

By the Committee on Children, Families, and Elder Affairs; and
Senator Rich

586-03463-09

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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; creating s.
10 409.410, F.S.; providing rulemaking authority to the
11 Department of Children and Family Services; providing
12 an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Section 409.408, Florida Statutes, is created to
17 read:

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

24
25 INTERSTATE COMPACT
26 FOR THE PLACEMENT OF CHILDREN

27
28 ARTICLE I. PURPOSE
29

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

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

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

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

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

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

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

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

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

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57 ARTICLE II. DEFINITIONS
58

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59 As used in this compact:

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

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

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

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

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

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

83 G. "Indian tribe" means any Indian tribe, band, nation, or
84 other organized group or community of Indians recognized as
85 eligible for services provided to Indians by the Secretary of
86 the Interior because of their status as Indians, including any
87 Alaskan native village as defined in section 3(c) of the Alaska

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88 Native Claims Settlement Act, 43 U.S.C. s. 1602(c).

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

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

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

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

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

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

112 N. "Notice of residential placement" means information
113 regarding a placement into a residential facility provided to
114 the receiving state, including, but not limited to, the name,
115 date and place of birth of the child, the identity and address
116 of the parent or legal guardian, evidence of authority to make

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117 the placement, and the name and address of the facility in which
118 the child will be placed. Notice of residential placement shall
119 also include information regarding a discharge and any
120 unauthorized absence from the facility.

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

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

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

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

145 S. "Receiving state" means the state to which a child is

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146 sent, brought, or caused to be sent or brought.

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

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

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

167 W. "Sending state" means the state from which the placement
168 of a child is initiated.

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

173 Y. "Service member's state of legal residence" means the
174 state in which the active duty Armed Services member is

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175 considered a resident for tax and voting purposes.

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

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

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

187
188 ARTICLE III. APPLICABILITY
189

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

192 1. The interstate placement of a child subject to ongoing
193 court jurisdiction in the sending state, due to allegations or
194 findings that the child has been abused, neglected, or deprived
195 as defined by the laws of the sending state; provided, however,
196 that the placement of such a child into a residential facility
197 shall only require notice of residential placement to the
198 receiving state prior to placement.

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

203 a. The child is being placed in a residential facility in

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204 another member state and is not covered under another compact;
205 or

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

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

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

213 1. The interstate placement of a child in a custody
214 proceeding in which a public child placing agency is not a
215 party, provided, the placement is not intended to effectuate an
216 adoption.

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

221 3. The interstate placement of a child by one relative with
222 the lawful authority to make such a placement directly with a
223 relative in a receiving state.

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

226 5. The placement of a child with a noncustodial parent
227 provided that:

228 a. The noncustodial parent proves to the satisfaction of a
229 court in the sending state a substantial relationship with the
230 child;

231 b. The court in the sending state makes a written finding
232 that placement with the noncustodial parent is in the best

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233 interests of the child; and

234 c. The court in the sending state dismisses its
235 jurisdiction in interstate placements in which the public child
236 placing agency is a party to the proceeding.

237 6. A child entering the United States from a foreign
238 country for the purpose of adoption or leaving the United States
239 to go to a foreign country for the purpose of adoption in that
240 country.

241 7. Cases in which a United States citizen child living
242 overseas with his family, at least one of whom is in the United
243 States Armed Services, and who is stationed overseas, is removed
244 and placed in a state.

245 8. The sending of a child by a public child placing agency
246 or a private child placing agency for a visit as defined by the
247 rules of the Interstate Commission.

248 C. For purposes of determining the applicability of this
249 compact to the placement of a child with a family in the United
250 States Armed Services, the public child placing agency or
251 private child placing agency may choose the state of the service
252 member's permanent duty station or the service member's declared
253 legal residence.

