

By: Sparks

S.B. No. 1834

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Section 162.101, Family Code, is amended to read as follows:

Sec. 162.101. DEFINITIONS. In this subchapter:

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

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

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

(4) "Executive head of the state human services administration," with reference to this state, means the executive commissioner of the Health and Human Services Commission [~~governor~~].

SECTION 2. The heading of Subchapter B, Chapter 162, Family Code, is amended to read as follows:

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

CHILDREN

SECTION 3. Subchapter B, Chapter 162, Family Code, is amended by adding Section 162.1021 to read as follows:

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

INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN

ARTICLE I. PURPOSE

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

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

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

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

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

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

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

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

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

7                    ARTICLE II. DEFINITIONS

8        As used in this compact,

9        A. "Approved placement" means the public child placing  
10 agency in the receiving state has determined that the placement is  
11 both safe and suitable for the child.

12        B. "Assessment" means an evaluation of a prospective  
13 placement by a public child placing agency in the receiving state to  
14 determine if the placement meets the individualized needs of the  
15 child, including but not limited to the child's safety and  
16 stability, health and well-being, and mental, emotional, and  
17 physical development. An assessment is only applicable to a  
18 placement by a public child placing agency.

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

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

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

26        F. "Home Study" means an evaluation of a home environment  
27 conducted in accordance with the applicable requirements of the

1 state in which the home is located, and documents the preparation  
2 and the suitability of the placement resource for placement of a  
3 child in accordance with the laws and requirements of the state in  
4 which the home is located.

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

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

15 I. "Jurisdiction" means the power and authority of a court  
16 to hear and decide matters.

17 J. "Legal Risk Placement" ("Legal Risk Adoption") means a  
18 placement made preliminary to an adoption where the prospective  
19 adoptive parents acknowledge in writing that a child can be ordered  
20 returned to the sending state or the birth mother's state of  
21 residence, if different from the sending state, and a final decree  
22 of adoption shall not be entered in any jurisdiction until all  
23 required consents are obtained or are dispensed with in accordance  
24 with applicable law.

25 K. "Member state" means a state that has enacted this  
26 compact.

27 L. "Non-custodial parent" means a person who, at the time of

1 the commencement of court proceedings in the sending state, does  
2 not have sole legal custody of the child or has joint legal custody  
3 of a child, and who is not the subject of allegations or findings of  
4 child abuse or neglect.

5 M. "Non-member state" means a state which has not enacted  
6 this compact.

7 N. "Notice of residential placement" means information  
8 regarding a placement into a residential facility provided to the  
9 receiving state including, but not limited to the name, date and  
10 place of birth of the child, the identity and address of the parent  
11 or legal guardian, evidence of authority to make the placement, and  
12 the name and address of the facility in which the child will be  
13 placed. Notice of residential placement shall also include  
14 information regarding a discharge and any unauthorized absence from  
15 the facility.

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

19 P. "Private child placing agency" means any private  
20 corporation, agency, foundation, institution, or charitable  
21 organization, or any private person or attorney that facilitates,  
22 causes, or is involved in the placement of a child from one state to  
23 another and that is not an instrumentality of the state or acting  
24 under color of state law.

25 Q. "Provisional placement" means a determination made by  
26 the public child placing agency in the receiving state that the  
27 proposed placement is safe and suitable, and, to the extent

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

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

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

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

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

27 V. "Rule" means a written directive, mandate, standard or

1 principle issued by the Interstate Commission promulgated pursuant  
2 to Article XI of this compact that is of general applicability and  
3 that implements, interprets or prescribes a policy or provision of  
4 the compact. "Rule" has the force and effect of an administrative  
5 rule in a member state, and includes the amendment, repeal, or  
6 suspension of an existing rule.

