

1 A bill to be entitled
2 An act relating to the interstate placement of children;
3 creating s. 409.408, F.S.; authorizing the department to
4 execute a new interstate compact on the placement of
5 children; providing purpose of the compact; providing
6 definitions; providing applicability; establishing
7 jurisdiction; providing for evaluation of placement;
8 requiring approval by the child-placing agency in the
9 receiving state prior to placement of a child; providing
10 for administrative and judicial review of the
11 determination regarding placement of the child; providing
12 responsibilities of the child-placing agency; establishing
13 the Interstate Commission for the Placement of Children;
14 providing powers and duties of the commission; providing
15 for organization and operation of the commission;
16 providing rulemaking authority; authorizing the commission
17 to oversee administration and operation of the compact,
18 resolve disputes, and enforce rules pertaining thereto;
19 providing for financing of the commission; establishing
20 criteria for member states; providing an effective date
21 for the compact; providing conditions for amendment of,
22 withdrawal from, and dissolution of the compact; providing
23 for severability and construction; providing for effect of
24 the compact on other laws; providing for Indian tribes to
25 participate in the compact; creating s. 409.409, F.S.;
26 providing for current statutory provisions to remain in
27 effect until the new interstate compact on the placement
28 of children becomes law; providing an effective date.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 409.408, Florida Statutes, is created to read:

409.408 Execution of compact.--Effective July 1, 2009, or upon the enactment of the compact into law by the 35th compacting state, whichever date occurs later, the Governor is hereby authorized and directed to execute a compact on behalf of this state with any other state or states legally joining therein in the form substantially as follows:

INTERSTATE COMPACT FOR
THE PLACEMENT OF CHILDREN

ARTICLE I. PURPOSE

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

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

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

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

57 D. Provide for the promulgation and enforcement of
58 administrative rules implementing the provisions of this compact
59 and regulating the covered activities of the member states.

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

62 F. Promote coordination between this compact, the
63 Interstate Compact for Juveniles, the Interstate Compact on
64 Adoption and Medical Assistance, and other compacts affecting
65 the placement of and which provide services to children
66 otherwise subject to this compact.

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

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

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74 ARTICLE II. DEFINITIONS

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76 As used in this compact,

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

80 B. "Assessment" means an evaluation of a prospective
81 placement by a public child-placing agency in the receiving
82 state to determine if the placement meets the individualized
83 needs of the child, including but not limited to the child's
84 safety and stability, health and well-being, and mental,

85 emotional, and physical development. An assessment is only
 86 applicable to a placement by a public child-placing agency.

87 C. "Child" means an individual who has not attained the
 88 age of 18.

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

91 E. "Default" means the failure of a member state to
 92 perform the obligations or responsibilities imposed upon it by
 93 this compact, the bylaws or rules of the Interstate Commission.

94 F. "Home study" means an evaluation of a home environment
 95 conducted in accordance with the applicable requirements of the
 96 state in which the home is located, and documents the
 97 preparation and the suitability of the placement resource for
 98 placement of a child in accordance with the laws and
 99 requirements of the state in which the home is located.

100 G. "Indian tribe" means any Indian tribe, band, nation, or
 101 other organized group or community of Indians recognized as
 102 eligible for services provided to Indians by the Secretary of
 103 the Interior because of their status as Indians, including any
 104 Alaskan native village as defined in s. 3 (c) of the Alaska
 105 Native Claims Settlement Act, 43 U.S.C. s. 1602 (c).

106 H. "Interstate Commission for the Placement of Children"
 107 means the commission that is created under article VIII of this
 108 compact and which is generally referred to as the Interstate
 109 Commission.

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

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112 J. "Legal risk placement" or "legal risk adoption" means a
113 placement made preliminary to an adoption where the prospective
114 adoptive parents acknowledge in writing that a child can be
115 ordered returned to the sending state or the birth mother's
116 state of residence, if different from the sending state, and a
117 final decree of adoption shall not be entered in any
118 jurisdiction until all required consents are obtained or are
119 dispensed with in accordance with applicable law.

120 K. "Member state" means a state that has enacted this
121 compact.

122 L. "Noncustodial parent" means a person who, at the time
123 of the commencement of court proceedings in the sending state,
124 does not have sole legal custody of the child or has joint legal
125 custody of a child, and who is not the subject of allegations or
126 findings of child abuse or neglect.

127 M. "Nonmember state" means a state which has not enacted
128 this compact.

129 N. "Notice of residential placement" means information
130 regarding a placement into a residential facility provided to
131 the receiving state including, but not limited to the name, date
132 of birth, and place of birth of the child, the identity and
133 address of the parent or legal guardian, evidence of authority
134 to make the placement, and the name and address of the facility
135 in which the child will be placed. Notice of residential
136 placement shall also include information regarding a discharge
137 and any unauthorized absence from the facility.

