

MINUTES OF THE  
MEETING OF THE SENATE COMMITTEE  
ON JUDICIARY

SIXTY-FIRST SESSION  
NEVADA STATE LEGISLATURE  
May 14, 1981

The Senate Committee on Judiciary was called to order by Chairman Melvin D. Close at 8:10 a.m., Thursday, May 14, 1981, in Room 213 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Melvin D. Close, Chairman  
Senator Keith Ashworth, Vice Chairman  
Senator Don W. Ashworth  
Senator William J. Raggio  
Senator Jean Ford  
Senator William H. Hernstadt  
Senator Sue Wagner

STAFF MEMBERS PRESENT:

Shirley LaBadie, Committee Secretary

GUEST LEGISLATOR:

Assemblyman Edward J. Kovacs

ASSEMBLY BILL NO. 566--Authorizes designation of fire chiefs to issue certain misdemeanor citations.

Assemblyman Edward Kovacs stated lines 3 and 4 of the bill amends NRS 171.17751. The testimony of Mr. Kovacs is attached as Exhibit C, also that of Mr. John Pappageorge, Deputy Fire Chief, Clark County Fire Department as Mr. Kovacs read to the committee.

Senator Wagner asked who the employees designated would be. Mr. Kovacs answered the battalion chiefs who are out in the field.

Mr. Bill Bunker, Federated Firefighters of Nevada, stated the bill is one which the cities presently have, and only applies to Clark County. On new businesses, the pumpers are taken and inspect the businesses and if there is a violation, the paperwork is handed in, then the fire prevention bureau follows up.

SENATE COMMITTEE ON JUDICIARY  
May 14, 1981

Many times after going back year after year, the same violations are present. Nothing is done because they would have to go the district attorney to be able to cite and their case load is already too heavy. The City of Las Vegas uses this citing power which works very well. He said he would like to have that power.

SENATE BILL NO. 658--Repeals requirement that claim against state or political subdivision thereof be presented within 6 months.

Mr. Larry Struve, Attorney General office and also Deputy Attorney General Norm Robison, Transportation Legal Division stated they were present to testify with respect to S. B. No. 658. They are not in support of the bill as it is currently drafted as it provides for an outright repeal of NRS 41.036. However Mr. Struve stated he supported efforts to amend that law and related laws to make a workable claim statute in the State of Nevada.

Mr. Struve stated reasons for the concern of the legislation. Among the various functions of his department, they are the office of the state government which investigates and presents a number of claims to the state board of examiners under the statutes setting the power of the board to prove and pay out claims for various reasons when persons are injured or have grievences against the State of Nevada. In that capacity, they advise the State Board of Examiners and are also the legal advisers to the state risk manager and state risk management division. They try to find insurance at a reasonable cost, that has a correlation to the claims experience of the state. Also after claims are acted upon, if they are denied, his office is involved in defending the suits which are brought against the state. He had testified in 1979 to the effect there is an increasing number of law suits against the state, it officers and employees. Since 1979, that trend has increased.

Mr. Struve stated the current draft of the bill repeals the requirement in the law that a timely claim must be filed with the state or a political subdivision as a condition precedent before a law-suit can be filed against the state. There are three types of claims which are involved in NRS 41.036 but he felt the bill would involve only one of those claims. The first claim is one which arises out of contract against the state of Nevada. He felt there is not any case law which invalidates this claims requirement that when there is a contractual dispute with the state, you must then first file a claim before the Board of Examiners before commencing a law suit. The second type of claims is one for refund, again he was not aware of a law which invaldiates this claims requirement. The third classification is

SENATE COMMITTEE ON JUDICIARY  
May 14, 1981

an all-encompassing class which is called all other claims which includes claims based on governmental torts must now be presented to the Board of Examiners within a time period. All three of these claim requirements would be repealed if S. B. No. 658 is enacted in its present form.

Mr. Struve stated NRS 41.036 is the statute which requires a claim to be filed within a six months period with the political subdivision or Board of Examiners prior to commencing suit to obtain judicial redress for that claim if it is not acted upon or if it is denied. Nrs 41.036 includes all three types of claims. He said if the entire statute is repealed as suggested in the bill, all of those claims requirements are involved.

Senator Raggio asked if case law directs itself only to governmental torts. Mr. Struve stated there are four major and valid purposes in having a claim statute which protects the public interest.

Chairman Close asked Mr. Struve to distinguish the other three areas from the one which the Supreme Court declared unconstitutional. Mr. Struve stated the case referred to is Turner vs Staggs, it is a 1973 opinion. This was a three to two opinion by the Nevada Supreme Court. The majority opinion was concurred in by two justices, a separate concurring opinion was written by Justice Zenoff and a strong dissent was written by Justices Thompson and Mowbry. The case involved a tort, a claim of malpractice by representatives of the Southern Nevada Hospital and the claim was for minor children. Under the claim statute of NRS 41.036, it was required that within six months of the time the malpractice allegedly occurred, that a claim had to be filed with the Board of County Commissioners, the claim was not filed until one year after the alleged tort occurred. The trial court entered a summary judgement dismissing Clark County because there was a failure to file within the six month period. On appeal, the Nevada Supreme Court reversed and said though they could rule the time period, the six month could have been told during the minority of the three minor children until they were capable of filing the claim. They chose to find that the Nevada statutes set two classes of claimants. One which has a grievance against a private tortfeasor and another class which has claims against a governmental tortfeasor. On one hand, there is no period of six months to file a claim and give notice that a suit will be filed. With respect to the governmental tortfeasor, that notice has to be given or you are out of court. The Nevada court held that was a denial of equal protection.

Mr. Struve stated in his judgement, the narrow holding of that court is contained in the following sentence. "The statutory

SENATE COMMITTEE ON JUDICIARY  
May 14, 1981

provisions of this State which provide that no person shall sue a governmental entity of this state for a demand arising out of a governmental tort unless he first presents a claim within six months from the time such tort occurred are void and of no effect." He said there are differing opinions throughout the state about how broad the scope of this opinion.

Senator Wagner asked for the rationale for the six month limitation. Senator Don Ashworth said they would under the rationale of that case would rule that a general sovereign immunity statute would have to be unconstitutional. Mr. Struve stated his understanding is that the legislature waived sovereign immunity but then put the condition on the filing of claims and suits against the political subdivision in the state for governmental torts. That condition was unique to governmental tortfeasors. If you were injured by a private party, you would not have to first give a notice six months after they torted you before you filed suit. You would be governed by the ordinary statute of limitations. Chairman Close stated there is no sovereign immunity, you could waive up to \$50,000. Mr. Struve said they were addressing the limitations on which you can commence suit. He said the California courts have said there is sovereign immunity except in those cases where the legislature has set forth the conditions under which you can sue for the governmental torts. The Nevada Supreme Court took a different attack in the three to two decision and said it sets up two different classes and they are treated unequally, therefore, it is not consistent with the protection clause. Senator Don Ashworth said sovereign immunity sets up two different classes and they are definitely treated differently. Mr. Struve said this was a valid point.

