

ALABAMA COURT IMPROVEMENT PROGRAM

2008 REPORT ON THE INTERSTATE COMPACT ON PLACEMENT OF CHILDREN (ICPC)

The Honorable Sue Bell Cobb
Chief Justice, Supreme Court of Alabama

Ms. Callie T. Dietz, Administrative Director of Courts
Alabama Administrative Office of Courts

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**ALABAMA COURT IMPROVEMENT PROGRAM
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Alabama Court Improvement Program ICPC Assessment

A. REASON

This Assessment was conducted pursuant to 42 U.S.C.A. § 629h, which requires State courts to conduct such an assessment of the role, responsibilities, and effectiveness of state courts in carrying out state laws requiring proceedings that determine the best strategy to expedite the interstate placement of children, including:

- (1) requiring courts in different States to cooperate in the sharing of information;
- (2) authorizing courts to obtain information and testimony from agencies and parties in other States without requiring interstate travel; and
- (3) permitting the participation of parties, children, other necessary parties, and attorneys in cases involving interstate placement without requiring interstate travel; and to implement improvements deemed necessary to provide for the safety, well-being, and permanence of children in foster care and to implement a corrective action plan.

B. ASSESSMENT ACTIVITIES

- (1) Reviewed juvenile court case files and asked stakeholders questions about ICPC during CIP Assessment in 2007-2008
- (2) Asked about ICPC procedures during Juvenile Dependency Caseflow Management Workshops or other meetings
- (3) Met with State DHR staff on ICPC issues – April 8, 2008 (answers to questions attached)
- (4) Compiled federal and state laws, policies, and procedures (state laws, court rules, caselaw, and Alabama Department of Human Resources policy attached)
- (5) Sent e-mail survey to juvenile court judges - March 21, 2008 (results attached)
- (6) Discussed findings with CIP Advisory Committee on May 9, 2008, and obtained recommendations

C. GENERAL FINDINGS ON ISSUES

A majority of the counties assessed since 2007 did not have any ICPC cases in the previous 12 months in which the child was placed in an out-of-state foster care or adoptive placement.

(1) Requiring courts in different States to cooperate in the sharing of information

*In Alabama, the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), which applies to dependency, abuse, and neglect cases [§ 30-3B-102(4), the definition of “child custody determination”] contains a provision (§ 30-3B-110) which allows communications between courts. **LEGAL BARRIER:** It is questionable whether or not this Act applies to in-state dependency cases seeking placements outside the State.

*Judges have been informed through training sessions or workshops that they can communicate and share information with other courts in these cases

(2) Authorizing courts to obtain information and testimony from agencies and parties in other States without requiring interstate travel

*A provision in the UCCJEA (§ 30-3B-111) provides that an Alabama court may permit an individual residing in another state to testify by telephone, audiovisual means, or other electronic means. Also, this Section provides that documentary evidence transmitted by technological means may not be excluded from evidence. **LEGAL BARRIER:** Again, it is questionable whether or not this Act applies to in-state dependency cases seeking placements outside the State.

(3) Permitting the participation of parties, children, other necessary parties, and attorneys in cases involving interstate placement without requiring interstate travel

*Judges’ survey: 9 out of 13 judges responding (69%) said that they obtain information and testimony in written form from the above without requiring interstate travel. Only one judge out of 13 answered that he or she obtains information by telephone conference. **LEGAL BARRIER:** Further research is needed to see if this information and testimony in written form would be admissible into evidence, especially in an adjudicatory phase hearing.

(4) Timeliness of receiving home studies from other States

***Judges’ survey:** 9 out of 13 judges responding (69%) said that home studies from other States are not being obtained quicker since the new federal law passed in 2006. In fact, the completion of reports or home studies was the **major barrier/delay** encountered by the judges responding.

*The Deputy Compact Administrator in Alabama checked ICPC files since October 1, 2006, and said the time within which the Alabama ICPC office has received home studies ranged from 90 to 180 days.

*The Deputy Compact Administrator and other ICPC staff interviewed noted that a major delay in receiving home studies from other States is obtaining criminal background checks.

***Case file reviews:** (1) One interstate home study took over 6 months to obtain, but this home study was requested before the new law was effective on October 1, 2006; (2) another interstate home study requested after the new law was effective took over 4 months to be returned to Alabama; (3) from information provided by a county DHR director, another interstate home study took 99 days from the time the county DHR initiated the request for a study in the other State to the time the county DHR received it.

(5) Consideration of Interstate Placement Options at Permanency Hearings

*Alabama has placed this requirement in court rule (Rule 32(A), Alabama Rules of Juvenile Procedure) and in the new Alabama Juvenile Justice Act effective January 1, 2009 [Act No. 2008-277, §§ 12-15-312(e) and 12-15-315(a)]

*Juvenile court judges and other stakeholders will receive training on the new Juvenile Justice Act in the Fall of 2008

*New sample permanency hearing orders have been drafted incorporating language that out-of-state placement options have been considered

*Guardians ad litem are informed of these provisions in their certification training.

D. RECOMMENDED LAW (FEDERAL AND/OR STATE) REFORMS TO EXPEDITE INTERSTATE PLACEMENTS

Judges' Survey:

*Allow Alabama caseworkers or other staff to go across State lines to perform home studies

*Create enforceable penalties or sanctions early in the process for States who do not comply with the home study timeframes

E. RECOMMENDED POLICY/PRACTICE REFORMS

*Develop an in-state protocol for courts and agencies to use at certain points during the time within which a home study in another State is being conducted to "report" the delay

*Train court staff in Alabama to document information concerning ICPC better in the court files

*The State DHR ICPC office will continue to explore faster ways to improve criminal background checks (for example, live scan)

*The federal government should continue to emphasize to States that the additional monetary incentives are available if home studies are conducted within 30 days

*Recommend to Congress to specifically appropriate federal money to States to hire additional workers to conduct home studies in ICPC cases ONLY

*CIP staff will continue to monitor how courts are communicating and sharing information with other States and how courts are obtaining information and testimony and allowing the participation of parties, agencies, parents, children, and attorneys in these cases

Current Law in Alabama Regarding Interstate Placement

State Statutes:

Interstate Compact on Placement of Children - § 44-2-20, et seq.

Section 44-2-20

Text of compact.

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 I. Purpose and Policy.

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

- (a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with 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 of which to evaluate a projected placement before it is made.
- (d) Appropriate jurisdictional arrangements for the care of children will be promoted.

Article II. Definitions.

As used in this compact:

- (a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.
- (b) "Sending agency" means a party state, or 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 epileptic or any institution primarily educational in character, and any hospital or other medical facility.

Article III. 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 proposed 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 IV. Penalty for Illegal Placement.

The sending, bringing or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting

the placement of children of both the state in which the sending agency is located or from which 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 V. 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 VI. 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 VII. Compact Administrator.

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in 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 VIII. Limitations.

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his parent, step-parent, 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 IX. Enactment and Withdrawal.

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico and, with the consent of congress, the government of Canada or any province thereof. 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 X. 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 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.

(Acts 1979, No. 79-675, p. 1192.)

Section 44-2-21

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 V thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of sections 30-4-50 through 30-4-82, also may be invoked.

(Acts 1979, No. 79-675, p. 1192.)

Section 44-2-22

Department of pensions and security to act as appropriate public authority.

The [term] "appropriate public authorities" as used in Article III of the Interstate Compact on the Placement of Children shall, with reference to this state, mean the department of pensions and security of the state of Alabama and said department shall receive and act with reference to notices required by said Article III.

(Acts 1979, No. 79-675, p. 1192.)

Section 44-2-23

Commissioner of department of pensions and security to be appropriate authority in the receiving state.

As used in paragraph (a) of Article V 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 the department of pensions and security.

(Acts 1979, No. 79-675, p. 1192.)

Section 44-2-24

Authority to enter into agreements; commissioner of department of pensions and security to approve financial commitments or obligations.

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 V of the Interstate Compact on the Placement of Children. Any such agreement which contains a financial commitment or imposes a financial obligation of this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the commissioner of the department of pensions and security or his designated agent.

(Acts 1979, No. 79-675, p. 1192.)

Section 44-2-25

Governor to act as executive head.

As used in Article VI [Article VII] of the Interstate Compact on the Placement of Children, the term "executive head" means the governor. 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.

(Acts 1979, No. 79-675, p. 1192.)

Section 44-2-26

Commissioner of department of pensions and security to be compact administrator.

The commissioner of the state department of pensions and security shall be the compact administrator and, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator is hereby authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or any supplementary agreement or agreements entered into by this state hereunder.

(Acts 1979, No. 79-675, p. 1192.)

Alabama Juvenile Justice Act – Act No. 2008-277, effective January 1, 2009:

§12-15-312. Reasonable efforts in judicial determinations; situations in which reasonable efforts are not required to be made.

...

(b) As used in this chapter, reasonable efforts refers to efforts made to preserve and reunify families prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the home of the child, and to make it possible for a child to return safely to the home of the child. In determining the reasonable efforts to be made with respect to a child, and in making these reasonable efforts, the health and safety of the child shall be the paramount concern. If continuation of reasonable efforts is determined to be inconsistent with the permanency plan for the child, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan **including, if appropriate, through an interstate**

placement, and to complete whatever steps are necessary to finalize a permanent plan for the child.

...

(e) If reasonable efforts are not made with respect to a child as a result of a determination made by a juvenile court in situations as described above, a permanency hearing, as provided in Section 12-15-315, **in which in-state or out-of-state placement options for the child are considered**, shall be held for the child within 30 days after the determination. Reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize permanent placement of the child. Reasonable efforts to place a child for adoption or with a legal guardian or legal custodian, **including identifying appropriate in-state and out-of-state placements**, may be made concurrently with other reasonable efforts.

§12-15-315. Permanency hearing for Department of Human Resources cases only.

(a) Within 12 months of the date a child is removed from the home and placed in out-of-home care, and not less frequently than every 12 months thereafter during the continuation of the child in out-of-home care, the juvenile court shall hold a permanency hearing. The Department of Human Resources shall present to the juvenile court at the hearing a permanent plan for the child. The juvenile court shall consult with the child, in an age-appropriate manner, regarding the permanency plan and any transition plan to independent living. If a permanent plan is not presented to the juvenile court at this hearing, there shall be a rebuttable presumption that the child should be returned home. This provision is intended to ensure that a permanent plan is prepared by the Department of Human Resources and presented to the juvenile court within 12 months of the placement of any child in foster care and no less frequently than every 12 months thereafter. The purpose of the permanency hearing shall be to determine the permanency plan for the child which may include whether, and, if applicable, when, the child shall be: (1) Returned home on a specific date; (2) placed for adoption with no identified resource or with the current foster parent wherein the Department of Human Resources shall file a petition for termination of parental rights; (3) permanently placed with a relative with a transfer of legal and physical custody to the relative or with a transfer of physical custody to the relative but with the Department of Human Resources retaining legal custody; (4) placed in adult custodial care; or (5) placed in another planned permanent living arrangement. **In the case of a child who will not be returned home, at the permanency hearing, the juvenile court shall consider in-state and out-of-state placement options.** If the juvenile court determines the permanent plan shall be placement in another planned permanent living arrangement, the Department of Human Resources must document to the juvenile court a compelling reason for determining that it would not be in the best interests of the child to return home, be placed for adoption with no identified resource or with the current foster parent, or be permanently placed with a relative, with a transfer of legal and physical custody to the relative or with a transfer of physical custody to the relative but with the Department of Human Resources retaining legal custody, or be placed in adult custodial care. **If the child has been placed in foster care outside the State of Alabama, at the permanency hearing, the juvenile court shall determine whether the out-of-state placement continues to be appropriate and in the best interests of the child.** In the case of a child who has attained the age of 16 years, at the permanency hearing,

the juvenile court shall consider the services needed to assist the child to make the transition from foster care to independent living. In any permanency hearing held with respect to the child, including any hearing regarding the transition of the child from foster care to independent living, the juvenile court shall consult, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child. Permanency plans may be concurrent and the Department of Human Resources may make reasonable efforts concurrently towards multiple permanency goals.

