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3 ARTICLE I. PURPOSE

4 The purpose of this compact is to:

- 5 A. Provide a process through which children subject to this compact are
6 placed in safe and suitable homes in a timely manner.
- 7 B. Facilitate ongoing supervision of a placement, the delivery of services,
8 and communication between the states.
- 9 C. Provide operating procedures that will ensure that children are placed in
10 safe and suitable homes in a timely manner.
- 11 D. Provide for the promulgation and enforcement of administrative rules
12 implementing the provisions of this compact and regulating the covered
13 activities of the member states.
- 14 E. Provide for uniform data collection and information sharing between
15 member states under this compact.
- 16 F. Promote coordination between this compact, the Interstate Compact for
17 Juveniles, the Interstate Compact on Adoption and Medical Assistance
18 and other compacts affecting the placement of and which provide
19 services to children otherwise subject to this compact.
- 20 G. Provide for a state's continuing legal jurisdiction and responsibility for
21 placement and care of a child that it would have had if the placement
22 were intrastate.
- 23 H. Provide for the promulgation of guidelines, in collaboration with Indian
24 tribes, for interstate cases involving Indian children as is or may be
25 permitted by federal law.

ARTICLE II. DEFINITIONS

As used in this compact,

A. "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 therein.

B. "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.

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

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

E. "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 Secretary of the Interior because of their status as Indians, including any Alaskan native village as defined in section 3 (c) of the Alaska Native Claims settlement Act at 43 USC §1602(c).

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

- 1 G. "Jurisdiction" means the power and authority of a court to hear and
2 decide matters.
- 3 H. "Member state" means a state that has enacted this compact.
- 4 I. "Non-custodial parent" means a person who, at the time of the
5 commencement of court proceedings in the sending state, does not have
6 sole legal custody of the child or has joint legal custody of a child, and
7 who is not the subject of allegations or findings of child abuse or neglect.
- 8 J. "Non-member state" means a state which has not enacted this compact.
- 9 K. "Notice of residential placement" means information regarding a
10 placement into a residential facility provided to the receiving state
11 including, but not limited to the name, date and place of birth of the
12 child, the identity and address of the parent or legal guardian, evidence
13 of authority to make the placement, and the name and address of the
14 facility in which the child will be placed. Notice of residential placement
15 shall also include information regarding a discharge and any
16 unauthorized absence from the facility.
- 17 L. "Placement" means the act by a public or private child placing agency
18 intended to arrange for the care or custody of a child in another state.
- 19 M. "Private child placing agency" means any private corporation, agency,
20 foundation, institution, or charitable organization, or any private person
21 or attorney that facilitates, causes, or is involved in the placement of a
22 child from one state to another and that is not an instrumentality of the
23 state or acting under color of state law.
- 24 N. "Provisional placement" means that the receiving state has determined
25 that the proposed placement is safe and suitable, and, to the extent

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

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

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

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

18 R. "Residential Facility" means a facility providing a level of care that is
19 sufficient to substitute for parental responsibility or foster care, and is
20 beyond what is needed for assessment or treatment of an acute
21 condition. For purposes of the compact, residential facilities do not
22 include institutions primarily educational in character, hospitals or other
23 medical facilities.

24 S. "Rule" means a written directive, mandate, standard or principle issued
25 by the Interstate Commission promulgated pursuant to Article XI of this

1 compact that is of general applicability and that implements, interprets
2 or prescribes a policy or provision of the compact. “Rule” has the force
3 and effect of statutory law in a member state, and includes the
4 amendment, repeal, or suspension of an existing rule.

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

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

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

14 W. “State” means a state of the United States, the District of Columbia, the
15 Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American
16 Samoa, the Northern Marianas Islands and any other territory of the
17 United States.

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

22 Y. “Supervision” means monitoring provided by the receiving state once a
23 child has been placed in a receiving state pursuant to this compact.
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1 ARTICLE III. APPLICABILITY

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

4 1. The interstate placement of a child subject to ongoing court
5 jurisdiction in the sending state, due to allegations or findings that
6 the child has been abused, neglected, or deprived as defined by the
7 laws of the sending state, provided, however, that the placement of
8 such a child into a residential facility shall only require notice of
9 residential placement to the receiving state prior to placement.

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

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

15 b. the child is being placed in another member state and the
16 determination of safety and suitability of the placement and
17 services required is not provided through another compact.

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

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

22 1. The interstate placement of a child with a non-relative in a receiving
23 state by a parent with the legal authority to make such a placement
24 provided, however, that the placement is not intended to effectuate an
25 adoption.

