

**HOUSE BILL NO. 50**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES COGHILL, NEUMAN, AND WILSON, Hawker, Lynn

Introduced: 1/16/07

Referred: Health, Education and Social Services, Judiciary

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the Interstate Compact for the Placement of Children; establishing**  
2 **an interstate commission for the placement of children; amending Rules 4 and 24,**  
3 **Alaska Rules of Civil Procedure; and providing for an effective date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 \* **Section 1.** AS 25.23.060(c) is amended to read:

6 (c) A consent executed under this section is effective as a power of attorney  
7 under AS 13.26.020. Unless the consent form provides otherwise, and regardless of  
8 whether the form names or identifies the adoptive parent, the consent delegates to the  
9 adoptive parent all powers that may be delegated under AS 13.26.020. The power of  
10 attorney takes effect when the child is delivered to the adoptive parent, and remains in  
11 effect as long as the consent is in effect; but the power of attorney is not effective  
12 beyond one year, unless the court extends it for good cause. The power of attorney  
13 does not terminate on the death or disability of the person executing the consent,  
14 unless the consent form so states. This subsection may not be construed to alter the

1 requirements of AS 47.70 (the Interstate Compact **for** [ON] the Placement of  
2 Children).

3 \* **Sec. 2.** AS 47.70.010 is repealed and reenacted to read:

4 **Sec. 47.70.010. Compact enacted.** The Interstate Compact for the Placement  
5 of Children as contained in this section is enacted into law and entered into on behalf  
6 of the state with all other states legally joining in it in a form substantially as follows:

7 INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN.

8 ARTICLE I. PURPOSE

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

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

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

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

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

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

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

25 (G) Provide for a state's continuing legal jurisdiction and responsibility  
26 for placement and care of a child that it would have had if the placement were  
27 intrastate.

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

31 ARTICLE II. DEFINITIONS

1 As used in this compact,

2 (A) "Approved placement" means the receiving state has determined  
3 after an assessment that the placement is both safe and suitable for the child and is in  
4 compliance with the applicable laws of the receiving state governing the placement of  
5 children.

6 (B) "Assessment" means an evaluation of a prospective placement to  
7 determine whether the placement meets the individualized needs of the child,  
8 including but not limited to the child's safety and stability, health and well-being, and  
9 mental, emotional and physical development.

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

12 (D) "Default" means the failure of a member state to perform the  
13 obligations or responsibilities imposed upon it by this compact, the bylaws or rules of  
14 the Interstate Commission.

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

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

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

25 (H) "Member state" means a state that has enacted this compact.

26 (I) "Non-custodial parent" means a person who, at the time of the  
27 commencement of court proceedings in the sending state, does not have sole legal  
28 custody of the child or has joint legal custody of a child, and who is not the subject of  
29 allegations or findings of child abuse or neglect.

30 (J) "Non-member state" means a state which has not enacted this  
31 compact.

1           (K) "Notice of residential placement" means information regarding a  
2 placement into a residential facility provided to the receiving state including, but not  
3 limited to the name, date and place of birth of the child, the identity and address of the  
4 parent or legal guardian, evidence of authority to make the placement, and the name  
5 and address of the facility in which the child will be placed. Notice of residential  
6 placement shall also include information regarding a discharge and any unauthorized  
7 absence from the facility.

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

10           (M) "Private child placing agency" means any private corporation,  
11 agency, foundation, institution, or charitable organization, or any private person or  
12 attorney that facilitates, causes, or is involved in the placement of a child from one  
13 state to another and that is not an instrumentality of the state or acting under color of  
14 state law.

15           (N) "Provisional placement" means that the receiving state has  
16 determined that the proposed placement is safe and suitable, and, to the extent  
17 allowable, the receiving state has temporarily waived its standards or requirements  
18 otherwise applicable to prospective foster or adoptive parents so as to not delay the  
19 placement. Completion of the receiving state requirements regarding training for  
20 prospective foster or adoptive parents shall not delay an otherwise safe and suitable  
21 placement.

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

27           (P) "Receiving state" means the state to which a child is sent, brought,  
28 or caused to be sent or brought.

29           (Q) "Relative" means someone who is related to the child as a parent,  
30 step-parent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or  
31 first cousin or a non-relative with such significant ties to the child that they may be

1 regarded as relatives as determined by the court in the sending state.

