerning the requisition shall be forwarded immediately from the holding court to the holding state's ICJ Office which shall forward the same to the home/demanding state's ICJ Office.
12. Requisitioned juveniles are to be accompanied in their return to the home/demanding state unless both ICJ Offices determine otherwise. Juveniles are to be returned by the home/demanding state within five (5) business days of the receipt of the order granting the requisition. This time period may be extended with approval from both ICJ Offices.
13. The duly accredited officers of any compacting state, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference.

***History: Adopted December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011***

***RULE 6-104: Return of Juveniles Whose ICJ Placement Has Failed***

1. If it is determined necessary to return a juvenile, whose placement has failed, to the Sending State and the ICJ Application for Compact Services and Memorandum of Understanding and Waiver Form (ICJ Form IA/VI) has the appropriate signatures, no further court procedures will be required for the juvenile's return. The ICJ pre-signed voluntary waiver provides the due process requirement for this return.
2. Upon notifying the sending state's ICJ Office, a duly accredited officer of a sending state may enter a receiving state and apprehend and retake any such juvenile on probation or parole. If this is not practical, a warrant may be issued and the supervising state shall honor that warrant in full.
3. Upon notice of a juvenile's failed placement for purposes of his/her return, the sending state shall return the juvenile in a safe manner, pursuant to ICJ Rules 6-106 and 6-111, and within five (5) business days. This time period may be extended with the approval of both ICJ Offices.
4. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive and not reviewable within the receiving state. In those cases where the juvenile is suspected of having committed a criminal offense or an act of juvenile delinquency in the receiving state, the juvenile shall not be returned without the consent of the receiving state until discharged from



prosecution, or other form of proceeding, imprisonment, detention, or supervision.

5. The officer of the sending state shall be permitted to transport delinquent juveniles being returned through any and all states party to this Compact, without interference.

**History: Adopted December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011**

**RULE 6-105: Financial Responsibility**

The home/demanding state shall be responsible for the costs of transportation, for making transportation arrangements and for the return of juveniles within five (5) business days of being notified by the holding state's ICJ Office that the juvenile's due process rights have been met (signed Consent to Return Voluntarily, signed Memorandum of Understanding and Waiver, or requisition honored). This time period may be extended with the approval of both ICJ Offices.

**History: Adopted December 3, 2009, effective March 1, 2010; amended January 5, 2011, effective February 4, 2011**

**RULE 6-106: Public Safety**

1. The home/demanding state's ICJ Office shall determine appropriate measures and arrangements to ensure the safety of the public and of juveniles being transported based on the holding and home/demanding states' assessments of the juvenile.
2. If the home/demanding state's ICJ Office determines that a juvenile is considered a risk to harm him/herself or others, the juvenile shall be accompanied on the return to the home/demanding state.
3. Pursuant to ICJ Rule 6-103(12), requisitioned juveniles are to be accompanied in their return to the home/demanding state unless both ICJ Offices determine otherwise.

**History: Adopted December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; amended January 5, 2011, effective February 4, 2011**

**RULE 6-107: Charges Pending in Holding/Receiving State**

Juveniles shall be returned only with the consent of the holding/receiving states or after charges are resolved when pending charges exist in the holding/receiving states.

**History: Adopted December 3, 2009, effective March 1, 2010**

**RULE 6-108: Warrants**

1. All warrants under ICJ jurisdiction shall be entered into the National Crime Information Center (NCIC) by the appropriate local law enforcement agency or other authorized agency in the issuing state. Holding states shall honor all lawful warrants as entered by other states and within the next business day notify the ICJ office in the home/demanding state that the juvenile has been placed in custody pursuant to the warrant. Within two (2) business days of notification, the home/demanding state shall inform the holding state whether the home/demanding state intends to have the juvenile returned.
2. When the home/demanding state enters a warrant into NCIC as a "no bond/bail warrant" but the holding state's statutes allow for bond/bail on juvenile warrants, the holding state shall not release the juvenile in custodial detention on bond/bail. However, a juvenile subject to detention shall be afforded an opportunity for a hearing pursuant to ICJ Rule 6-109.

**History: Adopted December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011**

**RULE 6-109: Custodial Detention**

1. The home/demanding state's ICJ Office shall effect the return of its juveniles within five (5) business days after confirmed notification from the holding state's ICJ Office that due process rights have been met. This time period may be extended with the approval of both ICJ Offices.
2. The holding state shall not be reimbursed for detaining juveniles under the provisions of the ICJ unless the home/demanding state fails to effect the return of its juveniles within the time period set forth in paragraph one (1) of this rule.
3. Within ten (10) business days after the failure of a home/demanding state to return the juvenile, a judicial hearing shall be provided in the holding state to hear the grounds for the juvenile's detention. This hearing shall determine whether the grounds submitted justify the continued detention of the juvenile subject to the provisions of these rules. A juvenile may be discharged from custodial detention to a parent or legal guardian or their designee if the holding state's court determines that further detention is not appropriate, or the holding state has failed to provide such a hearing within the time provided in this rule.

