

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 84
94TH GENERAL ASSEMBLY

Reported from the Special Committee on Family Services April 11, 2007 with recommendation that House Committee Substitute for Senate Bill No. 84 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

0267L.02C

AN ACT

To repeal sections 210.482, 210.487, 210.620, 210.622, 210.625, 210.630, 210.635, 210.640, 210.700, 210.762, 211.319, 211.444, 211.447, 453.010, and 453.011, RSMo, and to enact in lieu thereof thirteen new sections relating to child placements, with an effective date for certain sections.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 210.482, 210.487, 210.620, 210.622, 210.625, 210.630, 210.635, 210.640, 210.700, 210.762, 211.319, 211.444, 211.447, 453.010, and 453.011, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 210.482, 210.487, 210.620, 210.622, 210.625, 210.635, 210.640, 210.762, 211.319, 211.444, 211.447, 453.010, and 453.011, to read as follows:

210.482. 1. If the emergency placement of a child in a private home is necessary due to the unexpected absence of the child's parents, legal guardian, or custodian, the juvenile court or children's division:

(1) May request that a local or state law enforcement agency or juvenile officer, subject to any required federal authorization, immediately conduct a name-based criminal history record check to include full orders of protection and outstanding warrants of each person over the age of seventeen residing in the home by using the Missouri uniform law enforcement system

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

8 (MULES) and the National Crime Information Center to access the Interstate Identification Index
9 maintained by the Federal Bureau of Investigation; and

10 (2) Shall determine or, in the case of the juvenile court, shall request the division to
11 determine whether any person over the age of seventeen years residing in the home is listed on
12 the child abuse and neglect registry.

13

14 For any children less than seventeen years of age residing in the home, the children's division
15 shall inquire of the person with whom an emergency placement of a child will be made whether
16 any children less than seventeen years of age residing in the home have ever been certified as an
17 adult and convicted of or pled guilty or nolo contendere to any crime.

18 2. If a name-based search has been conducted pursuant to subsection 1 of this section,
19 within fifteen [business] **calendar** days after the emergency placement of the child in the private
20 home, and if the private home has not previously been approved as a foster or adoptive home,
21 all persons over the age of seventeen residing in the home and all children less than seventeen
22 residing in the home who the division has determined have been certified as an adult for the
23 commission of a crime, [other than persons within the second degree of consanguinity and
24 affinity to the child,] shall report to a local law enforcement agency for the purpose of providing
25 two sets of fingerprints each and accompanying fees, pursuant to section 43.530, RSMo. One
26 set of fingerprints shall be used by the highway patrol to search the criminal history repository
27 and the second set shall be forwarded to the Federal Bureau of Investigation for searching the
28 federal criminal history files. Results of the checks will be provided to the juvenile court or
29 children's division office requesting such information. Any child placed in emergency placement
30 in a private home shall be removed immediately if any person residing in the home fails to
31 provide fingerprints after being requested to do so, unless the person refusing to provide
32 fingerprints ceases to reside in the private home.

33 3. If the placement of a child is denied as a result of a name-based criminal history check
34 and the denial is contested, all persons over the age of seventeen residing in the home and all
35 children less than seventeen years of age residing in the home who the division has determined
36 have been certified as an adult for the commission of a crime shall, within fifteen [business]
37 **calendar** days, submit to the juvenile court or the children's division two sets of fingerprints in
38 the same manner described in subsection 2 of this section, accompanying fees, and written
39 permission authorizing the juvenile court or the children's division to forward the fingerprints
40 to the state criminal record repository for submission to the Federal Bureau of Investigation. One
41 set of fingerprints shall be used by the highway patrol to search the criminal history repository

42 and the second set shall be forwarded to the Federal Bureau of Investigation for searching the
43 federal criminal history files.

44 4. Subject to appropriation, the total cost of fingerprinting required by this section may
45 be paid by the state, including reimbursement of persons incurring fingerprinting costs under this
46 section.

47 5. For the purposes of this section, "emergency placement" refers to those limited
48 instances when the juvenile court or children's division is placing a child in the home of private
49 individuals, including neighbors, friends, or relatives, as a result of a sudden unavailability of
50 the child's primary caretaker.

210.487. 1. When conducting investigations of persons for the purpose of foster parent
2 licensing, the division shall:

3 (1) Conduct a search for all persons over the age of seventeen in the applicant's
4 household and for any child less than seventeen years of age residing in the applicant's home who
5 the division has determined has been certified as an adult for the commission of a crime for
6 evidence of full orders of protection. The office of state courts administrator shall allow access
7 to the automated court information system by the division. The clerk of each court contacted by
8 the division shall provide the division information within ten days of a request; and

9 (2) Obtain two sets of fingerprints for any person over the age of seventeen in the
10 applicant's household and for any child less than seventeen years of age residing in the applicant's
11 home who the division has determined has been certified as an adult for the commission of a
12 crime in the same manner set forth in subsection 2 of section 210.482. One set of fingerprints
13 shall be used by the highway patrol to search the criminal history repository and the second set
14 shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal
15 history files. The highway patrol shall assist the division and provide the criminal fingerprint
16 background information, upon request; and

17 (3) Determine whether any person over the age of seventeen residing in the home and
18 any child less than seventeen years of age residing in the applicant's home who the division has
19 determined has been certified as an adult for the commission of a crime is listed on the child
20 abuse and neglect registry.

21

22 For any children less than seventeen years of age residing in the applicant's home, the children's
23 division shall inquire of the applicant whether any children less than seventeen years of age
24 residing in the home have ever been certified as an adult and been convicted of or pled guilty or
25 nolo contendere to any crime.

26 2. After the initial investigation is completed under subsection 1 of this section, the
27 children's division and the department of health and senior services may waive the
28 requirement for a fingerprint background check for any subsequent recertification.

29 **3.** Subject to appropriation, the total cost of fingerprinting required by this section may
30 be paid by the state, including reimbursement of persons incurring fingerprinting costs under this
31 section.

[3.] 4. The division may make arrangements with other executive branch agencies to obtain any investigative background information.

[4.] 5. The division may promulgate rules that are necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

210.620. The Interstate Compact on the Placement of Children is hereby enacted into
2 law and entered into with all other jurisdictions legally joining therein, in form substantially as
3 follows:

4 [ARTICLE I

5 It is the purpose and policy of the party states to cooperate with each other in the
6 interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

13 (c) The proper authorities of the state from which the placement is made may obtain the
14 most complete information on the basis of which to evaluate a projected placement before it is
15 made.

