



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB3762

Introduced 2/28/2007, by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

New Act

Creates the Interstate Compact for the Placement of Children Act. Ratifies and approves the Interstate Compact for the Placement of Children. Provides that the agencies and officers of this State and its subdivisions shall enforce the compact and do all things appropriate to effect its purpose and intent that may be within their respective jurisdictions. Effective immediately.

LRB095 08826 BDD 29012 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning interstate compacts.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Interstate Compact for the Placement of Children Act.

6 Section 5. Ratification and approval of compact. The State
7 of Illinois ratifies and approves the following compact:

8 "Interstate Compact for the Placement of Children.

9 ARTICLE I. PURPOSE

10 The purpose of this Interstate Compact for the Placement of
11 Children is to:

12 A. Provide a process through which children subject to
13 this compact are placed in safe and suitable homes in a
14 timely manner.

15 B. Facilitate ongoing supervision of a placement, the
16 delivery of services, and communication between the
17 states.

18 C. Provide operating procedures that will ensure that
19 children are placed in safe and suitable homes in a timely
20 manner.

21 D. Provide for the promulgation and enforcement of

1 administrative rules implementing the provisions of this
2 compact and regulating the covered activities of the member
3 states.

4 E. Provide for uniform data collection and information
5 sharing between member states under this compact.

6 F. Promote coordination between this compact, the
7 Interstate Compact for Juveniles, the Interstate Compact
8 on Adoption and Medical Assistance and other compacts
9 affecting the placement of and which provide services to
10 children otherwise subject to this compact.

11 G. Provide for a state's continuing legal jurisdiction
12 and responsibility for placement and care of a child that
13 it would have had if the placement were intrastate.

14 H. Provide for the promulgation of guidelines, in
15 collaboration with Indian tribes, for interstate cases
16 involving Indian children as is or may be permitted by
17 federal law.

18 ARTICLE II. DEFINITIONS

19 As used in this compact,

20 A. "Approved placement" means the receiving state has
21 determined after an assessment that the placement is both safe
22 and suitable for the child and is in compliance with the
23 applicable laws of the receiving state governing the placement
24 of children therein.

25 B. "Assessment" means an evaluation of a prospective

1 placement to determine whether the placement meets the
2 individualized needs of the child, including but not limited to
3 the child's safety and stability, health and well-being, and
4 mental, emotional and physical development.

5 C. "Child" means an individual who has not attained the age
6 of eighteen (18).

7 D. "Default" means the failure of a member state to perform
8 the obligations or responsibilities imposed upon it by this
9 compact, the bylaws or rules of the Interstate Commission.

10 E. "Indian tribe" means any Indian tribe, band, nation, or
11 other organized group or community of Indians recognized as
12 eligible for services provided to Indians by the Secretary of
13 the Interior because of their status as Indians, including any
14 Alaskan native village as defined in section 3 (c) of the
15 Alaska Native Claims settlement Act at 43 USC §1602(c).

16 F. "Interstate Commission for the Placement of Children"
17 means the commission that is created under Article VIII of this
18 compact and which is generally referred to as the Interstate
19 Commission.

20 G. "Jurisdiction" means the power and authority of a court
21 to hear and decide matters.

22 H. "Member state" means a state that has enacted this
23 compact.

24 I. "Non-custodial parent" means a person who, at the time
25 of the commencement of court proceedings in the sending state,
26 does not have sole legal custody of the child or has joint

1 legal custody of a child, and who is not the subject of
2 allegations or findings of child abuse or neglect.

3 J. "Non-member state" means a state which has not enacted
4 this compact.

5 K. "Notice of residential placement" means information
6 regarding a placement into a residential facility provided to
7 the receiving state including, but not limited to the name,
8 date and place of birth of the child, the identity and address
9 of the parent or legal guardian, evidence of authority to make
10 the placement, and the name and address of the facility in
11 which the child will be placed. Notice of residential placement
12 shall also include information regarding a discharge and any
13 unauthorized absence from the facility.

14 L. "Placement" means the act by a public or private child
15 placing agency intended to arrange for the care or custody of a
16 child in another state.

17 M. "Private child placing agency" means any private
18 corporation, agency, foundation, institution, or charitable
19 organization, or any private person or attorney that
20 facilitates, causes, or is involved in the placement of a child
21 from one state to another and that is not an instrumentality of
22 the state or acting under color of state law.

23 N. "Provisional placement" means that the receiving state
24 has determined that the proposed placement is safe and
25 suitable, and, to the extent allowable, the receiving state has
26 temporarily waived its standards or requirements otherwise

1 applicable to prospective foster or adoptive parents so as to
2 not delay the placement. Completion of the receiving state
3 requirements regarding training for prospective foster or
4 adoptive parents shall not delay an otherwise safe and suitable
5 placement.

