

THE HOUSE OF REPRESENTATIVES
Monday, February 19, 2007

House Bill No. 1547

HOUSE BILL NO. 1547 - By: WINCHESTER of the House and WILLIAMSON of the Senate.

An Act relating to children; creating the Interstate Compact for the Placement of Children; stating purpose; defining terms; providing scope and applicability; providing for jurisdiction; providing for assessments; providing for placement authority; providing for responsibility of sending and receiving states; establishing the Interstate Commission for the Placement of Children; providing responsibilities, powers and duties of the Commission; providing for composition of the Commission; providing for an executive committee; providing for the organization and operation of the Commission; providing for officers and staff; providing for qualified immunity, defense and 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; and providing an effective date.

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

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

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

5 G. Provide for a state’s continuing legal jurisdiction and responsibility for
6 placement and care of a child that it would have had if the placement were intrastate.

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

9 ARTICLE II. DEFINITIONS

10 As used in this compact:

11 A. “Approved placement” means the receiving state has determined after an
12 assessment that the placement is both safe and suitable for the child and is in
13 compliance with the applicable laws of the receiving state governing the placement of
14 children therein.

15 B. “Assessment” means an evaluation of a prospective placement to determine
16 whether the placement meets the individualized needs of the child, including but not
17 limited to the child’s safety and stability, health and well-being, and mental, emotional
18 and physical development.

19 C. “Child” means an individual who has not attained the age of eighteen (18).

20 D. “Default” means the failure of a member state to perform the obligations or
21 responsibilities imposed upon it by this compact, the bylaws or rules of the Interstate
22 Commission.

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

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

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

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

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

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

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

1 include information regarding a discharge and any unauthorized absence from the
2 facility.

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

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

9 N. "Provisional placement" means that the receiving state has determined that the
10 proposed placement is safe and suitable, and to the extent allowable, the receiving state
11 has temporarily waived its standards or requirements otherwise applicable to
12 prospective foster or adoptive parents so as to not delay the placement. Completion of
13 the receiving state requirements regarding training for prospective foster or adoptive
14 parents shall not delay an otherwise safe and suitable placement.

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

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

1 Q. “Relative” means someone who is related to the child as a parent, stepparent,
2 sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin or
3 a nonrelative with such significant ties to the child that they may be regarded as
4 relatives as determined by the court in the sending state.

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

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

15 T. “Sending state” means the state from which the placement of a child is initiated.

16 U. “Service member’s permanent duty station” means the military installation
17 where an active duty Armed Services member is currently assigned and is physically
18 located under competent orders that do not specify the duty as temporary.

19 V. “Service member’s state of legal residence” means the state in which the active
20 duty Armed Services member is considered a resident for tax and voting purposes.

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

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

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

9 ARTICLE III. APPLICABILITY

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

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

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

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

- 1 b. the child is being placed in another member state and the
2 determination of safety and suitability of the placement and services
3 required is not provided through another compact; and
- 4 3. The interstate placement of any child by a public child-placing agency or private
5 child-placing agency as defined in this compact as a preliminary step to a possible
6 adoption.
- 7 B. The provisions of this compact shall not apply to:
- 8 1. The interstate placement of a child with a nonrelative in a receiving state by a
9 parent with the legal authority to make such a placement; provided, however, that the
10 placement is not intended to effectuate an adoption;
- 11 2. The interstate placement of a child by one relative with the lawful authority to
12 make such a placement directly with a relative in a receiving state;
- 13 3. The placement of a child, not subject to Article III, Section A, into a residential
14 facility by his parent;
- 15 4. The placement of a child with a noncustodial parent provided that:
- 16 a. the noncustodial parent proves to the satisfaction of a court in the
17 sending state a substantial relationship with the child, and
- 18 b. the court in the sending state makes a written finding that placement
19 with the noncustodial parent is in the best interests of the child, and
- 20 c. The court in the sending state dismisses its jurisdiction over the child's
21 case;

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

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

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

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

13 2. The child is adopted; or

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

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

16 or

17 5. A guardianship is created by a court in the receiving state with the concurrence
18 of the court in the sending state; or

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

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

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

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

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

9 ARTICLE V. ASSESSMENTS

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

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

15 1. Provide evidence that the applicable laws of the sending state have been
16 complied with;

17 2. Certification that the consent or relinquishment is in compliance with applicable
18 law of the birth parent's state of residence or, where permitted, the laws of the state of
19 where the finalization of the adoption will occur;

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

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

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

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

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

15 ARTICLE VII. STATE RESPONSIBILITY

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

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

- 20 a. the ongoing support and maintenance for the child during the period of
21 the placement, unless otherwise provided for in the receiving state,
22 and

1 b. as determined by the public child-placing agency in the sending state,
2 services for the child beyond the public services for which the child is
3 eligible in the receiving state;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 ARTICLE VIII. INTERSTATE COMMISSION FOR

1 THE PLACEMENT OF CHILDREN

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

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

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

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

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

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

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

21 C. In addition to the commissioners of each member state, the Interstate
22 Commission shall include persons who are members of interested organizations as

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

3 D. Establish an executive committee which shall have the authority to administer
4 the day-to-day operations and administration of the Interstate Commission. It shall not
5 have the power to engage in rulemaking.

