

CS FOR HOUSE BILL NO. 50(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 2/29/08

Referred: Judiciary

Sponsor(s): REPRESENTATIVES COGHILL, NEUMAN AND WILSON, Hawker, Lynn, Roses

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3 * **Sec. 2.** AS 47.70.010 is repealed and reenacted to read: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 public child-placing agency in
3 the receiving state has determined that the placement is both safe and suitable for the
4 child.

5 (B) "Assessment" means an evaluation of a prospective placement by a
6 public child-placing agency in the receiving state to determine if the placement meets
7 the individualized needs of the child, including but not limited to the child's safety and
8 stability, health and well-being, and mental, emotional and physical development. An
9 assessment is only applicable to a placement by a public child-placing agency.

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

12 (D) "Certification" means to attest, declare, or swear before a judge or
13 notary public.

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

17 (F) "Home study" means an evaluation of a home environment
18 conducted in accordance with the applicable requirements of the state in which the
19 home is located, and documents the preparation and the suitability of the placement
20 resource for placement of a child in accordance with the laws and requirements of the
21 state in which the home is located.

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

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

30 (I) "Jurisdiction" means the power and authority of a court to hear and
31 decide matters.

1 (J) "Legal risk" means that a child can be ordered to be returned to the
2 sending state, or the birth mother's state of residence if different from the sending
3 state, and a final decree of adoption may not be entered in any jurisdiction until all
4 consents are obtained or are dispensed with in accordance with applicable law.

5 (K) "Member state" means a state that has enacted this compact.

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

10 (M) "Non-member state" means a state which has not enacted this
11 compact.

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

19 (O) "Placement" means the act by a public or private child-placing
20 agency intended to arrange for the care or custody of a child in another state.

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

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

1 delay an otherwise safe and suitable placement.

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

7 (S) "Receiving state" means the state to which a child is sent, brought,
8 or caused to be sent or brought.

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

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

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

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

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

29 (Y) "Service member's state of legal residence" means the state in
30 which the active duty Armed Services member is considered a resident for tax and
31 voting purposes.

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

5 (AA) "State court" means a judicial body of a state that is vested by
6 law with responsibility for adjudicating cases involving abuse, neglect, deprivation,
7 delinquency or status offenses of individuals who have not attained the age of eighteen
8 (18).

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

11 ARTICLE III. APPLICABILITY

12 (A) Except as otherwise provided in Article III, Section B, this
13 compact shall apply to:

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

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

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

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

28 (3) The interstate placement of any child by a public child-
29 placing agency or private child-placing agency as defined in this compact as a
30 preliminary step to a possible adoption.

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

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

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

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

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

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

15 (a) The non-custodial parent proves to the satisfaction
16 of a court in the sending state a substantial relationship with the child;
17 and

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

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

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

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

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

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

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

13 ARTICLE IV. JURISDICTION

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

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

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

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

29 (2) The child is adopted; or

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

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

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

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

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

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

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

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

18 (G) The substantive laws of the state in which an adoption will be
19 finalized shall solely govern all issues relating to the adoption of a child, and the court
20 in which the adoption proceeding is filed shall have subject matter jurisdiction
21 regarding all substantive issues relating to the adoption, except when:

22 (1) the child is a ward of another court that established
23 jurisdiction over the child prior to the placement;

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

26 (3) a court in the sending state has otherwise appropriately
27 assumed jurisdiction over the child prior to the submission of the request for
28 approval of placement.

29 (H) A final decree of adoption may not be entered in any jurisdiction
30 until the placement is authorized as an "approved placement" by the public child-
31 placing agency in the receiving state.

