

1 S.72

2 Introduced by Senators Lyons and Sears

3 Referred to Committee on Health and Welfare

4 Date: February 9, 2021

5 Subject: Human services; Interstate Compact on the Placement of Children

6 Statement of purpose of bill as introduced: This bill proposes to adopt the
7 most recent version of the uniform Interstate Compact on the Placement of
8 Children, which provides the legal framework for timely placement of children
9 across state lines, suitability of prospective families, and the provision of
10 support services to those children and families.

11 An act relating to the Interstate Compact on the Placement of Children

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 Sec. 1. REPEAL

14 33 V.S.A. chapter 59 (Interstate Compact on the Placement of Children) is
15 repealed.

16 Sec. 2. 33 V.S.A. chapter 59 is added to read:

17 CHAPTER 59. INTERSTATE COMPACT ON THE PLACEMENT OF

18 CHILDREN

19 Subchapter 1. Interstate Compact on the Placement of Children

1 § 5901. PURPOSE

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

3 (1) provide a process through which children subject to this Compact
4 are placed in safe and suitable homes in a timely manner;

5 (2) facilitate ongoing supervision of a placement, the delivery of
6 services, and communication between the states;

7 (3) provide operating procedures that will ensure that children are
8 placed in safe and suitable homes in a timely manner;

9 (4) provide for the promulgation and enforcement of administrative
10 rules implementing the provisions of this Compact and regulating the covered
11 activities of the member states;

12 (5) provide for uniform data collection and information sharing between
13 member states under this Compact;

14 (6) promote coordination between this Compact, the Interstate Compact
15 for Juveniles, the Interstate Compact on Adoption and Medical Assistance, and
16 other compacts affecting the placement of and that provide services to children
17 otherwise subject to this Compact;

18 (7) provide for a state's continuing legal jurisdiction and responsibility
19 for placement and care of a child that it would have had if the placement were
20 intrastate; and

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

4 § 5902. DEFINITIONS

5 As used in this chapter:

6 (1) “Approved placement” means the public child placing agency in the
7 receiving state has determined that the placement is both safe and suitable for
8 the child.

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

15 (3) “Child” means an individual who has not attained 18 years of age.

16 (4) “Certification” means to attest, declare, or swear to before a judge or
17 notary public.

18 (5) “Default” means the failure of a member state to perform the
19 obligations or responsibilities imposed upon it by this Compact, the bylaws, or
20 rules of the Interstate Commission.

1 (6) “Home Study” means an evaluation of a home environment
2 conducted in accordance with the applicable requirements of the state in which
3 the home is located, and documents the preparation and the suitability of the
4 placement resource for placement of a child in accordance with the laws and
5 requirements of the state in which the home is located.

6 (7) “Indian tribe” means any Indian tribe, band, nation, or other
7 organized group or community of Indians recognized as eligible for services
8 provided to Indians by the Secretary of the Interior because of their status as
9 Indians, including any Alaskan native village as defined in section 3(c) of the
10 Alaska Native Claims settlement Act at 43 U.S.C. § 1602(c).

11 (8) “Interstate Commission for the Placement of Children” means the
12 commission that is created under section 5908 of this title and that is generally
13 referred to as the Interstate Commission.

14 (9) “Jurisdiction” means the power and authority of a court to hear and
15 decide matters.

16 (10) “Legal Risk Placement” (Legal Risk Adoption) means a placement
17 made preliminary to an adoption where the prospective adoptive parents
18 acknowledge in writing that a child can be ordered returned to the sending
19 state or the birth mother’s state of residence, if different from the sending
20 state, and a final decree of adoption shall not be entered in any jurisdiction

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

3 (11) “Member state” means a state that has enacted this Compact.

4 (12) “Noncustodial parent” means a person who, at the time of the
5 commencement of court proceedings in the sending state, does not have sole
6 legal custody of the child or has joint legal custody of a child, and who is not
7 the subject of allegations or findings of child abuse or neglect.

8 (13) “Nonmember state” means a state that has not enacted this
9 Compact.

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

17 (15) “Placement” means the act by a public or private child placing
18 agency intended to arrange for the care or custody of a child in another state.

19 (16) “Private child placing agency” means any private corporation,
20 agency, foundation, institution, or charitable organization or any private person
21 or attorney that facilitates, causes, or is involved in the placement of a child

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

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

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

15 (19) “Receiving state” means the state to which a child is sent, brought,
16 or caused to be sent or brought.

(20) “Relative” means someone who is related to the child as a parent,
step-parent, sibling by half or whole blood or by adoption, grandparent, aunt,
uncle, or first cousin or a non-relative with such significant ties to the child
that ~~he or she~~ *the person* may be regarded as a relative as determined by the
court in the sending state.

