

By: Manuel

H.B. No. 141

Substitute the following for H.B. No. 141:

By: Hull

C.S.H.B. No. 141

A BILL TO BE ENTITLED

# 1 AN ACT

2 relating to the adoption of the revised Interstate Compact for the  
3 Placement of Children by the State of Texas; making conforming  
4 changes.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 ARTICLE 1. INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN

7 SECTION 1.01. The heading of Subchapter B, Chapter 162,  
8 Family Code, is amended to read as follows:

9 SUBCHAPTER B. INTERSTATE COMPACT FOR [ON] THE PLACEMENT OF  
10 CHILDREN

11 SECTION 1.02. Subchapter B, Chapter 162, Family Code, is  
12 amended by adding Section 162.1021 to read as follows:

13 Sec. 162.1021. ADOPTION OF COMPACT; TEXT. The Interstate  
14 Compact for the Placement of Children is adopted by this state and  
15 entered into with all other jurisdictions in form substantially as  
16 provided by this subchapter.

17 INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN

## ARTICLE I. PURPOSE

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

21           A. Provide a process through which children subject to this  
22   compact are placed in safe and suitable homes in a timely manner.

23                   B. Facilitate ongoing supervision of a placement, the  
24 delivery of services, and communication between the states.

1        C. Provide operating procedures that will ensure that  
2 children are placed in safe and suitable homes in a timely manner.

3        D. Provide for the promulgation and enforcement of  
4 administrative rules implementing the provisions of this compact  
5 and regulating the covered activities of the member states.

6        E. Provide for uniform data collection and information  
7 sharing between member states under this compact.

8        F. Promote coordination between this compact, the  
9 Interstate Compact for Juveniles, the Interstate Compact on  
10 Adoption and Medical Assistance and other compacts affecting the  
11 placement of and which provide services to children otherwise  
12 subject to this compact.

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

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

19                    ARTICLE II. DEFINITIONS

20        As used in this compact,

21        A. "Approved placement" means the public child placing  
22 agency in the receiving state has determined that the placement is  
23 both safe and suitable for the child.

24        B. "Assessment" means an evaluation of a prospective  
25 placement by a public child placing agency in the receiving state to  
26 determine if the placement meets the individualized needs of the  
27 child, including but not limited to the child's safety and

1 stability, health and well-being, and mental, emotional, and  
2 physical development. An assessment is only applicable to a  
3 placement by a public child placing agency.

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

6       D. "Certification" means to attest, declare or swear to  
7 before a judge or notary public.

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

11       F. "Home Study" means an evaluation of a home environment  
12 conducted in accordance with the applicable requirements of the  
13 state in which the home is located, and documents the preparation  
14 and the suitability of the placement resource for placement of a  
15 child in accordance with the laws and requirements of the state in  
16 which the home is located.

17       G. "Indian tribe" means any Indian tribe, band, nation, or  
18 other organized group or community of Indians recognized as  
19 eligible for services provided to Indians by the Secretary of the  
20 Interior because of their status as Indians, including any Alaskan  
21 native village as defined in section 3 (c) of the Alaska Native  
22 Claims settlement Act at 43 USC §1602(c).

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

27       I. "Jurisdiction" means the power and authority of a court

1 to hear and decide matters.

2       J. "Legal Risk Placement" ("Legal Risk Adoption") means a  
3       placement made preliminary to an adoption where the prospective  
4       adoptive parents acknowledge in writing that a child can be ordered  
5       returned to the sending state or the birth mother's state of  
6       residence, if different from the sending state, and a final decree  
7       of adoption shall not be entered in any jurisdiction until all  
8       required consents are obtained or are dispensed with in accordance  
9       with applicable law.

10       K. "Member state" means a state that has enacted this  
11       compact.

12       L. "Non-custodial parent" means a person who, at the time of  
13       the commencement of court proceedings in the sending state, does  
14       not have sole legal custody of the child or has joint legal custody  
15       of a child, and who is not the subject of allegations or findings of  
16       child abuse or neglect.

