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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2009	.	
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The Committee on Children, Families, and Elder Affairs (Rich) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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

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



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12 the form substantially as follows:

13
14 INTERSTATE COMPACT
15 FOR THE PLACEMENT OF CHILDREN

16
17 ARTICLE I. PURPOSE

18
19 The purpose of this Interstate Compact for the Placement of
20 Children is to:

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

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

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

29 D. Provide for the promulgation and enforcement of
30 administrative rules implementing the provisions of this compact
31 and regulating the covered activities of the member states.

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

34 F. Promote coordination between this compact, the
35 Interstate Compact for Juveniles, the Interstate Compact on
36 Adoption and Medical Assistance and other compacts affecting the
37 placement of and which provide services to children otherwise
38 subject to this compact.

39 G. Provide for a state's continuing legal jurisdiction and
40 responsibility for placement and care of a child that it would



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41 have had if the placement were intrastate.

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

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46 ARTICLE II. DEFINITIONS

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48 As used in this compact:

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

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

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

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

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

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



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70 placement of a child in accordance with the laws and
71 requirements of the state in which the home is located.

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

78 H. "Interstate Commission for the Placement of Children" or
79 "Interstate Commission" means the commission that is created
80 under Article VIII of this compact and which is generally
81 referred to as the Interstate Commission.

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

84 J. "Legal Risk Placement" or "Legal Risk Adoption" means a
85 placement made preliminary to an adoption where the prospective
86 adoptive parents acknowledge in writing that a child can be
87 ordered returned to the sending state or the birth mother's
88 state of residence, if different from the sending state, and a
89 final decree of adoption shall not be entered in any
90 jurisdiction until all required consents are obtained or are
91 dispensed with in accordance with applicable law.

92 K. "Member state" means a state that has enacted this
93 compact.

94 L. "Noncustodial parent" means a person who, at the time of
95 the commencement of court proceedings in the sending state, does
96 not have sole legal custody of the child or has joint legal
97 custody of a child, and who is not the subject of allegations or
98 findings of child abuse or neglect.



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99 M. "Nonmember state" means a state which has not enacted
100 this compact.

101 N. "Notice of residential placement" means information
102 regarding a placement into a residential facility provided to
103 the receiving state, including, but not limited to, the name,
104 date and place of birth of the child, the identity and address
105 of the parent or legal guardian, evidence of authority to make
106 the placement, and the name and address of the facility in which
107 the child will be placed. Notice of residential placement shall
108 also include information regarding a discharge and any
109 unauthorized absence from the facility.

110 O. "Placement" means the act by a public or private child
111 placing agency intended to arrange for the care or custody of a
112 child in another state.

113 P. "Private child placing agency" means any private
114 corporation, agency, foundation, institution, or charitable
115 organization, or any private person or attorney that
116 facilitates, causes, or is involved in the placement of a child
117 from one state to another and that is not an instrumentality of
118 the state or acting under color of state law.

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



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128 R. "Public child placing agency" means any government child
129 welfare agency or child protection agency or a private entity
130 under contract with such an agency, regardless of whether they
131 act on behalf of a state, county, municipality or other
132 governmental unit and which facilitates, causes, or is involved
133 in the placement of a child from one state to another.

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

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

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

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

156 W. "Sending state" means the state from which the placement



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157 of a child is initiated.

158 X. "Service member's permanent duty station" means the
159 military installation where an active duty Armed Services member
160 is currently assigned and is physically located under competent
161 orders that do not specify the duty as temporary.

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

165 Z. "State" means a state of the United States, the District
166 of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin
167 Islands, Guam, American Samoa, the Northern Marianas Islands and
168 any other territory of the United States.

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

173 BB. "Supervision" means monitoring provided by the
174 receiving state once a child has been placed in a receiving
175 state pursuant to this compact.

