

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 COMMITTEE SUBSTITUTE
FOR ENGROSSED
4 SENATE BILL NO. 906

By: Williamson of the Senate

5 and

6 Winchester of the House

7

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9 COMMITTEE SUBSTITUTE

10 An Act relating to children; creating the Interstate
11 Compact for the Placement of Children; stating
12 purpose; defining terms; providing scope and
13 applicability; providing for jurisdiction; providing
14 for assessments; providing for placement authority;
15 providing for responsibility of sending and receiving
16 states; establishing the Interstate Commission for
17 the Placement of Children; providing
18 responsibilities, powers and duties of the
19 Commission; providing for composition of the
20 Commission; providing for an executive committee;
21 providing for the organization and operation of the
22 Commission; providing for officers and staff;
23 providing for qualified immunity, defense and
24 indemnification; providing for rulemaking; providing
for oversight of the compact, dispute resolution, and
enforcement of the compact; providing for financing
of the Commission; providing eligibility for
membership; providing effective date that compact
becomes binding; providing for amendments; providing
for withdrawal from the compact; providing for
reinstatement; providing for dissolution of the
compact; providing for severability and construction
of the compact; providing for the effect of compact
on other laws; providing for the binding effect of
the compact; authorizing the Commission to promulgate
guidelines for use of the compact by Indian tribes;
repealing 10 O.S. 2001, Sections 571, 572, 573, 574,
575 and 576, which relate to the Interstate Compact

on the Placement of Children; providing for codification; providing an effective date; and declaring an emergency.

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

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

9 There is hereby created the Interstate Compact for the Placement
10 of Children. Pursuant to the terms and conditions of this compact,
11 the State of Oklahoma seeks to join with other member states, as
12 defined by this compact, in enacting this compact. This compact
13 shall become effective upon the enactment into law by thirty-five
14 states. Upon the effective date of this compact, this compact shall
15 replace the Interstate Compact on the Placement of Children codified
16 at Section 571 of Title 10 of the Oklahoma Statutes. The provisions
17 of the Interstate Compact for the Placement of Children are as
18 follows:

ARTICLE I. PURPOSE

The purpose of this compact is to:

- 21 1. Provide a process through which children subject to this
- 22 compact are placed in safe and suitable homes in a timely manner;
- 23 2. Facilitate ongoing supervision of a placement, the delivery
- 24 of services, and communication between the states;

3. Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner;

4. Provide for the promulgation and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states;

5. Provide for uniform data collection and information sharing between member states under this compact;

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

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

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

ARTICLE II. DEFINITIONS

As used in this compact:

1. "Approved placement" means the public child-placing agency in the receiving state has determined that the placement is both safe and suitable for the child;

1 2. "Assessment" means an evaluation of a prospective placement
2 by a public child-placing agency in the receiving state to determine
3 if the placement meets the individualized needs of the child,
4 including but not limited to the child's safety and stability,
5 health and well-being, and mental, emotional, and physical
6 development. An assessment is only applicable to a placement by a
7 public child-placing agency;

8 3. "Child" means an individual who has not attained the age of
9 eighteen (18);

10 4. "Certification" means to attest, declare, or swear to before
11 a judge or notary public;

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

15 6. "Home study" means an evaluation of a home environment
16 conducted in accordance with the applicable requirements of the
17 state in which the home is located, and documenting the preparation
18 and suitability of the placement resource for placement of a child
19 in accordance with the laws and requirements of the state in which
20 the home is located;

21 7. "Indian tribe" means any Indian tribe, band, nation, or
22 other organized group or community of Indians recognized as eligible
23 for services provided to Indians by the Secretary of the Interior
24 because of their status as Indians, including any Alaskan native

1 village as defined in Section 3(c) of the Alaska Native Claims
2 Settlement Act at 43 U.S.C., Section 1602(c);