17       M. "Non-member state" means a state which has not enacted  
18       this compact.

19       N. "Notice of residential placement" means information  
20       regarding a placement into a residential facility provided to the  
21       receiving state including, but not limited to the name, date and  
22       place of birth of the child, the identity and address of the parent  
23       or legal guardian, evidence of authority to make the placement, and  
24       the name and address of the facility in which the child will be  
25       placed. Notice of residential placement shall also include  
26       information regarding a discharge and any unauthorized absence from  
27       the facility.

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

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

10       Q. "Provisional placement" means a determination made by  
11 the public child placing agency in the receiving state that the  
12 proposed placement is safe and suitable, and, to the extent  
13 allowable, the receiving state has temporarily waived its standards  
14 or requirements otherwise applicable to prospective foster or  
15 adoptive parents so as to not delay the placement. Completion of  
16 the receiving state requirements regarding training for  
17 prospective foster or adoptive parents shall not delay an otherwise  
18 safe and suitable placement.

19       R. "Public child placing agency" means any government child  
20 welfare agency or child protection agency or a private entity under  
21 contract with such an agency, regardless of whether they act on  
22 behalf of a state, county, municipality or other governmental unit  
23 and which facilitates, causes, or is involved in the placement of a  
24 child from one state to another.

25       S. "Receiving state" means the state to which a child is  
26 sent, brought, or caused to be sent or brought.

27       T. "Relative" means someone who is related to the child as a

1 parent, step-parent, sibling by half or whole blood or by adoption,  
2 grandparent, aunt, uncle, or first cousin or a non-relative with  
3 such significant ties to the child that they may be regarded as  
4 relatives as determined by the court in the sending state.

5       U. "Residential Facility" means a facility providing a  
6 level of care that is sufficient to substitute for parental  
7 responsibility or foster care, and is beyond what is needed for  
8 assessment or treatment of an acute condition. For purposes of the  
9 compact, residential facilities do not include institutions  
10 primarily educational in character, hospitals or other medical  
11 facilities.

12       V. "Rule" means a written directive, mandate, standard or  
13 principle issued by the Interstate Commission promulgated pursuant  
14 to Article XI of this compact that is of general applicability and  
15 that implements, interprets or prescribes a policy or provision of  
16 the compact. "Rule" has the force and effect of an administrative  
17 rule in a member state, and includes the amendment, repeal, or  
18 suspension of an existing rule.

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

21       X. "Service member's permanent duty station" means the  
22 military installation where an active duty Armed Services member is  
23 currently assigned and is physically located under competent orders  
24 that do not specify the duty as temporary.

25       Y. "Service member's state of legal residence" means the  
26 state in which the active duty Armed Services member is considered a  
27 resident for tax and voting purposes.

1           Z. "State" means a state of the United States, the District  
2    of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin  
3   Islands, Guam, American Samoa, the Northern Marianas Islands and  
4   any other territory of the United States.

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

9           BB. "Supervision" means monitoring provided by the  
10       receiving state once a child has been placed in a receiving state  
11       pursuant to this compact.

### ARTICLE III. APPLICABILITY

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

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

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

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

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

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

9                   1. The interstate placement of a child in a custody  
10 proceeding in which a public child placing agency is not a party,  
11 provided, the placement is not intended to effectuate an adoption.

12                   2. The interstate placement of a child with a  
13 non-relative in a receiving state by a parent with the legal  
14 authority to make such a placement provided, however, that the  
15 placement is not intended to effectuate an adoption.

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

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

21                   5. The placement of a child with a non-custodial  
22 parent provided that:

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

26                   b. The court in the sending state makes a written  
27 finding that placement with the non-custodial parent is in the best

1    interests of the child; and

2                    c. The court in the sending state dismisses its  
3    jurisdiction in interstate placements in which the public child  
4    placing agency is a party to the proceeding.

