

1 ARTICLE I. PURPOSE

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

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

5 B. Facilitate ongoing supervision of a placement, the delivery of services,
6 and communication between the states.

7 C. Provide operating procedures that will ensure that children are placed in
8 safe and suitable homes in a timely manner.

9 D. Provide for the promulgation and enforcement of administrative rules
10 implementing the provisions of this compact and regulating the covered
11 activities of the member states.

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

14 F. Promote coordination between this compact, the Interstate Compact for
15 Juveniles, the Interstate Compact on Adoption and Medical Assistance
16 and other compacts affecting the placement of and which provide
17 services to children otherwise subject to this compact.

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

1 H. Provide for the promulgation of guidelines, in collaboration with Indian
2 tribes, for interstate cases involving Indian children as is or may be
3 permitted by federal law.
4

5 ARTICLE II. DEFINITIONS

6 As used in this compact,

7 A. "Approved placement" means the public child placing agency in the
8 receiving state has determined that the placement is both safe and
9 suitable for the child.

10 B. "Assessment" means an evaluation of a prospective placement by a
11 public child placing agency in the receiving state to determine if the
12 placement meets the individualized needs of the child, including but not
13 limited to the child's safety and stability, health and well-being, and
14 mental, emotional, and physical development. An assessment is only
15 applicable to a placement by a public child placing agency.

16 C. "Child" means an individual who has not attained the age of eighteen
17 (18).

18 D. "Certification" means to attest, declare or sworn to before a judge or
19 notary public.

20 E. "Default" means the failure of a member state to perform the obligations
21 or responsibilities imposed upon it by this compact, the bylaws or rules
22 of the Interstate Commission.

- 1 F. “Home Study” means an evaluation of a home environment conducted in
2 accordance with the applicable requirements of the state in which the
3 home is located, and documents the preparation and the suitability of
4 the placement resource for placement of a child in accordance with the
5 laws and requirements of the state in which the home is located.
- 6 G. “Indian tribe” means any Indian tribe, band, nation, or other organized
7 group or community of Indians recognized as eligible for services
8 provided to Indians by the Secretary of the Interior because of their
9 status as Indians, including any Alaskan native village as defined in
10 section 3 (c) of the Alaska Native Claims settlement Act at 43 USC
11 §1602(c).
- 12 H. “Interstate Commission for the Placement of Children” means the
13 commission that is created under Article VIII of this compact and which
14 is generally referred to as the Interstate Commission.
- 15 I. “Jurisdiction” means the power and authority of a court to hear and
16 decide matters.
- 17 J. “Legal Risk Placement” (“Legal Risk Adoption”) means a placement made
18 preliminary to an adoption where the prospective adoptive parents
19 acknowledge in writing that a child can be ordered returned to the
20 sending state or the birth mother’s state of residence, if different from the
21 sending state, and a final decree of adoption shall not be entered in any

1 jurisdiction until all required consents are obtained or are dispensed
2 with in accordance with applicable law.

3 K. "Member state" means a state that has enacted this compact.

4 L. "Non-custodial parent" means a person who, at the time of the
5 commencement of court proceedings in the sending state, does not have
6 sole legal custody of the child or has joint legal custody of a child, and
7 who is not the subject of allegations or findings of child abuse or neglect.

8 M. "Non-member state" means a state which has not enacted this compact.

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

17 O. "Placement" means the act by a public or private child placing agency
18 intended to arrange for the care or custody of a child in another state.

19 P. "Private child placing agency" means any private corporation, agency,
20 foundation, institution, or charitable organization, or any private person
21 or attorney that facilitates, causes, or is involved in the placement of a

1 child from one state to another and that is not an instrumentality of the
2 state or acting under color of state law.

3 Q. "Provisional placement" means a determination made by the public child
4 placing agency in the receiving state that the proposed placement is safe
5 and suitable, and, to the extent allowable, the receiving state has
6 temporarily waived its standards or requirements otherwise applicable to
7 prospective foster or adoptive parents so as to not delay the placement.
8 Completion of the receiving state requirements regarding training for
9 prospective foster or adoptive parents shall not delay an otherwise safe
10 and suitable placement.