7 W. "Sending state" means the state from which the placement  
8 of a child is initiated.

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

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

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

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

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

27 ARTICLE III. APPLICABILITY

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

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

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

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

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

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

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

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

27          2. The interstate placement of a child with a

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

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

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

9 5. The placement of a child with a non-custodial  
10 parent provided that:

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

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

17 c. The court in the sending state dismisses its  
18 jurisdiction in interstate placements in which the public child  
19 placing agency is a party to the proceeding.

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

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

26 8. The sending of a child by a public child placing  
27 agency or a private child placing agency for a visit as defined by

1 the rules of the Interstate Commission.

2 C. For purposes of determining the applicability of this  
3 compact to the placement of a child with a family in the Armed  
4 Services, the public child placing agency or private child placing  
5 agency may choose the state of the service member's permanent duty  
6 station or the service member's declared legal residence.

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

17 ARTICLE IV. JURISDICTION

18 A. Except as provided in Article IV, Section H and Article  
19 V, Section B, paragraph two and three concerning private and  
20 independent adoptions, and in interstate placements in which the  
21 public child placing agency is not a party to a custody proceeding,  
22 the sending state shall retain jurisdiction over a child with  
23 respect to all matters of custody and disposition of the child which  
24 it would have had if the child had remained in the sending state.  
25 Such jurisdiction shall also include the power to order the return  
26 of the child to the sending state.

27 B. When an issue of child protection or custody is brought

1 before a court in the receiving state, such court shall confer with  
2 the court of the sending state to determine the most appropriate  
3 forum for adjudication.

4 C. In cases that are before courts and subject to this  
5 compact, the taking of testimony for hearings before any judicial  
6 officer may occur in person or by telephone, audio-video  
7 conference, or such other means as approved by the rules of the  
8 Interstate Commission; and Judicial officers may communicate with  
9 other judicial officers and persons involved in the interstate  
10 process as may be permitted by their Canons of Judicial Conduct and  
11 any rules promulgated by the Interstate Commission.

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

14 1. The child is reunified with the parent in the  
15 receiving state who is the subject of allegations or findings of  
16 abuse or neglect, only with the concurrence of the public child  
17 placing agency in the receiving state; or

18 2. The child is adopted; or

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

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

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

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

1           7. The public child placing agency of the sending  
2 state requests termination and has obtained the concurrence of the  
3 public child placing agency in the receiving the state.

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

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

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

14           H. The substantive laws of the state in which an adoption  
15 will be finalized shall solely govern all issues relating to the  
16 adoption of the child and the court in which the adoption proceeding  
17 is filed shall have subject matter jurisdiction regarding all  
18 substantive issues relating to the adoption, except:

19               1. when the child is a ward of another court that  
20 established jurisdiction over the child prior to the placement; or

21               2. when the child is in the legal custody of a public  
22 agency in the sending state; or

23               3. when a court in the sending state has otherwise  
24 appropriately assumed jurisdiction over the child, prior to the  
25 submission of the request for approval of placement.

26           I. A final decree of adoption shall not be entered in any  
27 jurisdiction until the placement is authorized as an "approved

1 placement" by the public child placing agency in the receiving  
2 state.

3 ARTICLE V. PLACEMENT EVALUATION

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

8 B. For placements by a private child placing agency, a child  
9 may be sent or brought, or caused to be sent or brought, into a  
10 receiving state, upon receipt and immediate review of the required  
11 content in a request for approval of a placement in both the sending  
12 and receiving state public child placing agency. The required  
13 content to accompany a request for approval shall include all of the  
14 following:

15 1. A request for approval identifying the child, birth  
16 parent(s), the prospective adoptive parent(s), and the supervising  
17 agency, signed by the person requesting approval; and

18 2. The appropriate consents or relinquishments signed  
19 by the birth parents in accordance with the laws of the sending  
20 state, or where permitted the laws of the state where the adoption  
21 will be finalized; and

22 3. Certification by a licensed attorney or authorized  
23 agent of a private adoption agency that the consent or  
24 relinquishment is in compliance with the applicable laws of the  
25 sending state, or where permitted the laws of the state where  
26 finalization of the adoption will occur; and

27 4. A home study; and

1           5. An acknowledgment of legal risk signed by the  
2 prospective adoptive parents.

