

By Senator Rich

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1 A bill to be entitled
 2 An act relating to the Interstate Compact for the
 3 Placement of Children; creating s. 409.408, F.S.;
 4 authorizing the Governor to execute a new interstate
 5 compact on the placement of children; specifying the
 6 provisions of the compact; creating s. 409.409, F.S.;
 7 providing for the present Interstate Compact on the
 8 Placement of Children to remain in effect until the
 9 Governor enters into the new compact; providing an
 10 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 to
 15 read:

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

22
 23 ARTICLE I. PURPOSE

24
 25 The purpose of this Interstate Compact for the Placement of
 26 Children is to:

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

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

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

35 D. Provide for the adoption and enforcement of
 36 administrative rules implementing this compact and regulating
 37 the covered activities of the member states.

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

40 F. Promote coordination between this compact, the
 41 Interstate Compact for Juveniles, the Interstate Compact on
 42 Adoption and Medical Assistance, and other compacts affecting
 43 the placement of and which provide services to children
 44 otherwise subject to this compact.

45 G. Provide for a state's continuing legal jurisdiction and
 46 responsibility for placement and care of a child which it would
 47 have had if the placement were intrastate.

48 H. Provide for the adoption of guidelines, in collaboration
 49 with Indian tribes, for interstate cases involving Indian
 50 children as is or may be permitted by federal law.

51
 52 ARTICLE II. DEFINITIONS

53
 54 As used in this compact, the term:

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

58 B. "Assessment" means an evaluation of a prospective

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59 placement by a public child-placing agency in the receiving
60 state to determine if the placement meets the individualized
61 needs of the child, including, but not limited to, the child's
62 safety and stability, health and well-being, and mental,
63 emotional, and physical development. An assessment is applicable
64 only to a placement by a public child-placing agency.

65 C. "Child" means a person younger than 18 years of age.

66 D. "Certification" means to attest, declare, or sworn to
67 before a judge or notary public.

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

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

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

83 H. "Interstate Commission for the Placement of Children"
84 means the commission that is created under Article VIII of this
85 compact and generally referred to as the Interstate Commission.

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

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

96 K. "Member state" means a state that has enacted this
97 compact.

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

103 M. "Nonmember state" means a state which has not enacted
104 this compact.

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

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

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

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

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

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

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

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146 U. "Residential facility" means a facility providing a
147 level of care that is sufficient to substitute for parental
148 responsibility or foster care, and is beyond what is needed for
149 assessment or treatment of an acute condition. For purposes of
150 the compact, a residential facility does not include an
151 institution primarily educational in character, hospitals, or
152 other medical facilities.

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

160 W. "Sending state" means the state from which the placement
161 of a child is initiated.

162 X. "Service member's permanent duty station" means the
163 military installation where an active duty armed services member
164 is currently assigned and is physically located under competent
165 orders that do not specify the duty as temporary.

166 Y. "Service member's state of legal residence" means the
167 state in which the active duty armed services member is
168 considered a resident for tax and voting purposes.

169 Z. "State" means a state of the United States, the District
170 of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin
171 Islands, Guam, American Samoa, the Northern Marianas Islands,
172 and any other territory of the United States.

173 AA. "State court" means a judicial body of a state that is
174 vested by law with responsibility for adjudicating cases

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175 involving abuse, neglect, deprivation, delinquency, or status
176 offenses of individuals who are younger than 18 years of age.

177 BB. "Supervision" means monitoring provided by the
178 receiving state once a child has been placed in a receiving
179 state pursuant to this compact.

180
181 ARTICLE III. APPLICABILITY
182

183 A. Except as otherwise provided in Section B, this compact
184 applies to:

185 1. The interstate placement of a child who is subject to
186 ongoing court jurisdiction in the sending state due to
187 allegations or findings that the child has been abused,
188 neglected, or deprived as defined by the laws of the sending
189 state; however, the placement of such a child into a residential
190 facility shall require notice of residential placement only to
191 the receiving state prior to placement.