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

141 P. "Private child-placing agency" means any private
 142 corporation, agency, foundation, institution, or charitable
 143 organization, or any private person or attorney that
 144 facilitates, causes, or is involved in the placement of a child
 145 from one state to another and that is not an instrumentality of
 146 the state or acting under color of state law.

147 Q. "Provisional placement" means a determination made by
 148 the public child-placing agency in the receiving state that the
 149 proposed placement is safe and suitable, and, to the extent
 150 allowable, the receiving state has temporarily waived its
 151 standards or requirements otherwise applicable to prospective
 152 foster or adoptive parents so as to not delay the placement.
 153 Completion of the receiving state requirements regarding
 154 training for prospective foster or adoptive parents shall not
 155 delay an otherwise safe and suitable placement.

156 R. "Public child-placing agency" means any government
 157 child welfare agency or child protection agency or a private
 158 entity under contract with such an agency, regardless of whether
 159 the agency or entity acts on behalf of a state, county,
 160 municipality, or other governmental unit and which facilitates,
 161 causes, or is involved in the placement of a child from one
 162 state to another.

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

165 T. "Relative" means someone who is related to the child as
166 a parent, stepparent, sibling by half or whole blood or by
167 adoption, grandparent, aunt, uncle, or first cousin or a
168 nonrelative with significant ties to the child and may be
169 regarded as a relative as determined by the court in the sending
170 state.

171 U. "Residential facility" means a facility providing a
172 level of care that is sufficient to substitute for parental
173 responsibility or foster care, and is beyond what is needed for
174 assessment or treatment of an acute condition. For purposes of
175 the compact, residential facilities do not include institutions
176 primarily educational in character, hospitals, or other medical
177 facilities.

178 V. "Rule" means a written directive, mandate, standard, or
179 principle issued by the Interstate Commission promulgated
180 pursuant to Article XI of this compact that is of general
181 applicability and that implements, interprets, or prescribes a
182 policy or provision of the compact. "Rule" has the force and
183 effect of an administrative rule in a member state and includes
184 the amendment, repeal, or suspension of an existing rule.

185 W. "Sending state" means the state from which the
186 placement of a child is initiated.

187 X. "Service member's permanent duty station" means the
188 military installation where an active duty United States Armed
189 Services member is currently assigned and is physically located
190 under competent orders that do not specify the duty as
191 temporary.

192 Y. "Service member's state of legal residence" means the
 193 state in which the active duty United States Armed Services
 194 member is considered a resident for tax and voting purposes.

195 Z. "State" means a state of the United States, the
 196 District of Columbia, the Commonwealth of Puerto Rico, the
 197 United States Virgin Islands, Guam, American Samoa, the Northern
 198 Marianas Islands and any other territory of the United States.

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

203 BB. "Supervision" means monitoring provided by the
 204 receiving state once a child has been placed in a receiving
 205 state pursuant to this compact.

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 207 ARTICLE III. APPLICABILITY
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209 A. Except as otherwise provided in Article III, Section B,
 210 this compact shall apply to:

211 1. The interstate placement of a child subject to ongoing
 212 court jurisdiction in the sending state, due to allegations or
 213 findings that the child has been abused, neglected, or deprived
 214 as defined by the laws of the sending state; provided, however,
 215 that the placement of such a child into a residential facility
 216 shall only require notice of residential placement to the
 217 receiving state prior to placement.

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

220 state and subject to ongoing court jurisdiction of the sending
 221 state if:

222 a. The child is being placed in a residential facility in
 223 another member state and is not covered under another compact;
 224 or

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

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

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

232 1. The interstate placement of a child in a custody
 233 proceeding in which a public child-placing agency is not a
 234 party; provided, however, that the placement is not intended to
 235 effectuate an adoption.

236 2. The interstate placement of a child with a nonrelative
 237 in a receiving state by a parent with the legal authority to
 238 make such a placement; provided, however, that the placement is
 239 not intended to effectuate an adoption.

240 3. The interstate placement of a child by a relative with
 241 the lawful authority to make such a placement directly with a
 242 relative in a receiving state.

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

245 5. The placement of a child with a noncustodial parent
 246 provided that:

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247 a. The noncustodial parent proves to the satisfaction of a
248 court in the sending state a substantial relationship with the
249 child; and

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

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

255 6. A child entering the United States from a foreign
256 country for the purpose of adoption or leaving the United States
257 to go to a foreign country for the purpose of adoption in that
258 country.

259 7. Cases in which a United States citizen child living
260 overseas with his or her family, at least one of whom is in the
261 United States Armed Services and who is stationed overseas, is
262 removed and placed in a state.

