

R E P O R T
OF THE
LEGISLATIVE ADVISORY COMMITTEE

ON THE STUDY OF

C H I L D R E N ' S L A W S I N I O W A

Submitted To: Members of the 59th General Assembly

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By: The Children's Code Advisory Committee

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Senator Howard C. Buck	Senator Carroll Price
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INTRODUCTION

In April, 1959, the Senate Committee on Social Security requested a study directed toward the modernization of the Iowa "Children's Code" be conducted by the Legislative Research Bureau. The Research Bureau was specifically requested to direct the study in the following manner.

1. Compile Iowa's children's laws and determine which laws are conflicting, obsolete or undesirable.
2. Compare the children's laws of Iowa with those of other states.
3. Study those children's needs which can be controlled or improved by legislative enactment.
4. Study the operations and functions of statute-created child care agencies.
5. Determine what changes or additions may be needed in the present law to provide proper care and protection for children.
6. Make a full and complete report to the members of the General Assembly.

Taking into consideration the significance of the study and the work involved in the request, the Legislative Research Committee established a Legislative Advisory Committee to work in conjunction with the Research Bureau. Members of the Advisory Committee were appointed in accordance with Section 2.52, Code of Iowa, as amended by Chapter 63, Laws of the Fifty-eighth General Assembly.

In an effort to determine the scope of the study, public and private associations and agencies interested in child welfare were contacted through the distribution of a questionnaire. Information concerning problems involved in administering Iowa's children's laws and possible solutions to the problems was requested.

Replies were received from more than fifty of the organizations and agencies questioned. In compiling and analyzing the replies, it was found that the major problem areas fell into approximately nine categories. These areas were: juvenile courts and court procedures (juvenile judges, probation officers, detention); handicapped children (mentally disturbed, blind and deaf); adoption; foster care; guardianship; child labor laws; general administration and financial responsibility for child care; medical care; and neglected, dependent and delinquent children. It was agreed that consideration should be given to all the problems brought to the attention of those

conducting the study. The juvenile court system, child labor laws, adoption laws, and administrative and financial responsibility were designated for immediate study, with priority in the order listed. Dependent, neglected and delinquent children's laws were to be evaluated with juvenile court laws.

The four areas designated for immediate consideration have been studied during the past eighteen months. During this time, it has been our purpose to try and acquaint ourselves with the present statutes and the administration of these statutes. Time has not permitted us to conduct as thorough a study as we would like. One conclusion which has come as an outgrowth of the study is that even though the areas designated for evaluation are interrelated, each area which has been studied could have been a major research project in itself. Taking this factor into consideration along with the realization that a significant amount of work remains in the study of children's laws, we respectfully submit the following recommendations to the Fifty-ninth Iowa General Assembly.

RECOMMENDATIONS

Juvenile Court Laws

As a means of becoming acquainted with the juvenile court laws, assistance was requested from representatives of state agencies and private associations that provide services for children with problems. A public hearing was held at which time these representatives explained problems encountered in administering juvenile court laws. Considerable dissatisfaction was expressed concerning these laws. Even though there was general agreement that some statutes should be changed, judges, administrators and law enforcement officers disagreed on the specific laws that should be altered and the type of amendments that should be adopted. Consequently, at a later meeting of the Advisory Committee, the Research Bureau was asked "to contact and attempt to get together all organizations and agencies interested in the fields of juvenile courts and court procedures and dependent, neglected and delinquent children with the thought in mind that representatives from these groups will decide what statute changes, if any, are needed for Iowa and report such changes to the Children's Code Advisory Committee through the Legislative Research Bureau."

In compliance with this request, the Research Bureau has asked interested individuals, both lay and professional, to form a citizens' committee whose objective is to evaluate the present juvenile court laws. Even though the Citizens' Committee has only been in effect for a period of a little over three months, several recommended changes and additions to the juvenile court laws have been submitted to the Advisory

Committee. After careful consideration, the following recommendations are being submitted to the appropriate committees of the Fifty-ninth General Assembly.

Detention

In the area of detention, it is recommended that Sections 232.35 and 232.36, Code of Iowa, be amended in accordance with the attached proposal. (See Appendix I.)

Section 232.35, Code of Iowa, presently reads as follows.