6 O. "Public child placing agency" means any government child
7 welfare agency or child protection agency or a private entity
8 under contract with such an agency, regardless of whether they
9 act on behalf of a state, county, municipality or other
10 governmental unit and which facilitates, causes, or is involved
11 in the placement of a child from one state to another.

12 P. "Receiving state" means the state to which a child is
13 sent, brought, or caused to be sent or brought.

14 Q. "Relative" means someone who is related to the child as
15 a parent, step-parent, sibling by half or whole blood or by
16 adoption, grandparent, aunt, uncle, or first cousin or a
17 non-relative with such significant ties to the child that they
18 may be regarded as relatives as determined by the court in the
19 sending state.

20 R. "Residential Facility" means a facility providing a
21 level of care that is sufficient to substitute for parental
22 responsibility or foster care, and is beyond what is needed for
23 assessment or treatment of an acute condition. For purposes of
24 the compact, residential facilities do not include
25 institutions primarily educational in character, hospitals or
26 other medical facilities.

1 S. "Rule" means a written directive, mandate, standard or
2 principle issued by the Interstate Commission promulgated
3 pursuant to Article XI of this compact that is of general
4 applicability and that implements, interprets or prescribes a
5 policy or provision of the compact. "Rule" has the force and
6 effect of statutory law in a member state, and includes the
7 amendment, repeal, or suspension of an existing rule.

8 T. "Sending state" means the state from which the placement
9 of a child is initiated.

10 U. "Service member's permanent duty station" means the
11 military installation where an active duty Armed Services
12 member is currently assigned and is physically located under
13 competent orders that do not specify the duty as temporary.

14 V. "Service member's state of legal residence" means the
15 state in which the active duty Armed Services member is
16 considered a resident for tax and voting purposes.

17 W. "State" means a state of the United States, the District
18 of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin
19 Islands, Guam, American Samoa, the Northern Marianas Islands
20 and any other territory of the United States.

21 X. "State court" means a judicial body of a state that is
22 vested by law with responsibility for adjudicating cases
23 involving abuse, neglect, deprivation, delinquency or status
24 offenses of individuals who have not attained the age of
25 eighteen (18).

26 Y. "Supervision" means monitoring provided by the

1 receiving state once a child has been placed in a receiving
2 state pursuant to this compact.

3 ARTICLE III. APPLICABILITY

4 A. Except as otherwise provided in Article III, Section B,
5 this compact shall apply to:

6 1. The interstate placement of a child subject to
7 ongoing court jurisdiction in the sending state, due to
8 allegations or findings that the child has been abused,
9 neglected, or deprived as defined by the laws of the
10 sending state, provided, however, that the placement of
11 such a child into a residential facility shall only require
12 notice of residential placement to the receiving state
13 prior to placement.

14 2. The interstate placement of a child adjudicated
15 delinquent or unmanageable based on the laws of the sending
16 state and subject to ongoing court jurisdiction of the
17 sending state if:

18 a. the child is being placed in a residential
19 facility in another member state and is not covered
20 under another compact; or

21 b. the child is being placed in another member
22 state and the determination of safety and suitability
23 of the placement and services required is not provided
24 through another compact.

25 3. The interstate placement of any child by a public

1 child placing agency or private child placing agency as
2 defined in this compact as a preliminary step to a possible
3 adoption.

4 B. The provisions of this compact shall not apply to:

5 1. The interstate placement of a child with a
6 non-relative in a receiving state by a parent with the
7 legal authority to make such a placement provided, however,
8 that the placement is not intended to effectuate an
9 adoption.

10 2. The interstate placement of a child by one relative
11 with the lawful authority to make such a placement directly
12 with a relative in a receiving state.

13 3. The placement of a child, not subject to Article
14 III, Section A, into a residential facility by his parent.

15 4. The placement of a child with a non-custodial parent
16 provided that:

17 a. The non-custodial parent proves to the
18 satisfaction of a court in the sending state a
19 substantial relationship with the child; and

20 b. The court in the sending state makes a written
21 finding that placement with the non-custodial parent
22 is in the best interests of the child; and

23 c. The court in the sending state dismisses its
24 jurisdiction over the child's case.

25 5. A child entering the United States from a foreign
26 country for the purpose of adoption or leaving the United

1 States to go to a foreign country for the purpose of
2 adoption in that country.

3 6. Cases in which a U.S. citizen child living overseas
4 with his family, at least one of whom is in the U.S. Armed
5 Services, and who is stationed overseas, is removed and
6 placed in a state.

