

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Sands offered the following:

2
3 **Amendment**

4 Remove lines 558-949 and insert:
5 required by Article X.

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

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

12 L. To sell, convey, mortgage, pledge, lease, exchange,
13 abandon, or otherwise dispose of any property, real, personal,
14 or mixed.

15 M. To establish a budget and make expenditures.

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16 N. To adopt a seal and bylaws governing the management and
17 operation of the Interstate Commission.

18 O. To report annually to the legislatures, the governors,
19 the judiciary, and the state advisory councils of the member
20 states concerning the activities of the Interstate Commission
21 during the preceding year. Such reports shall also include any
22 recommendations that may have been adopted by the Interstate
23 Commission.

24 P. To coordinate and provide education, training, and
25 public awareness regarding the interstate movement of children
26 for officials involved in such activity.

27 Q. To maintain books and records in accordance with the
28 bylaws of the Interstate Commission.

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

31
32 ARTICLE X. ORGANIZATION AND OPERATION
33 OF THE INTERSTATE COMMISSION

34
35 A. Organization.

36 1. Within 12 months after the first Interstate Commission
37 meeting, the Interstate Commission shall adopt rules to govern
38 its conduct as may be necessary or appropriate to carry out the
39 purposes of the compact.

40 2. The Interstate Commission's rules shall establish
41 conditions and procedures under which the Interstate Commission
42 shall make its information and official records available to the
43 public for inspection or copying.

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44 B. Meetings.

45 1. The Interstate Commission shall meet at least once each
46 calendar year. The chairperson may call additional meetings and,
47 upon the request of a simple majority of the member states,
48 shall call additional meetings.

49 2. Public notice shall be given by the Interstate
50 Commission of all meetings, and all meetings shall be open to
51 the public.

52 3. The bylaws may provide for meetings of the Interstate
53 Commission to be conducted by telecommunication or other
54 electronic communication.

55 C. Officers and staff.

56 1. The Interstate Commission may, through its executive
57 committee, appoint or retain a staff director for such period,
58 upon such terms and conditions, and for such compensation as the
59 Interstate Commission may deem appropriate. The staff director
60 shall serve as secretary to the Interstate Commission but shall
61 not have a vote. The staff director may hire and supervise such
62 other staff as may be authorized by the Interstate Commission.

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

67 D. Qualified immunity, defense, and indemnification.

68 1. The Interstate Commission's staff director and its
69 employees shall be immune from suit and liability, either
70 personally or in their official capacity, for a claim for damage
71 to or loss of property or personal injury or other civil

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72 liability caused or arising out of or relating to an actual or
73 alleged act, error, or omission that occurred or that such
74 person had a reasonable basis for believing occurred within the
75 scope of Interstate Commission employment, duties, or
76 responsibilities; provided, however, that such person shall not
77 be protected from suit or liability for damage, loss, injury, or
78 liability caused by a criminal act or the intentional or willful
79 and wanton misconduct of such person.

80 a. The liability of the Interstate Commission's staff
81 director and employees or Interstate Commission representatives,
82 acting within the scope of such person's employment or duties,
83 for acts, errors, or omissions occurring within such person's
84 state may not exceed the limits of liability set forth under the
85 Constitution and laws of that state for state officials,
86 employees, and agents. The Interstate Commission is considered
87 to be an instrumentality of the states for the purposes of any
88 such action. Nothing in this subsection shall be construed to
89 protect such person from suit or liability for damage, loss,
90 injury, or liability caused by a criminal act or the intentional
91 or willful and wanton misconduct of such person.

92 b. The Interstate Commission shall defend the staff
93 director and its employees and, subject to the approval of the
94 Attorney General or other appropriate legal counsel of the
95 member state, shall defend the commissioner of a member state in
96 a civil action seeking to impose liability arising out of an
97 actual or alleged act, error, or omission that occurred within
98 the scope of Interstate Commission employment, duties, or
99 responsibilities, or that the defendant had a reasonable basis

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100 for believing occurred within the scope of Interstate Commission
101 employment, duties, or responsibilities; provided, however, that
102 the actual or alleged act, error, or omission did not result
103 from intentional or willful and wanton misconduct on the part of
104 such person.

105 c. To the extent not covered by the state involved, a
106 member state, or the Interstate Commission, the representatives
107 or employees of the Interstate Commission shall be held harmless
108 in the amount of a settlement or judgment, including attorney's
109 fees and costs, obtained against such persons arising out of an
110 actual or alleged act, error, or omission that occurred within
111 the scope of Interstate Commission employment, duties, or
112 responsibilities, or that such persons had a reasonable basis
113 for believing occurred within the scope of Interstate Commission
114 employment, duties, or responsibilities; provided, however, that
115 the actual or alleged act, error, or omission did not result
116 from intentional or willful and wanton misconduct on the part of
117 such persons.

