

Senate Bill 483

By: Senators Hatchett of the 50th, Kirkpatrick of the 32nd and Tillery of the 19th

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 39 of the Official Code of Georgia Annotated, relating to minors, so as to
2 enter into the Interstate Compact for the Placement of Children; to provide for a short title;
3 to provide for definitions; to provide for the provisions of the compact; to provide for the
4 present compact to remain in effect until the effective date of the new compact and to provide
5 for automatic repeal; to amend the Official Code of Georgia Annotated so as to provide for
6 conforming changes; to provide for related matters; to provide for an effective date and
7 contingent effectiveness; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 39 of the Official Code of Georgia Annotated, relating to minors, is amended by adding
11 a new chapter to read as follows:

S. B. 483

- 1 -

12 "CHAPTER 4A13 39-4A-1.14 This chapter shall be known and may be cited as the 'Interstate Compact for the Placement
15 of Children Act.'16 39-4A-2.17 As used in Article III of the Interstate Compact for the Placement of Children contained
18 in Code Section 39-4A-7, the term 'deprived' means, with reference to this state, the same
19 as the term 'dependent child' as defined in Code Section 15-11-2.20 39-4A-3.21 As defined in Article II of the Interstate Compact for the Placement of Children contained
22 in Code Section 39-4A-7, the phrase 'non-relative with such significant ties to the child that
23 they may be regarded as relatives' means, with reference to this state, the same as the term
24 'fictive kin' as defined in Code Section 15-11-2.25 39-4A-4.26 As defined in Article II of the Interstate Compact for the Placement of Children contained
27 in Code Section 39-4A-7, the term 'public child placing agency' means, with reference to
28 this state, the Department of Human Services.29 39-4A-5.30 As used in Article VIII of the Interstate Compact for the Placement of Children contained
31 in Code Section 39-4A-7, the term 'state human services administration' means, with
32 reference to this state, the Department of Human Services.

33 39-4A-6.

34 As used in Article III of the Interstate Compact for the Placement of Children contained
35 in Code Section 39-4A-7, the term 'unmanageable' means, with reference to this state, the
36 same as the term 'child in need of services' as defined in Code Section 15-11-2.

37 39-4A-7.

38 The Interstate Compact for the Placement of Children is enacted into law and entered into
39 with all other jurisdictions legally joining therein in the form substantially as follows:

40 'ARTICLE 1. PURPOSE.

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

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

44 (b) Facilitate ongoing supervision of a placement, the delivery of services, and
45 communication between the states.

46 (c) Provide operating procedures that will ensure that children are placed in safe and
47 suitable homes in a timely manner.

48 (d) Provide for the promulgation and enforcement of administrative rules implementing
49 the provisions of this compact and regulating the covered activities of the member states.

50 (e) Provide for uniform data collection and information sharing between member states
51 under this compact.

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

55 (g) Provide for a state's continuing legal jurisdiction and responsibility for placement and
56 care of a child that it would have had if the placement were intrastate.

57 (h) Provide for the promulgation of guidelines, in collaboration with Indian tribes, for
58 interstate cases involving Indian children as is or may be permitted by federal law.

59 ARTICLE II. DEFINITIONS.

60 As used in this compact,

61 (a) 'Approved placement' means the public child placing agency in the receiving state has
62 determined that the placement is both safe and suitable for the child.

63 (b) 'Assessment' means an evaluation of a prospective placement by a public child placing
64 agency in the receiving state to determine if the placement meets the individualized needs
65 of the child, including but not limited to the child's safety and stability, health and
66 well-being, and mental, emotional, and physical development. An assessment is only
67 applicable to a placement by a public child placing agency.

68 (c) 'Child' means an individual who has not attained the age of eighteen (18).

69 (d) 'Certification' means to attest, declare or swear to before a judge or notary public.

70 (e) 'Default' means the failure of a member state to perform the obligations or
71 responsibilities imposed upon it by this compact, the bylaws or rules of the Interstate
72 Commission.

73 (f) 'Home Study' means an evaluation of a home environment conducted in accordance
74 with the applicable requirements of the state in which the home is located, and documents
75 the preparation and the suitability of the placement resource for placement of a child in
76 accordance with the laws and requirements of the state in which the home is located.

77 (g) 'Indian tribe' means any Indian tribe, band, nation, or other organized group or
78 community of Indians recognized as eligible for services provided to Indians by the
79 Secretary of the Interior because of their status as Indians, including any Alaskan native
80 village as defined in section 3 (c) of the Alaska Native Claims settlement Act at 43
81 USC §1602(c).

