



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB0090

Introduced 1/12/2011, by Rep. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

New Act
45 ILCS 15/Act rep.

Creates the Interstate Compact for the Placement of Children Act of 2011. Provides that Illinois enters into the Compact. The purpose of the Compact is to provide a process through which children who are abused, neglected, or deprived or who have been adjudicated delinquent or unmanageable are placed in safe and suitable homes in a timely manner. The further purpose of the Compact is to facilitate supervision of interstate placement of those children, delivery of services, and communication. The Compact creates the Interstate Commission for the Placement of Children. The Compact provides that the Commission shall oversee the administration and operation of the Compact and that the executive, legislative, and judicial branches of state government in each member state shall enforce the Compact and the rules of the Interstate Commission and shall take all actions necessary and appropriate to effectuate the Compact's purposes and intent. Repeals the Interstate Compact for the Placement of Children Act.

LRB097 00169 HLH 40184 b

1 AN ACT concerning placement of children.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Interstate Compact for the Placement of Children Act of 2011.

6 Section 5. Interstate Compact for the Placement of
7 Children. The State of Illinois enters into the Interstate
8 Compact for the Placement of Children in substantially the
9 following form with all other states joining the Compact:

10 ARTICLE I. PURPOSE

11 The purpose of this Interstate Compact for the Placement of
12 Children is to:

13 A. Provide a process through which children subject to this
14 compact are placed in safe and suitable homes in a timely
15 manner.

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

18 C. Provide operating procedures that will ensure that
19 children are placed in safe and suitable homes in a timely
20 manner.

21 D. Provide for the promulgation and enforcement of
22 administrative rules implementing the provisions of this
23 compact and regulating the covered activities of the member

1 states.

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

4 F. Promote coordination between this compact, the
5 Interstate Compact for Juveniles, the Interstate Compact on
6 Adoption and Medical Assistance and other compacts affecting
7 the placement of and which provide services to children
8 otherwise subject to this compact.

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

12 H. Provide for the promulgation of guidelines, in
13 collaboration with Indian tribes, for interstate cases
14 involving Indian children as is or may be permitted by federal
15 law.

16 ARTICLE II. DEFINITIONS

17 As used in this compact,

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

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

1 applicable to a placement by a public child placing agency.

2 C. "Child" means an individual who has not attained the age
3 of eighteen (18).

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

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

9 F. "Home Study" means an evaluation of a home environment
10 conducted in accordance with the applicable requirements of the
11 state in which the home is located, and documents the
12 preparation and the suitability of the placement resource for
13 placement of a child in accordance with the laws and
14 requirements of the state in which the home is located.

15 G. "Indian tribe" means any Indian tribe, band, nation, or
16 other organized group or community of Indians recognized as
17 eligible for services provided to Indians by the Secretary of
18 the Interior because of their status as Indians, including any
19 Alaskan native village as defined in section 3 (c) of the
20 Alaska Native Claims settlement Act at 43 USC §1602(c).

21 H. "Interstate Commission for the Placement of Children"
22 means the commission that is created under Article VIII of this
23 compact and which is generally referred to as the Interstate
24 Commission.

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

1 J. "Legal Risk Placement" ("Legal Risk Adoption") means a
2 placement made preliminary to an adoption where the prospective
3 adoptive parents acknowledge in writing that a child can be
4 ordered returned to the sending state or the birth mother's
5 state of residence, if different from the sending state, and a
6 final decree of adoption shall not be entered in any
7 jurisdiction until all required consents are obtained or are
8 dispensed with in accordance with applicable law.

9 K. "Member state" means a state that has enacted this
10 compact.

11 L. "Non-custodial parent" means a person who, at the time
12 of the commencement of court proceedings in the sending state,
13 does not have sole legal custody of the child or has joint
14 legal custody of a child, and who is not the subject of
15 allegations or findings of child abuse or neglect.

16 M. "Non-member state" means a state which has not enacted
17 this compact.

18 N. "Notice of residential placement" means information
19 regarding a placement into a residential facility provided to
20 the receiving state including, but not limited to the name,
21 date and place of birth of the child, the identity and address
22 of the parent or legal guardian, evidence of authority to make
23 the placement, and the name and address of the facility in
24 which the child will be placed. Notice of residential placement
25 shall also include information regarding a discharge and any
26 unauthorized absence from the facility.