Mr. Robison stated there are other areas also that they have not waived immunity, specifically they have no duty to inspect or duty to discover a hazard. There were certain restrictions set out in NRS 41.031 to NRS 41.036 and has been revised since that time. Having a separate time filing period for governmental tort claimants is not a violation of the constitution, Nevada is the only state to follow this rationale. He stated his opinion of Turner vs Staggs was that two different classes were created but did not say it was not still a condition precedent to filing an action. People suing a county or state are in a different class in this state and in most jurisdictions because of the limitations set out by the legislature than are people suing private individuals. The court has consistently upheld the limitation or restriction on no duty to inspect, it has been upheld three times now.

Mr. Struve stated they need to protect the public treasury. To do that they need prompt investigation and to do this, is to require the claimants to give the notice.

SENATE COMMITTEE ON JUDICIARY  
May 14, 1981

Senator Raggio stated everything which Mr. Struve had mentioned for good reasons have the same applicability to private tortfeasors as well. He said it is irresponsible for the legislature to leave a statute on the books as to the governmental tort situation and let people think they have to file a claim in the hope that maybe a three to two decision someday will be reversed. He said he felt there was a reasonable argument as to the other aspects of the matter, such as governmental tort, but questioned the policy there.

Mr. Struve said he thought the six months was the problem in the Turner vs Scaggs case and by in effect shortening the statute of limitations, the denial of equal protection became the problem addressed by the courts. He did not suggest the government be placed into a different class and given privileged treatment but there are valid reasons for a proper claims statute which does not result in the shortening of the statute of limitations for bringing claims against the government which would be different from the statute applicable to private tortfeasors. He said in California, the governmental entity can waive the period and provide for a judicial review if the entity does not waive and is justifiable excuse, the remedy is to go to court and say they feel there was justifiable excuse.

Senator Raggio stated that was an added burden which should not be imposed merely because they are putting the burden on the injured party.

Mr. Struve said they do differ as a public entity from private entities in that in many of the cases they are self-insured. The legislature puts a very severe restriction on how you can spend the state's money and claims are unanticipated expenses. You need as much notice as possible to go through proper budget planning to meet anticipated indebtedness.

Mr. Struve stated he basically wanted to ask the committee to retain a claim statute and if the time period is inadequate, then the committee should make the policy decision as to what would be reasonable. He asked that a notice requirement be retained.

Senator Raggio asked how you can circumvent the opinion of the court, it is a law of the state that you cannot require a six months statute on a governmental tort. Mr. Struve suggested that the statute be amended. He said he had contacted Assemblyman Stewart previously in regard to amending the statute. He was advised there was not enough time to process a bill.

SENATE COMMITTEE ON JUDICIARY  
May 14, 1981

Chairman Close asked Mr. Frank Daykin, Legislative Counsel to comment on S. B. No. 658. Mr. Daykin stated he had never suggested any such action as this which he would if there is a Supreme Court holding which renders the statute poorly unconstitutional. *Turner vs Scaggs* was rather narrow, it probably turned in part in circumstances in that particular case. He said he did not feel it automatically invalidated all requirements for prior claims. However, of course, the request for the bill was to remove all such requirements and the bill is drafted as such. It would be possible to draft a bill which would comport with a particular requirement without losing the benefits that the prior claim statute confers from the standpoint of administrative facility. NRS 41.036 was repealed but it never did deal with anything but the tort claims. Mr. Daykin advised the committee the present language in NRS 41.036 was redundant when it was written.

Mr. Daykin said if you go to restore the prior claims statute, then the distinguishment must be made between tort and contract. Mr. Robinson stated if you eliminate the claims statute completely, then what does the citizen do who has been injured through a governmental tort. These are in the \$300 to \$800 claim areas. His right is taken away to come to the government and file these claims and he would have to go to an attorney. Mr. Daykin stated you are not eliminating his right, but the compulsion to do so.

Mr. Robinson felt the statute should be amended to conform to the court decision. They had proposed to the Assembly Committee that the time limit be put in line with the statute of limitation but have it as a condition preceding the filing of an action. Then there are not two types of claimants. He said it could be made concurrent condition that you file with the claims board a claim at the same time you do the lawsuit. This would put the risk managers on notice of this action, at least within two years. Mr. Daykin stated that is covered by the requirements of service. The service of this type of action against the state must be made on the exofficio secretary of the State Board of Examiners. Action is commenced on the filing and serving the complaint. Mr. Robinson stated he did not agree. Mr. Daykin answer that Mr. Robinson was right, Nevada law is uncommonly loose.

Senator Raggio asked if the statute is repealed insofar as tort liabilities, what about repealing notice claims or requirements on other matters. Would this create a precedence. Mr. Daykin stated he felt not.

SENATE COMMITTEE ON JUDICIARY  
May 14, 1981

Mr. Struve stated if S. B. No. 658 is processed, it also amends NRS 11.190 which is the statute of limitations statute. By deleting the language in the brackets which is repealing any prior notice, it is discouraging the prompt filing of claims against the state because to do so would be counter-productive. It would invoke the one year statute of limitations. This would encourage the delay in filing claims. Mr. Struve advised the committee he would work with the committee in anyway.

Mr. Mary Finnell, Risk Manager, State of Nevada stated she agreed with the remarks of the Attorney General Office. She said there were some problems with the bill and it needed to be amended.

SENATE BILL NO. 659--Allows creation of estate in community property with right of survivorship.

Senator Don Ashworth stated the bill provides that you can make community property similar to joint tenancy property without calling it a joint tenancy property from the vantage point of a step up basis for estate tax purposes.

Senator Don Ashworth moved to Do Pass S. B. No. 659.

Senator Raggio seconded the motion.

The motion carried. (Senators Close, Hernstadt and Ford were absent for the vote.)

ASSEMBLY BILL NO. 542--Provides that juvenile delinquents who cross state borders be treated as adults for purposes of extradition.

Ms. Randa Steele advised the committee she had asked Assemblyman Nicholas and Beyer to sponsor the legislation of A. B. No. 542. She had been a victim of a crime earlier this year which was committed by a juvenile in Truckee, California. When she contacted a deputy district attorney with the juvenile section of the Washoe County District Attorney Office, she was informed there was a loophole in the Nevada Revised Statutes covering the extradition of juveniles who have committed crimes. Under the current statutes, the only section which covers juveniles is under NRS 214 which is the interstate compact on juveniles. This was meant to be a stop-gap measure and to cover juveniles which have not committed specific crimes. A juvenile residing in another state could come to Nevada commit armed robberies, leave the state, and there is no procedure

SENATE COMMITTEE ON JUDICIARY  
May 14, 1981

under NRS to request that that juvenile be extradited back to Nevada for further juvenile court proceedings. Also if a juvenile would commit a crime outside of Nevada and flee to this state, there is no provision for Nevada to return that juvenile to the state where the crime was committed. A. B. No. 542 would amend NRS 62 in this regard.

Senator Raggio questioned how Nevada could tell another state by passing this law, how to apply their adult extradition law to the extradition of a juvenile. Ms. Steele answered this law is just procedural and the law is already in effect in other states. The wording is similar to California law. See Exhibits D and E attached hereto for additional information on California law. Ms. Steele stated the bill was written considerably different by the bill drafters from the way she had submitted the request.