192 2. The interstate placement of a child adjudicated
193 delinquent or unmanageable based on the laws of the sending
194 state and subject to ongoing court jurisdiction of the sending
195 state if:

196 a. The child is being placed in a residential facility in
197 another member state and is not covered under another compact;
198 or

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

202 3. The interstate placement of any child by a public child-
203 placing agency or private child-placing agency as a preliminary

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204 step to a possible adoption.

205 B. This compact does not apply to:

206 1. The interstate placement of a child in a custody
207 proceeding in which a public child-placing agency is not a party
208 if the placement is not intended to effectuate an adoption.

209 2. The interstate placement of a child with a nonrelative
210 in a receiving state by a parent having the legal authority to
211 make such a placement if the placement is not intended to
212 effectuate an adoption.

213 3. The interstate placement of a child by one relative
214 having the lawful authority to make such a placement directly
215 with a relative in a receiving state.

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

218 5. The placement of a child with a noncustodial parent if:

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

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

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

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

231 7. Cases in which a United States citizen child living
232 overseas with his family, at least one of whom is in the United

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233 States Armed Services, and who is stationed overseas, is removed
234 and placed in a state.

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

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

244 D. This compact does not prohibit the concurrent
245 application of this compact with other applicable interstate
246 compacts, including the Interstate Compact for Juveniles and the
247 Interstate Compact on Adoption and Medical Assistance. The
248 Interstate Commission may, in cooperation with other interstate
249 compact commissions having responsibility for the interstate
250 movement, placement or transfer of children, promulgate like
251 rules to ensure the coordination of services, timely placement
252 of children, and the reduction of unnecessary or duplicative
253 administrative or procedural requirements.

254
255 ARTICLE IV. JURISDICTION
256

257 A. Except as provided in Section G and Article V, Section
258 B, paragraphs 2. and 3. concerning private and independent
259 adoptions, and in interstate placements in which the public
260 child-placing agency is not a party to a custody proceeding, the
261 sending state shall retain jurisdiction over a child with

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262 respect to all matters of custody and disposition of the child
263 which it would have had if the child had remained in the sending
264 state. The jurisdiction shall also include the power to order
265 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, the court shall confer
268 with the court of the sending state to determine the most
269 appropriate forum for adjudication.

270 C. In accordance with its own laws, the court in the
271 sending state shall have authority to terminate its jurisdiction
272 if:

273 1. The child is reunified with the parent in the receiving
274 state who is the subject of allegations or findings of abuse or
275 neglect, only with the concurrence of the public child-placing
276 agency in the receiving state;

277 2. The child is adopted;

278 3. The child reaches the age of majority under the laws of
279 the sending state;

280 4. The child achieves legal independence pursuant to the
281 laws of the sending state;

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

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

286 7. The public child-placing agency of the sending state
287 requests termination and has obtained the concurrence of the
288 public child-placing agency in the receiving state.

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

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291 E. This article does not defeat a claim of jurisdiction by
292 a receiving state court sufficient to deal with an act of
293 truancy, delinquency, or crime or behavior involving a child as
294 defined by the laws of the receiving state committed by the
295 child in the receiving state which would be a violation of its
296 laws.

297 F. This article does not limit the receiving state's
298 ability to take emergency jurisdiction for the protection of the
299 child.

300 G. The substantive laws of the state in which an adoption
301 will be finalized shall solely govern all issues relating to the
302 adoption of the child, and the court in which the adoption
303 proceeding is filed shall have subject matter jurisdiction
304 regarding all substantive issues relating to the adoption,
305 except:

306 1. When the child is a ward of another court that
307 established jurisdiction over the child before the placement;

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

310 3. When a court in the sending state has otherwise
311 appropriately assumed jurisdiction over the child before the
312 submission of the request for approval of placement.