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

16 S. "Receiving state" means the state to which a child is sent, brought, or
17 caused to be sent or brought.

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

- 1 U. “Residential Facility” means a facility providing a level of care that is
2 sufficient to substitute for parental responsibility or foster care, and is
3 beyond what is needed for assessment or treatment of an acute
4 condition. For purposes of the compact, residential facilities do not
5 include institutions primarily educational in character, hospitals or other
6 medical facilities.
- 7 V. “Rule” means a written directive, mandate, standard or principle issued
8 by the Interstate Commission promulgated pursuant to Article XI of this
9 compact that is of general applicability and that implements, interprets
10 or prescribes a policy or provision of the compact. “Rule” has the force
11 and effect of an administrative rule in a member state, and includes the
12 amendment, repeal, or suspension of an existing rule.
- 13 W. “Sending state” means the state from which the placement of a child is
14 initiated.
- 15 X. “Service member’s permanent duty station” means the military
16 installation where an active duty Armed Services member is currently
17 assigned and is physically located under competent orders that do not
18 specify the duty as temporary.
- 19 Y. “Service member’s state of legal residence” means the state in which the
20 active duty Armed Services member is considered a resident for tax and
21 voting purposes.

1 Z. "State" means a state of the United States, the District of Columbia, the
2 Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American
3 Samoa, the Northern Marianas Islands and any other territory of the
4 United States.

5 AA. "State court" means a judicial body of a state that is vested by law
6 with responsibility for adjudicating cases involving abuse, neglect,
7 deprivation, delinquency or status offenses of individuals who have not
8 attained the age of eighteen (18).

9 BB. "Supervision" means monitoring provided by the receiving state
10 once a child has been placed in a receiving state pursuant to this
11 compact.

12
13 ARTICLE III. APPLICABILITY

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

- 16 1. The interstate placement of a child subject to ongoing court
17 jurisdiction in the sending state, due to allegations or findings that
18 the child has been abused, neglected, or deprived as defined by the
19 laws of the sending state, provided, however, that the placement of
20 such a child into a residential facility shall only require notice of
21 residential placement to the receiving state prior to placement.

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

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

6 b. the child is being placed in another member state and the
7 determination of safety and suitability of the placement and
8 services required is not provided through another compact.

9 3. The interstate placement of any child by a public child placing agency
10 or private child placing agency as defined in this compact as a
11 preliminary step to a possible adoption.

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

13 1. The interstate placement of a child in a custody proceeding in which a
14 public child placing agency is not a party, provided, the placement is
15 not intended to effectuate an adoption.

16 2. The interstate placement of a child with a non-relative in a receiving
17 state by a parent with the legal authority to make such a placement
18 provided, however, that the placement is not intended to effectuate an
19 adoption.

20 3. The interstate placement of a child by one relative with the lawful
21 authority to make such a placement directly with a relative in a
22 receiving state.

1 4. The placement of a child, not subject to Article III, Section A, into a
2 residential facility by his parent.

3 5. The placement of a child with a non-custodial parent provided that:

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

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

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

11 6. A child entering the United States from a foreign country for the
12 purpose of adoption or leaving the United States to go to a foreign
13 country for the purpose of adoption in that country.

14 7. Cases in which a U.S. citizen child living overseas with his family, at
15 least one of whom is in the U.S. Armed Services, and who is stationed
16 overseas, is removed and placed in a state.

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

20 C. For purposes of determining the applicability of this compact to the
21 placement of a child with a family in the Armed Services, the public child
22 placing agency or private child placing agency may choose the state of

1 the service member's permanent duty station or the service member's
2 declared legal residence.

3 D. Nothing in this compact shall be construed to prohibit the concurrent
4 application of the provisions of this compact with other applicable
5 interstate compacts including the Interstate Compact for Juveniles and
6 the Interstate Compact on Adoption and Medical Assistance. The
7 Interstate Commission may in cooperation with other interstate compact
8 commissions having responsibility for the interstate movement,
9 placement or transfer of children, promulgate like rules to ensure the
10 coordination of services, timely placement of children, and the reduction
11 of unnecessary or duplicative administrative or procedural requirements.

