

SENATE No. 67

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to improve the interstate compact on the placement of children ..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 452 of the acts of 1963 is hereby amended by striking
2 section 1 and inserting in place thereof the following:

3 A compact is hereby entered into with all Jurisdictions legally joining therein in
4 substantially the following form:

5 INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN

6 ARTICLE I. PURPOSE

7 The purpose of this compact is to:

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

10 Facilitate ongoing supervision of a placement, the delivery of services, and
11 communication between the states.

12 Provide operating procedures that will ensure that children are placed in safe and suitable
13 homes in a timely manner.

14 Provide for the promulgation and enforcement of administrative rules implementing the
15 provisions of this compact and regulating the covered activities of the member states.

16 Provide for uniform data collection and information sharing between member states
17 under this compact.

18 Promote coordination between this compact, the Interstate Compact for Juveniles, the
19 Interstate Compact on Adoption and Medical Assistance and other compacts affecting the
20 placement of and which provide services to children otherwise subject to this compact.

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

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

25 ARTICLE II. DEFINITIONS

26 As used in this compact,

27 "Approved placement" means the receiving state has determined after an assessment that
28 the placement is both safe and suitable for the child and is in compliance with the applicable
29 laws of the receiving state governing the placement of children therein.

30 “Assessment” means an evaluation of a prospective placement to determine whether the
31 placement meets the individualized needs of the child, including but not limited to the child’s
32 safety and stability, health and well-being, and mental, emotional and physical development.

33 “Child” means an individual who has not attained the age of eighteen (18).

34 “Default” means the failure of a member state to perform the obligations or
35 responsibilities imposed upon it by this compact, the bylaws or rules of the Interstate
36 Commission.

37 “Indian tribe” means any Indian tribe, band, nation, or other organized group or
38 community of Indians recognized as eligible for services provided to Indians by the Secretary of
39 the Interior because of their status as Indians, including any Alaskan native village as defined in
40 section 3 (c) of the Alaska Native Claims settlement Act at 43 USC §1602(c).

41 “Interstate Commission for the Placement of Children” means the commission that is
42 created under Article VIII of this compact and which is generally referred to as the Interstate
43 Commission.

44 “Jurisdiction” means the power and authority of a court to hear and decide matters.

45 “Member state” means a state that has enacted this compact.

46 “Non-custodial parent” means a person who, at the time of the commencement of court
47 proceedings in the sending state, does not have sole legal custody of the child or has joint legal
48 custody of a child, and who is not the subject of allegations or findings of child abuse or neglect.

49 “Non-member state” means a state which has not enacted this compact.

50 “Notice of residential placement” means information regarding a placement into a
51 residential facility provided to the receiving state including, but not limited to the name, date and
52 place of birth of the child, the identity and address of the parent or legal guardian, evidence of
53 authority to make the placement, and the name and address of the facility in which the child will
54 be placed. Notice of residential placement shall also include information regarding a discharge
55 and any unauthorized absence from the facility.

56 “Placement” means the act by a public or private child placing agency intended to
57 arrange for the care or custody of a child in another state.

58 “Private child placing agency” means any private corporation, agency, foundation,
59 institution, or charitable organization, or any private person or attorney that facilitates, causes, or
60 is involved in the placement of a child from one state to another and that is not an instrumentality
61 of the state or acting under color of state law.

62 “Provisional placement” means that the receiving state has determined that the proposed
63 placement is safe and suitable, and, to the extent allowable, the receiving state has temporarily
64 waived its standards or requirements otherwise applicable to prospective foster or adoptive
65 parents so as to not delay the placement. Completion of the receiving state requirements
66 regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and
67 suitable placement.

68 “Public child placing agency” means any government child welfare agency or child
69 protection agency or a private entity under contract with such an agency, regardless of whether
70 they act on behalf of a state, county, municipality or other governmental unit and which
71 facilitates, causes, or is involved in the placement of a child from one state to another.

72 “Receiving state” means the state to which a child is sent, brought, or caused to be sent or
73 brought.