313 H. A final decree of adoption may not be entered in any
314 jurisdiction until the placement is authorized as an "approved
315 placement" by the public child-placing agency in the receiving
316 state.

317
318 ARTICLE V. PLACEMENT EVALUATION
319

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320 A. Before sending, bringing, or causing a child to be sent
321 or brought into a receiving state, the public child-placing
322 agency shall provide a written request for assessment to the
323 receiving state.

324 B. For placements by a private child-placing agency, a
325 child may be sent or brought, or caused to be sent or brought,
326 into a receiving state, upon receipt and immediate review of the
327 required content in a request for approval of a placement in
328 both the sending and receiving state public child-placing
329 agency. The required content to accompany a request for approval
330 shall include all of the following:

331 1. A request for approval identifying the child, the birth
332 parent or parents, the prospective adoptive parents, and the
333 supervising agency, signed by the person requesting approval;

334 2. The appropriate consents or relinquishments signed by
335 the birth parents in accordance with the laws of the sending
336 state or, where permitted, the laws of the state where the
337 adoption will be finalized;

338 3. Certification by a licensed attorney or authorized agent
339 of a private adoption agency that the consent or relinquishment
340 is in compliance with the applicable laws of the sending state
341 or, where permitted, the laws of the state where finalization of
342 the adoption will occur;

343 4. A home study; and

344 5. An acknowledgment of legal risk signed by the
345 prospective adoptive parents.

346 C. The sending state and the receiving state may request
347 additional information or documents before finalizing an
348 approved placement, but they may not delay travel by the

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349 prospective adoptive parents with the child if the required
350 content for approval has been submitted, received, and reviewed
351 by the public child-placing agency in both the sending state and
352 the receiving state.

353 D. Approval from the public child-placing agency in the
354 receiving state for a provisional or approved placement is
355 required as provided for in the rules of the Interstate
356 Commission.

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

360 F. Upon receipt of a request from the public child-placing
361 agency of the sending state, the receiving state shall initiate
362 an assessment of the proposed placement to determine its safety
363 and suitability. If the proposed placement is a placement with a
364 relative, the public child-placing agency of the sending state
365 may request a determination for a provisional placement.

366 G. The public child-placing agency in the receiving state
367 may request from the public child-placing agency or the private
368 child-placing agency in the sending state, and is entitled to
369 receive, supporting or additional information necessary to
370 complete the assessment or approve the placement.

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

375 I. For a placement by a private child-placing agency, the
376 sending state may not impose any additional requirements to
377 complete the home study which are not required by the receiving

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378 state unless the adoption is finalized in the sending state.

379 J. The Interstate Commission may develop uniform standards
380 for the assessment of the safety and suitability of interstate
381 placements.

382
383 ARTICLE VI. PLACEMENT AUTHORITY
384

385 A. Except as otherwise provided in this compact, a child
386 who is subject to this compact may not be placed into a
387 receiving state until approval for the placement is obtained.

388 B. If the public child-placing agency in the receiving
389 state does not approve the proposed placement, the child may not
390 be placed. The receiving state shall provide written
391 documentation of any such determination in accordance with the
392 rules promulgated by the Interstate Commission. Such
393 determination is not subject to judicial review in the sending
394 state.

395 C. If the proposed placement is not approved, any
396 interested party has standing to seek an administrative review
397 of the receiving state's determination.

398 1. The administrative review and any further judicial
399 review associated with the determination shall be conducted in
400 the receiving state pursuant to its applicable administrative
401 procedures.

402 2. If a determination not to approve the placement of the
403 child in the receiving state is overturned upon review, the
404 placement shall be deemed approved if all administrative or
405 judicial remedies have been exhausted or the time for such
406 remedies has passed.

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ARTICLE VII. PLACING AGENCY RESPONSIBILITY

409

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 have financial responsibility only 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. This provision does not prohibit a public child-placing agency in the sending state from entering into agreements with a licensed agency or person 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

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436 the finalization of the adoption.

