



534108

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
3/18/2008	.	
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1 The Committee on Judiciary (Baker) recommended the following  
2 **amendment:**

3  
4 **Senate Amendment**

5 Delete line(s) 983 through 1842

6 and insert:

7 Section 21. Section 409.401, Florida Statutes, is amended  
8 to read:

9 (Substantial rewording of section. See s. 409.401,  
10 F.S., for present text.)

11 409.401 Interstate Compact on the Placement of  
12 Children.--The Interstate Compact on the Placement of Children  
13 is enacted into law and entered into with all other  
14 jurisdictions substantially as follows:

15 ARTICLE I. PURPOSE



534108

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

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

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

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

25 D. Provide for the promulgation and enforcement of  
26 administrative rules implementing the provisions of this compact  
27 and regulating the covered activities of the member states.

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

30 F. Promote coordination between this compact, the  
31 Interstate Compact for Juveniles, the Interstate Compact on  
32 Adoption and Medical Assistance and other compacts affecting the  
33 placement of and which provide services to children otherwise  
34 subject to this compact.

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

38 H. Provide for the promulgation of guidelines, in  
39 collaboration with Indian tribes, for interstate cases involving  
40 Indian children as is or may be permitted by federal law.

41 ARTICLE II. DEFINITIONS

42 As used in this compact,



534108

43        A. "Approved placement" means the public child-placing  
44 agency in the receiving state has determined that the placement  
45 is both safe and suitable for the child.

46        B. "Assessment" means an evaluation of a prospective  
47 placement by a public child-placing agency in the receiving  
48 state to determine if the placement meets the individualized  
49 needs of the child, including, but not limited to, the child's  
50 safety and stability, health and well-being, and mental,  
51 emotional, and physical development. An assessment is only  
52 applicable to a placement by a public child-placing agency.

53        C. "Child" means an individual who has not attained the  
54 age of 18.

55        D. "Certification" means to attest, declare, or swear to  
56 before a judge or notary public.

57        E. "Default" means the failure of a member state to  
58 perform the obligations or responsibilities imposed upon it by  
59 this compact or the bylaws or rules of the Interstate  
60 Commission.

61        F. "Home study" means an evaluation of a home environment  
62 conducted in accordance with the applicable requirements of the  
63 state in which the home is located, and documents the  
64 preparation and the suitability of the placement resource for  
65 placement of a child in accordance with the laws and  
66 requirements of the state in which the home is located.

67        G. "Indian tribe" means any Indian tribe, band, nation, or  
68 other organized group or community of Indians recognized as  
69 eligible for services provided to Indians by the Secretary of  
70 the Interior because of their status as Indians, including any



534108

71 Alaskan native village as defined in section 3 (c) of the Alaska  
72 Native Claims Settlement Act at 43 USC s. 1602(c).

73 H. "Interstate Commission for the Placement of Children"  
74 means the commission that is created under Article VIII of this  
75 compact and which is generally referred to as the Interstate  
76 Commission.

77 I. "Jurisdiction" means the power and authority of a court  
78 to hear and decide matters.

79 J. "Legal risk placement" ("legal risk adoption") means a  
80 placement made preliminary to an adoption where the prospective  
81 adoptive parents acknowledge in writing that a child can be  
82 ordered returned to the sending state or the birth mother's  
83 state of residence, if different from the sending state, and a  
84 final decree of adoption shall not be entered in any  
85 jurisdiction until all required consents are obtained or are  
86 dispensed with in accordance with applicable law.

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

89 L. "Noncustodial parent" means a person who, at the time  
90 of the commencement of court proceedings in the sending state,  
91 does not have sole legal custody of the child or has joint legal  
92 custody of a child, and who is not the subject of allegations or  
93 findings of child abuse or neglect.

94 M. "Nonmember state" means a state that has not enacted  
95 this compact.

96 N. "Notice of residential placement" means information  
97 regarding a placement into a residential facility provided to  
98 the receiving state, including, but not limited to, the name,



534108

99 date and place of birth of the child, the identity and address  
100 of the parent or legal guardian, evidence of authority to make  
101 the placement, and the name and address of the facility in which  
102 the child will be placed. Notice of residential placement shall  
103 also include information regarding a discharge and any  
104 unauthorized absence from the facility.

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

108 P. "Private child-placing agency" means any private  
109 corporation, agency, foundation, institution, or charitable  
110 organization, or any private person or attorney that  
111 facilitates, causes, or is involved in the placement of a child  
112 from one state to another and that is not an instrumentality of  
113 the state or acting under color of state law.

