

SENATE BILL NO. 644

BY SENATOR BROOME

1 AN ACT

2 To enact Chapter 2-A of Title XVI of the Louisiana Children's Code, comprised of Articles
3 1623 through 1643, and to repeal Chapter 2 of Title XVI of the Louisiana Children's
4 Code, comprised of Articles 1608 through 1622, relative to the Interstate Compact
5 for the Placement of Children; to authorize the state to enter into an interstate
6 compact on the placement of children; to provide procedures, terms, conditions,
7 requirements, and effects; to provide purposes and definitions; to provide relative to
8 compact applicability; to provide relative to jurisdiction, assessments, placement,
9 and state responsibility; to establish an interstate commission for the placement of
10 children and provide for its powers, duties, membership, procedures, organization,
11 operation, officers and staff; to provide certain qualified immunity, defenses, and
12 indemnification; to provide for rulemaking functions and procedures; to provide for
13 the effects of rules promulgated by the commission; to provide for judicial review
14 of such rules; to provide for oversight of the compact by the commission; to provide
15 for dispute resolution and enforcement of the compact; to provide for financing of
16 the commission; to provide for effective dates of the compact; to provide for
17 withdrawal and dissolution of the compact; to provide for legal effects of the
18 compact; to provide for Indian tribes; to provide for rulemaking authority by the
19 Department of Social Services; to provide certain effective dates; and to provide for
20 related matters.

21 Be it enacted by the Legislature of Louisiana:

22 Section 1. Chapter 2-A of Title XVI of the Louisiana Children's Code, comprised of
23 Articles 1623 through 1643, is hereby enacted to read as follows:

24 **Art. 1623. Interstate compact for the placement of children; purpose**

25 **The provisions of this Chapter shall constitute the Interstate Compact**
26 **for the Placement of Children. The purpose of the compact is to:**

27 **A. Provide a process through which children subject to the compact are**

1 placed in safe and suitable homes in a timely manner.

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

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

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

9 E. Provide for uniform data collection and information sharing between
10 member states under the compact.

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

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

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

21 Art. 1624. Definitions

22 As used in this Chapter, the following terms shall have the following
23 meanings:

24 (1) "Approved placement" means the public child placing agency in the
25 receiving state has determined that the placement is both safe and suitable for
26 the child.

27 (2) "Assessment" means an evaluation of a prospective placement by a
28 public child placing agency in the receiving state to determine if the placement
29 meets the individualized needs of the child, including but not limited to the
30 child's safety and stability, health and well-being, and mental, emotional and

1 physical development. "Assessment" is applicable only to a placement by a
2 public child placing agency.

3 (3) "Child" means an individual who has not attained the age of
4 eighteen.

5 (4) "Certification" means to attest, declare, or swear to before a judge
6 or notary public.

7 (5) "Default" means the failure of a member state to perform the
8 obligations or responsibilities imposed upon it by the compact, the bylaws, or
9 rules of the Interstate Commission.

10 (6) "Home study" means an evaluation of a home environment
11 conducted in accordance with the applicable requirements of the state in which
12 the home is located, and documenting the preparation and the suitability of the
13 placement resource for placement of a child in accordance with the laws and
14 requirements of the state in which the home is located.

15 (7) "Indian tribe" means any Indian tribe, band, nation, or other
16 organized group or community of Indians recognized as eligible for services
17 provided to Indians by the Secretary of the Interior because of their status as
18 Indians, including any Alaskan native village as defined in Section 3(C) of the
19 Alaska Native Claims Settlement Act at 43 U.S.C. 1602(C).

20 (8) "Interstate Commission for the Placement of Children" means the
21 commission that is created under Article 1630 and which is generally referred
22 to as the Interstate Commission.

23 (9) "Jurisdiction" means the power and authority of a court to hear and
24 decide matters.