74 “Relative” means someone who is related to the child as a parent, step-parent, sibling by
75 half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin or a non-relative
76 with such significant ties to the child that they may be regarded as relatives as determined by the
77 court in the sending state.

78 “Residential Facility” means a facility providing a level of care that is sufficient to
79 substitute for parental responsibility or foster care, and is beyond what is needed for assessment
80 or treatment of an acute condition. For purposes of the compact, residential facilities do not
81 include institutions primarily educational in character, hospitals or other medical facilities.

82 “Rule” means a written directive, mandate, standard or principle issued by the Interstate
83 Commission promulgated pursuant to Article XI of this compact that is of general applicability
84 and that implements, interprets or prescribes a policy or provision of the compact. “Rule” has the
85 force and effect of statutory law in a member state, and includes the amendment, repeal, or
86 suspension of an existing rule.

87 “Sending state” means the state from which the placement of a child is initiated.

88 “Service member’s permanent duty station” means the military installation where an
89 active duty Armed Services member is currently assigned and is physically located under
90 competent orders that do not specify the duty as temporary.

91 “Service member’s state of legal residence” means the state in which the active duty
92 Armed Services member is considered a resident for tax and voting purposes.

93 “State” means a state of the United States, the District of Columbia, the Commonwealth
94 of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands
95 and any other territory of the United States.

96 “State court” means a judicial body of a state that is vested by law with responsibility for
97 adjudicating cases involving abuse, neglect, deprivation, delinquency or status offenses of
98 individuals who have not attained the age of eighteen (18).

99 “Supervision” means monitoring provided by the receiving state once a child has been
100 placed in a receiving state pursuant to this compact.

101 ARTICLE III. APPLICABILITY

102 A. Except as otherwise provided in Article III, Section B, this compact shall apply
103 to:

104 1. The interstate placement of a child subject to ongoing court jurisdiction in the
105 sending state, due to allegations or findings that the child has been abused, neglected, or deprived
106 as defined by the laws of the sending state, provided, however, that the placement of such a child
107 into a residential facility shall only require notice of residential placement to the receiving state
108 prior to placement.

109 2. The interstate placement of a child adjudicated delinquent or unmanageable based
110 on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:

111 a. the child is being placed in a residential facility in another member state and is not
112 covered under another compact; or

113 b. the child is being placed in another member state and the determination of safety
114 and suitability of the placement and services required is not provided through another compact.

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

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

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

121 The interstate placement of a child by one relative with the lawful authority to make such
122 a placement directly with a relative in a receiving state.

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

125 The placement of a child with a non-custodial parent provided that:

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

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

130 c. The court in the sending state dismisses its jurisdiction over the child's case.

131 A child entering the United States from a foreign country for the purpose of adoption or
132 leaving the United States to go to a foreign country for the purpose of adoption in that country.

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

135 The sending of a child by a public child placing agency or a private child placing agency
136 for a visit as defined by the rules of the Interstate Commission.

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

141 D. Nothing in this compact shall be construed to prohibit the concurrent application
142 of the provisions of this compact with other applicable interstate compacts including the
143 Interstate Compact for Juveniles and the Interstate Compact on Adoption and Medical
144 Assistance. The Interstate Commission may in cooperation with other interstate compact
145 commissions having responsibility for the interstate movement, placement or transfer of
146 children, promulgate like rules to ensure the coordination of services, timely placement of
147 children, and the reduction of unnecessary or duplicative administrative or procedural
148 requirements.

149 ARTICLE IV. JURISDICTION

150 The sending state shall retain jurisdiction over a child with respect to all matters of
151 custody and disposition of the child which it would have had if the child had remained in the
152 sending state. Such jurisdiction shall also include the power to order the return of the child to the
153 sending state.

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

157 In accordance with its own laws, the court in the sending state shall have authority to
158 terminate its jurisdiction if:

159 The child is reunified with the parent in the receiving state who is the subject of
160 allegations or findings of abuse or neglect, only with the concurrence of the public child placing
161 agency in the receiving state; or

162 The child is adopted; or

163 The child reaches the age of majority under the laws of the sending state; or

164 The child achieves legal independence pursuant to the laws of the sending state; or

165 A guardianship is created by a court in the receiving state with the concurrence of the
166 court in the sending state; or

167 An Indian tribe has petitioned for and received jurisdiction from the court in the sending
168 state; or

169 The public child placing agency of the sending state requests termination and has
170 obtained the concurrence of the public child placing agency in the receiving the state.

