

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

AN ACT

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

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

ARTICLE 1. INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN

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

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

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

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

INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN

ARTICLE I. PURPOSE

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

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

B. Facilitate ongoing supervision of a placement, the 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.

12 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:

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

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

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

2. The child is adopted; or

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

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

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

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 the state.

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

F. 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 involving a child as defined by the laws of the receiving state committed by the child in the receiving state which would be a violation of its laws.

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

H. 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; or

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.

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

ARTICLE V. PLACEMENT EVALUATION

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

B. 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 immediate review of the required content in a request for approval of a placement in both the sending and receiving state public child placing agency. The required content to accompany a request for approval shall include all of the following:

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

Interstate Compact on the Placement of Children superseded by this act shall be null and void no less than 12, but no more than 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 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:

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

- a. Protect the children covered by this compact from an imminent threat to their health, safety and well-being; or
- b. Prevent loss of federal or state funds; or
- 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

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. In the event 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 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 prior to securing the funds adequate to meet the same; nor 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.

1 ARTICLE XV. WITHDRAWAL AND DISSOLUTION

2 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.

22 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.

26 2. Upon the dissolution of this compact, the compact
27 becomes null and void and shall be of no further force or effect,

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

member state.

ARTICLE XVIII. INDIAN TRIBES

Notwithstanding any other provision in this compact, the Interstate Commission may promulgate guidelines to permit Indian tribes to utilize 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.

ARTICLE 2. CONFORMING AMENDMENTS

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

Sec. 162.101. DEFINITIONS. In this subchapter:

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

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

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

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

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

(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.