Court Rules:

Rule 32(B), Alabama Rules of Juvenile Procedure (effective September 14, 2007):

*Provides that at the permanency hearing, a court shall consider in-state and out-of-state placement options in the case of a child who will not be returned home

*Provides that at the permanency hearing, if a child has been placed in foster care outside the State of Alabama, the court must determine whether the out-of-state placement continues to be appropriate and in the best interests of the child

Caselaw:

755 So.2d 584

Court of Civil Appeals of Alabama.

D.S.S.

v.

CLAY COUNTY DEPARTMENT OF HUMAN RESOURCES.

J.B.

v.

Clay County Department of Human Resources.

2980615 and 2980616.

Dec. 10, 1999.

County department of human resources (DHR) sought termination of parental rights of mother and father. The Clay Juvenile Court, Nos. JU-95-11.03 and JU-95-12.03, Robert J. Teel, Jr., J., terminated parental rights of both parents. Parents appealed. On overruling of rehearing, the Court of Civil Appeals, Crawley, J., held that: (1) evidence supported termination of mother's parental rights, but (2) evidence did not support termination of father's parental rights.

Affirmed in part; reversed and remanded in part.

Robertson, P.J., and Monroe, J., concurred in result.

West Headnotes

[1] KeyCite Notes




←211 Infants

←211VIII Dependent, Neglected, and Delinquent Children

←211VIII(B) Subjects and Grounds

- 🔑 211k154 Dependent and Neglected Children; Conflict with Parental Rights
- 🔑 211k155 k. Termination of Parental Rights or Other Permanent Action. Most Cited Cases

- 🔑 211 Infants KeyCite Notes 
- 🔑 211VIII Dependent, Neglected, and Delinquent Children
- 🔑 211VIII(C) Evidence
- 🔑 211k175 Weight and Sufficiency
- 🔑 211k178 k. Termination of Parental Rights. Most Cited Cases

In deciding whether to terminate parental rights, the trial court must apply a two-pronged test: first, the court must determine whether there is clear and convincing evidence indicating that the child is dependent; second, the trial court must determine whether there is a viable alternative to termination.

[2] KeyCite Notes 

- 🔑 211 Infants
- 🔑 211VIII Dependent, Neglected, and Delinquent Children
- 🔑 211VIII(C) Evidence
- 🔑 211k175 Weight and Sufficiency
- 🔑 211k181 k. Parental Unfitness or Incompetence. Most Cited Cases

Evidence supported termination of mother's parental rights; mother was addiction to alcohol and that addiction contributed to her inability to care for children, mother had not made sufficient efforts to adjust her circumstances to meet needs of children, mother was unable or unwilling to discharge her responsibilities to and for children, mother's conduct or condition was unlikely to change in foreseeable future, and there were no viable alternatives to termination. Code 1975, § 26-18-7(a)(1, 2, 4, 6).

[3] KeyCite Notes 

- 🔑 211 Infants
- 🔑 211VIII Dependent, Neglected, and Delinquent Children
- 🔑 211VIII(C) Evidence
- 🔑 211k173 Admissibility
- 🔑 211k173.1 k. In General. Most Cited Cases

In disposition hearing in proceeding to terminate mother's parental rights, hearsay contained in documentary report submitted by county department of human resources (DHR) was admissible. Code 1975, § 12-15-65(h).

[4] KeyCite Notes 

- 🔑 211 Infants
- 🔑 211VIII Dependent, Neglected, and Delinquent Children

- 🔑 211VIII(F) Review
- 🔑 211k248 Review
- 🔑 211k253 k. Harmless Error. Most Cited Cases

Any error in admission of hearsay in county department of human resources (DHR) social worker's testimony, which contained information that mother's boyfriend had sexually molested child, was harmless in proceeding to terminate mother's parental rights; alleged abuse was mentioned briefly and was never again referred to, mother's boyfriend had died by time of trial and was thus not a factor in deciding whether mother's parental rights should be terminated, and trial court's judgment focused on mother's alcohol addiction and related legal problems. Code 1975, § 12-15-65(i).

[5] KeyCite Notes 

- 🔑 211 Infants
 - 🔑 211VIII Dependent, Neglected, and Delinquent Children
 - 🔑 211VIII(C) Evidence
 - 🔑 211k175 Weight and Sufficiency
 - 🔑 211k178 k. Termination of Parental Rights. Most Cited Cases

In proceeding to terminate father's parental rights, evidence did not support finding that county department of human resources (DHR) had made reasonable efforts toward rehabilitation of father; father lived outside of state, but DHR had made no effort to investigate whether father was in need of rehabilitation or had failed to take advantage of rehabilitative services. Code 1975, § 26-18-7(a)(6).

[6] KeyCite Notes 

- 🔑 211 Infants
 - 🔑 211VIII Dependent, Neglected, and Delinquent Children
 - 🔑 211VIII(C) Evidence
 - 🔑 211k172 k. Presumptions and Burden of Proof. Most Cited Cases

County department of human resources (DHR), rather than prospective custodian, has burden of initiating investigations, and it is DHR's burden to prove unsuitability of one who seeks to be considered as the custodian of a dependent child.

*585 Bobby Don McCarter, Ashland, for appellant D.S.S.

James E. Malone, Lineville, for appellant J.B.

J. Coleman Campbell and Lynn S. Merrill, asst. attys. gen., Department of Human Resources, for appellee.

On Application for Rehearing

CRAWLEY, Judge.

The opinion of September 17, 1999, is withdrawn, and the following is substituted therefor.

D.S.S. ("the mother") and J.B. ("the father") appeal from a judgment terminating their parental rights as to their two daughters, 15-year-old B.B. and 13-year-old A.B. We affirm the judgment as to the mother, but reverse the judgment as to the father.

The mother and father were never married to each other, but they lived together in Clay County, Alabama, for about four years, from 1983 until 1987, a period spanning the births of both daughters. When A.B., the younger daughter, was a year old, the parents separated; the mother remained in Clay County and the father moved to Georgia.

The Clay County Department of Human Resources ("DHR") first investigated reports of child abuse and neglect concerning B.B. and A.B. in 1991. At that time, the two girls were living with their mother, an older brother, and the mother's boyfriend. Most of the abuse and neglect reports stemmed from alcohol abuse and fighting by the mother and her boyfriend. In January 1992, the mother stabbed the boyfriend in the hand with a knife. When DHR caseworker Tammy Harkness arrived at the residence, she found that the children were dirty, had head lice, and had no winter coats.

Between August 1992 and February 1995, DHR received several reports indicating that the mother had left the children unsupervised for extended periods or that she had left them in the care of her boyfriend, who was habitually intoxicated. Ms. Harkness learned that the mother was on probation for a felony theft conviction and that one of the conditions of her probation was that she not allow her boyfriend to be around the children. In February 1995, Ms. Harkness found the boyfriend drunk and hiding under a bed in the mother's residence.

The mother's probation was revoked, and she was incarcerated for a year. During her imprisonment, the mother arranged for C.T., the children's maternal grandmother, to take care of the children. When the mother was released from prison, she went back to the boyfriend and the children remained with C.T. In early 1997, however, C.T. was convicted of perjury and went to prison herself. At that time, DHR was awarded custody of the children, and they were placed in a foster home. The children have not lived with the mother since February 1997.

Tammy Harkness testified that in 1995 DHR entered into a service agreement and rehabilitation plan with the mother. At that time, Harkness told the mother that she needed to stop drinking, to stay out of trouble with the law, and to maintain a stable home. DHR offered the mother counseling and parenting classes and recommended that she attend Alcoholics Anonymous ("AA") meetings and have intensive outpatient therapy.

Harkness testified that, during the 22 months the children had been in foster care, the mother had attended a few AA meetings and counseling sessions, but that she had not stopped abusing alcohol. She said that the mother would appear to be making progress for a few weeks and then she would be arrested for DUI or another alcohol-related offense. A Clay County deputy sheriff testified that in August 1998 *586 he was called to the home of Mrs. S., the mother of M.S., the mother's current husband, to forcefully remove the mother, who was naked and intoxicated to the point of stupor, from the premises.

At trial in December 1998, the mother testified that she was currently employed as a waitress, that she earned \$640 per month, that she was paying \$250 per month in child support, and that she visited the children regularly while they were in foster care. The mother invoked her Fifth Amendment privilege not to testify about any alcohol-related offenses. She stated that her court date on one DUI charge was the day after the termination proceeding.



[1] In deciding whether to terminate parental rights, the trial court must apply a two-pronged test. *Ex parte Beasley*, 564 So.2d 950 (Ala.1990). First, the court must determine whether there is clear and convincing evidence indicating that the child is dependent. *Id.*; *S.F. v. Department of Human Resources*, 680 So.2d 346


(Ala.Civ.App.1996). Second, the trial court must determine whether there is a viable alternative to termination. *L.A.G. v. State Dep't of Human Resources*, 681 So.2d 596 (Ala.Civ.App.1996).

A trial court may terminate parental rights when it concludes that "the parents of [the] child are unable or unwilling to discharge their responsibilities to and for the child, or ... the conduct or condition of the parents is such as to render them unable to properly care for the child and ... such conduct or condition is unlikely to change in the foreseeable future." § 26-18-7(a), Ala.Code 1975.


The Mother

As grounds for terminating the mother's parental rights, the juvenile court found (1) that the mother was addicted to alcohol and that her addiction was a major factor contributing to her inability to care for the children; (2) that DHR had made reasonable efforts to assist the mother with rehabilitation and reunification with the children, but that those efforts had failed; (3) that the mother had not made substantial progress in rehabilitating herself and was not likely to change in the foreseeable future; (4) that the mother had not made substantial or reasonable efforts to exercise parental duties while the children were in foster care; and (5) that the mother had abandoned the children.

The statutory grounds for terminating parental rights set out in § 26-18-7(a)(1), -(a)(2), -(a)(4), and -(a)(6), Ala.Code 1975, are pertinent to the mother. Those subsections allowed the trial court to consider, among other things, whether the mother had abandoned the children, whether the mother's "excessive use of alcohol ... render[ed] the [mother] unable to care for needs of the child[ren]," the effect on the children of the mother's "[c]onviction of and imprisonment for a felony," and whether "reasonable efforts by [DHR] leading toward the rehabilitation of the [mother] ha[d] failed." In addition, because the children were no longer in the physical custody of the mother, the trial court was required to consider whether the mother had shown a "[l]ack of effort ... to adjust [her] circumstances to meet the needs of the child[ren] in accordance with agreements reached ... with [DHR]." § 26-18-7(b)(4), Ala.Code 1975.


[2]  Section 26-18-3(1), Ala.Code 1975, defines "abandonment" as "a voluntary and intentional relinquishment of the custody of a child by a parent, or a withholding from the child, without good cause or excuse by the parent, of his presence, care, love, protection, maintenance or the opportunity for the display of filial affection, or the failure to claim the rights of a parent, or failure to perform the duties of a parent." We have some doubt whether the juvenile court's finding that the mother had abandoned the children is supported by clear and convincing evidence. The evidence established that for the 22 months the children *587 had been in foster care, the mother had visited them regularly and had paid child support. Nevertheless, we need not specifically address that issue, because we hold that the juvenile court's other findings are supported by clear and convincing evidence. The finding that the mother was addicted to alcohol and that her addiction had contributed to her inability to care for the children is fully supported by the record. See *T.M.S. v. Elmore County Dep't of Human Resources*, 647 So.2d 746 (Ala.Civ.App.1994). The court's further finding that the mother had not made sufficient efforts to adjust her circumstances to meet the needs of the children in accordance with the agreements reached with DHR is also supported by the record. See *T.L.W. v. State Dep't of Human Resources*, 678 So.2d 128 (Ala.Civ.App.1995). Finally, the court's determination that the mother was unable or unwilling to discharge her responsibilities to and for the children and that the mother's conduct or condition was unlikely to change in the foreseeable future is supported by the evidence. See *B.R.M. v. State Dep't of Human Resources*, 626 So.2d 646 (Ala.Civ.App.1993).

The mother argues that the juvenile court erred by admitting documentary evidence and testimony containing hearsay. She also argues that the court erred by terminating her parental rights when, she says, DHR had presented no evidence that it had considered any viable alternatives to the termination.

