

Senate File 459 - Introduced

SENATE FILE _____
BY COMMITTEE ON HUMAN RESOURCES
(SUCCESSOR TO SSB 1136)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act replacing the interstate compact on the placement of
2 children with the interstate compact for the placement of
3 children, making a penalty applicable, and providing a
4 contingent effective date.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 1244SV 82
7 jp/je/5

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1 1 DIVISION I
1 2 REPLACEMENT COMPACT
1 3 Section 1. NEW SECTION. 232.169 INTERSTATE COMPACT FOR
1 4 THE PLACEMENT OF CHILDREN.
1 5 The interstate compact for the placement of children is
1 6 enacted into law and entered into with all other jurisdictions
1 7 legally joining the compact in the form substantially as
1 8 follows:
1 9 ARTICLE I == PURPOSE
1 10 The purpose of this interstate compact for the placement of
1 11 children is to do all of the following:
1 12 1. Provide a process through which children subject to
1 13 this compact are placed in safe and suitable homes in a timely
1 14 manner.
1 15 2. Facilitate ongoing supervision of a placement, the
1 16 delivery of services, and communication between the states.
1 17 3. Provide operating procedures that will ensure that
1 18 children are placed in safe and suitable homes in a timely
1 19 manner.
1 20 4. Provide for the promulgation and enforcement of
1 21 administrative rules implementing the provisions of this
1 22 compact and regulating the covered activities of the member
1 23 states.
1 24 5. Provide for uniform data collection and information
1 25 sharing between member states under this compact.
1 26 6. Promote coordination between this compact, the
1 27 interstate compact for juveniles, the interstate compact on
1 28 adoption and medical assistance, and other compacts affecting
1 29 the placement of and which provide services to children
1 30 otherwise subject to this compact.
1 31 7. Provide for a state's continuing legal jurisdiction and
1 32 responsibility for placement and care of a child that the
1 33 state would have had if the placement were intrastate.
1 34 8. Provide for the promulgation of guidelines, in
1 35 collaboration with Indian tribes, for interstate cases
2 1 involving Indian children as is or may be permitted by federal
2 2 law.
2 3 ARTICLE II == DEFINITIONS
2 4 As used in this compact:
2 5 1. "Approved placement" means the receiving state has
2 6 determined after an assessment that the placement is both safe
2 7 and suitable for the child and is in compliance with the
2 8 applicable laws of the receiving state governing the placement
2 9 of children in that state.
2 10 2. "Assessment" means an evaluation of a prospective
2 11 placement to determine whether the placement meets the
2 12 individualized needs of the child, including but not limited
2 13 to the child's safety and stability, health and well-being,
2 14 and mental, emotional, and physical development.
2 15 3. "Child" means an individual who has not attained the
2 16 age of eighteen.

2 17 4. "Default" means the failure of a member state to
2 18 perform the obligations or responsibilities imposed upon it by
2 19 this compact, or the bylaws or rules of the interstate
2 20 commission.

2 21 5. "Indian tribe" means any Indian tribe, band, nation, or
2 22 other organized group or community of Indians recognized as
2 23 eligible for services provided to Indians by the secretary of
2 24 the interior because of their status as Indians, including any
2 25 Alaskan native village as defined in section 3, subsection
2 26 (c), of the federal Alaska Native Claims Settlement Act in 43
2 27 U.S.C. } 1602(c).

2 28 6. "Interstate commission for the placement of children"
2 29 means the commission that is created under article VIII of
2 30 this compact and which is generally referred to as the
2 31 interstate commission.

2 32 7. "Jurisdiction" means the power and authority of a court
2 33 to hear and decide matters.

2 34 8. "Member state" means a state that has enacted this
2 35 compact.

3 1 9. "Noncustodial parent" means a person who, at the time
3 2 of the commencement of court proceedings in the sending state,
3 3 does not have sole legal custody of the child or has joint
3 4 legal custody of the child, and who is not the subject of
3 5 allegations or findings of child abuse or neglect.

3 6 10. "Nonmember state" means a state that has not enacted
3 7 this compact.

3 8 11. "Notice of residential placement" means information
3 9 regarding a placement into a residential facility provided to
3 10 the receiving state including but not limited to the name,
3 11 date, and place of birth of the child, the identity and
3 12 address of the parent or legal guardian, evidence of authority
3 13 to make the placement, and the name and address of the
3 14 facility in which the child will be placed. "Notice of
3 15 residential placement" shall also include information
3 16 regarding a discharge and any unauthorized absence from the
3 17 facility.

3 18 12. "Placement" means the act by a public or private
3 19 child=placing agency intended to arrange for the care or
3 20 custody of a child in another state.

3 21 13. "Private child=placing agency" means any private
3 22 corporation, agency, foundation, institution, or charitable
3 23 organization, or any private person or attorney that
3 24 facilitates, causes, or is involved in the placement of a
3 25 child from one state to another and that is not an
3 26 instrumentality of the state or acting under color of state
3 27 law.

3 28 14. "Provisional placement" means that the receiving state
3 29 has determined that the proposed placement is safe and
3 30 suitable, and, to the extent allowable, the receiving state
3 31 has temporarily waived its standards or requirements otherwise
3 32 applicable to prospective foster or adoptive parents so as to
3 33 not delay the placement. Completion of the receiving state
3 34 requirements regarding training for prospective foster or
3 35 adoptive parents shall not delay an otherwise safe and
4 1 suitable placement.

4 2 15. "Public child=placing agency" means any government
4 3 child welfare agency or child protection agency or a private
4 4 entity under contract with such an agency, regardless of
4 5 whether the agency or entity acts on behalf of a state,
4 6 county, municipality, or other governmental unit and which
4 7 facilitates, causes, or is involved in the placement of a
4 8 child from one state to another.

4 9 16. "Receiving state" means the state to which a child is
4 10 sent, brought, or caused to be sent or brought.

4 11 17. "Relative" means someone who is related to the child
4 12 as a parent, stepparent, sibling by half or whole blood or by
4 13 adoption, grandparent, aunt, uncle, or first cousin or a
4 14 nonrelative with such significant ties to the child that the
4 15 nonrelative may be regarded as a relative as determined by the
4 16 court in the sending state.

4 17 18. "Residential facility" means a facility providing a
4 18 level of care that is sufficient to substitute for parental
4 19 responsibility or foster care, and is beyond what is needed
4 20 for assessment or treatment of an acute condition. For
4 21 purposes of the compact, residential facilities do not include
4 22 institutions primarily educational in character, hospitals, or
4 23 other medical facilities.

4 24 19. "Rule" means a written directive, mandate, standard,
4 25 or principle issued by the interstate commission promulgated
4 26 pursuant to article XI of this compact that is of general
4 27 applicability and that implements, interprets, or prescribes a

4 28 policy or provision of the compact. A "rule" has the force
4 29 and effect of statutory law in a member state, and includes
4 30 the amendment, repeal, or suspension of an existing rule.