114 Q. "Provisional placement" means a determination made by  
115 the public child-placing agency in the receiving state that the  
116 proposed placement is safe and suitable, and, to the extent  
117 allowable, the receiving state has temporarily waived its  
118 standards or requirements otherwise applicable to prospective  
119 foster or adoptive parents so as to not delay the placement.  
120 Completion of the receiving state requirements regarding  
121 training for prospective foster or adoptive parents shall not  
122 delay an otherwise safe and suitable placement.

123 R. "Public child-placing agency" means any government  
124 child welfare agency or child protection agency or a private  
125 entity under contract with such an agency, regardless of whether  
126 they act on behalf of a state, county, municipality, or other



534108

127 governmental unit and which facilitates, causes, or is involved  
128 in the placement of a child from one state to another.

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

131 T. "Relative" means someone who is related to the child as  
132 a parent, step-parent, sibling by half or whole blood or by  
133 adoption, grandparent, aunt, uncle, or first cousin or a  
134 nonrelative with such significant ties to the child that they  
135 may be regarded as relatives as determined by the court in the  
136 sending state.

137 U. "Residential facility" means a facility providing a  
138 level of care that is sufficient to substitute for parental  
139 responsibility or foster care, and is beyond what is needed for  
140 assessment or treatment of an acute condition. For purposes of  
141 the compact, residential facilities do not include institutions  
142 primarily educational in character, hospitals, or other medical  
143 facilities.

144 V. "Rule" means a written directive, mandate, standard, or  
145 principle issued by the Interstate Commission promulgated  
146 pursuant to Article XI of this compact which is of general  
147 applicability and that implements, interprets, or prescribes a  
148 policy or provision of the compact. "Rule" has the force and  
149 effect of an administrative rule in a member state, and includes  
150 the amendment, repeal, or suspension of an existing rule.

151 W. "Sending state" means the state from which the  
152 placement of a child is initiated.

153 X. "Service member's permanent duty station" means the  
154 military installation where an active duty Armed Services member



534108

155 is currently assigned and is physically located under competent  
156 orders that do not specify the duty as temporary.

157 Y. "Service member's state of legal residence" means the  
158 state in which the active duty Armed Services member is  
159 considered a resident for tax and voting purposes.

160 Z. "State" means a state of the United States, the  
161 District of Columbia, the Commonwealth of Puerto Rico, the U.S.  
162 Virgin Islands, Guam, American Samoa, the Northern Marianas  
163 Islands, and any other territory of the United States.

164 AA. "State court" means a judicial body of a state that is  
165 vested by law with responsibility for adjudicating cases  
166 involving abuse, neglect, deprivation, delinquency, or status  
167 offenses of individuals who have not attained the age of 18.

168 BB. "Supervision" means monitoring provided by the  
169 receiving state once a child has been placed in a receiving  
170 state pursuant to this compact.

171 ARTICLE III. APPLICABILITY

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

174 1. The interstate placement of a child subject to ongoing  
175 court jurisdiction in the sending state, due to allegations or  
176 findings that the child has been abused, neglected, or deprived  
177 as defined by the laws of the sending state, provided, however,  
178 that the placement of such a child into a residential facility  
179 shall only require notice of residential placement to the  
180 receiving state prior to placement.

181 2. The interstate placement of a child adjudicated  
182 delinquent or unmanageable based on the laws of the sending



534108

183 state and subject to ongoing court jurisdiction of the sending  
184 state if:

185 a. The child is being placed in a residential facility in  
186 another member state and is not covered under another compact;  
187 or

188 b. The child is being placed in another member state and  
189 the determination of safety and suitability of the placement and  
190 services required is not provided through another compact.

191 3. The interstate placement of any child by a public  
192 child-placing agency or private child-placing agency as defined  
193 in this compact as a preliminary step to a possible adoption.

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

195 1. The interstate placement of a child in a custody  
196 proceeding in which a public child-placing agency is not a  
197 party, provided, the placement is not intended to effectuate an  
198 adoption.

199 2. The interstate placement of a child with a nonrelative  
200 in a receiving state by a parent with the legal authority to  
201 make such a placement, provided, however, that the placement is  
202 not intended to effectuate an adoption.

203 3. The interstate placement of a child by one relative  
204 with the lawful authority to make such a placement directly with  
205 a relative in a receiving state.

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

208 5. The placement of a child with a noncustodial parent  
209 provided that:





534108

210       a. The noncustodial parent proves to the satisfaction of a  
211 court in the sending state a substantial relationship with the  
212 child;

213       b. The court in the sending state makes a written finding  
214 that placement with the noncustodial parent is in the best  
215 interests of the child; and

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

218       6. A child entering the United States from a foreign  
219 country for the purpose of adoption or leaving the United States  
220 to go to a foreign country for the purpose of adoption in that  
221 country.

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

226       8. The sending of a child by a public child-placing agency  
227 or a private child-placing agency for a visit as defined by the  
228 rules of the Interstate Commission.