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

4 P. "Private child placing agency" means any private
5 corporation, agency, foundation, institution, or charitable
6 organization, or any private person or attorney that
7 facilitates, causes, or is involved in the placement of a child
8 from one state to another and that is not an instrumentality of
9 the state or acting under color of state law.

10 Q. "Provisional placement" means a determination made by
11 the public child placing agency in the receiving state that the
12 proposed placement is safe and suitable, and, to the extent
13 allowable, the receiving state has temporarily waived its
14 standards or requirements otherwise applicable to prospective
15 foster or adoptive parents so as to not delay the placement.
16 Completion of the receiving state requirements regarding
17 training for prospective foster or adoptive parents shall not
18 delay an otherwise safe and suitable placement.

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

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

1 T. "Relative" means someone who is related to the child as
2 a parent, step-parent, sibling by half or whole blood or by
3 adoption, grandparent, aunt, uncle, or first cousin or a
4 non-relative with such significant ties to the child that they
5 may be regarded as relatives as determined by the court in the
6 sending state.

7 U. "Residential Facility" means a facility providing a
8 level of care that is sufficient to substitute for parental
9 responsibility or foster care, and is beyond what is needed for
10 assessment or treatment of an acute condition. For purposes of
11 the compact, residential facilities do not include
12 institutions primarily educational in character, hospitals or
13 other medical facilities.

14 V. "Rule" means a written directive, mandate, standard or
15 principle issued by the Interstate Commission promulgated
16 pursuant to Article XI of this compact that is of general
17 applicability and that implements, interprets or prescribes a
18 policy or provision of the compact. "Rule" has the force and
19 effect of an administrative rule in a member state, and
20 includes the amendment, repeal, or suspension of an existing
21 rule.

22 W. "Sending state" means the state from which the placement
23 of a child is initiated.

24 X. "Service member's permanent duty station" means the
25 military installation where an active duty Armed Services
26 member is currently assigned and is physically located under

1 competent orders that do not specify the duty as temporary.

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

5 Z. "State" means a state of the United States, the District
6 of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin
7 Islands, Guam, American Samoa, the Northern Marianas Islands
8 and any other territory of the United States.

9 AA. "State court" means a judicial body of a state that is
10 vested by law with responsibility for adjudicating cases
11 involving abuse, neglect, deprivation, delinquency or status
12 offenses of individuals who have not attained the age of
13 eighteen (18).

14 BB. "Supervision" means monitoring provided by the
15 receiving state once a child has been placed in a receiving
16 state pursuant to this compact.

17 ARTICLE III. APPLICABILITY

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

20 1. The interstate placement of a child subject to ongoing
21 court jurisdiction in the sending state, due to allegations or
22 findings that the child has been abused, neglected, or deprived
23 as defined by the laws of the sending state, provided, however,
24 that the placement of such a child into a residential facility
25 shall only require notice of residential placement to the
26 receiving state prior to placement.

1 2. The interstate placement of a child adjudicated
2 delinquent or unmanageable based on the laws of the sending
3 state and subject to ongoing court jurisdiction of the sending
4 state if:

5 a. the child is being placed in a residential facility in
6 another member state and is not covered under another compact;
7 or

8 b. the child is being placed in another member state and
9 the determination of safety and suitability of the placement
10 and services required is not provided through another compact.

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

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

15 1. The interstate placement of a child in a custody
16 proceeding in which a public child placing agency is not a
17 party, provided, the placement is not intended to effectuate an
18 adoption.

19 2. The interstate placement of a child with a non-relative
20 in a receiving state by a parent with the legal authority to
21 make such a placement provided, however, that the placement is
22 not intended to effectuate an adoption.

23 3. The interstate placement of a child by one relative with
24 the lawful authority to make such a placement directly with a
25 relative in a receiving state.

26 4. The placement of a child, not subject to Article III,

1 Section A, into a residential facility by his parent.

2 5. The placement of a child with a non-custodial parent
3 provided that:

4 a. The non-custodial parent proves to the satisfaction of a
5 court in the sending state a substantial relationship with the
6 child; and

7 b. The court in the sending state makes a written finding
8 that placement with the non-custodial parent is in the best
9 interests of the child; and

10 c. The court in the sending state dismisses its
11 jurisdiction in interstate placements in which the public child
12 placing agency is a party to the proceeding.