"232.35 Detention Home and Schools in Certain Counties. In counties having a population of more than forty thousand, the board of supervisors shall, and in counties of over thirty thousand, said board may provide and maintain, separate, apart, and outside the enclosure of any jail or police station, a suitable detention home and school for dependent, neglected, and delinquent children."

According to the 1960 census, fifteen (15) counties in Iowa have a population over 40,000 and three (3) counties have a population between 30,000 and 40,000. Currently, there are three detention homes and one shelter-care home operating in the State. It is quite evident that the counties are not complying with Section 232.35.

Our attention has been directed to the need throughout the State for establishments where delinquent, dependent or neglected children may be detained for short periods while final court determination is being made. As a means of assisting children who are in need and of enabling counties to comply with the law which makes it mandatory that detention facilities be provided in certain instances, Appendix I is being submitted. This proposal will enable counties to do the following.

1. Jointly establish and maintain detention homes, shelter homes, schools or rehabilitation centers for dependent, neglected and delinquent children.
2. Permit all counties to establish and maintain a detention home if the boards of supervisors so designate. (Under the present law, only counties over 30,000 population are authorized to establish detention homes even though rural areas often have as great a need for detention facilities as urban centers.)

Section 232.36, Code of Iowa, presently reads as follows.

"232.36 Tax. The board of supervisors may annually levy a tax of not to exceed one-fourth mill for the purpose of maintaining such home, and paying the salaries and expenses of all appointees authorized by this chapter, providing however that the board of supervisors in counties having a population of more than one hundred fifty thousand may annually levy a tax of not to exceed one-half mill for the above purposes."

Taking into consideration the fact that financial needs for maintaining detention facilities may be as great in the smaller populated counties as in the larger populated counties, it is recommended that Chapter 232.36 be amended as suggested in Appendix I. This proposal will enable counties to do the following:

1. The board of supervisors may annually levy a tax of not to exceed 1 mill for the purpose of providing and maintaining detention homes. (The proposal does not alter the authority of the board of supervisors to determine the amount of the tax levy.)
2. The statute is more uniform in that it gives all counties the same tax levying authority.

Interstate Compact on Juveniles

Members of the Fifty-ninth Iowa General Assembly are asked to consider adopting enabling legislation which will permit the state of Iowa to join with 28 other states in the Nation in the Interstate Compact on Juveniles. A suggested enabling proposal is being attached for members' consideration. (See Appendix II.) The text of the Interstate Compact on Juveniles is also being included. (See Appendix III.)

The juvenile compact is comparable to the Interstate Compact for the Supervision of Adult Parolees and Probationers. Iowa became a member of the latter Compact in approximately 1937. The proposed compact provides a legal basis for the following:

1. Cooperative state supervision of delinquent juveniles on probation or parole. (When a juvenile on probation moves out of a state, the sending state may ask the receiving state to supervise the youth.)
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.
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 considering the recommendation that Iowa enter into the Interstate Compact on Juveniles, members of the Legislative Advisory Committee have come to the following conclusions.

1. The Compact centralizes the administration of the return and supervision of delinquent and nondelinquent juveniles. This will enable the adoption of uniform policies within the State and between states.
2. Under the articles of the Compact, the governor of the state is authorized to appoint a compact administrator. It should not be necessary to establish a separate agency or to hire an individual specifically for the administrative position. The duties of the juvenile compact administrator could probably be assigned to an administrator in an existing state agency. This was the procedure that was followed in the implementation of the Adult Compact which is administered under the Board of Parole.
3. Members of the Committee envision that the adoption of the Interstate Compact on Juveniles will not necessitate the appropriation of additional funds. The financial responsibilities for children in this category will continue as they are at the present time. As was stated, the duties of the administrator may be assigned to an existing state agency. The cost of the return and supervision of the juvenile will be assumed by the parent or guardian when possible or by the agency or jurisdiction who has custody or is responsible for the child. It has not been necessary to appropriate specific funds for the administration of the Adult Compact; it is assumed that the juvenile compact will not need additional funds on which to operate.

Child Labor

Iowa Child Labor Laws were second on the list of topics to be considered. In addition to studying available printed information, Mr. Don Lowe, Commissioner of Labor, met with members of the Committee and explained Iowa child labor laws and the administration of the laws. Committee members feel the child labor laws may be in need of revision; however, it is felt that the study of this subject has not advanced to the point where specific recommendations can be made at this time.

