

# State of Wisconsin



2009 Senate Bill 517

Date of enactment: **May 13, 2010**  
Date of publication\*: **May 26, 2010**

## 2009 WISCONSIN ACT 339

AN ACT to amend 48.60 (4) (b), 48.63 (3) (b) 3., 48.837 (1m), 48.837 (1r) (c), 48.913 (2) (a), 48.98 (4) (a), 632.896 (1) (c) 3., 938.988, 938.999 (1) (b) 13. and 938.999 (3) (c); and to create 14.94, 20.437 (1) (d), 48.9895 and 48.99 of the statutes; relating to: the Interstate Compact for the Placement of Children.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 14.94 of the statutes is created to read:

**14.94 Interstate Commission for the Placement of Children.** There is created an Interstate Commission for the Placement of Children as specified in s. 48.99 (8). The member of the commission representing this state

**SECTION 2.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

		2009-10	2010-11
<b>20.437</b>	<b>Children and families, department of</b>		
(1)	CHILDREN AND FAMILY SERVICES		
(d)	Interstate Compact for the Placement of Children assessments	GPR A	-0- -0-

**SECTION 3.** 20.437 (1) (d) of the statutes is created to read:

20.437 (1) (d) *Interstate Compact for the Placement of Children assessments.* The amounts in the schedule to pay assessments levied by the interstate commission for the placement of children under s. 48.99 (13) (b).

**SECTION 4.** 48.60 (4) (b) of the statutes is amended to read:

48.60 (4) (b) Notwithstanding ss. 121.78 (3) (a) and 121.79 (1) (a), a child welfare agency shall pay for the

shall be the person appointed under s. 48.99 (8) (b) 1. The commission member shall serve without compensation but shall be reimbursed from the appropriation account under s. 20.437 (1) (a) for actual and necessary expenses incurred in the performance of the commission member's duties. The commission shall have the powers, duties, and responsibilities set forth in s. 48.99.

costs incurred by a school district in providing special education and related services to a child with a disability who has been placed with the child welfare agency under the ~~interstate compact on the placement of children~~ Interstate Compact on the Placement of Children under s. 48.988 or the Interstate Compact for the Placement of Children under s. 48.99.

**SECTION 5.** 48.63 (3) (b) 3. of the statutes is amended to read:

\* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

48.63 (3) (b) 3. The department, a county department under s. 48.57 (1) (e) or (hm), or a child welfare agency licensed under s. 48.60 may place a child under subd. 1. in the home of a proposed adoptive parent or parents who reside outside this state if the placement is made in compliance with s. 48.98 ~~or~~ 48.988, or 48.99, whichever is applicable, if the home meets the criteria established by the laws of the state where the proposed adoptive parent or parents reside for a preadoptive placement of a child in the home of a nonrelative, and if an appropriate agency in that state has completed an investigation of the home and filed a report and recommendation concerning the home with the department, county department, or licensed child welfare agency.

**SECTION 6.** 48.837 (1m) of the statutes is amended to read:

48.837 (1m) OUT-OF-STATE ADOPTIVE PLACEMENT. Subject to ss. 48.98 ~~and~~ 48.988, and 48.99, when the proposed adoptive parent or parents of a child reside outside this state and are not relatives of the child, a parent having custody of a child and the proposed adoptive parent or parents of the child may petition the court for placement of the child for adoption in the home of the proposed adoptive parent or parents, if the home meets the criteria established by the laws of the other state for a preadoptive placement of a child in the home of a nonrelative.

**SECTION 7.** 48.837 (1r) (c) of the statutes is amended to read:

48.837 (1r) (c) The department, a county department under s. 48.57 (1) (e) or (hm), or a child welfare agency licensed under s. 48.60 may place a child under par. (a) in the home of a proposed adoptive parent or parents who reside outside this state if the placement is made in compliance with s. 48.98 ~~or~~ 48.988, or 48.99, whichever is applicable, if the home meets the criteria established by the laws of the state where the proposed adoptive parent or parents reside for a preadoptive placement of a child in the home of a nonrelative, and if an appropriate agency in that state has completed an investigation of the home and filed a report and recommendation concerning the home with the department, county department, or licensed child welfare agency.

**SECTION 8.** 48.913 (2) (a) of the statutes is amended to read:

48.913 (2) (a) The child was placed for adoption in this state in accordance with s. 48.988 or 48.99.

**SECTION 9.** 48.98 (4) (a) of the statutes is amended to read:

48.98 (4) (a) This section applies only to interstate placements of children ~~which~~ that are not governed by s. 48.988 or 48.99.