13 6. A child entering the United States from a foreign
14 country for the purpose of adoption or leaving the United
15 States to go to a foreign country for the purpose of adoption
16 in that country.

17 7. Cases in which a U.S. citizen child living overseas with
18 his family, at least one of whom is in the U.S. Armed Services,
19 and who is stationed overseas, is removed and placed in a
20 state.

21 8. The sending of a child by a public child placing agency
22 or a private child placing agency for a visit as defined by the
23 rules of the Interstate Commission.

24 C. For purposes of determining the applicability of this
25 compact to the placement of a child with a family in the Armed
26 Services, the public child placing agency or private child

1 placing agency may choose the state of the service member's
2 permanent duty station or the service member's declared legal
3 residence.

4 D. Nothing in this compact shall be construed to prohibit
5 the concurrent application of the provisions of this compact
6 with other applicable interstate compacts including the
7 Interstate Compact for Juveniles and the Interstate Compact on
8 Adoption and Medical Assistance. The Interstate Commission may
9 in cooperation with other interstate compact commissions
10 having responsibility for the interstate movement, placement
11 or transfer of children, promulgate like rules to ensure the
12 coordination of services, timely placement of children, and the
13 reduction of unnecessary or duplicative administrative or
14 procedural requirements.

15 ARTICLE IV. JURISDICTION

16 A. Except as provided in Article IV, Section H and Article
17 V, Section B, paragraph two and three concerning private and
18 independent adoptions, and in interstate placements in which
19 the public child placing agency is not a party to a custody
20 proceeding, the sending state shall retain jurisdiction over a
21 child with respect to all matters of custody and disposition of
22 the child which it would have had if the child had remained in
23 the sending state. Such jurisdiction shall also include the
24 power to order the return of the child to the sending state.

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

1 with the court of the sending state to determine the most
2 appropriate forum for adjudication.

3 C. In cases that are before courts and subject to this
4 compact, the taking of testimony for hearings before any
5 judicial officer may occur in person or by telephone,
6 audio-video conference, or such other means as approved by the
7 rules of the Interstate Commission; and Judicial officers may
8 communicate with other judicial officers and persons involved
9 in the interstate process as may be permitted by their Canons
10 of Judicial Conduct and any rules promulgated by the Interstate
11 Commission.

12 D. In accordance with its own laws, the court in the
13 sending state shall have authority to terminate its
14 jurisdiction if:

15 1. The child is reunified with the parent in the receiving
16 state who is the subject of allegations or findings of abuse or
17 neglect, only with the concurrence of the public child placing
18 agency in the receiving state; or

19 2. The child is adopted; or

20 3. The child reaches the age of majority under the laws of
21 the sending state; or

22 4. The child achieves legal independence pursuant to the
23 laws of the sending state; or

24 5. A guardianship is created by a court in the receiving
25 state with the concurrence of the court in the sending state;
26 or

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

3 7. The public child placing agency of the sending state
4 requests termination and has obtained the concurrence of the
5 public child placing agency in the receiving the state.

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

8 F. Nothing in this article shall defeat a claim of
9 jurisdiction by a receiving state court sufficient to deal with
10 an act of truancy, delinquency, crime or behavior involving a
11 child as defined by the laws of the receiving state committed
12 by the child in the receiving state which would be a violation
13 of its laws.

14 G. Nothing in this article shall limit the receiving
15 state's ability to take emergency jurisdiction for the
16 protection of the child.

17 H. The substantive laws of the state in which an adoption
18 will be finalized shall solely govern all issues relating to
19 the adoption of the child and the court in which the adoption
20 proceeding is filed shall have subject matter jurisdiction
21 regarding all substantive issues relating to the adoption,
22 except:

23 1. when the child is a ward of another court that
24 established jurisdiction over the child prior to the placement;
25 or

26 2. when the child is in the legal custody of a public

1 agency in the sending state; or

2 3. when a court in the sending state has otherwise
3 appropriately assumed jurisdiction over the child, prior to the
4 submission of the request for approval of placement.

5 I. A final decree of adoption shall not be entered in any
6 jurisdiction until the placement is authorized as an "approved
7 placement" by the public child placing agency in the receiving
8 state.

9 ARTICLE V. PLACEMENT EVALUATION

10 A. Prior to sending, bringing, or causing a child to be
11 sent or brought into a receiving state, the public child
12 placing agency shall provide a written request for assessment
13 to the receiving state.

