

Adoption Advocate



Understanding the Interstate Compact on the Placement of Children

BY ABIGAIL LINDNER

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The Interstate Compact on the Placement of Children (ICPC), also known as the Compact, is a statutory agreement between signatories that governs the placement of children from one state to another for purposes of foster care and/or adoption. It primarily exists to ensure safe and suitable placement of the child before approval as well as legal and financial responsibility for the child post-placement.¹ Since its acceptance in 1960, the ICPC has served to organize a unified system of communication between agencies, states, and relevant individuals in the United States, to promote placement efficiency and clarify state responsibilities.

Background of the ICPC

On the East Coast in the 1950s, a group of social service administrators gathered informally to study the regulation of interstate child placement, particularly in foster care.

Among the concerns was the impact of changing demographics, such as increased American mobility and greater divorce rates, on children.^{2,3}

The group identified three problems with the current, nonuniform system of interstate child welfare relations between states. First, statutes for the protection of children who moved across state lines did not exist. Second, the sending state had no power to ensure proper care and supervision of the child by the receiving state. Third, the sending state lacked a means to compel the receiving state to provide services in support of the child's out-of-state placement.⁴

The drafters of what would become the Interstate Compact on the Placement of Children, chief among whom was Dr. Mitchell Wendell, submitted the final draft to a 12-state conference, which approved it in January 1960.⁵ Two months later, New York signed on as the first state to ratify the Compact.

¹ ICPC FAQs. (n.d.). American Public Health Services Association. Retrieved from https://aphsa.org/AAICPC/AAICPC/icpc_faq_2.aspx.

² Hartfield, B. (1989). The Role of the Interstate Compact on the Placement of Children in Interstate Adoption. *Nebraska Law Review*, 68(1), 292-329. Retrieved from <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1774&context=nlr>.

³ Christoph, M. (2013). Why Massachusetts Should Not Relegate Parents to "Legal Strangers": A Survey of the Myriad Interpretations of the ICPC. *Western New England Law Review*, 35(3), 77-97. Retrieved from <https://digitalcommons.law.wne.edu/cgi/viewcontent.cgi?article=1700&context=lawreview>.

⁴ Hartfield, B. (1989). The Role of the Interstate Compact on the Placement of Children in Interstate Adoption. *Nebraska Law Review*, 68(1), 292-329. Retrieved from <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1774&context=nlr>.

⁵ Sankaran, V. (2006b). Perpetuating the Impermanence of Foster Children: A Critical Analysis of Efforts to Reform the Interstate Compact on the Placement of Children. *Family Law Quarterly*, 40(3), 435-466. Retrieved from <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=2462&context=articles>.

By 1990, all 50 U.S. states, the District of Columbia, and the U.S. Virgin Islands had enacted the Compact into law.⁶

In adopting the Compact through the United States, child welfare agencies, social workers, other foster care and adoption professionals, and prospective placements have a generally uniform system in which the safety and protection of children placed outside their home state or territory lines are better ensured.

Where the ICPC Applies

The ICPC contains 10 articles outlining the purpose of the Compact, relevant definitions, conditions for placement, and the roles of the sending and receiving states. These articles are identical in all member states.⁷ According to the American Public Health Services Association, of which the administrator of the ICPC is an affiliate, the Compact is plainly applicable to the placement of a child by a state public child welfare agency with a relative family, foster family, or adoptive family; placement of a child by an individual or entity in out-of-state adoption; and placement of a child by an individual or entity into a licensed residential treatment center.⁸

Article VIII describes two situations in which a child is moved out of their original state and the ICPC does not apply: first, when his

Definitions

From ICPC Regulation No. 03:⁹

Receiving state: 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.

Sending agency: a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity having legal authority over a child who sends, brings, or causes to be sent or brought any child to another party state.

Sending state: the state where the sending agency is located, or the state in which the court holds exclusive jurisdiction over a child, which causes, permits or enables the child to be sent to another state.

Placement: the arrangement for the care of a child in a [home of a relative or unrelated individual], in a boarding home or in a child-caring agency or institution, but does not include any institution caring for the mentally ill, mentally defective or epileptic, or any institution primarily educational in character, and any hospital or other medical facility.

⁶ Ibid.

⁷ Christoph, M. (2013). Why Massachusetts Should Not Relegate Parents to “Legal Strangers:” A Survey of the Myriad Interpretations of the ICPC. *Western New England Law Review*, 35(3), 77-97. Retrieved from <https://digitalcommons.law.wne.edu/cgi/viewcontent.cgi?article=1700&context=lawreview>.

⁸ ICPC FAQs. (n.d.). *American Public Health Services Association*. Retrieved from https://aphsa.org/AAICPC/AAICPC/icpc_faq_2.aspx.

