

3 Senate Bill No. 906

4 SENATE BILL NO. 906 - By: WILLIAMSON of the Senate and WINCHESTER of  
5 the House.

6 An Act relating to children; creating the Interstate Compact  
7 for the Placement of Children; stating purpose; defining  
8 terms; providing scope and applicability; providing for  
9 jurisdiction; providing for assessments; providing for  
10 placement authority; providing for responsibility of sending  
11 and receiving states; establishing the Interstate Commission  
12 for the Placement of Children; providing responsibilities,  
13 powers and duties of the Commission; providing for  
14 composition of the Commission; providing for an executive  
15 committee; providing for the organization and operation of  
16 the Commission; providing for officers and staff; providing  
17 for qualified immunity, defense and indemnification;  
18 providing for rulemaking; providing for oversight of the  
19 compact, dispute resolution, and enforcement of the compact;  
20 providing for financing of the Commission; providing  
21 eligibility for membership; providing effective date that  
22 compact becomes binding; providing for amendments; providing  
23 for withdrawal from the compact; providing for  
24 reinstatement; providing for dissolution of the compact;  
25 providing for severability and construction of the compact;  
26 providing for the effect of compact on other laws; providing  
27 for the binding effect of the compact; authorizing the  
28 Commission to promulgate guidelines for use of the compact  
29 by Indian tribes; repealing 10 O.S. 2001, Sections 571, 572,  
30 573, 574, 575 and 576, which relate to the Interstate  
31 Compact on the Placement of Children; providing for  
32 codification; and providing an effective date.

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

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



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

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

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

12 ARTICLE II. DEFINITIONS

13 As used in this compact,

14 A. "Approved placement" means the receiving state has  
15 determined after an assessment that the placement is both safe and  
16 suitable for the child and is in compliance with the applicable laws  
17 of the receiving state governing the placement of children therein.

18 B. "Assessment" means an evaluation of a prospective placement  
19 to determine whether the placement meets the individualized needs of  
20 the child, including but not limited to the child's safety and  
21 stability, health and well-being, and mental, emotional and physical  
22 development.

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

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

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

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

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

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

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

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

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

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

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

21 N. "Provisional placement" means that the receiving state has  
22 determined that the proposed placement is safe and suitable, and, to  
23 the extent allowable, the receiving state has temporarily waived its

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

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

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

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

19 R. "Residential facility" means a facility providing a level of  
20 care that is sufficient to substitute for parental responsibility or  
21 foster care, and is beyond what is needed for assessment or  
22 treatment of an acute condition. For purposes of the compact,

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.

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

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

8 ARTICLE III. APPLICABILITY

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

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

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

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

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

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

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

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

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

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

18          4.    The placement of a child with a noncustodial parent provided  
19   that:

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

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

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

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

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

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

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

20          D.    Nothing in this compact shall be construed to prohibit the  
21                  concurrent application of the provisions of this compact with other  
22                  applicable interstate compacts including the Interstate Compact for  
23                  Juveniles and the Interstate Compact on Adoption and Medical

1 Assistance. The Interstate Commission may in cooperation with other  
2 interstate compact commissions having responsibility for the  
3 interstate movement, placement or transfer of children, promulgate  
4 like rules to ensure the coordination of services, timely placement  
5 of children, and the reduction of unnecessary or duplicative  
6 administrative or procedural requirements.

7 ARTICLE IV. JURISDICTION

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

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

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

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

23 2. The child is adopted; or



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

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

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

10           2. Certification that the consent or relinquishment is in  
11 compliance with applicable law of the birth parent's state of  
12 residence or, where permitted, the laws of the state of where the  
13 finalization of the adoption will occur; and

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

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

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

22           D. Upon receipt of a request from the public child welfare  
23 agency of the sending state, the receiving state shall initiate an

1 assessment of the proposed placement to determine its safety and  
2 suitability. If the proposed placement is a placement with a  
3 relative, the public child-placing agency of the sending state may  
4 request a determination of whether the placement qualifies as a  
5 provisional placement.

6 E. The public child-placing agency in the receiving state may  
7 request from the public child-placing agency or the private child-  
8 placing agency in the sending state, and shall be entitled to  
9 receive supporting or additional information necessary to complete  
10 the assessment.

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

14 G. The Interstate Commission may develop uniform standards for  
15 the assessment of the safety and suitability of interstate  
16 placements.

17 ARTICLE VI. PLACEMENT AUTHORITY

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

21 B. If the public child-placing agency in the receiving state  
22 does not approve the proposed placement then the child shall not be  
23 placed. The receiving state shall provide written documentation of

1 any such determination in accordance with the rules promulgated by  
2 the Interstate Commission. Such determination is not subject to  
3 judicial review in the sending state.

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

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

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

16 ARTICLE VII. STATE RESPONSIBILITY

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

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

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

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

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

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

8           b.    supervision conducted by the receiving state at the  
9                    level necessary to support the placement as agreed  
10                  upon by the public child-placing agencies of the  
11                  receiving and sending state.