Senator Raggio stated they do not specify in the California law that if a juvenile commits a crime and goes to another state, that the other state must deal with that child as an adult in extradition. He questioned how Nevada could put this in the law and make it effective. Senator Raggio stated he would check with the bill drafters. Ms. Steele stated in talking to numerous attorneys in Washoe and Clark counties, there is a loophole which needs to be corrected. States are now proceeding in extradition matters against juveniles the same as if they were an adult under the Uniform Extradition Act because all states do subscribe this act where juvenile court laws vary greatly from state to state.

ASSEMBLY BILL NO. 488--Increases penalty for abduction of child.

Mr. Jess H. Bachman, stated he wanted to testify in support of A. B. No. 488. For additional remarks, see Exhibit F attached hereto and Exhibit G which is stored with the secretary's minutes.

Mr. Thomas Tate urged his support of A. B. No. 488. He stated is the coordinator of victim's services for the district attorney office in Clark County, Nevada.

Senator Hernstadt asked what happens when one parent has fully custody rights and the other parent has temporary visitation rights and disappears with the child. Mr. Tate stated it provides for both parties, it goes both ways.



SENATE COMMITTEE ON JUDICIARY  
May 14, 1981

SENATE BILL NO. 658 (On agenda)

Senator Raggio stated he would get amendments to limit it to a governmental tort and requiring that notice be given to the entity within the same time frame as the statute of limitations.

Senator Hernstadt moved to amend and do Pass S. B. No. 658.

Senator Raggio seconded the motion.

The motion carried. (Senators Close and Ford were absent for the vote.)

ASSEMBLY BILL NO. 488 ( On agenda)

Senator Wagner moved to do Pass A. B. No. 488.

Senator Don Ashworth seconded the motion.

The motion carried. (Senators Close and Ford were absent for the vote.)

ASSEMBLY BILL NO. 566 (On agenda)

Senator Raggio moved to do Pass A. B. No. 566.

Senator Wagner seconded the motion.

The motion carried. (Senators Close and Ford were absent for the vote.)

Since there was no one available to testify on A. B. No. 534 from the Assembly Judiciary committee, it was decided to postpone a vote until another time.

There being no further business, the meeting adjourned at 10:20 a.m.

Respectfully submitted:

  
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Shirley LaBadie, Secretary

APPROVED BY:

  
\_\_\_\_\_  
Senator Melvin D. Close, Chairman

DATE: May 28, 1981

1937

SENATE AGENDA

EXHIBIT A

COMMITTEE MEETINGS

Committee on JUDICIARY, Room 213.  
Day Thursday, Date May 14, Time 8:00 a.m.

AMENDED MEETING SCHEDULE

5-11-81

S. B. No. 658--Repeals requirement that claim against state or political subdivision thereof be presented within 6 months.

S. B. No. 659--Allows creation of estate in community property with right of survivorship.

S. B. No. 660--Makes optional provisions of Bankruptcy Act of 1978 which specify certain exemptions from execution inapplicable in Nevada.

A. B. No. 488--Increases penalty for abduction of child.

A. B. No. 534--Revises procedure for certain injunctions and repeals certain sections or crimes relating to exhibition and sale of obscene materials to minors.

A. B. No. 542--Provides that juvenile delinquents who cross state borders be treated as adults for purposes of extradition.

A. B. No. 566--Authorizes designation of fire chiefs to issue certain misdemeanor citations.

There will be a possibility of a lunch session should the agenda not be completed.



EXHIBIT C

Mr. John Pappageorge, Deputy Fire Chief, Clark County Fire Department was the first testifier. His testimony follows:

We support and need AB-566. Without the authority to serve written citations, it is extremely difficult for a fire inspector to eliminate immediately life safety hazards, such as blocked or locked exits, blocked fire lanes, and open flame use in hazardous areas which can result in explosions or fast spreading fires. Because of this, we are, indeed, in support of this bill.

Mr. Dini: How many hazards did you have?

Mr. Pappageorge: blocked or locked fire exits, blocked fire lanes, open flame used in hazardous areas.

Mr. Dini: Do you have ordinances to outline those?

Mr. Pappageorge: Yes, sir, we do.

End of Mr. Pappageorge's testimony.

Assemblyman Ed Kovaks, District #1:

It came to my attention that the Fire Department of Clark County was classified as a township fire department and because of that, the County Commissioners did not give the fire chief the right to prepare, sign, or serve written citations, including misdemeanors and violations of fire codes. This required the District Attorney's office to be contacted for assistance. In the meantime, with the events of the MGM and Hilton Hotels fires, the sheriff of Clark County was forced to deputize a number of fire inspectors so that they could carry out what was their normal activities. However, with that action, it placed Metro in a liability position of responsibility, which wasn't fair or right. Such is the reason for the creation of AB-566. As you can tell by the summary, all it does is give the fire chief the ability to write citations for misdemeanors.

Incidentally, there is an amendment to correct the summary and title of the bill by adding violations of fire codes. It is in the bill drafter's now. All it does is add "and violations of fire codes".

This concluded the testimony on AB-566.

1940

Respectfully submitted,

*Lucille Hill*  
Lucille Hill

Assembly Attache

SEC 62.330 APPLICATION OF CHAPTER TO FUGITIVE UNDER 18:

*[Handwritten mark]*

This chapter shall not apply:

1. To any person who violates any law of this state defining a crime, and is at the time of such violation under the age of 18 years, if such person thereafter flees from this state. Any such person may be proceeded against in the manner otherwise provided by law for proceeding against persons accused of crime. Upon the return of such <sup>CHILD</sup> person to this state by extradition or otherwise, proceeding shall be commenced in the manner provided for in this chapter.
2. To any person who violates any law of another state defining a crime and is at the time of such violation under the age of 18 years, if such person thereafter flees from that state into this state. Any such person may be proceeded against as an adult in the manner provided in Title 14, Chapter 179 N.R.S. The magistrate shall, for purposes of detention, detain such person in juvenile hall as space is available. If no space is available the magistrate may detain such person in the county jail.

JERRY MARE - DOUG CO. SHER.

VINCE SWINNEY - WAB CO SHER.

JOE BUTTERMAN - RENO POLICE OFFICERS ASSN

DIDA FISHER CLARK CO DA

NEWARK CO. ERIC DA, SHERIFF  
& PROBATION

L.N. CO. DA'S OFFICE

**Library Note:**

Exhibit E for the May 14, 1981 meeting of Senate Judiciary was either not labelled or is missing. It is unclear from the minutes what Exhibit E pertained to, so it is not possible to ascertain its status.

Research Library  
June 2014

competitive bids. Proceeds derived from the sale of any such house shall be deposited in the General Fund. Construction shall be limited to not more than one each calendar year and the size shall not exceed one thousand two hundred fifty (1,250) square feet.

Added Stats 1963 ch 1424 § 1.

**Cross References:**

General Fund: Gov C §§ 16300 et seq.

**Collateral References:**

60 Am Jur 2d Penal and Correctional Institutions §§ 1, 3, 5, 10.

**CHAPTER 4**

*Interstate Compact on Juveniles*

[Added by Stats 1955 ch 1363 § 1.]

