

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

House Bill 4951

By Delegates W. Clark, E. Pritt, Kump, Ferrell,

Foggin, and Willis

[Originating in the Committee on Education; Reported

on February 7, 2024]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article
2 designated §18-10R-1, relating to the Interstate Compact for School Psychologists; stating
3 purpose; definitions; providing for state participation in compact; providing for discipline;
4 establishment of school psychologist interstate licensure compact commission; facilitating
5 information exchange; and providing an effective date, withdrawal, and amendments.

Be it enacted by the Legislature of West Virginia:

ARTICLE 10R. INTERSTATE COMPACT FOR SCHOOL PSYCHOLOGISTS.

§18-10R-1. Interstate Compact for School Psychologists.

1 **SECTION 1. PURPOSE**

2 The purpose of this Compact is to facilitate the interstate practice of School Psychology in
3 educational or school settings, and in so doing to improve the availability of School Psychological
4 Services to the public. This Compact is intended to establish a pathway to allow School
5 Psychologists to obtain equivalent licenses to provide School Psychological Services in any
6 Member State. In this way, this Compact shall enable the Member States to ensure that safe and
7 effective School Psychological Services are available and delivered by appropriately qualified
8 professionals in their educational settings.

9 To facilitate the objectives described above, this Compact:

10 A. Enables School Psychologists who qualify for receipt of an Equivalent License to
11 practice in other Member States without first satisfying burdensome and duplicative requirements;

12 B. Promotes the mobility of School Psychologists between and among the Member States
13 in order to address workforce shortages and to ensure that safe and reliable School Psychological
14 Services are available in each Member State;

15 C. Enhances the public accessibility of School Psychological Services by increasing the
16 availability of qualified, licensed School Psychologists through the establishment of an efficient
17 and streamlined pathway for Licensees to practice in other Member States;

18 D. Preserves and respects the authority of each Member State to protect the health and
19 safety of its residents by ensuring that only qualified, licensed professionals are authorized to
20 provide School Psychological Services within that State;

21 E. Requires School Psychologists practicing within a Member State to comply with the
22 Scope of Practice laws present in the State where the School Psychological Services are being
23 provided;

24 F. Promotes cooperation between the Member States in regulating the practice of School
25 Psychology within those States; and

26 G. Facilitates the relocation of military members and their spouses who are licensed to
27 provide School Psychological Services.

28 **SECTION 2. DEFINITIONS**

29 A. "Active Military Member" means any person with full-time duty status in the armed forces
30 of the United States, including members of the National Guard and Reserve.

31 B. "Adverse Action" means disciplinary action or encumbrance imposed on a License by a
32 State Licensing Authority.

33 C. "Alternative Program" means a non-disciplinary, prosecutorial diversion, monitoring, or
34 practice remediation process entered into in lieu of an Adverse Action which is applicable to a
35 School Psychologist and approved by the State Licensing Authority of a Member State in which
36 the participating School Psychologist is licensed. This includes, but is not limited to, programs to
37 which Licensees with substance abuse or addiction issues may be referred in lieu of an Adverse
38 Action.

39 D. "Commissioner" means the individual appointed by a Member State to serve as the
40 representative to the Commission for that Member State.

41 E. "Compact" means this School Psychologist Interstate Licensure Compact.

42 F. “Continuing Professional Education” means a requirement, imposed by a Member State
43 as a condition of License renewal to provide evidence of successful participation in professional
44 educational activities relevant to the provision of School Psychological Services.

45 G. “Criminal Background Check” means the submission of fingerprints or other biometric-
46 information for a License applicant for the purpose of obtaining that applicant’s criminal history
47 record information, as defined in 28 C.F.R. § 20.3(d), and the State’s criminal history record
48 repository as 81 defined in 28 C.F.R. § 20.3(f).

49 H. “Doctoral Level Degree” means a graduate degree program that consists of at least 90
50 graduate semester hours in the field of School Psychology including a supervised internship.

51 I. “Encumbered License” means a License that a State Licensing Authority has limited in
52 any way other than through an Alternative Program, including temporary or provisional licenses.

53 J. “Executive Committee” means the Commission’s Chair, Vice Chair, Secretary and
54 Treasurer and any other Commissioners as may be determined by Commission Rule or bylaw.

55 K. “Equivalent License” means a license to practice School Psychology which a Member
56 State has identified as a license which may be provided to School Psychologists from other
57 Member States pursuant to this Compact.

