

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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SENATE BILL 1505

Short Title: Adopt New Interstate Compact/Child Placement. (Public)

Sponsors: Senator Boseman.

Referred to: Judiciary I (Civil).

March 27, 2007

1 A BILL TO BE ENTITLED  
2 AN ACT TO ADOPT A NEW INTERSTATE COMPACT FOR THE PLACEMENT  
3 OF CHILDREN.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 38 of Chapter 7B of the General Statutes is repealed.

6 SECTION 2. Chapter 7B of the General Statutes is amended by adding the  
7 following new Article to read:

8 "Article 41.

9 "Interstate Compact for the Placement of Children.

10 "**§7B-4100. Adoption of Compact.**

11 The Interstate Compact for the Placement of Children is hereby enacted into law and  
12 entered into with all other jurisdictions legally joining therein in a form substantially as  
13 contained in this Article. It is the intent of the General Assembly that Article 37 of this  
14 Chapter shall govern interstate placements of children between North Carolina and any  
15 other jurisdictions not a party to this Compact. It is the intent of the General Assembly  
16 that Chapter 48 of the General Statutes shall govern the adoption of children within the  
17 boundaries of North Carolina.

18  
19 Article I. Purpose.

20  
21 The purpose of this Interstate Compact for the Placement of Children is to:

22 (a) Provide a process through which children subject to this Compact are placed  
23 in safe and suitable homes in a timely manner.

24 (b) Facilitate ongoing supervision of a placement, the delivery of services, and  
25 communication between the states.

26 (c) Provide operating procedures that will ensure that children are placed in safe  
27 and suitable homes in a timely manner.

1 (d) 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 (e) Provide for uniform data collection and information sharing between member  
5 states under this Compact.

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

## 15 Article II. Definitions.

16 As used in this Compact:

17  
18  
19 (a) 'Approved placement' means the receiving state has determined after an  
20 assessment that the placement is both safe and suitable for the child and is in  
21 compliance with the applicable laws of the receiving state governing the placement of  
22 children therein.

23 (b) 'Assessment' means an evaluation of a prospective placement to determine  
24 whether the placement meets the individualized needs of the child, including the child's  
25 safety and stability, health and well-being, and mental, emotional, and physical  
26 development.

27 (c) 'Child' means an individual who has not attained the age of 18.

28 (d) 'Default' means the failure of a member state to perform the obligations or  
29 responsibilities imposed upon it by this Compact or the bylaws or rules of the Interstate  
30 Commission.

31 (e) 'Indian tribe' means any Indian tribe, band, nation, or other organized group  
32 or community of Indians recognized as eligible for services provided to Indians by the  
33 Secretary of the Interior because of their status as Indians, including any Alaskan native  
34 village as defined in Section 3(c) of the Alaska Native Claims Settlement Act at 43  
35 U.S.C. § 1602(c).

36 (f) 'Interstate Commission for the Placement of Children' means the commission  
37 that is created under Article VIII of this Compact and which is generally referred to as  
38 the 'Interstate Commission'.

39 (g) 'Jurisdiction' means the power and authority of a court to hear and decide  
40 matters.

41 (h) 'Member state' means a state that has enacted this Compact.

42 (i) 'Noncustodial parent' means a person who, at the time of the commencement  
43 of court proceedings in the sending state, does not have sole legal custody of the child

1 or has joint legal custody of a child, and who is not the subject of allegations or findings  
2 of child abuse or neglect.

3 (j) 'Nonmember state' means a state which has not enacted this Compact.

4 (k) 'Notice of residential placement' means information regarding a placement  
5 into a residential facility provided to the receiving state, including the name, date, and  
6 place of birth of the child, the identity and address of the parent or legal guardian,  
7 evidence of authority to make the placement, and the name and address of the facility in  
8 which the child will be placed. Notice of residential placement shall also include  
9 information regarding a discharge and any unauthorized absence from the facility.

10 (l) 'Placement' means the act by a public or private child placing agency intended  
11 to arrange for the care or custody of a child in another state.