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177 ARTICLE III. APPLICABILITY
178

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

181 1. The interstate placement of a child subject to ongoing
182 court jurisdiction in the sending state, due to allegations or
183 findings that the child has been abused, neglected, or deprived
184 as defined by the laws of the sending state; provided, however,
185 that the placement of such a child into a residential facility



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186 shall only require notice of residential placement to the
187 receiving state prior to placement.

188 2. The interstate placement of a child adjudicated
189 delinquent or unmanageable based on the laws of the sending
190 state and subject to ongoing court jurisdiction of the sending
191 state if:

192 a. The child is being placed in a residential facility in
193 another member state and is not covered under another compact;
194 or

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

198 3. The interstate placement of any child by a public child
199 placing agency or private child placing agency as defined in
200 this compact as a preliminary step to a possible adoption.

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

202 1. The interstate placement of a child in a custody
203 proceeding in which a public child placing agency is not a
204 party, provided, the placement is not intended to effectuate an
205 adoption.

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

210 3. The interstate placement of a child by one relative with
211 the lawful authority to make such a placement directly with a
212 relative in a receiving state.

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



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215 5. The placement of a child with a noncustodial parent
216 provided that:

217 a. The noncustodial parent proves to the satisfaction of a
218 court in the sending state a substantial relationship with the
219 child;

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

223 c. The court in the sending state dismisses its
224 jurisdiction in interstate placements in which the public child
225 placing agency is a party to the proceeding.

226 6. A child entering the United States from a foreign
227 country for the purpose of adoption or leaving the United States
228 to go to a foreign country for the purpose of adoption in that
229 country.

230 7. Cases in which a United States citizen child living
231 overseas with his family, at least one of whom is in the United
232 States Armed Services, and who is stationed overseas, is removed
233 and placed in a state.

234 8. The sending of a child by a public child placing agency
235 or a private child placing agency for a visit as defined by the
236 rules of the Interstate Commission.

237 C. For purposes of determining the applicability of this
238 compact to the placement of a child with a family in the United
239 States Armed Services, the public child placing agency or
240 private child placing agency may choose the state of the service
241 member's permanent duty station or the service member's declared
242 legal residence.

243 D. Nothing in this compact shall be construed to prohibit



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244 the concurrent application of the provisions of this compact
245 with other applicable interstate compacts, including the
246 Interstate Compact for Juveniles and the Interstate Compact on
247 Adoption and Medical Assistance. The Interstate Commission may,
248 in cooperation with other interstate compact commissions having
249 responsibility for the interstate movement, placement or
250 transfer of children, promulgate like rules to ensure the
251 coordination of services, timely placement of children, and the
252 reduction of unnecessary or duplicative administrative or
253 procedural requirements.

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255 ARTICLE IV. JURISDICTION

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257 A. Except as provided in Article IV, Section H, and Article
258 V, Section B, paragraphs 2.and 3. concerning private and
259 independent adoptions, and in interstate placements in which the
260 public child placing agency is not a party to a custody
261 proceeding, the sending state shall retain jurisdiction over a
262 child with respect to all matters of custody and disposition of
263 the child which it would have had if the child had remained in
264 the sending state. Such jurisdiction shall also include the
265 power to order the return of the child to the sending state.

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

270 C. In cases that are before courts and subject to this
271 compact, the taking of testimony for hearings before any
272 judicial officer may occur in person or by telephone, audio-



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273 video conference, or such other means as approved by the rules
274 of the Interstate Commission and judicial officers may
275 communicate with other judicial officers and persons involved in
276 the interstate process as may be permitted by their Canons of
277 Judicial Conduct and any rules promulgated by the Interstate
278 Commission.

279 D. In accordance with its own laws, the court in the
280 sending state shall have authority to terminate its jurisdiction
281 if:

282 1. The child is reunified with the parent in the receiving
283 state who is the subject of allegations or findings of abuse or
284 neglect, only with the concurrence of the public child placing
285 agency in the receiving state;

286 2. The child is adopted;

287 3. The child reaches the age of majority under the laws of
288 the sending state;

289 4. The child achieves legal independence pursuant to the
290 laws of the sending state;

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

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

295 7. The public child placing agency of the sending state
296 requests termination and has obtained the concurrence of the
297 public child placing agency in the receiving state.