14 B. For placements by a private child placing agency, a
15 child may be sent or brought, or caused to be sent or brought,
16 into a receiving state, upon receipt and immediate review of
17 the required content in a request for approval of a placement
18 in both the sending and receiving state public child placing
19 agency. The required content to accompany a request for
20 approval shall include all of the following:

21 1. A request for approval identifying the child, birth
22 parent(s), the prospective adoptive parent(s), and the
23 supervising agency, signed by the person requesting approval;
24 and

25 2. The appropriate consents or relinquishments signed by
26 the birth-parents in accordance with the laws of the sending

1 state, or where permitted the laws of the state where the
2 adoption will be finalized; and

3 3. Certification by a licensed attorney or authorized agent
4 of a private adoption agency that the consent or relinquishment
5 is in compliance with the applicable laws of the sending state,
6 or where permitted the laws of the state where finalization of
7 the adoption will occur; and

8 4. A home study; and

9 5. An acknowledgment of legal risk signed by the
10 prospective adoptive parents.

11 C. The sending state and the receiving state may request
12 additional information or documents prior to finalization of an
13 approved placement, but they may not delay travel by the
14 prospective adoptive parents with the child if the required
15 content for approval has been submitted, received and reviewed
16 by the public child placing agency in both the sending state
17 and the receiving state.

18 D. Approval from the public child placing agency in the
19 receiving state for a provisional or approved placement is
20 required as provided for in the rules of the Interstate
21 Commission.

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

25 F. Upon receipt of a request from the public child placing
26 agency of the sending state, the receiving state shall initiate

1 an assessment of the proposed placement to determine its safety
2 and suitability. If the proposed placement is a placement with
3 a relative, the public child placing agency of the sending
4 state may request a determination for a provisional placement.

5 G. The public child placing agency in the receiving state
6 may request from the public child placing agency or the private
7 child placing agency in the sending state, and shall be
8 entitled to receive supporting or additional information
9 necessary to complete the assessment or approve the placement.

10 H. The public child placing agency in the receiving state
11 shall approve a provisional placement and complete or arrange
12 for the completion of the assessment within the timeframes
13 established by the rules of the Interstate Commission.

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

18 J. The Interstate Commission may develop uniform standards
19 for the assessment of the safety and suitability of interstate
20 placements.

21 ARTICLE VI. PLACEMENT AUTHORITY

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

25 B. If the public child placing agency in the receiving
26 state does not approve the proposed placement then the child

1 shall not be placed. The receiving state shall provide written
2 documentation of any such determination in accordance with the
3 rules promulgated by the Interstate Commission. Such
4 determination is not subject to judicial review in the sending
5 state.

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

9 1. The administrative review and any further judicial
10 review associated with the determination shall be conducted in
11 the receiving state pursuant to its applicable Administrative
12 Procedures Act.

13 2. If a determination not to approve the placement of the
14 child in the receiving state is overturned upon review, the
15 placement shall be deemed approved, provided however that all
16 administrative or judicial remedies have been exhausted or the
17 time for such remedies has passed.

18 ARTICLE VII. PLACING AGENCY RESPONSIBILITY

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

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

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

26 b. as determined by the public child placing agency in the

1 sending state, services for the child beyond the public
2 services for which the child is eligible in the receiving
3 state.

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

6 a. any assessment conducted by the receiving state; and

7 b. supervision conducted by the receiving state at the
8 level necessary to support the placement as agreed upon by the
9 public child placing agencies of the receiving and sending
10 state.

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

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

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

21 2. Financially responsible for the child absent a
22 contractual agreement to the contrary.

23 C. The public child placing agency in the receiving state
24 shall provide timely assessments, as provided for in the rules
25 of the Interstate Commission.

26 D. The public child placing agency in the receiving state

1 shall provide, or arrange for the provision of, supervision and
2 services for the child, including timely reports, during the
3 period of the placement.

4 E. Nothing in this compact shall be construed as to limit
5 the authority of the public child placing agency in the
6 receiving state from contracting with a licensed agency or
7 person in the receiving state for an assessment or the
8 provision of supervision or services for the child or otherwise
9 authorizing the provision of supervision or services by a
10 licensed agency during the period of placement.

11 F. Each member state shall provide for coordination among
12 its branches of government concerning the state's
13 participation in, and compliance with, the compact and
14 Interstate Commission activities, through the creation of an
15 advisory council or use of an existing body or board.