16 (d) Appropriate jurisdictional arrangements for the care of children will be promoted.

17 ARTICLE II

18 As used in this compact:

19 (a) "Child" means a person who, by reason of minority, is legally subject to parental,
20 guardianship or similar control.

21 (b) "Sending agency" means a party state, officer or employee thereof; a subdivision of
22 a party state, or officer or employee thereof; a court of a party state; a person, corporation,
23 association, charitable agency or other entity which sends, brings, or causes to be sent or brought
24 any child to another party state.

25 (c) "Receiving state" means the state to which a child is sent, brought, or caused to be
26 sent or brought, whether by public authorities or private persons or agencies, and whether for
27 placement with state or local public authorities or for placement with private agencies or persons.

28 (d) "Placement" means the arrangement for the care of a child in a family free or
29 boarding home or in a child-caring agency or institution but does not include any institution
30 caring for the mentally ill, mentally defective or epileptic or any institution primarily educational
31 in character, and any hospital or other medical facility.

32 ARTICLE III

33 (a) No sending agency shall send, bring, or cause to be sent or brought into any other
34 party state any child for placement in foster care or as a preliminary to a possible adoption unless
35 the sending agency shall comply with each and every requirement set forth in this article and
36 with the applicable laws of the receiving state governing the placement of children therein.

37 (b) Prior to sending, bringing or causing any child to be sent or brought into a receiving
38 state for placement in foster care or as a preliminary to a possible adoption, the sending agency
39 shall furnish the appropriate public authorities in the receiving state written notice of the
40 intention to send, bring, or place the child in the receiving state. The notice shall contain:

- 41 1. The name, date and place of birth of the child.
- 42 2. The identity and address or addresses of the parents or legal guardian.
- 43 3. The name and address of the person, agency or institution to or with which the sending
44 agency proposes to send, bring, or place the child.
- 45 4. A full statement of the reasons for such proposed action and evidence of the authority
46 pursuant to which the placement is proposed to be made.

47 (c) Any public officer or agency in a receiving state which is in receipt of a notice
48 pursuant to paragraph (b) of this article may request of the sending agency, or any other
49 appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive
50 therefrom, such supporting or additional information as it may deem necessary under the
51 circumstances to carry out the purpose and policy of this compact.

52 (d) The child shall not be sent, brought, or caused to be sent or brought into the receiving
53 state until the appropriate public authorities in the receiving state shall notify the sending agency,

54 in writing, to the effect that the proposed placement does not appear to be contrary to the
55 interests of the child.

56 ARTICLE IV

57 The sending, bringing, or causing to be sent or brought into any receiving state of a child
58 in violation of the terms of this compact shall constitute a violation of the laws respecting the
59 placement of children of both the state in which the sending agency is located or from which it
60 sends or brings the child and of the receiving state. Such violation may be punished or subjected
61 to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such
62 punishment or penalty, any such violation shall constitute full and sufficient grounds for the
63 suspension or revocation of any license, permit, or other legal authorization held by the sending
64 agency which empowers or allows it to place, or care for children.

65 ARTICLE V

66 (a) The sending agency shall retain jurisdiction over the child sufficient to determine all
67 matters in relation to the custody, supervision, care, treatment and disposition of the child which
68 it would have had if the child had remained in the sending agency's state, until the child is
69 adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the
70 appropriate authority in the receiving state. Such jurisdiction shall also include the power to
71 effect or cause the return of the child or its transfer to another location and custody pursuant to
72 law. The sending agency shall continue to have financial responsibility for support and
73 maintenance of the child during the period of the placement. Nothing contained herein shall
74 defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or
75 crime committed therein.

76 (b) When the sending agency is a public agency, it may enter into an agreement with an
77 authorized public or private agency in the receiving state providing for the performance of one
78 or more services in respect of such case by the latter as agent for the sending agency.

79 (c) Nothing in this compact shall be construed to prevent a private charitable agency
80 authorized to place children in the receiving state from performing services or acting as agent
81 in that state for a private charitable agency of the sending state; nor to prevent the agency in the
82 receiving state from discharging financial responsibility for the support and maintenance of a
83 child who has been placed on behalf of the sending agency without relieving the responsibility
84 set forth in paragraph (a) hereof.

85 ARTICLE VI

86 A child adjudicated delinquent may be placed in an institution in another party
87 jurisdiction pursuant to this compact but no such placement shall be made unless the child is

88 given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to
89 his being sent to such other party jurisdiction for institutional care and the court finds that:

90 1. Equivalent facilities for the child are not available in the sending agency's jurisdiction;
91 and

92 2. Institutional care in the other jurisdiction is in the best interest of the child and will
93 not produce undue hardship.

94 ARTICLE VII

95 The executive head of each jurisdiction party to this compact shall designate an officer
96 who shall be general coordinator of activities under this compact in his jurisdiction and who,
97 acting jointly with like officers of other party jurisdictions, shall have powers to promulgate rules
98 and regulations to carry out more effectively the terms and provisions of this compact.

99 ARTICLE VIII

100 This compact shall not apply to:

101 (a) The sending or bringing of a child into a receiving state by his parent, stepparent,
102 grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with
103 any such relative or nonagency guardian in the receiving state.

104 (b) Any placement, sending or bringing of a child into a receiving state pursuant to any
105 other interstate compact to which both the state from which the child is sent or brought and the
106 receiving state are party, or to any other agreement between said states which has the force of
107 law.

108 ARTICLE IX

109 This compact shall be open to joinder by any state, territory or possession of the United
110 States, the District of Columbia, the Commonwealth of Puerto Rico, and with the consent of
111 Congress, the Government of Canada or any province thereof. It shall become effective with
112 respect to any such jurisdiction when such jurisdiction has enacted the same into law.
113 Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall
114 not take effect until two years after the effective date of such statute and until written notice of
115 the withdrawal has been given by the withdrawing state to the Governor of each other party
116 jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under
117 this compact of any sending agency therein with respect to a placement made prior to the
118 effective date of withdrawal.

119 ARTICLE X

120 The provisions of this compact shall be liberally construed to effectuate the purposes
121 thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence
122 or provision of this compact is declared to be contrary to the constitution of any party state or of

123 the United States or the applicability thereof to any government, agency, person or circumstance
124 is held invalid, the validity of the remainder of this compact and the applicability thereof to any
125 government, agency, person or circumstance shall not be affected thereby. If this compact shall
126 be held contrary to the constitution of any state party thereto, the compact shall remain in full
127 force and effect as to the remaining states and in full force and effect as to the state affected as
128 to all severable matters.]