254 D. Nothing in this compact shall be construed to prohibit
255 the concurrent application of the provisions of this compact
256 with other applicable interstate compacts, including the
257 Interstate Compact for Juveniles and the Interstate Compact on
258 Adoption and Medical Assistance. The Interstate Commission may,
259 in cooperation with other interstate compact commissions having
260 responsibility for the interstate movement, placement or
261 transfer of children, promulgate like rules to ensure the

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262 coordination of services, timely placement of children, and the
263 reduction of unnecessary or duplicative administrative or
264 procedural requirements.

265
266 ARTICLE IV. JURISDICTION
267

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

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

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

290 D. In accordance with its own laws, the court in the

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291 sending state shall have authority to terminate its jurisdiction
292 if:

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

297 2. The child is adopted;

298 3. The child reaches the age of majority under the laws of
299 the sending state;

300 4. The child achieves legal independence pursuant to the
301 laws of the sending state;

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

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

306 7. The public child placing agency of the sending state
307 requests termination and has obtained the concurrence of the
308 public child placing agency in the receiving state.

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

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

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

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

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

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

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

333 I. A final decree of adoption shall not be entered in any
334 jurisdiction until the placement is authorized as an "approved
335 placement" by the public child placing agency in the receiving
336 state.

337
338 ARTICLE V. PLACEMENT EVALUATION
339

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

344 B. For placements by a private child placing agency, a
345 child may be sent or brought, or caused to be sent or brought,
346 into a receiving state, upon receipt and immediate review of the
347 required content in a request for approval of a placement in
348 both the sending and receiving state public child placing

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349 agency. The required content to accompany a request for approval
350 shall include all of the following:

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

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

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

363 4. A home study.

364 5. An acknowledgment of legal risk signed by the
365 prospective adoptive parents.

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

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

377 E. The procedures for making and the request for an

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378 assessment shall contain all information and be in such form as
379 provided for in the rules of the Interstate Commission.

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

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

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

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

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

402

403 ARTICLE VI. PLACEMENT AUTHORITY

404

405 A. Except as otherwise provided in this compact, no child
406 subject to this compact shall be placed into a receiving state

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407 until approval for such placement is obtained.

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

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

418 1. The administrative review and any further judicial
419 review associated with the determination shall be conducted in
420 the receiving state pursuant to its applicable Administrative
421 Procedures Act.

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

427
428 ARTICLE VII. PLACING AGENCY RESPONSIBILITY
429

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

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

434 a. The ongoing support and maintenance for the child during
435 the period of the placement, unless otherwise provided for in

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436 the receiving state; and

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

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

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

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

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

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

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

457 2. Financially responsible for the child absent a
458 contractual agreement to the contrary.

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

462 D. The public child placing agency in the receiving state
463 shall provide, or arrange for the provision of, supervision and
464 services for the child, including timely reports, during the

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465 period of the placement.

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

473 F. Each member state shall provide for coordination among
474 its branches of government concerning the state's participation
475 in, and compliance with, the compact and Interstate Commission
476 activities, through the creation of an advisory council or use
477 of an existing body or board.

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

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

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

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

493 The member states hereby establish, by way of this compact,

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494 a commission known as the "Interstate Commission for the
495 Placement of Children." The activities of the Interstate
496 Commission are the formation of public policy and are a
497 discretionary state function. The Interstate Commission shall:

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

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

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

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

514 3. A representative shall not delegate a vote to another
515 member state.

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

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

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523 D. Establish an executive committee which shall have the
524 authority to administer the day-to-day operations and
525 administration of the Interstate Commission. It shall not have
526 the power to engage in rulemaking.

527
528 ARTICLE IX. POWERS AND DUTIES OF
529 THE INTERSTATE COMMISSION

530
531 The Interstate Commission shall have the following powers:

532 A. To promulgate rules and take all necessary actions to
533 effect the goals, purposes and obligations as enumerated in this
534 compact.

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

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

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

541 E. Collect standardized data concerning the interstate
542 placement of children subject to this compact as directed
543 through its rules, which shall specify the data to be collected,
544 the means of collection and data exchange, and reporting
545 requirements.