229       C. For purposes of determining the applicability of this  
230 compact to the placement of a child with a family in the Armed  
231 Services, the public child-placing agency or private child-  
232 placing agency may choose the state of the service member's  
233 permanent duty station or the service member's declared legal  
234 residence.

235       D. Nothing in this compact shall be construed to prohibit  
236 the concurrent application of the provisions of this compact  
237 with other applicable interstate compacts including the



534108

238 Interstate Compact for Juveniles and the Interstate Compact on  
239 Adoption and Medical Assistance. The Interstate Commission may  
240 in cooperation with other interstate compact commissions having  
241 responsibility for the interstate movement, placement, or  
242 transfer of children, promulgate like rules to ensure the  
243 coordination of services, timely placement of children, and the  
244 reduction of unnecessary or duplicative administrative or  
245 procedural requirements.

246 ARTICLE IV. JURISDICTION

247 A. Except as provided in Article IV, Section G and Article  
248 V, Section B, paragraphs 2. and 3. concerning private and  
249 independent adoptions, and in interstate placements in which the  
250 public child-placing agency is not a party to a custody  
251 proceeding, the sending state shall retain jurisdiction over a  
252 child with respect to all matters of custody and disposition of  
253 the child which it would have had if the child had remained in  
254 the sending state. Such jurisdiction shall also include the  
255 power to order the return of the child to the sending state.

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

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

263 1. The child is reunified with the parent in the receiving  
264 state who is the subject of allegations or findings of abuse or



534108

265 neglect, only with the concurrence of the public child-placing  
266 agency in the receiving state;  
267 2. The child is adopted;  
268 3. The child reaches the age of majority under the laws of  
269 the sending state;  
270 4. The child achieves legal independence pursuant to the  
271 laws of the sending state;  
272 5. A guardianship is created by a court in the receiving  
273 state with the concurrence of the court in the sending state;  
274 6. An Indian tribe has petitioned for and received  
275 jurisdiction from the court in the sending state; or  
276 7. The public child-placing agency of the sending state  
277 requests termination and has obtained the concurrence of the  
278 public child-placing agency in the receiving state.  
279 D. When a sending state court terminates its jurisdiction,  
280 the receiving state child-placing agency shall be notified.  
281 E. Nothing in this article shall defeat a claim of  
282 jurisdiction by a receiving state court sufficient to deal with  
283 an act of truancy, delinquency, crime, or behavior involving a  
284 child as defined by the laws of the receiving state committed by  
285 the child in the receiving state which would be a violation of  
286 its laws.  
287 F. Nothing in this article shall limit the receiving  
288 state's ability to take emergency jurisdiction for the  
289 protection of the child.  
290 G. The substantive laws of the state in which an adoption  
291 will be finalized shall solely govern all issues relating to the  
292 adoption of the child and the court in which the adoption



534108

293 proceeding is filed shall have subject matter jurisdiction  
294 regarding all substantive issues relating to the adoption,  
295 except:

296 1. When the child is a ward of another court that  
297 established jurisdiction over the child prior to the placement;

298 2. When the child is in the legal custody of a public  
299 agency in the sending state; or

300 3. When a court in the sending state has otherwise  
301 appropriately assumed jurisdiction over the child, prior to the  
302 submission of the request for approval of placement.

303 H. A final decree of adoption shall not be entered in any  
304 jurisdiction until the placement is authorized as an "approved  
305 placement" by the public child-placing agency in the receiving  
306 state.

307 ARTICLE V. PLACEMENT EVALUATION

308 A. Prior to sending, bringing, or causing a child to be  
309 sent or brought into a receiving state, the public child-placing  
310 agency shall provide a written request for assessment to the  
311 receiving state.

312 B. For placements by a private child-placing agency, a  
313 child may be sent or brought, or caused to be sent or brought,  
314 into a receiving state, upon receipt and immediate review of the  
315 required content in a request for approval of a placement in  
316 both the sending and receiving state public child-placing  
317 agency. The required content to accompany a request for  
318 approval shall include all of the following:



534108

319       1. A request for approval identifying the child, birth  
320 parent(s), the prospective adoptive parent(s), and the  
321 supervising agency, signed by the person requesting approval;  
322       2. The appropriate consents or relinquishments signed by  
323 the birth-parents in accordance with the laws of the sending  
324 state, or where permitted the laws of the state where the  
325 adoption will be finalized;  
326       3. Certification by a licensed attorney or authorized  
327 agent of a private adoption agency that the consent or  
328 relinquishment is in compliance with the applicable laws of the  
329 sending state, or where permitted the laws of the state where  
330 finalization of the adoption will occur;  
331       4. A home study; and  
332       5. An acknowledgment of legal risk signed by the  
333 prospective adoptive parents.  
334       C. The sending state and the receiving state may request  
335 additional information or documents prior to finalization of an  
336 approved placement, but they may not delay travel by the  
337 prospective adoptive parents with the child if the required  
338 content for approval has been submitted, received, and reviewed  
339 by the public child-placing agency in both the sending state and  
340 the receiving state.  
341       D. Approval from the public child-placing agency in the  
342 receiving state for a provisional or approved placement is  
343 required as provided for in the rules of the Interstate  
344 Commission.