7 7. The sending of a child by a public child placing
8 agency or a private child placing agency for a visit as
9 defined by the rules of the Interstate Commission.

10 C. For purposes of determining the applicability of this
11 compact to the placement of a child with a family in the Armed
12 Services, the public child placing agency or private child
13 placing agency may choose the state of the service member's
14 permanent duty station or the service member's declared legal
15 residence.

16 D. Nothing in this compact shall be construed to prohibit
17 the concurrent application of the provisions of this compact
18 with other applicable interstate compacts including the
19 Interstate Compact for Juveniles and the Interstate Compact on
20 Adoption and Medical Assistance. The Interstate Commission may
21 in cooperation with other interstate compact commissions
22 having responsibility for the interstate movement, placement
23 or transfer of children, promulgate like rules to ensure the
24 coordination of services, timely placement of children, and the
25 reduction of unnecessary or duplicative administrative or
26 procedural requirements.

1 ARTICLE IV. JURISDICTION

2 A. The sending state shall retain jurisdiction over a child
3 with respect to all matters of custody and disposition of the
4 child which it would have had if the child had remained in the
5 sending state. Such jurisdiction shall also include the power
6 to order the return of the child to the sending state.

7 B. When an issue of child protection or custody is brought
8 before a court in the receiving state, such court shall confer
9 with the court of the sending state to determine the most
10 appropriate forum for adjudication.

11 C. In accordance with its own laws, the court in the
12 sending state shall have authority to terminate its
13 jurisdiction if:

14 1. The child is reunified with the parent in the
15 receiving state who is the subject of allegations or
16 findings of abuse or neglect, only with the concurrence of
17 the public child placing agency in the receiving state; or

18 2. The child is adopted; or

19 3. The child reaches the age of majority under the laws
20 of the sending state; or

21 4. The child achieves legal independence pursuant to
22 the laws of the sending state; or

23 5. A guardianship is created by a court in the
24 receiving state with the concurrence of the court in the
25 sending state; or

1 sending state have been complied with; and

2 2. Certification that the consent or relinquishment is
3 in compliance with applicable law of the birth parent's
4 state of residence or, where permitted, the laws of the
5 state of where the finalization of the adoption will occur;
6 and

7 3. Request through the public child placing agency in
8 the sending state an assessment to be conducted in the
9 receiving state; and

10 4. Upon completion of the assessment, obtain the
11 approval of the public child placing agency in the
12 receiving state.

13 C. The procedures for making and the request for an
14 assessment shall contain all information and be in such form as
15 provided for in the rules of the Interstate Commission.

16 D. Upon receipt of a request from the public child welfare
17 agency of the sending state, the receiving state shall initiate
18 an assessment of the proposed placement to determine its safety
19 and suitability. If the proposed placement is a placement with
20 a relative, the public child placing agency of the sending
21 state may request a determination of whether the placement
22 qualifies as a provisional placement.

23 E. The public child placing agency in the receiving state
24 may request from the public child placing agency or the private
25 child placing agency in the sending state, and shall be
26 entitled to receive supporting or additional information

1 necessary to complete the assessment.

2 F. The public child placing agency in the receiving state
3 shall complete or arrange for the completion of the assessment
4 within the timeframes established by the rules of the
5 Interstate Commission.

6 G. The Interstate Commission may develop uniform standards
7 for the assessment of the safety and suitability of interstate
8 placements.

9 ARTICLE VI. PLACEMENT AUTHORITY

10 A. Except as provided in Article VI, Section C, no child
11 subject to this compact shall be placed into a receiving state
12 until approval for such placement is obtained.

13 B. If the public child placing agency in the receiving
14 state does not approve the proposed placement then the child
15 shall not be placed. The receiving state shall provide written
16 documentation of any such determination in accordance with the
17 rules promulgated by the Interstate Commission. Such
18 determination is not subject to judicial review in the sending
19 state.

20 C. If the proposed placement is not approved, any
21 interested party shall have standing to seek an administrative
22 review of the receiving state's determination.

23 1. The administrative review and any further judicial
24 review associated with the determination shall be
25 conducted in the receiving state pursuant to its applicable

1 administrative procedures.

2 2. If a determination not to approve the placement of
3 the child in the receiving state is overturned upon review,
4 the placement shall be deemed approved, provided however
5 that all administrative or judicial remedies have been
6 exhausted or the time for such remedies has passed.

