

LEGISLATIVE BILL 237

Approved by the Governor May 27, 2009

Introduced by Lathrop, 12.

FOR AN ACT relating to children; to amend section 43-1005, Reissue Revised Statutes of Nebraska; to adopt the Interstate Compact for Juveniles and the Interstate Compact for the Placement of Children; to provide for a compact administrator and an advisory council; to provide for certain expenses related to the Interstate Compact for Juveniles; to eliminate the Interstate Compact on Juveniles and the Interstate Compact on the Placement of Children and related provisions; to repeal the original section; and to outright repeal sections 43-1001, 43-1002, 43-1003, 43-1004, 43-1006, 43-1007, 43-1008, 43-1009, 43-1010, 43-1101, and 43-1102, Reissue Revised Statutes of Nebraska.

Be it enacted by the people of the State of Nebraska,

Section 1. ARTICLE I

PURPOSE

The compacting states to this Interstate Compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents and status offenders who are on probation or parole and who have absconded, escaped or run away from supervision and control and in so doing have endangered their own safety and the safety of others. The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence. The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

It is the purpose of this compact, through means of joint and cooperative action among the compacting states to: (A) ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state; (B) ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected; (C) return juveniles who have run away, absconded or escaped from supervision or control or have been accused of an offense to the state requesting their return; (D) make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services; (E) provide for the effective tracking and supervision of juveniles; (F) equitably allocate the costs, benefits and obligations of the compacting states; (G) establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders; (H) insure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines; (I) establish procedures to resolve pending charges (detainers) against juvenile offenders prior to transfer or release to the community under the terms of this compact; (J) establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and criminal justice officials; and regular reporting of Compact activities to heads of state executive, judicial, and legislative branches and juvenile and criminal justice administrators; (K) monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance; (L) coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity; and (M) coordinate the implementation and operation of the compact with the Interstate Compact for the Placement of Children, the Interstate Compact for Adult Offender Supervision and other compacts affecting juveniles particularly in those cases where concurrent or overlapping supervision issues arise. It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and therefor are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally

construed to accomplish the purposes and policies of the compact.

ARTICLE II

DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Bylaws" means: those bylaws established by the Interstate Commission for its governance, or for directing or controlling its actions or conduct.

B. "Compact Administrator" means: the individual in each compacting state appointed pursuant to the terms of this compact, responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

C. "Compacting State" means: any state which has enacted the enabling legislation for this compact.

D. "Commissioner" means: the voting representative of each compacting state appointed pursuant to Article III of this compact.

E. "Court" means: any court having jurisdiction over delinquent, neglected, or dependent children.

F. "Deputy Compact Administrator" means: the individual, if any, in each compacting state appointed to act on behalf of a Compact Administrator pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

G. "Interstate Commission" means: the Interstate Commission for Juveniles created by Article III of this compact.

H. "Juvenile" means: any person defined as a juvenile in any member state or by the rules of the Interstate Commission, including:

(1) Accused Delinquent - a person charged with an offense that, if committed by an adult, would be a criminal offense;

(2) Adjudicated Delinquent - a person found to have committed an offense that, if committed by an adult, would be a criminal offense;

(3) Accused Status Offender - a person charged with an offense that would not be a criminal offense if committed by an adult;

(4) Adjudicated Status Offender - a person found to have committed an offense that would not be a criminal offense if committed by an adult; and

(5) Nonoffender - a person in need of supervision who has not been accused or adjudicated a status offender or delinquent.

I. "Noncompacting state" means: any state which has not enacted the enabling legislation for this compact.

J. "Probation or Parole" means: any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.

K. "Rule" means: a written statement by the Interstate Commission promulgated pursuant to Article VI of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Commission, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule.

L. "State" means: a state of the United States, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

ARTICLE III

INTERSTATE COMMISSION FOR JUVENILES

A. The compacting states hereby create the "Interstate Commission for Juveniles." The commission shall be a body corporate and joint agency of the compacting states. The commission shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

B. The Interstate Commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the State Council for Interstate Juvenile Supervision created hereunder. The commissioner shall be the compact administrator, deputy compact administrator or designee from that state who shall serve on the Interstate Commission in such capacity under or pursuant to the applicable law of the compacting state.

