

1                                   A bill to be entitled  
 2           An act relating to the placement of children; creating s.  
 3           409.408, F.S.; authorizing the Governor to execute a new  
 4           Interstate Compact for the Placement of Children;  
 5           specifying the provisions of the compact; creating s.  
 6           409.409, F.S.; providing for the present compact to remain  
 7           in effect until the Governor enters into the new compact;  
 8           creating s. 409.410, F.S.; providing rulemaking authority  
 9           to the Department of Children and Family Services;  
 10          providing an effective date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

13  
 14           Section 1. Section 409.408, Florida Statutes, is created  
 15 to read:

16           409.408 Interstate Compact for the Placement of  
 17 Children.--Effective July 1, 2009, or upon the enactment of the  
 18 Interstate Compact for the Placement of Children into law by the  
 19 35th compacting state, whichever date occurs later, the Governor  
 20 is authorized and directed to execute a compact on behalf of  
 21 this state with any other state or states legally joining  
 22 therein in the form substantially as follows:

23  
 24                                   INTERSTATE COMPACT  
 25                                   FOR THE PLACEMENT OF CHILDREN

26  
 27                                   ARTICLE I. PURPOSE  
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29        The purpose of this Interstate Compact for the Placement of  
 30 Children is to:

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

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

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

39        D. Provide for the promulgation and enforcement of  
 40 administrative rules implementing the provisions of this compact  
 41 and regulating the covered activities of the member states.

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

44        F. Promote coordination between this compact, the  
 45 Interstate Compact for Juveniles, the Interstate Compact on  
 46 Adoption and Medical Assistance, and other compacts affecting  
 47 the placement of and which provide services to children  
 48 otherwise subject to this compact.

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

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

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ARTICLE II. DEFINITIONS

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As used in this compact:

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

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

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

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

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

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

G. "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as

85 eligible for services provided to Indians by the Secretary of  
 86 the Interior because of their status as Indians, including any  
 87 Alaskan native village as defined in section 3(c) of the Alaska  
 88 Native Claims Settlement Act, 43 U.S.C. s. 1602(c).

89 H. "Interstate Commission for the Placement of Children"  
 90 means the commission that is created under Article VIII of this  
 91 compact and which is generally referred to as the "Interstate  
 92 Commission."

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

95 J. "Legal risk placement" or "legal risk adoption" means a  
 96 placement made preliminary to an adoption where the prospective  
 97 adoptive parents acknowledge in writing that a child can be  
 98 ordered returned to the sending state or the birth mother's  
 99 state of residence, if different from the sending state, and a  
 100 final decree of adoption shall not be entered in any  
 101 jurisdiction until all required consents are obtained or are  
 102 dispensed with in accordance with applicable law.

103 K. "Member state" means a state that has enacted this  
 104 compact.

105 L. "Noncustodial parent" means a person who, at the time  
 106 of the commencement of court proceedings in the sending state,  
 107 does not have sole legal custody of the child or has joint legal  
 108 custody of a child, and who is not the subject of allegations or  
 109 findings of child abuse or neglect.

110 M. "Nonmember state" means a state which has not enacted  
 111 this compact.

112 N. "Notice of residential placement" means information

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113 regarding a placement into a residential facility provided to  
114 the receiving state, including, but not limited to, the name,  
115 date, and place of birth of the child, the identity and address  
116 of the parent or legal guardian, evidence of authority to make  
117 the placement, and the name and address of the facility in which  
118 the child will be placed. Notice of residential placement shall  
119 also include information regarding a discharge and any  
120 unauthorized absence from the facility.

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

124 P. "Private child-placing agency" means any private  
125 corporation, agency, foundation, institution, or charitable  
126 organization, or any private person or attorney, that  
127 facilitates, causes, or is involved in the placement of a child  
128 from one state to another and that is not an instrumentality of  
129 the state or acting under color of state law.

130 Q. "Provisional placement" means a determination made by  
131 the public child-placing agency in the receiving state that the  
132 proposed placement is safe and suitable, and, to the extent  
133 allowable, the receiving state has temporarily waived its  
134 standards or requirements otherwise applicable to prospective  
135 foster or adoptive parents so as to not delay the placement.  
136 Completion of the receiving state requirements regarding  
137 training for prospective foster or adoptive parents shall not  
138 delay an otherwise safe and suitable placement.

139 R. "Public child-placing agency" means any government  
140 child welfare agency or child protection agency or a private

141 entity under contract with such an agency, regardless of whether  
142 the entity acts on behalf of a state, a county, a municipality,  
143 or another governmental unit, and which facilitates, causes, or  
144 is involved in the placement of a child from one state to  
145 another.