534108

345       E. The procedures for making the request for an assessment  
346 shall contain all information and be in such form as provided  
347 for in the rules of the Interstate Commission.

348       F. Upon receipt of a request from the public child-placing  
349 agency of the sending state, the receiving state shall initiate  
350 an assessment of the proposed placement to determine its safety  
351 and suitability. If the proposed placement is a placement with a  
352 relative, the public child-placing agency of the sending state  
353 may request a determination for a provisional placement.

354       G. The public child-placing agency in the receiving state  
355 may request from the public child-placing agency or the private  
356 child-placing agency in the sending state, and shall be entitled  
357 to receive supporting or additional information necessary to  
358 complete the assessment or approve the placement.

359       H. The public child-placing agency in the receiving state  
360 shall approve a provisional placement and complete or arrange  
361 for the completion of the assessment within the timeframes  
362 established by the rules of the Interstate Commission.

363       I. For a placement by a private child-placing agency, the  
364 sending state shall not impose any additional requirements to  
365 complete the home study that are not required by the receiving  
366 state, unless the adoption is finalized in the sending state.

367       J. The Interstate Commission may develop uniform standards  
368 for the assessment of the safety and suitability of interstate  
369 placements.

370                   ARTICLE VI. PLACEMENT AUTHORITY



534108

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

374 B. If the public child-placing agency in the receiving  
375 state does not approve the proposed placement then the child  
376 shall not be placed. The receiving state shall provide written  
377 documentation of any such determination in accordance with the  
378 rules promulgated by the Interstate Commission. Such  
379 determination is not subject to judicial review in the sending  
380 state.

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

384 1. The administrative review and any further judicial  
385 review associated with the determination shall be conducted in  
386 the receiving state pursuant to its applicable administrative  
387 procedures.

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

393 ARTICLE VII. PLACING AGENCY RESPONSIBILITY

394 A. For the interstate placement of a child made by a  
395 public child-placing agency or state court:

396 1. The public child-placing agency in the sending state  
397 shall have financial responsibility for:



534108

398       a. The ongoing support and maintenance for the child  
399 during the period of the placement, unless otherwise provided  
400 for in the receiving state; and

401       b. As determined by the public child-placing agency in the  
402 sending state, services for the child beyond the public services  
403 for which the child is eligible in the receiving state.

404       2. The receiving state shall only have financial  
405 responsibility for:

406       a. Any assessment conducted by the receiving state; and

407       b. Supervision conducted by the receiving state at the  
408 level necessary to support the placement as agreed upon by the  
409 public child-placing agencies of the receiving and sending  
410 state.

411       3. Nothing in this provision shall prohibit public child-  
412 placing agencies in the sending state from entering into  
413 agreements with licensed agencies or persons in the receiving  
414 state to conduct assessments and provide supervision.

415       B. For the placement of a child by a private child-placing  
416 agency preliminary to a possible adoption, the private child-  
417 placing agency shall be:

418       1. Legally responsible for the child during the period of  
419 placement as provided for in the law of the sending state until  
420 the finalization of the adoption.

421       2. Financially responsible for the child absent a  
422 contractual agreement to the contrary.

423       C. The public child-placing agency in the receiving state  
424 shall provide timely assessments, as provided for in the rules  
425 of the Interstate Commission.





534108

426        D. The public child-placing agency in the receiving state  
427 shall provide, or arrange for the provision of, supervision and  
428 services for the child, including timely reports, during the  
429 period of the placement.

430        E. Nothing in this compact shall be construed as to limit  
431 the authority of the public child-placing agency in the  
432 receiving state from contracting with a licensed agency or  
433 person in the receiving state for an assessment or the provision  
434 of supervision or services for the child or otherwise  
435 authorizing the provision of supervision or services by a  
436 licensed agency during the period of placement.

437        F. Each member state shall provide for coordination among  
438 its branches of government concerning the state's participation  
439 in, and compliance with, the compact and Interstate Commission  
440 activities, through the creation of an advisory council or use  
441 of an existing body or board.

442        G. Each member state shall establish a central state  
443 compact office, which shall be responsible for state compliance  
444 with the compact and the rules of the Interstate Commission.

445        H. The public child-placing agency in the sending state  
446 shall oversee compliance with the provisions of the Indian Child  
447 Welfare Act (25 USC ss. 1901 et seq.) for placements subject to  
448 the provisions of this compact, prior to placement.