[3]  The trial court did not err by overruling the mother's hearsay objection to a documentary report submitted by DHR to the juvenile court. Section 26-18-4, Ala.Code 1975, provides that "proceedings to terminate parental rights shall be governed by Title 12, Chapter 15, Article 3 and by the Alabama Rules of Juvenile Procedure." Title 12, Chapter 15, Article 3, includes §§ 12-15-50 through 12-15-76, Ala.Code 1975. Specifically, § 12-15-65(h) provides:

"In disposition hearings all relevant and material evidence helpful in determining the questions presented, including oral and written reports, may be received by the court and may be relied upon to the extent of its probative value, even though not competent in a hearing on the petition. The parties or their counsel shall be afforded an opportunity to examine and controvert written reports so received and to cross-examine individuals making reports."

The hearsay in the documentary report was admissible by virtue of § 12-15-65(h). See *J.V. v. State Dep't of Human Resources*, 656 So.2d 1234 (Ala.Civ.App.1995).

[4]  We find no reversible error in the overruling of the mother's hearsay objection to the testimony of DHR social worker Tammy Harkness. Ms. Harkness testified that B.B. reported to her that she had been sexually molested by her mother's boyfriend when she was five years old. Section 12-15-65(i), Ala.Code 1975, provides:

"A statement made by a child under the age of 12 describing any act of sexual conduct performed with or on the child by another, not otherwise admissible by statute or court rule, is admissible in all dependency cases brought by the State of Alabama acting by and through a local department of human resources if:

"(1) The statement was made to a social worker, child sex abuse therapist or counselor, licensed psychologist, physician, or school or kindergarten teacher or instructor; and
"(2) The court finds that the time, content, and circumstances of the statement provide sufficient indicia of reliability. In making its determination the court may consider the physical and mental age and maturity of the child, the nature and duration of the abuse or offense, the relationship of the child to the offender, and any other factor deemed appropriate."

*588 Ms. Harkness's testimony satisfied subsection (1) of § 12-15-65(i) because the child reported the alleged molestation to a DHR social worker. The trial court made no specific finding concerning whether the circumstances surrounding the making of the statement provided sufficient indicia of reliability to make the statement admissible under subsection (2) of § 12-15-65(i). Nevertheless, we hold that any error in the admission of the statement would have been harmless, for the following reasons: (1) the alleged abuse was mentioned briefly and never again referred to; (2) the mother's boyfriend, the alleged perpetrator of the abuse, had died by the time of trial and was, therefore, not a factor in deciding whether the mother's parental rights should be terminated; and (3) the trial court's judgment focused on the mother's alcohol addiction and related legal problems and did not mention the alleged abuse. See *Rule 45, Ala. R.App. P.; Bowlen v. State Dep't of Pensions & Security*, 51 Ala.App. 665, 288 So.2d 728 (Ala.Civ.App.1974). The evidence at trial established that there were no viable alternatives to termination of the mother's parental rights. When the mother was incarcerated, she designated C.T., the children's maternal grandmother, as the children's custodian. C.T., however, lost the

children when she herself was imprisoned following conviction of a felony. At trial, C.T. testified that she could not care for the children because her health was "real bad." The mother suggested no other relative resource who would be willing or able to care for the children. The evidence, therefore, clearly and convincingly indicated that there were no viable alternatives to termination of the mother's parental rights. See *L.W. v. State Dep't of Human Resources*, 591 So.2d 872 (Ala.Civ.App.1991). That portion of the juvenile court's judgment terminating the parental rights of the mother is affirmed.

The Father



[5] DHR's first contact with the father was to notify him, in February 1997, of the shelter-care hearing following the children's being removed from the custody of their grandmother, C.T. Tammy Harkness, the DHR caseworker, testified that DHR had never attempted to contact the father during the years 1991-1994, when it was receiving reports of child abuse and neglect concerning the children. Harkness said that she had tried to reach the father in 1995, when the mother's probation was revoked, but that she was unable to locate him. Once Harkness learned that the mother had arranged for the maternal grandmother to have custody of the children while she, the mother, was incarcerated, Harkness did not pursue any further efforts to locate the father. The father testified that he was not involved with his children during the early years of their lives, but that beginning in 1992, and continuing for two or three years, B.B. and A.B. had spent the summers with him. The father said that, after DHR notified him in February 1997 that the girls "had problems," he attended every court hearing and visited his daughters while they were in foster care. He said that he had not been ordered to pay, and had not actually paid, any child support for the girls. He testified that he told Ms. Harkness he was in the process of moving, but that he would telephone a social worker he knew at a Georgia agency to arrange for a home study when he found a place to live. He testified that he loved his daughters, that he thought he had a good relationship with them, and that he was willing to assume custody of them. Harkness testified that the last time she had talked to the father before the trial of the termination proceeding (which was held on December 7, 1998) was almost one year earlier, on December 11, 1997. At that time, the father told Harkness that he would contact her and the Georgia social-service agency when he was ready to have a home study done. Harkness said she *589 never heard from the father again. The father was present in court on October 15, 1998, for another hearing relating to this case and was, at that time, served with notice of the petition to terminate parental rights. In response to questions from the father's attorney, Harkness testified:

"Q. All right. And what efforts did you make subsequent to that time to contact [the father]?"

"A. None.

"Q. What efforts did you make or the department make to find out if he, in fact, had a home?"

"A. None.

"Q. What efforts did you make to find out if he was gainfully employed?"

"A. None."

Harkness acknowledged that DHR did not have a service agreement with the father, did not suggest any rehabilitation programs to the father, and did not warn the father that, unless he made substantial efforts to satisfy DHR that he was a fit parent for the children, DHR would move to terminate his parental rights.

As grounds for terminating the father's parental rights, the juvenile court found (1) that

DHR had made reasonable efforts to assist the father with rehabilitation and reunification with the children, but that those efforts had failed; (2) that the father had not made substantial progress in rehabilitating himself and was not likely to change in the foreseeable future; (3) that the father had not made substantial or reasonable efforts to exercise parental duties while the children were in foster care; (4) that the father had not made a substantial effort to establish a custodial relationship with, or a home environment for, the children; and (5) that the father had abandoned the children.

The statutory grounds for terminating parental rights set out in § 26-18-7(a)(1) and (a)(6), as well as § 26-18-7(b)(1) through (4), Ala.Code 1975, are pertinent to the father. Subsection (a)(1) sets out abandonment as a basis for terminating parental rights. Subsection (a)(6) permits the trial court to consider, among other things, whether "reasonable efforts by [DHR] leading toward the rehabilitation of the [father] ha[d] failed." In addition, because the children were no longer in the physical custody of the father, the trial court was required to consider the following factors set out in subsections (b)(1) to (4):

"(1) Failure by the [father] to provide for the material needs of the child or to pay a reasonable portion of its support, where the [father] is able to do so.

"(2) Failure by the [father] to maintain regular visits with the child in accordance with a plan devised by the department, or any public or licensed private child care agency, and agreed to by the [father].

"(3) Failure by the [father] to maintain consistent contact or communication with the child.


"(4) Lack of effort by the [father] to adjust his circumstances to meet the needs of the child in accordance with the agreements reached, including agreements reached with local departments of human resources or licensed child-placing agencies, in an administrative review or a judicial review."

Many, if not most, of the trial court's findings with respect to the father are not supported by any evidence, much less clear and convincing evidence. Section 26-18-7(a)(6) requires DHR to make an effort to rehabilitate a parent before it seeks to terminate his or her parental rights. See *Ezekiel v. State Dep't of Human Resources*, 562 So.2d 524, 525 (Ala.Civ.App.1990). The trial court's finding that DHR had made reasonable efforts to assist the father with rehabilitation is patently wrong. Tammy Harkness conceded as much. Likewise, the finding that the father had made little progress toward rehabilitation and that he was unlikely to change in the foreseeable future is unsupported by the evidence.

*590 DHR argues that it had neither the authority nor the duty to provide the father, who was a resident of Georgia, with rehabilitative services. It maintains that the State of Georgia was potentially responsible for offering such services to the father. Moreover, it claims that Georgia's responsibility to assist the father was not triggered because the father never contacted the Georgia authorities about having a home study done. In essence, DHR insists that it should not be faulted for failing to assist the father, when any assistance was dependent upon the father's making the first move and the father did not, in fact, take the initiative in Georgia. Finally, DHR argues that the Interstate Compact on the Placement of Children (§ 44-2-20 et seq., Ala.Code 1975), prevented it from transferring A.B. and B.B. to Georgia without approval from the Georgia authorities. Although we accept DHR's argument that the State of Georgia has the authority and duty to provide social services for its own residents, and that the Interstate Compact prevented DHR from transferring the girls to their father without the approval of the Georgia authorities, we reject the implication in DHR's argument that DHR is absolved of any responsibility in this case simply because the father lives in Georgia and did not follow up on a home study with the Georgia social-service agency. If DHR, in an Alabama court, seeks to terminate the parental rights of a father residing in Georgia, as

to children residing in Alabama, on the ground that "reasonable efforts by [DHR] leading toward the rehabilitation of the [father] ha[d] failed," it must do more than suggest one time to the father that he contact the appropriate Georgia agency about having a home study done. Compare *M.C. v. K.M.*, [Ms. 2981062, December 10, 1999] --- So.2d ---- (Ala.Civ.App.1999) (finding no error in the termination of parental rights of an out-of-state father who had failed to comply with repeated attempts by Alabama social workers to provide assistance through a sister state).

Based on the evidence presented at trial, we do not see how the trial court could make any determination about whether the father was even in need of rehabilitation, much less a determination that the father had failed to take advantage of rehabilitative services. In light of DHR's admitted failure to investigate the father's circumstances, we must conclude that there simply was not enough evidence to give the trial court a clear picture of the father's situation.

[6]  In *V.M. v. State Dep't of Human Resources*, 710 So.2d 915 (Ala.Civ.App.1998), this court reversed a judgment terminating a mother's parental rights because, it held, the trial court's conclusion that there was no viable alternative to the termination was plainly and palpably wrong. In *V.M.*, DHR had rejected a grandmother as a relative resource because it had negative, four-year-old information about the grandmother and because "the grandmother had shown a lack of initiative in contacting DHR regarding the necessary paperwork." 710 So.2d at 921. This court stated:

"All of DHR's objections to the grandmother as a relative resource were based on past history ... and there was no evidence that she had been considered in light of her present circumstances [and] her present willingness to be a resource for the children.... DHR must present 'evidence of recent attempts to locate viable alternatives in order to establish that termination of parental rights is the least drastic alternative.' In light of the evidence that the grandmother's present circumstances had not been investigated, the trial court's decision to terminate the mother's parental rights based upon the lack of viable alternatives was plainly and palpably wrong."

V.M., 710 So.2d at 921 (emphasis added) (citation omitted). The statements we made in *V.M.* apply with even greater force in this case. DHR made virtually no *591 effort to investigate the father's current living conditions, had virtually no information about the father's current employment circumstances, and made the determination that the father was unreliable because he had neglected to telephone DHR about a home study. As we implied in *V.M.*, and as we now explicitly hold, DHR--not the prospective custodian-- has the burden of initiating investigations, and it is DHR's burden to prove the unsuitability of one who seeks to be considered as the custodian of a dependent child. Because DHR did not comply with its statutory duties regarding the father, its petition to terminate the father's parental rights was premature. We must, therefore, reverse that portion of the juvenile court's judgment terminating the parental rights of the father.

OPINION OF SEPTEMBER 17, 1999, WITHDRAWN; OPINION SUBSTITUTED;
APPLICATION OVERRULED; RULE 39(k) MOTION DENIED; 2980615--AFFIRMED;
2980616--REVERSED AND REMANDED.

YATES and THOMPSON, JJ., concur.

ROBERTSON, P.J., and MONROE, J., concur in the result.

Ala.Civ.App., 1999.

D.S.S. v. Clay County Dept. of Human Resources

755 So.2d 584

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Alabama Administrative Code (DHR Policy):

Ala. Admin. Code r. 660-5-35-.01

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CHAPTER 660-5-35. INTERSTATE PLACEMENT OF CHILDREN
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Current through September 30, 2007.

660-5-35-.01. Definitions.

