

Minnesota Judicial Branch

Minnesota Department of Human Services

CJI

## Children's Justice Initiative

# MINNESOTA'S ASSESSMENT OF THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN (ICPC)

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MINNESOTA JUDICIAL BRANCH  
STATE COURT ADMINISTRATOR'S OFFICE  
COURT SERVICES DIVISION  
105 MINNESOTA JUDICIAL CENTER  
25 REV. DR. MARTIN LUTHER KING JR. BLVD.  
ST. PAUL, MN 55155  
651-297-7587

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## I. INTRODUCTION

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### A. OVERVIEW OF ICPC

When children are placed out of state by court order, they need to be assured of the same protections and services they would receive if they remained in their home state. If the out-of-state placement fails to meet the child's needs, or if the need for out-of-state placement ceases to exist, there must be a system in place to return the child to his or her original jurisdiction.

The Interstate Compact on the Placement of Children (ICPC) has been uniformly adopted by all 50 states, the District of Columbia, and the U.S. Virgin Islands. The ICPC “provides a statutory means to ensure that the jurisdictional, administrative, and human rights obligations of all parties involved in an interstate placement can be protected.”<sup>1</sup> The ICPC makes it illegal for one state to “dump” a child into another state. It prevents the unfair financial burden to states of having children with severe needs placed in their state without appropriate financial support. The ICPC ensures that when a child is placed in another state:

- the child is placed in a suitable environment;
- the receiving state has the opportunity to assess the proposed placement;
- the sending state obtains enough information to evaluate the placement; and
- the care of the child is promoted through appropriate jurisdictional arrangements, including financial support.<sup>2</sup>

While the ICPC facilitates interstate placement of children, the following weaknesses regarding implementation of the ICPC hinder such placements:

- lack of knowledge about the ICPC among judges, attorneys, and caseworkers;
- placements in violation of the ICPC, particularly in regard to home studies;
- the lengthy “sending state” and “receiving state” approval process; and
- differing adoption laws among states.<sup>3</sup>

### B. COURT IMPROVEMENT PROGRAM (CIP) GRANTS

In the early 1990s, Congress enacted legislation authorizing the Children's Bureau of the U.S. Department of Health and Human Services to provide to state courts grants intended to improve outcomes for children and families involved in child abuse and neglect proceedings. Courts receiving the Court Improvement Program (CIP) grants are required to use the funds to enhance collaborative efforts between courts, child protection agencies, tribes, guardians ad litem, attorneys, foster parents, and other child protection system professionals. The collaborative efforts must be focused on improving child safety, permanency, and well-being. In 2006, two new CIP grants were authorized by Congress. The “training grant” is to be used to fund cross-systems training regarding child protection practices and issues, and the “data grant” is to be used to support data collection and analysis activities related to child protection performance measures.

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<sup>1</sup> *The Interstate Compact on the Placement of Children: A Manual and Instructional Guide for Juvenile and Family Court Judges*, p. 4, National Council of Juvenile and Family Court Judges (Fall 2001).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at p. 8.

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### C. ICPC ASSESSMENT MANDATE AS PRE-REQUISITE TO RECEIPT OF CIP GRANT

In 2006, Congress enacted the “Safe and Timely Interstate Placement of Foster Children Act” (P.L. 109-239), which established a new assessment requirement for courts receiving CIP grants. Under the Act, state courts that wish to continue receiving the “basic” CIP grant are required to “assess their role, responsibilities, and effectiveness in the interstate placement of children, and must implement improvements to expedite these placements.”<sup>4</sup> Specifically, state courts are required to assess:

- Current state practices in cases involving interstate child placement, including strengths and challenges;
- Existing laws and practices to obtain information and testimony from agencies, parents, children, and parties in other states without requiring interstate travel;
- The current strengths and challenges of interstate placement, including any analysis of what is allowed under current state and federal law.

At the conclusion of the assessment, state courts are required to identify what state law, state court organization, or state court practice changes are needed to expedite interstate placement cases. Included must be a strategy for implementing the proposed recommendations.

### D. ASSESSMENT METHODOLOGY

The State Court Administrator’s Office employed a multi-method approach to collect data and information regarding the interstate placement of children, including:

- **Review of state ICPC statutes and rules:** Minnesota’s statutes and rules related to the ICPC are included in Appendices A – D, and are excerpted throughout the report.
- **Review of ICPC articles and practice manuals:** ICPC articles and practice manuals were reviewed, and information and excerpts are included throughout this report.
- **Review of MNCIS court data regarding filings of Child In Need of Protection or Services (CHIPS) petitions and Termination of Parental Rights (TPR) petitions:** A review of data in the Minnesota Court Information System (MNCIS) showed that 5,483 CHIPS petitions were filed in 2006; 5,328 petitions were filed in 2007; and petitions 3,604 were filed through September 2008. In addition, MNCIS data showed that 1,615 TPR petitions were filed in 2006; 1,575 petitions were filed in 2007; and 1,027 petitions were filed through September 2008. MNCIS does not include information regarding out-of-state placements.

