

SB

156

STATE OF ALASKA

SEAN PARNELL, GOVERNOR

DEPARTMENT of HEALTH and SOCIAL SERVICES

DIVISION of JUVENILE JUSTICE

P.O. BOX 110635

JUNEAU, AK 99811-0635

PHONE: (907) 465-2212 FAX: (907) 465-2333

February 2, 2010

The Honorable Hollis French
Chair, Senate Judiciary Committee
Alaska State Legislature
Alaska State Capitol, Room 417
Juneau, AK 99811

Dear Senator French:

Listed below are responses to questions that were posed to the Division of Juvenile Justice (DJJ) on Wednesday, January 28, 2010, during the Senate Judiciary Committee hearing.

Senator Coghill: *It is his understanding that law enforcement is not referring all the youth that it could to the DJJ for minor consuming violations. If it did, DJJ would see its referral trends dramatically increase. Is this DJJ's understanding as well?* DJJ only has jurisdiction for minor consuming offenses when they rise to the habitual level—that is, a youth has to be cited for minor consuming three times before he is referred by law enforcement or the District Court to DJJ. First and second-time referrals for minor consuming are managed through District Courts. We are unable to locate statistics from District Court on the frequency of first- and second minor consuming citations statewide, but for DJJ to manage these violations would undoubtedly and dramatically increase the number of referrals we would need to manage, and require significantly more resources for the division. In addition, changes to the statutes surrounding minor consuming and juvenile delinquency would be needed, as these would be the only violations under the jurisdiction of the division. (The division currently manages offenses only when they rise to the misdemeanor or felony level, unless they occur as probation violations for youth already under our supervision.)

Out of the 7,692 offenses referred to DJJ in FY09, there were 117 (1.5%) alcohol related offenses (primarily "habitual minor consuming" but also a variety of others such as furnishing alcohol to a minor). Additionally, there were 469 (6.1%) probation or conduct violations related to alcohol and drug use.

Senator McGuire: *What neurological anomalies are we seeing with the 10 and under age group?* DJJ has no data readily available on neurological anomalies among its population. A mental health screening for youth at admission would assist us in getting an understanding of the frequency of these anomalies among our youth, so we will continue to explore the possibility of adding such a screen to our practice.

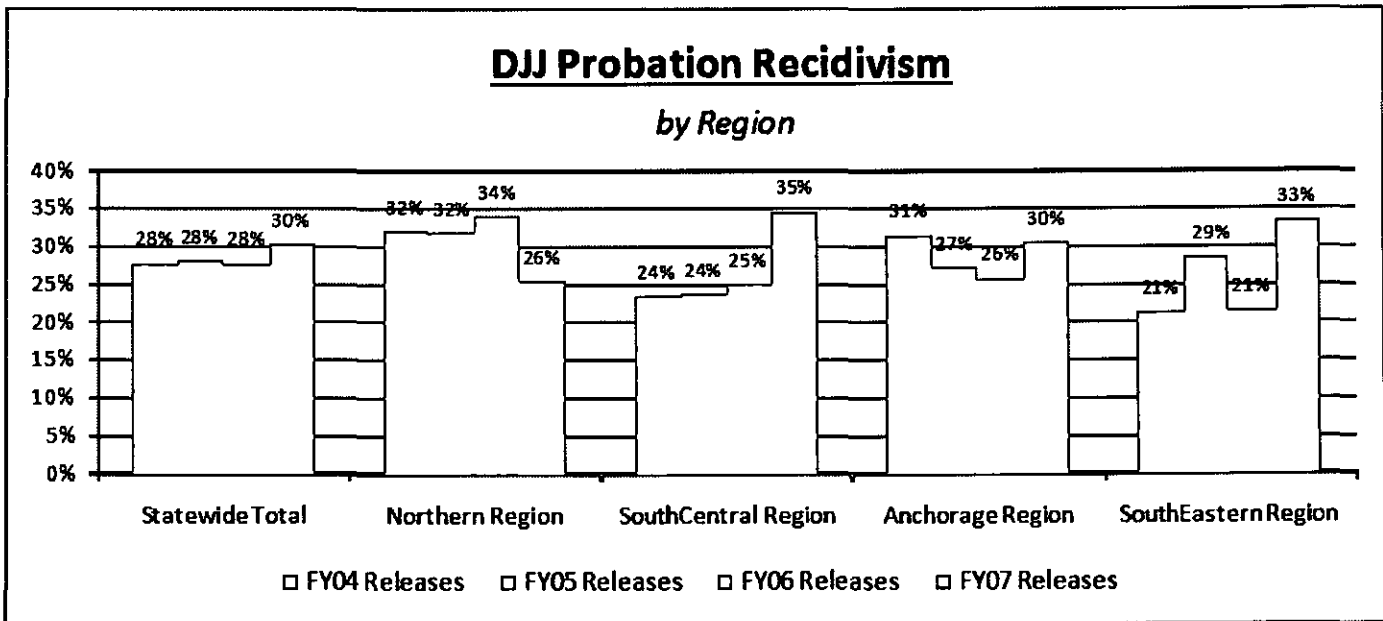
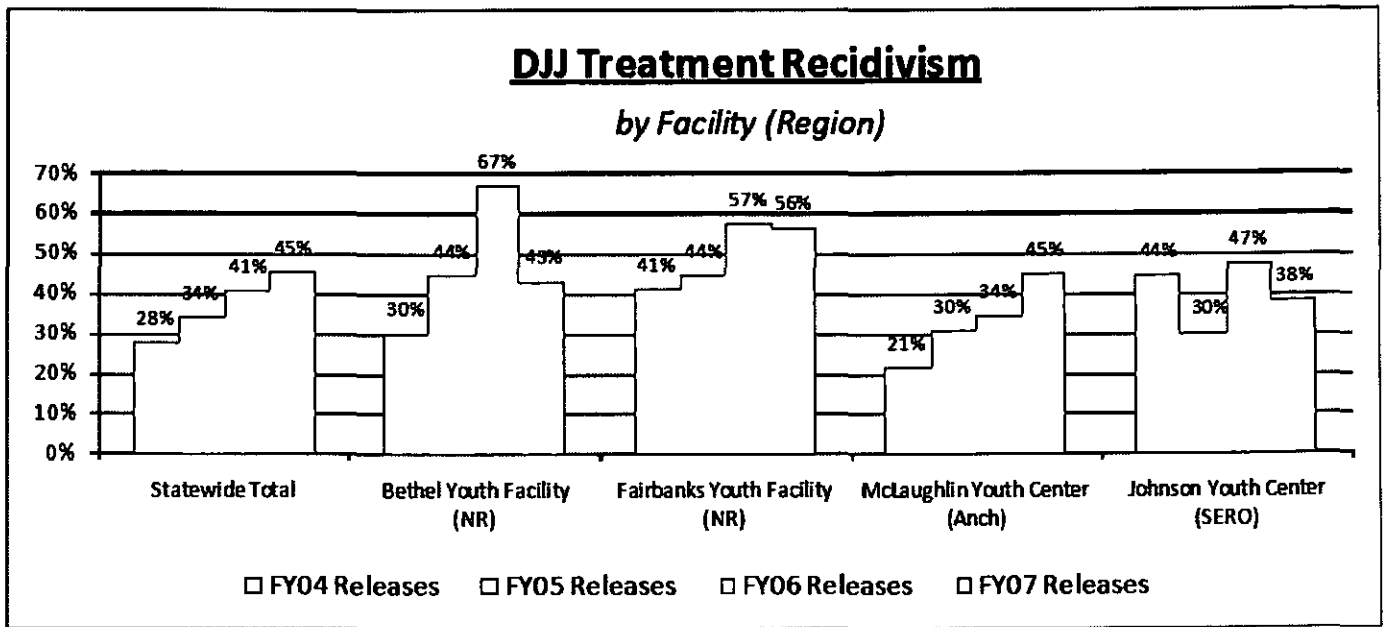
Currently, a mental health assessment required within seven days of institutionalization for youth. At that time we ask each institutionalized youth for a history of head injuries. If there is significant TBI this is noted as a DSM IV diagnosis (axis three, as it is a medical issue) and in our recommendations, we let the treatment team know what to look for with TBI and more effective ways of dealing with the resulting outcomes of TBI. This mental health assessment is presented and reviewed with the treatment team by the mental health clinician as part of our practice. The mental health clinicians who work at the Division have received training on TBI, and at McLaughlin Youth Center they work closely with Dr. Randy Moss, a psychiatrist who is able to assess TBI issues that our mental health clinicians think may be present. Over the years, youth have been sent to a neuropsychologist for specialized assessments and treatment suggestions. They have identified youth with TBI as a result of three- and four-wheeler accidents, abuse, and other issues. In addition, Dr. Moss has worked with the lead McLaughlin mental health clinician to provide training in TBI in March for all interested staff. This will be the second time staff have been offered TBI training, and the expectation is that this training will be offered at McLaughlin once each year.