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

19 H. The public child placing agency in the sending state
20 shall oversee compliance with the provisions of the Indian
21 Child Welfare Act (25 USC 1901 et seq.) for placements subject
22 to the provisions of this compact, prior to placement.

23 I. With the consent of the Interstate Commission, states
24 may enter into limited agreements that facilitate the timely
25 assessment and provision of services and supervision of
26 placements under this compact.

1 ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF
2 CHILDREN

3 The member states hereby establish, by way of this compact,
4 a commission known as the "Interstate Commission for the
5 Placement of Children." The activities of the Interstate
6 Commission are the formation of public policy and are a
7 discretionary state function. The Interstate Commission shall:

8 A. Be a joint commission of the member states and shall
9 have the responsibilities, powers and duties set forth herein,
10 and such additional powers as may be conferred upon it by
11 subsequent concurrent action of the respective legislatures of
12 the member states.

13 B. Consist of one commissioner from each member state who
14 shall be appointed by the executive head of the state human
15 services administration with ultimate responsibility for the
16 child welfare program. The appointed commissioner shall have
17 the legal authority to vote on policy related matters governed
18 by this compact binding the state.

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

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

24 3. A representative shall not delegate a vote to another
25 member state.

26 4. A representative may delegate voting authority to

1 another person from their state for a specified meeting.

2 C. In addition to the commissioners of each member state,
3 the Interstate Commission shall include persons who are members
4 of interested organizations as defined in the bylaws or rules
5 of the Interstate Commission. Such members shall be ex officio
6 and shall not be entitled to vote on any matter before the
7 Interstate Commission.

8 D. Establish an executive committee which shall have the
9 authority to administer the day-to-day operations and
10 administration of the Interstate Commission. It shall not have
11 the power to engage in rulemaking.

12 ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

13 The Interstate Commission shall have the following powers:

14 A. To promulgate rules and take all necessary actions to
15 effect the goals, purposes and obligations as enumerated in
16 this compact.

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

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

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

23 E. Collect standardized data concerning the interstate
24 placement of children subject to this compact as directed
25 through its rules which shall specify the data to be collected,
26 the means of collection and data exchange and reporting

1 requirements.

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

4 G. To purchase and maintain insurance and bonds.

5 H. To hire or contract for services of personnel or
6 consultants as necessary to carry out its functions under the
7 compact and establish personnel qualification policies, and
8 rates of compensation.

9 I. To establish and appoint committees and officers
10 including, but not limited to, an executive committee as
11 required by Article X.

12 J. To accept any and all donations and grants of money,
13 equipment, supplies, materials, and services, and to receive,
14 utilize, and dispose thereof.

15 K. To lease, purchase, accept contributions or donations
16 of, or otherwise to own, hold, improve or use any property,
17 real, personal, or mixed.

18 L. To sell, convey, mortgage, pledge, lease, exchange,
19 abandon, or otherwise dispose of any property, real, personal
20 or mixed.

21 M. To establish a budget and make expenditures.

22 N. To adopt a seal and bylaws governing the management and
23 operation of the Interstate Commission.

24 O. To report annually to the legislatures, governors, the
25 judiciary, and state advisory councils of the member states
26 concerning the activities of the Interstate Commission during

1 the preceding year. Such reports shall also include any
2 recommendations that may have been adopted by the Interstate
3 Commission.

4 P. To coordinate and provide education, training and public
5 awareness regarding the interstate movement of children for
6 officials involved in such activity.

7 Q. To maintain books and records in accordance with the
8 bylaws of the Interstate Commission.

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

11 ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE

12 COMMISSION

13 A. Bylaws

14 1. Within 12 months after the first Interstate Commission
15 meeting, the Interstate Commission shall adopt bylaws to govern
16 its conduct as may be necessary or appropriate to carry out the
17 purposes of the compact.

18 2. The Interstate Commission's bylaws and rules shall
19 establish conditions and procedures under which the Interstate
20 Commission shall make its information and official records
21 available to the public for inspection or copying. The
22 Interstate Commission may exempt from disclosure information
23 or official records to the extent they would adversely affect
24 personal privacy rights or proprietary interests.

25 B. Meetings

26 1. The Interstate Commission shall meet at least once each

1 calendar year. The chairperson may call additional meetings
2 and, upon the request of a simple majority of the member states
3 shall call additional meetings.