298 E. When a sending state court terminates its jurisdiction,
299 the receiving state child placing agency shall be notified.

300 F. Nothing in this article shall defeat a claim of
301 jurisdiction by a receiving state court sufficient to deal with



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302 an act of truancy, delinquency, crime or behavior involving a
303 child as defined by the laws of the receiving state committed by
304 the child in the receiving state which would be a violation of
305 its laws.

306 G. Nothing in this article shall limit the receiving
307 state's ability to take emergency jurisdiction for the
308 protection of the child.

309 H. The substantive laws of the state in which an adoption
310 will be finalized shall solely govern all issues relating to the
311 adoption of the child and the court in which the adoption
312 proceeding is filed shall have subject matter jurisdiction
313 regarding all substantive issues relating to the adoption,
314 except:

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

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

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

322 I. A final decree of adoption shall not be entered in any
323 jurisdiction until the placement is authorized as an "approved
324 placement" by the public child placing agency in the receiving
325 state.

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327 ARTICLE V. PLACEMENT EVALUATION
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329 A. Prior to sending, bringing, or causing a child to be
330 sent or brought into a receiving state, the public child placing



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331 agency shall provide a written request for assessment to the
332 receiving state.

333 B. For placements by a private child placing agency, a
334 child may be sent or brought, or caused to be sent or brought,
335 into a receiving state, upon receipt and immediate review of the
336 required content in a request for approval of a placement in
337 both the sending and receiving state public child placing
338 agency. The required content to accompany a request for approval
339 shall include all of the following:

340 1. A request for approval identifying the child, birth
341 parents, the prospective adoptive parents, and the supervising
342 agency, signed by the person requesting approval.

343 2. The appropriate consents or relinquishments signed by
344 the birth parents in accordance with the laws of the sending
345 state, or where permitted the laws of the state where the
346 adoption will be finalized.

347 3. Certification by a licensed attorney or authorized agent
348 of a private adoption agency that the consent or relinquishment
349 is in compliance with the applicable laws of the sending state
350 or, where permitted, the laws of the state where finalization of
351 the adoption will occur.

352 4. A home study.

353 5. An acknowledgment of legal risk signed by the
354 prospective adoptive parents.

355 C. The sending state and the receiving state may request
356 additional information or documents prior to finalization of an
357 approved placement, but they may not delay travel by the
358 prospective adoptive parents with the child if the required
359 content for approval has been submitted, received, and reviewed



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360 by the public child placing agency in both the sending state and
361 the receiving state.

362 D. Approval from the public child placing agency in the
363 receiving state for a provisional or approved placement is
364 required as provided for in the rules of the Interstate
365 Commission.

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

369 F. Upon receipt of a request from the public child placing
370 agency of the sending state, the receiving state shall initiate
371 an assessment of the proposed placement to determine its safety
372 and suitability. If the proposed placement is a placement with a
373 relative, the public child placing agency of the sending state
374 may request a determination for a provisional placement.

375 G. The public child placing agency in the receiving state
376 may request from the public child placing agency or the private
377 child placing agency in the sending state, and shall be entitled
378 to receive supporting or additional information necessary to
379 complete the assessment or approve the placement.

380 H. The public child placing agency in the receiving state
381 shall approve a provisional placement and complete or arrange
382 for the completion of the assessment within the timeframes
383 established by the rules of the Interstate Commission.

384 I. For a placement by a private child placing agency, the
385 sending state shall not impose any additional requirements to
386 complete the home study that are not required by the receiving
387 state, unless the adoption is finalized in the sending state.

388 J. The Interstate Commission may develop uniform standards



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389 for the assessment of the safety and suitability of interstate
390 placements.