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

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

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

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

19                  D. Nothing in this compact shall be construed to prohibit  
20   the concurrent application of the provisions of this compact with  
21   other applicable interstate compacts including the Interstate  
22   Compact for Juveniles and the Interstate Compact on Adoption and  
23   Medical Assistance. The Interstate Commission may in cooperation  
24   with other interstate compact commissions having responsibility  
25   for the interstate movement, placement or transfer of children,  
26   promulgate like rules to ensure the coordination of services,  
27   timely placement of children, and the reduction of unnecessary or

1 duplicative administrative or procedural requirements.

2 ARTICLE IV. JURISDICTION

3 A. Except as provided in Article IV, Section H and Article  
4 V, Section B, paragraph two and three concerning private and  
5 independent adoptions, and in interstate placements in which the  
6 public child placing agency is not a party to a custody proceeding,  
7 the sending state shall retain jurisdiction over a child with  
8 respect to all matters of custody and disposition of the child which  
9 it would have had if the child had remained in the sending state.  
10 Such jurisdiction shall also include the power to order the return  
11 of the child to the sending state.

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

16 C. In cases that are before courts and subject to this  
17 compact, the taking of testimony for hearings before any judicial  
18 officer may occur in person or by telephone, audio-video  
19 conference, or such other means as approved by the rules of the  
20 Interstate Commission; and Judicial officers may communicate with  
21 other judicial officers and persons involved in the interstate  
22 process as may be permitted by their Canons of Judicial Conduct and  
23 any rules promulgated by the Interstate Commission.

24 D. In accordance with its own laws, the court in the sending  
25 state shall have authority to terminate its jurisdiction if:

26 1. The child is reunified with the parent in the  
27 receiving state who is the subject of allegations or findings of

1   abuse or neglect, only with the concurrence of the public child  
2   placing agency in the receiving state; or

3           2. The child is adopted; or

4           3. The child reaches the age of majority under the laws  
5   of the sending state; or

6           4. The child achieves legal independence pursuant to  
7   the laws of the sending state; or

8           5. A guardianship is created by a court in the  
9   receiving state with the concurrence of the court in the sending  
10   state; or

11           6. An Indian tribe has petitioned for and received  
12   jurisdiction from the court in the sending state; or

13           7. The public child placing agency of the sending  
14   state requests termination and has obtained the concurrence of the  
15   public child placing agency in the receiving state.

16           E. When a sending state court terminates its jurisdiction,  
17   the receiving state child placing agency shall be notified.

18           F. Nothing in this article shall defeat a claim of  
19   jurisdiction by a receiving state court sufficient to deal with an  
20   act of truancy, delinquency, crime or behavior involving a child as  
21   defined by the laws of the receiving state committed by the child in  
22   the receiving state which would be a violation of its laws.

23           G. Nothing in this article shall limit the receiving state's  
24   ability to take emergency jurisdiction for the protection of the  
25   child.

26           H. The substantive laws of the state in which an adoption  
27   will be finalized shall solely govern all issues relating to the

1 adoption of the child and the court in which the adoption proceeding  
2 is filed shall have subject matter jurisdiction regarding all  
3 substantive issues relating to the adoption, except:

4           1. when the child is a ward of another court that  
5 established jurisdiction over the child prior to the placement; or  
6           2. when the child is in the legal custody of a public  
7 agency in the sending state; or  
8           3. when a court in the sending state has otherwise  
9 appropriately assumed jurisdiction over the child, prior to the  
10 submission of the request for approval of placement.

11           I. A final decree of adoption shall not be entered in any  
12 jurisdiction until the placement is authorized as an "approved  
13 placement" by the public child placing agency in the receiving  
14 state.

15           ARTICLE V. PLACEMENT EVALUATION

16           A. Prior to sending, bringing, or causing a child to be sent  
17 or brought into a receiving state, the public child placing agency  
18 shall provide a written request for assessment to the receiving  
19 state.