**History: Adopted December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011**

**RULE 6-110: Transportation**

1. Holding states are responsible for transporting juveniles to local airports or other means of public transportation as arranged by the home/demanding state and maintaining security of the juveniles until departure.
2. Home/demanding states shall make every effort to accommodate the airport preferences of the holding state. Additionally, travel plans should be made with consideration of normal business hours and exceptions shall be approved by the holding state.
3. Holding states shall not return to juveniles any personal belongings which could jeopardize the health, safety, or security of the juveniles or others (examples: weapon, cigarettes, medication, lighters, change of clothes, or cell phone).
4. Holding states shall confiscate all questionable personal belongings and return those belongings to the parents or legal guardians by approved carrier, COD or at the expense of the demanding state (e.g., United States Postal Service, United Parcel Service, or Federal Express).
5. In cases where a juvenile is being transported by a commercial airline carrier, the holding state shall ensure the juvenile has a picture identification card, if available, and/or a copy of the applicable ICJ paperwork or appropriate due process documentation in his/her possession before entering the airport.

**History: Adopted December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011**

**RULE 6-111: Airport Supervision**

1. All states shall provide supervision and assistance to unescorted juveniles at intermediate airports, in route to the home/demanding state.

2. Juveniles shall be supervised from arrival until departure.
3. Home/demanding states shall give the states providing airport supervision a minimum of 48 hours advance notice.

***History: Adopted December 3, 2009, effective March 1, 2010; amended January 5, 2011, effective February 4, 2011***

***RULE 6-112: Provision of Emergency Services***

In the event of an emergency situation (e.g. weather, delayed flight, missed flight, etc.) that interrupts or changes established travel plans during a return transport, the ICJ member states shall provide necessary services and assistance, including temporary detention or housing for the juvenile until the transport is rearranged and/or completed.

***History: Adopted December 3, 2009, effective March 1, 2010***

## **Section 700 Adoption and Amendment of Rules**

***RULE 7-101: Adoption of Rules and Amendments***

Proposed new rules or amendments to the rules shall be adopted by majority vote of the members of the Commission in the following manner.

1. Proposed new rules and amendments to existing rules shall be submitted to the Rules Committee for referral and final approval by the full Commission:
  - a. Any ICJ Compact Commissioner or Designee may submit proposed rules or amendments for referral to the Rules Committee during the annual meeting of the Commission. This proposal would be made in the form of a motion and would have to be approved by a majority vote of a quorum of the Commission members present at the meeting.
  - b. Standing ICJ Committees may propose rules or amendments by a majority vote of that committee.
  - c. ICJ Regions may propose rules or amendments by a majority vote of members of that region.
2. The Rules Committee shall prepare a draft of all proposed rules or amendments and provide the draft to the Commission for review and comments. All written comments received by the Rules Committee on proposed rules or amendments shall be posted on the Commission's Website upon receipt. Based on these comments, the Rules Committee shall prepare a final draft of the proposed rules or amendments for consideration by the Commission not later than the next annual meeting.
3. Prior to the Commission voting on any proposed rules or amendments, said text shall be published at the direction of the Rules Committee not later than thirty (30) days prior to the meeting at which a vote on the rule or amendment is scheduled, on the official Web site of the Commission and in any other official publication that may be designated by the Commission for the publication of its rules. In addition to the text of the proposed rule or amendment, the reason for the proposed rule shall be provided.
4. Each proposed rule or amendment shall state:
  - a. The place, time, and date of the scheduled public hearing;
  - b. The manner in which interested persons may submit notice to the Commission of their intention to