58 L. “Home State” means the Member State that issued the Home State License to the
59 Licensee and is the Licensee’s primary state of practice.

60 M. “Home State License” means the License that is not an Encumbered License issued by
61 the Home State to provide School Psychological Services.

62 N. “School Psychological Services” means academic, mental and behavioral health
63 services including assessment, prevention, consultation and collaboration, intervention, and
64 evaluation provided by a School Psychologist in a school, as outlined in applicable professional
65 standards as determined by Commission Rule.

66 O. "License" means a current license, certification, or other authorization granted by a
67 Member State's Licensing Authority that permits an individual to provide School Psychological
68 Services.

69 P. "Licensee" means an individual who holds a License from a Member State to provide
70 School Psychological Services.

71 Q. "Licensing Authority" means a Member State's regulatory body responsible for issuing
72 Licenses or otherwise overseeing the Practice of School Psychology.

73 R. "Member State" means a State that has enacted the Compact and been admitted to the
74 Commission in accordance with the provisions herein and Commission Rules.

75 S. "Model Compact" means the model language for the School Psychologist Interstate
76 Licensure Compact on file with the Council of State Governments or other entity as designated by
77 the Commission.

78 T. "Practice of School Psychology" means the delivery School Psychological Services.

79 U. "School Psychologist Interstate Licensure Compact Commission" or "Commission"
80 means the joint government agency established by this Compact whose membership consists of
81 representatives from each Member State that has enacted the Compact, and as further described
82 in Section 7.

83 V. "Specialist-Level Degree" means a degree program that requires at least 60 graduate
84 semester hours or equivalent in the field of School Psychology including a supervised internship.

85 W. "Qualifying National Exam" means a national licensing examination endorsed by the
86 National Association of School Psychologists and any other exam as approved by the Rules of the
87 Commission.

88 X. "Qualifying School Psychologist Education Program" means an education program
89 which awards a Specialist-Level or Doctoral-Level degree or equivalent upon completion and is
90 approved by the Rules of the Commission as meeting the necessary minimum educational

91 standards to ensure that its graduates are ready, qualified, and able to engage in the Practice of
92 School Psychology.

93 Y. "Remote State" means a Member State other than the Home State where a Licensee
94 holds a License through the Compact.

95 Z. "Rule" means a regulation promulgated by an entity, including but not limited to the
96 Commission and the State Licensing Authority of each Member State, that has the force of law.

97 AA. "School Psychologist" means an individual who has met the requirements to obtain a
98 Home State License that legally conveys the professional title of School Psychologist, or its
99 equivalent as determined by the Rules of the Commission.

100 BB. "Scope of Practice" means the procedures, actions, and processes a School
101 Psychologist licensed in a State is permitted to undertake in that State and the circumstances
102 under which that Licensee is permitted to undertake those procedures, actions, and processes.
103 Such procedures, actions, and processes, and the circumstances under which they may be
104 undertaken, may be established through means including, but not limited to, statute, regulations,
105 case law, and other processes available to the State Licensing Authority or other government
106 agency.

107 AA. "State" means any state, commonwealth, district, or territory of the United States of
108 America.

109 BB. "State Licensing Authority" means an agency, whether the Department of Education or
110 otherwise, or other entity operating as an arm of a State that is responsible for the licensing and
111 regulation of School Psychologists.

112 CC. "State Specific Requirement" means a requirement for licensure covered in
113 coursework or examination that includes content of unique interest to the State.

114 DD. "Unencumbered License" means a License that authorizes a Licensee to engage in
115 the full and unrestricted Practice of School Psychology.

116 **SECTION 3. STATE PARTICIPATION IN THE COMPACT**

117 A. To be eligible to join this Compact, and to maintain eligibility as a Member State, a State
118 must:

119 1. Enact a compact statute that is not materially different from the Model Compact as
120 defined in the Commission's Rules;

121 2. Participate in the sharing of information with other Member States as reasonably
122 necessary to accomplish the objectives of this Compact, and as further defined in Section 8;

123 3. Identify and maintain with the Commission a list of Equivalent Licenses available to
124 Licensees who hold a Home State License under this Compact;

125 4. Have a mechanism in place for receiving and investigating complaints about Licensees;

126 5. Notify the Commission, in compliance with the terms of the Compact and the
127 Commission's Rules, of any Adverse Action taken against a Licensee, or of the availability of
128 investigative information which relates to a Licensee or applicant for licensure;

129 6. Require that applicants for a Home State License have;

130 a. Taken and passed a Qualifying National Exam as defined by the Rules of the
131 Commission;

132 b. Completed a minimum of 1200 hours of supervised internship, of which at least 600
133 must have been completed in a School, prior to being approved for licensure;

134 c. Graduated from a Qualifying School Psychologist Education Program;

135 7. Comply with the terms of this Compact and the Rules of the Commission.