12 13 ARTICLE IV. JURISDICTION

14 A. Except as provided in Article IV, Section G and Article V, Section B,
15 paragraph two and three concerning private and independent adoptions,
16 and in interstate placements in which the public child placing agency is
17 not a party to a custody proceeding, the sending state shall retain
18 jurisdiction over a child with respect to all matters of custody and
19 disposition of the child which it would have had if the child had
20 remained in the sending state. Such jurisdiction shall also include the
21 power to order the return of the child to the sending state.

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

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

6 1. The child is reunified with the parent in the receiving state who is the
7 subject of allegations or findings of abuse or neglect, only with the
8 concurrence of the public child placing agency in the receiving state;

9 or

10 2. The child is adopted; or

11 3. The child reaches the age of majority under the laws of the sending
12 state; or

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

15 5. A guardianship is created by a court in the receiving state with the
16 concurrence of the court in the sending state; or

17 6. An Indian tribe has petitioned for and received jurisdiction from the
18 court in the sending state; or

19 7. The public child placing agency of the sending state requests
20 termination and has obtained the concurrence of the public child
21 placing agency in the receiving the state.

- 1 D. When a sending state court terminates its jurisdiction, the receiving state
2 child placing agency shall be notified.
- 3 E. Nothing in this article shall defeat a claim of jurisdiction by a receiving
4 state court sufficient to deal with an act of truancy, delinquency, crime
5 or behavior involving a child as defined by the laws of the receiving state
6 committed by the child in the receiving state which would be a violation
7 of its laws.
- 8 F. Nothing in this article shall limit the receiving state's ability to take
9 emergency jurisdiction for the protection of the child.
- 10 G. The substantive laws of the state in which an adoption will be finalized
11 shall solely govern all issues relating to the adoption of the child and the
12 court in which the adoption proceeding is filed shall have subject matter
13 jurisdiction regarding all substantive issues relating to the adoption,
14 except:
- 15 1. when the child is a ward of another court that established
16 jurisdiction over the child prior to the placement; or
 - 17 2. when the child is in the legal custody of a public agency in the
18 sending state; or
 - 19 3. when a court in the sending state has otherwise appropriately
20 assumed jurisdiction over the child, prior to the submission of the
21 request for approval of placement.

1 H. A final decree of adoption shall not be entered in any jurisdiction until
2 the placement is authorized as an “approved placement” by the public
3 child placing agency in the receiving state.
4

5 ARTICLE V. PLACEMENT EVALUATION

6 A. Prior to sending, bringing, or causing a child to be sent or brought into a
7 receiving state, the public child placing agency shall provide a written
8 request for assessment to the receiving state.

9 B. For placements by a private child placing agency, a child may be sent or
10 brought, or caused to be sent or brought, into a receiving state, upon
11 receipt and immediate review of the required content in a request for
12 approval of a placement in both the sending and receiving state public
13 child placing agency. The required content to accompany a request for
14 approval shall include all of the following:

- 15 1. A request for approval identifying the child, birth parent(s), the
16 prospective adoptive parent(s), and the supervising agency, signed by
17 the person requesting approval; and
- 18 2. The appropriate consents or relinquishments signed by the birth-
19 parents in accordance with the laws of the sending state, or where
20 permitted the laws of the state where the adoption will be finalized;
21 and