1 (21) “Residential facility” means a facility providing a level of care that
2 is sufficient to substitute for parental responsibility or foster care and is beyond
3 what is needed for assessment or treatment of an acute condition. For
4 purposes of the Compact, residential facilities do not include institutions
5 primarily educational in character, hospitals, or other medical facilities.

6 (22) “Rule” means a written directive, mandate, standard, or principle
7 issued by the Interstate Commission promulgated pursuant to section 5911 of
8 this title that is of general applicability and that implements, interprets, or
9 prescribes a policy or provision of the Compact. “Rule” has the force and
10 effect of an administrative rule in a member state and includes the amendment,
11 repeal, or suspension of an existing rule.

12 (23) “Sending state” means the state from which the placement of a
13 child is initiated.

14 (24) “Service member’s permanent duty station” means the military
15 installation where an active duty U.S. Armed Forces member is currently
16 assigned and is physically located under competent orders that do not specify
17 the duty as temporary.

18 (25) “Service member’s state of legal residence” means the state in
19 which the active duty U.S. Armed Forces member is considered a resident for
20 tax and voting purposes.

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

5 (27) “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 18 years of age.

9 (28) “Supervision” means monitoring provided by the receiving state
10 once a child has been placed in a receiving state pursuant to this Compact.

11 § 5903. APPLICABILITY

12 (a) Except as otherwise provided in subsection (b) of this section, this
13 Compact shall apply to:

14 (1) the interstate placement of a child subject to ongoing court
15 jurisdiction in the sending state, due to allegations or findings that the child
16 has been abused, neglected, or deprived as defined by the laws of the sending
17 state; provided, however, that the placement of such a child into a residential
18 facility shall only require notice of residential placement to the receiving state
19 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 ongoing
3 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 services required
8 is not provided through another compact; and

 (3) ~~The~~ *the* interstate placement of any child by a public child placing
agency or private child placing agency as defined in this Compact as a
preliminary step to a possible adoption.

9 (b) The provisions of this Compact shall not apply to:

10 (1) the interstate placement of a child in a custody proceeding in which
11 a public child placing agency is not a party; provided, however, that the
12 placement is not intended to effectuate an adoption;

13 (2) the interstate placement of a child with a non-relative in a receiving
14 state by a parent with the legal authority to make such a placement; provided,
15 however, that the placement is not intended to effectuate an adoption;

16 (3) the interstate placement of a child by one relative with the lawful
17 authority to make such a placement directly with a relative in a receiving state;

(4) the placement of a child, not subject to section 5903 of this title, into a residential facility by ~~his or her~~ *the child's* parent;

1 (5) the placement of a child with a noncustodial parent, provided that:

2 (A) the noncustodial parent proves to the satisfaction of a court in the
3 sending state a substantial relationship with the child; and

4 (B) the court in the sending state makes a written finding that
5 placement with the noncustodial parent is in the best interests of the child; and

6 (C) the court in the sending state dismisses its jurisdiction in
7 interstate placements in which the public child placing agency is a party to the
8 proceeding;

9 (6) a child entering the United States from a foreign country for the
10 purpose of adoption or leaving the United States to go to a foreign country for
11 the purpose of adoption in that country;

12 (7) cases in which a U.S. citizen child living overseas with ~~his or her~~
13 family, at least one of whom is in the U.S. Armed Forces and is stationed
14 overseas, is removed and placed in a state; or

15 (8) the sending of a child by a public child placing agency or a private
16 child placing agency for a visit as defined by the rules of the Interstate
17 Commission.

18 (c) For purposes of determining the applicability of this Compact to the
19 placement of a child with a family in the U.S. Armed Forces, the public child

1 placing agency or private child placing agency may choose the state of the
2 service member's permanent duty station or the service member's declared
3 legal residence.

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

13 § 5904. JURISDICTION

14 (a) Except as provided in subsection (h) of this section and subdivisions
15 5905(b)(2) and (3) of this title, paragraphs two and three concerning private
16 and independent adoptions, and in interstate placements in which the public
17 child placing agency is not a party to a custody proceeding, the sending state
18 shall retain jurisdiction over a child with respect to all matters of custody and
19 disposition of the child that it would have had if the child had remained in the
20 sending state. Such jurisdiction shall also include the power to order the return
21 of the child to the sending state.

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

4 (c) In cases that are before courts and subject to this Compact, the taking of
5 testimony for hearings before any judicial officer may occur in person or by
6 telephone, audio-video conference, or such other means as approved by the
7 rules of the Interstate Commission; and judicial officers may communicate
8 with other judicial officers and persons involved in the interstate process as
9 may be permitted by their Canons of Judicial Conduct and any rules
10 promulgated by the Interstate Commission.