449        I. With the consent of the Interstate Commission, states  
450 may enter into limited agreements that facilitate the timely  
451 assessment and provision of services and supervision of  
452 placements under this compact.



534108

453 ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF  
454 CHILDREN

455 The member states hereby establish, by way of this compact, a  
456 commission known as the "Interstate Commission for the Placement  
457 of Children." The activities of the Interstate Commission are  
458 the formation of public policy and are a discretionary state  
459 function. The Interstate Commission shall:

460 A. Be a joint commission of the member states and shall  
461 have the responsibilities, powers, and duties set forth herein,  
462 and such additional powers as may be conferred upon it by  
463 subsequent concurrent action of the respective legislatures of  
464 the member states.

465 B. Consist of one commissioner from each member state who  
466 shall be appointed by the executive head of the state human  
467 services administration with ultimate responsibility for the  
468 child welfare program. The appointed commissioner shall have the  
469 legal authority to vote on policy related matters governed by  
470 this compact binding the state.

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

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

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

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



534108

480        C. In addition to the commissioners of each member state,  
481 the Interstate Commission shall include persons who are members  
482 of interested organizations as defined in the bylaws or rules of  
483 the Interstate Commission. Such members shall be ex officio and  
484 shall not be entitled to vote on any matter before the  
485 Interstate Commission.

486        D. Establish an executive committee which shall have the  
487 authority to administer the day-to-day operations and  
488 administration of the Interstate Commission. It shall not have  
489 the power to engage in rulemaking.

490        ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION  
491 The Interstate Commission shall have the following powers:

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

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

496        C. To issue, upon request of a member state, advisory  
497 opinions concerning the meaning or interpretation of the  
498 interstate compact, its bylaws, rules, or actions.

499        D. To enforce compliance with this compact or the bylaws  
500 or rules of the Interstate Commission pursuant to Article XII.

501        E. Collect standardized data concerning the interstate  
502 placement of children subject to this compact as directed  
503 through its rules which shall specify the data to be collected,  
504 the means of collection and data exchange and reporting  
505 requirements.

506        F. To establish and maintain offices as may be necessary  
507 for the transaction of its business.



534108

- 508       G. To purchase and maintain insurance and bonds.
- 509       H. To hire or contract for services of personnel or  
510 consultants as necessary to carry out its functions under the  
511 compact and establish personnel qualification policies and rates  
512 of compensation.
- 513       I. To establish and appoint committees and officers  
514 including, but not limited to, an executive committee as  
515 required by Article X.
- 516       J. To accept any and all donations and grants of money,  
517 equipment, supplies, materials, and services, and to receive,  
518 utilize, and dispose thereof.
- 519       K. To lease, purchase, accept contributions or donations  
520 of, or otherwise to own, hold, improve, or use any property,  
521 real, personal, or mixed.
- 522       L. To sell, convey, mortgage, pledge, lease, exchange,  
523 abandon, or otherwise dispose of any property, real, personal,  
524 or mixed.
- 525       M. To establish a budget and make expenditures.
- 526       M. To adopt a seal and bylaws governing the management and  
527 operation of the Interstate Commission.
- 528       O. To report annually to the legislatures, governors, the  
529 judiciary, and state advisory councils of the member states  
530 concerning the activities of the Interstate Commission during  
531 the preceding year. Such reports shall also include any  
532 recommendations that may have been adopted by the Interstate  
533 Commission.



534108

534 P. To coordinate and provide education, training, and  
535 public awareness regarding the interstate movement of children  
536 for officials involved in such activity.

537 Q. To maintain books and records in accordance with the  
538 bylaws of the Interstate Commission.

539 R. To perform such functions as may be necessary or  
540 appropriate to achieve the purposes of this compact.

541 ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE  
542 COMMISSION

543 A. Bylaws

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

548 2. The Interstate Commission's bylaws and rules shall  
549 establish conditions and procedures under which the Interstate  
550 Commission shall make its information and official records  
551 available to the public for inspection or copying. The  
552 Interstate Commission may exempt from disclosure information or  
553 official records to the extent they would adversely affect  
554 personal privacy rights or proprietary interests.

555 B. Meetings

556 1. The Interstate Commission shall meet at least once each  
557 calendar year. The chairperson may call additional meetings and,  
558 upon the request of a simple majority of the member states shall  
559 call additional meetings.