171 D. When a sending state court terminates its jurisdiction, the receiving state child placing
172 agency shall be notified.

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

177 F. Nothing in this article shall limit the receiving state's ability to take emergency
178 jurisdiction for the protection of the child.

179 ARTICLE V. ASSESSMENTS

180 Prior to sending, bringing, or causing a child to be sent or brought into a receiving state,
181 the public child placing agency shall provide a written request for assessment to the receiving
182 state.

183 Prior to the sending, bringing, or causing a child to be sent or brought into a receiving
184 state, the private child placing agency shall:

185 Provide evidence that the applicable laws of the sending state have been complied with;
186 and

187 Certification that the consent or relinquishment is in compliance with applicable law of
188 the birth parent's state of residence or, where permitted, the laws of the state of where the
189 finalization of the adoption will occur; and

190 3. Request through the public child placing agency in the sending state an
191 assessment to be conducted in the receiving state; and

192 4. Upon completion of the assessment, obtain the approval of the public child
193 placing agency in the receiving state.

194 C. The procedures for making and the request for an assessment shall contain all
195 information and be in such form as provided for in the rules of the Interstate Commission.

196 Upon receipt of a request from the public child welfare agency of the sending state, the
197 receiving state shall initiate an assessment of the proposed placement to determine its safety and
198 suitability. If the proposed placement is a placement with a relative, the public child placing
199 agency of the sending state may request a determination of whether the placement qualifies as a
200 provisional placement.

201 The public child placing agency in the receiving state may request from the public child
202 placing agency or the private child placing agency in the sending state, and shall be entitled to
203 receive supporting or additional information necessary to complete the assessment.

204 The public child placing agency in the receiving state shall complete or arrange for the
205 completion of the assessment within the timeframes established by the rules of the Interstate
206 Commission.

207 The Interstate Commission may develop uniform standards for the assessment of the
208 safety and suitability of interstate placements.

209 ARTICLE VI. PLACEMENT AUTHORITY

210 Except as provided in Article VI, Section C, no child subject to this compact shall be
211 placed into a receiving state until approval for such placement is obtained.

212 B. If the public child placing agency in the receiving state does not approve the proposed
213 placement then the child shall not be placed. The receiving state shall provide written

214 documentation of any such determination in accordance with the rules promulgated by the
215 Interstate Commission. Such determination is not subject to judicial review in the sending state.

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

218 1. The administrative review and any further judicial review associated with the
219 determination shall be conducted in the receiving state pursuant to its applicable administrative
220 procedures.

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

225 ARTICLE VII. STATE RESPONSIBILITY

226 For the interstate placement of a child made by a public child placing agency or state
227 court:

228 The public child placing agency in the sending state shall have financial responsibility
229 for:

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

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

234 2. The receiving state shall only have financial responsibility for:
235 a. any assessment conducted by the receiving state; and
236 b. supervision conducted by the receiving state at the level necessary to support the
237 placement as agreed upon by the public child placing agencies of the receiving and sending state.

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

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

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

245 2. Financially responsible for the child absent a contractual agreement to the
246 contrary.

247 A private child placing agency shall be responsible for any assessment conducted in the
248 receiving state and any supervision conducted by the receiving state at the level required by the
249 laws of the receiving state or the rules of the Interstate Commission.

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

252 The public child placing agency in the receiving state shall provide, or arrange for the
253 provision of, supervision and services for the child, including timely reports, during the period of
254 the placement.

255 Nothing in this compact shall be construed as to limit the authority of the public child
256 placing agency in the receiving state from contracting with a licensed agency or person in the
257 receiving state for an assessment or the provision of supervision or services for the child or
258 otherwise authorizing the provision of supervision or services by a licensed agency during the
259 period of placement.

