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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; providing
15 responsibilities, powers and duties of the
16 Commission; providing for composition of the
17 Commission; providing for an executive committee;
18 providing for the organization and operation of the
19 Commission; providing for officers and staff;
20 providing for qualified immunity, defense and
21 indemnification; providing for rulemaking; providing
22 for oversight of the compact, dispute resolution, and
23 enforcement of the compact; providing for financing
24 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; and providing an effective date.

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

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

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

15 ARTICLE I. PURPOSE

16 The purpose of this compact is to:

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

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

21 C. Provide operating procedures that will ensure that children
22 are placed in safe and suitable homes in a timely manner.

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1 D. Provide for the promulgation and enforcement of
2 administrative rules implementing the provisions of this compact and
3 regulating the covered activities of the member states.

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

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

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

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

17 ARTICLE II. DEFINITIONS

18 As used in this compact,

19 A. "Approved placement" means the receiving state has
20 determined after an assessment that the placement is both safe and
21 suitable for the child and is in compliance with the applicable laws
22 of the receiving state governing the placement of children therein.

23 B. "Assessment" means an evaluation of a prospective placement
24 to determine whether the placement meets the individualized needs of

1 the child, including but not limited to the child's safety and
2 stability, health and well-being, and mental, emotional and physical
3 development.

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

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

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

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

18 G. "Jurisdiction" means the power and authority of a court to
19 hear and decide matters.

20 H. "Member state" means a state that has enacted this compact.

21 I. "Noncustodial parent" means a person who, at the time of
22 commencement of court proceedings in the sending state, does not
23 have sole legal custody of the child or has joint legal custody of a
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1 child, and who is not the subject of allegations or findings of
2 child abuse or neglect.

3 J. "Nonmember state" means a state which has not enacted this
4 compact.

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

14 L. "Placement" means the act by a public or private child-
15 placing agency intended to arrange for the care or custody of a
16 child in another state.

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

23 N. "Provisional placement" means that the receiving state has
24 determined that the proposed placement is safe and suitable, and, to

1 the extent allowable, the receiving state has temporarily waived its
2 standards or requirements otherwise applicable to prospective foster
3 or adoptive parents so as to not delay the placement. Completion of
4 the receiving state requirements regarding training for prospective
5 foster or adoptive parents shall not delay an otherwise safe and
6 suitable placement.

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

13 P. "Receiving state" means the state to which a child is sent,
14 brought, or caused to be sent or brought.

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

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

3 S. "Rule" means a written directive, mandate, standard or
4 principle issued by the Interstate Commission promulgated pursuant
5 to Article XI of this compact that is of general applicability and
6 that implements, interprets or prescribes a policy or provision of
7 the compact. "Rule" has the force and effect of statutory law in a
8 member state, and includes the amendment, repeal, or suspension of
9 an existing rule.

10 T. "Sending state" means the state from which the placement of
11 a child is initiated.

12 U. "Service member's permanent duty station" means the military
13 installation where an active duty Armed Services member is currently
14 assigned and is physically located under competent orders that do
15 not specify the duty as temporary.

16 V. "Service member's state of legal residence" means the state
17 in which the active duty Armed Services member is considered a
18 resident for tax and voting purposes.

19 W. "State" means a state of the United States, the District of
20 Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands,
21 Guam, American Samoa, the Northern Marianas Islands and any other
22 territory of the United States.

23 X. "State court" means a judicial body of a state that is
24 vested by law with responsibility for adjudicating cases involving

1 abuse, neglect, deprivation, delinquency or status offenses of
2 individuals who have not attained the age of eighteen (18).

3 Y. "Supervision" means monitoring provided by the receiving
4 state once a child has been placed in a receiving state pursuant to
5 this compact.

6 ARTICLE III. APPLICABILITY

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

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

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

19 a. the child is being placed in a residential facility in
20 another member state and is not covered under another
21 compact; or

22 b. the child is being placed in another member state and
23 the determination of safety and suitability of the
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1 placement and services required is not provided
2 through another compact.

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

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

7 1. The interstate placement of a child with a nonrelative in a
8 receiving state by a parent with the legal authority to make such a
9 placement provided, however, that the placement is not intended to
10 effectuate an adoption.

11 2. The interstate placement of a child by one relative with the
12 lawful authority to make such a placement directly with a relative
13 in a receiving state.

14 3. The placement of a child, not subject to Article III,
15 Section A, into a residential facility by the child's parent.

16 4. The placement of a child with a noncustodial parent provided
17 that:

18 a. The noncustodial parent proves to the satisfaction of
19 a court in the sending state a substantial
20 relationship with the child; and

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

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

3 5. A child entering the United States from a foreign country
4 for the purpose of adoption or leaving the United States to go to a
5 foreign country for the purpose of adoption in that country.

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

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

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

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

1 of children, and the reduction of unnecessary or duplicative
2 administrative or procedural requirements.