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

148 T. "Relative" means someone who is related to the child as  
149 a parent, stepparent, sibling by half or whole blood or by  
150 adoption, grandparent, aunt, uncle, or first cousin or a  
151 nonrelative with such significant ties to the child that the  
152 nonrelative may be regarded as a relative as determined by the  
153 court in the sending state.

154 U. "Residential facility" means a facility providing a  
155 level of care that is sufficient to substitute for parental  
156 responsibility or foster care and that is beyond what is needed  
157 for assessment or treatment of an acute condition. For purposes  
158 of the compact, the term "residential facility" does not include  
159 institutions primarily educational in character, hospitals, or  
160 other medical facilities.

161 V. "Rule" means a written directive, mandate, standard, or  
162 principle issued by the Interstate Commission promulgated  
163 pursuant to Article XI of this compact that is of general  
164 applicability and that implements, interprets, or prescribes a  
165 policy or provision of the compact. A rule has the force and  
166 effect of an administrative rule in a member state and includes  
167 the amendment, repeal, or suspension of an existing rule.

168 W. "Sending state" means the state from which the

169 placement of a child is initiated.

170 X. "Service member's permanent duty station" means the  
 171 military installation where an active duty United States Armed  
 172 Services member is currently assigned and is physically located  
 173 under competent orders that do not specify the duty as  
 174 temporary.

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

178 Z. "State" means a state of the United States, the  
 179 District of Columbia, the Commonwealth of Puerto Rico, the  
 180 United States Virgin Islands, Guam, American Samoa, the Northern  
 181 Marianas Islands, and any other territory of the United States.

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

186 BB. "Supervision" means monitoring provided by the  
 187 receiving state once a child has been placed in a receiving  
 188 state pursuant to this compact.

190 ARTICLE III. APPLICABILITY

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

194 1. The interstate placement of a child subject to ongoing  
 195 court jurisdiction in the sending state, due to allegations or  
 196 findings that the child has been abused, neglected, or deprived

197 as defined by the laws of the sending state; provided, however,  
 198 that the placement of such a child into a residential facility  
 199 shall only require notice of residential placement to the  
 200 receiving state prior to placement.

201 2. The interstate placement of a child adjudicated  
 202 delinquent or unmanageable based on the laws of the sending  
 203 state and subject to ongoing court jurisdiction of the sending  
 204 state if:

205 a. The child is being placed in a residential facility in  
 206 another member state and is not covered under another compact;  
 207 or

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

211 3. The interstate placement of any child by a public  
 212 child-placing agency or private child-placing agency as a  
 213 preliminary step to a possible adoption.

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

215 1. The interstate placement of a child in a custody  
 216 proceeding in which a public child-placing agency is not a  
 217 party; provided, however, that the placement is not intended to  
 218 effectuate an adoption.

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

223 3. The interstate placement of a child by one relative  
 224 with the lawful authority to make such a placement directly with



225 a relative in a receiving state.  
 226 4. The placement of a child, not subject to Article III,  
 227 Section A, into a residential facility by his or her parent.  
 228 5. The placement of a child with a noncustodial parent,  
 229 provided that:  
 230 a. The noncustodial parent proves to the satisfaction of a  
 231 court in the sending state a substantial relationship with the  
 232 child;  
 233 b. The court in the sending state makes a written finding  
 234 that placement with the noncustodial parent is in the best  
 235 interests of the child; and  
 236 c. The court in the sending state dismisses its  
 237 jurisdiction in interstate placements in which the public child-  
 238 placing agency is a party to the proceeding.  
 239 6. A child entering the United States from a foreign  
 240 country for the purpose of adoption or leaving the United States  
 241 to go to a foreign country for the purpose of adoption in that  
 242 country.  
 243 7. Cases in which a child who is a United States citizen  
 244 living overseas with his or her family, at least one of whom is  
 245 in the United States Armed Services and stationed overseas, is  
 246 removed and placed in a state.  
 247 8. The sending of a child by a public child-placing agency  
 248 or a private child-placing agency for a visit as defined by the  
 249 rules of the Interstate Commission.  
 250 C. For purposes of determining the applicability of this  
 251 compact to the placement of a child with a family member in the  
 252 United States Armed Services, the public child-placing agency or

253 private child-placing agency may choose the state of the service  
 254 member's permanent duty station or the service member's declared  
 255 legal residence.

256 D. Nothing in this compact shall be construed to prohibit  
 257 the concurrent application of the provisions of this compact  
 258 with other applicable interstate compacts, including the  
 259 Interstate Compact for Juveniles and the Interstate Compact on  
 260 Adoption and Medical Assistance. The Interstate Commission may,  
 261 in cooperation with other interstate compact commissions having  
 262 responsibility for the interstate movement, placement, or  
 263 transfer of children, promulgate similar rules to ensure the  
 264 coordination of services, timely placement of children, and  
 265 reduction of unnecessary or duplicative administrative or  
 266 procedural requirements.