136 B. Each Member State shall grant an Equivalent License to practice School Psychology in
137 that state upon application by a Licensee who satisfies the criteria of Section 4.A. Each Member
138 State shall grant renewal of the Equivalent License to a Licensee who satisfies the criteria of
139 Section 4.B.

140 C. Member States may set and collect a fee for granting an Equivalent License.

141 **SECTION 4. SCHOOL PSYCHOLOGIST PARTICIPATION IN THE COMPACT**

142 1. To obtain and maintain an Equivalent License from a Receiving State under this
143 Compact, a Licensee must: a. Hold and maintain an active Home State License;
144 b. Satisfy any applicable State Specific Requirements established by the Member State
145 after an Equivalent License is granted;
146 c. Complete any administrative or application requirements which the Commission may
147 establish by Rule, and pay any associated fees; and
148 d. Complete any requirements for renewal in the Home State, including applicable
149 Continuing Professional Education requirements.
150 e. Upon their application to receive a license under this Compact, undergo a criminal
151 background check in the Member State in which the Equivalent License is sought in accordance
152 with the laws and regulations of such Member State.

153 2. To renew an Equivalent License in a Member State other than the Home State, a
154 Licensee must only apply for renewal, complete a background check, and pay renewal fees as
155 determined by the Licensing Authority.

156 **SECTION 5. ACTIVE MILITARY MEMBERS OR THEIR SPOUSES**

157 A Licensee who is an Active Military Member or is the spouse of an Active Military Member
158 shall be deemed to hold a Home State License in any of the following locations:

- 159 A. The Licensee's permanent residence;
160 B. A Member State that is the Licensee's primary State of Practice;
161 C. A Member State where the Licensee has relocated pursuant to a Permanent Change of
162 Station (PCS).

163 **SECTION 6. DISCIPLINE/ADVERSE ACTIONS**

164 A. Nothing in this Compact shall be deemed or construed to limit the authority of a Member
165 State to investigate or impose disciplinary measures on Licensees according to the State Practice
166 Laws thereof.

167 B. Member States shall be authorized to receive, and shall provide, files and information
168 regarding the investigation and discipline, if any, of Licensees in other Member States upon
169 request. Any Member State receiving such information or files shall protect and maintain the
170 security and confidentiality thereof, in at least the same manner that it maintains its own
171 investigatory or disciplinary files and information. Prior to disclosing any disciplinary or
172 investigatory information received from another Member State, the disclosing state shall
173 communicate its intention and purpose for such disclosure to the Member State which originally
174 provided that information.

175 **SECTION 7. ESTABLISHMENT OF THE SCHOOL PSYCHOLOGIST INTERSTATE**
176 **LICENSURE COMPACT COMMISSION**

177 A. The Member States hereby create and establish a joint government agency whose
178 membership consists of all Member States that have enacted the Compact, and this agency shall
179 be known as the School Psychologist Interstate Licensure Compact Commission. The
180 Commission is an instrumentality of the Member States acting jointly and not an instrumentality of
181 any one state. The Commission shall come into existence on or after the effective date of the
182 Compact as set forth in Section 11.

183 B. Membership, Voting, and Meetings 1. Each Member State shall have and be limited to
184 one (1) delegate selected by that Member State's State Licensing Authority.

185 2. The delegate shall be the primary administrative officer of the Member State Licensing
186 Authority or their designee who is an employee of the Member State Licensing Authority.

187 3. The Commission shall by Rule or bylaw establish a term of office for delegates and may
188 by Rule or bylaw establish term limits.

189 4. The Commission may recommend removal or suspension of any delegate from office.

190 5. A Member State's Licensing Authority shall fill any vacancy of its delegate occurring on
191 the Commission within 60 days of the vacancy.

192 6. Each delegate shall be entitled to one vote on all matters before the Commission
193 requiring a vote by Commission delegates.

194 7. A delegate shall vote in person or by such other means as provided in the bylaws. The
195 bylaws may provide for delegates to meet by telecommunication, videoconference, or other
196 means of communication.

