

THE HOUSE OF REPRESENTATIVES
Monday, April 14, 2008

Committee Substitute for
ENGROSSED
Senate Bill No. 906

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 906 - By:
WILLIAMSON of the Senate and WINCHESTER of the House.

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; providing an effective date; and declaring an emergency.

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:

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

12 ARTICLE I. PURPOSE

13 The purpose of this compact is to:

- 14 1. Provide a process through which children subject to this compact are placed in
15 safe and suitable homes in a timely manner;
- 16 2. Facilitate ongoing supervision of a placement, the delivery of services, and
17 communication between the states;
- 18 3. Provide operating procedures that will ensure that children are placed in safe
19 and suitable homes in a timely manner;

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

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

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

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

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

15 ARTICLE II. DEFINITIONS

16 As used in this compact:

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

19 2. "Assessment" means an evaluation of a prospective placement by a public child-
20 placing agency in the receiving state to determine if the placement meets the
21 individualized needs of the child, including but not limited to the child's safety and

1 stability, health and well-being, and mental, emotional, and physical development. An
2 assessment is only applicable to a placement by a public child-placing agency;

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

4 4. “Certification” means to attest, declare, or swear to before a judge or notary
5 public;

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

9 6. “Home study” means an evaluation of a home environment conducted in
10 accordance with the applicable requirements of the state in which the home is located,
11 and documenting the preparation and suitability of the placement resource for placement
12 of a child in accordance with the laws and requirements of the state in which the home is
13 located;

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

19 8. “Interstate Commission for the Placement of Children” means the commission
20 that is created under Article VIII of this compact and which is generally referred to as
21 the Interstate Commission;

- 1 9. “Jurisdiction” means the power and authority of a court to hear and decide
2 matters;
- 3 10. “Legal risk placement” or “legal risk adoption” means a placement made
4 preliminary to an adoption where the prospective adoptive parents acknowledge in
5 writing that a child may be ordered returned to the sending state or the state of
6 residence of the birth mother, if different from the sending state, and a final decree of
7 adoption shall not be entered in any jurisdiction until all required consents are obtained
8 or are dispensed with in accordance with applicable law;
- 9 11. “Member state” means a state that has enacted this compact;
- 10 12. “Noncustodial parent” means a person who, at the time of commencement of
11 court proceedings in the sending state, does not have sole legal custody of the child or has
12 joint legal custody of a child, and who is not the subject of allegations or findings of child
13 abuse or neglect;
- 14 13. “Nonmember state” means a state which has not enacted this compact;
- 15 14. “Notice of residential placement” means information regarding a placement into
16 a residential facility provided to the receiving state including, but not limited to, the
17 name, date, and place of birth of the child, the identity and address of the parent or legal
18 guardian, evidence of authority to make the placement, and the name and address of the
19 facility in which the child will be placed. Notice of residential placement shall also
20 include information regarding a discharge and any unauthorized absence from the
21 facility;

1 15. “Placement” means the act by a public or private child-placing agency intended
2 to arrange for the care or custody of a child in another state;

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

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

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

19 19. “Receiving state” means the state to which a child is sent, brought, or caused to
20 be sent or brought;

21 20. “Relative” means someone who is related to the child as a parent, stepparent,
22 sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin or

1 a nonrelative with such significant ties to the child that they may be regarded as
2 relatives as determined by the court in the sending state;

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

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

13 23. “Sending state” means the state from which the placement of a child is
14 initiated;

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

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

20 26. “State” means a state of the United States, the District of Columbia, the
21 Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the
22 Northern Mariana Islands and any other territory of the United States;

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

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

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

8 2. 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 the placement is not
10 intended to effectuate an adoption;

11 3. 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 4. The placement of a child, not subject to Article III, subsection A, into a
14 residential facility by the child's parent;

15 5. 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,

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

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

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

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

16 2. The child is adopted;

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

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

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

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

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

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

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

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

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

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

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

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

20 placement.

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

4 ARTICLE V. PLACEMENT EVALUATION

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

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

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

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

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

- 1 4. A home study; and
2 5. An acknowledgment of legal risk signed by the prospective adoptive parents.

