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CS/HB 1409, Engrossed 1

2009 Legislature

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

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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

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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

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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

191
 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

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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

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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

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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.

267
 268 ARTICLE IV. JURISDICTION

269
 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

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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

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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

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

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340 ARTICLE V. PLACEMENT EVALUATION

341

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.

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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.

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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

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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.

429

430 ARTICLE VII. PLACING AGENCY RESPONSIBILITY

431

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.

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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

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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.

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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.

530

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

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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 X.
559 J. To accept any and all donations and grants of money,
560 equipment, supplies, materials, and services, and to receive,

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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. Organization.

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589 1. Within 12 months after the first Interstate Commission
 590 meeting, the Interstate Commission shall adopt rules 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 rules shall establish
 594 conditions and procedures under which the Interstate Commission
 595 shall make its information and official records available to the
 596 public for inspection or copying.

597 B. Meetings.

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

602 2. Public notice shall be given by the Interstate
 603 Commission of all meetings, and all meetings shall be open to
 604 the public.

605 3. The bylaws may provide for meetings of the Interstate
 606 Commission to be conducted by telecommunication or other
 607 electronic communication.

608 C. Officers and staff.

609 1. The Interstate Commission may, through its executive
 610 committee, appoint or retain a staff director for such period,
 611 upon such terms and conditions, and for such compensation as the
 612 Interstate Commission may deem appropriate. The staff director
 613 shall serve as secretary to the Interstate Commission but shall
 614 not have a vote. The staff director may hire and supervise such
 615 other staff as may be authorized by the Interstate Commission.

616 2. The Interstate Commission shall elect, from among its

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617 members, a chairperson and a vice chairperson of the executive
 618 committee, and other necessary officers, each of whom shall have
 619 such authority and duties as may be specified in the bylaws.

620 D. Qualified immunity, defense, and indemnification.

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

633 a. The liability of the Interstate Commission's staff
 634 director and employees or Interstate Commission representatives,
 635 acting within the scope of such person's employment or duties,
 636 for acts, errors, or omissions occurring within such person's
 637 state may not exceed the limits of liability set forth under the
 638 Constitution and laws of that state for state officials,
 639 employees, and agents. The Interstate Commission is considered
 640 to be an instrumentality of the states for the purposes of any
 641 such action. Nothing in this subsection shall be construed to
 642 protect such person from suit or liability for damage, loss,
 643 injury, or liability caused by a criminal act or the intentional
 644 or willful and wanton misconduct of such person.

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

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

671
672 ARTICLE XI. RULEMAKING FUNCTIONS

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OF THE INTERSTATE COMMISSION

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

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

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

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

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

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

D. Rules promulgated by the Interstate Commission shall

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701 have the force and effect of administrative rules and shall be
702 binding in the compacting states to the extent and in the manner
703 provided for in this compact.

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

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

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

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

- 725 1. Transition rules.
726 2. Forms and procedures.
727 3. Timelines.
728 4. Data collection and reporting.

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- 729 5. Rulemaking.
- 730 6. Visitation.
- 731 7. Progress reports and supervision.
- 732 8. Sharing of information and confidentiality.
- 733 9. Financing of the Interstate Commission.
- 734 10. Mediation, arbitration, and dispute resolution.
- 735 11. Education, training, and technical assistance.
- 736 12. Enforcement.
- 737 13. Coordination with other interstate compacts.

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

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

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

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

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

747 2. An emergency rule shall become effective immediately
 748 upon adoption, provided that the usual rulemaking procedures
 749 provided hereunder shall be retroactively applied to the
 750 emergency rule as soon as reasonably possible, but no later than
 751 90 days after the effective date of the emergency rule.

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

754

755 ARTICLE XII. OVERSIGHT, DISPUTE

756 RESOLUTION, AND ENFORCEMENT

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758

A. Oversight.

759

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

760

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

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

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

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B. Dispute resolution.

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

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

790 C. Enforcement.

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

795 a. Provide remedial training and specific technical
 796 assistance;

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

802 c. By majority vote of the members, initiate against a
 803 defaulting member state legal action in the United States
 804 District Court for the District of Columbia or, at the
 805 discretion of the Interstate Commission, in the federal district
 806 where the Interstate Commission has its principal office, to
 807 enforce compliance with the provisions of the compact, its
 808 bylaws, or rules of the Interstate Commission. The relief sought
 809 may include both injunctive relief and damages. In the event
 810 judicial enforcement is necessary, the prevailing party shall be
 811 awarded all costs of such litigation, including reasonable
 812 attorney's fees; or

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

815

816 ARTICLE XIII. FINANCING OF THE COMMISSION

817

818 A. The Interstate Commission shall pay, or provide for the
 819 payment of, the reasonable expenses of its establishment,
 820 organization, and ongoing activities.