20           B. For placements by a private child placing agency, a child  
21 may be sent or brought, or caused to be sent or brought, into a  
22 receiving state, upon receipt and immediate review of the required  
23 content in a request for approval of a placement in both the sending  
24 and receiving state public child placing agency. The required  
25 content to accompany a request for approval shall include all of the  
26 following:

27           1. A request for approval identifying the child, birth

1 parent(s), the prospective adoptive parent(s), and the supervising  
2 agency, signed by the person requesting approval; and

3           2. The appropriate consents or relinquishments signed  
4 by the birth parents in accordance with the laws of the sending  
5 state, or where permitted the laws of the state where the adoption  
6 will be finalized; and

7           3. Certification by a licensed attorney or authorized  
8 agent of a private adoption agency that the consent or  
9 relinquishment is in compliance with the applicable laws of the  
10 sending state, or where permitted the laws of the state where  
11 finalization of the adoption will occur; and

12           4. A home study; and

13           5. An acknowledgment of legal risk signed by the  
14 prospective adoptive parents.

15           C. The sending state and the receiving state may request  
16 additional information or documents prior to finalization of an  
17 approved placement, but they may not delay travel by the  
18 prospective adoptive parents with the child if the required content  
19 for approval has been submitted, received and reviewed by the  
20 public child placing agency in both the sending state and the  
21 receiving state.

22           D. Approval from the public child placing agency in the  
23 receiving state for a provisional or approved placement is required  
24 as provided for in the rules of the Interstate Commission.

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

1       F. Upon receipt of a request from the public child placing  
2       agency of the sending state, the receiving state shall initiate an  
3       assessment of the proposed placement to determine its safety and  
4       suitability. If the proposed placement is a placement with a  
5       relative, the public child placing agency of the sending state may  
6       request a determination for a provisional placement.

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

12       H. The public child placing agency in the receiving state  
13       shall approve a provisional placement and complete or arrange for  
14       the completion of the assessment within the timeframes established  
15       by the rules of the Interstate Commission.

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

20       J. The Interstate Commission may develop uniform standards  
21       for the assessment of the safety and suitability of interstate  
22       placements.

23                   ARTICLE VI. PLACEMENT AUTHORITY

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

27       B. If the public child placing agency in the receiving state

1    does not approve the proposed placement then the child shall not be  
2    placed. The receiving state shall provide written documentation of  
3    any such determination in accordance with the rules promulgated by  
4    the Interstate Commission. Such determination is not subject to  
5    judicial review in the sending state.

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

9            1. The administrative review and any further judicial  
10   review associated with the determination shall be conducted in the  
11   receiving state pursuant to its applicable Administrative  
12   Procedures Act.

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

18            ARTICLE VII. PLACING AGENCY RESPONSIBILITY

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

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

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

26            b. as determined by the public child placing  
27   agency in the sending state, services for the child beyond the

1 public services for which the child is eligible in the receiving  
2 state.

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

5 a. any assessment conducted by the receiving  
6 state; and

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

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

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

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

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

23 C. The public child placing agency in the receiving state  
24 shall provide timely assessments, as provided for in the rules of  
25 the Interstate Commission.

26 D. The public child placing agency in the receiving state  
27 shall provide, or arrange for the provision of, supervision and

1 services for the child, including timely reports, during the period  
2 of the placement.

3 E. Nothing in this compact shall be construed as to limit  
4 the authority of the public child placing agency in the receiving  
5 state from contracting with a licensed agency or person in the  
6 receiving state for an assessment or the provision of supervision  
7 or services for the child or otherwise authorizing the provision of  
8 supervision or services by a licensed agency during the period of  
9 placement.

10 F. Each member state shall provide for coordination among  
11 its branches of government concerning the state's participation in,  
12 and compliance with, the compact and Interstate Commission  
13 activities, through the creation of an advisory council or use of an  
14 existing body or board.

15 G. Each member state shall establish a central state compact  
16 office, which shall be responsible for state compliance with the  
17 compact and the rules of the Interstate Commission.