6 ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

7 The Interstate Commission shall have the following powers:

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

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

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

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

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

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

20 G. To purchase and maintain insurance and bonds.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

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

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

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

12 M. To establish a budget and make expenditures.

13 N. To adopt a seal and bylaws governing the management and operation of the
14 Interstate Commission.

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

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

21 Q. To maintain books and records in accordance with the bylaws of the Interstate
22 Commission.

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

3 ARTICLE X. ORGANIZATION AND OPERATION OF THE
4 INTERSTATE COMMISSION

5 A. Bylaws

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

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

14 B. Meetings

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

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

- 1 a. relate solely to the Interstate Commission’s internal personnel
2 practices and procedures, or
3 b. disclose matters specifically exempted from disclosure by federal law,
4 or
5 c. disclose financial or commercial information which is privileged,
6 proprietary or confidential in nature, or
7 d. involve accusing a person of a crime, or formally censuring a person, or
8 e. disclose information of a personal nature where disclosure would
9 constitute a clearly unwarranted invasion of personal privacy or
10 physically endanger one or more persons, or
11 f. disclose investigative records compiled for law enforcement purposes,
12 or
13 g. specifically relate to the Interstate Commission’s participation in a
14 civil action or other legal proceeding.

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

1 in such minutes. All minutes and documents of a closed meeting shall remain under
2 seal, subject to release by a majority vote of the Interstate Commission or by court order.

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

5 C. Officers and Staff

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

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

15 D. Qualified Immunity, Defense and Indemnification

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

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

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

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

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

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

14 ARTICLE XI. RULEMAKING FUNCTIONS OF
15 THE INTERSTATE COMMISSION

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

18 B. Rulemaking shall occur pursuant to the criteria set forth in this article and the
19 bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially
20 conform to the principles of the “Model State Administrative Procedures Act”, 1981 Act,
21 Uniform Laws Annotated, Vol. 15, p. 1 (2000), or such other administrative procedure
22 acts as the Interstate Commission deems appropriate consistent with due process

1 requirements under the United States Constitution as now or hereafter interpreted by
2 the U.S. Supreme Court. All rules and amendments shall become binding as of the date
3 specified, as published with the final version of the rule as approved by the Interstate
4 Commission.

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

6 1. Publish the proposed rule's entire text stating the reason(s) for that proposed
7 rule;

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

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

13 D. Rules promulgated by the Interstate Commission shall have the force and effect
14 of statutory law and shall supersede any state law, rule or regulation to the extent of any
15 conflict.

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

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

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

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

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

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

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

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

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

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

16 ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

17 A. Oversight

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

20 2. The executive, legislative and judicial branches of state government in each
21 member state shall enforce this compact and the rules of the Interstate Commission and
22 shall take all actions necessary and appropriate to effectuate the compact's purposes and

1 intent. The compact and its rules shall supersede state law, rules or regulations to the
2 extent of any conflict therewith.

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

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

12 B. Dispute Resolution

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

16 2. The Interstate Commission shall promulgate a rule providing for both mediation
17 and binding dispute resolution for disputes among compacting states. The costs of such
18 mediation or dispute resolution shall be the responsibility of the parties to the dispute.

19 C. Enforcement

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

- 1 a. provide remedial training and specific technical assistance,
- 2 b. provide written notice to the defaulting state and other member states
- 3 of the nature of the default and the means of curing the default. The
- 4 Interstate Commission shall specify the conditions by which the
- 5 defaulting state must cure its default,
- 6 c. by majority vote of the members, initiate against a defaulting member
- 7 state legal action in the United States District Court for the District of
- 8 Columbia or, at the discretion of the Interstate Commission, in the
- 9 federal district where the Interstate Commission has its principal
- 10 offices, to enforce compliance with the provisions of the compact, its
- 11 bylaws or rules. The relief sought may include both injunctive relief
- 12 and damages. In the event judicial enforcement is necessary the
- 13 prevailing party shall be awarded all costs of such litigation including
- 14 reasonable attorney's fees, or
- 15 d. avail itself of any other remedies available under state law or the
- 16 regulation of official or professional conduct.

17 ARTICLE XIII. FINANCING OF THE COMMISSION

18 A. The Interstate Commission shall pay, or provide for the payment of the

19 reasonable expenses of its establishment, organization and ongoing activities.

20 B. The Interstate Commission may levy on and collect an annual assessment from

21 each member state to cover the cost of the operations and activities of the Interstate

22 Commission and its staff which must be in a total amount sufficient to cover the

1 Interstate Commission's annual budget as approved by its members each year. The
2 aggregate annual assessment amount shall be allocated based upon a formula to be
3 determined by the Interstate Commission which shall promulgate a rule binding upon all
4 member states.

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

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

15 ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

17 B. The compact shall become effective and binding upon legislative enactment of
18 the compact into law by no less than thirty-five states. The effective date shall be the
19 later of July 1, 2007, or upon enactment of the compact into law by the 35th state.

20 Thereafter it shall become effective and binding as to any other member state upon
21 enactment of the compact into law by that state. The governors of nonmember states or

1 their designees shall be invited to participate in the activities of the Interstate
2 Commission on a nonvoting basis prior to adoption of the compact by all states.

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

7 ARTICLE XV. WITHDRAWAL AND DISSOLUTION

8 A. Withdrawal

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

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

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

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

1 5. Reinstatement following withdrawal of a member state shall occur upon the
2 withdrawing state reenacting the compact or upon such later date as determined by the
3 members of the Interstate Commission.

4 B. Dissolution of Compact

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

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

11 ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

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

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

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

19 ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

20 A. Other Laws

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

1 COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 02-15-07 -
2 DO PASS, As Coauthored.