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392 ARTICLE VI. PLACEMENT AUTHORITY

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

397 B. If the public child placing agency in the receiving
398 state does not approve the proposed placement then the child
399 shall not be placed. The receiving state shall provide written
400 documentation of any such determination in accordance with the
401 rules promulgated by the Interstate Commission. Such
402 determination is not subject to judicial review in the sending
403 state.

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

407 1. The administrative review and any further judicial
408 review associated with the determination shall be conducted in
409 the receiving state pursuant to its applicable Administrative
410 Procedures Act.

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

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417 ARTICLE VII. PLACING AGENCY RESPONSIBILITY



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

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

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

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

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

a. Any assessment conducted by the receiving state; and

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

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

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

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

2. Financially responsible for the child absent a



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447 contractual agreement to the contrary.

448 C. The public child placing agency in the receiving state
449 shall provide timely assessments, as provided for in the rules
450 of the Interstate Commission.

451 D. The public child placing agency in the receiving state
452 shall provide, or arrange for the provision of, supervision and
453 services for the child, including timely reports, during the
454 period of the placement.

455 E. Nothing in this compact shall be construed as to limit
456 the authority of the public child placing agency in the
457 receiving state from contracting with a licensed agency or
458 person in the receiving state for an assessment or the provision
459 of supervision or services for the child or otherwise
460 authorizing the provision of supervision or services by a
461 licensed agency during the period of placement.

462 F. Each member state shall provide for coordination among
463 its branches of government concerning the state's participation
464 in, and compliance with, the compact and Interstate Commission
465 activities, through the creation of an advisory council or use
466 of an existing body or board.

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

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

474 I. With the consent of the Interstate Commission, states
475 may enter into limited agreements that facilitate the timely



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476 assessment and provision of services and supervision of
477 placements under this compact.

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479 ARTICLE VIII. INTERSTATE COMMISSION FOR
480 THE PLACEMENT OF CHILDREN

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482 The member states hereby establish, by way of this compact,
483 a commission known as the "Interstate Commission for the
484 Placement of Children." The activities of the Interstate
485 Commission are the formation of public policy and are a
486 discretionary state function. The Interstate Commission shall:

487 A. Be a joint commission of the member states and shall
488 have the responsibilities, powers and duties set forth herein,
489 and such additional powers as may be conferred upon it by
490 subsequent concurrent action of the respective legislatures of
491 the member states.

492 B. Consist of one commissioner from each member state who
493 shall be appointed by the executive head of the state human
494 services administration with ultimate responsibility for the
495 child welfare program. The appointed commissioner shall have the
496 legal authority to vote on policy related matters governed by
497 this compact binding the state.

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

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

503 3. A representative shall not delegate a vote to another
504 member state.



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

507 C. In addition to the commissioners of each member state,
508 include persons who are members of interested organizations as
509 defined in the bylaws or rules of the Interstate Commission.
510 Such members shall be ex officio and shall not be entitled to
511 vote on any matter before the Interstate Commission.

512 D. Establish an executive committee which shall have the
513 authority to administer the day-to-day operations and
514 administration of the Interstate Commission. It shall not have
515 the power to engage in rulemaking.

516
517 ARTICLE IX. POWERS AND DUTIES OF
518 THE INTERSTATE COMMISSION
519

520 The Interstate Commission shall have the following powers:

521 A. To promulgate rules and take all necessary actions to
522 effect the goals, purposes and obligations as enumerated in this
523 compact.

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

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

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

530 E. Collect standardized data concerning the interstate
531 placement of children subject to this compact as directed
532 through its rules, which shall specify the data to be collected,
533 the means of collection and data exchange, and reporting



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534 requirements.

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

537 G. To purchase and maintain insurance and bonds.

538 H. To hire or contract for services of personnel or
539 consultants as necessary to carry out its functions under the
540 compact and establish personnel qualification policies, and
541 rates of compensation.

542 I. To establish and appoint committees and officers,
543 including, but not limited to, an executive committee as
544 required by Article X.

