Title 22: HEALTH AND WELFARE

Chapter 1154: INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN

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§4251. PURPOSE - ARTICLE 1

The purpose of this Interstate Compact for the Placement of Children is to: [2007, c. 255, §6 (NEW).]

1. **Process.** Provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner;

[2007, c. 255, §6 (NEW) .]

2. **Ongoing supervision.** Facilitate ongoing supervision of a placement, the delivery of services and communication between the states;

[2007, c. 255, §6 (NEW) .]

3. **Operating procedures.** Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner;

[2007, c. 255, §6 (NEW) .]

4. **Rules.** Provide for the adoption and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states;

[2007, c. 255, §6 (NEW) .]

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

[2007, c. 255, §6 (NEW) .]

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

[2007, c. 255, §6 (NEW) .]

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

[2007, c. 255, §6 (NEW) .]

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

[2007, c. 255, §6 (NEW) .]

SECTION HISTORY
2007, c. 255, §6 (NEW).

§4252. DEFINITIONS - ARTICLE 2

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2007, c. 255, §6 (NEW).]

1. **Approved placement.** "Approved placement" means the receiving state has determined after an assessment that the placement is both safe and suitable for the child and is in compliance with the applicable laws of the receiving state governing the placement of children in the receiving state.

[2007, c. 255, §6 (NEW) .]

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

[2007, c. 255, §6 (NEW) .]

3. **Child.** "Child" means an individual who has not attained 18 years of age.

[2007, c. 255, §6 (NEW) .]

4. **Default.** "Default" means the failure of a member state to perform the obligations or responsibilities imposed upon it by this chapter or the bylaws or rules of the interstate commission.

[2007, c. 255, §6 (NEW) .]

5. **Indian tribe.** "Indian tribe" means any Indian tribe, band, nation or other organized group or community of Indians recognized as eligible for services provided to Indians by the United States Secretary of the Interior because of their status as Indians, including any Alaska native village as defined in Section 3(c) of the Alaska Native Claims Settlement Act, 43 United States Code, Section 1602(c).

[2007, c. 255, §6 (NEW) .]

6. **Interstate Commission for the Placement of Children; interstate commission.** "Interstate Commission for the Placement of Children" or "interstate commission" means the commission that is created under section 4258.

[2007, c. 255, §6 (NEW) .]

7. **Jurisdiction.** "Jurisdiction" means the power and authority of a court to hear and decide matters.

[2007, c. 255, §6 (NEW) .]

8. **Member state.** "Member state" means a state that has enacted this compact.

[2007, c. 255, §6 (NEW) .]

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

[2007, c. 255, §6 (NEW) .]

10. **Nonmember state.** "Nonmember state" means a state that has not enacted this compact.

[2007, c. 255, §6 (NEW) .]

11. **Notice of residential placement.** "Notice of residential placement" means information regarding a placement into a residential facility provided to the receiving state, including, but not limited to, the name, date and place of birth of the child, the identity and address of the parent or legal guardian, evidence of authority to make the placement and the name and address of the facility in which the child will be placed. "Notice of residential placement" includes information regarding a discharge and any unauthorized absence from the facility.

[2007, c. 255, §6 (NEW) .]

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

[2007, c. 255, §6 (NEW) .]

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

[2007, c. 255, §6 (NEW) .]

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

[2007, c. 255, §6 (NEW) .]

15. **Public child placing agency.** "Public child placing agency" means any government child welfare agency or child protection agency or a private entity under contract with such an agency, regardless of whether it acts on behalf of a state, county, municipality or other governmental unit and that facilitates, causes or is involved in the placement of a child from one state to another.

[2007, c. 255, §6 (NEW) .]

16. **Receiving state.** "Receiving state" means the state to which a child is sent, brought or caused to be sent or brought.

[2007, c. 255, §6 (NEW) .]

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

[2007, c. 255, §6 (NEW) .]

18. **Residential facility.** "Residential facility" means a facility providing a level of care that is sufficient to substitute for parental responsibility or foster care and is beyond what is needed for assessment or treatment of an acute condition. "Residential facilities" does not include institutions primarily educational in character, hospitals or other medical facilities.

[2007, c. 255, §6 (NEW) .]

19. **Rule.** "Rule" means a written directive, mandate, standard or principle issued by the interstate commission adopted pursuant to section 4261 that is of general applicability and that implements, interprets or prescribes a policy or provision of this chapter. "Rule" has the force and effect of statutory law in a member state and includes the amendment, repeal or suspension of an existing rule.

[2007, c. 255, §6 (NEW) .]

20. **Sending state.** "Sending state" means the state from which the placement of a child is initiated.

[2007, c. 255, §6 (NEW) .]

21. **Service member's permanent duty station.** "Service member's permanent duty station" means the military installation where an active duty member of the Armed Forces of the United States is currently assigned and is physically located under competent orders that do not specify the duty as temporary.

[2007, c. 255, §6 (NEW) .]