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

4 3. The placement of a child, not subject to Article III, Section A, into a
5 residential facility by his parent.

6 4. The placement of a child with a non-custodial parent provided that:

7 a. The non-custodial parent proves to the satisfaction of a court in
8 the sending state a substantial relationship with the child; and

9 b. The court in the sending state makes a written finding that
10 placement with the non-custodial parent is in the best interests of
11 the child; and

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

14 5. A child entering the United States from a foreign country for the
15 purpose of adoption or leaving the United States to go to a foreign
16 country for the purpose of adoption in that country.

17 6. Cases in which a U.S. citizen child living overseas with his family, at
18 least one of whom is in the U.S. Armed Services, and who is stationed
19 overseas, is removed and placed in a state.

20 7. The sending of a child by a public child placing agency or a private
21 child placing agency for a visit as defined by the rules of the Interstate
22 Commission.

23 C. For purposes of determining the applicability of this compact to the
24 placement of a child with a family in the Armed Services, the public child
25 placing agency or private child placing agency may choose the state of

1 the service member's permanent duty station or the service member's
2 declared legal residence.

3 D. Nothing in this compact shall be construed to prohibit the concurrent
4 application of the provisions of this compact with other applicable
5 interstate compacts including the Interstate Compact for Juveniles and
6 the Interstate Compact on Adoption and Medical Assistance. The
7 Interstate Commission may in cooperation with other interstate compact
8 commissions having responsibility for the interstate movement,
9 placement or transfer of children, promulgate like rules to ensure the
10 coordination of services, timely placement of children, and the reduction
11 of unnecessary or duplicative administrative or procedural requirements.

12 13 ARTICLE IV. JURISDICTION

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

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

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

23 1. The child is reunified with the parent in the receiving state who is the
24 subject of allegations or findings of abuse or neglect, only with the

- 1 concurrence of the public child placing agency in the receiving state;
- 2 or
- 3 2. The child is adopted; or
- 4 3. The child reaches the age of majority under the laws of the sending
- 5 state; or
- 6 4. The child achieves legal independence pursuant to the laws of the
- 7 sending state; or
- 8 5. A guardianship is created by a court in the receiving state with the
- 9 concurrence of the court in the sending state; or
- 10 6. An Indian tribe has petitioned for and received jurisdiction from the
- 11 court in the sending state; or
- 12 7. The public child placing agency of the sending state requests
- 13 termination and has obtained the concurrence of the public child
- 14 placing agency in the receiving the state.
- 15 D. When a sending state court terminates its jurisdiction, the receiving state
- 16 child placing agency shall be notified.
- 17 E. Nothing in this article shall defeat a claim of jurisdiction by a receiving
- 18 state court sufficient to deal with an act of truancy, delinquency, crime
- 19 or behavior involving a child as defined by the laws of the receiving state
- 20 committed by the child in the receiving state which would be a violation
- 21 of its laws.
- 22 F. Nothing in this article shall limit the receiving state's ability to take
- 23 emergency jurisdiction for the protection of the child.
- 24
- 25

ARTICLE V. ASSESSMENTS

A. 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.

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

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

2. Certification 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; and

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

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

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

D. 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.

1 E. The public child placing agency in the receiving state may request from
2 the public child placing agency or the private child placing agency in the
3 sending state, and shall be entitled to receive supporting or additional
4 information 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 timeframes
7 established by the 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.

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11 ARTICLE VI. PLACEMENT AUTHORITY

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

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

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

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

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

6
7 ARTICLE VII. STATE RESPONSIBILITY

8 A. For the interstate placement of a child made by a public child placing
9 agency or state court:

10 1. The public child placing agency in the sending state shall have
11 financial responsibility for:

12 a. the ongoing support and maintenance for the child during the
13 period of the placement, unless otherwise provided for in the
14 receiving state; and

15 b. as determined by the public child placing agency in the sending
16 state, services for the child beyond the public services for which
17 the child is eligible in the receiving state.

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

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

20 b. supervision conducted by the receiving state at the level necessary
21 to support the placement as agreed upon by the public child
22 placing agencies of the receiving and sending state.

23 3. Nothing in this provision shall prohibit public child placing agencies in
24 the sending state from entering into agreements with licensed

1 agencies or persons in the receiving state to conduct assessments and
2 provide supervision.

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

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

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

10 C. A private child placing agency shall be responsible for any assessment
11 conducted in the receiving state and any supervision conducted by the
12 receiving state at the level required by the laws of the receiving state or
13 the rules of the Interstate Commission.