3 ARTICLE IV. JURISDICTION

4 A. The sending state shall retain jurisdiction over a child
5 with respect to all matters of custody and disposition of the child
6 which it would have had if the child had remained in the sending
7 state. Such jurisdiction shall also include the power to order the
8 return of the child to the sending state.

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

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

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

19 2. The child is adopted; or

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

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

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1 B. Prior to the sending, bringing, or causing a child to be
2 sent or brought into a receiving state, the private child-placing
3 agency shall:

4 1. Provide evidence that the applicable laws of the sending
5 state have been complied with; and

6 2. Certification that the consent or relinquishment is in
7 compliance with applicable law of the birth parent's state of
8 residence or, where permitted, the laws of the state of where the
9 finalization of the adoption will occur; and

10 3. Request through the public child-placing agency in the
11 sending state an assessment to be conducted in the receiving state;
12 and

13 4. Upon completion of the assessment, obtain the approval of
14 the public child-placing agency in the receiving state.

15 C. The procedures for making and the request for an assessment
16 shall contain all information and be in such form as provided for in
17 the rules of the Interstate Commission.

18 D. Upon receipt of a request from the public child welfare
19 agency of the sending state, the receiving state shall initiate an
20 assessment of the proposed placement to determine its safety and
21 suitability. If the proposed placement is a placement with a
22 relative, the public child-placing agency of the sending state may
23 request a determination of whether the placement qualifies as a
24 provisional placement.

1 E. The public child-placing agency in the receiving state may
2 request from the public child-placing agency or the private child-
3 placing agency in the sending state, and shall be entitled to
4 receive supporting or additional information necessary to complete
5 the assessment.

6 F. The public child-placing agency in the receiving state shall
7 complete or arrange for the completion of the assessment within the
8 time frames established by the rules of the Interstate Commission.

9 G. The Interstate Commission may develop uniform standards for
10 the assessment of the safety and suitability of interstate
11 placements.

12 ARTICLE VI. PLACEMENT AUTHORITY

13 A. Except as provided in Article VI, Section C, no child
14 subject to this compact shall be placed into a receiving state until
15 approval for such placement is obtained.

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

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

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

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

10 ARTICLE VII. STATE RESPONSIBILITY

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

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

15 a. the ongoing support and maintenance for the child
16 during the period of the placement, unless otherwise
17 provided for in the receiving state; and

18 b. as determined by the public child-placing agency in
19 the sending state, services for the child beyond the
20 public services for which the child is eligible in the
21 receiving state.

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

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

1 b. supervision conducted by the receiving state at the
2 level necessary to support the placement as agreed
3 upon by the public child-placing agencies of the
4 receiving and sending state.

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

9 B. For the placement of a child by a private child-placing
10 agency preliminary to a possible adoption, the private child-placing
11 agency shall be:

12 1. Legally responsible for the child during the period of
13 placement as provided for in the law of the sending state until the
14 finalization of the adoption.

15 2. Financially responsible for the child absent a contractual
16 agreement to the contrary.

17 C. A private child-placing agency shall be responsible for any
18 assessment conducted in the receiving state and any supervision
19 conducted by the receiving state at the level required by the laws
20 of the receiving state or the rules of the Interstate Commission.

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

1 E. The public child-placing agency in the receiving state shall
2 provide, or arrange for the provision of, supervision and services
3 for the child, including timely reports, during the period of the
4 placement.

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

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

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

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

23 J. With the consent of the Interstate Commission, states may
24 enter into limited agreements that facilitate the timely assessment

1 and provision of services and supervision of placements under this
2 compact.

3 ARTICLE VIII. INTERSTATE COMMISSION FOR
4 THE PLACEMENT OF CHILDREN

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

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

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

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

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

4 3. A representative shall not delegate a vote to another member
5 state.

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

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

14 D. Establish an executive committee which shall have the
15 authority to administer the day-to-day operations and administration
16 of the Interstate Commission. It shall not have the power to engage
17 in rulemaking.

18 ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

19 The Interstate Commission shall have the following powers:

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

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

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

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

6 E. Collect standardized data concerning the interstate
7 placement of children subject to this compact as directed through
8 its rules which shall specify the data to be collected, the means of
9 collection and data exchange and reporting requirements.

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

12 G. To purchase and maintain insurance and bonds.

13 H. To hire or contract for services of personnel or consultants
14 as necessary to carry out its functions under the compact and
15 establish personnel qualification policies, and rates of
16 compensation.

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

19 J. To accept any and all donations and grants of money,
20 equipment, supplies, materials, and services, and to receive,
21 utilize, and dispose thereof.

22 K. To lease, purchase, accept contributions or donations of, or
23 otherwise to own, hold, improve or use any property, real, personal,
24 or mixed.