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<sup>4</sup> Program Instruction, ACYF-CB-IP-07-09, Children’s Bureau, Administration for Children and Families, U.S. Dept. of Health and Human Services, p. 8 (June 4, 2007).

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- **Review of Department of Human Services SSIS data regarding children in out of home placement:** In 2007, 14,800 children spent some time in out-of-home placement,<sup>5</sup> which was nearly the same as 2006 when the total was 14,770 children.<sup>6</sup> The average days in out-of home care for 2007 was 181.9, compared to 180.4 days in 2006.<sup>7</sup> Sixty-two percent of children experienced no moves while in care in 2007,<sup>8</sup> which is identical to 2006. In 2007, 812 children came under state guardianship as a result of termination of parental rights and 672 were adopted.<sup>9</sup> In 2006, 746 children came under state guardianship and were 542 adopted.<sup>10</sup> The annual Child Welfare Report does not include information regarding out-of-state placements.
- **Review of ICPC data maintained by the Minnesota Department of Human Services:** A review of data contained in the state ICPC data base showed that during calendar year 2007 the Minnesota ICPC office processed 1790 cases, 654 of which were received by Minnesota and 1136 of which were sent out of state. The ten counties who most used the ICPC process were:

County	Placement Requests
Hennepin	204
Ramsey	116
Clay	22
Dakota	19
Olmsted	17
Anoka	14
Goodhue	13
Steele	12
Pine	11
Cottonwood	10

- **Interviews with state ICPC supervisor and ICPC Administrator:** In addition to several meetings with the ICPC staff at the Minnesota Department of Human Services to discuss the ICPC assessment and Minnesota's ICPC process, a lengthy interview with the ICPC supervisor and Administrator was conducted. Information from those meetings and interviews is included throughout this report.
- **Surveys of judges and county child protection agency personnel:** Surveys were distributed to the 79 judges who lead the Children's Justice Initiative (CJI) in Minnesota's 87 counties, and to the directors of Minnesota's 87 child protection agencies seeking information regarding their ICPC experience during the period from January 1, 2006,

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<sup>5</sup> Minnesota's Child Welfare Report 2007: Report to the 2008 Minnesota Legislature, p. 2 (August 2008) (hereinafter "2007 Child Welfare Report").

<sup>6</sup> Minnesota's Child Welfare Report 2006: Report to the 2007 Minnesota Legislature, p. 3 (October 2007) (hereinafter "2006 Child Welfare Report").

<sup>7</sup> 2007 Child Welfare report, *supra* note 5, p. 2.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at p. 3.

<sup>10</sup> 2006 Child Welfare report, *supra* note 6, p. 3.

## **I. INTRODUCTION**

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through September 30, 2008. Responses were received from 30 judges and 48 agency personnel, and information from their responses is included throughout this report.

- Of the 30 judges who responded, 14 reported that they had no ICPC cases during the period under review; 8 reported that although they had at least one ICPC case during the period under review, they experienced no problems; and 8 judges reported that they had at least one ICPC case during the period under review and experienced problems with the process.
  - Of the 48 agency personnel who responded, 8 reported that they had no ICPC cases during the period under review; 6 reported that although they had at least one ICPC case during the period under review, they experienced no problems; and 34 reported that they had at least one ICPC case during the period under review and experienced problems with the process.
- **Interviews with judges and county child protection agency personnel:** Interviews were conducted with some of the judges and child protection agency personnel whose survey results reported concerns about the ICPC process. Information from those interviews is included throughout this report.

Using these data and information collection methods, the findings and recommendations in sections II and III of this report were developed.

## II. FINDINGS AND RECOMMENDATIONS

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### A. CURRENT ICPC PROCESS AND PRACTICES, INCLUDING STRENGTHS AND CHALLENGES

#### Current ICPC Process

Minnesota, along with the 49 other states and the District of Columbia, has enacted the Interstate Compact on the Placement of Children (ICPC)<sup>11</sup> and the Interstate Compact on Juveniles.<sup>12</sup> The ICPC was enacted to ensure the safe movement of foster and adoptive children between states. Unfortunately, for a variety of reasons, it has not met its goal. As a result, Minnesota is one of eight states that has promulgated the new ICPC,<sup>13</sup> which is intended to correct many of the problems associated with the current ICPC. The new ICPC will not be effective in Minnesota or other states until at least 35 states have enacted it.<sup>14</sup>

The ICPC is a multi-layered process of interstate communication, investigation, support, and case monitoring. When a court orders an interstate placement of a child, the ICPC requires that the following steps must occur *prior to* placing the child in the other state:

1. The county child protection agency sends the required paperwork to the sending state's ICPC Office.
2. The sending state's ICPC Office sends the required paperwork to the receiving state's ICPC Office.
3. The receiving state's ICPC Office sends the required paperwork to the receiving state's county child protection agency.
4. The receiving state's county child protection agency conducts a home study.
5. The receiving state's county child protection agency sends the results of the home study to the receiving state's ICPC Office.
6. The receiving state's ICPC Office, based on the results of the home study and pertinent receiving state law and policy, makes the social work determination about whether the placement "does not appear to be contrary to the interests of the child."
7. The receiving state's ICPC Office forwards its decision and the results of the home study to the sending state's ICPC Office.
8. The sending state's ICPC Office sends the receiving state's determination and the results of the home study to the county child protection agency that initiated the placement request. Based upon the information received, the county makes a social work determination about whether to request placement in the receiving state.
9. The sending state's court determines, based on the results of the receiving state's home study, whether placement in the receiving state is in the best interests of the child. If the court approves the placement, the county child protection agency arranges transportation of the child to the out-of-state placement, notifies the receiving state of its intention to place the child, and, when appropriate, the need for the receiving state to begin supervision.
10. Once the child is placed, similar lines of communication must be followed for case monitoring and support until the child returns to the sending state or agreement is reached for the child to remain in the receiving state on a permanent basis.

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<sup>11</sup> Minn. Stat. § 260.851-91 (2008) (see Appendix A for text).

<sup>12</sup> *Id.* at § 260.51-57 (see Appendix B for text).

<sup>13</sup> 2008 Minn. Laws Ch. 361, Art. 6, Sec. 23.

<sup>14</sup> Minnesota Statutes § 260.851 is repealed, and replaced with § 260.853, effective upon legislative enactment of the interstate compact by no less than 35 states. *Id.* at Sec. 59.

## II. FINDINGS AND RECOMMENDATIONS

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### **ICPC is a Complex and Time-Consuming Process, Resulting in Confusion and Delays**

By its very nature, the ICPC process is complex and time-consuming. And, making an inter-jurisdictional compact work, where judicial and child protection resources are often strained, is even more of a challenge. The most basic mistake in processing information, such as forgetting to include one of the many required documents in the packet of information to be shared with the other state, may result in lengthy delays. Thus, when a judge is faced with a child lingering in foster care, and the child has a relative in another state who is willing to immediately take the child, the judge may be inclined to go ahead and place the child without waiting for the ICPC process to be completed.

However, “while prompt movement of children is important, safe movement of children is more important.”<sup>15</sup> When courts place children out-of-state without following the ICPC procedures, it means that home assessments are not completed and follow-up supports and services are not provided. Consequently, failing to follow the ICPC may mean that children are placed in dangerous or unfit homes or without adequate support services. This is not only harmful to the child, but could potentially disrupt a placement that, with the proper services, could become a permanent home.

### **Strengths of Minnesota’s ICPC Process**

Based upon the surveys of, and interviews with, judges, child protection personnel, and state ICPC Office personnel, it appears that the ICPC processes in place in Minnesota are generally effective. Judges and county child protection personnel expressed appreciation for:

- the quick response of state ICPC Office staff when questions are posed (especially in light of the fact that, due to ICPC volume, the office could use three staff and for the past year has been staffed by only one person);
- the checklists, templates, and other forms provided by the state ICPC Office to help process ICPC cases and to ensure complete documentation; and
- the overall timely turn-around of ICPC cases despite resource challenges.

### **Challenges of Minnesota’s ICPC Process**

The most commonly reported concerns expressed by judges, child protection personnel, and state ICPC Office personnel included:

- confusion about when the ICPC applies and its process and procedures;
- lack specific time frames and delays in case processing;
- lack of proper documentation and supporting documents;
- incomplete and delayed home studies and criminal background checks;
- difficulties in communication and coordination between states;
- issues of court orders and court jurisdiction;
- lack of understanding about when judicial involvement in ICPC cases is appropriate.

#### *Confusion about when the ICPC applies and its process and procedures*

Based upon the surveys of, and interviews with, judges and child protection personnel, there is confusion about when the ICPC applies, which sometimes results in delays in placements or out-

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<sup>15</sup> *The Promise of the New Interstate Compact on the Placement of Children*,” Hon. Stephen Rideout, Child Law Practice, American Bar Association, Vol. 25, No. 11, p. 165 (Jan. 2007).

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of-state placements that violate the ICPC. For example, the ICPC does not apply when a placement is made between parents, stepparents, grandparents, adult siblings, adult aunts or uncles, or guardians.<sup>16</sup> However, according to the ICPC regulations, this “relative” exception will not apply if the rights of any those parties have been diminished.<sup>17</sup> Judges and child protection workers cited examples of confusion about when the “relative” exception does and does not apply. Questions arose, for example, about whether the ICPC applies when sending a child to an out-of-state noncustodial parent who does not have joint legal or physical custody of the child, or to out-of-state paternal grandparents when the father’s parental rights have been terminated.