11 (d) In accordance with its own laws, the court in the sending state shall
12 have authority to terminate its jurisdiction if any of the following occur:

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

16 (2) The child is adopted.

17 (3) The child reaches the age of majority under the laws of the sending
18 state.

19 (4) The child achieves legal independence pursuant to the laws of the
20 sending state.

1 (5) A guardianship is created by a court in the receiving state with the
2 concurrence of the court in the sending state.

3 (6) An Indian tribe has petitioned for and received jurisdiction from the
4 court in the sending state.

5 (7) The public child placing agency of the sending state requests
6 termination and has obtained the concurrence of the public child placing
7 agency in the receiving ~~the~~ state.

8 (e) When a sending state court terminates its jurisdiction, the receiving
9 state child placing agency shall be notified.

10 (f) Nothing in this section shall defeat a claim of jurisdiction by a receiving
11 state court sufficient to deal with an act of truancy, delinquency, crime, or
12 behavior involving a child as defined by the laws of the receiving state
13 committed by the child in the receiving state that would be a violation of its
14 laws.

15 (g) Nothing in this article shall limit the receiving state's ability to take
16 emergency jurisdiction for the protection of the child.

17 (h) The substantive laws of the state in which an adoption will be finalized
18 shall solely govern all issues relating to the adoption of the child, and the court
19 in which the adoption proceeding is filed shall have subject matter jurisdiction
20 regarding all substantive issues relating to the adoption, except:

1 (1) when the child is a ward of another court that established
2 jurisdiction over the child prior to the placement; or

3 (2) when the child is in the legal custody of a public agency in the
4 sending state; or

5 (3) when a court in the sending state has otherwise appropriately
6 assumed jurisdiction over the child, prior to the submission of the request for
7 approval of placement.

8 (i) A final decree of adoption shall not be entered in any jurisdiction until
9 the placement is authorized as an “approved placement” by the public child
10 placing agency in the receiving state.

11 § 5905. PLACEMENT EVALUATION

12 (a) Prior to sending, bringing, or causing a child to be sent or brought into
13 a receiving state, the public child placing agency shall provide a written
14 request for assessment to the receiving state.

15 (b) For placements by a private child placing agency, a child may be sent
16 or brought, or caused to be sent or brought, into a receiving state, upon receipt
17 and immediate review of the required content in a request for approval of a
18 placement in both the sending and receiving state public child placing agency.
19 The required content to accompany a request for approval shall include all of
20 the following:

1 (1) a request for approval identifying the child, birth parent or parents,
2 the prospective adoptive parent or parents, and the supervising agency, signed
3 by the person requesting approval;

4 (2) the appropriate consents or relinquishments signed by the birth
5 parents in accordance with the laws of the sending state or, where permitted,
6 the laws of the state where the adoption will be finalized;

7 (3) certification by a licensed attorney or authorized agent of a private
8 adoption agency that the consent or relinquishment is in compliance with the
9 applicable laws of the sending state or, where permitted, the laws of the state
10 where finalization of the adoption will occur;

11 (4) a home study; and

12 (5) an acknowledgment of legal risk signed by the prospective adoptive
13 parents.

14 (c) The sending state and the receiving state may request additional
15 information or documents prior to finalization of an approved placement, but
16 they may not delay travel by the prospective adoptive parents with the child if
17 the required content for approval has been submitted, received, and reviewed
18 by the public child placing agency in both the sending state and the receiving
19 state.

1 (d) Approval from the public child placing agency in the receiving state for
2 a provisional or approved placement is required as provided for in the rules of
3 the Interstate Commission.

4 (e) The procedures for making and the request for an assessment shall
5 contain all information and be in such form as provided for in the rules of the
6 Interstate Commission.

7 (f) Upon receipt of a request from the public child placing agency of the
8 sending state, the receiving state shall initiate an assessment of the proposed
9 placement to determine its safety and suitability. If the proposed placement is
10 a placement with a relative, the public child placing agency of the sending
11 state may request a determination for a provisional placement.

12 (g) The public child placing agency in the receiving state may request from
13 the public child placing agency or the private child placing agency in the
14 sending state, and shall be entitled to receive, supporting or additional
15 information necessary to complete the assessment or approve the placement.

16 (h) The public child placing agency in the receiving state shall approve a
17 provisional placement and complete or arrange for the completion of the
18 assessment within the time frames established by the rules of the Interstate
19 Commission.

20 (i) For a placement by a private child placing agency, the sending state
21 shall not impose any additional requirements to complete the home study that

1 are not required by the receiving state, unless the adoption is finalized in the
2 sending state.

3 (j) The Interstate Commission may develop uniform standards for the
4 assessment of the safety and suitability of interstate placements.