260 Each member state shall provide for coordination among its branches of government
261 concerning the state’s participation in, and compliance with, the compact and Interstate
262 Commission activities, through the creation of an advisory council or use of an existing body or
263 board.

264 Each member state shall establish a central state compact office, which shall be
265 responsible for state compliance with the compact and the rules of the Interstate Commission.

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

269 With the consent of the Interstate Commission, states may enter into limited agreements
270 that facilitate the timely assessment and provision of services and supervision of placements
271 under this compact.

272 ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF
273 CHILDREN

274 The member states hereby establish, by way of this compact, a commission known as the
275 “Interstate Commission for the Placement of Children.” The activities of the Interstate
276 Commission are the formation of public policy and are a discretionary state function. The
277 Interstate Commission shall:

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

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

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

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

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

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

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

296 D. Establish an executive committee which shall have the authority to administer the
297 day-to-day operations and administration of the Interstate Commission. It shall not have the
298 power to engage in rulemaking.

299 ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

300 The Interstate Commission shall have the following powers:

301 To promulgate rules and take all necessary actions to effect the goals, purposes and
302 obligations as enumerated in this compact.

303 To provide for dispute resolution among member states.

304 To issue, upon request of a member state, advisory opinions concerning the meaning or
305 interpretation of the interstate compact, its bylaws, rules or actions.

306 To enforce compliance with this compact or the bylaws or rules of the Interstate
307 Commission pursuant to Article XII.

308 Collect standardized data concerning the interstate placement of children subject to this
309 compact as directed through its rules which shall specify the data to be collected, the means of
310 collection and data exchange and reporting requirements.

311 To establish and maintain offices as may be necessary for the transacting of its business.

312 To purchase and maintain insurance and bonds.

313 To hire or contract for services of personnel or consultants as necessary to carry out its
314 functions under the compact and establish personnel qualification policies, and rates of
315 compensation.

316 To establish and appoint committees and officers including, but not limited to, an
317 executive committee as required by Article X.

318 To accept any and all donations and grants of money, equipment, supplies, materials, and
319 services, and to receive, utilize, and dispose thereof.

320 To lease, purchase, accept contributions or donations of, or otherwise to own, hold,
321 improve or use any property, real, personal, or mixed.

322 To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any
323 property, real, personal or mixed.

324 To establish a budget and make expenditures.

325 To adopt a seal and bylaws governing the management and operation of the Interstate
326 Commission.

327 To report annually to the legislatures, governors, the judiciary, and state advisory
328 councils of the member states concerning the activities of the Interstate Commission during the
329 preceding year. Such reports shall also include any recommendations that may have been
330 adopted by the Interstate Commission.

331 To coordinate and provide education, training and public awareness regarding the
332 interstate movement of children for officials involved in such activity.

333 To maintain books and records in accordance with the bylaws of the Interstate
334 Commission.

335 To perform such functions as may be necessary or appropriate to achieve the purposes of
336 this compact.

337 ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE
338 COMMISSION

339 A. Bylaws

340 Within 12 months after the first Interstate Commission meeting, the Interstate
341 Commission shall adopt bylaws to govern its conduct as may be necessary or appropriate to
342 carry out the purposes of the compact.

343 The Interstate Commission's bylaws and rules shall establish conditions and procedures
344 under which the Interstate Commission shall make its information and official records available
345 to the public for inspection or copying. The Interstate Commission may exempt from disclosure
346 information or official records to the extent they would adversely affect personal privacy rights
347 or proprietary interests.

348 B. Meetings

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

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

356 relate solely to the Interstate Commission’s internal personnel practices and procedures;

357 or

358 disclose matters specifically exempted from disclosure by federal law; or

359 disclose financial or commercial information which is privileged, proprietary or
360 confidential in nature; or

361 involve accusing a person of a crime, or formally censuring a person; or

362 disclose information of a personal nature where disclosure would constitute a clearly
363 unwarranted invasion of personal privacy or physically endanger one or more persons; or

364 disclose investigative records compiled for law enforcement purposes; or

365 specifically relate to the Interstate Commission’s participation in a civil action or other
366 legal proceeding.

