



February 22, 2008

**ENGROSSED
HOUSE BILL No. 1290**

DIGEST OF HB 1290 (Updated February 21, 2008 9:43 am - DI 107)

Citations Affected: IC 31-9; IC 31-25; IC 31-27; IC 31-28; noncode.

Synopsis: Older youth foster care, foster care, and placement of children. Provides that an individual who received foster care a month before the individual became 18 years of age may petition a court to receive older youth foster care until the individual reaches 21 years of age if the individual is: (1) employed; (2) attending a vocational program; (3) attending an educational program; or (4) is planning on attending a vocational or educational program within six months of the individual's eighteenth birthday. Provides that the department of child services shall implement a transitional services plan for an individual receiving: (1) older youth foster care; and (2) foster care who will become eighteen years of age or emancipated. Amends the definition of certain foster care terms to include an individual receiving older youth foster care. Provides that restrictions on the number of individuals that can be supervised and cared for in a foster family home or a special needs foster family home exclude individuals receiving older youth foster care. Adopts the interstate compact for the placement of children.

Effective: July 1, 2008.

Avery, Bell, Summers, Day

(SENATE SPONSORS — LAWSON C, BECKER, SIPES, TALLIAN,
BRODEN)

January 15, 2008, read first time and referred to Committee on Family, Children and Human Affairs.

January 24, 2008, reported — Do Pass.

January 28, 2008, read second time, amended, ordered engrossed.

January 29, 2008, engrossed.

January 30, 2008, read third time, passed. Yeas 95, nays 1.

SENATE ACTION

February 4, 2008, read first time and referred to Committee on Judiciary.

February 21, 2008, amended, reported favorably — Do Pass.

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EH 1290—LS 6918/DI 107+



February 22, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1290

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 31-9-2-39.5, AS ADDED BY P.L.145-2006,
2 SECTION 188, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2008]: Sec. 39.5. "Destitute child", for purposes
4 of IC 31-25-3, IC 31-25-4, IC 31-26-2, IC 31-26-3, IC 31-28-1,
5 IC 31-28-2, and IC 31-28-3, means an individual:
6 (1) who is needy;
7 (2) who is not a public ward;
8 (3) who:
9 (A) is less than eighteen (18) years of age; or
10 (B) **if the individual is receiving foster care for older youth**
11 **under IC 31-28-5.7, is at least eighteen (18) but less than**
12 **twenty-one (21) years of age;**
13 (4) who has been deprived of parental support or care because of
14 a parent's:
15 (A) death;
16 (B) continued absence from the home; or
17 (C) physical or mental incapacity;

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- 1 (5) whose relatives liable for the individual's support are not able
- 2 to provide adequate care or support for the individual without
- 3 public assistance; and
- 4 (6) who is in need of foster care, under circumstances that do not
- 5 require the individual to be made a public ward.

6 SECTION 2. IC 31-9-2-40, AS AMENDED BY P.L.145-2006,
 7 SECTION 190, IS AMENDED TO READ AS FOLLOWS
 8 [EFFECTIVE JULY 1, 2008]: Sec. 40. "Director", for purposes of
 9 IC 31-25-1, IC 31-25-2, **IC 31-28-6**, IC 31-33, IC 31-34, and IC 31-37,
 10 refers to the director of the department of child services.

11 SECTION 3. IC 31-9-2-46.7, AS ADDED BY P.L.145-2006,
 12 SECTION 193, IS AMENDED TO READ AS FOLLOWS
 13 [EFFECTIVE JULY 1, 2008]: Sec. 46.7. "Foster care", for purposes of
 14 IC 31-25, IC 31-26, IC 31-27, IC 31-28-1, IC 31-28-2, ~~and~~ IC 31-28-3,
 15 **and IC 31-28-5.7** means living in a place licensed under IC 31-27.

16 SECTION 4. IC 31-9-2-46.9, AS ADDED BY P.L.145-2006,
 17 SECTION 194, IS AMENDED TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2008]: Sec. 46.9. **(a)** "Foster family home", for
 19 purposes of IC 31-27, means a place where an individual resides and
 20 provides care and supervision on a twenty-four (24) hour basis to:

- 21 **(1) a child who satisfies the conditions set forth in subsection**
- 22 **(b);**
- 23 **(2) an individual at least eighteen (18) but less than**
- 24 **twenty-one (21) years of age placed in foster care under the**
- 25 **order of a court who satisfies the conditions set forth in**
- 26 **subsection (b); or**
- 27 **(3) an individual at least eighteen (18) but less than**
- 28 **twenty-one (21) years of age who is receiving foster care for**
- 29 **older youth and who is no longer under the care and**
- 30 **supervision of the juvenile court for purposes of placement.**

31 who

32 **(b) A child or an individual described in subsection (a)(1) or**
 33 **(a)(2):**

- 34 (1) ~~is not~~ **may not be** the:
 - 35 (A) child;
 - 36 (B) stepchild;
 - 37 (C) grandchild;
 - 38 (D) niece;
 - 39 (E) nephew; or
 - 40 (F) sibling;
- 41 of the individual providing care and supervision;
- 42 **(2) is must be** separated from the child's **or individual's**:

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- 1 (A) parent;
- 2 (B) stepparent;
- 3 (C) guardian;
- 4 (D) custodian; or
- 5 (E) other relative; and
- 6 (3) **is must be** receiving care and supervision under an order of a
- 7 juvenile court or for the purposes of placement.

8 SECTION 5. IC 31-9-2-117.5, AS ADDED BY P.L.145-2006,
 9 SECTION 215, IS AMENDED TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2008]: Sec. 117.5. "Special needs foster family
 11 home", for purposes of IC 31-27, means a foster family home:

- 12 (1) that provides care for:
- 13 (A) a child; or
- 14 (B) **an individual at least eighteen (18) but less**
- 15 **than twenty-one (21) years of age receiving foster**
- 16 **care for older youth under IC 31-28-5.7-1;**
- 17 who ~~(A)~~ has a mental, physical, or emotional disability and
- 18 ~~(B)~~ will require additional supervision or assistance in
- 19 behavior management, activities of daily living, or
- 20 management of medical problems; and

- 21 (2) that meets the additional requirements under IC 31-27-4-3.
- 22 SECTION 6. IC 31-9-2-129.5, AS ADDED BY P.L.1-2007,
- 23 SECTION 190, IS AMENDED TO READ AS FOLLOWS
- 24 [EFFECTIVE JULY 1, 2008]: Sec. 129.5. "Therapeutic foster family
- 25 home", for purposes of IC 31-27, means a foster family home:

- 26 (1) that provides care to:
- 27 (A) a child; or
- 28 (B) **an individual at least eighteen (18) but less than**
- 29 **twenty-one (21) years of age receiving foster care for older**
- 30 **youth under IC 31-28-5.7-1;**
- 31 who is seriously emotionally disturbed or developmentally
- 32 disabled;

- 33 (2) in which the child **or individual** receives treatment in a family
- 34 home through an integrated array of services supervised and
- 35 supported by qualified program staff from:

- 36 (A) the office of the secretary of family and social services;
- 37 (B) a managed care provider that contracts with the division of
- 38 mental health and addiction; or
- 39 (C) a licensed child placing agency; and
- 40 (3) that meets the additional requirements of IC 31-27-4-2.

41 SECTION 7. IC 31-9-2-130.3 IS ADDED TO THE INDIANA
 42 CODE AS A **NEW** SECTION TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 2008]: **Sec. 130.3. "Transitional services**
2 **plan", for purposes of IC 31-25-2-21, has the meaning set forth in**
3 **IC 31-25-2-21(a).**

4 SECTION 8. IC 31-25-2-21 IS ADDED TO THE INDIANA CODE
5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
6 1, 2008]: **Sec. 21. (a) As used in this section, "transitional services**
7 **plan" means a plan that provides information concerning the**
8 **following to an individual described in subsection (b):**

- 9 (1) **Education.**
- 10 (2) **Employment.**
- 11 (3) **Housing.**
- 12 (4) **Health care.**
- 13 (5) **Development of problem solving skills.**
- 14 (6) **Available local, state, and federal financial assistance.**

15 (b) **The department shall implement a program that provides a**
16 **transitional services plan to the following individuals:**

- 17 (1) **An individual who has become or will become:**
 - 18 (A) **eighteen (18) years of age; or**
 - 19 (B) **emancipated;**
- 20 **while receiving foster care.**
- 21 (2) **An individual who:**
 - 22 (A) **is at least eighteen (18) but less than twenty-one (21)**
 - 23 **years of age; and**
 - 24 (B) **is receiving foster care for older youth under**
 - 25 **IC 31-28-5.7.**

26 (c) **The department shall adopt rules under IC 4-22-2 necessary**
27 **to implement the program described in this section.**

28 SECTION 9. IC 31-27-4-2, AS ADDED BY P.L.145-2006,
29 SECTION 273, IS AMENDED TO READ AS FOLLOWS
30 [EFFECTIVE JULY 1, 2008]: **Sec. 2. (a) A person may not operate a**
31 **therapeutic foster family home without a license issued under this**
32 **article.**

33 (b) **The state or a political subdivision of the state may not operate**
34 **a therapeutic foster family home without a license issued under this**
35 **article.**

36 (c) **The department may issue a license only for a therapeutic foster**
37 **family home that meets:**

- 38 (1) **all the licensing requirements of a foster family home; and**
- 39 (2) **the additional requirements described in this section.**

40 (d) **An applicant for a therapeutic foster family home license must**
41 **do the following:**

- 42 (1) **Be licensed as a foster parent under 465 IAC 2-1-1 et seq.**

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- 1 (2) Participate in preservice training that includes:
- 2 (A) preservice training to be licensed as a foster parent under
- 3 465 IAC 2-1-1 et seq.; and
- 4 (B) additional preservice training in therapeutic foster care.
- 5 (e) A person who is issued a license to operate a therapeutic foster
- 6 family home shall, within one (1) year after meeting the training
- 7 requirements of subsection (d)(2) and, annually thereafter, participate
- 8 in training that includes:
- 9 (1) training as required in order to be licensed as a foster parent
- 10 under 465 IAC 2-1-1 et seq.; and
- 11 (2) additional training in order to be licensed as a therapeutic
- 12 foster parent under this chapter.
- 13 (f) An operator of a therapeutic foster family home may not provide
- 14 supervision and care in a therapeutic foster family home to more than
- 15 two (2) foster children at the same time, not including the children for
- 16 whom the applicant or operator is a parent, stepparent, guardian,
- 17 custodian, or other relative. The department may grant an exception to
- 18 this subsection whenever the placement of siblings in the same
- 19 therapeutic foster family home is desirable or in the best interests of the
- 20 foster children residing in the home.
- 21 (g) **A therapeutic foster family home may provide care for an**
- 22 **individual receiving foster care for older youth under**
- 23 **IC 31-28-5.7-1 if the individual is no longer under the care and**
- 24 **supervision of a juvenile court.**
- 25 (h) The department shall adopt rules under IC 4-22-2 necessary to
- 26 carry out this section, including rules governing the number of hours
- 27 of training required under subsections (d) and (e).
- 28 SECTION 10. IC 31-27-4-3, AS ADDED BY P.L.145-2006,
- 29 SECTION 273, IS AMENDED TO READ AS FOLLOWS
- 30 [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) A person may not operate a
- 31 special needs foster family home without a license issued under this
- 32 article.
- 33 (b) The state or a political subdivision of the state may not operate
- 34 a special needs foster family home without a license issued under this
- 35 article.
- 36 (c) The department may only issue a license for a special needs
- 37 foster family home that meets:
- 38 (1) all the licensing requirements of a foster family home; and
- 39 (2) the additional requirements described in this section.
- 40 (d) An applicant for a special needs foster family home license must
- 41 be licensed as a foster parent under 465 IAC 2-1-1 et seq. that includes
- 42 participating in preservice training.