437 2. Financially responsible for the child absent a
438 contractual agreement to the contrary.

439 C. The public child-placing agency in the receiving state
440 shall provide timely assessments as provided for in the rules of
441 the Interstate Commission.

442 D. The public child-placing agency in the receiving state
443 shall provide, or arrange for the provision of, supervision and
444 services for the child, including timely reports, during the
445 period of the placement.

446 E. This compact does not limit the authority of the public
447 child-placing agency in the receiving state from contracting
448 with a licensed agency or person in the receiving state for an
449 assessment or the provision of supervision or services for the
450 child or otherwise authorizing the provision of supervision or
451 services by a licensed agency during the period of placement.

452 F. Each member state shall provide for coordination among
453 its branches of government concerning the state's participation
454 in, and compliance with, the compact and Interstate Commission
455 activities through the creation of an advisory council or use of
456 an existing body or board.

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

460 H. The public child-placing agency in the sending state
461 shall oversee compliance with the provisions of the Indian Child
462 Welfare Act, 25 U.S.C. s. 1901 et seq., for placements subject
463 to the provisions of this compact prior to placement.

464 I. With the consent of the Interstate Commission, states

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465 may enter into limited agreements that facilitate the timely
466 assessment and provision of services and supervision of
467 placements under this compact.

468
469 ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF
470 CHILDREN

471
472 The member states hereby establish, by way of this compact,
473 a commission known as the "Interstate Commission for the
474 Placement of Children." The activities of the Interstate
475 Commission are the formation of public policy and are a
476 discretionary state function. The Interstate Commission shall:

477 A. Be a joint commission of the member states and shall
478 have the responsibilities, powers, and duties set forth herein,
479 and such additional powers as may be conferred upon it by
480 subsequent concurrent action of the respective legislatures of
481 the member states.

482 B. Consist of one commissioner from each member state who
483 shall be appointed by the executive head of the state human
484 services administration having ultimate responsibility for the
485 child welfare program. The appointed commissioner shall have the
486 legal authority to vote on policy related matters governed by
487 this compact binding the state.

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

490 2. A majority of the member states constitute a quorum for
491 the transaction of business, unless a larger quorum is required
492 by the bylaws of the Interstate Commission.

493 3. A representative may not delegate a vote to another

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494 member state.

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

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

502 D. Establish an executive committee which shall have the
503 authority to administer the day-to-day operations and
504 administration of the Interstate Commission. It shall not have
505 the power to engage in rulemaking.

507 ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION
508

509 The Interstate Commission shall have the following powers:

510 A. To adopt rules and take all necessary actions to effect
511 the goals, purposes, and obligations as enumerated in this
512 compact.

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

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

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

519 E. Collect standardized data concerning the interstate
520 placement of children subject to this compact as directed
521 through its rules, which shall specify the data to be collected,
522 the means of collection, and data exchange and reporting

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523 requirements.

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

526 G. To purchase and maintain insurance and bonds.

527 H. To hire or contract for services of personnel or
528 consultants as necessary to carry out its functions under the
529 compact and establish personnel qualification policies and rates
530 of compensation.

531 I. To establish and appoint committees and officers,
532 including, but not limited to, an executive committee as
533 required by Article X.

534 J. To accept any and all donations and grants of money,
535 equipment, supplies, materials, and services, and to receive,
536 use, and dispose thereof.

537 K. To lease, purchase, accept contributions or donations
538 of, or otherwise to own, hold, improve, or use any property,
539 real, personal, or mixed.

540 L. To sell, convey, mortgage, pledge, lease, exchange,
541 abandon, or otherwise dispose of any property, real, personal,
542 or mixed.