22. **Service member's state of legal residence.** "Service member's state of legal residence" means the state in which the active duty member of the Armed Forces of the United States is considered a resident for tax and voting purposes.

[2007, c. 255, §6 (NEW) .]

23. **State.** "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Mariana Islands and any other territory of the United States.

[2007, c. 255, §6 (NEW) .]

24. **State court.** "State court" means a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency or status offenses of individuals who have not attained 18 years of age.

[2007, c. 255, §6 (NEW) .]

25. **Supervision.** "Supervision" means monitoring provided by the receiving state once a child has been placed in a receiving state pursuant to this chapter.

[2007, c. 255, §6 (NEW) .]

SECTION HISTORY
2007, c. 255, §6 (NEW).

§4253. APPLICABILITY - ARTICLE 3

1. **Applicability.** Except as otherwise provided in subsection 2, this chapter applies to:

A. The interstate placement of a child subject to ongoing court jurisdiction in the sending state, due to allegations or findings that the child has been abused, neglected or deprived as defined by the laws of the sending state, as long as the placement of the child into a residential facility only requires notice of residential placement to the receiving state prior to placement; [2007, c. 255, §6 (NEW).]

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

(1) The child is being placed in a residential facility in another member state and is not covered under another compact; or

(2) The child is being placed in another member state and the determination of safety and suitability of the placement and services required is not provided through another compact; and [2007, c. 255, §6 (NEW).]

C. The interstate placement of any child by a public child placing agency or private child placing agency as a preliminary step to a possible adoption. [2007, c. 255, §6 (NEW).]

[2007, c. 255, §6 (NEW) .]

2. **Exceptions.** The provisions of this chapter do not apply to:

A. The interstate placement of a child with a nonrelative in a receiving state by a parent with the legal authority to make such a placement as long as the placement is not intended to effectuate an adoption; [2007, c. 255, §6 (NEW).]

B. The interstate placement of a child by one relative with the lawful authority to make such a placement directly with a relative in a receiving state; [2007, c. 255, §6 (NEW).]

C. The placement of a child, not subject to subsection 1, into a residential facility by the child's parent; [2007, c. 255, §6 (NEW).]

D. The placement of a child with a noncustodial parent if:

(1) The noncustodial parent proves to the satisfaction of a court in the sending state a substantial relationship with the child;

(2) The court in the sending state makes a written finding that placement with the noncustodial parent is in the best interests of the child; and

(3) The court in the sending state dismisses its jurisdiction over the child's case; [2007, c. 255, §6 (NEW).]

E. A child entering the United States from a foreign country for the purpose of adoption or leaving the United States to go to a foreign country for the purpose of adoption in that country; [2007, c. 255, §6 (NEW).]

F. A case in which a citizen child living overseas with that child's family, at least one of whom is in the Armed Forces of the United States, and who is stationed overseas, is removed and placed in a state; and [2007, c. 255, §6 (NEW).]

G. The sending of a child by a public child placing agency or a private child placing agency for a visit as defined by the rules of the interstate commission. [2007, c. 255, §6 (NEW).]

[2007, c. 255, §6 (NEW) .]

3. **Placement of child.** For purposes of determining the applicability of this chapter to the placement of a child with a family member in the Armed Forces of the United States, the public child placing agency or private child placing agency may choose the state of the service member's permanent duty station or the service member's declared legal residence.

[2007, c. 255, §6 (NEW) .]

4. **Prohibit concurrent application.** Nothing in this chapter may be construed to prohibit the concurrent application of the provisions of this chapter with other applicable interstate compacts including the Interstate Compact for Juveniles and the Interstate Compact on Adoption and Medical Assistance. The interstate commission may in cooperation with other interstate compact commissions having responsibility

for the interstate movement, placement or transfer of children adopt like rules to ensure the coordination of services, timely placement of children and the reduction of unnecessary or duplicative administrative or procedural requirements.

[2007, c. 255, §6 (NEW) .]

SECTION HISTORY
2007, c. 255, §6 (NEW).

§4254. JURISDICTION - ARTICLE 4

1. **Retain jurisdiction.** The sending state shall retain jurisdiction over a child with respect to all matters of custody and disposition of the child that it would have had if the child had remained in the sending state. Such jurisdiction also includes the power to order the return of the child to the sending state.

[2007, c. 255, §6 (NEW) .]

2. **Issue of child protection; custody.** When an issue of child protection or custody is brought before a court in the receiving state, such court shall confer with the court of the sending state to determine the most appropriate forum for adjudication.

[2007, c. 255, §6 (NEW) .]

3. **Authority to terminate.** In accordance with its own laws, the court in the sending state has authority to terminate its jurisdiction if:

A. The child is reunited with the parent in the receiving state who is the subject of allegations or findings of abuse or neglect, but only with the concurrence of the public child placing agency in the receiving state; [2007, c. 255, §6 (NEW).]