⁹ ICPC Regulations. (n.d.). *American Public Human Services Association*. Retrieved from https://aphsa.org/OE/AAICPC/ICPC_Regulations.aspx.

“parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian” are sending him to any such relative or non-agency guardian in the receiving state; and second, when an alternative agreement with the force of law exists between the sending state and the receiving state.¹⁰ Additional guidance is provided by ICPC Regulations, which are issued by the Association of Administrators of the Interstate Compact on the Placement of Children to more effectively perform the terms and provisions of the Compact. (See the next section for more on this association.)

There is some debate among state and federal courts whether the ICPC applies to the placement of children with noncustodial, out-of-state parents. Advocates for a broad interpretation that includes noncustodial parents and advocates for a strict interpretation that excludes noncustodial parents both find support for their arguments in the text of the ICPC.¹¹ Numerous cases have arisen in the decades since the nationwide adoption of the Compact that questioned its applicability in these cases, including *Arizona Department of Economic Security v. Leonardo* (2001), *Department of Children and Families v. Benway* (1999), *McComb v. Wambaugh* (1991), *Arkansas Department of Human Services v. Huff* (2002), and *In re Emoni W.* (2011).¹²

For interstate adoption cases, the ICPC is applicable. Because the licensure and certification needed for placement via ICPC varies from state to state, though the legislative framework remains the same across the states, it is important to consult ICPC specialists in one’s state if there is any uncertainty whether a given case falls under ICPC jurisdiction.

Role of Compact Administrators and the Association of Administrators of the Interstate Compact on Placement of Children

Article VII provides for the designation, by the executive head of each member state, of an officer “who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.” These jurisdiction-level officers are the compact administrators for the ICPC. The Association of Administrators of the Interstate Compact on Placement of Children, or AAICPC, formed in 1974 as a union of these state administrators.¹³

¹⁰ Text of the Interstate Compact on the Placement of Children. (n.d.). *American Public Human Services Association*. Retrieved from https://aphsa.org/AAICPC/AAICPC/text_icpc.aspx

¹¹ Jones, A. (2021). Parents and the Interstate Compact on the Placement of Children: A Flexible Approach. *Lewis & Clark Law Review*, 25(3). Retrieved from <https://law.lclark.edu/live/files/32307-jones-nc-253-pdf>.

¹² Christoph, M. (2013). Why Massachusetts Should Not Relegate Parents to “Legal Strangers:” A Survey of the Myriad Interpretations of the ICPC. *Western New England Law Review*, 35(3), 77-97. Retrieved from <https://digitalcommons.law.wne.edu/cgi/viewcontent.cgi?article=1700&context=lawreview>.

¹³ Jones, A. (2021). Parents and the Interstate Compact on the Placement of Children: A Flexible Approach. *Lewis & Clark Law Review*, 25(3). Retrieved from <https://law.lclark.edu/live/files/32307-jones-nc-253-pdf>.

The AAICPC coordinates ICPC activity within states and issues rules and regulations.^{14,15} Technical assistance and support are provided to the member states with the support of the American Public Human Services Agency, or APSHA.¹⁶ When working through the ICPC process, the individual compact administrators in the sending and receiving states, as well as the deputy administrators below them, interact with one another and communicate details about the ICPC application.¹⁷

Since April 2016, the AAICPC has also operated the National Electronic Interstate Compact Enterprise, or NEICE, which was enacted as an amendment to the Social Security Act to expedite ICPC requests and placements via a quick and secure electronic exchange of required data and documents.¹⁸ As of January 2022, 39 member states have fully implemented NEICE. The Family First Act of 2018 mandates that all states must join NEICE by 2027.¹⁹

How the ICPC Process Works

The APHSA provides a summary of the steps involved in an ICPC application.²⁰ They are as follows:

1. The caseworker or adoption entity in the sending state creates a packet that

includes the child's social, medical, and educational history, current status of any court case, and information about the person being considered for placement.

2. The packet is forwarded to the central ICPC office in the sending state, usually located in the state capital.
3. The sending state reviews and approves or disapproves the packet. Additional materials may be requested to comply with state laws.
4. If approved, the sending state transmits the packet to the ICPC central office in the receiving state.
5. The receiving state reviews the packet. Additional materials may be requested to comply with state laws.
6. The receiving state transmits the packet to the social services agency in the local community of the prospective placement.
7. The local social services agency conducts a home study and background screening to determine the home suitability of the prospective placement.
8. The local agency in the receiving state transmits the packet, including the completed home study report, to the central ICPC office in the receiving state.
9. The central ICPC office in the receiving

¹⁴ Christoph, M. (2013). Why Massachusetts Should Not Relegate Parents to "Legal Strangers:" A Survey of the Myriad Interpretations of the ICPC. *Western New England Law Review*, 35(3), 77-97. Retrieved from <https://digitalcommons.law.wne.edu/cgi/viewcontent.cgi?article=1700&context=lawreview>.