- 82 (h) 'Interstate Commission for the Placement of Children' means the commission that is
83 created under Article VIII of this compact and which is generally referred to as the
84 Interstate Commission.
- 85 (i) 'Jurisdiction' means the power and authority of a court to hear and decide matters.
- 86 (j) 'Legal Risk Placement' ('Legal Risk Adoption') means a placement made preliminary
87 to an adoption where the prospective adoptive parents acknowledge in writing that a child
88 can be ordered returned to the sending state or the birth mother's state of residence, if
89 different from the sending state, and a final decree of adoption shall not be entered in any
90 jurisdiction until all required consents are obtained or are dispensed with in accordance
91 with applicable law.
- 92 (k) 'Member state' means a state that has enacted this compact.
- 93 (l) 'Non-custodial parent' means a person who, at the time of the commencement of court
94 proceedings in the sending state, does not have sole legal custody of the child or has joint
95 legal custody of a child, and who is not the subject of allegations or findings of child abuse
96 or neglect.
- 97 (m) 'Non-member state' means a state which has not enacted this compact.
- 98 (n) 'Notice of residential placement' means information regarding a placement into a
99 residential facility provided to the receiving state including, but not limited to the name,
100 date and place of birth of the child, the identity and address of the parent or legal guardian,
101 evidence of authority to make the placement, and the name and address of the facility in
102 which the child will be placed. Notice of residential placement shall also include
103 information regarding a discharge and any unauthorized absence from the facility.
- 104 (o) 'Placement' means the act by a public or private child placing agency intended to
105 arrange for the care or custody of a child in another state.
- 106 (p) 'Private child placing agency' means any private corporation, agency, foundation,
107 institution, or charitable organization, or any private person or attorney that facilitates,

108 causes, or is involved in the placement of a child from one state to another and that is not
109 an instrumentality of the state or acting under color of state law.

110 (q) 'Provisional placement' means a determination made by the public child placing agency
111 in the receiving state that the proposed placement is safe and suitable, and, to the extent
112 allowable, the receiving state has temporarily waived its standards or requirements
113 otherwise applicable to prospective foster or adoptive parents so as to not delay the
114 placement. Completion of the receiving state requirements regarding training for
115 prospective foster or adoptive parents shall not delay an otherwise safe and suitable
116 placement.

117 (r) 'Public child placing agency' means any government child welfare agency or child
118 protection agency or a private entity under contract with such an agency, regardless of
119 whether they act on behalf of a state, county, municipality or other governmental unit and
120 which facilitates, causes, or is involved in the placement of a child from one state to
121 another.

122 (s) 'Receiving state' means the state to which a child is sent, brought, or caused to be sent
123 or brought.

124 (t) 'Relative' means someone who is related to the child as a parent, stepparent, sibling by
125 half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin or a
126 non-relative with such significant ties to the child that they may be regarded as relatives
127 as determined by the court in the sending state.

128 (u) 'Residential Facility' means a facility providing a level of care that is sufficient to
129 substitute for parental responsibility or foster care, and is beyond what is needed for
130 assessment or treatment of an acute condition. For purposes of the compact, residential
131 facilities do not include institutions primarily educational in character, hospitals or other
132 medical facilities.

133 (v) 'Rule' means a written directive, mandate, standard or principle issued by the Interstate
134 Commission promulgated pursuant to Article XI of this compact that is of general

135 applicability and that implements, interprets or prescribes a policy or provision of the
136 compact. 'Rule' has the force and effect of an administrative rule in a member state, and
137 includes the amendment, repeal, or suspension of an existing rule.

138 (w) 'Sending state' means the state from which the placement of a child is initiated.

139 (x) 'Service member's permanent duty station' means the military installation where an
140 active duty Armed Services member is currently assigned and is physically located under
141 competent orders that do not specify the duty as temporary.

142 (y) 'Service member's state of legal residence' means the state in which the active duty
143 Armed Services member is considered a resident for tax and voting purposes.

144 (z) 'State' means a state of the United States, the District of Columbia, the Commonwealth
145 of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas
146 Islands and any other territory of the United States.

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

150 (bb) 'Supervision' means monitoring provided by the receiving state once a child has been
151 placed in a receiving state pursuant to this compact.

152 ARTICLE III. APPLICABILITY.

153 (a) Except as otherwise provided in Article III, subsection (b), this compact shall apply to:

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

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

162 (A) the child is being placed in a residential facility in another member state and is not
163 covered under another compact; or

164 (B) the child is being placed in another member state and the determination of safety
165 and suitability of the placement and services required is not provided through another
166 compact.

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

170 (b) The provisions of this compact shall not apply to:

171 (1) The interstate placement of a child in a custody proceeding in which a public child
172 placing agency is not a party, provided, the placement is not intended to effectuate an
173 adoption.

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

177 (3) The interstate placement of a child by one relative with the lawful authority to make
178 such a placement directly with a relative in a receiving state.

179 (4) The placement of a child, not subject to Article III, subsection (a), into a residential
180 facility by his parent.