129 **ARTICLE I. PURPOSE**

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

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

133 **B. Facilitate ongoing supervision of a placement, the delivery of services, and**
134 **communication between the states.**

135 **C. Provide operating procedures that will ensure that children are placed in safe**
136 **and suitable homes in a timely manner.**

137 **D. Provide for the promulgation and enforcement of administrative rules**
138 **implementing the provisions of this compact and regulating the covered activities of the**
139 **member states.**

140 **E. Provide for uniform data collection and information sharing between member**
141 **states under this compact.**

142 **F. Promote coordination between this compact, the Interstate Compact for**
143 **Juveniles, the Interstate Compact on Adoption and Medical Assistance and other compacts**
144 **affecting the placement of and which provide services to children otherwise subject to this**
145 **compact.**

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

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

150 **ARTICLE II. DEFINITIONS**

151 **As used in this compact,**

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

155 **B. "Assessment" means an evaluation of a prospective placement to determine**
156 **whether the placement meets the individualized needs of the child, including but not**

157 limited to the child's safety and stability, health and well-being, and mental, emotional and
158 physical development.

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

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

163 E. "Indian tribe" means any Indian tribe, band, nation, or other organized group
164 or community of Indians recognized as eligible for services provided to Indians by the
165 Secretary of the Interior because of their status as Indians, including any Alaskan native
166 village as defined in section 3 (c) of the Alaska Native Claims settlement Act at 43 USC
167 §1602(c).

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

171 G. "Jurisdiction" means the power and authority of a court to hear and decide
172 matters.

173 H. "Member state" means a state that has enacted this compact.

174 I. "Non-custodial parent" means a person who, at the time of the commencement
175 of court proceedings in the sending state, does not have sole legal custody of the child or
176 has joint legal custody of a child, and who is not the subject of allegations or findings of
177 child abuse or neglect.

178 J. "Non-member state" means a state which has not enacted this compact.

179 K. "Notice of residential placement" means information regarding a placement into
180 a residential facility provided to the receiving state including, but not limited to the name,
181 date and place of birth of the child, the identity and address of the parent or legal
182 guardian, evidence of authority to make the placement, and the name and address of the
183 facility in which the child will be placed. Notice of residential placement shall also include
184 information regarding a discharge and any unauthorized absence from the facility.

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

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

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

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

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

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

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

213 **S. "Rule"** means a written directive, mandate, standard or principle issued by the
214 **Interstate Commission promulgated pursuant to Article XI of this compact that is of**
215 **general applicability and that implements, interprets or prescribes a policy or provision**
216 **of the compact. "Rule" has the force and effect of statutory law in a member state, and**
217 **includes the amendment, repeal, or suspension of an existing rule.**

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

219 **U. "Service member's permanent duty station"** means the military installation
220 **where an active duty Armed Services member is currently assigned and is physically**
221 **located under competent orders that do not specify the duty as temporary.**

222 **V. "Service member's state of legal residence"** means the state in which the active
223 **duty Armed Services member is considered a resident for tax and voting purposes.**

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

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

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

ARTICLE III. APPLICABILITY

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

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

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

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

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

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

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

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

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

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

- 259 **4. The placement of a child with a non-custodial parent provided that:**
260 **a. The non-custodial parent proves to the satisfaction of a court in the sending state**
261 **a substantial relationship with the child; and**
262 **b. The court in the sending state makes a written finding that placement with the**
263 **non-custodial parent is in the best interests of the child; and**
264 **c. The court in the sending state dismisses its jurisdiction over the child's case.**

265 **5. A child entering the United States from a foreign country for the purpose of**
266 **adoption or leaving the United States to go to a foreign country for the purpose of adoption**
267 **in that country.**

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

271 **7. The sending of a child by a public child placing agency or a private child placing**
272 **agency for a visit as defined by the rules of the Interstate Commission.**

273 **C. For purposes of determining the applicability of this compact to the placement**
274 **of a child with a family in the Armed Services, the public child placing agency or private**
275 **child placing agency may choose the state of the service member's permanent duty station**
276 **or the service member's declared legal residence.**

277 **D. Nothing in this compact shall be construed to prohibit the concurrent**
278 **application of the provisions of this compact with other applicable interstate compacts**
279 **including the Interstate Compact for Juveniles and the Interstate Compact on Adoption**
280 **and Medical Assistance. The Interstate Commission may in cooperation with other**
281 **interstate compact commissions having responsibility for the interstate movement,**
282 **placement or transfer of children, promulgate like rules to ensure the coordination of**
283 **services, timely placement of children, and the reduction of unnecessary or duplicative**
284 **administrative or procedural requirements.**

285 **ARTICLE IV. JURISDICTION**

286 **A. The sending state shall retain jurisdiction over a child with respect to all matters**
287 **of custody and disposition of the child which it would have had if the child had remained**
288 **in the sending state. Such jurisdiction shall also include the power to order the return of**
289 **the child to the sending state.**

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

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

295 **1. The child is reunified with the parent in the receiving state who is the subject of**
296 **allegations or findings of abuse or neglect, only with the concurrence of the public child**
297 **placing agency in the receiving state; or**

298 **2. The child is adopted; or**

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

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

301 **or**

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

304 **6. An Indian tribe has petitioned for and received jurisdiction from the court in the**
305 **sending state; or**

306 **7. The public child placing agency of the sending state requests termination and has**
307 **obtained the concurrence of the public child placing agency in the receiving state.**

308 **D. When a sending state court terminates its jurisdiction, the receiving state child**
309 **placing agency shall be notified.**

310 **E. Nothing in this article shall defeat a claim of jurisdiction by a receiving state**
311 **court sufficient to deal with an act of truancy, delinquency, crime or behavior involving**
312 **a child as defined by the laws of the receiving state committed by the child in the receiving**
313 **state which would be a violation of its laws.**

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

316 **ARTICLE V. ASSESSMENTS**

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

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

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

324 **2. Certification that the consent or relinquishment is in compliance with applicable**
325 **law of the birth parent's state of residence or, where permitted, the laws of the state of**
326 **where the finalization of the adoption will occur; and**

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

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

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

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

338 **E. The public child placing agency in the receiving state may request from the**
339 **public child placing agency or the private child placing agency in the sending state, and**
340 **shall be entitled to receive supporting or additional information necessary to complete the**
341 **assessment.**