Do you know the number of youth who also experience abuse/neglect? The division has actually been devoting considerable attention to this question recently. Last week, we pulled the current open supervision cases in the six pilot communities for the department's Families First project. The six locations are: Anchorage, Mat-Su, Fairbanks, Nome, Juneau and Sitka. Specifically, of the 1120 youth with open referrals or open supervision within the juvenile justice system, 24% also had an ORCA ID number. This means that the youth has had some current or past involvement with a child abuse or neglect case. The youth could be a sibling or a victim, or in a rare instance, possibly the natural child of a foster parent. This information is consistent with a recent informal survey of juvenile justice supervisors statewide, who estimated that that 10%-20% of the approximately 1,300 juveniles under division custody or supervision on any given day have current or recent involvement with the state's child protective services agency.

The division expects that the development of the Department of Health and Social Services's Master Client Index (MCI) will assist us in our desire to understand how many youth are involved with the juvenile justice and child protection systems, as well as other agencies in the department such as Public Assistance and Behavioral Health. We expect to refine our data-extraction methods as development of the MCI progresses.

In addition, both DJJ and the Office of Children's Services have made recent changes to their divisional databases to increase the ease with which staff may mutually access and share information through these IT systems.

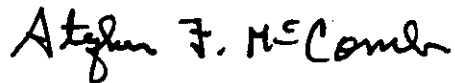
Senator French: *It would be good to see the DJJ Recidivism further broken down by region. Please see below:*



What would be the cost for three positions to provide oversight and quality assurance for our evidence-based practices?: The division has determined that the position ranges would likely be one Range 21 position and two Range 20 positions. These positions would work to ensure the sustainability and effectiveness of evidence-based programs such as Aggression Replacement Training, a curriculum proven to change behavior of youth demonstrating chronic violent behavior and aggressiveness; and the Youth Level of Service Inventory, an assessment tool highly effective in identifying those youth at high risk of reoffending. The cost for the three positions would be approximately \$350.0.

If you have additional questions, please do not hesitate to contact me at (907) 261-4335 or via e-mail at Stephen.Mccomb@alaska.gov.

Sincerely,

Handwritten signature of Stephen F. McComb in black ink.

Stephen F. McComb
Director

cc: Commissioner William H. Hogan
Deputy Commissioner Patrick Hefley
Assistant Commissioner Alison Elgee

ALASKA STATE LEGISLATURE

Session

State Capitol Building, Room 125
Juneau, Alaska 99801-1182
Phone (907) 465-2995
Fax (907) 465-6592

Interim

716 West Fourth Avenue, Suite 430
Anchorage, Alaska 99501
Phone (907) 269-0250
Fax (907) 269-0249



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Technology & Innovation

Member

Senate Judiciary Committee
Joint Armed Services Committee

SENATOR LESIL MCGUIRE

SPONSOR STATEMENT

SB 156: Compact for Juveniles; Interstate Council

SB 156 updates Alaskan laws regarding juveniles under court supervision by adopting a new Interstate Compact for Juveniles.

