



Judicial Impact Statement

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Senate Bill 122 129th General Assembly

Sponsor

Sen. Scott Oelslager

Status

Version

As Introduced

TITLE INFORMATION

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

IMPACT SUMMARY

The Juvenile Law and Procedure Committee of the Ohio Judicial Conference as well as the Ohio Association of Juvenile Court Judges has reviewed Senate Bill 122, the Interstate Compact for Juveniles, and determined that it will positively impact Ohio's juvenile courts by allowing the state and the courts to better track, transfer and supervise those juveniles who are moving between states and who have been adjudicated juvenile delinquents or status offenders, or who have run away from home, or who have absconded or escaped from the supervision or control of the probation or parole authority.

Senate Bill 122 will result in improvements in the administration of justice, achieve clarity of the law, and promote public confidence in the law and public safety. Additionally, the bill will replace judicial discretion to resolve interstate disputes at the state level with a national dispute resolution process that will result in a more efficient and effective resolution of disputes and will therefore be in the best interests of these children.

What is a Judicial Impact Statement?

A Judicial Impact Statement describes as objectively and accurately as possible the probable, practical effects on Ohio's court system of the adoption of the particular bill. The court system includes people who use the courts (parties to suits, witnesses, attorneys and other deputies, probation officials, judges and others). The Ohio Judicial Conference prepares these statements pursuant to R.C. 105.911.

BACKGROUND

The Interstate Compact for Juveniles, which would be enacted by the passage of Senate Bill 122, is the result of a process that began in 1999 when the Office of Juvenile Justice and Delinquency Prevention (OJJDP) within the United States Department of Justice conducted a detailed survey of the states designed to uncover issues within the current Interstate Compact structure, which was adopted by the states in 1955, and asked for recommendations from the states to address these concerns.¹

1955 Interstate Compact on Juveniles

In 1955, following a series of stories on the plight of runaway children in the United States, a group of national organizations developed the Interstate Compact on Juveniles in order to allow for “the transfer of community supervision to another state” and to ensure “the return of runaways and charged delinquents to their home states.”² Ultimately, all 50 states and the District of Columbia adopted the 1955 Interstate Compact in some shape or form.³ Over time, however, and certainly after the OJJDP’s aforementioned survey, it became obvious that there were a number of problems with the compact structure that were making it difficult for states to resolve disputes and otherwise enforce the measures of the compact.⁴ In the end, these problems, which are described below, led to haphazard results in the transfer and supervision of runaways and juvenile delinquents, and seriously frustrated the purposes of the compact.

Compact Language, Amendments, and Rule Promulgation

One of the biggest problems with the 1955 compact was the lack of uniform statutory language among compacting states. After the states initially adopted the Model Compact language, several amendments to the compact were created that were adopted in a haphazard manner. Because “not all states maintain[ed] identical language, and only seven states adopted all of the amendments to the compact,”⁵ disputes often arose as to which state’s statute was applicable and how those statutes were to be interpreted. Adding to this confusion was the fact that the compact provided states with the authority to enter into supplementary agreements with other states, on a state-by-state basis, for the proper care, treatment and rehabilitation of delinquent juveniles. Furthermore, there was no centralized rulemaking authority to enable compacting states to uniformly implement the provisions of the compact. Under this scheme then, states were still often left in the dark when deciding issues of transfer, supervision, and return and, in this way, the Compact proved to be ineffective.

Enforcement and Compliance

A second problem with the 1955 Compact was that it contained “no mechanism for enforcing rules and no method for guaranteeing compliance among the compact states.”⁶ Rather than create an environment that allowed for the efficient transfer, supervision and return of runaways and juvenile delinquents then, the compacting states remained free to decide on a case by case basis how to deal with a particular situation because compliance with the statute was essentially permissive. In other

¹ See The Interstate Compact for Juveniles: Promoting Positive Outcomes for Youth, *The Council of State Governments – State News*, April 2006, pgs. 9 – 11, 10.

² *Id.* at 9 – 10.

³ *Id.* at 11.

⁴ *Id.* at 9 – 10.

⁵ *Id.* at 11.

⁶ *Id.*

words, states did not feel bound by the 1955 Compact because there was no way to enforce the compact and no negative consequences of noncompliance.