C. In addition to the commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners, but who are members of interested

organizations. Such noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, Interstate Compact for Adult Offender Supervision, Interstate Compact for the Placement of Children, juvenile justice and juvenile corrections officials, and crime victims. All noncommissioner members of the Interstate Commission shall be ex officio (nonvoting) members. The Interstate Commission may provide in its bylaws for such additional ex officio (nonvoting) members, including members of other national organizations, in such numbers as shall be determined by the commission.

D. Each compacting state represented at any meeting of the commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

E. The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

F. The Interstate Commission shall establish an executive committee, which shall include commission officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking and/or amendment to the compact. The executive committee shall oversee the day-to-day activities of the administration of the compact managed by an executive director and Interstate Commission staff; administers enforcement and compliance with the provisions of the compact, its bylaws and rules, and performs such other duties as directed by the Interstate Commission or set forth in the bylaws.

G. Each member of the Interstate Commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the Interstate Commission. A member shall vote in person and shall not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

H. The Interstate Commission's bylaws 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 any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

I. Public notice shall be given 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 and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;
2. Disclose matters specifically exempted from disclosure by statute;
3. Disclose trade secrets or commercial or financial information which is privileged or confidential;
4. Involve accusing any person of a crime, or formally censuring any person;
5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
6. Disclose investigative records compiled for law enforcement purposes;
7. Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity;
8. Disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity; or
9. Specifically relate to the Interstate Commission's issuance of a subpoena, or its participation in a civil action or other legal proceeding.

J. For every meeting closed pursuant to this provision, the Interstate Commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall

reference each relevant exemptive provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

K. The Interstate Commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.

ARTICLE IV

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The commission shall have the following powers and duties:

1. To provide for dispute resolution among compacting states.
2. To promulgate rules to effect the purposes and obligations as enumerated in this compact, which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.
3. To oversee, supervise and coordinate the interstate movement of juveniles subject to the terms of this compact and any bylaws adopted and rules promulgated by the Interstate Commission.
4. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process.
5. To establish and maintain offices which shall be located within one or more of the compacting states.
6. To purchase and maintain insurance and bonds.
7. To borrow, accept, hire or contract for services of personnel.
8. To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.
9. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to, inter alia, conflicts of interest, rates of compensation, and qualifications of personnel.
10. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.
11. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.
12. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.
13. To establish a budget and make expenditures and levy dues as provided in Article VIII of this compact.
14. To sue and be sued.
15. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.
16. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.
17. To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.
18. To coordinate education, training and public awareness regarding the interstate movement of juveniles for officials involved in such activity.
19. To establish uniform standards of the reporting, collecting and exchanging of data.
20. The Interstate Commission shall maintain its corporate books and records in accordance with the bylaws.

ARTICLE V

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

Section A. Bylaws

1. The Interstate Commission shall, by a majority of the members present and voting, within twelve months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate

to carry out the purposes of the compact, including, but not limited to:

- a. Establishing the fiscal year of the Interstate Commission;
- b. Establishing an executive committee and such other committees as may be necessary;
- c. Provide for the establishment of committees governing any general or specific delegation of any authority or function of the Interstate Commission;
- d. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;
- e. Establishing the titles and responsibilities of the officers of the Interstate Commission;
- f. Providing a mechanism for concluding the operations of the Interstate Commission and the return of any surplus funds that may exist upon the termination of the Compact after the payment and/or reserving of all of its debts and obligations;
- g. Providing "startup" rules for initial administration of the compact; and
- h. Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

Section B. Officers and Staff

1. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson and a vice-chairperson, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

2. The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a Member and shall hire and supervise such other staff as may be authorized by the Interstate Commission.

Section C. Qualified Immunity, Defense and Indemnification

1. The Commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that any such person shall not be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

2. The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such 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. Nothing in this subsection shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

3. The Interstate Commission shall defend the executive director or the employees or representatives of the Interstate Commission and, subject to the approval of the Attorney General of the state represented by any commissioner of a compacting state, shall defend such commissioner or the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

4. The Interstate Commission shall indemnify and hold the commissioner of a compacting state, or the commissioner's representatives or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that

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

ARTICLE VI

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

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

1. publish the proposed rule's entire text stating the reason(s) for that proposed rule;

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

3. provide an opportunity for an informal hearing if petitioned by ten (10) or more persons; and

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

D. Allow, not later than sixty days after a rule is promulgated, any interested person to file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this subsection, evidence is substantial if it would be considered substantial evidence under the Model State Administrative Procedures Act.