342 **F. The public child placing agency in the receiving state shall complete or arrange**
343 **for the completion of the assessment within the timeframes established by the rules of the**
344 **Interstate Commission.**

345 **G. The Interstate Commission may develop uniform standards for the assessment**
346 **of the safety and suitability of interstate placements.**

347 **ARTICLE VI. PLACEMENT AUTHORITY**

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

350 **B. If the public child placing agency in the receiving state does not approve the**
351 **proposed placement then the child shall not be placed. The receiving state shall provide**
352 **written documentation of any such determination in accordance with the rules**
353 **promulgated by the Interstate Commission. Such determination is not subject to judicial**
354 **review in the sending state.**

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

357 **1. The administrative review and any further judicial review associated with the**
358 **determination shall be conducted in the receiving state pursuant to its applicable**
359 **administrative procedures.**

360 **2. If a determination not to approve the placement of the child in the receiving state**
361 **is overturned upon review, the placement shall be deemed approved, provided however**

that all administrative or judicial remedies have been exhausted or the time for such remedies has passed.

ARTICLE VII. STATE RESPONSIBILITY

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

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

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

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

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

a. any assessment conducted by the receiving state; and

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

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

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

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

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

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

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

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

F. Nothing in this compact shall be construed as to limit the authority of the public child placing agency in the receiving state from contracting with a licensed agency or

397 person in the receiving state for an assessment or the provision of supervision or services
398 for the child or otherwise authorizing the provision of supervision or services by a licensed
399 agency during the period of placement.

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

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

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

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

413 ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF
414 CHILDREN

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

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

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

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

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

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

431 **4. A representative may delegate voting authority to another person from their**
432 **state for a specified meeting.**

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

437 **D. Establish an executive committee which shall have the authority to administer**
438 **the day-to-day operations and administration of the Interstate Commission. It shall not**
439 **have the power to engage in rulemaking.**

440 **ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION**

441 **The Interstate Commission shall have the following powers:**

442 **A. To promulgate rules and take all necessary actions to effect the goals, purposes**
443 **and obligations as enumerated in this compact.**

444 **B. To provide for dispute resolution among member states.**

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

447 **D. To enforce compliance with this compact or the bylaws or rules of the Interstate**
448 **Commission pursuant to Article XII.**

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

452 **F. To establish and maintain offices as may be necessary for the transacting of its**
453 **business.**

454 **G. To purchase and maintain insurance and bonds.**

455 **H. To hire or contract for services of personnel or consultants as necessary to carry**
456 **out its functions under the compact and establish personnel qualification policies, and rates**
457 **of compensation.**

458 **I. To establish and appoint committees and officers including, but not limited to,**
459 **an executive committee as required by Article X.**

460 **J. To accept any and all donations and grants of money, equipment, supplies,**
461 **materials, and services, and to receive, utilize, and dispose thereof.**

462 **K. To lease, purchase, accept contributions or donations of, or otherwise to own,**
463 **hold, improve or use any property, real, personal, or mixed.**

464 **L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose**
465 **of any property, real, personal or mixed.**

466 **M. To establish a budget and make expenditures.**

467 **N. To adopt a seal and bylaws governing the management and operation of the**
468 **Interstate Commission.**

469 **O. To report annually to the legislatures, governors, the judiciary, and state**
470 **advisory councils of the member states concerning the activities of the Interstate**
471 **Commission during the preceding year. Such reports shall also include any**
472 **recommendations that may have been adopted by the Interstate Commission.**

473 **P. To coordinate and provide education, training and public awareness regarding**
474 **the interstate movement of children for officials involved in such activity.**

475 **Q. To maintain books and records in accordance with the bylaws of the Interstate**
476 **Commission.**

477 **R. To perform such functions as may be necessary or appropriate to achieve the**
478 **purposes of this compact.**

479 **ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE**
480 **COMMISSION**

481 **A. Bylaws**

482 **1. Within 12 months after the first Interstate Commission meeting, the Interstate**
483 **Commission shall adopt bylaws to govern its conduct as may be necessary or appropriate**
484 **to carry out the purposes of the compact.**

485 **2. The Interstate Commission's bylaws and rules shall establish conditions and**
486 **procedures under which the Interstate Commission shall make its information and official**
487 **records available to the public for inspection or copying. The Interstate Commission may**
488 **exempt from disclosure information or official records to the extent they would adversely**
489 **affect personal privacy rights or proprietary interests.**

490 **B. Meetings**

491 **1. The Interstate Commission shall meet at least once each calendar year. The**
492 **chairperson may call additional meetings and, upon the request of a simple majority of the**
493 **member states shall call additional meetings.**

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

499 **a. relate solely to the Interstate Commission's internal personnel practices and**
500 **procedures; or**

- 501 b. disclose matters specifically exempted from disclosure by federal law; or
502 c. disclose financial or commercial information which is privileged, proprietary or
503 confidential in nature; or
504 d. involve accusing a person of a crime, or formally censuring a person; or
505 e. disclose information of a personal nature where disclosure would constitute a
506 clearly unwarranted invasion of personal privacy or physically endanger one or more
507 persons; or
508 f. disclose investigative records compiled for law enforcement purposes; or
509 g. specifically relate to the Interstate Commission's participation in a civil action
510 or other legal proceeding.

511 3. For a meeting, or portion of a meeting, closed pursuant to this provision, the
512 Interstate Commission's legal counsel or designee shall certify that the meeting may be
513 closed and shall reference each relevant exemption provision. The Interstate Commission
514 shall keep minutes which shall fully and clearly describe all matters discussed in a meeting
515 and shall provide a full and accurate summary of actions taken, and the reasons therefore,
516 including a description of the views expressed and the record of a roll call vote. All
517 documents considered in connection with an action shall be identified in such minutes. All
518 minutes and documents of a closed meeting shall remain under seal, subject to release by
519 a majority vote of the Interstate Commission or by court order.

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

522 **C. Officers and Staff**

523 1. The Interstate Commission may, through its executive committee, appoint or
524 retain a staff director for such period, upon such terms and conditions and for such
525 compensation as the Interstate Commission may deem appropriate. The staff director shall
526 serve as secretary to the Interstate Commission, but shall not have a vote. The staff
527 director may hire and supervise such other staff as may be authorized by the Interstate
528 Commission.