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 268 ARTICLE IV. JURISDICTION  
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270 A. Except as provided in Article IV, Section H, and  
 271 Article V, Section B, paragraphs 2. and 3., concerning private  
 272 and independent adoptions, and in interstate placements in which  
 273 the public child-placing agency is not a party to a custody  
 274 proceeding, the sending state shall retain jurisdiction over a  
 275 child with respect to all matters of custody and disposition of  
 276 the child which it would have had if the child had remained in  
 277 the sending state. Such jurisdiction shall also include the  
 278 power to order the return of the child to the sending state.

279 B. When an issue of child protection or custody is brought  
 280 before a court in the receiving state, such court shall confer

281 with the court of the sending state to determine the most  
282 appropriate forum for adjudication.

283 C. In cases that are before courts and subject to this  
284 compact, the taking of testimony for hearings before any  
285 judicial officer may occur in person or by telephone, audio-  
286 video conference, or such other means as approved by the rules  
287 of the Interstate Commission, and judicial officers may  
288 communicate with other judicial officers and persons involved in  
289 the interstate process as may be permitted by their Code of  
290 Judicial Conduct and any rules promulgated by the Interstate  
291 Commission.

292 D. In accordance with its own laws, the court in the  
293 sending state shall have authority to terminate its jurisdiction  
294 if:

295 1. The child is reunified with the parent in the receiving  
296 state who is the subject of allegations or findings of abuse or  
297 neglect, only with the concurrence of the public child-placing  
298 agency in the receiving state;

299 2. The child is adopted;

300 3. The child reaches the age of majority under the laws of  
301 the sending state;

302 4. The child achieves legal independence pursuant to the  
303 laws of the sending state;

304 5. A guardianship is created by a court in the receiving  
305 state with the concurrence of the court in the sending state;

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

308 7. The public child-placing agency of the sending state

309 requests termination and has obtained the concurrence of the  
310 public child-placing agency in the receiving state.

311 E. When a sending state court terminates its jurisdiction,  
312 the receiving state child-placing agency shall be notified.

313 F. Nothing in this article shall defeat a claim of  
314 jurisdiction by a receiving state court sufficient to deal with  
315 an act of truancy, delinquency, crime, or behavior involving a  
316 child as defined by the laws of the receiving state committed by  
317 the child in the receiving state which would be a violation of  
318 its laws.

319 G. Nothing in this article shall limit the receiving  
320 state's ability to take emergency jurisdiction for the  
321 protection of the child.

322 H. The substantive laws of the state in which an adoption  
323 will be finalized shall solely govern all issues relating to the  
324 adoption of the child, and the court in which the adoption  
325 proceeding is filed shall have subject matter jurisdiction  
326 regarding all substantive issues relating to the adoption,  
327 except:

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

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

332 3. When a court in the sending state has otherwise  
333 appropriately assumed jurisdiction over the child prior to the  
334 submission of the request for approval of placement.

335 I. A final decree of adoption shall not be entered in any  
336 jurisdiction until the placement is authorized as an "approved

337 placement" by the public child-placing agency in the receiving  
338 state.

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340 ARTICLE V. PLACEMENT EVALUATION

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342 A. Prior to sending, bringing, or causing a child to be  
343 sent or brought into a receiving state, the public child-placing  
344 agency shall provide a written request for assessment to the  
345 receiving state.

346 B. For placements by a private child-placing agency, a  
347 child may be sent or brought, or caused to be sent or brought,  
348 into a receiving state upon receipt and immediate review of the  
349 required content in a request for approval of a placement in  
350 both the sending and receiving state public child-placing  
351 agencies. The required content to accompany a request for  
352 approval shall include all of the following:

353 1. A request for approval identifying the child, the birth  
354 parents, the prospective adoptive parents, and the supervising  
355 agency, signed by the person requesting approval.

356 2. The appropriate consents or relinquishments signed by  
357 the birth parents in accordance with the laws of the sending  
358 state or, where permitted, the laws of the state where the  
359 adoption will be finalized.

360 3. Certification by a licensed attorney or authorized  
361 agent of a private adoption agency that the consent or  
362 relinquishment is in compliance with the applicable laws of the  
363 sending state or, where permitted, the laws of the state where  
364 finalization of the adoption will occur.

365 4. A home study.

366 5. An acknowledgment of legal risk signed by the  
367 prospective adoptive parents.

