

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN
TRAPS FOR THE UNWARY

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The **Interstate Compact on the Placement of Children (ICPC)** is an agreement among all fifty states, the District of Columbia, and the United States Virgin Islands. The text of this agreement (which is included as an Appendix to these materials) has been ratified as uniform state law in all 52 jurisdictions. Minnesota addresses the Compact in Minn. Stat. § 260.851.

Generally, the ICPC system is responsible for coordinating the movement of children across state lines for the purposes of adoption, foster care placement, and residential treatment. The need for such a system was recognized as early as the 1950's, when a group of social service administrators on the East Coast came together to study the issues involved in moving children from state to state. The group discovered that there were no mechanisms in place to fully protect children and to ensure that they received appropriate services. In response to this, the Interstate Compact on the Placement of Children was drafted and, in 1960, New York was the first state to enact it.

The ICPC was designed to ensure that children have the same protections in the receiving state as they had in their sending state, as well as to provide a contingency plan if the proposed placement is unsuccessful. The goals of the ICPC are to prevent children from getting lost in the shuffle of social service systems as they move from state to state, and to provide the needed mechanism to ensure that a child's best interests and needs are met.

In furtherance of these goals, ICPC gives the sending state the opportunity to conduct home studies and evaluate the proposed placement. It allows the prospective receiving state the opportunity to determine that the placement is in the child's best interests and it guarantees the child legal and financial protection. Indeed, ICPC mandates that the sending state maintains jurisdiction over the child, has the right to demand placement supervision and retains legal and financial responsibility while the child remains in the out-of-state placement.

The cornerstone of the ICPC is that a child may not be taken from one state to another until both the sending and the receiving states' ICPC offices have given approval for the placement of the child. This approval process begins when an attorney or agency in the sending state submits an ICPC 100A Form and supporting documentation to the sending state's ICPC administrator. (A sample 100A Form is included in the Appendix, as is a listing of current contact information for each state's ICPC administrator).

It is critical that the requirements for *both* the sending and receiving states are met throughout this process. For purposes of adoptive placement, Minnesota requires the 100A, a current home study, consents or a termination order, medical records and social and medical histories. Additionally, if the child is coming into Minnesota or leaving Minnesota before a consent is final, Minnesota will require the adoptive parent or parents to have signed an Affidavit of Risk acknowledging that they understand that fact and that the child may have to be returned to the sending state. (See the Appendix for more detailed checklists regarding Minnesota requirements). However, these requirements vary from state to state and the adoptive placement must comport with both states' requirements.

Thus, it is advisable that each state's requirements be ascertained as soon as possible so that the parties are aware of the steps that need to be taken. On average, six weeks or 30 business days is the recommended processing time from 100A submission to final approval. However, this timeline can be greatly extended if appropriate steps are not taken. For example, it is not unheard of for an adoptive couple to live in a hotel for several weeks with a new infant because ICPC approval is held up by an incomplete or outdated home study.

Upon receiving the 100A notice and documentation, the receiving state forwards the referral to the appropriate authority (usually a social service agency) in his or her state for action.

The action necessary will depend upon the type of placement. Ultimately, the ICPC administrator decides if the relevant state laws were met and will issue a decision on placement approval. If the sending attorney or agency has been proactive about meeting the necessary requirements, surprises can be avoided.

It is also not unheard of for a family to take placement of an out-of-state child without prior approval and for them to subsequently contact an attorney. If the child is already in Minnesota, ICPC has been violated. The attorney must then work closely with the ICPC administrator to provide all the documentation for after-the-fact compliance. In such a situation, it may be possible to obtain a letter stating that despite the technical violation, requirements were ultimately met and the administrator has no objection to the adoption being finalized.

The next procedural step is adoption finalization pursuant to the laws of the receiving state. Again, prior to finalization, the sending state maintains responsibility for and jurisdiction over the child. Such responsibility is terminated when the child is legally adopted and the sending agency submits a Form 100B. This Form will indicate the child's changed status, requires the filing of a copy of the final adoption decree, and will close the ICPC case.