### *Lack specific time frames and delays in case processing*

The total recommended timeframe from referral to receipt of approval is about 30 business days for nonpriority placements.<sup>18</sup> This means that the receiving state’s county child protection agency should complete the home study and make a recommendation within 30 days of receiving the referral.<sup>19</sup> While it is generally understood that Regulation 7 can be used to speed “priority” placements, discussions with judges and child protection workers established that it is not clear when Regulation 7 may be implemented. For example, several judges were unclear about whether Regulation 7 applies when the placement is for licensed or approved foster care or adoption. In addition, several child protection workers were unclear about whether Regulation 7 applies only to “relatives” and how the term “emergency shelter” is defined.<sup>20</sup>

### *Lack of proper documentation and supporting documents*

Discussions with county child protection personnel and state ICPC office personnel established that one source of delay in the approval process is the failure to send complete documentation from the county child protection agency to the state ICPC office. On the one hand, county child protection personnel reported that if a document was missing, their entire packet of information was returned to them, rather than simply being notified by phone or email or fax that the document was missing. They expressed concern that this not only resulted in delay in the process, but also cost additional dollars for postage in this time of scarce resources because they were required to re-mail the entire packet a second time. On the other hand, state ICPC Office personnel stated that, due to resource challenges, it is not possible to keep track of which packets are missing which pieces of information and for that reason it is easiest to simply return the entire packet along with a notice about what is missing.

### *Incomplete and delayed home studies and criminal background checks*

A criminal background check is among the requirements of a home study. And yet, timeliness of these criminal background checks was cited as one of the reasons for delays in home study approvals. Among the concerns expressed by child protection personnel was that the home

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<sup>16</sup> Minn. Stat. § 260.85, Article III(a) (2008).

<sup>17</sup> ICPC Reg. 3, 6(a)(2).

<sup>18</sup> *Trainees’ Workbook for Public Child Welfare Caseworkers on the Interstate Compact on the Placement of Children*, p. III-24-25, Association of Administrators of the ICPC (2001).

<sup>19</sup> *Id.*

<sup>20</sup> Regulation 7 provides that a child being considered for interstate placement can qualify for priority placement if the child is being placed with a parent, stepparent, grandparent, adult sibling, adult aunt or uncle and the child is under age 2 or is in emergency shelter or has spent a substantial amount of time in the home of the proposed placement recipient. ICPC Reg. 7.

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studies and background checks completed in other states are less rigorous than those required under Minnesota law. Minnesota child protection agencies and courts are then faced with the challenge of deciding whether to accept the other state's home study and criminal background check. Another concern was that there is no centralized location in which to learn about the home study and background check requirements of other states.

### *Difficulties in communication and coordination between states*

Child protection workers expressed concern about the multi-layered ICPC process and wondered whether it would instead be possible, and more efficient, to allow county personnel in receiving states to directly contact county personnel in sending states if questions arose. They stated that the state ICPC Office should still be used as the coordinating site for gathering the packets of information, but that it would expedite the process if counties could pose questions directly to other counties.

### *Issues of court orders and court jurisdiction*

Based upon discussions with child protection workers, there is concern about the lack of findings and information required to be included in orders related to ICPC cases and the delay caused by the lack of information. For example, in "priority" cases, some child protection workers reported that the orders did not state whether the placement was for licensed or approved foster care, whether Regulation 7 applies, and whether the placement is not contrary to the child's best interests. Judges indicated that because of the complexity of the ICPC, there were not completely clear about what is required to be included in their orders.

### *Lack of understanding about when judicial involvement in ICPC cases is appropriate*

Based upon interviews with judges, there is uncertainty about whether, and to what degree, judges may/should become involved in ICPC issues. ICPC Regulation 7 and the Uniform Child Custody Jurisdiction and Enforcement Act<sup>21</sup> (UCCJEA) expressly authorize judge-to-judge communication to deal with delays and problems. And yet, it appears there are various ways that judges deal with ICPC cases. In some counties, judges are never involved in the cases other than to order the out-of-state placement. In other counties, judges who become aware of delays in the processing of ICPC cases become involved by scheduling hearings to determine the status of the process and the cause of delays. In a very few cases, judges became involved in delayed ICPC proceedings by contacting the state ICPC Office or, in one case, by contacting a judge in another state to find out the source of the delay.

## **Recommendations**

1. Cross-systems training regarding the ICPC process and procedures should be provided to judges, child protection workers, attorneys, guardians ad litem, foster parents, and other child protection system stakeholders.
2. ICPC checklists or practice manuals should be developed and distributed to all child protection system stakeholders.
3. Order templates for priority and non-priority cases should be developed and distributed to judges.

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<sup>21</sup> Minn. Stat. § 518D (2008).

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4. Establish more effective and cost efficient methods for obtaining missing documentation should be developed.
5. To expedite the process, procedures that allow receiving counties to pose questions directly to sending counties should be developed.

### **Strategies to Implement Recommendations**

1. The Minnesota Department of Human Services (DHS) has an ICPC practice guide on its website that could be updated and distributed statewide.
2. DHS and the CJI should include ICPC training in upcoming CJI conferences or trainings.
3. Checklists and practice manuals should be developed for each stakeholder group.
4. The Judges Juvenile Protection Benchbook should be updated to include ICPC information and checklists and model order templates.