4 31 20. "Sending state" means the state from which the
4 32 placement of a child is initiated.

4 33 21. "Service member's permanent duty station" means the
4 34 military installation where an active duty armed services
4 35 member is currently assigned and is physically located under
5 1 competent orders that do not specify the duty as temporary.

5 2 22. "Service member's state of legal residence" means the
5 3 state in which the active duty armed services member is
5 4 considered a resident for tax and voting purposes.

5 5 23. "State" means a state of the United States, the
5 6 District of Columbia, the Commonwealth of Puerto Rico, the
5 7 U.S. Virgin Islands, Guam, American Samoa, the Northern
5 8 Marianas Islands, and any other territory of the United
5 9 States.

5 10 24. "State court" means a judicial body of a state that is
5 11 vested by law with responsibility for adjudicating cases
5 12 involving abuse, neglect, deprivation, delinquency, or status
5 13 offenses of individuals who have not attained the age of
5 14 eighteen.

5 15 25. "Supervision" means monitoring provided by the
5 16 receiving state once a child has been placed in a receiving
5 17 state pursuant to this compact.

5 18 ARTICLE III == APPLICABILITY

5 19 1. Except as otherwise provided in subsection 2, this
5 20 compact shall apply to:

5 21 a. The interstate placement of a child subject to ongoing
5 22 court jurisdiction in the sending state, due to allegations or
5 23 findings that the child has been abused, neglected, or
5 24 deprived as defined by the laws of the sending state,
5 25 provided, however, that the placement of such a child into a
5 26 residential facility shall only require notice of residential
5 27 placement to the receiving state prior to placement.

5 28 b. The interstate placement of a child adjudicated
5 29 delinquent or unmanageable based on the laws of the sending
5 30 state and subject to ongoing court jurisdiction of the sending
5 31 state if either of the following applies:

5 32 (1) The child is being placed in a residential facility in
5 33 another member state and is not covered under another compact.

5 34 (2) The child is being placed in another member state and
5 35 the determination of safety and suitability of the placement
6 1 and services required is not provided through another compact.

6 2 c. The interstate placement of any child by a public
6 3 child-placing agency or private child-placing agency as
6 4 defined in this compact as a preliminary step to a possible
6 5 adoption.

6 6 2. The provisions of this compact shall not apply to:

6 7 a. The interstate placement of a child with a nonrelative
6 8 in a receiving state by a parent with the legal authority to
6 9 make such a placement provided, however, that the placement is
6 10 not intended to effectuate an adoption.

6 11 b. The interstate placement of a child by one relative
6 12 with the lawful authority to make such a placement directly
6 13 with a relative in a receiving state.

6 14 c. The placement of a child, not subject to subsection 1,
6 15 into a residential facility by the child's parent.

6 16 d. The placement of a child with a noncustodial parent
6 17 provided that all of the following apply:

6 18 (1) The noncustodial parent proves to the satisfaction of
6 19 a court in the sending state a substantial relationship with
6 20 the child.

6 21 (2) The court in the sending state makes a written finding
6 22 that placement with the noncustodial parent is in the best
6 23 interests of the child.

6 24 (3) The court in the sending state dismisses its
6 25 jurisdiction over the child's case.

6 26 e. A child entering the United States from a foreign
6 27 country for the purpose of adoption or leaving the United
6 28 States to go to a foreign country for the purpose of adoption
6 29 in that country.

6 30 f. Cases in which a United States citizen child living
6 31 overseas with the child's family, at least one of whom is in
6 32 the United States armed services, and who is stationed
6 33 overseas, is removed and placed in a state.

6 34 g. The sending of a child by a public child-placing agency
6 35 or a private child-placing agency for a visit as defined by
7 1 the rules of the interstate commission.

7 2 3. For purposes of determining the applicability of this
7 3 compact to the placement of a child with a family in the armed

7 4 services, the public child=placing agency or private
7 5 child=placing agency may choose the state of the service
7 6 member's permanent duty station or the service member's
7 7 declared legal residence.
7 8 4. Nothing in this compact shall be construed to prohibit
7 9 the concurrent application of the provisions of this compact
7 10 with other applicable interstate compacts including the
7 11 interstate compact for juveniles and the interstate compact on
7 12 adoption and medical assistance. The interstate commission
7 13 may, in cooperation with other interstate compact commissions
7 14 having responsibility for the interstate movement, placement,
7 15 or transfer of children, promulgate like rules to ensure the
7 16 coordination of services, timely placement of children, and
7 17 the reduction of unnecessary or duplicative administrative or
7 18 procedural requirements.

7 19 ARTICLE IV == JURISDICTION

7 20 1. The sending state shall retain jurisdiction over a
7 21 child with respect to all matters of custody and disposition
7 22 of the child which it would have had if the child had remained
7 23 in the sending state. Such jurisdiction shall also include
7 24 the power to order the return of the child to the sending
7 25 state.

7 26 2. When an issue of child protection or custody is brought
7 27 before a court in the receiving state, such court shall confer
7 28 with the court of the sending state to determine the most
7 29 appropriate forum for adjudication.

7 30 3. In accordance with its own laws, the court in the
7 31 sending state shall have authority to terminate its
7 32 jurisdiction if any of the following applies:

7 33 a. The child is reunified with the parent in the receiving
7 34 state who is the subject of allegations or findings of abuse
7 35 or neglect, only with the concurrence of the public
8 1 child=placing agency in the receiving state.

8 2 b. The child is adopted.

8 3 c. The child reaches the age of majority under the laws of
8 4 the sending state.

8 5 d. The child achieves legal independence pursuant to the
8 6 laws of the sending state.

8 7 e. A guardianship is created by a court in the receiving
8 8 state with the concurrence of the court in the sending state.

8 9 f. An Indian tribe has petitioned for and received
8 10 jurisdiction from the court in the sending state.

8 11 g. The public child=placing agency of the sending state
8 12 requests termination and has obtained the concurrence of the
8 13 public child=placing agency in the receiving the state.

8 14 4. When a sending state court terminates its jurisdiction,
8 15 the receiving state child=placing agency shall be notified.

8 16 5. Nothing in this article shall defeat a claim of
8 17 jurisdiction by a receiving state court sufficient to deal
8 18 with an act of truancy, delinquency, crime, or behavior
8 19 involving a child as defined by the laws of the receiving
8 20 state committed by the child in the receiving state which
8 21 would be a violation of its laws.

8 22 6. Nothing in this article shall limit the receiving
8 23 state's ability to take emergency jurisdiction for the
8 24 protection of the child.

8 25 ARTICLE V == ASSESSMENTS

8 26 1. Prior to sending, bringing, or causing a child to be
8 27 sent or brought into a receiving state, the public
8 28 child=placing agency shall provide a written request for
8 29 assessment to the receiving state.

8 30 2. Prior to the sending, bringing, or causing a child to
8 31 be sent or brought into a receiving state, the private
8 32 child=placing agency shall do all of the following:

8 33 a. Provide evidence that the applicable laws of the
8 34 sending state have been complied with.