B. The child is adopted; [2007, c. 255, §6 (NEW).]

C. The child reaches the age of majority under the laws of the sending state; [2007, c. 255, §6 (NEW).]

D. The child achieves legal independence pursuant to the laws of the sending state; [2007, c. 255, §6 (NEW).]

E. A guardianship is created by a court in the receiving state with the concurrence of the court in the sending state; [2007, c. 255, §6 (NEW).]

F. An Indian tribe has petitioned for and received jurisdiction from the court in the sending state; or [2007, c. 255, §6 (NEW).]

G. The public child placing agency of the sending state requests termination and has obtained the concurrence of the public child placing agency in the receiving state. [2007, c. 255, §6 (NEW).]

[2007, c. 255, §6 (NEW) .]

4. **Court terminates jurisdiction.** When a sending state court terminates its jurisdiction, the receiving state child placing agency must be notified.

[2007, c. 255, §6 (NEW) .]

5. **Claim of jurisdiction.** Nothing in this section defeats a claim of jurisdiction by a receiving state court sufficient to deal with an act of truancy, delinquency, crime or behavior involving a child as defined by the laws of the receiving state committed by the child in the receiving state that would be a violation of its laws.

[2007, c. 255, §6 (NEW) .]

6. **Emergency jurisdiction.** Nothing in this section limits the receiving state's ability to take emergency jurisdiction for the protection of the child.

[2007, c. 255, §6 (NEW) .]

SECTION HISTORY
2007, c. 255, §6 (NEW).

§4255. ASSESSMENTS - ARTICLE 5

1. **Request for assessment.** Prior to sending, bringing or causing a child to be sent or brought into a receiving state, the public child placing agency shall provide a written request for assessment to the receiving state.

[2007, c. 255, §6 (NEW) .]

2. **Sent; brought into receiving state.** Prior to the sending, bringing or causing a child to be sent or brought into a receiving state, the private child placing agency shall:

A. Provide evidence that the applicable laws of the sending state have been complied with; [2007, c. 255, §6 (NEW).]

B. Certify that the consent or relinquishment is in compliance with applicable law of the birth parent's state of residence or, where permitted, the laws of the state of where the finalization of the adoption will occur; [2007, c. 255, §6 (NEW).]

C. Request through the public child placing agency in the sending state an assessment to be conducted in the receiving state; and [2007, c. 255, §6 (NEW).]

D. Upon completion of the assessment, obtain the approval of the public child placing agency in the receiving state. [2007, c. 255, §6 (NEW).]

[2007, c. 255, §6 (NEW) .]

3. **Procedures for assessment.** The procedures for making and requesting an assessment must contain all information and be in such form as provided for in the rules of the interstate commission.

[2007, c. 255, §6 (NEW) .]

4. **Proposed placement.** Upon receipt of a request from the public child welfare agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child placing agency of the sending state may request a determination of whether the placement qualifies as a provisional placement.

[2007, c. 255, §6 (NEW) .]

5. **Supporting information.** The public child placing agency in the receiving state may request from the public child placing agency or the private child placing agency in the sending state, and is entitled to receive, supporting or additional information necessary to complete the assessment.

[2007, c. 255, §6 (NEW) .]

6. **Completion of assessment.** The public child placing agency in the receiving state shall complete or arrange for the completion of the assessment within the time frames established by the rules of the interstate commission.

[2007, c. 255, §6 (NEW) .]

7. **Uniform standards.** The interstate commission may develop uniform standards for the assessment of the safety and suitability of interstate placements.

[2007, c. 255, §6 (NEW) .]

SECTION HISTORY
2007, c. 255, §6 (NEW).

§4256. PLACEMENT AUTHORITY - ARTICLE 6

1. **Approval for placement.** Except as provided in subsection 3, a child subject to this chapter may not be placed into a receiving state until approval for such placement is obtained.

[2007, c. 255, §6 (NEW) .]

2. **Written documentation.** If the public child placing agency in the receiving state does not approve the proposed placement, then the child may not be placed. The receiving state shall provide written documentation of any such determination in accordance with the rules adopted by the interstate commission. Such determination is not subject to judicial review in the sending state.

[2007, c. 255, §6 (NEW) .]

3. **Placement not approved.** If the proposed placement is not approved, any interested party has standing to seek an administrative review of the receiving state's determination.

A. The administrative review and any further judicial review associated with the determination must be conducted in the receiving state pursuant to its applicable administrative procedures. [2007, c. 255, §6 (NEW).]

B. If a determination not to approve the placement of the child in the receiving state is overturned upon review, the placement is considered approved, as long as all administrative or judicial remedies have been exhausted or the time for such remedies has passed. [2007, c. 255, §6 (NEW).]

[2007, c. 255, §6 (NEW) .]

SECTION HISTORY
2007, c. 255, §6 (NEW).

§4257. STATE RESPONSIBILITY - ARTICLE 7

1. **Financial responsibility.** For the interstate placement of a child made by a public child placing agency or state court:

A. The public child placing agency in the sending state has financial responsibility for:

(1) The ongoing support and maintenance for the child during the period of the placement, unless otherwise provided for in the receiving state; and

(2) As determined by the public child placing agency in the sending state, services for the child beyond the public services for which the child is eligible in the receiving state; and [2007, c. 255, §6 (NEW).]