543 M. To establish a budget and make expenditures.

544 N. To adopt a seal and bylaws governing the management and
545 operation of the Interstate Commission.

546 O. To report annually to the legislatures, governors, the
547 judiciary, and state advisory councils of the member states
548 concerning the activities of the Interstate Commission during
549 the preceding year. Such reports shall also include any
550 recommendations that may have been adopted by the Interstate
551 Commission.

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552 P. To coordinate and provide education, training, and
553 public awareness regarding the interstate movement of children
554 for officials involved in such activity.

555 Q. To maintain books and records in accordance with the
556 bylaws of the Interstate Commission.

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

560 ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE
561 COMMISSION

563 A. Bylaws.

564 1. Within 12 months after the first Interstate Commission
565 meeting, the Interstate Commission shall adopt bylaws to govern
566 its conduct as may be necessary or appropriate to carry out the
567 purposes of the compact.

568 2. The Interstate Commission's bylaws and rules shall
569 establish conditions and procedures under which the Interstate
570 Commission shall make its information and official records
571 available to the public for inspection or copying. The
572 Interstate Commission may exempt from disclosure information or
573 official records to the extent they would adversely affect
574 personal privacy rights or proprietary interests.

575 B. Meetings.

576 1. The Interstate Commission shall meet at least once each
577 calendar year. The chairperson may call additional meetings and,
578 upon the request of a simple majority of the member states shall
579 call additional meetings.

580 2. Public notice shall be given by the Interstate

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581 Commission of all meetings and all meetings shall be open to the
582 public, except as set forth in the rules or as otherwise
583 provided in the compact. The Interstate Commission and its
584 committees may close a meeting, or portion thereof, if it
585 determines by two-thirds vote that an open meeting would be
586 likely to:

587 a. Relate solely to the Interstate Commission's internal
588 personnel practices and procedures;

589 b. Disclose matters specifically exempted from disclosure
590 by federal law;

591 c. Disclose financial or commercial information that is
592 privileged, proprietary, or confidential in nature;

593 d. Involve accusing a person of a crime or formally
594 censuring a person;

595 e. Disclose information of a personal nature and would
596 constitute a clearly unwarranted invasion of personal privacy or
597 physically endanger one or more persons;

598 f. Disclose investigative records compiled for law
599 enforcement purposes; or

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

602 3. For a meeting, or portion of a meeting, closed under
603 this provision, the Interstate Commission's legal counsel or
604 designee shall certify that the meeting may be closed and shall
605 reference each relevant exemption provision. The Interstate
606 Commission shall keep minutes, which shall fully and clearly
607 describe all matters discussed in a meeting and shall provide a
608 full and accurate summary of actions taken and the reasons
609 therefore, including a description of the views expressed and

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610 the record of a roll call vote. All documents considered in
611 connection with an action shall be identified in such minutes.
612 All minutes and documents of a closed meeting shall remain under
613 seal, subject to release by a majority vote of the Interstate
614 Commission or by court order.

615 4. The bylaws may provide for meetings of the Interstate
616 Commission to be conducted by telecommunication or other
617 electronic communication.

618 C. Officers and staff.

619 1. The Interstate Commission may, through its executive
620 committee, appoint or retain a staff director for such period,
621 upon such terms and conditions, and for such compensation as the
622 Interstate Commission may deem appropriate. The staff director
623 shall serve as secretary to the Interstate Commission, but shall
624 not have a vote. The staff director may hire and supervise such
625 other staff as may be authorized by the Interstate Commission.

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

630 D. Qualified immunity, defense, and indemnification.

631 1. The Interstate Commission's staff director and its
632 employees shall be immune from suit and liability, either
633 personally or in their official capacity, for a claim for damage
634 to or loss of property or personal injury or other civil
635 liability caused or arising out of or relating to an actual or
636 alleged act, error, or omission that occurred, or that such
637 person had a reasonable basis for believing occurred within the
638 scope of commission employment, duties, or responsibilities;

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639 however, the person shall not be protected from suit or
640 liability for damage, loss, injury, or liability caused by a
641 criminal act or the intentional or willful and wanton misconduct
642 of such person.