25 (10) "Legal Risk Placement" ("Legal Risk adoption") means a
26 placement made preliminary to an adoption where the prospective adoptive
27 parents acknowledge in writing that a child may be ordered returned to the
28 sending state or the birth mother's state of residence, if different from the
29 sending state, and a final decree of adoption shall not be entered in any
30 jurisdiction until all required consents are obtained or are dispensed with in

1 accordance with applicable law.

2 (11) "Member state" means a state that has enacted the compact.

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

7 (13) "Nonmember state" means a state which has not enacted the
8 compact.

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

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

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

23 (17) "Provisional placement" means a determination made by the public
24 child placing agency in the receiving state that the proposed placement is safe
25 and suitable, and, to the extent allowable, the receiving state has temporarily
26 waived its standards or requirements otherwise applicable to prospective foster
27 or adoptive parents so as to not delay the placement. Completion of the
28 receiving state requirements regarding training for prospective foster or
29 adoptive parents shall not delay an otherwise safe and suitable placement.

30 (18) "Public child placing agency" means any government child welfare

1 agency or child protection agency or a private entity under contract with such
2 an agency, regardless of whether they act on behalf of a state, county,
3 municipality or other governmental unit and which facilitates, causes, or is
4 involved in the placement of a child from one state to another.

5 (19) "Receiving state" means the state to which a child is sent, brought,
6 or caused to be sent or brought.

7 (20) "Relative" means someone who is related to the child as a parent,
8 stepparent, sibling by half or whole blood or by adoption, grandparent, aunt,
9 uncle, or first cousin or a nonrelative with such significant ties to the child that
10 they may be regarded as relatives as determined by the court in the sending
11 state.

12 (21) "Residential facility" means a facility providing a level of care that
13 is sufficient to substitute for parental responsibility or foster care, and is beyond
14 what is needed for assessment or treatment of an acute condition. For purposes
15 of the compact, residential facilities do not include institutions primarily
16 educational in character, hospitals, or other medical facilities.

17 (22) "Rule" means a written directive, mandate, standard, or principle
18 issued by the Interstate Commission promulgated pursuant to this Chapter that
19 is of general applicability and that implements, interprets, or prescribes a policy
20 or provision of the compact. "Rule" has the force and effect of an
21 administrative rule in a member state, and includes the amendment, repeal, or
22 suspension of an existing rule.

23 (23) "Sending state" means the state from which the placement of a child
24 is initiated.

25 (24) "Service member's permanent duty station" means the military
26 installation where an active duty armed services member is currently assigned
27 and is physically located under competent orders that do not specify the duty
28 as temporary.

29 (25) "Service member's state of legal residence" means the state in which
30 the active duty armed services member is considered a resident for tax and

1 voting purposes.

2 (26) "State" means a state of the United States, the District of Columbia,
3 the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam,
4 American Samoa, the Northern Marianas Islands, and any other territory of the
5 United States.

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

10 (28) "Supervision" means monitoring provided by the receiving state
11 once a child has been placed in a receiving state pursuant to the compact.

12 Art. 1625. Compact applicability

13 A. Except as otherwise provided in Paragraph B of this Article, the
14 compact shall apply to all of the following:

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

21 (2) The interstate placement of a child adjudicated delinquent or
22 unmanageable based on the laws of the sending state and subject to ongoing
23 court jurisdiction of the sending state if any of the following apply:

24 (a) The child is being placed in a residential facility in another member
25 state and is not covered under another compact.

26 (b) The child is being placed in another member state and the
27 determination of safety and suitability of the placement and services required
28 is not provided through another compact.

29 (3) The interstate placement of any child by a public child placing agency
30 or private child placing agency as defined in the compact as a preliminary step

1 to a possible adoption.

2 **B. The provisions of the compact shall not apply to:**

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

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

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

11 (4) The placement of a child, not subject to Paragraph A of this Article,
12 into a residential facility by his parent.