181 (5) The placement of a child with a non-custodial parent provided that:

182 (A) The non-custodial parent proves to the satisfaction of a court in the sending state
183 a substantial relationship with the child; and

184 (B) The court in the sending state makes a written finding that placement with the
185 non-custodial parent is in the best interests of the child; and

186 (C) The court in the sending state dismisses its jurisdiction in interstate placements in
187 which the public child placing agency is a party to the proceeding.

188 (6) A child entering the United States from a foreign country for the purpose of adoption
189 or leaving the United States to go to a foreign country for the purpose of adoption in that
190 country.

191 (7) Cases in which a U.S. citizen child living overseas with his family, at least one of
192 whom is in the U.S. Armed Services, and who is stationed overseas, is removed and
193 placed in a state.

194 (8) The sending of a child by a public child placing agency or a private child placing
195 agency for a visit as defined by the rules of the Interstate Commission.

196 (c) For purposes of determining the applicability of this compact to the placement of a
197 child with a family in the Armed Services, the public child placing agency or private child
198 placing agency may choose the state of the service member's permanent duty station or the
199 service member's declared legal residence.

200 (d) Nothing in this compact shall be construed to prohibit the concurrent application of the
201 provisions of this compact with other applicable interstate compacts including the Interstate
202 Compact for Juveniles and the Interstate Compact on Adoption and Medical Assistance.
203 The Interstate Commission may in cooperation with other interstate compact commissions
204 having responsibility for the interstate movement, placement or transfer of children,
205 promulgate like rules to ensure the coordination of services, timely placement of children,
206 and the reduction of unnecessary or duplicative administrative or procedural requirements.

207 ARTICLE IV. JURISDICTION.

208 (a) Except as provided in Article IV, subsection (h) and Article V, subsection (b),
209 paragraph two and three concerning private and independent adoptions, and in interstate
210 placements in which the public child placing agency is not a party to a custody proceeding,
211 the sending state shall retain jurisdiction over a child with respect to all matters of custody

212 and disposition of the child which it would have had if the child had remained in the
213 sending state. Such jurisdiction shall also include the power to order the return of the child
214 to the sending state.

215 (b) When an issue of child protection or custody is brought before a court in the receiving
216 state, such court shall confer with the court of the sending state to determine the most
217 appropriate forum for adjudication.

218 (c) In cases that are before courts and subject to this compact, the taking of testimony for
219 hearings before any judicial officer may occur in person or by telephone, audio-video
220 conference, or such other means as approved by the rules of the Interstate Commission; and
221 Judicial officers may communicate with other judicial officers and persons involved in the
222 interstate process as may be permitted by their Canons of Judicial Conduct and any rules
223 promulgated by the Interstate Commission.

224 (d) In accordance with its own laws, the court in the sending state shall have authority to
225 terminate its jurisdiction if:

226 (1) The child is reunified with the parent in the receiving state who is the subject of
227 allegations or findings of abuse or neglect, only with the concurrence of the public child
228 placing agency in the receiving state; or

229 (2) The child is adopted; or

230 (3) The child reaches the age of majority under the laws of the sending state; or

231 (4) The child achieves legal independence pursuant to the laws of the sending state; or

232 (5) A guardianship is created by a court in the receiving state with the concurrence of the
233 court in the sending state; or

234 (6) An Indian tribe has petitioned for and received jurisdiction from the court in the
235 sending state; or

236 (7) The public child placing agency of the sending state requests termination and has
237 obtained the concurrence of the public child placing agency in the receiving the state.

238 (e) When a sending state court terminates its jurisdiction, the receiving state child placing
239 agency shall be notified.

240 (f) Nothing in this article shall defeat a claim of jurisdiction by a receiving state court
241 sufficient to deal with an act of truancy, delinquency, crime or behavior involving a child
242 as defined by the laws of the receiving state committed by the child in the receiving state
243 which would be a violation of its laws.

244 (g) Nothing in this article shall limit the receiving state's ability to take emergency
245 jurisdiction for the protection of the child.

246 (h) The substantive laws of the state in which an adoption will be finalized shall solely
247 govern all issues relating to the adoption of the child and the court in which the adoption
248 proceeding is filed shall have subject matter jurisdiction regarding all substantive issues
249 relating to the adoption, except:

250 (1) when the child is a ward of another court that established jurisdiction over the child
251 prior to the placement; or

252 (2) when the child is in the legal custody of a public agency in the sending state; or

253 (3) when a court in the sending state has otherwise appropriately assumed jurisdiction
254 over the child, prior to the submission of the request for approval of placement.

255 (i) A final decree of adoption shall not be entered in any jurisdiction until the placement
256 is authorized as an 'approved placement' by the public child placing agency in the receiving
257 state.