643 a. The liability of the Interstate Commission's staff
644 director and employees or Interstate Commission representatives,
645 acting within the scope of such person's employment or duties,
646 for acts, errors, or omissions occurring within such person's
647 state may not exceed the limits of liability set forth under the
648 constitution and laws of that state for state officials,
649 employees, and agents. The Interstate Commission is considered
650 to be an instrumentality of the states for the purposes of any
651 such action. This subsection does not protect a person from suit
652 or liability for damage, loss, injury, or liability caused by a
653 criminal act or the intentional or willful and wanton misconduct
654 of the person.

655 b. The Interstate Commission shall defend the staff
656 director and its employees and, subject to the approval of the
657 Attorney General or other appropriate legal counsel of the
658 member state, shall defend the commissioner of a member state in
659 a civil action seeking to impose liability arising out of an
660 actual or alleged act, error, or omission that occurred within
661 the scope of Interstate Commission employment, duties, or
662 responsibilities, or that the defendant had a reasonable basis
663 for believing occurred within the scope of Interstate Commission
664 employment, duties, or responsibilities, if the actual or
665 alleged act, error, or omission did not result from intentional
666 or willful and wanton misconduct on the part of such person.

667 c. To the extent not covered by the state involved, member

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668 state, or the Interstate Commission, the representatives or
669 employees of the Interstate Commission shall be held harmless in
670 the amount of a settlement or judgment, including attorney's
671 fees and costs, obtained against the person arising out of an
672 actual or alleged act, error, or omission that occurred within
673 the scope of Interstate Commission employment, duties, or
674 responsibilities, or that the person had a reasonable basis for
675 believing occurred within the scope of Interstate Commission
676 employment, duties, or responsibilities, if the actual or
677 alleged act, error, or omission did not result from intentional
678 or willful and wanton misconduct on the part of such persons.

679

680 ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

681

682 A. The Interstate Commission shall adopt and publish rules
683 in order to effectively and efficiently achieve the purposes of
684 the compact.

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

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697 C. When adopting a rule, the Interstate Commission shall,
698 at a minimum:

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

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

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

707 D. Rules adopted by the Interstate Commission shall have
708 the force and effect of administrative rules and shall be
709 binding in the compacting states to the extent and in the manner
710 provided for in this compact.

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

719 F. If a majority of the legislatures of the member states
720 reject a rule, those states may by enactment of a statute or
721 resolution in the same manner used to adopt the compact cause
722 that such rule shall have no further force and effect in any
723 member state.

724 G. The existing rules governing the operation of the
725 Interstate Compact on the Placement of Children superseded by

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726 this act shall be null and void no less than 12 months, but no
727 more than 24 months after the first meeting of the Interstate
728 Commission created hereunder, as determined by the members
729 during the first meeting.

730 H. Within the first 12 months of operation, the Interstate
731 Commission shall adopt rules addressing the following:

732 1. Transition rules.

733 2. Forms and procedures.

734 3. Time lines.

735 4. Data collection and reporting.

736 5. Rulemaking.

737 6. Visitation.

738 7. Progress reports and supervision.

739 8. Sharing of information and confidentiality.

740 9. Financing of the Interstate Commission.

741 10. Mediation, arbitration, and dispute resolution.

742 11. Education, training, and technical assistance.

743 12. Enforcement.

744 13. Coordination with other interstate compacts.

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

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

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

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

752 c. Meet a deadline for the adoption of an administrative
753 rule required by federal law.

754 2. An emergency rule shall become effective immediately

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755 upon adoption, and the usual rulemaking procedures provided
756 hereunder shall be retroactively applied to said rule as soon as
757 reasonably possible, but no later than 90 days after the
758 effective date of the emergency rule.

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

761
762 ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT
763

764 A. Oversight.

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

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

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

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

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784 classified, void as to the Interstate Commission, this compact,
785 its bylaws, or rules of the Interstate Commission.