Since 1960, Alaska has relied on the Interstate Compact on Juveniles to provide us with model language to regulate the movement of juveniles under court supervision across state lines.

SB 156 adopts a new Interstate Compact on Juveniles and significantly updates the 50-year-old mechanism for tracking and supervising juveniles that move across state borders. Providing enhanced accountability, enforcement, visibility and communication, the new compact seeks to update a crucial yet outdated tool for ensuring public safety and preserving child welfare.

Primary changes to the original Juvenile Compact include requiring that Alaska:

- Support establish and contribute members to an independent, national compact operating authority (a "national commission") to administer ongoing compact activity;
- Agree to be subject to sanctions if the state fails to support essential compact operations;
- Collect and provide standardized information as requested by the national commission;
- Financially support essential compact operations.

The new compact was developed by the Council of State Governments in collaboration with the US Office of Juvenile Justice and Delinquency. Thirty-six other states have adopted the new compact and there is pending legislation to adopt the compact in at least four others.

If Alaska chooses not to adopt the new Interstate Compact, the state will soon face serious and costly challenges in its ability to monitor juveniles who arrive here from out of state, including potentially dangerous juveniles who may present a risk to public safety and a liability concern for Alaskan agencies. In addition, other states would be under no compulsion to accept Alaskan juveniles who seek to visit or reside within their borders. Not adopting the Compact would also likely result in requiring Alaska to form individual agreements with each state, which could prove to be time-consuming, expensive, and less effective.

SB 156 is a timely and important piece of legislation that will help ensure public safety and preserve child welfare.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 30, 2009

SUBJECT: Sectional Summary - SB 156 (Work Order No. 26-LS0758\A)

TO: Senator Lesil McGuire
Attn: Trevor Fulton

FROM: Gerald P. Luckhaupt 
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Section 1 amends AS 33.36.140(a) by changing the name of the State Council for Interstate Adult Offender Supervision and designating the council to implement the compact set out in AS 33.36.110 (current law) and the juvenile offender supervision compact newly created in AS 47.15.101, added by sec. 4.

Section 2 increases the number of members of the council from seven to nine.

Section 3 makes a conforming change.

Section 4 is the new Interstate Compact for Juveniles.

Section 5 allows the commissioner of health and social services to designate a compact administrator.

Section 6 provides that the State Council for Interstate Adult and Juvenile Offender Supervision (see sec. 1) shall serve as the state council for the new juvenile compact (see sec. 4).

Section 7 provides that the Department of Health and Social Services may adopt regulations to implement the juvenile compact.

Section 8 amends AS 47.15.070 to clarify that additional procedures are not precluded by the juvenile compact.

Section 9 provides a conforming change.

Section 10 provides a repealer.

Section 11 provides indirect court rule amendments.

Section 12 provides that the Department of Health and Social Services may continue to implement the old juvenile compact with those states that have not adopted the new juvenile compact.

Section 13 provides notice that the provisions of the new compact that indirectly amend court rules only take effect if they receive the two-thirds majority vote required by the constitution.

Section 14 provides that this Act only takes effect if at least 34 states adopt the juvenile compact.

Section 15 provides a special effective date.

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The New Interstate Compact for Juveniles & Alaska

Since 1955, the Interstate Compact on Juveniles has provided states with the procedural means to regulate the movement of juveniles under court supervision across state lines. (Alaska adopted the original compact into statute in 1960.) A new compact has been developed by the Council of State Governments in collaboration with the U.S. Office of Juvenile Justice and Delinquency Prevention.

What are the major differences between the old compact and the new one?

The old compact set out the rules under which states would operate to return runaways, escapees, and absconders to their home states; a voluntary return procedure; cooperate on supervision of probationers and parolees; responsibility for costs; and other factors. The new compact places more emphasis on how the compact itself will be administered, and what the responsibilities (regarding rules, enforcement procedures, financial management, communications, data sharing) are for states that are party to the compact.

What would change for Alaska under the new compact?

Alaska would be required to:

- Support establishment and contribute members to an independent, national compact operating authority (a "national commission") to administer ongoing compact activity;
- Agree to be subject to sanctions if the State fails to support essential compact operations;
- Collect and provide standardized information as requested by the national commission;
- Financially support essential compact operations.

How many youth are subject to interstate supervision in Alaska?

About 160 juveniles under the supervision of the Department of Health and Social Services leave or enter the State of Alaska each year. This includes about 100 juveniles who make brief, temporary visits either from other states or to Alaska for work or family needs, and about 60 juveniles who move to assume a new residency with relatives, attend college, or assume placement in a residential program or facility. In addition to these 160 juveniles, another 20-25 juveniles are continuing their placement or residency in Alaska or elsewhere from a prior year, and continuing supervision under the Interstate Compact for Juveniles.

Have other states adopted the new compact?

As of January 26, 2009, 35 states have adopted the new compact; legislation to adopt was pending in 5 others. The new Interstate Compact for Juveniles is now officially active. The

interstate commission has held its first meeting and now has less than one year to adopt bylaws that will govern operation of the compact.

What if Alaska doesn't adopt the new compact?

If Alaska chooses not to adopt the new Interstate Compact for Juveniles, the State would soon face serious challenges in its ability to monitor juveniles who arrive here from out of state, including potentially dangerous juveniles who may present a risk to public safety and a liability concern for Alaska. In addition, states would be under no compulsion to accept Alaskan juveniles who seek to visit or reside within their borders. Ultimately, Alaska would be forced to develop individual agreements with each state, perhaps specific to each case, which would ultimately prove more expensive and less effective than adopting the new Interstate Compact for Juveniles.