3           C. The sending state and the receiving state may request  
4 additional information or documents prior to finalization of an  
5 approved placement, but they may not delay travel by the  
6 prospective adoptive parents with the child if the required content  
7 for approval has been submitted, received and reviewed by the  
8 public child placing agency in both the sending state and the  
9 receiving state.

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

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

16          F. Upon receipt of a request from the public child placing  
17 agency of the sending state, the receiving state shall initiate an  
18 assessment of the proposed placement to determine its safety and  
19 suitability. If the proposed placement is a placement with a  
20 relative, the public child placing agency of the sending state may  
21 request a determination for a provisional placement.

22          G. The public child placing agency in the receiving state  
23 may request from the public child placing agency or the private  
24 child placing agency in the sending state, and shall be entitled to  
25 receive supporting or additional information necessary to complete  
26 the assessment or approve the placement.

27          H. The public child placing agency in the receiving state

1 shall approve a provisional placement and complete or arrange for  
2 the completion of the assessment within the timeframes established  
3 by the rules of the Interstate Commission.

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

8 J. The Interstate Commission may develop uniform standards  
9 for the assessment of the safety and suitability of interstate  
10 placements.

11 ARTICLE VI. PLACEMENT AUTHORITY

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

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

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

24 1. The administrative review and any further judicial  
25 review associated with the determination shall be conducted in the  
26 receiving state pursuant to its applicable Administrative  
27 Procedures Act.

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

6           ARTICLE VII. PLACING AGENCY RESPONSIBILITY

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

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

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

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

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

20                   a. any assessment conducted by the receiving  
21 state; and

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

26           3. Nothing in this provision shall prohibit public  
27 child placing agencies in the sending state from entering into

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

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

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

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

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

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

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

25 F. Each member state shall provide for coordination among  
26 its branches of government concerning the state's participation in,  
27 and compliance with, the compact and Interstate Commission

1 activities, through the creation of an advisory council or use of an  
2 existing body or board.

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

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

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

14 ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

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

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

25 B. Consist of one commissioner from each member state who  
26 shall be appointed by the executive head of the state human services  
27 administration with ultimate responsibility for the child welfare

1 program. The appointed commissioner shall have the legal authority  
2 to vote on policy related matters governed by this compact binding  
3 the state.

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

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

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

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

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

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

23 ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

24 The Interstate Commission shall have the following powers:

25 A. To promulgate rules and take all necessary actions to  
26 effect the goals, purposes and obligations as enumerated in this  
27 compact.

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

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

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

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

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

13       G. To purchase and maintain insurance and bonds.

14       H. To hire or contract for services of personnel or  
15 consultants as necessary to carry out its functions under the  
16 compact and establish personnel qualification policies, and rates  
17 of compensation.

18       I. To establish and appoint committees and officers  
19 including, but not limited to, an executive committee as required  
20 by Article X.

21       J. To accept any and all donations and grants of money,  
22 equipment, supplies, materials, and services, and to receive,  
23 utilize, and dispose thereof.

24       K. To lease, purchase, accept contributions or donations  
25 of, or otherwise to own, hold, improve or use any property, real,  
26 personal, or mixed.

27       L. To sell, convey, mortgage, pledge, lease, exchange,

1 abandon, or otherwise dispose of any property, real, personal or  
2 mixed.

3 M. To establish a budget and make expenditures.

4 N. To adopt a seal and bylaws governing the management and  
5 operation of the Interstate Commission.

6 O. To report annually to the legislatures, governors, the  
7 judiciary, and state advisory councils of the member states  
8 concerning the activities of the Interstate Commission during the  
9 preceding year. Such reports shall also include any  
10 recommendations that may have been adopted by the Interstate  
11 Commission.

12 P. To coordinate and provide education, training and public  
13 awareness regarding the interstate movement of children for  
14 officials involved in such activity.