118
119 ARTICLE XI. RULEMAKING FUNCTIONS
120 OF THE INTERSTATE COMMISSION
121

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

125 B. Rulemaking shall occur pursuant to the criteria set
126 forth in this article and the bylaws and rules adopted pursuant
127 thereto. Such rulemaking shall substantially conform to the

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128 principles of the "Model State Administrative Procedures Act,"
129 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or such
130 other administrative procedure acts as the Interstate Commission
131 deems appropriate, consistent with due process requirements
132 under the United States Constitution as now or hereafter
133 interpreted by the United States Supreme Court. All rules and
134 amendments shall become binding as of the date specified, as
135 published with the final version of the rule as approved by the
136 Interstate Commission.

137 C. When promulgating a rule, the Interstate Commission
138 shall, at a minimum:

139 1. Publish the proposed rule's entire text stating the
140 reasons for that proposed rule;

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

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

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

151 E. Not later than 60 days after a rule is promulgated, an
152 interested person may file a petition in the United States
153 District Court for the District of Columbia or in the Federal
154 District Court where the Interstate Commission's principal
155 office is located for judicial review of such rule. If the court

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156 finds that the Interstate Commission's action is not supported
157 by substantial evidence in the rulemaking record, the court
158 shall hold the rule unlawful and set it aside.

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

164 G. The existing rules governing the operation of the
165 Interstate Compact on the Placement of Children superseded by
166 this act shall be null and void no less than 12 months but no
167 more than 24 months after the first meeting of the Interstate
168 Commission created hereunder, as determined by the members
169 during the first meeting.

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

- 172 1. Transition rules.
- 173 2. Forms and procedures.
- 174 3. Timelines.
- 175 4. Data collection and reporting.
- 176 5. Rulemaking.
- 177 6. Visitation.
- 178 7. Progress reports and supervision.
- 179 8. Sharing of information and confidentiality.
- 180 9. Financing of the Interstate Commission.
- 181 10. Mediation, arbitration, and dispute resolution.
- 182 11. Education, training, and technical assistance.
- 183 12. Enforcement.

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184 13. Coordination with other interstate compacts.

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

187 1. The Interstate Commission may promulgate an emergency
188 rule only if it is required to:

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

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

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

194 2. An emergency rule shall become effective immediately
195 upon adoption, provided that the usual rulemaking procedures
196 provided hereunder shall be retroactively applied to the
197 emergency rule as soon as reasonably possible, but no later than
198 90 days after the effective date of the emergency rule.

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

201
202 ARTICLE XII. OVERSIGHT, DISPUTE
203 RESOLUTION, AND ENFORCEMENT

204
205 A. Oversight.

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

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

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212 purposes and intent. The compact and its rules shall be binding
213 in the compacting states to the extent and in the manner
214 provided for in this compact.

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

218 4. The Interstate Commission shall be entitled to receive
219 service of process in any action in which the validity of a
220 compact provision or rule is the issue for which a judicial
221 determination has been sought and shall have standing to
222 intervene in any proceedings. Failure to provide service of
223 process to the Interstate Commission shall render any judgment,
224 order, or other determination, however so captioned or
225 classified, void as to this compact, its bylaws, or rules of the
226 Interstate Commission.

227 B. Dispute resolution.

228 1. The Interstate Commission shall attempt, upon the
229 request of a member state, to resolve disputes which are subject
230 to the compact and which may arise among member states and
231 between member and nonmember states.

232 2. The Interstate Commission shall promulgate a rule
233 providing for both mediation and binding dispute resolution for
234 disputes among compacting states. The costs of such mediation or
235 dispute resolution shall be the responsibility of the parties to
236 the dispute.

237 C. Enforcement.

238 1. If the Interstate Commission determines that a member
239 state has defaulted in the performance of its obligations or

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240 responsibilities under this compact, its bylaws, or rules of the
241 Interstate Commission, the Interstate Commission may:

242 a. Provide remedial training and specific technical
243 assistance;

244 b. Provide written notice to the defaulting state and
245 other member states of the nature of the default and the means
246 of curing the default. The Interstate Commission shall specify
247 the conditions by which the defaulting state must cure its
248 default;

249 c. By majority vote of the members, initiate against a
250 defaulting member state legal action in the United States
251 District Court for the District of Columbia or, at the
252 discretion of the Interstate Commission, in the federal district
253 where the Interstate Commission has its principal office, to
254 enforce compliance with the provisions of the compact, its
255 bylaws, or rules of the Interstate Commission. The relief sought
256 may include both injunctive relief and damages. In the event
257 judicial enforcement is necessary, the prevailing party shall be
258 awarded all costs of such litigation, including reasonable
259 attorney's fees; or

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

262
263 ARTICLE XIII. FINANCING OF THE COMMISSION

264
265 A. The Interstate Commission shall pay, or provide for the
266 payment of, the reasonable expenses of its establishment,
267 organization, and ongoing activities.