B. The receiving state only has financial responsibility for:

(1) Any assessment conducted by the receiving state; and

(2) Supervision conducted by the receiving state at the level necessary to support the placement as agreed upon by the public child placing agencies of the receiving and sending states. [2007, c. 255, §6 (NEW).]

Nothing in this subsection prohibits public child placing agencies in the sending state from entering into agreements with licensed agencies or persons in the receiving state to conduct assessments and provide supervision.

[2007, c. 255, §6 (NEW) .]

2. **Private child placing agency; responsibilities.** For the placement of a child by a private child placing agency preliminary to a possible adoption, the private child placing agency is:

A. Legally responsible for the child during the period of placement as provided for in the law of the sending state until the finalization of the adoption; and [2007, c. 255, §6 (NEW).]

B. Financially responsible for the child absent a contractual agreement to the contrary. [2007, c. 255, §6 (NEW).]

[2007, c. 255, §6 (NEW) .]

3. **Assessment or supervision conducted.** A private child placing agency is responsible for any assessment conducted in the receiving state and any supervision conducted by the receiving state at the level required by the laws of the receiving state or the rules of the interstate commission.

[2007, c. 255, §6 (NEW) .]

4. **Timely assessment.** The public child placing agency in the receiving state shall provide timely assessments, as provided for in the rules of the interstate commission.

[2007, c. 255, §6 (NEW) .]

5. **Supervision; services.** The public child placing agency in the receiving state shall provide or arrange for the provision of supervision and services for the child, including timely reports, during the period of the placement.

[2007, c. 255, §6 (NEW) .]

6. **Contract with licensed agency.** Nothing in this chapter may be construed as to limit the authority of the public child placing agency in the receiving state from contracting with a licensed agency or person in the receiving state for an assessment or the provision of supervision or services for the child or otherwise authorizing the provision of supervision or services by a licensed agency during the period of placement.

[2007, c. 255, §6 (NEW) .]

7. **Advisory council.** Each member state shall provide for coordination among its branches of government concerning the state's participation in, and compliance with, the compact and interstate commission activities through the creation of an advisory council or use of an existing body or board.

[2007, c. 255, §6 (NEW) .]

8. **Central state compact office.** Each member state shall establish a central state compact office, which is responsible for state compliance with the compact and the rules of the interstate commission.

[2007, c. 255, §6 (NEW) .]

9. **Oversee compliance.** The public child placing agency in the sending state shall oversee compliance with the provisions of the federal Indian Child Welfare Act of 1978, 25 United States Code, Section 1901 et seq. for placements subject to the provisions of this compact, prior to placement.

[2007, c. 255, §6 (NEW) .]

10. **Limited agreements.** With the consent of the interstate commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervision of placements under this compact.

[2007, c. 255, §6 (NEW) .]

SECTION HISTORY
2007, c. 255, §6 (NEW).

§4258. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN - ARTICLE 8

The Interstate Commission for the Placement of Children is established. The activity of the interstate commission is the formation of public policy, which is a discretionary state function. The interstate commission: [2007, c. 255, §6 (NEW).]

1. **Joint commission.** Is a joint commission of the member states and has the responsibilities, powers and duties set forth in this section and such additional powers as may be conferred upon it by subsequent concurrent action of the respective legislatures of the member states;

[2007, c. 255, §6 (NEW) .]

2. **Commissioner.** Consists of one commissioner from each member state who is appointed by the executive head of the state human services administration with ultimate responsibility for the child welfare program. The appointed commissioner has the legal authority to vote on policy-related matters governed by this compact binding the state.

A. Each member state represented at a meeting of the interstate commission is entitled to one vote. [2007, c. 255, §6 (NEW).]

B. A majority of the member states constitutes a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission. [2007, c. 255, §6 (NEW).]

C. A representative may not delegate a vote to another member state. [2007, c. 255, §6 (NEW).]

D. A representative may delegate voting authority to another person from that representative's state for a specified meeting; [2007, c. 255, §6 (NEW).]

[2007, c. 255, §6 (NEW) .]

3. **Members.** In addition to the commissioners of each member state, includes persons who are members of interested organizations as defined in the bylaws or rules of the interstate commission. Such members are ex officio and are not entitled to vote on any matter before the interstate commission; and

[2007, c. 255, §6 (NEW) .]

4. **Executive committee.** Shall establish an executive committee that has the authority to administer the day-to-day operations and administration of the interstate commission. The executive committee does not have the power to engage in rulemaking.

[2007, c. 255, §6 (NEW) .]

SECTION HISTORY
2007, c. 255, §6 (NEW).

§4259. POWERS AND DUTIES OF INTERSTATE COMMISSION - ARTICLE 9

The interstate commission has the following powers: [2007, c. 255, §6 (NEW).]

1. **Rules.** To adopt rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact;

[2007, c. 255, §6 (NEW) .]

