

1 ENGROSSED HOUSE AMENDMENT

TO

2 ENGROSSED SENATE BILL NO. 906

By: Williamson of the Senate

3 and

4 Winchester of the House

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6

7 An Act relating to children; creating the Interstate
8 Compact for the Placement of Children; stating
9 purpose; defining terms; providing scope and
10 applicability; providing for jurisdiction; providing
11 for assessments; providing for placement authority;
12 providing for responsibility of sending and receiving
13 states; establishing the Interstate Commission for
14 the Placement of Children; * * * authorizing the
15 Commission to promulgate guidelines for use of the
16 compact by Indian tribes; repealing 10 O.S. 2001,
17 Sections 571, 572, 573, 574, 575 and 576, which
18 relate to the Interstate Compact on the Placement of
19 Children; providing for codification; and providing
20 an effective date.

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16 AUTHOR: Add the following House Coauthor: Derby

17 AMENDMENT NO. 1. Strike the title, enacting clause and entire bill
18 and insert

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20 "An Act relating to children; creating the Interstate
21 Compact for the Placement of Children; stating
22 purpose; defining terms; providing scope and
23 applicability; providing for jurisdiction; providing
24 for assessments; providing for placement authority;
providing for responsibility of sending and
receiving states; establishing the Interstate
Commission for the Placement of Children; providing
responsibilities, powers and duties of the

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1 Commission; providing for composition of the
2 Commission; providing for an executive committee;
3 providing for the organization and operation of the
4 Commission; providing for officers and staff;
5 providing for qualified immunity, defense and
6 indemnification; providing for rulemaking; providing
7 for oversight of the compact, dispute resolution,
8 and enforcement of the compact; providing for
9 financing of the Commission; providing eligibility
10 for membership; providing effective date that
11 compact becomes binding; providing for amendments;
12 providing for withdrawal from the compact; providing
13 for reinstatement; providing for dissolution of the
14 compact; providing for severability and construction
15 of the compact; providing for the effect of compact
16 on other laws; providing for the binding effect of
17 the compact; authorizing the Commission to
18 promulgate guidelines for use of the compact by
19 Indian tribes; repealing 10 O.S. 2001, Sections 571,
20 572, 573, 574, 575 and 576, which relate to the
21 Interstate Compact on the Placement of Children;
22 providing for codification; providing an effective
23 date; and declaring an emergency.

24 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 577 of Title 10, unless there is
created a duplication in numbering, reads as follows:

There is hereby created the Interstate Compact for the Placement
of Children. Pursuant to the terms and conditions of this compact,
the State of Oklahoma seeks to join with other member states, as
defined by this compact, in enacting this compact. This compact
shall become effective upon the enactment into law by thirty-five
states. Upon the effective date of this compact, this compact shall

1 replace the Interstate Compact on the Placement of Children codified
2 at Section 571 of Title 10 of the Oklahoma Statutes. The provisions
3 of the Interstate Compact for the Placement of Children are as
4 follows:

5 ARTICLE I. PURPOSE

6 The purpose of this compact is to:

- 7 1. Provide a process through which children subject to this
8 compact are placed in safe and suitable homes in a timely manner;
- 9 2. Facilitate ongoing supervision of a placement, the delivery
10 of services, and communication between the states;
- 11 3. Provide operating procedures that will ensure that children
12 are placed in safe and suitable homes in a timely manner;
- 13 4. Provide for the promulgation and enforcement of
14 administrative rules implementing the provisions of this compact and
15 regulating the covered activities of the member states;
- 16 5. Provide for uniform data collection and information sharing
17 between member states under this compact;
- 18 6. Promote coordination between this compact, the Interstate
19 Compact for Juveniles, the Interstate Compact on Adoption and
20 Medical Assistance and other compacts affecting the placement of and
21 which provide services to children otherwise subject to this
22 compact;

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1 5. "Default" means the failure of a member state to perform the
2 obligations or responsibilities imposed upon it by this compact, or
3 the bylaws or rules of the Interstate Commission;

4 6. "Home study" means an evaluation of a home environment
5 conducted in accordance with the applicable requirements of the
6 state in which the home is located, and documenting the preparation
7 and suitability of the placement resource for placement of a child
8 in accordance with the laws and requirements of the state in which
9 the home is located;