367 For a meeting, or portion of a meeting, closed pursuant to this provision, the Interstate
368 Commission’s legal counsel or designee shall certify that the meeting may be closed and shall
369 reference each relevant exemption provision. The Interstate Commission shall keep minutes
370 which shall fully and clearly describe all matters discussed in a meeting and shall provide a full
371 and accurate summary of actions taken, and the reasons therefore, including a description of the
372 views expressed and the record of a roll call vote. All documents considered in connection with

373 an action shall be identified in such minutes. All minutes and documents of a closed meeting
374 shall remain under seal, subject to release by a majority vote of the Interstate Commission or by
375 court order.

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

378 C. Officers and Staff

379 1. The Interstate Commission may, through its executive committee, appoint or
380 retain a staff director for such period, upon such terms and conditions and for such compensation
381 as the Interstate Commission may deem appropriate. The staff director shall serve as secretary to
382 the Interstate Commission, but shall not have a vote. The staff director may hire and supervise
383 such other staff as may be authorized by the Interstate Commission.

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

387 D. Qualified Immunity, Defense and Indemnification

388 1. The Interstate Commission's staff director and its employees shall be immune
389 from suit and liability, either personally or in their official capacity, for a claim for damage to or
390 loss of property or personal injury or other civil liability caused or arising out of or relating to an
391 actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis
392 for believing occurred within the scope of Commission employment, duties, or responsibilities;
393 provided, that such person shall not be protected from suit or liability for damage, loss, injury, or

394 liability caused by a criminal act or the intentional or willful and wanton misconduct of such
395 person.

396 a. The liability of the Interstate Commission's staff director and employees or Interstate
397 Commission representatives, acting within the scope of such person's employment or duties for
398 acts, errors, or omissions occurring within such person's state may not exceed the limits of
399 liability set forth under the Constitution and laws of that state for state officials, employees, and
400 agents. The Interstate Commission is considered to be an instrumentality of the states for the
401 purposes of any such action. Nothing in this subsection shall be construed to protect such person
402 from suit or liability for damage, loss, injury, or liability caused by a criminal act or the
403 intentional or willful and wanton misconduct of such person.

404 b. The Interstate Commission shall defend the staff director and its employees and,
405 subject to the approval of the Attorney General or other appropriate legal counsel of the member
406 state shall defend the commissioner of a member state in a civil action seeking to impose liability
407 arising out of an actual or alleged act, error or omission that occurred within the scope of
408 Interstate Commission employment, duties or responsibilities, or that the defendant had a
409 reasonable basis for believing occurred within the scope of Interstate Commission employment,
410 duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result
411 from intentional or willful and wanton misconduct on the part of such person.

412 c. To the extent not covered by the state involved, member state, or the Interstate
413 Commission, the representatives or employees of the Interstate Commission shall be held
414 harmless in the amount of a settlement or judgment, including attorney's fees and costs,
415 obtained against such persons arising out of an actual or alleged act, error, or omission that

416 occurred within the scope of Interstate Commission employment, duties, or responsibilities, or
417 that such persons had a reasonable basis for believing occurred within the scope of Interstate
418 Commission employment, duties, or responsibilities, provided that the actual or alleged act,
419 error, or omission did not result from intentional or willful and wanton misconduct on the part of
420 such persons.

421 ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

422 The Interstate Commission shall promulgate and publish rules in order to effectively and
423 efficiently achieve the purposes of the compact.

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

432 When promulgating a rule, the Interstate Commission shall, at a minimum:

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

434 Allow and invite any and all persons to submit written data, facts, opinions and
435 arguments, which information shall be added to the record, and be made publicly available; and

436 Promulgate a final rule and its effective date, if appropriate, based on input from state or
437 local officials, or interested parties.

438 Rules promulgated by the Interstate Commission shall have the force and effect of
439 statutory law and shall supersede any state law, rule or regulation to the extent of any conflict.