2. **Dispute resolution.** To provide for dispute resolution among member states;

[2007, c. 255, §6 (NEW) .]

3. **Advisory opinions.** To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact and its bylaws, rules or actions;

[2007, c. 255, §6 (NEW) .]

4. **Enforce compliance.** To enforce compliance with this compact or the bylaws or rules of the interstate commission pursuant to section 4262;

[2007, c. 255, §6 (NEW) .]

5. **Collect data.** To collect standardized data concerning the interstate placement of children subject to this compact as directed through its rules, which must specify the data to be collected, the means of collection and data exchange and reporting requirements;

[2007, c. 255, §6 (NEW) .]

6. **Maintain offices.** To establish and maintain offices as may be necessary for the transacting of its business;

[2007, c. 255, §6 (NEW) .]

7. **Purchase insurance.** To purchase and maintain insurance and bonds;

[2007, c. 255, §6 (NEW) .]

8. **Personnel.** To hire or contract for services of personnel or consultants as necessary to carry out its functions under the compact and establish personnel qualification policies and rates of compensation;

[2007, c. 255, §6 (NEW) .]

9. **Establish committees.** To establish and appoint committees and officers, including, but not limited to, an executive committee, as required by section 4260;

[2007, c. 255, §6 (NEW) .]

10. **Accept money; supplies; services.** To accept any and all donations and grants of money, equipment, supplies, materials and services and to receive, utilize and dispose of donations, money, equipment, supplies, materials and services;

[2007, c. 255, §6 (NEW) .]

11. **Property.** To lease, purchase, accept contributions or donations of or otherwise to own, hold, improve or use any property, real, personal or mixed;

[2007, c. 255, §6 (NEW) .]

12. **Dispose of property.** To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;

[2007, c. 255, §6 (NEW) .]

13. **Budget.** To establish a budget and make expenditures;

[2007, c. 255, §6 (NEW) .]

14. **Seal; bylaws.** To adopt a seal and bylaws governing the management and operation of the interstate commission;

[2007, c. 255, §6 (NEW) .]

15. **Report.** To report annually to the legislatures, governors, the judiciaries and state advisory councils of the member states concerning the activities of the interstate commission during the preceding year. Such reports must also include any recommendations that may have been adopted by the interstate commission;

[2007, c. 255, §6 (NEW) .]

16. **Education; training; public awareness.** To coordinate and provide education, training and public awareness regarding the interstate movement of children for officials involved in such activity;

[2007, c. 255, §6 (NEW) .]

17. **Books; records.** To maintain books and records in accordance with the bylaws of the interstate commission; and

[2007, c. 255, §6 (NEW) .]

18. **Achieve purposes of compact.** To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

[2007, c. 255, §6 (NEW) .]

SECTION HISTORY
2007, c. 255, §6 (NEW).

§4260. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION - ARTICLE 10

1. **Bylaws.** The interstate commission shall adopt bylaws.

A. Within 12 months after the first interstate commission meeting, the interstate commission shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact. [2007, c. 255, §6 (NEW).]

B. The interstate commission's bylaws and rules must establish conditions and procedures under which the interstate commission makes its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. [2007, c. 255, §6 (NEW).]

[2007, c. 255, §6 (NEW) .]

2. **Meetings.** The following provisions govern interstate commission meetings.

A. The interstate commission shall meet at least once each calendar year. The chair may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings. [2007, c. 255, §6 (NEW).]

B. Public notice must be given by the interstate commission of all meetings and all meetings are open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission and its committees may close a meeting, or portion of a meeting, when it determines by 2/3 vote that an open meeting would be likely to:

(1) Relate solely to the interstate commission's internal personnel practices and procedures;

(2) Disclose matters specifically exempted from disclosure by federal law;

(3) Disclose financial or commercial information that is privileged, proprietary or confidential in nature;

(4) Involve accusing a person of a crime or formally censuring a person;

(5) Disclose information of a personal nature when disclosure would constitute a clearly unwarranted invasion of personal privacy or physically endanger one or more persons;

(6) Disclose investigative records compiled for law enforcement purposes; or

(7) Specifically relate to the interstate commission's participation in a civil action or other legal proceeding. [2007, c. 255, §6 (NEW).]

C. For a meeting, or portion of a meeting, closed pursuant to paragraph B, the interstate commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemption provision. The interstate commission shall keep minutes that must fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons for taking the actions, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the interstate commission or by court order. [2007, c. 255, §6 (NEW).]

D. The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or other electronic communication. [2007, c. 255, §6 (NEW).]

[2007, c. 255, §6 (NEW) .]

3. **Officers and staff.** The following provisions govern officers and staff.

A. The interstate commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms and conditions and for such compensation as the interstate commission may determine appropriate. The staff director serves as secretary to the interstate commission, but does not have a vote. The staff director may hire and supervise such other staff as may be authorized by the interstate commission. [2007, c. 255, §6 (NEW).]

