

# HOUSE BILL No. 5741

September 9, 2014, Introduced by Rep. Howrylak and referred to the Committee on Families, Children, and Seniors.

A bill providing for the joinder of this state in an interstate compact on the placement of children; to prescribe powers and duties of the department of human services; to prescribe jurisdiction of certain courts; to provide for agreements between this state and its subdivisions and other states and their subdivisions; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

ARTICLE I. PURPOSE

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

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

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

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

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

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

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

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

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

21 ARTICLE II. DEFINITIONS

22 As used in this compact,

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

26 B. "Assessment" means an evaluation of a prospective placement  
27 by a public child placing agency in the receiving state to

1 determine if the placement meets the individualized needs of the  
2 child, including but not limited to the child's safety and  
3 stability, health and well-being, and mental, emotional, and  
4 physical development. An assessment is only applicable to a  
5 placement by a public child placing agency.

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

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

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

13 F. "Home Study" means an evaluation of a home environment  
14 conducted in accordance with the applicable requirements of the  
15 state in which the home is located, and documents the preparation  
16 and the suitability of the placement resource for placement of a  
17 child in accordance with the laws and requirements of the state in  
18 which the home is located.

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

25 H. "Interstate Commission for the Placement of Children" means  
26 the commission that is created under Article VIII of this compact  
27 and which is generally referred to as the Interstate Commission.

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

3 J. "Legal Risk Placement" ("Legal Risk Adoption") means a  
4 placement made preliminary to an adoption where the prospective  
5 adoptive parents acknowledge in writing that a child can be ordered  
6 returned to the sending state or the birth mother's state of  
7 residence, if different from the sending state, and a final decree  
8 of adoption shall not be entered in any jurisdiction until all  
9 required consents are obtained or are dispensed with in accordance  
10 with applicable law.

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

12 L. "Non-custodial parent" means a person who, at the time of  
13 the commencement of court proceedings in the sending state, does  
14 not have sole legal custody of the child or has joint legal custody  
15 of a child, and who is not the subject of allegations or findings  
16 of child abuse or neglect.

17 M. "Non-member state" means a state which has not enacted this  
18 compact.

19 N. "Notice of residential placement" means information  
20 regarding a placement into a residential facility provided to the  
21 receiving state including, but not limited to the name, date and  
22 place of birth of the child, the identity and address of the parent  
23 or legal guardian, evidence of authority to make the placement, and  
24 the name and address of the facility in which the child will be  
25 placed. Notice of residential placement shall also include  
26 information regarding a discharge and any unauthorized absence from  
27 the facility.

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

4           P. "Private child placing agency" means any private  
5 corporation, agency, foundation, institution, or charitable  
6 organization, or any private person or attorney that facilitates,  
7 causes, or is involved in the placement of a child from one state  
8 to another and that is not an instrumentality of the state or  
9 acting under color of state law.

10          Q. "Provisional placement" means a determination made by the  
11 public child placing agency in the receiving state that the  
12 proposed placement is safe and suitable, and, to the extent  
13 allowable, the receiving state has temporarily waived its standards  
14 or requirements otherwise applicable to prospective foster or  
15 adoptive parents so as to not delay the placement. Completion of  
16 the receiving state requirements regarding training for prospective  
17 foster or adoptive parents shall not delay an otherwise safe and  
18 suitable placement.

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

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

27          T. "Relative" means someone who is related to the child as a

1 parent, step-parent, sibling by half or whole blood or by adoption,  
2 grandparent, aunt, uncle, or first cousin or a non-relative with  
3 such significant ties to the child that they may be regarded as  
4 relatives as determined by the court in the sending state.

5 U. "Residential Facility" means a facility providing a level  
6 of care that is sufficient to substitute for parental  
7 responsibility or foster care, and is beyond what is needed for  
8 assessment or treatment of an acute condition. For purposes of the  
9 compact, residential facilities do not include institutions  
10 primarily educational in character, hospitals or other medical  
11 facilities.

12 V. "Rule" means a written directive, mandate, standard or  
13 principle issued by the Interstate Commission promulgated pursuant  
14 to Article XI of this compact that is of general applicability and  
15 that implements, interprets or prescribes a policy or provision of  
16 the compact. "Rule" has the force and effect of an administrative  
17 rule in a member state, and includes the amendment, repeal, or  
18 suspension of an existing rule.