12 (m) 'Private child placing agency' means any private corporation agency,  
13 foundation, institution, or charitable organization, or any private person or attorney that  
14 facilitates, causes, or is involved in the placement of a child from one state to another  
15 and that is not an instrumentality of the state or acting under color of state law.

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

21 (o) 'Receiving state' means the state to which a child is sent, brought, or caused to  
22 be sent or brought.

23 (p) 'Relative' means someone who is related to the child as a parent, step-parent,  
24 sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin  
25 or a nonrelative with such significant ties to the child that they may be regarded as  
26 relatives as determined by the court in the sending state.

27 (q) 'Residential facility' means a facility providing a level of care that is sufficient  
28 to substitute for parental responsibility or foster care, and is beyond what is needed for  
29 assessment or treatment of an acute condition. For purposes of the Compact, residential  
30 facilities do not include institutions primarily educational in character, hospitals, or  
31 other medical facilities.

32 (r) 'Rule' means a written directive, mandate, standard, or principle issued by the  
33 Interstate Commission promulgated pursuant to Article XI of this Compact that is of  
34 general applicability and that implements, interprets, or prescribes a policy or provision  
35 of the Compact. The term 'rule' has the force and effect of statutory law in a member  
36 state, and includes the amendment, repeal, or suspension of an existing rule.

37 (s) 'Sending state' means the state from which the placement of a child is  
38 initiated.

39 (t) 'Service member's permanent duty station' means the military installation  
40 where an active duty Armed Services member is currently assigned and is physically  
41 located under competent orders that do not specify the duty as temporary.

42 (u) 'Service member's state of legal residence' means the state in which the active  
43 duty Armed Services member is considered a resident for tax and voting purposes.







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

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

8       (g) The Interstate Commission may develop uniform standards for the  
9 assessment of the safety and suitability of interstate placements.

10  
11                                   Article VI. Placement Authority.  
12

13       (a) Except as provided in subsections (c) through (e) of this Article of the  
14 Compact, no child subject to this Compact shall be placed into a receiving state until  
15 approval for the placement is obtained.

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

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

23       (d) The administrative review and any further judicial review associated with the  
24 determination shall be conducted in the receiving state pursuant to its applicable  
25 administrative procedures.

26       (e) If a determination not to approve the placement of the child in the receiving  
27 state is overturned upon review, the placement shall be deemed approved, provided that,  
28 all administrative or judicial remedies have been exhausted or the time for such  
29 remedies has passed.

30  
31                                   Article VII. State Responsibility.  
32

33       (a) For the interstate placement of a child made by a public child placing agency  
34 or state court:

35           (1) The public child placing agency in the sending state shall have  
36 financial responsibility for:

37           a. The ongoing support and maintenance for the child during the  
38 period of the placement, unless otherwise provided for in the  
39 receiving state; and

40           b. As determined by the public child placing agency in the sending  
41 state, services for the child beyond the public services for which  
42 the child is eligible in the receiving state.

43           (2) The receiving state shall only have financial responsibility for:

44           a. Any assessment conducted by the receiving state; and

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

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

8           (b) For the placement of a child by a private child placing agency preliminary to  
9           possible adoption, the private child placing agency shall be:

10           (1) Legally responsible for the child during the period of placement as  
11           provided for in the law of the sending state until the finalization of the  
12           adoption.

13           (2) Financially responsible for the child absent a contractual agreement to  
14           the contrary.

15           (c) A private child placing agency shall be responsible for any assessment  
16           conducted in the receiving state and any supervision conducted by the receiving state at  
17           the level required by the laws of the receiving state or the rules of the Interstate  
18           Commission.

19           (d) The public child placing agency in the receiving state shall provide timely  
20           assessments, as provided for in the rules of the Interstate Commission.

21           (e) The public child placing agency in the receiving state shall provide or arrange  
22           for the provision of supervision and services for the child, including timely reports  
23           during the period of the placement.