7 ARTICLE VII. STATE RESPONSIBILITY

8 A. For the interstate placement of a child made by a
9 public child placing agency or state court:

10 1. The public child placing agency in the sending state
11 shall have financial responsibility for:

12 a. the ongoing support and maintenance for the
13 child during the period of the placement, unless
14 otherwise provided for in the receiving state; and

15 b. as determined by the public child placing agency
16 in the sending state, services for the child beyond the
17 public services for which the child is eligible in the
18 receiving state.

19 2. The receiving state shall only have financial
20 responsibility for:

21 a. any assessment conducted by the receiving
22 state; and

23 b. supervision conducted by the receiving state at
24 the level necessary to support the placement as agreed
25 upon by the public child placing agencies of the

1 receiving and sending state.

2 3. Nothing in this provision shall prohibit public
3 child placing agencies in the sending state from entering
4 into agreements with licensed agencies or persons in the
5 receiving state to conduct assessments and provide
6 supervision.

7 B. For the placement of a child by a private child placing
8 agency preliminary to a possible adoption, the private child
9 placing agency shall be:

10 1. Legally responsible for the child during the period
11 of placement as provided for in the law of the sending
12 state until the finalization of the adoption.

13 2. Financially responsible for the child absent a
14 contractual agreement to the contrary.

15 C. A private child placing agency shall be responsible for
16 any assessment conducted in the receiving state and any
17 supervision conducted by the receiving state at the level
18 required by the laws of the receiving state or the rules of the
19 Interstate Commission.

20 D. The public child placing agency in the receiving state
21 shall provide timely assessments, as provided for in the rules
22 of the Interstate Commission.

23 E. The public child placing agency in the receiving state
24 shall provide, or arrange for the provision of, supervision and
25 services for the child, including timely reports, during the
26 period of the placement.

1 F. Nothing in this compact shall be construed as to limit
2 the authority of the public child placing agency in the
3 receiving state from contracting with a licensed agency or
4 person in the receiving state for an assessment or the
5 provision of supervision or services for the child or otherwise
6 authorizing the provision of supervision or services by a
7 licensed agency during the period of placement.

8 G. Each member state shall provide for coordination among
9 its branches of government concerning the state's
10 participation in, and compliance with, the compact and
11 Interstate Commission activities, through the creation of an
12 advisory council or use of an existing body or board.

13 H. Each member state shall establish a central state
14 compact office, which shall be responsible for state compliance
15 with the compact and the rules of the Interstate Commission.

16 I. The public child placing agency in the sending state
17 shall oversee compliance with the provisions of the Indian
18 Child Welfare Act (25 USC 1901 et seq.) for placements subject
19 to the provisions of this compact, prior to placement.

20 J. With the consent of the Interstate Commission, states
21 may enter into limited agreements that facilitate the timely
22 assessment and provision of services and supervision of
23 placements under this compact.

24 ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF
25 CHILDREN

1 The member states hereby establish, by way of this compact,
2 a commission known as the "Interstate Commission for the
3 Placement of Children." The activities of the Interstate
4 Commission are the formation of public policy and are a
5 discretionary state function. The Interstate Commission shall:

6 A. Be a joint commission of the member states and shall
7 have the responsibilities, powers and duties set forth
8 herein, and such additional powers as may be conferred upon
9 it by subsequent concurrent action of the respective
10 legislatures of the member states.

11 B. Consist of one commissioner from each member state
12 who shall be appointed by the executive head of the state
13 human services administration with ultimate responsibility
14 for the child welfare program. The appointed commissioner
15 shall have the legal authority to vote on policy related
16 matters governed by this compact binding the state.

17 1. Each member state represented at a meeting of
18 the Interstate Commission is entitled to one vote.

19 2. A majority of the member states shall constitute
20 a quorum for the transaction of business, unless a
21 larger quorum is required by the bylaws of the
22 Interstate Commission.

23 3. A representative shall not delegate a vote to
24 another member state.

25 4. A representative may delegate voting authority
26 to another person from their state for a specified

1 meeting.

2 C. In addition to the commissioners of each member
3 state, the Interstate Commission shall include persons who
4 are members of interested organizations as defined in the
5 bylaws or rules of the Interstate Commission. Such members
6 shall be ex officio and shall not be entitled to vote on
7 any matter before the Interstate Commission.

8 D. Establish an executive committee which shall have
9 the authority to administer the day-to-day operations and
10 administration of the Interstate Commission. It shall not
11 have the power to engage in rulemaking.

12 ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

13 The Interstate Commission shall have the following powers:

14 A. To promulgate rules and take all necessary actions
15 to effect the goals, purposes and obligations as enumerated
16 in this compact.