1 ARTICLE V. PLACEMENT EVALUATION

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

5 (B) For placements by a private child-placing agency, a child may be
6 sent or brought, or caused to be sent or brought, into a receiving state, upon receipt
7 and immediate review of the required content in a request for approval of a placement
8 in both the sending and receiving state public child-placing agency. The required
9 content to accompany a request for provisional approval must include all of the
10 following:

11 (1) a request for approval identifying the child, the birth
12 parents, the prospective adoptive parents, and the supervising agency, signed
13 by the person requesting approval;

14 (2) the appropriate consents or relinquishment is signed by the
15 birth parents in accordance with the laws of the sending state or, when
16 permitted, with the laws of the state where the adoption will be finalized;

17 (3) certification by a licensed attorney or authorized agent of a
18 private adoption agency that the consent or relinquishment is in compliance
19 with the applicable laws of the sending state, or when permitted, the laws of
20 the state where finalization of the adoption will occur;

21 (4) a home study; and

22 (5) an acknowledgment of legal risk signed by the prospective
23 adoptive parents.

24 (C) The sending state and the receiving state may request additional
25 information or documents prior to finalization of an approved placement, but they may
26 not delay travel by the prospective adoptive parents with the child if the required
27 content for approval has been submitted, received, and reviewed by the public child-
28 placing agency in both the sending state and the receiving state.

29 (D) Approval from the public-child placing agency in the receiving
30 state for a provisional or approved placement is required as provided for in the rules of
31 the Interstate Commission.

1 (E) The procedures for making and the request for an assessment shall
2 contain all information and be in such form as provided for in the rules of the
3 Interstate Commission.

4 (F) Upon receipt of a request from the public child-placing agency of
5 the sending state, the receiving state shall initiate an assessment of the proposed
6 placement to determine its safety and suitability. If the proposed placement is a
7 placement with a relative, the public child-placing agency of the sending state may
8 request a determination for a provisional placement.

9 (G) The public child-placing agency in the receiving state may request
10 from the public child-placing agency or the private child-placing agency in the
11 sending state, and shall be entitled to receive supporting or additional information
12 necessary to complete the assessment.

13 (H) The public child-placing agency in the receiving state shall
14 approve a provisional placement and complete or arrange for the completion of the
15 assessment within the timeframes established by the rules of the Interstate
16 Commission.

17 (I) For a placement by a private child-placing agency, the sending state
18 shall not impose any additional requirements to complete the home study that are not
19 required by the receiving state, unless the adoption is finalized in the sending state.

20 (J) The Interstate Commission may develop uniform standards for the
21 assessment of the safety and suitability of interstate placements.

22 ARTICLE VI. PLACEMENT AUTHORITY

23 (A) Except as provided in this compact, no child subject to this
24 compact shall be placed into a receiving state until approval for such placement is
25 obtained.

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

31 (C) If the proposed placement is not approved, any interested party

1 shall have standing to seek an administrative review of the receiving state's
2 determination.

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

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

10 ARTICLE VII. PLACING AGENCY RESPONSIBILITY

11 (A) For the interstate placement of a child made by a public child-
12 placing agency or state court:

13 (1) The public child-placing agency in the sending state shall
14 have financial responsibility for:

15 (a) the ongoing support and maintenance for the child
16 during the period of the placement, unless otherwise provided for in the
17 receiving state; and

18 (b) as determined by the public child-placing agency in
19 the sending state, services for the child beyond the public services for
20 which the child is eligible in the receiving state.

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

23 (a) any assessment conducted by the receiving state;
24 and

25 (b) supervision conducted by the receiving state at the
26 level necessary to support the placement as agreed upon by the public
27 child-placing agencies of the receiving and sending state.

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

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

3 (1) Legally responsible for the child during the period of
4 placement as provided for in the law of the sending state until the finalization
5 of the adoption.

6 (2) Financially responsible for the child absent a contractual
7 agreement to the contrary.

8 (C) A private child-placing agency shall be responsible for any
9 assessment conducted in the receiving state and any supervision conducted by the
10 receiving state at the level required by the laws of the receiving state or the rules of the
11 Interstate Commission.

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

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

17 (F) Nothing in this compact shall be construed as to limit the authority
18 of the public child-placing agency in the receiving state from contracting with a
19 licensed agency or person in the receiving state for an assessment or the provision of
20 supervision or services for the child or otherwise authorizing the provision of
21 supervision or services by a licensed agency during the period of placement.