### **B. EXISTING LAWS AND PRACTICES TO OBTAIN INFORMATION AND TESTIMONY FROM AGENCIES, PARENTS, CHILDREN, AND PARTIES IN OTHER STATES WITHOUT REQUIRING INTERSTATE TRAVEL**

#### **Need to Obtain Information and Testimony Via Phone and Interactive Television**

When bottle necks occur in the ICPC process, or when a receiving state provides less than complete information in a home study, it may be necessary for the sending state to obtain information or testimony from agencies, parents, attorneys, and other persons in the receiving state.

#### **Current Status of Minnesota Laws and Practices**

Rule 12.01 of the Minnesota Rules of Juvenile Protection Procedure (see Appendix D) currently provides that the court may use telephone and interactive television to hear motions and conduct conferences with attorneys in an effort to resolve procedural matters.<sup>22</sup> However, Rule 12.02 currently prohibits the use of telephone or interactive television to take testimony, unless there is agreement of the parties or, in exceptional circumstances, upon motion of a party and order of the court.<sup>23</sup> The comment to the Rule states that its intent is “to ensure that parties are permitted to fully participate in hearings and to be present when testimony is offered. The rule provides that the court has the opportunity, in all but the most exceptional cases, to personally observe witnesses in order to effectively weigh credibility. However, it also gives the court some flexibility in those exceptional cases.”<sup>24</sup>

#### **Recommendation**

The Juvenile Protection Rules Committee should review the existing Rules and discuss what revisions, if any, should be recommended to the Minnesota Supreme Court to allow for obtaining information and testimony from agencies, parties, and attorneys in other states without requiring interstate travel. Issues that should be considered by the Committee include:

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<sup>22</sup> Minn. R. Juv. Prot. P. 12.01 (2008).

<sup>23</sup> *Id.* at R. 12.02.

<sup>24</sup> *Id.* at Advisory Committee Comment.

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- a. Whether to permit receipt of information, motions, and examination or cross-examination of witnesses from attorneys in the receiving state who are not authorized to practice law in Minnesota.
- b. Are there any due process issues to consider regarding conference calls? For example, what factors should judges to consider when weighing the credibility of witnesses who are not observable by the judge because the person is testifying via phone?
- c. What additional notice requirements, if any, to persons in the receiving state might be necessary?
- d. Who should requests the telephonic or ITV testimony?
- e. What communication should be permitted between judges in sending and receiving states?
- f. If a Minnesota judge is in the receiving state and is contacted by a judge in a sending state in an effort to expedite a bogged down ICPC case, it means that the Minnesota judge may not have an open case – may the Minnesota judge become involved in helping to expedite the ICPC process?

### **Strategy to Implement Recommendation**

Children’s Justice Initiative (CJI) Staff, who also serve as staff attorneys to the Juvenile Protection Rules Committee, will submit the issue to the Committee for consideration in November 2008.

### **III. SUMMARY OF RECOMMENDATIONS**

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#### **STATE-LEVEL RECOMMENDATIONS**

1. Cross-systems training regarding the ICPC process and procedures should be provided to judges, child protection workers, attorneys, guardians ad litem, foster parents, and other child protection system stakeholders.
2. ICPC checklists or practice manuals should be developed and distributed to all child protection system stakeholders.
3. Order templates for priority and non-priority cases should be developed and distributed to judges.
4. More effective and cost efficient methods for obtaining missing documentation should be established.
5. To expedite the process, procedures that allow receiving counties to pose questions directly to sending counties should be established.
6. The Juvenile Protection Rules Committee should review the existing Rules and discuss what revisions, if any, should be recommended to the Minnesota Supreme Court to allow for obtaining information and testimony from agencies, parties, and attorneys in other states without requiring interstate travel. Issues that should be considered by the Committee include:
  - a. Whether to permit receipt of information, motions, and examination or cross-examination of witnesses from attorneys in the receiving state who are not authorized to practice law in Minnesota.
  - b. Are there any due process issues to consider regarding conference calls? For example, what factors should judges to consider when weighing the credibility of witnesses who are not observable by the judge because the person is testifying via phone?
  - c. What additional notice requirements, if any, to persons in the receiving state might be necessary?
  - d. Who should requests the telephonic or ITV testimony?
  - e. What communication should be permitted between judges in sending and receiving states?
  - f. If a Minnesota judge is in the receiving state and is contacted by a judge in a sending state in an effort to expedite a bogged down ICPC case, it means that the Minnesota judge may not have an open case – may the Minnesota judge become involved in helping to expedite the ICPC process?