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

7 (S) "Rule" means a written directive, mandate, standard or principle  
8 issued by the Interstate Commission promulgated pursuant to Article XI of this  
9 compact that is of general applicability and that implements, interprets or prescribes a  
10 policy or provision of the compact. "Rule" has the force and effect of statutory law in  
11 a member state, and includes the amendment, repeal, or suspension of an existing rule.

12 (T) "Sending state" means the state from which the placement of a  
13 child is initiated.

14 (U) "Service member's permanent duty station" means the military  
15 installation where an active duty Armed Services member is currently assigned and is  
16 physically located under competent orders that do not specify the duty as temporary.

17 (V) "Service member's state of legal residence" means the state in  
18 which the active duty Armed Services member is considered a resident for tax and  
19 voting purposes.

20 (W) "State" means a state of the United States, the District of  
21 Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam,  
22 American Samoa, the Northern Marianas Islands and any other territory of the United  
23 States.

24 (X) "State court" means a judicial body of a state that is vested by law  
25 with responsibility for adjudicating cases involving abuse, neglect, deprivation,  
26 delinquency or status offenses of individuals who have not attained the age of eighteen  
27 (18).

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

### 30 ARTICLE III. APPLICABILITY

31 (A) Except as otherwise provided in Article III, Section B, this

1 compact shall apply to:

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

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

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

13 (b) the child is being placed in another member state  
14 and the determination of safety and suitability of the placement and  
15 services required is not provided through another compact.

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

19 (B) The provisions of this compact do not apply to:

20 (1) The interstate placement of a child with a non-relative in a  
21 receiving state by a parent with the legal authority to make such a placement  
22 provided, however, that the placement is not intended to effectuate an  
23 adoption.

24 (2) The interstate placement of a child by one relative with the  
25 lawful authority to make such a placement directly with a relative in a  
26 receiving state.

27 (3) The placement of a child, not subject to Article III, Section  
28 A, into a residential facility by his parent.

29 (4) The placement of a child with a non-custodial parent  
30 provided that:

31 (a) The non-custodial parent proves to the satisfaction

1 of a court in the sending state a substantial relationship with the child;  
2 and

3 (b) The court in the sending state makes a written  
4 finding that placement with the non-custodial parent is in the best  
5 interests of the child; and

6 (c) The court in the sending state dismisses its  
7 jurisdiction over the child's case.

8 (5) A child entering the United States from a foreign country  
9 for the purpose of adoption or leaving the United States to go to a foreign  
10 country for the purpose of adoption in that country.

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

14 (7) The sending of a child by a public child placing agency or a  
15 private child placing agency for a visit as defined by the rules of the Interstate  
16 Commission.

17 (C) For purposes of determining the applicability of this compact to  
18 the placement of a child with a family in the Armed Services, the public child placing  
19 agency or private child placing agency may choose the state of the service member's  
20 permanent duty station or the service member's declared legal residence.

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

#### 29 ARTICLE IV. JURISDICTION

30 (A) The sending state shall retain jurisdiction over a child with respect  
31 to all matters of custody and disposition of the child which it would have had if the

1 child had remained in the sending state. Such jurisdiction shall also include the power  
2 to order the return of the child to the sending state.

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

6 (C) In accordance with its own laws, the court in the sending state shall  
7 have authority to terminate its jurisdiction if:

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

11 (2) The child is adopted; or

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

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

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

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

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

23 (D) When a sending state court terminates its jurisdiction, the  
24 receiving state child placing agency shall be notified.

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

29 (F) Nothing in this article shall limit the receiving state's ability to take  
30 emergency jurisdiction for the protection of the child.

31 **ARTICLE V. ASSESSMENTS**

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

4 (B) Prior to the sending, bringing, or causing a child to be sent or  
5 brought into a receiving state, the private child placing agency shall:

6 (1) Provide evidence that the applicable laws of the sending  
7 state have been complied with; and

8 (2) Certification that the consent or relinquishment is in  
9 compliance with applicable law of the birth parent's state of residence or,  
10 where permitted, the laws of the state of where the finalization of the adoption  
11 will occur; and

12 (3) Request through the public child placing agency in the  
13 sending state an assessment to be conducted in the receiving state; and

14 (4) Upon completion of the assessment, obtain the approval of  
15 the public child placing agency in the receiving state.