- 1 3. Certification by a licensed attorney or authorized agent of a private
2 adoption agency that the consent or relinquishment is in compliance
3 with the applicable laws of the sending state, or where permitted the
4 laws of the state where finalization of the adoption will occur; and
5 4. A home study; and
6 5. An acknowledgment of legal risk signed by the prospective adoptive
7 parents.
- 8 C. The sending state and the receiving state may request additional
9 information or documents prior to finalization of an approved placement,
10 but they may not delay travel by the prospective adoptive parents with the
11 child if the required content for approval has been submitted, received and
12 reviewed by the public child placing agency in both the sending state and
13 the receiving state.
- 14 D. Approval from the public child placing agency in the receiving state for a
15 provisional or approved placement is required as provided for in the rules of
16 the Interstate Commission.
- 17 E. The procedures for making and the request for an assessment shall contain
18 all information and be in such form as provided for in the rules of the
19 Interstate Commission.
- 20 F. Upon receipt of a request from the public child placing agency of the
21 sending state, the receiving state shall initiate an assessment of the
22 proposed placement to determine its safety and suitability. If the proposed

1 placement is a placement with a relative, the public child placing agency of
2 the sending state may request a determination for a provisional placement.

3 G. The public child placing agency in the receiving state may request from the
4 public child placing agency or the private child placing agency in the
5 sending state, and shall be entitled to receive supporting or additional
6 information necessary to complete the assessment or approve the
7 placement.

8 H. The public child placing agency in the receiving state shall approve a
9 provisional placement and complete or arrange for the completion of the
10 assessment within the timeframes established by the rules of the Interstate
11 Commission.

12 I. For a placement by a private child placing agency, the sending state shall
13 not impose any additional requirements to complete the home study that
14 are not required by the receiving state, unless the adoption is finalized in
15 the sending state.

16 J. The Interstate Commission may develop uniform standards for the
17 assessment of the safety and suitability of interstate placements.

18
19 ARTICLE VI. PLACEMENT AUTHORITY

20 A. Except as otherwise provided in this Compact, no child subject to this
21 compact shall be placed into a receiving state until approval for such
22 placement is obtained.

1 B. If the public child placing agency in the receiving state does not approve
2 the proposed placement then the child shall not be placed. The receiving
3 state shall provide written documentation of any such determination in
4 accordance with the rules promulgated by the Interstate Commission.
5 Such determination is not subject to judicial review in the sending state.

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

9 1. The administrative review and any further judicial review associated
10 with the determination shall be conducted in the receiving state
11 pursuant to its applicable administrative procedures.

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

17
18 ARTICLE VII. PLACING AGENCY RESPONSIBILITY

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

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

- 1 a. the ongoing support and maintenance for the child during the
- 2 period of the placement, unless otherwise provided for in the
- 3 receiving state; and
- 4 b. as determined by the public child placing agency in the sending
- 5 state, services for the child beyond the public services for which
- 6 the child is eligible in the receiving state.
- 7 2. The receiving state shall only have financial responsibility for:
- 8 a. any assessment conducted by the receiving state; and
- 9 b. supervision conducted by the receiving state at the level necessary
- 10 to support the placement as agreed upon by the public child
- 11 placing agencies of the receiving and sending state.
- 12 3. Nothing in this provision shall prohibit public child placing agencies in
- 13 the sending state from entering into agreements with licensed
- 14 agencies or persons in the receiving state to conduct assessments and
- 15 provide supervision.
- 16 B. For the placement of a child by a private child placing agency preliminary
- 17 to a possible adoption, the private child placing agency shall be:
- 18 1. Legally responsible for the child during the period of placement as
- 19 provided for in the law of the sending state until the finalization of the
- 20 adoption.
- 21 2. Financially responsible for the child absent a contractual agreement
- 22 to the contrary.

- 1 C. The public child placing agency in the receiving state shall provide timely
2 assessments, as provided for in the rules of the Interstate Commission.
- 3 D. The public child placing agency in the receiving state shall provide, or
4 arrange for the provision of, supervision and services for the child,
5 including timely reports, during the period of the placement.
- 6 E. Nothing in this compact shall be construed as to limit the authority of
7 the public child placing agency in the receiving state from contracting
8 with a licensed agency or person in the receiving state for an assessment
9 or the provision of supervision or services for the child or otherwise
10 authorizing the provision of supervision or services by a licensed agency
11 during the period of placement.
- 12 F. Each member state shall provide for coordination among its branches of
13 government concerning the state's participation in, and compliance with,
14 the compact and Interstate Commission activities, through the creation
15 of an advisory council or use of an existing body or board.
- 16 G. Each member state shall establish a central state compact office, which
17 shall be responsible for state compliance with the compact and the rules
18 of the Interstate Commission.
- 19 H. The public child placing agency in the sending state shall oversee
20 compliance with the provisions of the Indian Child Welfare Act (25 USC
21 1901 et seq.) for placements subject to the provisions of this compact,
22 prior to placement.