368 C. The sending state and the receiving state may request  
369 additional information or documents prior to finalization of an  
370 approved placement, but they may not delay travel by the  
371 prospective adoptive parents with the child if the required  
372 content for approval has been submitted, received, and reviewed  
373 by the public child-placing agency in both the sending state and  
374 the receiving state.

375 D. Approval from the public child-placing agency in the  
376 receiving state for a provisional or approved placement is  
377 required as provided for in the rules of the Interstate  
378 Commission.

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

382 F. Upon receipt of a request from the public child-placing  
383 agency of the sending state, the receiving state shall initiate  
384 an assessment of the proposed placement to determine its safety  
385 and suitability. If the proposed placement is a placement with a  
386 relative, the public child-placing agency of the sending state  
387 may request a determination for a provisional placement.

388 G. The public child-placing agency in the receiving state  
389 may request from the public child-placing agency or the private  
390 child-placing agency in the sending state, and shall be entitled  
391 to receive, supporting or additional information necessary to  
392 complete the assessment or approve the placement.

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

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

401 J. The Interstate Commission may develop uniform standards  
 402 for the assessment of the safety and suitability of interstate  
 403 placements.

404  
 405 ARTICLE VI. PLACEMENT AUTHORITY  
 406

407 A. Except as otherwise provided in this compact, no child  
 408 subject to this compact shall be placed in a receiving state  
 409 until approval for such placement is obtained.

410 B. If the public child-placing agency in the receiving  
 411 state does not approve the proposed placement, then the child  
 412 shall not be placed. The receiving state shall provide written  
 413 documentation of any such determination in accordance with the  
 414 rules promulgated by the Interstate Commission. Such  
 415 determination is not subject to judicial review in the sending  
 416 state.

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

420 1. The administrative review and any further judicial

421 review associated with the determination shall be conducted in  
 422 the receiving state pursuant to its applicable Administrative  
 423 Procedures Act.

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

430 ARTICLE VII. PLACING AGENCY RESPONSIBILITY

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

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

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

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

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

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

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



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

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

456 1. Legally responsible for the child during the period of  
457 placement as provided for in the law of the sending state until  
458 the finalization of the adoption.

459 2. Financially responsible for the child absent a  
460 contractual agreement to the contrary.

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

464 D. The public child-placing agency in the receiving state  
465 shall provide, or arrange for the provision of, supervision and  
466 services for the child, including timely reports, during the  
467 period of the placement.

468 E. Nothing in this compact shall be construed to limit the  
469 authority of the public child-placing agency in the receiving  
470 state from contracting with a licensed agency or person in the  
471 receiving state for an assessment or the provision of  
472 supervision or services for the child or otherwise authorizing  
473 the provision of supervision or services by a licensed agency  
474 during the period of placement.

475 F. Each member state shall provide for coordination among  
476 its branches of government concerning the state's participation

477 in and compliance with the compact and Interstate Commission  
 478 activities through the creation of an advisory council or use of  
 479 an existing body or board.

480 G. Each member state shall establish a central state  
 481 compact office which shall be responsible for state compliance  
 482 with the compact and the rules of the Interstate Commission.

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

487 I. With the consent of the Interstate Commission, states  
 488 may enter into limited agreements that facilitate the timely  
 489 assessment and provision of services and supervision of  
 490 placements under this compact.

491  
 492 ARTICLE VIII. INTERSTATE COMMISSION FOR  
 493 THE PLACEMENT OF CHILDREN  
 494

495 The member states hereby establish, by way of this compact,  
 496 a commission known as the "Interstate Commission for the  
 497 Placement of Children." The activities of the Interstate  
 498 Commission are the formation of public policy and are a  
 499 discretionary state function. The Interstate Commission shall:

500 A. Be a joint commission of the member states and shall  
 501 have the responsibilities, powers, and duties set forth herein  
 502 and such additional powers as may be conferred upon it by  
 503 subsequent concurrent action of the respective legislatures of  
 504 the member states.

505 B. Consist of one commissioner from each member state who  
 506 shall be appointed by the executive head of the state human  
 507 services administration with ultimate responsibility for the  
 508 child welfare program. The appointed commissioner shall have the  
 509 legal authority to vote on policy-related matters governed by  
 510 this compact binding the state.

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

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

516 3. A representative shall not delegate a vote to another  
 517 member state.

518 4. A representative may delegate voting authority to  
 519 another person from that state for a specified meeting.

520 C. Include, in addition to the commissioners of each  
 521 member state, persons who are members of interested  
 522 organizations as defined in the bylaws or rules of the  
 523 Interstate Commission. Such members shall be ex officio and  
 524 shall not be entitled to vote on any matter before the  
 525 Interstate Commission.