24           (f) Nothing in this Compact shall be construed as to limit the authority of the  
25           public child placing agency in the receiving state from contracting with a licensed  
26           agency or person in the receiving state for an assessment or the provision of supervision  
27           or services for the child or otherwise authorizing the provision of supervision or  
28           services by a licensed agency during the period of placement.

29           (g) Each member state shall provide for coordination among its branches of  
30           government concerning the state's participation in, and compliance with, the Compact  
31           and Interstate Commission activities through the creation of an advisory council or use  
32           of an existing body or board.

33           (h) Each member state shall establish a central state compact office that is  
34           responsible for state compliance with the Compact and the rules of the Interstate  
35           Commission.

36           (i) The public child placing agency in the sending state shall oversee compliance  
37           with the provisions of the Indian Child Welfare Act, 25 U.S.C. § 1901, et seq., for  
38           placements subject to the provisions of this Compact before placement.

39           (j) With the consent of the Interstate Commission, states may enter into limited  
40           agreements that facilitate the timely assessment and provision of services and  
41           supervision of placements under this Compact.

42  
43           Article VIII. Interstate Commission for the Placement of Children.  
44



1       (a)   The member states hereby establish, by way of this Compact, a commission  
2 known as the 'Interstate Commission for the Placement of Children'. The activities of  
3 the Interstate Commission are the formation of public policy and are a discretionary  
4 state function. The Interstate Commission shall:

5           (1)   Be a joint commission of the member states and shall have the  
6 responsibilities, power, and duties set forth herein, and any additional  
7 powers as may be conferred upon it by subsequent concurrent action of  
8 the respective legislatures of the member states; and

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

15       (b)   Each member state represented at a meeting of the Interstate Commission is  
16 entitled to one vote.

17       (c)   A majority of the member states shall constitute a quorum for the transaction  
18 of business, unless a larger quorum is required by the bylaws of the Interstate  
19 Commission.

20       (d)   A representative shall not delegate a vote to another member state.

21       (e)   A representative may delegate voting authority to another person from their  
22 state for a specified meeting.

23       (f)   In addition to the commissioners of each member state, the Interstate  
24 Commission shall include persons who are members of interested organizations as  
25 defined in the bylaws or rules of the Interstate Commission. The members shall be ex  
26 officio and shall not be entitled to vote on any matter before the Interstate Commission.

27       (g)   The Interstate Commission shall establish an executive committee that has the  
28 authority to administer the day-to-day operations and administration of the Interstate  
29 Commission. The Interstate Commission shall not have the power to engage in  
30 rulemaking.

31  
32                   Article IX. Powers and Duties of the Interstate Commission.  
33

34       The Interstate Commission shall have the power to:

35       (a)   Promulgate rules and take all necessary actions to effect the goals, purposes,  
36 and obligations as enumerated in this Compact.

37       (b)   Provide for dispute resolution among member states.

38       (c)   Issue, upon request of a member state, advisory opinions concerning the  
39 meaning or interpretation of the Interstate Compact, its bylaws, rules, or actions.

40       (d)   Enforce compliance with this Compact or the bylaws or rules of the Interstate  
41 Commission pursuant to Article XII of this Compact.

42       (e)   Collect standardized data concerning the interstate placement of children  
43 subject to this Compact as directed through its rules, which rules shall specify the data  
44 to be collected, the means of collection and data exchange, and reporting requirements.

1       (f) Establish and maintain offices as may be necessary for transacting its  
2 business.

3       (g) Purchase and maintain insurance and bonds.

4       (h) Hire or contract for services of personnel or consultants as necessary to carry  
5 out its functions under the Compact and establish personnel qualification policies and  
6 rates of compensation.

7       (i) Establish and appoint committees and officers, including an executive  
8 committee, as required by Article X of this Compact.

9       (j) Accept any and all donations and grants of money, equipment, supplies,  
10 materials, and services, and receive, utilize, and dispose thereof.