197 8. The Commission shall meet at least once during each calendar year. Additional
198 meetings may be held as set forth in the bylaws. The Commission may meet by
199 telecommunication, video conference or other similar electronic means.

200 C. The Commission shall have the following powers: 1. Establish the fiscal year of the
201 Commission;

202 2. Establish code of conduct and conflict of interest policies;

203 3. Establish and amend Rules and bylaws;

204 4. Establish the procedure through which a Licensee may change their Home State;

205 5. Maintain its financial records in accordance with the bylaws;

206 6. Meet and take such actions as are consistent with the provisions of this Compact, the
207 Commission's Rules, and the bylaws;

208 7. Initiate and conclude legal proceedings or actions in the name of the Commission,
209 provided that the standing of any Member State Licensing Authority to sue or be sued under
210 applicable law shall not be affected;

211 8. Maintain and certify records and information provided to a Member State as the
212 authenticated business records of the Commission, and designate an agent to do so on the
213 Commission's behalf;

214 9. Purchase and maintain insurance and bonds;

215 10. Borrow, accept, or contract for services of personnel, including, but not limited to,
216 employees of a Member State;

217 11. Conduct an annual financial review;

218 Hire employees, elect or appoint officers, fix compensation, define duties, grant such
219 individuals appropriate authority to carry out the purposes of the Compact, and establish the
220 Commission's personnel policies and programs relating to conflicts of interest, qualifications of
221 personnel, and other related personnel matters;

222 12. Assess and collect fees;

223 13. Accept any and all appropriate gifts, donations, grants of money, other sources of
224 revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose of the
225 same; provided that at all times the Commission shall avoid any appearance of impropriety and/or
226 conflict of interest;

227 14. Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or
228 mixed, or any undivided interest therein;

229 15. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
230 any property real, personal, or mixed;

231 16. Establish a budget and make expenditures;

232 17. Borrow money;

233 18. Appoint committees, including standing committees, composed of members, State
234 regulators, State legislators or their representatives, and consumer representatives, and such
235 other interested persons as may be designated in this Compact and the bylaws;

236 19. Provide and receive information from, and cooperate with, law enforcement agencies;

237 20. Establish and elect an Executive Committee, including a chair and a vice chair;

238 21. Determine whether a State's adopted language is materially different from the model
239 compact language such that the State would not qualify for participation in the Compact; and

240 22. Perform such other functions as may be necessary or appropriate to achieve the
241 purposes of this Compact.

242 D. The Executive Committee 1. The Executive Committee shall have the power to act on
243 behalf of the Commission according to the terms of this Compact. The powers, duties, and

244 responsibilities of the Executive Committee shall include: a. Oversee the day-to-day activities of
245 the administration of the compact including enforcement and compliance with the provisions of the
246 compact, its Rules and bylaws, and other such duties as deemed necessary;

247 b. Recommend to the Commission changes to the Rules or bylaws, changes to this
248 Compact legislation, fees charged to Member States, fees charged to Licensees, and other fees;

249 c. Ensure Compact administration services are appropriately provided, including by
250 contract;

251 d. Prepare and recommend the budget;

252 e. Maintain financial records on behalf of the Commission;

253 Monitor Compact compliance of Member States and provide compliance reports to the
254 Commission;

255 f. Establish additional committees as necessary;

256 g. Exercise the powers and duties of the Commission during the interim between
257 Commission meetings, except for adopting or amending Rules, adopting or amending bylaws, and
258 exercising any other powers and duties expressly reserved to the Commission by Rule or bylaw;
259 and

260 h. Other duties as provided in the Rules or bylaws of the Commission.

261 2. The Executive Committee shall be composed of up to 7 members: a. The chair and vice
262 chair of the Commission shall be voting members of the Executive Committee; and

263 b. The Commission shall elect 5 voting members from the current membership of the
264 Commission.

265 3. The Commission may remove any member of the Executive Committee as provided in
266 the Commission's bylaws.

267 4. The Executive Committee shall meet at least annually. a. Executive Committee
268 meetings shall be open to the public, except that the Executive Committee may meet in a closed,
269 non-public meeting as provided in subsection E.2 below.

270 b. The Executive Committee shall give 30 days' notice of its meetings, posted on its
271 website and as determined to provide notice to persons with an interest in the business of the
272 Commission.

273 c. The Executive Committee may hold a special meeting in accordance with subsection
274 E.1.b. below.