15 Q. To maintain books and records in accordance with the  
16 bylaws of the Interstate Commission.

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

19 ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

20 A. Bylaws

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

25 2. The Interstate Commission's bylaws and rules shall  
26 establish conditions and procedures under which the Interstate  
27 Commission shall make its information and official records

available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

B. Meetings

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

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

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

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

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

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

e. disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy or physically endanger one or more persons; or

f. disclose investigative records compiled for

1 law enforcement purposes; or

2 g. specifically relate to the Interstate  
3 Commission's participation in a civil action or other legal  
4 proceeding.

5 3. For a meeting, or portion of a meeting, closed  
6 pursuant to this provision, the Interstate Commission's legal  
7 counsel or designee shall certify that the meeting may be closed and  
8 shall reference each relevant exemption provision. The Interstate  
9 Commission shall keep minutes which shall fully and clearly  
10 describe all matters discussed in a meeting and shall provide a full  
11 and accurate summary of actions taken, and the reasons therefore,  
12 including a description of the views expressed and the record of a  
13 roll call vote. All documents considered in connection with an  
14 action shall be identified in such minutes. All minutes and  
15 documents of a closed meeting shall remain under seal, subject to  
16 release by a majority vote of the Interstate Commission or by court  
17 order.

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

21 C. Officers and Staff

22 1. The Interstate Commission may, through its  
23 executive committee, appoint or retain a staff director for such  
24 period, upon such terms and conditions and for such compensation as  
25 the Interstate Commission may deem appropriate. The staff director  
26 shall serve as secretary to the Interstate Commission, but shall  
27 not have a vote. The staff director may hire and supervise such

1 other staff as may be authorized by the Interstate Commission.

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

6 D. Qualified Immunity, Defense and Indemnification

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

18 a. The liability of the Interstate Commission's  
19 staff director and employees or Interstate Commission  
20 representatives, acting within the scope of such person's  
21 employment or duties for acts, errors, or omissions occurring  
22 within such person's state may not exceed the limits of liability  
23 set forth under the Constitution and laws of that state for state  
24 officials, employees, and agents. The Interstate Commission is  
25 considered to be an instrumentality of the states for the purposes  
26 of any such action. Nothing in this subsection shall be construed  
27 to protect such person from suit or liability for damage, loss,

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

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

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

1     ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

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

16           C. When promulgating a rule, the Interstate Commission  
17 shall, at a minimum:

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

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

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

26           D. Rules promulgated by the Interstate Commission shall  
27 have the force and effect of administrative rules and shall be

1 binding in the compacting states to the extent and in the manner  
2 provided for in this compact.

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

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

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

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

- 23 1. Transition rules
- 24 2. Forms and procedures
- 25 3. Time lines
- 26 4. Data collection and reporting
- 27 5. Rulemaking

1           6. Visitation

2           7. Progress reports/supervision

3           8. Sharing of information/confidentiality

4           9. Financing of the Interstate Commission

5           10. Mediation, arbitration and dispute resolution

6           11. Education, training and technical assistance

7           12. Enforcement

8           13. Coordination with other interstate compacts

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

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

13                   a. Protect the children covered by this compact  
14 from an imminent threat to their health, safety and well-being; or

15                   b. Prevent loss of federal or state funds; or

16                   c. Meet a deadline for the promulgation of an  
17 administrative rule required by federal law.

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

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

25           ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

26           A. Oversight

27           1. The Interstate Commission shall oversee the

1 administration and operation of the compact.

2           2. The executive, legislative and judicial branches of  
3 state government in each member state shall enforce this compact  
4 and the rules of the Interstate Commission and shall take all  
5 actions necessary and appropriate to effectuate the compact's  
6 purposes and intent. The compact and its rules shall be binding in  
7 the compacting states to the extent and in the manner provided for  
8 in this compact.