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1 (e) A person who is issued a license to operate a special needs foster
2 family home shall, within one (1) year after meeting the training
3 requirements of subsection (d) and, annually thereafter, participate in
4 training that includes:

5 (1) training as required in order to be licensed as a foster parent
6 under 465 IAC 2-1-1 et seq.; and

7 (2) additional training that includes specialized training to meet
8 the child's **or individual's** specific needs.

9 (f) An operator of a special needs foster family home may not
10 provide supervision and care as a special needs foster family home if
11 more than:

12 (1) eight (8) individuals, each of whom: ~~either:~~

13 (A) is less than eighteen (18) years of age; or

14 (B) is at least eighteen (18) years of age and is receiving care
15 and supervision under an order of a juvenile court; or

16 (2) four (4) individuals less than six (6) years of age;
17 including the children **or individuals** for whom the provider is a
18 parent, stepparent, guardian, custodian, or other relative, receive care
19 and supervision in the home at the same time. Not more than four (4)
20 of the eight (8) individuals described in subdivision (1) may be less
21 than six (6) years of age. The department may grant an exception to this
22 section whenever the department determines that the placement of
23 siblings in the same special needs foster home is desirable.

24 **(g) An individual who receives foster care for older youth under
25 IC 31-28-5.7 shall not be considered as an individual under
26 subsection (f)(1) who can be one of eight (8) individuals who may
27 receive supervision and care in a special needs foster family home.**

28 ~~(g)~~ **(h)** The department shall consider the specific needs of each
29 special needs foster child **or individual** whenever the department
30 determines the appropriate number of children **or individuals** to place
31 in the special needs foster home under subsection (f). The department
32 may require a special needs foster family home to provide care and
33 supervision to less than the maximum number of children **or
34 individuals** allowed under subsection (f) upon consideration of the
35 specific needs of a special needs foster child **or individual**.

36 ~~(h)~~ **(i)** **A special needs foster family home may provide care for
37 an individual receiving foster care for older youth under
38 IC 31-28-5.7-1 if the individual is no longer under the care and
39 supervision of a juvenile court.**

40 **(j)** The department shall adopt rules under IC 4-22-2 necessary to
41 carry out this section, including rules governing the number of hours
42 of training required under subsection (e).

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1 SECTION 11. IC 31-27-4-8, AS ADDED BY P.L.145-2006,
 2 SECTION 273, IS AMENDED TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) An applicant may not provide
 4 supervision and care as a foster family home if more than:

5 (1) eight (8) individuals, each of whom: ~~either~~:

6 (A) is less than eighteen (18) years of age; or

7 (B) is at least eighteen (18) years of age and is receiving care
 8 and supervision under an order of a juvenile court; or

9 (2) four (4) individuals less than six (6) years of age;

10 including the children **or individuals** for whom the provider is a
 11 parent, stepparent, guardian, custodian, or other relative, receive care
 12 and supervision at the facility at the same time.

13 (b) Not more than four (4) of the eight (8) individuals in subsection
 14 (a)(1) may be less than six (6) years of age.

15 (c) The department may grant an exception to this section whenever
 16 the department determines that the placement of siblings in the same
 17 foster family home is desirable.

18 **(d) An individual who receives foster care for older youth under**
 19 **IC 31-28-5.7 shall not be considered as an individual under**
 20 **subsection (a)(1) who can be one of eight (8) individuals who may**
 21 **receive supervision and care in a foster family home.**

22 SECTION 12. IC 31-28-5.7 IS ADDED TO THE INDIANA CODE
 23 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2008]:

25 **Chapter 5.7. Older Youth Foster Care**

26 **Sec. 1. (a) An individual who:**

27 **(1) is at least eighteen (18) but less than twenty-one (21) years**
 28 **of age; and**

29 **(2) received foster care under a court order the month before**
 30 **the individual became eighteen (18) years of age;**

31 **may petition a court to receive foster care at any time until the**
 32 **individual reaches twenty-one (21) years of age. A court shall grant**
 33 **the petition if the individual is employed, attending a vocational or**
 34 **educational certification or degree program, or is planning on**
 35 **attending a vocational or educational certification or degree**
 36 **program within six (6) months of the individual's eighteenth**
 37 **birthday.**

38 **(b) The department shall adopt rules under IC 4-22-2 to**
 39 **implement this section. The rules adopted under IC 4-22-2 must**
 40 **establish rules regarding individuals working or attending**
 41 **vocational or education programs as set forth in subsection (a).**

42 SECTION 13. IC 31-28-6 IS ADDED TO THE INDIANA CODE

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1 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2008]:

3 **Chapter 6. Interstate Compact for the Placement of Children**

4 **Sec. 1. Subject to IC 31-28-4-1.5, the interstate compact for the**
5 **placement of children is enacted into law under this chapter and**
6 **entered into with all other jurisdictions legally joining the compact**
7 **in a form consistent with the compact terms and provisions as**
8 **stated in this section in a form substantially as follows:**

9 **ARTICLE 1. PURPOSE**

10 **The purpose of this interstate compact for the placement of**
11 **children is to:**

- 12 (1) **Provide a process through which children subject to this**
13 **compact are placed in safe and suitable homes in a timely**
14 **manner.**
- 15 (2) **Facilitate ongoing supervision of a placement, the delivery**
16 **of services, and communication between the states.**
- 17 (3) **Provide operating procedures that will ensure that children**
18 **are placed in safe and suitable homes in a timely manner.**
- 19 (4) **Provide for the adoption and enforcement of administrative**
20 **rules implementing the provisions of this compact and**
21 **regulating the covered activities of the member states.**
- 22 (5) **Provide for uniform data collection and information sharing**
23 **between member states under this compact.**
- 24 (6) **Promote coordination between this compact, the Interstate**
25 **Compact for Juveniles, the Interstate Compact on Adoption**
26 **and Medical Assistance, and other compacts that affect the**
27 **placement of and that provide services to children otherwise**
28 **subject to this compact.**
- 29 (7) **Provide for a state's continuing legal jurisdiction and**
30 **responsibility for placement and care of a child that it would**
31 **have had if the placement were intrastate.**
- 32 (8) **Provide for the promulgation of guidelines, in collaboration**
33 **with Indian tribes, for interstate cases involving Indian children**
34 **as is or may be permitted by federal law.**

35 **ARTICLE II. DEFINITIONS**

36 **As used in this compact:**

- 37 (1) **"Approved placement" means the public child placing**
38 **agency in the receiving state has determined that the placement**
39 **is both safe and suitable for the child.**
- 40 (2) **"Assessment" means an evaluation of a prospective**
41 **placement by a public child placing agency to determine**
42 **whether the placement meets the individualized needs of the**

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child, including the child's safety and stability, health and well-being, and mental, emotional, and physical development. An assessment is applicable only to a placement by a public child placing agency.

(3) "Certification" means to attest, declare, or swear to before a judge or notary public.

(4) "Child" means an individual who is less than eighteen (18) years of age.

(5) "Default" means the failure of a member state to perform the obligations or responsibilities imposed upon it by this compact or by the bylaws or rules of the interstate commission.

(6) "Home study" means an evaluation of a home environment that is conducted in accordance with the applicable requirements of the state in which the home is located and that documents the preparation and the suitability of the placement resource for placement of a child in accordance with the laws and requirements of the state in which the home is located.

(7) "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, 43 U.S.C. 1602(c).

(8) "Interstate commission for the placement of children" means the commission that is created under Article VIII of this compact and that is generally referred to as "the interstate commission".

(9) "Jurisdiction" means the power and authority of a court to hear and decide matters.

(10) "Legal risk adoption" means a placement made preliminary to an adoption in which the prospective adoptive parents acknowledge in writing that a child can be ordered returned to the sending state or the birth mother's state of residence, if different from the sending state, and a final decree of adoption shall not be entered in any jurisdiction until all required consents are obtained or are dispensed with in accordance with applicable law.

(11) "Legal risk placement" means legal risk adoption.

(12) "Member state" means a state that has enacted this compact.

(13) "Noncustodial parent" means a person who, at the time of the commencement of court proceedings in the sending state,

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

(14) "Nonmember state" means a state that has not enacted this compact.

(15) "Notice of residential placement" means information regarding a placement into a residential facility that is provided to the receiving state, including, but not limited to, the name of the child, the 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. The term also includes information regarding a discharge and any unauthorized absence from the facility.

(16) "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.

(17) "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 (1) state to another and that is not an instrumentality of the state or acting under color of state law.

(18) "Provisional placement" means a determination made by the public child placing agency in the receiving state 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 not to delay the placement. Completion of the receiving state requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement.

(19) "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 the agency or entity acts on behalf of a state, county, municipality, or other governmental unit, that facilitates, causes, or is involved in the placement of a child from one (1) state to another.

(20) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought.

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(21) "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 they may be regarded as relatives as determined by the court in the sending state.