10 7. "Indian tribe" means any Indian tribe, band, nation, or
11 other organized group or community of Indians recognized as eligible
12 for services provided to Indians by the Secretary of the Interior
13 because of their status as Indians, including any Alaskan native
14 village as defined in Section 3(c) of the Alaska Native Claims
15 Settlement Act at 43 U.S.C., Section 1602(c);

16 8. "Interstate Commission for the Placement of Children" means
17 the commission that is created under Article VIII of this compact
18 and which is generally referred to as the Interstate Commission;

19 9. "Jurisdiction" means the power and authority of a court to
20 hear and decide matters;

21 10. "Legal risk placement" or "legal risk adoption" means a
22 placement made preliminary to an adoption where the prospective
23 adoptive parents acknowledge in writing that a child may be ordered
24 returned to the sending state or the state of residence of the birth

1 mother, if different from the sending state, and a final decree of
2 adoption shall not be entered in any jurisdiction until all required
3 consents are obtained or are dispensed with in accordance with
4 applicable law;

5 11. "Member state" means a state that has enacted this compact;

6 12. "Noncustodial parent" means a person who, at the time of
7 commencement of court proceedings in the sending state, does not
8 have sole legal custody of the child or has joint legal custody of a
9 child, and who is not the subject of allegations or findings of
10 child abuse or neglect;

11 13. "Nonmember state" means a state which has not enacted this
12 compact;

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

22 15. "Placement" means the act by a public or private child-
23 placing agency intended to arrange for the care or custody of a
24 child in another state;

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

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

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

21 19. "Receiving state" means the state to which a child is sent,
22 brought, or caused to be sent or brought;

23 20. "Relative" means someone who is related to the child as a
24 parent, stepparent, sibling by half or whole blood or by adoption,

1 grandparent, aunt, uncle, or first cousin or a nonrelative with such
2 significant ties to the child that they may be regarded as relatives
3 as determined by the court in the sending state;

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

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

17 23. "Sending state" means the state from which the placement of
18 a child is initiated;

19 24. "Service member's permanent duty station" means the
20 military installation where an active duty Armed Services member is
21 currently assigned and is physically located under competent orders
22 that do not specify the duty as temporary;

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

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

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

11 3. The interstate placement of any child by a public child-
12 placing agency or private child-placing agency as defined in this
13 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 proceeding
16 in which a public child-placing agency is not a party, provided the
17 placement is not intended to effectuate an adoption;

18 2. The interstate placement of a child with a nonrelative in a
19 receiving state by a parent with the legal authority to make such a
20 placement, provided the placement is not intended to effectuate an
21 adoption;

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

1 4. The placement of a child, not subject to Article III,
2 subsection A, into a residential facility by the child's parent;

3 5. The placement of a child with a noncustodial parent provided
4 that:

5 a. the noncustodial parent proves to the satisfaction of
6 a court in the sending state a substantial
7 relationship with the child,

8 b. the court in the sending state makes a written finding
9 that placement with the noncustodial parent is in the
10 best interests of the child, and

11 c. the court in the sending state dismisses its
12 jurisdiction over the child's case;

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

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

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

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

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

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

13 ARTICLE IV. JURISDICTION

14 A. Except as provided in Article IV, subsection G and Article
15 V, subsection B, paragraphs 2 and 3 concerning private and
16 independent adoption and in interstate placements in which the
17 public child-placing agency is not a party to a custody proceeding,
18 the sending state shall retain jurisdiction over a child with
19 respect to all matters of custody and disposition of the child which
20 it would have had if the child had remained in the sending state.
21 Such jurisdiction shall also include the power to order the return
22 of the child to the sending state.

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

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

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

5 1. The child is reunified with the parent in the receiving
6 state who is the subject of allegations or findings of abuse or
7 neglect, only with the concurrence of the public child-placing
8 agency in the receiving state;

9 2. The child is adopted;

10 3. The child reaches the age of majority under the laws of the
11 sending state;

12 4. The child achieves legal independence pursuant to the laws
13 of the sending state;

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

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

18 7. The public child-placing agency of the sending state
19 requests termination and has obtained the concurrence of the public
20 child-placing agency in the receiving state.