- (1) Central Registry-A statewide listing of information established by the Department of Human Resources, known as the Central Registry, for reporting of child abuse and neglect.
- (2) Child-A person, who by reason of minority, is legally subject to parental guardianship or similar control. In the State of Alabama, the age of majority is nineteen (19) years.
- (3) Compact Administrator-A person appointed in each state to oversee or perform the daily tasks associated with the administration of the **Interstate Compact on the Placement of Children** (ICPC). The Compact Administrator is designated to serve as the central clearing point for all referrals for interstate placement and is authorized to conduct the necessary investigation of the proposed placement to determine whether or not the placement is in the best interest of the child.
- (4) Criminal History Background Information Check-The review of any and all records containing any information collected and stored in the criminal record repository of the Federal Bureau of Investigation (FBI), and the Alabama Department of Public Safety. This information involves arrests or convictions by a criminal justice agency, including but not limited to, child abuse crime information as defined by [42 U.S.C. § 5119](#), the National Child Protection Act of 1993; conviction record information; fingerprint cards; correctional data and release information; and identifiable descriptions and notation of convictions. Criminal history background information does not include any analytical records or investigative reports that contain intelligence information or criminal investigation information.
- (5) Foster Care-Care of a child on a twenty four (24) hour a day basis away from the home of the child's parent(s). Such care may be by a relative of the child, by a non-

related individual, by a group home, or by a residential facility or any other entity. In addition, if twenty four (24) hour a day care is provided by the child's parent(s) by reason of a court-ordered placement (and not by virtue of the parent-child relationship), the care is foster care.

(6) **Interstate Compact on the Placement of Children (ICPC)**-A uniform law that has been enacted by all fifty (50) states, the District of Columbia, and the U.S. Virgin Islands, and that establishes orderly procedures for placing children across state lines for the purpose of foster care or adoption, and that fixes responsibility for those involved in placing the child; also referred to as the Compact.

(7) **Placement**-The arrangement of 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 epileptic, or any institution primarily educational in character, and any hospital or other medical facility.

(8) **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.

(9) **Relative**-For the purpose of placing a child with a relative, that person must be related to the child by blood, marriage or adoption and must meet one of the following degrees of relationship: parent, grandparent, brother, sister, step parent, step brother, step sister, half brother, half sister, uncle or aunt, and their spouses.

(10) **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 which sends, brings, or causes to be sent or brought any child to another party state.

(11) **Visit**-Visits and placements are distinguished on the basis of purpose, duration, and the intention of the person or agency with responsibility for planning for the child's place of abode. If the purpose of a visit is to provide the child with a social or cultural experience of short duration (e.g., a stay in a camp or with a friend or relative who has not assumed legal responsibility for providing child care services), the stay is considered a visit. If the child's stay is intended to be for longer than thirty (30) days, the circumstance constitutes a placement rather than a visit. A stay or proposed stay of longer than thirty (30) days is a placement or proposed placement, except that a stay of longer duration may be considered a visit if it begins and ends within the period of a child's vacation from school as ascertained from the school's academic calendar. A visit may not be extended or renewed in a manner that causes or will cause it to exceed thirty (30) days or the school vacation period. If a stay does not, from the outset, have an expressed end date, or if its duration is not clear from the circumstances, it shall be considered a placement or proposed placement and not a visit. Furthermore, a request for a home study or supervision made by the person or agency which sends or proposes to send a child on a visit and that is pending at the time that a visit is proposed will establish a rebuttable presumption that the intent of the stay or proposed stay is not a visit. A visit is not a placement within the meaning of the ICPC.

AUTHOR:

Jerome Webb

STATUTORY AUTHORITY:

[42 U.S.C. § 5119](#) National Child Protection Act of 1993; Code of Ala. 1975, §§ 24-14-8, [38-7-15](#), [44-2-20](#).

HISTORY:

Effective October 11, 1983. **Repealed and New Rule:** Filed August 4, 2006; effective September 8, 2006.

Ala. Admin. Code r. 660-5-35-.01, AL ADC 660-5-35-.01

AL ADC 660-5-35-.01

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660-5-35-.02. Types Of Placement Covered.

(1) The Compact applies to the following situations in which children may be sent to other states:

- (a) when children in the temporary or permanent custody of the Department of Human Resources (DHR) are to be sent to other states;
- (b) when the DHR is providing court ordered supervision of a child or the court has assumed jurisdiction over the child;
- (c) when a private licensed child-placing agency (LCPA) has temporary or permanent custody of a child and is sending the child to another state for placement;

- (d) when the birth parents are placing a child for adoption in another state;
- (e) when children are placed in foster care, including foster homes, group homes, residential treatment facilities, and institutions;
- (f) when children are placed with parents and relatives; and a parent or defined relative is not making the placement.

(2) The Compact does not apply in the following situations:

- (a) When requests are made between states for investigations involving the custody of children during a divorce;
- (b) When a child is to be placed by a parent, defined relative, or guardian having legal custody and the placement is with a relative in another state;
- (c) When a child is to be placed in an institution for the mentally ill or mentally defective, epileptic, any hospital or medical facility, or an institution for purposes that are primarily educational;
- (d) When a child is in the custody and care of the Department of Youth Services or Department of Mental Health as the Compact Office of these respective agencies handles these placements; and
- (e) When a child is visiting in other states.

AUTHOR:

Jerome Webb

STATUTORY AUTHORITY:

[42 U.S.C. § 5119](#) National Child Protection Act of 1993; Code of Ala. 1975, §§ 24-14-8, [38-7-15](#), [44-2-20](#).

HISTORY:

Effective October 11, 1983. **Amended:** Filed April 4, 2001; effective May 9, 2001. **Repealed and New Rule:** Filed August 4, 2006; effective September 8, 2006.

Ala. Admin. Code r. 660-5-35-.02, AL ADC 660-5-35-.02

AL ADC 660-5-35-.02

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660-5-35-.03. Other Compacts Affecting Placements In Other States.

(1) The Interstate Compact On Juveniles (ICJ), administered by the Department of Youth Services, provides for obtaining home evaluations from and to other states for placement of children who remain in the custody of their legal custodian and who are on probation or under the supervision of the court. This Compact is also used to return runaway children to their home state when the children are not in the custody of the Department of Human Resources.

(2) The Interstate Compact On Mental Health (ICMH), administered by the Department of Mental Health, provides for the transfer of children in residential treatment facilities in one state to similar facilities in another state where the legal custodian lives. ICMH may also be used to ensure that aftercare services are provided. This Compact generally relates to children who are not in DHR legal custody.

(3) The Interstate Compact On Adoption And Medical Assistance (ICAMA), administered by the Department of Human Resources, ensures that adoptive parents of children with federal IV-E adoption assistance agreements and certain children with state adoption assistance agreements, including Medicaid, receive the medical services and benefits provided for in their assistance agreement regardless of where they reside in the United States. ICAMA facilitates the delivery of benefits and services when families move during the continuance of the adoption assistance agreement or in cases when the child is initially placed for adoption across state lines.

AUTHOR:

Jerome Webb

STATUTORY AUTHORITY:

[42 U.S.C. § 5119](#) National Child Protection Act of 1993; Code of Ala. 1975, §§ 24-14-8, [38-7-15](#), [44-2-20](#).

HISTORY:

Repealed: Filed April 4, 1995; Effective May 9, 1995. **Repealed and New Rule:** Filed August 4, 2006; effective September 8, 2006.

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660-5-35-.04. Conditions For Placement Of Children.

- (1) Sending agencies must comply with Compact requirements and with the applicable laws of the receiving state governing the placement of children when children are to be placed in foster care or for possible adoption in other states.
- (2) The sending state must, prior to sending, bringing, or facilitating a child's placement in foster care or for possible adoption in a receiving state, provide authorities in the receiving state with written notice of the intention to send, bring or place the child into the state. This includes the provision of a referral that includes information required by Article III in the Compact.
- (3) The receiving state shall provide written notice to the sending agency, prior to the child being sent, brought, or placed in the receiving state, that the proposed placement appears to be in the child's best interest.

AUTHOR:

Jerome Webb

STATUTORY AUTHORITY:

[42 U.S.C. § 5119](#) National Child Protection Act of 1993; Code of Ala. 1975, §§ 24-14-8, [38-7-15](#), [44-2-20](#).

HISTORY:

New Rule: Filed April 4, 2001; effective May 9, 2001. **Repealed and New Rule:** Filed August 4, 2006; effective September 8, 2006.

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660-5-35-.05. Children From Alabama Placed In Other States.

(1) Prior to a child's placement in another state, the State Department of Human Resources (SDHR) ICPC Office must provide written approval for the placement and the concurrence of the court of jurisdiction must be obtained.

(a) Child care facilities that are licensed as a child-placing agency and that hold custody of a child shall act as the sending agency and follow Compact procedures when making placement requests with relatives in another state.

(b) Child care facilities that are not licensed as a child-placing agency and that hold custody of a child shall submit requests for relative placements to the DHR in the county where the custody order was entered. The county DHR will process the request using regular Compact procedures.

(2) The DHR must retain legal custody during the time of placement. If the DHR does not have custody, but the court has jurisdiction, this must be retained by the court during the placement.

(3) Should it become necessary to return the child to Alabama, the DHR or other Alabama agency is responsible for the cost of transportation unless the receiving agency indicates the family will pay.

(4) If a child is being placed out-of-state in a foster care placement and a board payment is authorized, Medicaid coverage may be provided by the sending or receiving state depending on the child's Title IV-E eligibility status.

(5) Children who are eligible to receive Title IV-E adoption subsidy payments are eligible for Medicaid in their state of residence.

(6) Custody or court jurisdiction of a child must be retained by the sending agency for a minimum of six months in order for the receiving agency to supervise the placement and determine if it is satisfactory. The placement agreement may be terminated only after a written report recommending termination is provided by the receiving agency and written concurrence is obtained from the receiving state's Compact office. Court action is required to relieve the sending agency of custody and/or terminate court jurisdiction.

(7) If court jurisdiction of a child is to be transferred to a court of like jurisdiction in the receiving state and the child's custody is to be placed with the supervising agency, SDHR must be notified and the receiving state must provide a written statement verifying that the court and supervising agency agree to accept the case before any action is taken.

AUTHOR:

Jerome Webb

STATUTORY AUTHORITY:

[42 U.S.C. § 5119](#) National Child Protection Act of 1993; Code of Ala. 1975, §§ 24-14-8, [38-7-15](#), [44-2-20](#); and The Consolidation Omnibus Budget Reconciliation Act of 1985 (P.L. 96-272).

HISTORY:

New Rule: Filed August 4, 2006; effective September 8, 2006.

Ala. Admin. Code r. 660-5-35-.05, AL ADC 660-5-35-.05

AL ADC 660-5-35-.05

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Ala. Admin. Code r. 660-5-35-.06

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Current through September 30, 2007.

660-5-35-.06. Children From Other States Placed In Alabama.

- (1) Sending agencies must submit a written request for placement to Alabama's ICPC Office prior to placing a child in Alabama with relatives or in a foster care placement. A child must not be brought into the state for placement prior to SDHR approval. Requests from other states must include sufficient information to enable the DHR to make an appropriate evaluation of the proposed placement. If the information provided by the other state is insufficient, additional written information will be requested before proceeding with the evaluation.
- (2) A foster home study must be conducted and Alabama's Minimum Standards for Foster Family Homes, 660-5-29, must be met by any individual selected as a proposed foster care placement for a child when the degree of relationship between that individual and the child extends beyond the definition of relative per 660-5-35-.01-(9); when the child is unrelated to the individual selected as a proposed placement; and when termination of parental rights (TPR) has been identified as a plan for the child.
- (3) The completed foster home study shall be submitted to SDHR before a decision regarding placement is made. The study must include Alabama Bureau of Investigation (ABI) and Federal Bureau of Investigation (FBI) criminal history checks; Child Abuse/Neglect Central Registry clearances on all household members age fourteen (14) years and older; and a recommendation regarding placement. SDHR will review the completed study and submit a recommendation for placement to the sending state.
- (4) If the placement of a child from another state proves unsatisfactory and the child has to be removed from the home and placed in out-of-home care prior to the child's return to the sending state, the sending state must be notified about the change in placement and apprised of the daily cost. The sending state is responsible for payment of that care.
- (5) A report summarizing the adjustment of the child to the placement and recommending case closure must be sent to the SDHR to obtain approval before the sending state can terminate their case. When termination is recommended, the sending state must provide the receiving state with a copy of the court order terminating the case.

AUTHOR:

Jerome Webb

STATUTORY AUTHORITY:

[42 U.S.C. § 5119](#) National Child Protection Act of 1993; Code of Ala. 1975, §§ 24-14-8, [38-7-15](#), [44-2-20](#).