16 (C) The procedures for making and the request for an assessment shall  
17 contain all information and be in such form as provided for in the rules of the  
18 Interstate Commission.

19 (D) Upon receipt of a request from the public child welfare agency of  
20 the sending state, the receiving state shall initiate an assessment of the proposed  
21 placement to determine its safety and suitability. If the proposed placement is a  
22 placement with a relative, the public child placing agency of the sending state may  
23 request a determination of whether the placement qualifies as a provisional placement.

24 (E) The public child placing agency in the receiving state may request  
25 from the public child placing agency or the private child placing agency in the sending  
26 state, and shall be entitled to receive supporting or additional information necessary to  
27 complete the assessment.

28 (F) The public child placing agency in the receiving state shall  
29 complete or arrange for the completion of the assessment within the timeframes  
30 established by the rules of the Interstate Commission.

31 (G) The Interstate Commission may develop uniform standards for the

1 assessment of the safety and suitability of interstate placements.

2 ARTICLE VI. PLACEMENT AUTHORITY

3 (A) Except as provided in Article VI, Section C, no child subject to  
4 this compact shall be placed into a receiving state until approval for such placement is  
5 obtained.

6 (B) If the public child placing agency in the receiving state does not  
7 approve the proposed placement then the child shall not be placed. The receiving state  
8 shall provide written documentation of any such determination in accordance with the  
9 rules promulgated by the Interstate Commission. Such determination is not subject to  
10 judicial review in the sending state.

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

14 (1) The administrative review and any further judicial review  
15 associated with the determination shall be conducted in the receiving state  
16 pursuant to its applicable administrative procedures.

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

21 ARTICLE VII. STATE RESPONSIBILITY

22 (A) For the interstate placement of a child made by a public child  
23 placing agency or state court:

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

26 (a) the ongoing support and maintenance for the child  
27 during the period of the placement, unless otherwise provided for in the  
28 receiving state; and

29 (b) as determined by the public child placing agency in  
30 the sending state, services for the child beyond the public services for  
31 which the child is eligible in the receiving state.

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

3 (a) any assessment conducted by the receiving state;  
4 and

5 (b) supervision conducted by the receiving state at the  
6 level necessary to support the placement as agreed upon by the public  
7 child placing agencies of the receiving and sending state.

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

12 (B) For the placement of a child by a private child placing agency  
13 preliminary to a possible adoption, the private child placing agency shall be:

14 (1) Legally responsible for the child during the period of  
15 placement as provided for in the law of the sending state until the finalization  
16 of the adoption.

17 (2) Financially responsible for the child absent a contractual  
18 agreement to the contrary.

19 (C) A private child placing agency shall be responsible for any  
20 assessment conducted in the receiving state and any supervision conducted by the  
21 receiving state at the level required by the laws of the receiving state or the rules of the  
22 Interstate Commission.

23 (D) The public child placing agency in the receiving state shall provide  
24 timely assessments, as provided for in the rules of the Interstate Commission.

25 (E) The public child placing agency in the receiving state shall  
26 provide, or arrange for the provision of, supervision and services for the child,  
27 including timely reports, during the period of the placement.

28 (F) Nothing in this compact shall be construed as to limit the authority  
29 of the public child placing agency in the receiving state from contracting with a  
30 licensed agency or person in the receiving state for an assessment or the provision of  
31 supervision or services for the child or otherwise authorizing the provision of

1 supervision or services by a licensed agency during the period of placement.

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

6 (H) Each member state shall establish a central state compact office,  
7 which shall be responsible for state compliance with the compact and the rules of the  
8 Interstate Commission.

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

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

#### 15 ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

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

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

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

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

31 (2) A majority of the member states shall constitute a quorum

1 for the transaction of business, unless a larger quorum is required by the  
2 bylaws of the Interstate Commission.

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

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

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

12 (D) Establish an executive committee which shall have the authority to  
13 administer the day-to-day operations and administration of the Interstate Commission.  
14 It shall not have the power to engage in rulemaking.

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

16 The Interstate Commission shall have the following powers:

17 (A) To promulgate rules and take all necessary actions to effect the  
18 goals, purposes and obligations as enumerated in this compact.