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268 B. The Interstate Commission may levy on and collect an
269 annual assessment from each member state to cover the cost of
270 the operations and activities of the Interstate Commission and
271 its staff, which must be in a total amount sufficient to cover
272 the Interstate Commission's annual budget as approved by its
273 members each year. The aggregate annual assessment amount shall
274 be allocated based upon a formula to be determined by the
275 Interstate Commission, which shall promulgate a rule binding
276 upon all member states.

277 C. The Interstate Commission shall not incur obligations
278 of any kind prior to securing the funds adequate to meet those
279 obligations, nor shall the Interstate Commission pledge the
280 credit of any of the member states, except by and with the
281 authority of the member state.

282 D. The Interstate Commission shall keep accurate accounts
283 of all receipts and disbursements. The receipts and
284 disbursements of the Interstate Commission shall be subject to
285 the audit and accounting procedures established under its
286 bylaws. However, all receipts and disbursements of funds handled
287 by the Interstate Commission shall be audited yearly by a
288 certified or licensed public accountant, and the report of the
289 audit shall be included in and become part of the annual report
290 of the Interstate Commission.

291
292 ARTICLE XIV. MEMBER STATES, EFFECTIVE
293 DATE, AND AMENDMENT

294
295 A. Any state is eligible to become a member state.

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296 B. The compact shall become effective and binding upon
297 legislative enactment of the compact into law by no less than 35
298 states. The effective date shall be the later of July 1, 2007,
299 or upon enactment of the compact into law by the 35th state.
300 Thereafter, it shall become effective and binding as to any
301 other member state upon enactment of the compact into law by
302 that state. The executive heads of the state human services
303 administration with ultimate responsibility for the child
304 welfare program of nonmember states or their designees shall be
305 invited to participate in the activities of the Interstate
306 Commission on a nonvoting basis prior to adoption of the compact
307 by all states.

308 C. The Interstate Commission may propose amendments to the
309 compact for enactment by the member states. No amendment shall
310 become effective and binding on the member states unless and
311 until it is enacted into law by unanimous consent of the member
312 states.

313
314 ARTICLE XV. WITHDRAWAL AND DISSOLUTION

315
316 A. Withdrawal.

317 1. Once effective, the compact shall continue in force and
318 remain binding upon each and every member state, provided that a
319 member state may withdraw from the compact by specifically
320 repealing the statute which enacted the compact into law.

321 2. Withdrawal from this compact shall be by the enactment
322 of a statute repealing the compact. The effective date of

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323 withdrawal shall be the effective date of the repeal of the
324 statute.

325 3. The withdrawing state shall immediately notify the
326 president of the Interstate Commission in writing upon the
327 introduction of legislation repealing this compact in the
328 withdrawing state. The Interstate Commission shall then notify
329 the other member states of the withdrawing state's intent to
330 withdraw.

331 4. The withdrawing state is responsible for all
332 assessments, obligations, and liabilities incurred through the
333 effective date of withdrawal.

334 5. Reinstatement following withdrawal of a member state
335 shall occur upon the withdrawing state reenacting the compact or
336 upon such later date as determined by the members of the
337 Interstate Commission.

338 B. Dissolution of compact.

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

342 2. Upon the dissolution of this compact, the compact
343 becomes null and void and shall be of no further force or
344 effect, and the business and affairs of the Interstate
345 Commission shall be concluded and surplus funds shall be
346 distributed in accordance with the bylaws.

347
348 ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

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350 A. The provisions of this compact shall be severable, and,
351 if any phrase, clause, sentence, or provision is deemed
352 unenforceable, the remaining provisions of the compact shall be
353 enforceable.

354 B. The provisions of this compact shall be liberally
355 construed to effectuate its purposes.

356 C. Nothing in this compact shall be construed to prohibit
357 the concurrent applicability of other interstate compacts to
358 which the states are members.

360 ARTICLE XVII. BINDING EFFECT OF COMPACT
361 AND OTHER LAWS

362
363 A. Other laws.

364 1. Nothing in this compact prevents the enforcement of any
365 other law of a member state that is not inconsistent with this
366 compact.

367 B. Binding effect of the compact.

368 1. All lawful actions of the Interstate Commission are
369 binding upon the member states.

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

372 3. In the event any provision of this compact exceeds the
373 constitutional limits imposed on the legislature or executive
374 branch of any member state, such provision shall be ineffective
375 to the extent of the conflict with the constitutional provision
376 in question in that member state.

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378 ARTICLE XVIII. INDIAN TRIBES

379
380 Notwithstanding any other provision in this compact, the
381 Interstate Commission may promulgate guidelines to permit Indian
382 tribes to utilize the compact to achieve any or all of the
383 purposes of the compact as specified in Article I. The
384 Interstate Commission shall make reasonable efforts to consult
385 with Indian tribes in promulgating guidelines to reflect the
386 diverse circumstances of the various Indian tribes.

387 Section 2. Section 409.409, Florida Statutes, is created
388 to read:

389 409.409 Effect of existing compact provisions.--The
390 provisions of the existing Interstate Compact on the Placement
391 of Children, as created under s. 409.401, shall remain in effect
392 until repealed by entry into the new Interstate Compact for