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

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

8 10. "Legal risk placement" or "legal risk adoption" means a
9 placement made preliminary to an adoption where the prospective
10 adoptive parents acknowledge in writing that a child may be ordered
11 returned to the sending state or the state of residence of the birth
12 mother, if different from the sending state, and a final decree of
13 adoption shall not be entered in any jurisdiction until all required
14 consents are obtained or are dispensed with in accordance with
15 applicable law;

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

17 12. "Noncustodial parent" means a person who, at the time of
18 commencement of court proceedings in the sending state, does not
19 have sole legal custody of the child or has joint legal custody of a
20 child, and who is not the subject of allegations or findings of
21 child abuse or neglect;

22 13. "Nonmember state" means a state which has not enacted this
23 compact;

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1 14. "Notice of residential placement" means information
2 regarding a placement into a residential facility provided to the
3 receiving state including, but not limited to, the name, date, and
4 place of birth of the child, the identity and address of the parent
5 or legal guardian, evidence of authority to make the placement, and
6 the name and address of the facility in which the child will be
7 placed. Notice of residential placement shall also include
8 information regarding a discharge and any unauthorized absence from
9 the facility;

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

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

19 17. "Provisional placement" means a determination made by the
20 public child-placing agency in the receiving state that the proposed
21 placement is safe and suitable, and, to the extent allowable, the
22 receiving state has temporarily waived its standards or requirements
23 otherwise applicable to prospective foster or adoptive parents so as
24 not to delay the placement. Completion of the receiving state

1 requirements regarding training for prospective foster or adoptive
2 parents shall not delay an otherwise safe and suitable placement;

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

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

11 20. "Relative" means someone who is related to the child as a
12 parent, stepparent, sibling by half or whole blood or by adoption,
13 grandparent, aunt, uncle, or first cousin or a nonrelative with such
14 significant ties to the child that they may be regarded as relatives
15 as determined by the court in the sending state;

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

22 22. "Rule" means a written directive, mandate, standard, or
23 principle issued by the Interstate Commission promulgated pursuant
24 to Article XI of this compact that is of general applicability and

1 that implements, interprets, or prescribes a policy or provision of
2 the compact. A rule has the force and effect of an administrative
3 rule in a member state, and includes the amendment, repeal, or
4 suspension of an existing rule;

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

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

11 25. "Service member's state of legal residence" means the state
12 in which the active duty Armed Services member is considered a
13 resident for tax and voting purposes;

14 26. "State" means a state of the United States, the District of
15 Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands,
16 Guam, American Samoa, the Northern Mariana Islands and any other
17 territory of the United States;

18 27. "State court" means a judicial body of a state that is
19 vested by law with responsibility for adjudicating cases involving
20 abuse, neglect, deprivation, delinquency, or status offenses of
21 individuals who have not attained the age of eighteen (18); and

22 28. "Supervision" means monitoring provided by the receiving
23 state once a child has been placed in a receiving state pursuant to
24 this compact.

ARTICLE III. APPLICABILITY

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

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

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

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

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

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

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

1 1. The interstate placement of a child in a custody proceeding
2 in which a public child-placing agency is not a party, provided the
3 placement is not intended to effectuate an adoption;

4 2. The interstate placement of a child with a nonrelative in a
5 receiving state by a parent with the legal authority to make such a
6 placement, provided the placement is not intended to effectuate an
7 adoption;

8 3. The interstate placement of a child by one relative with the
9 lawful authority to make such a placement directly with a relative
10 in a receiving state;

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

13 5. The placement of a child with a noncustodial parent provided
14 that:

15 a. the noncustodial parent proves to the satisfaction of
16 a court in the sending state a substantial
17 relationship with the child,

18 b. the court in the sending state makes a written finding
19 that placement with the noncustodial parent is in the
20 best interests of the child, and

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

1 6. A child entering the United States from a foreign country
2 for the purpose of adoption or leaving the United States to go to a
3 foreign country for the purpose of adoption in that country;

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

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

10 C. For purposes of determining the applicability of this
11 compact to the placement of a child with a family in the Armed
12 Services, the public child-placing agency or private child-placing
13 agency may choose the state of the service member's permanent duty
14 station or the service member's declared legal residence.