11       (k) Lease, purchase, accept contributions or donations of, or otherwise own, hold,  
12 improve, or use any property, real, personal, or mixed.

13       (l) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise  
14 dispose of any property, real, personal, or mixed.

15       (m) Establish a budget and make expenditures.

16       (n) Adopt a seal and bylaws governing the management and operation of the  
17 Interstate Commission.

18       (o) Report annually to the legislatures, governors, the judiciary, and state  
19 advisory councils of the member states concerning the activities of the Interstate  
20 Commission during the preceding year. The reports shall also include any  
21 recommendations that may have been adopted by the Interstate Commission.

22       (p) Coordinate and provide education, training, and public awareness regarding  
23 the interstate movement of children for officials involved in such activity.

24       (q) Maintain books and records in accordance with the bylaws of the Interstate  
25 Commission.

26       (r) Perform any other functions as may be necessary or appropriate to achieve  
27 the purposes of this Compact.

28  
29       Article X. Organization and Operation of the Interstate Commission.

30  
31       (a) Bylaws.

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

35       (2) The Interstate Commission's bylaws and rules shall establish  
36 conditions and procedures under which the Interstate Commission  
37 shall make its information and official records available to the public  
38 for inspection or copying. The Interstate Commission may exempt  
39 from disclosure information or official records to the extent they  
40 would adversely affect personal privacy rights or proprietary interests.

41       (b) Meetings.

42       (1) The Interstate Commission shall meet at least once each calendar year.  
43 The chairperson may call additional meetings and, upon the request of  
44 a majority of the member states, call additional meetings.

- 1           (2) Public notice shall be given by the Interstate Commission of all  
2 meetings and all meetings shall be open to the public, except as set  
3 forth in the rules or otherwise provided in the Compact. The Interstate  
4 Commission and its committees may close a meeting, or portion  
5 thereof, where it determines by two-thirds vote that an open meeting  
6 would likely:
- 7           a. Relate solely to the Interstate Commission's internal personnel  
8 practices and procedures;
- 9           b. Disclose matters specifically exempted from disclosure by  
10 federal law;
- 11           c. Disclose financial or commercial information that is privileged,  
12 proprietary, or confidential in nature;
- 13           d. Involve accusing a person of a crime or formally censuring a  
14 person;
- 15           e. Disclose information of a personal nature where disclosure  
16 would constitute a clearly unwarranted invasion of personal  
17 privacy or physically endanger one or more persons;
- 18           f. Disclose investigative records compiled for law enforcement  
19 purposes; or
- 20           g. Specifically relate to the Interstate Commission's participation  
21 in a civil action or other legal proceedings.
- 22       (3) For a meeting, or portion of a meeting, closed pursuant to this  
23 subsection, the Interstate Commission's legal counsel or designee shall  
24 certify that the meeting may be closed and shall reference each  
25 relevant exemption provision. The Interstate Commission shall keep  
26 minutes that fully and clearly describe all matters discussed in a  
27 meeting and shall provide a full and accurate summary of actions taken  
28 and the reasons for taking those actions, including a description of the  
29 views expressed and the record of a roll call vote. All documents  
30 considered in connection with an action shall be identified in the  
31 minutes. All minutes and documents of a closed meeting shall remain  
32 under seal, subject to release by a majority vote of the Interstate  
33 Commission or by court order.
- 34       (4) The bylaws may provide for meetings of the Interstate Commission to  
35 be conducted by telecommunication or other electronic  
36 communication.
- 37       (c) Officers and Staff.
- 38       (1) The Interstate Commission may, through its executive committee,  
39 appoint or retain a staff director for such period, upon such terms and  
40 conditions and for such compensation as the Interstate Commission  
41 may deem appropriate. The staff director shall serve as secretary to the  
42 Interstate Commission, but shall not have a vote. The staff director  
43 may hire and supervise any other staff as may be authorized by the  
44 Interstate Commission.