526 D. Establish an executive committee which shall have the  
 527 authority to administer the day-to-day operations and  
 528 administration of the Interstate Commission. The executive  
 529 committee shall not have the power to engage in rulemaking.

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531 ARTICLE IX. POWERS AND DUTIES OF  
 532 THE INTERSTATE COMMISSION

- 533
- 534 The Interstate Commission shall have the following powers:
- 535 A. To promulgate rules and take all necessary actions to
- 536 effect the goals, purposes, and obligations as enumerated in
- 537 this compact.
- 538 B. To provide for dispute resolution among member states.
- 539 C. To issue, upon request of a member state, advisory
- 540 opinions concerning the meaning or interpretation of the
- 541 interstate compact, its bylaws, rules, or actions.
- 542 D. To enforce compliance with this compact or the bylaws
- 543 or rules of the Interstate Commission pursuant to Article XII.
- 544 E. Collect standardized data concerning the interstate
- 545 placement of children subject to this compact as directed
- 546 through its rules, which shall specify the data to be collected,
- 547 the means of collection and data exchange, and reporting
- 548 requirements.
- 549 F. To establish and maintain offices as may be necessary
- 550 for the transacting of its business.
- 551 G. To purchase and maintain insurance and bonds.
- 552 H. To hire or contract for services of personnel or
- 553 consultants as necessary to carry out its functions under the
- 554 compact and establish personnel qualification policies and rates
- 555 of compensation.
- 556 I. To establish and appoint committees and officers,
- 557 including, but not limited to, an executive committee as
- 558 required by Article VIII, Section D, and Article X.
- 559 J. To accept any and all donations and grants of money,
- 560 equipment, supplies, materials, and services, and to receive,

561 utilize, and dispose thereof.

562 K. To lease, purchase, accept contributions or donations  
 563 of, or otherwise to own, hold, improve, or use any property,  
 564 real, personal, or mixed.

565 L. To sell, convey, mortgage, pledge, lease, exchange,  
 566 abandon, or otherwise dispose of any property, real, personal,  
 567 or mixed.

568 M. To establish a budget and make expenditures.

569 N. To adopt a seal and bylaws governing the management and  
 570 operation of the Interstate Commission.

571 O. To report annually to the legislatures, the governors,  
 572 the judiciary, and the state advisory councils of the member  
 573 states concerning the activities of the Interstate Commission  
 574 during the preceding year. Such reports shall also include any  
 575 recommendations that may have been adopted by the Interstate  
 576 Commission.

577 P. To coordinate and provide education, training, and  
 578 public awareness regarding the interstate movement of children  
 579 for officials involved in such activity.

580 Q. To maintain books and records in accordance with the  
 581 bylaws of the Interstate Commission.

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

584

585 ARTICLE X. ORGANIZATION AND OPERATION  
 586 OF THE INTERSTATE COMMISSION

587

588 A. Bylaws.

589 1. Within 12 months after the first Interstate Commission  
590 meeting, the Interstate Commission shall adopt bylaws to govern  
591 its conduct as may be necessary or appropriate to carry out the  
592 purposes of the compact.

593 2. The Interstate Commission's bylaws and rules shall  
594 establish conditions and procedures under which the Interstate  
595 Commission shall make its information and official records  
596 available to the public for inspection or copying. The  
597 Interstate Commission may exempt from disclosure information or  
598 official records to the extent such disclosure would adversely  
599 affect personal privacy rights or proprietary interests.

600 B. Meetings.

601 1. The Interstate Commission shall meet at least once each  
602 calendar year. The chairperson may call additional meetings and,  
603 upon the request of a simple majority of the member states,  
604 shall call additional meetings.

605 2. Public notice shall be given by the Interstate  
606 Commission of all meetings, and all meetings shall be open to  
607 the public.

608 3. The bylaws may provide for meetings of the Interstate  
609 Commission to be conducted by telecommunication or other  
610 electronic communication.

611 C. Officers and staff.

612 1. The Interstate Commission may, through its executive  
613 committee, appoint or retain a staff director for such period,  
614 upon such terms and conditions, and for such compensation as the  
615 Interstate Commission may deem appropriate. The staff director  
616 shall serve as secretary to the Interstate Commission but shall

617 not have a vote. The staff director may hire and supervise such  
618 other staff as may be authorized by the Interstate Commission.

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

623 D. Qualified immunity, defense, and indemnification.

624 1. The Interstate Commission's staff director and its  
625 employees shall be immune from suit and liability, either  
626 personally or in their official capacity, for a claim for damage  
627 to or loss of property or personal injury or other civil  
628 liability caused or arising out of or relating to an actual or  
629 alleged act, error, or omission that occurred or that such  
630 person had a reasonable basis for believing occurred within the  
631 scope of Interstate Commission employment, duties, or  
632 responsibilities; provided, however, that such person shall not  
633 be protected from suit or liability for damage, loss, injury, or  
634 liability caused by a criminal act or the intentional or willful  
635 and wanton misconduct of such person.