HISTORY:

New Rule: Filed August 4, 2006; effective September 8, 2006.

Ala. Admin. Code r. 660-5-35-.06, AL ADC 660-5-35-.06

AL ADC 660-5-35-.06

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Ala. Admin. Code r. 660-5-35-.07

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660-5-35-.07. Regulation Number 7 Priority Placement.

- (1) The following regulation adopted by the Association of Administrators of the **Interstate Compact** on the **Placement of Children** is declared to be in effect on and after July 2, 2001.
- (2) The proposed placement of a child from one state into another state may be made a priority by a court when specific circumstances apply to the child's case. These case situations are referred to as Regulation Number 7 priority placements.
- (3) A court order finding entitlement to a priority placement is valid only when it contains an expressed finding that one or more of the following circumstances exists in the child's case and sets forth the facts on which the court bases its finding.
 - (a) The person with whom the child is proposed to be placed is a relative who could receive the child from another person without complying with ICPC according to Article VIII(a) of the Compact and the child is under two years old; or the child is in an emergency shelter; or the court finds that the child has spent a substantial amount of time in the home of the person with whom the placement is proposed.

(b) The receiving state Compact Administrator has had the proper Compact documentation for over thirty business days, but the sending agency has not received a notice, according to ICPC Article III(d), determining whether the child may or may not be placed.

(4) Regulation Number 7 priority placements shall not apply to any case in the sending state where the placement request is for licensed or approved foster family care or adoption; or the child is already in the receiving state in violation of the Compact.

(5) The court shall send its order for priority placement to the sending agency within two business days. The order shall include the name, address, telephone number, and if available, the FAX number of the judge and the court. The court shall have the sending agency transmit, within three business days, the signed court order, a completed Compact form Request for Placement and supporting documentation according to ICPC Article III to the sending state Compact Administrator.

(6) Within a time not to exceed two business days after receipt of the priority placement request, the sending state Compact Administrator shall transmit, by overnight mail, the priority request and its accompanying documentation to the receiving state Compact Administrator together with a notice that the request for placement is entitled to priority processing. The receiving state Compact Administrator shall make a determination according to ICPC Article III(d) as soon as possible, but no later than twenty business days from the date the overnight mailing was received, and return the completed Compact form Request for Placement and supporting documentation by FAX to the sending state Compact Administrator.

(7) If the receiving state Compact Administrator fails to complete actions described in 660-5-35-.07-(5) within the time period allowed, the receiving state is deemed to be out of compliance with ICPC. If there appears to be a lack of compliance, the court that entered the priority order may inform an appropriate court in the receiving state, provide that court with copies of relevant documentation in the case, and request assistance. Within its jurisdiction and authority, the requested court may render assistance, including the entering of appropriate orders, for the purpose of obtaining compliance with ICPC and Regulation Number 7 priority placement.

(8) The action in 660-5-35-.07-(6) shall not apply if:

(a) within two business days of receipt of the ICPC priority placement request, the sending state Compact Administrator determines that the documentation is substantially insufficient; specifies that additional information is needed; and requests the additional documentation from the sending agency. The request shall be made by FAX or by telephone if FAX is not available; or

(b) within two business days of receipt of the ICPC priority placement request, the receiving state Compact Administrator notifies the sending state Compact Administrator that further information is needed. Notice to the sending state shall specifically detail the information needed. For a case in which this situation applies, the twenty business day period for the receiving state Compact Administrator to complete action shall be calculated from the date the requested information is received by the receiving state Compact Administrator.

(9) Where the sending state court is not itself the sending agency, it is the responsibility of the sending agency to keep the court, which issued the priority order, informed of the status of the priority request.

(10) Priority placement time periods may be modified with a written agreement between the court which made the priority order, the sending agency, the receiving state Compact Administrator, and the sending state Compact Administrator. Any modification to the time period shall apply only to the single case to which it is addressed.

(11) Interstate cases must be processed no less quickly than intrastate cases and given no less attention to interstate hardship cases than to intrastate hardship cases. If in doing so, a receiving state compact Administrator finds that extraordinary circumstances make it impossible to comply with priority placement time periods, strict compliance may be excused. However, the receiving state Compact Administrator shall, within two business days of ascertaining inability to comply, notify the sending state Compact Administrator via FAX of the inability to comply and shall set forth the date on or before which it will complete the needed action. The notice shall contain a full identification and explanation of the extraordinary circumstances which are delaying compliance.

(12) Unless otherwise required or allowed by this rule, all transmittals of documents or other written materials shall be by overnight express mail carrier service.

AUTHOR:

Jerome Webb

STATUTORY AUTHORITY:

[42 U.S.C. § 5119](#) National Child Protection Act of 1993; Code of Ala. 1975, §§ 24-14-8, [38-7-15](#), [44-2-20](#).

HISTORY:

New Rule: Filed April 4, 2001; effective May 9, 2001. **Repealed and New Rule:** Filed August 4, 2006; effective September 8, 2006.

Ala. Admin. Code r. 660-5-35-.07, AL ADC 660-5-35-.07

AL ADC 660-5-35-.07

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Current through September 30, 2007.

660-5-35-.08. Interstate Placement In Group Homes, Child Care Institutions, And Residential Treatment Facilities.

(1) All requests by county DHRs to place a child in a group home, child care institution or residential treatment facility in another state must be approved by SDHR prior to placement.

(a) A child can only be referred to, placed in, or provided services by a group home, child care institution or residential treatment facility which is licensed or approved in accordance with the laws in the state in which it is located.

(b) Prior to placement, the court having jurisdiction must be notified for written concurrence with the out-of-state plan for a child who is in DHR custody.

(2) If a parent or guardian having legal custody of a child plans to place that child in a group home, child care institution or residential treatment facility in another state, ICPC requirements must be met. The county DHR in the legal parent's or guardian's county of residence will assist the parent or guardian in completing the required documentation. SDHR reviews the ICPC documentation and notifies the county DHR when the placement is approved. The receiving state or parent/guardian must notify SDHR when the placement is terminated so the child's case can be officially closed.

(3) Other states that plan to place a child in an Alabama group home, child care institution or residential treatment facility must submit the referral through the SDHR. The group home, child care institution or residential treatment facility must be in compliance with Title VI of the Civil Rights Act of 1964 for SDHR to accept the referral.

(a) If a group home, child care institution or residential treatment facility receives a referral directly from another state, the home or facility must provide the referral source with written notice of interstate placement statutes and must contact the SDHR prior to accepting the child for placement.

(b) SDHR will request Compact documentation from the sending state for placements that are approved.

AUTHOR:

Jerome Webb

STATUTORY AUTHORITY:

Title VI of the Civil Rights Act of 1964, [42 U.S.C. § 5119](#) National Child Protection Act of 1993; Code of Ala. 1975, §§ 24-14-8, [38-7-15](#), [44-2-20](#).

HISTORY:

New Rule: Filed August 4, 2006; effective September 8, 2006.

Ala. Admin. Code r. 660-5-35-.08, AL ADC 660-5-35-.08

AL ADC 660-5-35-.08

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Ala. Admin. Code r. 660-5-35-.09

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660-5-35-.09. Children Moving With Foster/Adoptive Parents Between States.

- (1) The Compact is applicable when children in foster care relocate to another state with their foster family. This includes children who have been placed with adoptive parents and the adoption has not been finalized.
- (2) If the relocation is planned to occur more than forty five days in the future, normal Compact procedures shall apply.
- (3) Concurrence with the plan to relocate must be obtained from the court of jurisdiction when the child is in Alabama foster care. If the child is in foster care in Alabama pursuant to an Agreement for Foster Care, the DHR must obtain legal custody of the child prior to the relocation.
- (4) SDHR may decline to provide a favorable determination for relocation to Alabama, pursuant to Compact Article III(d), if the Compact Administrator finds that the child's needs cannot be met under the circumstances of the proposed relocation.
- (5) When the child is in foster care in another state and the plan is to relocate to Alabama with the foster family, that family must comply with Alabama laws promptly

after their arrival in the State; apply to be an Alabama foster family home; and be approved according to Alabama's Minimum Standards for Foster Family Homes. The family's foster home study from the sending agency must be received and reviewed by SDHR. SDHR will recognize the sending agency's foster family training requirements if the training program from the other state is shown to be substantially equivalent to training offered for the same purpose in Alabama and the evidence submitted is in the form of an official certificate or other document identifying the training. Subsequent to the initial approval, the foster family home must be reapproved on an annual basis.

(6) At any time after the relocation it is determined that continued placement with the foster family is contrary to the child's best interest, the sending agency is responsible for immediately planning an alternative placement or the child's return to the sending state. For children in adoptive homes, this provision applies only when the adoption has not been finalized.

AUTHOR:

Jerome Webb

STATUTORY AUTHORITY:

Title VI of the Civil Rights Act of 1964, [42 U.S.C. § 5119](#) National Child Protection Act of 1993; Code of Ala. 1975, §§ 24-14-8, [38-7-15](#), [38-7-2\(13\)](#), [44-2-20](#).

HISTORY:

New Rule: Filed April 4, 2001; effective May 9, 2001. **Repealed and New Rule:** Filed August 4, 2006; effective September 8, 2006.

Ala. Admin. Code r. 660-5-35-.09, AL ADC 660-5-35-.09

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660-5-35-.10. Placement For Adoption Between States--Child In Permanent Custody Of A Child Welfare Agency.

- (1) The Compact applies when children in the permanent custody of a child welfare agency are to be placed in another state for the purpose of adoption.
- (2) The sending agency shall prepare a request for placement and an adoptive home study, and submit it to the receiving state. SDHR will not process the request and conduct an adoptive home study if the child is not free for adoption because the termination of parental rights is under appeal.
- (3) The receiving state shall conduct the adoptive home study and provide a disposition regarding placement to the sending agency. If the study is approved, arrangements for the actual placement will be finalized.
- (4) If, prior to the finalization of the adoption, it is determined that the placement is contrary to the child's best interest, the sending agency shall make arrangements for the child to be returned to the sending state.
- (5) The receiving state is responsible for making a recommendation regarding the finalization of the adoption and the court of jurisdiction is responsible for issuing the Final Decree of Adoption.

AUTHOR:

Jerome Webb

STATUTORY AUTHORITY:

Title VI of the Civil Rights Act of 1964, [42 U.S.C. § 5119](#) National Child Protection Act of 1993; Code of Ala. 1975, §§ 24-14-8, [26-10A-10](#), [38-7-2 \(13\)](#), [38-7-15](#), [44-2-20](#).

HISTORY:

New Rule: Filed August 4, 2006; effective September 8, 2006.

Ala. Admin. Code r. 660-5-35-.10, AL ADC 660-5-35-.10

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660-5-35-.11. Placement For Adoption Between States-Private/Independent Adoptions.

- (1) The Compact applies to private/independent adoptions which are those adoptions where the Department does not have the legal authority to consent to the individual's adoption. Included in this group are adoption by relatives; adoption placements made by licensed child-placing agencies; and adoption of children placed independently by birth parents.
- (2) The sending agency or person shall prepare and submit the ICPC documentation to SDHR for processing.
- (3) For children who will be placed in Alabama, the adoptive home study shall be completed by a representative of a licensed child-placing agency or licensed social worker. Interviews with the child's birth parents shall be conducted by a representative of a licensed child-placing agency or a licensed social worker in the birth parent's legal state of residence. SDHR shall review the adoptive home study and provide a determination regarding the child's placement.
- (4) For Alabama children who will be placed in another state, the adoptive home study shall meet the requirements of the state of residence of the prospective adoptive resource where the adoption will be finalized. Due to variations in state laws, a determination must be made regarding where the adoption can be legally finalized.
- (5) When the adoptive placement disrupts prior to the issuance of the Final Decree of Adoption, the sending agency or person is responsible for returning the child to the sending state.

AUTHOR:

Jerome Webb

STATUTORY AUTHORITY:

Title VI of the Civil Rights Act of 1964, [42 U.S.C. § 5119](#) National Child Protection Act of 1993; Code of Ala. 1975, §§ 24-14-8, [26-10A-10](#), [38-7-2 \(13\)](#), [38-7-15](#), [44-2-20](#).

HISTORY:

New Rule: Filed August 4, 2006; effective September 8, 2006.