258 ARTICLE V. PLACEMENT EVALUATION.

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

262 (b) For placements by a private child placing agency, a child may be sent or brought, or
263 caused to be sent or brought, into a receiving state, upon receipt and immediate review of

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

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

269 (2) The appropriate consents or relinquishments signed by the birth parents in
270 accordance with the laws of the sending state, or where permitted the laws of the state
271 where the adoption will be finalized; and

272 (3) Certification by a licensed attorney or authorized agent of a private adoption agency
273 that the consent or relinquishment is in compliance with the applicable laws of the
274 sending state, or where permitted the laws of the state where finalization of the adoption
275 will occur; and

276 (4) A home study; and

277 (5) An acknowledgment of legal risk signed by the prospective adoptive parents.

278 (c) The sending state and the receiving state may request additional information or
279 documents prior to finalization of an approved placement, but they may not delay travel
280 by the prospective adoptive parents with the child if the required content for approval has
281 been submitted, received and reviewed by the public child placing agency in both the
282 sending state and the receiving state.

283 (d) Approval from the public child placing agency in the receiving state for a provisional
284 or approved placement is required as provided for in the rules of the Interstate Commission.

285 (e) The procedures for making and the request for an assessment shall contain all
286 information and be in such form as provided for in the rules of the Interstate Commission.

287 (f) Upon receipt of a request from the public child placing agency of the sending state, the
288 receiving state shall initiate an assessment of the proposed placement to determine its
289 safety and suitability. If the proposed placement is a placement with a relative, the public

290 child placing agency of the sending state may request a determination for a provisional
291 placement.

292 (g) The public child placing agency in the receiving state may request from the public
293 child placing agency or the private child placing agency in the sending state, and shall be
294 entitled to receive supporting or additional information necessary to complete the
295 assessment or approve the placement.

296 (h) The public child placing agency in the receiving state shall approve a provisional
297 placement and complete or arrange for the completion of the assessment within the
298 timeframes established by the rules of the Interstate Commission.

299 (i) For a placement by a private child placing agency, the sending state shall not impose
300 any additional requirements to complete the home study that are not required by the
301 receiving state, unless the adoption is finalized in the sending state.

302 (j) The Interstate Commission may develop uniform standards for the assessment of the
303 safety and suitability of interstate placements.

304 ARTICLE VI. PLACEMENT AUTHORITY.

305 (a) Except as otherwise provided in this Compact, no child subject to this compact shall
306 be placed into a receiving state until approval for such placement is obtained.

307 (b) If the public child placing agency in the receiving state does not approve the proposed
308 placement then the child shall not be placed. The receiving state shall provide written
309 documentation of any such determination in accordance with the rules promulgated by the
310 Interstate Commission. Such determination is not subject to judicial review in the sending
311 state.

312 (c) If the proposed placement is not approved, any interested party shall have standing to
313 seek an administrative review of the receiving state's determination.

314 (1) The administrative review and any further judicial review associated with the
315 determination shall be conducted in the receiving state pursuant to its applicable
316 Administrative Procedures Act.

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

321 ARTICLE VII. PLACING AGENCY RESPONSIBILITY.

322 (a) For the interstate placement of a child made by a public child placing agency or state
323 court:

324 (1) The public child placing agency in the sending state shall have financial
325 responsibility for:

326 (A) the ongoing support and maintenance for the child during the period of the
327 placement, unless otherwise provided for in the receiving state; and

328 (B) as determined by the public child placing agency in the sending state, services for
329 the child beyond the public services for which the child is eligible in the receiving state.

330 (2) The receiving state shall only have financial responsibility for:

331 (A) any assessment conducted by the receiving state; and

332 (B) supervision conducted by the receiving state at the level necessary to support the
333 placement as agreed upon by the public child placing agencies of the receiving and
334 sending state.

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

338 (b) For the placement of a child by a private child placing agency preliminary to a possible
339 adoption, the private child placing agency shall be:

- 340 (1) Legally responsible for the child during the period of placement as provided for in
341 the law of the sending state until the finalization of the adoption.
- 342 (2) Financially responsible for the child absent a contractual agreement to the contrary.
- 343 (c) The public child placing agency in the receiving state shall provide timely assessments,
344 as provided for in the rules of the Interstate Commission.
- 345 (d) The public child placing agency in the receiving state shall provide, or arrange for the
346 provision of, supervision and services for the child, including timely reports, during the
347 period of the placement.
- 348 (e) Nothing in this compact shall be construed as to limit the authority of the public child
349 placing agency in the receiving state from contracting with a licensed agency or person in
350 the receiving state for an assessment or the provision of supervision or services for the
351 child or otherwise authorizing the provision of supervision or services by a licensed agency
352 during the period of placement.
- 353 (f) Each member state shall provide for coordination among its branches of government
354 concerning the state's participation in, and compliance with, the compact and Interstate
355 Commission activities, through the creation of an advisory council or use of an existing
356 body or board.
- 357 (g) Each member state shall establish a central state compact office, which shall be
358 responsible for state compliance with the compact and the rules of the Interstate
359 Commission.
- 360 (h) The public child placing agency in the sending state shall oversee compliance with the
361 provisions of the Indian Child Welfare Act (25 USC 1901 et seq.) for placements subject
362 to the provisions of this compact, prior to placement.
- 363 (i) With the consent of the Interstate Commission, states may enter into limited agreements
364 that facilitate the timely assessment and provision of services and supervision of
365 placements under this compact.