636 a. The liability of the Interstate Commission's staff  
637 director and employees or Interstate Commission representatives,  
638 acting within the scope of such person's employment or duties,  
639 for acts, errors, or omissions occurring within such person's  
640 state may not exceed the limits of liability set forth under the  
641 Constitution and laws of that state for state officials,  
642 employees, and agents. The Interstate Commission is considered  
643 to be an instrumentality of the states for the purposes of any  
644 such action. Nothing in this subsection shall be construed to

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645 protect such person from suit or liability for damage, loss,  
646 injury, or liability caused by a criminal act or the intentional  
647 or willful and wanton misconduct of such person.

648 b. The Interstate Commission shall defend the staff  
649 director and its employees and, subject to the approval of the  
650 Attorney General or other appropriate legal counsel of the  
651 member state, shall defend the commissioner of a member state in  
652 a civil action seeking to impose liability 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 the defendant had a reasonable basis  
656 for believing occurred within the scope of Interstate Commission  
657 employment, duties, or responsibilities; provided, however, that  
658 the actual or alleged act, error, or omission did not result  
659 from intentional or willful and wanton misconduct on the part of  
660 such person.

661 c. To the extent not covered by the state involved, a  
662 member state, or the Interstate Commission, the representatives  
663 or employees of the Interstate Commission shall be held harmless  
664 in the amount of a settlement or judgment, including attorney's  
665 fees and costs, obtained against such persons arising out of an  
666 actual or alleged act, error, or omission that occurred within  
667 the scope of Interstate Commission employment, duties, or  
668 responsibilities, or that such persons had a reasonable basis  
669 for believing occurred within the scope of Interstate Commission  
670 employment, duties, or responsibilities; provided, however, that  
671 the actual or alleged act, error, or omission did not result  
672 from intentional or willful and wanton misconduct on the part of



673 such persons.

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675 ARTICLE XI. RULEMAKING FUNCTIONS

676 OF THE INTERSTATE COMMISSION

677

678 A. The Interstate Commission shall promulgate and publish  
 679 rules in order to effectively and efficiently achieve the  
 680 purposes of the compact.

681 B. Rulemaking shall occur pursuant to the criteria set  
 682 forth in this article and the bylaws and rules adopted pursuant  
 683 thereto. Such rulemaking shall substantially conform to the  
 684 principles of the "Model State Administrative Procedures Act,"  
 685 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or such  
 686 other administrative procedure acts as the Interstate Commission  
 687 deems appropriate, consistent with due process requirements  
 688 under the United States Constitution as now or hereafter  
 689 interpreted by the United States Supreme Court. All rules and  
 690 amendments shall become binding as of the date specified, as  
 691 published with the final version of the rule as approved by the  
 692 Interstate Commission.

693 C. When promulgating a rule, the Interstate Commission  
 694 shall, at a minimum:

695 1. Publish the proposed rule's entire text stating the  
 696 reasons for that proposed rule;

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

700 3. Promulgate a final rule and its effective date, if

701 appropriate, based on input from state or local officials or  
 702 interested parties.

703 D. Rules promulgated by the Interstate Commission shall  
 704 have the force and effect of administrative rules and shall be  
 705 binding in the compacting states to the extent and in the manner  
 706 provided for in this compact.

707 E. Not later than 60 days after a rule is promulgated, an  
 708 interested person may file a petition in the United States  
 709 District Court for the District of Columbia or in the Federal  
 710 District Court where the Interstate Commission's principal  
 711 office is located for judicial review of such rule. If the court  
 712 finds that the Interstate Commission's action is not supported  
 713 by substantial evidence in the rulemaking record, the court  
 714 shall hold the rule unlawful and set it aside.

715 F. If a majority of the legislatures of the member states  
 716 rejects a rule, those states may by enactment of a statute or  
 717 resolution in the same manner used to adopt the compact cause  
 718 that such rule shall have no further force and effect in any  
 719 member state.

720 G. The existing rules governing the operation of the  
 721 Interstate Compact on the Placement of Children superseded by  
 722 this act shall be null and void no less than 12 months but no  
 723 more than 24 months after the first meeting of the Interstate  
 724 Commission created hereunder, as determined by the members  
 725 during the first meeting.

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

728 1. Transition rules.