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

23 E. Nothing in this article shall defeat a claim of jurisdiction
24 by a receiving state court sufficient to deal with an act of

1 truancy, delinquency, crime, or behavior involving a child as
2 defined by the laws of the receiving state committed by the child in
3 the receiving state which would be a violation of its laws.

4 F. Nothing in this article shall limit the receiving state's
5 ability to take emergency jurisdiction for the protection of the
6 child.

7 G. The substantive laws of the state in which an adoption will
8 be finalized shall solely govern all issues relating to the adoption
9 of the child and the court in which the adoption proceeding is filed
10 shall have subject matter jurisdiction regarding all substantive
11 issues relating to the adoption except:

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

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

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

19 H. A final decree of adoption shall not be entered in any
20 jurisdiction until the placement is authorized as an "approved
21 placement" by the public child-placing agency in the receiving
22 state.

23 ARTICLE V. PLACEMENT EVALUATION
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1 A. Prior to sending, bringing, or causing a child to be sent or
2 brought into a receiving state, the public child-placing agency
3 shall provide a written request for assessment to the receiving
4 state.

5 B. For placements by a private child-placing agency, a child
6 may be sent or brought, or caused to be sent or brought, into a
7 receiving state, upon receipt and immediate review of the required
8 content in a request for approval of a placement in both the sending
9 and receiving state public child-placing agency. The required
10 content to accompany a request for approval shall include the
11 following:

12 1. A request for approval identifying the child, birth
13 parent(s), the prospective adoptive parent(s), and the supervising
14 agency, signed by the person requesting approval;

15 2. The appropriate consents or relinquishments signed by the
16 birth parents in accordance with the laws of the sending state, or
17 where permitted the laws of the state where the adoption will be
18 finalized;

19 3. Certification by a licensed attorney or authorized agent of
20 a private adoption agency that the consent or relinquishment is in
21 compliance with the applicable laws of the sending state, or where
22 permitted the laws of the state where finalization of the adoption
23 will occur;

24 4. A home study; and

1 5. An acknowledgment of legal risk signed by the prospective
2 adoptive parents.

3 C. The sending state and the receiving state may request
4 additional information or documents prior to finalization of an
5 approved placement, but they may not delay travel by the prospective
6 adoptive parents with the child if the required content for approval
7 has been submitted, received, and reviewed by the public child-
8 placing agency in both the sending state and the receiving state.

9 D. Approval from the public child-placing agency in the
10 receiving state for a provisional or approved placement is required
11 as provided for in the rules of the Interstate Commission.

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

15 F. Upon receipt of a request from the public child-placing
16 agency of the sending state, the receiving state shall initiate an
17 assessment of the proposed placement to determine its safety and
18 suitability. If the proposed placement is a placement with a
19 relative, the public child-placing agency of the sending state may
20 request a determination for a provisional placement.

21 G. The public child-placing agency in the receiving state may
22 request from the public child-placing agency or the private child-
23 placing agency in the sending state, and shall be entitled to
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1 receive supporting or additional information necessary to complete
2 the assessment or approve the placement.

3 H. The public child-placing agency in the receiving state shall
4 approve a provisional placement and complete or arrange for the
5 completion of the assessment within the time frames established by
6 the rules of the Interstate Commission.

7 I. For a placement by a private child-placing agency, the
8 sending state shall not impose any additional requirements to
9 complete the home study that are not required by the receiving
10 state, unless the adoption is finalized in the sending state.

11 J. The Interstate Commission may develop uniform standards for
12 the assessment of the safety and suitability of interstate
13 placements.

14 ARTICLE VI. PLACEMENT AUTHORITY

15 A. Except as provided in this compact, no child subject to this
16 compact shall be placed into a receiving state until approval for
17 the placement is obtained.

18 B. If the public child-placing agency in the receiving state
19 does not approve the proposed placement then the child shall not be
20 placed. The receiving state shall provide written documentation of
21 any such determination in accordance with the rules promulgated by
22 the Interstate Commission. Such determination is not subject to
23 judicial review in the sending state.