What will it cost to implement the new compact?

The Division of Juvenile Justice estimates a total cost of \$45.0 per year. This costs includes:

- \$13.0 for travel associated with membership participation, including travel to required meetings by staff;
- \$27.0 Membership Dues, teleconferences, overhead costs that include chargeback, etc;
- \$ 5.0 Supplies for staff and required meetings

Contacts:

Tony Newman, Legislative Contact
AK Dept. of Health and Social Services, Juvenile Justice
465-1382
Anthony.Newman@alaska.gov

Barb Murray, Deputy Compact Administrator
AK Dept. of Health and Social Services, Juvenile Justice
465-2116
Barbara.Murray@alaska.gov

Keith Scott, Director
National Center for Interstate Compacts
Council of State Governments
859-244-8247
kscott@csg.org



Interstate Compact for Juveniles Resource Kit



The Council of State Governments



The Council of State Governments

THE INTERSTATE COMPACT FOR JUVENILES

Resource Kit

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Frequently Asked Questions

FREQUENTLY ASKED QUESTIONS CONCERNING THE INTERSTATE COMPACT FOR JUVENILES

1. A juvenile compact already exists. Why should we replace it?

Answer: The existing Interstate Compact on Juvenile was created in 1955 when only a few hundred juveniles were being apprehended or found in states other than where they were residents or where their cases were adjudicated. Today that number exceeds twenty thousand (20,000) juveniles. In addition, the existing compact authority and structure are seriously outdated.

Examples include:

- Limited knowledge of who is moving, where and when they are going;
- Limited agreement between states regarding what supervision means;
- Limited ability and commitment to notify victims, communities and law enforcement officials of the movement of juveniles;
- The Association of Juvenile Compact Administrators may identify failures to comply with established rules, but it is severely limited in its ability to enforce compliance when that becomes necessary; and
- No recognized authority to promulgate rules.

2. Why is it important to replace the compact right away?

Answer: Because the existing interstate agreement has been severely compromised by individual state actions; incomplete adoption of three (3) subsequent amendments to the compact; and inability to promptly gather and transmit data concerning these juveniles or enforce provisions for their care and supervision. As soon as the new compact takes effect the 35 (or more) participating states will promptly commence administrative, by-law and rule making decisions to address these deficiencies.

- Since 1958, three amendments to the compact have been drafted and only a few states have adopted all three with a majority adopting only one or two. This lack of uniformity has created substantial inconsistency in interpretation and application of the existing compact. There is no longer a common agreement between states concerning what types of juveniles can be sent to other states for supervision, and no authority to hold other states accountable for following existing compact rules. The existing compact will soon become so dysfunctional that a nationwide system for tracking and monitoring this population will not exist at all. In 2000, a nationwide effort to develop workable alternatives to the existing system commenced and materialized in 2002 with an amended compact entitled *The Interstate Compact for Juveniles*. Without passage of the new interstate compact, individual states will resume addressing concerns by enacting various statutes and executive orders, and even the appearance of interstate cooperation in managing these juveniles will cease.

- The new compact language was subject to critique and comment from a mailing to 200 individuals, agencies and associations. Transition and timing activities were identified as major concerns. As a result, the final compact language raises the number of required jurisdictions (states, the District of Columbia, Puerto Rico or territories) to 35 before implementation; and added July 1, 2004 as the "earliest implementation date" so that states could evaluate and consider their participation.
- After July 1, 2004, the Compact will take effect once it has been enacted into law by the 35th jurisdiction. States that have passed the compact will join together and begin making administrative decisions, by-laws, and the rules to govern signatory states. Non-member states may be present to voice their concerns, but may not vote. When a state joins the compact, after the initial 35, they will have an equal voice in all subsequent rule making matters, but will inherit the decisions made by other states during the start-up phase.

3. We keep hearing that there are over 20,000 juveniles in states other than where they were adjudicated. How reliable is that number and is it changing?

Answer: Nobody can accurately answer this question. The lack of reliable interstate data has long been a problem. The National Institute of Corrections' Information Center completed a survey of states in 1999, the beginning of the project. At that time, the estimated number of individual cases being supervised in other states totaled 15,000. This number does not include juveniles who moved to another state without going through the transfer process or had been issued travel permits, figures that are currently impossible to gather.

The Association of Juvenile Compact Administrators gathers statistics annually on the number of compact transfer requests for juveniles entering and exiting compacting states. According to statistics gathered from July 1, 2001 to June 30, 2002, there were an estimated 25,870 interstate compact transactions. Travel permits are cases not officially transferred, even though the juvenile has been authorized to travel to another state for a period of time. The universal opinion of compact and agency administrators consulted was that more individuals were in the travel category than in the supervised group. Therefore, it is safe to assume that the 20,000 figure is an extremely low estimate of the interstate movement of adjudicated juveniles.

4. Will there be more juveniles under interstate supervision as a result of the new compact?

Answer: Enacting the compact will not directly affect the number of juveniles under interstate supervision. However, several things could happen:

- The information system that will be developed will equip states with reliable data about how many of their juveniles are being supervised in other states, and how many they are

supervising for other states. Reliable data may indicate that a different number of juveniles are actually under supervision.

- A number of juveniles are currently in other states and transferred to other states unbeknownst to compact administrators and without formal authority by the interstate compact. The goal of bringing states into compliance with mutually agreed upon rules will result in an increase in the number of compact cases as the states account for these "stealth" movers and provide appropriate supervision and care.

5. Will the new compact eliminate the problems experienced under the current compact, and how will member states assure compliance?

Answer: Nobody can guarantee elimination of all problems experienced under the current compact. The proposed compact will have in place a staff and committee structure that will permit swift identification of potential problems and a manageable process for addressing concerns of member states in a timely manner. This ability to attend to compliance concerns in the early stages will identify and avert major conflicts.