545 J. To accept any and all donations and grants of money,
546 equipment, supplies, materials, and services, and to receive,
547 utilize, and dispose thereof.

548 K. To lease, purchase, accept contributions or donations
549 of, or otherwise to own, hold, improve, or use any property,
550 real, personal, or mixed.

551 L. To sell, convey, mortgage, pledge, lease, exchange,
552 abandon, or otherwise dispose of any property, real, personal,
553 or mixed.

554 M. To establish a budget and make expenditures.

555 N. To adopt a seal and bylaws governing the management and
556 operation of the Interstate Commission.

557 O. To report annually to the legislatures, governors, the
558 judiciary, and state advisory councils of the member states
559 concerning the activities of the Interstate Commission during
560 the preceding year. Such reports shall also include any
561 recommendations that may have been adopted by the Interstate
562 Commission.



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563 P. To coordinate and provide education, training, and
564 public awareness regarding the interstate movement of children
565 for officials involved in such activity.

566 Q. To maintain books and records in accordance with the
567 bylaws of the Interstate Commission.

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

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571 ARTICLE X. ORGANIZATION AND OPERATION

572 OF THE INTERSTATE COMMISSION

573

574 A. Organization.

575 1. Within 12 months after the first Interstate Commission
576 meeting, the Interstate Commission shall adopt rules to govern
577 its conduct as may be necessary or appropriate to carry out the
578 purposes of the compact.

579 2. The Interstate Commission's rules shall establish
580 conditions and procedures under which the Interstate Commission
581 shall make its information and official records available to the
582 public for inspection or copying.

583 B. Meetings.

584 1. The Interstate Commission shall meet at least once each
585 calendar year. The chairperson may call additional meetings and,
586 upon the request of a simple majority of the member states shall
587 call additional meetings.

588 2. Public notice shall be given by the Interstate
589 Commission of all meetings and all meetings shall be open to the
590 public.

591 3. The commission may provide for meetings of the



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592 Interstate Commission to be conducted by telecommunication or
593 other electronic communication.

594 C. Officers and staff.

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

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

606 D. Qualified immunity, defense and indemnification.

607 1. The Interstate Commission's staff director and its
608 employees shall be immune from suit and liability, either
609 personally or in their official capacity, for a claim for damage
610 to or loss of property or personal injury or other civil
611 liability caused or arising out of or relating to an actual or
612 alleged act, error, or omission that occurred or that such
613 person had a reasonable basis for believing occurred within the
614 scope of Interstate Commission employment, duties, or
615 responsibilities; provided, however, that such person shall not
616 be protected from suit or liability for damage, loss, injury, or
617 liability caused by a criminal act or the intentional or willful
618 and wanton misconduct of such person.

619 a. The liability of the Interstate Commission's staff
620 director and employees or Interstate Commission representatives,



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

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

644 c. To the extent not covered by the state involved, a
645 member state, or the Interstate Commission, the representatives
646 or employees of the Interstate Commission shall be held harmless
647 in the amount of a settlement or judgment, including attorney's
648 fees and costs, obtained against such persons arising out of an
649 actual or alleged act, error, or omission that occurred within



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650 the scope of Interstate Commission employment, duties, or
651 responsibilities, or that such persons had a reasonable basis
652 for believing occurred within the scope of Interstate Commission
653 employment, duties, or responsibilities, provided that the
654 actual or alleged act, error, or omission did not result from
655 intentional or willful and wanton misconduct on the part of such
656 persons.

657
658 ARTICLE XI. RULEMAKING FUNCTIONS
659 OF THE INTERSTATE COMMISSION
660

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

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

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

678 1. Publish the proposed rule's entire text stating the



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679 reasons for that proposed rule;

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

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

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

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

698 F. If a majority of the legislatures of the member states
699 rejects a rule, those states may by enactment of a statute or
700 resolution in the same manner used to adopt the compact cause
701 that such rule shall have no further force and effect in any
702 member state.