5 § 5906. PLACEMENT AUTHORITY

6 (a) Except as otherwise provided in this Compact, no child subject to this
7 Compact shall be placed into a receiving state until approval for such
8 placement is obtained.

9 (b) If the public child placing agency in the receiving state does not
10 approve the proposed placement, then the child shall not be placed. The
11 receiving state shall provide written documentation of any such determination
12 in accordance with the rules promulgated by the Interstate Commission. Such
13 determination is not subject to judicial review in the sending state.

14 (c) If the proposed placement is not approved, any interested party shall
15 have standing to seek an administrative review of the receiving state's
16 determination.

17 (1) The administrative review and any further judicial review associated
18 with the determination shall be conducted in the receiving state pursuant to its
19 applicable Administrative Procedures Act.

20 (2) If a determination not to approve the placement of the child in the
21 receiving state is overturned upon review, the placement shall be deemed

1 approved; provided, however, that all administrative or judicial remedies have
2 been exhausted or the time for such remedies has passed.

3 § 5907. PLACING AGENCY RESPONSIBILITY

4 (a) For the interstate placement of a child made by a public child placing
5 agency or state court:

6 (1) The public child placing agency in the sending state shall have
7 financial responsibility for:

8 (A) the ongoing support and maintenance for the child during the
9 period of the placement, unless otherwise provided for in the receiving state;
10 and

11 (B) as determined by the public child placing agency in the sending
12 state, services for the child beyond the public services for which the child is
13 eligible in the receiving state.

14 (2) The receiving state shall only have financial responsibility for:

15 (A) any assessment conducted by the receiving state; and

16 (B) supervision conducted by the receiving state at the level
17 necessary to support the placement as agreed upon by the public child placing
18 agencies of the receiving and sending state.

19 (3) Nothing in this provision shall prohibit public child placing agencies
20 in the sending state from entering into agreements with licensed agencies or
21 persons in the receiving state to conduct assessments and provide supervision.

1 (b) For the placement of a child by a private child placing agency
2 preliminary to a possible adoption, the private child placing agency shall be:

3 (1) legally responsible for the child during the period of placement as
4 provided for in the law of the sending state until the finalization of the
5 adoption; and

6 (2) financially responsible for the child absent a contractual agreement
7 to the contrary.

8 (c) The public child placing agency in the receiving state shall provide
9 timely assessments, as provided for in the rules of the Interstate Commission.

10 (d) The public child placing agency in the receiving state shall provide, or
11 arrange for the provision of, supervision and services for the child, including
12 timely reports, during the period of the placement.

13 (e) Nothing in this Compact shall be construed as to limit the authority of
14 the public child placing agency in the receiving state from contracting with a
15 licensed agency or person in the receiving state for an assessment or the
16 provision of supervision or services for the child or otherwise authorizing the
17 provision of supervision or services by a licensed agency during the period of
18 placement.

19 (f) Each member state shall provide for coordination among its branches of
20 government concerning the state's participation in, and compliance with, the

1 Compact and Interstate Commission activities, through the creation of an
2 advisory council or use of an existing body or board.

3 (g) Each member state shall establish a central state compact office, which
4 shall be responsible for state compliance with the Compact and the rules of the
5 Interstate Commission.

6 (h) The public child placing agency in the sending state shall oversee
7 compliance with the provisions of the Indian Child Welfare Act (25 U.S.C.
8 § 1901 et seq.) for placements subject to the provisions of this Compact, prior
9 to placement.

10 (i) With the consent of the Interstate Commission, states may enter into
11 limited agreements that facilitate the timely assessment and provision of
12 services and supervision of placements under this Compact.

13 § 5908. INTERSTATE COMMISSION FOR THE PLACEMENT OF
14 CHILDREN

15 The member states hereby establish, by way of this Compact, a commission
16 known as the “Interstate Commission for the Placement of Children.” The
17 activities of the Interstate Commission are the formation of public policy and
18 are a discretionary state function. The Interstate Commission shall:

19 (1) Be a joint commission of the member states and shall have the
20 responsibilities, powers, and duties set forth herein, and such additional

1 powers as may be conferred upon it by subsequent concurrent action of the
2 respective legislatures of the member states.

3 (2) Consist of one commissioner from each member state who shall be
4 appointed by the executive head of the state human services administration
5 with ultimate responsibility for the child welfare program. The appointed
6 commissioner shall have the legal authority to vote on policy related matters
7 governed by this Compact binding the state.

8 (A) Each member state represented at a meeting of the Interstate
9 Commission is entitled to one vote.

10 (B) A majority of the member states shall constitute a quorum for the
11 transaction of business, unless a larger quorum is required by the bylaws of the
12 Interstate Commission.