Public Welfare

Another of the stated purposes of the 1955 Compact was to “provide for the welfare and protection of juveniles and of the public” with respect to the interstate movement of juvenile delinquents and runaways. The compact, however, encountered “serious problems within the juvenile justice system,” largely because of a lack of a modern means of exchanging information between the states.⁷ Importantly then, there was a lack of knowledge as to who was moving, where they were moving, when they were moving, and limited means of notifying victims, communities and law enforcement of these movements. Moreover, many juveniles were made to wait in states that were not their home while their home state and the state in which they were presently residing figured out how to resolve the situation.

2008 Interstate Compact for Juveniles (Senate Bill 122)

The 2008 Interstate Compact for Juveniles, which has been adopted by 45 states and the Virgin Islands, is a complete revision of the 1955 Compact, and is designed to solve the problems that surround the interstate movement of juveniles which the original Compact failed to address.

The Interstate Commission for Juveniles

While the 2008 Interstate Compact includes provisions that are specifically designed to deal with each of the aforementioned problems on an individual basis, what really allows the new compact to address these problems is the creation of the centralized body known as the Interstate Commission for Juveniles. The Commission, which acts as a joint agency of the compacting states, consists of commissioners, who are voting representatives and are appointed by the appropriate authority in each compacting state and non-commissioner members, who are non-voting representatives of non-compacting states and other specified organizations. Importantly, the Interstate Commission is vested with a variety of powers and duties that enable it to promote uniformity between states, enforce compliance with the Compact and monitor the movement of juveniles so as to provide compacting states with more valuable information.

Compact Language, Amendments, and Rule Promulgation

As was previously mentioned, the 1955 Compact often led to haphazard results because it provided authority for states to enter into supplementary agreements, contained no provisions making amendments to the Compact applicable to all compacting states, and contained no provisions regarding the authority to promulgate rules. In other words, the 1955 Compact suffered due to a lack of uniformity between states. The 2008 Compact, through the Interstate Commission, is designed to address each of these problems separately and thereby create uniformity. It does this in three ways. First, the 2008 Compact eliminates all reference to supplementary agreements and instead grants the Interstate Commission the authority to oversee, supervise, and coordinate the interstate movement of juveniles. Second, the language of the Compact allows the Interstate Commission to propose amendments but requires the unanimous consent of compacting states before any amendment becomes effective. Finally, the Compact vests the Interstate Commission with authority to

⁷ *Id.*

promulgate rules to carry out the purposes of the compact. By creating uniformity among the states, the 2008 Compact prevents states from squabbling over which state's statute is applicable and minimizes disputes over statutory interpretation.

Enforcement and Compliance

Whereas the 1955 Compact suffered for a lack of means of enforcing compliance with the statute, the 2008 Compact vests the Interstate Commission with the power to enforce compliance in several ways. First, the Compact creates a dispute resolution process whereby compacting states can request the Interstate Commission "to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states." This can be done through either mediation or binding dispute resolution. Additionally, if "the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under [the] compact," it may impose penalties ranging from remedial training to suspension or termination of membership in the compact. Importantly, while there will undoubtedly be a smaller number of disputes overall because of greater uniformity between states, when disputes do arise, a procedure will be in place for resolving those disputes within the context of the compact. Moreover, the Interstate Commission will be able to enforce the compact itself as well as the resolution of any disputes through the imposition of sanctions for noncompliance.

Public Welfare

The final problem with the 1955 Compact, as described above, was essentially that lack of information sharing between states led to ineffective protection of juvenile rights and public safety. In response to these problems, the 2008 Compact is designed to encourage or require information sharing so that the public will be better protected and juveniles' rights will not be harmed. In fact, one of the stated purposes of the compact is to "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." The Commission is then charged with establishing uniform standards for the reporting, collecting and exchanging of data, with actually collecting the data in conjunction with the states, and with reporting that data to the states. By vesting the authority and the responsibility for the collection of data with the Interstate Commission, the 2008 Compact creates a central location to which states can go to obtain information on the movements of specific juveniles and juveniles in general. This allows the Interstate Commission to give immediate notice to jurisdictions where defined offenders are authorized to travel and allows local authorities to ensure that the public safety interests of the citizens, including the victims of juvenile offenders, are adequately protected.