**SECTION 10.** 48.9895 of the statutes is created to read:

**48.9895 Withdrawal from Interstate Compact on the Placement of Children.** Sections 48.988 and 48.989 do not apply to a child from this state who is sent, brought, or caused to be sent or brought into another state under s.

48.988 (3) or who is placed in an institution in another state under s. 48.988 (6), or to a child from another state who is sent, brought, or caused to be sent or brought into this state under s. 48.988 (3) or who is placed in an institution in this state under s. 48.988 (6), if all of the following have occurred:

(1) The Interstate Compact for the Placement of Children under s. 48.99 is in effect as provided in s. 48.99 (14) (b).

(2) Both this state and the other state are parties to the Interstate Compact for the Placement of Children under s. 48.99.

(3) Both this state and the other state have withdrawn from the Interstate Compact on the Placement of Children as provided in s. 48.988 (9).

**SECTION 11.** 48.99 of the statutes is created to read:  
**48.99 Interstate Compact for the Placement of Children.** (1) ARTICLE I – PURPOSE. The purpose of this compact is to do all of the following:

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

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

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

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

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

(f) Promote coordination between this compact, the Interstate Compact for Juveniles, the Interstate Compact on Adoption and Medical Assistance, and other compacts that affect the placement of, and provide services to, children who are otherwise subject to this compact.

(g) Provide for a state to retain the continuing legal jurisdiction and responsibility for placement and care of a child that the state would have had if the placement were intrastate.

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

(2) ARTICLE II – DEFINITIONS. As used in this compact:

(a) “Approved placement” means a placement that the public child placing agency in the receiving state has determined to be both safe and suitable for the child.

(b) “Assessment” means an evaluation of a prospective placement by the public child placing agency in the receiving state to determine if the placement meets the individualized needs of the child, including the child’s

safety and stability, health and well-being, and mental, emotional, and physical development. An assessment is only applicable to a placement made by a public child placing agency.

(c) “Child” means a person who has not attained the age of 18 years.

(d) “Certification” means a statement attested, declared, or sworn to before a judge or notary public.

(e) “Default” means the failure of a member state to perform the obligations or responsibilities imposed upon that state by this compact or by the bylaws or rules of the interstate commission.

(f) “Home study” means an evaluation of a home environment conducted in accordance with the applicable requirements of the state in which the home is located that documents the preparation and suitability of the placement resource for placement of a child in accordance with the laws and requirements of that state.

(g) “Indian tribe” means any Indian tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for services provided to Indians by the U.S. secretary of the interior because of their status as Indians, including an Alaskan native village, as defined in 43 USC 1602 (c).

(h) “Interstate commission” means the interstate commission for the placement of children established under sub. (8) (a).

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

(j) “Legal risk placement” means a placement of a child made preliminary to an adoption in which the prospective adoptive parents acknowledge in writing that the child can be ordered to be returned to the sending state or the birth mother’s state of residence, if different from the sending state, and in which a final decree of adoption may not be entered in any jurisdiction until all required consents are obtained or are dispensed with in accordance with applicable law.

(k) “Member state” means a state that has enacted the enabling legislation for this compact.

(L) “Noncustodial parent” means a person who, at the time of the commencement of court proceedings in the sending state, does not have sole legal custody of the child or has joint legal custody of the child, and who is not the subject of allegations or findings of child abuse or neglect.

(m) “Nonmember state” means a state that has not enacted the enabling legislation for this compact.

(n) “Notice of residential placement” means information regarding a placement into a residential facility that is provided to the receiving state including the name, date, and place of birth of the child, the identity and address of the child’s parent or legal guardian, evidence of the authority to make the placement, and the name and address of the facility in which the child will be placed. Notice of residential placement also includes informa-

tion regarding a discharge and any unauthorized absence from the facility.

(o) “Placement” means the act by a public or private child placing agency that is intended to arrange for the care or custody of a child in another state.

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

(q) “Provisional placement” means a proposed placement that the public child placing agency in the receiving state has determined to be safe and suitable and with respect to which the receiving state, to the extent allowable, has temporarily waived its standards or requirements that are otherwise applicable to prospective foster or adoptive parents so as to not delay the placement. Completion of the receiving state’s requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement.

(r) “Public child placing agency” means any government child welfare agency or child protection agency or a private entity under contract with such an agency, regardless of whether the agency or entity acts on behalf of a state, county, municipality, or other governmental unit, that facilitates, causes, or is involved in the placement of a child from one state to another state.