Minnesota courts have discretion to penalize a party for violation of the ICPC. The ICPC itself makes a breach of its provisions a legal violation in both states and constitutes actionable grounds on the license of the child-placing agency. However, if there was no bad faith, courts are likely to finalize an adoption. In a relatively recent case, the Court of Appeals held that violation of the ICPC did not warrant the vacation of an adoption decree. See In re Adoption of C.M.A., 557 N.W.2d 353 (Minn. Ct. App. 1997), rev'd and remanded.

As a practical matter, if you are working with a birth parent to send a child outside the state of Minnesota, it will be your responsibility to prepare the initial ICPC packet. The best

practice is to contact both ICPC offices to request a list of the documents that will be required. Assembling as many documents as possible prior to the consent or termination will expedite the process. It is also recommended that you provide the ICPC offices with pre-paid Federal Express envelopes to move things through quickly. Adoptive parents always want things to move at the speed of light. This is understandable since they are anxious to go home with their new son or daughter. However, it is important to advise the parties early on that ICPC is a multi-step process that does take time. As state agencies, ICPC offices are not open weekends or holidays and they normally close promptly at 4:30 p.m. ICPC administrators will do their best to help your case move through quickly, but the best defense against frustration is to be proactive in meeting requirements and to keep your clients informed.

Text of the Interstate Compact on the Placement of Children

Article I. Purpose and Policy

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

Article II. Definitions

As used in this compact:

(a) "Child" means a person, who by reason of minority, is legally subject to parental guardianship or similar control.

(b) "Sending agency" means a party state, officer or employee thereof, a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the states to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state of local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

Article III. Conditions for Placement

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless

the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

- (1) The name, date and place of birth of the child.
- (2) The identify and address or addresses of the parents or legal guardian.
- (3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.
- (4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

Article IV. Penalty for Illegal Placement

The sending, bringing, or causing to be sent or brought into any receiving state of a child of violation of the terms of this compact, shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care, for children.

Article V. Retention of Jurisdiction

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reached majority, becomes self-supporting or is discharged with concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause

the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or a crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agency for the sending agency.

(c) Nothing in this compact shall be constructed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agency in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

Article VI. Institutional Care of Delinquent Children

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

1. Equivalent facilities for the child are not available in the sending agency's jurisdiction;
and
2. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

Article VII. Compact Administrator

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdiction, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

Article VIII. Limitations

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his parents, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or non-agency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

Article IX. Enactment and Withdrawal

This Compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from the compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to Governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

Article X. Construction and Severability

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If the compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as the state affected as to all severable matters.

**ICPC REQUIREMENTS
MINNESOTA AS SENDING STATE**

1. **100A**
 - Signed and dated

2. **Adoption Home Study**
 - Child preference matches child identified for adoption
 - The study is less than one year old
 - Criminal background checks were completed
 - Study includes health verifications
 - Study has favorable recommendation

3. **Consents to Adoption**
 - For Minnesota children being sent to another state, consents must be in accordance with Minnesota law. The applicable requirements are set forth in Minn. Stat. §259.24.
 - Consents must be signed and notarized in front of licensed adoption agency staff, county social service staff, or a judicial officer no sooner than 72 hours after the birth of the child.
 - Did both birth parents sign?
 - If not, a legal risk statement must be signed and notarized by the adoptive parents and be included in the referral. A legal risk statement is also required if the timeline for the consent revocation has not run.
 - Is either birth parent a minor?
 - If yes, their legal guardians/parents must also give consent.

OR

Termination of Parental Rights

- Signed by Judge or Referee
- Custody given to Minnesota agency or to the adoptive couple. (Be especially aware of the requirements for the receiving state).

4. **Birth Parent Social/Medical History**
 - Check for ICWA (Indian Child Welfare Act) status

5. **Medical Records from Birth**
 - Hospital discharge report
 - Other relevant medical records

**ICPC REQUIREMENTS
MINNESOTA AS RECEIVING STATE**

1. **Form 100A**
 - Signed and dated

2. Adoption Home Study

- Child preference matches child identified for adoption
- The study is less than one year old
- Criminal background checks were completed
- Study includes health verifications
- Study was completed by a licensed Minnesota agency
- Study has favorable recommendation

3. Consents to Adoption

- Did both birth parents sign?
- If not, a legal risk statement must be signed and notarized by the adoptive parents and be included in the referral. A legal risk statement is also required if the timeline for the consent signing has not run.
- For children being sent into Minnesota, consents must be in accordance with the laws of the sending state.
- Is either birth parent a minor?
- If yes, their legal guardians/parents must also give consent.

