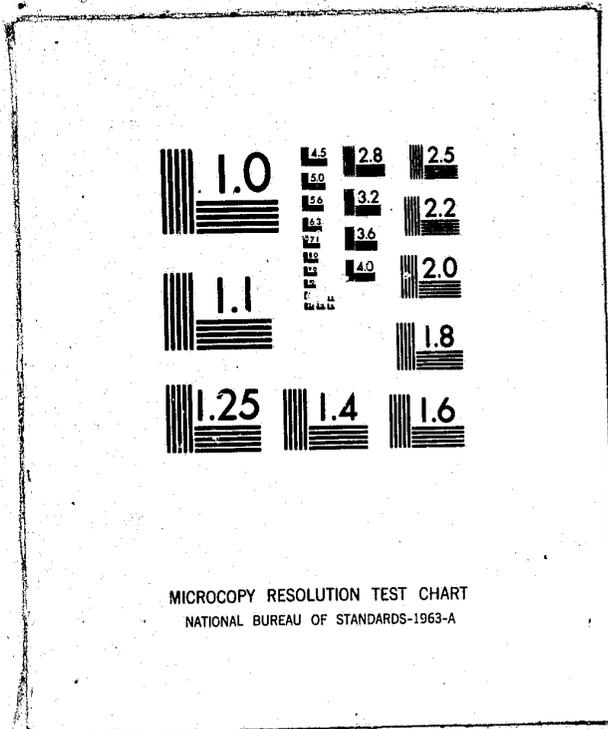


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THE INTERSTATE COMPACTS:  
UTILIZATION FOR THE TRANSFER, PLACEMENT OR RETURN OF CHILDREN ACROSS STATE LINES

THE INTERSTATE COMPACT ON MENTAL HEALTH  
THE INTERSTATE COMPACT ON JUVENILES  
THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

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**THE INTERSTATE COMPACTS: UTILIZATION FOR THE  
TRANSFER, PLACEMENT, OR RETURN OF CHILDREN ACROSS STATE LINES**

Statistics provided by the National Council for Juvenile and Family Court Judges indicates that there are approximately 360,000 children in the United States who have come under the jurisdiction of juvenile courts and have been placed in substitute care because the level of parenting, care or supervision in the parental home has been shown to be inadequate. Some children are removed from their homes due to emotional or psychiatric problems and require in-patient care in a psychiatric setting. In all cases there has been demonstrated in a juvenile court a need for protection of the child and the court's assumption of jurisdiction has been based on the need to insure an adequate level of care, protection and/or treatment of the child. In an effort to provide the necessary treatment, supervision or permanency a child is entitled to, it is sometimes necessary to place the child in a state other than the one in which the court of jurisdiction is located.

There are three Interstate Compacts which may be utilized to insure the continued protection and treatment of children who require care in a foreign state. The three Compacts are designed to serve specific populations of children and are mutually exclusive. The INTERSTATE COMPACT ON MENTAL HEALTH is designed to facilitate the transfer of patients or residents (both children and adults) from a state-operated mental health facility in one state to a similar state-operated mental health facility in another state. Therefore, if a child is under the jurisdiction of a juvenile court and is receiving in-patient care in a state mental health facility, and if there are compelling reasons why that child should be placed in a similar facility in another state, the Compact on Mental Health would be appropriately utilized to facilitate such a transfer.

The INTERSTATE COMPACT ON JUVENILES is designed to serve the population of children and youth who have come before the juvenile court and who have been adjudicated delinquent and placed on probation or parole. In those situations in which an adjudicated delinquent who is on probation or on parole is placed in another state through the Compact on Juveniles, the juvenile will receive probation or parole services and the probation officer or parole agent in the receiving state will serve as an agent of the sending state's court. A signed Compact agreement through this Compact also insures the extension of the sending state's court's jurisdictional authority into the receiving state. Since the jurisdictional authority of any court exists only within the state in which that court is located, the extension of this authority allows the sending state's court to continue to supervise the juvenile and to insure that the conditions of probation or parole are satisfactorily met even though the ward is not within its own jurisdiction. During the terms of placement under this Compact, the sending state's court retains responsibility for the juvenile and may, at its discretion, issue subsequent orders which the receiving state would be empowered to enforce. An interstate agreement under this Compact is automatically terminated when the conditions or probation or parole have been satisfactorily met by the juvenile.