¹⁵ Hartfield, B. (1989). The Role of the Interstate Compact on the Placement of Children in Interstate Adoption. *Nebraska Law Review*, 68(1), 292-329. Retrieved from <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1774&context=nlr>.

¹⁶ Sankaran, V. (2006a). Out of State and Out of Luck: The Treatment of Non-Custodial Parents Under the Interstate Compact on the Placement of Children. *Yale Law and Policy Review*, 25(1), 63-94. Retrieved from <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1440&context=articles>.

¹⁷ Conant, J. (2019). Five Things to Consider When Dealing with Interstate Placement of Children. *American Bar Association*. Retrieved from <https://www.americanbar.org/groups/litigation/committees/childrens-rights/practice/2019/five-things-to-consider-when-dealing-with-interstate-placement-of-children/>.

¹⁸ Ibid.

¹⁹ National Electronic Interstate Compact Enterprise (NEICE). (n.d.). *American Public Human Services Association*. Retrieved from <https://aphsa.org/AAICPC/AAICPC/NEICE.aspx>.

²⁰ ICPC FAQ's. (n.d.). *American Public Health Services Association*. Retrieved from https://aphsa.org/AAICPC/AAICPC/icpc_faq_2.aspx.

state approves or denies the placement according to the recommendation of the home study report. Additional materials may be requested to comply with state laws.

10. The receiving state transmits the home study to the sending state for review.
11. The completed home study is transmitted to the sending agency that originated the placement request.
12. If the request is approved by all parties, the child is placed with the out-of-state placement.

After placement, the receiving state takes on the responsibility of supervising the child in the new placement and the sending state retains financial responsibility and court jurisdiction. The agency in the receiving state should prepare periodic progress reports for the review of the ICPC offices in the receiving and sending states.

Importance of the ICPC in Interstate Adoption

Based on a sample of 11 U.S. states from 2006 to 2011, about 17% of the incoming ICPC requests are for out-of-state adoption.²¹ The ICPC is important to ensure the placement follows the adoption regulations of both the sending state and the receiving state and for the sending state to verify that the prospective placement in the receiving state has the resources to sufficiently care for the

child's physical, mental, emotional, and other needs.²² Prior to its enactment, states did not have the administrative and legislative mechanisms in place to monitor whether or not privately or publicly adopted children moved out-of-state received the proper care and supervision.²³

When an interstate adoption is a private domestic infant adoption, the ICPC process also provides another layer of documentation and contemplation for the birth family and the prospective family in determining whether the relinquishment of the newborn by the former and the adoption of the newborn by the latter is suitable for all involved. Approval by both the receiving state and the sending state must be officially stated before the prospective family can take the child out of the sending state. In domestic infant adoption, the prospective family might arrive in the sending state for the child's birth and wait there with the child until the dual approvals are received.²⁴

Common Reasons for Delays in the ICPC Process

The ICPC was formulated to achieve four main purposes: maximization of opportunity for placement, maximization of information for the receiving state, maximization of information for the sending state, and resolution of jurisdictional conflicts. All of these purposes are met with answers

²¹ Sankaran, V. (2014). Foster Kids in Limbo: The Effects of the Interstate Compact on Children in Foster Care. *ABA Child Law Practice*, 33(6), 140-142. Retrieved from <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=2921&context=articles>.

²² ICPC in Adoption: What It Is & How It Works. (n.d.). *American Adoptions*. Retrieved from <https://www.americanadoptions.com/adoption/icpc-adoption/>.

²³ Understanding ICPC: Interstate Adoption. (n.d.). *Adoption Connection* Retrieved from <https://adoptionconnection.ifcs.org/understanding-icpc-interstate-adoption/>.

²⁴ Zimmerman, K. (n.d.). Adoption Travel, ICPC & Post-Placement. *Purl Adoption Advisory*. Retrieved from <https://www.purladoptions.com/learn/adoption-education/adoption-travel-icpc-postplacement/>.

introduced in Article I of the Compact.²⁵ As in any matter concerning child welfare, the desire for expedition balanced with safety moves these objectives forward. However, since its enactment, numerous objections have been raised about delays in the ICPC process.

A major source of delay lies in home study completion and approval. Research in concert with the Annie E. Casey Foundation found that only about 30% of ICPC home studies were completed within 30 days, 45% were completed within 60 days after placement request as required by federal law, and about 30% of home studies took longer than 90 days.²⁶

Among the reasons for these prolonged home study timelines are failed resolution of financial and medical issues; incomplete criminal background checks and missing information; and bureaucratic issues, such as the inadequate staff, lack of training, and high caseworker turnover that is common throughout the child welfare system.²⁷ Moreover, though communication has improved since the implementation of the Compact, interstate miscommunication and misunderstanding persists and children are still sometimes lost in out-of-state placements. This problem contributes to home study delays.²⁸

Proposed New ICPC

In 2004, APHSA passed a policy resolution to address the insufficient and antiquated language of the original ICPC by drafting a new ICPC.²⁹ State human service administrators, state and local child welfare directors, compact administrators, and representatives from national organizations collaborated to rewrite the ICPC and presented a draft for final approval in November 2005.