- 729        2. Forms and procedures.
- 730        3. Timelines.
- 731        4. Data collection and reporting.
- 732        5. Rulemaking.
- 733        6. Visitation.
- 734        7. Progress reports and supervision.
- 735        8. Sharing of information and confidentiality.
- 736        9. Financing of the Interstate Commission.
- 737        10. Mediation, arbitration, and dispute resolution.
- 738        11. Education, training, and technical assistance.
- 739        12. Enforcement.
- 740        13. Coordination with other interstate compacts.
- 741        I. Upon determination by a majority of the members of the
- 742 Interstate Commission that an emergency exists:
- 743        1. The Interstate Commission may promulgate an emergency
- 744 rule only if it is required to:
- 745        a. Protect the children covered by this compact from an
- 746 imminent threat to their health, safety, and well-being;
- 747        b. Prevent loss of federal or state funds; or
- 748        c. Meet a deadline for the promulgation of an
- 749 administrative rule required by federal law.
- 750        2. An emergency rule shall become effective immediately
- 751 upon adoption, provided that the usual rulemaking procedures
- 752 provided hereunder shall be retroactively applied to the
- 753 emergency rule as soon as reasonably possible, but no later than
- 754 90 days after the effective date of the emergency rule.
- 755        3. An emergency rule shall be promulgated as provided for
- 756 in the rules of the Interstate Commission.

757  
758 ARTICLE XII. OVERSIGHT, DISPUTE  
759 RESOLUTION, AND ENFORCEMENT  
760

761 A. Oversight.

762 1. The Interstate Commission shall oversee the  
763 administration and operation of the compact.

764 2. The executive, legislative, and judicial branches of  
765 state government in each member state shall enforce this compact  
766 and the rules of the Interstate Commission and shall take all  
767 actions necessary and appropriate to effectuate the compact's  
768 purposes and intent. The compact and its rules shall be binding  
769 in the compacting states to the extent and in the manner  
770 provided for in this compact.

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

774 4. The Interstate Commission shall be entitled to receive  
775 service of process in any action in which the validity of a  
776 compact provision or rule is the issue for which a judicial  
777 determination has been sought and shall have standing to  
778 intervene in any proceedings. Failure to provide service of  
779 process to the Interstate Commission shall render any judgment,  
780 order, or other determination, however so captioned or  
781 classified, void as to this compact, its bylaws, or rules of the  
782 Interstate Commission.

783 B. Dispute resolution.

784 1. The Interstate Commission shall attempt, upon the

785 request of a member state, to resolve disputes which are subject  
786 to the compact and which may arise among member states and  
787 between member and nonmember states.

788 2. The Interstate Commission shall promulgate a rule  
789 providing for both mediation and binding dispute resolution for  
790 disputes among compacting states. The costs of such mediation or  
791 dispute resolution shall be the responsibility of the parties to  
792 the dispute.

793 C. Enforcement.

794 1. If the Interstate Commission determines that a member  
795 state has defaulted in the performance of its obligations or  
796 responsibilities under this compact, its bylaws, or rules of the  
797 Interstate Commission, the Interstate Commission may:

798 a. Provide remedial training and specific technical  
799 assistance;

800 b. Provide written notice to the defaulting state and  
801 other member states of the nature of the default and the means  
802 of curing the default. The Interstate Commission shall specify  
803 the conditions by which the defaulting state must cure its  
804 default;

805 c. By majority vote of the members, initiate against a  
806 defaulting member state legal action in the United States  
807 District Court for the District of Columbia or, at the  
808 discretion of the Interstate Commission, in the federal district  
809 where the Interstate Commission has its principal office, to  
810 enforce compliance with the provisions of the compact, its  
811 bylaws, or rules of the Interstate Commission. The relief sought  
812 may include both injunctive relief and damages. In the event

813 judicial enforcement is necessary, the prevailing party shall be  
 814 awarded all costs of such litigation, including reasonable  
 815 attorney's fees; or

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

819 ARTICLE XIII. FINANCING OF THE COMMISSION

821 A. The Interstate Commission shall pay, or provide for the  
 822 payment of, the reasonable expenses of its establishment,  
 823 organization, and ongoing activities.

824 B. The Interstate Commission may levy on and collect an  
 825 annual assessment from each member state to cover the cost of  
 826 the operations and activities of the Interstate Commission and  
 827 its staff, which must be in a total amount sufficient to cover  
 828 the Interstate Commission's annual budget as approved by its  
 829 members each year. The aggregate annual assessment amount shall  
 830 be allocated based upon a formula to be determined by the  
 831 Interstate Commission, which shall promulgate a rule binding  
 832 upon all member states.

833 C. The Interstate Commission shall not incur obligations  
 834 of any kind prior to securing the funds adequate to meet those  
 835 obligations, nor shall the Interstate Commission pledge the  
 836 credit of any of the member states, except by and with the  
 837 authority of the member state.