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

548 G. To purchase and maintain insurance and bonds.

549 H. To hire or contract for services of personnel or
550 consultants as necessary to carry out its functions under the
551 compact and establish personnel qualification policies, and

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552 rates of compensation.

553 I. To establish and appoint committees and officers,
554 including, but not limited to, an executive committee as
555 required by Article X.

556 J. To accept any and all donations and grants of money,
557 equipment, supplies, materials, and services, and to receive,
558 utilize, and dispose thereof.

559 K. To lease, purchase, accept contributions or donations
560 of, or otherwise to own, hold, improve, or use any property,
561 real, personal, or mixed.

562 L. To sell, convey, mortgage, pledge, lease, exchange,
563 abandon, or otherwise dispose of any property, real, personal,
564 or mixed.

565 M. To establish a budget and make expenditures.

566 N. To adopt a seal and bylaws governing the management and
567 operation of the Interstate Commission.

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

574 P. To coordinate and provide education, training, and
575 public awareness regarding the interstate movement of children
576 for officials involved in such activity.

577 Q. To maintain books and records in accordance with the
578 bylaws of the Interstate Commission.

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

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582 ARTICLE X. ORGANIZATION AND OPERATION
583 OF THE INTERSTATE COMMISSION
584

585 A. Organization.

586 1. Within 12 months after the first Interstate Commission
587 meeting, the Interstate Commission shall adopt rules to govern
588 its conduct as may be necessary or appropriate to carry out the
589 purposes of the compact.

590 2. The Interstate Commission's rules shall establish
591 conditions and procedures under which the Interstate Commission
592 shall make its information and official records available to the
593 public for inspection or copying.

594 B. Meetings.

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

599 2. Public notice shall be given by the Interstate
600 Commission of all meetings and all meetings shall be open to the
601 public.

602 3. The commission may provide for meetings of the
603 Interstate Commission to be conducted by telecommunication or
604 other electronic communication.

605 C. Officers and staff.

606 1. The Interstate Commission may, through its executive
607 committee, appoint or retain a staff director for such period,
608 upon such terms and conditions and for such compensation as the
609 Interstate Commission may deem appropriate. The staff director

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610 shall serve as secretary to the Interstate Commission but shall
611 not have a vote. The staff director may hire and supervise such
612 other staff as may be authorized by the Interstate Commission.

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

617 D. Qualified immunity, defense and indemnification.

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

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

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

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

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

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ARTICLE XI. RULEMAKING FUNCTIONS
OF THE INTERSTATE COMMISSION

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

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

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

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

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

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

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697 D. Rules promulgated by the Interstate Commission shall
698 have the force and effect of administrative rules and shall be
699 binding in the compacting states to the extent and in the manner
700 provided for in this compact.

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

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

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

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

- 722 1. Transition rules.
723 2. Forms and procedures.
724 3. Time lines.
725 4. Data collection and reporting.

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

ARTICLE XII. OVERSIGHT, DISPUTE
RESOLUTION, AND ENFORCEMENT

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755 A. Oversight.

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

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

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

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

777 B. Dispute resolution.

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

782 2. The Interstate Commission shall promulgate a rule
783 providing for both mediation and binding dispute resolution for

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784 disputes among compacting states. The costs of such mediation or
785 dispute resolution shall be the responsibility of the parties to
786 the dispute.

787 C. Enforcement.

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

792 a. Provide remedial training and specific technical
793 assistance;

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

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

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

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812 ARTICLE XIII. FINANCING OF THE COMMISSION

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814 A. The Interstate Commission shall pay, or provide for the
815 payment of, the reasonable expenses of its establishment,
816 organization, and ongoing activities.

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

826 C. The Interstate Commission shall not incur obligations of
827 any kind prior to securing the funds adequate to meet the same,
828 nor shall the Interstate Commission pledge the credit of any of
829 the member states, except by and with the authority of the
830 member state.

