

# Conference of Chief Justices Conference of State Court Administrators

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February 22, 2019

The Honorable Philip Scott  
Governor, State of Vermont  
109 State Street, Pavilion  
Montpelier, VT 05609-0601

Dear Governor Scott:

We are writing on behalf of the Conference of Chief Justices (CCJ), Conference of State Court Administrators (COSCA), and as co-chairs of the National Judicial Opioid Task Force (NJOTF). Attached you will find a copy of a resolution adopted by CCJ on January 31, 2018, calling on states to adopt the new Interstate Compact on the Placement of Children (ICPC) without delay. This interstate agreement would update the existing ICPC for the 21<sup>st</sup> century and address many known deficiencies that the opioid crisis has exposed in the current compact. With so many children in our nation impacted by substance abuse leading to sky-rocketing foster care placements, there is an urgent need to reform our interstate child placement system to recognize that this crisis knows no boundaries.

The large number of deaths caused by licit and illicit opioid poisonings has garnered the nation's attention unlike any substance abuse crisis in our history. Opioid poisoning now kills more people than automobile accidents. The states and federal government have sought to aggressively combat this crisis on many fronts. While resources and attention are unquestionably welcomed and needed, they have not always focused on the fact that opioid addiction is not just an individual problem or societal problem, but profoundly impacts families and children. We regularly hear reports from juvenile judges that they are seeing children with significant developmental delays not necessarily because they have been directly exposed to opioids but because their caregivers have neglected them for months or even years as they pursued the next high. The result is that many states across the country are experiencing a rapid rise in the number of child abuse, neglect, and dependency cases, and a corresponding rise in the need for foster care resources.

One impediment to a more effective response to this crisis is the current version of the ICPC that was drafted some 50 years ago. That version is not an effective tool for the 21<sup>st</sup> century given our much more mobile society and the need to rely on extended families to support children in crisis. There is, for example, no common understanding of its provisions. The lack of clarity often means that state court judges and child protective services agencies read its provisions differently from state-to-state and even within the same state. Moving children across state borders even to kinship care can be cumbersome and burdensome, meaning some children sit in foster care even though the best placement might be right across a state line. And the lack of any binding regulatory system means that the uniformity and rationality sought by the current ICPC has been disjointed and irrational. A state can deny transfer of a placement, even with next-of-kin, with no specific reason required and no judicial review of that decision available. In other words, rather than being rational and in the best interests of a child, the

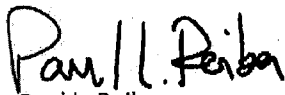
current ICPC encourages states to act in an arbitrary and capricious manner with no oversight or opportunity to contest a transfer denial.

The new ICPC seeks to address such problems by bringing greater rationality to the system while empowering state officials, acting as an interstate commission, to manage the system more rationally and effectively. The new ICPC requires transparency in the development of rules and policies. It sets up a governance system modeled after several recently adopted and successful compacts such as the Interstate Compact on Adult Supervision, the Interstate Compact on Juveniles, and the Interstate Compact on Educating the Children of Military Families. And the new ICPC contains strong enforcement mechanisms to ensure that state officials comply with the agreement, placing the best interests of children first.

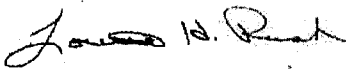
We know that states are in the process of planning for implementation of the recently enacted Family First and Prevention Services Act (FFPSA). In that law, Congress recognized the need to expedite interstate placements for children in foster care, adoption, or guardianship. This new federal law requires states to implement an electronic interstate case-processing system for exchanging data and documents to help expedite these placements. Including adoption of the new ICPC as part of your state's FFPSA implementation plan and legislative package would go even further in expediting these placements by establishing a more integrated and rational system for interstate placements.

We recognize that states are often loath to surrender authority. But effective compacts actually enable state leaders to maintain policy control over state-to-state issues thus limiting the need for federal intervention and intrusion into areas that should be of cooperative state concern. The ICPC adopted 50 years ago is proving not only inadequate to the current circumstance but quite problematic given the mobility of our society. It does not offer states firm policy control over one of their essential functions: protecting children in crisis. If the states do not act cooperatively to address this problem, then we cannot be surprised if federal authorities start devising their own solutions. We urge you to join with CCJ, COSCA, the NJOTF, and leaders in your state to push forward on adopting of the revised ICPC. It can only benefit the children of this nation who have already experienced untold trauma in the early years of their lives.

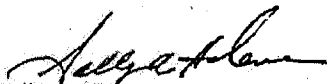
Sincerely,



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Chief Justice of Vermont  
President, Conference of Chief Justices



Loretta Rush  
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Co-Chair, National Judicial Opioid Task Force



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cc.

Patricia Gabel, State Court Administrator