attend the public hearing and any written comments; and

- c. The name, position, physical and electronic mail address, telephone, and telefax number of the person to whom interested persons may respond with notice of their attendance and written comments.
5. Every public hearing shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment. No transcript of the public hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall pay for the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Commission from making a transcript or recording of the public hearing if it so chooses.
6. Nothing in this section shall be construed as requiring a separate public hearing on each rule or amendment. Rules or amendments may be grouped for the convenience of the Commission at public hearings required by this section.
7. Following the scheduled public hearing date, the Commission shall consider all written and oral comments received.
8. The Commission shall, by majority vote of a quorum of the Commissioners, take final action on the proposed rule or amendment by a vote of yes/no. A rule or amendment may be referred back to the Rules Committee for further action either prior to or subsequent to final action on the proposed rule or amendment. The Commission shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.
9. Not later than sixty (60) days after a rule is adopted, any interested person may file a petition for judicial review of the rule in the United States District Court of the District of Columbia or in the federal district court where the Commission's principal office is located. If the court finds that the Commission's action is not supported by substantial evidence, as defined in the Model State Administrative Procedures Act, in the rulemaking record, the court shall hold the rule unlawful and set it aside. In the event that a petition for judicial review of a rule is filed against the Commission by a state, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.
10. Upon determination that an emergency exists, the Commission may promulgate an emergency rule or amendment that shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. An emergency rule or amendment is one that must be made effective immediately in order to:
  - a. Meet an imminent threat to public health, safety, or welfare;
  - b. Prevent a loss of federal or state funds;
  - c. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
  - d. Protect human health and the environment.
11. The Chair of the Rules Committee may direct revisions to a rule or amendments adopted by the Commission, for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the official web site of the Interstate Commission for Juveniles and in any other official publication that may be designated by the Interstate Commission for Juveniles for the publication of its rules. For a period of thirty (30) days after posting, the revision is subject to challenge by any Commissioner or Designee. The revision may be

challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the Executive Director of the Commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

**History: Adopted December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011**

## **Section 800 Dispute Resolution, Enforcement, Withdrawal, and Dissolution**

The compacting states shall report to the Commission on all issues and activities necessary for the administration of the Compact as well as issues and activities pertaining to compliance with provisions of the Compact and its by-laws and rules.

The Commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues, which are subject to the Compact and which may arise among compacting states and between compacting and non-compacting states. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

The 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 the Compact.

### ***RULE 8-101: Informal Communication to Resolve Disputes or Controversies and Obtain Interpretation of the Rules***

#### **1. Informal Communication**

Through the office of a state's Compact Commissioner, states shall attempt to resolve disputes or controversies by communicating with each other directly.

#### **2. Failure to resolve dispute or controversy**

- a. Following a documented unsuccessful attempt to resolve controversies or disputes arising under this Compact, its by-laws or its rules as required under Rule 8-101, Section 1., compacting states shall pursue informal dispute resolution processes prior to resorting to formal dispute resolution alternatives.
- a. Parties shall submit a written request to the Executive Director for assistance in resolving the controversy or dispute. The Executive Director, or the Chair of the Commission in the Executive Director's absence, shall provide a written response to the parties within ten business days and may, at the Executive Director's discretion, seek the assistance of legal counsel or the Executive Committee in resolving the dispute. The Executive Committee may authorize its standing committees or the Executive Director to assist in resolving the dispute or controversy.
- b. In the event that a Commission officer(s) or member(s) of the Executive Committee or other committees authorized to process the dispute, is the Commissioner(s) or designee(s) of the state(s) which is a party(ies) to the dispute, such Commissioner(s) or designee(s) will refrain from participation in the dispute resolution decision making process

(sic)

#### **3. Interpretation of the rules**

Any state may submit a written request to the Executive Director for assistance in interpreting the rules of

this Compact. The Executive Director may seek the assistance of legal counsel, the Executive Committee, or both, in interpreting the rules. The Executive Committee may authorize its standing committees to assist in interpreting the rules. Interpretations of the rules shall be issued in writing by the Executive Director and legal counsel in consultation with the Executive Committee and shall be circulated to all of the states.

***History: Adopted December 3, 2009, effective March 1, 2010***

***RULE 8-102: Formal Resolution of Disputes and Controversies***

1. Alternative dispute resolution

Any controversy or dispute between or among parties that arises from or relates to this Compact that is not resolved under Rule 8.101 may be resolved by alternative dispute resolution processes. These shall consist of mediation and arbitration.

2. Mediation and arbitration

a. Mediation

- i. A state that is party to a dispute may request, or the Executive Committee may require, the submission of a matter in controversy to mediation.
- ii. Mediation shall be conducted by a mediator appointed by the Executive Committee from a list of mediators approved by the Commission or a national organization responsible for setting standards for mediators, and pursuant to procedures customarily used in mediation proceedings.

b. Arbitration

- i. Arbitration may be recommended by the executive committee in any dispute regardless of the parties' previous submission of the dispute to mediation.
- ii. Arbitration shall be administered by at least one neutral arbitrator or a panel of arbitrators not to exceed three members. These arbitrators shall be selected from a list of arbitrators maintained by the Commission.
- iii. Arbitration may be administered pursuant to procedures customarily used in arbitration proceedings and at the direction of the arbitrator.
- iv. Upon the demand of any party to a dispute arising under the Compact, the dispute shall be referred to the American Arbitration Association and shall be administered pursuant to its commercial arbitration rules.
- v. The arbitrator in all cases shall assess all costs of arbitration, including fees of the arbitrator and reasonable attorney fees of the prevailing party, against the party that did not prevail.
- vi. The arbitrator shall have the power to impose any sanction permitted by the provisions of this Compact and authorized Compact rules.
- vii. Judgment on any arbitration award may be entered in any court having jurisdiction.