15 D. Nothing in this compact shall be construed to prohibit the
16 concurrent application of the provisions of this compact with other
17 applicable interstate compacts including the Interstate Compact for
18 Juveniles and the Interstate Compact on Adoption and Medical
19 Assistance. The Interstate Commission may in cooperation with other
20 interstate compact commissions having responsibility for the
21 interstate movement, placement or transfer of children, promulgate
22 like rules to ensure the coordination of services, timely placement
23 of children, and the reduction of unnecessary or duplicative
24 administrative or procedural requirements.

ARTICLE IV. JURISDICTION

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

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

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

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

2. The child is adopted;

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

1 4. The child achieves legal independence pursuant to the laws
2 of the sending state;

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

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

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

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

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

17 F. Nothing in this article shall limit the receiving state's
18 ability to take emergency jurisdiction for the protection of the
19 child.

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

1. When the child is a ward of another court that established jurisdiction over the child prior to the placement;
2. When the child is in the legal custody of a public agency in the sending state; or
3. When a court in the sending state has otherwise appropriately assumed jurisdiction over the child, prior to the submission of the request for approval of placement.

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

ARTICLE V. PLACEMENT EVALUATION

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

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

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

4 2. The appropriate consents or relinquishments signed by the
5 birth parents in accordance with the laws of the sending state, or
6 where permitted the laws of the state where the adoption will be
7 finalized;

8 3. Certification by a licensed attorney or authorized agent of
9 a private adoption agency that the consent or relinquishment is in
10 compliance with the applicable laws of the sending state, or where
11 permitted the laws of the state where finalization of the adoption
12 will occur;

13 4. A home study; and

14 5. An acknowledgment of legal risk signed by the prospective
15 adoptive parents.

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

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

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

4 F. Upon receipt of a request from the public child-placing
5 agency of the sending state, the receiving state shall initiate an
6 assessment of the proposed placement to determine its safety and
7 suitability. If the proposed placement is a placement with a
8 relative, the public child-placing agency of the sending state may
9 request a determination for a provisional placement.

10 G. The public child-placing agency in the receiving state may
11 request from the public child-placing agency or the private child-
12 placing agency in the sending state, and shall be entitled to
13 receive supporting or additional information necessary to complete
14 the assessment or approve the placement.

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

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

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

ARTICLE VI. PLACEMENT AUTHORITY

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

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

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

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

2. If a determination not to approve the placement of a child in the receiving state is overturned upon review, the placement shall be deemed approved; provided, however, that all administrative

1 or judicial remedies have been exhausted or the time for such
2 remedies has passed.

ARTICLE VII. PLACING AGENCY RESPONSIBILITY

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

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

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

2. The receiving state shall only have financial responsibility

16 | for:

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

22 3. Nothing in this provision shall prohibit public child-
23 placing agencies in the sending state from entering into agreements

1 with licensed agencies or persons in the receiving state to conduct
2 assessments and provide supervision.

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

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

9 2. Financially responsible for the child absent a contractual
10 agreement to the contrary.

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

14 D. The public child-placing agency in the receiving state shall
15 provide, or arrange for the provision of, supervision and services
16 for the child, including timely reports, during the period of the
17 placement.

18 E. Nothing in this compact shall be construed as to limit the
19 authority of the public child-placing agency in the receiving state
20 from contracting with a licensed agency or person in the receiving
21 state for an assessment or the provision of supervision or services
22 for the child or otherwise authorizing the provision of supervision
23 or services by a licensed agency during the period of placement.

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

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

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

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

ARTICLE VIII. INTERSTATE COMMISSION FOR

THE PLACEMENT OF CHILDREN

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

1 1. Be a joint commission of the member states and shall have
2 the responsibilities, powers, and duties set forth herein, and such
3 additional powers as may be conferred upon it by subsequent
4 concurrent action of the respective Legislatures of the member
5 states;

6 2. Consist of one commissioner from each member state who shall
7 be appointed by the executive head of the state human services
8 administration with ultimate responsibility for the child welfare
9 program. The appointed commissioner shall have the legal authority
10 to vote on policy-related matters governed by this compact binding
11 the state.