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



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708 meeting.
709 H. Within the first 12 months of operation, the Interstate
710 Commission shall promulgate rules addressing the following:
711 1. Transition rules.
712 2. Forms and procedures.
713 3. Time lines.
714 4. Data collection and reporting.
715 5. Rulemaking.
716 6. Visitation.
717 7. Progress reports/supervision.
718 8. Sharing of information/confidentiality.
719 9. Financing of the Interstate Commission.
720 10. Mediation, arbitration and dispute resolution.
721 11. Education, training and technical assistance.
722 12. Enforcement.
723 13. Coordination with other interstate compacts.
724 I. Upon determination by a majority of the members of the
725 Interstate Commission that an emergency exists:
726 1. The Interstate Commission may promulgate an emergency
727 rule only if it is required to:
728 a. Protect the children covered by this compact from an
729 imminent threat to their health, safety and well-being;
730 b. Prevent loss of federal or state funds; or
731 c. Meet a deadline for the promulgation of an
732 administrative rule required by federal law.
733 2. An emergency rule shall become effective immediately
734 upon adoption, provided that the usual rulemaking procedures
735 provided hereunder shall be retroactively applied to said rule
736 as soon as reasonably possible, but no later than 90 days after



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737 the effective date of the emergency rule.

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

740
741 ARTICLE XII. OVERSIGHT, DISPUTE
742 RESOLUTION, AND ENFORCEMENT

743
744 A. Oversight.

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

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

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

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



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766 B. Dispute resolution.

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

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

776 C. Enforcement.

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

781 a. Provide remedial training and specific technical
782 assistance;

783 b. Provide written notice to the defaulting state and other
784 member states of the nature of the default and the means of
785 curing the default. The Interstate Commission shall specify the
786 conditions by which the defaulting state must cure its default;

787 c. By majority vote of the members, initiate against a
788 defaulting member state legal action in the United States
789 District Court for the District of Columbia or, at the
790 discretion of the Interstate Commission, in the federal district
791 where the Interstate Commission has its principal office, to
792 enforce compliance with the provisions of the compact, its
793 bylaws, or rules of the Interstate Commission. The relief sought
794 may include both injunctive relief and damages. In the event



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795 judicial enforcement is necessary the prevailing party shall be
796 awarded all costs of such litigation including reasonable
797 attorney's fees; or

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

800

801 ARTICLE XIII. FINANCING OF THE COMMISSION

802

803 A. The Interstate Commission shall pay, or provide for the
804 payment of, the reasonable expenses of its establishment,
805 organization, and ongoing activities.

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

815 C. The Interstate Commission shall not incur obligations of
816 any kind prior to securing the funds adequate to meet the same,
817 nor shall the Interstate Commission pledge the credit of any of
818 the member states, except by and with the authority of the
819 member state.

820 D. The Interstate Commission shall keep accurate accounts
821 of all receipts and disbursements. The receipts and
822 disbursements of the Interstate Commission shall be subject to
823 the audit and accounting procedures established under its



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824 bylaws. However, all receipts and disbursements of funds handled
825 by the Interstate Commission shall be audited yearly by a
826 certified or licensed public accountant and the report of the
827 audit shall be included in and become part of the annual report
828 of the Interstate Commission.

829 ARTICLE XIV. MEMBER STATES, EFFECTIVE
830 DATE, AND AMENDMENT

831
832 A. Any state is eligible to become a member state.
833 B. The compact shall become effective and binding upon
834 legislative enactment of the compact into law by no less than 35
835 states. The effective date shall be the later of July 1, 2007,
836 or upon enactment of the compact into law by the 35th state.
837 Thereafter, it shall become effective and binding as to any
838 other member state upon enactment of the compact into law by
839 that state. The executive heads of the state human services
840 administration with ultimate responsibility for the child
841 welfare program of nonmember states or their designees shall be
842 invited to participate in the activities of the Interstate
843 Commission on a nonvoting basis prior to adoption of the compact
844 by all states.
845 C. The Interstate Commission may propose amendments to the
846 compact for enactment by the member states. No amendment shall
847 become effective and binding on the member states unless and
848 until it is enacted into law by unanimous consent of the member
849 states.