(22) "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. For purposes of the compact, residential facilities do not include institutions that are primarily educational in character, hospitals, or other medical facilities.

(23) "Rule" means a written directive, mandate, standard, or principle that is issued by the interstate commission and promulgated under Article XI of this compact, that is of general applicability, and that implements, interprets or prescribes a policy or provision of the compact. A rule has the force and effect of an administrative rule in a member state, and includes the amendment, repeal, or suspension of an existing rule.

(24) "Sending state" means the state from which the placement of a child is initiated.

(25) "Service member's permanent duty station" means the military installation where an active duty armed services member is currently assigned and is physically located under competent orders that do not specify the duty as temporary.

(26) "Service member's state of legal residence" means the state in which the active duty armed services member is considered a resident for tax and voting purposes.

(27) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, or any other territory of the United States.

(28) "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 less than eighteen (18) years of age.

(29) "Supervision" means monitoring provided by the receiving state once a child has been placed in a receiving state under this compact.

ARTICLE III. APPLICABILITY

(a) Except as otherwise provided in subsection (b), this compact

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- 1 applies to the following:
- 2 (1) The interstate placement of a child subject to ongoing court
- 3 jurisdiction in the sending state, due to allegations or findings
- 4 that the child has been abused, neglected, or deprived as
- 5 defined by the laws of the sending state. However, the
- 6 placement of such a child into a residential facility requires only
- 7 notice of residential placement to the receiving state before
- 8 placement.
- 9 (2) The interstate placement of a child adjudicated delinquent
- 10 or unmanageable based on the laws of the sending state and
- 11 subject to ongoing court jurisdiction of the sending state if:
- 12 (A) the child is being placed in a residential facility in
- 13 another member state and is not covered under another
- 14 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
- 19 placing agency or private child placing agency as defined in this
- 20 compact as a preliminary step to a possible adoption.
- 21 (b) The provisions of this compact do not apply to the following:
- 22 (1) The interstate placement of a child with a nonrelative in a
- 23 receiving state by a parent with the legal authority to make
- 24 such a placement; however, the placement is not intended to
- 25 effectuate an adoption.
- 26 (2) The interstate placement of a child by one (1) relative with
- 27 the lawful authority to make such a placement directly with a
- 28 relative in a receiving state.
- 29 (3) The placement of a child not subject to subsection (a) into a
- 30 residential facility by the child's parent.
- 31 (4) The placement of a child with a noncustodial parent if:
- 32 (A) the noncustodial parent proves to the satisfaction of a
- 33 court in the sending state a substantial relationship with the
- 34 child;
- 35 (B) the court in the sending state makes a written finding
- 36 that placement with the noncustodial parent is in the best
- 37 interests of the child; and
- 38 (C) the court in the sending state dismisses its jurisdiction
- 39 over the child's case.
- 40 (5) A child entering the United States from a foreign country
- 41 for the purpose of adoption or leaving the United States to go to
- 42 a foreign country for the purpose of adoption in that country.

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1 (6) Cases in which a United States citizen child living overseas
2 with the child's family, at least one (1) member of which is in
3 the United States armed services and is stationed overseas, is
4 removed and placed in a state.

5 (7) The sending of a child by a public child placing agency or a
6 private child placing agency for a visit as defined by the rules
7 of the interstate commission.

8 (c) For purposes of determining the applicability of this compact
9 to the placement of a child with a family having a member in the
10 United States armed services, the public child placing agency or
11 private child placing agency may choose the state of the service
12 member's permanent duty station or the service member's declared
13 legal residence.

14 (d) This compact shall not be construed to prohibit the concurrent
15 application of the provisions of this compact with other applicable
16 interstate compacts, including the interstate compact for juveniles
17 and the interstate compact on adoption and medical assistance. The
18 interstate commission may, in cooperation with other interstate
19 compact commissions having responsibility for the interstate
20 movement, placement, or transfer of children, promulgate like rules
21 to ensure the coordination of services, the timely placement of
22 children, and the reduction of unnecessary or duplicative
23 administrative or procedural requirements.

24 **ARTICLE IV. JURISDICTION**

25 (a) Except as provided in subsection (g) concerning private and
26 independent adoptions, the sending state retains jurisdiction over a
27 child with respect to all matters of custody and disposition of the
28 child which it would have had if the child had remained in the
29 sending state. Jurisdiction also includes the power to order the
30 return of the child to the sending state.

31 (b) When an issue of child protection or custody is brought before
32 a court in the receiving state, the court shall confer with the court of
33 the sending state to determine the most appropriate forum for
34 adjudication.

35 (c) In accordance with its own laws, the court in the sending state
36 shall have authority to terminate its jurisdiction if:

- 37 (1) the parent with whom the child is reunified in the receiving
- 38 state is the subject of allegations or findings of abuse or neglect,
- 39 but only with the concurrence of the public child placing agency
- 40 in the receiving state;
- 41 (2) the child is adopted;
- 42 (3) the child reaches the age of majority under the laws of the

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1 sending state;
 2 (4) the child achieves legal independence under the laws of the
 3 sending state;
 4 (5) a guardianship is created by a court in the receiving state
 5 with the concurrence of the court in the sending state;
 6 (6) an Indian tribe has petitioned for and received jurisdiction
 7 from the court in the sending state; or
 8 (7) the public child placing agency of the sending state requests
 9 termination and has obtained the concurrence of the public
 10 child placing agency in the receiving state.
 11 (d) When a sending state court terminates its jurisdiction, the
 12 receiving state child placing agency shall be notified.
 13 (e) Nothing in this article shall defeat a claim of jurisdiction by a
 14 receiving state court sufficient to deal with an act of truancy,
 15 delinquency, crime, or behavior that involves a child as defined by
 16 the laws of the receiving state, that is committed by the child in the
 17 receiving state, and that would be a violation of the laws of the
 18 receiving state.
 19 (f) This article does not limit the receiving state's ability to take
 20 emergency jurisdiction for the protection of the child.
 21 (g) The substantive laws of the state in which an adoption will be
 22 finalized shall solely govern all issues relating to the adoption of the
 23 child and the court in which the adoption proceeding is filed shall
 24 have subject matter jurisdiction regarding all substantive issues
 25 relating to the adoption, except:
 26 (1) when the child is a ward of another court that established
 27 jurisdiction over the child prior to the placement;
 28 (2) when the child is in the legal custody of a public agency in
 29 the sending state; or
 30 (3) when a court in the sending state has otherwise
 31 appropriately assumed jurisdiction over the child, prior to the
 32 submission of the request for approval of placement.
 33 (h) A final decree of adoption shall not be entered in any
 34 jurisdiction until the placement is authorized as an approved
 35 placement by the public child placing agency in the receiving state.
 36 **ARTICLE V. PLACEMENT EVALUATION**
 37 (a) Before sending, bringing, or causing a child to be sent or
 38 brought into a receiving state, the public child placing agency shall
 39 provide a written request for assessment to the receiving state.
 40 (b) For placements by a private child placing agency, a child may
 41 be sent or brought, or caused to be sent or brought, into a receiving
 42 state upon receipt and review of the required content in a request for

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1 approval of a placement by both the sending state's and the receiving
 2 state's public child placing agency. The required content for a
 3 request for provisional approval shall include all of following:
 4 (1) A request for approval identifying the child, the birth
 5 parent(s), the prospective adoptive parent(s), and the
 6 supervising agency, signed by the person requesting approval.
 7 (2) Certification by a licensed attorney or other authorized
 8 agent that the consent or relinquishment is in compliance with
 9 the applicable laws of the sending state, or where permitted the
 10 laws of the state where finalization of the adoption will occur.
 11 (3) A home study.
 12 (4) An acknowledgment of legal risk signed by the prospective
 13 adoptive parents.
 14 (c) The sending state and the receiving state may request
 15 additional information or documents before finalization of an
 16 approved placement, but they may not delay travel by the
 17 prospective adoptive parents with the child if the required content
 18 for approval has been submitted and has been received and reviewed
 19 by the public child placing agency in both the sending state and the
 20 receiving state.
 21 (d) Approval from the public child placing agency in the receiving
 22 state for a provisional or approved placement is required as
 23 provided for in the rules of the interstate commission.
 24 (e) The procedures for making and the request for an assessment
 25 shall contain all information and be in such form as provided for in
 26 the rules of the interstate commission.
 27 (f) Upon receipt of a request from the public child welfare agency
 28 of the sending state, the receiving state shall initiate an assessment of
 29 the proposed placement to determine its safety and suitability. If the
 30 proposed placement is a placement with a relative, the public child
 31 placing agency of the sending state may request a determination of
 32 whether the placement qualifies as a provisional placement.
 33 (g) Upon receipt of a request from the public child placing agency
 34 of the sending state, the receiving state shall initiate an assessment of
 35 the proposed placement to determine its safety and suitability. If the
 36 proposed placement is a placement with a relative, the public child
 37 placing agency of the sending state may request a determination for
 38 a provisional placement.
 39 (h) The public child placing agency in the receiving state may
 40 request from the public child placing agency or the private child
 41 placing agency in the sending state, and shall be entitled to receive,
 42 supporting or additional information necessary to complete the

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assessment.

(i) The public child placing agency in the receiving state shall approve a provisional placement and complete or arrange for the completion of the assessment within the timeframes established by the rules of the interstate commission.

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

(k) The interstate commission may develop uniform standards for the assessment of the safety and suitability of interstate placements.

ARTICLE VI. PLACEMENT AUTHORITY

(a) Except as otherwise provided in this Compact, no child subject to this compact shall be placed into a receiving state until approval for such placement is obtained.

(b) If the public child placing agency in the receiving state does not approve the proposed placement, the child shall not be placed. The receiving state shall provide written documentation of any such determination in accordance with the rules promulgated by the interstate commission. Such a determination is not subject to judicial review in the sending state.

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

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

(e) If a determination not to approve the placement of the child in the receiving state is overturned upon review, the placement shall be considered approved; however, all administrative or judicial remedies must be exhausted or the time for such remedies must have passed.