1 I. With the consent of the Interstate Commission, states may enter into
2 limited agreements that facilitate the timely assessment and provision of
3 services and supervision of placements under this compact.
4

5 ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF
6 CHILDREN

7 The member states hereby establish, by way of this compact, a commission
8 known as the “Interstate Commission for the Placement of Children.” The
9 activities of the Interstate Commission are the formation of public policy and
10 are a discretionary state function. The Interstate Commission shall:

11 A. Be a joint commission of the member states and shall have the
12 responsibilities, powers and duties set forth herein, and such additional
13 powers as may be conferred upon it by subsequent concurrent action of
14 the respective legislatures of the member states.

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

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

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

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

5 4. A representative may delegate voting authority to another person from
6 their state for a specified meeting.

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

12 D. Establish an executive committee which shall have the authority to
13 administer the day-to-day operations and administration of the Interstate
14 Commission. It shall not have the power to engage in rulemaking.

15
16 ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

17 The Interstate Commission shall have the following powers:

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

20 B. To provide for dispute resolution among member states.

- 1 C. To issue, upon request of a member state, advisory opinions concerning
2 the meaning or interpretation of the interstate compact, its bylaws, rules
3 or actions.
- 4 D. To enforce compliance with this compact or the bylaws or rules of the
5 Interstate Commission pursuant to Article XII.
- 6 E. Collect standardized data concerning the interstate placement of children
7 subject to this compact as directed through its rules which shall specify
8 the data to be collected, the means of collection and data exchange and
9 reporting requirements.
- 10 F. To establish and maintain offices as may be necessary for the transacting
11 of its business.
- 12 G. To purchase and maintain insurance and bonds.
- 13 H. To hire or contract for services of personnel or consultants as necessary
14 to carry out its functions under the compact and establish personnel
15 qualification policies, and rates of compensation.
- 16 I. To establish and appoint committees and officers including, but not
17 limited to, an executive committee as required by Article X.
- 18 J. To accept any and all donations and grants of money, equipment,
19 supplies, materials, and services, and to receive, utilize, and dispose
20 thereof.
- 21 K. To lease, purchase, accept contributions or donations of, or otherwise to
22 own, hold, improve or use any property, real, personal, or mixed.

- 1 L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise
2 dispose of any property, real, personal or mixed.
- 3 M. To establish a budget and make expenditures.
- 4 N. To adopt a seal and bylaws governing the management and operation of
5 the Interstate Commission.
- 6 O. To report annually to the legislatures, governors, the judiciary, and state
7 advisory councils of the member states concerning the activities of the
8 Interstate Commission during the preceding year. Such reports shall
9 also include any recommendations that may have been adopted by the
10 Interstate Commission.
- 11 P. To coordinate and provide education, training and public awareness
12 regarding the interstate movement of children for officials involved in
13 such activity.
- 14 Q. To maintain books and records in accordance with the bylaws of the
15 Interstate Commission.
- 16 R. To perform such functions as may be necessary or appropriate to achieve
17 the purposes of this compact.

18

19 ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE

20 COMMISSION

21 A. Bylaws

1 1. Within 12 months after the first Interstate Commission meeting, the
2 Interstate Commission shall adopt bylaws to govern its conduct as
3 may be necessary or appropriate to carry out the purposes of the
4 compact.

5 2. The Interstate Commission's bylaws and rules shall establish
6 conditions and procedures under which the Interstate Commission
7 shall make its information and official records available to the public
8 for inspection or copying. The Interstate Commission may exempt
9 from disclosure information or official records to the extent they
10 would adversely affect personal privacy rights or proprietary interests.