8 35 b. Certify that the consent or relinquishment is in
9 1 compliance with applicable law of the birth parent's state of
9 2 residence or, where permitted, the laws of the state of where
9 3 the finalization of the adoption will occur.

9 4 c. Request through the public child=placing agency in the
9 5 sending state an assessment to be conducted in the receiving
9 6 state.

9 7 d. Upon completion of the assessment, obtain the approval
9 8 of the public child=placing agency in the receiving state.

9 9 3. The procedures for making and the request for an
9 10 assessment shall contain all information and be in such form
9 11 as provided for in the rules of the interstate commission.

9 12 4. Upon receipt of a request from the public child welfare
9 13 agency of the sending state, the receiving state shall
9 14 initiate an assessment of the proposed placement to determine

9 15 its safety and suitability. If the proposed placement is a
9 16 placement with a relative, the public child=placing agency of
9 17 the sending state may request a determination of whether the
9 18 placement qualifies as a provisional placement.

9 19 5. The public child=placing agency in the receiving state
9 20 may request from the public child=placing agency or the
9 21 private child=placing agency in the sending state, and shall
9 22 be entitled to receive, supporting or additional information
9 23 necessary to complete the assessment.

9 24 6. The public child=placing agency in the receiving state
9 25 shall complete or arrange for the completion of the assessment
9 26 within the timeframes established by the rules of the
9 27 interstate commission.

9 28 7. The interstate commission may develop uniform standards
9 29 for the assessment of the safety and suitability of interstate
9 30 placements.

9 31 ARTICLE VI == PLACEMENT AUTHORITY

9 32 1. Except as provided in subsection 3, no child subject to
9 33 this compact shall be placed into a receiving state until
9 34 approval for such placement is obtained.

9 35 2. If the public child=placing agency in the receiving
10 1 state does not approve the proposed placement, then the child
10 2 shall not be placed. The receiving state shall provide
10 3 written documentation of any such determination in accordance
10 4 with the rules promulgated by the interstate commission. Such
10 5 determination is not subject to judicial review in the sending
10 6 state.

10 7 3. If the proposed placement is not approved, any
10 8 interested party shall have standing to seek an administrative
10 9 review of the receiving state's determination.

10 10 a. The administrative review and any further judicial
10 11 review associated with the determination shall be conducted in
10 12 the receiving state pursuant to its applicable administrative
10 13 procedures.

10 14 b. If a determination not to approve the placement of the
10 15 child in the receiving state is overturned upon review, the
10 16 placement shall be deemed approved, provided, however that all
10 17 administrative or judicial remedies have been exhausted or the
10 18 time for such remedies has passed.

10 19 ARTICLE VII == STATE RESPONSIBILITY

10 20 1. For the interstate placement of a child made by a
10 21 public child=placing agency or state court:

10 22 a. The public child=placing agency in the sending state
10 23 shall have financial responsibility for both of the following:

10 24 (1) The ongoing support and maintenance for the child
10 25 during the period of the placement, unless otherwise provided
10 26 for in the receiving state.

10 27 (2) As determined by the public child=placing agency in
10 28 the sending state, services for the child beyond the public
10 29 services for which the child is eligible in the receiving
10 30 state.

10 31 b. The receiving state shall only have financial
10 32 responsibility for both of the following:

10 33 (1) Any assessment conducted by the receiving state.

10 34 (2) Supervision conducted by the receiving state at the
10 35 level necessary to support the placement as agreed upon by the
11 1 public child=placing agencies of the receiving and sending
11 2 states.

11 3 c. Nothing in this provision shall prohibit public
11 4 child=placing agencies in the sending state from entering into
11 5 agreements with licensed agencies or persons in the receiving
11 6 state to conduct assessments and provide supervision.

11 7 2. For the placement of a child by a private child=placing
11 8 agency preliminary to a possible adoption, the private
11 9 child=placing agency shall be:

11 10 a. Legally responsible for the child during the period of
11 11 placement as provided for in the law of the sending state
11 12 until the finalization of the adoption.

11 13 b. Financially responsible for the child absent a
11 14 contractual agreement to the contrary.

11 15 3. A private child=placing agency shall be responsible for
11 16 any assessment conducted in the receiving state and any
11 17 supervision conducted by the receiving state at the level
11 18 required by the laws of the receiving state or the rules of
11 19 the interstate commission.

11 20 4. The public child=placing agency in the receiving state
11 21 shall provide timely assessments, as provided for in the rules
11 22 of the interstate commission.

11 23 5. The public child=placing agency in the receiving state
11 24 shall provide, or arrange for the provision of, supervision
11 25 and services for the child, including timely reports, during

11 26 the period of the placement.
11 27 6. Nothing in this compact shall be construed as to limit
11 28 the authority of the public child=placing agency in the
11 29 receiving state from contracting with a licensed agency or
11 30 person in the receiving state for an assessment or the
11 31 provision of supervision or services for the child or
11 32 otherwise authorizing the provision of supervision or services
11 33 by a licensed agency during the period of placement.

11 34 7. Each member state shall provide for coordination among
11 35 its branches of government concerning the state's
12 1 participation in, and compliance with, the compact and
12 2 interstate commission activities through the creation of an
12 3 advisory council or use of an existing body or board.

12 4 8. Each member state shall establish a central state
12 5 compact office, which shall be responsible for state
12 6 compliance with the compact and the rules of the interstate
12 7 commission.

12 8 9. The public child=placing agency in the sending state
12 9 shall oversee compliance with the provisions of the federal
12 10 Indian Child Welfare Act, as codified in 25 U.S.C. } 1901 et
12 11 seq., for placements subject to the provisions of this
12 12 compact, prior to placement.

12 13 10. With the consent of the interstate commission, states
12 14 may enter into limited agreements that facilitate the timely
12 15 assessment and provision of services and supervision of
12 16 placements under this compact.

12 17 ARTICLE VIII == INTERSTATE COMMISSION
12 18 FOR THE PLACEMENT OF CHILDREN

12 19 The member states establish, by way of this compact, a
12 20 commission known as the "Interstate Commission for the
12 21 Placement of Children". The activities of the interstate
12 22 commission are the formation of public policy and are a
12 23 discretionary state function. The interstate commission
12 24 shall:

12 25 1. Be a joint commission of the member states and shall
12 26 have the responsibilities, powers, and duties set forth in
12 27 this article, and such additional powers as may be conferred
12 28 upon it by subsequent concurrent action of the respective
12 29 legislatures of the member states.

12 30 2. Consist of one commissioner from each member state who
12 31 shall be appointed by the executive head of the state human
12 32 services administration with ultimate responsibility for the
12 33 child welfare program. The appointed commissioner shall have
12 34 the legal authority to vote on policy-related matters governed
12 35 by this compact binding the state.

13 1 a. Each member state represented at a meeting of the
13 2 interstate commission is entitled to one vote.