366 ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF
367 CHILDREN.

368 The member states hereby establish, by way of this compact, a commission known as the
369 'Interstate Commission for the Placement of Children.' The activities of the Interstate
370 Commission are the formation of public policy and are a discretionary state function. The
371 Interstate Commission shall:

372 (a) Be a joint commission of the member states and shall have the responsibilities, powers
373 and duties set forth herein, and such additional powers as may be conferred upon it by
374 subsequent concurrent action of the respective legislatures of the member states.

375 (b) Consist of one commissioner from each member state who shall be appointed by the
376 executive head of the state human services administration with ultimate responsibility for
377 the child welfare program. The appointed commissioner shall have the legal authority to
378 vote on policy related matters governed by this compact binding the state.

379 (1) Each member state represented at a meeting of the Interstate Commission is entitled
380 to one vote.

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

383 (3) A representative shall not delegate a vote to another member state.

384 (4) A representative may delegate voting authority to another person from their state for
385 a specified meeting.

386 (c) In addition to the commissioners of each member state, the Interstate Commission shall
387 include persons who are members of interested organizations as defined in the bylaws or
388 rules of the Interstate Commission. Such members shall be ex officio and shall not be
389 entitled to vote on any matter before the Interstate Commission.

390 (d) Establish an executive committee which shall have the authority to administer the
391 day-to-day operations and administration of the Interstate Commission. It shall not have
392 the power to engage in rulemaking.

393 ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION.

394 The Interstate Commission shall have the following powers:

395 (a) To promulgate rules and take all necessary actions to effect the goals, purposes and
396 obligations as enumerated in this compact.

397 (b) To provide for dispute resolution among member states.

398 (c) To issue, upon request of a member state, advisory opinions concerning the meaning
399 or interpretation of the interstate compact, its bylaws, rules or actions.

400 (d) To enforce compliance with this compact or the bylaws or rules of the Interstate
401 Commission pursuant to Article XII.

402 (e) Collect standardized data concerning the interstate placement of children subject to this
403 compact as directed through its rules which shall specify the data to be collected, the means
404 of collection and data exchange and reporting requirements.

405 (f) To establish and maintain offices as may be necessary for the transacting of its
406 business.

407 (g) To purchase and maintain insurance and bonds.

408 (h) To hire or contract for services of personnel or consultants as necessary to carry out
409 its functions under the compact and establish personnel qualification policies, and rates of
410 compensation.

411 (i) To establish and appoint committees and officers including, but not limited to, an
412 executive committee as required by Article X.

413 (j) To accept any and all donations and grants of money, equipment, supplies, materials,
414 and services, and to receive, utilize, and dispose thereof.

415 (k) To lease, purchase, accept contributions or donations of, or otherwise to own, hold,
416 improve or use any property, real, personal, or mixed.

417 (l) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
418 any property, real, personal or mixed.

419 (m) To establish a budget and make expenditures.

- 420 (n) To adopt a seal and bylaws governing the management and operation of the Interstate
421 Commission.
- 422 (o) To report annually to the legislatures, governors, the judiciary, and state advisory
423 councils of the member states concerning the activities of the Interstate Commission during
424 the preceding year. Such reports shall also include any recommendations that may have
425 been adopted by the Interstate Commission.
- 426 (p) To coordinate and provide education, training and public awareness regarding the
427 interstate movement of children for officials involved in such activity.
- 428 (q) To maintain books and records in accordance with the bylaws of the Interstate
429 Commission.
- 430 (r) To perform such functions as may be necessary or appropriate to achieve the purposes
431 of this compact.

432 ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE
433 COMMISSION.

- 434 (a) Bylaws
- 435 (1) Within 12 months after the first Interstate Commission meeting, the Interstate
436 Commission shall adopt bylaws to govern its conduct as may be necessary or appropriate
437 to carry out the purposes of the compact.
- 438 (2) The Interstate Commission's bylaws and rules shall establish conditions and
439 procedures under which the Interstate Commission shall make its information and official
440 records available to the public for inspection or copying. The Interstate Commission may
441 exempt from disclosure information or official records to the extent they would adversely
442 affect personal privacy rights or proprietary interests.