560 2. Public notice shall be given by the Interstate  
561 Commission of all meetings and all meetings shall be open to the



534108

562 public, except as set forth in the rules or as otherwise  
563 provided in the compact. The Interstate Commission and its  
564 committees may close a meeting, or portion thereof, where it  
565 determines by two-thirds vote that an open meeting would be  
566 likely to:

567 a. Relate solely to the Interstate Commission's internal  
568 personnel practices and procedures;

569 b. Disclose matters specifically exempted from disclosure  
570 by federal law;

571 c. Disclose financial or commercial information which is  
572 privileged, proprietary, or confidential in nature; or

573 d. Involve accusing a person of a crime or formally  
574 censuring a person;

575 e. Disclose information of a personal nature where  
576 disclosure would constitute a clearly unwarranted invasion of  
577 personal privacy or physically endanger one or more persons;

578 f. Disclose investigative records compiled for law  
579 enforcement purposes; or

580 g. Specifically relate to the Interstate Commission's  
581 participation in a civil action or other legal proceeding.

582 3. For a meeting, or portion of a meeting, closed pursuant  
583 to this provision, the Interstate Commission's legal counsel or  
584 designee shall certify that the meeting may be closed and shall  
585 reference each relevant exemption provision. The Interstate  
586 Commission shall keep minutes which shall fully and clearly  
587 describe all matters discussed in a meeting and shall provide a  
588 full and accurate summary of actions taken, and the reasons  
589 therefore, including a description of the views expressed and



534108

590 the record of a roll call vote. All documents considered in  
591 connection with an action shall be identified in such minutes.  
592 All minutes and documents of a closed meeting shall remain under  
593 seal, subject to release by a majority vote of the Interstate  
594 Commission or by court order.

595 4. The bylaws may provide for meetings of the Interstate  
596 Commission to be conducted by telecommunication or other  
597 electronic communication.

598 C. Officers and Staff

599 1. The Interstate Commission may, through its executive  
600 committee, appoint or retain a staff director for such period,  
601 upon such terms and conditions and for such compensation as the  
602 Interstate Commission may deem appropriate. The staff director  
603 shall serve as secretary to the Interstate Commission, but shall  
604 not have a vote. The staff director may hire and supervise such  
605 other staff as may be authorized by the Interstate Commission.

606 2. The Interstate Commission shall elect, from among its  
607 members, a chairperson and a vice chairperson of the executive  
608 committee and other necessary officers, each of whom shall have  
609 such authority and duties as may be specified in the bylaws.

610 D. Qualified Immunity, Defense and Indemnification

611 1. The Interstate Commission's staff director and its  
612 employees shall be immune from suit and liability, either  
613 personally or in their official capacity, for a claim for damage  
614 to or loss of property or personal injury or other civil  
615 liability caused or arising out of or relating to an actual or  
616 alleged act, error, or omission that occurred, or that such  
617 person had a reasonable basis for believing occurred within the



534108

618 scope of Commission employment, duties, or responsibilities;  
619 provided, that such person shall not be protected from suit or  
620 liability for damage, loss, injury, or liability caused by a  
621 criminal act or the intentional or willful and wanton misconduct  
622 of such person.

623 a. The liability of the Interstate Commission's staff  
624 director and employees or Interstate Commission representatives,  
625 acting within the scope of such person's employment or duties  
626 for acts, errors, or omissions occurring within such person's  
627 state may not exceed the limits of liability set forth under the  
628 Constitution and laws of that state for state officials,  
629 employees, and agents. The Interstate Commission is considered  
630 to be an instrumentality of the states for the purposes of any  
631 such action. Nothing in this subsection shall be construed to  
632 protect such person from suit or liability for damage, loss,  
633 injury, or liability caused by a criminal act or the intentional  
634 or willful and wanton misconduct of such person.

635 b. The Interstate Commission shall defend the staff  
636 director and its employees and, subject to the approval of the  
637 Attorney General or other appropriate legal counsel of the  
638 member state shall defend the commissioner of a member state in  
639 a civil action seeking to impose liability arising out of an  
640 actual or alleged act, error, or omission that occurred within  
641 the scope of Interstate Commission employment, duties, or  
642 responsibilities, or that the defendant had a reasonable basis  
643 for believing occurred within the scope of Interstate Commission  
644 employment, duties, or responsibilities, provided that the  
645 actual or alleged act, error, or omission did not result from





534108

646 intentional or willful and wanton misconduct on the part of such  
647 person.

648 c. To the extent not covered by the state involved, member  
649 state, or the Interstate Commission, the representatives or  
650 employees of the Interstate Commission shall be held harmless in  
651 the amount of a settlement or judgment, including attorney's  
652 fees and costs, obtained against such persons arising out of an  
653 actual or alleged act, error, or omission that occurred within  
654 the scope of Interstate Commission employment, duties, or  
655 responsibilities, or that such persons had a reasonable basis  
656 for believing occurred within the scope of Interstate Commission  
657 employment, duties, or responsibilities, provided that the  
658 actual or alleged act, error, or omission did not result from  
659 intentional or willful and wanton misconduct on the part of such  
660 persons.