13 3 b. A majority of the member states shall constitute a
13 4 quorum for the transaction of business, unless a larger quorum
13 5 is required by the bylaws of the interstate commission.

13 6 c. A representative shall not delegate a vote to another
13 7 member state.

13 8 d. A representative may delegate voting authority to
13 9 another person from their state for a specified meeting.

13 10 3. In addition to the commissioners of each member state,
13 11 the interstate commission shall include persons who are
13 12 members of interested organizations as defined in the bylaws
13 13 or rules of the interstate commission. Such members shall be
13 14 ex officio and shall not be entitled to vote on any matter
13 15 before the interstate commission.

13 16 4. Establish an executive committee which shall have the
13 17 authority to administer the day=to=day operations and
13 18 administration of the interstate commission. The executive
13 19 committee shall not have the power to engage in rulemaking.

13 20 ARTICLE IX == POWERS AND DUTIES OF THE
13 21 INTERSTATE COMMISSION

13 22 The interstate commission shall have the following powers:

13 23 1. To promulgate rules and take all necessary actions to
13 24 effect the goals, purposes, and obligations as enumerated in
13 25 this compact.

13 26 2. To provide for dispute resolution among member states.

13 27 3. To issue, upon request of a member state, advisory
13 28 opinions concerning the meaning or interpretation of the
13 29 interstate compact, its bylaws, rules, or actions.

13 30 4. To enforce compliance with this compact or the bylaws
13 31 or rules of the interstate commission pursuant to article XII.

13 32 5. Collect standardized data concerning the interstate
13 33 placement of children subject to this compact as directed
13 34 through its rules which shall specify the data to be
13 35 collected, the means of collection, and data exchange and
14 1 reporting requirements.

- 14 2 6. To establish and maintain offices as may be necessary
14 3 for the transacting of its business.
- 14 4 7. To purchase and maintain insurance and bonds.
- 14 5 8. To hire or contract for services of personnel or
14 6 consultants as necessary to carry out its functions under the
14 7 compact, and establish personnel qualification policies and
14 8 rates of compensation.
- 14 9 9. To establish and appoint committees and officers
14 10 including, but not limited to, an executive committee as
14 11 required by article X.
- 14 12 10. To accept any and all donations and grants of money,
14 13 equipment, supplies, materials, and services, and to receive,
14 14 utilize, and dispose of the donations.
- 14 15 11. To lease, purchase, accept contributions or donations
14 16 of, or otherwise to own, hold, improve, or use any property,
14 17 real, personal, or mixed.
- 14 18 12. To sell, convey, mortgage, pledge, lease, exchange,
14 19 abandon, or otherwise dispose of any property, real, personal,
14 20 or mixed.
- 14 21 13. To establish a budget and make expenditures.
- 14 22 14. To adopt a seal and bylaws governing the management
14 23 and operation of the interstate commission.
- 14 24 15. To report annually to the legislatures, governors,
14 25 judiciary, and state advisory councils of the member states
14 26 concerning the activities of the interstate commission during
14 27 the preceding year. Such reports shall also include any
14 28 recommendations that may have been adopted by the interstate
14 29 commission.
- 14 30 16. To coordinate and provide education, training, and
14 31 public awareness regarding the interstate movement of children
14 32 for officials involved in such activity.
- 14 33 17. To maintain books and records in accordance with the
14 34 bylaws of the interstate commission.
- 14 35 18. To perform such functions as may be necessary or
15 1 appropriate to achieve the purposes of this compact.

15 2 ARTICLE X == ORGANIZATION AND OPERATION
15 3 OF THE INTERSTATE COMMISSION

15 4 1. BYLAWS.

- 15 5 a. Within twelve months after the first interstate
15 6 commission meeting, the interstate commission shall adopt
15 7 bylaws to govern its conduct as may be necessary or
15 8 appropriate to carry out the purposes of the compact.
- 15 9 b. The interstate commission's bylaws and rules shall
15 10 establish conditions and procedures under which the interstate
15 11 commission shall make its information and official records
15 12 available to the public for inspection or copying. The
15 13 interstate commission may exempt from disclosure information
15 14 or official records to the extent they would adversely affect
15 15 personal privacy rights or proprietary interests.

15 16 2. MEETINGS.

- 15 17 a. The interstate commission shall meet at least once each
15 18 calendar year. The chairperson may call additional meetings
15 19 and, upon the request of a simple majority of the member
15 20 states, shall call additional meetings.
- 15 21 b. Public notice shall be given by the interstate
15 22 commission of all meetings and all meetings shall be open to
15 23 the public, except as set forth in the rules or as otherwise
15 24 provided in the compact. The interstate commission and its
15 25 committees may close a meeting, or portion of a meeting, where
15 26 it determines by two-thirds vote that an open meeting would be
15 27 likely to do any of the following:
- 15 28 (1) Relate solely to the interstate commission's internal
15 29 personnel practices and procedures.
- 15 30 (2) Disclose matters specifically exempted from disclosure
15 31 by federal law.
- 15 32 (3) Disclose financial or commercial information which is
15 33 privileged, proprietary, or confidential in nature.
- 15 34 (4) Involve accusing a person of a crime, or formally
15 35 censuring a person.
- 16 1 (5) Disclose information of a personal nature where
16 2 disclosure would constitute a clearly unwarranted invasion of
16 3 personal privacy or physically endanger one or more persons.
- 16 4 (6) Disclose investigative records compiled for law
16 5 enforcement purposes.
- 16 6 (7) Specifically relate to the interstate commission's
16 7 participation in a civil action or other legal proceeding.
- 16 8 c. For a meeting, or portion of a meeting, closed pursuant
16 9 to this subsection, the interstate commission's legal counsel
16 10 or designee shall certify that the meeting may be closed and
16 11 shall reference each relevant exemption provision. The
16 12 interstate commission shall keep minutes which shall fully and

16 13 clearly describe all matters discussed in a meeting and shall
16 14 provide a full and accurate summary of actions taken, and the
16 15 reasons for the actions, including a description of the views
16 16 expressed and the record of a roll call vote. All documents
16 17 considered in connection with an action shall be identified in
16 18 such minutes. All minutes and documents of a closed meeting
16 19 shall remain under seal, subject to release by a majority vote
16 20 of the interstate commission or by court order.

16 21 d. The bylaws may provide for meetings of the interstate
16 22 commission to be conducted by telecommunication or other
16 23 electronic communication.

16 24 3. OFFICERS AND STAFF.

16 25 a. The interstate commission may, through its executive
16 26 committee, appoint or retain a staff director for such period,
16 27 upon such terms and conditions and for such compensation as
16 28 the interstate commission may deem appropriate. The staff
16 29 director shall serve as secretary to the interstate
16 30 commission, but shall not have a vote. The staff director may
16 31 hire and supervise such other staff as may be authorized by
16 32 the interstate commission.