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

F. The existing rules governing the operation of the Interstate Compact on Juveniles superceded by this compact shall be null and void twelve (12) months after the first meeting of the Interstate Commission created hereunder.

G. Upon determination by the Interstate Commission that a state of emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than ninety (90) days after the effective date of the emergency rule.

ARTICLE VII

OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

Section A. Oversight

1. The Interstate Commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor such activities being administered in noncompacting states which may significantly affect compacting states.

2. The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Interstate Commission, it shall be entitled to receive all service of process in any such proceeding, and shall have standing to

intervene in the proceeding for all purposes.

Section B. Dispute Resolution

1. The compacting states shall report to the Interstate Commission on all issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its bylaws and rules.

2. The Interstate Commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and between compacting and noncompacting states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

3. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in Article XI of this compact.

ARTICLE VIII

FINANCE

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 shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state and shall promulgate a rule binding upon all compacting states which governs said assessment.

C. The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting 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. However, 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 part of the annual report of the Interstate Commission.

ARTICLE IX

THE STATE COUNCIL

Each member state shall create a State Council for Interstate Juvenile Supervision. While each state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and the compact administrator, deputy compact administrator or designee. Each compacting state retains the right to determine the qualifications of the compact administrator or deputy compact administrator. Each state council will advise and may exercise oversight and advocacy concerning that state's participation in Interstate Commission activities and other duties as may be determined by that state, including but not limited to, development of policy concerning operations and procedures of the compact within that state.

ARTICLE X

COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands as defined in Article II of this compact is eligible to become a compacting 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 the later of July 1, 2004, or upon enactment into law by the 35th jurisdiction. Thereafter it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

C. The Interstate Commission may propose amendments to the compact for enactment by the compacting states. No amendment shall become effective

and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

ARTICLE XI

WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

Section A. Withdrawal

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

2. The effective date of withdrawal is the effective date of the repeal.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

Section B. Technical Assistance, Fines, Suspension, Termination and Default

1. If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or the bylaws or duly promulgated rules, the Interstate Commission may impose any or all of the following penalties:

a. Remedial training and technical assistance as directed by the Interstate Commission;

b. Alternative Dispute Resolution;

c. Fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission; and

d. Suspension or termination of membership in the compact, which shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted and the Interstate Commission has therefor determined that the offending state is in default. Immediate notice of suspension shall be given by the Interstate Commission to the Governor, the Chief Justice or the Chief Judicial Officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council. The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, the bylaws, or duly promulgated rules and any other grounds designated in commission bylaws and rules. The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission and of the default pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination.

2. Within sixty days of the effective date of termination of a defaulting state, the Commission shall notify the Governor, the Chief Justice or Chief Judicial Officer, the Majority and Minority Leaders of the defaulting state's legislature, and the state council of such termination.

3. The defaulting state is responsible for all assessments, obligations and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

4. The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

5. Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

Section C. Judicial Enforcement

The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District

of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules and bylaws, against any compacting state in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

Section D. Dissolution of Compact

1. The compact dissolves effective upon the date of the withdrawal or default of the compacting state, which reduces membership in the compact to one compacting state.

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

ARTICLE XII

SEVERABILITY AND CONSTRUCTION

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

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

ARTICLE XIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

Section A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

2. All compacting states' laws other than state Constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

Section B. Binding Effect of the Compact

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

2. All agreements between the Interstate Commission and the compacting states are binding in accordance with their terms.

3. Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the compacting states, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.

4. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Sec. 2. Section 43-1005, Reissue Revised Statutes of Nebraska, is amended to read:

43-1005 The expense of returning juveniles to this state pursuant to the Interstate Compact ~~on~~ for Juveniles shall be paid as follows:

(1) In the case of a runaway, under Article IV, ~~under Article IV,~~ the court making the requisition shall inquire summarily regarding the financial ability of the petitioner to bear the expense and if it finds he or she is able to do so shall order that he or she pay all such expenses; otherwise the court shall arrange for the transportation at the expense of the county and order that the county reimburse the person, if any, who returns the juvenile for his or her actual and necessary expenses; and the court may order that the petitioner reimburse the county for so much of said expense as the court finds he or she is able to pay. If the petitioner fails, without good cause, or refuses to pay such sum, he or she may be proceeded against for contempt.