- § 1300. Governor's authority to execute compact or agreement: Form and contents
- § 1300.3. Out-of-state Confinement Amendment to Interstate Compact on Juveniles: Provisions
- § 1300.5. Confinement of delinquent juvenile in compact institution in another party state
- § 1301. Compact administrator: Designation: Promulgation of rules and regulations: Tenure
- § 1302. Cooperation with departments, etc., of State and facilitating administration of compact or supplementary agreements
- § 1303. Power to enter into supplementary agreements: Approval of certain agreements
- § 1304. Payment of financial obligations
- § 1305. Fee on appointment of counsel or guardian ad litem: Payment
- § 1306. Enforcement: Performance of things appropriate to effectuation of purposes and intent of compact
- § 1307. "Delinquent juvenile": Persons included in term
- § 1308. Effect on conflicting laws

**§ 1300. Governor's authority to execute compact or agreement: Form and contents**

In addition to any other authority conferred upon him, the Governor is authorized and may execute for, on behalf of, and in the name of the State of California, a compact or agreement entitled, "Interstate Compact on Juveniles," which compact or agreement, in words and figures, is substantially as follows:

**INTERSTATE COMPACT ON JUVENILES**

The contracting states solemnly agree:

**Article I—Findings and Purposes**

That juveniles who are not under proper supervision and control, or

who have absconded their own health, m welfare of others. Th is therefore necessar juveniles and of the of delinquent juvenil one state to anothe absconded; (3) the re juveniles who have r for the protection o more of the party tively. In carrying o shall be guided by th which guide their la juveniles generally. compact to coopera the prompt return niles who become provisions of this co to accomplish the fo

**Article**

That all remedies a addition to and n procedures, and sh responsibilities.

That, for the purp any juvenile who the provisions of jurisdiction of the jurisdiction or sup order of such co conditional release party hereto; "co delinquent, neglec territory or posses and the Common variant thereof m abode is maintaine

(1) That the par

who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to (1) cooperative supervision of delinquent juveniles on probation or parole; (2) the return, from one state to another, of delinquent juveniles who have escaped or absconded; (3) the return, from one state to another, of nondelinquent juveniles who have run away from home; and (4) additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively. In carrying out the provisions of this compact the party states shall be guided by the noncriminal, reformative and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

#### Article II—Existing Rights and Remedies

That all remedies and procedures provided by this compact shall be in addition to and not in substitution of other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

#### Article III—Definitions

That, for the purposes of this compact, "delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; "probation or parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto; "court" means any court having jurisdiction over delinquent, neglected or dependent children; "state" means any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and "residence" or any variant thereof means a place at which a home or regular place of abode is maintained.

#### Article IV—Return of Runaways

(a) That the parent, guardian, person or agency entitled to legal



custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his 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 own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts

necessary to the detained upon such the court demand he shall first be taken who shall inform may appoint counsel such court shall if such juvenile over have appointed reasonable time to the proceeding.

Upon reasonable away from another a parent, guardian such juvenile may brought forthwith appoint counsel or determine after a person, subject to welfare, for such return to another for his return from seeks the return of the state wherein to have him adjudged such state, or if he a criminal offense returned without prosecution or other supervision for suit ed officers of an of their authority be permitted to party to this compact state from which further proceeding state. (b) That this article shall be read such return. (c) person who is a parent, guardian, such minor.

Article

(a) That the appropriate parole supervision

*to child Welfare  
Institution*

INTERSTATE COMPACT

§ 1300

necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding 90 days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, 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. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state. (b) That the state to which a juvenile is returned under this article shall be responsible for payment of the transportation costs of such return. (c) That "juvenile" as used in this article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

Article V—Return of Escapees and Absconders

(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose

1915

institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding 90 days, as will enable his

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INTERSTATE COMPACT

§ 1300

detention under a detention order issued on a requisition pursuant to this article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a delinquent juvenile is returned under this article shall be responsible for payment of the transportation costs such return.

Article VI—Voluntary Return Procedure

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of Article IV(a) or of Article V(a), may consent to his immediate return to the state from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such



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**INTERSTATE COMPACT**

**§ 1300**

juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

(d) That the sending state shall be responsible under this article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

**Article VIII—Responsibility for Costs**

(a) That the provisions of Articles IV(b), V(b) and VII(d) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to Article IV(b), V(b) or VII(d) of this compact.

**Article IX—Detention Practices**

That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

**Article X—Supplementary Agreements**

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall (1) provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into

consideration the character of facilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and (7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

**Article XI—Acceptance of Federal and Other Aid**

That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

**Article XII—Compact Administrators**

That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

**Article XIII—Execution of Compact**

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

**Article XIV—Renunciation**

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal

until retaken or fired into under Article provided by such to the six months'

That the proviso phrase, clause, sentence contrary to the compact of the States or the application or circumstance is compact and the person or circumstances shall be held consistent therein, the compact remaining states as to all severable matters

Added Stats 1955 ch 13

**JURISDICTION**

Jurisdiction

- Alabama
- Alaska
- Arizona
- Arkansas
- Colorado
- Connecticut
- Delaware
- District of Columbia
- Florida
- Georgia
- Hawaii
- Idaho
- Illinois
- Indiana
- Iowa
- Kansas
- Kentucky
- Louisiana
- Maine
- Maryland
- Massachusetts
- Michigan

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INTERSTATE COMPACT

§ 1300

until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six months' renunciation notice of the present article.

Article XV—Severability

That the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Added Stats 1955 ch 1363 § 1.

JURISDICTIONS WHICH HAVE EXECUTED INTER-STATE COMPACT ON JUVENILES

<u>Jurisdiction</u>	<u>Respective Statutory Enactments</u>
Alabama	Ala C tit 44 §§ 44-2-1 to 44-2-7
Alaska	Alaska Stat §§ 47.15.010—47.15.080
Arizona	Ariz RS 8-361 to 8-367
Arkansas	Ark Stat 45-301 to 45-307
Colorado	Colo RS 24-60-701 to 24-60-708
Connecticut	Conn Gen S §§ 17-75 to 17-81
Delaware	31 Del C §§ 5203, 5221—5228
District of Columbia	DCC §§ 32-1101 to 32-1106
Florida	Fla Stat §§ 39.25—39.31
Georgia	Ga C 99-3401 to 99-3407
Hawaii	Hawaii RS §§ 582-1 to 582-8
Idaho	Idaho C 16-1901 to 16-1910
Illinois	Ill RS ch 23 §§ 2592—2597
Indiana	Ind C 31-5-3-1 to 31-5-3-9
Iowa	Iowa C §§ 231.14, 231.15
Kansas	Kan stat 38-1001 to 38-1007
Kentucky	Ky RS 208.600—208.670
Louisiana	La RS 46:1451—46:1458
Maine	Me RS tit 34 §§ 181—195
Maryland	Md C art 41 §§ 387—395
Massachusetts	Mass Gen L ch 119 App, §§ 1-1 to 1-7
Michigan	MSA §§ 4.146(1)—4.146(6)