13 (5) The placement of a child with a noncustodial parent provided all of
14 the following exist:

15 (a) The noncustodial parent proves to the satisfaction of a court in the
16 sending state a substantial relationship with the child.

17 (b) The court in the sending state makes a written finding that
18 placement with the noncustodial parent is in the best interests of the child.

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

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

24 (7) A child who is a United States citizen living overseas with a United
25 States armed services member stationed overseas, is removed and placed in a
26 state.

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

30 **C. For purposes of determining the applicability of the compact to the**

1 placement of a child with a family in the armed services, the public child placing
2 agency or private child placing agency may choose the state of the service
3 member's permanent duty station or the service member's declared legal
4 residence.

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

14 Art. 1626. Jurisdiction

15 A. Except as provided in Paragraph H of this Article, and Article
16 1627(B)(2) and (3) concerning private and independent adoptions, and in
17 interstate placements in which the public child placing agency is not a party to
18 a custody proceeding, the sending state shall retain jurisdiction over a child
19 with respect to all matters of custody and disposition of the child which it would
20 have had if the child had remained in the sending state. Jurisdiction shall also
21 include the power to order the return of the child to the sending state.

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

25 C. In cases subject to this compact, the taking of testimony for hearings
26 before any judicial officer may occur in person or by telephone, audio-video
27 conference, or such other means as approved by the rules of the Interstate
28 Commission, and judicial officers may communicate with other judicial officers
29 and persons involved in the interstate process as may be permitted by their
30 Canons of Judicial Conduct and any rules promulgated by the Interstate

1 Commission.

2 D. In accordance with its own laws, the court in the sending state shall
3 have authority to terminate its jurisdiction if any of the following occur:

4 (1) The child is reunified with the parent in the receiving state who is the
5 subject of allegations or findings of abuse or neglect, only with the concurrence
6 of the public child placing agency in the receiving state.

7 (2) The child is adopted.

8 (3) The child reaches the age of majority.

9 (4) The child achieves legal independence pursuant to the laws of the
10 sending state.

11 (5) A guardianship is created by a court in the receiving state with the
12 concurrence of the court in the sending state.

13 (6) An Indian tribe has petitioned for and received jurisdiction from the
14 court in the sending state.

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

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

20 F. Nothing in this Article shall defeat a claim of jurisdiction by a
21 receiving state court sufficient to deal with an act of truancy, delinquency,
22 crime, or behavior involving a child as defined by the laws of the receiving state
23 committed by the child in the receiving state which may be a violation of its
24 laws.

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

27 H. The substantive laws of the state in which an adoption will be
28 finalized shall solely govern all issues relating to the adoption of the child and
29 the court in which the adoption proceeding is filed shall have subject matter
30 jurisdiction regarding all substantive issues relating to the adoption, except

1 when any of the following exists:

2 (1) The child is a ward of another court that established jurisdiction over
3 the child prior to the placement.

4 (2) The child is in the legal custody of a public agency in the sending
5 state.

6 (3) A court in the sending state has otherwise appropriately assumed
7 jurisdiction over the child, prior to the submission of the request for approval
8 of placement.

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

12 Art. 1627. Placement evaluation

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

16 B. For placements by a private child placing agency, a child may be sent
17 or brought, or caused to be sent or brought, into a receiving state, upon receipt
18 and immediate review of the required content in a request for approval of a
19 placement in both the sending and receiving state public child placing agency.
20 The required content to accompany a request for approval shall include all of
21 the following:

22 (1) A request for approval identifying the child, birth parents, the
23 prospective adoptive parent, and the supervising agency, signed by the person
24 requesting approval.

25 (2) The appropriate consents or relinquishments signed by the birth
26 parents in accordance with the laws of the sending state or, where permitted,
27 the laws of the state where the adoption will be finalized.