(s) “Receiving state” means the state to which a child is sent, brought, or caused to be sent or brought.

(t) “Relative” means a person who is related to the child as a parent, stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin or a nonrelative with such significant ties to the child that the nonrelative may be regarded as a relative as determined by the court in the sending state.

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

(v) Except as provided in sub. (11) (g), “rule” means a written directive, mandate, standard, or principle issued by the interstate commission and promulgated under sub. (11) that is of general applicability; that implements, interprets, or prescribes a policy or provision of the compact; and that has the force and effect of an administrative rule in a member state. “Rule” includes the amendment, repeal, or suspension of an existing rule.

(w) “Sending state” means the state from which the placement of a child is initiated.

(x) “Service member’s permanent duty station” means the military installation where an active duty U.S.

armed services member is currently assigned and is physically located under competent orders that do not specify the duty as temporary.

(y) "Service member's declared state of legal residence" means the state in which an active duty U.S. armed services member is considered a resident for tax and voting purposes.

(z) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, or any other territorial possession of the United States.

(zg) "State court" means a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency, or status offenses of children.

(zr) "Supervision" means monitoring provided by a receiving state once a child has been placed in the receiving state under this compact.

(3) ARTICLE III – APPLICABILITY. (a) Except as otherwise provided in par. (b), this compact shall apply to all of the following:

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

2. The interstate placement of a child who has been adjudicated delinquent or unmanageable based on the laws of a sending state and who is subject to the ongoing court jurisdiction of the sending state if any of the following apply:

a. The child is being placed in a residential facility in another member state and is not covered under another compact.

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

3. The interstate placement of any child by a public child placing agency or private child placing agency as a preliminary step to a possible adoption.

(b) This compact shall not apply to any of the following:

1. The interstate placement of a child in a custody proceeding in which a public child placing agency is not a party so long as the placement is not intended to effectuate an adoption.

2. The interstate placement of a child with a nonrelative in a receiving state by a parent with the legal authority to make such a placement so long as the placement is not intended to effectuate an adoption.

3. The interstate placement of a child by a relative with the legal authority to make such a placement directly with another relative in a receiving state.

4. The placement of a child who is not subject to par. (a) into a residential treatment facility by his or her parent.

5. The placement of a child with a noncustodial parent if all of the following apply:

a. The noncustodial parent proves to the satisfaction of a court in the sending state that he or she has a substantial relationship with the child.

b. The court in the sending state makes a written finding that placement with the noncustodial parent is in the best interests of the child.

c. For a placement in a proceeding in which a public child placing agency is a party, the court in the sending state dismisses its jurisdiction over the proceeding.

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

7. Cases in which a child who is a United States citizen living overseas with his or her family, at least one member of which is in the U.S. armed services and stationed overseas, is removed and placed in a state.

8. The sending of a child by a public child placing agency or a private child placing agency to another state for a visit, as defined by the rules promulgated by the interstate commission.

(c) For purposes of determining the applicability of this compact to the placement of a child with a family member who is in the U.S. armed services, the public child placing agency or private child placing agency may choose the state of the service member's permanent duty station or the service member's declared state of legal residence.

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

(4) ARTICLE IV – JURISDICTION. (a) Except as provided in par. (h), except when sub. (5) (b) 2. or 3. applies in a private or independent adoption, and except for an interstate placement in a custody proceeding in which a public child placing agency is not a party, the sending state shall retain jurisdiction over a child with respect to

all matters of custody and disposition of the child over which the sending state would have had jurisdiction if the child had remained in the sending state. That jurisdiction shall also include the power to order the return of the child to the sending state.

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

(c) In a case subject to this compact that is before a court, the taking of testimony for a hearing before a judicial officer may occur in person or by telephone, by audio-video conference, or by such other means as may be approved by the rules of the interstate commission. A judicial officer may communicate with another judicial officer or with any other person involved in the interstate process as may be permitted by the codes of judicial conduct governing those judicial officers and any rules promulgated by the interstate commission.

(d) In accordance with its own laws, the court in the sending state may terminate its jurisdiction if any of the following apply:

1. The child is reunified with the parent in the receiving state who is the subject of allegations or findings of abuse or neglect, but only with the concurrence of the public child placing agency in the receiving state.
2. The child is adopted.
3. The child reaches the age of majority under the laws of the sending state.
4. The child achieves legal independence under the laws of the sending state.
5. A guardianship is created by a court in the receiving state with the concurrence of the court in the sending state.
6. An Indian tribe has petitioned for and received jurisdiction from the court in the sending state.
7. The public child placing agency of the sending state requests termination of the jurisdiction of the court in the sending state and has obtained the concurrence of the public child placing agency in the receiving state.