§ 1300

JUVENILE COURT

Minnesota	Minn stat 260.51-260.57
Mississippi	Miss C §§ 43-25-1 to 43-25-17
Missouri	Mo RS §§ 210.570-210.600
Montana	Mont RS §§ 10-1001 to 10:1006
Nebraska	Neb RC 43-1001 to 43-1009
Nevada	Nev RS 214.010-214.060
New Hampshire	NH RS 169-A:1 to 169-A:9
New Jersey	NJ stat 9:23-1 to 9:23-4
New Mexico	NM stat 13-16-1 to 13-16-8
New York	NY Unconsol ch 74 §§ 1-5
North Carolina	NC Gen S §§ 110-58 to 110-64
North Dakota	NDCC 27-22-01 to 27-22-06
Ohio	Ohio RC §§ 2151.56-2151.61
Oklahoma	10 Okl stat 531-537
Oregon	Or RS 417.010-417.080
Pennsylvania	62 Ps §§ 731-735
Rhode Island	RI Gen L 14-6-1 to 14-6-11
South Carolina	SCC § 24-17-10
South Dakota	SDCL 26-12-1 to 26-12-13
Tennessee	Tenn C 37-801 to 37-806
Texas	Tex Family Code §§ 25.01 to 25.09
Utah	Utah C 55-12-1 to 55-12-6
Vermont	33 Vt S §§ 551-575
Virginia	Va C 16.1-323 to 16.1-330
Washington	RCWA 13.24.010 to 13.24.900
West Virginia	W Va C §§ 49-8-1 to 49-8-7
Wisconsin	Wis stat 48.991 to 48.997
Wyoming	Wyo stat § 14.52.10

Cross References:

- Interstate cooperation: Gov C §§ 8000 et seq.
- Contract or agreement, necessity of approval: Gov C §§ 8101, 8137.
- Agreement for return to this state of person held in another: Pen C § 1549.

Collateral References:

- 27 Cal Jur 3d Delinquent and Dependent Children §§ 128-136.
- State prohibited from entering into contracts with another state without the consent of Congress: USCS Const Art I § 10 cl 3.

Law Review Articles:

- Interstate compacts or agreements and waiver by fugitive. 33 St BJ 532.

Annotations:

- Constitutionality, construction, and application of compacts and statutes involving cooperation between states. 134 ALR 1411.
- Extradition of juveniles. 73 ALR3d 700.

*AMERICAN LAW REVIEW*  
SUGGESTED FORM

Agreement by Juvenile to Return to Receiving State

Agreement to Return

(In triplicate; one copy to be given inmate, one copy each to sending and receiving state)

Sending State   1  

Re:   3  

I,   4  , in conside  
  6  , and especiall  
  6  , hereby agree

1. That I will make my  
resides at   11   (a  
authority of   12  

2. That I will comply w  
the State of   14  

3. That I will, when d  
  17  

4. That I do hereby w  
jurisdiction in or outsid  
not contest any effort b

5. Failure to comply wi  
  20   [parole or p

Dated   22  , 19  2  

Witnesses:

On   24  , 19  20    
  28   and to be s

§ 1300.3. Out-of-  
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*Interstate Compact*

INTERSTATE COMPACT

§ 1300.3

Sending State   1   Receiving State   2  

Re:   3  

I,   4  , in consideration of being granted   5   [parole or probation] by the   6  , and especially being granted the privilege to leave the State of   7   to go to   8  , hereby agree:

1. That I will make my home with   9   [name],   10   [parent or guardian], who resides at   11   [address], until a change of residence is duly authorized by the proper authority of   12   [receiving state].

2. That I will comply with all conditions of   13   [parole or probation] as fixed by both the State of   14   and the State of   15  

3. That I will, when duly instructed by the   16  , return at any time to the State of   17  

4. That I do hereby waive extradition to the State of   18   [sending state] from any jurisdiction in or outside the United States where I may be found and also agree that I will not contest any effort by any jurisdiction to return me to the State of   19  

5. Failure to comply with the above will be deemed a violation of the terms and conditions of   20   [parole or probation] for which I may be returned to the State of   21  

Dated   22  , 19  23  

[Signature]

Witnesses:

On   24  , 19  25  , permission was granted to the above person to reside in the State of   26   and to be supervised by   27  

[Authorizing signatures]

§ 1300.3. Out-of-state Confinement Amendment to Interstate Compact on Juveniles: Provisions

The Out-of-state Confinement Amendment to the Interstate Compact on Juveniles is hereby enacted into law and entered into by this state with all other states legally joining therein in the law substantially as follows:

(a) Whenever the duly constituted judicial or administrative authorities in a sending state shall determine that confinement of a probationer or reconfinement of a parolee is necessary or desirable, said officials may direct that the confinement or reconfinement be in an appropriate institution for delinquent juveniles within the territory of the receiving state, such receiving state to act in that regard solely as agent for the sending state.

(b) Escapees and absconders who would otherwise be returned pursuant to Article V of the compact may be confined or reconfined in the receiving state pursuant to this amendment. In any such case the information and allegations required to be made and furnished in a requisition pursuant to such article shall be made and furnished in a requisition pursuant to such article shall be made and furnished, but in place of the demand pursuant to Article V, the sending state shall request confinement or reconfinement in the receiving state. Whenever applicable, detention orders as provided in Article V may be em-

ployed pursuant to this paragraph preliminary to disposition of the escapee or absconder.

(c) The confinement or reconfinement of a parolee, probationer, escapee, or absconder pursuant to this amendment shall require the concurrence of the appropriate judicial or administrative authorities of the receiving state.

(d) As used in this amendment: (1) "sending state" means sending state as that term is used in Article VII of the compact or the state from which a delinquent juvenile has escaped or absconded within the meaning of Article V of the compact; (2) "receiving state" means any state, other than the sending state, in which a parolee, probationer, escapee, or absconder may be found, provided that said state is a party to this amendment.

(e) Every state which adopts this amendment shall designate at least one of its institutions for delinquent juveniles as a "compact institution" and shall confine persons therein as provided in paragraph (a) hereof unless the sending and receiving state in question shall make specific contractual arrangements to the contrary. All states party to this amendment shall have access to "compact institutions" at all reasonable hours for the purpose of inspecting the facilities thereof and for the purpose of visiting such of said state's delinquents as may be confined in the institution.

(f) Persons confined in "compact institutions" pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed from said "compact institution" for transfer to an appropriate institution within the sending state, for return to probation or parole, for discharge, or for any purpose permitted by the laws of the sending state.

(g) All persons who may be confined in a "compact institution" pursuant to the provisions of this amendment shall be treated in a reasonable and humane manner. The fact of confinement or reconfinement in a receiving state shall not deprive any person so confined or reconfined of any rights which said person would have had if confined or reconfined in an appropriate institution of the sending state; nor shall any agreement to submit to confinement or reconfinement pursuant to the terms of this amendment be construed as a waiver of any right which the delinquent would have had if he had been confined or reconfined in any appropriate institution of the sending state except that the hearing or hearings, if any, to which a parolee, probationer, escapee, or absconder may be entitled (prior to confinement or reconfinement) by laws of the sending state may be had before the appropriate judicial or administrative officers of the receiving state. In this event, said judicial and administrative officers shall act as agents of the sending state after consultation with appropriate officers of the sending state.

(h) Any receiving amendment shall expenses by the specifically other amendment may different allocation

(i) This amendme two or more statu those states which Rules and regulat ment may be pro which have enact

Added Stats 1965 ch 13

Cross References:  
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Collateral References:  
27 Cal Jur 3d Deli  
72 Am Jur 2d Sta

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Added Stats 1965 ch 13

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72 Am Jur 2d Sta

§ 1301. Compact and regulations:

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Added Stats 1955 ch 13

Cross References:  
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Rules and regula:  
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(h) Any receiving state incurring costs or other expenses under this amendment shall be reimbursed in the amount of such costs or other expenses by the sending state unless the states concerned shall specifically otherwise agree. Any two or more states party to this amendment may enter into supplementary agreements determining a different allocation of costs as among themselves.