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

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

835 D. The Interstate Commission shall keep accurate accounts
 836 of all receipts and disbursements. The receipts and
 837 disbursements of the Interstate Commission shall be subject to
 838 the audit and accounting procedures established under its
 839 bylaws. However, all receipts and disbursements of funds handled
 840 by the Interstate Commission shall be audited yearly by a

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841 certified or licensed public accountant, and the report of the
 842 audit shall be included in and become part of the annual report
 843 of the Interstate Commission.

844
 845 ARTICLE XIV. MEMBER STATES, EFFECTIVE

846 DATE, AND AMENDMENT

847
 848 A. Any state is eligible to become a member state.

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

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

866
 867 ARTICLE XV. WITHDRAWAL AND DISSOLUTION
 868

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869 A. Withdrawal.

870 1. Once effective, the compact shall continue in force and

871 remain binding upon each and every member state, provided that a

872 member state may withdraw from the compact by specifically

873 repealing the statute which enacted the compact into law.

874 2. Withdrawal from this compact shall be by the enactment

875 of a statute repealing the compact. The effective date of

876 withdrawal shall be the effective date of the repeal of the

877 statute.

878 3. The withdrawing state shall immediately notify the

879 president of the Interstate Commission in writing upon the

880 introduction of legislation repealing this compact in the

881 withdrawing state. The Interstate Commission shall then notify

882 the other member states of the withdrawing state's intent to

883 withdraw.

884 4. The withdrawing state is responsible for all

885 assessments, obligations, and liabilities incurred through the

886 effective date of withdrawal.

887 5. Reinstatement following withdrawal of a member state

888 shall occur upon the withdrawing state reenacting the compact or

889 upon such later date as determined by the members of the

890 Interstate Commission.

891 B. Dissolution of compact.

892 1. This compact shall dissolve effective upon the date of

893 the withdrawal or default of the member state which reduces the

894 membership in the compact to one member state.

895 2. Upon the dissolution of this compact, the compact

896 becomes null and void and shall be of no further force or

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897 effect, and the business and affairs of the Interstate
 898 Commission shall be concluded and surplus funds shall be
 899 distributed in accordance with the bylaws.

901 ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

902
 903 A. The provisions of this compact shall be severable, and,
 904 if any phrase, clause, sentence, or provision is deemed
 905 unenforceable, the remaining provisions of the compact shall be
 906 enforceable.

907 B. The provisions of this compact shall be liberally
 908 construed to effectuate its purposes.

909 C. Nothing in this compact shall be construed to prohibit
 910 the concurrent applicability of other interstate compacts to
 911 which the states are members.

912
 913 ARTICLE XVII. BINDING EFFECT OF COMPACT

914 AND OTHER LAWS

915
 916 A. Other laws.

917 1. Nothing in this compact prevents the enforcement of any
 918 other law of a member state that is not inconsistent with this
 919 compact.

920 B. Binding effect of the compact.

921 1. All lawful actions of the Interstate Commission are
 922 binding upon the member states.

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

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

930

931 ARTICLE XVIII. INDIAN TRIBES

932

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

940 Section 2. Section 409.409, Florida Statutes, is created
 941 to read:

942 409.409 Effect of existing compact provisions.--The
 943 provisions of the existing Interstate Compact on the Placement
 944 of Children, as created under s. 409.401, shall remain in effect
 945 until repealed by entry into the new Interstate Compact for the
 946 Placement of Children, as created under s. 409.408, by the
 947 Governor as authorized by ss. 409.408-409.410.

948 Section 3. Section 409.410, Florida Statutes, is created
 949 to read:

950 409.410 Rulemaking authority.--Following entry into the
 951 new Interstate Compact for the Placement of Children by this
 952 state pursuant to ss. 409.408 and 409.409, any rules adopted by

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953 | the Interstate Commission shall not be binding unless also
954 | adopted by this state through the rulemaking process. The
955 | Department of Children and Family Services shall have rulemaking
956 | authority pursuant to ss. 120.536(1) and 120.54 to implement the
957 | provisions of the Interstate Compact for the Placement of
958 | Children created under s. 409.408.

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