JUDICIAL IMPACT

Improvements in the Administration of Justice

Senate Bill 122, the 2008 Interstate Compact for Juveniles, will improve the administration of justice in Ohio in three distinct ways. First, adoption of the Compact will create uniformity in the law among compacting states, thereby giving Ohio a clearer means of resolving disputes with other compacting states regarding the supervision, transfer and return of juvenile delinquents, status offenders, and runaways. This will make supervision, transfer and return more efficient and will better protect the

rights of juveniles by ensuring that they are not needlessly subjected to the laws and procedures of a state where they are not supposed to be. Second, the bill will increase the resources that are available to the state for the supervision, transfer, return and tracking of juveniles by equitably allocating the costs, benefits and obligations among the compacting states, by granting the state access to data collected on the interstate movement of juveniles, and by allowing Ohio to access the contracts that are made for cooperative institutionalization in member states which will allow delinquent youth needing special services to be better served. Third, the bill will provide for the coordinated training and education of officials involved in the regulation of the interstate movement of juveniles. These educational opportunities will make state officials in compacting states more prepared for handling juveniles who are in transition and will therefore improve the efficiency of that transition along with improving the treatment of juveniles in general.⁸

Clarity of the Law Achieved

Senate Bill 122 will improve the clarity of the law by creating uniformity of the law between the states regarding the supervision, transfer, and return of juvenile delinquents, status offenders, and runaways. Under current law, as discussed above, there are no procedures and no national standards regarding the movement of these juveniles. By limiting the process for amending the Compact, vesting rulemaking authority with the Interstate Commission, and creating a process for dispute resolution, the bill will create consistency between Ohio and the 46 other states and territories that have adopted this compact. This will lead to increased cooperation between states regarding the movement of juveniles and decreased litigation over which state's statute is applicable and the how the provisions of the applicable statute are to be interpreted.

Public Confidence in the Law and Public Safety Promoted

Senate Bill 122 will improve public confidence in the law by creating a better process for data collection and information sharing between the states. This will allow Ohio to better track those juveniles who are moving between states and to share that information with jurisdictions where offenders are authorized to travel or to relocate. Increased information sharing will improve public confidence in the law because the public safety interests of the citizens, the victims of juveniles offenders included, will be better met when the appropriate authorities in each state are aware of the movements of these juveniles. Moreover, juveniles themselves will be better protected because a national process and national standards will allow the courts to ensure that any action taken is in the youth's best interest.

Judicial Discretion

By creating a national dispute resolution process, Senate Bill 122 will decrease judicial discretion in which the state is unable to resolve a dispute with another state. This decrease in discretion is acceptable in this instance as Ohio has a long history of cooperation with other states and has not been involved in any serious disputes with other states. Additionally, the judges believe that a

⁸ While there will be no significant financial impact to the courts as a result of enacting the 2008 Interstate Compact, the Compact requires the Interstate Commission to "collect an annual assessment from each compacting state to cover the costs of the internal operations and activities of the Interstate Commission and its staff." This annual assessment is based on the population of each state according to U.S. Census data and the volume of the interstate movement of offenders in each compacting state. Using this formula, the Ohio Department of Youth Services will use existing funds to pay approximately \$27,000 annually for Ohio's inclusion in the Interstate Compact.

national dispute resolution process will allow for the more efficient and effective resolution of disputes and will therefore be in the best interests of children. As such, in this instance, the judges actually welcome the minimal decrease in judicial discretion given that the national process will be in the best interests of children and given the vast improvements that the bill will create in the administration of justice, clarity of the law, public confidence in the law and public safety.

RECOMMENDATION

There is currently concern among Ohio's judges that if Senate Bill 122 is not passed, Ohio will be unable to effect supervision for youth placed in other states and for youth from other states now located in Ohio. Juveniles often move with their parents from state to state, or are placed with relatives or in homes in other states. Sometimes, juveniles run away or abscond to other states, or commit crimes in states where they do not live. All of these situations require a process for courts, police, parole officers, and probation officers to effect communication, returns, placements, and supervision. Unless Ohio joins the majority of states that have adopted the 2008 Interstate Compact, Ohio may be left out of this process and the state's ability to appropriately deal with these juveniles will be hampered.

As such, the Ohio Judicial Conference, the voice of Ohio's judges, encourages the passage of Senate Bill 122. The Interstate Commission is now in the rulemaking stage and Ohio does not currently have a seat at the table and the state will have no chance of being in a leadership position until legislation is passed in Ohio making Ohio a member. Senate Bill 122 will allow Ohio to have a say in the rulemaking process and will greatly improve the administration of justice, clarity of the law, public confidence in the law, and public safety.