With regard to authority, the revised compact clarifies that the member states will have a contractual obligation to comply with the terms of the compact as well as the by-laws and all rules promulgated by the National Commission. The new compact provides various tools (Article XI, Sections B & C), which provide for compliance and enforcement of the compact. These range from technical assistance, mediation and arbitration to suspension, termination, and legal action in federal court that will result in recovery of legal fees and costs by the prevailing party.

6. States do not have similar structures and systems to supervise juveniles. What effect will this have on interstate compact enforcement?

Answer: States are organized differently and have unique systems in place to supervise and manage their juvenile population. Some states have juvenile supervision within the department of corrections and elsewhere it is with a child protective services or welfare agency. Some states have probation within judicial districts, and in others it is a county executive function. However, an interstate compact is state law and the compact law supersedes conflicting state and local laws. It does not matter which branch or level of government provides the supervision services, the compact must be followed and enforced. Compliance requirements apply equally to any agency providing supervision in a state that has enacted the compact.

7. Why is it necessary to have State Councils?

Answer: State Councils address at least three significant problems:

- Interstate supervision is unknown outside the agency or agencies where deputy compact administrators work. Consequently, in many states there is scant awareness that interstate issues are a significant public concern until a horrific crime occurs.
- Each state has one designated compact administrator, yet interstate compact compliance is not exclusively an issue for one state agency. In many instances juvenile supervision takes place in separate agencies within the executive branch, or in different (executive and judicial) branches and levels of government (state and county). Extradition funding and decision-making may be administered elsewhere. Judges and juvenile supervision agencies are obligated to observe compact rules regardless of where compact administration is housed. An ongoing awareness of interstate supervision issues is necessary in many areas of state government.
- Interstate supervision is a significant public policy concern that it merits the working knowledge of all State Council members, including victims of crime. However, states individually determine the specific role and membership of their State Council.

The states have discretion to decide whether the State Council is to be a separately constituted body or whether it assigns the duties of the State Council to an existing state entity, provided that representation from the executive, legislative and judicial branches of government and victims groups is present as required under the compact. The requirement for a State Council does not assume creation of a new or costly bureaucracy.

8. Who will be my state's commissioner?

Answer: The commissioner will be that person appointed by the State Council or the governor under Article III (B), subject to qualifications determined by each state.

9. The National Commission will develop the by-laws and regulations after the new compact becomes operational. Isn't that expecting states to "sign-up blindly" before knowing the rules. Why is this necessary?

Answer: The most effective way to manage the movement of juveniles is through an enforceable compact between states that results from member states' ongoing participation in administrative and rule-making duties. Therein lies the "Catch 22". States, through the National Commission, cannot write the rules and regulations until the new compact exists and the initial member states are known. However, this also means that states must pass the legislation and then trust the process in place to develop appropriate rules during the compact's first twelve-months of existence. The alternative of including all the rules in the compact itself would not only sacrifice state input and participation in the development of those rules, but it would also require each compacting state the burdensome task of legislatively approving these rule changes.

States are currently obligated to a full set of rules as developed and passed by compact administrators through the Association of Juvenile Compact Administrators. These rules were passed without any "Sunshine" or open-meeting provisions or conventional administrative law constraints as outlined in the new compact. As the new compact is ratified and the 35th jurisdiction is reached, it is expected that many of the rules for the new compact will be similar, if not identical, to the old rules as they are currently written. In fact, the new compact states that the existing rules governing the operation of the Interstate Compact on Juveniles will be null and void after twelve (12) months from the first meeting of the Interstate Commission. For more information on the current rules, please visit: <http://www.ajca.us>.

The new compact will create a governing structure with the capacity and authority to effectively manage rule making and compliance by member states. Rule making authority is left to representatives of those states that choose to enact the compact. The compact creates a process for rules to be made and enforced and when necessary, to be modified without returning to each state legislature. However, as a safeguard of states authority, the compact drafters created a provision for a majority of state legislatures to nullify any rule passed by the National Commission.

10. Will the new compact enable states to deny transfer of juveniles into their state?

Answer: Yes, states will only be obligated to accept juveniles classified and transferred under the provisions of the compact, its by-laws, and rules. Transfer denials, which contradict the terms of the compact and its rules, will not be permitted and would subject any non-compliant state to enforcement action as determined by the National Commission.

11. What control will states have over the National Commission?

Answer: It is important to remember that the National Commission is comprised of one voting representative from each member state. All proposed rules of the National Commission are required to be published in advance. Therefore, your state will have every opportunity for input before a vote is taken, and any member state will have the opportunity to have their position heard and to vote for passage or rejection of rules, by-laws and routine business. The standard for passage is a majority of members present at a meeting, unless a greater percentage is established in the by-laws (Article V).

Three relevant provisions are also included:

- Article VI concerning individual rules: "If a majority of the legislatures of the compacting states reject a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state."

- Article X concerning amending the compact itself: "Amendments to the compact may be proposed by the Interstate Commission for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states."
- Article XI: "...a compacting state may withdraw from the compact by enacting a statute specifically repealing the statute which enacted the compact into law."

12. What are the limitations, if any, on the ability of the commissioner to sue member states (injunctive as well as mandatory relief)? What assurances can be given to states considering adoption?

Answer: No unilateral authority is given to an individual commissioner to sue another state. The National Commission is empowered, under Article XI (b) and Article XI (c) to enforce the compact against any member state, in the exercise of its reasonable discretion, through a variety of means ranging from alternative dispute resolution to judicial enforcement. Under Article XI (c) judicial enforcement is authorized by majority vote of the National Commission members in the U.S. District Court where the National Commission headquarters is located or the District of Columbia to enforce the provisions of the Compact, its by-laws and rules. Both injunctive relief and monetary damages may be sought and the prevailing party is entitled to an award of costs including reasonable attorney's fees. However, the intent of the Drafting Committee was that disputes under the compact be resolved at the lowest level, and with the least severe action necessary to ensure compliance.