(i) This amendment shall take initial effect when entered into by any two or more states party to the compact and shall be effective as to those states which have specifically enacted this amendment.

Rules and regulations necessary to effectuate the terms of this amendment may be promulgated by the appropriate officers of those states which have enacted this amendment.

Added Stats 1965 ch 1323 § 1, operative January 1, 1966.

**Cross References:**

Rules and regulations under the Administrative Procedure Act: Gov C §§ 11371 et seq.

**Collateral References:**

27 Cal Jur 3d Delinquent and Dependent Children § 137.  
72 Am Jur 2d States, Territories, and Dependencies § 5.

**§ 1300.5. Confinement of delinquent juvenile in compact institution in another party state**

In addition to any institution in which the authorities of this state may otherwise confine or order the confinement of a delinquent juvenile, such authorities may, pursuant to the Out-of-state Confinement Amendment to the Interstate Compact on Juveniles, confine or order the confinement of a delinquent juvenile in a compact institution within another party state.

Added Stats 1965 ch 1323 § 2, operative January 1, 1966.

**Collateral References:**

72 Am Jur 2d States, Territories, and Dependencies § 5.

**§ 1301. Compact administrator: Designation: Promulgation of rules and regulations: Tenure**

Pursuant to the compact, the Governor may designate an officer who shall be the compact administrator and who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator shall serve at the pleasure of the Governor.

Added Stats 1955 ch 1363 § 1.

**Cross References:**

Appointment of public officers: Gov C §§ 1300 et seq.

Rules and regulations under the Administrative Procedure Act: Gov C §§ 11371 et seq.

**Collateral References:**

27 Cal Jur 3d Delinquent and Dependent Children § 128; Cal Jur 2d State of California §§ 19, 31.  
 Am Jur 2d Public Officers and Employees §§ 89-94, States, Territories, and Dependencies § 5.  
 20 Am Jur Pl & Pr Forms (Rev ed), Public Officers and Employees, Forms 11 et seq.

**Annotations:**

Power to reconsider confirmation of appointment to office. 2 ALR 1657; 89 ALR 132.  
 Conclusiveness of governor's decision in removing officers. 52 ALR 7; 92 ALR 998.  
 Power to remove public officer without notice and hearing. 99 ALR 336.  
 Beginning or expiration of term of elective officer where no time is fixed by law. 135 ALR 1173.  
 Power to appoint public officers for term commencing at or after expiration of term of appointing officer or body. 75 ALR2d 1277.

**§ 1302. Cooperation with departments, etc., of State and facilitating administration of compact or supplementary agreements**

The compact administrator shall cooperate with all departments, agencies and officers of this State and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement or agreements entered into by this State thereunder.

Added Stats 1955 ch 1363 § 1.

**Collateral References:**

27 Cal Jur 3d Delinquent and Dependent Children § 128; Cal Jur 2d State of California §§ 19, 31.  
 72 Am Jur 2d States, Territories, and Dependencies § 5.

**§ 1303. Power to enter into supplementary agreements: Approval of certain agreements**

The compact administrator may enter into supplementary agreements with appropriate officials of other states pursuant to the compact. In the event that such supplementary agreement shall require or contemplate the use of any institution or facility of this State or require or contemplate the provision of any service by this State, it shall have no force or effect until approved by the head of the department or agency under whose jurisdiction the institution or facility is operated or whose department or agency will be charged with the rendering of such service.

Added Stats 1955 ch 1363 § 1.

**Collateral References:**

Cal Jur 2d State of California §§ 19, 31.  
 72 Am Jur 2d States, Territories, and Dependencies § 5.

**§ 1304. Payment of financial obligations**

The compact administrator, subject to the approval of the Depart-

ment of Finance, and discharge any financial compact or by any  
 Added Stats 1955 ch 1363

**Cross References:**  
 Powers and duties of

**Collateral References:**  
 Cal Jur 2d State of  
 72 Am Jur 2d State

**§ 1305. Fee on appointment**  
 Any judge who appoints a  
 the provisions of this section  
 be paid out of funds available  
 Added Stats 1955 ch 1363

**Cross References:**  
 Appointment of judges

**Collateral References:**  
 Am Jur 2d Juvenile  
 States, Territories

**§ 1306. Enforcement of purposes and provisions**  
 The courts, departments, and subdivisions shall enforce the provisions appropriate to the effect of the compact within their respective jurisdictions.  
 Added Stats 1955 ch 1363

**Collateral Reference:**  
 27 Cal Jur 3d Delinquent and Dependent Children  
 Am Jur 2d Juvenile  
 seq., States, Territories

**§ 1307. "Delinquent"**  
 The term "delinquent" shall include juveniles shall include juveniles who are in the custody of a juvenile court within the State.  
 Added Stats 1955 ch 1363

**Amendments:**  
 1963 Amendment

**Collateral Reference:**  
 27 Cal Jur 3d Delinquent and Dependent Children  
 47 Am Jur 2d Juvenile

ment of Finance, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this State by the compact or by any supplementary agreement entered into thereunder.

Added Stats 1955 ch 1363 § 1.

**Cross References:**

Powers and duties of Department of Finance: Gov C §§ 13070 et seq.

**Collateral References:**

Cal Jur 2d State of California §§ 77 et seq.

72 Am Jur 2d States, Territories, and Dependencies § 5.

**§ 1305. Fee on appointment of counsel or guardian ad litem: Payment**

Any judge who appoints counsel or a guardian ad litem pursuant to the provisions of the compact may fix a fee in a reasonable amount, to be paid out of funds available for disposition by the court.

Added Stats 1955 ch 1363 § 1.

**Cross References:**

Appointment of guardian ad litem: CCP § 373.

**Collateral References:**

Am Jur 2d Juvenile Courts and Delinquent and Dependent Children §§ 2, 3, 5,  
States, Territories, and Dependencies § 5.

**§ 1306. Enforcement: Performance of things appropriate to effectuation of purposes and intent of compact**

The courts, departments, agencies, and officers of this State and its subdivisions shall enforce this compact and shall do all things appropriate to the effectuation of its purposes and intent which may be within their respective jurisdictions.

Added Stats 1955 ch 1363 § 1.

**Collateral References:**

27 Cal Jur 3d Delinquent and Dependent Children § 125.

Am Jur 2d Juvenile Courts and Delinquent and Dependent Children §§ 10, 16 et seq., States, Territories, and Dependencies § 5.

**§ 1307. "Delinquent juvenile": Persons included in term**

The term "delinquent juvenile" as used in the Interstate Compact on Juveniles shall include those persons subject to the jurisdiction of the juvenile court within the meaning of 602 of this code.

Added Stats 1955 ch 1363 § 1; Amended Stats 1963 ch 866 § 2.

**Amendments:**

1963 Amendment: Substituted "602" for "700".

**Collateral References:**

27 Cal Jur 3d Delinquent and Dependent Children §§ 123, 129.

47 Am Jur 2d Juvenile Courts and Delinquent and Dependent Children §§ 22, 38.

§ 1308

MINORS

§ 1308. Effect on conflicting laws

All provisions of law in conflict with this chapter shall be inoperative so long as the compact or agreement executed under the provisions of this chapter is operative.