ARTICLE VII. PLACING AGENCY RESPONSIBILITY

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

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

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

(B) as determined by the public child placing agency in the sending state, services for the child beyond the public

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1 services for which the child is eligible in the receiving state;
 2 (2) the receiving state shall have financial responsibility only
 3 for:
 4 (A) any assessment conducted by the receiving state; and
 5 (B) supervision conducted by the receiving state at the level
 6 necessary to support the placement as agreed upon by the
 7 public child placing agencies of the receiving and sending
 8 states; and
 9 (3) nothing in this compact prohibits public child placing
 10 agencies in the sending state from entering into agreements
 11 with licensed agencies or persons in the receiving state to
 12 conduct assessments and provide supervision.
 13 (b) For the placement of a child by a private child placing agency
 14 preliminary to a possible adoption, the private child placing agency
 15 shall be:
 16 (1) legally responsible for the child during the period of
 17 placement as provided for in the law of the sending state until
 18 the finalization of the adoption; and
 19 (2) financially responsible for the child absent a contractual
 20 agreement to the contrary.
 21 (c) A private child placing agency shall be responsible for any
 22 assessment conducted in the receiving state and any supervision
 23 conducted by the receiving state at the level required by the laws of
 24 the receiving state or the rules of the interstate commission.
 25 (d) The public child placing agency in the receiving state shall
 26 provide timely assessments, as provided for in the rules of the
 27 interstate commission.
 28 (e) The public child placing agency in the receiving state shall
 29 provide, or arrange for the provision of, supervision and services for
 30 the child, including timely reports, during the period of the
 31 placement.
 32 (f) This compact does not limit the authority of the public child
 33 placing agency in the receiving state to contract with a licensed
 34 agency or person in the receiving state for an assessment or the
 35 provision of supervision or services for the child or otherwise
 36 authorize the provision of supervision or services by a licensed
 37 agency during the period of placement.
 38 (g) Each member state shall provide for coordination among its
 39 branches of government concerning the state's participation in, and
 40 compliance with, the compact and interstate commission activities,
 41 through the creation of an advisory council or use of an existing body
 42 or board.

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- 1 **(h) Each member state shall establish a central state compact**
- 2 **office, which shall be responsible for state compliance with the**
- 3 **compact and the rules of the interstate commission.**
- 4 **(i) The public child placing agency in the sending state shall**
- 5 **oversee compliance with the provisions of the Indian Child Welfare**
- 6 **Act (25 U.S.C. 1901 et seq.) for placements subject to the provisions**
- 7 **of this compact, before placement.**
- 8 **(j) With the consent of the interstate commission, states may enter**
- 9 **into limited agreements that facilitate the timely assessment and**
- 10 **provision of services and supervision of placements under this**
- 11 **compact.**

12 **ARTICLE VIII. INTERSTATE COMMISSION FOR THE**

13 **PLACEMENT OF CHILDREN**

14 **The member states hereby establish, by way of this compact, a**

15 **commission known as the "interstate commission for the placement**

16 **of children". The activities of the interstate commission are the**

17 **formation of public policy and are a discretionary state function. The**

18 **interstate commission:**

- 19 **(1) is a joint commission of the member states and shall have**
- 20 **the responsibilities, powers, and duties set forth herein, and**
- 21 **such additional powers as may be conferred upon it by**
- 22 **subsequent concurrent action of the respective legislatures of**
- 23 **the member states;**
- 24 **(2) consists of one (1) commissioner from each member state,**
- 25 **who shall be appointed by the executive head of the state**
- 26 **human services administration with ultimate responsibility for**
- 27 **the child welfare program, and who shall have the legal**
- 28 **authority to vote on policy related matters governed by this**
- 29 **compact binding the state;**
- 30 **(3) operates under the following requirements:**
 - 31 **(A) a requirement that each member state represented at a**
 - 32 **meeting of the interstate commission is entitled to one (1)**
 - 33 **vote;**
 - 34 **(B) a requirement that a majority of the member states shall**
 - 35 **constitute a quorum for the transaction of business, unless**
 - 36 **a larger quorum is required by the bylaws of the interstate**
 - 37 **commission;**
 - 38 **(C) a requirement that a representative shall not delegate a**
 - 39 **vote to another member state;**
 - 40 **(D) a requirement that a representative may delegate voting**
 - 41 **authority to another person from the same member state for**
 - 42 **a specified meeting; and**

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- 1 (E) a requirement that the interstate commission shall
- 2 include, in addition to the commissioners of each member
- 3 state, persons who are members of interested organizations
- 4 as defined in the bylaws or rules of the interstate commission
- 5 and who shall be ex officio and shall not be entitled to vote
- 6 on any matter before the interstate commission; and
- 7 (4) shall establish an executive committee which shall have the
- 8 authority to administer the day to day operations and
- 9 administration of the interstate commission but does not have
- 10 the power to engage in rulemaking.

11 **ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE**
 12 **COMMISSION**

13 The interstate commission has powers to do the following:

- 14 (1) Promulgate rules and take all necessary actions to effect the
- 15 goals, purposes, and obligations as enumerated in this compact.
- 16 (2) Provide for dispute resolution among member states.
- 17 (3) Issue, upon request of a member state, advisory opinions
- 18 concerning the meaning or interpretation of the interstate
- 19 compact, its bylaws, rules, or actions.
- 20 (4) Enforce compliance with this compact or the bylaws or rules
- 21 of the interstate commission under Article XII.
- 22 (5) Collect standardized data concerning the interstate
- 23 placement of children subject to this compact as directed
- 24 through its rules, which shall specify the data to be collected,
- 25 the means of collection and data exchange, and reporting
- 26 requirements.
- 27 (6) Establish and maintain offices as may be necessary for the
- 28 transacting of its business.
- 29 (7) Purchase and maintain insurance and bonds.
- 30 (8) Hire or contract for services of personnel or consultants as
- 31 necessary to carry out its functions under the compact and
- 32 establish personnel qualification policies and rates of
- 33 compensation.
- 34 (9) Establish and appoint committees and officers, including,
- 35 but not limited to, an executive committee as required by
- 36 Article X.
- 37 (10) Accept any and all donations and grants of money,
- 38 equipment, supplies, materials, and services, and receive, use,
- 39 and dispose of the donations and grants.
- 40 (11) Lease, purchase, accept contributions or donations of, or
- 41 otherwise own, hold, improve, or use any property, whether
- 42 real, personal, or mixed.

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- 1 (12) Sell, convey, mortgage, pledge, lease, exchange, abandon,
- 2 or otherwise dispose of any property, whether real, personal, or
- 3 mixed.
- 4 (13) Establish a budget and make expenditures.
- 5 (14) Adopt a seal and bylaws governing the management and
- 6 operation of the interstate commission.
- 7 (15) Report annually to the legislatures, the governors, the
- 8 judiciary, and the state advisory councils of the member states
- 9 concerning the activities of the interstate commission during the
- 10 preceding year. Such reports shall also include any
- 11 recommendations that may have been adopted by the interstate
- 12 commission.
- 13 (16) Coordinate and provide education, training, and public
- 14 awareness regarding the interstate movement of children for
- 15 officials involved in such activity.
- 16 (17) Maintain books and records in accordance with the bylaws
- 17 of the interstate commission.
- 18 (18) Perform such functions as may be necessary or
- 19 appropriate to achieve the purposes of this compact.

20 **ARTICLE X. ORGANIZATION AND OPERATION OF THE**
 21 **INTERSTATE COMMISSION**

22 **(a) Bylaws.**

- 23 (1) Within twelve (12) months after the first interstate
- 24 commission meeting, the interstate commission shall adopt
- 25 bylaws to govern its conduct as may be necessary or
- 26 appropriate to carry out the purposes of this compact.
- 27 (2) The interstate commission's bylaws and rules shall establish
- 28 conditions and procedures under which the interstate
- 29 commission shall make its information and official records
- 30 available to the public for inspection or copying. The interstate
- 31 commission may exempt from disclosure information or official
- 32 records to the extent they would adversely affect personal
- 33 privacy rights or proprietary interests.

34 **(b) Meetings.**

- 35 (1) The interstate commission shall meet at least once each
- 36 calendar year. The chairperson may call additional meetings
- 37 and, upon the request of a simple majority of the member
- 38 states, shall call additional meetings.
- 39 (2) Public notice shall be given by the interstate commission of
- 40 all meetings, and all meetings shall be open to the public, except
- 41 as set forth in the rules or as otherwise provided in the compact.
- 42 The interstate commission and its committees may close a

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1 meeting, or part of a meeting, where it determines by
2 two-thirds (2/3) vote that an open meeting would be likely to:

3 (A) relate solely to the interstate commission's internal
4 personnel practices and procedures;

5 (B) disclose matters specifically exempted from disclosure by
6 federal law;

7 (C) disclose financial or commercial information which is
8 privileged, proprietary, or confidential in nature;

9 (D) involve accusing a person of a crime, or formally
10 censuring a person;

11 (E) disclose information of a personal nature where
12 disclosure would constitute a clearly unwarranted invasion
13 of personal privacy or physically endanger one (1) or more
14 persons;

15 (F) disclose investigative records compiled for law
16 enforcement purposes; or

17 (G) specifically relate to the interstate commission's
18 participation in a civil action or other legal proceeding.

19 (3) For a meeting, or part of a meeting, closed under this
20 provision, the interstate commission's legal counsel or designee
21 shall certify that the meeting may be closed and shall reference
22 each relevant exemption provision. The interstate commission
23 shall keep minutes that shall fully and clearly describe all
24 matters discussed in the meeting and shall provide a full and
25 accurate summary of actions taken and the reasons for the
26 actions, including a description of the views expressed and the
27 record of a roll call vote. All documents considered in
28 connection with an action shall be identified in the minutes. All
29 minutes and documents of a closed meeting shall remain under
30 seal, subject to release by a majority vote of the interstate
31 commission or by court order.

32 (4) The bylaws may provide for meetings of the interstate
33 commission to be conducted by telecommunication or other
34 electronic communication.

35 (c) Officers and staff.

36 (1) The interstate commission may, through its executive
37 committee, appoint or retain a staff director for such period,
38 upon such terms and conditions, and for such compensation as
39 the interstate commission may consider appropriate. The staff
40 director shall serve as secretary to the interstate commission,
41 but shall not have a vote. The staff director may hire and
42 supervise such other staff as may be authorized by the

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interstate commission.

(2) The interstate commission shall elect, from among its members, a chairperson and a vice chairperson of the executive committee and other necessary officers, each of whom shall have such authority and duties as may be specified in the bylaws.

(d) Qualified immunity, defense, and indemnification.