28 (3) Certification by a licensed attorney or authorized agent of a private
29 adoption agency that the consent or relinquishment is in compliance with the
30 applicable laws of the sending state or, where permitted, the laws of the state

1 where finalization of the adoption will occur.

2 (4) A home study.

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

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

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

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

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

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

26 H. The public child placing agency in the receiving state shall approve
27 a provisional placement and complete or arrange for the completion of the
28 assessment within the timeframes established by the rules of the Interstate
29 Commission.

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

5 **J. The Interstate Commission may develop uniform standards for the**
6 **assessment of the safety and suitability of interstate placements.**

7 **Art. 1628. Placement authority**

8 **A. Except as provided in this compact, no child subject to the compact**
9 **shall be placed into a receiving state until approval for such placement is**
10 **obtained.**

11 **B. If the public child placing agency in the receiving state does not**
12 **approve the proposed placement, then the child shall not be placed. The**
13 **receiving state shall provide written documentation of any such determination**
14 **in accordance with the rules promulgated by the Interstate Commission. The**
15 **determination is not subject to judicial review in the sending state.**

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

19 **D. The administrative review and any further judicial review associated**
20 **with the determination shall be conducted in the receiving state pursuant to its**
21 **applicable administrative procedures.**

22 **E. If a determination not to approve the placement of the child in the**
23 **receiving state is overturned upon review, the placement shall be deemed**
24 **approved, provided that all administrative or judicial remedies have been**
25 **exhausted or the time for such remedies has passed.**

26 **Art. 1629. Placing agency responsibility**

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

29 **(1) The public child placing agency in the sending state shall have**
30 **financial responsibility for all of the following:**

1 (a) The ongoing support and maintenance for the child during the period
2 of the placement, unless otherwise provided for in the receiving state.

3 (b) Services for the child beyond the public services for which he is
4 eligible in the receiving state, as determined by the public child placing agency
5 in the sending state.

6 (2) The receiving state shall have financial responsibility only for the
7 following:

8 (a) Any assessment conducted by the receiving state.

9 (b) Supervision conducted by the receiving state at the level necessary to
10 support the placement as agreed upon by the public child placing agencies of the
11 receiving and sending state.

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

15 B. For the placement of a child by a private child placing agency
16 preliminary to a possible adoption, the private child placing agency shall be
17 legally responsible for the child during the period of placement as provided for
18 in the law of the sending state until the finalization of the adoption and
19 financially responsible for the child absent a contractual agreement to the
20 contrary.

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

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

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

1 **F. Each member state shall provide for coordination among its branches**
 2 **of government concerning the state's participation in, and compliance with, the**
 3 **compact and Interstate Commission activities, through the creation of an**
 4 **advisory council or use of an existing body or board.**

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

8 **H. The public child placing agency in the sending state shall oversee**
 9 **compliance with the provisions of the Indian Child Welfare Act (25 U.S.C. 1901**
 10 **et seq.) for placements subject to the provisions of the compact, prior to**
 11 **placement.**

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

15 **Art. 1630. Interstate commission for the placement of children**

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

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

25 **(2) Consist of one commissioner from each member state who shall be**
 26 **appointed by the executive head of the state human services administration with**
 27 **ultimate responsibility for the child welfare program. The appointed**
 28 **commissioner shall have the legal authority to vote on policy related matters**
 29 **governed by the compact binding the state.**

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

3 C. A majority of the member states shall constitute a quorum for the
4 transaction of business, unless a larger quorum is required by the bylaws of the
5 Interstate Commission.

6 D. A representative shall not delegate a vote to another member state.

7 E. A representative may delegate voting authority to another person
8 from their state for a specified meeting.

9 F. In addition to the commissioners of each member state, the Interstate
10 Commission shall include persons who are members of interested organizations
11 as defined in the bylaws or rules of the Interstate Commission. These members
12 shall be ex officio and shall not be entitled to vote on any matter before the
13 Interstate Commission.