Added Stats 1955 ch 1363 § 1.

Collateral References:

Cal Jur 2d Statutes § 24.

72 Am Jur 2d States, Territories, and Dependencies § 5.

§ 1450. [Added by Stats 1959 ch 2171 § 1 and repealed by Stats 1967 ch 90 § 4.]

Note—The repealed section authorized the board to contract for optometric services. See Gov C § 25208.3.

PART 2

MINORS CROSSING THE MEXICAN BORDER

[Added by Stats 1973 ch 336 § 31.]

Former Part 2, entitled "Orphans and Needy Children," consisting of Chapter 1 (§§ 1500-1580), was added by Stats 1937 ch 389 and repealed by Stats 1965 ch 1784 § 3. Chapter 2 (§§ 1585-1600) was enacted 1937 and repealed by Stats 1939 ch 154 § 50003, effective February 1, 1941, Stats 1943 ch 701 § 1. Original Chapter 1 (§§ 1500-1575) was added by Stats 1937 ch 374 and repealed by Stats 1937 ch 389, effective September 1, 1937.

§ 1500. Minors crossing Mexican border: Prevention of unauthorized entrants

A peace officer of any city or county shall prevent the entry from California into the Republic of Mexico at the border by any resident of this state under the age of 18 years who is unaccompanied by a parent or guardian or who does not have written consent for such entry from a parent or guardian or who does not have a passport. The authority of the peace officer under this part shall be only to prevent entry and not otherwise to detain. Nothing in this part shall be construed to limit the authority of a peace officer under any other law of this state.

Added Stats 1973 ch 336 § 31.

Prior Law: Former H & S C § 25995, as added by Stats 1969 ch 1361 § 1 as § 25970, renumbered stats 1970 ch 436 § 9.

Cross References:  
Peace officers gen

INSTITU

[Former Chapters  
repealed by Stats 196  
by Stats 1965 ch 12

§§ 1620-1649. [

Note—The repe  
of Division 9  
repealed by St  
repealed by St  
1641, 1643, 16

PRC

[Part 4, consistin

§§ 1650-1653. [

Stats 1965 ch 1

See §§ 18250-18253

**Cross References:**

Peace officers generally: Pen C §§ 830 et seq.

**PART 3**

**INSTITUTIONS FOR CHILD CARE, AND HOME-FINDING AGENCIES**

[Former Chapters 1 and 2 of Part 3, consisting of §§ 1620-1644, were enacted 1937 and repealed by Stats 1965 ch 1784 § 3 p 3978. Chapter 3, consisting of §§ 1645-1649, was added by Stats 1965 ch 1248 § 1 p 3115 and repealed by Stats 1st Ex Sess 1966 ch 11 § 5 p 271, effective April 11, 1966.]

**§§ 1620-1649. [Repealed]**

*Note*—The repealed sections were formerly covered by Chapters 1 and 2 of Part 4 of Division 9, and comprised §§ 16000-16106. Most of these sections were repealed by Stats 1968 ch 879 and Stats 1972 ch 1148. Sections 1645-1649 were repealed by Stats 1st Ex Sess 1966 ch 11. The subject matter of sections 1640, 1641, 1643, 1644, is generally covered by sections 16100, 16101, 16105, 16106.

**PART 4**

**PROTECTIVE SERVICES FOR CHILDREN**

[Part 4, consisting of §§ 1650-1653, was added by Stats 1957 ch 1573 § 1 p 2927 and repealed by Stats 1965 ch 1784 § 3 p 3978.]

**§§ 1650-1653. [Added by Stats 1957 ch 1573 § 1 and repealed by Stats 1965 ch 1784 § 3.]**

See §§ 18250-18253.



(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

A. B. 488

ASSEMBLY BILL NO. 488—ASSEMBLYMEN JEFFREY, FOLEY,  
PRENGAMAN, HAYES, STEWART AND SADER

APRIL 10, 1981

Referred to Committee on Judiciary

SUMMARY—Increases penalty for abduction of child. (BDR 16-1569)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to crimes and punishment; increasing the penalty for abduction of a child by a person having limited custody or a parent having no custody of the child; prohibiting interference with rights of visitation; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

- 1 SECTION 1. NRS 200.359 is hereby amended to read as follows:
- 2 200.359 [Every] 1. Except as provided in subsection 3, every
- 3 person having a limited right of custody to a child pursuant to an order,
- 4 judgment or decree of any court, *including a judgment or decree which*
- 5 *grants another person rights to custody or visitation of the child,* or any
- 6 parent having no right of custody to the child, who in violation of an
- 7 order, judgment or decree of any court *willfully* detains, conceals or
- 8 removes [such] the child from a parent, guardian or other person hav-
- 9 ing lawful custody [is guilty of a misdemeanor.] or a right of visitation
- 10 of the child shall be punished by imprisonment in the state prison for not
- 11 less than 1 year nor more than 6 years, or by a fine of not less than
- 12 \$1,000 nor more than \$5,000, or by both fine and imprisonment.
- 13 2. Upon conviction, the court shall order the defendant to provide
- 14 restitution for any expenses incurred by the parent, guardian or other per-
- 15 son in locating or recovering the child.
- 16 3. The prosecuting attorney may recommend to the judge that the
- 17 defendant be sentenced as for a misdemeanor and the judge may impose
- 18 such a sentence if he finds that:
- 19 (a) The defendant has no prior conviction for this offense.
- 20 (b) The interests of justice require that the defendant be punished as
- 21 for a misdemeanor.

Mr. Chairman  
Members of the Judiciary Committee

My name is Jess H. Bachman. I am a resident of Nevada and have lived in Boulder City and Henderson for 25 years. I am a business man, Realtor, General Contractor and have a Notary appointment. I am Secretary of the Henderson Industrial Trades Council, a division of the Henderson Chamber of Commerce and associated with the Nevada Development Authority. I also serve on other Civic Committees. I am a grandfather eleven times so have some claim to being an authority on the subject of children.

I become interested in child kidnapping when the problem touched our immediate family. We subsequently became members of "Children's Rights, Inc." a Washington based non-profit organization that gathered thousands of signatures over several years supporting enactment of legislation which became the "Federal Kidnapping Prevention Act of 1980". This support was the main reason the bill finally succeeded. The law is not retroactive, but I became highly concerned because of awareness of the scope of this crime in United States against children and the impotence of the courts in many states, including Nevada, to do anything about it.

Much of the information that you have received over the past few weeks is from Children's Rights, Inc. releases. I insert here a study done by them describing this problem. READ: "What is child snatching"/

I am here as a committee member of the "Citizen's League on Child Custody and Kidnapping, a New York based organization with member groups in many states including Nevada.

Mr. Andrew Yankwitt, New York Attorney, is Counsel for the League and at whose guidance and direction we have been able to get the general statute wording that has become A B 488 and is before you today for final consideration and action. All but about 12 states have a felony statute on child abduction, A B 488 follows generally the California statute. You have a break-down by states in your packet.