The Compact on Juveniles also provides for the return of run-aways, escapees or absconders. Any such minor who has been taken into custody in a foreign state is entitled to an informal hearing before a court of jurisdiction in that state prior to his/her return. The youth is also entitled to legal representation at this hearing and should be given the opportunity to voluntarily sign a Form III "Consent for Voluntary Return by a Run-away, Escapee or Absconder." If the youth is unable, by virtue of age, handicap or any other reason, to sign this waiver and consent, it may be signed on his behalf by the court appointed guardian ad litem or other legal representative of the child.

If the youth refuses to sign the voluntary waiver and consent to his/her return, the office of the Compact on Juveniles in the child's home state should be contacted immediately to arrange for the processing of a requisition for the return of the child.

There are two types of requisitions which can be processed. These are commonly known as a "Form I Requisition" and a Form II Requisition". The Form I Requisition is utilized for the return of those children and youth who are not on probation or parole as the result of an adjudication of delinquency. If the child is not under the jurisdiction of the court, the party requesting the return may file a petition for a requisition with the proper juvenile court through the state's attorney's office in that county. The requisition should be accompanied by documentation that the requisitioning party has the legal authority over the child to request such return (certified copy of the court order establishing jurisdiction, birth certificate, divorce custody order, etc.) and a narrative description of the compelling reasons why the child should be returned. The Requisition should be forwarded through the Compact on Juvenile Offices of both the child's home state and the state in which the child was found and will result in a formal court hearing in the county in which the child is being detained. The child is entitled to legal representation at this hearing and the State's Attorney or District Attorney in that county represents the interests of the requisitioning party in the child's home state. If the requisition is in order and it appears to the court that the child's interests would be served by the return, the court may then issue an Order of Return of the child to his home state.

A Form II Requisition is utilized for those juveniles who have been adjudicated delinquent and who are on probation or parole. The procedures are the same as for a Form I Requisition. There are sometimes situations in which there is reason to believe that the child may be in immediate danger or that the child and/or child's caretaker may leave the jurisdiction of the court before a hearing can be scheduled. In such cases, the court may attach to the Requisition a FORM B "Order of Detention". Once received by the court in the state in which the child has been located, the court has the immediate authority to take the child into protective custody. The state in which the child is located may provide shelter care or protective custody for up to 90 days while a Requisition is being processed and the court hearing is scheduled to hear the evidence and make a disposition of the request.

The INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN is the third Interstate Compact which may be utilized by the placing party. Placing parties subject to the provisions of this Compact specifically include courts, agencies, parents or other parties having the authority to plan for the care of a child. This Compact serves those children who have been adjudicated neglected, dependent, minors in need of supervision, abandoned, abused or delinquent (but not on probation or parole). It also serves children who are not under the jurisdiction of a juvenile court including, but not limited to, children under the jurisdiction of other state courts or children placed by licensed child placement agencies by virtue of voluntary placement agreements or surrenders for the purpose of adoption. Also subject to this Compact are placements made by parents or other parties empowered with the legal responsibility to plan for the child or any party who sends, brings or causes a child to be sent or brought into another Compact state for the purpose of placement. Additionally, Article VI of this Compact requires that the placement of adjudicated delinquents placed in private institutions or treatment centers (non-state operated correctional facilities) be processed through the Children's Compact rather than the Juvenile Compact. Placements covered by this Compact include those children placed in foster homes, adoptive homes, group homes, institutions or residential treatment centers and those children placed with relatives or returned to parents by courts, child placement agencies or private placers who are not closely related to the child.