14 G. The Interstate Commission shall establish an executive committee
15 which shall have the authority to administer the daily operations and
16 administration of the commission. The executive committee shall not have the
17 power to engage in rulemaking.

18 Art. 1631. Powers and duties of the Interstate Commission

19 A. The Interstate Commission shall have the following powers:

20 (1) To promulgate rules and take all necessary actions to effect the goals,
21 purposes, and obligations as enumerated in the compact.

22 (2) To provide for dispute resolution among member states.

23 (3) To issue, upon request of a member state, advisory opinions
24 concerning the meaning or interpretation of the interstate compact, its bylaws,
25 rules, or actions.

26 (4) To enforce compliance with the compact or the bylaws or rules of the
27 Interstate Commission.

28 (5) To collect standardized data concerning the interstate placement of
29 children subject to the compact as directed through its rules which shall specify

1 the data to be collected, the means of collection and data exchange, and
2 reporting requirements.

3 (6) To establish and maintain offices as may be necessary for the
4 transacting of its business.

5 (7) To purchase and maintain insurance and bonds.

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

9 (9) To establish and appoint committees and officers including, but not
10 limited to, an executive committee as required by this Chapter.

11 (10) To accept any and all donations and grants of money, equipment,
12 supplies, materials, and services, and to receive, utilize, and dispose thereof.

13 (11) To lease, purchase, accept contributions or donations of, or
14 otherwise to own, hold, improve, or use any property.

15 (12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or
16 otherwise dispose of any property.

17 (13) To establish a budget and make expenditures.

18 (14) To adopt a seal and bylaws governing the management and
19 operation of the Interstate Commission.

20 B. The commission shall report annually to the legislatures, governors,
21 the judiciary, and state advisory councils of the member states concerning the
22 activities of the Interstate Commission during the preceding year. Reports shall
23 also include any recommendations adopted by the Interstate Commission.

24 C. The commission shall coordinate and provide education, training, and
25 public awareness regarding the interstate movement of children for officials
26 involved in such activity.

27 D. The commission shall maintain books and records in accordance with
28 the bylaws of the Interstate Commission.

29 E. The commission may perform such other functions as may be
30 necessary or appropriate to achieve the purposes of the compact.

1 **Art. 1632. Organization and operation of the Interstate Commission**

2 **A. Bylaws:**

3 **(1) Within twelve months after the first Interstate Commission meeting,**
4 **the Interstate Commission shall adopt bylaws to govern its conduct as may be**
5 **necessary or appropriate to carry out the purposes of the compact.**

6 **(2) The Interstate Commission's bylaws and rules shall establish**
7 **conditions and procedures under which the Interstate Commission shall make**
8 **its information and official records available to the public for inspection or**
9 **copying. The Interstate Commission may exempt from disclosure information**
10 **or official records to the extent they would adversely affect personal privacy**
11 **rights or proprietary interests.**

12 **B. Meetings:**

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

16 **(2) Public notice shall be given by the Interstate Commission of all**
17 **meetings, and all meetings shall be open to the public, except as set forth in the**
18 **rules or as otherwise provided in the compact. The Interstate Commission and**
19 **its committees may close a meeting, or portion thereof, when it determines by**
20 **two-thirds vote that an open meeting would be likely to do any of the following:**

21 **(a) Relate solely to the Interstate Commission's internal personnel**
22 **practices and procedures.**

23 **(b) Disclose matters specifically exempted from disclosure by federal law.**

24 **(c) Disclose financial or commercial information which is privileged,**
25 **proprietary or confidential in nature.**

26 **(d) Involve accusing a person of a crime, or formally censuring a person.**

27 **(e) Disclose information of a personal nature where disclosure would**
28 **constitute a clearly unwarranted invasion of personal privacy or physically**
29 **endanger one or more persons.**

30 **(f) Disclose investigative records compiled for law enforcement purposes.**

1 (g) Relate to the Interstate Commission's participation in a legal
2 proceeding.