443 (b) Meetings

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

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

452 (A) relate solely to the Interstate Commission's internal personnel practices and
453 procedures; or

454 (B) disclose matters specifically exempted from disclosure by federal law; or

455 (C) disclose financial or commercial information which is privileged, proprietary or
456 confidential in nature; or

457 (D) involve accusing a person of a crime, or formally censuring a person; or

458 (E) disclose information of a personal nature where disclosure would constitute a
459 clearly unwarranted invasion of personal privacy or physically endanger one or more
460 persons; or

461 (F) disclose investigative records compiled for law enforcement purposes; or

462 (G) specifically relate to the Interstate Commission's participation in a civil action or
463 other legal proceeding.

464 (3) For a meeting, or portion of a meeting, closed pursuant to this provision, the
465 Interstate Commission's legal counsel or designee shall certify that the meeting may be
466 closed and shall reference each relevant exemption provision. The Interstate Commission
467 shall keep minutes which shall fully and clearly describe all matters discussed in a
468 meeting and shall provide a full and accurate summary of actions taken, and the reasons
469 therefore, including a description of the views expressed and the record of a roll call vote.

470 All documents considered in connection with an action shall be identified in such
471 minutes. All minutes and documents of a closed meeting shall remain under seal, subject
472 to release by a majority vote of the Interstate Commission or by court order.

473 (4) The bylaws may provide for meetings of the Interstate Commission to be conducted
474 by telecommunication or other electronic communication.

475 (c) Officers and Staff

476 (1) The Interstate Commission may, through its executive committee, appoint or retain
477 a staff director for such period, upon such terms and conditions and for such
478 compensation as the Interstate Commission may deem appropriate. The staff director
479 shall serve as secretary to the Interstate Commission, but shall not have a vote. The staff
480 director may hire and supervise such other staff as may be authorized by the Interstate
481 Commission.

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

485 (d) Qualified Immunity, Defense and Indemnification

486 (1) The Interstate Commission's staff director and its employees shall be immune from
487 suit and liability, either personally or in their official capacity, for a claim for damage to
488 or loss of property or personal injury or other civil liability caused or arising out of or
489 relating to an actual or alleged act, error, or omission that occurred, or that such person
490 had a reasonable basis for believing occurred within the scope of Commission
491 employment, duties, or responsibilities; provided, that such person shall not be protected
492 from suit or liability for damage, loss, injury, or liability caused by a criminal act or the
493 intentional or willful and wanton misconduct of such person.

494 (A) The liability of the Interstate Commission's staff director and employees or
495 Interstate Commission representatives, acting within the scope of such person's
496 employment or duties for acts, errors, or omissions occurring within such person's state

497 may not exceed the limits of liability set forth under the Constitution and laws of that
498 state for state officials, employees, and agents. The Interstate Commission is
499 considered to be an instrumentality of the states for the purposes of any such action.
500 Nothing in this subsection shall be construed to protect such person from suit or
501 liability for damage, loss, injury, or liability caused by a criminal act or the intentional
502 or willful and wanton misconduct of such person.

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

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

521 ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION.

522 (a) The Interstate Commission shall promulgate and publish rules in order to effectively
523 and efficiently achieve the purposes of the compact.

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

532 (c) When promulgating a rule, the Interstate Commission shall, at a minimum:

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

534 (2) Allow and invite any and all persons to submit written data, facts, opinions and
535 arguments, which information shall be added to the record, and be made publicly
536 available; and

537 (3) Promulgate a final rule and its effective date, if appropriate, based on input from state
538 or local officials, or interested parties.

539 (d) Rules promulgated by the Interstate Commission shall have the force and effect of
540 administrative rules and shall be binding in the compacting states to the extent and in the
541 manner provided for in this compact.

542 (e) Not later than 60 days after a rule is promulgated, an interested person may file a
543 petition in the U.S. District Court for the District of Columbia or in the Federal District
544 Court where the Interstate Commission's principal office is located for judicial review of
545 such rule. If the court finds that the Interstate Commission's action is not supported by
546 substantial evidence in the rulemaking record, the court shall hold the rule unlawful and
547 set it aside.

548 (f) If a majority of the legislatures of the member states rejects a rule, those states may by
549 enactment of a statute or resolution in the same manner used to adopt the compact cause
550 that such rule shall have no further force and effect in any member state.

551 (g) The existing rules governing the operation of the Interstate Compact on the Placement
552 of Children superseded by this act shall be null and void no less than 12, but no more
553 than 24 months after the first meeting of the Interstate Commission created hereunder, as
554 determined by the members during the first meeting.