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

532 **D. Qualified Immunity, Defense and Indemnification**

533 1. The Interstate Commission's staff director and its employees shall be immune
534 from suit and liability, either personally or in their official capacity, for a claim for damage
535 to or loss of property or personal injury or other civil liability caused or arising out of or

relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

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

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

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

ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

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

580 **C. When promulgating a rule, the Interstate Commission shall, at a minimum:**

581 **1. Publish the proposed rule's entire text stating the reason(s) for that proposed**
582 **rule; and**

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

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

588 **D. Rules promulgated by the Interstate Commission shall have the force and effect**
589 **of statutory law and shall supersede any state law, rule or regulation to the extent of any**
590 **conflict.**

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

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

600 **G. The existing rules governing the operation of the Interstate Compact on the**
601 **Placement of Children superseded by this act shall be null and void no less than 12, but no**
602 **more than 24 months after the first meeting of the Interstate Commission created**
603 **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 administrative rule required by federal law.**

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

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

ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

A. Oversight

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

638 **2. The executive, legislative and judicial branches of state government in each**
639 **member state shall enforce this compact and the rules of the Interstate Commission and**
640 **shall take all actions necessary and appropriate to effectuate the compact's purposes and**
641 **intent. The compact and its rules shall supercede state law, rules or regulations to the**
642 **extent of any conflict therewith.**

643 **3. All courts shall take judicial notice of the compact and the rules in any judicial**
644 **or administrative proceeding in a member state pertaining to the subject matter of this**
645 **compact.**

646 **4. The Interstate Commission shall be entitled to receive service of process in any**
647 **action in which the validity of a compact provision or rule is the issue for which a judicial**
648 **determination has been sought and shall have standing to intervene in any proceedings.**
649 **Failure to provide service of process to the Interstate Commission shall render any**
650 **judgment, order or other determination, however so captioned or classified, void as to the**
651 **Interstate Commission, this compact, its bylaws or rules of the Interstate Commission.**

652 **B. Dispute Resolution**

653 **1. The Interstate Commission shall attempt, upon the request of a member state,**
654 **to resolve disputes which are subject to the compact and which may arise among member**
655 **states and between member and non-member states.**

656 **2. The Interstate Commission shall promulgate a rule providing for both mediation**
657 **and binding dispute resolution for disputes among compacting states. The costs of such**
658 **mediation or dispute resolution shall be the responsibility of the parties to the dispute.**

659 **C. Enforcement**

660 **1. If the Interstate Commission determines that a member state has defaulted in the**
661 **performance of its obligations or responsibilities under this compact, its bylaws or rules,**
662 **the Interstate Commission may:**

663 **a. Provide remedial training and specific technical assistance; or**

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

667 **c. By majority vote of the members, initiate against a defaulting member state legal**
668 **action in the United State District Court for the District of Columbia or, at the discretion**
669 **of the Interstate Commission, in the federal district where the Interstate Commission has**
670 **its principal office, to enforce compliance with the provisions of the compact, its bylaws or**
671 **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 member states, except by and with the authority of the member state.

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

ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

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

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

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

ARTICLE XV. WITHDRAWAL AND DISSOLUTION

A. Withdrawal

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

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

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

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

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

B. Dissolution of Compact

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

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

ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

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

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

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

ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

742 **A. Other Laws**

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

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

747 **B. Binding Effect of the Compact**

748 **1. All lawful actions of the Interstate Commission, including all rules and bylaws**
749 **promulgated by the Interstate Commission, are binding upon the member states.**

750 **2. All agreements between the Interstate Commission and the member states are**
751 **binding in accordance with their terms.**

752 **3. In the event any provision of this compact exceeds the constitutional limits**
753 **imposed on the legislature of any member state, such provision shall be ineffective to the**
754 **extent of the conflict with the constitutional provision in question in that member state.**

755 **ARTICLE XVIII. INDIAN TRIBES**

756 **Notwithstanding any other provision in this compact, the Interstate Commission**
757 **may promulgate guidelines to permit Indian tribes to utilize the compact to achieve any or**
758 **all of the purposes of the compact as specified in Article I. The Interstate Commission shall**
759 **make reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect**
760 **the diverse circumstances of the various Indian tribes.**

210.622. Notwithstanding the provisions of section 210.620, the **children's** division [of
2 family services] may enter into an agreement with a similar agency in any state adjoining
3 Missouri that provides for the emergency placement of abused or neglected children across state
4 lines, without the prior approval required by the interstate compact. A request for approval
5 pursuant to section 210.620 shall be initiated if the placement extends beyond thirty days.

210.625. The financial responsibility for any child placed pursuant to the Provisions of
2 the Interstate Compact on the Placement of Children shall be determined in accordance with the
3 provisions of Article [V] **VII** thereof, in the first instance. However, in the event of partial or
4 complete default of performance thereunder, the provisions of state laws fixing responsibility for
5 the support of children also may be invoked.

210.635. Any court having jurisdiction to place delinquent children may place such a
2 child in an institution of or in another state pursuant to Article [VI] **III** of the Interstate Compact
3 on the Placement of Children and shall retain jurisdiction as provided in Article [V] **IV** thereof.

210.640. No placement made into this state from a jurisdiction not party to the Interstate
2 Compact on the Placement of Children shall be lawful unless the person or agency making the
3 placement complies with and follows the procedures and requirements of [Article III of] that

4 compact as though the state or jurisdiction from which the child is sent or brought were party
5 thereto. This section shall not apply to any placement which would not be subject to the terms
6 of the Interstate Compact on the Placement of Children if both this state and the other state or
7 jurisdiction from which the child is sent or brought were parties thereto.

210.762. 1. When a child is taken into custody by a juvenile officer or law enforcement
2 official under subdivision (1) of subsection 1 of section 211.031, RSMo, and initially placed with
3 the division, the division may make a temporary placement and shall arrange for a family support
4 team meeting prior to or within twenty-four hours following the protective custody hearing held
5 under section 211.032, RSMo. After a child is in the division's custody and a temporary
6 placement has been made, the division shall arrange an additional family support team meeting
7 prior to taking any action relating to the placement of such child; except that, when the welfare
8 of a child in the custody of the division requires an immediate or emergency change of
9 placement, the division may make a temporary placement and shall schedule a family support
10 team meeting within seventy-two hours. **The requirement for a family support team meeting**
11 **shall not apply when the parent has consented in writing to the termination of his or her**
12 **parental rights in conjunction with a placement in a licensed child placing agency under**
13 **subsection 6 of section 453.010, RSMo.**

14 2. The parents, the legal counsel for the parents, the foster parents, the legal guardian or
15 custodian of the child, the guardian ad litem for the child, and the volunteer advocate, and any
16 designee of the parent that has written authorization shall be notified and invited to participate
17 in all family support team meetings. The family support team meeting may include such other
18 persons whose attendance at the meeting may assist the team in making appropriate decisions
19 in the best interests of the child. If the division finds that it is not in the best interest of a child
20 to be placed with relatives, the division shall make specific findings in the division's report
21 detailing the reasons why the best interests of the child necessitate placement of the child with
22 persons other than relatives.