786 B. Dispute resolution.

787 1. The Interstate Commission shall attempt, upon the
788 request of a member state, to resolve disputes that are subject
789 to the compact and that arise among member states and between
790 member and nonmember states.

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

796 C. Enforcement.

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

801 a. Provide remedial training and specific technical
802 assistance;

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

807 c. By majority vote of the members, initiate against a
808 defaulting member state legal action in the United State
809 District Court for the District of Columbia or, at the
810 discretion of the Interstate Commission, in the federal district
811 where the Interstate Commission has its principal office, to
812 enforce compliance with the provisions of the compact, its

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813 bylaws, or rules. The relief sought may include both injunctive
814 relief and damages. In the event judicial enforcement is
815 necessary, the prevailing party shall be awarded all costs of
816 such litigation including reasonable attorney's fees; or
817 d. Avail itself of any other remedies available under state
818 law or the regulation of official or professional conduct.

819
820 ARTICLE XIII. FINANCING OF THE COMMISSION

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

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

834 C. The Interstate Commission may not incur obligations of
835 any kind before securing the funds adequate to meet the
836 obligation. The Interstate Commission may not pledge the credit
837 of any of the member states, except by and with the authority of
838 the member state.

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

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

848

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

850

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

852 B. The compact shall become effective and binding upon
853 legislative enactment of the compact into law by no less than 35
854 states. The effective date shall be the later of July 1, 2009,
855 or upon enactment of the compact into law by the 35th state.
856 Thereafter, it shall become effective and binding as to any
857 other member state upon enactment of the compact into law by
858 that state. The executive heads of the state human services
859 administration having ultimate responsibility for the child
860 welfare program of nonmember states or their designees shall be
861 invited to participate in the activities of the Interstate
862 Commission on a nonvoting basis before adoption of the compact
863 by all states.

864 C. The Interstate Commission may propose amendments to the
865 compact for enactment by the member states. An amendment does
866 not become effective and binding on the member states unless and
867 until it is enacted into law by unanimous consent of the member
868 states.

869

870 ARTICLE XV. WITHDRAWAL AND DISSOLUTION

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872 A. Withdrawal.

873 1. Once effective, the compact shall continue in force and
874 remain binding upon each member state; however, a member state
875 may withdraw from the compact by specifically repealing the
876 statute that enacted the compact into law.

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

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

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

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

894 B. Dissolution of Compact.

895 1. This compact shall dissolve effective upon the date of
896 the withdrawal or default of the member state which reduces the
897 membership in the compact to one member state.

898 2. Upon the dissolution of this compact, the compact
899 becomes null and void and shall be of no further force or

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900 effect, and the business and affairs of the Interstate
901 Commission shall be concluded and surplus funds shall be
902 distributed in accordance with the bylaws.

903
904 ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

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

910 B. This compact shall be liberally construed to effectuate
911 its purposes.

912 C. This compact does not prohibit the concurrent
913 applicability of other interstate compacts to which the states
914 are members.

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

917
918 A. Other Laws.

919 1. This compact does not prevent the enforcement of any
920 other law of a member state which is not inconsistent with this
921 compact.

922 B. Binding Effect of the Compact.

923 1. All lawful actions of the Interstate Commission,
924 including all rules and bylaws adopted by the Interstate
925 Commission, are binding upon the member states.

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

928 3. If any provision of this compact exceeds the

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929 constitutional limits imposed on the legislature of any member
930 state, the provision is ineffective to the extent of the
931 conflict with the constitutional provision in question in that
932 member state.

934 ARTICLE XVIII. INDIAN TRIBES

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

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

945 409.409 The provisions of the existing Interstate Compact
946 on the Placement of Children, s. 409.401, shall remain in effect
947 until superseded by entry into the new compact by the Governor
948 as authorized by law.

949 Section 3. This act shall take effect July 1, 2009.