850
851 ARTICLE XV. WITHDRAWAL AND DISSOLUTION
852



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853 A. Withdrawal.

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

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

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

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

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

875 B. Dissolution of compact.

876 1. This compact shall dissolve effective upon the date of
877 the withdrawal or default of the member state which reduces the
878 membership in the compact to one member state.

879 2. Upon the dissolution of this compact, the compact
880 becomes null and void and shall be of no further force or
881 effect, and the business and affairs of the Interstate



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882 Commission shall be concluded and surplus funds shall be
883 distributed in accordance with the bylaws.

884

885 ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

886

887 A. The provisions of this compact shall be severable and if
888 any phrase, clause, sentence, or provision is deemed
889 unenforceable, the remaining provisions of the compact shall be
890 enforceable.

891 B. The provisions of this compact shall be liberally
892 construed to effectuate its purposes.

893 C. Nothing in this compact shall be construed to prohibit
894 the concurrent applicability of other interstate compacts to
895 which the states are members.

896

897 ARTICLE XVII. BINDING EFFECT OF COMPACT

898 AND OTHER LAWS

899

900 A. Other laws.

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

903 B. Binding Effect of the compact.

904 1. All lawful actions of the Interstate Commission are
905 binding upon the member states.

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

908 3. In the event any provision of this compact exceeds the
909 constitutional limits imposed on the legislature or executive
910 branch of any member state, such provision shall be ineffective



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911 to the extent of the conflict with the constitutional provision
912 in question in that member state.

913

914 ARTICLE XVIII. INDIAN TRIBES

915

916 Notwithstanding any other provision in this compact, the
917 Interstate Commission may promulgate guidelines to permit Indian
918 tribes to utilize the compact to achieve any or all of the
919 purposes of the compact as specified in Article I. The
920 Interstate Commission shall make reasonable efforts to consult
921 with Indian tribes in promulgating guidelines to reflect the
922 diverse circumstances of the various Indian tribes.

923 Section 2. Section 409.409, Florida Statutes, is created to
924 read:

925 409.409 Effect of existing compact provisions.—The
926 provisions of the existing Interstate Compact on the Placement
927 of Children, as created under s. 409.401, shall remain in effect
928 until repealed by entry into the new compact, as created under
929 s. 409.408, by the Governor as authorized by ss. 409.408-
930 409.410.

931 Section 3. Section 409.410, Florida Statutes, is created to
932 read:

933 409.410 Rulemaking authority.—Following entry into the new
934 Interstate Compact for the Placement of Children by the State of
935 Florida pursuant to ss. 409.408 and 409.409, any rules adopted
936 by the Interstate Commission shall not be binding unless also
937 adopted by the State of Florida through the rulemaking process.
938 The Department of Children and Family Services shall have
939 rulemaking authority pursuant to ss. 120.536(1) and 120.54 to



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940 implement the provisions of the Interstate Compact for the
941 Placement of Children created under s. 409.408.

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

943

944 ===== T I T L E A M E N D M E N T =====

945 And the title is amended as follows:

946 Delete everything before the enacting clause

947 and insert:

948 A bill to be entitled

949 An act relating to the Interstate Compact for the
950 Placement of Children; creating s. 409.408, F.S.;
951 authorizing the Governor to execute a new interstate
952 compact on the placement of children; specifying the
953 provisions of the compact; creating s. 409.409, F.S.;
954 providing for the present Interstate Compact on the
955 Placement of Children to remain in effect until the
956 Governor enters into the new compact; creating s.
957 409.410, F.S.; providing rulemaking authority to the
958 Department of Children and Family Services; providing
959 an effective date.