23 3. The division shall use the form created in subsection 2 of section 210.147 to be signed
24 upon the conclusion of the meeting pursuant to subsection 1 of this section confirming that all
25 involved parties are aware of the team's decision regarding the custody and placement of the
26 child. Any dissenting views must be recorded and attested to on such form.

27 4. The case manager shall be responsible for including such form with the case records
28 of the child.

211.319. 1. On or before July 1, 2005, all juvenile court proceedings conducted pursuant
2 to subdivision (1) of subsection 1 of section 211.031 and for termination of parental rights cases
3 pursuant to sections 211.442 to 211.487 initiated by a juvenile officer or the division shall be

4 open to the public; **except that, when the parent has consented in writing to the termination**
5 **of his or her parental rights in conjunction with a placement with a licensed child placing**
6 **agency under subsection 6 of section 453.010, RSMo, the hearing shall be closed.** The court,
7 on its own motion, may exclude for good cause shown any person or persons from the
8 proceedings to protect the welfare and best interests of the child and for exceptional
9 circumstances. Any party to a juvenile court proceeding referred to in this subsection, except the
10 state, may file a motion requesting that the general public be excluded from the proceeding or
11 any portion of the proceeding. Upon the filing of such motion, the court shall hear arguments
12 by the parties, but no evidence, and shall make a determination whether closure is in the best
13 interest of the parties or whether it is in the public interest to deny such motion. The court shall
14 make a finding on the record when a motion to close a hearing pursuant to this section is made
15 and heard by the court.

16 2. Notwithstanding the provisions of subsection 1 of this section, the general public shall
17 be excluded from all juvenile court proceedings referred to in subsection 1 of this section during
18 the testimony of any child or victim and only such persons who have a direct interest in the case
19 or in the work of the court will be admitted to the proceedings.

20 3. For juvenile court proceedings described in subsection 1 of this section, pleadings and
21 orders of the juvenile court other than confidential files and those specifically ordered closed by
22 the juvenile court judge shall be open to the general public. For purposes of this section,
23 "confidential file" means all other records and reports considered closed or confidential by law,
24 including but not limited to medical reports, psychological or psychiatric evaluations,
25 investigation reports of the children's division, social histories, home studies, and police reports
26 and law enforcement records. Only persons who are found by the court to have a legitimate
27 interest shall be allowed access to confidential or closed files. In determining whether a person
28 has a legitimate interest, the court shall consider the nature of the proceedings, the welfare and
29 safety of the public, and the interest of any child involved.

30 4. For records made available to the public pursuant to this section:

31 (1) The identity of any child involved except the perpetrator shall not be disclosed and
32 all references in such records to the identity of any child involved except the perpetrator shall be
33 redacted prior to disclosure to the public; and

34 (2) All information that may identify or lead to the disclosure of the identity of a reporter
35 of child abuse under sections 210.109 to 210.183, RSMo, and section 352.400, RSMo, shall not
36 be disclosed to the public.

37 5. The provisions of this section shall apply to juvenile court proceedings and records
38 specified in this section in which the initial pleadings are filed on or after July 1, 2005.

211.444. 1. The juvenile court may, upon petition of the juvenile officer **or a child**
2 **placing agency licensed under sections 210.481 to 210.536, RSMo, in conjunction with a**
3 **placement with such agency under subsection 6 of section 453.010, RSMo,** or the court
4 before which a petition for adoption has been filed pursuant to the provisions of chapter 453,
5 RSMo, terminate the rights of a parent to a child if the court finds that such termination is in the
6 best interests of the child and the parent has consented in writing to the termination of his or her
7 parental rights.

8 2. The written consent required by subsection 1 of this section may be executed before
9 or after the institution of the proceedings and shall be acknowledged before a notary public. In
10 lieu of such acknowledgment, the signature of the person giving the written consent shall be
11 witnessed by at least two adult persons who are present at the execution whose signatures and
12 addresses shall be plainly written thereon and who determine and certify that the consent is
13 knowingly and freely given. The two adult witnesses shall not be the prospective parents. The
14 notary public or witnesses shall verify the identity of the party signing the consent.

15 3. The written consent required by subsection 1 of this section shall be valid and
16 effective only after the child is at least forty-eight hours old and if it complies with the other
17 requirements of section 453.030, RSMo.

211.447. 1. Any information that could justify the filing of a petition to terminate
2 parental rights may be referred to the juvenile officer by any person. The juvenile officer shall
3 make a preliminary inquiry and if it does not appear to the juvenile officer that a petition should
4 be filed, such officer shall so notify the informant in writing within thirty days of the referral.
5 Such notification shall include the reasons that the petition will not be filed. Thereupon, the
6 informant may bring the matter directly to the attention of the judge of the juvenile court by
7 presenting the information in writing, and if it appears to the judge that the information could
8 justify the filing of a petition, the judge may order the juvenile officer to take further action,
9 including making a further preliminary inquiry or filing a petition.

10 2. Except as provided for in subsection [3] **4** of this section, a petition to terminate the
11 parental rights of the child's parent or parents shall be filed by the juvenile officer or the division,
12 or if such a petition has been filed by another party, the juvenile officer or the division shall seek
13 to be joined as a party to the petition, when:

14 (1) Information available to the juvenile officer or the division establishes that the child
15 has been in foster care for at least fifteen of the most recent twenty-two months; or

16 (2) A court of competent jurisdiction has determined the child to be an abandoned infant.
17 For purposes of this subdivision, an "infant" means any child one year of age or under at the time
18 of filing of the petition. The court may find that an infant has been abandoned if:

19 (a) The parent has left the child under circumstances that the identity of the child was
20 unknown and could not be ascertained, despite diligent searching, and the parent has not come
21 forward to claim the child; or

22 (b) The parent has, without good cause, left the child without any provision for parental
23 support and without making arrangements to visit or communicate with the child, although able
24 to do so; or

25 (3) A court of competent jurisdiction has determined that the parent has:

26 (a) Committed murder of another child of the parent; or

27 (b) Committed voluntary manslaughter of another child of the parent; or

28 (c) Aided or abetted, attempted, conspired or solicited to commit such a murder or
29 voluntary manslaughter; or

30 (d) Committed a felony assault that resulted in serious bodily injury to the child or to
31 another child of the parent.