19 (B) To provide for dispute resolution among member states.

20 (C) To issue, upon request of a member state, advisory opinions  
21 concerning the meaning or interpretation of the interstate compact, its bylaws, rules or  
22 actions.

23 (D) To enforce compliance with this compact or the bylaws or rules of  
24 the Interstate Commission pursuant to Article XII.

25 (E) Collect standardized data concerning the interstate placement of  
26 children subject to this compact as directed through its rules which shall specify the  
27 data to be collected, the means of collection and data exchange and reporting  
28 requirements.

29 (F) To establish and maintain offices as may be necessary for the  
30 transacting of its business.

31 (G) To purchase and maintain insurance and bonds.

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

4 (I) To establish and appoint committees and officers including, but not  
 5 limited to, an executive committee as required by Article X.

6 (J) To accept any and all donations and grants of money, equipment,  
 7 supplies, materials, and services, and to receive, utilize, and dispose thereof.

8 (K) To lease, purchase, accept contributions or donations of, or  
 9 otherwise to own, hold, improve or use any property, real, personal, or mixed.

10 (L) To sell, convey, mortgage, pledge, lease, exchange, abandon, or  
 11 otherwise dispose of any property, real, personal or mixed.

12 (M) To establish a budget and make expenditures.

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

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

19 (P) To coordinate and provide education, training and public  
 20 awareness regarding the interstate movement of children for officials involved in such  
 21 activity.

22 (Q) To maintain books and records in accordance with the bylaws of  
 23 the Interstate Commission.

24 (R) To perform such functions as may be necessary or appropriate to  
 25 achieve the purposes of this compact.

26 **ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE**

27 **COMMISSION**

28 **(A) Bylaws**

29 (1) Within 12 months after the first Interstate Commission  
 30 meeting, the Interstate Commission shall adopt bylaws to govern its conduct as  
 31 may be necessary or appropriate to carry out the purposes of the compact.

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

7                   (B) Meetings

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

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

17                               (a) relate solely to the Interstate Commission's internal  
18 personnel practices and procedures; or

19                               (b) disclose matters specifically exempted from  
20 disclosure by federal law; or

21                               (c) disclose financial or commercial information which  
22 is privileged, proprietary or confidential in nature; or

23                               (d) involve accusing a person of a crime, or formally  
24 censuring a person; or

25                               (e) disclose information of a personal nature where  
26 disclosure would constitute a clearly unwarranted invasion of personal  
27 privacy or physically endanger one or more persons; or

28                               (f) disclose investigative records compiled for law  
29 enforcement purposes; or

30                               (g) specifically relate to the Interstate Commission's  
31 participation in a civil action or other legal proceeding.

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

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

15                   (C) Officers and Staff

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

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

26                   (D) Qualified Immunity, Defense and Indemnification

27                   (1) The Interstate Commission's staff director and its  
28 employees shall be immune from suit and liability, either personally or in their  
29 official capacity, for a claim for damage to or loss of property or personal  
30 injury or other civil liability caused or arising out of or relating to an actual or  
31 alleged act, error, or omission that occurred, or that such person had a

1 reasonable basis for believing occurred within the scope of Commission  
2 employment, duties, or responsibilities; provided, that such person shall not be  
3 protected from suit or liability for damage, loss, injury, or liability caused by a  
4 criminal act or the intentional or willful and wanton misconduct of such  
5 person.

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

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

28 (c) To the extent not covered by the state involved,  
29 member state, or the Interstate Commission, the representatives or  
30 employees of the Interstate Commission shall be held harmless in the  
31 amount of a settlement or judgment, including attorney's fees and costs,

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

9 **ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION**

10 (A) The Interstate Commission shall promulgate and publish rules in  
11 order to effectively and efficiently achieve the purposes of the compact.

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

21 (C) When promulgating a rule, the Interstate Commission shall, at a  
22 minimum:

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

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

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

30 (D) Rules promulgated by the Interstate Commission shall have the  
31 force and effect of statutory law and shall supersede any state law, rule or regulation to

1 the extent of any conflict.