This revised ICPC aims to evaluate the suitability of prospective family placements with uniform mechanisms, provide needed support services, narrow the applicability of the Compact, develop time frames for completing the approval process, establish a clear rulemaking authority, clarify state responsibilities, increase protection for familial relationships, and provide a forum for aggrieved individuals to appeal decisions.^{30,31} For the new ICPC to be binding as law, at least 35 states must enact it. As of 2021, 13 states have enacted the new ICPC. No states have enacted it since 2013.³²

²⁵ Hartfield, B. (1989). The Role of the Interstate Compact on the Placement of Children in Interstate Adoption. *Nebraska Law Review*, 68(1), 292-329. Retrieved from <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1774&context=nlr>.

²⁶ Sankaran, V. (2014). Foster Kids in Limbo: The Effects of the Interstate Compact on Children in Foster Care. *ABA Child Law Practice*, 33(6), 140-142. Retrieved from <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=2921&context=articles>.

²⁷ Sankaran, V. (2006b). Perpetuating the Impermanence of Foster Children: A Critical Analysis of Efforts to Reform the Interstate Compact on the Placement of Children. *Family Law Quarterly*, 40(3), 435-466. Retrieved from <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=2462&context=articles>.

²⁸ Nzekwu, C. (2016). The Lost Ones of the Interstate Compact of the Placement of Children. *Hofstra Law Review*, 44(3), 1001-1035. Retrieved from <https://scholarlycommons.law.hofstra.edu/cgi/viewcontent.cgi?article=2882&context=hlr>.

²⁹ Jones, A. (2021). Parents and the Interstate Compact on the Placement of Children: A Flexible Approach. *Lewis & Clark Law Review*, 25(3). Retrieved from <https://law.lclark.edu/live/files/32307-jones-nc-253-pdf>.

³⁰ Conant, J. (2019). Five Things to Consider When Dealing with Interstate Placement of Children. *American Bar Association*. Retrieved from <https://www.americanbar.org/groups/litigation/committees/childrens-rights/practice/2019-five-things-to-consider-when-dealing-with-interstate-placement-of-children/>.

³¹ Sankaran, V. (2006b). Perpetuating the Impermanence of Foster Children: A Critical Analysis of Efforts to Reform the Interstate Compact on the Placement of Children. *Family Law Quarterly*, 40(3), 435-466. Retrieved from <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=2462&context=articles>.

³² Jones, A. (2021). Parents and the Interstate Compact on the Placement of Children: A Flexible Approach. *Lewis & Clark Law Review*, 25(3). Retrieved from <https://law.lclark.edu/live/files/32307-jones-nc-253-pdf>.

Other factors exacerbating delays are incomplete packets, missing court orders, inadequate financial plans, and the reliance on overburdened child welfare agencies and social workers who may be insufficiently trained on the ICPC.^{33,34}

Conclusion

When considering the transfer of a child from one state to another, the Interstate Compact on the Placement of Children is an important legislative agreement to be aware of. While debate continues more than 30 years since the nationwide enactment of the ICPC on matters of applicability, timeliness, and state communications, it remains an important, if imperfect, tool for the facilitation of interstate child welfare relations and for the protection of the children involved.

Resources

[ICPC Full Text](#) - The American Public Human Services Association (APHSA) provides the full, original text of the ICPC.

[ICPC Regulations](#) - The regulations are formulated by the Association of Administrators of the Interstate Compact on the Placement of Children (AAICPC), as permitted by Article VII of the ICPC. These regulations try to clarify and formalize certain definitions and processes in the ICPC.

[ICPC State Pages](#) - The state pages are maintained by the AAICPC as an affiliate of APHSA. On the main page, the policies of a single state can be searched or three states at a time can be compared.

[AAICPC Resources](#) - The resource page from AAICPC provides links to prominent rules, regulations, forms, and other documents pertaining to the ICPC.

[Flow Chart of the ICPC Process](#) - Created by the Pennsylvania Child Welfare Resource Center based on a 1999 report from the Government Accountability Office, this flowchart describes the authorities and steps involved in completing an ICPC request.

[New ICPC](#) - The Children's Bureau provides background on and highlights of the new ICPC, as well as links to current information.

³³ Ibid.

³⁴ Sankaran, V. (2014). Foster Kids in Limbo: The Effects of the Interstate Compact on Children in Foster Care. *ABA Child Law Practice*, 33(6), 140-142. Retrieved from <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=2921&context=articles>.

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