263 8. The sending of a child by a public child-placing agency
264 or a private child-placing agency for a visit as defined by the
265 rules of the Interstate Commission.

266 C. For purposes of determining the applicability of this
267 compact to the placement of a child with a family in the United
268 States Armed Services, the public child-placing agency or
269 private child-placing agency may choose the state of the service
270 member's permanent duty station or the service member's declared
271 legal residence.

272 D. Nothing in this compact shall be construed to prohibit
273 the concurrent application of the provisions of this compact
274 with other applicable interstate compacts, including the

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275 Interstate Compact for Juveniles and the Interstate Compact on
276 Adoption and Medical Assistance. The Interstate Commission may,
277 in cooperation with other interstate compact commissions having
278 responsibility for the interstate movement, placement, or
279 transfer of children, promulgate like rules to ensure the
280 coordination of services, timely placement of children, and the
281 reduction of unnecessary or duplicative administrative or
282 procedural requirements.

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284 ARTICLE IV. JURISDICTION

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286 A. Except as provided in Article IV, Section G, and
287 Article V, Section B, paragraphs 2. and 3., concerning private
288 and independent adoptions, and in interstate placements in which
289 the public child-placing agency is not a party to a custody
290 proceeding, the sending state shall retain jurisdiction over a
291 child with respect to all matters of custody and disposition of
292 the child which it would have had if the child had remained in
293 the sending state. Such jurisdiction shall also include the
294 power to order the return of the child to the sending state.

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

299 C. In accordance with its own laws, the court in the
300 sending state shall have authority to terminate its jurisdiction
301 if:

302 1. The child is reunified with the parent in the receiving
 303 state who is the subject of allegations or findings of abuse or
 304 neglect, only with the concurrence of the public child-placing
 305 agency in the receiving state; or

306 2. The child is adopted; or

307 3. The child reaches the age of majority under the laws of
 308 the sending state; or

309 4. The child achieves legal independence pursuant to the
 310 laws of the sending state; or

311 5. A guardianship is created by a court in the receiving
 312 state with the concurrence of the court in the sending state; or

313 6. An Indian tribe has petitioned for and received
 314 jurisdiction from the court in the sending state; or

315 7. The public child-placing agency of the sending state
 316 requests termination and has obtained the concurrence of the
 317 public child-placing agency in the receiving the state.

318 D. When a sending state court terminates its jurisdiction,
 319 the receiving state child-placing agency shall be notified.

320 E. Nothing in this article shall defeat a claim of
 321 jurisdiction by a receiving state court sufficient to deal with
 322 an act of truancy, delinquency, crime, or behavior involving a
 323 child as defined by the laws of the receiving state committed by
 324 the child in the receiving state which would be a violation of
 325 its laws.

326 F. Nothing in this article shall limit the receiving
 327 state's ability to take emergency jurisdiction for the
 328 protection of the child.

329 G. The substantive laws of the state in which an adoption
 330 will be finalized shall solely govern all issues relating to the
 331 adoption of the child and the court in which the adoption
 332 proceeding is filed shall have subject matter jurisdiction
 333 regarding all substantive issues relating to the adoption,
 334 except:

335 1. When the child is a ward of another court that
 336 established jurisdiction over the child prior to the placement;
 337 or

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

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

343 H. A final decree of adoption shall not be entered in any
 344 jurisdiction until the placement is authorized as an "approved
 345 placement" by the public child-placing agency in the receiving
 346 state.

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 348 ARTICLE V. PLACEMENT EVALUATION
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350 A. Prior to sending, bringing, or causing a child to be
 351 sent or brought into a receiving state, the public child-placing
 352 agency shall provide a written request for assessment to the
 353 receiving state.

354 B. For placements by a private child-placing agency, a
 355 child may be sent or brought, or caused to be sent or brought,
 356 into a receiving state, upon receipt and immediate review of the

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357 required content in a request for approval of a placement in
358 both the sending and receiving state public child-placing
359 agency. The required content to accompany a request for
360 approval shall include all of the following:

361 1. A request for approval identifying the child, birth
362 parent(s), the prospective adoptive parent(s), and the
363 supervising agency, signed by the person requesting approval;
364 and

365 2. The appropriate consents or relinquishments signed by
366 the birth parents in accordance with the laws of the sending
367 state or where permitted the laws of the state where the
368 adoption will be finalized; and

369 3. Certification by a licensed attorney or authorized
370 agent of a private adoption agency that the consent or
371 relinquishment is in compliance with the applicable laws of the
372 sending state, or where permitted the laws of the state where
373 finalization of the adoption will occur; and

374 4. A home study; and

375 5. An acknowledgment of legal risk signed by the
376 prospective adoptive parents.