B. The interstate commission shall elect, from among its members, a chair and a vice chair of the executive committee and other necessary officers, each of whom must have such authority and duties as may be specified in the bylaws. [2007, c. 255, §6 (NEW).]

[2007, c. 255, §6 (NEW) .]

4. **Qualified immunity, defense and indemnification.** The following provisions govern qualified immunity, defense and indemnification.

A. The interstate commission's staff director and its employees are immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of interstate commission employment, duties or responsibilities except that the person is not protected from suit or liability for damage, loss, injury or liability caused by a criminal act or the intentional or willful and wanton misconduct of the person.

(1) The liability of the interstate commission's staff director and employees or interstate commission representatives acting within the scope of their employment or duties for acts, errors or omissions occurring inside their state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subparagraph is construed to protect a person from suit or liability for damage, loss, injury or liability caused by a criminal act or the intentional or willful and wanton misconduct of the person.

(2) The interstate commission shall defend the staff director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state, shall defend the commissioner of a member state in a civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities as long as the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of a person.

(3) To the extent not covered by the state involved, member state or the interstate commission, the representatives or employees of the interstate commission must be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against the persons arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, as long as the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of the persons. [2007, c. 255, §6 (NEW).]

[2007, c. 255, §6 (NEW) .]

SECTION HISTORY
2007, c. 255, §6 (NEW).

§4261. RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION - ARTICLE 11

1. **Rules.** The interstate commission shall adopt and publish rules in order to effectively and efficiently achieve the purposes of this chapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2007, c. 255, §6 (NEW) .]

2. **Rule-making criteria.** Rulemaking must occur pursuant to the criteria set forth in this section and the bylaws and rules adopted pursuant to this section. Rulemaking must substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or the other administrative procedure acts as the interstate commission determines appropriate consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the United States Supreme Court. All rules and amendments become binding as of the date specified, as published with the final version of the rule as approved by the interstate commission.

[2007, c. 255, §6 (NEW) .]

3. **Adopting rule.** When adopting a rule, the interstate commission shall, at a minimum:

A. Publish the proposed rule's entire text stating the reason for that proposed rule; [2007, c. 255, §6 (NEW).]

B. Allow and invite all persons to submit written data, facts, opinions and arguments, which information must be added to the record and be made publicly available; and [2007, c. 255, §6 (NEW).]

C. Adopt a final rule and its effective date, if appropriate, based on input from state or local officials or interested parties. [2007, c. 255, §6 (NEW).]

[2007, c. 255, §6 (NEW) .]

4. **Effect of law.** Rules adopted by the interstate commission have the force and effect of statutory law and supersede any state law, rule or regulation to the extent of any conflict.

[2007, c. 255, §6 (NEW) .]

5. **Judicial review.** Not later than 60 days after a rule is adopted, an interested person may file a petition in the United States District Court for the District of Columbia or in the federal district court where the interstate commission's principal office is located for judicial review of the rule. If the court finds that the interstate commission's action is not supported by substantial evidence in the rule-making record, the court shall hold the rule unlawful and set it aside.

[2007, c. 255, §6 (NEW) .]

6. **Reject rule.** If a majority of the legislatures of the member states rejects a rule, those states may by enactment of a statute or resolution in the same manner used to adopt the compact cause that the rule has no further force and effect in any member state.

[2007, c. 255, §6 (NEW) .]

7. **Existing rules.** The existing rules governing the operation of the Interstate Compact on the Placement of Children superseded by this chapter are void no less than 12 but no more than 24 months after the first meeting of the interstate commission created under this chapter, as determined by the members during the first meeting.

[2007, c. 255, §6 (NEW) .]

8. **Scope of rules.** Within the first 12 months of operation, the interstate commission shall adopt rules addressing the following:

A. Transition rules; [2007, c. 255, §6 (NEW).]

B. Forms and procedures; [2007, c. 255, §6 (NEW).]

C. Time lines; [2007, c. 255, §6 (NEW).]

D. Data collection and reporting; [2007, c. 255, §6 (NEW).]

E. Rulemaking; [2007, c. 255, §6 (NEW).]

F. Visitation; [2007, c. 255, §6 (NEW).]

G. Progress reports and supervision; [2007, c. 255, §6 (NEW).]

H. Sharing of information and confidentiality; [2007, c. 255, §6 (NEW).]

I. Financing of the interstate commission; [2007, c. 255, §6 (NEW).]

J. Mediation, arbitration and dispute resolution; [2007, c. 255, §6 (NEW).]

K. Education, training and technical assistance; [2007, c. 255, §6 (NEW).]

L. Enforcement; and [2007, c. 255, §6 (NEW).]

M. Coordination with other interstate compacts. [2007, c. 255, §6 (NEW).]

[2007, c. 255, §6 (NEW) .]

9. **Emergency.** Upon determination by a majority of the members of the interstate commission that an emergency exists:

A. The interstate commission may adopt an emergency rule only if it is required to:

(1) Protect a child covered by this chapter from an imminent threat to health, safety and well-being;

(2) Prevent loss of federal or state funds; or

(3) Meet a deadline for the adoption of an administrative rule required by federal law; [2007, c. 255, §6 (NEW).]