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

4 1. The administrative review and any further judicial review
5 associated with the determination shall be conducted in the
6 receiving state pursuant to its applicable administrative
7 procedures.

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

13 ARTICLE VII. PLACING AGENCY RESPONSIBILITY

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

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

- 18 a. the ongoing support and maintenance for the child
19 during the period of the placement, unless otherwise
20 provided for in the receiving state, and
- 21 b. as determined by the public child-placing agency in
22 the sending state, services for the child beyond the
23 public services for which the child is eligible in the
24 receiving state;

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

- 3 a. any assessment conducted by the receiving state, and
- 4 b. supervision conducted by the receiving state at the
5 level necessary to support the placement as agreed
6 upon by the public child-placing agencies of the
7 receiving and sending state; and

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

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

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

18 2. Financially responsible for the child absent a contractual
19 agreement to the contrary.

20 C. The public child-placing agency in the receiving state shall
21 provide timely assessments, as provided for in the rules of the
22 Interstate Commission.

23 D. The public child-placing agency in the receiving state shall
24 provide, or arrange for the provision of, supervision and services

1 for the child, including timely reports, during the period of the
2 placement.

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

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

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

17 H. The public child-placing agency in the sending state shall
18 oversee compliance with the provisions of the Indian Child Welfare
19 Act, 25 U.S.C., Section 1901 et seq., for placements subject to the
20 provisions of this compact, prior to placement.

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

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

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

7 The Interstate Commission shall:

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

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

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

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

1 c. A representative shall not delegate a vote to another
2 member state.

3 d. A representative may delegate voting authority to
4 another person from their state for a specified
5 meeting;

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

11 4. Establish an executive committee which shall have the
12 authority to administer the day-to-day operations and administration
13 of the Interstate Commission. The Executive Committee shall not
14 have the power to engage in rulemaking.

15 ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

16 The Interstate Commission shall have the following powers:

17 1. To promulgate rules and take all necessary actions to effect
18 the goals, purposes, and obligations as enumerated in this compact;

19 2. To provide for dispute resolution among member states;

20 3. To issue, upon request of a member state, advisory opinions
21 concerning the meaning or interpretation of the interstate compact,
22 its bylaws, rules, or actions;

23 4. To enforce compliance with this compact or the bylaws or
24 rules of the Interstate Commission pursuant to Article XII;

1 5. To collect standardized data concerning the interstate
2 placement of children subject to this compact as directed through
3 its rules which shall specify the data to be collected, the means of
4 collection, and data exchange and reporting requirements;

5 6. To establish and maintain offices as may be necessary for
6 the transacting of its business;

7 7. To purchase and maintain insurance and bonds;

8 8. To hire or contract for services of personnel or consultants
9 as necessary to carry out its functions under the compact and
10 establish personnel qualification policies and rates of
11 compensation;

12 9. To establish and appoint committees and officers including,
13 but not limited to, an executive committee as required by Article X;

14 10. To accept any and all donations and grants of money,
15 equipment, supplies, materials, and services, and to receive,
16 utilize, and dispose thereof;

17 11. To lease, purchase, accept contributions or donations of,
18 or otherwise to own, hold, improve, or use any property, real,
19 personal, or mixed;

20 12. To sell, convey, mortgage, pledge, lease, exchange,
21 abandon, or otherwise dispose of any property, real, personal, or
22 mixed;

23 13. To establish a budget and make expenditures;

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1 14. To adopt a seal and bylaws governing the management and
2 operation of the Interstate Commission;

3 15. To report annually to the Legislatures, Governors, the
4 judiciary, and state advisory councils of the member states
5 concerning the activities of the Interstate Commission during the
6 preceding year. Such reports shall also include any recommendations
7 that may have been adopted by the Interstate Commission;

8 16. To coordinate and provide education, training, and public
9 awareness regarding the interstate movement of children for
10 officials involved in such activity;

11 17. To maintain books and records in accordance with the bylaws
12 of the Interstate Commission; and

13 18. To perform such functions as may be necessary or
14 appropriate to achieve the purposes of this compact.

15 ARTICLE X. ORGANIZATION AND OPERATION OF THE
16 INTERSTATE COMMISSION

17 A. Bylaws.

18 1. Within twelve (12) months after the first Interstate
19 Commission meeting, the Interstate Commission shall adopt bylaws to
20 govern its conduct as may be necessary or appropriate to carry out
21 the purposes of the compact.