377 C. The sending state and the receiving state may request
378 additional information or documents prior to finalization of an
379 approved placement, but may not delay travel by the prospective
380 adoptive parents with the child if the required content for
381 approval has been submitted, received and reviewed by the public
382 child-placing agency in both the sending state and the receiving
383 state.

384 D. Approval from the public child-placing agency in the
385 receiving state for a provisional or approved placement is
386 required as provided for in the rules of the Interstate
387 Commission.

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

391 F. Upon receipt of a request from the public child-placing
392 agency of the sending state, the receiving state shall initiate
393 an assessment of the proposed placement to determine its safety
394 and suitability. If the proposed placement is a placement with a
395 relative, the public child-placing agency of the sending state
396 may request a determination for a provisional placement.

397 G. The public child-placing agency in the receiving state
398 may request from the public child-placing agency or the private
399 child-placing agency in the sending state, and shall be entitled
400 to receive supporting or additional information necessary to
401 complete the assessment or approve the placement.

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

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

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410 J. The Interstate Commission may develop uniform standards
411 for the assessment of the safety and suitability of interstate
412 placements.

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414 ARTICLE VI. PLACEMENT AUTHORITY

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

419 B. If the public child-placing agency in the receiving
420 state does not approve the proposed placement then the child
421 shall not be placed. The receiving state shall provide written
422 documentation of any such determination in accordance with the
423 rules promulgated by the Interstate Commission. Such
424 determination is not subject to judicial review in the sending
425 state.

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

429 1. The administrative review and any further judicial
430 review associated with the determination shall be conducted in
431 the receiving state pursuant to its applicable administrative
432 procedures.

433 2. If a determination not to approve the placement of the
434 child in the receiving state is overturned upon review, the
435 placement shall be deemed approved; provided, however, that all
436 administrative or judicial remedies have been exhausted or the
437 time for such remedies has passed.

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ARTICLE VII. PLACING AGENCY RESPONSIBILITY

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

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

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

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

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

a. Any assessment conducted by the receiving state; and

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

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

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

465 1. Legally responsible for the child during the period of
466 placement as provided for in the law of the sending state until
467 the finalization of the adoption.

468 2. Financially responsible for the child absent a
469 contractual agreement to the contrary.

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

473 D. The public child-placing agency in the receiving state
474 shall provide, or arrange for the provision of, supervision and
475 services for the child, including timely reports, during the
476 period of the placement.

477 E. Nothing in this compact shall be construed as to limit
478 the authority of the public child-placing agency in the
479 receiving state from contracting with a licensed agency or
480 person in the receiving state for an assessment or the provision
481 of supervision or services for the child or otherwise
482 authorizing the provision of supervision or services by a
483 licensed agency during the period of placement.

484 F. Each member state shall provide for coordination among
485 its branches of government concerning the state's participation
486 in, and compliance with, the compact and Interstate Commission
487 activities through the creation of an advisory council or use of
488 an existing body or board.

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

492 H. The public child-placing agency in the sending state
 493 shall oversee compliance with the provisions of the Indian Child
 494 Welfare Act, 25 U.S.C. ss. 1901 et seq. for placements subject
 495 to the provisions of this compact, prior to placement.

496 I. With the consent of the Interstate Commission, states
 497 may enter into limited agreements that facilitate the timely
 498 assessment and provision of services and supervision of
 499 placements under this compact.

501 ARTICLE VIII. INTERSTATE COMMISSION
 502 FOR THE PLACEMENT OF CHILDREN

504 The member states hereby establish, by way of this compact,
 505 a commission known as the "Interstate Commission for the
 506 Placement of Children." The activities of the Interstate
 507 Commission are the formation of public policy and are a
 508 discretionary state function. The Interstate Commission shall:

509 A. Be a joint commission of the member states and shall
 510 have the responsibilities, powers, and duties set forth herein,
 511 and such additional powers as may be conferred upon it by
 512 subsequent concurrent action of the respective legislatures of
 513 the member states.

514 B. Consist of one commissioner from each member state who
 515 shall be appointed by the executive head of the state human
 516 services administration with ultimate responsibility for the
 517 child welfare program. The appointed commissioner shall have the
 518 legal authority to vote on policy-related matters governed by
 519 this compact binding the state.

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

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

525 3. A representative shall not delegate a vote to another
 526 member state.

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

529 C. In addition to the commissioners of each member state,
 530 the Interstate Commission shall include persons who are members
 531 of interested organizations as defined in the bylaws or rules of
 532 the Interstate Commission. Such members shall be ex officio and
 533 shall not be entitled to vote on any matter before the
 534 Interstate Commission.

535 D. Establish an executive committee which shall have the
 536 authority to administer the day-to-day operations and
 537 administration of the Interstate Commission. It shall not have
 538 the power to engage in rulemaking.