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

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

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

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

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

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

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

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

9 ARTICLE VI. PLACEMENT AUTHORITY

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

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

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

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

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

5 ARTICLE VII. PLACING AGENCY RESPONSIBILITY

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

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

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

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

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

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

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

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

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

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

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

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

20 F. Each member state shall provide for coordination among its branches of
21 government concerning the state's participation in, and compliance with, the compact

1 and Interstate Commission activities, through the creation of an advisory council or use
2 of an existing body or board.

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

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

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

12 ARTICLE VIII. INTERSTATE COMMISSION FOR
13 THE PLACEMENT OF CHILDREN

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

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

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

- 6 a. Each member state represented at a meeting of the Interstate
7 Commission is entitled to one vote.
- 8 b. A majority of the member states shall constitute a quorum for the
9 transaction of business, unless a larger quorum is required by the
10 bylaws of the Interstate Commission.
- 11 c. A representative shall not delegate a vote to another member state.
- 12 d. A representative may delegate voting authority to another person from
13 their state for a specified meeting;

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

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

21 ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

22 The Interstate Commission shall have the following powers:

- 1 1. To promulgate rules and take all necessary actions to effect the goals, purposes,
2 and obligations as enumerated in this compact;
- 3 2. To provide for dispute resolution among member states;
- 4 3. To issue, upon request of a member state, advisory opinions concerning the
5 meaning or interpretation of the interstate compact, its bylaws, rules, or actions;
- 6 4. To enforce compliance with this compact or the bylaws or rules of the Interstate
7 Commission pursuant to Article XII;
- 8 5. To collect standardized data concerning the interstate placement of children
9 subject to this compact as directed through its rules which shall specify the data to be
10 collected, the means of collection, and data exchange and reporting requirements;
- 11 6. To establish and maintain offices as may be necessary for the transacting of its
12 business;
- 13 7. To purchase and maintain insurance and bonds;
- 14 8. To hire or contract for services of personnel or consultants as necessary to carry
15 out its functions under the compact and establish personnel qualification policies and
16 rates of compensation;
- 17 9. To establish and appoint committees and officers including, but not limited to, an
18 executive committee as required by Article X;
- 19 10. To accept any and all donations and grants of money, equipment, supplies,
20 materials, and services, and to receive, utilize, and dispose thereof;
- 21 11. To lease, purchase, accept contributions or donations of, or otherwise to own,
22 hold, improve, or use any property, real, personal, or mixed;

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

6 B. Meetings.

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

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

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

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

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

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

19 C. Officers and Staff.

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

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

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

7 D. Qualified Immunity, Defense and Indemnification.

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

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

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

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

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

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

21 ARTICLE XI. RULEMAKING FUNCTIONS OF
22 THE INTERSTATE COMMISSION

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

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

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

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

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

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

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

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

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

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

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

- 16 1. Transition rules;
- 17 2. Forms and procedures;
- 18 3. Time lines;
- 19 4. Data collection and reporting;
- 20 5. Rulemaking;
- 21 6. Visitation;
- 22 7. Progress reports/supervision;

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

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

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

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

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

21 ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

22 A. Oversight.

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

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

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

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

18 B. Dispute Resolution.

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

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

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

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

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

20 ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

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

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

14 ARTICLE XV. WITHDRAWAL AND DISSOLUTION

15 A. Withdrawal.

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

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

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

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

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

10 B. Dissolution of Compact.

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

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

17 ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

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

21 B. The provisions of this compact shall be liberally construed to effectuate its
22 purposes.

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

3 ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

4 A. Other Laws.

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

7 B. Binding Effect of the Compact.

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

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

12 3. In the event any provision of this compact exceeds the constitutional limits
13 imposed on the Legislature of any member state, such provision shall be ineffective to the
14 extent of the conflict with the constitutional provision in question in that member state.

15 ARTICLE XVIII. INDIAN TRIBES

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

21 SECTION 2. REPEALER 10 O.S. 2001, Sections 571, 572, 573, 574, 575 and
22 576, are hereby repealed.

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

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

7 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY,
8 dated 04-10-08 - DO PASS, As Amended.