13 (C) A representative shall not delegate a vote to another member
14 state.

(D) A representative may delegate voting authority to another person
from ~~his or her~~ *the* state for a specified meeting.

15 (3) In addition to the commissioners of each member state, the Interstate
16 Commission shall include persons who are members of interested
17 organizations as defined in the bylaws or rules of the Interstate Commission.
18 Such members shall be ex officio and shall not be entitled to vote on any
19 matter before the Interstate Commission.

1 (4) Establish an executive committee that shall have the authority to
2 administer the day-to-day operations and administration of the Interstate
3 Commission. It shall not have the power to engage in rulemaking.

4 § 5909. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

5 The Interstate Commission shall have the following powers:

6 (1) To promulgate rules and take all necessary actions to effect the
7 goals, purposes, and obligations as enumerated in this Compact.

8 (2) To provide for dispute resolution among member states.

9 (3) To issue, upon request of a member state, advisory opinions
10 concerning the meaning or interpretation of the Interstate Compact, its bylaws,
11 rules, or actions.

12 (4) To enforce compliance with this Compact or the bylaws or rules of
13 the Interstate Commission pursuant to section 5907 of this title.

14 (5) Collect standardized data concerning the interstate placement of
15 children subject to this Compact as directed through its rules, which shall
16 specify the data to be collected, the means of collection, and data exchange and
17 reporting requirements.

18 (6) To establish and maintain offices as may be necessary for the
19 transacting of its business.

20 (7) To purchase and maintain insurance and bonds.

1 (8) To hire or contract for services of personnel or consultants as
2 necessary to carry out its functions under the Compact and establish personnel
3 qualification policies and rates of compensation.

4 (9) To establish and appoint committees and officers, including but not
5 limited to an executive committee as required by section 5910 of this title.

6 (10) To accept any and all donations and grants of money, equipment,
7 supplies, materials, and services and to receive, utilize, and dispose thereof.

8 (11) To lease, purchase, accept contributions or donations of, or
9 otherwise to own, hold, improve, or use any property, real, personal, or mixed.

10 (12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or
11 otherwise dispose of any property, real, personal, or mixed.

12 (13) To establish a budget and make expenditures.

13 (14) To adopt a seal and bylaws governing the management and
14 operation of the Interstate Commission.

15 (15) To report annually to the legislatures, governors, the judiciary, and
16 state advisory councils of the member states concerning the activities of the
17 Interstate Commission during the preceding year. Such reports shall also
18 include any recommendations that may have been adopted by the Interstate
19 Commission.

1 (16) To coordinate and provide education, training, and public
2 awareness regarding the interstate movement of children for officials involved
3 in such activity.

4 (17) To maintain books and records in accordance with the bylaws of
5 the Interstate Commission.

6 (18) To perform such functions as may be necessary or appropriate to
7 achieve the purposes of this Compact.

8 § 5910. ORGANIZATION AND OPERATION OF THE INTERSTATE

9 COMMISSION

10 (a) Bylaws.

11 (1) Within 12 months after the first Interstate Commission meeting, the
12 Interstate Commission shall adopt bylaws to govern its conduct as may be
13 necessary or appropriate to carry out the purposes of the Compact.

14 (2) The Interstate Commission's bylaws and rules shall establish
15 conditions and procedures under which the Interstate Commission shall make
16 its information and official records available to the public for inspection or
17 copying. The Interstate Commission may exempt from disclosure information
18 or official records to the extent they would adversely affect personal privacy
19 rights or proprietary interests.

1 (b) Meetings.

2 (1) The Interstate Commission shall meet at least once each calendar
3 year. The chairperson may call additional meetings and, upon the request of a
4 simple majority of the member states, shall call additional meetings.

5 (2) Public notice shall be given by the Interstate Commission of all
6 meetings, and all meetings shall be open to the public, except as set forth in the
7 rules or as otherwise provided in the Compact. The Interstate Commission and
8 its committees may close a meeting, or portion thereof, where it determines by
9 two-thirds vote that an open meeting would be likely to:

10 (A) relate solely to the Interstate Commission's internal personnel
11 practices and procedures; or

12 (B) disclose matters specifically exempted from disclosure by federal
13 law; or

14 (C) disclose financial or commercial information that is privileged,
15 proprietary, or confidential in nature; or

16 (D) involve accusing a person of a crime, or formally censuring a
17 person; or

18 (E) disclose information of a personal nature where disclosure would
19 constitute a clearly unwarranted invasion of personal privacy or physically
20 endanger one or more persons; or

1 (F) disclose investigative records compiled for law enforcement
2 purposes; or

3 (G) specifically relate to the Interstate Commission's participation in
4 a civil action or other legal proceeding.