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

(f) Nothing in this subsection shall defeat a claim of jurisdiction by a receiving state court sufficient to deal with an act of truancy, delinquency, crime, or behavior involving a child, as defined by the laws of the receiving state, committed by the child in the receiving state that would be a violation of the laws of the receiving state.

(g) Nothing in this subsection shall limit the receiving state's ability to take emergency jurisdiction for the protection of the child.

(h) The substantive laws of the state in which an adoption of a child will be finalized shall solely govern all issues relating to the adoption of a child and the court in which the adoption proceeding is filed shall have sub-

ject matter jurisdiction regarding all substantive issues relating to the adoption, except when any of the following applies:

1. The child is a ward of another court that established jurisdiction over the child prior to the placement.
2. The child is in the legal custody of a public agency in the sending state.
3. A court in the sending state has otherwise appropriately assumed jurisdiction over the child prior to the submission of the request for approval of the placement.

(i) A final decree of adoption shall not be entered in any jurisdiction until the placement is authorized as an approved placement by the public child placing agency in the receiving state.

**(5) ARTICLE V - PLACEMENT EVALUATION.** (a) Before sending, bringing, or causing a child to be sent or brought into a receiving state, the public child placing agency of the sending state shall provide a written request for assessment to the receiving state.

(b) For a placement by a private child placing agency, a child may be sent or brought, or caused to be sent or brought, into a receiving state upon receipt and immediate review of the required content of a request for approval of the placement by the public child placing agencies of both the sending state and the receiving state. The required content that must accompany that request for approval shall include all of the following:

1. A request for approval of the placement signed by the person requesting the approval that identifies the child, the birth parents, the prospective adoptive parents, and the supervising agency.
2. The appropriate consents or relinquishments signed by the birth parents in accordance with the laws of the sending state or, where permitted, the laws of the state where the adoption will be finalized.
3. Certification by a licensed attorney or authorized agent of a private adoption agency that the consent or relinquishment is in compliance with the applicable laws of the sending state or, where permitted, the laws of the state where the adoption will be finalized.
4. A home study.
5. An acknowledgment signed by the prospective adoptive parents that the placement is a legal risk placement.

(c) The sending state and the receiving state may request additional information or documentation prior to finalization of an approved placement, but the sending state and receiving state may not delay travel by the prospective adoptive parents with the child if the required content under par. (b) 1. to 5. has been submitted, received, and reviewed by the public child placing agencies in both the sending state and the receiving state.

(d) The approval of the public child placing agency in the receiving state for a provisional placement or an approved placement is required as provided for in the rules of the interstate commission.

(e) The request for assessment shall contain all information and be in such form as provided for in the rules of the interstate commission and the procedures for making a request shall be as provided in those rules.

(f) Upon receipt of a request from the public child placing agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine the safety and suitability of that placement. If the proposed placement is a placement with a relative, the public child placing agency of the sending state may request a determination of whether the placement qualifies as a provisional placement.

(g) The public child placing agency in the receiving state may request from the public child placing agency or the private child placing agency in the sending state, and shall be entitled to receive, supporting or additional information as necessary to complete the assessment or approve the placement.

(h) The public child placing agency in the receiving state shall approve a provisional placement and complete or arrange for the completion of the assessment within the time frames established in rules promulgated by the interstate commission.

(i) For a placement by a private child placing agency, the sending state may not impose any additional requirements with respect to completion of the home study that are not required by the receiving state, unless the adoption is finalized in the sending state.

(j) The interstate commission may develop uniform standards for assessing the safety and suitability of interstate placements.

**(6) ARTICLE VI – PLACEMENT AUTHORITY.** (a) Except as otherwise provided in this compact, no child who is subject to this compact may be placed into a receiving state until approval for that placement is obtained from the public child placing agency in the receiving state.

(b) If the public child placing agency in the receiving state does not approve the proposed placement, then the child may not be placed. The receiving state shall provide written documentation of any such determination in accordance with the rules promulgated by the interstate commission. That determination is not subject to judicial review in the sending state.

(c) 1. If the proposed placement is not approved, any interested party or person shall have standing to seek an administrative review of the receiving state's determination.

2. The administrative review and any further judicial review associated with the determination shall be conducted in the receiving state under its applicable administrative procedures act.