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

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

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

452 Within the first 12 months of operation, the Interstate Commission shall promulgate rules
453 addressing the following:

454 Transition rules

455 Forms and procedures

456 Time lines

457 Data collection and reporting

458 Rulemaking

459 Visitation

460 Progress reports/supervision

461 Sharing of information/confidentiality

462 Financing of the Interstate Commission

463 Mediation, arbitration and dispute resolution

464 Education, training and technical assistance

465 Enforcement

466 Coordination with other interstate compacts

467 Upon determination by a majority of the members of the Interstate Commission that an
468 emergency exists:

469 1. The Interstate Commission may promulgate an emergency rule only if it is required to:

470 a. Protect the children covered by this compact from an imminent threat to their health,
471 safety and well-being; or

472 b. Prevent loss of federal or state funds; or

473 c. Meet a deadline for the promulgation of an administrative rule required by federal law.

474 2. An emergency rule shall become effective immediately upon adoption, provided that
475 the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as
476 soon as reasonably possible, but no later than 90 days after the effective date of the emergency
477 rule.

478 3. An emergency rule shall be promulgated as provided for in the rules of the Interstate
479 Commission.

480 ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

481 A. Oversight

482 The Interstate Commission shall oversee the administration and operations of the
483 compact.

484 The executive, legislative and judicial branches of state government in each member state
485 shall enforce this compact and the rules of the Interstate Commission and shall take all actions
486 necessary and appropriate to effectuate the compact's purposes and intent. The compact and its
487 rules shall supercede state law, rules or regulations to the extent of any conflict therewith.

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

490 The Interstate Commission shall be entitled to receive service of process in any action in
491 which the validity of a compact provision or rule is the issue for which a judicial determination
492 has been sought and shall have standing to intervene in any proceedings. Failure to provide
493 service of process to the Interstate Commission shall render any judgment, order or other

494 determination, however so captioned or classified, void as to the Interstate Commission, this
495 compact, its bylaws or rules of the Interstate Commission.

496 B. Dispute Resolution

497 The Interstate Commission shall attempt, upon the request of a member state, to resolve
498 disputes which are subject to the compact and which may arise among member states and
499 between member and non-member states.

500 The Interstate Commission shall promulgate a rule providing for both mediation and
501 binding dispute resolution for disputes among compacting states. The costs of such mediation or
502 dispute resolution shall be the responsibility of the parties to the dispute.

503 C. Enforcement

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

507 a. Provide remedial training and specific technical assistance; or

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

511 c. By majority vote of the members, initiate against a defaulting member state legal
512 action in the United State District Court for the District of Columbia or, at the discretion of the
513 Interstate Commission, in the federal district where the Interstate Commission has its principal
514 offices, to enforce compliance with the provisions of the compact, its bylaws or rules. The relief

515 sought may include both injunctive relief and damages. In the event judicial enforcement is
516 necessary the prevailing party shall be awarded all costs of such litigation including reasonable
517 attorney's fees; or

518 d. Avail itself of any other remedies available under state law or the regulation of
519 official or professional conduct.

520 ARTICLE XIII. FINANCING OF THE COMMISSION

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

523 The Interstate Commission may levy on and collect an annual assessment from each
524 member state to cover the cost of the operations and activities of the Interstate Commission and
525 its staff which must be in a total amount sufficient to cover the Interstate Commission's annual
526 budget as approved by its members each year. The aggregate annual assessment amount shall be
527 allocated based upon a formula to be determined by the Interstate Commission which shall
528 promulgate a rule binding upon all member states.

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

532 The Interstate Commission shall keep accurate accounts of all receipts and
533 disbursements. The receipts and disbursements of the Interstate Commission shall be subject to
534 the audit and accounting procedures established under its bylaws. However, all receipts and
535 disbursements of funds handled by the Interstate Commission shall be audited yearly by a

536 certified or licensed public accountant and the report of the audit shall be included in and become
537 part of the annual report of the Interstate Commission.