It is recommended that members of the Fifty-ninth General Assembly give careful consideration to any child labor proposal that may be submitted during the session. It is further recommended that serious study be given to child labor laws during the next interim.

Adoption

Shortly after the evaluation of Iowa adoption laws was begun, the work of an interprofessional adoption study committee was brought to the Committee members' attention. The interprofessional committee is composed of representatives from the Child Care Division of the Iowa Welfare Association, the Iowa State Medical Society, and the Iowa State Bar Association. This committee was formed in December, 1958, in an effort to analyze the present problems in the adoption field and determine the causes and possible means of solution to the problems. It has been the goal of members of the Advisory Committee to work closely with the Interprofessional Committee since the three main professions concerned with adoptions are represented on the latter. We have recently been informed by members of the interprofessional committee that agreement has been reached on two changes in the Iowa adoption statutes. It is anticipated that proposals incorporating these changes will be submitted to the Fifty-ninth Iowa General Assembly. Therefore, it is recommended that legislators give careful consideration to the two below listed amendments and other legislation concerning adoption practices that may be brought to their attention during this session of the General Assembly.

The Interprofessional Adoption Study Committee is recommending that the two following amendments be made to Chapter 600, Code of Iowa.

1. Amend Section 600.2, Code of Iowa. This amendment will enable the court to use its discretion in permitting the formal adoptive investigation to be made by the agency placing the child for adoption.

Explanation: "The present statutes in Chapter 600 of the Code of Iowa are subject to the interpretation that where a licensed child-placing agency has placed a child in a perspective adoptive home, that thereafter when the petition for adoption is filed the court must appoint some party other than that agency to make the formal adoptive investigation. The Committee (Interprofessional) believes that such procedure is an unnecessary duplication of work and an unnecessary burden in an area where there are too few skilled and qualified investigators and, therefore, recommends sufficient statutory change to make it clear that the court in any given instance may appoint as the investigator to make the formal investigation under Chapter 600 that licensed child-placing agency which placed the particular child in the adoptive home."¹

¹Report of the Interprofessional Adoption Study Committee, p.3.

2. Amend Section 600.4, Code of Iowa, 1958. This amendment will provide for court proceedings in which the validity of the release of a child to an agency or a consent for adoption may be determined prior to the filing of the petition for adoption.

Explanation: "The primary problem area in the field of adoption appears to revolve around the adoption of small children, including newborn babies, by non-relatives. Hence, this point and several following it relate particularly to this area because the members of the Committee (Interprofessional) thought that in this area the greatest improvement can be made most rapidly. In such adoptions two distinct things occur which under present law and practice, are unfortunately and, in the opinion of this Committee (Interprofessional), improperly intermingled. The first step, or phase, is the release of the child for the natural parent or parents. The second step, or phase, is the adoption of that child by the new adoptive parents. It would seem to be clear that these two phases should be separate insofar as possible, both as a matter of practice and as a matter of law. The release by the natural parent to a child-placing agency, or the consent by that natural parent directly to the adoptive parents in a private adoption, should be separate insofar as possible from the adoption process itself. . . .

"It is recommended that necessary statutes be enacted to make available on an optional basis, both with respect to agency placements and private placements of children, court procedures whereby at the time the natural parent releases the child to an agency or consents to its adoption directly by private persons, the matter could be heard in court and a court decree entered finding that the release or consent, as may be the case was duly executed under proper circumstances and valid for all purposes. Importance of this matter will be recognized if it is kept in mind that in many instances mothers of illegitimate children are themselves in their early teens, and thus, despite the best counseling procedures available may find it difficult not to want to retract at a later date the decision which they made at the time they released the child. Attempts to retract a litigation are in some instances unnecessary and have traumatic consequences so far as persons affected by the litigation are concerned."²

Those evaluating Iowa adoption laws realize that a great deal of work remains to be done in the area of adoption. Therefore, it is recommended that study of this area be continued through the next interim.

²Ibid., pp.2-3.

Administrative and Financial Responsibility

As was the procedure in studying juvenile court laws, an attempt was made to gain some insight in the problems involved in administering and financing child care policies by meeting with representatives of the state and private agencies who are directly involved in these responsibilities.