(2) In the case of an escapee or absconder, under Article V or Article VI, ~~under Article V or Article VI,~~ if the juvenile is in the legal custody of the Department of Health and Human Services it shall bear the expense of his or her return; otherwise the appropriate court shall, on petition of the person entitled to his or her custody or charged with his or her supervision, arrange for the transportation at the expense of the county and order that the county reimburse the person, if any, who returns the juvenile, for his or her actual and necessary expenses. In this subdivision appropriate court means the juvenile court which adjudged the juvenile to be delinquent or, if the juvenile is under supervision for another state, under Article VII of the compact, ~~under Article VII of the compact,~~ then the juvenile court of the county of the juvenile's residence

during such supervision.

(3) In the case of a voluntary return of a runaway without requisition, ~~under Article VI,~~ the person entitled to his or her legal custody shall pay the expense of transportation and the actual and necessary expenses of the person, if any, who returns such juvenile; but if he or she is financially unable to pay all the expenses he or she may petition the juvenile court of the county of the petitioner's residence for an order arranging for the transportation as provided in subdivision (1) of this section. The court shall inquire summarily into the financial ability of the petitioner, and, if it finds he or she is unable to bear any or all of the expense, the court shall arrange for such transportation at the expense of the county and shall order the county to reimburse the person, if any, who returns the juvenile, for his or her actual and necessary expenses. The court may order that the petitioner reimburse the county for so much of said expense as the court finds he or she is able to pay. If the petitioner fails, without good cause, or refuses to pay such sum, he or she may be proceeded against for contempt.

Sec. 3. ARTICLE I. PURPOSE

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

A. Provide a process through which children 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 affecting the placement of and which provide services to children otherwise subject to this compact.

G. Provide for a state's continuing legal jurisdiction and responsibility for placement and care of a child that it 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.

ARTICLE II. DEFINITIONS

As used in this compact,

A. "Approved placement" means the public child-placing agency in the receiving state has determined that the placement is both safe and suitable for the child.

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

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

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

E. "Default" means the failure of a member state to perform the obligations or responsibilities imposed upon it by this compact, 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, and documents the preparation and the suitability of the placement resource for placement of a child in accordance with the laws and requirements of the state in which the home is located.

G. "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaskan native village as defined in section 3(c) of the Alaska Native Claims Settlement Act, 43 U.S.C. 11 section 1602(c).

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

I. "Jurisdiction" means the power and authority of a court to hear

and decide matters.

J. "Legal Risk Placement" ("Legal Risk Adoption") means a placement made preliminary to an adoption where the prospective adoptive parents acknowledge in writing that a child can be ordered returned to the sending state or the birth mother's state of residence, if different from the sending state, and a final decree of adoption shall 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 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 a child, and who is not the subject of allegations or findings of child abuse or neglect.

M. "Nonmember state" means a state which has not enacted this compact.

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

O. "Placement" means the act by a public or private child-placing agency 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 and that is not an instrumentality of the state or acting under color of state law.

Q. "Provisional placement" means a determination made by the public child-placing agency in the receiving state that the proposed placement is safe and suitable, and, to the extent allowable, the receiving state has temporarily waived its standards or requirements otherwise applicable to prospective foster or adoptive parents so as to not delay the placement. Completion of the receiving state 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 they act on behalf of a state, county, municipality or other governmental unit and which facilitates, causes, or is involved in the placement of a child from one state to another.

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

T. "Relative" means someone 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 they may be regarded as relatives 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 is beyond what is needed for assessment or treatment of an acute condition. For purposes of the compact, residential facilities do not include institutions primarily educational in character, hospitals, or other medical facilities.

V. "Rule" means a written directive, mandate, standard, or principle issued by the Interstate Commission promulgated pursuant to Article XI of this compact that is of general applicability and that implements, interprets, or prescribes a policy or provision of the compact. "Rule" has the force and effect of an administrative rule in a member state, and 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 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 state of legal residence" means the state in which the active duty 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 U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory of the United States.