13. Can any of the language in the new compact be changed or must all states use identical language? Can my state pass only certain parts of the revised compact?

Answer: Generally, the compact language must be identical with regard to the substantive provisions of the agreement. However, the enabling legislation, which embodies that agreement, does not have to be uniform in all party states and can be utilized to fit variations into the compactual pattern. The enabling legislation can be used to condition the impact of a compact in a particular state. While these allowances may be made for format, the operative language of the agreement must be identical from state-to-state; otherwise these material differences in language in any state statute purporting to adopt the compact could render it "void" or "voidable". The compact also contains a provision in Article XIII (B) (4) which preserves the limits placed on the Legislature's obligations, duties, powers, or jurisdiction under the constitution of that state.

14. Does the compact language conform to state constitutional language?

Answer: The compact language was drafted with cognizance of state constitutional requirements common to most state constitutions such as separation of powers, delegation of

power, and debt limitations. The validity of the state authority to enter into compacts and delegate authority to an interstate agency was specifically recognized and unanimously upheld by the U.S. Supreme Court in *West Virginia vs. Sims, 341 U.S. 22 (1951)*. This decision also approves of a provision practically identical to the provisions of Article X of the Interstate Compact for Adult Offender Supervision concerning constitutional debt limitations. Under Article XIII (B)(4), provisions of the compact exceeding the constitutional limits imposed on the legislature of any state are ineffective.

15. Aren't we creating an expensive bureaucracy without the promise of anything better than what we already have?

Answer: Key concerns with the existing compact are accountability for member states and the ability to promulgate and enforce compact rules. An interstate compact that cannot assure compliance by member states is in effect a "toothless tiger." Despite remarkable efforts by those working in compact administration to hold the system together, governance issues have evolved to the point that greater compact authority is essential for states to function effectively. This illustrates the need for a national office to oversee administrative issues. Nothing in the drafting process requires an expansive bureaucracy, although it will create an administrative structure that will hold member states accountable for compliance. Given the degree of dissatisfaction with the current compact, many feel that a realistic question is whether the existing compact will survive if it is not replaced quickly. At the state-level, nothing mandates an expansive bureaucracy.

16. The new compact establishes the need for a data-sharing/information system. What type of information system will be necessary?

Answer: With the assistance of a Management and Information Systems consultant, a working committee of compact administrators has developed a plan for a comprehensive, secure and affordable information system. Development and maintenance of the information system would be part of the National Commission funding and responsibility. The system utilizes an "open technology" design and implementation of an Internet-based system accessible by industry standard software products. In some state compact offices, the minimal technology already exists. In others, it could be achieved with minimal enhancements of existing systems and for the balance, an initial investment of \$2000 - \$3,000 would provide the capacity to utilize form templates and to transmit and receive the information via an Internet e-mail connection. The working committee was sensitive to privacy concerns of transferred information, potential costs, and the reality that states utilize the full range of hardware and software products. Similar Internet-based systems are used extensively in the medical field and successfully accommodate these same concerns. The system is being designed so that the state compact office must be automated, while regional or field offices may use the system if they have access to the minimal equipment. Determination of privacy policies regarding the resulting national database will be made by states through the National Commission's enactment of rules and/or by-laws.

17. Will the National Commission's rulemaking authority allow it to preempt a state's privacy laws?

Answer: Under Article VI the National Commission's rulemaking authority is subject to the provisions of the *Model State Administrative Procedures Act, 1981 Act Uniform Laws Annotated, Vol. 15, p.1 (2000)*, or such other Administrative Procedures Act as it deems appropriate and consistent with the requirements of due process. It is anticipated that rules promulgated by the National Commission would not conflict with state privacy laws except to the extent that any particular state privacy law is in direct contravention of a compact rule pertaining to the transfer and supervision of juveniles under the compact. In that case, the provisions of the Compact would supersede the conflicting state law provision under Article XIII (A) (2). It is not possible to predict what specific rules of the Interstate Commission will possibly conflict with a particular provision of the privacy laws of a particular state until a specific rule has been promulgated and a specific state privacy law has been identified.

18. How much will the new compact cost my state?

Answer: Based on a preliminary estimate contained within the fiscal note, the start-up costs to establish the National Commission will cost approximately \$1 million. Support for the National Commission will come from state dues as determined by the National Commission as contained in the compact (Article VIII, (B)). Funding support for each State Council will be determined by individual state based on their specific needs and circumstances, (e.g. some states currently have existing mechanisms and/or councils that could absorb the duties of the proposed State Councils with some minor modifications).

19. Are there any the hidden costs associated with the new compact?

Answer: There are no costs mandated aside from the annual state assessment. However, it is possible that states might encounter additional costs. Examples may include:

- The proposed commission budget would pay for the voting representative from each member state to attend National Commission meetings. If a state decided to send more than one person to the meetings, the additional travel and per diem costs would be the responsibility of that state. However, states currently pay for their voting representative to attend meetings.
- The additional costs anticipated are limited to travel and per diem for members to meet within their state. It is possible that a state could decide to create a more formal structure and additional costs could be incurred.
- It is possible after examining the current level of state commitment to their centralized interstate compact administrative function that a state may determine they need more or a different level of staff assigned to that function. No additional staff would be required by

adoption of the new compact, but in many states it has long been an under-funded activity.

- It is possible that more juveniles could be under supervision if compact requirements are faithfully followed and all juveniles going to other states are processed through the compact. It is not anticipated that numbers under supervision would increase (as a result of enacting the compact) to the point that additional community supervision staff will be required. Also, it is anticipated that automation will reduce the per-case work-effort required.
- The information system is discussed in question 16. The system is being designed so that it may be accessed from common computers and will not require specialized equipment. The state compact office will require a computer and scanner and the system is being designed so that regional and field supervision units could also use the automated information system. Necessary state compact office equipment is estimated to cost \$2,000 - \$3,000 and compact administrators estimate that only a few states currently lack this equipment in their compact office.