32 **3. A termination of parental rights petition shall be filed by the juvenile officer or**
33 **the division, or if such a petition has been filed by another party, the juvenile officer or the**
34 **division shall seek to be joined as a party to the petition, within sixty days of the judicial**
35 **determinations required in subsection 2 of this section, except as provided in subsection**
36 **4 of this section. Failure to comply with this requirement shall not deprive the court of**
37 **jurisdiction to adjudicate a petition for termination of parental rights which is filed outside**
38 **of sixty days.**

39 **4.** If grounds exist for termination of parental rights pursuant to subsection 2 of this
40 section, the juvenile officer or the division may, but is not required to, file a petition to terminate
41 the parental rights of the child's parent or parents if:

42 (1) The child is being cared for by a relative; or

43 (2) There exists a compelling reason for determining that filing such a petition would
44 not be in the best interest of the child, as documented in the permanency plan which shall be
45 made available for court review; or

46 (3) The family of the child has not been provided such services as provided for in section
47 211.183.

48 **[4.] 5.** The juvenile officer or the division may file a petition to terminate the parental
49 rights of the child's parent when it appears that one or more of the following grounds for
50 termination exist:

51 (1) The child has been abandoned. For purposes of this subdivision a "child" means any
52 child over one year of age at the time of filing of the petition. The court shall find that the child
53 has been abandoned if, for a period of six months or longer:

54 (a) The parent has left the child under such circumstances that the identity of the child
55 was unknown and could not be ascertained, despite diligent searching, and the parent has not
56 come forward to claim the child; or

57 (b) The parent has, without good cause, left the child without any provision for parental
58 support and without making arrangements to visit or communicate with the child, although able
59 to do so;

60 (2) The child has been abused or neglected. In determining whether to terminate parental
61 rights pursuant to this subdivision, the court shall consider and make findings on the following
62 conditions or acts of the parent:

63 (a) A mental condition which is shown by competent evidence either to be permanent
64 or such that there is no reasonable likelihood that the condition can be reversed and which
65 renders the parent unable to knowingly provide the child the necessary care, custody and control;

66 (b) Chemical dependency which prevents the parent from consistently providing the
67 necessary care, custody and control of the child and which cannot be treated so as to enable the
68 parent to consistently provide such care, custody and control;

69 (c) A severe act or recurrent acts of physical, emotional or sexual abuse toward the child
70 or any child in the family by the parent, including an act of incest, or by another under
71 circumstances that indicate that the parent knew or should have known that such acts were being
72 committed toward the child or any child in the family; or

73 (d) Repeated or continuous failure by the parent, although physically or financially able,
74 to provide the child with adequate food, clothing, shelter, or education as defined by law, or other
75 care and control necessary for the child's physical, mental, or emotional health and development;

76 (3) The child has been under the jurisdiction of the juvenile court for a period of one
77 year, and the court finds that the conditions which led to the assumption of jurisdiction still
78 persist, or conditions of a potentially harmful nature continue to exist, that there is little
79 likelihood that those conditions will be remedied at an early date so that the child can be returned
80 to the parent in the near future, or the continuation of the parent-child relationship greatly
81 diminishes the child's prospects for early integration into a stable and permanent home. In
82 determining whether to terminate parental rights under this subdivision, the court shall consider
83 and make findings on the following:

84 (a) The terms of a social service plan entered into by the parent and the division and the
85 extent to which the parties have made progress in complying with those terms;

86 (b) The success or failure of the efforts of the juvenile officer, the division or other
87 agency to aid the parent on a continuing basis in adjusting his circumstances or conduct to
88 provide a proper home for the child;

89 (c) A mental condition which is shown by competent evidence either to be permanent
90 or such that there is no reasonable likelihood that the condition can be reversed and which
91 renders the parent unable to knowingly provide the child the necessary care, custody and control;

92 (d) Chemical dependency which prevents the parent from consistently providing the
93 necessary care, custody and control over the child and which cannot be treated so as to enable
94 the parent to consistently provide such care, custody and control; or

95 (4) The parent has been found guilty or pled guilty to a felony violation of chapter 566,
96 RSMo, when the child or any child in the family was a victim, or a violation of section 568.020,
97 RSMo, when the child or any child in the family was a victim. As used in this subdivision, a
98 "child" means any person who was under eighteen years of age at the time of the crime and who
99 resided with such parent or was related within the third degree of consanguinity or affinity to
100 such parent; or

101 (5) The child was conceived and born as a result of an act of forcible rape. When the
102 biological father has pled guilty to, or is convicted of, the forcible rape of the birth mother, such
103 a plea or conviction shall be conclusive evidence supporting the termination of the biological
104 father's parental rights; or

105 (6) The parent is unfit to be a party to the parent and child relationship because of a
106 consistent pattern of committing a specific abuse, including but not limited to, abuses as defined
107 in section 455.010, RSMo, child abuse or drug abuse before the child or of specific conditions
108 directly relating to the parent and child relationship either of which are determined by the court
109 to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future,
110 to care appropriately for the ongoing physical, mental or emotional needs of the child. It is
111 presumed that a parent is unfit to be a party to the parent-child relationship upon a showing that
112 within a three-year period immediately prior to the termination adjudication, the parent's parental
113 rights to one or more other children were involuntarily terminated pursuant to subsection 2 or
114 [3] 4 of this section or subdivisions (1), (2), (3) or (4) of subsection [4] 5 of this section or
115 similar laws of other states.

116 [5.] 6. The juvenile court may terminate the rights of a parent to a child upon a petition
117 filed by the juvenile officer or the division, or in adoption cases, by a prospective parent, if the
118 court finds that the termination is in the best interest of the child and when it appears by clear,
119 cogent and convincing evidence that grounds exist for termination pursuant to subsection 2, 3
120 or 4 of this section.