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

16 (4) The bylaws may provide for meetings of the Interstate Commission
17 to be conducted by telecommunication or other electronic communication.

18 (c) Officers and staff.

19 (1) The Interstate Commission may, through its executive committee,
20 appoint or retain a staff director for such period, upon such terms and
21 conditions and for such compensation as the Interstate Commission may deem

1 appropriate. The staff director shall serve as secretary to the Interstate
2 Commission but shall not have a vote. The staff director may hire and
3 supervise such other staff as may be authorized by the Interstate Commission.

4 (2) The Interstate Commission shall elect from among its members a
5 chairperson and a vice chairperson of the executive committee and other
6 necessary officers, each of whom shall have such authority and duties as may
7 be specified in the bylaws.

8 (d) Qualified immunity; defense and indemnification. The Interstate
9 Commission's staff director and its employees shall be immune from suit and
10 liability, either personally or in their official capacity, for a claim for damage
11 to or loss of property or personal injury or other civil liability caused or arising
12 out of or relating to an actual or alleged act, error, or omission that occurred,
13 or that such person had a reasonable basis for believing occurred within the
14 scope of Commission employment, duties, or responsibilities, provided that
15 such person shall not be protected from suit or liability for damage, loss,
16 injury, or liability caused by a criminal act or the intentional or willful and
17 wanton misconduct of such person.

18 (1) The liability of the Interstate Commission's staff director and
19 employees or Interstate Commission representatives, acting within the scope of
20 such person's employment or duties for acts, errors, or omissions occurring
21 within such person's state, may not exceed the limits of liability set forth under

1 the constitution and laws of that state for state officials, employees, and agents.

2 The Interstate Commission is considered to be an instrumentality of the states
3 for the purposes of any such action. Nothing in this subsection shall be
4 construed to protect such person from suit or liability for damage, loss, injury,
5 or liability caused by a criminal act or the intentional or willful and wanton
6 misconduct of such person.

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

17 (3) To the extent not covered by the state involved, member state, or the
18 Interstate Commission, the representatives or employees of the Interstate
19 Commission shall be held harmless in the amount of a settlement or judgment,
20 including attorney's fees and costs, obtained against such persons arising out
21 of an actual or alleged act, error, or omission that occurred within the scope of

1 Interstate Commission employment, duties, or responsibilities, or that such
2 persons had a reasonable basis for believing occurred within the scope of
3 Interstate Commission employment, duties, or responsibilities, provided that
4 the actual or alleged act, error, or omission did not result from intentional or
5 willful and wanton misconduct on the part of such persons.

6 § 5911. RULEMAKING FUNCTIONS OF THE INTERSTATE

7 COMMISSION

8 (a) The Interstate Commission shall promulgate and publish rules in order
9 to effectively and efficiently achieve the purposes of the Compact.

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

20 (c) When promulgating a rule, the Interstate Commission shall, at a
21 minimum do all of the following:

1 (1) publish the proposed rule’s entire text stating the reason or reasons
2 for that proposed rule;

3 (2) allow and invite any and all persons to submit written data, facts,
4 opinions, and arguments, which information shall be added to the record, and
5 be made publicly available; and

6 (3) promulgate a final rule and its effective date, if appropriate, based
7 on input from state or local officials or interested parties.

8 (d) Rules promulgated by the Interstate Commission shall have the force
9 and effect of administrative rules and shall be binding in the compacting states
10 to the extent and in the manner provided for in this Compact.

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

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

1 (g) The existing rules governing the operation of the Interstate Compact on
2 the Placement of Children superseded by this subchapter shall be null and void
3 no less than 12, but no more than 24 months after the first meeting of the
4 Interstate Commission created hereunder, as determined by the members
5 during the first meeting.

6 (h) Within the first 12 months of operation, the Interstate Commission shall
7 promulgate rules addressing the following:

8 (1) transition rules;

9 (2) forms and procedures;

10 (3) timelines;

11 (4) data collection and reporting;

12 (5) rulemaking;

13 (6) visitation;

14 (7) progress reports and supervision;

15 (8) sharing of information and confidentiality;

16 (9) financing of the Interstate Commission;

17 (10) mediation, arbitration, and dispute resolution;

18 (11) education, training, and technical assistance;

19 (12) enforcement; and

20 (13) coordination with other interstate compacts.

1 (i) Upon determination by a majority of the members of the Interstate
2 Commission that an emergency exists:

3 (1) The Interstate Commission may promulgate an emergency rule only
4 if it is required to:

5 (A) protect the children covered by this Compact from an imminent
6 threat to their health, safety, and well-being; or

7 (B) prevent loss of federal or state funds; or

8 (C) meet a deadline for the promulgation of an administrative rule
9 required by federal law.