B. An emergency rule becomes effective immediately upon adoption, as long as the usual rule-making procedures provided under this section are retroactively applied to the rule as soon as reasonably possible but no later than 90 days after the effective date of the emergency rule; and [2007, c. 255, §6 (NEW).]

C. An emergency rule must be adopted as provided for in the rules of the interstate commission. [2007, c. 255, §6 (NEW).]

[2007, c. 255, §6 (NEW) .]

SECTION HISTORY
2007, c. 255, §6 (NEW).

§4262. OVERSIGHT; DISPUTE RESOLUTION; ENFORCEMENT - ARTICLE 12

1. **Oversight.** The interstate commission shall oversee the administration and operation of the compact.

A. The executive, legislative and judicial branches of state government in each member state shall enforce this compact and the rules of the interstate commission and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The compact and its rules supersede state law, rules or regulations to the extent of any conflict. [2007, c. 255, §6 (NEW).]

B. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact. [2007, c. 255, §6 (NEW).]

C. The interstate commission is entitled to receive service of process in any action in which the validity of a compact provision or rule is the issue for which a judicial determination has been sought and has standing to intervene in any proceedings. Failure to provide service of process to the interstate

commission renders any judgment, order or other determination, however so captioned or classified, void as to the interstate commission, this chapter and bylaws or rules of the interstate commission. [2007, c. 255, §6 (NEW).]

[2007, c. 255, §6 (NEW) .]

2. **Dispute resolution.** The interstate commission has the authority to resolve disputes.

A. The interstate commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and that may arise among member states and between member and nonmember states. [2007, c. 255, §6 (NEW).]

B. The interstate commission shall adopt a rule providing for both mediation and binding dispute resolution for disputes among compacting states. The costs of the mediation or dispute resolution are the responsibility of the parties to the dispute. [2007, c. 255, §6 (NEW).]

[2007, c. 255, §6 (NEW) .]

3. **Enforcement.** If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the interstate commission's bylaws or rules, the interstate commission may:

A. Provide remedial training and specific technical assistance; [2007, c. 255, §6 (NEW).]

B. Provide written notice to the defaulting state and other member states of the nature of the default and the means of curing the default. The interstate commission shall specify the conditions by which the defaulting state must cure its default; [2007, c. 255, §6 (NEW).]

C. By majority vote of the members, initiate against a defaulting member state legal action in the United States District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district court where the interstate commission has its principal office, to enforce compliance with the provisions of the compact or the interstate commisson's bylaws or rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party must be awarded all costs of the litigation including reasonable attorney's fees; or [2007, c. 255, §6 (NEW).]

D. Avail itself of any other remedies available under state law or the regulation of official or professional conduct. [2007, c. 255, §6 (NEW).]

[2007, c. 255, §6 (NEW) .]

SECTION HISTORY
2007, c. 255, §6 (NEW).

§4263. FINANCING OF THE INTERSTATE COMMISSION - ARTICLE 13

1. **Expenses.** The interstate commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.

[2007, c. 255, §6 (NEW) .]

2. **Annual assessment.** The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff, which must be in a total amount sufficient to cover the interstate commission's annual budget as approved by its members each year. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the interstate commission, which shall adopt a rule binding upon all member states.

[2007, c. 255, §6 (NEW) .]

3. **Obligations.** The interstate commission may not incur obligations of any kind prior to securing the funds adequate to meet the same, nor may the interstate commission pledge the credit of any of the member states, except by and with the authority of the member state.

[2007, c. 255, §6 (NEW) .]

4. **Accounts of receipts and disbursements.** The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission are subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the interstate commission must be audited yearly by a certified or licensed public accountant, and the report of the audit must be included in and become part of the annual report of the interstate commission.

[2007, c. 255, §6 (NEW) .]

SECTION HISTORY
2007, c. 255, §6 (NEW).

§4264. MEMBER STATES; EFFECTIVE DATE AND AMENDMENT - ARTICLE 14

1. **Member.** Any state is eligible to become a member state.

[2007, c. 255, §6 (NEW) .]

2. **Effective.** The compact becomes effective and binding upon legislative enactment of the compact into law by no fewer than 35 states. The effective date is the later of July 1, 2007 or upon enactment of the compact into law by the 35th state. Thereafter the compact becomes effective and binding as to any other member state upon enactment of the compact into law by that state. The executive heads of the state human services administrations with ultimate responsibility for the child welfare program of nonmember states or their designees are invited to participate in the activities of the interstate commission on a nonvoting basis prior to adoption of the compact by all states.

[2007, c. 255, §6 (NEW) .]

3. **Amendments.** The interstate commission may propose amendments to the compact for enactment by the member states. An amendment does not become effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.

[2007, c. 255, §6 (NEW) .]

SECTION HISTORY
2007, c. 255, §6 (NEW).