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

12           4. The Interstate Commission shall be entitled to  
13 receive service of process in any action in which the validity of a  
14 compact provision or rule is the issue for which a judicial  
15 determination has been sought and shall have standing to intervene  
16 in any proceedings. Failure to provide service of process to the  
17 Interstate Commission shall render any judgment, order or other  
18 determination, however so captioned or classified, void as to the  
19 Interstate Commission, this compact, its bylaws or rules of the  
20 Interstate Commission.

21           B. Dispute Resolution

22           1. The Interstate Commission shall attempt, upon the  
23 request of a member state, to resolve disputes which are subject to  
24 the compact and which may arise among member states and between  
25 member and non-member states.

26           2. The Interstate Commission shall promulgate a rule  
27 providing for both mediation and binding dispute resolution for

1 disputes among compacting states. The costs of such mediation or  
2 dispute resolution shall be the responsibility of the parties to  
3 the dispute.

4 C. Enforcement

5 1. If the Interstate Commission determines that a  
6 member state has defaulted in the performance of its obligations or  
7 responsibilities under this compact, its bylaws or rules, the  
8 Interstate Commission may:

9 a. Provide remedial training and specific  
10 technical assistance; or

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

15 c. By majority vote of the members, initiate  
16 against a defaulting member state legal action in the United State  
17 District Court for the District of Columbia or, at the discretion of  
18 the Interstate Commission, in the federal district where the  
19 Interstate Commission has its principal office, to enforce  
20 compliance with the provisions of the compact, its bylaws or rules.  
21 The relief sought may include both injunctive relief and damages.  
22 In the event judicial enforcement is necessary the prevailing party  
23 shall be awarded all costs of such litigation including reasonable  
24 attorney's fees; or

25 d. Avail itself of any other remedies available  
26 under state law or the regulation of official or professional  
27 conduct.

1                   ARTICLE XIII. FINANCING OF THE COMMISSION

2           A. The Interstate Commission shall pay, or provide for the  
3 payment of the reasonable expenses of its establishment,  
4 organization and ongoing activities.

5           B. The Interstate Commission may levy on and collect an  
6 annual assessment from each member state to cover the cost of the  
7 operations and activities of the Interstate Commission and its  
8 staff which must be in a total amount sufficient to cover the  
9 Interstate Commission's annual budget as approved by its members  
10 each year. The aggregate annual assessment amount shall be  
11 allocated based upon a formula to be determined by the Interstate  
12 Commission which shall promulgate a rule binding upon all member  
13 states.

14           C. The Interstate Commission shall not incur obligations of  
15 any kind prior to securing the funds adequate to meet the same; nor  
16 shall the Interstate Commission pledge the credit of any of the  
17 member states, except by and with the authority of the member state.

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

26                   ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

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

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

16               ARTICLE XV. WITHDRAWAL AND DISSOLUTION

17       A. Withdrawal

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

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

25               3. The withdrawing state shall immediately notify the  
26 president of the Interstate Commission in writing upon the  
27 introduction of legislation repealing this compact in the

1 withdrawing state. The Interstate Commission shall then notify the  
2 other member states of the withdrawing state's intent to withdraw.

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

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

10 B. Dissolution of Compact

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

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

19 ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

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

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

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

1       ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

2       A. Other Laws

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

6       B. Binding Effect of the Compact

7           1. All lawful actions of the Interstate Commission,  
8 including all rules and bylaws promulgated by the Interstate  
9 Commission, are binding upon the member states.

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

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

17                   ARTICLE XVIII. INDIAN TRIBES

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

25       SECTION 4. Section [162.103](#)(a), Family Code, is amended to  
26 read as follows:

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

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

8 SECTION 5. Section 162.104, Family Code, is amended to read  
9 as follows:

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

16 SECTION 6. Section 162.105, Family Code, is amended to read  
17 as follows:

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

24 SECTION 7. The heading to Section 162.107, Family Code, is  
25 amended to read as follows:

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

27 SECTION 8. The following sections of the Family Code are

1 repealed:

2 (1) Section 162.102; and

3 (2) Section 162.107(b).

4 SECTION 9. This Act takes effect September 1, 2025.