275 E. The Commission shall adopt and provide to the Member States an annual report.

276 F. Meetings of the Commission 1. All meetings shall be open to the public, except that the
277 Commission may meet in a closed, non-public meeting as provided in subsection F.2 below. a.
278 Public notice for all meetings of the full Commission of meetings shall be given in the same manner
279 as required under the Rulemaking provisions in Section 9, except that the Commission may hold a
280 special meeting as provided in subsection F.1.b below.

281 b. The Commission may hold a special meeting when it must meet to conduct emergency
282 business by giving 48 hours' notice to all commissioners, on the Commission's website, and other
283 means as provided in the Commission's rules. The Commission's legal counsel shall certify that
284 the Commission's need to meet qualifies as an emergency.

285 2. The Commission or the Executive Committee or other committees of the Commission
286 may convene in a closed, non-public meeting for the Commission or Executive Committee or other
287 committees of the Commission to receive legal advice or to discuss: a. Non-compliance of a
288 Member State with its obligations under the Compact;

289 b. The employment, compensation, discipline or other matters, practices or procedures
290 related to specific employees;

291 c. Current or threatened discipline of a Licensee by the Commission or by a Member
292 State's Licensing Authority;

293 d. Current, threatened, or reasonably anticipated litigation;

294 e. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real
295 estate;

- 296 f. Accusing any person of a crime or formally censuring any person;
- 297 g. Trade secrets or commercial or financial information that is privileged or confidential;
- 298 h. Information of a personal nature where disclosure would constitute a clearly
- 299 unwarranted invasion of personal privacy;
- 300 i. Investigative records compiled for law enforcement purposes;
- 301 j. Information related to any investigative reports prepared by or on behalf of or for use of
- 302 the Commission or other committee charged with responsibility of investigation or determination of
- 303 compliance issues pursuant to the Compact;
- 304 k. Matters specifically exempted from disclosure by federal or Member State law; or
- 305 l. Other matters as promulgated by the Commission by Rule.
- 306 3. If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the
- 307 meeting will be closed and reference each relevant exempting provision, and such reference shall
- 308 be recorded in the minutes.
- 309 4. The Commission shall keep minutes that fully and clearly describe all matters discussed
- 310 in a meeting and shall provide a full and accurate summary of actions taken, and the reasons
- 311 therefore, including a description of the views expressed. All documents considered in connection
- 312 with an action shall be identified in such minutes. All minutes and documents of a closed meeting
- 313 shall remain under seal, subject to release only by a majority vote of the Commission or order of a
- 314 court of competent jurisdiction.
- 315 G. Financing of the Commission 1. The Commission shall pay, or provide for the payment
- 316 of, the reasonable expenses of its establishment, organization, and ongoing activities.
- 317 2. The Commission may accept any and all appropriate revenue sources as provided in
- 318 C(12).
- 319 3. The Commission may levy on and collect an annual assessment from each Member
- 320 State and impose fees on Licensees practicing in the Member States under an Equivalent License
- 321 to cover the cost of the operations and activities of the Commission and its staff, which must be in a

322 total amount sufficient to cover its annual budget as approved each year for which revenue is not
323 provided by other sources. The aggregate annual assessment amount for Member States shall be
324 allocated based upon a formula that the Commission shall promulgate by Rule.

325 4. The Commission shall not incur obligations of any kind prior to securing the funds
326 adequate to meet the same; nor shall the Commission pledge the credit of any of the Member
327 States, except by and with the authority of the Member State.

328 5. The Commission shall keep accurate accounts of all receipts and disbursements. The
329 receipts and disbursements of the Commission shall be subject to the financial review and
330 accounting procedures established under its bylaws. However, all receipts and disbursements of
331 funds handled by the Commission shall be subject to an annual financial review by a certified or
332 licensed public accountant, and the report of the financial review shall be included in and become
333 part of the annual report of the Commission.

334 H. Qualified Immunity, Defense, and Indemnification 1. The members, officers, executive
335 director, employees and representatives of the Commission shall be immune from suit and liability,
336 both personally and in their official capacity, for any claim for damage to or loss of property or
337 personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or
338 omission that occurred, or that the person against whom the claim is made had a reasonable basis
339 for believing occurred within the scope of Commission employment, duties or responsibilities;
340 provided that nothing in this paragraph shall be construed to protect any such person from suit or
341 liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton
342 misconduct of that person. The procurement of insurance of any type by the Commission shall not
343 in any way compromise or limit the immunity granted hereunder.