(1) The interstate commission's staff director and the employees of the commission are immune from suit and liability, either personally or in 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 any actual or alleged act, error, or omission that occurred, or that the staff director or employee had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities. The staff director or an employee is not protected from suit or liability for damage, loss, injury, or liability caused by a criminal act or intentional or willful and wanton misconduct.

(2) The liability of the interstate commission's staff director and employees or interstate commission representatives, acting within the scope of such person's employment or duties, for acts, errors, or omissions occurring within such person's 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 subsection shall be construed to protect such 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 such person.

(3) 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, if the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

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1 **(4) To the extent not covered by the state involved, member**
 2 **state, or the interstate commission, the representatives or**
 3 **employees of the interstate commission shall be held harmless**
 4 **in the amount of a settlement or judgment, including attorney's**
 5 **fees and costs, obtained against such persons arising out of an**
 6 **actual or alleged act, error, or omission that occurred within**
 7 **the scope of interstate commission employment, duties, or**
 8 **responsibilities, or that such persons had a reasonable basis for**
 9 **believing occurred within the scope of interstate commission**
 10 **employment, duties, or responsibilities, if the actual or alleged**
 11 **act, error, or omission did not result from intentional or willful**
 12 **and wanton misconduct on the part of such persons.**

13 **ARTICLE XI. RULEMAKING FUNCTIONS OF THE**
 14 **INTERSTATE COMMISSION**

15 **(a) The interstate commission shall promulgate and publish rules**
 16 **in order effectively and efficiently to achieve the purposes of the**
 17 **compact.**

18 **(b) Rulemaking shall occur under the criteria set forth in this**
 19 **article and the bylaws and rules adopted pursuant thereto. Such**
 20 **rulemaking shall substantially conform to the principles of the**
 21 **"Model State Administrative Procedures Act," 1981 Act, Uniform**
 22 **Laws Annotated, Vol. 15, p. 1 (2000), or such other administrative**
 23 **procedure acts as the interstate commission considers appropriate**
 24 **and consistent with due process requirements under the United**
 25 **States Constitution as now or hereafter interpreted by the United**
 26 **States Supreme Court. All rules and amendments shall become**
 27 **binding as of the date specified, as published with the final version of**
 28 **the rule as approved by the interstate commission.**

29 **(c) When promulgating a rule, the interstate commission shall, at**
 30 **a minimum:**

- 31 **(1) publish the proposed rule's entire text, stating the reasons**
- 32 **for that proposed rule;**
- 33 **(2) allow and invite any and all persons to submit written data,**
- 34 **facts, opinions, and arguments, which information shall be**
- 35 **added to the record and be made publicly available; and**
- 36 **(3) promulgate a final rule and its effective date, if appropriate,**
- 37 **based on input from state or local officials or interested parties.**

38 **(d) Rules promulgated by the interstate commission shall have the**
 39 **force and effect of administrative rules and shall be binding in the**
 40 **compacting states to the extent and in the manner provided for in**
 41 **this compact.**

42 **(e) Not later than sixty (60) days after a rule is promulgated, an**

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1 interested person may file a petition in the U.S. District Court for the
 2 District of Columbia or in the federal district court of the district
 3 where the interstate commission's principal office is located for
 4 judicial review of such rule. If the court finds that the interstate
 5 commission's action is not supported by substantial evidence in the
 6 rulemaking record, the court shall hold the rule unlawful and set it
 7 aside.

8 (f) A majority of the legislatures of the member states may reject
 9 a rule by enacting, in the same manner used to adopt the compact, a
 10 statute or resolution which provides that the rule shall have no
 11 further force and effect in any member state.

12 (g) The existing rules governing the operation of the interstate
 13 compact on the placement of children that are superseded by this act
 14 shall be null and void no less than twelve (12), but no more than
 15 twenty-four (24), months after the first meeting of the interstate
 16 commission created hereunder, as determined by the members
 17 during the first meeting.

18 (h) Within the first twelve (12) months of operation, the interstate
 19 commission shall promulgate rules addressing the following:

- 20 (1) Transition rules.
- 21 (2) Forms and procedures.
- 22 (3) Time lines.
- 23 (4) Data collection and reporting.
- 24 (5) Rulemaking.
- 25 (6) Visitation.
- 26 (7) Progress reports/supervision.
- 27 (8) Sharing of information/confidentiality.
- 28 (9) Financing of the interstate commission.
- 29 (10) Mediation, arbitration, and dispute resolution.
- 30 (11) Education, training, and technical assistance.
- 31 (12) Enforcement.
- 32 (13) Coordination with other interstate compacts.

33 (i) Upon determination by a majority of the members of the
 34 interstate commission that an emergency exists, the interstate
 35 commission may promulgate an emergency rule, subject to the
 36 following:

- 37 (1) The interstate commission may promulgate an emergency
 38 rule only if the emergency rule is required to:
 - 39 (A) protect the children covered by this compact from an
 40 imminent threat to their health, safety, and well-being;
 - 41 (B) prevent loss of federal or state funds; or
 - 42 (C) meet a deadline for the promulgation of an

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administrative rule required by federal law.
(2) An emergency rule shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to the rule as soon as reasonably possible, but not later than ninety (90) days after the effective date of the emergency rule.
(3) An emergency rule shall be promulgated as provided for in the rules of the interstate commission.

ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

(a) Oversight.

(1) The interstate commission shall oversee the administration and operation of the compact.
(2) 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 shall be binding in the compacting states to the extent and in the manner provided for in this compact.
(3) 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.
(4) The interstate commission shall be 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 shall have standing to intervene in any proceedings. Failure to provide service of process to the interstate commission shall render any judgment, order, or other determination, however so captioned or classified, void as to the interstate commission, this compact, its bylaws, or rules of the interstate commission.

(b) Dispute resolution.

(1) 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.
(2) The interstate commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among compacting states. The costs of such mediation or dispute resolution shall be the responsibility of the parties to the dispute.

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(c) Enforcement.

(1) If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, its bylaws, or rules, the interstate commission may:

(A) provide remedial training and specific technical assistance;

(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;

(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 where the interstate commission has its principal office, to enforce compliance with the provisions of the compact, its bylaws, or rules. The relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees; or

(D) avail itself of any other remedies available under state law or the rules relating to the regulation of official or professional conduct.

ARTICLE XIII. FINANCING OF THE COMMISSION

(a) The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(b) 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 shall be allocated based upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

(c) The interstate commission shall not incur obligations of any kind before securing the funds adequate to meet the obligations. The interstate commission shall not pledge the credit of any of the member states, except by and with the authority of the member state.

(d) The interstate commission shall keep accurate accounts of all

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

8 **ARTICLE XIV. MEMBER STATES, AMENDMENT**

9 (a) Any state is eligible to become a member state.

10 (b) The compact shall become effective and binding upon
 11 legislative enactment of the compact into law by thirty-five (35)
 12 states. The effective date shall be the later of July 1, 2007, or upon
 13 enactment of the compact into law by the thirty-fifth state.
 14 Thereafter it shall become effective and binding as to any other
 15 member state upon enactment of the compact into law by that state.
 16 The executive heads of the state human services administration with
 17 ultimate responsibility for the child welfare program of nonmember
 18 states or their designees shall be invited to participate in the activities
 19 of the interstate commission on a non-voting basis before adoption
 20 of the compact by all states.

21 (c) The interstate commission may propose amendments to the
 22 compact for enactment by the member states. No amendment shall
 23 become effective and binding on the member states unless and until
 24 it is enacted into law by unanimous consent of the member states.

25 **ARTICLE XV. WITHDRAWAL AND DISSOLUTION**

26 (a) **Withdrawal.**

27 (1) Once effective, this compact continues in force and remains
 28 binding upon each and every member state. However, a
 29 member state may withdraw from the compact by specifically
 30 repealing the statute which enacted the compact into law.

31 (2) Withdrawal from this compact shall be by the enactment of
 32 a statute repealing the statute establishing the compact. The
 33 effective date of withdrawal is the effective date of the repeal of
 34 the statute.

35 (3) The withdrawing state shall immediately notify the
 36 president of the interstate commission in writing upon the
 37 introduction of legislation repealing this compact in the
 38 withdrawing state. The interstate commission shall then notify
 39 the other member states of the withdrawing state's intent to
 40 withdraw.

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

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withdrawal.
(5) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the members of the interstate commission.

(b) Dissolution of compact.

(1) This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one (1) member state.
(2) Upon the dissolution of this compact, the compact becomes void and is of no further force or effect, and the business and affairs of the interstate commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

(a) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is considered unenforceable, the remaining provisions of the compact shall be enforceable.

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

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

ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

(a) Other laws.

(1) This compact does not prevent the enforcement of any other law of a member state that is not inconsistent with this compact.
(2) All member states' laws conflicting with this compact or its rules are superseded to the extent of the conflict.

(b) Binding effect of this compact.

(1) All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the member states.
(2) All agreements between the interstate commission and the member states are binding in accordance with their terms.
(3) If 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.

ARTICLE XVIII. INDIAN TRIBES

Notwithstanding any other provision in this compact, the

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1 interstate commission may promulgate guidelines to permit Indian
 2 tribes to use the compact to achieve any or all of the purposes of
 3 the compact as specified in Article I. The interstate commission
 4 shall make reasonable efforts to consult with Indian tribes in
 5 promulgating guidelines to reflect the diverse circumstances of the
 6 various Indian tribes.

7 **Sec. 2.** Financial responsibility for a child placed under the
 8 provisions of the interstate compact for the placement of children
 9 shall be determined in accordance with Article VII of the interstate
 10 compact for the placement of children, as set forth in section 1 of
 11 this chapter. However, for the partial or complete default of
 12 performance, the provisions of IC 31-18 also may be invoked. In
 13 any appropriate case, financial support or contribution may be
 14 obtained by an appropriate agency in Indiana under IC 31-40 to
 15 aid in the discharge of the financial obligations of a sending agency
 16 that has placed a child in another state under the compact.

17 **Sec. 3.** The officers and agencies of Indiana and the subdivisions
 18 of Indiana having authority to place children may enter into
 19 agreements with appropriate officers or agencies of or in other
 20 party states under Article VII of the interstate compact for the
 21 placement of children, as set forth in section 1 of this chapter. An
 22 agreement that contains a financial commitment or imposes a
 23 financial obligation on Indiana or a subdivision or agency of
 24 Indiana is not binding unless the agreement has the approval in
 25 writing of the auditor of state in the case of the state and of the
 26 chief local fiscal officer in the case of a subdivision of the state.