540 ARTICLE IX. POWERS AND DUTIES
 541 OF THE INTERSTATE COMMISSION

542
 543 The Interstate Commission shall have the following powers:

544 A. To promulgate rules and take all necessary actions to
 545 effect the goals, purposes, and obligations as enumerated in
 546 this compact.

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

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

551 D. To enforce compliance with this compact or the bylaws
552 or rules of the Interstate Commission pursuant to article XII.

553 E. Collect standardized data concerning the interstate
554 placement of children subject to this compact as directed
555 through its rules which shall specify the data to be collected,
556 the means of collection, and data exchange and reporting
557 requirements.

558 F. To establish and maintain offices as may be necessary
559 for the transacting of its business.

560 G. To purchase and maintain insurance and bonds.

561 H. To hire or contract for services of personnel or
562 consultants as necessary to carry out its functions under the
563 compact and establish personnel qualification policies and rates
564 of compensation.

565 I. To establish and appoint committees and officers
566 including, but not limited to, an executive committee as
567 required by Article X.

568 J. To accept any and all donations and grants of money,
569 equipment, supplies, materials, and services, and to receive,
570 utilize, and dispose thereof.

571 K. To lease, purchase, accept contributions or donations
572 of, or otherwise to own, hold, improve, or use any property,
573 real, personal, or mixed.

574 L. To sell, convey, mortgage, pledge, lease, exchange,
 575 abandon, or otherwise dispose of any property, real, personal or
 576 mixed.

577 M. To establish a budget and make expenditures.

578 N. To adopt a seal and bylaws governing the management and
 579 operation of the Interstate Commission.

580 O. To report annually to the legislatures, governors, the
 581 judiciary, and state advisory councils of the member states
 582 concerning the activities of the Interstate Commission during
 583 the preceding year. Such reports shall also include any
 584 recommendations that may have been adopted by the Interstate
 585 Commission.

586 P. To coordinate and provide education, training and
 587 public awareness regarding the interstate movement of children
 588 for officials involved in such activity.

589 Q. To maintain books and records in accordance with the
 590 bylaws of the Interstate Commission.

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

594 ARTICLE X. ORGANIZATION AND OPERATION
 595 OF THE INTERSTATE COMMISSION

597 A. Bylaws.

598 1. Within 12 months after the first Interstate Commission
 599 meeting, the Interstate Commission shall adopt bylaws to govern
 600 its conduct as may be necessary or appropriate to carry out the
 601 purposes of the compact.

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602 2. The Interstate Commission's bylaws and rules shall
603 establish conditions and procedures under which the Interstate
604 Commission shall make its information and official records
605 available to the public for inspection or copying. The
606 Interstate Commission may exempt from disclosure information or
607 official records to the extent they would adversely affect
608 personal privacy rights or proprietary interests.

609 B. Meetings.

610 1. The Interstate Commission shall meet at least once each
611 calendar year. The chairperson may call additional meetings and,
612 upon the request of a simple majority of the member states,
613 shall call additional meetings.

614 2. Public notice shall be given by the Interstate
615 Commission of all meetings and all meetings shall be open to the
616 public, except as set forth in the rules or as otherwise
617 provided in the compact. The Interstate Commission and its
618 committees may close a meeting, or portion thereof, when it
619 determines by two-thirds vote that an open meeting would be
620 likely to:

621 a. Relate solely to the Interstate Commission's internal
622 personnel practices and procedures; or

623 b. Disclose matters specifically exempted from disclosure
624 by federal law; or

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

627 d. Involve accusing a person of a crime, or formally
628 censuring a person; or

629 e. Disclose information of a personal nature when
630 disclosure would constitute a clearly unwarranted invasion of
631 personal privacy or physically endanger one or more persons; or

632 f. Disclose investigative records compiled for law
633 enforcement purposes; or

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

636 3. For a meeting, or portion of a meeting, closed pursuant
637 to this provision, the Interstate Commission's legal counsel or
638 designee shall certify that the meeting may be closed and shall
639 reference each relevant exemption provision. The Interstate
640 Commission shall keep minutes which shall fully and clearly
641 describe all matters discussed in a meeting and shall provide a
642 full and accurate summary of actions taken, and the reasons
643 therefore, including a description of the views expressed and
644 the record of a roll call vote. All documents considered in
645 connection with an action shall be identified in such minutes.
646 All minutes and documents of a closed meeting shall remain under
647 seal, subject to release by a majority vote of the Interstate
648 Commission or by court order.

649 4. The bylaws may provide for meetings of the Interstate
650 Commission to be conducted by telecommunication or other
651 electronic communication.

652 C. Officers and Staff.

653 1. The Interstate Commission may, through its executive
654 committee, appoint or retain a staff director for such period,
655 upon such terms and conditions, and for such compensation as the
656 Interstate Commission may deem appropriate. The staff director

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657 shall serve as secretary to the Interstate Commission, but shall
658 not have a vote. The staff director may hire and supervise such
659 other staff as may be authorized by the Interstate Commission.