16 33 b. The interstate commission shall elect, from among its
16 34 members, a chairperson and a vice chairperson of the executive
16 35 committee and other necessary officers, each of whom shall
17 1 have such authority and duties as may be specified in the
17 2 bylaws.

17 3 4. QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION.

17 4 a. The interstate commission's staff director and its
17 5 employees shall be immune from suit and liability, either
17 6 personally or in their official capacity, for a claim for
17 7 damage to or loss of property or personal injury or other
17 8 civil liability caused or arising out of or relating to an
17 9 actual or alleged act, error, or omission that occurred, or
17 10 that such person had a reasonable basis for believing
17 11 occurred, within the scope of interstate commission
17 12 employment, duties, or responsibilities; provided, that such
17 13 person shall not be protected from suit or liability for
17 14 damage, loss, injury, or liability caused by a criminal act or
17 15 the intentional or willful and wanton misconduct of such
17 16 person.

17 17 b. The liability of the interstate commission's staff
17 18 director and employees or interstate commission
17 19 representatives, acting within the scope of such person's
17 20 employment or duties for acts, errors, or omissions occurring
17 21 within such person's state may not exceed the limits of
17 22 liability set forth under the constitution and laws of that
17 23 state for state officials, employees, and agents. The
17 24 interstate commission is considered to be an instrumentality
17 25 of the states for the purposes of any such action. Nothing in
17 26 this paragraph shall be construed to protect such person from
17 27 suit or liability for damage, loss, injury, or liability
17 28 caused by a criminal act or the intentional or willful and
17 29 wanton misconduct of such person.

17 30 c. The interstate commission shall defend the staff
17 31 director and its employees and, subject to the approval of the
17 32 attorney general or other appropriate legal counsel of the
17 33 member state, shall defend the commissioner of a member state
17 34 in a civil action seeking to impose liability arising out of
17 35 an actual or alleged act, error, or omission that occurred
18 1 within the scope of interstate commission employment, duties,
18 2 or responsibilities, or that the defendant had a reasonable
18 3 basis for believing occurred within the scope of interstate
18 4 commission employment, duties, or responsibilities, provided
18 5 that the actual or alleged act, error, or omission did not
18 6 result from intentional or willful and wanton misconduct on
18 7 the part of such person.

18 8 d. To the extent not covered by the state involved, member
18 9 state, or the interstate commission, the representatives or
18 10 employees of the interstate commission shall be held harmless
18 11 in the amount of a settlement or judgment, including
18 12 attorney's fees and costs, obtained against such persons
18 13 arising out of an actual or alleged act, error, or omission
18 14 that occurred within the scope of interstate commission
18 15 employment, duties, or responsibilities, or that such persons
18 16 had a reasonable basis for believing occurred within the scope
18 17 of interstate commission employment, duties, or
18 18 responsibilities, provided that the actual or alleged act,
18 19 error, or omission did not result from intentional or willful
18 20 and wanton misconduct on the part of such persons.

18 21 ARTICLE XI == RULEMAKING FUNCTIONS OF THE
18 22 INTERSTATE COMMISSION

18 23 1. The interstate commission shall promulgate and publish

18 24 rules in order to effectively and efficiently achieve the
18 25 purposes of the compact.

18 26 2. Rulemaking shall occur pursuant to the criteria set
18 27 forth in this article and the bylaws and rules adopted
18 28 pursuant to the criteria. Such rulemaking shall substantially
18 29 conform to the principles of the "Model State Administrative
18 30 Procedures Act," 1981 Act, uniform laws annotated, vol. 15,
18 31 p.1 (2000), or such other administrative procedure acts as the
18 32 interstate commission deems appropriate consistent with due
18 33 process requirements under the United States Constitution as
18 34 now or hereafter interpreted by the United States supreme
18 35 court. All rules and amendments shall become binding as of
19 1 the date specified, as published with the final version of the
19 2 rule as approved by the interstate commission.

19 3 3. When promulgating a rule, the interstate commission
19 4 shall, at a minimum, do all of the following:

19 5 a. Publish the proposed rule's entire text stating the
19 6 reason(s) for that proposed rule.

19 7 b. Allow and invite any and all persons to submit written
19 8 data, facts, opinions, and arguments, which information shall
19 9 be added to the record, and be made publicly available.

19 10 c. Promulgate a final rule and its effective date, if
19 11 appropriate, based on input from state or local officials, or
19 12 interested parties.

19 13 4. Rules promulgated by the interstate commission shall
19 14 have the force and effect of statutory law and shall supersede
19 15 any state law, rule, or regulation to the extent of any
19 16 conflict.

19 17 5. Not later than sixty days after a rule is promulgated,
19 18 an interested person may file a petition in the United States
19 19 district court for the District of Columbia or in the United
19 20 States district court where the interstate commission's
19 21 principal office is located for judicial review of such rule.
19 22 If the court finds that the interstate commission's action is
19 23 not supported by substantial evidence in the rulemaking
19 24 record, the court shall hold the rule unlawful and set it
19 25 aside.

19 26 6. If a majority of the legislatures of the member states
19 27 rejects a rule, those states may by enactment of a statute or
19 28 resolution in the same manner used to adopt the compact cause
19 29 that such rule shall have no further force and effect in any
19 30 member state.

19 31 7. The existing rules governing the operation of the
19 32 interstate compact on the placement of children superseded by
19 33 this act shall be null and void no less than twelve, but no
19 34 more than twenty-four, months after the first meeting of the
19 35 interstate commission created pursuant to this compact, as
20 1 determined by the members during the first meeting.

20 2 8. Within the first twelve months of operation, the
20 3 interstate commission shall promulgate rules addressing the
20 4 following:

20 5 a. Transition rules.

20 6 b. Forms and procedures.

20 7 c. Timelines.

20 8 d. Data collection and reporting.

20 9 e. Rulemaking.

20 10 f. Visitation.

20 11 g. Progress reports and supervision.

20 12 h. Sharing of information and confidentiality.

20 13 i. Financing of the interstate commission.

20 14 j. Mediation, arbitration, and dispute resolution.

20 15 k. Education, training, and technical assistance.

20 16 l. Enforcement.

20 17 m. Coordination with other interstate compacts.

20 18 9. Upon determination by a majority of the members of the
20 19 interstate commission that an emergency exists:

20 20 a. The interstate commission may promulgate an emergency
20 21 rule only if it is required to accomplish any of the
20 22 following:

20 23 (1) Protect the children covered by this compact from an
20 24 imminent threat to the children's health, safety, and
20 25 well-being.

20 26 (2) Prevent loss of federal or state funds.

20 27 (3) Meet a deadline for the promulgation of an
20 28 administrative rule required by federal law.

20 29 b. An emergency rule shall become effective immediately
20 30 upon adoption, provided that the usual rulemaking procedures
20 31 provided in this compact shall be retroactively applied to the
20 32 rule as soon as reasonably possible, but no later than ninety
20 33 days after the effective date of the emergency rule.