27 **Sec. 4.** A requirement for visitation, inspection, or supervision
 28 of children, homes, institutions, or other agencies in another
 29 member state that applies under a provision of IC 31 is considered
 30 to be met if performed under an agreement entered into between
 31 appropriate officers or agencies of Indiana or a subdivision of
 32 Indiana and appropriate officers or agencies of the other member
 33 state or a subdivision of the other member state as contemplated
 34 by Article IV of the interstate compact for the placement of
 35 children, as set forth in section 1 of this chapter.

36 **Sec. 5.** A court having jurisdiction to place children in a home,
 37 a facility, or an institution may place the child in a home, a facility,
 38 or an institution in another state under the interstate compact for
 39 the placement of children, as set forth in section 1 of this chapter,
 40 and shall retain jurisdiction as provided in Article IV of the
 41 interstate compact for the placement of children, as set forth in
 42 section 1 of this chapter.



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1 **Sec. 6. As used in Article VIII of the interstate compact for the**
 2 **placement of children, as set forth in section 1 of this chapter, the**
 3 **term "executive head" means the director. The director may**
 4 **appoint a compact administrator in accordance with the terms of**
 5 **Article VII of the interstate compact for the placement of children,**
 6 **as set forth in section 1 of this chapter.**

7 SECTION 14. THE FOLLOWING ARE REPEALED [EFFECTIVE
 8 JULY 1, 2008]: IC 12-7-2-192.7; IC 12-13-5-13.

9 SECTION 15. [EFFECTIVE JULY 1, 2008] **(a) Cases involving**
 10 **the placement of children under the interstate compact on the**
 11 **placement of children set forth in IC 31-28-4 that are pending**
 12 **when the interstate compact for the placement of children set forth**
 13 **in IC 31-28-6-1, as added by this act, goes into effect under**
 14 **IC 31-28-4-1.5, as added by this act, are governed by the interstate**
 15 **compact on the placement of children set forth in IC 31-28-4.**
 16 **(b) This SECTION expires December 31, 2013.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1290, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

SUMMERS, Chair

Committee Vote: yeas 8, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1290 be amended to read as follows:

Page 5, line 1, reset in roman "or".

Page 5, delete lines 4 through 6.

Page 5, between lines 14 and 15, begin a new paragraph and insert:

"(g) An individual who receives foster care for older youth under IC 31-28-5 shall not be considered as an individual under subsection (f)(1) who can be one of eight (8) individuals who may receive supervision and care in a special needs foster family home."

Page 5, line 15, strike "(g)" and insert "(h)".

Page 5, line 23, strike "(h)" and insert "(i)".

Page 5, line 31, reset in roman "or".

Page 5, delete lines 34 through 36.

Page 6, between lines 3 and 4, begin a new paragraph and insert:

"(d) An individual who receives foster care for older youth under IC 31-28-5 shall not be considered as an individual under subsection (a)(1) who can be one of eight (8) individuals who may receive supervision and care in a foster family home."

(Reference is to HB 1290 as printed January 25, 2008.)

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SENATE MOTION

Madam President: I move that Senator Broden be added as cosponsor of Engrossed House Bill 1290.

LAWSON C

 COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1290, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 11.

Page 2, line 22, delete "IC 31-28-5," and insert "**IC 31-28-5.7**,".

Page 2, between lines 33 and 34, begin a new paragraph and insert: "SECTION 3. IC 31-9-2-40, AS AMENDED BY P.L.145-2006, SECTION 190, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 40. "Director", for purposes of IC 31-25-1, IC 31-25-2, **IC 31-28-6**, IC 31-33, IC 31-34, and IC 31-37, refers to the director of the department of child services."

Page 2, line 38, delete "IC 31-28-5" and insert "**IC 31-28-5.7**".

Page 3, line 2, delete "; or" and insert "**who satisfies the conditions set forth in subsection (b);**".

Page 3, line 4, delete "receiving foster care for" and insert "**placed in foster care under the order of a court who satisfies the conditions set forth in subsection (b); or**

(3) an individual at least eighteen (18) but less than twenty-one (21) years of age who is receiving foster care for older youth and who is no longer under the care and supervision of the juvenile court for purposes of placement.".

Page 3, delete line 5.

Page 3, line 6, strike "who".

Page 3, line 6, delete "satisfies the conditions set forth in subsection (b).".

Page 3, line 33, delete "IC 31-28-5-1;" and insert "**IC 31-28-5.7-1;**".

Page 4, line 5, delete "IC 31-28-5-1;" and insert "**IC 31-28-5.7-1;**".

Page 4, between lines 15 and 16, begin a new paragraph and insert: "SECTION 6. IC 31-9-2-130.3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2008]: **Sec. 130.3. "Transitional services plan", for purposes of IC 31-25-2-21, has the meaning set forth in IC 31-25-2-21(a).**

SECTION 7. IC 31-25-2-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 21. (a) As used in this section, "transitional services plan" means a plan that provides information concerning the following to an individual described in subsection (b):**

- (1) Education.**
- (2) Employment.**
- (3) Housing.**
- (4) Health care.**
- (5) Development of problem solving skills.**
- (6) Available local, state, and federal financial assistance.**

(b) The department shall implement a program that provides a transitional services plan to the following individuals:

- (1) An individual who has become or will become:**
 - (A) eighteen (18) years of age; or**
 - (B) emancipated;****while receiving foster care.**
- (2) An individual who:**
 - (A) is at least eighteen (18) but less than twenty-one (21) years of age; and**
 - (B) is receiving foster care for older youth under IC 31-28-5.7.**

(c) The department shall adopt rules under IC 4-22-2 necessary to implement the program described in this section.

SECTION 8. IC 31-27-4-2, AS ADDED BY P.L.145-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2. (a) A person may not operate a therapeutic foster family home without a license issued under this article.**

(b) The state or a political subdivision of the state may not operate a therapeutic foster family home without a license issued under this article.

(c) The department may issue a license only for a therapeutic foster family home that meets:

- (1) all the licensing requirements of a foster family home; and**
- (2) the additional requirements described in this section.**

(d) An applicant for a therapeutic foster family home license must do the following:

- (1) Be licensed as a foster parent under 465 IAC 2-1-1 et seq.**

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- (2) Participate in preservice training that includes:
 - (A) preservice training to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and
 - (B) additional preservice training in therapeutic foster care.

(e) A person who is issued a license to operate a therapeutic foster family home shall, within one (1) year after meeting the training requirements of subsection (d)(2) and, annually thereafter, participate in training that includes:

- (1) training as required in order to be licensed as a foster parent under 465 IAC 2-1-1 et seq.; and
- (2) additional training in order to be licensed as a therapeutic foster parent under this chapter.

(f) An operator of a therapeutic foster family home may not provide supervision and care in a therapeutic foster family home to more than two (2) foster children at the same time, not including the children for whom the applicant or operator is a parent, stepparent, guardian, custodian, or other relative. The department may grant an exception to this subsection whenever the placement of siblings in the same therapeutic foster family home is desirable or in the best interests of the foster children residing in the home.

(g) A therapeutic foster family home may provide care for an individual receiving foster care for older youth under IC 31-28-5.7-1 if the individual is no longer under the care and supervision of a juvenile court.

(h) The department shall adopt rules under IC 4-22-2 necessary to carry out this section, including rules governing the number of hours of training required under subsections (d) and (e)."

Page 5, line 13, delete "IC 31-28-5" and insert "**IC 31-28-5.7**".

Page 5, line 24, after "(i)" insert "**A special needs foster family home may provide care for an individual receiving foster care for older youth under IC 31-28-5.7-1 if the individual is no longer under the care and supervision of a juvenile court.**

(j)".

Page 6, line 3, delete "IC 31-28-5" and insert "**IC 31-28-5.7**".

Page 6, line 6, delete "IC 31-28-5" and insert "**IC 31-28-5.7**".

Page 6, line 9, delete "5." and insert "**5.7**".

Page 6, line 13, after "care" insert "**under a court order**".

Page 6, line 13, delete "when" and insert "**the month before**".

Page 6, line 13, delete "was less than" and insert "**became**".

Page 6, line 15, delete "choose" and insert "**petition a court**".

Page 6, line 16, delete "age" and insert "**age. A court shall grant the petition**".

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Page 6, line 16, delete "working or" and insert "**employed,**".

Page 6, line 17, delete "is".

Page 6, line 17, delete "program." and insert "**certification or degree program, or is planning on attending a vocational or educational certification or degree program within six (6) months of the individual's eighteenth birthday.**".

Page 6, after line 21, begin a new paragraph and insert:

"SECTION 14. IC 31-28-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 6. Interstate Compact for the Placement of Children

Sec. 1. Subject to IC 31-28-4-1.5, the interstate compact for the placement of children is enacted into law under this chapter and entered into with all other jurisdictions legally joining the compact in a form consistent with the compact terms and provisions as stated in this section in a form substantially as follows:

ARTICLE 1. PURPOSE

The purpose of this interstate compact for the placement of children is to:

- (1) Provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner.**
- (2) Facilitate ongoing supervision of a placement, the delivery of services, and communication between the states.**
- (3) Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner.**
- (4) Provide for the adoption and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states.**
- (5) Provide for uniform data collection and information sharing between member states under this compact.**
- (6) Promote coordination between this compact, the Interstate Compact for Juveniles, the Interstate Compact on Adoption and Medical Assistance, and other compacts that affect the placement of and that provide services to children otherwise subject to this compact.**
- (7) 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.**
- (8) Provide for the promulgation of guidelines, in collaboration with Indian tribes, for interstate cases involving Indian children as is or may be permitted by federal law.**

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ARTICLE II. DEFINITIONS

As used in this compact:

- (1) "Approved placement" means the public child placing agency in the receiving state has determined that the placement is both safe and suitable for the child.
- (2) "Assessment" means an evaluation of a prospective placement by a public child placing agency to determine whether the placement meets the individualized needs of the child, including the child's safety and stability, health and well-being, and mental, emotional, and physical development. An assessment is applicable only to a placement by a public child placing agency.
- (3) "Certification" means to attest, declare, or swear to before a judge or notary public.
- (4) "Child" means an individual who is less than eighteen (18) years of age.
- (5) "Default" means the failure of a member state to perform the obligations or responsibilities imposed upon it by this compact or by the bylaws or rules of the interstate commission.
- (6) "Home study" means an evaluation of a home environment that is conducted in accordance with the applicable requirements of the state in which the home is located and that documents the preparation and the suitability of the placement resource for placement of a child in accordance with the laws and requirements of the state in which the home is located.
- (7) "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, 43 U.S.C. 1602(c).
- (8) "Interstate commission for the placement of children" means the commission that is created under Article VIII of this compact and that is generally referred to as "the interstate commission".
- (9) "Jurisdiction" means the power and authority of a court to hear and decide matters.
- (10) "Legal risk adoption" means a placement made preliminary to an adoption in which the prospective adoptive parents acknowledge in writing that a child can be ordered returned to the sending state or the birth mother's state of residence, if different from the sending state, and a final decree

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of adoption shall not be entered in any jurisdiction until all required consents are obtained or are dispensed with in accordance with applicable law.