#### **NATIONAL-LEVEL RECOMMENDATIONS OUTSIDE OF MINNESOTA'S CONTROL**

The passage of the Keeping Children and Families Safe Act (PL 108-36) in 2003 reaffirmed the commitment of Congress to placing children in foster care into safe, nurturing, permanent family homes as quickly as is feasible. The Act included provisions that clearly indicate support for the

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use of inter-jurisdictional placement of children for adoption or reunification with relatives. To inform Congress about the challenges related to interstate placement of children and the efforts to address them, Congress included in the Act a requirement for the U.S. Department of Health and Human Services to produce a report to Congress that describes the nature, scope, and impact of inter-jurisdictional placement efforts and the strategies that improve outcomes for children in foster care who are placed in other jurisdictions.

In response to this legislative requirement, U.S. DHHS conducted a survey of all States and territories to identify promising practices and possible strategies to overcome barriers to inter-jurisdictional placements and in 2006 prepared a report entitled “*Inter-jurisdictional Placement of Children in the Child Welfare System*.”<sup>25</sup> The report concludes with a number of recommendations focused on strategies at both the federal and state levels to improve the process and procedures for the interstate placement of children<sup>26</sup>. Because similar recommendations for national-level improvements were offered by Minnesota judges, child protection case workers, and ICPC staff during our assessment process, some of those national-level recommendations are included here even though they are outside of Minnesota’s control:

**National Recommendation 1:** Develop a national uniform home study and criminal background check template that identifies core content areas to facilitate the approval process.

**National Recommendation 2:** Create a national website with either state pages or links to state websites containing the contact information for each state’s ICPC personnel and information on the following state requirements: criminal background checks, home study requirements, post-placement standards for supervision, coverage of medical and educational expenses as a sending and as a receiving state, and a list of Purchase of Service (POS) agencies with active contracts and POS requirements within the state.

**National Recommendation 3:** Clarify federal expectations regarding accountability for performance on interstate placement cases, and assist states in developing a system of accountability for processing inter-jurisdictional cases in a timely manner.

**National Recommendation 4:** Create a mechanism that specifies acceptable deadlines for responding to requests for criminal records information and processing fingerprinting, including mechanisms for enforcing these deadlines and consequences for failure to comply.

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<sup>25</sup> Children’s Bureau, Administration for Families and Children, U.S. Dept. of Health and Human Services (Sept. 2006).

<sup>26</sup> *Id.* at Executive Summary pp. 3-4.

**APPENDIX A: INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN (260.851 – 260.91)**

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

The Interstate Compact on the Placement of Children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:

**ARTICLE 1**

**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 persons or institutions 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 on which to evaluate a projected placement before it is made.

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

**ARTICLE 2**

**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 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 which 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 in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or persons having epilepsy or any institution primarily educational in character, and any hospital or other medical facility.

**ARTICLE 3**

**CONDITIONS FOR PLACEMENT**

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to 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:

1. The name, date and place of birth of the child.
2. The identity and address or addresses of the 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 such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(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 4**

##### **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 it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

#### **ARTICLE 5**

##### **RETENTION OF JURISDICTION**

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it 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. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one 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; nor to 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) hereof.

**ARTICLE 6**

**INSTITUTIONAL CARE OF DELINQUENT CHILDREN**

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such 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 his being sent to such 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 7**

**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 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.

**ARTICLE 8**

**LIMITATIONS**

This compact shall not apply to:

- (a) The sending or bringing of a child into a receiving state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his 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 pursuant to 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 said states which has the force of law.

**ARTICLE 9**

**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. It shall become effective with respect to any such jurisdiction when such 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 years after the effective date of such 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 therein with respect to a placement made prior to the effective date of withdrawal.

## ARTICLE 10

### CONSTRUCTION AND SEVERABILITY

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. 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 thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof 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.

#### **260.855 FINANCIAL RESPONSIBILITY.**

Financial responsibility for any child placed pursuant to the provisions of the Interstate Compact on the Placement of Children shall be determined in accordance with the provisions of article 5 thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of sections [518C.101](#) to [518C.902](#) also may be invoked.

#### **260.861 APPROPRIATE PUBLIC AUTHORITIES DEFINED.**

The “appropriate public authorities” as used in article 3 of the Interstate Compact on the Placement of Children shall, with reference to this state, mean the commissioner of human services. The commissioner of human services or the commissioner's delegate shall receive and act with reference to notices required by said article 3.

#### **260.865 APPROPRIATE AUTHORITY IN RECEIVING STATE DEFINED.**

As used in paragraph (a) of article 5 of the Interstate Compact on the Placement of Children, the phrase “appropriate authority in the receiving state” with reference to this state shall mean the commissioner of human services or the commissioner's delegate.

#### **260.871 AGREEMENTS.**

The officers and agencies of this state and its subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in other party states pursuant to paragraph (b) of article 5 of the Interstate Compact on the Placement of Children. Any such agreement which contains a financial commitment or imposes a financial obligation on this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the commissioner of human services in the case of the state and of the chief local fiscal officer in the case of a subdivision of the state.