20 34 c. An emergency rule shall be promulgated as provided for

20 35 in the rules of the interstate commission.
21 1 ARTICLE XII == OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT
21 2 1. OVERSIGHT.
21 3 a. The interstate commission shall oversee the
21 4 administration and operation of the compact.
21 5 b. The executive, legislative, and judicial branches of
21 6 state government in each member state shall enforce this
21 7 compact and the rules of the interstate commission and shall
21 8 take all actions necessary and appropriate to effectuate the
21 9 compact's purposes and intent. The compact and its rules
21 10 shall supersede state law, rules, or regulations to the extent
21 11 of any conflict with the state law, rules, or regulations.
21 12 c. All courts shall take judicial notice of the compact
21 13 and the rules in any judicial or administrative proceeding in
21 14 a member state pertaining to the subject matter of this
21 15 compact.
21 16 d. The interstate commission shall be entitled to receive
21 17 service of process in any action in which the validity of a
21 18 compact provision or rule is the issue for which a judicial
21 19 determination has been sought and shall have standing to
21 20 intervene in any proceedings. Failure to provide service of
21 21 process to the interstate commission shall render any
21 22 judgment, order, or other determination, however so captioned
21 23 or classified, void as to the interstate commission, this
21 24 compact, its bylaws, or rules of the interstate commission.
21 25 2. DISPUTE RESOLUTION.
21 26 a. The interstate commission shall attempt, upon the
21 27 request of a member state, to resolve disputes which are
21 28 subject to the compact and which may arise among member states
21 29 and between member and nonmember states.
21 30 b. The interstate commission shall promulgate a rule
21 31 providing for both mediation and binding dispute resolution
21 32 for disputes among compacting states. The costs of such
21 33 mediation or dispute resolution shall be the responsibility of
21 34 the parties to the dispute.
21 35 3. ENFORCEMENT. If the interstate commission determines
22 1 that a member state has defaulted in the performance of its
22 2 obligations or responsibilities under this compact, or its
22 3 bylaws or rules, the interstate commission may do any of the
22 4 following:
22 5 a. Provide remedial training and specific technical
22 6 assistance.
22 7 b. Provide written notice to the defaulting state and
22 8 other member states of the nature of the default and the means
22 9 of curing the default. The interstate commission shall
22 10 specify the conditions by which the defaulting state must cure
22 11 its default.
22 12 c. By majority vote of the members, initiate against a
22 13 defaulting member state legal action in the United States
22 14 district court for the District of Columbia or, at the
22 15 discretion of the interstate commission, in the United States
22 16 district where the interstate commission has its principal
22 17 office, to enforce compliance with the provisions of the
22 18 compact, its bylaws, or rules. The relief sought may include
22 19 both injunctive relief and damages. In the event judicial
22 20 enforcement is necessary the prevailing party shall be awarded
22 21 all costs of such litigation including reasonable attorney's
22 22 fees.
22 23 d. Avail itself of any other remedies available under
22 24 state law or the regulation of official or professional
22 25 conduct.
22 26 ARTICLE XIII == FINANCING OF THE COMMISSION
22 27 1. The interstate commission shall pay or provide for the
22 28 payment of the reasonable expenses of its establishment,
22 29 organization, and ongoing activities.
22 30 2. The interstate commission may levy on and collect an
22 31 annual assessment from each member state to cover the cost of
22 32 the operations and activities of the interstate commission and
22 33 its staff which must be in a total amount sufficient to cover
22 34 the interstate commission's annual budget as approved by its
22 35 members each year. The aggregate annual assessment amount
23 1 shall be allocated based upon a formula to be determined by
23 2 the interstate commission which shall promulgate a rule
23 3 binding upon all member states.
23 4 3. The interstate commission shall not incur obligations
23 5 of any kind prior to securing the funds adequate to meet the
23 6 same; nor shall the interstate commission pledge the credit of
23 7 any of the member states, except by and with the authority of
23 8 the member state.
23 9 4. The interstate commission shall keep accurate accounts
23 10 of all receipts and disbursements. The receipts and

23 11 disbursements of the interstate commission shall be subject to
23 12 the audit and accounting procedures established under its
23 13 bylaws. However, all receipts and disbursements of funds
23 14 handled by the interstate commission shall be audited yearly
23 15 by a certified or licensed public accountant and the report of
23 16 the audit shall be included in and become part of the annual
23 17 report of the interstate commission.

23 18 ARTICLE XIV == MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

23 19 1. Any state is eligible to become a member state.

23 20 2. The compact shall become effective and binding upon
23 21 legislative enactment of the compact into law by no less than
23 22 thirty-five states. The effective date shall be the later of
23 23 July 1, 2007, or upon enactment of the compact into law by the
23 24 thirty-fifth state. Thereafter it shall become effective and
23 25 binding as to any other member state upon enactment of the
23 26 compact into law by that state. The executive heads of the
23 27 state human services administration with ultimate
23 28 responsibility for the child welfare program of nonmember
23 29 states or their designees shall be invited to participate in
23 30 the activities of the interstate commission on a nonvoting
23 31 basis prior to adoption of the compact by all states.

23 32 3. The interstate commission may propose amendments to the
23 33 compact for enactment by the member states. No amendment
23 34 shall become effective and binding on the member states unless
23 35 and until it is enacted into law by unanimous consent of the
24 1 member states.

24 2 ARTICLE XV == WITHDRAWAL AND DISSOLUTION

24 3 1. WITHDRAWAL.

24 4 a. Once effective, the compact shall continue in force and
24 5 remain binding upon each and every member state, provided that
24 6 a member state may withdraw from the compact by specifically
24 7 repealing the statute which enacted the compact into law.

24 8 b. Withdrawal from this compact shall be by the enactment
24 9 of a statute repealing the same. The effective date of
24 10 withdrawal shall be the effective date of the repeal of the
24 11 statute.

24 12 c. The withdrawing state shall immediately notify the
24 13 president of the interstate commission in writing upon the
24 14 introduction of legislation repealing this compact in the
24 15 withdrawing state. The interstate commission shall then
24 16 notify the other member states of the withdrawing state's
24 17 intent to withdraw.

24 18 d. The withdrawing state is responsible for all
24 19 assessments, obligations, and liabilities incurred through the
24 20 effective date of withdrawal.

24 21 e. Reinstatement following withdrawal of a member state
24 22 shall occur upon the withdrawing state reenacting the compact
24 23 or upon such later date as determined by the members of the
24 24 interstate commission.

24 25 2. DISSOLUTION OF COMPACT.

24 26 a. This compact shall dissolve effective upon the date of
24 27 the withdrawal or default of the member state which reduces
24 28 the membership in the compact to one member state.

24 29 b. Upon the dissolution of this compact, the compact
24 30 becomes null and void and shall be of no further force or
24 31 effect, and the business and affairs of the interstate
24 32 commission shall be concluded and surplus funds shall be
24 33 distributed in accordance with the bylaws.