838 D. The Interstate Commission shall keep accurate accounts  
 839 of all receipts and disbursements. The receipts and  
 840 disbursements of the Interstate Commission shall be subject to

841 the audit and accounting procedures established under its  
842 bylaws. However, all receipts and disbursements of funds handled  
843 by the Interstate Commission shall be audited yearly by a  
844 certified or licensed public accountant, and the report of the  
845 audit shall be included in and become part of the annual report  
846 of the Interstate Commission.

847  
848 ARTICLE XIV. MEMBER STATES, EFFECTIVE  
849 DATE, AND AMENDMENT

850  
851 A. Any state is eligible to become a member state.

852 B. The compact shall become effective and binding upon  
853 legislative enactment of the compact into law by no less than 35  
854 states. The effective date shall be the later of July 1, 2007,  
855 or upon enactment of the compact into law by the 35th state.  
856 Thereafter, it shall become effective and binding as to any  
857 other member state upon enactment of the compact into law by  
858 that state. The executive heads of the state human services  
859 administration with ultimate responsibility for the child  
860 welfare program of nonmember states or their designees shall be  
861 invited to participate in the activities of the Interstate  
862 Commission on a nonvoting basis prior to adoption of the compact  
863 by all states.

864 C. The Interstate Commission may propose amendments to the  
865 compact for enactment by the member states. No amendment shall  
866 become effective and binding on the member states unless and  
867 until it is enacted into law by unanimous consent of the member  
868 states.

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ARTICLE XV. WITHDRAWAL AND DISSOLUTION

A. Withdrawal.

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

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

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

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

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

B. Dissolution of compact.

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the



897 membership in the compact to one member state.

898 2. Upon the dissolution of this compact, the compact  
 899 becomes null and void and shall be of no further force or  
 900 effect, and the business and affairs of the Interstate  
 901 Commission shall be concluded and surplus funds shall be  
 902 distributed in accordance with the bylaws.

903  
 904 ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

905  
 906 A. The provisions of this compact shall be severable, and,  
 907 if any phrase, clause, sentence, or provision is deemed  
 908 unenforceable, the remaining provisions of the compact shall be  
 909 enforceable.

910 B. The provisions of this compact shall be liberally  
 911 construed to effectuate its purposes.

912 C. Nothing in this compact shall be construed to prohibit  
 913 the concurrent applicability of other interstate compacts to  
 914 which the states are members.

915  
 916 ARTICLE XVII. BINDING EFFECT OF COMPACT  
 917 AND OTHER LAWS

918  
 919 A. Other laws.

920 1. Nothing in this compact prevents the enforcement of any  
 921 other law of a member state that is not inconsistent with this  
 922 compact.

923 B. Binding effect of the compact.

924 1. All lawful actions of the Interstate Commission,

925 including all rules and bylaws promulgated by the Interstate  
 926 Commission, are binding upon the member states.

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

929 3. In the event any provision of this compact exceeds the  
 930 constitutional limits imposed on the legislature or executive  
 931 branch of any member state, such provision shall be ineffective  
 932 to the extent of the conflict with the constitutional provision  
 933 in question in that member state.

934  
 935 ARTICLE XVIII. INDIAN TRIBES  
 936

937 Notwithstanding any other provision in this compact, the  
 938 Interstate Commission may promulgate guidelines to permit Indian  
 939 tribes to utilize the compact to achieve any or all of the  
 940 purposes of the compact as specified in Article I. The  
 941 Interstate Commission shall make reasonable efforts to consult  
 942 with Indian tribes in promulgating guidelines to reflect the  
 943 diverse circumstances of the various Indian tribes.

944 Section 2. Section 409.409, Florida Statutes, is created  
 945 to read:

946 409.409 Effect of existing compact provisions.--The  
 947 provisions of the existing Interstate Compact on the Placement  
 948 of Children, as created under s. 409.401, shall remain in effect  
 949 until superseded by entry into the new Interstate Compact for  
 950 the Placement of Children, as created under s. 409.408, by the  
 951 Governor as authorized by ss. 409.408-409.410.

952 Section 3. Section 409.410, Florida Statutes, is created

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953 to read:

954 409.410 Rulemaking authority.--Following entry into the  
955 new Interstate Compact for the Placement of Children by this  
956 state pursuant to ss. 409.408 and 409.409, any rules adopted by  
957 the Interstate Commission shall not be binding unless also  
958 adopted by this state through the rulemaking process. The  
959 Department of Children and Family Services shall have rulemaking  
960 authority pursuant to ss. 120.536(1) and 120.54 to implement the  
961 provisions of the Interstate Compact for the Placement of  
962 Children created under s. 409.408.

963 Section 4. This act shall take effect upon becoming a law.