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

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

19 F. Nothing in this compact shall be construed as to limit the authority of
20 the public child placing agency in the receiving state from contracting
21 with a licensed agency or person in the receiving state for an assessment
22 or the provision of supervision or services for the child or otherwise
23 authorizing the provision of supervision or services by a licensed agency
24 during the period of placement.

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

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

8 I. The public child placing agency in the sending state shall oversee
9 compliance with the provisions of the Indian Child Welfare Act (25 USC
10 1901 et seq.) for placements subject to the provisions of this compact,
11 prior to placement.

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

15
16 ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF
17 CHILDREN

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

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

1 B. Consist of one commissioner from each member state who shall be
2 appointed by the executive head of the state human services
3 administration with ultimate responsibility for the child welfare program.

4 The appointed commissioner shall have the legal authority to vote on
5 policy related matters governed by this compact binding the state.

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

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

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

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

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

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

22
23 **ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION**

24 The Interstate Commission shall have the following powers:

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

- 1 L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise
2 dispose of any property, real, personal or mixed.
- 3 M. To establish a budget and make expenditures.
- 4 N. To adopt a seal and bylaws governing the management and operation of
5 the Interstate Commission.
- 6 O. To report annually to the legislatures, governors, the judiciary, and state
7 advisory councils of the member states concerning the activities of the
8 Interstate Commission during the preceding year. Such reports shall
9 also include any recommendations that may have been adopted by the
10 Interstate Commission.
- 11 P. To coordinate and provide education, training and public awareness
12 regarding the interstate movement of children for officials involved in
13 such activity.
- 14 Q. To maintain books and records in accordance with the bylaws of the
15 Interstate Commission.
- 16 R. To perform such functions as may be necessary or appropriate to achieve
17 the purposes of this compact.

18

19 ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE
20 COMMISSION

21 A. Bylaws

- 22 1. Within 12 months after the first Interstate Commission meeting, the
23 Interstate Commission shall adopt bylaws to govern its conduct as
24 may be necessary or appropriate to carry out the purposes of the
25 compact.

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

7 B. Meetings

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

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

18 a. relate solely to the Interstate Commission’s internal personnel
19 practices and procedures; or

20 b. disclose matters specifically exempted from disclosure by federal
21 law; or

22 c. disclose financial or commercial information which is privileged,
23 proprietary or confidential in nature; or

24 d. involve accusing a person of a crime, or formally censuring a
25 person; or

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

3. For a meeting, or portion of a meeting, closed pursuant to this provision, 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 which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission or by court order.

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

C. Officers and Staff

1. The Interstate Commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms

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

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

10 D. Qualified Immunity, Defense and Indemnification

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

- 21 a. The liability of the Interstate Commission's staff director and
22 employees or Interstate Commission representatives, acting within
23 the scope of such person's employment or duties for acts, errors,
24 or omissions occurring within such person's state may not exceed
25 the limits of liability set forth under the Constitution and laws of

1 that state for state officials, employees, and agents. The Interstate
2 Commission is considered to be an instrumentality of the states for
3 the purposes of any such action. Nothing in this subsection shall
4 be construed to protect such person from suit or liability for
5 damage, loss, injury, or liability caused by a criminal act or the
6 intentional or willful and wanton misconduct of such person.

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

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

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

6
7 ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

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

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

- 22 1. Publish the proposed rule's entire text stating the reason(s) for that
23 proposed rule; and

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

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

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

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

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

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

- 1 H. Within the first 12 months of operation, the Interstate Commission shall
2 promulgate rules addressing the following:
- 3 1. Transition rules
 - 4 2. Forms and procedures
 - 5 3. Time lines
 - 6 4. Data collection and reporting
 - 7 5. Rulemaking
 - 8 6. Visitation
 - 9 7. Progress reports/supervision
 - 10 8. Sharing of information/confidentiality
 - 11 9. Financing of the Interstate Commission
 - 12 10. Mediation, arbitration and dispute resolution
 - 13 11. Education, training and technical assistance
 - 14 12. Enforcement
 - 15 13. Coordination with other interstate compacts
- 16 I. Upon determination by a majority of the members of the Interstate
17 Commission that an emergency exists:
- 18 1. The Interstate Commission may promulgate an emergency rule only if
19 it is required to:
 - 20 a. Protect the children covered by this compact from an imminent
21 threat to their health, safety and well-being; or
 - 22 b. Prevent loss of federal or state funds; or
 - 23 c. Meet a deadline for the promulgation of an administrative rule
24 required by federal law.