AA. "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 individuals who have not attained the age of eighteen (18).

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

ARTICLE III. APPLICABILITY

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

1. The interstate placement of a child subject to ongoing court jurisdiction in the 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, provided, however, 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 adjudicated delinquent or unmanageable based on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:

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

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 defined in this compact as a preliminary step to a possible adoption.

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

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

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

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

5. The placement of a child with a noncustodial parent provided that:

a. The noncustodial parent proves to the satisfaction of a court in the sending state a substantial relationship with the child; and

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; and

c. The court in the sending state dismisses its jurisdiction in interstate placements in which the public child-placing agency is a party to the proceeding.

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

7. Cases in which a U.S. citizen child living overseas with his family, at least one of whom is in the U.S. Armed Services, and who is 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 for a visit as defined by the rules of the Interstate Commission.

C. For purposes of determining the applicability of this compact to the placement of a child with a family in the 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 legal residence.

D. Nothing in this compact shall be construed to prohibit the concurrent application of the provisions 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, timely placement of children, and the reduction of unnecessary or duplicative administrative or procedural requirements.

ARTICLE IV. JURISDICTION

A. Except as provided in Article IV, Section H, and Article V, Section B, paragraph two and three, concerning private and independent adoptions, and in interstate placements in which the public child-placing agency is not a party to a custody proceeding, the sending state shall retain jurisdiction over a child with respect to all matters of custody and disposition of the child which it would have had if the child had remained in the sending state. Such 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, such court shall confer with the court of the sending state to determine the most appropriate forum for adjudication.

C. In cases that are before courts and subject to this compact, the taking of testimony for hearings before any judicial officer may occur in person or by telephone, audio-video conference, or such other means as approved by the rules of the Interstate Commission; and Judicial officers may communicate with other judicial officers and persons involved in the interstate process as may be permitted by their Canons of Judicial Conduct and any rules promulgated by the Interstate Commission.

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

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

2. The child is adopted; or

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

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

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

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

7. The public child-placing agency of the sending state requests termination 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 article 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 which would be a violation of its laws.

G. Nothing in this article 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 will be finalized shall solely govern all issues relating to the adoption of the child and the court in which the adoption proceeding is filed shall have subject matter jurisdiction regarding all substantive issues relating to the adoption, except:

1. when the child is a ward of another court that established jurisdiction over the child prior to the placement; or

2. when the child is in the legal custody of a public agency in the sending state; or

3. when a court in the sending state has otherwise appropriately assumed jurisdiction over the child, prior to the submission of the request for approval of 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.

ARTICLE V. PLACEMENT EVALUATION

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

B. For placements 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 in a request for approval of a placement in both the sending and receiving state public child-placing

agency. The required content to accompany a request for approval shall include all of the following:

1. A request for approval identifying the child, the birth parent(s), the prospective adoptive parent(s), and the supervising agency, signed by the person requesting approval; and

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; and

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 finalization of the adoption will occur; and

4. A home study; and

5. An acknowledgment of legal risk signed by the prospective adoptive parents.

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

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

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

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 its safety and suitability. If the proposed placement is a placement with a relative, the public child-placing agency of the sending state may request a determination for 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 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 timeframes established by the rules of the Interstate Commission.

I. For a placement by a private child-placing agency, the sending state shall not impose any additional requirements to complete 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 the assessment of the safety and suitability of interstate placements.

ARTICLE VI. PLACEMENT AUTHORITY

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

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

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

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

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

ARTICLE VII. PLACING AGENCY RESPONSIBILITY

A. For the interstate placement of a child made by a public child-placing agency or state court:

1. The public child-placing agency in the sending state shall have financial responsibility for:

a. the ongoing support and maintenance for the child during the

period of the placement, unless otherwise provided for in the receiving state; and

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

2. The receiving state shall only have financial responsibility for:

a. any assessment conducted by the receiving state; and

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 and sending state.

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

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

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.

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

D. 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.

E. Nothing in this compact shall be construed 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 the provision of supervision or services for the child or otherwise authorizing the provision of supervision or services by a licensed agency during the period of placement.