344 2. The Commission shall defend any member, officer, executive director, employee, and
345 representative of the Commission in any civil action seeking to impose liability arising out of any
346 actual or alleged act, error, or omission that occurred within the scope of Commission
347 employment, duties, or responsibilities, or as determined by the Commission that the person

348 against whom the claim is made had a reasonable basis for believing occurred within the scope of
349 Commission employment, duties, or responsibilities; provided that nothing herein shall be
350 construed to prohibit that person from retaining their own counsel at their own expense; and
351 provided further, that the actual or alleged act, error, or omission did not result from that person's
352 intentional or willful or wanton misconduct.

353 3. The Commission shall indemnify and hold harmless any member, officer, executive
354 director, employee, and representative of the Commission for the amount of any settlement or
355 judgment obtained against that person arising out of any actual or alleged act, error, or omission
356 that occurred within the scope of Commission employment, duties, or responsibilities, or that such
357 person had a reasonable basis for believing occurred within the scope of Commission
358 employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission
359 did not result from the intentional or willful or wanton misconduct of that person.

360 4. Nothing herein shall be construed as a limitation on the liability of any licensee for
361 professional malpractice or misconduct, which shall be governed solely by any other applicable
362 state laws.

363 5. Nothing in this Compact shall be interpreted to waive or otherwise abrogate a Member
364 State's state action immunity or state action affirmative defense with respect to antitrust claims
365 under the Sherman Act, Clayton Act, or any other state or federal antitrust or anticompetitive law or
366 regulation.

367 6. Nothing in this Compact shall be construed to be a waiver of sovereign immunity by the
368 Member States or by the Commission.

369 **SECTION 8. FACILITATING INFORMATION EXCHANGE**

370 A. The Commission shall provide for facilitating the exchange of information to administer
371 and implement the provisions of this compact in accordance with the Rules of the Commission,
372 consistent with generally accepted data protection principles.

373 B. Notwithstanding any other provision of State law to the contrary, a Member State shall
374 agree to provide for the facilitation of the following Licensee information as required by the Rules
375 of the Commission, including: 1. Identifying information;
376 2. Licensure data;
377 3. Adverse Actions against a License and information related thereto;
378 4. Non-confidential information related to Alternative Program participation, the beginning
379 and ending dates of such participation, and other information related to such participation not
380 made confidential under Member State law;
381 5. Any denial of application for licensure, and the reason(s) for such denial;
382 6. The presence of investigative information; and
383 7. Other information that may facilitate the administration of this Compact or the protection
384 of the public, as determined by the Rules of the Commission.

385 C. Nothing in this Compact shall be deemed or construed to alter, limit, or inhibit the power
386 of a Member State to control and maintain ownership of its Licensee information or alter, limit, or
387 inhibit the laws or regulations governing Licensee information in the Member State.

388 **SECTION 9. RULEMAKING**

389 A. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth
390 in this interstate compact and the Rules adopted thereunder. Rules and amendments shall
391 become binding as of the date specified in each Rule or amendment.

392 B. The Commission shall promulgate reasonable Rules to achieve the intent and purpose
393 of this interstate compact. In the event the Commission exercises its Rulemaking authority in a
394 manner that is beyond purpose and intent of this interstate compact, or the powers granted
395 hereunder, then such an action by the Commission shall be invalid and have no force and effect of
396 law in the Member States.

397 C. If a majority of the legislatures of the Member States rejects a Rule, by enactment of a
398 statute or resolution in the same manner used to adopt the compact within four (4) years of the

399 date of adoption of the Rule, then such Rule shall have no further force and effect in any Member
400 State.

401 D. Rules or amendments to the Rules shall be adopted or ratified at a regular or special
402 meeting of the Commission in accordance with Commission Rules and Bylaws.

403 E. Prior to promulgation and adoption of a final Rule or Rules by the Commission, and at
404 least thirty (30) days in advance of the meeting at which the Rule will be considered and voted
405 upon, the Commission shall file a notice of proposed Rulemaking: 1. On the website of the
406 Commission or other publicly accessible platform; and

407 2. On the website of each Member State Licensing Authority or other publicly accessible
408 platform or the publication in which each State would otherwise publish proposed Rules.

409 F. Upon determination that an emergency exists, the Commission may consider and adopt
410 an emergency Rule with 48 hours' notice, with opportunity to comment, provided that the usual
411 Rulemaking procedures shall be retroactively applied to the Rule as soon as reasonably possible,
412 in no event later than ninety (90) days after the effective date of the Rule. For the purposes of this
413 provision, an emergency Rule is one that must be adopted immediately in order to: a. Meet an
414 imminent threat to public health, safety, or welfare. 1. Prevent a loss of Commission or Member
415 State funds.