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

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

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

17 (H) Within the first 12 months of operation, the Interstate Commission  
18 shall promulgate rules addressing the following:

- 19 (1) Transition rules
- 20 (2) Forms and procedures
- 21 (3) Time lines
- 22 (4) Data collection and reporting
- 23 (5) Rulemaking
- 24 (6) Visitation
- 25 (7) Progress reports/supervision
- 26 (8) Sharing of information/confidentiality
- 27 (9) Financing of the Interstate Commission
- 28 (10) Mediation, arbitration and dispute resolution
- 29 (11) Education, training and technical assistance
- 30 (12) Enforcement
- 31 (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  
4 rule only if it is required to:

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

7 (b) Prevent loss of federal or state funds; or

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

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

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

17 **ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT**

18 (A) Oversight

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

21 (2) The executive, legislative and judicial branches of state  
22 government in each member state shall enforce this compact and the rules of  
23 the Interstate Commission and shall take all actions necessary and appropriate  
24 to effectuate the compact's purposes and intent. The compact and its rules shall  
25 supersede state law, rules or regulations to the extent of any conflict therewith.

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

29 (4) The Interstate Commission shall be entitled to receive  
30 service of process in any action in which the validity of a compact provision or  
31 rule is the issue for which a judicial determination has been sought and shall

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

5 (B) Dispute Resolution

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

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

14 (C) Enforcement

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

18 (a) Provide remedial training and specific technical  
19 assistance; or

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

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

1 litigation including reasonable attorney's fees; or

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

4 ARTICLE XIII. FINANCING OF THE COMMISSION

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

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

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

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

25 ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

26 (A) Any state is eligible to become a member state.

27 (B) The compact shall become effective and binding upon legislative  
28 enactment of the compact into law by no less than 35 states. Thereafter it shall become  
29 effective and binding as to any other member state upon enactment of the compact  
30 into law by that state. The executive heads of the state human services administration  
31 with ultimate responsibility for the child welfare program of non-member states or

1 their designees shall be invited to participate in the activities of the Interstate  
2 Commission on a non-voting basis prior to adoption of the compact by all states.

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

#### 7 ARTICLE XV. WITHDRAWAL AND DISSOLUTION

##### 8 (A) Withdrawal

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

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

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

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

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

##### 26 (B) Dissolution of Compact

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

30 (2) Upon the dissolution of this compact, the compact becomes  
31 null and void and shall be of no further force or effect, and the business and

1 affairs of the Interstate Commission shall be concluded and surplus funds shall  
2 be distributed in accordance with the bylaws.

### 3 ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

4 (A) The provisions of this compact shall be severable, and if any  
5 phrase, clause, sentence or provision is deemed unenforceable, the remaining  
6 provisions of the compact shall be enforceable.

7 (B) The provisions of this compact shall be liberally construed to  
8 effectuate its purposes.

9 (C) Nothing in this compact shall be construed to prohibit the  
10 concurrent applicability of other interstate compacts to which the states are members.

### 11 ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

#### 12 (A) Other Laws

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

15 (2) All member states' laws conflicting with this compact or its  
16 rules are superseded to the extent of the conflict.

#### 17 (B) Binding Effect of the Compact

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

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

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

### 27 ARTICLE XVIII. INDIAN TRIBES

28 Notwithstanding any other provision in this compact, the Interstate  
29 Commission may promulgate guidelines to permit Indian tribes to utilize the compact  
30 to achieve any or all of the purposes of the compact as specified in Article I. The  
31 Interstate Commission shall make reasonable efforts to consult with Indian tribes in

1 promulgating guidelines to reflect the diverse circumstances of the various Indian  
2 tribes.

3 \* **Sec. 3.** AS 47.70.020 is amended to read:

4 **Sec. 47.70.020. Financial responsibility.** Financial responsibility for a child  
5 placed in accordance with the Interstate Compact **for** [ON] the Placement of Children  
6 shall be determined in accordance with art. **VII** [V] of the compact. However, in the  
7 event of partial or complete default of performance under the compact, the provisions  
8 of AS 47.14.100(b) apply.

9 \* **Sec. 4.** AS 47.70.040 is amended to read:

10 **Sec. 47.70.040. Agreements.** The officers and agencies of this state and its  
11 subdivisions having authority to place children are empowered to enter into  
12 agreements with appropriate officers or agencies of or in other party states under **art.**  
13 **V(B) and art. VII(J)** [ART. V(b)] of the Interstate Compact **for** [ON] the Placement  
14 of Children.