Placements exempt from the Compact on the Placement of Children include those in which the child is placed in a facility primarily educational in nature for the sole purpose of education (not a facility which is primarily child care, but having an educational component) or a child placed in a facility, primarily medical in nature or for the care and treatment of the mentally ill, mentally retarded or epileptic in which the sole purpose for such placement is medical or psychiatric in nature (not a facility which is primarily child care in nature with a medical, psychiatric or treatment component). Also excluded from this Compact are placements made by parents, step-parents, grandparents, adult brothers or sisters, adult uncles or aunts or non-Agency guardians with parents, step-parents, grandparents, adult brothers or sisters, adult uncles or aunts or non-Agency guardians. Non-Agency guardians referred to in this exclusion includes those guardians appointed by a surrogate or probate court who are of a close familial relationship to the child and who have been awarded guardianship based on other than a specific need for protection of the child. Private guardians appointed by a juvenile court are not intended to fall within this exclusion since juvenile court guardianship is predicated on the assumption that the child is in need of the protection of the court and that there has been demonstrated in court the need for such protection based in a finding of neglect, dependency, abuse, abandonment, need for supervision or delinquency. Therefore, the child's need for the protections or supervision offered by the court would continue to exist whether the child continued to remain within the court's jurisdiction or moved or was placed outside of that jurisdiction.

Like the Compact on Juveniles, the Compact on the Placement of Children extends the jurisdictional authority of the sending state's court and insures the provision of

necessary protective and supportive services to the child in the receiving state. Although Full Faith and Credit is sometimes thought of as the vehicle for the extension of jurisdictional authority, it does not, in fact, extend jurisdiction where it does not otherwise exist. Although the jurisdiction of the sending state's court may be recognized by the receiving state, it is powerless to enforce the jurisdictional authority of the sending state's court or to enforce subsequent orders of that court through Full Faith and Credit alone. A signed Interstate Compact agreement, however, serves to extend the jurisdictional authority of the sending state's court into the receiving state and the child's protection by the court is thereby the same as if the child had remained in the sending state. Likewise, a signed Compact agreement guarantees the provision of necessary protective and supportive services to the child and the child's caretaker (if necessary) in order to insure that the child continues to receive proper care, supervision and treatment.

It is the responsibility of the sending party in the sending state to notify the receiving state of the intent to place a child in that state and to place the child only after receiving authorization for the placement through their Interstate Compact Office. The receiving state is required to provide the sending party with a written report on the suitability of the proposed resource and to either authorize the placement or disapprove the placement (if there is reason to believe that the proposed placement would be contrary to the interests of the child). This allows the sending party to make an informed decision concerning the welfare of the child. The sending party is also legally required to retain jurisdiction over the child until: (1) the child is adopted, (2) reaches majority, (3) becomes self-supporting, or (4) the receiving state's Interstate Office concurs with a discharge of the sending party's jurisdiction. Although a discharge of jurisdiction without meeting one of these conditions is considered a violation of statutory law, it does not relieve the sending party from the terms and provisions of the Compact. Since a signed Compact agreement is a legally binding contract the sending party continues to be legally bound to its planning and financial responsibility until the discharge is in compliance with one of these four conditions and the contract is legally terminated.

The sending (placing) party must also have the legal authority to place children in the sending state as placements made by parties lacking such authority or specifically prohibited from placing or arranging for the placement of children cannot appropriately be processed through the Compact due to the fact that the laws of the sending state would be violated if such a placement were to be made.

If the receiving state authorizes the placement of a specified child in the proposed resource or facility in that state, it is the responsibility of the receiving state to provide supervision of the placement, insure the provision of necessary protective and supportive services to the child, submit reports as requested to the sending party and to honor and enforce the jurisdiction of the sending party or sending state's court. If a child is sent or brought or caused to be sent or brought into another Compact member state without benefit of an authorization for

placement from the receiving state and a signed Interstate Compact agreement, the receiving state is not obligated to provide any of the above mentioned services, cannot legally enforce the jurisdictional authority of the sending party and may be restricted from providing any protective or other services to the child due to that state's limits on their powers of investigation. Such placements constitute abandonment of the child in the foreign state since no protections can be legally afforded a child placed in violation of the Compact on the Placement of Children.