24 34 ARTICLE XVI == SEVERABILITY AND CONSTRUCTION

24 35 1. The provisions of this compact shall be severable, and
25 1 if any phrase, clause, sentence, or provision is deemed
25 2 unenforceable, the remaining provisions of the compact shall
25 3 be enforceable.

25 4 2. The provisions of this compact shall be liberally
25 5 construed to effectuate its purposes.

25 6 3. Nothing in this compact shall be construed to prohibit
25 7 the concurrent applicability of other interstate compacts to
25 8 which the states are members.

25 9 ARTICLE XVII == BINDING EFFECT OF COMPACT AND OTHER LAWS

25 10 1. OTHER LAWS.

25 11 a. Nothing in this compact prevents the enforcement of any
25 12 other law of a member state that is not inconsistent with this
25 13 compact.

25 14 b. All member states' laws conflicting with this compact
25 15 or its rules are superseded to the extent of the conflict.

25 16 2. BINDING EFFECT OF THE COMPACT.

25 17 a. All lawful actions of the interstate commission,
25 18 including all rules and bylaws promulgated by the interstate
25 19 commission, are binding upon the member states.

25 20 b. All agreements between the interstate commission and
25 21 the member states are binding in accordance with their terms.

25 22 c. In the event any provision of this compact exceeds the
25 23 constitutional limits imposed on the legislature of any member
25 24 state, such provision shall be ineffective to the extent of
25 25 the conflict with the constitutional provision in question in
25 26 that member state.

25 27 ARTICLE XVIII == INDIAN TRIBES

25 28 Notwithstanding any other provision in this compact, the
25 29 interstate commission may promulgate guidelines to permit
25 30 Indian tribes to utilize the compact to achieve any or all of
25 31 the purposes of the compact as specified in article I. The
25 32 interstate commission shall make reasonable efforts to consult
25 33 with Indian tribes in promulgating guidelines to reflect the
25 34 diverse circumstances of the various Indian tribes.

25 35 DIVISION II

26 1 CONFORMING AMENDMENTS

26 2 Sec. 2. Section 232.158A, subsection 1, unnumbered
26 3 paragraph 1, Code 2007, is amended to read as follows:

26 4 Notwithstanding any provision of the interstate compact ~~on~~
26 5 for the placement of children in section 232.169 to the
26 6 contrary, the department of human services shall permit the
26 7 legal risk placement of a child under the interstate compact
26 8 ~~on for~~ the placement of children if the prospective adoptive
26 9 parent provides a legal risk statement, in writing,
26 10 acknowledging all of the following:

26 11 Sec. 3. Section 232.159, Code 2007, is amended to read as
26 12 follows:

26 13 232.159 FINANCIAL RESPONSIBILITY.

26 14 Financial responsibility for any child placed pursuant to
26 15 the provisions of the interstate compact ~~on for~~ the placement
26 16 of children in section 232.169 shall be determined in
26 17 accordance with the provisions of article ~~V thereof~~ VII of the
26 18 compact in the first instance. However, in the event of
26 19 partial or complete default of performance ~~thereunder~~ under
26 20 the compact, the provisions of chapters 252 and 252A, fixing
26 21 responsibility for the support of children, also may be
26 22 invoked.

26 23 Sec. 4. Section 232.160, Code 2007, is amended to read as
26 24 follows:

26 25 232.160 DEPARTMENT OF HUMAN SERVICES AS PUBLIC AUTHORITY
26 26 CHILD-PLACING AGENCY.

26 27 The ~~term "appropriate public authorities"~~ "public
26 28 child-placing agency" as ~~used~~ defined in article ~~III~~ II of the
26 29 interstate compact ~~on for~~ the placement of children in section
26 30 232.169 shall, with reference to this state, mean the state
26 31 department of human services and ~~said the~~ department shall
26 32 ~~receive and act with reference to notices~~ fulfill the duties
26 33 of the public child-placing agency for this state as required
26 34 by said article III the compact.

26 35 Sec. 5. Section 232.162, Code 2007, is amended to read as
27 1 follows:

27 2 232.162 AUTHORITY TO ENTER AGREEMENTS.

27 3 The officers and agencies of this state and its political
27 4 subdivisions having authority to place children may enter into
27 5 agreements with appropriate officers or agencies of or in
27 6 other party states pursuant to ~~paragraph "b" of~~ article ~~V~~ VII
27 7 of the interstate compact ~~on for~~ the placement of children in
27 8 section 232.169. Any such agreement which contains a
27 9 financial commitment or imposes a financial obligation on this
27 10 state or a political subdivision or agency of this state shall
27 11 not be binding unless it has the approval in writing of the
27 12 administrator of child and family services in the case of the
27 13 state and the county general assistance director in the case
27 14 of a political subdivision of the state.

27 15 Sec. 6. Section 232.163, Code 2007, is amended to read as
27 16 follows:

27 17 232.163 VISITATION, INSPECTION, OR SUPERVISION.

27 18 1. Any requirements for visitation, inspection, or
27 19 supervision of children, homes, institutions, or other
27 20 agencies in another party state which may apply under the
27 21 provisions of this chapter shall be deemed to be met if
27 22 performed pursuant to an agreement entered into by appropriate
27 23 officers or agencies of this state or a political subdivision
27 24 of this state as contemplated by ~~paragraph "b" of~~ article ~~V~~
27 25 VII of the interstate compact ~~on for~~ the placement of children
27 26 in section 232.169.

27 27 2. If a child is placed outside the residency state of the
27 28 child's parent, the sending child-placing agency shall provide
27 29 for a designee to visit the child at least once every ~~twelve~~
27 30 six months and to submit a written report to the court
27 31 concerning the child and the visit.

27 32 Sec. 7. Section 232.164, Code 2007, is amended to read as

27 33 follows:

27 34 232.164 COURT AUTHORITY TO PLACE CHILD IN ANOTHER STATE.

27 35 Any court having jurisdiction to place delinquent children
28 1 may place such a child in an institution of or in another
28 2 state pursuant to article ~~V~~ VII of the interstate compact ~~on~~
28 3 for the placement of children in section 232.169 and shall
28 4 retain jurisdiction as provided in article ~~V thereof~~ IV of the
28 5 compact.

28 6 Sec. 8. Section 232.166, Code 2007, is amended to read as
28 7 follows:

28 8 232.166 STATUTES NOT AFFECTED.

28 9 Nothing contained in ~~sections 232.158 to 232.165 the~~
28 10 interstate compact for the placement of children in section
28 11 232.169 or any other section of this division shall be deemed
28 12 to affect or modify the other provisions of this chapter or of
28 13 chapter 600.

28 14 Sec. 9. Section 232.167, Code 2007, is amended to read as
28 15 follows:

28 16 232.167 PENALTY.

28 17 A person or agency which violates or aids and abets in the
28 18 violation of any of the provisions of ~~sections 232.158 through~~
28 19 232.166 this division commits a fraudulent practice.