555 (h) Within the first 12 months of operation, the Interstate Commission shall promulgate
556 rules addressing the following:

557 (1) Transition rules

558 (2) Forms and procedures

559 (3) Time lines

560 (4) Data collection and reporting

561 (5) Rulemaking

562 (6) Visitation

563 (7) Progress reports/supervision

564 (8) Sharing of information/confidentiality

565 (9) Financing of the Interstate Commission

566 (10) Mediation, arbitration and dispute resolution

567 (11) Education, training and technical assistance

568 (12) Enforcement

569 (13) Coordination with other interstate compacts

570 (i) Upon determination by a majority of the members of the Interstate Commission that an
571 emergency exists:

572 (1) The Interstate Commission may promulgate an emergency rule only if it is required
573 to:

574 (A) Protect the children covered by this compact from an imminent threat to their
575 health, safety and well-being; or

576 (B) Prevent loss of federal or state funds; or

577 (C) Meet a deadline for the promulgation of an administrative rule required by federal
578 law.

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

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

585 ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT.

586 (a) Oversight

587 (1) The Interstate Commission shall oversee the administration and operation of the
588 compact.

589 (2) The executive, legislative and judicial branches of state government in each member
590 state shall enforce this compact and the rules of the Interstate Commission and shall take
591 all actions necessary and appropriate to effectuate the compact's purposes and intent. The
592 compact and its rules shall be binding in the compacting states to the extent and in the
593 manner provided for in this compact.

594 (3) All courts shall take judicial notice of the compact and the rules in any judicial or
595 administrative proceeding in a member state pertaining to the subject matter of this
596 compact.

597 (4) The Interstate Commission shall be entitled to receive service of process in any
598 action in which the validity of a compact provision or rule is the issue for which a judicial
599 determination has been sought and shall have standing to intervene in any proceedings.

600 Failure to provide service of process to the Interstate Commission shall render any
601 judgment, order or other determination, however so captioned or classified, void as to the
602 Interstate Commission, this compact, its bylaws or rules of the Interstate Commission.

603 (b) Dispute Resolution

604 (1) The Interstate Commission shall attempt, upon the request of a member state, to
605 resolve disputes which are subject to the compact and which may arise among member
606 states and between member and non-member states.

607 (2) The Interstate Commission shall promulgate a rule providing for both mediation and
608 binding dispute resolution for disputes among compacting states. The costs of such
609 mediation or dispute resolution shall be the responsibility of the parties to the dispute.

610 (c) Enforcement

611 (1) If the Interstate Commission determines that a member state has defaulted in the
612 performance of its obligations or responsibilities under this compact, its bylaws or rules,
613 the Interstate Commission may:

614 (A) Provide remedial training and specific technical assistance; or

615 (B) Provide written notice to the defaulting state and other member states, of the nature
616 of the default and the means of curing the default. The Interstate Commission shall
617 specify the conditions by which the defaulting state must cure its default; or

618 (C) By majority vote of the members, initiate against a defaulting member state legal
619 action in the United State District Court for the District of Columbia or, at the
620 discretion of the Interstate Commission, in the federal district where the Interstate
621 Commission has its principal office, to enforce compliance with the provisions of the
622 compact, its bylaws or rules. The relief sought may include both injunctive relief and
623 damages. In the event judicial enforcement is necessary the prevailing party shall be
624 awarded all costs of such litigation including reasonable attorney's fees; or

625 (D) Avail itself of any other remedies available under state law or the regulation of
626 official or professional conduct.

627 ARTICLE XIII. FINANCING OF THE COMMISSION.

628 (a) The Interstate Commission shall pay, or provide for the payment of the reasonable
629 expenses of its establishment, organization and ongoing activities.

630 (b) The Interstate Commission may levy on and collect an annual assessment from each
631 member state to cover the cost of the operations and activities of the Interstate Commission
632 and its staff which must be in a total amount sufficient to cover the Interstate Commission's
633 annual budget as approved by its members each year. The aggregate annual assessment
634 amount shall be allocated based upon a formula to be determined by the Interstate
635 Commission which shall promulgate a rule binding upon all member states.

636 (c) The Interstate Commission shall not incur obligations of any kind prior to securing the
637 funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of
638 any of the member states, except by and with the authority of the member state.

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

645 ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT.

646 (a) Any state is eligible to become a member state.

647 (b) The compact shall become effective and binding upon legislative enactment of the
648 compact into law by no less than 35 states. The effective date shall be the later of
649 July 1, 2007 or upon enactment of the compact into law by the 35th state. Thereafter it
650 shall become effective and binding as to any other member state upon enactment of the
651 compact into law by that state. The executive heads of the state human services
652 administration with ultimate responsibility for the child welfare program of non-member

653 states or their designees shall be invited to participate in the activities of the Interstate
654 Commission on a non-voting basis prior to adoption of the compact by all states.
655 (c) The Interstate Commission may propose amendments to the compact for enactment by
656 the member states. No amendment shall become effective and binding on the member
657 states unless and until it is enacted into law by unanimous consent of the member states.