416 2. Meet a deadline for the promulgation of an administrative Rule that is established by
417 federal law or Rule; or

418 3. Protect public health and safety.

419 **SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

420 A. Oversight 1. The executive and judicial branches of the State government in each
421 Member State shall enforce this Compact and take all actions necessary and appropriate to
422 implement the Compact.

423 2. Venue is proper and judicial proceedings by or against the Commission shall be brought
424 solely and exclusively in a court of competent jurisdiction where the principal office of the

425 Commission is located. The Commission may waive venue and jurisdictional defenses to the
426 extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing
427 herein shall affect or limit the selection or propriety of venue in any action against a licensee for
428 professional malpractice, misconduct or any such similar matter.

429 3. The Commission shall be entitled to receive service of process in any proceeding
430 regarding the enforcement or interpretation of the Compact and shall have standing to intervene in
431 such a proceeding for all purposes. Failure to provide the Commission service of process shall
432 render a judgment or order void as to the Commission, this Compact, or promulgated Rules.

433 B. Default, Technical Assistance, and Termination 1. If the Commission determines that a
434 Member State has defaulted in the performance of its obligations or responsibilities under this
435 Compact or the promulgated Rules, the Commission shall provide written notice to the defaulting
436 State. The notice of default shall describe the default, the proposed means of curing the default,
437 and any other action that the Commission may take, and shall offer training and specific technical
438 assistance regarding the default.

439 2. The Commission shall provide a copy of the notice of default to the other Member
440 States.

441 C. If a State in default fails to cure the default, the defaulting State may be terminated from
442 the Compact upon an affirmative vote of a supermajority of the delegates of the Member States,
443 and all rights, privileges and benefits conferred on that state by this Compact may be terminated
444 on the effective date of termination. A cure of the default does not relieve the offending State of
445 obligations or liabilities incurred during the period of default.

446 D. Termination of membership in the Compact shall be imposed only after all other means
447 of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be
448 given by the Commission to the governor, the majority and minority leaders of the defaulting
449 State's legislature, the defaulting State's Licensing Authority and each of the Member States'
450 Licensing Authorities.

451 E. A State that has been terminated is responsible for all assessments, obligations, and
452 liabilities incurred through the effective date of termination, including obligations that extend
453 beyond the effective date of termination.

454 F. Upon the termination of a State's membership from this Compact, that State shall
455 immediately provide notice to all Licensees within that State of such termination. The terminated
456 State shall continue to recognize all Licenses granted pursuant to this Compact for a minimum of
457 six (6) months after the date of said notice of termination.

458 G. The Commission shall not bear any costs related to a State that is found to be in default
459 or that has been terminated from the Compact, unless agreed upon in writing between the
460 Commission and the defaulting State.

461 H. The defaulting State may appeal the action of the Commission by petitioning the U.S.
462 District Court for the District of Columbia or the federal district where the Commission has its
463 principal offices. The prevailing party shall be awarded all costs of such litigation, including
464 reasonable attorney's fees.

465 I. Dispute Resolution 1. Upon request by a Member State, the Commission shall attempt to
466 resolve disputes related to the Compact that arise among Member States and between Member
467 and non- Member States.

468 2. The Commission shall promulgate a Rule providing for both mediation and binding
469 dispute resolution for disputes as appropriate.

470 J. Enforcement 1. By majority vote as provided by Rule, the Commission may initiate legal
471 action against a Member State in default in the United States District Court for the District of
472 Columbia or the federal district where the Commission has its principal offices to enforce
473 compliance with the provisions of the Compact and its promulgated Rules. The relief sought may
474 include both injunctive relief and damages. In the event judicial enforcement is necessary, the
475 prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

476 The remedies herein shall not be the exclusive remedies of the Commission. The Commission
477 may pursue any other remedies available under federal or the defaulting Member State's law.

478 2. A Member State may initiate legal action against the Commission in the U.S. District
479 Court for the District of Columbia or the federal district where the Commission has its principal
480 offices to enforce compliance with the provisions of the Compact and its promulgated Rules. The
481 relief sought may include both injunctive relief and damages. In the event judicial enforcement is
482 necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable
483 attorney's fees.

484 3. No person other than a Member State shall enforce this compact against the
485 Commission.