§4265. WITHDRAWAL AND DISSOLUTION - ARTICLE 15

1. **Withdrawal.** Once effective, the compact continues in force and remains binding upon each member state, except that a member state may withdraw from the compact by specifically repealing the statute that enacted the compact into law. The effective date of withdrawal is the effective date of the repeal of the statute. The withdrawing state shall immediately notify the chair of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall then notify the other member states of the withdrawing state's intent to withdraw. The withdrawing state is

responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal. Reinstatement following withdrawal of a member state occurs upon the withdrawing state's reenacting the compact or upon a later date as determined by the members of the interstate commission.

[2007, c. 255, §6 (NEW) .]

2. **Dissolution of compact.** This compact dissolves upon the effective date of the withdrawal or default of the member state that reduces the membership in the compact to one member state. Upon the dissolution of this compact, the compact becomes void and has no further force, and the business and affairs of the interstate commission are concluded and surplus funds must be distributed in accordance with the bylaws.

[2007, c. 255, §6 (NEW) .]

SECTION HISTORY
2007, c. 255, §6 (NEW).

§4266. SEVERABILITY AND CONSTRUCTION - ARTICLE 16

1. **Enforceable.** The provisions of this chapter are severable, and if any phrase, clause, sentence or provision is determined unenforceable, the remaining provisions of the compact are enforceable.

[2007, c. 255, §6 (NEW) .]

2. **Provisions liberally construed.** The provisions of this chapter may be liberally construed to effectuate its purposes.

[2007, c. 255, §6 (NEW) .]

3. **Concurrent applicability.** Nothing in this chapter may be construed to prohibit the concurrent applicability of other interstate compacts of which the states are members.

[2007, c. 255, §6 (NEW) .]

SECTION HISTORY
2007, c. 255, §6 (NEW).

§4267. BINDING EFFECT OF COMPACT AND OTHER LAWS - ARTICLE 17

1. **Other laws.** Nothing in this compact prevents the enforcement of any other law of a member state that is not inconsistent with this compact. All member states' laws conflicting with this compact or its rules are superseded to the extent of the conflict.

[2007, c. 255, §6 (NEW) .]

2. **Binding effect of compact.** All lawful actions of the interstate commission, including all rules and bylaws adopted by the interstate commission, are binding upon the member states.

A. All agreements between the interstate commission and the member states are binding in accordance with their terms. [2007, c. 255, §6 (NEW).]

B. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, the provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state. [2007, c. 255, §6 (NEW).]

[2007, c. 255, §6 (NEW) .]

SECTION HISTORY
2007, c. 255, §6 (NEW).

§4268. INDIAN TRIBES - ARTICLE 18

Notwithstanding any other provision in this compact, the interstate commission may adopt guidelines to permit Indian tribes to utilize the compact to achieve any of the purposes of the compact as specified in section 4251. The interstate commission shall make reasonable efforts to consult with Indian tribes in adopting guidelines to reflect the diverse circumstances of the various Indian tribes. [2007, c. 255, §6 (NEW).]

SECTION HISTORY
2007, c. 255, §6 (NEW).

§4269. ADMINISTRATIVE PROVISIONS - ARTICLE 19

For purposes of the State's administration of this compact: [2007, c. 255, §6 (NEW).]

1. **Agency.** This State's "government child welfare agency or child protection agency," "public child placing agency" and "central state compact office" is the Department of Health and Human Services, Office of Child and Family Services;

[2007, c. 255, §6 (NEW) .]

2. **State court.** This State's "state court" is the District Court;

[2007, c. 255, §6 (NEW) .]

3. **Ongoing court jurisdiction.** A child is "subject to ongoing court jurisdiction" in this State pursuant to section 4253, subsection 1, paragraph A if the child is the subject of a child protection proceeding pursuant to chapter 1071, until the proceeding is dismissed or becomes subject to judicial reviews pursuant to section 4038 only upon motion or petition of a party;

[2007, c. 255, §6 (NEW) .]

4. **Adjudicated delinquent.** A child is "adjudicated delinquent or unmanageable" in this State if the child has been adjudicated of a juvenile crime pursuant to Title 15, section 3310;

[2007, c. 255, §6 (NEW) .]

5. **Administrative procedures.** This State's "applicable administrative procedures" are the procedures in Title 5, chapter 375, subchapter 4, as modified by any rules adopted by the department pursuant to Title 5, chapter 375, subchapter 2. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A;

[2007, c. 255, §6 (NEW) .]

6. **Existing body.** This State's District Court's Child Protection Advisory Committee is the "existing body or board" pursuant to section 4257, subsection 7 that has responsibility to provide for coordination among this State's branches of government concerning the State's participation in and compliance with the compact and interstate commission activities; and

[2007, c. 255, §6 (NEW) .]

7. **Executive head.** This State's "executive head of the state human services administration with ultimate responsibility for the child welfare program" is the commissioner.

[2007, c. 255, §6 (NEW) .]

SECTION HISTORY
2007, c. 255, §6 (NEW).

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