***History: Adopted December 3, 2009, effective March 1, 2010***

***RULE 8-103: Enforcement Actions Against a Defaulting State***

1. The Commission shall seek the minimum level of penalties necessary to ensure the defaulting state's performance of such obligations or responsibilities as imposed upon it by this compact
2. If the Commission determines that any state has at any time defaulted ("defaulting state") in the performance of any of its obligations or responsibilities under this Compact, the by-laws or any duly promulgated rules the Commission may impose any or all of the following penalties.
  - a. Remedial training and technical assistance as directed by the Commission;
  - b. Alternative dispute resolution;
  - c. Fines, fees and costs in such amounts as are deemed to be reasonable as fixed by the Commission;
  - d. Suspension and/or termination of membership in the Compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the by-laws and rules have been exhausted, and the Commission has therefore determined that the offending state is in default. Immediate notice of suspension shall be given by the Commission to the governor, the chief justice or chief judicial officer of the state; the majority and minority leaders of the defaulting state's legislature, and the state council.
3. 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, Commission by-laws, or duly promulgated rules, and any other grounds designating on Commission by-laws and rules. The Commission shall immediately notify the defaulting state in writing of the default and the time period in which the defaulting state must cure said default. The Commission shall also specify a potential penalty to be imposed on the defaulting state pending a failure to cure the default. If the defaulting state fails to cure the default within the time period specified by the Commission, in addition to any other penalties imposed herein, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this Compact shall be terminated from the effective date of suspension.
4. Within sixty (60) days of the effective date of termination of a defaulting state, the Commission shall notify the Governor, the Chief Justice or Chief Judicial Officer, and the Majority and Minority Leaders of the defaulting state's legislature and the state council of such termination.
5. The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.
6. The Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the Commission and the defaulting state.
7. Reinstatement following termination of any compacting state requires both a reenactment of the Compact by the defaulting state and the approval of the Commission pursuant to the rules.

***History: Adopted December 3, 2009, effective March 1, 2010***

***RULE 8-104: Judicial Enforcement***

The Commission, in consultation with legal counsel, may by majority vote of the states that are members of the Compact, initiate legal action in the United States District Court in the District of Columbia or at the discretion of the Interstate Commission, in the Federal District where the Interstate Commission has its office, as authorized under the Constitution and laws of the United States to enforce compliance with the

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

***History: Adopted December 3, 2009, effective March 1, 2010***

***RULE 8-105: Dissolution and Withdrawal***

1. Dissolution

The Compact dissolves effective upon the date of the withdrawal or default of a compacting state, which reduces membership in the Compact to one compacting state.

Upon the dissolution of this Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Commission shall be concluded and any surplus funds shall be distributed in accordance with the by-laws.

2. Withdrawal

Once effective the Compact shall continue in force and remain binding upon each and every compacting state; provided that a compacting state may withdraw from the Compact by specifically repealing the statute, which enacted the Compact into law.

The effective date of withdrawal is the effective date of the repeal.

The withdrawing state shall immediately notify the chairperson of the Commission in writing upon the introduction of legislation repealing this Compact in the withdrawing state. The Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.

The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extends beyond the effective date of withdrawal.

Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the Compact or upon such later date as determined by the Commission.

***History: Adopted December 3, 2009, effective March 1, 2010***

## **Section 900 Transition Rule**

***RULE 9-101: Transition Rule***

For a period of twelve (12) months from the adjournment of the 2<sup>nd</sup> Annual Meeting of the Interstate Commission for Juveniles, the following transition rules will remain in effect with respect to those jurisdictions which have not yet enacted the new Interstate Compact for Juveniles. Non-signatory states who present ICJ with legislation and a bill number relative to enacting the Compact will receive an extension from December 3, 2010 to June 30, 2011.

1. Transactions between signatory states to the new Compact will be governed by the rules adopted by the Interstate Commission for Juveniles;

2. Transactions between non-signatory states to the new Compact will be governed by the rules of the



Association of Juvenile Compact Administrators which were in effect as of December 2008;

3. Transactions between signatory and non-signatory states will be governed by the rules of the home/demanding state;
4. All duties and obligations regarding investigations, transfers, supervision, travel, and return of non-delinquent runaways, absconders, escapees and juveniles charged with delinquency shall continue until the juvenile is returned or discharged by the sending/home/demanding state;
5. Conflicts or disputes between signatory and non-signatory states may be mediated by a neutral representative selected by the Interstate Commission for Juveniles and a representative selected by the Association of Juvenile Compact Administrators from its non-signatory states.

*History: Adopted December 2, 2009, effective March 1, 2010; amended September 15, 2010, effective September 15, 2010*