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

664 D. Qualified Immunity, Defense, and Indemnification.

665 1. The Interstate Commission's staff director and its
666 employees shall be immune from suit and liability, either
667 personally or in their official capacity, for a claim for damage
668 to or loss of property or personal injury or other civil
669 liability caused or arising out of or relating to an actual or
670 alleged act, error, or omission that occurred, or that such
671 person had a reasonable basis for believing occurred, within the
672 scope of Interstate Commission employment, duties, or
673 responsibilities, provided that such person shall not be
674 protected from suit or liability for damage, loss, injury, or
675 liability caused by a criminal act or the intentional or willful
676 and wanton misconduct of such person.

677 a. The liability of the Interstate Commission's staff
678 director and employees or Interstate Commission representatives,
679 acting within the scope of such person's employment or duties
680 for acts, errors, or omissions occurring within such person's
681 state may not exceed the limits of liability set forth under the
682 constitution and laws of that state for state officials,
683 employees, and agents. The Interstate Commission is considered
684 to be an instrumentality of the member states for the purposes

685 of any such action. Nothing in this subsection shall be
686 construed to protect such person from suit or liability for
687 damage, loss, injury, or liability caused by a criminal act or
688 the intentional or willful and wanton misconduct of such person.

689 b. The Interstate Commission shall defend the staff
690 director and its employees and, subject to the approval of the
691 Attorney General or other appropriate legal counsel of the
692 member state, shall defend the commissioner of a member state in
693 a civil action seeking to impose liability arising out of an
694 actual or alleged act, error, or omission that occurred within
695 the scope of Interstate Commission employment, duties, or
696 responsibilities, or that the defendant had a reasonable basis
697 for believing occurred within the scope of Interstate Commission
698 employment, duties, or responsibilities, provided that the
699 actual or alleged act, error, or omission did not result from
700 intentional or willful and wanton misconduct on the part of such
701 person.

702 c. To the extent not covered by the state involved, member
703 state, or the Interstate Commission, the representatives or
704 employees of the Interstate Commission shall be held harmless in
705 the amount of a settlement or judgment, including attorney's
706 fees and costs, obtained against such persons arising out of an
707 actual or alleged act, error, or omission that occurred within
708 the scope of Interstate Commission employment, duties, or
709 responsibilities, or that such persons had a reasonable basis
710 for believing occurred within the scope of Interstate Commission
711 employment, duties, or responsibilities, provided that the
712 actual or alleged act, error, or omission did not result from

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713 intentional or willful and wanton misconduct on the part of such
714 persons.

715

716 ARTICLE XI. RULEMAKING FUNCTIONS

717 OF THE INTERSTATE COMMISSION

718

719 A. The Interstate Commission shall promulgate and publish
720 rules in order to effectively and efficiently achieve the
721 purposes of the compact.

722 B. Rulemaking shall occur pursuant to the criteria set
723 forth in this article and the bylaws and rules adopted pursuant
724 thereto. Such rulemaking shall substantially conform to the
725 principles of the "Model State Administrative Procedures Act,"
726 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or such
727 other administrative procedure acts as the Interstate Commission
728 deems appropriate consistent with due process requirements under
729 the United States Constitution as now or hereafter interpreted
730 by the United States Supreme Court. All rules and amendments
731 shall become binding as of the date specified, as published with
732 the final version of the rule as approved by the Interstate
733 Commission.

734 C. When promulgating a rule, the Interstate Commission
735 shall, at a minimum:

736 1. Publish the proposed rule's entire text stating the
737 reason or reasons for that proposed rule; and

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

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741 3. Promulgate a final rule and its effective date, if
742 appropriate, based on input from state or local officials, or
743 interested parties.

744 D. Rules promulgated by the Interstate Commission shall
745 have the force and effect of administrative rules and shall be
746 binding in the compacting states to the extent and in the manner
747 provided for in this compact.

748 E. Not later than 60 days after a rule is promulgated, an
749 interested person may file a petition in the United States
750 District Court for the District of Columbia or in the Federal
751 District Court where the Interstate Commission's principal
752 office is located for judicial review of such rule. If the court
753 finds that the Interstate Commission's action is not supported
754 by substantial evidence in the rulemaking record, the court
755 shall hold the rule unlawful and set it aside.

756 F. If a majority of the legislatures of the member states
757 rejects a rule, those states may by enactment of a statute or
758 resolution in the same manner used to adopt the compact cause
759 that such rule shall have no further force and effect in any
760 member state.