658 ARTICLE XV. WITHDRAWAL AND DISSOLUTION.

659 (a) Withdrawal

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

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

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

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

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

675 (b) Dissolution of Compact

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

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

681 ARTICLE XVI. SEVERABILITY AND CONSTRUCTION.

682 (a) The provisions of this compact shall be severable, and if any phrase, clause, sentence
683 or provision is deemed unenforceable, the remaining provisions of the compact shall be
684 enforceable.

685 (b) The provisions of this compact shall be liberally construed to effectuate its purposes.

686 (c) Nothing in this compact shall be construed to prohibit the concurrent applicability of
687 other interstate compacts to which the states are members.

688 ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS.

689 (a) Other Laws

690 (1) Nothing herein prevents the enforcement of any other law of a member state that is
691 not inconsistent with this compact.

692 (b) Binding Effect of the Compact

693 (1) All lawful actions of the Interstate Commission, including all rules and bylaws
694 promulgated by the Interstate Commission, are binding upon the member states.

695 (2) All agreements between the Interstate Commission and the member states are binding
696 in accordance with their terms.

697 (3) In the event any provision of this compact exceeds the constitutional limits imposed
698 on the legislature of any member state, such provision shall be ineffective to the extent
699 of the conflict with the constitutional provision in question in that member state.

700 ARTICLE XVIII. INDIAN TRIBES.

701 Notwithstanding any other provision in this compact, the Interstate Commission may
702 promulgate guidelines to permit Indian tribes to utilize the compact to achieve any or all
703 of the purposes of the compact as specified in Article I. The Interstate Commission shall
704 make reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect
705 the diverse circumstances of the various Indian tribes.'

706 **SECTION 2.**

707 Said title is further amended by repealing and reserving Chapter 4, relating to the Interstate
708 Compact on the Placement of Children.

709 **SECTION 3.**

710 The Official Code of Georgia Annotated is amended by replacing "Code Section 39-4-4"
711 with "Code Section 39-4A-7" wherever the former phrase appears in:

- 712 (1) Code Section 15-11-201, relating to DFCS case plan and contents; and
713 (2) Code Section 15-11-212, relating to disposition of a dependent child.

714 **SECTION 4.**

715 The Official Code of Georgia Annotated is further amended by replacing "Chapter 4 of Title
716 39" with "Chapter 4A of Title 39", wherever the former phrase appears in:

- 717 (1) 19-8-2, relating to jurisdiction and venue of adoption proceedings;
718 (2) 19-8-3, relating to who may adopt a child and when petition must be filed in names of
719 both spouses;
720 (3) 19-8-4, relating to adoption through the department, child-placing agency, or
721 out-of-state license agency;
722 (4) 19-8-5, relating to third party adoption by party who is not stepparent or relative of
723 child;

- 724 (5) 19-8-7, relating to adoption by certain relatives related to child by blood or marriage;
725 (6) 19-8-11, relating to petitioning superior court to terminate rights of one parent or
726 guardian of child and service of process; and
727 (7) 19-8-13, relating to petition, filing and contents, financial disclosures, attorney's
728 affidavit, and redaction of certain information unnecessary.

729

SECTION 5.

730 The Official Code of Georgia Annotated is further amended by replacing "Interstate Compact
731 on the Placement of Children" with "Interstate Compact for the Placement of Children",
732 wherever the former phrase appears in:

- 733 (1) 15-11-201, relating to DFCS case plan and contents;
734 (2) 15-11-212, relating to disposition of dependent child;
735 (3) 19-8-2, relating to jurisdiction and venue of adoption proceedings;
736 (4) 19-8-3, relating to who may adopt a child and when petition must be filed in names of
737 both spouses;
738 (5) 19-8-4, relating to adoption through the department, child-placing agency, or
739 out-of-state licensed agency;
740 (6) 19-8-5, relating to third party adoption by party who is not stepparent or relative of
741 child;
742 (7) 19-8-7, relating to adoption by certain relatives related to child by blood or marriage;
743 (8) 19-8-13, relating to petition, filing and contents, financial disclosures, attorney's
744 affidavit, and redaction of certain information unnecessary; and
745 (9) 49-4B-2, relating to the Interstate Compact for Juveniles.

746

SECTION 6.

747 (a) Except as otherwise provided in subsection (b) of this section, this Act shall become
748 effective upon its approval by the Governor or upon its becoming law without such approval.

749 (b) Sections 1 through 5 of this Act shall become effective upon enactment of the Interstate
750 Compact for the Placement of Children into law by the thirty-fifth state.

751

SECTION 7.

752 All laws and parts of laws in conflict with this Act are repealed.