17 B. To provide for dispute resolution among member
18 states.

19 C. To issue, upon request of a member state, advisory
20 opinions concerning the meaning or interpretation of the
21 interstate compact, its bylaws, rules or actions.

22 D. To enforce compliance with this compact or the
23 bylaws or rules of the Interstate Commission pursuant to
24 Article XII.

25 E. Collect standardized data concerning the interstate

1 placement of children subject to this compact as directed
2 through its rules which shall specify the data to be
3 collected, the means of collection and data exchange and
4 reporting requirements.

5 F. To establish and maintain offices as may be
6 necessary for the transacting of its business.

7 G. To purchase and maintain insurance and bonds.

8 H. To hire or contract for services of personnel or
9 consultants as necessary to carry out its functions under
10 the compact and establish personnel qualification
11 policies, and rates of compensation.

12 I. To establish and appoint committees and officers
13 including, but not limited to, an executive committee as
14 required by Article X.

15 J. To accept any and all donations and grants of money,
16 equipment, supplies, materials, and services, and to
17 receive, utilize, and dispose thereof.

18 K. To lease, purchase, accept contributions or
19 donations of, or otherwise to own, hold, improve or use any
20 property, real, personal, or mixed.

21 L. To sell, convey, mortgage, pledge, lease, exchange,
22 abandon, or otherwise dispose of any property, real,
23 personal or mixed.

24 M. To establish a budget and make expenditures.

25 N. To adopt a seal and bylaws governing the management
26 and operation of the Interstate Commission.

1 disclosure information or official records to the extent
2 they would adversely affect personal privacy rights or
3 proprietary interests.

4 B. Meetings

5 1. The Interstate Commission shall meet at least once
6 each calendar year. The chairperson may call additional
7 meetings and, upon the request of a simple majority of the
8 member states shall call additional meetings.

9 2. Public notice shall be given by the Interstate
10 Commission of all meetings and all meetings shall be open
11 to the public, except as set forth in the rules or as
12 otherwise provided in the compact. The Interstate
13 Commission and its committees may close a meeting, or
14 portion thereof, where it determines by two-thirds vote
15 that an open meeting would be likely to:

16 a. relate solely to the Interstate Commission's
17 internal personnel practices and procedures; or

18 b. disclose matters specifically exempted from
19 disclosure by federal law; or

20 c. disclose financial or commercial information
21 which is privileged, proprietary or confidential in
22 nature; or

23 d. involve accusing a person of a crime, or
24 formally censuring a person; or

25 e. disclose information of a personal nature where
26 disclosure would constitute a clearly unwarranted

1 invasion of personal privacy or physically endanger
2 one or more persons; or

3 f. disclose investigative records compiled for law
4 enforcement purposes; or

5 g. specifically relate to the Interstate
6 Commission's participation in a civil action or other
7 legal proceeding.

8 3. For a meeting, or portion of a meeting, closed
9 pursuant to this provision, the Interstate Commission's
10 legal counsel or designee shall certify that the meeting
11 may be closed and shall reference each relevant exemption
12 provision. The Interstate Commission shall keep minutes
13 which shall fully and clearly describe all matters
14 discussed in a meeting and shall provide a full and
15 accurate summary of actions taken, and the reasons
16 therefore, including a description of the views expressed
17 and the record of a roll call vote. All documents
18 considered in connection with an action shall be identified
19 in such minutes. All minutes and documents of a closed
20 meeting shall remain under seal, subject to release by a
21 majority vote of the Interstate Commission or by court
22 order.

23 4. The bylaws may provide for meetings of the
24 Interstate Commission to be conducted by telecommunication
25 or other electronic communication.

26 C. Officers and Staff

1 1. The Interstate Commission may, through its
2 executive committee, appoint or retain a staff director for
3 such period, upon such terms and conditions and for such
4 compensation as the Interstate Commission may deem
5 appropriate. The staff director shall serve as secretary to
6 the Interstate Commission, but shall not have a vote. The
7 staff director may hire and supervise such other staff as
8 may be authorized by the Interstate Commission.

9 2. The Interstate Commission shall elect, from among
10 its members, a chairperson and a vice chairperson of the
11 executive committee and other necessary officers, each of
12 whom shall have such authority and duties as may be
13 specified in the bylaws.

14 D. Qualified Immunity, Defense and Indemnification

15 1. The Interstate Commission's staff director and its
16 employees shall be immune from suit and liability, either
17 personally or in their official capacity, for a claim for
18 damage to or loss of property or personal injury or other
19 civil liability caused or arising out of or relating to an
20 actual or alleged act, error, or omission that occurred, or
21 that such person had a reasonable basis for believing
22 occurred within the scope of Commission employment,
23 duties, or responsibilities; provided, that such person
24 shall not be protected from suit or liability for damage,
25 loss, injury, or liability caused by a criminal act or the
26 intentional or willful and wanton misconduct of such

1 person.