19 W. "Sending state" means the state from which the placement of  
20 a child is initiated.

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

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



1 determination of safety and suitability of the placement and  
2 services required is not provided through another compact.

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

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

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

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

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

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

19 5. The placement of a child with a non-custodial parent  
20 provided that:

21 a. The non-custodial parent proves to the satisfaction of a  
22 court in the sending state a substantial relationship with the  
23 child; and

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

27 c. The court in the sending state dismisses its jurisdiction

1 in interstate placements in which the public child placing agency  
2 is a party to the proceeding.

3 6. A child entering the United States from a foreign country  
4 for the purpose of adoption or leaving the United States to go to a  
5 foreign country for the purpose of adoption in that country.

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

9 8. The sending of a child by a public child placing agency or  
10 a private child placing agency for a visit as defined by the rules  
11 of the Interstate Commission.

12 C. For purposes of determining the applicability of this  
13 compact to the placement of a child with a family in the Armed  
14 Services, the public child placing agency or private child placing  
15 agency may choose the state of the service member's permanent duty  
16 station or the service member's declared legal residence.

17 D. Nothing in this compact shall be construed to prohibit the  
18 concurrent application of the provisions of this compact with other  
19 applicable interstate compacts including the Interstate Compact for  
20 Juveniles and the Interstate Compact on Adoption and Medical  
21 Assistance. The Interstate Commission may in cooperation with other  
22 interstate compact commissions having responsibility for the  
23 interstate movement, placement or transfer of children, promulgate  
24 like rules to ensure the coordination of services, timely placement  
25 of children, and the reduction of unnecessary or duplicative  
26 administrative or procedural requirements.

#### 27 ARTICLE IV. JURISDICTION

28 A. Except as provided in Article

1 e IV, Section H and Article V,  
2 Section B, paragraph two and three concerning private and  
3 independent adoptions, and in interstate placements in which the  
4 public child placing agency is not a party to a custody proceeding,  
5 the sending state shall retain jurisdiction over a child with  
6 respect to all matters of custody and disposition of the child  
7 which it would have had if the child had remained in the sending  
8 state. Such jurisdiction shall also include the power to order the  
9 return of the child to the sending state.

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

14 C. In cases that are before courts and subject to this  
15 compact, the taking of testimony for hearings before any judicial  
16 officer may occur in person or by telephone, audio-video  
17 conference, or such other means as approved by the rules of the  
18 Interstate Commission; and Judicial officers may communicate with  
19 other judicial officers and persons involved in the interstate  
20 process as may be permitted by their Canons of Judicial Conduct and  
21 any rules promulgated by the Interstate Commission.

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

24 1. The child is reunified with the parent in the receiving  
25 state who is the subject of allegations or findings of abuse or  
26 neglect, only with the concurrence of the public child placing  
27 agency in the receiving state; or

1           2. The child is adopted; or

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

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

6           5. A guardianship is created by a court in the receiving state  
7 with the concurrence of the court in the sending state; or

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

10          7. The public child placing agency of the sending state  
11 requests termination and has obtained the concurrence of the public  
12 child placing agency in the receiving state.

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

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

20          G. Nothing in this article shall limit the receiving state's  
21 ability to take emergency jurisdiction for the protection of the  
22 child.

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



1 birth parents in accordance with the laws of the sending state, or  
2 where permitted the laws of the state where the adoption will be  
3 finalized; and

4 3. Certification by a licensed attorney or authorized agent of  
5 a private adoption agency that the consent or relinquishment is in  
6 compliance with the applicable laws of the sending state, or where  
7 permitted the laws of the state where finalization of the adoption  
8 will occur; and

9 4. A home study; and

10 5. An acknowledgment of legal risk signed by the prospective  
11 adoptive parents.

12 C. The sending state and the receiving state may request  
13 additional information or documents prior to finalization of an  
14 approved placement, but they may not delay travel by the  
15 prospective adoptive parents with the child if the required content  
16 for approval has been submitted, received and reviewed by the  
17 public child placing agency in both the sending state and the  
18 receiving state.

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

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

25 F. Upon receipt of a request from the public child placing  
26 agency of the sending state, the receiving state shall initiate an  
27 assessment of the proposed placement to determine its safety and

1 suitability. If the proposed placement is a placement with a  
2 relative, the public child placing agency of the sending state may  
3 request a determination for a provisional placement.