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

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

19           1.    Legally responsible for the child during the period of  
20 placement as provided for in the law of the sending state until the  
21 finalization of the adoption.

22           2.    Financially responsible for the child absent a contractual  
23 agreement to the contrary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22          D. Establish an executive committee which shall have the  
23 authority to administer the day-to-day operations and administration

1 of the Interstate Commission. It shall not have the power to engage  
2 in rulemaking.

3 ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

4 The Interstate Commission shall have the following powers:

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

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

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

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

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

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

19 G. To purchase and maintain insurance and bonds.

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

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

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

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

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

11 M. To establish a budget and make expenditures.

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

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

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

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

1 R. To perform such functions as may be necessary or appropriate  
2 to achieve the 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  
7 meeting, the Interstate Commission shall adopt bylaws to govern its  
8 conduct as may be necessary or appropriate to carry out the purposes  
9 of the compact.

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

17 B. Meetings

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

22 2. Public notice shall be given by the Interstate Commission of  
23 all meetings and all meetings shall be open to the public, except as

1 set forth in the rules or as otherwise provided in the compact. The  
2 Interstate Commission and its committees may close a meeting, or  
3 portion thereof, where it determines by two-thirds vote that an open  
4 meeting would be likely to:

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

22 3. For a meeting, or portion of a meeting, closed pursuant to  
23 this provision, the Interstate Commission's legal counsel or

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

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

15 C. Officers and Staff

16 1. The Interstate Commission may, through its executive  
17 committee, appoint or retain a staff director for such period, upon  
18 such terms and conditions and for such compensation as the  
19 Interstate Commission may deem appropriate. The staff director  
20 shall serve as secretary to the Interstate Commission, but shall not  
21 have a vote. The staff director may hire and supervise such other  
22 staff as may be authorized by the Interstate Commission.

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

5           D. Qualified Immunity, Defense and Indemnification

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

17           1. The liability of the Interstate Commission's staff director  
18 and employees or Interstate Commission representatives, acting  
19 within the scope of such person's employment or duties for acts,  
20 errors, or omissions occurring within such person's state may not  
21 exceed the limits of liability set forth under the Constitution and  
22 laws of that state for state officials, employees, and agents. The  
23 Interstate Commission is considered to be an instrumentality of the

1 states for the purposes of any such action. Nothing in this  
2 subsection shall be construed to protect such person from suit or  
3 liability for damage, loss, injury, or liability caused by a  
4 criminal act or the intentional or willful and wanton misconduct of  
5 such person;

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

18 3. To the extent not covered by the state involved, member  
19 state, or the Interstate Commission, the representatives or  
20 employees of the Interstate Commission shall be held harmless in the  
21 amount of a settlement or judgment, including attorney's fees and  
22 costs, obtained against such persons arising out of an actual or  
23 alleged act, error, or omission that occurred within the scope of

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

7 ARTICLE XI. RULEMAKING FUNCTIONS OF  
8 THE INTERSTATE COMMISSION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

19 A. Oversight

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

22 2. The executive, legislative and judicial branches of state  
23 government in each member state shall enforce this compact and the

1 rules of the Interstate Commission and shall take all actions  
2 necessary and appropriate to effectuate the compact's purposes and  
3 intent. The compact and its rules shall supersede state law, rules  
4 or regulations to the extent of any conflict therewith.

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

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

17 B. Dispute Resolution

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

22 2. The Interstate Commission shall promulgate a rule providing  
23 for both mediation and binding dispute resolution for disputes among

1 compacting states. The costs of such mediation or dispute  
2 resolution shall be the responsibility of the parties to the  
3 dispute.

4 C. Enforcement

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

9 1. Provide remedial training and specific technical assistance;  
10 or

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

15 3. By majority vote of the members, initiate against a  
16 defaulting member state legal action in the United States District  
17 Court for the District of Columbia or, at the discretion of the  
18 Interstate Commission, in the federal district where the Interstate  
19 Commission has its principal offices, to enforce compliance with the  
20 provisions of the compact, its bylaws or rules. The relief sought  
21 may include both injunctive relief and damages. In the event  
22 judicial enforcement is necessary the prevailing party shall be

1 awarded all costs of such litigation including reasonable attorney's  
2 fees; or

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

5 ARTICLE XIII. FINANCING OF THE COMMISSION

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

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

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

21 D. The Interstate Commission shall keep accurate accounts of  
22 all receipts and disbursements. The receipts and disbursements of  
23 the Interstate Commission shall be subject to the audit and

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

6 ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

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

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

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

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

22 ARTICLE XV. WITHDRAWAL AND DISSOLUTION

23 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.

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



1 Interstate Compact for the Placement of Children or July 1, 2007,  
2 whichever is later.  
3 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-20-07 - DO  
4 PASS, As Coauthored.