Since the hearings were not held until November, 1960, there has not been sufficient time to make specific recommendations concerning these responsibilities. However, during the course of the hearings, individuals meeting with Committee members expressed the need for an adequate foster care program in Iowa. Such a program would enable state agencies to place neglected and dependent children in foster homes rather than in crowded state institutions. It was generally felt that Iowa statutes do not specifically designate any one state agency responsible for administering a uniform foster care program. Representatives of at least one state agency have informed Committee members of their intent to submit legislation which will enable the agency to continue supervising a foster care program which was initiated on a pilot basis during the past two years. This proposal should be given careful and thorough consideration should such legislation be introduced at this session of the Legislature. It is further recommended that foster care be designated for further study.

It is realized that a great deal remains to be accomplished in the area of administrative and financial responsibility. It is also felt that a study of this area may be much more involved than was originally anticipated since both local and state administrative practices will have to be evaluated. A study will probably also necessitate consideration of some public assistance programs such as aid to dependent children. We therefore recommend that this area be given detailed consideration during the next interim.

CONTINUATION OF THE STUDY OF IOWA'S CHILDREN'S LAWS

As members of the Legislative Advisory Committee, we do not believe that the study of Iowa's children's laws has been completed. Considerable study and evaluation of the laws and administration of the laws remains. Only four of the designated areas have been given some consideration. Further detailed study is needed in all areas. A vast amount of information has been collected and a great deal of experience has been gained through the study that has been conducted during

the last two years. It is felt that this information and experience should not go to waste by discontinuing the Children's Code Study at this time. We therefore recommend that the Legislative Research Bureau be requested to continue with the study of children's laws through the next interim and that a legislative advisory committee be established to assist the Bureau in the study.

Representative A. L. Mensing, Chairman	
Senator Howard C. Buck	Senator Carroll Price
Senator Jake B. Mincks	Representative Carl Hirsch
Senator X. T. Prentis	Representative Elroy Maule

APPENDIX I

A BILL FOR

An Act to repeal sections two hundred thirty-two point thirty-five (232.35) and two hundred thirty-two point thirty-six (232.36), Code 1958, and to enact in lieu thereof provisions for the establishment of detention homes for dependent, neglected and delinquent children upon a county or joint county basis, and to provide for the control thereof and to provide for the levy of a tax to support the same.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section two hundred thirty-two point thirty-five (232.35), Code 1958, is hereby repealed and the following enacted in lieu thereof:

"In counties having a population of more than forty thousand (40,000), the board of supervisors shall, and in counties of less population, the board of supervisors may provide and maintain, separate, apart and outside the enclosure of any jail or police station, a suitable detention home, shelter home, school or rehabilitation center for dependent, neglected and delinquent children. The board of supervisors in any county may join with any other board or boards of supervisors from one or more counties in providing and maintaining such a home, and the cost of providing and maintaining the home shall be divided between the counties in a manner to be determined by the boards of supervisors of the

counties so participating. The management and control of said home shall be in the board of supervisors or joint boards of supervisors of the participating counties, but the board of supervisors or joint boards of supervisors may designate control and management of said home to such person or persons as they may direct, said person or persons being directly accountable for their actions to the board of supervisors or joint boards of supervisors."

Sec. 2. Section two hundred thirty-two point thirty-six (232.36), Code 1958, is hereby repealed and the following enacted in lieu thereof:

"The board of supervisors may annually levy a tax of not to exceed one (1) mill for the purpose of providing and maintaining such home and paying the salaries and expenses of all appointees authorized by this chapter."

APPENDIX II

A BILL FOR

An Act authorizing and directing the governor to enter into the interstate compact on juveniles and grant the juvenile court of the state jurisdiction to carry out its provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. The governor of the state of Iowa is hereby authorized and directed to enter into the interstate compact on juveniles as approved by the council of state governments on January 21, 1955 with any other state or states legally joining therein.

Sec. 2. The juvenile courts of the state shall have jurisdiction to hold such hearings and to make such orders and requisitions as are necessary and appropriate to carry out the provisions of said compact.

APPENDIX III

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, 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 non-criminal, reformatory 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 for 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 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 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 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 of 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 officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

ARTICLE VII -- Cooperative Supervision of Probationers
and Parolees

(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state") may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where

the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent 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 Articles 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 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.