Although interstate compact agreements are sometimes seen as policies or regulations of the agencies mandated to administer them, an interstate compact is in reality uniform legislation which becomes statutory law in each state whose legislature chooses to enact it. Therefore, in those states which have enacted a particular interstate compact, that compact has the force of statutory law in that state and compliance is mandatory rather than discretionary. Interstate compact agreements are legally binding and enforceable contracts between the placing party and the receiving state. Such contracts are protected by the Contracts Clause of the U.S. Constitution. In the case of both the Compact on Juveniles and the Compact on the Placement of Children, a signed Interstate Compact agreement (contract) serves to extend the jurisdictional authority of the sending party and to insure the provision of necessary probation, parole or social services. Placements made prior to or without interstate compact authorization or discharges of jurisdiction made without meeting the requirements of the particular compact constitute a violation of the laws of both the sending and the receiving state. Either an illegal placement or a discharge of jurisdiction made without full compliance with the terms and provisions of the applicable compact can leave the child without adequate protection and/or supervision with the result that the child (and perhaps others) is left in jeopardy. Adoptive placements made in violation of the Compact on the Placement of Children pose particular risks in that even if the adoption is finalized the proceeding can always be contested on the basis that the placement was made in violation of the child placement laws of both the sending and the receiving state and in some cases on jurisdictional grounds. Care must always be taken to assure full compliance with all applicable laws, including the Compact on the Placement of Children in cases of interstate adoptive placements.

In any state, the court plays a vital role in the protection of children under its care or jurisdiction whether it be by virtue of an adjudication, an award of legal guardianship or a pending petition for adoption. No state can adequately offer the necessary protections to its children and residents without a coordinated effort. The protection of children placed across state lines is dependent upon the mutual support and cooperation of that state's interstate compact office and the courts of that state. Courts who are known for their excellent practices and who take seriously their responsibility to protect their wards and to insure their rights to proper care and treatment insist on verification that the appropriate interstate compact has been complied with and the placement has been authorized. Adoption judges who insist on documentation that an interstate adoption has been

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authorized through the Compact on the Placement of Children before proceeding to consummate are demonstrating their professional and judicial responsibility to insure that the rights of all parties are adequately protected and that the proceeding cannot at some later time be contested. Courts who insure that adjudicated delinquents continue to meet the conditions of probation or parole if they are allowed to move to or be placed in another state are insuring not only the supervision and protection of the juvenile, but also the protection of the general population as well. Courts and agencies who assume a protectorate role in relation to a child who comes under the jurisdiction of either because of a demonstrated need for protection must be in a position to provide a better level of care, treatment and protection than the party from whom the child was removed. The interstate compacts mentioned above are the vehicles for insuring that this mandate is carried out to the best of the court's and agency's ability.

General Information:

**THE INTERSTATE COMPACT ON MENTAL HEALTH**

Fourty-four states are signatory to this Compact. Those not currently members include:  
Arizona, California, Nevada,  
Mississippi, Virginia, and Utah.

For further information please contact:

Mr. Robert Kreimeyer, Jr., Research Assistant  
National Association of State Mental Health Program Directors  
1001 3rd Street, S.W.  
Washington, D.C. 20024

**THE INTERSTATE COMPACT ON JUVENILES**

All 50 states are signatory to this compact as well as Guam, Puerto Rico, District of Columbia and Virgin Islands.

For further information please contact:

Ms. Eve Roper, Secretariat  
Association of Juvenile Compact Administrators  
Criminal Justice Center  
Sam Houston State University  
Huntsville, Texas 77341

**THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN**

All states are currently members of this Compact with the exception of Hawaii, Michigan, South Carolina, New Jersey and Nevada. The District of Columbia, Puerto Rico and the Virgin Islands are not yet members.

For further information please contact:

Mr. Bruce Gross, Project Director  
or  
Ms. Betsy Rosenbuan, Interium Project Director  
Interstate Compact on the Placement of Children  
American Public Welfare Association  
1125 Fifteenth Street, N.W.  
Washington, D.C. 20005

**END**