3. If a determination not to approve the placement of the child in the receiving state is overturned upon review, the placement shall be considered approved, so long as all administrative or judicial remedies have been exhausted or the time for seeking those remedies has passed.

**(7) ARTICLE VII – PLACING AGENCY RESPONSIBILITY.**

(a) For the interstate placement of a child made by a public child placing agency or state court, financial responsibility shall be allocated as follows:

1. The public child placing agency in the sending state shall be financially responsible for all of the following:

a. Ongoing maintenance payments for the child during the period of the placement, unless otherwise provided for in the receiving state.

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

2. The receiving state shall only have financial responsibility for all of the following:

a. Any assessment conducted by the receiving state.

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

(b) Nothing in par. (a) shall prohibit a public child placing agency in a sending state from entering into an agreement with a licensed agency or other person in a receiving state to conduct assessments and provide supervision.

(c) For the placement of a child by a private child placing agency preliminary to a possible adoption, the private child placing agency shall be responsible as follows:

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

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

(d) The public child placing agency in the receiving state shall provide timely assessments, as provided for in the rules of the interstate commission.

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

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

(g) Each member state shall provide for coordination among its branches of government concerning the state's participation in, and compliance with, the compact and interstate commission activities, through the creation of an advisory council or the use of an existing body or board.

(h) Each member state shall establish a central state compact office, which shall be responsible for state compliance with the compact and the rules of the interstate commission.

(i) The public child placing agency in the sending state shall oversee compliance with the federal Indian Child Welfare Act, 25 USC 1901 to 1963, prior to a placement under this compact of an Indian child.

(j) With the consent of the interstate commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervision of placements under this compact.

**(8) ARTICLE VIII – INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN.** (a) There is created the interstate commission for the placement of children. The activities of the interstate commission are the formation of public policy and are a discretionary state function. The interstate commission shall be a joint commission of the member states and shall have all of the responsibilities, powers, and duties set forth in this section and such additional powers as may be conferred upon the interstate commission by subsequent concurrent action of the respective legislatures of the member states.

(b) 1. The interstate commission shall consist of one commissioner from each member state who shall be appointed by the executive head of the state human services administration with ultimate responsibility for the state's child welfare program. The appointed commissioner may vote on policy-related matters governed by this compact binding the state.

2. Each member state represented at a meeting of the interstate commission is entitled to one vote.

3. A majority of the member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission.

4. A commissioner may not delegate a vote to another member state.

5. A commissioner may delegate voting authority to another person from the commissioner's state for a specified meeting.

(c) In addition to the commissioners of each member state, the interstate commission shall include persons who are members of interested organizations, as defined in the bylaws or rules of the interstate commission. Those members shall not be entitled to vote on any matter before the interstate commission.

(d) The interstate commission shall establish an executive committee that shall have the authority to administer the day-to-day operations and administration of the interstate commission. The executive committee may not engage in rule making.

**(9) ARTICLE IX – POWERS OF THE INTERSTATE COMMISSION.** The interstate commission shall have the power to do all of the following:

(a) Promulgate rules and take all necessary actions to effect the goals, purposes, and obligations enumerated in this compact.

(b) Provide for dispute resolution among member states.

(c) Issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of this compact or the bylaws, rules, or actions of the interstate commission.

(d) Enforce compliance with this compact or the bylaws or rules of the interstate commission under sub. (12).

(e) Collect standardized data concerning the interstate placement of children who are subject to this compact as directed by its rules, which rules shall specify the data to be collected, the means of collection, and data exchange and reporting requirements.

(f) Establish and maintain offices as may be necessary for transacting the business of the interstate commission.

(g) Purchase and maintain insurance and bonds.

(h) Hire or contract for the services of personnel or consultants as may be necessary to carry out its functions under the compact and establish personnel qualification policies and rates of compensation.

(i) Establish and appoint committees and officers including an executive committee as required by sub. (10).

(j) Accept, receive, utilize, and dispose of donations and grants of money, equipment, supplies, materials, and services.

(k) Lease, purchase, accept contributions or donations of, or otherwise own, hold, improve, or use any property, real, personal, or mixed.

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

(m) Establish a budget and make expenditures.

(n) Adopt a seal and bylaws governing the management and operation of the interstate commission.

(o) Report annually to the legislatures, governors, judiciary, and state advisory councils of the member states concerning the activities of the interstate commission during the preceding year. Those reports shall also include any recommendations that have been adopted by the interstate commission.

(p) Coordinate and provide education, training, and public awareness regarding the interstate movement of children for officials who are involved in that activity.