11 B. Meetings

12 1. The Interstate Commission shall meet at least once each calendar
13 year. The chairperson may call additional meetings and, upon the
14 request of a simple majority of the member states shall call additional
15 meetings.

16 2. Public notice shall be given by the Interstate Commission of all
17 meetings and all meetings shall be open to the public, except as set
18 forth in the rules or as otherwise provided in the compact. The
19 Interstate Commission and its committees may close a meeting, or
20 portion thereof, where it determines by two-thirds vote that an open
21 meeting would be likely to:

- 1 a. relate solely to the Interstate Commission's internal personnel
 - 2 practices and procedures; or
 - 3 b. disclose matters specifically exempted from disclosure by federal
 - 4 law; or
 - 5 c. disclose financial or commercial information which is privileged,
 - 6 proprietary or confidential in nature; or
 - 7 d. involve accusing a person of a crime, or formally censuring a
 - 8 person; or
 - 9 e. disclose information of a personal nature where disclosure would
 - 10 constitute a clearly unwarranted invasion of personal privacy or
 - 11 physically endanger one or more persons; or
 - 12 f. disclose investigative records compiled for law enforcement
 - 13 purposes; or
 - 14 g. specifically relate to the Interstate Commission's participation in a
 - 15 civil action or other legal proceeding.
- 16 3. For a meeting, or portion of a meeting, closed pursuant to this
 - 17 provision, the Interstate Commission's legal counsel or designee shall
 - 18 certify that the meeting may be closed and shall reference each
 - 19 relevant exemption provision. The Interstate Commission shall keep
 - 20 minutes which shall fully and clearly describe all matters discussed in
 - 21 a meeting and shall provide a full and accurate summary of actions
 - 22 taken, and the reasons therefore, including a description of the views

1 expressed and the record of a roll call vote. All documents considered
2 in connection with an action shall be identified in such minutes. All
3 minutes and documents of a closed meeting shall remain under seal,
4 subject to release by a majority vote of the Interstate Commission or
5 by court order.

- 6 4. The bylaws may provide for meetings of the Interstate Commission to
7 be conducted by telecommunication or other electronic
8 communication.

9 C. Officers and Staff

- 10 1. The Interstate Commission may, through its executive committee,
11 appoint or retain a staff director for such period, upon such terms
12 and conditions and for such compensation as the Interstate
13 Commission may deem appropriate. The staff director shall serve as
14 secretary to the Interstate Commission, but shall not have a vote. The
15 staff director may hire and supervise such other staff as may be
16 authorized by the Interstate Commission.

- 17 2. The Interstate Commission shall elect, from among its members, a
18 chairperson and a vice chairperson of the executive committee and
19 other necessary officers, each of whom shall have such authority and
20 duties as may be specified in the bylaws.

21 D. Qualified Immunity, Defense and Indemnification

1 1. The Interstate Commission’s staff director and its employees shall be
2 immune from suit and liability, either personally or in their official
3 capacity, for a claim for damage to or loss of property or personal
4 injury or other civil liability caused or arising out of or relating to an
5 actual or alleged act, error, or omission that occurred, or that such
6 person had a reasonable basis for believing occurred within the
7 scope of Commission employment, duties, or responsibilities;
8 provided, that such person shall not be protected from suit or liability
9 for damage, loss, injury, or liability caused by a criminal act or the
10 intentional or willful and wanton misconduct of such person.

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

1 b. The Interstate Commission shall defend the staff director and its
2 employees and, subject to the approval of the Attorney General or
3 other appropriate legal counsel of the member state shall defend
4 the commissioner of a member state in a civil action seeking to
5 impose liability arising out of an actual or alleged act, error or
6 omission that occurred within the scope of Interstate Commission
7 employment, duties or responsibilities, or that the defendant had a
8 reasonable basis for believing occurred within the scope of
9 Interstate Commission employment, duties, or responsibilities,
10 provided that the actual or alleged act, error, or omission did not
11 result from intentional or willful and wanton misconduct on the
12 part of such person.