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

14 b. A majority of the member states shall constitute a
15 quorum for the transaction of business, unless a
16 larger quorum is required by the bylaws of the
17 Interstate Commission.

18 c. A representative shall not delegate a vote to another
19 member state.

20 d. A representative may delegate voting authority to
21 another person from their state for a specified
22 meeting;

23 3. In addition to the commissioners of each member state,
24 include persons who are members of interested organizations as

1 defined in the bylaws or rules of the Interstate Commission. Such
2 members shall be ex officio and shall not be entitled to vote on any
3 matter before the Interstate Commission; and

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

8 ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

9 The Interstate Commission shall have the following powers:

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

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

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

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

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

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

24 7. To purchase and maintain insurance and bonds;

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

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

7 10. To accept any and all donations and grants of money,
8 equipment, supplies, materials, and services, and to receive,
9 utilize, and dispose thereof;

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

13 12. To sell, convey, mortgage, pledge, lease, exchange,
14 abandon, or otherwise dispose of any property, real, personal, or
15 mixed;

16 13. To establish a budget and make expenditures;

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

19 15. To report annually to the Legislatures, Governors, the
20 judiciary, and state advisory councils of the member states
21 concerning the activities of the Interstate Commission during the
22 preceding year. Such reports shall also include any recommendations
23 that may have been adopted by the Interstate Commission;

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

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

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

ARTICLE X. ORGANIZATION AND OPERATION OF THE
INTERSTATE COMMISSION

A. Bylaws.

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

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

B. Meetings.

1. The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings, and

1 upon the request of a simple majority of the member states shall
2 call additional meetings.

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

- 9 a. relate solely to the Interstate Commission's internal
10 personnel practices and procedures,
- 11 b. disclose matters specifically exempted from disclosure
12 by federal law,
- 13 c. disclose financial or commercial information which is
14 privileged, proprietary, or confidential in nature,
- 15 d. involve accusing a person of a crime, or formally
16 censuring a person,
- 17 e. disclose information of a personal nature where
18 disclosure would constitute a clearly unwarranted
19 invasion of personal privacy or physically endanger
20 one or more persons,
- 21 f. disclose investigative records compiled for law
22 enforcement purposes, or

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

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

17 4. The bylaws may provide for meetings of the Interstate
18 Commission to be conducted by telecommunication or other electronic
19 communication.

C. Officers and Staff.

21 1. The Interstate Commission may, through its executive
22 committee, appoint or retain a staff director for such period, upon
23 such terms and conditions and for such compensation as the
24 Interstate Commission may deem appropriate. The staff director

1 shall serve as secretary to the Interstate Commission, but shall not
2 have a vote. The staff director may hire and supervise such other
3 staff as may be authorized by the Interstate Commission.

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

8 D. Qualified Immunity, Defense and Indemnification.

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

20 1. The liability of the Interstate Commission's staff director
21 and employees or Interstate Commission representatives, acting
22 within the scope of such person's employment or duties for acts,
23 errors, or omissions occurring within such person's state may not
24 exceed the limits of liability set forth under the Constitution and

1 laws of that state for state officials, employees, and agents. The
2 Interstate Commission is considered to be an instrumentality of the
3 states for the purposes of any such action. Nothing in this
4 subsection shall be construed to protect such person from suit or
5 liability for damage, loss, injury, or liability caused by a
6 criminal act or the intentional or willful and wanton misconduct of
7 such person.

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

20 3. To the extent not covered by the state involved, member
21 state, or the Interstate Commission, the representatives or
22 employees of the Interstate Commission shall be held harmless in the
23 amount of a settlement or judgment, including attorney fees and
24 costs, obtained against such persons arising out of an actual or

1 alleged act, error, or omission that occurred within the scope of
2 Interstate Commission employment, duties, or responsibilities, or
3 that such persons had a reasonable basis for believing occurred
4 within the scope of Interstate Commission employment, duties, or
5 responsibilities, provided that the actual or alleged act, error, or
6 omission did not result from intentional or willful and wanton
7 misconduct on the part of such persons.