(q) Maintain books and records in accordance with the bylaws of the interstate commission.

(r) Perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

**(10) ARTICLE X – ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION.** (a) *Bylaws.* 1. Within 12

months after the first interstate commission meeting, the interstate commission shall adopt bylaws and rules to govern the conduct of the interstate commission as may be necessary or appropriate to carry out the purposes of the compact.

2. The bylaws and rules of the interstate commission shall establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure information or official records to the extent that disclosure of the information or official records would adversely affect personal privacy rights or proprietary interests.

(b) *Meetings.* 1. The interstate commission shall meet at least once each year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

2. Public notice shall be given by the interstate commission of all meetings, and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission or any of its committees may close a meeting, or portion of a meeting, if the interstate commission or committee determines by a two-thirds vote that an open meeting would be likely to do any of the following:

- a. Relate solely to the interstate commission's internal personnel practices and procedures.
- b. Disclose matters that are specifically exempted from disclosure by federal law.
- c. Disclose financial or commercial information that is privileged, proprietary, or confidential in nature.
- d. Involve accusing a person of a crime or formally censuring a person.
- e. Disclose information that is of a personal nature, if disclosure of the information would constitute a clearly unwarranted invasion of personal privacy or would physically endanger one or more persons.
- f. Disclose investigative records that have been compiled for law enforcement purposes.
- g. Specifically relate to the interstate commission's participation in a civil action or other legal proceeding.

3. For a meeting, or portion of a meeting, that is closed under subd. 2., the interstate commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each provision under subd. 2. authorizing closure of the meeting. The interstate commission shall keep minutes that shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken and the reasons for those actions, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of a closed meeting shall remain under seal, subject to

release by a majority vote of the interstate commission or by court order.

4. The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or other electronic communication.

(c) *Officers and staff.* 1. The interstate commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms and conditions, and for such compensation as the interstate commission may consider appropriate. The staff director shall serve as secretary to the interstate commission, but may not have a vote. The staff director may hire and supervise such other staff as may be authorized by the interstate commission.

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

(d) *Qualified immunity, defense, and indemnification.* 1. The staff director, employees, and representatives of the interstate commission shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property, personal injury, or other civil liability caused by, arising out of, or relating to an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities or that the person had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, except that this subdivision does not protect any person from suit or liability for any damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of that person.

2. The liability of the staff director, employees, and representatives of the interstate commission, acting within the scope of that person's employment, duties, or responsibilities, for any act, error, or omission occurring within that person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents, except that this subdivision does not protect any person from suit or liability for any damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of that person. The interstate commission is considered to be an instrumentality of the state for the purposes of any such action.

3. The interstate commission shall defend the staff director and employees of the interstate commission and, subject to the approval of the attorney general or other appropriate legal counsel of the member state, shall defend the commissioner of a member state in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or



responsibilities or that the person had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, if the actual or alleged act, error, or omission did not result from the intentional or willful and wanton misconduct of that person.

4. To the extent not covered by the state involved, the member state, or the interstate commission, the staff director, employees, and representatives of the interstate commission shall be held harmless in the amount of any settlement or judgment, including attorney fees and costs, obtained against those persons arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities or that the person had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, if the actual or alleged act, error, or omission did not result from the intentional or willful and wanton misconduct of that person.

**(11) ARTICLE XI – RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION.** (a) The interstate commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

(b) Rule making shall occur under the criteria set forth in this subsection and the bylaws and rules adopted under this subsection. Rule making shall substantially conform to the principles of the Model State Administrative Procedures Act, 1981 Act, Uniform Laws Annotated, volume 15, page 1 (2000), or any other administrative procedure act that the interstate commission considers appropriate, consistent with the due process requirements under the U.S. Constitution. All rules and amendments to the rules shall become binding as of the date specified in the final rule or amendment as approved by the interstate commission.

(c) When promulgating a rule, the interstate commission shall do all of the following:

1. Publish the entire text of the proposed rule and state the reason for the proposed rule.
2. Allow and invite persons to submit written data, facts, opinions, and arguments, which shall be added to the rule-making record and be made publicly available.
3. Promulgate a final rule and its effective date, if appropriate, based on input from state or local officials and other interested parties.

(d) Rules promulgated by the interstate commission shall have the force and effect of administrative rules and shall be binding in the compacting states to the extent and in the manner provided for in this compact.