10 (2) An emergency rule shall become effective immediately upon
11 adoption, provided that the usual rulemaking procedures provided hereunder
12 shall be retroactively applied to said rule as soon as reasonably possible but not
13 later than 90 days after the effective date of the emergency rule.

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

16 § 5912. OVERSIGHT; DISPUTE RESOLUTION; ENFORCEMENT

17 (a) Oversight.

18 (1) The Interstate Commission shall oversee the administration and
19 operation of the Compact.

20 (2) The executive, legislative, and judicial branches of state government
21 in each member state shall enforce this Compact and the rules of the Interstate

1 Commission and shall take all actions necessary and appropriate to effectuate
2 the Compact's purposes and intent. The Compact and its rules shall be binding
3 in the compacting states to the extent and in the manner provided for in this
4 Compact.

5 (3) All courts shall take judicial notice of the Compact and the rules in
6 any judicial or administrative proceeding in a member state pertaining to the
7 subject matter of this Compact.

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

15 (b) Dispute Resolution.

16 (1) The Interstate Commission shall attempt, upon the request of a
17 member state, to resolve disputes that are subject to the Compact and that may
18 arise among member states and between member and nonmember states.

19 (2) The Interstate Commission shall promulgate a rule providing for
20 both mediation and binding dispute resolution for disputes among compacting

1 states. The costs of such mediation or dispute resolution shall be the
2 responsibility of the parties to the dispute.

3 (c) Enforcement. If the Interstate Commission determines that a member
4 state has defaulted in the performance of its obligations or responsibilities
5 under this Compact or its bylaws or rules, the Interstate Commission may do
6 any of the following:

7 (1) Provide remedial training and specific technical assistance.

8 (2) Provide written notice to the defaulting state and other member
9 states of the nature of the default and the means of curing the default. The
10 Interstate Commission shall specify the conditions by which the defaulting
11 state must cure its default.

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

20 (4) Avail itself of any other remedies available under state law or the
21 regulation of official or professional conduct.

1 § 5913. FINANCING OF THE COMMISSION

2 (a) The Interstate Commission shall pay, or provide for the payment of, the
3 reasonable expenses of its establishment, organization, and ongoing activities.

4 (b) The Interstate Commission may levy on and collect an annual
5 assessment from each member state to cover the cost of the operations and
6 activities of the Interstate Commission and its staff that must be in a total
7 amount sufficient to cover the Interstate Commission's annual budget as
8 approved by its members each year. The aggregate annual assessment amount
9 shall be allocated based upon a formula to be determined by the Interstate
10 Commission, which shall promulgate a rule binding upon all member states.

11 (c) The Interstate Commission shall not incur obligations of any kind prior
12 to securing the funds adequate to meet the same; nor shall the Interstate
13 Commission pledge the credit of any of the member states, except by and with
14 the authority of the member state.

15 (d) The Interstate Commission shall keep accurate accounts of all receipts
16 and disbursements. The receipts and disbursements of the Interstate
17 Commission shall be subject to the audit and accounting procedures
18 established under its bylaws. However, all receipts and disbursements of funds
19 handled by the Interstate Commission shall be audited yearly by a certified or
20 licensed public accountant, and the report of the audit shall be included in and
21 become part of the annual report of the Interstate Commission.

1 § 5914. MEMBER STATES; EFFECTIVE DATE AND AMENDMENT

2 (a) Any state is eligible to become a member state.

3 (b) The Compact shall become effective and binding upon legislative
4 enactment of the Compact into law by no fewer than 35 states. The effective
5 date shall be the later of July 1, 2007 or upon enactment of the Compact into
6 law by the 35th state. Thereafter it shall become effective and binding as to
7 any other member state upon enactment of the Compact into law by that state.
8 The executive heads of the state human services administration with ultimate
9 responsibility for the child welfare program of nonmember states or their
10 designees shall be invited to participate in the activities of the Interstate
11 Commission on a nonvoting basis prior to adoption of the Compact by all
12 states.

13 (c) The Interstate Commission may propose amendments to the Compact
14 for enactment by the member states. No amendment shall become effective
15 and binding on the member states unless and until it is enacted into law by
16 unanimous consent of the member states.

17 § 5915. WITHDRAWAL AND DISSOLUTION

18 (a) Withdrawal.

19 (1) Once effective, the Compact shall continue in force and remain
20 binding upon each and every member state, provided that a member state may

1 withdraw from the Compact specifically repealing the statute that enacted the
2 Compact into law.

3 (2) Withdrawal from this Compact shall be by the enactment of a statute
4 repealing the same. The effective date of withdrawal shall be the effective
5 date of the repeal of the statute.