831 D. The Interstate Commission shall keep accurate accounts
832 of all receipts and disbursements. The receipts and
833 disbursements of the Interstate Commission shall be subject to
834 the audit and accounting procedures established under its
835 bylaws. However, all receipts and disbursements of funds handled
836 by the Interstate Commission shall be audited yearly by a
837 certified or licensed public accountant and the report of the
838 audit shall be included in and become part of the annual report
839 of the Interstate Commission.

840 ARTICLE XIV. MEMBER STATES, EFFECTIVE
841 DATE, AND AMENDMENT

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

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

856 C. The Interstate Commission may propose amendments to the
857 compact for enactment by the member states. No amendment shall
858 become effective and binding on the member states unless and
859 until it is enacted into law by unanimous consent of the member
860 states.

861

862 ARTICLE XV. WITHDRAWAL AND DISSOLUTION

863

864 A. Withdrawal.

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

869 2. Withdrawal from this compact shall be by the enactment
870 of a statute repealing the same. The effective date of

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871 withdrawal shall be the effective date of the repeal of the
872 statute.

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

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

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

886 B. Dissolution of compact.

887 1. This compact shall dissolve effective upon the date of
888 the withdrawal or default of the member state which reduces the
889 membership in the compact to one member state.

890 2. Upon the dissolution of this compact, the compact
891 becomes null and void and shall be of no further force or
892 effect, and the business and affairs of the Interstate
893 Commission shall be concluded and surplus funds shall be
894 distributed in accordance with the bylaws.

895

896 ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

897

898 A. The provisions of this compact shall be severable and if
899 any phrase, clause, sentence, or provision is deemed

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900 unenforceable, the remaining provisions of the compact shall be
901 enforceable.

902 B. The provisions of this compact shall be liberally
903 construed to effectuate its purposes.

904 C. Nothing in this compact shall be construed to prohibit
905 the concurrent applicability of other interstate compacts to
906 which the states are members.

907

908 ARTICLE XVII. BINDING EFFECT OF COMPACT

909 AND OTHER LAWS

910

911 A. Other laws.

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

914 B. Binding Effect of the compact.

915 1. All lawful actions of the Interstate Commission are
916 binding upon the member states.

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

919 3. In the event any provision of this compact exceeds the
920 constitutional limits imposed on the legislature or executive
921 branch of any member state, such provision shall be ineffective
922 to the extent of the conflict with the constitutional provision
923 in question in that member state.

924

925 ARTICLE XVIII. INDIAN TRIBES

926

927 Notwithstanding any other provision in this compact, the
928 Interstate Commission may promulgate guidelines to permit Indian

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929 tribes to utilize the compact to achieve any or all of the
930 purposes of the compact as specified in Article I. The
931 Interstate Commission shall make reasonable efforts to consult
932 with Indian tribes in promulgating guidelines to reflect the
933 diverse circumstances of the various Indian tribes.

934 Section 2. Section 409.409, Florida Statutes, is created to
935 read:

936 409.409 Effect of existing compact provisions.—The
937 provisions of the existing Interstate Compact on the Placement
938 of Children, as created under s. 409.401, shall remain in effect
939 until repealed by entry into the new compact, as created under
940 s. 409.408, by the Governor as authorized by ss. 409.408-
941 409.410.

942 Section 3. Section 409.410, Florida Statutes, is created to
943 read:

944 409.410 Rulemaking authority.—Following entry into the new
945 Interstate Compact for the Placement of Children by the State of
946 Florida pursuant to ss. 409.408 and 409.409, any rules adopted
947 by the Interstate Commission shall not be binding unless also
948 adopted by the State of Florida through the rulemaking process.
949 The Department of Children and Family Services shall have
950 rulemaking authority pursuant to ss. 120.536(1) and 120.54 to
951 implement the provisions of the Interstate Compact for the
952 Placement of Children created under s. 409.408.

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