

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	14 Y, 0 N	Rubottom	Rubottom
3) Judiciary Committee	17 Y, 0 N	Williams	Havlicak

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 The bill included a sunset provision that the law be repealed two years after the effective date of the Compact unless reviewed and saved from repeal through reenactment by the Legislature.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 35th 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the Florida Legislature has taken no action to reenact ss. 985.802 and 985.8025, F.S. Consequently, these statutes were repealed on August 26, 2010.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.¹ 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.² 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 1986.³

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.⁴ 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.⁵ They identified a revision of the existing Compact as the only option for long-term change.⁶

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.⁷ In 2002, the Compact language was finalized, and by 2003 the revised Compact was first available for introduction in the states.⁸

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.⁹

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;

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

² *Id.*

³ *Id.*

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

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ 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.¹⁰

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.¹¹

Florida's Adoption of the Revised Compact

In 2003, 12 states adopted the revised compact.¹² In 2004, an additional 10 states adopted the Compact, and in 2005 the Compact was adopted by 7 states, including Florida.¹³ 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.¹⁴ 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.¹⁵ 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).¹⁶ The remaining five members are to be appointed by

¹⁰ 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.)

¹¹ *Id.*

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

¹³ *Id.*

¹⁴ 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.)

¹⁵ *Id.*

¹⁶ *Id.*

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

Because enacting the law resulted in the state being bound to rules of the Commission that had not yet been written,¹⁹ 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.²⁰

The Compact became effective on August 26, 2008, when Illinois became the 35th state to adopt the Compact.²¹ 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.²²

Rules have been adopted by the Commission to implement the Compact.²³ 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.

¹⁷ *Id.*

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

¹⁹ 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) (last accessed March 13, 2011.)

²⁰ Ch. 2005-80, L.O.F.

²¹ Association of Juvenile Compact Administrators. Interstate Compact on Juveniles. September 2008. (http://www.ajca.us/documents/new_compact_092008.pdf) (last accessed March 10, 2011).

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

²³ The rules can be found at: http://www.juvenilecompact.org/LinkClick.aspx?fileticket=QDbarg6_mEQ%3d&tabid=800 (last accessed March 30, 2011)

2. Expenditures:

The Commission levies and collects annual assessment from each compacting state to cover the cost of internal operation and activities.²⁴ The annual assessment amount is allocated by a formula based on the population and juvenile movement of each state.²⁵ 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.²⁶

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

²⁴ 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).

²⁵ *Id.*

²⁶ 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.²⁷

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

²⁷ The rules can be found at: http://www.juvenilecompact.org/LinkClick.aspx?fileticket=QDbarg6_mEQ%3d&tabid=800 (last accessed March 30, 2011)