6 (3) The withdrawing state shall immediately notify the president of the
7 Interstate Commission in writing upon the introduction of legislation repealing
8 this Compact in the withdrawing state. The Interstate Commission shall then
9 notify the other member states of the withdrawing state's intent to withdraw.

10 (4) The withdrawing state is responsible for all assessments, obligations,
11 and liabilities incurred through the effective date of withdrawal.

12 (5) Reinstatement following withdrawal of a member state shall occur
13 upon the withdrawing state reenacting the Compact or upon such later date as
14 determined by the members of the Interstate Commission.

15 (b) Dissolution of Compact.

16 (1) This Compact shall dissolve effective upon the date of the
17 withdrawal or default of the member state that reduces the membership in the
18 Compact to one member state.

19 (2) Upon the dissolution of this Compact, the Compact becomes null
20 and void and shall be of no further force or effect, and the business and affairs

1 of the Interstate Commission shall be concluded and surplus funds shall be
2 distributed in accordance with the bylaws.

3 § 5916. SEVERABILITY AND CONSTRUCTION

4 (a) The provisions of this Compact shall be severable, and if any phrase,
5 clause, sentence, or provision is deemed unenforceable, the remaining
6 provisions of the Compact shall be enforceable.

7 (b) The provisions of this Compact shall be liberally construed to
8 effectuate its purposes.

9 (c) Nothing in this Compact shall be construed to prohibit the concurrent
10 applicability of other interstate compacts to which the states are members.

11 § 5917. BINDING EFFECT OF COMPACT AND OTHER LAWS

12 (a) Other laws. Nothing herein prevents the enforcement of any other law
13 of a member state that is not inconsistent with this Compact.

14 (b) Binding effect of the Compact.

15 (1) All lawful actions of the Interstate Commission, including all rules
16 and bylaws promulgated by the Interstate Commission, are binding upon the
17 member states.

18 (2) All agreements between the Interstate Commission and the member
19 states are binding in accordance with their terms.

20 (3) In the event any provision of this Compact exceeds the constitutional
21 limits imposed on the legislature of any member state, such provision shall be

1 ineffective to the extent of the conflict with the constitutional provision in
2 question in that member state.

3 § 5918. INDIAN TRIBES

4 Notwithstanding any other provision in this Compact, the Interstate
5 Commission may promulgate guidelines to permit Indian tribes to utilize the
6 Compact to achieve any or all of the purposes of the Compact as specified in
7 section 5901 of this title. The Interstate Commission shall make reasonable
8 efforts to consult with Indian tribes in promulgating guidelines to reflect the
9 diverse circumstances of the various Indian tribes.

10 Subchapter 2. Provisions Relating to Interstate Compact for the
11 Placement of Children

12 § 5921. FINANCIAL RESPONSIBILITY

13 Financial responsibility for any child placed pursuant to the provisions of
14 the Interstate Compact for the Placement of Children shall be determined in
15 accordance with the provisions of section 5907 of this title. However, in the
16 event of partial or complete default of performance thereunder, the provisions
17 of this title and Title 15 also may be invoked.

18 § 5922. AGENCY

19 This State's "government child welfare agency or child protection agency,"
20 "public child placing agency," and "central state compact office" is the
21 Department for Children and Families.

1 § 5923. AGREEMENTS

2 The officers and agencies of this State having authority to place children are
3 hereby empowered to enter into agreements with appropriate officers or
4 agencies of or in other party states pursuant to the Interstate Compact for the
5 Placement of Children. Any such agreement that contains a financial
6 commitment or imposes a financial obligation on this State or agency thereof
7 shall not be binding unless it has the approval in writing of the Secretary of
8 Administration.

9 § 5924. PLACEMENT OF CHILD IN ANOTHER STATE

The officers and agencies of this State having authority to place a child in
the custody of the Commissioner for Children and Families may place such a
child in another state. However, unless parental rights have been judicially
terminated, any such child being placed in another state pursuant to this
Compact shall, upon request, be given a court hearing on notice to the parent
or guardian with opportunity to be heard prior to ~~his or her~~ *the child's* being
sent to such other state for care and the court finds that:

- 10 (1) equivalent facilities for the child are not available in this State; and
11 (2) care in the other state is in the best interest of the child and will not
12 produce undue hardship.

1 § 5925. EXECUTIVE HEAD

2 The term “executive head” in this State means the Secretary of Human
3 Services. The Secretary of Human Services is hereby authorized to appoint a
4 compact administrator in accordance with the terms of section 5907 of this
5 title.

6 Sec. 3. EFFECTIVE DATES

7 (a) Secs. 1 and 2 shall take effect 18 months from the date on which the
8 Compact set forth in Sec. 2 is enacted into law by 35 states.

9 (b) This section shall take effect on passage.