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

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

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

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

4 ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

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

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

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

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

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

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

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

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

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

4 ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

5 The Interstate Commission shall have the following powers:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE

16 COMMISSION

17 (A) Bylaws

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

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

27 (B) Meetings

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

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

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

8 (b) disclose matters specifically exempted from
9 disclosure by federal law; or

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

12 (d) involve accusing a person of a crime, or formally
13 censuring a person; or

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

17 (f) disclose investigative records compiled for law
18 enforcement purposes; or

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

21 (3) For a meeting, or portion of a meeting, closed pursuant to
22 this provision, the Interstate Commission's legal counsel or designee shall
23 certify that the meeting may be closed and shall reference each relevant
24 exemption provision. The Interstate Commission shall keep minutes which
25 shall fully and clearly describe all matters discussed in a meeting and shall
26 provide a full and accurate summary of actions taken, and the reasons
27 therefore, including a description of the views expressed and the record of a
28 roll call vote. All documents considered in connection with an action shall be
29 identified in such minutes. All minutes and documents of a closed meeting
30 shall remain under seal, subject to release by a majority vote of the Interstate
31 Commission or by court order.

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

4 (C) Officers and Staff

5 (1) The Interstate Commission may, through its executive
6 committee, appoint or retain a staff director for such period, upon such terms
7 and conditions and for such compensation as the Interstate Commission may
8 deem appropriate. The staff director shall serve as secretary to the Interstate
9 Commission, but shall not have a vote. The staff director may hire and
10 supervise such other staff as may be authorized by the Interstate Commission.

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

15 (D) Qualified Immunity, Defense and Indemnification

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

26 (a) The liability of the Interstate Commission's staff
27 director and employees or Interstate Commission representatives,
28 acting within the scope of such person's employment or duties for acts,
29 errors, or omissions occurring within such person's state may not
30 exceed the limits of liability set forth under the Constitution and laws
31 of that state for state officials, employees, and agents. The Interstate

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

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

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

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

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

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

10 (C) When promulgating a rule, the Interstate Commission shall, at a
11 minimum:

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

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

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

19 (D) Rules promulgated by the Interstate Commission shall have the
20 force and effect of administrative regulations and shall be binding in the compacting
21 states to the extent of and in the manner provided for in this compact.

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

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

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

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

- 8 (1) Transition rules
- 9 (2) Forms and procedures
- 10 (3) Time lines
- 11 (4) Data collection and reporting
- 12 (5) Rulemaking
- 13 (6) Visitation
- 14 (7) Progress reports/supervision
- 15 (8) Sharing of information/confidentiality
- 16 (9) Financing of the Interstate Commission
- 17 (10) Mediation, arbitration and dispute resolution
- 18 (11) Education, training and technical assistance
- 19 (12) Enforcement
- 20 (13) Coordination with other interstate compacts

21 (I) Upon determination by a majority of the members of the Interstate
 22 Commission that an emergency exists:

- 23 (1) The Interstate Commission may promulgate an emergency
 24 rule only if it is required to:
 - 25 (a) Protect the children covered by this compact from
 26 an imminent threat to their health, safety and well-being; or
 - 27 (b) Prevent loss of federal or state funds; or
 - 28 (c) Meet a deadline for the promulgation of an
 29 administrative rule required by federal law.
- 30 (2) An emergency rule shall become effective immediately
 31 upon adoption, provided that the usual rulemaking procedures provided

1 hereunder shall be retroactively applied to said rule as soon as reasonably
 2 possible, but no later than 90 days after the effective date of the emergency
 3 rule.

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

6 ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

7 (A) Oversight

8 (1) The Interstate Commission shall oversee the administration
 9 and operation of the compact.

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

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

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

26 (B) Dispute Resolution

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

31 (2) The Interstate Commission shall promulgate a rule

1 providing for both mediation and binding dispute resolution for disputes
2 among compacting states. The costs of such mediation or dispute resolution
3 shall be the responsibility of the parties to the dispute.