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

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

16 C. Officers and staff:

17 (1) The Interstate Commission may, through its executive committee,
18 appoint or retain a staff director for such period, upon such terms and
19 conditions and for such compensation as the Interstate Commission may deem
20 appropriate. The staff director shall serve as secretary to the Interstate
21 Commission, but shall not have a vote. The staff director may hire and
22 supervise such other staff as may be authorized by the Interstate Commission.

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

27 D. Qualified immunity, defense and indemnification:

28 (1) The Interstate Commission's staff director and its employees shall be
29 immune from suit and liability, either personally or in their official capacity, for
30 a claim for damage to or loss of property or personal injury or other civil

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

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

17 (3) The Interstate Commission shall defend the staff director and its
18 employees and, subject to the approval of the attorney general or other
19 appropriate legal counsel of the member state, shall defend the commissioner
20 of a member state in a civil action seeking to impose liability arising out of an
21 actual or alleged act, error or omission that occurred within the scope of
22 Interstate Commission employment, duties or responsibilities, or that the
23 defendant had a reasonable basis for believing occurred within the scope of
24 Interstate Commission employment, duties, or responsibilities, provided that
25 the actual or alleged act, error, or omission did not result from intentional or
26 willful and wanton misconduct on the part of such person.

27 (4) To the extent not covered by the state involved, member state, or the
28 Interstate Commission, the representatives or employees of the Interstate
29 Commission shall be held harmless in the amount of a settlement or judgment,
30 including attorney fees and costs, obtained against such persons arising out of

1 an actual or alleged act, error, or omission that occurred within the scope of
2 Interstate Commission employment, duties, or responsibilities, or that such
3 persons had a reasonable basis for believing occurred within the scope of
4 Interstate Commission employment, duties, or responsibilities, provided that
5 the actual or alleged act, error, or omission did not result from intentional or
6 willful and wanton misconduct on the part of such persons.

7 Art. 1633. Rulemaking functions of the Interstate Commission

8 A. The Interstate Commission shall promulgate and publish rules to
9 achieve the purposes of the compact.

10 B. Rulemaking shall occur pursuant to this Article and the bylaws and
11 rules adopted. Rulemaking shall substantially conform to the principles of the
12 "Model State Administrative Procedure Act", 1981 Act, Uniform Laws
13 Annotated, Vol. 15, p.1 (2000), or such other administrative procedure acts as
14 the Interstate Commission deems appropriate consistent with due process
15 requirements under the United States Constitution. All rules and amendments
16 shall become binding as of the date specified, as published with the final version
17 of the rule as approved by the Interstate Commission.

18 C. When promulgating a rule, the Interstate Commission shall, at a
19 minimum:

20 (1) Publish the proposed rule's entire text stating the reason for the
21 proposed rule.

22 (2) Allow and invite any and all persons to submit written data, facts,
23 opinions and arguments, which information shall be added to the record, and
24 be made publicly available.

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

27 D. Rules promulgated by the Interstate Commission shall have the force
28 and effect of administrative rules and shall be binding in the compacting states
29 to the extent and in the manner provided for in this compact.

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

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

11 G. The existing rules governing the operation of the Interstate Compact
12 on the Placement of Children superseded by this Chapter shall be null and void
13 no less than twelve, but no more than twenty-four months after the first meeting
14 of the Interstate Commission created hereunder, as determined by the members
15 during the first meeting.

16 H. Within the first twelve months of operation, the Interstate Commission
17 shall promulgate rules addressing all of the following:

18 (1) Transition rules.

19 (2) Forms and procedures.

20 (3) Timelines.

21 (4) Data collection and reporting.

22 (5) Rulemaking.

23 (6) Visitation.

24 (7) Progress reports and supervision.

25 (8) Sharing of information and confidentiality.

26 (9) Financing of the Interstate Commission.