486 **SECTION 11. EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT**

487 A. The Compact shall come into effect on the date on which the Compact statute is
488 enacted into law in the seventh Member State. 1. On or after the effective date of the Compact
489 indicated above, the Commission shall convene and review the enactment of each of the Charter
490 Member States to determine if the statute enacted by each such Charter Member State is
491 materially different than the model Compact statute. a. A Charter Member State whose enactment
492 is found to be materially different from the model Compact statute shall be entitled to the default
493 process set forth in Section 10.

494 b. If any Member State is later found to be in default, or is terminated or withdraws from the
495 Compact, the Commission shall remain in existence and the Compact shall remain in effect even if
496 the number of Member States should be less than seven.

497 2. Member States enacting the Compact subsequent to the Charter Member States shall
498 be subject to the process set forth in Section 7(C)(21) to determine if their enactments are
499 materially different from the model Compact statute and whether they qualify for participation in
500 the Compact.

501 3. All actions taken for the benefit of the Commission or in furtherance of the purposes of
502 the administration of the Compact prior to the effective date of the Compact or the Commission
503 coming into existence shall be considered to be actions of the Commission unless specifically
504 repudiated by the Commission.

505 a. Any State that joins the Compact subsequent to the Commission's initial adoption of the
506 Rules and bylaws shall be subject to the Rules and bylaws as they exist on the date on which the
507 Compact becomes law in that State. Any Rule that has been previously adopted by the
508 Commission shall have the full force and effect of law on the day the Compact becomes law in that
509 State.

510 b. Any Member State may withdraw from this Compact by enacting a statute repealing the
511 same.

512 B. A Member State's withdrawal shall not take effect until 180 days after enactment of the
513 repealing statute.

514 C. Withdrawal shall not affect the continuing requirement of the withdrawing State's
515 Licensing Authority to comply with the investigative and Adverse Action reporting requirements of
516 this Compact prior to the effective date of withdrawal.

517 D. Upon the enactment of a statute withdrawing from this compact, a State shall
518 immediately provide notice of such withdrawal to all Licensees within that State. Notwithstanding
519 any subsequent statutory enactment to the contrary, such withdrawing State shall continue to
520 recognize all licenses granted pursuant to this compact for a minimum of six (6) months after the
521 date of such notice of withdrawal. 1. Nothing contained in this Compact shall be construed to
522 invalidate or prevent any licensure agreement or other cooperative arrangement between a
523 Member State and a non-Member State that does not conflict with the provisions of this Compact.

524 2. This Compact may be amended by the Member States. No amendment to this Compact
525 shall become effective and binding upon any Member State until it is enacted into the laws of all
526 Member States.

527 **SECTION 12. CONSTRUCTION AND SEVERABILITY**

528 A. This Compact and the Commission’s rulemaking authority shall be liberally construed
529 so as to effectuate the purposes, and the implementation and administration of the Compact.
530 Provisions of the Compact expressly authorizing or requiring the promulgation of Rules shall not
531 be construed to limit the Commission’s rulemaking authority solely for those purposes.

532 B. The provisions of this Compact shall be severable and if any phrase, clause, sentence
533 or provision of this Compact is held by a court of competent jurisdiction to be contrary to the
534 constitution of any Member State, a State seeking participation in the Compact, or of the United
535 States, or the applicability thereof to any government, agency, person or circumstance is held to
536 be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this
537 Compact and the applicability thereof to any other government, agency, person or circumstance
538 shall not be affected thereby.

539 C. Notwithstanding subsection B of this Section, the Commission may deny a State’s
540 participation in the Compact or, in accordance with the requirements of Section 10.B, terminate a
541 Member State’s participation in the Compact, if it determines that a constitutional requirement of a
542 Member State is a material departure from the Compact. Otherwise, if this Compact shall be held
543 to be contrary to the constitution of any Member State, the Compact shall remain in full force and
544 effect as to the remaining Member States and in full force and effect as to the Member State
545 affected as to all severable matters.

546 **SECTION 13. CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE LAWS**

547 A. Nothing herein shall prevent or inhibit the enforcement of any other law of a Member
548 State that is not inconsistent with the Compact.

549 B. Any laws, statutes, regulations, or other legal requirements in a Member State in conflict
550 with the Compact are superseded to the extent of the conflict.

551 All permissible agreements between the Commission and the Member States are binding
552 in accordance with their terms.

NOTE: The purpose of this bill is to enact the Interstate Compact for School Psychologists.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.