761 G. The existing rules governing the operation of the
762 Interstate Compact on the Placement of Children superseded by
763 this act shall be null and void no less than 12 months but no
764 more than 24 months after the first meeting of the Interstate
765 Commission created hereunder, as determined by the members
766 during the first meeting.

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

- 769 1. Transition rules.
- 770 2. Forms and procedures.
- 771 3. Timelines.
- 772 4. Data collection and reporting.
- 773 5. Rulemaking.
- 774 6. Visitation.
- 775 7. Progress reports/supervision.
- 776 8. Sharing of information/confidentiality.
- 777 9. Financing of the Interstate Commission.
- 778 10. Mediation, arbitration, and dispute resolution.
- 779 11. Education, training, and technical assistance.
- 780 12. Enforcement.
- 781 13. Coordination with other interstate compacts.
- 782 I. Upon determination by a majority of the members of the
- 783 Interstate Commission that an emergency exists:
- 784 1. The Interstate Commission may promulgate an emergency
- 785 rule only if it is required to:
- 786 a. Protect the children covered by this compact from an
- 787 imminent threat to their health, safety, and well-being; or
- 788 b. Prevent loss of federal or state funds; or
- 789 c. Meet a deadline for the promulgation of an
- 790 administrative rule required by federal law.
- 791 2. An emergency rule shall become effective immediately
- 792 upon adoption, provided that the usual rulemaking procedures
- 793 provided hereunder shall be retroactively applied to said rule
- 794 as soon as reasonably possible, but no later than 90 days after
- 795 the effective date of the emergency rule.

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

798

799 ARTICLE XII. OVERSIGHT,
 800 DISPUTE RESOLUTION, ENFORCEMENT

801

802 A. Oversight.

803 1. The Interstate Commission shall oversee the
 804 administration and operation of the compact.

805 2. The executive, legislative and judicial branches of
 806 state government in each member state shall enforce this compact
 807 and the rules of the Interstate Commission and shall take all
 808 actions necessary and appropriate to effectuate the compact's
 809 purposes and intent. The compact and its rules shall be binding
 810 in the compacting states to the extent and in the manner
 811 provided for in this compact.

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

815 4. The Interstate Commission shall be entitled to receive
 816 service of process in any action in which the validity of a
 817 compact provision or rule is the issue for which a judicial
 818 determination has been sought and shall have standing to
 819 intervene in any proceedings. Failure to provide service of
 820 process to the Interstate Commission shall render any judgment,
 821 order, or other determination, however so captioned or
 822 classified, void as to the Interstate Commission, this compact,
 823 its bylaws, or rules of the Interstate Commission.

824 B. Dispute Resolution.

825 1. The Interstate Commission shall attempt, upon the
826 request of a member state, to resolve disputes which are subject
827 to the compact and which may arise among member states and
828 between member and nonmember states.

829 2. The Interstate Commission shall promulgate rules
830 providing for both mediation and binding dispute resolution for
831 disputes among compacting member states. The costs of such
832 mediation or dispute resolution shall be the responsibility of
833 the parties to the dispute.

834 C. Enforcement.

835 1. If the Interstate Commission determines that a member
836 state has defaulted in the performance of its obligations or
837 responsibilities under this compact, its bylaws or rules, the
838 Interstate Commission may:

839 a. Provide remedial training and specific technical
840 assistance; or

841 b. Provide written notice to the defaulting member state
842 and other member states of the nature of the default and the
843 means of curing the default. The Interstate Commission shall
844 specify the conditions by which the defaulting member state must
845 cure its default; or

846 c. By majority vote of the members, initiate against a
847 defaulting member state legal action in the United States
848 District Court for the District of Columbia or, at the
849 discretion of the Interstate Commission, in the Federal District
850 Court where the Interstate Commission's principal office is
851 located to enforce compliance with the provisions of the

852 compact, its bylaws, or rules. The relief sought may include
853 both injunctive relief and damages. In the event judicial
854 enforcement is necessary the prevailing party shall be awarded
855 all costs of such litigation including reasonable attorney's
856 fees; or

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

859
860 ARTICLE XIII. FINANCING
861 OF THE COMMISSION

862
863 A. The Interstate Commission shall pay or provide for the
864 payment of the reasonable expenses of its establishment,
865 organization, and ongoing activities.

866 B. The Interstate Commission may levy on and collect an
867 annual assessment from each member state to cover the cost of
868 the operations and activities of the Interstate Commission and
869 its staff which must be in a total amount sufficient to cover
870 the Interstate Commission's annual budget as approved by its
871 member states each year. The aggregate annual assessment amount
872 shall be allocated based upon a formula to be determined by the
873 Interstate Commission which shall promulgate a rule binding upon
874 all member states.

875 C. The Interstate Commission shall not incur obligations
876 of any kind prior to securing the funds adequate to meet the
877 same, nor shall the Interstate Commission pledge the credit of
878 any of the member states, except by and with the authority of
879 the member state.