2 a. The liability of the Interstate Commission's
3 staff director and employees or Interstate Commission
4 representatives, acting within the scope of such
5 person's employment or duties for acts, errors, or
6 omissions occurring within such person's state may not
7 exceed the limits of liability set forth under the
8 Constitution and laws of that state for state
9 officials, employees, and agents. The Interstate
10 Commission is considered to be an instrumentality of
11 the states for the purposes of any such action. Nothing
12 in this subsection shall be construed to protect such
13 person from suit or liability for damage, loss, injury,
14 or liability caused by a criminal act or the
15 intentional or willful and wanton misconduct of such
16 person.

17 b. The Interstate Commission shall defend the
18 staff director and its employees and, subject to the
19 approval of the Attorney General or other appropriate
20 legal counsel of the member state shall defend the
21 commissioner of a member state in a civil action
22 seeking to impose liability arising out of an actual or
23 alleged act, error or omission that occurred within the
24 scope of Interstate Commission employment, duties or
25 responsibilities, or that the defendant had a
26 reasonable basis for believing occurred within the

1 scope of Interstate Commission employment, duties, or
2 responsibilities, provided that the actual or alleged
3 act, error, or omission did not result from intentional
4 or willful and wanton misconduct on the part of such
5 person.

6 c. To the extent not covered by the state involved,
7 member state, or the Interstate Commission, the
8 representatives or employees of the Interstate
9 Commission shall be held harmless in the amount of a
10 settlement or judgment, including attorney's fees and
11 costs, obtained against such persons arising out of an
12 actual or alleged act, error, or omission that occurred
13 within the scope of Interstate Commission employment,
14 duties, or responsibilities, or that such persons had a
15 reasonable basis for believing occurred within the
16 scope of Interstate Commission employment, duties, or
17 responsibilities, provided that the actual or alleged
18 act, error, or omission did not result from intentional
19 or willful and wanton misconduct on the part of such
20 persons.

21 ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

22 A. The Interstate Commission shall promulgate and publish
23 rules in order to effectively and efficiently achieve the
24 purposes of the compact.

25 B. Rulemaking shall occur pursuant to the criteria set

1 forth in this article and the bylaws and rules adopted pursuant
2 thereto. Such rulemaking shall substantially conform to the
3 principles of the "Model State Administrative Procedures Act,"
4 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such
5 other administrative procedure acts as the Interstate
6 Commission deems appropriate consistent with due process
7 requirements under the United States Constitution as now or
8 hereafter interpreted by the U. S. Supreme Court. All rules and
9 amendments shall become binding as of the date specified, as
10 published with the final version of the rule as approved by the
11 Interstate Commission.

12 C. When promulgating a rule, the Interstate Commission
13 shall, at a minimum:

14 1. Publish the proposed rule's entire text stating the
15 reason(s) for that proposed rule; and

16 2. Allow and invite any and all persons to submit
17 written data, facts, opinions and arguments, which
18 information shall be added to the record, and be made
19 publicly available; and

20 3. Promulgate a final rule and its effective date, if
21 appropriate, based on input from state or local officials,
22 or interested parties.

23 D. Rules promulgated by the Interstate Commission shall
24 have the force and effect of statutory law and shall supersede
25 any state law, rule or regulation to the extent of any
26 conflict.

1 E. Not later than 60 days after a rule is promulgated, an
2 interested person may file a petition in the U.S. District
3 Court for the District of Columbia or in the Federal District
4 Court where the Interstate Commission's principal office is
5 located for judicial review of such rule. If the court finds
6 that the Interstate Commission's action is not supported by
7 substantial evidence in the rulemaking record, the court shall
8 hold the rule unlawful and set it aside.

9 F. If a majority of the legislatures of the member states
10 rejects a rule, those states may by enactment of a statute or
11 resolution in the same manner used to adopt the compact cause
12 that such rule shall have no further force and effect in any
13 member state.

14 G. The existing rules governing the operation of the
15 Interstate Compact on the Placement of Children superseded by
16 this act shall be null and void no less than 12, but no more
17 than 24 months after the first meeting of the Interstate
18 Commission created hereunder, as determined by the members
19 during the first meeting.