13 c. To the extent not covered by the state involved, member state, or
14 the Interstate Commission, the representatives or employees of the
15 Interstate Commission shall be held harmless in the amount of a
16 settlement or judgment, including attorney's fees and costs,
17 obtained against such persons arising out of an actual or alleged
18 act, error, or omission that occurred within the scope of Interstate
19 Commission employment, duties, or responsibilities, or that such
20 persons had a reasonable basis for believing occurred within the
21 scope of Interstate Commission employment, duties, or
22 responsibilities, provided that the actual or alleged act, error, or

1 omission did not result from intentional or willful and wanton
2 misconduct on the part of such persons.

3
4 ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

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

17 C. When promulgating a rule, the Interstate Commission shall, at a
18 minimum:

- 19 1. Publish the proposed rule's entire text stating the reason(s) for that
20 proposed rule; and

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

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

6 D. Rules promulgated by the Interstate Commission shall have the force
7 and effect of administrative rules and shall be binding in the compacting
8 states to the extent and in the manner provided for in this compact.

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

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

20 G. The existing rules governing the operation of the Interstate Compact on
21 the Placement of Children superseded by this act shall be null and void
22 no less than 12, but no more than 24 months after the first meeting of

1 the Interstate Commission created hereunder, as determined by the
2 members during the first meeting.

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

- 5 1. Transition rules
- 6 2. Forms and procedures
- 7 3. Time lines
- 8 4. Data collection and reporting
- 9 5. Rulemaking
- 10 6. Visitation
- 11 7. Progress reports/supervision
- 12 8. Sharing of information/confidentiality
- 13 9. Financing of the Interstate Commission
- 14 10. Mediation, arbitration and dispute resolution
- 15 11. Education, training and technical assistance
- 16 12. Enforcement
- 17 13. Coordination with other interstate compacts

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

- 20 1. The Interstate Commission may promulgate an emergency rule only if
21 it is required to:

- a. Protect the children covered by this compact from an imminent threat to their health, safety and well-being; or
- b. Prevent loss of federal or state funds; or
- c. Meet a deadline for the promulgation of an administrative rule required by federal law.

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

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

ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

A. Oversight

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

2. The executive, legislative and judicial branches of state government in each member state shall enforce this compact and the rules of the Interstate Commission and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The

1 compact and its rules shall be binding in the compacting states to the
2 extent and in the manner provided for in this compact.

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

6 4. The Interstate Commission shall be entitled to receive service of
7 process in any action in which the validity of a compact provision or
8 rule is the issue for which a judicial determination has been sought
9 and shall have standing to intervene in any proceedings. Failure to
10 provide service of process to the Interstate Commission shall render
11 any judgment, order or other determination, however so captioned or
12 classified, void as to the Interstate Commission, this compact, its
13 bylaws or rules of the Interstate Commission.

14 B. Dispute Resolution

15 1. The Interstate Commission shall attempt, upon the request of a
16 member state, to resolve disputes which are subject to the compact
17 and which may arise among member states and between member and
18 non-member states.

19 2. The Interstate Commission shall promulgate a rule providing for both
20 mediation and binding dispute resolution for disputes among
21 compacting states. The costs of such mediation or dispute resolution
22 shall be the responsibility of the parties to the dispute.

1 C. Enforcement

2 1. If the Interstate Commission determines that a member state has
3 defaulted in the performance of its obligations or responsibilities
4 under this compact, its bylaws or rules, the Interstate Commission
5 may:

6 a. Provide remedial training and specific technical assistance; or

7 b. Provide written notice to the defaulting state and other member
8 states, of the nature of the default and the means of curing the
9 default. The Interstate Commission shall specify the conditions by
10 which the defaulting state must cure its default; or

11 c. By majority vote of the members, initiate against a defaulting
12 member state legal action in the United State District Court for the
13 District of Columbia or, at the discretion of the Interstate
14 Commission, in the federal district where the Interstate
15 Commission has its principal office, to enforce compliance with the
16 provisions of the compact, its bylaws or rules. The relief sought
17 may include both injunctive relief and damages. In the event
18 judicial enforcement is necessary the prevailing party shall be
19 awarded all costs of such litigation including reasonable attorney's
20 fees; or

21 d. Avail itself of any other remedies available under state law or the
22 regulation of official or professional conduct.