18 H. The public child placing agency in the sending state  
19 shall oversee compliance with the provisions of the Indian Child  
20 Welfare Act (25 USC 1901 et seq.) for placements subject to the  
21 provisions of this compact, prior to placement.

22 I. With the consent of the Interstate Commission, states may  
23 enter into limited agreements that facilitate the timely assessment  
24 and provision of services and supervision of placements under this  
25 compact.

26 ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN  
27 The member states hereby establish, by way of this compact, a

1 commission known as the "Interstate Commission for the Placement of  
2 Children." The activities of the Interstate Commission are the  
3 formation of public policy and are a discretionary state function.  
4 The Interstate Commission shall:

5       A. Be a joint commission of the member states and shall have  
6 the responsibilities, powers and duties set forth herein, and such  
7 additional powers as may be conferred upon it by subsequent  
8 concurrent action of the respective legislatures of the member  
9 states.

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

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

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

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

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

25       C. In addition to the commissioners of each member state,  
26 the Interstate Commission shall include persons who are members of  
27 interested organizations as defined in the bylaws or rules of the

1 Interstate Commission. Such members shall be ex officio and shall  
2 not be entitled to vote on any matter before the Interstate  
3 Commission.

4 D. Establish an executive committee which shall have the  
5 authority to administer the day-to-day operations and  
6 administration of the Interstate Commission. It shall not have the  
7 power to engage in rulemaking.

8 ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

9 The Interstate Commission shall have the following powers:

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

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

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

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

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

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

25 G. To purchase and maintain insurance and bonds.

26 H. To hire or contract for services of personnel or  
27 consultants as necessary to carry out its functions under the

1 compact and establish personnel qualification policies, and rates  
2 of compensation.

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

6       J. To accept any and all donations and grants of money,  
7 equipment, supplies, materials, and services, and to receive,  
8 utilize, and dispose thereof.

9       K. To lease, purchase, accept contributions or donations  
10 of, or otherwise to own, hold, improve or use any property, real,  
11 personal, or mixed.

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

15       M. To establish a budget and make expenditures.

16       N. To adopt a seal and bylaws governing the management and  
17 operation of the Interstate Commission.

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

24       P. To coordinate and provide education, training and public  
25 awareness regarding the interstate movement of children for  
26 officials involved in such activity.

27       Q. To maintain books and records in accordance with the

1 bylaws of the Interstate Commission.

2 R. To perform such functions as may be necessary or  
3 appropriate to achieve the purposes of this compact.

4 ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

5 A. Bylaws

6 1. Within 12 months after the first Interstate  
7 Commission meeting, the Interstate Commission shall adopt bylaws to  
8 govern its conduct as may be necessary or appropriate to carry out  
9 the purposes of the compact.

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

17 B. Meetings

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

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

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

17                   3. For a meeting, or portion of a meeting, closed  
18 pursuant to this provision, the Interstate Commission's legal  
19 counsel or designee shall certify that the meeting may be closed and  
20 shall reference each relevant exemption provision. The Interstate  
21 Commission shall keep minutes which shall fully and clearly  
22 describe all matters discussed in a meeting and shall provide a full  
23 and accurate summary of actions taken, and the reasons therefore,  
24 including a description of the views expressed and the record of a  
25 roll call vote. All documents considered in connection with an  
26 action shall be identified in such minutes. All minutes and  
27 documents of a closed meeting shall remain under seal, subject to

1 release by a majority vote of the Interstate Commission or by court  
2 order.

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

6 C. Officers and Staff

7 1. The Interstate Commission may, through its  
8 executive committee, appoint or retain a staff director for such  
9 period, upon such terms and conditions and for such compensation as  
10 the Interstate Commission may deem appropriate. The staff director  
11 shall serve as secretary to the Interstate Commission, but shall  
12 not have a vote. The staff director may hire and supervise such  
13 other staff as may be authorized by the Interstate Commission.