Ala. Admin. Code r. 660-5-35-.11, AL ADC 660-5-35-.11

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660-5-35-.12. Intercountry Placement Of Children.

(1) All requests for placement of or the provision of services to a child in another country shall be processed by SDHR.

AUTHOR:

Jerome Webb

STATUTORY AUTHORITY:

Title VI of the Civil Rights Act of 1964, [42 U.S.C. § 5119](#) National Child Protection Act of 1993; Code of Ala. 1975, §§ 24-14-8, [26-10A-10](#), [38-7-2 \(13\)](#), [38-7-15](#), [44-2-20](#).

HISTORY:

New Rule: Filed April 4, 2001; effective May 9, 2001. **Repealed and New Rule:** Filed August 4, 2006; effective September 8, 2006.

Ala. Admin. Code r. 660-5-35-.12, AL ADC 660-5-35-.12

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Ala. Admin. Code r. 660-5-39-.11

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CHAPTER 660-5-39. LICENSING: MINIMUM STANDARDS FOR CHILD--PLACING
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660-5-39-.11. Interstate Placement Of Children.

(1) In working with any out-of-state agency or individual in the placement of any child, the child-placing agency shall comply with provisions of the "**Interstate Compact on the Placement of Children** law" concerning the bringing into the state of any **child**, or the "**Interstate Compact on the Placement of Children** law" of the state into which the child is to be sent. In order to ensure such compliance, all requests and correspondence shall be channeled through the Division of Family and Children's Services.

(a) Reference is made to §§ 38-5-15 and [44-2-20, Code of Ala. 1975](#):

1. No person or agency shall bring or send any child into the State of Alabama for the purpose of placing him or procuring his adoption or placing him in any child care facility, as defined herein, without first obtaining the consent of the Department. The Department shall have the power to impose and enforce reasonable conditions precedent to the granting of such consent; and such conditions shall be for the purpose of providing the same care and protection for the child coming into the State of Alabama for placement or adoption as are afforded to a child who is born in the State of Alabama; and such conditions shall include the following: (1) the Department shall be authorized to designate an agency in another state from which said child is being brought or sent, or in which said child's parents or guardian may be found, to interview said parent or parents or guardian, or at least one of them, for the purpose of obtaining social information, background information, and medical information about said child; (2) the Department shall be authorized to receive such information from the designated agency in the other state; (3) the Department shall be authorized to receive the birth certificate of said child from the designated agency in the other state or from another appropriate agency in the other state; (4) the Department shall be authorized to make a thorough investigation

of the proposed foster parent or parents, and their home, to determine whether or not they are financially able, physically able, and morally fit to have the care, supervision, training, and control of said child; (5) the Department shall be authorized to make a thorough investigation of any child care facility to which any child is being brought or sent to determine conformity to minimum standards prescribed herein for approval or licensing and to determine the suitability of such child care facility for the care, supervision, training, and control of said child; (6) in case said child, subsequent to being brought into the State of Alabama, becomes dependent, neglected, or delinquent prior to his adoption or becoming of legal age of majority, said child shall be subject to the laws of the State of Alabama as if he were a resident child of this state; (7) the child will be placed in conformity with the rules and regulations of the Department; (8) the person with whom the child is placed shall be responsible for his proper care and training; (9) the Department shall have the right of visitation and supervision of the child and the home or the child care facility in which he is placed until adoption becomes final or the child becomes eighteen years of age; (10) the Department may, pursuant to the provisions of this chapter, prescribe the condition of an agreement or contract with the designated out-of-state agency, when a child is brought into the State of Alabama. The person or agency receiving the child in Alabama shall report to the Department at such reasonable times as the Department may direct, as to the location and well-being of the child, so long as he shall remain within the State and until he shall have reached the age of eighteen years or shall have been legally adopted.

AUTHOR:

Jerome Webb

STATUTORY AUTHORITY:

[Code of Ala. 1975, §§ 38-7-1](#) through-17, [§§ 41-22-1](#) through-27.

HISTORY:

Effective October 16, 1989. **Repealed and New Rule:** Filed October 7, 2002; effective November 11, 2002.

Ala. Admin. Code r. 660-5-39-.11, AL ADC 660-5-39-.11

AL ADC 660-5-39-.11

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CHAPTER 660-5-50. VISITING

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Current through September 30, 2007.

660-5-50-.07. Worker Visits

(1) The Department of Human Resources must maintain contact by visiting frequently, but not less than once a month, with children to help ensure child safety, contact with family, a good working relationship with the family and foster family, and to help maintain best case practice.

(a) In on-going protective services, children should be seen by their social worker at least once a month in the child's home setting. An exception to this visitation timeframe may occur if their ISP states that visitation should be more often; **OR**, if a child in an on going protective services case has been assessed as not being at risk of serious harm or maltreatment.

(b) Children in out-of home care should be seen by their social worker at a minimum of once a month or more often if stated in their ISP. Telephone contact with the social worker and child is encouraged but **will not** take the place of face to face contact. Opportunities for private discussion should be made available to the child, with their social worker, and these visits should be of substance to help the child and to help ensure the social worker's awareness of the child's well being, circumstance, and safety.

(c) Children who are diagnosed as being Severely Emotionally and Behaviorally Disordered (SEBD) and are placed in treatment facilities must be visited monthly in the facility in which they are placed. Any exception to this visiting policy would require consultation and clearance with a consultant from the Office of County Systems Support.

(d) Children with special health care needs who have chronic physical, developmental, behavioral or emotional conditions may be medically fragile. Children who are medically fragile should have a face to face visit monthly and quarterly communications/contact with health care providers are required.

(e) **Children** who are **placed** in ICPC (**Interstate Compact for the Placement of Children**) placements in Alabama by other states must be visited in the home once a month. Children placed in other states by Alabama should be visited once a month in order to assess safety, well being and whether the placement is in the

child's best interest. The Department should request that the other state's workers visit Alabama's children once a month.

(f) Children who are in adoptive placements must be visited a minimum of twice during the first three (3) months after the child is placed. Best practice is for all adoptive family members to be present and for a separate interview to be conducted with the child that has been placed. Once the Interlocutory Order has been issued, two (2) more supervisory visits are required before the Final Report to the court is made.

(g) Workers have an obligation to visit with parents and caregivers to help determine planning, decision making and to help ensure overall safety for the family and their children. Office visits can be convenient or helpful, but they shall not serve as a substitute for the home visit. Social workers will visit families, who are receiving on-going protective services, in their homes at least once a month or more frequently when directed by the ISP. Parents or caregivers of children who are in out-of home care with a plan of reunification will be visited on a monthly basis or more often if directed by the ISP. It is important that either reunification or other permanency plans be established within a time frame that is established by ASFA and other policy. Visiting with parents and caregivers allows this planning to take place.

AUTHOR:

Jerome Webb

STATUTORY AUTHORITY:

R. C. v. Fuller, No. 88-H-1170-N, Consent Decree (M. D. Ala. Approved December 18, 1991).

HISTORY:

New Rule: Filed October 7, 2003; effective November 11, 2003. **Amended:** Filed April 2, 2004; effective May 7, 2004.

Ala. Admin. Code r. 660-5-50-.07, AL ADC 660-5-50-.07

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**INTERSTATE/INTERCOUNTRY
SERVICES TO CHILDREN
POLICY AND PROCEDURES**

Effective August 1, 2003

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DHR-DFC-1766 - ICPC Transmittal Sheet

ICPC – 101 - Sending States Priority Home Study Request

Appendix

I. INTRODUCTION

A. Purpose

The purpose of this policy is to provide child welfare staff with procedures to implement the Interstate Compact on the Placement of Children (Code of Alabama 1975 § 44-2-20).

The Interstate Compact on the Placement of Children (ICPC) provides guidelines to ensure protection and services to children who are placed across state lines for foster care or adoption. The Compact is a uniform law enacted by all fifty (50) states, the District of Columbia, and the U. S. Virgin Islands. It establishes orderly procedures for the interstate placement of children and prescribes responsibility for those involved in placing the child. (American Public Human Services Association (APHSA), Guide to the Interstate Compact on the Placement of Children, 2002).

The Guide to the Interstate Compact on the Placement of Children specifies that “children placed out of state need to be assured of the same protections and services that would be provided if they remained in their home states. They must also be assured of a return to their original jurisdiction should placements prove not to be in their best interests or should the need for out-of-state services cease.”

According to the Guide to the Interstate Compact on the Placement of Children “the Compact applies to four (4) types of situations in which children may be sent to other states.” These are as follows:

1. Placement preliminary to an adoption;
- 2. Placements into foster care, including foster homes, group homes, residential treatment facilities, and institutions);**
- 3. Placements with parents and relatives when a parent or relative is not making the placement, and**
- 4. Placements of adjudicated delinquents in institutions in other states.**

B. Legal Base

The Alabama Department of Human Resources has been given the legal duty and responsibility to provide homes for dependent and neglected children. Code of Alabama 1975, § 38-2-6 (14) provides that it shall be the duty and responsibility of the Department of Human Resources to “receive and care for dependent or neglected minor children committed to its care and place such children in family homes or in approved suitable institutions operating in accordance with the provisions of this title and supervise such children however placed.”

Code of Alabama 1975, § 38-7-15 provides for the placement of children from other states into Alabama. No person or agency shall bring or send any child into the State of Alabama for the purpose of placing him or procuring his adoption or placing him in any child care facility as defined in the Child Care Act without first obtaining the consent of the Department of Human Resources.

Code of Alabama 1975, § 44 – 2 – 20, Interstate Compact on the Placement of Children provides for Alabama, Department of Human Resources, to be the “appropriate public authority” to administer the “ Interstate Compact on the Placement of Children.” This compact governs both children brought into and children going out of state, and is binding in all fifty (50) states, including the Virgin Islands and the District of Columbia. (See Appendix for Code of Alabama, 1975, Interstate Compact on the Placement of Children.)

C. When The Compact Applies

When the Department has custody of children (temporary or permanent), is providing court ordered supervision, or the court has assumed jurisdiction, the compact applies to placements in other states with parents or relatives, in foster care, group homes, or institutions, or for adoption purposes. The Compact also applies if a private licensed child placing agency has custody (temporary or permanent). **A child cannot be placed out of state when the County Department has only an Agreement For Foster Care (DHR-DFC-731).**

In cases where a court has assumed legal jurisdiction and wishes to consider a placement in another state (other than a custody dispute), the court is the sending agency and must comply with the Compact. The court or a representative must sign the ICPC 100A (DHR-1238), Interstate Compact Placement Request as the sending agency.

When a parent, relative, or legal guardian has custody of a child and wishes to place that child in a licensed child care facility (other than the type of facilities listed below in Exceptions To The Compact), that person is the sending party and will retain responsibility for the child. The agency in the state where the parent, relative, or guardian resides assists that person in facilitating the placement through the Compact which includes completing the ICPC 100As (DHR-1238), showing the legal custodian as the sending party and financially responsible for the child. When the County Department becomes aware of interstate placements made without prior approval, they shall notify Family Services Division, ICPC Office immediately and cooperate as directed.

The Compact also applies to independent/private adoptions. The birth mother is the sending agency and signs the ICPC 100-As (DHR-1238).

D. Exceptions To The Compact

The Compact does not apply in the following situations:

- The Department of Human Resources does not complete interstate requests for divorce/custody investigations. If requests for these investigations are received from other states, the request should be returned to the other state with an explanation that the Department does not complete such investigations. The sending court or the family member residing in Alabama (for whom the investigation is requested) may contact a licensed child placing agency or the Alabama Board of Social Work Examiners (334 242-5860) to obtain a list of licensed Private Independent Practitioners (PIP). It is the responsibility of the person being

investigated or other party to pay for the investigation.

- The Compact does not apply when placement of a child by a parent, relative, or guardian having legal custody with a relative in another state occurs. Code of Alabama, § 38-7-2 (13) defines a relative, for placement purposes as any of the following relationships by blood, marriage or adoption: parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, half brother, half sister, uncle or aunt, and their spouses. **If such placement involves court action in which there are protective service issues or safety issues, this needs to be handled under the Interstate Compact.**
- Placement of a child in an institution for the mentally ill or mentally defective, epileptic, any hospital or medical facility, or an institution which is primarily educational.
- Placement of a child in the custody and care of the Department of Youth Services or Department of Mental Health. The Compact Office of the respective agency handles these placements.
- A visit is not a placement within the meaning of the Interstate Compact on the Placement of Children (ICPC).