121 [6.] 7. When considering whether to terminate the parent-child relationship pursuant to
122 subsection 2 or [3] 4 of this section or subdivision (1), (2), (3) or (4) of subsection [4] 5 of this

123 section, the court shall evaluate and make findings on the following factors, when appropriate
124 and applicable to the case:

125 (1) The emotional ties to the birth parent;

126 (2) The extent to which the parent has maintained regular visitation or other contact with
127 the child;

128 (3) The extent of payment by the parent for the cost of care and maintenance of the child
129 when financially able to do so including the time that the child is in the custody of the division
130 or other child-placing agency;

131 (4) Whether additional services would be likely to bring about lasting parental
132 adjustment enabling a return of the child to the parent within an ascertainable period of time;

133 (5) The parent's disinterest in or lack of commitment to the child;

134 (6) The conviction of the parent of a felony offense that the court finds is of such a
135 nature that the child will be deprived of a stable home for a period of years; provided, however,
136 that incarceration in and of itself shall not be grounds for termination of parental rights;

137 (7) Deliberate acts of the parent or acts of another of which the parent knew or should
138 have known that subjects the child to a substantial risk of physical or mental harm.

139 [7.] 8. The court may attach little or no weight to infrequent visitations, communications,
140 or contributions. It is irrelevant in a termination proceeding that the maintenance of the
141 parent-child relationship may serve as an inducement for the parent's rehabilitation.

142 [8.] 9. In actions for adoption pursuant to chapter 453, RSMo, the court may hear and
143 determine the issues raised in a petition for adoption containing a prayer for termination of
144 parental rights filed with the same effect as a petition permitted pursuant to subsection 2, [3 or]
145 4, **or 5** of this section.

453.010. 1. Any person desiring to adopt another person as his or her child shall petition
2 the juvenile division of the circuit court of the county in which:

3 (1) The person seeking to adopt resides;

4 (2) The child sought to be adopted was born;

5 (3) The child is located at the time of the filing of the petition; or

6 (4) Either birth person resides.

7 2. A petition to adopt shall not be dismissed or denied on the grounds that the petitioner
8 is not domiciled or does not reside in any of the venues set forth in subdivision (2), (3) or (4) of
9 subsection 1 of this section.

10 3. If the person sought to be adopted is a child who is under the prior and continuing
11 jurisdiction of a court pursuant to the provision of chapter 211, RSMo, any person desiring to
12 adopt such person as his or her child shall petition the juvenile division of the circuit court which

13 has jurisdiction over the child for permission to adopt such person as his or her child. Upon
14 receipt of a motion from the petitioner and consent of the receiving court, the juvenile division
15 of the circuit court which has jurisdiction over the child may transfer jurisdiction to the juvenile
16 division of a circuit court within any of the alternative venues set forth in subsection 1 of this
17 section.

18 4. If the petitioner has a spouse living and competent to join in the petition, such spouse
19 may join therein, and in such case the adoption shall be by them jointly. If such a spouse does
20 not join the petition the court in its discretion may, after a hearing, order such joinder, and if such
21 order is not complied with may dismiss the petition.

22 5. Upon receipt of a properly filed petition, a court, as defined in this section, shall hear
23 such petition in a timely fashion. A court or any child-placing agency shall not deny or delay the
24 placement of a child for adoption when an approved family is available, regardless of the
25 approved family's residence or domicile. The court shall expedite the placement of a child for
26 adoption pursuant to subsection 3 of this section.

27 **6. A licensed child placing agency may file a petition for transfer of custody if a**
28 **birth parent consents in writing by power of attorney for placement of a minor child, a**
29 **consent to adoption, or any other document which evidences a desire to place the child with**
30 **the licensed child placing agency for the purposes of transfer of custody of the child to the**
31 **licensed child placing agency. The written consent obtained from the birth parent shall**
32 **strictly comply with section 453.030.**

453.011. 1. In all cases [in which] **involving** the termination of parental rights,
2 **placement**, or adoption of a child [is] , **whether voluntary or** contested by any person or
3 agency, the [trial] court shall, consistent with due process, expedite the [contested] termination,
4 **placement**, or adoption proceeding by entering such scheduling orders as are necessary to ensure
5 that the case is not delayed, and such case shall be given priority in setting a final hearing of the
6 proceeding and shall be heard at the earliest possible date over other civil litigation, other than
7 **children's** division [of family services'] child protection cases.

8 2. In all cases as specified in subsection 1 of this section which are appealed from the
9 decision of a trial court:

10 (1) The transcript from the prior court proceeding shall be provided to the appellate court
11 no later than thirty days from the date the appeal is filed; and

12 (2) The appellate court shall, consistent with its rules, expedite the contested termination
13 of parental rights or adoption case by entering such scheduling orders as are necessary to ensure
14 that a ruling will be entered within thirty days of the close of oral arguments, and such case shall
15 be given priority over all other civil litigation, other than **children's** division [of family services']

16 child protection cases, in reaching a determination on the status of the termination of parental
17 rights or of the adoption; and

18 (3) In no event shall the court permit more than one request for an extension by either
19 party.

20 3. It is the intent of the general assembly that the permanency of the placement of a child
21 who is the subject of a termination of parental rights proceeding, **a placement proceeding**, or
22 an adoption proceeding not be delayed any longer than is absolutely necessary consistent with
23 the rights of all parties, but that the rights of the child to permanency at the earliest possible date
24 be given priority over all other civil litigation other than **children's** division [of family services']
25 child protection cases.

2 [210.630. 1. The "appropriate public authorities" as used in Article III
3 of the Interstate Compact on the Placement of Children shall, with reference to
4 this state, mean Division of Family Services, and said Division of Family
5 Services shall receive and act with reference to notices required by said Article
6 III.

7 2. As used in paragraph (a) of Article V "appropriate authority in the
8 receiving state" shall mean the Division of Family Services.

9 3. As used in Article VII of the Interstate Compact on the Placement of
10 Children the term "executive head" means the Governor. The Governor is hereby
11 authorized to appoint a compact administrator in accordance with the terms of
12 said Article VII.]

2 [210.700. As used in sections 210.700 to 210.760, the following words
3 and terms shall have the meanings indicated:

4 (1) "Child" shall mean a person under the age of eighteen years whose
5 custody has been committed to an authorized agency by an order of a judge, or
6 by a surrender agreement, or who has been committed temporarily to the care of
7 an authorized agency by a parent, guardian or relative within the second degree
8 of consanguinity.

9 (2) "Foster care" shall mean care provided a child in a foster home, a
10 group home, agency, child care institution, or any combination thereof.]

2 Section B. The repeal and reenactment of sections 210.620, 210.622, 210.625, 210.635,
3 and 210.640 of section A of this act, and the repeal of sections 210.630 and 210.700 of section
4 A of this act shall become effective August 28, 2007, or upon legislative enactment of the
5 compact into law by no less than thirty-five states, whichever later occurs.

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