4 2. Public notice shall be given by the Interstate
5 Commission of all meetings and all meetings shall be open to
6 the public, except as set forth in the rules or as otherwise
7 provided in the compact. The Interstate Commission and its
8 committees may close a meeting, or portion thereof, where it
9 determines by two-thirds vote that an open meeting would be
10 likely to:

11 a. relate solely to the Interstate Commission's internal
12 personnel practices and procedures; or

13 b. disclose matters specifically exempted from disclosure
14 by federal law; or

15 c. disclose financial or commercial information which is
16 privileged, proprietary or confidential in nature; or

17 d. involve accusing a person of a crime, or formally
18 censuring a person; or

19 e. disclose information of a personal nature where
20 disclosure would constitute a clearly unwarranted invasion of
21 personal privacy or physically endanger one or more persons; or

22 f. disclose investigative records compiled for law
23 enforcement purposes; or

24 g. specifically relate to the Interstate Commission's
25 participation in a civil action or other legal proceeding.

26 3. For a meeting, or portion of a meeting, closed pursuant

1 to this provision, the Interstate Commission's legal counsel or
2 designee shall certify that the meeting may be closed and shall
3 reference each relevant exemption provision. The Interstate
4 Commission shall keep minutes which shall fully and clearly
5 describe all matters discussed in a meeting and shall provide a
6 full and accurate summary of actions taken, and the reasons
7 therefore, including a description of the views expressed and
8 the record of a roll call vote. All documents considered in
9 connection with an action shall be identified in such minutes.
10 All minutes and documents of a closed meeting shall remain
11 under seal, subject to release by a majority vote of the
12 Interstate Commission or by court order.

13 4. The bylaws may provide for meetings of the Interstate
14 Commission to be conducted by telecommunication or other
15 electronic communication.

16 C. Officers and Staff

17 1. The Interstate Commission may, through its executive
18 committee, appoint or retain a staff director for such period,
19 upon such terms and conditions and for such compensation as the
20 Interstate Commission may deem appropriate. The staff director
21 shall serve as secretary to the Interstate Commission, but
22 shall not have a vote. The staff director may hire and
23 supervise such other staff as may be authorized by the
24 Interstate Commission.

25 2. The Interstate Commission shall elect, from among its
26 members, a chairperson and a vice chairperson of the executive

1 committee and other necessary officers, each of whom shall have
2 such authority and duties as may be specified in the bylaws.

3 D. Qualified Immunity, Defense and Indemnification

4 1. The Interstate Commission's staff director and its
5 employees shall be immune from suit and liability, either
6 personally or in their official capacity, for a claim for
7 damage to or loss of property or personal injury or other civil
8 liability caused or arising out of or relating to an actual or
9 alleged act, error, or omission that occurred, or that such
10 person had a reasonable basis for believing occurred within the
11 scope of Commission employment, duties, or responsibilities;
12 provided, that such person shall not be protected from suit or
13 liability for damage, loss, injury, or liability caused by a
14 criminal act or the intentional or willful and wanton
15 misconduct of such person.

16 a. The liability of the Interstate Commission's staff
17 director and employees or Interstate Commission
18 representatives, acting within the scope of such person's
19 employment or duties for acts, errors, or omissions occurring
20 within such person's state may not exceed the limits of
21 liability set forth under the Constitution and laws of that
22 state for state officials, employees, and agents. The
23 Interstate Commission is considered to be an instrumentality of
24 the states for the purposes of any such action. Nothing in this
25 subsection shall be construed to protect such person from suit
26 or liability for damage, loss, injury, or liability caused by a

1 criminal act or the intentional or willful and wanton
2 misconduct of such person.

3 b. The Interstate Commission shall defend the staff
4 director and its employees and, subject to the approval of the
5 Attorney General or other appropriate legal counsel of the
6 member state shall defend the commissioner of a member state in
7 a civil action seeking to impose liability arising out of an
8 actual or alleged act, error or omission that occurred within
9 the scope of Interstate Commission employment, duties or
10 responsibilities, or that the defendant had a reasonable basis
11 for believing occurred within the scope of Interstate
12 Commission employment, duties, or responsibilities, provided
13 that the actual or alleged act, error, or omission did not
14 result from intentional or willful and wanton misconduct on the
15 part of such person.