Questions about whether requests are compact matters should be directed to the Family Services Division, ICPC Office.

II. OTHER COMPACTS AFFECTING PLACEMENTS INTO OTHER STATES

A. The Interstate Compact On Juveniles (ICJ)

The Interstate Compact on Juveniles is administered by the Department of Youth Services. It provides for obtaining home evaluations (from and to other states) for placement of children who are on probation or under the supervision of the court, but who remain in the custody of their legal custodian. This Compact is also used to return runaway children who are not in the custody of the Department of Human Resources (see Section XIII for further instruction as to how the Compact is used to return runaways in the temporary custody of the Department of Human Resources).

B. The Interstate Compact On Mental Health

The Interstate Compact on Mental Health is administered by the Department of Mental Health. It provides for the transfer of children in residential treatment facilities in one state to similar facilities in another state where the legal custodian lives. It may also be used to see that aftercare services are provided. Generally, this Compact relates to children who are not in the legal custody of the county department, but there may be exceptions.

C. The Interstate Compact On Adoptions And Medical Assistance (ICAMA)

The Department of Human Resources administers the Interstate Compact on Adoptions and Medical Assistance. The Compact was developed in response to the mandate of the Adoption Assistance and Child Welfare Act of 1980, and directs states to protect the interstate interests of adopted children with special needs. This Compact ensures that adoptive parents of children with Federal IV-E Adoption Assistance Agreements and certain children with State Adoption Assistance Agreements including Medicaid receive the medical services and benefits provided for in their assistance agreement regardless of where they reside in the United States. It facilitates the delivery of benefits and services when families move during the continuance of the adoption assistance agreement or in cases when the child is initially placed for adoption across state lines. The Interstate Compact on Adoption and Medical Assistance has been enacted by most states.

III. PROTECTIVE SERVICE ALERTS AND REFERRALS

A. Protective Service Alerts

The Family Services, ICPC Office is responsible for handling protective service alerts. These shall be used in case situations where a child's/family's exact whereabouts are unknown **and** child welfare staff have determined that further harm may come to the child unless protective services are provided.

Interstate protective service alerts are completed on the DHR-FCS-1597 and submitted along with the "Cover Memo for Child Protective Service Alert" to the Family Services Division, ICPC Office (Refer to Forms And Instructions section in the *Child Protective Service Policies and Procedures*). The Family Services Division, ICPC Office will forward these to the other state(s).

Intrastate protective service alerts are completed on the DHR-FCS-1597, along with the "Cover Memo for Child Protective Service Alert". These are mailed directly to the local county(ies) DHR office where the family and child are believed to reside. (Refer to Forms And Instruction section in the *Child Protective Service Policies and Procedures*).

Protective service alerts must contain the following information.

- Name(s) of the state(s) and/or county's to receive the alert;
- Identifying information on the children and family members (e.g., names, birth dates, ethnicity, gender, social security numbers);
- Brief description of the child/family situation and DHR's concern;
- Child's/family's suspected destination (if known) and action requested if the child/family is located (e.g., provide protective services, take child into protective custody);
- Child's legal status and a copy of the court order if DHR holds custody; and
- Name, address and telephone number of DHR contact person if

the child/family is located.

B. Protective Service Referrals

Protective service referrals are used in situations when a family receiving protective services moves out-of-state and the family's address is known (Refer to Transfer of Cases policy for additional information).

IV. PROCEDURE FOR PLACEMENT OF CHILDREN FROM ALABAMA

A. Request For Relative Placement

Code of Alabama, § 38-7-2 (13) defines a relative, for placement purposes, as any of the following relationships by blood, marriage or adoption: parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, half brother, half sister, uncle or aunt, and their spouses. A foster home study is required if relatives do not fall within these degrees of relationship.

A child should never be placed into another state without the prior written approval of the ICPC Office in that state. If, for some reason beyond the control of the County Department, a child is placed in another state without the prior knowledge and approval of that state, the County Department shall contact the Family Services Division, ICPC Office, immediately so that the ICPC Office in the receiving state can be notified of the circumstances and plans can be made accordingly. The ICPC referral shall follow within fourteen (14) working days.

In rare instances, the court may order the County Department to assist with placing the child with a caregiver in another state. If this occurs, consult the Family Services Division, ICPC Office.

All correspondence relating to interstate placement, (prior to, during, after, and at termination of placement) must be sent in triplicate (original and two copies) to the Family Services Division, ICPC Office, for forwarding to other states. 100As (DHR-1238), Interstate Compact Placement Request, and 100Bs (DHR-1239), Interstate Compact Report on Child's Placement Status, submitted from county departments to SDHR, Family Services Division, ICPC Office are not to be separated. Correspondence shall also be collated. Referral packets must include all items described below and preferably in this order.

A referral packet for children from Alabama going to another state shall include the following:

1. A cover letter including a statement as to why the proposed placement in the other state is believed to be in the best interest of the child. If a request needs to be expedited, the worker shall write on the cover letter "Urgent" or "Rush" in red ink.
2. The ICPC – 100A (DHR-1238) is the official notice of the Intention and Request to place a child out-of-state and to conduct an investigation (Refer to Forms and Instructions). This form **must** accompany the initial request in order to avoid a delay in the receiving state initiating the home evaluation. **The 100A must be**

typed and the original signature copy and three other copies must be submitted. The county is to retain a copy in the county file.

3. A current court order indicating the child's present legal status must accompany the referral. (Bench notes are unacceptable). This should prevent questions raised by the receiving state and delays in the receiving state making a decision about placement. Three copies of the most recent court documents affecting the custody of the child must be included.
4. A social history on child that provides sufficient information to assist the receiving agency in assessing the ability of the proposed home to meet the needs of the child. Information that needs to be included in the social history is:
 - a. Current Family Situation – Circumstances precipitating out-of-state placement; placement history; location of child and length of time at current location; situation and location of parents; situation and location of any siblings; child's attitude toward placement; parents' attitude toward placement; visitation plans.
 - b. Current Assessment Of Child – Physical appearance: height, weight, hair color, eye color, skin color, distinctive marks; current adjustment; behavioral, emotional, social skills; relationship/interaction with parents, caregivers, siblings, peers; health: diagnosis, treatment, prognosis, special needs (if any); education: grade, achievement, classroom behavior, relationship to teachers and classmates, extra curricular activities; significant others in child's life.
 - c. Assessment Of Parent(s) And Family – Physical description of parent(s) (for adoptive purposes); current functioning: education, employment, parental and social; relationship/interactions with spouse, children and other significant family members; health: physical and mental, diagnosis, treatment and prognosis; current and anticipated involvement with child.
 - d. Permanency Goal – Permanent plan for child: other options available for child; anticipated duration of proposed placement; most recent Individualized Service Plan (ISP).
 - e. Child Specific Information – Include with the social history the following items as appropriate: medical records, psychological evaluations/reports; school records/reports, previous social summary/progress reports (dated), social security card, and birth certificate. **If there is no legal father, verification of paternity must be submitted.**
5. A statement of financial/medical responsibility for each child, DHR-ICPC-2113, (Refer to Forms and Instructions for

financial/medical form.) The sending agency is responsible for assuring the support and maintenance of the child during the period of placement.

- a. Foster care maintenance payments in a related or unrelated home may be made if the home meets the receiving state's foster home standards. In most cases, a home must be approved, licensed or meet the receiving state's criteria for a foster home before a foster care board payment can be made. Payments will be authorized according to Alabama's rates. The receiving state must be notified of the foster care rate prior to placement.

The Consolidation Omnibus Budget Reconciliation Act (COBRA) of 1985 (P.L.99-272) provides that children who are eligible to receive Title IV-E foster care maintenance payments or Title IV-E adoption subsidies are eligible for Medicaid in their state of residence. Alabama's children who are placed in another state and are eligible to receive IV-E foster care maintenance payments or IV-E adoption subsidy payments will be eligible for Medicaid in the receiving state.

- b. In some states, payment of educational costs will need to be addressed.
 - c. When children have private income (e.g., social security, VA, child support), this money must be dispersed according to foster care policy. Private income must be used to reimburse travel expenses for children placed out-of-state.
 - d. In the event a placement disrupts, the sending agency is financially responsible for making an alternate plan.
6. County child welfare staff shall contact the potential placement resource to determine interest. Information concerning the family with whom the child is placed is needed. A request shall include the home address, telephone number, and place of employment.
 7. Documentation of IV-E eligibility status must be submitted with the referral. This information can be located on the most recent determination made by the Office of Child Welfare Eligibility, Family Services Division.

B. Request For Foster Care Placement

A foster home study is mandatory if the degree of relationship of the child does not meet the definition of relative as defined in Code of Alabama, § 38-7-2 (13), the child is unrelated, or termination of parental rights (TPR) has been identified as the case plan.

All correspondence relating to interstate placement (prior to, during, after, and at termination of placement) must be sent in triplicate (original and two copies) to Family Services Division, ICPC Office, for forwarding to other states. 100As (DHR-1238) and 100Bs (DHR-1239) from County Departments must not be separated. Correspondence shall also be collated.

A child should never be placed into another state without the prior written approval of the ICPC Office in that state. If for some reason beyond the control of the County Department, a child is placed in another state without the prior knowledge and approval of that state, the County Department shall contact the Family Services Division, ICPC Office, immediately so that the ICPC Office in the receiving state can be notified of the circumstances and plans can be made accordingly. The ICPC referral shall follow within fourteen (14) working days.

In rare instances, the court may order the County Department to assist with placing the child with a caretaker in another state. If this occurs, consult the Family Services Division, ICPC Office.

The request for the foster home study must include the following:

1. A cover letter including a statement as to why the proposed placement in the other state is believed to be in the best interest of the child. If a request needs to be expedited, the worker should write on the cover letter "URGENT" or "RUSH" in red ink.
2. The 100A (DHR-1238) is the official notice of the Intention and Request to place a child out-of-state and to conduct an investigation (Refer to Forms and Instructions.) This form **must** accompany the initial request in order to avoid delay in the receiving state initiating the home evaluation. **The 100A must be typed and the original signature copy and three other copies must be submitted. The county is to retain a copy in the county file.**
3. A current court order indicating the child's present legal status must accompany the referral. (Bench notes are unacceptable). This should prevent questions raised by the receiving state and delays in the receiving state making a decision about placement. Three copies of the most recent court documents affecting the custody of the child must be included.
4. A social history on child that provides sufficient information to assist the receiving agency in assessing the ability of the proposed home to meet the needs of the child. Information that needs to be included in the social history is as follows:
 - a. Current Family Situation - Circumstances precipitating out-of-state placement; placement history, location of child and length of time at current location; situation and location of parents; situation and location of any siblings, child's attitude toward placement; parents' attitude toward placement; visitation plans.

- b. Current Assessment Of Child – Physical appearance: height, weight, hair color, eye color, skin color, distinctive marks; current adjustment; behavioral, emotional, social skills; relationship/interaction with parents, caregivers, siblings, peers; health: diagnosis, treatment, prognosis, special needs (if any); education: grade, achievement, classroom behavior, relationship to teachers and classmates, extra curricular activities; significant others in child's life.
 - c. Assessment Of Parent(s) And Family – Physical description of parent(s) (for adoptive purposes); current functioning: education, employment, parental and social; relationship/interactions with spouse, children and other significant family members; health: physical and mental, diagnosis, treatment and prognosis; current and anticipated involvement with child.
 - d. Permanency Plan - Permanent plan for child: other options available for child; anticipated duration of proposed placement; most recent Individualized Service Plan (ISP).
 - e. Child Specific Information – Include with the social history three copies of the following items as appropriate: medical records, psychological evaluations/reports; school record/reports, previous social summary/progress reports (dated), social security card, and birth certificate. **If there is no legal father, verification of paternity must be submitted.**
5. A statement of financial/medical responsibility for the child, DHR-ICPC-2113, (Refer to Forms and Instruction for financial/medical form). The sending agency is responsible for assuring the support and maintenance of the child during the period of placement.
- a. Foster care maintenance payments in a related or unrelated home can be made if the home meets the receiving state's foster home standards. In most cases, a home must be approved, licensed or meet the receiving state's criteria for a foster home before a foster care board payment can be made. Payments will be authorized according to Alabama's rates. The receiving state shall be notified of the foster care rate prior to placement.
- If a child is being placed out-of-state in a foster care situation and a foster board payment is authorized, Medicaid coverage may be provided by the sending or receiving state. Whether Medicaid is provided by the sending state or the receiving state depends on the Title IV-E eligibility of the child.
- If children are determined ACFC (Aid To Children In Foster Care) eligible, Alabama Medicaid coverage could continue for the children when placed in another state. The children

must reside in an approved/licensed foster home. The County Department is responsible for notifying the Alabama Medicaid Agency when the child is actually placed in the receiving state. **Note:** Some out-of-state providers will not accept Alabama Medicaid because they are not registered AMA (Alabama Medicaid Agency) providers and cannot file on AMA.

