

## IC 31-28-4

### Chapter 4. Interstate Compact on the Placement of Children

#### IC 31-28-4-1

##### Enactment; provision

Sec. 1. The interstate compact on the placement of children is enacted into law under this chapter and entered into with all other jurisdictions legally joining the compact in the form substantially as follows:

#### ARTICLE I. PURPOSE AND POLICY

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

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

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

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

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

#### ARTICLE II. DEFINITIONS

As used in this compact:

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

(b) "Sending agency" means:

- (1) a party state or a party state's officer or employee;
- (2) a subdivision of a party state or the subdivision's officer or employee;
- (3) a court of a party state;
- (4) a person;
- (5) a corporation;
- (6) an association;
- (7) a charitable agency; or
- (8) any other entity;

that sends, brings, or causes to be sent or brought any child to another party state.

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

(d) "Placement" means the arrangement for the care of a child by an individual in a free home, in a boarding home, or in a child-caring agency or institution but does not include an institution caring for the

mentally ill, mentally defective, or epileptic or any institution primarily educational in character, and a hospital or other medical facility.

#### ARTICLE III. CONDITIONS FOR PLACEMENT

(a) A sending agency may not send, bring, or cause to be sent or brought into any other party state a child for placement in foster care or as a preliminary to a possible adoption unless the sending agency complies with each requirement under article III and with the receiving state's laws governing the placement of children.

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

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

(c) A public officer or agency in a receiving state that receives a notice under paragraph (b) of article III is entitled, upon request, to receive additional information necessary to carry out the purpose and policy of this compact from the sending agency or any other appropriate officer or agency of or in the sending agency's state.

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

#### ARTICLE IV. PENALTY FOR ILLEGAL PLACEMENT

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

#### ARTICLE V. RETENTION OF JURISDICTION

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters relating to the custody, supervision, care, treatment and disposition of the child, which the sending agency

would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting, or is discharged with the concurrence of the appropriate authority in the receiving state. The jurisdiction shall also include the power to effect or cause the child's return or transfer to another location and custody as provided by law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of placement. Nothing contained in this compact shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed within the receiving state.

(b) When a sending agency is a public agency, the sending agency may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one (1) or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state. This compact does not prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a).

#### ARTICLE VI. INSTITUTIONAL CARE OF DELINQUENT CHILDREN

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

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

#### ARTICLE VII. COMPACT ADMINISTRATOR

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

#### ARTICLE VIII. LIMITATIONS

This compact does not apply to:

(a) The sending or bringing of a child into a receiving state by the child's parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(b) Any placement, sending, or bringing of a child into a receiving

state under any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between the states which has the force of law.

#### ARTICLE IX. ENACTMENT AND WITHDRAWAL

This compact shall be open to joinder by any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. This compact shall become effective with respect to any jurisdiction when the jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two (2) years after the effective date of the statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties, and obligations under this compact of any sending agency with respect to a placement made prior to the effective date of withdrawal.

#### ARTICLE X. CONSTRUCTION AND SEVERABILITY

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

*As added by P.L.145-2006, SEC.274.*

#### **IC 31-28-4-1.5**

##### **Application of chapter until state withdraws from compact**

Sec. 1.5. (a) This chapter remains in effect with respect to any state, territory, or possession of the United States, for the District of Columbia, or for the Commonwealth of Puerto Rico if the state, territory, or possession or the district or commonwealth has not adopted the interstate compact for the placement of children under IC 31-28-6. This chapter remains in effect until the governor gives written notice of the withdrawal of Indiana from the compact set forth in section 1 of this chapter to the governor of each other jurisdiction that is a party to the compact set forth in section 1 of this chapter.

(b) IC 31-28-6 shall be used for the interstate placement of children for a state, territory, or possession of the United States, for the District of Columbia, or for the Commonwealth of Puerto Rico if the state, territory, possession, district, or commonwealth has adopted the interstate compact for the placement of children in the format found in IC 31-28-6.

*As added by P.L.143-2008, SEC.10.*

#### **IC 31-28-4-2**

##### **Financial responsibility for placed children**

Sec. 2. Financial responsibility for a child placed under the provisions of the interstate compact on the placement of children shall be determined in accordance with Article V. However, for the partial or complete default of performance, the provisions of IC 31-2-1 (before its repeal), IC 31-1.5 (before its repeal), IC 31-18, IC 12-14-22-9, and IC 12-14-22-10 also may be invoked. In any appropriate case, financial support or contribution may be obtained by an appropriate agency in Indiana under IC 31-40 to aid in the discharge of the financial obligations of a sending agency that has placed a child in another state under the compact.

*As added by P.L.145-2006, SEC.274.*

#### **IC 31-28-4-3**

##### **"Appropriate public authorities"; notices; responsibility**

Sec. 3. The "appropriate public authorities" as used in Article III of the interstate compact on the placement of children (section 1 of this chapter), with reference to this state, means the department, and the department shall receive and act with reference to notices required by Article III.

*As added by P.L.145-2006, SEC.274.*

#### **IC 31-28-4-4**

##### **"Appropriate authority in receiving state"**

Sec. 4. As used in paragraph (a) of Article V of the interstate compact on the placement of children (section 1 of this chapter), the phrase "appropriate authority in the receiving state" with reference to this state means the department.

*As added by P.L.145-2006, SEC.274.*

#### **IC 31-28-4-5**

##### **Agreements between party states; authorization; approval**

Sec. 5. The officers and agencies of this state and the subdivisions of this state having authority to place children may enter into agreements with appropriate officers or agencies of or in other party states under paragraph (b) of Article V of the interstate compact on the placement of children (section 1 of this chapter). An agreement that contains a financial commitment or imposes a financial obligation on this state or a subdivision or agency of this state is not binding unless the agreement has the approval in writing of the auditor of state in the case of the state and of the chief local fiscal officer in the case of a subdivision of the state.

*As added by P.L.145-2006, SEC.274.*

#### **IC 31-28-4-6**

##### **Visitation, inspection, or supervision requirements of children or facilities under other law; fulfillment under compact**

Sec. 6. A requirement for visitation, inspection, or supervision of children, homes, institutions, or other agencies in another party state

that apply under the provisions of IC 31-27 is considered to be met if performed under an agreement entered into by appropriate officers or agencies of this state or a subdivision of this state as contemplated by paragraph (b) of Article V of the interstate compact on the placement of children (section 1 of this chapter).

*As added by P.L.145-2006, SEC.274.*

**IC 31-28-4-7**

**Placement of delinquent children in institution in another state; retained jurisdiction**

Sec. 7. A court having jurisdiction to place delinquent children may place the delinquent child in an institution in another state under Article VI of the interstate compact on the placement of children (section 1 of this chapter) and shall retain jurisdiction as provided in Article V.

*As added by P.L.145-2006, SEC.274.*

**IC 31-28-4-8**

**"Executive head"; appointment of compact administrator**

Sec. 8. As used in Article VII of the interstate compact on the placement of children (section 1 of this chapter), the term "executive head" means the governor. The governor may appoint a compact administrator in accordance with the terms of Article VII.

*As added by P.L.145-2006, SEC.274.*