- 1           (2)    The Interstate Commission shall elect, from among its members, a  
2           chairperson and a vice-chairperson of the executive committee and  
3           other necessary officers, each of whom shall have authority and duties  
4           as may be specified in the bylaws.
- 5       (d)    Qualified Immunity, Defense, and Indemnification.
- 6           (1)    The Interstate Commission's staff director and its employees shall be  
7           immune from suit and liability, either personally or in their official  
8           capacity, for a claim for damage to or loss of property or personal  
9           injury or other civil liability caused or arising out of or relating to an  
10          actual or alleged act, error, or omission that occurred, or that the  
11          person had a reasonable basis for believing occurred, within the scope  
12          of Commission employment duties, or responsibilities; provided, that  
13          the person shall not be protected from suit or liability for damage, loss,  
14          injury, or liability caused by a criminal act or the intentional or willful  
15          and wanton misconduct of the person.
- 16          (2)    The liability of the Interstate Commission's staff director and  
17          employees or Interstate Commission representatives, acting within the  
18          scope of the person's employment or duties for acts, errors, or  
19          omissions occurring within the person's state may not exceed the limits  
20          of liability set forth under the Constitution and laws of that state for  
21          state officials, employees, and agents. The Interstate Commission is  
22          considered to be an instrumentality of the states for the purposes of  
23          any such action. Nothing in this subdivision shall be construed to  
24          protect the person from suit or liability for damage, loss, injury, or  
25          liability caused by a criminal act or the intentional or willful and  
26          wanton misconduct of the person.
- 27          (3)    The Interstate Commission shall defend the staff director and its  
28          employees and, subject to the approval of the Attorney General or  
29          other appropriate legal counsel of the member state, defend the  
30          commissioner of a member state in a civil action seeking to impose  
31          liability arising out of an actual or alleged act, error, or omission that  
32          occurred within the scope of Interstate Commission employment,  
33          duties, or responsibilities, or that the defendant had a reasonable basis  
34          for believing occurred within the scope of Interstate Commission  
35          employment, duties, or responsibilities; provided, that the actual or  
36          alleged act, error, or omission did not result from intentional or willful  
37          and wanton misconduct on the part of the person.
- 38          (4)    To the extent not covered by the state involved, member state, or the  
39          Interstate Commission, the representatives or employees of the  
40          Interstate Commission shall be held harmless in the amount of a  
41          settlement or judgment, including attorneys' fees and costs, obtained  
42          against the persons arising out of an actual or alleged act, error, or  
43          omission that occurred within the scope of Interstate Commission  
44          employment, duties, or responsibilities, or that the persons had a

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

5  
6 Article XI. Rulemaking Functions of the Interstate Commission.  
7

8 (a) The Interstate Commission shall promulgate and publish rules in order to  
9 effectively and efficiently achieve the purposes of the Compact.

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

19 (c) When promulgating a rule, the Interstate Commission shall, at a minimum:

20 (1) Publish the proposed rule's entire text stating the reason for the  
21 proposed rule;

22 (2) Allow and invite any and all persons to submit written data, facts,  
23 opinions, and arguments, which information shall be added to the  
24 record and made publicly available; and

25 (3) Promulgate a final rule and its effective date, if appropriate, based on  
26 input from state or local officials or interested parties.

27 (d) Rules promulgated by the Interstate Commission shall have the force and  
28 effect of statutory law and shall supersede any state law, rule, or regulation to the extent  
29 of any conflict.

30 (e) Not later than 60 days after a rule is promulgated, an interested person may  
31 file a petition in the U.S. District Court for the District of Columbia or in the federal  
32 district court where the Interstate Commission's principal office is located for judicial  
33 review of the rule. If the court finds that the Interstate Commission's action is not  
34 supported by substantial evidence in the rulemaking record, the court shall hold the rule  
35 unlawful and set it aside.

36 (f) If a majority of the legislatures of the member states reject a rule, those states  
37 may, by enactment of a statute or resolution in the same manner used to adopt the  
38 Compact, cause the rule to have no further force and effect in any member state.