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

18 D. Qualified Immunity, Defense and Indemnification

19 1. The Interstate Commission's staff director and its  
20 employees shall be immune from suit and liability, either  
21 personally or in their official capacity, for a claim for damage to  
22 or loss of property or personal injury or other civil liability  
23 caused or arising out of or relating to an actual or alleged act,  
24 error, or omission that occurred, or that such person had a  
25 reasonable basis for believing occurred within the scope of  
26 Commission employment, duties, or responsibilities; provided, that  
27 such person shall not be protected from suit or liability for

1 damage, loss, injury, or liability caused by a criminal act or the  
2 intentional or willful and wanton misconduct of such person.

3                   a. The liability of the Interstate Commission's  
4 staff director and employees or Interstate Commission  
5 representatives, acting within the scope of such person's  
6 employment or duties for acts, errors, or omissions occurring  
7 within such person's state may not exceed the limits of liability  
8 set forth under the Constitution and laws of that state for state  
9 officials, employees, and agents. The Interstate Commission is  
10 considered to be an instrumentality of the states for the purposes  
11 of any such action. Nothing in this subsection shall be construed  
12 to protect such person from suit or liability for damage, loss,  
13 injury, or liability caused by a criminal act or the intentional or  
14 willful and wanton misconduct of such person.

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

27                   c. To the extent not covered by the state

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

12 ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

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

27 C. When promulgating a rule, the Interstate Commission

1    shall, at a minimum:

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

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

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

10          D. Rules promulgated by the Interstate Commission shall  
11    have the force and effect of administrative rules and shall be  
12    binding in the compacting states to the extent and in the manner  
13    provided for in this compact.

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

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

27          G. The existing rules governing the operation of the

1 Interstate Compact on the Placement of Children superseded by this  
2 act shall be null and void no less than 12, but no more than 24  
3 months after the first meeting of the Interstate Commission created  
4 hereunder, as determined by the members during the first meeting.

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

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

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

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

- 24       a. Protect the children covered by this compact
- 25      from an imminent threat to their health, safety and well-being; or
- 26       b. Prevent loss of federal or state funds; or
- 27       c. Meet a deadline for the promulgation of an

1 administrative rule required by federal law.

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

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

9           ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

10           A. Oversight

11           1. The Interstate Commission shall oversee the  
12 administration and operation of the compact.

13           2. The executive, legislative and judicial branches of  
14 state government in each member state shall enforce this compact  
15 and the rules of the Interstate Commission and shall take all  
16 actions necessary and appropriate to effectuate the compact's  
17 purposes and intent. The compact and its rules shall be binding in  
18 the compacting states to the extent and in the manner provided for  
19 in this compact.

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

23           4. The Interstate Commission shall be entitled to  
24 receive service of process in any action in which the validity of a  
25 compact provision or rule is the issue for which a judicial  
26 determination has been sought and shall have standing to intervene  
27 in any proceedings. Failure to provide service of process to the

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

5 B. Dispute Resolution

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

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

15 C. Enforcement

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

20 a. Provide remedial training and specific  
21 technical assistance; or

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

26 c. By majority vote of the members, initiate  
27 against a defaulting member state legal action in the United State

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

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

#### 12                    ARTICLE XIII. FINANCING OF THE COMMISSION

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

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

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

1 member states, except by and with the authority of the member state.

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

10       ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

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

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

## ARTICLE XV. WITHDRAWAL AND DISSOLUTION

#### A. Withdrawal

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

7                   2. Withdrawal from this compact shall be by the  
8 enactment of a statute repealing the same. The effective date of  
9 withdrawal shall be the effective date of the repeal of the statute.

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

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

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

## B. Dissolution of Compact

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

1 and the business and affairs of the Interstate Commission shall be  
2 concluded and surplus funds shall be distributed in accordance with  
3 the bylaws.

4 ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

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

8 B. The provisions of this compact shall be liberally  
9 construed to effectuate its purposes.

10 C. Nothing in this compact shall be construed to prohibit  
11 the concurrent applicability of other interstate compacts to which  
12 the states are members.