Mr. Yankwitt has been a leading proponent of stronger laws governing this crime against children, parents, and District Courts in United States. He was called to testify before the Congressional Committee on the Wallop Amendment which subsequently was enacted and signed into law December 28, 1980. It was incorporated in Public Law 96-611 12/28/80, U. S. C. 1305 and became known as the "Parental Kidnapping Prevention Act of 1980. You each have the full text of this law and other documents which I mention in this presentation in the packet delivered to you recently.

The Citizen's League and Mr. Yankwitt firmly oppose snatching and re-snatching of children and therefore actively work to make laws that are uniform in all states so these matters can be handled with due process of law in all cases. Mr. Yankwitt has worked with both the Washoe and Clark County D. A. Offices on child kidnapping *2/26/80*.

The same information package that you received was delivered to the District Attorneys of Washoe and Clark Counties and also to all District Judges. It has been only a short time but perhaps you have received some in-put. The part of the wording in the bill providing for recovery of expenses by the State when and if an extradition proceeding occurs, was suggested by D. A. Bob Miller's staff. Other counties are receiving the packages also.

Senator Cannon, Senator Laxalt and Congressman Santini supported the Federal Law. Your committee may have heard from them. If not, you will be contacted. They favor this State Legislation. The letter that you have a copy of from Senator Cannon, dated Feb. 3, 1981 was the first authoritative explanation of the Federal Law that we received. It is as follows: READ

We have been delayed in presenting a bill to this Legislature because after De. 28 it took 45 days or more to get information as to what the effect of the Federal Law was and another 3 weeks to get out of the Bill Committee. The bill passed the assembly with 39 do pass votes.

It has received the support of every organization and persons who have become aware of it. You have letters from some of them. Nationally there has been dozens of articles, newspapers, Ladies Home Journal, U. S. News, Reader's Digest and union papers to name a few. You have copies of some of these releases in your packets. I know you received an endorsement from the Clark County Legal Services Division and the Teacher's and Counselor's groups.

You have enacted into law S B 188 making child custody more equitable to both parents and certainly in the interest of the child. I call to your attention the fact that if one parent decides to snatch the child for whatever motive once the State line is crossed custody rulings are meaningless under the present misdemeanor statute in Nevada. The child is set-up for the trauma of a re-snatch if ever located since no legal jurisdiction will act on a misdemeanor charge of another State. There is no cooperation.

A B 488 aligns the State Statute with the Federal Law. It is also in agreement with the supports of existing Nevada statutes.

We believe that enactment of A B 488 will greatly reduce child kidnapping by parents in Nevada. We are in favor of revitalized child custody agreements wherein children cannot be denied access to either parent or other family groups, grandparents, brothers and sisters, etc.

Finally and very important A B 488 is not intended to unduly punish the offending parent and provides for the reduction of the charge to a misdemeanor when the child is returned to the jurisdiction of the Court. This may be up on recommendation by the District Attorney or, of course, at the discretion of the Judge.

A B 488 should also be supported because it makes child custody rulings in Nevada enforceable and gives credibility to the Courts. We urge that this committee give the bill a "do pass" recommendation and your personal support to get it before the Senate for final vote as rapidly as possible.

Thank you.

*Jess H. Bachman*

Citizen's League on Child Custody and Kidnapping  
 Jess H. Bachman. Committee Member  
 480 Federal Street  
 Henderson, Nv. 89015  
 (702) 564-5672

2 14  
**WHAT IS CHILD-SNATCHING?**

Basically, child-snatching is the abduction and concealment of a minor child by one of his or her parents.

Essentially, this means that — for as long as the abductor can stay hidden — the victim parent is denied access of any kind with the child. **BUT MOST IMPORTANTLY**, the child is deprived of the parent left behind.

**CHILD-SNATCHING AFFECTS WHOM?**

In 1975, CRI estimated that 100,000 children were annually abducted. That figure, based on 1974 missing persons reports on minors versus the runaway statistics for that same year, is now ~~five~~ years old.

According to what we are seeing in the ~~many~~ letters received by CRI daily, we feel certain that the 100,000 figure is very low indeed.

**EVERY CHILD HAS THE RIGHT TO KNOW AND LOVE BOTH PARENTS!!**

Child-snatching usually affects children 2 - 7 years of age. Also, this child could be:

- of any race (black, white, oriental or hispanic)
- healthy or handicapped; bright or learning disabled
- staying with a babysitter, or going to or from school *when snatched*
- convinced that his other parent has abandoned him, or has died.

**WHAT ARE THE EFFECTS OF CHILD-SNATCHING?**

Because most abductors stay on the move lest they be found, these children have little sense of community ties.

The child is cautious about making friends, because these playmates may all eventually be left behind.

Frequently, the child's name is changed, causing a personal identity crisis.

The child often feels that he has done something wrong which is causing the abductor to keep on the move and act secretly.

Being told the other parent died or doesn't want to see him, the child feels abandoned.

**WHAT IS BEING DONE?**

Professor Henry Foster of New York University Law School has said "It is a most remarkable social pheno-

menon that child-snatching is condoned and in effect encouraged by our sins of omission and commission. The perspective is out of focus. Instead of viewing the problem from the standpoint of the child's welfare and the harm done . . . there is empathy for the abductor, who is viewed as a cousin of Robin Hood. In the vast majority of cases such sentimentality is misplaced and most abductors are serving their own selfish interests, not those of the child, no matter how they may rationalise their misconduct." *Too many cases are reversed motivated, the child would be released, mail, Children's Rights, Inc., a nation-wide, non-profit organization, has dealt with the child snatching issue for five years, on three fronts: AX*

- through public information and clearinghouse activities
- through personal counselling of parents, attorneys and others with a direct involvement in the child-snatching issue, and
- through technical assistance on state, federal and international levels, working with legislatures and others trying to find solutions to these very tragic situations

# United States Senate

WASHINGTON, D.C. 20510

February 3, 1981

Mrs. Susan Saleh  
424 Republic  
Henderson, Nevada 89015

Dear Mrs. Saleh:

Thank you for contacting me to express your strong personal interest in the passage of the Parental Kidnapping Prevention Act of 1980. You will be pleased to know that this measure was signed into law by the President on December 28, 1980. It is contained in Public Law 96-611.

This new law has three major parts. First, it requires state courts to enforce and refrain from modifying custody and visitation decrees made by sister states, consistent with the jurisdictional principles set forth in the law derived from the Uniform Child Custody Jurisdiction Act.

Second, it authorizes the use of the Federal Parent Locator Service to locate children who have been abducted.

Third, it revitalizes the federal Fugitive Felon Act in state felony parental kidnapping cases, making it possible for the F.B.I. to investigate cases which state authorities intend to prosecute. ~~The law takes effect next July 1. A copy of the measure is enclosed for your easy reference.~~

*Note - The action can only be requested by states having a felony statute and making the request.*  
If you had been unaware of the final congressional passage of this important new law, you may wish to share this information with your attorney or local child welfare officials to determine its applicability to your particular case.

I hope that this information will be of use to you.

With best wishes, I am

Sincerely,

*Howard W. Cannon*  
HOWARD W. CANNON

HWC:be:ja  
enclosure

## Exhibit G

**THIS EXHIBIT IS MISSING FROM BOTH THE ORIGINAL  
MINUTES AND THE MICROFICHE.**