20. Can a state create a law that limits its costs to the National Commission?

Answer: To the extent costs exceed a defined limit imposed by the constitution of a state on the legislature, such a provision could be determined under state law based on Article XIII (B)(4).

21. How can we determine the current status of efforts to implement The Interstate Compact for Juveniles?

Answer: Thirty-five jurisdictions (states, the District of Columbia, Puerto Rico and territories) must pass this legislation before it may take effect. The 2003 legislative session will be the first time states have an opportunity to consider the revised compact. A current "State-by State" status page may be accessed on the Internet at: <http://www.csg.org/>. Also, you may contact either of the two individuals listed in the final portion of this document.

Questions may be directed to:

Chris Holloway
The Office of Juvenile Justice and Delinquency Prevention
Phone: 202/305-9838
E-mail: holloway@ojp.usdoj.gov -OR-

Chad Foster
The Council of State Governments
Phone: 859/244-8032
E-mail: cfoster@csg.org

**Interstate Compact on Juveniles
State-by-State Status**

<u>State</u>	<u>Statute</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
Alabama	§§ AL Code 44-2-1	x		x		18
Alaska	A.S. §§ 47-15-010	x			x	18
Arizona	A.R.S. § 8-361	x		x	x	18
Arkansas	A.C.A. §§ 9-29-101	x	x	x		18
California	W.A.C.W. & I.C. § 1300	x		x	x	18
Colorado	C.R.S. §§ 24-60-701	x	x	x		18
Connecticut	C.G.S.A. § 46b-151a-q	x		x		16
Delaware	31 Del. C. §§ 5201	x		x	x	18
Florida	F.S.A. § 985.501	x	x	x	x	18
Georgia	O.C.G.A. §§ 39-3-1	x		x		17
Hawaii	HRS §§ 582-1	x		x	x	18
Idaho	I.C. §§ 16-1901	x	x	x		18
Illinois	45 ILCS 10/0.1	x	x	x	x	17
Indiana	IC 31-37-23-1	x	x	x	x	18
Iowa	I.C.A. § 232.171	x		x	x	18
Kansas	K.S.A. 38-1002	x	x	x		18
Kentucky	KRS § 615.010	x	x	x		18
Louisiana	LSA-R.S. ChC.1623	x	x	x		17
Maine	34-A M.R.S.A. § 9001	x		x		18
Maryland	MD Ann. Code, Art. 83C §§ 3-101	x	x	x	x	18
Massachusetts	ALM Spec L 97:1	x	x	x		17
Michigan	M.C.L.A. § 3.701	x		x		17
Minnesota	M.S.A. §§ 260.51	x	x	x		18
Mississippi	Code 1972, §§ 43-25-1	x	x	x		18
Missouri	V.A.M.S. § 210.570	x		x		17
Montana	MCA Title 41, Chap. 6	x	x	x	x	18
Nebraska	R.S.N. §§ 43-1001	x	x	x	x	19
Nevada	NRS 214.010	x		x		18
New Hampshire	RSA 169-A:1	x	x	x		18
New Jersey	N.J.S.A. 9:23-1	x		x		18
New Mexico	NMSA 1978 §§ 32A-10-1	x		x	x	18
New York	M.U.L. §§ 1801	x	x	x		16
North Carolina	G.S. §§ 7B-2800	x		x	x	16
North Dakota	NDCC 27-22-01	x				18
Ohio	RC 2151.56	x		x		18
Oklahoma	10 Okl. State Ann. § 531	x	x	x		18
Oregon	ORS 417.030	x		x		18
Pennsylvania	62 P.S. § 731	x	x	x	x	18
Rhode Island	Gen. Laws 1956, §§ 14-6-1	x		x		18
South Carolina	Code 1976, § 20-7-8705	x	x	x		18
South Dakota	SDCL §§ 26-12-1	x		x		17
Tennessee	T.C.A. §§ 37-4-101	x				18
Texas	V.T.C.A. Family Code § 60.001	x	x	x		17
Utah	U.C.A. 1953, 55-12-1	x		x		18
Vermont	V.S.A. 33 § 551	x	x	x		18
Virginia	Code 1950, §§ 18-1-323	x		x		18
Washington	RCW 13.24.010	x		x		18
West Virginia	Code, §§ 49-8-1	x		x		18
Wisconsin	W.S.A. 938.991	x		x		18
Wyoming	W.S. § 14-6-101	x		x		19
District of Columbia	DC Code §§ 32-1101	x	x	x		18
Guam	GCA § 90.82	x				18
Virgin Islands	3.39.1172	x	x	x		18
Puerto Rico	n/a					
N. Mariana Islands	n/a					
American Samoa	n/a					

KEY (X = signatory)

- A - Interstate Compact on Juveniles
- B - Runaway Amendment
- C - Rendition Amendment
- D - Out-of-State Confinement Amendment
- E - Age Offenders are Classified as Adults

Case Studies

THE INTERSTATE COMPACT FOR JUVENILES - CASE STUDIES

All types of juveniles may potentially be supervised under The Interstate Compact for Juveniles. The tragic problems caused by very serious juvenile offenders raise many public safety concerns for the states. The number of offender cases involving out-of-state juveniles has grown exponentially over the past few decades with the increase in the national highway system and air travel. Violent and non-violent offenders on probation and parole need to cross state lines every day and the compact is the only mechanism to insure continued supervision. Likewise, the compact insures the return of juvenile escapees and absconders to the supervising state, preventing those juveniles from committing other crimes or becoming victims themselves.

In addition to public safety, an important reason for supervision is to insure that each juvenile receives the best possible services to avoid future lawbreaking and/or to safeguard their well-being.