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

3 M. To establish a budget and make expenditures.

4 N. To adopt a seal and bylaws governing the management and
5 operation of the Interstate Commission.

6 O. To report annually to the legislatures, governors, the
7 judiciary, and state advisory councils of the member states
8 concerning the activities of the Interstate Commission during the
9 preceding year. Such reports shall also include any recommendations
10 that may have been adopted by the Interstate Commission.

11 P. To coordinate and provide education, training and public
12 awareness regarding the interstate movement of children for
13 officials involved in such activity.

14 Q. To maintain books and records in accordance with the bylaws
15 of the Interstate Commission.

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

18 ARTICLE X. ORGANIZATION AND OPERATION OF THE
19 INTERSTATE COMMISSION

20 A. Bylaws

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

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

8 B. Meetings

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

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

- 19 a. relate solely to the Interstate Commission's internal
20 personnel practices and procedures; or
- 21 b. disclose matters specifically exempted from disclosure
22 by federal law; or
- 23 c. disclose financial or commercial information which is
24 privileged, proprietary or confidential in nature; or

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

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

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 statutory law and shall supersede any state
20 law, rule or regulation to the extent of any conflict.

21 E. Not later than 60 days after a rule is promulgated, an
22 interested person may file a petition in the U.S. District Court for
23 the District of Columbia or in the Federal District Court where the
24 Interstate Commission's principal office is located for judicial

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

5 F. If a majority of the legislatures of the member states
6 rejects a rule, those states may by enactment of a statute or
7 resolution in the same manner used to adopt the compact cause that
8 such rule shall have no further force and effect in any member
9 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 12, but no more than 24 months after the
13 first meeting of the Interstate Commission created hereunder, as
14 determined by the members during the first meeting.

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

- 17 1. Transition rules
- 18 2. Forms and procedures
- 19 3. Time lines
- 20 4. Data collection and reporting
- 21 5. Rulemaking
- 22 6. Visitation
- 23 7. Progress reports/supervision
- 24 8. Sharing of information/confidentiality

1 9. Financing of the Interstate Commission

2 10. Mediation, arbitration and dispute resolution

3 11. Education, training and technical assistance

4 12. Enforcement

5 13. Coordination with other interstate compacts

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

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

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

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

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

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

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

23 ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

24 A. Oversight

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

3 2. The executive, legislative and judicial branches of state
4 government in each member state shall enforce this compact and the
5 rules of the Interstate Commission and shall take all actions
6 necessary and appropriate to effectuate the compact's purposes and
7 intent. The compact and its rules shall supersede state law, rules
8 or regulations to the extent of any conflict therewith.

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

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

21 B. Dispute Resolution

22 1. The Interstate Commission shall attempt, upon the request of
23 a member state, to resolve disputes which are subject to the compact
24

1 and which may arise among member states and between member and
2 nonmember states.

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

8 C. Enforcement

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

13 1. Provide remedial training and specific technical assistance;
14 or

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

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

1 may include both injunctive relief and damages. In the event
2 judicial enforcement is necessary the prevailing party shall be
3 awarded all costs of such litigation including reasonable attorney's
4 fees; or

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

7 ARTICLE XIII. FINANCING OF THE COMMISSION

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

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

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

23 D. The Interstate Commission shall keep accurate accounts of
24 all receipts and disbursements. The receipts and disbursements of

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

7 ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

9 B. The compact shall become effective and binding upon
10 legislative enactment of the compact into law by no less than 35
11 states. The effective date shall be the later of July 1, 2007, or
12 upon enactment of the compact into law by the 35th state.

13 Thereafter it shall become effective and binding as to any other
14 member state upon enactment of the compact into law by that state.

15 The governors of nonmember states or their designees shall be
16 invited to participate in the activities of the Interstate
17 Commission on a nonvoting basis prior to adoption of the compact by
18 all states.

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

23 ARTICLE XV. WITHDRAWAL AND DISSOLUTION

24 A. Withdrawal

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

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

8 3. The withdrawing state shall immediately notify the president
9 of the Interstate Commission in writing upon the introduction of
10 legislation repealing this compact in the withdrawing state. The
11 Interstate Commission shall then notify the other member states of
12 the withdrawing state's intent to withdraw.

13 4. The withdrawing state is responsible for all assessments,
14 obligations and liabilities incurred through the effective date of
15 withdrawal.

16 5. Reinstatement following withdrawal of a member state shall
17 occur upon the withdrawing state reenacting the compact or upon such
18 later date as determined by the members of the Interstate
19 Commission.

20 B. Dissolution of Compact

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

24

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

6 ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

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

10 B. The provisions of this compact shall be liberally construed
11 to effectuate its purposes.

12 C. Nothing in this compact shall be construed to prohibit the
13 concurrent applicability of other interstate compacts to which the
14 states are members.

15 ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

16 A. Other Laws

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

19 2. All member states' laws conflicting with this compact or its
20 rules are superseded to the extent of the conflict.

21 B. Binding Effect of the Compact

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