28 20 Sec. 10. Section 232.168, Code 2007, is amended to read as
28 21 follows:

28 22 232.168 ATTORNEY GENERAL TO ENFORCE.

28 23 The attorney general may, on the attorney general's own
28 24 initiative, institute any criminal and civil actions and
28 25 proceedings under the interstate compact for the placement of
28 26 children in section 232.169 or any other section of this
28 27 division, at whatever stage of placement necessary, to enforce
28 28 the interstate compact on the placement of children,
28 29 including, but not limited to, seeking enforcement of the
28 30 provisions of the compact through the courts of a party state.
28 31 The department of human services shall cooperate with the
28 32 attorney general and shall refer any placement or proposed
28 33 placement to the attorney general which may require
28 34 enforcement measures.

28 35 Sec. 11. Section 600.8, subsection 10, Code 2007, is
29 1 amended to read as follows:

29 2 10. The department or an agency or investigator may
29 3 conduct any investigations required for an interstate or
29 4 interagency placement. Any interstate investigations or
29 5 placements shall follow the procedures and regulations under
29 6 the interstate compact ~~on~~ for the placement of children in
29 7 section 232.169. Such investigations and placements shall be
29 8 in compliance with the laws of the states involved.

29 9 Sec. 12. Sections 232.158, 232.161, and 232.165, Code
29 10 2007, are repealed.

29 11 DIVISION III

29 12 CONTINGENT EFFECTIVE DATE

29 13 Sec. 13. EFFECTIVE DATE == PREVIOUS COMPACT.

29 14 1. This Act takes effect upon the date specified under the
29 15 conditions provided in section 232.169, article XIV,
29 16 subsection 2, as enacted by this Act, and upon the Code
29 17 editor's receipt of written notice provided by the department
29 18 of human services that the conditions have been met.

29 19 2. The rights, duties, and obligations under the
29 20 interstate compact on the interstate placement of children
29 21 under section 232.158, as repealed by this Act, of any sending
29 22 agency under the compact with respect to a placement made
29 23 prior to the effective date of this Act shall remain in effect
29 24 unless expired or otherwise modified in accordance with the
29 25 terms of the rights, duties, and obligations, as provided in
29 26 the compact.

29 27 EXPLANATION

29 28 This bill replaces the interstate compact on the interstate
29 29 placement of children with the interstate compact for the
29 30 interstate placement of children in Code chapter 232. The
29 31 bill is organized into divisions.

29 32 REPLACEMENT COMPACT. An interstate compact is an agreement
29 33 between two or more states that binds the states to the
29 34 compact's provisions, similar to a contract. A compact is
29 35 enacted as law in each state in substantially the same form.
30 1 The terms of the compact are binding, even if the terms are
30 2 inconsistent with other state laws. Iowa entered into the
30 3 current interstate compact on the interstate placement of
30 4 children in 1967.

30 5 The current compact provides a legal and administrative
30 6 means to permit child placement activities to be pursued
30 7 throughout the nation in much the same way, and with the same
30 8 safeguards and services, as though they were being conducted

30 9 in a single state. The compact requires notice and proof of
30 10 the suitability of a placement before it is made, allocates
30 11 specific legal and administrative responsibilities during the
30 12 continuance of an interstate placement, provides a basis for
30 13 enforcement of rights, and authorizes joint actions in all
30 14 party states to improve operations and services. Iowa's
30 15 current compact on interstate placement of children is
30 16 codified in Code section 232.158.

30 17 The bill replaces the current compact with the interstate
30 18 compact for the placement of children in new Code section
30 19 232.169. The new compact is organized into articles
30 20 addressing the purpose; definitions; applicability; court
30 21 jurisdiction; assessment of the child; placement authority;
30 22 creation of the interstate commission for the placement of
30 23 children to administer the compact; powers and duties of the
30 24 interstate commission; organization and operation of the
30 25 interstate commission; rulemaking functions of the interstate
30 26 commission; oversight, dispute resolution, and enforcement;
30 27 commission financing; member states, effective date, and
30 28 amendment; withdrawal and dissolution; severability and
30 29 construction; binding effect of the compact and other laws;
30 30 and Indian tribes.

30 31 The terms of the compact provide the compact becomes
30 32 initially effective and binding upon enactment of the compact
30 33 into law by at least 35 states. Additional requirements are
30 34 included in the effective date division of the bill.

30 35 CONFORMING AMENDMENTS. This division makes conforming
31 1 amendments to various Code provisions that reference the
31 2 existing compact. Most of the provisions amended are included
31 3 in Code chapter 232, division IX, which relates to the current
31 4 compact. The conforming amendments apply existing Iowa-only
31 5 requirements of the current compact to the new compact in Code
31 6 section 232.158A, relating to legal risk placements of
31 7 children, Code section 232.159, relating to financial
31 8 responsibility for the cost of a placement, Code section
31 9 232.162, relating to the authority of state and county
31 10 officers to enter into agreements, Code section 232.164,
31 11 relating to court authority to place a child in another state,
31 12 and Code section 232.166, relating to the effect of the
31 13 compact on other statutes.

31 14 Code section 232.160, relating to designation of Iowa's
31 15 department of human services as the public authority under the
31 16 current compact, is amended to define the department as the
31 17 "public child-placing agency" under the new compact.

31 18 Code section 232.163, relating to visitation, inspection,
31 19 or supervision of children or placement providers, is amended
31 20 to apply terminology changes for the new compact and to
31 21 require a visit to a child placed out-of-state at least every
31 22 six months rather than the current 12 months.

31 23 Code section 232.167, which provides a fraudulent practice
31 24 penalty to a person or agency which violates or aids and abets
31 25 in the violation of any of the provisions of Code chapter 232,
31 26 division IX, is also amended to apply to the new compact. The
31 27 fraudulent practice penalties vary according to the monetary
31 28 value of the property or services involved in the crime,
31 29 ranging from a simple misdemeanor when the value is \$200 or
31 30 less to a class "C" felony when the value exceeds \$10,000.

31 31 Code section 232.168, which authorizes the attorney general
31 32 to institute actions to enforce the current compact, is
31 33 amended to instead refer to the new compact.

31 34 Code sections 232.158, 232.161, and 232.165 are repealed.

31 35 Code section 232.158 is the current compact. Code sections
32 1 232.161 and 232.165 relate to terms used in the current
32 2 compact that would no longer apply under the new compact.

32 3 EFFECTIVE DATE. This division provides that the bill takes
32 4 effect upon the contingent effective date contained in the
32 5 compact, that is, when the compact is enacted by at least 35
32 6 states and the department of human services provides written
32 7 notification to the Code editor.

32 8 The bill also provides that the rights, duties, and
32 9 obligations under the current compact of any sending agency
32 10 under the compact with respect to a placement made prior to
32 11 the effective date of the bill remain in effect unless expired
32 12 or otherwise modified in accordance with the terms of the
32 13 rights, duties, and obligations, as provided in the compact.

32 14 LSB 1244SV 82

32 15 jp:nh/je/5