Unfortunately, the current compact does not have an administrative process or governing structure in place with authority to hold member states accountable for compliance with their mutually agreed upon rules. There are more than 20,000 interstate compact cases processed annually. Consider the range and types of interstate supervision issues that arise and need to be governed effectively by rules agreed upon by member states:

- A 17-year-old juvenile parolee, serving a sentence for burglary and armed with a dangerous weapon, absconded from state supervision. The sending state issued a warrant for his arrest and extradition. One month later, the juvenile was picked up in another state for a minor traffic violation. The receiving state detained the youth in a detention center for juveniles and sent a notice to the youth's home state with details of his detainment and a request for transportation. Disagreements between both states over transportation payments ensued. Meanwhile, the local jurisdiction holding the juvenile ignored the interstate compact law and released the juvenile on grounds of local laws governing the detainment of out-of-state juveniles for misdemeanor charges. The juvenile walked away from the detention center unsupervised. While robbing a convenient store one year later, the juvenile shot and killed the store clerk. The juvenile remains locked-up in state prison today.
- A 15-year-old adjudicated juvenile received specialized and high-cost sex offender treatment and services in his state of residence. The terms of the juveniles' probation included weekly counseling and regular therapy by a state sanctioned non-profit organization. The father of the juvenile was fired from his employment and was forced to accept employment in another state. After hearing about the juveniles' need to move, the sending state terminated the juveniles' court order for treatment early due to the high-costs associated with the sex offender treatment and failed to notify the receiving state about the juvenile. Under the compact rules, sending states are obligated to fund necessary treatment, services and supervision for juveniles moving across state lines. As expected, the youth moved with his father unsupervised and without treatment. Not until he was adjudicated for another sex offense one year later did the receiving state find out about the youth's troubled past.
- The mother of a runaway filed a report with the National Crime Information Center. The 16-year-

old runaway was identified in a non-neighboring state three days later and was placed in temporary housing with minimal supervision. Youth workers in the receiving state discovered that the youth suffered from an extreme case of depression but could not provide needed therapy without permission by the youth's parents and payment by their home state. In the meantime, the mother was notified but lacked the funds to arrange for transportation to fly her daughter home. The youth's home state forbade the use of state funds for travel and other expenses for a runaway not in their custody. Likewise, the receiving state law required a lengthy legal process to handle custody issues for out-of-state runaways. One week later, the youth escaped from the temporary housing and supervision. Her remains were found three months later and it was determined that she committed suicide by consuming lethal amounts medicine.

- A 14-year-old juvenile was on probation for a gang related crime involving the murder of a citizen. After receiving a lenient sentence for providing fellow gang member names to local law enforcement, the juvenile began receiving threats on his life from the other gang members. To provide temporary protection for the juvenile, the sending state decided to relocate the youth to family in another state for an undetermined length of time. Before gaining approval from the receiving state, local authorities released the youth to family members in the receiving state without arranging for appropriate supervision. Two weeks later, the gang members found the 14-year-old in the receiving state, assaulted and hospitalized the youth, and made threats to the juveniles' extended family. Only after the assault and threats did local authorities realize that a juvenile probationer was located in their jurisdiction.
- A 16-year old juvenile was on probation for a shopping mall theft. She came from an abusive family and marks on her body reflected regular abuse by her parents. Local social services were ordered to provide the youth and her family with regular counseling and supervision. Midway through her probation period, the juvenile escaped to another state and was arrested for another theft one week later. The receiving state notified the youth's home state about the arrest. Under terms and rules of the current compact, the youth's home state is required to transport that youth under an appropriate level of supervision. In an attempt to save dollars, the youth's home state decided to buy a one-way bus ticket for the juvenile but decided not to provide an escort. The youth escaped while enroute home at a gas station and remains unaccounted for today.
- A 17-year-old juvenile absconded from his state of residence while on parole for drug possession and drug use. The juvenile was identified and picked-up in another state where 17-year-olds are considered adults. Under compact rules, juveniles are defined by their home state's laws, not the receiving states laws. The juvenile's home state issued a court order for the juvenile's detainment and extradition. Due to the lengthy and formal process to detain and transport juveniles, the youth's home state could not extradite the youth in a timely manner. Meanwhile, the local jurisdiction holding the juvenile released him on the grounds that he was an adult and their local law forbade them from detaining adults over a specified period of time without formal criminal charges. The juvenile was arrested three months later in the same state for cocaine possession and is now serving two new sentences for drug possession and use.

ALASKA STATE LEGISLATURE

Session
State Capitol Building, Room 125
Juneau, Alaska 99801-1182
Phone (907) 465-2995
Fax (907) 465-6592

Interim
716 West Fourth Avenue, Suite 430
Anchorage, Alaska 99501
Phone (907) 269-0250
Fax (907) 269-0249



Co-Chair
Senate Resources Committee

Chair
Senate Special Committee on Energy
Senate Special Committee on World Trade,
Technology & Innovation

Member
Senate Judiciary Committee
Joint Armed Services Committee

SENATOR LESIL MCGUIRE

MEMORANDUM

To: Senator Hollis French *JUDICARY*
Chair, Senate Health & Social Services Committee

From: Senator Lesil McGuire *[Signature]*

Date: April 3, 2009

Re: Hearing Request: SB 156 - Compact for Juveniles; Interstate Council

I respectfully request that SB 156 - Compact for Juveniles; Interstate Council be scheduled for a hearing in the Senate Judiciary Committee at your earliest convenience.

SB 156 updates Alaskan laws regarding juveniles under court supervision by adopting a new Interstate Compact for Juveniles. It is important that, before the end of the year, Alaska joins the other 36 states that have already adopted the new compact, otherwise we will have no agreement with those 36 states.

Attached you will find the most current version of the resolution, a sponsor statement, and all backup information.

If you have any questions or concerns, please feel free to contact me personally or my staff, Trevor Fulton, at x3579. Thank you for your time and consideration.