16 c. To the extent not covered by the state involved, member
17 state, or the Interstate Commission, the representatives or
18 employees of the Interstate Commission shall be held harmless
19 in the amount of a settlement or judgment, including attorney's
20 fees and costs, obtained against such persons arising out of an
21 actual or alleged act, error, or omission that occurred within
22 the scope of Interstate Commission employment, duties, or
23 responsibilities, or that such persons had a reasonable basis
24 for believing occurred within the scope of Interstate
25 Commission employment, duties, or responsibilities, provided
26 that the actual or alleged act, error, or omission did not

1 result from intentional or willful and wanton misconduct on the
2 part of such persons.

3 ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

7 B. Rulemaking shall occur pursuant to the criteria set
8 forth in this article and the bylaws and rules adopted pursuant
9 thereto. Such rulemaking shall substantially conform to the
10 principles of the "Model State Administrative Procedures Act,"
11 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such
12 other administrative procedure acts as the Interstate
13 Commission deems appropriate consistent with due process
14 requirements under the United States Constitution as now or
15 hereafter interpreted by the U. S. Supreme Court. All rules and
16 amendments shall become binding as of the date specified, as
17 published with the final version of the rule as approved by the
18 Interstate Commission.

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

21 1. Publish the proposed rule's entire text stating the
22 reason(s) for that proposed rule; and

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

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

1 appropriate, based on input from state or local officials, or
2 interested parties.

3 D. Rules promulgated by the Interstate Commission shall
4 have the force and effect of administrative rules and shall be
5 binding in the compacting states to the extent and in the
6 manner provided for in this compact.

7 E. Not later than 60 days after a rule is promulgated, an
8 interested person may file a petition in the U.S. District
9 Court for the District of Columbia or in the Federal District
10 Court where the Interstate Commission's principal office is
11 located for judicial review of such rule. If the court finds
12 that the Interstate Commission's action is not supported by
13 substantial evidence in the rulemaking record, the court shall
14 hold the rule unlawful and set it aside.

15 F. If a majority of the legislatures of the member states
16 rejects a rule, those states may by enactment of a statute or
17 resolution in the same manner used to adopt the compact cause
18 that such rule shall have no further force and effect in any
19 member state.

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

26 H. Within the first 12 months of operation, the Interstate

1 Commission shall promulgate rules addressing the following:

2 1. Transition rules

3 2. Forms and procedures

4 3. Time lines

5 4. Data collection and reporting

6 5. Rulemaking

7 6. Visitation

8 7. Progress reports/supervision

9 8. Sharing of information/confidentiality

10 9. Financing of the Interstate Commission

11 10. Mediation, arbitration and dispute resolution

12 11. Education, training and technical assistance

13 12. Enforcement

14 13. Coordination with other interstate compacts

15 I. Upon determination by a majority of the members of the

16 Interstate Commission that an emergency exists:

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

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

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

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

24 2. An emergency rule shall become effective immediately
25 upon adoption, provided that the usual rulemaking procedures
26 provided hereunder shall be retroactively applied to said rule

1 as soon as reasonably possible, but no later than 90 days after
2 the effective date of the emergency rule.

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

5 ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

6 A. Oversight

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

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

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

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

1 its bylaws or rules of the Interstate Commission.

2 B. Dispute Resolution

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

7 2. The Interstate Commission shall promulgate a rule
8 providing for both mediation and binding dispute resolution for
9 disputes among compacting states. The costs of such mediation
10 or dispute resolution shall be the responsibility of the
11 parties to the dispute.

12 C. Enforcement

13 1. If the Interstate Commission determines that a member
14 state has defaulted in the performance of its obligations or
15 responsibilities under this compact, its bylaws or rules, the
16 Interstate Commission may:

17 a. Provide remedial training and specific technical
18 assistance; or

19 b. Provide written notice to the defaulting state and other
20 member states, of the nature of the default and the means of
21 curing the default. The Interstate Commission shall specify the
22 conditions by which the defaulting state must cure its default;
23 or

24 c. By majority vote of the members, initiate against a
25 defaulting member state legal action in the United States
26 District Court for the District of Columbia or, at the

1 discretion of the Interstate Commission, in the federal
2 district where the Interstate Commission has its principal
3 office, to enforce compliance with the provisions of the
4 compact, its bylaws or rules. The relief sought may include
5 both injunctive relief and damages. In the event judicial
6 enforcement is necessary the prevailing party shall be awarded
7 all costs of such litigation including reasonable attorney's
8 fees; or

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

11 ARTICLE XIII. FINANCING OF THE COMMISSION

12 A. The Interstate Commission shall pay, or provide for the
13 payment of the reasonable expenses of its establishment,
14 organization and ongoing activities.