15 \* **Sec. 5.** AS 47.70.050 is amended to read:

16 **Sec. 47.70.050. Delegation by agreement.** Requirements for visitation,  
17 inspection, or supervision of children, homes, institutions, or other agencies in another  
18 party state **that** [WHICH] may apply under AS 47.14.110 shall be considered to be  
19 met if performed under an agreement entered into by appropriate officers or agencies  
20 of this state or a subdivision of this state as contemplated by **art. V(B) and art. VII(J)**  
21 [ART. V(b)] of the Interstate Compact **for** [ON] the Placement of Children.

22 \* **Sec. 6.** AS 47.70.060 is amended to read:

23 **Sec. 47.70.060. Executive head.** As used in **art. VIII(B) and XIV(B)** [ART.  
24 VII] of the Interstate Compact **for** [ON] the Placement of Children, the term  
25 "executive head" means the **commissioner of health and social services**  
26 [GOVERNOR]. The **commissioner is authorized to establish a central compact**  
27 **office in accordance with the terms of art. VII(H)** [GOVERNOR IS  
28 AUTHORIZED TO APPOINT A COMPACT ADMINISTRATOR IN  
29 ACCORDANCE WITH THE TERMS OF ART. VII].

30 \* **Sec. 7.** AS 47.70.080 is amended to read:

31 **Sec. 47.70.080. Short title.** AS 47.70.010 may be cited as the Interstate

1 Compact **for** [ON] the Placement of Children.

2 \* **Sec. 8.** AS 47.70.030 and 47.70.070 are repealed.

3 \* **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to  
4 read:

5 INDIRECT COURT RULE AMENDMENTS. (a) Article XII(A)(4), contained in  
6 AS 47.70.010, as repealed and reenacted by sec. 2 of this Act, has the effect of amending Rule  
7 4, Alaska Rules of Civil Procedure, by entitling the Interstate Commission for the Placement  
8 of Children to receive service of process of a judicial proceeding in this state that pertains to  
9 the Interstate Compact for the Placement of Children and in which the validity of a compact  
10 provision or rule is an issue for which a judicial determination has been sought.

11 (b) Article XII(A)(4), contained in AS 47.70.010, as repealed and reenacted by sec. 2  
12 of this Act, has the effect of amending Rule 24, Alaska Rules of Civil Procedure, by entitling  
13 the Interstate Commission for the Placement of Children to have standing to intervene in a  
14 judicial proceeding in this state that pertains to the Interstate Compact for the Placement of  
15 Children and in which the validity of a compact provision or rule is an issue for which a  
16 judicial determination has been sought.

17 \* **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to  
18 read:

19 CONDITIONAL EFFECT OF CERTAIN PROVISIONS. (a) Article XII(A)(4),  
20 contained in AS 47.70.010, as repealed and reenacted by sec. 2 of this Act, takes effect only if  
21 sec. 9(a) of this Act receives the two-thirds majority vote of each house required by art. IV,  
22 sec. 15, Constitution of the State of Alaska.

23 (b) Article XII(A)(4), contained in AS 47.70.010, as repealed and reenacted by sec. 2  
24 of this Act, takes effect only if sec. 9(b) of this Act receives the two-thirds majority vote of  
25 each house required by art. IV, sec. 15, Constitution of the State of Alaska.

26 \* **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to  
27 read:

28 CONDITIONAL EFFECT OF ACT; COMMISSIONER'S DUTY TO NOTIFY. (a)  
29 Sections 1 - 10 of this Act take effect only if at least 34 other states have ratified the Interstate  
30 Compact for the Placement of Children.

31 (b) The commissioner of health and social services or the commissioner's designee

1 shall notify the lieutenant governor and the revisor of statutes when at least 34 other states  
2 have ratified the Interstate Compact for the Placement of Children.

3 \* **Sec. 12.** If secs. 1 - 10 of this Act take effect under sec. 11 of this Act, they take effect the  
4 day after the date on which the commissioner of health and social services or the  
5 commissioner's designee notifies the revisor of statutes that at least 34 other states have  
6 ratified the Interstate Compact for the Placement of Children or July 1, 2007, whichever is  
7 later.