27 (10) Mediation, arbitration and dispute resolution.

28 (11) Education, training and technical assistance.

29 (12) Enforcement.

30 (13) Coordination with other interstate compacts.

1 **I. Upon determination by a majority of the members of the Interstate**
2 **Commission that an emergency exists:**

3 **(1) The Interstate Commission may promulgate an emergency rule only**
4 **if it is required to do any of the following:**

5 **(a) Protect the children covered by the compact from an imminent threat**
6 **to their health, safety, and well-being.**

7 **(b) Prevent loss of federal or state funds.**

8 **(c) Meet a deadline for the promulgation of an administrative rule**
9 **required by federal law.**

10 **(2) An emergency rule shall become effective immediately upon adoption,**
11 **provided that the usual rulemaking procedures provided hereunder shall be**
12 **retroactively applied to such rule as soon as reasonably possible, but no later than**
13 **ninety days after the effective date of the emergency rule.**

14 **(3) An emergency rule shall be promulgated as provided for in the rules**
15 **of the Interstate Commission.**

16 **Art. 1634. Oversight, dispute resolution, enforcement**

17 **A. Oversight:**

18 **(1) The Interstate Commission shall oversee the administration and**
19 **operation of the compact.**

20 **(2) The executive, legislative, and judicial branches of state government in**
21 **each member state shall enforce the compact and the rules of the Interstate**
22 **Commission and shall take all actions necessary and appropriate to effectuate**
23 **the compact's purposes and intent. The compact and its rules shall be binding**
24 **in the compacting states to the extent and in the manner provided for in this**
25 **compact.**

26 **(3) All courts shall take judicial notice of the compact and the rules in any**
27 **judicial or administrative proceeding in a member state pertaining to the subject**
28 **matter of the compact.**

29 **(4) The Interstate Commission shall be entitled to receive service of process**
30 **in any action in which the validity of a compact provision or rule is the issue for**

1 which a judicial determination has been sought and shall have standing to
2 intervene in any proceedings. Failure to provide service of process to the
3 Interstate Commission shall render any judgment, order, or other determination,
4 however so captioned or classified, void as to the Interstate Commission, the
5 compact, its bylaws or rules of the Interstate Commission.

6 **B. Dispute resolution:**

7 (1) The Interstate Commission shall attempt, upon the request of a
8 member state, to resolve disputes which are subject to the compact and which
9 may arise among member states and between member and nonmember states.

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

14 **C. Enforcement:**

15 (1) If the Interstate Commission determines that a member state has
16 defaulted in the performance of its obligations or responsibilities under the
17 compact, its bylaws or rules, the Interstate Commission may take any of the
18 following actions:

19 (a) Provide remedial training and specific technical assistance.

20 (b) Provide written notice to the defaulting state and other member states,
21 of the nature of the default and the means of curing the default. The Interstate
22 Commission shall specify the conditions by which the defaulting state shall cure
23 its default.

24 (c) By majority vote of the members, initiate against a defaulting member
25 state legal action in the United State District Court for the District of Columbia
26 or, at the discretion of the Interstate Commission, in the federal district where the
27 Interstate Commission has its principal office, to enforce compliance with the
28 provisions of the compact, its bylaws or rules. The relief sought may include both
29 injunctive relief and damages. In the event judicial enforcement is necessary, the

1 prevailing party shall be awarded all costs of such litigation including reasonable
2 attorney fees.

3 (d) Avail itself of any other remedies available under state law or the
4 regulation of official or professional conduct.

5 Art. 1635. Financing of the commission

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

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

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

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

26 Art. 1636. Member states; effective date; amendment

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

28 B. The compact shall become effective and binding upon legislative
29 enactment of the compact into law by no less than thirty-five states. The effective
30 date shall be the later of July 1, 2007 or upon enactment of the compact into law

1 by the thirty-fifth state. Thereafter it shall become effective and binding as to any
 2 other member state upon enactment of the compact into law by that state. The
 3 executive heads of the state human services administration with ultimate
 4 responsibility for the child welfare program of nonmember states or their
 5 designees shall be invited to participate in the activities of the Interstate
 6 Commission on a nonvoting basis prior to adoption of the compact by all states.