538 ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

539 Any state is eligible to become a member state.

540 The compact shall become effective and binding upon legislative enactment of the
541 compact into law by no less than 35 states. The effective date shall be the later of July 1, 2007 or
542 upon enactment of the compact into law by the 35th state. Thereafter it shall become effective
543 and binding as to any other member state upon enactment of the compact into law by that state.
544 The governors of non-member states or their designees shall be invited to participate in the
545 activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by
546 all states.

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

550 ARTICLE XV. WITHDRAWAL AND DISSOLUTION

551 A. Withdrawal

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

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

557 The withdrawing state shall immediately notify the president of the Interstate
558 Commission in writing upon the introduction of legislation repealing this compact in the
559 withdrawing state. The Interstate Commission shall then notify the other member states of the
560 withdrawing state’s intent to withdraw.

561 The withdrawing state is responsible for all assessments, obligations and liabilities
562 incurred through the effective date of withdrawal.

563 Reinstatement following withdrawal of a member state shall occur upon the withdrawing
564 state reenacting the compact or upon such later date as determined by the members of the
565 Interstate Commission.

566 B. Dissolution of Compact

567 This compact shall dissolve effective upon the date of the withdrawal or default of the
568 member state which reduces the membership in the compact to one member state.

569 Upon the dissolution of this compact, the compact becomes null and void and shall be of
570 no further force or effect, and the business and affairs of the Interstate Commission shall be
571 concluded and surplus funds shall be distributed in accordance with the bylaws.

572 ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

573 The provisions of this compact shall be severable, and if any phrase, clause, sentence or
574 provision is deemed unenforceable, the remaining provisions of the compact shall be
575 enforceable.

576 The provisions of this compact shall be liberally construed to effectuate its purposes.

577 Nothing in this compact shall be construed to prohibit the concurrent applicability of
578 other interstate compacts to which the states are members.

579 ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

580 A. Other Laws

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

583 All member states' laws conflicting with this compact or its rules are superseded to the
584 extent of the conflict.

585 B. Binding Effect of the Compact

586 All lawful actions of the Interstate Commission, including all rules and bylaws
587 promulgated by the Interstate Commission, are binding upon the member states.

588 All agreements between the Interstate Commission and the member states are binding in
589 accordance with their terms.

590 In the event any provision of this compact exceeds the constitutional limits imposed on
591 the legislature of any member state, such provision shall be ineffective to the extent of the
592 conflict with the constitutional provision in question in that member state.

593 ARTICLE XVIII. INDIAN TRIBES

594 Notwithstanding any other provision in this compact, the Interstate Commission may
595 promulgate guidelines to permit Indian tribes to utilize the compact to achieve any or all of the
596 purposes of the compact as specified in Article I. The Interstate Commission shall make

597 reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect the diverse
598 circumstances of the various Indian tribes.

599 SECTION 2: Section 3 of chapter 452 of the acts of 1963 is hereby amended by striking
600 the word “Article V” and inserting in place thereof the following word “Article VII”.

601 SECTION 3: Section 4 of chapter 452 of the acts of 1963 is hereby amended by striking
602 section 4 and inserting in place thereof the following:

603 The state Department of Children and Families shall be the central state compact office as
604 that term is used in Article VII (H) of the interstate compact on the placement of children.

605 SECTION 4: Section 5 of chapter 452 of the acts of 1963 is hereby amended by striking
606 the word “Article V(b)” and inserting in place thereof the following words “Article VII(A)(3)
607 and VII(F)”.

608 SECTION 5: Section 6 of chapter 452 of the acts of 1963 is hereby amended by striking
609 the words “sections fourteen, fifteen and sixteen of said chapter on hundred and nineteen” and
610 inserting in place thereof the following words “the laws of the Commonwealth”.

611 SECTION 6: Section 6 of chapter 452 of the acts of 1963 is hereby further amended by
612 striking the word “Article V(b)” and inserting in place thereof the word “Article VII(A)(3).

613 SECTION 7: Section 7 of chapter 452 of the acts of 1963 is hereby further amended by
614 striking the words “Article VI” and “Article I” and inserting in place thereof the words “Article
615 III(2)” and “Article III(2)” respectively.

616 SECTION 8: Section 8 of chapter 452 of the acts of 1963 is hereby repealed.