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ARTICLE XIII. FINANCING OF THE COMMISSION

- A. The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.
- B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission’s annual budget as approved by its members each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission which shall promulgate a rule binding upon all member states.
- C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.
- D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a

1 certified or licensed public accountant and the report of the audit shall
2 be included in and become part of the annual report of the Interstate
3 Commission.

4
5 ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

7 B. The compact shall become effective and binding upon legislative
8 enactment of the compact into law by no less than 35 states. The
9 effective date shall be the later of July 1, 2007 or upon enactment of the
10 compact into law by the 35th state. Thereafter it shall become effective
11 and binding as to any other member state upon enactment of the
12 compact into law by that state. The executive heads of the state human
13 services administration with ultimate responsibility for the child welfare
14 program of non-member states or their designees shall be invited to
15 participate in the activities of the Interstate Commission on a non-voting
16 basis prior to adoption of the compact by all states.

17 C. The Interstate Commission may propose amendments to the compact for
18 enactment by the member states. No amendment shall become effective
19 and binding on the member states unless and until it is enacted into law
20 by unanimous consent of the member states.

21
22 ARTICLE XV. WITHDRAWAL AND DISSOLUTION

1 A. Withdrawal

- 2 1. Once effective, the compact shall continue in force and remain
3 binding upon each and every member state; provided that a member
4 state may withdraw from the compact specifically repealing the
5 statute which enacted the compact into law.
- 6 2. Withdrawal from this compact shall be by the enactment of a statute
7 repealing the same. The effective date of withdrawal shall be the
8 effective date of the repeal of the statute.
- 9 3. The withdrawing state shall immediately notify the president of the
10 Interstate Commission in writing upon the introduction of legislation
11 repealing this compact in the withdrawing state. The Interstate
12 Commission shall then notify the other member states of the
13 withdrawing state's intent to withdraw.
- 14 4. The withdrawing state is responsible for all assessments, obligations
15 and liabilities incurred through the effective date of withdrawal.
- 16 5. Reinstatement following withdrawal of a member state shall occur
17 upon the withdrawing state reenacting the compact or upon such
18 later date as determined by the members of the Interstate
19 Commission.

20 B. Dissolution of Compact

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

4 2. Upon the dissolution of this compact, the compact becomes null and
5 void and shall be of no further force or effect, and the business and
6 affairs of the Interstate Commission shall be concluded and surplus
7 funds shall be distributed in accordance with the bylaws.

8
9 ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

10 A. The provisions of this compact shall be severable, and if any phrase,
11 clause, sentence or provision is deemed unenforceable, the remaining
12 provisions of the compact shall be enforceable.

13 B. The provisions of this compact shall be liberally construed to effectuate
14 its purposes.

15 C. Nothing in this compact shall be construed to prohibit the concurrent
16 applicability of other interstate compacts to which the states are
17 members.

18
19 ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

20 A. Other Laws

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

1 B. Binding Effect of the Compact

- 2 1. All lawful actions of the Interstate Commission, including all rules
3 and bylaws promulgated by the Interstate Commission, are binding
4 upon the member states.
- 5 2. All agreements between the Interstate Commission and the member
6 states are binding in accordance with their terms.
- 7 3. In the event any provision of this compact exceeds the constitutional
8 limits imposed on the legislature of any member state, such provision
9 shall be ineffective to the extent of the conflict with the constitutional
10 provision in question in that member state.

11
12 ARTICLE XVIII. INDIAN TRIBES

13 Notwithstanding any other provision in this compact, the Interstate
14 Commission may promulgate guidelines to permit Indian tribes to utilize
15 the compact to achieve any or all of the purposes of the compact as
16 specified in Article I. The Interstate Commission shall make reasonable
17 efforts to consult with Indian tribes in promulgating guidelines to reflect
18 the diverse circumstances of the various Indian tribes.