

HISTORY OF THE ICPC

Background

The current ICPC was drafted in 1960 and has been enacted by all states, the District of Columbia, and the U.S. Virgin Islands. It is the only public law in existence to ensure that children placed across state lines for foster care or adoption are placed with persons who are safe, suitable, and able to provide proper care. It also fixes legal and financial responsibility and responsibility for supervision and the provision of services for the child.

The ICPC process entails a complete home study conducted by the receiving state. This involves assessments of social and medical histories of the placement family, their backgrounds, parenting and discipline styles, employment and financial histories, physical evaluation of their home, criminal and child abuse background checks, personal and professional references, foster or adoptive parent training, and case worker recommendations. Once the placement is determined to be “not contrary to the welfare of the child” and the child is placed, the receiving state is responsible for ongoing supervision of the placement and for providing support services to the family and regular reports to the sending state agency and court. In addition, agreement must be reached between the sending and receiving states on how services and supports will be financed. This can be complex as it may involve cooperation of several systems in both states, including education, mental health, and education.

The existing compact provision and rules are administered by the Association of Administrators of the Interstate Compact on the Placement of Children (AAICPC), which is an affiliate of APHSA. It is a professional association of government officials and also serves as the administrative body charged with carrying out the terms of the current compact provisions and rules. This body, however, is not specifically designated under the compact, nor is it given specific authority to make and enforce rules or the provisions of the compact.

Road to Change

Renewed focus on safety and permanency for children in our public child welfare system brought the Interstate Compact on the Placement of Children (ICPC) into the spotlight. While this renewed focus confirmed the important role the ICPC plays in ensuring appropriate placements, it has also highlighted many problems with the compact as it is currently written and implemented. Concerns about the timeliness of the ICPC process causing unnecessary delays for children being placed across state lines, and its “overly broad” application to all interstate placements of children, not just those in the foster care system, coupled with an outdated administrative process and lack of accountability, gave rise to great dissatisfaction with the ICPC from states, outside stakeholders, and Congress. In addition, the compact language and procedures are insufficient and antiquated; its rules and procedures are not widely followed or understood; and its current structure lacks enforcement and accountability. Finally, as geographical boundaries are blurred by the Internet and interstate placements of children in foster care become a significant part of states’ efforts to find permanency for these children, the importance of a sound legal framework for interstate placements is even more critical. The compact was written before the interstate highway system, before the development of administrative law, and before the computer revolutionized the way we live. In short, the ICPC is no longer contemporary for child welfare practice in the 21st century.

In March 2004, the state human service leadership of the American Public Human Services Association (APHSA) adopted a policy resolution directing a rewrite of the ICPC. While the association members agreed that there are a number of issues that need to be addressed in order to improve the process of placing children across state lines, true reform required revisions to the language of the ICPC itself. A solid legal foundation for interstate placements was critically needed to ensure the timely placement of children.

In response to this resolution, APHSA assembled a development and drafting team composed of a diverse group of state human service administrators, state and local child welfare directors, compact administrators, and representatives from a broad and diverse group of national organizations, including the U.S. Department of Health and Human Services, Administration for Children and Families and Children's Bureau; the Child Welfare League of America; the National Court Appointed Special Advocates Program; the American Academy of Adoption Attorneys; the American Bar Association; the Center on Children the Law; the National Council of Juvenile and Family Court Judges; the National Indian Child Welfare Association; the National Association of Attorneys General; and the Council of State Governments, to identify and provide recommendations for addressing the issues in the compact and its implementation. After intensive meetings and extensive communication with the states and outside stakeholders on the direction that a comprehensive amended compact should take, a drafting team developed and disseminated two drafts of the rewritten compact—the Interstate Compact *for* the Placement of Children—for review and comment. This circulation and review took place from December 2004 through September 2005. The comments and concerns of the states and stakeholders were compiled and integrated by APHSA staff and the drafting team. In June 2005 an issue memorandum outlining the legal and practice arguments for the remaining unresolved issues was sent to state human service administrators. Administrators were asked to submit their position on which direction the compact should go for each issue. Based on a majority of state positions, the drafting team created the final draft of the compact, which was sent to each state for final approval in November 2005. In March 2006, APHSA received the necessary support to move forward with assisting states in getting the new compact adopted nationally.

With a grant from the Dave Thomas Foundation, APHSA was able to develop legislative informational materials and begin the work of getting the new compact enacted by states, the District of Columbia, and U.S. territories.

Solutions for the Future

The proposed compact spells out the authority for the Interstate Compact for the Placement of Children to exist and operate and replaces the problematic and legally deficient language of the 1960 compact. The proposed compact will enable states to successfully address the deficiencies documented in the current compact system, including enforcement, administration, finances, communications, data collection and exchange, and training. In turn, this will improve and remove many of the barriers to the timely placement of children across state lines. The Interstate Compact *for* the Placement of Children, among other improvements, provides:

1. Clear language regarding applicability of the compact.
2. Clear rulemaking authority delegated to the Interstate Commission and provisions ensuring that the development of rules is in compliance with the due process principles of notice and comments of the Model State Administrative Procedures Act.
3. Meaningful enforcement of this important child welfare permanency tool. For the first time, the compact includes provisions that provide a wide range of tools to secure compliance, including technical assistance, mediation and arbitration, remedial training, and legal action in federal court.
4. Collection of standardized information and development of a secure and affordable information system that will facilitate timely information sharing and help ensure accountability for the interstate placements of children.

5. Clarification regarding retention of legal jurisdiction and under what circumstances jurisdiction may be terminated.
6. Administrative review of a receiving state's decision at the request of an interested party.

In summary, the new Interstate Compact for the Placement of Children will provide a better legal framework to ensure that children are placed in a timely manner with safe and suitable persons.