661 ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

665 B. Rulemaking shall occur pursuant to the criteria set  
666 forth in this article and the bylaws and rules adopted pursuant  
667 thereto. Such rulemaking shall substantially conform to the  
668 principles of the "Model State Administrative Procedures Act,"  
669 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or such  
670 other administrative procedure acts as the Interstate Commission  
671 deems appropriate consistent with due process requirements under  
672 the United States Constitution as now or hereafter interpreted  
673 by the U.S. Supreme Court. All rules and amendments shall become



534108

674 binding as of the date specified, as published with the final  
675 version of the rule as approved by the Interstate Commission.

676 C. When promulgating a rule, the Interstate Commission  
677 shall, at a minimum:

678 1. Publish the proposed rule's entire text stating the  
679 reason(s) for that proposed rule;

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

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

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

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

698 F. If a majority of the legislatures of the member states  
699 rejects a rule, those states may, by enactment of a statute or  
700 resolution in the same manner used to adopt the compact, cause



534108

701 that such rule shall have no further force and effect in any  
702 member state.

703 G. The existing rules governing the operation of the  
704 Interstate Compact on the Placement of Children superseded by  
705 this act shall be null and void no less than 12, but no more  
706 than 24 months after the first meeting of the Interstate  
707 Commission created hereunder, as determined by the members  
708 during the first meeting.

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

- 711 1. Transition rules.
- 712 2. Forms and procedures.
- 713 3. Time lines.
- 714 4. Data collection and reporting.
- 715 5. Rulemaking.
- 716 6. Visitation.
- 717 7. Progress reports/supervision.
- 718 8. Sharing of information/confidentiality.
- 719 9. Financing of the Interstate Commission.
- 720 10. Mediation, arbitration, and dispute resolution.
- 721 11. Education, training, and technical assistance.
- 722 12. Enforcement
- 723 13. Coordination with other interstate compacts.

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

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



534108

728 a. Protect the children covered by this compact from an  
729 imminent threat to their health, safety, and well-being;

730 b. Prevent loss of federal or state funds; or

731 c. Meet a deadline for the promulgation of an  
732 administrative rule required by federal law.

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

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

740 ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

741 A. Oversight.

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

744 2. The executive, legislative, and judicial branches of  
745 state government in each member state shall enforce this compact  
746 and the rules of the Interstate Commission and shall take all  
747 actions necessary and appropriate to effectuate the compact's  
748 purposes and intent. The compact and its rules shall be binding  
749 in the compacting states to the extent and in the manner  
750 provided for in this compact.

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

754 4. The Interstate Commission shall be entitled to receive  
755 service of process in any action in which the validity of a



534108

756 compact provision or rule is the issue for which a judicial  
757 determination has been sought and shall have standing to  
758 intervene in any proceedings. Failure to provide service of  
759 process to the Interstate Commission shall render any judgment,  
760 order, or other determination, however so captioned or  
761 classified, void as to the Interstate Commission, this compact,  
762 its bylaws, or rules of the Interstate Commission.

763 B. Dispute Resolution.

764 1. The Interstate Commission shall attempt, upon the  
765 request of a member state, to resolve disputes which are subject  
766 to the compact and which may arise among member states and  
767 between member and nonmember states.

768 2. The Interstate Commission shall promulgate a rule  
769 providing for both mediation and binding dispute resolution for  
770 disputes among compacting states. The costs of such mediation or  
771 dispute resolution shall be the responsibility of the parties to  
772 the dispute.

773 C. Enforcement

774 1. If the Interstate Commission determines that a member  
775 state has defaulted in the performance of its obligations or  
776 responsibilities under this compact, its bylaws or rules, the  
777 Interstate Commission may:

778 a. Provide remedial training and specific technical  
779 assistance;

780 b. Provide written notice to the defaulting state and  
781 other member states, of the nature of the default and the means  
782 of curing the default. The Interstate Commission shall specify



534108

783 the conditions by which the defaulting state must cure its  
784 default;

785 c. By majority vote of the members, initiate against a  
786 defaulting member state legal action in the United States  
787 District Court for the District of Columbia or, at the  
788 discretion of the Interstate Commission, in the federal district  
789 where the Interstate Commission has its principal office, to  
790 enforce compliance with the provisions of the compact, its  
791 bylaws or rules. The relief sought may include both injunctive  
792 relief and damages. In the event judicial enforcement is  
793 necessary, the prevailing party shall be awarded all costs of  
794 such litigation including reasonable attorney's fees; or

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

797 ARTICLE XIII. FINANCING OF THE COMMISSION

798 A. The Interstate Commission shall pay, or provide for the  
799 payment of the reasonable expenses of its establishment,  
800 organization, and ongoing activities.