(e) Not later than 60 days after a rule is promulgated, an interested person may file a petition in the U.S. district court for the District of Columbia or in the federal district court for the district in which the interstate commission's principal office is located for judicial review of that rule. If the court finds that the interstate commission's action

is not supported by substantial evidence in the rule-making record, the court shall hold the rule unlawful and set the rule aside.

(f) If a majority of the legislatures of the member states reject a rule, those states may by enactment of a statute or resolution in the same manner used to adopt the compact cause the rule to have no further force and effect in any member state.

(g) The rules governing the operation of the Interstate Compact on the Placement of Children under ss. 48.988 and 48.989 shall be void no less than 12, but no more than 24, months after the first meeting of the interstate commission, as determined by the members during the first meeting.

(h) Within the first 12 months of operation, the interstate commission shall promulgate rules addressing all of the following:

1. Transition from the Interstate Compact on the Placement of Children.
2. Forms and procedures.
3. Timelines.
4. Data collection and reporting.
5. Rule making.
6. Visitation.
7. Progress reports and supervision.
8. Sharing of information and confidentiality.
9. Financing of the interstate commission.
10. Mediation, arbitration, and dispute resolution.
11. Education, training, and technical assistance.
12. Enforcement.
13. Coordination with other interstate compacts.

(i) 1. Upon determination by a majority of the members of the interstate commission that an emergency exists, the interstate commission may promulgate an emergency rule, but only if the rule is required to do any of the following:

- a. Protect the children covered by this compact from an imminent threat to their health, safety, and well-being.
- b. Prevent the loss of federal or state funds.
- c. Meet a deadline for the promulgation of an administrative rule required by federal law.

2. An emergency rule shall become effective immediately upon promulgation so long as the usual rule-making procedures provided under this subsection are retroactively applied to the rule as soon as is reasonably possible, but no later than 90 days after the effective date of the emergency rule.

3. An emergency rule shall be promulgated as provided for in the rules of the interstate commission.

**(12) ARTICLE XII – OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT.** (a) *Oversight.* 1. The interstate commission shall oversee the administration and operations of the compact.

2. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and the rules of the interstate commission and

shall take all actions that are necessary and appropriate to effectuate the purposes and intent of the compact. The compact and its rules shall be binding in the compacting states to the extent and in the manner provided for in this compact.

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

4. The interstate commission shall be entitled to receive service of process in any action in which the validity of a compact provision or rule is the issue for which a judicial determination has been sought and shall have standing to intervene in the action. Failure to provide service of process to the interstate commission shall render any judgment, order, or other determination, however captioned or classified, void as to the interstate commission, this compact, or the bylaws or rules of the interstate commission.

(b) *Dispute resolution.* 1. The interstate commission shall attempt, upon the request of a member state, to resolve any dispute that is subject to the compact and that may arise among member states or between member states and nonmember states.

2. The interstate commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among compacting states. The costs of that mediation or dispute resolution shall be the responsibility of the parties to the dispute.

(c) *Enforcement.* 1. If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the bylaws or rules of the interstate commission, the interstate commission may do any of the following:

a. Provide remedial training and specific technical assistance.

b. Provide written notice to the defaulting state and other member states of the nature of the default and the means of curing the default. The interstate commission shall specify the conditions by which the defaulting state must cure its default.

c. By a majority vote of the members, initiate against a defaulting member state legal action in the U.S. district court for the District of Columbia or, at the discretion of the interstate commission, in the federal district court for the district in which the interstate commission has its principal office, to enforce compliance with the compact, the bylaws, or the rules. The relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the prevailing party shall be awarded all costs of the litigation including reasonable attorney fees.

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

(13) ARTICLE XIII – FINANCING OF THE INTERSTATE COMMISSION. (a) The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff. The aggregate amount of the annual assessment shall be in an amount that is sufficient to cover the annual budget of the interstate commission, as approved by its members each year, and shall be allocated based upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

(c) The interstate commission may not incur obligations of any kind before securing funds adequate to meet those obligations; nor may the interstate commission pledge the credit of any member state, except by and with the authority of the member state.

(d) The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become a part of the annual report of the interstate commission.

(14) ARTICLE XIV – MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT. (a) Any state is eligible to become a member state.

(b) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 of the states. The initial effective date shall be July 1, 2007, or upon enactment of the compact into law by the 35th state, whichever is later. After that initial effective date, the compact shall become effective and binding as to any other member state upon enactment of the compact into law by that member state. The executive heads of the state human services administrations with ultimate responsibility for the child welfare programs of nonmember states or their designees shall be invited to participate in the activities of the interstate commission on a nonvoting basis before adoption of the compact by all states.