ARTICLE XI. RULEMAKING FUNCTIONS OF
THE INTERSTATE COMMISSION

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

13 B. Rulemaking shall occur pursuant to the criteria set forth in
14 this article and the bylaws and rules adopted pursuant thereto.

15 Such rulemaking shall substantially conform to the principles of the
16 "Model State Administrative Procedures Act", 1981 Act, Uniform Laws
17 Annotated, Vol. 15, p. 1 (2000), or such other administrative
18 procedure acts as the Interstate Commission deems appropriate and
19 consistent with due process requirements under the United States
20 Constitution as now or hereafter interpreted by the U.S. Supreme
21 Court. All rules and amendments shall become binding as of the date
22 specified, as published with the final version of the rule as
23 approved by the Interstate Commission.

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

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

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

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

11 D. Rules promulgated by the Interstate Commission shall have
12 the force and effect of administrative rules and shall be binding in
13 the compacting states to the extent and in the manner provided for
14 in this compact.

15 E. Not later than sixty (60) days after a rule is promulgated,
16 an interested person may file a petition in the U.S. District Court
17 for the District of Columbia or in the Federal District Court where
18 the Interstate Commission's principal office is located for judicial
19 review of such rule. If the court finds that the action of the
20 Interstate Commission is not supported by substantial evidence in
21 the rulemaking record, the court shall hold the rule unlawful and
22 set it aside.

23 F. If a majority of the Legislatures of the member states
24 rejects a rule, those states may by enactment of a statute or

1 resolution in the same manner used to adopt the compact cause that
2 rule to have no further force and effect in any member state.

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

9 H. Within the first twelve (12) months of operation, the
10 Interstate Commission shall promulgate rules addressing the
11 following:

- 12 1. Transition rules;
- 13 2. Forms and procedures;
- 14 3. Time lines;
- 15 4. Data collection and reporting;
- 16 5. Rulemaking;
- 17 6. Visitation;
- 18 7. Progress reports/supervision;
- 19 8. Sharing of information/confidentiality;
- 20 9. Financing of the Interstate Commission;
- 21 10. Mediation, arbitration, and dispute resolution;
- 22 11. Education, training, and technical assistance;
- 23 12. Enforcement; and
- 24 13. Coordination with other interstate compacts.

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

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

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

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

ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

A. Oversight.

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

2. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and the rules of the Interstate Commission and shall take all actions

1 necessary and appropriate to effectuate the purposes and intent of
2 the compact. The compact and its rules shall be binding in the
3 compacting states to the extent and in the manner provided for in
4 this compact.

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

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

17 B. Dispute Resolution.

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

22 2. The Interstate Commission shall promulgate a rule providing
23 for both mediation and binding dispute resolution for disputes among
24 compacting states. The costs of such mediation or dispute

1 resolution shall be the responsibility of the parties to the
2 dispute.

3 C. Enforcement.

4 If the Interstate Commission determines that a member state has
5 defaulted in the performance of its obligations or responsibilities
6 under this compact, its bylaws, or rules, the Interstate Commission
7 may:

8 1. Provide remedial training and specific technical assistance;

9 2. Provide written notice to the defaulting state and other

10 member state of the nature of the default and the means of curing
11 the default. The Interstate Commission shall specify the conditions
12 by which the defaulting state must cure its default;

13 3. By majority vote of the members, initiate against a

14 defaulting member state legal action in the United States District

15 Court for the District of Columbia or, at the discretion of the

16 Interstate Commission, in the federal district where the Interstate

17 Commission has its principal offices, to enforce compliance with the

18 provisions of the compact, its bylaws, or rules. The relief sought

19 may include both injunctive relief and damages. In the event

20 judicial enforcement is necessary the prevailing party shall be

21 awarded all costs of the litigation including reasonable attorney

22 fees; or

23 4. Avail itself of any other remedies available under state law

24 or the regulation of official or professional conduct.