#### **260.875 REQUIREMENTS FOR VISITATION; SUPERVISION.**

Any requirements for visitation, inspection or supervision of children, homes, institutions or other agencies in another party state which may apply under section [260C.212](#) shall be deemed to be met if performed pursuant to an agreement entered into by appropriate officers or agencies of this state or a subdivision thereof as contemplated by paragraph (b) of article 5 of the Interstate Compact on the Placement of Children.

**260.881 CERTAIN LAWS NOT APPLICABLE.**

The provisions of section [257.06](#) shall not apply to placements made pursuant to the Interstate Compact on the Placement of Children.

**260.885 COURT JURISDICTION RETAINED.**

Any court having jurisdiction to place delinquent children may place such a child in an institution or in another state pursuant to article 6 of the Interstate Compact on the Placement of Children and shall retain jurisdiction as provided in article 5 thereof.

**260.91 EXECUTIVE HEAD DEFINED.**

As used in article 7 of the Interstate Compact on the Placement of Children, the term “executive head” means the governor. The governor is hereby authorized to appoint a compact administrator in accordance with the terms of said article 7.

**APPENDIX B: INTERSTATE COMPACT ON JUVENILES (260.51 – 57)**

**260.51 INTERSTATE COMPACT ON JUVENILES.**

The governor is authorized and directed to execute a compact on behalf of this state with any other state or states legally joining therein in the form substantially as follows:

**INTERSTATE COMPACT ON JUVENILES**

The contracting states solemnly agree:

**ARTICLE I**

That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to:

1. cooperative supervision of delinquent juveniles on probation or parole;
2. the return, from one state to another, of delinquent juveniles who have escaped or absconded;
3. the return, from one state to another of nondelinquent juveniles who have run away from home; and
4. additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively. In carrying out the provisions of this compact the party states shall be guided by the noncriminal, reformatory and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

**ARTICLE II**

That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

**ARTICLE III**

That, for the purposes of this compact, “delinquent juvenile” means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; “probation or parole” means any kind of conditional release of juveniles authorized under the laws of the states party hereto; “court” means any court having jurisdiction over delinquent, neglected or dependent children; “state” means any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and “residence” or any variant thereof means a place at which a home or regular place of abode is maintained.

**ARTICLE IV**

(a) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the

issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth records, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located, a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding 90 days as will enable his return to another state party to this compact pursuant to

a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

(c) That “juvenile” as used in this Article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to legal custody of such minor.

#### **ARTICLE V**

(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile.

Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding

him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding 90 days, as will enable his detention under a detention order issued on a requisition pursuant to this Article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a delinquent juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

#### **ARTICLE VI**

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of Article IV(a) or of Article V(a), may consent to his immediate return to the state from which he absconded, escaped or run away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in

such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

**ARTICLE VII**

(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called “sending state”) may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called “receiving state”) while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states partly to this compact, without interference.

(d) That the sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

**ARTICLE VIII**

(a) That the provision of Articles IV(b), V(b), and VII(d) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and

officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to cost for which such party state or subdivision thereof may be responsible pursuant to Article IV(b), V(b) or VII(d) of this compact.

### **ARTICLE IX**

That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

### **ARTICLE X**

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care,

treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements

will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreement shall (1) provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and (7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

### **ARTICLE XI**

That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

### **ARTICLE XII**

That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

**ARTICLE XIII**

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

**ARTICLE XIV**

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six months' renunciation notice of the present Article.

**ARTICLE XV**

That 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 participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof 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 participating therein, 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.

**ARTICLE XVI**

(a) That this Article shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

(b) For the purposes of this Article, "child," as used herein, means any minor within the jurisdictional age limits of any court in the home state.

(c) When any child is brought before a court of a state of which the child is not a resident, and the state is willing to permit the child's return to the home state of the child, the home state, upon being so advised by the state in which the proceeding is pending, shall immediately institute proceedings to determine the residence and jurisdictional facts as to the child in the home state, and upon finding that the child is in fact a resident of that state and subject to the jurisdiction of the court thereof, shall within five days authorize the return of the child to the home state, and to the parent or custodial agency legally authorized to accept the custody in the home state, and at the expense of the state, to be paid from the funds as the home state may procure, designate, or provide, prompt action being of the essence.

**ARTICLE XVII**

(a) This Article shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

(b) All provisions and procedures of Articles V and VI of the Interstate Compact on Juveniles shall be construed to apply to any juvenile charged with being a delinquent by reason

of a violation of any criminal law. Any juvenile, charged with being a delinquent by reason of violating any criminal law shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition in the case shall be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile has left the state before or after the filing of the petition. The requisition described in Article V of the compact shall be forwarded by the judge of the court in which the petition has been filed.

**260.52 DEFINITIONS.**

As used in the Interstate Compact on Juveniles, the following words and phrases have the following meanings as to this state:

- (1) “Executive authority” means the compact administrator.
- (2) The “appropriate court” of this state to issue a requisition under Article IV of the compact is the juvenile court of the county of the petitioner's residence, or, if the petitioner is a child welfare agency, the juvenile court of the county where it has its principal office, or, if the petitioner is the state Department of Human Services, any juvenile court in the state.
- (3) The “appropriate court” of this state to receive a requisition under Article IV or V of the compact is the juvenile court of the county where the juvenile is located.

