

# New ICPC Compact

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THE MAIN DIFFERENCES BETWEEN THE NEW AND THE CURRENT

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# WHAT IS ICPC?

- ▶ The Interstate Compact on the Placement of Children (ICPC) regulates the placement of all child welfare-involved and domestic private adoption placements of children across state lines. 33 V.S.A. 5901 to 5927.
- ▶ ICPC applies to foster care, kinship care (which is always licensed in Vermont, but not always in other states), parental care, conditional custody orders, residential care, and adoption (private and public).

# ICPC DATA

- ▶ For 2019, VT ICPC received 193 requests for home studies, residential placements, and private adoptions.
- ▶ For 2019, VT ICPC sent out 230 requests for home studies, residential placements, and private adoptions in other states.
- ▶ For 2019, VT ICPC processed a total of 423 requests.

# Data- July 2019-February 2020

	Incoming	Outgoing
Residential - Placed by their parents	38	21
Residential - State placed	19	30
Home Study Requests	72	92
Private Adoption	6	5

# WHY DO WE NEED A COMPACT?

- ▶ We value placing children with kin, even as the number of children in DCF custody rises. In order to place children with kin in other states, we need the *Compact*.
- ▶ The *Compact* allows us to provide services to families who reside out of state, and to assess their suitability for placement.

# WHY SHOULD WE REPLACE THE OLD COMPACT?

- ▶ The existing ICPC was adopted in 1960. While the *Compact* has served for nearly 50 years, its governing processes and structure are now outdated and in need of revision to ensure timely and appropriate placement of children.
- ▶ The new *Compact* will remove or reduce many of the barriers to the timely placement of children across state lines.

# HOW WE GOT TO DEVELOPING THE NEW COMPACT?

- ▶ In March 2004, the American Public Human Services Association (APHSA) & AAICPC convened a task force to authorize a rewrite of the ICPC.
- ▶ It was agreed that a solid legal foundation for interstate placements was critically needed to ensure the timely placement of children.
- ▶ A drafting team was developed which included a diverse group of stakeholders, including but not limited to the VT Attorney General's office, national child welfare directors, Dept. for Health and Human Services, Administration for Children and Families, the Children's Bureau, and ICPC Administrators and the National Council of Juvenile and Family Court Judges.

# MOVING FORWARD.....

- ▶ The President of the Conference of Chief Justices sent a letter in 2018 to all Governors requesting that the new ICPC be adopted as the Chief Justices believe it will help speed up placement timelines of children in other states.
- ▶ The advantage of being an early adopter of the *Compact* is that once 35 states have signed onto the new ICPC, those states will have further input into its roll out and rule making (13 States have signed so far – others have it up this session).
- ▶ The new *Compact* standardizes some practices across the country and there will be enforcement measures if the *Compact* is violated.



# Main Differences

1. The New Compact updates the legal framework to address health human service needs and infrastructure for servicing children and families in the 21<sup>st</sup> Century.
2. The New Compact would create one home study template that would be used by all jurisdictions.
3. The New Compact will increase timely placements in other states.
4. Clarify the applicability of ICPC to non-custodial parents.
5. Provides administrative review of denials in the receiving state.
6. Enforcement
7. The New Compact strengthens enforcement. Rules can be changed more frequently and easier so that compact can remain current.

# Side by Side Comparison- Differences

## New ICPC

- ▶ Does not apply to interstate placement of children by parents (w/ legal authority) who place with: Residential Treatment Facilities (RTF)
  - ▶ Would only require notification of placement to the other state.

## Current ICPC

- ▶ Applies to interstate placements by parents (w/legal authority) who place with: Residential Treatment Facilities (RTF)
  - ▶ Currently need ICPC approval from the receiving state for placement.

# Non-Custodial Parents

## New Compact

- ▶ Streamlines and clarifies when placement with an out of state non-custodial parent can be made in the context of dependency proceedings.

## Old Compact

- ▶ States have had different interpretations of the applicability of ICPC with regards to the placement of a child with out of state non-custodial parent in the context of a dependency proceeding.

# Distinguishes between a home study & assessment:

- ▶ Assessment – is an evaluation of a prospective placement by a public child placing agency to determine if the placement meets individualized needs of the child.
- ▶ Home Study – means an evaluation of a home environment conducted in accordance with applicable requirements of the state in which the home is located.

# Administrative Reviews

## New Compact

- ▶ Provides: Administrative review of receiving state denial of placement to be conducted in receiving state pursuant to its applicable Administrative Procedures Act.

## Old Compact

- ▶ Does not require or provide for an appeals process or administrative review.

# Rules

## New Compact

- ▶ Creates: One-state one-vote body to make rules and regulations for signatories and provides opportunities for public input and public comment.
- ▶ Provides: Rules promulgated by the Interstate Commission shall have the force and effect of administrative rules and shall be binding in the compacting states to the extent and manner provided in the compact.

## Current Compact

- ▶ Rules and Regulations promulgated by AAICPC at annual meeting. One vote per state. No opportunity for public input and public comment.

# Enforcement

- ▶ The New Compact clarifies enforcement and provides:
  - ▶ Mediation and binding dispute resolution
  - ▶ Remedial training
  - ▶ Specific technical assistance

# NEXT STEPS:

- ▶ **Legislation is needed to adopt this new *ICPC Compact***
  - ▶ **H.424 is the language for the new compact**
- ▶ **Once this bill passes, we will need to wait for at least 35 states to sign on before the new compact language will come into effect (see Article XIV)**
- ▶ **Once 35 states have adopted the new compact, the rulemaking process will begin.**
- ▶ **We want to be one of the first 35 states so that we have an equal voice at the table during the rulemaking process.**
- ▶ **The old compact language will remain in law for now**



# Answers to questions from prior testimony at HHS:

- ▶ Article XI Section I –“ Upon determination by a majority of the members of the Interstate Commission that an emergency exists: 1- The Interstate Commission may promulgate an emergency rule only if it is required to: a- protect the children covered by this compact from an imminent threat to their health, safety and well-being.”
  - ▶ An example of this would be a natural disaster (Hurricane, public health concern)
- ▶ In Article III B. 4- the sentence states “the placement of a child, not subject to article III Section A, into a residential facility by his parent.”
  - ▶ The use of his is a former antiquated drafting style where masculine pronouns were used to refer to humans (both genders).