4 (C) Enforcement

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

8 (a) Provide remedial training and specific technical
9 assistance; or

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

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

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

25 ARTICLE XIII. FINANCING OF THE COMMISSION

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

28 (B) The Interstate Commission may levy on and collect an annual
29 assessment from each member state to cover the cost of the operations and activities of
30 the Interstate Commission and its staff which must be in a total amount sufficient to
31 cover the Interstate Commission's annual budget as approved by its members each

1 year. The aggregate annual assessment amount shall be allocated based upon a
2 formula to be determined by the Interstate Commission which shall promulgate a rule
3 binding upon all member states.

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

8 (D) The Interstate Commission shall keep accurate accounts of all
9 receipts and disbursements. The receipts and disbursements of the Interstate
10 Commission shall be subject to the audit and accounting procedures established under
11 its bylaws. However, all receipts and disbursements of funds handled by the Interstate
12 Commission shall be audited yearly by a certified or licensed public accountant and
13 the report of the audit shall be included in and become part of the annual report of the
14 Interstate Commission.

15 ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

17 (B) The compact shall become effective and binding upon legislative
18 enactment of the compact into law by no less than 35 states. Thereafter it shall become
19 effective and binding as to any other member state upon enactment of the compact
20 into law by that state. The executive heads of the state human services administration
21 with ultimate responsibility for the child welfare program of non-member states or
22 their designees shall be invited to participate in the activities of the Interstate
23 Commission on a non-voting basis prior to adoption of the compact by all states.

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

28 ARTICLE XV. WITHDRAWAL AND DISSOLUTION

29 (A) Withdrawal

30 (1) Once effective, the compact shall continue in force and
31 remain binding upon each and every member state; provided that a member

1 state may withdraw from the compact specifically repealing the statute which
2 enacted the compact into law.

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

6 (3) The withdrawing state shall immediately notify the
7 president of the Interstate Commission in writing upon the introduction of
8 legislation repealing this compact in the withdrawing state. The Interstate
9 Commission shall then notify the other member states of the withdrawing
10 state's intent to withdraw.

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

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

16 (B) Dissolution of Compact

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

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

24 ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

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

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

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

1 ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

2 (A) Other Laws

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

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

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 binding
10 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 state, such
15 provision shall be ineffective to the extent of the conflict with the
16 constitutional provision in question in that member state.

17 ARTICLE XVIII. INDIAN TRIBES

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

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

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

30 * **Sec. 4.** AS 47.70.040 is amended to read:

31 **Sec. 47.70.040. Agreements.** The officers and agencies of this state and its

1 subdivisions having authority to place children are empowered to enter into
 2 agreements with appropriate officers or agencies of or in other party states under **art.**
 3 **V(B) and art. VII(J)** [ART. V(b)] of the Interstate Compact **for** [ON] the Placement
 4 of Children.

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

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

12 * **Sec. 6.** AS 47.70.060 is amended to read:

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

20 * **Sec. 7.** AS 47.70.080 is amended to read:

21 **Sec. 47.70.080. Short title.** AS 47.70.010 may be cited as the Interstate
 22 Compact **for** [ON] the Placement of Children.

23 * **Sec. 8.** AS 47.70.030 and 47.70.070 are repealed.

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

26 **INDIRECT COURT RULE AMENDMENTS.** (a) Article XII(A)(4), contained in
 27 AS 47.70.010, as repealed and reenacted by sec. 2 of this Act, has the effect of amending Rule
 28 4, Alaska Rules of Civil Procedure, by entitling the Interstate Commission for the Placement
 29 of Children to receive service of process of a judicial proceeding in this state that pertains to
 30 the Interstate Compact for the Placement of Children and in which the validity of a compact
 31 provision or rule is an issue for which a judicial determination has been sought.

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

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

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

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

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

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

21 (b) The commissioner of health and social services or the commissioner's designee
22 shall notify the lieutenant governor and the revisor of statutes when at least 34 other states
23 have ratified the Interstate Compact for the Placement of Children.

24 * **Sec. 12.** If secs. 1 - 10 of this Act take effect under sec. 11 of this Act, they take effect the
25 day after the date on which the commissioner of health and social services or the
26 commissioner's designee notifies the revisor of statutes that at least 34 other states have
27 ratified the Interstate Compact for the Placement of Children or July 1, 2008, whichever is
28 later.