(c) The interstate commission may propose amendments to the compact for enactment by the member states. An amendment does not become effective and binding on the member states until the amendment is enacted into law by unanimous consent of the member states.

(15) ARTICLE XV – WITHDRAWAL AND DISSOLUTION. (a) *Withdrawal.* 1. Once effective, the compact shall continue in force and remain binding upon each member state, except that a member state may withdraw from the

compact by specifically repealing the statute that enacted the compact into law in that state.

2. Withdrawal from this compact by a member state shall be by the enactment of legislation repealing the statute that enacted the compact into law in that member state. The effective date of a withdrawal by a member state shall be the effective date of the repeal of that statute.

3. A withdrawing state shall immediately notify the president of the interstate commission in writing upon the introduction of legislation repealing the compact in the withdrawing state. The interstate commission shall then notify the other member states of the withdrawing state's intent to withdraw.

4. A withdrawing state is responsible for all assessments, obligations, and liabilities incurred to the effective date of the withdrawal.

5. Reinstatement in the compact following the withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the members of the interstate commission.

(b) *Dissolution of compact.* 1. This compact shall dissolve upon the effective date of a withdrawal or default of a member state that reduces the membership in the compact to one member state.

2. Upon dissolution of this compact, the compact becomes void and shall be of no further force or effect, the business and affairs of the interstate commission shall be concluded, and any surplus funds shall be distributed in accordance with the bylaws.

(16) ARTICLE XVI - SEVERABILITY AND CONSTRUCTION. (a) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is held unenforceable, the remaining provisions of the compact shall be enforceable.

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

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

(17) ARTICLE XVII - BINDING EFFECT OF COMPACT AND OTHER LAWS. (a) *Other laws.* This compact does not prevent the enforcement of any other law of a member state that is not inconsistent with this compact.

(b) *Binding effect of compact.* 1. All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the member states.

2. All agreements between the interstate commission and the member states are binding in accordance with their terms.

3. If a provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, that provision shall be ineffective in that member state to the extent of the conflict with the constitutional provision in question.

(18) ARTICLE XVIII - INDIAN TRIBES. Notwithstanding any other provision in this compact, the interstate commission may promulgate guidelines to permit Indian tribes to use the compact to achieve any of the purposes of the compact as specified in sub. (1). The interstate commission shall make reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect the diverse circumstances of the various Indian tribes.

SECTION 12. 632.896 (1) (c) 3. of the statutes is amended to read:

632.896 (1) (c) 3. A sending agency, as defined in s. 48.988 (2) (d), places a child in the insured's home under s. 48.988 for adoption, or a public child placing agency, as defined in s. 48.99 (2) (r), or a private child placing agency, as defined in s. 48.99 (2) (p), of a sending state, as defined in s. 48.99 (2) (w), places a child in the insured's home under s. 48.99 as a preliminary step to a possible adoption, and the insured takes physical custody of the child at any location within the United States.

SECTION 13. 938.988 of the statutes is amended to read:

**938.988 Interstate placement of juveniles.** Sections 48.988 and 48.989 apply to the interstate placement of juveniles, except that s. 48.99, rather than those sections, applies to the interstate placement of juveniles following withdrawal from the Interstate Compact on the Placement of Children as described in s. 48.9895.

SECTION 14. 938.999 (1) (b) 13. of the statutes is amended to read:

938.999 (1) (b) 13. Coordinate the implementation and operation of this compact with the Interstate Compact on the Placement of Children under ss. 48.988 and 48.989, the Interstate Compact for the Placement of Children under s. 48.99, the Interstate Compact for Adult Offender Supervision under s. 304.16, and other compacts affecting juveniles, particularly in those cases in which concurrent or overlapping supervision issues arise.

SECTION 15. 938.999 (3) (c) of the statutes is amended to read:

938.999 (3) (c) In addition to the commissioners who are the voting representatives of each compacting state, the interstate commission shall include, as nonvoting members, persons who are members of interested organizations. Those nonvoting members shall include members of the national organizations of governors, legislators, state supreme court chief justices, attorneys general,

juvenile justice and juvenile corrections officials, and crime victims and members of the Interstate Compact on the Placement of Children, the Interstate Compact for the Placement of Children, and the Interstate Compact for Adult Offender Supervision. The interstate commission

may provide in the bylaws for the inclusion of additional nonvoting members, including members of other national organizations, in such numbers as may be determined by the interstate commission.

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