ARTICLE XIII. FINANCING OF THE COMMISSION

2 A. The Interstate Commission shall pay or provide for the
3 payment of the reasonable expenses of its establishment,
4 organization, and ongoing activities.

5 B. The Interstate Commission may levy on and collect an annual
6 assessment from each member state to cover the cost of the
7 operations and activities of the Interstate Commission and its staff
8 which shall be in a total amount sufficient to cover the Interstate
9 Commission's annual budget as approved by its members each year.
10 The aggregate annual assessment amount shall be allocated based upon
11 a formula to be determined by the Interstate Commission which shall
12 promulgate a rule binding upon all member states.

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

17 D. The Interstate Commission shall keep accurate accounts of
18 all receipts and disbursements. The receipts and disbursements of
19 the Interstate Commission shall be subject to the audit and
20 accounting procedures established under its bylaws. However, all
21 receipts and disbursements of funds handled by the Interstate
22 Commission shall be audited yearly by a certified or licensed public
23 accountant and the report of the audit shall be included in and
24 become part of the annual report of the Interstate Commission.

1 ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

3 B. The compact shall become effective and binding upon
4 legislative enactment of the compact into law by no less than
5 thirty-five states. The effective date shall be the later of July
6 1, 2008, or upon enactment of the compact into law by the thirty-
7 fifth state. Thereafter it shall become effective and binding as to
8 any other member state upon enactment of the compact into law by
9 that state. The executive heads of the state human services
10 administration with ultimate responsibility for the child welfare
11 program of nonmember states or their designees shall be invited to
12 participate in the activities of the Interstate Commission on a
13 nonvoting basis prior to adoption of the compact by all states.

14 C. The Interstate Commission may propose amendments to the
15 compact for enactment by the member states. No amendment shall
16 become effective and binding on the member states unless and until
17 it is enacted into law by unanimous consent of the member states.

18 ARTICLE XV. WITHDRAWAL AND DISSOLUTION

19 A. Withdrawal.

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

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

4 3. The withdrawing state shall immediately notify the president
5 of the Interstate Commission in writing upon the introduction of
6 legislation repealing this compact in the withdrawing state. The
7 Interstate Commission shall then notify the other member states of
8 the withdrawing state's intent to withdraw.

9 4. The withdrawing state is responsible for all assessments,
10 obligations and liabilities incurred through the effective date of
11 withdrawal.

12 5. Reinstatement following withdrawal of a member state shall
13 occur upon the withdrawing state reenacting the compact or upon such
14 later date as determined by the members of the Interstate
15 Commission.

16 B. Dissolution of Compact.

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

20 2. Upon the dissolution of this compact, the compact becomes
21 null and void and shall be of no further force or effect, and the
22 business and affairs of the Interstate Commission shall be concluded
23 and surplus funds shall be distributed in accordance with the
24 bylaws.

ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

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

5 B. The provisions of this compact shall be liberally construed
6 to effectuate its purposes.

7 C. Nothing in this compact shall be construed to prohibit the
8 concurrent applicability of other interstate compacts to which the
9 states are members.

ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other Laws.

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

B. Binding Effect of the Compact.

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

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

20 3. In the event any provision of this compact exceeds the
21 constitutional limits imposed on the Legislature of any member
22 state, such provision shall be ineffective to the extent of the
23 conflict with the constitutional provision in question in that
24 member state.

ARTICLE XVIII. INDIAN TRIBES

2 Notwithstanding any other provision in this compact, the
3 Interstate Commission may promulgate guidelines to permit Indian
4 tribes to utilize the compact to achieve any or all of the purposes
5 of the compact as specified in Article I. The Interstate Commission
6 shall make reasonable efforts to consult with Indian tribes in
7 promulgating guidelines to reflect the diverse circumstances of the
8 various Indian tribes.

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

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

15 SECTION 4. It being immediately necessary for the preservation
16 of the public peace, health and safety, an emergency is hereby
17 declared to exist, by reason whereof this act shall take effect and
18 be in full force from and after its passage and approval.

19 51-2-11075 SD 04/10/08
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