13 ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

14 A. Other Laws

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

18 B. Binding Effect of the Compact

19 1. All lawful actions of the Interstate Commission,  
20 including all rules and bylaws promulgated by the Interstate  
21 Commission, are binding upon the member states.

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

24 3. In the event any provision of this compact exceeds  
25 the constitutional limits imposed on the legislature of any member  
26 state, such provision shall be ineffective to the extent of the  
27 conflict with the constitutional provision in question in that

1 member state.

2 ARTICLE XVIII. INDIAN TRIBES

3 Notwithstanding any other provision in this compact, the  
4 Interstate Commission may promulgate guidelines to permit Indian  
5 tribes to utilize the compact to achieve any or all of the purposes  
6 of the compact as specified in Article I. The Interstate Commission  
7 shall make reasonable efforts to consult with Indian tribes in  
8 promulgating guidelines to reflect the diverse circumstances of the  
9 various Indian tribes.

10 ARTICLE 2. CONFORMING AMENDMENTS

11 SECTION 2.01. Section 162.101, Family Code, is amended to  
12 read as follows:

13 Sec. 162.101. DEFINITIONS. In this subchapter:

14 (1) "Public child placing agency," ["Appropriate  
15 public authorities,"] with reference to this state, means the  
16 commissioner of the Department of Family and Protective Services.

17 (2) "Public child placing agency ["Appropriate  
18 authority] in the receiving state," with reference to this state,  
19 means the commissioner of the Department of Family and Protective  
20 Services.

21 (3) "Compact" means the Interstate Compact for [on]  
22 the Placement of Children.

23 (4) "Executive head of the state human services  
24 administration," with reference to this state, means the governor.

25 SECTION 2.02. Section 162.103(a), Family Code, is amended  
26 to read as follows:

27 (a) Financial responsibility for a child placed as provided

1 in the compact is determined, in the first instance, as provided in  
2 Article VII [V] of the compact. After partial or complete default  
3 of performance under the provisions of Article VII [V] assigning  
4 financial responsibility, the commissioner of the Department of  
5 Family and Protective Services may bring suit under Chapter 154 and  
6 may file a complaint with the appropriate prosecuting attorney,  
7 claiming a violation of Section 25.05, Penal Code.

8 SECTION 2.03. Section 162.104, Family Code, is amended to  
9 read as follows:

10 Sec. 162.104. APPROVAL OF PLACEMENT. The commissioner of  
11 the Department of Family and Protective Services may not approve  
12 the placement of a child in this state without the concurrence of  
13 the individuals with whom the child is proposed to be placed or the  
14 head of a residential facility [~~an institution~~] with which the  
15 child is proposed to be placed.

16 SECTION 2.04. Section 162.105, Family Code, is amended to  
17 read as follows:

18 Sec. 162.105. PLACEMENT IN ANOTHER STATE. A juvenile court  
19 may place a delinquent child in a residential facility [~~an~~  
20 ~~institution~~] in another state as provided by Article III [VI] of the  
21 compact. After placement in another state, the court retains  
22 jurisdiction of the child as provided by Article VII [V] of the  
23 compact.

24 SECTION 2.05. The heading to Section 162.107, Family Code,  
25 is amended to read as follows:

26 Sec. 162.107. OFFENSE [~~OFFENSES~~]; PENALTY [~~PENALTIES~~].

27 SECTION 2.06. The following provisions of the Family Code

1 are repealed:

2 (1) Section 162.102; and  
3 (2) Section 162.107(b).

4 ARTICLE 3. EFFECTIVE DATE

5 SECTION 3.01. (a) Except as provided by Subsection (b) of  
6 this section, this Act takes effect on the day on which the  
7 Interstate Compact for the Placement of Children takes effect,  
8 which according to the terms of the compact is the date on which the  
9 compact is enacted into law by the 35th state, as defined by the  
10 compact.

11 (b) Article 1 of this Act takes effect on the day on which  
12 the Interstate Compact for the Placement of Children is enacted  
13 into law by the 33rd state.