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880 D. The Interstate Commission shall keep accurate accounts
881 of all receipts and disbursements. The receipts and
882 disbursements of the Interstate Commission shall be subject to
883 the audit and accounting procedures established under its
884 bylaws. However, all receipts and disbursements of funds handled
885 by the Interstate Commission shall be audited yearly by a
886 certified or licensed public accountant and the report of the
887 audit shall be included in and become part of the annual report
888 of the Interstate Commission.

889
890 ARTICLE XIV. MEMBER STATES,
891 EFFECTIVE DATE AND AMENDMENT
892

893 A. Any state is eligible to become a member state.
894 B. The compact shall become effective and binding upon
895 legislative enactment of the compact into law by no less than 35
896 states. The effective date shall be the later of July 1, 2007,
897 or upon enactment of the compact into law by the 35th state.
898 Thereafter it shall become effective and binding as to any other
899 member state upon enactment of the compact into law by that
900 state. The executive heads of the state human services
901 administration with ultimate responsibility for the child
902 welfare program of nonmember states or their designees shall be
903 invited to participate in the activities of the Interstate
904 Commission on a nonvoting basis prior to adoption of the compact
905 by all states.
906 C. The Interstate Commission may propose amendments to the
907 compact for enactment by the member states. No amendment shall

908 become effective and binding on the member states unless and
 909 until it is enacted into law by unanimous consent of the member
 910 states.

912 ARTICLE XV. WITHDRAWAL AND DISSOLUTION

914 A. Withdrawal.

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

919 2. Withdrawal from this compact shall be by the enactment
 920 of a statute repealing the same. The effective date of
 921 withdrawal shall be the effective date of the repeal of the
 922 statute.

923 3. The withdrawing state shall immediately notify the
 924 president of the Interstate Commission in writing upon the
 925 introduction of legislation repealing this compact in the
 926 withdrawing state. The Interstate Commission shall then notify
 927 the other member states of the withdrawing state's intent to
 928 withdraw.

929 4. The withdrawing state is responsible for all
 930 assessments, obligations, and liabilities incurred through the
 931 effective date of withdrawal.

932 5. Reinstatement following withdrawal of a member state
 933 shall occur upon the withdrawing state reenacting the compact or
 934 upon such later date as determined by the members of the
 935 Interstate Commission.

936 B. Dissolution.
 937 1. This compact shall dissolve effective upon the date of
 938 the withdrawal or default of the member state which reduces the
 939 membership in the compact to one member state.
 940 2. Upon the dissolution of this compact, the compact
 941 becomes null and void and shall be of no further force or
 942 effect, and the business and affairs of the Interstate
 943 Commission shall be concluded and surplus funds shall be
 944 distributed in accordance with the bylaws.

945
 946 ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

947
 948 A. The provisions of this compact shall be severable, and
 949 if any phrase, clause, sentence, or provision is deemed
 950 unenforceable, the remaining provisions of the compact shall be
 951 enforceable.

952 B. The provisions of this compact shall be liberally
 953 construed to effectuate its purposes.

954 C. Nothing in this compact shall be construed to prohibit
 955 the concurrent applicability of other interstate compacts to
 956 which the states are members.

957
 958 ARTICLE XVII. BINDING EFFECT
 959 OF COMPACT AND OTHER LAWS

960
 961 A. Other Laws.

962 1. Nothing herein prevents the enforcement of any other
 963 law of a member state that is not inconsistent with this
 964 compact.

965 B. Binding Effect of the Compact.

966 1. All lawful actions of the Interstate Commission,
 967 including all rules and bylaws promulgated by the Interstate
 968 Commission, are binding upon the member states.

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

971 3. In the event any provision of this compact exceeds the
 972 constitutional limits imposed on the legislature of any member
 973 state, such provision shall be ineffective to the extent of the
 974 conflict with the constitutional provision in question in that
 975 member state.

976

977 ARTICLE XVIII. INDIAN TRIBES

978

979 Notwithstanding any other provision in this compact, the
 980 Interstate Commission may promulgate guidelines to permit Indian
 981 tribes to utilize the compact to achieve any or all of the
 982 purposes of the compact as specified in Article I. The
 983 Interstate Commission shall make reasonable efforts to consult
 984 with Indian tribes in promulgating guidelines to reflect the
 985 diverse circumstances of the various Indian tribes.

986 Section 2. Section 409.409, Florida Statutes, is created
 987 to read:

988 409.409 The provisions of the existing Interstate Compact
 989 on the Placement of Children contained in s. 409.401 shall

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990 | remain in effect until superseded by entry into the new compact,
991 | as created in s. 409.408.

992 | Section 3. This act shall take effect upon becoming a law.