- 1 2. An emergency rule shall become effective immediately upon adoption,
2 provided that the usual rulemaking procedures provided hereunder
3 shall be retroactively applied to said rule as soon as reasonably
4 possible, but no later than 90 days after the effective date of the
5 emergency rule.
- 6 3. An emergency rule shall be promulgated as provided for in the rules of
7 the Interstate Commission.

9 ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

10 A. Oversight

- 11 1. The Interstate Commission shall oversee the administration and
12 operations of the compact.
- 13 2. The executive, legislative and judicial branches of state government in
14 each member state shall enforce this compact and the rules of the
15 Interstate Commission and shall take all actions necessary and
16 appropriate to effectuate the compact's purposes and intent. The
17 compact and its rules shall supercede state law, rules or regulations
18 to the extent of any conflict therewith.
- 19 3. All courts shall take judicial notice of the compact and the rules in
20 any judicial or administrative proceeding in a member state pertaining
21 to the subject matter of this compact.
- 22 4. The Interstate Commission shall be entitled to receive service of
23 process in any action in which the validity of a compact provision or
24 rule is the issue for which a judicial determination has been sought
25 and shall have standing to intervene in any proceedings. Failure to

1 provide service of process to the Interstate Commission shall render
2 any judgment, order or other determination, however so captioned or
3 classified, void as to the Interstate Commission, this compact, its
4 bylaws or rules of the Interstate Commission.

5 B. Dispute Resolution

6 1. The Interstate Commission shall attempt, upon the request of a
7 member state, to resolve disputes which are subject to the compact
8 and which may arise among member states and between member and
9 non-member states.

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

14 C. Enforcement

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

19 a. Provide remedial training and specific technical assistance; or

20 b. Provide written notice to the defaulting state and other member
21 states, of the nature of the default and the means of curing the
22 default. The Interstate Commission shall specify the conditions by
23 which the defaulting state must cure its default; or

24 c. By majority vote of the members, initiate against a defaulting
25 member state legal action in the United State District Court for the

1 District of Columbia or, at the discretion of the Interstate
2 Commission, in the federal district where the Interstate
3 Commission has its principal offices, to enforce compliance with
4 the provisions of the compact, its bylaws or rules. The relief sought
5 may include both injunctive relief and damages. In the event
6 judicial enforcement is necessary the prevailing party shall be
7 awarded all costs of such litigation including reasonable attorney's
8 fees; or

9 d. Avail itself of any other remedies available under state law or the
10 regulation of official or professional conduct.
11

12 ARTICLE XIII. FINANCING OF THE COMMISSION

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

16 B. The Interstate Commission may levy on and collect an annual
17 assessment from each member state to cover the cost of the operations
18 and activities of the Interstate Commission and its staff which must be in
19 a total amount sufficient to cover the Interstate Commission's annual
20 budget as approved by its members each year. The aggregate annual
21 assessment amount shall be allocated based upon a formula to be
22 determined by the Interstate Commission which shall promulgate a rule
23 binding upon all member states.

24 C. The Interstate Commission shall not incur obligations of any kind prior
25 to securing the funds adequate to meet the same; nor shall the Interstate

1 Commission pledge the credit of any of the member states, except by and
2 with the authority of the member state.

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

11
12 ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

14 B. The compact shall become effective and binding upon legislative
15 enactment of the compact into law by no less than 35 states. The
16 effective date shall be the later of July 1, 2007 or upon enactment of the
17 compact into law by the 35th state. Thereafter it shall become effective
18 and binding as to any other member state upon enactment of the
19 compact into law by that state. The governors of non-member states or
20 their designees shall be invited to participate in the activities of the
21 Interstate Commission on a non-voting basis prior to adoption of the
22 compact by all states.

23 C. The Interstate Commission may propose amendments to the compact for
24 enactment by the member states. No amendment shall become effective

1 and binding on the member states unless and until it is enacted into law
2 by unanimous consent of the member states.

3
4 ARTICLE XV. WITHDRAWAL AND DISSOLUTION

5 A. Withdrawal

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

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

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

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

20 5. Reinstatement following withdrawal of a member state shall occur
21 upon the withdrawing state reenacting the compact or upon such
22 later date as determined by the members of the Interstate
23 Commission.

1 B. Dissolution of Compact

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

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

9
10 ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

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

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

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

19
20 ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

21 A. Other Laws

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

1 2. All member states' laws conflicting with this compact or its rules are
2 superseded to the extent of the conflict.

3 B. Binding Effect of the Compact

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

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

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

13
14 ARTICLE XVIII. INDIAN TRIBES

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