39 (g) The existing rules governing the operation of the Interstate Compact on the  
40 Placement of Children superseded by this Compact shall be null and void not less than  
41 12, but not more than 24 months, after the first meeting of the Interstate Commission  
42 created by this Compact, as determined by the members during the first meeting.

43 (h) Within the first 12 months of operation, the Interstate Commission shall  
44 promulgate rules addressing the following:

- 1           (1) Transition rules.
- 2           (2) Forms and procedures.
- 3           (3) Time lines.
- 4           (4) Data collection and reporting.
- 5           (5) Rulemaking.
- 6           (6) Visitation.
- 7           (7) Progress reports and supervision.
- 8           (8) Sharing of information and confidentiality.
- 9           (9) Financing of the Interstate Commission.
- 10          (10) Mediation, arbitration, and dispute resolution.
- 11          (11) Education, training, and technical assistance.
- 12          (12) Enforcement of the Compact.
- 13          (13) Coordination with other interstate compacts.

14          (i) Upon determination by a majority of the members of the Interstate  
15 Commission that an emergency exists, the Interstate Commission may promulgate an  
16 emergency rule only if creation of the rule is necessary to:

- 17           (1) Protect the children covered by this Compact from an imminent threat  
18 to their health, safety, and well-being;
- 19           (2) Prevent loss of federal or State funds; or
- 20           (3) Meet a deadline for the promulgation of an administrative rule  
21 required by federal law.

22 An emergency rule shall become effective immediately upon adoption if the usual  
23 rulemaking procedures provided in this Article of the Compact shall be retroactively  
24 applied to the rule as soon as reasonably possible, but not later than 90 days after the  
25 effective date of the emergency rule. An emergency rule shall be promulgated as  
26 provided for in the rules of the Interstate Commission.

27

## 28                   Article XII Oversight, Dispute Resolution, and Enforcement.

29

30          (a) Oversight.

- 31           (1) The Interstate Commission shall oversee the administration and  
32 operation of the Compact.
- 33           (2) The executive, legislative, and judicial branches of state government in  
34 each member state shall enforce this Compact and the rules of the  
35 Interstate Commission and shall take all actions necessary and  
36 appropriate to effectuate the Compact's purposes and intent. The  
37 Compact and its rules shall supersede state law, rules, or regulations to  
38 the extent of any conflict therewith.
- 39           (3) All courts shall take judicial notice of the Compact and the rules in any  
40 judicial or administrative proceeding in a member state pertaining to  
41 the subject matter of this Compact.
- 42           (4) The Interstate Commission shall be entitled to receive service of  
43 process in any action in which the validity of a Compact provision or  
44 rule is the issue for which a judicial determination has been sought and

1           shall have standing to intervene in any proceedings. Failure to provide  
2           service of process to the Interstate Commission shall render any  
3           judgment, order, or other determination, however so captioned or  
4           classified, void as to the Interstate Commission, this Compact, or  
5           bylaws or rules of the Interstate Commission.

6       (b) Dispute Resolution.

7           (1) The Interstate Commission shall attempt, upon the request of a  
8           member state, to resolve disputes that are subject to the Compact and  
9           that may arise among member states and between member and  
10           nonmember states.

11           (2) The Interstate Commission shall promulgate a rule providing for both  
12           mediation and binding, dispute resolution for disputes among  
13           compacting states. The costs of the mediation or dispute resolution  
14           shall be the responsibility of the parties to the dispute.

15       (c) Enforcement. – If the Interstate Commission determines that a member state  
16       has defaulted in the performance of its obligations or responsibilities under this  
17       Compact, its bylaws, or rules, the Interstate Commission may do any of the following:

18           (1) Provide remedial training and specific technical assistance to the  
19           defaulting member state.

20           (2) Provide written notice to the defaulting state and other member states,  
21           of the nature of the default and the means for curing the default and  
22           Interstate Commission shall specify the conditions by which the  
23           defaulting state shall cure its default.