22 2. The bylaws and rules of the Interstate Commission shall
23 establish conditions and procedures under which the Interstate
24 Commission shall make its information and official records available

1 to the public for inspection or copying. The Interstate Commission
2 may exempt from disclosure information or official records to the
3 extent they would adversely affect personal privacy rights or
4 proprietary interests.

5 B. Meetings.

6 1. The Interstate Commission shall meet at least once each
7 calendar year. The chairperson may call additional meetings, and
8 upon the request of a simple majority of the member states shall
9 call additional meetings.

10 2. Public notice shall be given by the Interstate Commission of
11 all meetings and all meetings shall be open to the public, except as
12 set forth in the rules or as otherwise provided in the compact. The
13 Interstate Commission and its committees may close a meeting, or
14 portion thereof, where it determines by two-thirds (2/3) vote that
15 an open meeting would be likely to:

- 16 a. relate solely to the Interstate Commission's internal
17 personnel practices and procedures,
- 18 b. disclose matters specifically exempted from disclosure
19 by federal law,
- 20 c. disclose financial or commercial information which is
21 privileged, proprietary, or confidential in nature,
- 22 d. involve accusing a person of a crime, or formally
23 censuring a person,

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- 1 e. disclose information of a personal nature where
2 disclosure would constitute a clearly unwarranted
3 invasion of personal privacy or physically endanger
4 one or more persons,
5 f. disclose investigative records compiled for law
6 enforcement purposes, or
7 g. specifically relate to the Interstate Commission's
8 participation in a civil action or other legal
9 proceeding.

10 3. For a meeting, or portion of a meeting, closed pursuant to
11 this provision, the Interstate Commission's legal counsel or
12 designee shall certify that the meeting may be closed and shall
13 reference each relevant exemption provision. The Interstate
14 Commission shall keep minutes which shall fully and clearly describe
15 all matters discussed in a meeting and shall provide a full and
16 accurate summary of actions taken and the reasons therefor,
17 including a description of the views expressed and the record of a
18 roll-call vote. All documents considered in connection with an
19 action shall be identified in such minutes. All minutes and
20 documents of a closed meeting shall remain under seal, subject to
21 release by a majority vote of the Interstate Commission or by court
22 order.

1 4. The bylaws may provide for meetings of the Interstate
2 Commission to be conducted by telecommunication or other electronic
3 communication.

4 C. Officers and Staff.

5 1. The Interstate Commission may, through its executive
6 committee, appoint or retain a staff director for such period, upon
7 such terms and conditions and for such compensation as the
8 Interstate Commission may deem appropriate. The staff director
9 shall serve as secretary to the Interstate Commission, but shall not
10 have a vote. The staff director may hire and supervise such other
11 staff as may be authorized by the Interstate Commission.

12 2. The Interstate Commission shall elect, from among its
13 members, a chairperson and a vice-chairperson of the executive
14 committee and other necessary officers, each of whom shall have such
15 authority and duties as may be specified in the bylaws.

16 D. Qualified Immunity, Defense and Indemnification.

17 The Interstate Commission's staff director and its employees
18 shall be immune from suit and liability, either personally or in
19 their official capacity, for a claim for damage to or loss of
20 property or personal injury or other civil liability caused or
21 arising out of or relating to an actual or alleged act, error, or
22 omission that occurred, or that such person had a reasonable basis
23 for believing occurred within the scope of Commission employment,
24 duties, or responsibilities; provided, that such person shall not be

1 protected from suit or liability for damage, loss, injury, or
2 liability caused by a criminal act or the intentional or willful and
3 wanton misconduct of such person.

4 1. The liability of the Interstate Commission's staff director
5 and employees or Interstate Commission representatives, acting
6 within the scope of such person's employment or duties for acts,
7 errors, or omissions occurring within such person's state may not
8 exceed the limits of liability set forth under the Constitution and
9 laws of that state for state officials, employees, and agents. The
10 Interstate Commission is considered to be an instrumentality of the
11 states for the purposes of any such action. Nothing in this
12 subsection shall be construed to protect such person from suit or
13 liability for damage, loss, injury, or liability caused by a
14 criminal act or the intentional or willful and wanton misconduct of
15 such person.