4 G. The public child placing agency in the receiving state may  
5 request from the public child placing agency or the private child  
6 placing agency in the sending state, and shall be entitled to  
7 receive supporting or additional information necessary to complete  
8 the assessment or approve the placement.

9 H. The public child placing agency in the receiving state  
10 shall approve a provisional placement and complete or arrange for  
11 the completion of the assessment within the time frames established  
12 by the rules of the Interstate Commission.

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

17 J. The Interstate Commission may develop uniform standards for  
18 the assessment of the safety and suitability of interstate  
19 placements.

#### 20 ARTICLE VI. PLACEMENT AUTHORITY

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

24 B. If the public child placing agency in the receiving state  
25 does not approve the proposed placement then the child shall not be  
26 placed. The receiving state shall provide written documentation of  
27 any such determination in accordance with the rules promulgated by

1 the Interstate Commission. Such determination is not subject to  
2 judicial review in the sending state.

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

6 1. The administrative review and any further judicial review  
7 associated with the determination shall be conducted in the  
8 receiving state pursuant to its applicable Administrative  
9 Procedures Act.

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

15 ARTICLE VII. PLACING AGENCY RESPONSIBILITY

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

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

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

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

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

1 a. any assessment conducted by the receiving state; and

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

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

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

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

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

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

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

24 E. Nothing in this compact shall be construed as to limit the  
25 authority of the public child placing agency in the receiving state  
26 from contracting with a licensed agency or person in the receiving  
27 state for an assessment or the provision of supervision or services

1 for the child or otherwise authorizing the provision of supervision  
2 or services by a licensed agency during the period of placement.

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

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

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

15 I. With the consent of the Interstate Commission, states may  
16 enter into limited agreements that facilitate the timely assessment  
17 and provision of services and supervision of placements under this  
18 compact.

19 ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

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

25 A. Be a joint commission of the member states and shall have  
26 the responsibilities, powers and duties set forth herein, and such  
27 additional powers as may be conferred upon it by subsequent

1 concurrent action of the respective legislatures of the member  
2 states.

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

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

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

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

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

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

24 D. Establish an executive committee which shall have the  
25 authority to administer the day-to-day operations and  
26 administration of the Interstate Commission. It shall not have the  
27 power to engage in rulemaking.

## 1 ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

2 The Interstate Commission shall have the following powers:

3 A. To promulgate rules and take all necessary actions to  
4 effect the goals, purposes and obligations as enumerated in this  
5 compact.

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

7 C. To issue, upon request of a member state, advisory opinions  
8 concerning the meaning or interpretation of the interstate compact,  
9 its bylaws, rules or actions.10 D. To enforce compliance with this compact or the bylaws or  
11 rules of the Interstate Commission pursuant to Article XII.12 E. Collect standardized data concerning the interstate  
13 placement of children subject to this compact as directed through  
14 its rules which shall specify the data to be collected, the means  
15 of collection and data exchange and reporting requirements.16 F. To establish and maintain offices as may be necessary for  
17 the transacting of its business.

18 G. To purchase and maintain insurance and bonds.

19 H. To hire or contract for services of personnel or  
20 consultants as necessary to carry out its functions under the  
21 compact and establish personnel qualification policies, and rates  
22 of compensation.23 I. To establish and appoint committees and officers including,  
24 but not limited to, an executive committee as required by Article  
25 X.26 J. To accept any and all donations and grants of money,  
27 equipment, supplies, materials, and services, and to receive,

1 utilize, and dispose thereof.

2 K. To lease, purchase, accept contributions or donations of,  
3 or otherwise to own, hold, improve or use any property, real,  
4 personal, or mixed.

5 L. To sell, convey, mortgage, pledge, lease, exchange,  
6 abandon, or otherwise dispose of any property, real, personal or  
7 mixed.

8 M. To establish a budget and make expenditures.

9 N. To adopt a seal and bylaws governing the management and  
10 operation of the Interstate Commission.

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

16 P. To coordinate and provide education, training and public  
17 awareness regarding the interstate movement of children for  
18 officials involved in such activity.

19 Q. To maintain books and records in accordance with the bylaws  
20 of the Interstate Commission.

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

23 ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

24 A. Bylaws.

25 1. Within 12 months after the first Interstate Commission  
26 meeting, the Interstate Commission shall adopt bylaws to govern its  
27 conduct as may be necessary or appropriate to carry out the

1 purposes of the compact.