24           (3) By majority vote of the members, initiate against a defaulting member  
25           state legal action in the United States District Court for the District of  
26           Columbia or, at the discretion of the Interstate Commission, in the  
27           federal district where the Interstate Commission has its principal  
28           office, to enforce compliance with the provisions of the Compact, its  
29           bylaws, or rules. The relief sought may include both injunctive relief  
30           and damages. In the event judicial enforcement is necessary, the  
31           prevailing party shall be awarded all costs of the litigation, including  
32           reasonable attorneys' fees.

33           (4) Avail itself of any other remedies available under state law or the  
34           regulation of official or professional conduct.

35  
36                           Article XIII. Financing of the Commission.  
37

38       (a) The Interstate Commission shall pay or provide for the payment of the  
39       reasonable expenses of its establishment, organization, and ongoing activities.

40       (b) The Interstate Commission may levy and collect an annual assessment from  
41       each member state to cover the cost of the operations and activities of the Interstate  
42       Commission and its staff that is in a total amount sufficient to cover the Interstate  
43       Commission's annual budget as approved by its members each year. The aggregate  
44       annual assessment amount shall be allocated based upon a formula to be determined by

1 the Interstate Commission. The Interstate Commission shall promulgate a rule regarding  
2 the annual assessment that is binding upon all member states.

3 (c) The Interstate Commission shall not incur obligations of any kind before  
4 securing the funds adequate to meet the obligations, nor shall the Interstate Commission  
5 pledge the credit of any of the member states, except by and with the authority of the  
6 member state.

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

#### 13 Article XIV. Member States; Effective Date; Amendments.

14  
15  
16 (a) Any state is eligible to become a member state.

17 (b) The Compact shall become effective and binding upon legislative enactment  
18 of the Compact into law by not less than 35 states. The effective date shall be the later  
19 of July 1, 2007, or upon enactment of the Compact into law by the 35th state.  
20 Thereafter, it shall become effective and binding as to any other member state upon  
21 enactment of the Compact into law by that state. The executive heads of the state human  
22 services administration with ultimate responsibility for the child welfare program of  
23 nonmember states or their designees shall be invited to participate in the activities of the  
24 Interstate Commission on a nonvoting basis before adoption of the Compact by all  
25 states.

26 (c) The Interstate Commission may propose amendments to the Compact for  
27 enactment by the member states. No amendment shall become effective and binding on  
28 the member states unless and until it is enacted into law by unanimous consent of the  
29 member states.

#### 30 Article XV. Withdrawal and Dissolution.

31  
32  
33 (a) Withdrawal.

34 (1) Once effective, the Compact shall continue in force and remain  
35 binding upon each and every member state; provided, that a member  
36 state may withdraw from the Compact specifically repealing the statute  
37 that enacted the Compact into law.

38 (2) Withdrawal from this Compact shall be by the enactment of a statute  
39 repealing the same. The effective date of withdrawal shall be the  
40 effective date of the repeal of the statute.

41 (3) The withdrawing state shall immediately notify the president of the  
42 Interstate Commission in writing upon the introduction of legislation  
43 repealing this Compact in the withdrawing state. The Interstate



1                    Commission shall then notify the other member state's of the  
2                    withdrawing state's intent to withdraw.

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

5                    (5)    Reinstatement following withdrawal of a member state shall occur  
6                    upon the withdrawing state reenacting the Compact or upon such later  
7                    date as determined by the members of the Interstate Commission.

8                    (b)    Dissolution of Compact.

9                    (1)    This Compact shall dissolve effective upon the date of the withdrawal  
10                    or default of the member state which reduces the membership in the  
11                    Compact to one member state.

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

16  
17                    Article XVI. Severability and Construction.

18  
19                    (a)    The provisions of this Compact shall be severable, and if any phrase, clause,  
20                    sentence, or provision is deemed unenforceable, the remaining provisions of the  
21                    Compact shall be enforceable.

22                    (b)    The provisions of this Compact shall be liberally construed to effectuate its  
23                    purposes.