16 2. The Interstate Commission shall defend the staff director
17 and its employees and, subject to the approval of the Attorney
18 General or other appropriate legal counsel of the member state,
19 shall defend the commissioner of a member state in a civil action
20 seeking to impose liability arising out of an actual or alleged act,
21 error or omission that occurred within the scope of Interstate
22 Commission employment, duties or responsibilities, or that the
23 defendant had a reasonable basis for believing occurred within the
24 scope of Interstate Commission employment, duties, or

1 responsibilities, provided that the actual or alleged act, error, or
2 omission did not result from intentional or willful and wanton
3 misconduct on the part of such person.

4 3. To the extent not covered by the state involved, member
5 state, or the Interstate Commission, the representatives or
6 employees of the Interstate Commission shall be held harmless in the
7 amount of a settlement or judgment, including attorney fees and
8 costs, obtained against such persons arising out of an actual or
9 alleged act, error, or omission that occurred within the scope of
10 Interstate Commission employment, duties, or responsibilities, or
11 that such persons had a reasonable basis for believing occurred
12 within the scope of Interstate Commission employment, duties, or
13 responsibilities, provided that the actual or alleged act, error, or
14 omission did not result from intentional or willful and wanton
15 misconduct on the part of such persons.

16 ARTICLE XI. RULEMAKING FUNCTIONS OF

17 THE INTERSTATE COMMISSION

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

21 B. Rulemaking shall occur pursuant to the criteria set forth in
22 this article and the bylaws and rules adopted pursuant thereto.
23 Such rulemaking shall substantially conform to the principles of the
24 "Model State Administrative Procedures Act", 1981 Act, Uniform Laws

1 Annotated, Vol. 15, p. 1 (2000), or such other administrative
2 procedure acts as the Interstate Commission deems appropriate and
3 consistent with due process requirements under the United States
4 Constitution as now or hereafter interpreted by the U.S. Supreme
5 Court. All rules and amendments shall become binding as of the date
6 specified, as published with the final version of the rule as
7 approved by the Interstate Commission.

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

10 1. Publish the entire text of the proposed rule stating the
11 reason(s) for that proposed rule;

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

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

18 D. Rules promulgated by the Interstate Commission shall have
19 the force and effect of administrative rules and shall be binding in
20 the compacting states to the extent and in the manner provided for
21 in this compact.

22 E. Not later than sixty (60) days after a rule is promulgated,
23 an interested person may file a petition in the U.S. District Court
24 for the District of Columbia or in the Federal District Court where

1 the Interstate Commission's principal office is located for judicial
2 review of such rule. If the court finds that the action of the
3 Interstate Commission is not supported by substantial evidence in
4 the rulemaking record, the court shall hold the rule unlawful and
5 set it aside.

6 F. If a majority of the Legislatures of the member states
7 rejects a rule, those states may by enactment of a statute or
8 resolution in the same manner used to adopt the compact cause that
9 rule to have no further force and effect in any member state.

10 G. The existing rules governing the operation of the Interstate
11 Compact on the Placement of Children superseded by this act shall be
12 null and void no less than twelve (12), but no more than twenty-four
13 (24) months after the first meeting of the Interstate Commission
14 created hereunder, as determined by the members during the first
15 meeting.

16 H. Within the first twelve (12) months of operation, the
17 Interstate Commission shall promulgate rules addressing the
18 following:

- 19 1. Transition rules;
- 20 2. Forms and procedures;
- 21 3. Time lines;
- 22 4. Data collection and reporting;
- 23 5. Rulemaking;
- 24 6. Visitation;

- 1 7. Progress reports/supervision;
- 2 8. Sharing of information/confidentiality;
- 3 9. Financing of the Interstate Commission;
- 4 10. Mediation, arbitration, and dispute resolution;
- 5 11. Education, training, and technical assistance;
- 6 12. Enforcement; and
- 7 13. Coordination with other interstate compacts.