OR

Termination of Parental Rights

- Signed by Judge or Referee
- Gave custody to sending agency or to adoptive couple

4. Birth Parent Social/Medical History

- Check for ICWA (Indian Child Welfare Act) status

5. Medical Records from Birth

- Hospital discharge report
- Other relevant medical records

6. If Working with a Direct Placement Situation a copy of the Court Order granting the adoptive parents pre-placement custody will be required.

While this information is ever-changing, this chart lists the current contacts in each state for the coordination of cases involving ICPC.

State	Contact Person	Telephone Number
Alabama	Anne Holliday	Not Furnished
Alaska	Marcia Pickering	(907) 465-2105
Arizona	Ruby Pittman	(602) 235-9134 Ext. 7102
Arkansas	Marty Nodurfth	(501) 682-8556
California	Jackie Rodriguez	(916) 322-5391
Colorado	Chantal Smith	(303) 866-2998
Connecticut	Sandra Matlack	(860) 550-6392

Delaware	Rose Marie Holmquist	(302) 633-2698/2683
District of Columbia	Sharlynn Bobo	(202) 442-6100
Florida	Samuel G. Ashdown, Jr.	(850) 487-2760
Georgia	James Graves John Hutto	(404) 657-3567 (404) 657-3564
Hawaii	Cynthia Goss	(808) 586-5699
Idaho	Carolyn K. Ayres Barbara Jarrett	(208) 334-5700 (208) 334-5652
Illinois	Ron Davidson	(217) 557-5384
Indiana	Nancy Ingle	(317) 232-4769
Iowa	Sarah Stark	(515) 281-5730
Kansas	Angie Casey	(785) 296-0918
Kentucky	Mike Overstreet	(502) 564-5813
Louisiana	Leola McClinton	(225) 342-4034
Maine	Charles Gagnon	(207) 287-5060
Maryland	Stephanie Pettaway	(410) 767-7506
Massachusetts	Paula Sweeney	(617) 748-2375
Michigan	Dale Murray	(517) 373-6918
Minnesota	Kelly Simmons	(651) 296-2725
Mississippi	Patricia Hickman	(601) 359-4986
Missouri	Mary Kay Kliethermes	(573) 751-2981
Montana	Kandice Morse	(406) 444-5917
Nebraska	Suzanne Scheid	(402) 471-9245
Nevada	Connie Martin	(775) 684-4418
New Hampshire	Linda Bombaci	(603) 271-4708
New Jersey	Benita Rommel	(609) 292-3188
New Mexico	Peg A. Tassett	(505) 827-8457
New York	James M. Keeler, Jr.	(518) 473-1591
North Dakota	Deb Petry Delores Friedt	(701) 328-3581 (701) 328-4152
Ohio	Heidi Stone	(614) 466-9274
Oklahoma	Margaret Linneman	(405) 522-1599
Oregon	Victor Congleton	(503) 945-6685
Pennsylvania	Larry Yarberough	(717) 772-5505
Rhode Island	Everett Thornton	(401) 254-7077
South Carolina	Mary Williams	(803) 898-7318
South Dakota	DiAnn Kleinsasser	(605) 773-3227
Tennessee	Cheri Stewart	(615) 532-5618
Texas	Carolyn Thompson	(512) 834-4474
Utah	Mike Chapman	(801) 538-4364
Vermont	Margo Bryce	(802) 241-2141
U.S. Virgin Islands	Cheryl S. Hyndman	(340) 774-0930
Virginia	RoseMarie Keith	(804) 692-1274/1279
Washington	Janette Benham	(360) 902-7987
West Virginia	Nancy Chalhoub	(304) 558-1260

Wisconsin	Connie Klick	(608) 266-1489
	Lynn Lehr	(608) 266-8501
	Kathy Gerber	(608) 267-2075
Wyoming	Maureen Clifton	(307) 777-3570