15 B. The Interstate Commission may levy on and collect an
16 annual assessment from each member state to cover the cost of
17 the operations and activities of the Interstate Commission and
18 its staff which must be in a total amount sufficient to cover
19 the Interstate Commission's annual budget as approved by its
20 members each year. The aggregate annual assessment amount shall
21 be allocated based upon a formula to be determined by the
22 Interstate Commission which shall promulgate a rule binding
23 upon all member states.

24 C. The Interstate Commission shall not incur obligations of
25 any kind prior to securing the funds adequate to meet the same;
26 nor shall the Interstate Commission pledge the credit of any of

1 the member states, except by and with the authority of the
2 member state.

3 D. The Interstate Commission shall keep accurate accounts
4 of all receipts and disbursements. The receipts and
5 disbursements of the Interstate Commission shall be subject to
6 the audit and accounting procedures established under its
7 bylaws. However, all receipts and disbursements of funds
8 handled by the Interstate Commission shall be audited yearly by
9 a certified or licensed public accountant and the report of the
10 audit shall be included in and become part of the annual report
11 of the Interstate Commission.

12 ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

14 B. The compact shall become effective and binding upon
15 legislative enactment of the compact into law by no less than
16 35 states. The effective date shall be the later of July 1,
17 2007 or upon enactment of the compact into law by the 35th
18 state. Thereafter it shall become effective and binding as to
19 any other member state upon enactment of the compact into law
20 by that state. The executive heads of the state human services
21 administration with ultimate responsibility for the child
22 welfare program of non-member states or their designees shall
23 be invited to participate in the activities of the Interstate
24 Commission on a non-voting basis prior to adoption of the
25 compact by all states.

26 C. The Interstate Commission may propose amendments to the

1 compact for enactment by the member states. No amendment shall
2 become effective and binding on the member states unless and
3 until it is enacted into law by unanimous consent of the member
4 states.

5 ARTICLE XV. WITHDRAWAL AND DISSOLUTION

6 A. Withdrawal

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

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

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

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

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

1 Interstate Commission.

2 B. Dissolution of Compact

3 1. This compact shall dissolve effective upon the date of
4 the withdrawal or default of the member state which reduces the
5 membership in the compact to one member state.

6 2. Upon the dissolution of this compact, the compact
7 becomes null and void and shall be of no further force or
8 effect, and the business and affairs of the Interstate
9 Commission shall be concluded and surplus funds shall be
10 distributed in accordance with the bylaws.

11 ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

12 A. The provisions of this compact shall be severable, and
13 if any phrase, clause, sentence or provision is deemed
14 unenforceable, the remaining provisions of the compact shall be
15 enforceable.

16 B. The provisions of this compact shall be liberally
17 construed to effectuate its purposes.

18 C. Nothing in this compact shall be construed to prohibit
19 the concurrent applicability of other interstate compacts to
20 which the states are members.

21 ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

22 A. Other Laws

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

25 B. Binding Effect of the Compact

26 1. All lawful actions of the Interstate Commission,

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

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

5 3. In the event any provision of this compact exceeds the
6 constitutional limits imposed on the legislature of any member
7 state, such provision shall be ineffective to the extent of the
8 conflict with the constitutional provision in question in that
9 member state.

10 ARTICLE XVIII. INDIAN TRIBES

11 Notwithstanding any other provision in this compact, the
12 Interstate Commission may promulgate guidelines to permit
13 Indian tribes to utilize the compact to achieve any or all of
14 the purposes of the compact as specified in Article I. The
15 Interstate Commission shall make reasonable efforts to consult
16 with Indian tribes in promulgating guidelines to reflect the
17 diverse circumstances of the various Indian tribes.

18 Section 10. Implementation; administration; rules. The
19 Department of Children and Family Services, as directed by the
20 Governor, is responsible for implementing and administering
21 this Act and is authorized to adopt rules for those purposes.

22 (45 ILCS 15/Act rep.)

23 Section 15. The Interstate Compact on Placement of Children
24 Act is repealed.