**260.53 COMPACT ADMINISTRATOR.**

(1) Pursuant to the Interstate Compact on Juveniles, the governor is authorized to designate the commissioner of corrections to be the compact administrator, who, acting jointly with like officers of other party states, shall promulgate rules to carry out more effectively the terms of the compact. The compact administrator shall serve subject to the pleasure of the governor. The compact administrator is authorized to cooperate with all departments, agencies and officers of and in the government of this state and its political subdivisions in facilitating the proper administration of the compact or of any supplementary agreement entered into by this state thereunder.

(2) The compact administrator shall determine for this state whether to receive juvenile probationers and parolees of other states pursuant to Article VII of the Interstate Compact on Juveniles and shall arrange for the supervision of each such probationer or parolee so received, either by the commissioner of corrections or by a person appointed to perform supervision service for the juvenile court of the county where the juvenile is to reside, whichever is more convenient. Such persons shall in all such cases make periodic reports to the compact administrator regarding the conduct and progress of such juveniles.

**260.54 SUPPLEMENTARY AGREEMENTS.**

The compact administrator is authorized to enter into supplementary agreements with appropriate officials of other states pursuant to Article X of the Interstate Compact on Juveniles. In the event that such supplementary agreement requires or contemplates the use of any institution or facility of this state or the provision of any service by this state, said supplementary agreement shall have no effect until approved by the department or agency under whose jurisdiction the institution or facility is operated or which shall be charged with the rendering of such service.

**260.55 EXPENSE OF RETURNING JUVENILES TO STATE, PAYMENT.**

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

(1) In the case of a runaway 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 the petitioner is able to do so, shall order that the petitioner 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 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 the petitioner is able to pay. If the petitioner fails, without good cause, or refuses to pay such sum, the petitioner may be proceeded against for contempt.

(2) In the case of an escapee or absconder under Article V or Article VI, if the juvenile is in the legal custody of the commissioner of corrections the commissioner shall bear the expense of the juvenile's return; otherwise the appropriate court shall, on petition of the person or agency entitled to the juvenile's custody or charged with the juvenile's 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 actual and necessary expenses. In this subsection "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, 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 the juvenile's 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 financially unable to pay all the expenses the person may petition the juvenile court of the county of the petitioner's residence for an order arranging for the transportation as provided in paragraph (1). The court shall inquire summarily into the financial ability of the petitioner and, if it finds the petitioner 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 actual and necessary expenses. The court may order that the petitioner reimburse the county for so much of said expense as the court finds the petitioner is able to pay. A petitioner who fails, without good cause, or refuses to pay such sum may be proceeded against for contempt.

**260.56 COUNSEL OR GUARDIAN AD LITEM FOR JUVENILE, FEES.**

Any judge of this state who appoints counsel or a guardian ad litem pursuant to the provisions of the Interstate Compact on Juveniles may allow a reasonable fee on order of the court. The costs of the counsel must be paid by the county and the cost of the guardian ad litem, if any, must be paid by the state courts, except that the costs of counsel to a guardian ad litem in the Eighth Judicial District shall be paid by the state courts until the recommendations of the task force created in Laws 1999, chapter 216, article 7, section 42, are implemented.

**260.57 ENFORCEMENT.**

The courts, departments, agencies and officers of this state and its political subdivisions shall enforce the Interstate Compact on Juveniles and shall do all things appropriate to the effectuation of its purposes which may be within their respective jurisdictions.

**APPENDIX C: JUVENILE PROTECTION RULES – USE OF TELEPHONE AND ITV**

**RULE 12. USE OF TELEPHONE AND INTERACTIVE VIDEO**

**Rule 12.01. Motions and Conferences**

The court may hear motions and conduct conferences with counsel by telephone or interactive video.

*1999 Advisory Committee Comment*

*Rule 12.01 authorizes the court to use telephone and interactive video to hear motions where testimony is not required and to resolve procedural matters with counsel for the parties.*

**Rule 12.02. Hearings and Taking Testimony**

By agreement of the parties, or in exceptional circumstances upon motion of a party or the county attorney, the court may hold hearings and take testimony by telephone or interactive video.

*1999 Advisory Committee Comment*

*Rule 12.02 authorizes the court to hold hearings and take testimony by telephone or interactive video only upon agreement of the parties or in exceptional circumstances upon motion. The intent of this rule is to ensure that parties are permitted to fully participate in hearings and to be present when testimony is offered. The rule provides that the court has the opportunity, in all but the most exceptional cases, to personally observe witnesses in order to effectively weigh credibility. However, it also gives the court some flexibility in those exceptional cases.*

**Rule 12.03. In Court Appearance Not Precluded**

This rule shall not preclude a party or the county attorney from being present in person before the court at a hearing.