20 H. Within the first 12 months of operation, the Interstate
21 Commission shall promulgate rules addressing the following:

- 22 1. Transition rules
- 23 2. Forms and procedures
- 24 3. Time lines
- 25 4. Data collection and reporting
- 26 5. Rulemaking

- 1 6. Visitation
- 2 7. Progress reports/supervision
- 3 8. Sharing of information/confidentiality
- 4 9. Financing of the Interstate Commission
- 5 10. Mediation, arbitration and dispute resolution
- 6 11. Education, training and technical assistance
- 7 12. Enforcement
- 8 13. Coordination with other interstate compacts.

9 I. Upon determination by a majority of the members of the
10 Interstate Commission that an emergency exists:

11 1. The Interstate Commission may promulgate an
12 emergency rule only if it is required to:

13 a. Protect the children covered by this compact
14 from an imminent threat to their health, safety and
15 well-being; or

16 b. Prevent loss of federal or state funds; or

17 c. Meet a deadline for the promulgation of an
18 administrative rule required by federal law.

19 2. An emergency rule shall become effective
20 immediately upon adoption, provided that the usual
21 rulemaking procedures provided hereunder shall be
22 retroactively applied to said rule as soon as reasonably
23 possible, but no later than 90 days after the effective
24 date of the emergency rule.

25 3. An emergency rule shall be promulgated as provided
26 for in the rules of the Interstate Commission.

1 ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

2 A. Oversight

3 1. The Interstate Commission shall oversee the
4 administration and operation of the compact.

5 2. The executive, legislative and judicial branches of
6 state government in each member state shall enforce this
7 compact and the rules of the Interstate Commission and
8 shall take all actions necessary and appropriate to
9 effectuate the compact's purposes and intent. The compact
10 and its rules shall supercede state law, rules or
11 regulations to the extent of any conflict therewith.

12 3. All courts shall take judicial notice of the compact
13 and the rules in any judicial or administrative proceeding
14 in a member state pertaining to the subject matter of this
15 compact.

16 4. The Interstate Commission shall be entitled to
17 receive service of process in any action in which the
18 validity of a compact provision or rule is the issue for
19 which a judicial determination has been sought and shall
20 have standing to intervene in any proceedings. Failure to
21 provide service of process to the Interstate Commission
22 shall render any judgment, order or other determination,
23 however so captioned or classified, void as to the
24 Interstate Commission, this compact, its bylaws or rules of
25 the Interstate Commission.

1 B. Dispute Resolution

2 1. The Interstate Commission shall attempt, upon the
3 request of a member state, to resolve disputes which are
4 subject to the compact and which may arise among member
5 states and between member and non-member states.

6 2. The Interstate Commission shall promulgate a rule
7 providing for both mediation and binding dispute
8 resolution for disputes among compacting states. The costs
9 of such mediation or dispute resolution shall be the
10 responsibility of the parties to the dispute.

11 C. Enforcement

12 1. If the Interstate Commission determines that a
13 member state has defaulted in the performance of its
14 obligations or responsibilities under this compact, its
15 bylaws or rules, the Interstate Commission may:

16 a. Provide remedial training and specific
17 technical assistance; or

18 b. Provide written notice to the defaulting state
19 and other member states, of the nature of the default
20 and the means of curing the default. The Interstate
21 Commission shall specify the conditions by which the
22 defaulting state must cure its default; or

23 c. By majority vote of the members, initiate
24 against a defaulting member state legal action in the
25 United State District Court for the District of
26 Columbia or, at the discretion of the Interstate

1 Commission, in the federal district where the
2 Interstate Commission has its principal office, to
3 enforce compliance with the provisions of the compact,
4 its bylaws or rules. The relief sought may include both
5 injunctive relief and damages. In the event judicial
6 enforcement is necessary the prevailing party shall be
7 awarded all costs of such litigation including
8 reasonable attorney's fees; or

9 d. Avail itself of any other remedies available
10 under state law or the regulation of official or
11 professional conduct.

12 ARTICLE XIII. FINANCING OF THE COMMISSION

13 A. The Interstate Commission shall pay, or provide for the
14 payment of the reasonable expenses of its establishment,
15 organization and ongoing activities.

16 B. The Interstate Commission may levy on and collect an
17 annual assessment from each member state to cover the cost of
18 the operations and activities of the Interstate Commission and
19 its staff which must be in a total amount sufficient to cover
20 the Interstate Commission's annual budget as approved by its
21 members each year. The aggregate annual assessment amount shall
22 be allocated based upon a formula to be determined by the
23 Interstate Commission which shall promulgate a rule binding
24 upon all member states.

25 C. The Interstate Commission shall not incur obligations of

1 any kind prior to securing the funds adequate to meet the same;
2 nor shall the Interstate Commission pledge the credit of any of
3 the member states, except by and with the authority of the
4 member state.