(11) "Legal risk placement" means legal risk adoption.

(12) "Member state" means a state that has enacted this compact.

(13) "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 a child, and who is not the subject of allegations or findings of child abuse or neglect.

(14) "Nonmember state" means a state that has not enacted this compact.

(15) "Notice of residential placement" means information regarding a placement into a residential facility that is provided to the receiving state, including, but not limited to, the name of the child, the 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. The term also includes information regarding a discharge and any unauthorized absence from the facility.

(16) "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.

(17) "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 (1) state to another and that is not an instrumentality of the state or acting under color of state law.

(18) "Provisional placement" means a determination made by the public child placing agency in the receiving state 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 not to delay the placement. Completion of the receiving state requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement.

(19) "Public child placing agency" means any government child

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welfare agency or child protection agency, or a private entity under contract with such an agency, regardless of whether the agency or entity acts on behalf of a state, county, municipality, or other governmental unit, that facilitates, causes, or is involved in the placement of a child from one (1) state to another.

(20) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought.

(21) "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 they may be regarded as relatives as determined by the court in the sending state.

(22) "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. For purposes of the compact, residential facilities do not include institutions that are primarily educational in character, hospitals, or other medical facilities.

(23) "Rule" means a written directive, mandate, standard, or principle that is issued by the interstate commission and promulgated under Article XI of this compact, that is of general applicability, and that implements, interprets or prescribes a policy or provision of the compact. A rule has the force and effect of an administrative rule in a member state, and includes the amendment, repeal, or suspension of an existing rule.

(24) "Sending state" means the state from which the placement of a child is initiated.

(25) "Service member's permanent duty station" means the military installation where an active duty armed services member is currently assigned and is physically located under competent orders that do not specify the duty as temporary.

(26) "Service member's state of legal residence" means the state in which the active duty armed services member is considered a resident for tax and voting purposes.

(27) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, or any other territory of the United States.

(28) "State court" means a judicial body of a state that is vested

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by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency, or status offenses of individuals less than eighteen (18) years of age.

(29) "Supervision" means monitoring provided by the receiving state once a child has been placed in a receiving state under this compact.

ARTICLE III. APPLICABILITY

(a) Except as otherwise provided in subsection (b), this compact applies to the following:

(1) 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. However, the placement of such a child into a residential facility requires only notice of residential placement to the receiving state before placement.

(2) 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:

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

(B) 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.

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

(b) The provisions of this compact do not apply to the following:

(1) 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; however, the placement is not intended to effectuate an adoption.

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

(3) The placement of a child not subject to subsection (a) into a residential facility by the child's parent.

(4) The placement of a child with a noncustodial parent if:

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

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(B) 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

(C) the court in the sending state dismisses its jurisdiction over the child's case.

(5) 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.

(6) Cases in which a United States citizen child living overseas with the child's family, at least one (1) member of which is in the United States armed services and is stationed overseas, is removed and placed in a state.

(7) 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.

(c) For purposes of determining the applicability of this compact to the placement of a child with a family having a member in the United States armed services, 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.

(d) This compact shall not be construed to prohibit the concurrent application of the provisions of this compact 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, promulgate like rules to ensure the coordination of services, the timely placement of children, and the reduction of unnecessary or duplicative administrative or procedural requirements.

ARTICLE IV. JURISDICTION

(a) Except as provided in subsection (g) concerning private and independent adoptions, the sending state retains jurisdiction over a child with respect to all matters of custody and disposition of the child which it would have had if the child had remained in the sending state. Jurisdiction also includes the power to order the return of the child to the sending state.

(b) When an issue of child protection or custody is brought before a court in the receiving state, the court shall confer with the court of the sending state to determine the most appropriate forum for adjudication.

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(c) In accordance with its own laws, the court in the sending state shall have authority to terminate its jurisdiction if:

- (1) the parent with whom the child is reunified in the receiving state 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;**
- (2) the child is adopted;**
- (3) the child reaches the age of majority under the laws of the sending state;**
- (4) the child achieves legal independence under the laws of the sending state;**
- (5) a guardianship is created by a court in the receiving state with the concurrence of the court in the sending state;**
- (6) an Indian tribe has petitioned for and received jurisdiction from the court in the sending state; or**
- (7) 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.**

(d) When a sending state court terminates its jurisdiction, the receiving state child placing agency shall be notified.

(e) Nothing in this article shall defeat a claim of jurisdiction by a receiving state court sufficient to deal with an act of truancy, delinquency, crime, or behavior that involves a child as defined by the laws of the receiving state, that is committed by the child in the receiving state, and that would be a violation of the laws of the receiving state.

(f) This article does not limit the receiving state's ability to take emergency jurisdiction for the protection of the child.

(g) The substantive laws of the state in which an adoption will be finalized shall solely govern all issues relating to the adoption of the child and the court in which the adoption proceeding is filed shall have subject matter jurisdiction regarding all substantive issues relating to the adoption, except:

- (1) when the child is a ward of another court that established jurisdiction over the child prior to the placement;**
- (2) when the child is in the legal custody of a public agency in the sending state; or**
- (3) when a court in the sending state has otherwise appropriately assumed jurisdiction over the child, prior to the submission of the request for approval of placement.**

(h) A final decree of adoption shall not be entered in any jurisdiction until the placement is authorized as an approved

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placement by the public child placing agency in the receiving state.

ARTICLE V. PLACEMENT EVALUATION

(a) Before 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) For placements by a private child placing agency, a child may be sent or brought, or caused to be sent or brought, into a receiving state upon receipt and review of the required content in a request for approval of a placement by both the sending state's and the receiving state's public child placing agency. The required content for a request for provisional approval shall include all of following:

- (1) A request for approval identifying the child, the birth parent(s), the prospective adoptive parent(s), and the supervising agency, signed by the person requesting approval.
- (2) Certification by a licensed attorney or other authorized agent that the consent or relinquishment is in compliance with the applicable laws of the sending state, or where permitted the laws of the state where finalization of the adoption will occur.
- (3) A home study.
- (4) An acknowledgment of legal risk signed by the prospective adoptive parents.

(c) The sending state and the receiving state may request additional information or documents before finalization of an approved placement, but they may not delay travel by the prospective adoptive parents with the child if the required content for approval has been submitted and has been received and reviewed by the public child placing agency in both the sending state and the receiving state.

(d) Approval from the public child placing agency in the receiving state for a provisional or approved placement is required as provided for in the rules of the interstate commission.

(e) 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.

(f) 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.

(g) Upon receipt of a request from the public child placing agency of the sending state, the receiving state shall initiate an assessment of

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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 for a provisional placement.

(h) 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 shall be entitled to receive, supporting or additional information necessary to complete the assessment.

(i) The public child placing agency in the receiving state shall approve a provisional placement and complete or arrange for the completion of the assessment within the timeframes established by the rules of the interstate commission.

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

(k) The interstate commission may develop uniform standards for the assessment of the safety and suitability of interstate placements.

ARTICLE VI. PLACEMENT AUTHORITY

(a) Except as otherwise provided in this Compact, no child subject to this compact shall be placed into a receiving state until approval for such placement is obtained.

(b) If the public child placing agency in the receiving state does not approve the proposed placement, the child shall not be placed. The receiving state shall provide written documentation of any such determination in accordance with the rules promulgated by the interstate commission. Such a determination is not subject to judicial review in the sending state.

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

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

(e) If a determination not to approve the placement of the child in the receiving state is overturned upon review, the placement shall be considered approved; however, all administrative or judicial remedies must be exhausted or the time for such remedies must have passed.

ARTICLE VII. PLACING AGENCY RESPONSIBILITY

(a) For the interstate placement of a child made by a public child

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placing agency or state court:

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

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

(B) 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;

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

(A) any assessment conducted by the receiving state; and

(B) 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; and

(3) nothing in this compact 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.

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

(1) 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

(2) financially responsible for the child absent a contractual agreement to the contrary.

(c) A private child placing agency shall be 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.

(d) The public child placing agency in the receiving state shall provide timely assessments, as provided for in the rules of the interstate commission.

(e) 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.

(f) This compact does not limit the authority of the public child placing agency in the receiving state to contract with a licensed agency or person in the receiving state for an assessment or the

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provision of supervision or services for the child or otherwise authorize the provision of supervision or services by a licensed agency during the period of placement.

(g) 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.

(h) Each member state shall establish a central state compact office, which shall be responsible for state compliance with the compact and the rules of the interstate commission.

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

(j) 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.

ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

The member states hereby establish, by way of this compact, a commission known as the "interstate commission for the placement of children". The activities of the interstate commission are the formation of public policy and are a discretionary state function. The interstate commission:

- (1) is a joint commission of the member states and shall have the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by subsequent concurrent action of the respective legislatures of the member states;
- (2) consists of one (1) commissioner from each member state, who shall be appointed by the executive head of the state human services administration with ultimate responsibility for the child welfare program, and who shall have the legal authority to vote on policy related matters governed by this compact binding the state;
- (3) operates under the following requirements:
 - (A) a requirement that each member state represented at a meeting of the interstate commission is entitled to one (1) vote;
 - (B) a requirement that a majority of the member states shall

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constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission;

(C) a requirement that a representative shall not delegate a vote to another member state;

(D) a requirement that a representative may delegate voting authority to another person from the same member state for a specified meeting; and

(E) a requirement that the interstate commission shall include, in addition to the commissioners of each member state, persons who are members of interested organizations as defined in the bylaws or rules of the interstate commission and who shall be ex officio and shall not be entitled to vote on any matter before the interstate commission; and

(4) shall establish an executive committee which shall have the authority to administer the day to day operations and administration of the interstate commission but does not have the power to engage in rulemaking.

ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission has powers to do the following:

- (1) Promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact.
- (2) Provide for dispute resolution among member states.
- (3) Issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, or actions.
- (4) Enforce compliance with this compact or the bylaws or rules of the interstate commission under Article XII.
- (5) Collect standardized data concerning the interstate placement of children subject to this compact as directed through its rules, which shall specify the data to be collected, the means of collection and data exchange, and reporting requirements.
- (6) Establish and maintain offices as may be necessary for the transacting of its business.
- (7) Purchase and maintain insurance and bonds.
- (8) 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.
- (9) Establish and appoint committees and officers, including,

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but not limited to, an executive committee as required by Article X.

(10) Accept any and all donations and grants of money, equipment, supplies, materials, and services, and receive, use, and dispose of the donations and grants.

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

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

(13) Establish a budget and make expenditures.

(14) Adopt a seal and bylaws governing the management and operation of the interstate commission.

(15) Report annually to the legislatures, the governors, the judiciary, and the state advisory councils of the member states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission.

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

(17) Maintain books and records in accordance with the bylaws of the interstate commission.

(18) Perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

(a) Bylaws.

(1) Within twelve (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 this compact.

(2) The interstate commission's bylaws and rules shall establish conditions and procedures under which the interstate commission shall make 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.

(b) Meetings.

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(1) The interstate commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

(2) Public notice shall be given by the interstate commission of all meetings, and all meetings shall be 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 part of a meeting, where it determines by two-thirds (2/3) vote that an open meeting would be likely to:

(A) relate solely to the interstate commission's internal personnel practices and procedures;

(B) disclose matters specifically exempted from disclosure by federal law;

(C) disclose financial or commercial information which is privileged, proprietary, or confidential in nature;

(D) involve accusing a person of a crime, or formally censuring a person;

(E) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy or physically endanger one (1) or more persons;

(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 part of a meeting, closed under 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 that shall fully and clearly describe all matters discussed in the meeting and shall provide a full and accurate summary of actions taken and the reasons for 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 shall be identified in the 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.

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(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 and conditions, and for such compensation as the interstate commission may consider appropriate. The staff director shall serve as secretary to the interstate commission, but shall not have a vote. The staff director may hire and supervise such other staff as may be authorized by the interstate commission.

(2) The interstate commission shall elect, from among its members, a chairperson and a vice chairperson of the executive committee and other necessary officers, each of whom shall have such authority and duties as may be specified in the bylaws.

(d) Qualified immunity, defense, and indemnification.

(1) The interstate commission's staff director and the employees of the commission are immune from suit and liability, either personally or in 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 any actual or alleged act, error, or omission that occurred, or that the staff director or employee had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities. The staff director or an employee is not protected from suit or liability for damage, loss, injury, or liability caused by a criminal act or intentional or willful and wanton misconduct.

(2) The liability of the interstate commission's staff director and employees or interstate commission representatives, acting within the scope of such person's employment or duties, for acts, errors, or omissions occurring within such person's 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 subsection shall be construed to protect such 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 such person.

(3) 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

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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, if the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(4) To the extent not covered by the state involved, member state, or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such 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 such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, if the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(a) The interstate commission shall promulgate and publish rules in order effectively and efficiently to achieve the purposes of the compact.

(b) Rulemaking shall occur under the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or such other administrative procedure acts as the interstate commission considers appropriate and 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 shall become binding as of the date specified, as published with the final version of the rule as approved by the interstate commission.

(c) When promulgating a rule, the interstate commission shall, at a minimum:

- (1) publish the proposed rule's entire text, stating the reasons for that proposed rule;
- (2) allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be

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added to the record and be made publicly available; and

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

(d) Rules promulgated by the interstate commission shall have the force and effect of administrative rules and shall be binding in the compacting states to the extent and in the manner provided for in this compact.

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

(f) A majority of the legislatures of the member states may reject a rule by enacting, in the same manner used to adopt the compact, a statute or resolution which provides that the rule shall have no further force and effect in any member state.

(g) The existing rules governing the operation of the interstate compact on the placement of children that are superseded by this act shall be null and void no less than twelve (12), but no more than twenty-four (24), months after the first meeting of the interstate commission created hereunder, as determined by the members during the first meeting.

(h) Within the first twelve (12) months of operation, the interstate commission shall promulgate rules addressing the following:

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

(i) Upon determination by a majority of the members of the interstate commission that an emergency exists, the interstate

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commission may promulgate an emergency rule, subject to the following:

- (1) The interstate commission may promulgate an emergency rule only if the emergency rule is required to:
 - (A) protect the children covered by this compact from an imminent threat to their health, safety, and well-being;
 - (B) prevent loss of federal or state funds; or
 - (C) meet a deadline for the promulgation of an administrative rule required by federal law.
- (2) An emergency rule shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to the rule as soon as reasonably possible, but not later than ninety (90) days after the effective date of the emergency rule.
- (3) An emergency rule shall be promulgated as provided for in the rules of the interstate commission.

ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

(a) Oversight.

- (1) The interstate commission shall oversee the administration and operation of the compact.
- (2) 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 shall be binding in the compacting states to the extent and in the manner provided for in this compact.
- (3) 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.
- (4) The interstate commission shall be 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 shall have standing to intervene in any proceedings. Failure to provide service of process to the interstate commission shall render any judgment, order, or other determination, however so captioned or classified, void as to the interstate commission, this compact, its bylaws, or rules of the interstate commission.

(b) Dispute resolution.

- (1) The interstate commission shall attempt, upon the request

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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.

(2) The interstate commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among compacting states. The costs of such mediation or dispute resolution shall be the responsibility of the parties to the dispute.

(c) Enforcement.

(1) If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, its bylaws, or rules, the interstate commission may:

(A) provide remedial training and specific technical assistance;

(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;

(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 where the interstate commission has its principal office, to enforce compliance with the provisions of the compact, its bylaws, or rules. The relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees; or

(D) avail itself of any other remedies available under state law or the rules relating to the regulation of official or professional conduct.

ARTICLE XIII. FINANCING OF THE COMMISSION

(a) The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(b) 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.

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The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

(c) The interstate commission shall not incur obligations of any kind before securing the funds adequate to meet the obligations. The interstate commission shall not pledge the credit of any of the member states, except by and with the authority of the member state.

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

ARTICLE XIV. MEMBER STATES, AMENDMENT

(a) Any state is eligible to become a member state.

(b) The compact shall become effective and binding upon legislative enactment of the compact into law by thirty-five (35) states. The effective date shall be the later of July 1, 2007, or upon enactment of the compact into law by the thirty-fifth state. Thereafter it shall become 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 administration with ultimate responsibility for the child welfare program of nonmember states or their designees shall be invited to participate in the activities of the interstate commission on a non-voting basis before adoption of the compact by all states.

(c) The interstate commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XV. WITHDRAWAL AND DISSOLUTION

(a) Withdrawal.

(1) Once effective, this compact continues in force and remains binding upon each and every member state. However, a member state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

(2) Withdrawal from this compact shall be by the enactment of a statute repealing the statute establishing the compact. The effective date of withdrawal is the effective date of the repeal of the statute.

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(3) The withdrawing state shall immediately notify the president 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.

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

(5) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the members of the interstate commission.

(b) Dissolution of compact.

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

(2) Upon the dissolution of this compact, the compact becomes void and is of no further force or effect, and the business and affairs of the interstate commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

(a) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is considered unenforceable, the remaining provisions of the compact shall be enforceable.

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

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

ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

(a) Other laws.

(1) This compact does not prevent the enforcement of any other law of a member state that is not inconsistent with this compact.

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

(b) Binding effect of this compact.

(1) All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the member states.

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(2) All agreements between the interstate commission and the member states are binding in accordance with their terms.

(3) If 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.

ARTICLE XVIII. INDIAN TRIBES

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

Sec. 2. Financial responsibility for a child placed under the provisions of the interstate compact for the placement of children shall be determined in accordance with Article VII of the interstate compact for the placement of children, as set forth in section 1 of this chapter. However, for the partial or complete default of performance, the provisions of IC 31-18 also may be invoked. In any appropriate case, financial support or contribution may be obtained by an appropriate agency in Indiana under IC 31-40 to aid in the discharge of the financial obligations of a sending agency that has placed a child in another state under the compact.

Sec. 3. The officers and agencies of Indiana and the subdivisions of Indiana having authority to place children may enter into agreements with appropriate officers or agencies of or in other party states under Article VII of the interstate compact for the placement of children, as set forth in section 1 of this chapter. An agreement that contains a financial commitment or imposes a financial obligation on Indiana or a subdivision or agency of Indiana is not binding unless the agreement has the approval in writing of the auditor of state in the case of the state and of the chief local fiscal officer in the case of a subdivision of the state.

Sec. 4. A requirement for visitation, inspection, or supervision of children, homes, institutions, or other agencies in another member state that applies under a provision of IC 31 is considered to be met if performed under an agreement entered into between appropriate officers or agencies of Indiana or a subdivision of Indiana and appropriate officers or agencies of the other member state or a subdivision of the other member state as contemplated by Article IV of the interstate compact for the placement of

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children, as set forth in section 1 of this chapter.

Sec. 5. A court having jurisdiction to place children in a home, a facility, or an institution may place the child in a home, a facility, or an institution in another state under the interstate compact for the placement of children, as set forth in section 1 of this chapter, and shall retain jurisdiction as provided in Article IV of the interstate compact for the placement of children, as set forth in section 1 of this chapter.

Sec. 6. As used in Article VIII of the interstate compact for the placement of children, as set forth in section 1 of this chapter, the term "executive head" means the director. The director may appoint a compact administrator in accordance with the terms of Article VII of the interstate compact for the placement of children, as set forth in section 1 of this chapter.

SECTION 15. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 12-7-2-192.7; IC 12-13-5-13.

SECTION 16. [EFFECTIVE JULY 1, 2008] (a) **Cases involving the placement of children under the interstate compact on the placement of children set forth in IC 31-28-4 that are pending when the interstate compact for the placement of children set forth in IC 31-28-6-1, as added by this act, goes into effect under IC 31-28-4-1.5, as added by this act, are governed by the interstate compact on the placement of children set forth in IC 31-28-4.**

(b) This SECTION expires December 31, 2013."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1290 as reprinted January 29, 2008.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 0.

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