24                    (c)    Nothing in this Compact shall be construed to prohibit the concurrent  
25                    applicability of other interstate compacts to which the states are members.

26  
27                    Article XVII. Binding Effect of Compact and Other Laws.

28  
29                    (a)    Other Laws.

30                    (1)    Nothing in this Article of the Compact prevents the enforcement of  
31                    any other law of a member state that is not inconsistent with this  
32                    Compact.

33                    (2)    All member states' laws conflicting with this Compact or its rules are  
34                    superseded by this Compact to the extent of the conflict.

35                    (b)    Binding Effect of the Compact.

36                    (1)    All lawful actions of the Interstate Commission, including all rules and  
37                    bylaws promulgated by the Interstate Commission, are binding upon  
38                    the member states.

39                    (2)    All agreements between the Interstate Commission and the member  
40                    states are binding in accordance with their terms.

41                    (3)    In the event any provision of this Compact exceeds the constitutional  
42                    limits imposed on the legislature of any member state, the provision  
43                    shall be ineffective to the extent of the conflict with the constitutional  
44                    provision in question in that member state.

Article XVIII. Indian Tribes.

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

**"§7B-4101. Financial responsibility under Compact.**

Financial responsibility for any child placed pursuant to the provisions of the Interstate Compact for the Placement of Children shall be determined in accordance with the provisions of Article VII of the Interstate Compact for the Placement of Children in the first instance. However, in the event of partial or complete default of performance under the Compact, the provisions of any other state laws fixing responsibility for the support of children also may be invoked.

**"§7B-4102. Agreements under Compact.**

The officers and agencies of this State and its subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in other party states pursuant to Article VII of the Interstate Compact for the Placement of Children. Any agreement that contains a financial commitment or imposes a financial obligation on this State or subdivision or agency thereof shall not be binding unless it has the approval in writing of the Secretary of the Department of Health and Human Services in the case of the State, the county director of social services in the case of the county, or other subdivision of the state.

**"§7B-4103. Visitation, inspection, or supervision.**

Any requirements for visitation, inspection, or supervision of children, homes, institutions, or other agencies in another party state that may apply under the laws of this State shall be deemed to be met if performed pursuant to an agreement entered into by appropriate officers or agencies of this State or a subdivision thereof as contemplated by Article VII of the Interstate Compact for the Placement of Children.

**"§7B-4104. Compact to govern between party states.**

The provisions of Article 37 of this Chapter shall not apply to placements pursuant to the Interstate Compact for the Placement of Children.

**"§7B-4105. Placement of delinquents.**

Any court having jurisdiction to place delinquent children may place the child in an institution or in another state pursuant to Articles III and VI of the Interstate Compact for the Placement of Children and shall retain jurisdiction as provided in Article IV of the Compact.

**"§7B-4106. Compact administrator.**

The Governor is hereby authorized to appoint a Compact administrator in accordance with the terms of Article VII of the Interstate Compact for the Placement of Children."

1           **SECTION 3.** The Secretary of the Department of Health and Human  
2 Services shall notify the Revisor of Statutes when the Interstate Compact for the  
3 Placement of Children becomes effective under the terms of the Compact. The  
4 Secretary of Health and Human Services shall notify the Revisor of Statutes when the  
5 Interstate Compact for the Placement of Children has been adopted by all states, as  
6 defined in the Compact.

7           **SECTION 4.** This act shall not be construed to obligate the General  
8 Assembly to appropriate funds to implement the provisions of this act. The Department  
9 of Health and Human Services shall implement the provisions of this act with funds that  
10 are otherwise appropriated or available to the Department.

11           **SECTION 5.** Section 1 of this act becomes effective only when all states, as  
12 defined in the Compact, have adopted the Interstate Compact for the Placement of  
13 Children. Section 2 of this act becomes effective only when 35 states have adopted the  
14 Interstate Compact for the Placement of Children, as set forth in the Compact. The  
15 remainder of this act is effective when it becomes law.