F. 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 use of an existing body or board.

G. 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.

H. The public child-placing agency in the sending state shall oversee compliance with the provisions of the Indian Child Welfare Act, 25 U.S.C. 1901, et seq., for placements subject to the provisions of this compact, prior to placement.

I. 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.

ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

The member states hereby establish, by way of this compact, a commission known as 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:

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

B. 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 child welfare program. The appointed commissioner shall have the legal authority to vote on policy related matters governed by this compact binding the state.

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

2. 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.

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

4. A representative may delegate voting authority to another person from their 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. Such members shall be ex officio and shall not be entitled to vote on any matter before the Interstate Commission.

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

ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

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

B. To provide for dispute resolution among member states.

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

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

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

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

G. To purchase and maintain insurance and bonds.

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

I. To establish and appoint committees and officers, including, but not limited to, an executive committee as required by Article X of this compact.

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

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

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

M. To establish a budget and make expenditures.

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

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

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

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

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

ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. Bylaws

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

2. The Interstate Commission's bylaws and rules 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 they would adversely affect personal privacy rights or proprietary interests.

B. Meetings

1. The Interstate Commission shall meet at least once each calendar 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 and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

- a. relate solely to the Interstate Commission's internal personnel practices and procedures; or
- b. disclose matters specifically exempted from disclosure by federal law; or
- c. disclose financial or commercial information which is privileged, proprietary, or confidential in nature; or
- d. involve accusing a person of a crime, or formally censuring a person; or
- e. disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy or physically endanger one or more persons; or
- f. disclose investigative records compiled for law enforcement purposes; or
- 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, closed pursuant to this provision, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemption provision. The Interstate Commission shall keep minutes which 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 therefor, 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 such 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 deem appropriate. The staff director shall serve as secretary to the Interstate Commission, but shall 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 Interstate Commission's staff director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

a. The liability of the Interstate Commission's staff director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such 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. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

b. The Interstate Commission shall defend the staff director and its employees 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 a 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 defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

c. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate

Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such 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 such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

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

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

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

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

3. Promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or 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 sixty 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 where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside.

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

G. The existing rules governing the operation of the Interstate Compact on the Placement of Children superseded by this compact shall be null and void no less than twelve but no more than twenty-four months after the first meeting of the Interstate Commission created hereunder, as determined by the members during the first meeting.

H. Within the first twelve months of operation, the Interstate Commission shall promulgate rules addressing the following:

1. Transition rules

2. Forms and procedures

3. Timelines

4. Data collection and reporting

5. Rulemaking

6. Visitation

7. Progress reports/supervision

8. Sharing of information/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. Upon determination by a majority of the members of the Interstate Commission that an emergency exists:

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

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

b. Prevent loss of federal or state funds; or

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

2. An emergency rule shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than ninety 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.

ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

A. Oversight

1. The Interstate Commission shall oversee the administration and operation 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 necessary and appropriate to effectuate the compact's purposes and intent. 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 this 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 any proceedings. Failure to provide service of process to the Interstate Commission shall render any judgment, order or other determination, however so captioned or classified, void as to the Interstate Commission, this compact, its 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 disputes which are subject to the compact and which may arise among member states and between member 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 such 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, its bylaws, or rules, the Interstate Commission may:

a. Provide remedial training and specific technical assistance; or

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; or

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

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

ARTICLE XIII. FINANCING OF THE 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 which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved by its members each year. The aggregate annual assessment amount 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 shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, 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. However, 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 part of the annual report of the Interstate Commission.

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 thirty-five states. The effective date shall be the later of July 1, 2007, or upon enactment of the compact into law by the thirty-fifth state. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The executive heads of the state human services administration with ultimate responsibility for the child welfare program of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.

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

ARTICLE XV. WITHDRAWAL AND DISSOLUTION

A. Withdrawal

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

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

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

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

5. Reinstatement following 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 effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

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

ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed 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.

ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other Laws

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

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

ARTICLE XVIII. INDIAN TRIBES

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

Sec. 4. Original section 43-1005, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 5. The following sections are outright repealed: Sections 43-1001, 43-1002, 43-1003, 43-1004, 43-1006, 43-1007, 43-1008, 43-1009, 43-1010, 43-1101, and 43-1102, Reissue Revised Statutes of Nebraska.