5 D. The Interstate Commission shall keep accurate accounts
6 of all receipts and disbursements. The receipts and
7 disbursements of the Interstate Commission shall be subject to
8 the audit and accounting procedures established under its
9 bylaws. However, all receipts and disbursements of funds
10 handled by the Interstate Commission shall be audited yearly by
11 a certified or licensed public accountant and the report of the
12 audit shall be included in and become part of the annual report
13 of the Interstate Commission.

14 ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

15 A. Any state is eligible to become a member state.

16 B. The compact shall become effective and binding upon
17 legislative enactment of the compact into law by no less than
18 35 states. The effective date shall be the later of July 1,
19 2007 or upon enactment of the compact into law by the 35th
20 state. Thereafter it shall become effective and binding as to
21 any other member state upon enactment of the compact into law
22 by that state. The executive heads of the state human services
23 administration with ultimate responsibility for the child
24 welfare program of non-member states or their designees shall
25 be invited to participate in the activities of the Interstate

1 Commission on a non-voting basis prior to adoption of the
2 compact by all states.

3 C. The Interstate Commission may propose amendments to the
4 compact for enactment by the member states. No amendment shall
5 become effective and binding on the member states unless and
6 until it is enacted into law by unanimous consent of the member
7 states.

8 ARTICLE XV. WITHDRAWAL AND DISSOLUTION

9 A. Withdrawal

10 1. Once effective, the compact shall continue in force
11 and remain binding upon each and every member state;
12 provided that a member state may withdraw from the compact
13 specifically repealing the statute which enacted the
14 compact into law.

15 2. Withdrawal from this compact shall be by the
16 enactment of a statute repealing the same. The effective
17 date of withdrawal shall be the effective date of the
18 repeal of the statute.

19 3. The withdrawing state shall immediately notify the
20 president of the Interstate Commission in writing upon the
21 introduction of legislation repealing this compact in the
22 withdrawing state. The Interstate Commission shall then
23 notify the other member states of the withdrawing state's
24 intent to withdraw.

25 4. The withdrawing state is responsible for all

1 assessments, obligations and liabilities incurred through
2 the effective date of withdrawal.

3 5. Reinstatement following withdrawal of a member
4 state shall occur upon the withdrawing state reenacting the
5 compact or upon such later date as determined by the
6 members of the Interstate Commission.

7 B. Dissolution of Compact

8 1. This compact shall dissolve effective upon the date
9 of the withdrawal or default of the member state which
10 reduces the membership in the compact to one member state.

11 2. Upon the dissolution of this compact, the compact
12 becomes null and void and shall be of no further force or
13 effect, and the business and affairs of the Interstate
14 Commission shall be concluded and surplus funds shall be
15 distributed in accordance with the bylaws.

16 ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

17 A. The provisions of this compact shall be severable, and
18 if any phrase, clause, sentence or provision is deemed
19 unenforceable, the remaining provisions of the compact shall be
20 enforceable.

21 B. The provisions of this compact shall be liberally
22 construed to effectuate its purposes.

23 C. Nothing in this compact shall be construed to prohibit
24 the concurrent applicability of other interstate compacts to
25 which the states are members.

1 ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

2 A. Other Laws

3 1. Nothing herein prevents the enforcement of any other
4 law of a member state that is not inconsistent with this
5 compact.

6 2. All member states' laws conflicting with this
7 compact or its rules are superseded to the extent of the
8 conflict.

9 B. Binding Effect of the Compact

10 1. All lawful actions of the Interstate Commission,
11 including all rules and bylaws promulgated by the
12 Interstate Commission, are binding upon the member states.

13 2. All agreements between the Interstate Commission
14 and the member states are binding in accordance with their
15 terms.

16 3. In the event any provision of this compact exceeds
17 the constitutional limits imposed on the legislature of any
18 member state, such provision shall be ineffective to the
19 extent of the conflict with the constitutional provision in
20 question in that member state.

21 ARTICLE XVIII. INDIAN TRIBES

22 Notwithstanding any other provision in this compact, the
23 Interstate Commission may promulgate guidelines to permit
24 Indian tribes to utilize the compact to achieve any or all of

1 the purposes of the compact as specified in Article I. The
2 Interstate Commission shall make reasonable efforts to consult
3 with Indian tribes in promulgating guidelines to reflect the
4 diverse circumstances of the various Indian tribes.".

5 Section 10. Enforcement. The agencies and officers of this
6 State and its subdivisions shall enforce this compact and do
7 all things appropriate to effect its purpose and intent that
8 may be within their respective jurisdictions.

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.