8 I. 1. Upon determination by a majority of the members of the
9 Interstate Commission that an emergency exists the Interstate
10 Commission may promulgate an emergency rule only if it is required
11 to:

- 12 a. protect the children covered by this compact from an
13 imminent threat to their health, safety and well-
14 being,
- 15 b. prevent loss of federal or state funds, or
- 16 c. meet a deadline for the promulgation of an
17 administrative rule required by federal law.

18 2. An emergency rule shall become effective immediately upon
19 adoption; provided, that the usual rulemaking procedures provided
20 hereunder shall be retroactively applied to said rule as soon as
21 reasonably possible, but no later than ninety (90) days after the
22 effective date of the emergency rule.

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

1 ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

2 A. Oversight.

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

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

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

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

24 B. Dispute Resolution.

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

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

10 C. Enforcement.

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

15 1. Provide remedial training and specific technical assistance;

16 2. Provide written notice to the defaulting state and other
17 member state of the nature of the default and the means of curing
18 the default. The Interstate Commission shall specify the conditions
19 by which the defaulting state must cure its default;

20 3. By majority vote of the members, initiate against a
21 defaulting member state legal action in the United States District
22 Court for the District of Columbia or, at the discretion of the
23 Interstate Commission, in the federal district where the Interstate
24 Commission has its principal offices, to enforce compliance with the

1 provisions of the compact, its bylaws, or rules. The relief sought
2 may include both injunctive relief and damages. In the event
3 judicial enforcement is necessary the prevailing party shall be
4 awarded all costs of the litigation including reasonable attorney
5 fees; or

6 4. Avail itself of any other remedies available under state law
7 or the regulation of official or professional conduct.

8 ARTICLE XIII. FINANCING OF THE COMMISSION

9 A. The Interstate Commission shall pay or provide for the
10 payment of the reasonable expenses of its establishment,
11 organization, and ongoing activities.

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

20 C. The Interstate Commission shall not incur obligations of any
21 kind prior to securing the funds adequate to meet the same; nor
22 shall the Interstate Commission pledge the credit of any of the
23 member states, except by and with the authority of the member state.

24

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

9 ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

11 B. The compact shall become effective and binding upon
12 legislative enactment of the compact into law by no less than
13 thirty-five states. The effective date shall be the later of July
14 1, 2008, or upon enactment of the compact into law by the thirty-
15 fifth state. Thereafter it shall become effective and binding as to
16 any other member state upon enactment of the compact into law by
17 that state. The executive heads of the state human services
18 administration with ultimate responsibility for the child welfare
19 program of nonmember states or their designees shall be invited to
20 participate in the activities of the Interstate Commission on a
21 nonvoting basis prior to adoption of the compact by all states.

22 C. The Interstate Commission may propose amendments to the
23 compact for enactment by the member states. No amendment shall
24

1 become effective and binding on the member states unless and until
2 it is enacted into law by unanimous consent of the member states.

3 ARTICLE XV. WITHDRAWAL AND DISSOLUTION

4 A. Withdrawal.

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

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

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

17 4. The withdrawing state is responsible for all assessments,
18 obligations and liabilities incurred through the effective date of
19 withdrawal.

20 5. Reinstatement following withdrawal of a member state shall
21 occur upon the withdrawing state reenacting the compact or upon such
22 later date as determined by the members of the Interstate
23 Commission.

24 B. Dissolution of Compact.

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

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

9 ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

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

13 B. The provisions of this compact shall be liberally construed
14 to effectuate its purposes.

15 C. Nothing in this compact shall be construed to prohibit the
16 concurrent applicability of other interstate compacts to which the
17 states are members.

18 ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

19 A. Other Laws.

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

22 B. Binding Effect of the Compact.

1 1. All lawful actions of the Interstate Commission, including
2 all rules and bylaws promulgated by the Interstate Commission, are
3 binding upon the member states.

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

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

11 ARTICLE XVIII. INDIAN TRIBES

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

19 SECTION 2. REPEALER 10 O.S. 2001, Sections 571, 572,
20 573, 574, 575 and 576, are hereby repealed.

21 SECTION 3. This act shall become effective upon the enactment
22 by thirty-five states, as defined by Article II of the Interstate
23 Compact for the Placement of Children or July 1, 2008, whichever is
24 later.