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

9           B. Meetings.

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

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

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

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

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

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

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

4 f. disclose investigative records compiled for law enforcement  
5 purposes; or

6 g. specifically relate to the Interstate Commission's  
7 participation in a civil action or other legal proceeding.

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

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

24 C. Officers and Staff.

25 1. The Interstate Commission may, through its executive  
26 committee, appoint or retain a staff director for such period, upon  
27 such terms and conditions and for such compensation as the

1 Interstate Commission may deem appropriate. The staff director  
2 shall serve as secretary to the Interstate Commission, but shall  
3 not have a vote. The staff director may hire and supervise such  
4 other staff as may be authorized by the Interstate Commission.

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

9 D. Qualified Immunity, Defense and Indemnification.

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

21 a. The liability of the Interstate Commission's staff director  
22 and employees or Interstate Commission representatives, acting  
23 within the scope of such person's employment or duties for acts,  
24 errors, or omissions occurring within such person's state may not  
25 exceed the limits of liability set forth under the Constitution and  
26 laws of that state for state officials, employees, and agents. The  
27 Interstate Commission is considered to be an instrumentality of the

1 states for the purposes of any such action. Nothing in this  
2 subsection shall be construed to protect such person from suit or  
3 liability for damage, loss, injury, or liability caused by a  
4 criminal act or the intentional or willful and wanton misconduct of  
5 such person.

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

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

1 or omission did not result from intentional or willful and wanton  
2 misconduct on the part of such persons.

3 ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

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

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

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

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

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

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

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

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

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

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

- 25           1. Transition rules.
- 26           2. Forms and procedures.
- 27           3. Time lines.

- 1 4. Data collection and reporting.
- 2 5. Rulemaking.
- 3 6. Visitation.
- 4 7. Progress reports/supervision.
- 5 8. Sharing of information/confidentiality.
- 6 9. Financing of the Interstate Commission.
- 7 10. Mediation, arbitration and dispute resolution.
- 8 11. Education, training and technical assistance.
- 9 12. Enforcement.
- 10 13. Coordination with other interstate compacts.
- 11 I. Upon determination by a majority of the members of the
- 12 Interstate Commission that an emergency exists:
  - 13 1. The Interstate Commission may promulgate an emergency rule
  - 14 only if it is required to:
    - 15 a. Protect the children covered by this compact from an
    - 16 imminent threat to their health, safety and well-being; or
    - 17 b. Prevent loss of federal or state funds; or
    - 18 c. Meet a deadline for the promulgation of an administrative
    - 19 rule required by federal law.
  - 20 2. An emergency rule shall become effective immediately upon
  - 21 adoption, provided that the usual rulemaking procedures provided
  - 22 hereunder shall be retroactively applied to said rule as soon as
  - 23 reasonably possible, but no later than 90 days after the effective
  - 24 date of the emergency rule.
  - 25 3. An emergency rule shall be promulgated as provided for in
  - 26 the rules of the Interstate Commission.
- 27 ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT
- 28 A. Oversight.

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

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

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

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

22           B. Dispute Resolution.

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

1           2. The Interstate Commission shall promulgate a rule providing  
2 for both mediation and binding dispute resolution for disputes  
3 among compacting states. The costs of such mediation or dispute  
4 resolution shall be the responsibility of the parties to the  
5 dispute.

6           C. Enforcement.

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

11           a. Provide remedial training and specific technical  
12 assistance; or

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

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

27           d. Avail itself of any other remedies available under state

1 law or the regulation of official or professional conduct.

2 ARTICLE XIII. FINANCING OF THE COMMISSION

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

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

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

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

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

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

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

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

## ARTICLE XV. WITHDRAWAL AND DISSOLUTION

A. Withdrawal.

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

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

3. The withdrawing state shall immediately notify the

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

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

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

12 B. Dissolution of Compact.

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

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

21 ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

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

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

27 C. Nothing in this compact shall be construed to prohibit the

1 concurrent applicability of other interstate compacts to which the  
2 states are members.

3 ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

4 A. Other Laws.

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

7 B. Binding Effect of the Compact.

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

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

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

18 ARTICLE XVIII. INDIAN TRIBES

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

26 Enacting section 1. 1984 PA 114, MCL 3.711 to 3.717, is  
27 repealed on the date that the compact administrator appointed under

1 this act certifies to the secretary of state that the thirty-fifth  
2 state has enacted this compact as provided in article XIV.