801 B. The Interstate Commission may levy on and collect an  
802 annual assessment from each member state to cover the cost of  
803 the operations and activities of the Interstate Commission and  
804 its staff which must be in a total amount sufficient to cover  
805 the Interstate Commission's annual budget as approved by its  
806 members each year. The aggregate annual assessment amount shall  
807 be allocated based upon a formula to be determined by the  
808 Interstate Commission which shall promulgate a rule binding upon  
809 all member states.



534108

810       C. The Interstate Commission shall not incur obligations  
811 of any kind prior to securing the funds adequate to meet the  
812 same; nor shall the Interstate Commission pledge the credit of  
813 any of the member states, except by and with the authority of  
814 the member state.

815       D. The Interstate Commission shall keep accurate accounts  
816 of all receipts and disbursements. The receipts and  
817 disbursements of the Interstate Commission shall be subject to  
818 the audit and accounting procedures established under its  
819 bylaws. However, all receipts and disbursements of funds handled  
820 by the Interstate Commission shall be audited yearly by a  
821 certified or licensed public accountant and the report of the  
822 audit shall be included in and become part of the annual report  
823 of the Interstate Commission.

824       ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

826       B. The compact shall become effective and binding upon  
827 legislative enactment of the compact into law by no less than 35  
828 states. The effective date shall be the later of July 1, 2007,  
829 or upon enactment of the compact into law by the 35th state.  
830 Thereafter, it shall become effective and binding as to any  
831 other member state upon enactment of the compact into law by  
832 that state. The executive heads of the state human services  
833 administration with ultimate responsibility for the child  
834 welfare program of nonmember states or their designees shall be  
835 invited to participate in the activities of the Interstate  
836 Commission on a nonvoting basis prior to adoption of the compact  
837 by all states.



534108

838 C. The Interstate Commission may propose amendments to the  
839 compact for enactment by the member states. No amendment shall  
840 become effective and binding on the member states unless and  
841 until it is enacted into law by unanimous consent of the member  
842 states.

843 ARTICLE XV. WITHDRAWAL AND DISSOLUTION

844 A. Withdrawal

845 1. Once effective, the compact shall continue in force and  
846 remain binding upon each and every member state. A member state  
847 may withdraw from the compact specifically repealing the statute  
848 which enacted the compact into law.

849 2. Withdrawal from this compact shall be by the enactment  
850 of a statute repealing the same. The effective date of  
851 withdrawal shall be the effective date of the repeal of the  
852 statute.

853 3. The withdrawing state shall immediately notify the  
854 president of the Interstate Commission in writing upon the  
855 introduction of legislation repealing this compact in the  
856 withdrawing state. The Interstate Commission shall then notify  
857 the other member states of the withdrawing state's intent to  
858 withdraw.

859 4. The withdrawing state is responsible for all  
860 assessments, obligations, and liabilities incurred through the  
861 effective date of withdrawal.

862 5. Reinstatement following withdrawal of a member state  
863 shall occur upon the withdrawing state reenacting the compact or  
864 upon such later date as determined by the members of the  
865 Interstate Commission.





534108

866 B. Dissolution of Compact

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

870 2. Upon the dissolution of this compact, the compact  
871 becomes null and void and shall be of no further force or  
872 effect, and the business and affairs of the Interstate  
873 Commission shall be concluded and surplus funds shall be  
874 distributed in accordance with the bylaws.

875 ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

876 A. The provisions of this compact shall be severable, and  
877 if any phrase, clause, sentence, or provision is deemed  
878 unenforceable, the remaining provisions of the compact shall be  
879 enforceable.

880 B. The provisions of this compact shall be liberally  
881 construed to effectuate its purposes.

882 C. Nothing in this compact shall be construed to prohibit  
883 the concurrent applicability of other interstate compacts to  
884 which the states are members.

885 ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

886 A. Other Laws

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

890 B. Binding Effect of the Compact

891 1. All lawful actions of the Interstate Commission,  
892 including all rules and bylaws promulgated by the Interstate  
893 Commission, are binding upon the member states.



534108

894        2. All agreements between the Interstate Commission and  
895 the member states are binding in accordance with their terms.

896        3. If any provision of this compact exceeds the  
897 constitutional limits imposed on the legislature of any member  
898 state, such provision shall be ineffective to the extent of the  
899 conflict with the constitutional provision in question in that  
900 member state.

901                    ARTICLE XVIII. INDIAN TRIBES

902        Notwithstanding any other provision in this compact, the  
903 Interstate Commission may promulgate guidelines to permit Indian  
904 tribes to utilize the compact to achieve any or all of the  
905 purposes of the compact as specified in Article I. The  
906 Interstate Commission shall make reasonable efforts to consult  
907 with Indian tribes in promulgating guidelines to reflect the  
908 diverse circumstances of the various Indian tribes.