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

11 Art. 1637. Withdrawal and dissolution

12 A. Withdrawal:

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

17 (2) Withdrawal from the compact shall be by the enactment of a statute
 18 repealing the same. The effective date of withdrawal shall be the effective date of
 19 the repeal of the statute.

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

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

26 (5) Reinstatement following withdrawal of a member state shall occur
 27 when the state reenacts the compact or upon a date determined by the
 28 members of the Interstate Commission.

29 B. Dissolution of compact:

1 (1) The compact shall dissolve effective upon the date of the
2 withdrawal or default of the member state which reduces the membership
3 in the compact to one member state.

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

8 Art. 1638. Severability and construction

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

12 B. The provisions of this Chapter and the compact shall be liberally
13 construed to effectuate its purposes.

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

17 Art. 1639. Binding effect of compact and other laws

18 A. Nothing herein prevents the enforcement of any other law of a
19 member state that is not inconsistent with this compact.

20 B. Binding effect of the compact.

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

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

26 (3) In the event any provision of this compact exceeds the
27 constitutional limits imposed on the legislature of any member state, it shall
28 be ineffective to the extent of the conflict.

29 Art. 1640. Indian tribes

1 Notwithstanding any other provision in this Chapter or the compact,
 2 the Interstate Commission may promulgate guidelines to permit Indian
 3 tribes to utilize the compact to achieve any or all of the purposes of the
 4 compact as specified in Article 1623. The Interstate Commission shall make
 5 reasonable efforts to consult with Indian tribes in promulgating guidelines
 6 to reflect the diverse circumstances of the various Indian tribes.

7 Art. 1641. Rulemaking authority; effect of rules

8 A. The Department of Social Services shall have the authority to
 9 promulgate rules and regulations in accordance with the Administrative
 10 Procedure Act as necessary to carry out the provisions of this Chapter.

11 B. Notwithstanding any other provision of this Chapter, rules
 12 adopted by the Interstate Commission shall not supersede state law, and
 13 shall not be binding unless also promulgated by this state in accordance with
 14 the Administrative Procedure Act. The provisions of this Subsection shall
 15 control to the extent of conflict with any other provision of law.

16 Art. 1642. Financial responsibility for children

17 Financial responsibility for any child placed under this compact shall
 18 be determined in accordance with Article 1629. However, in the event of
 19 partial or complete default of performance, other provisions of law may also
 20 be invoked.

21 Art. 1643. Authority to enter into agreements; approval of state treasurer

22 A. The officers and agencies of this state and its political subdivisions
 23 having authority to place children are hereby empowered to enter into
 24 agreements with appropriate officers or agencies of or in other party states
 25 pursuant to Article 1629.

26 B. Any agreement which contains a financial commitment or imposes
 27 a financial obligation on this state or subdivision or agency thereof shall not
 28 be binding unless it has the approval in writing of the state treasurer in the
 29 case of the state and of the chief local fiscal officer in the case of a
 30 subdivision of the state.

1 Section 2. Chapter 2 of Title XVI of the Louisiana Children's Code, comprised
2 of Articles 1608 through 1622, is hereby repealed in its entirety.

3 Section 3. The provisions of this Act shall become effective when the thirty-fifth
4 state has enacted the Interstate Compact for the Placement of Children as provided in
5 Children's Code Article 1636 in Section 1 of this Act.

6 Section 4. The secretary of the Department of Social Services shall notify the
7 president of the Louisiana Senate and the speaker of the Louisiana House of
8 Representatives when the thirty-fifth state has enacted the Interstate Compact for the
9 Placement of Children.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____