The Consolidation Omnibus Budget Reconciliation Act (COBRA) of 1985 (P.L.99-272) provides that children who are eligible to receive Title IV-E foster care maintenance payments or Title IV-E adoption subsidy payments are eligible for Medicaid in their state of residence. Children eligible for these payments who are placed in another state will be eligible for the Medicaid in the receiving state.

- b. In some states, payment of educational costs will need to be addressed.
 - c. If children have private income such as social security, VA, child support, etc., this money shall be dispersed according to foster care policy. Private income shall also be used to reimburse travel expenses for children placed out-of-state.
 - d. In the event a placement fails, the sending agency is financially responsible for making an alternate plan.
6. County child welfare staff shall contact the potential placement resource to determine interest. Information concerning the family with whom the child is to be placed is needed. A request shall include the home address, telephone number, and place of employment.
 7. Documentation of IV-E status must be submitted with the referral. This information can be located on the most recent determination made by the Office of Child Welfare Eligibility, Family Services Division.

C. Regulation 7 Priority Placement

Whenever a court upon request, or on its own motion or where court approval is required, determines that a proposed priority placement of a child from one state into another state is necessary, the court shall make and sign an order embodying that finding. The order shall include the name, address, telephone number, and if available, the FAX number, of the judge and the court. A court order finding entitlement to a priority placement shall not be valid unless it contains an express finding that one or more of the following circumstances applies to the particular case and sets forth the facts on which the court bases its finding.

1. The proposed placement recipient is a relative belonging to a class of persons who, under Code of Alabama, § 38-7-2 (13), parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, half brother, half sister, uncle or aunt, and their

spouses, could receive a child from another person belonging to such a class, without complying with ICPC.

2. The child is under two (2) years of age.
3. The child is in an emergency shelter.
4. The court finds that the child has spent a substantial amount of time in the home of the proposed placement recipient.

The court shall have the sending agency transmit, within three (3) business days, the signed court order, a completed Form 100A (DHR-1238), ICPC-101 “Sending State’s Priority Home Study Request” (Reference Form Section) and supporting documentation pursuant to ICPC Article III, to the sending state Compact Administrator.

Within a time not to exceed two (2) business days after receipt of the ICPC priority placement request, the sending Compact Administrator shall transmit, by overnight mail, the priority request and its accompanying documentation to the receiving state Compact Administrator together with a notice that the request for placement is entitled to priority processing.

The receiving Compact Administrator shall immediately, by overnight mail, send the home study request to the appropriate local County Department. **The home study shall be completed within eighteen (18) working days and forwarded to the receiving Compact Administrator by overnight mail.** The receiving Compact Administrator shall complete the 100As (DHR-1238) and by overnight mail send the 100As and home study to the receiving state.

NOTE: If the County Department cannot complete the home study within eighteen (18) working days, the worker is to notify the Compact Administrator of the extraordinary circumstances that make it impossible to complete the home study within the timeframe. The receiving Compact Administrator shall, within two (2) working days of ascertaining inability to comply, notify the sending state Compact Administrator via FAX of the inability to comply and shall set forth the date on or before which it will complete action.

D. Procedures For Placement

1. When a home evaluation has been completed and the approval has been obtained from the Compact Administrator of both the sending and receiving states, the County Department makes the final arrangements for placement in coordination with the local agency in the receiving state. The concurrence of the court of jurisdiction must be obtained before placing the child. Also the court may need to issue an order authorizing the receiving family to obtain medical treatment, if necessary.

For any worker taking children out-of-state, whether the Department is responsible for payment or not, out-of-state travel authorization must be obtained by contacting Family Services Division, ICPC Office. The Deputy Compact Administrator completes the out-of-state travel authorization form

for the children and worker(s). If assistance is needed in arranging and paying for transportation for children to be placed in another state with an approved resource, the County Department should contact the Family Services Division, ICPC Office. **NOTE:** Children's private funds must be used for transportation.

After placement occurs, 100Bs(DHR-1239), Interstate Compact Report on Child's Placement Status (Refer to Forms and Instructions) must be completed and forwarded to the Family Services Division, ICPC Office, indicating date of placement. The ICPC Office will forward the 100Bs (DHR-1239) to the receiving state.

2. **The County Department is required to retain legal custody during the time of placement. If the County Department does not have custody, but the court has jurisdiction, this must be retained by the court during the placement. (Refer to Article V of Interstate Compact Law).**
3. After the child is placed in the receiving state and the supervising agency properly notified, reports on adjustment will be requested from the supervising agency in accordance with the previously agreed upon plan (see ICPC-100As). **It is the responsibility of the County Department to maintain a control system whereby if a needed report is not received from the supervisory agency, the County Department shall send a letter through the Family Services Division, ICPC Office requesting the report.** Child welfare staff shall use ACWIS to show the next action needed. Written progress reports are to be sent through the respective Compact offices.

The County Department may have direct contact with the supervising agency in the other state regarding the placement. All contacts with the child or family must go through the supervising agency unless otherwise agreed upon. If there are problems with the placement or specific issues, which may need the input of the Compact Office, correspondence is to be sent to the Family Services Division, ICPC Office. In emergency situations, information can be shared verbally with the Family Services Division, ICPC Office with written follow-up. **Examples of such concerns include but are not limited to, placement disruption, financial matters (e.g., medical bills, counseling bills, dental bills, Medicaid problems) proposed changes in the placement, and problems with terminating a case.**

Note: When children from Alabama are placed in other states, Family Services Division, ICPC Office will request that the receiving state's worker see these children at least once a month.

4. If the placement becomes unsatisfactory, the County Department

of Human Resources will be notified either by the agency providing supervision or the Family Services Division, ICPC Office. The County Department is then responsible for making an alternate plan for the child. Should the County Department need assistance in making placement arrangements, Family Services Division, ICPC Office may be contacted.

Should it become necessary to return the child to Alabama, the County and State Department or other Alabama agency is responsible for the cost of transportation unless the receiving agency indicates the family will pay. When the County Department is notified that a child needs to be picked up and detained before returning to Alabama, the Department of Human Resources is responsible for the cost of care if the child is in the Department's legal custody. Contact the Family Services Division, ICPC Office for instructions as to how to handle these bills.

If a placement in a receiving state disrupts, the plan may be to place the child in foster care in the receiving state and work toward reunification. If this plan is approved by the receiving state, another set of ICPC-100As (DHR-1238) and ICPC-100Bs (DHR-1239) shall be sent to Family Services Division, ICPC Office to indicate a placement change. The receiving state must be informed of Alabama's foster care rates and how medical bills are handled. Alabama foster care rates can only be paid.

5. If a child is being placed out-of-state in a foster care situation and a board payment is authorized, Medicaid coverage may be provided by the sending or receiving state. Whether Medicaid is provided by the sending state or the receiving state depends on the Title IV-E eligibility status of the child.

If ICPC children are determined to be ACFC (Aid To Children In Foster Care) Medicaid eligible, Alabama Medicaid coverage could continue for the children when placed in another state. The County Department will provide documentation of the children's eligibility and this documentation must be included as a part of the ICPC referral. The County Department is responsible for notifying the Alabama Medicaid Agency (AMA) when the child is actually placed in the receiving state. **NOTE:** Some out-of-state providers will not accept Alabama Medicaid because they are not registered AMA providers and cannot file for Alabama Medicaid.

The Consolidation Omnibus Budget Reconciliation Act (COBRA) of 1985 (P. L. 99-272) provides that children who are eligible to receive Title IV-E foster care maintenance payments or Title IV-E adoption subsidy payments are eligible for Medicaid in their state of residence. Children eligible to receive Title IV-E foster care maintenance payments or IV-E adoption subsidy payments will be eligible for Medicaid in the receiving state.

Foster care children placed in Alabama by another state; who are (1) placed in relative placements; (2) receiving a board payment; and, (3) are IV-E eligible in the sending state may receive IV-E Medicaid in Alabama. The sending state must furnish documentation of the IV-E eligibility through the usual ICPC process. The Family Services Division, ICPC Office will request that the Alabama Medicaid Agency certify these children for Medicaid because ACWIS will not permit the certification of Medicaid for children in related home placements. These children are registered on ACWIS in the custody of another agency (07), with Y in the ICPC field and a placement type of "related home."

Foster care children placed in Alabama by another state, who are (1) placed with an approved/licensed provider; (2) receiving a foster care board payment from the sending state; and (3) eligible for IV-E in the sending state are eligible for IV-E Medicaid in Alabama. The sending state must furnish documentation of the IV-E eligibility through the usual ICPC process. Eligibility information is submitted to the Office of Child Welfare Eligibility, Family Services Division, for certifying Medicaid on ACWIS. These children are to be registered on ACWIS in the custody of another agency (07), with Y in the ICPC field and in the appropriate placement type.

The sending state remains financially responsible for medical and other bills incurred by the child until the ICPC case is terminated. Flex funds may be used for the Department's children who are placed out of state through the ICPC process and are not covered by Medicaid or if a provider cannot be located who will accept Alabama Medicaid. The county worker shall explore with the receiving state any local, state and federal programs that might be available to assist with payment of bills.

E. Termination Of Placement

Custody of a child or court jurisdiction must be retained by the sending agency for a minimum of six months in order for the receiving agency to supervise the placement and determine if it is satisfactory. The placement agreement may be terminated only after a written report recommending termination is received from the receiving agency and written concurrence is obtained from the receiving state's Compact office. **The County Department must take no action on a report received directly from the supervising agency, as it is necessary for the Compact office in the receiving state to concur and make an official recommendation for termination.** A copy of the report shall be sent to the Family Services Division, ICPC Office, so that the concurrence of the receiving state Compact Administrator may be obtained.

Terminations of placements require court action to relieve the agency of custody of the child and/or to terminate court jurisdiction. Some states require that relatives petition the receiving state's court to obtain legal custody or

guardianship before the Department terminates their case. The court order should reflect the child's legal status after the County Department is relieved of

custody or jurisdiction terminated. The procedure to be followed when a recommendation is made that custody be awarded to a relative or agency in another state will vary depending on the rules set forth by the juvenile court. If jurisdiction is to be transferred to a court of like jurisdiction and custody placed with the supervising agency, the sending state must have a written statement verifying that the court and agency are willing to accept the case before any action is taken. The Family Services Division, ICPC Office must be notified before such action is considered. Three copies of the Court order transferring the custody of each child and ICPC-100Bs (DHR-1239) shall be sent to Family Services Division, ICPC Office, for forwarding to the appropriate out-of-state agency.

V. CHILDREN FROM OTHER STATES PLACED IN ALABAMA

ICPC children placed in Alabama from other states shall be seen in the home by county DHR staff at least once per month. Monthly contact is necessary in order to assess safety, well being and whether a placement continues to be in the child's best interest.

***Individualized Service Plans* policy requires ISPs be completed for all children and families for whom a case is opened for on-going child welfare services and the Department is involved in the planning and or delivery of those services. ICPC cases are not exempted from this requirement.**

A. Request For Relative Placement

Any sending agency wishing to place a child in Alabama must submit the request for placement to Family Services Division, ICPC Office. That office will forward the request to the appropriate County Department for an evaluation of the proposed plan. If a County Department receives a request, which appears to be an ICPC matter, directly from an agency in another state, a copy of all correspondence received must be forwarded to Family Services Division, ICPC Office immediately. **In order to be considered as a relative placement, the resource must be any of the following relationships by blood, marriage or adoption; parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, half brother, half sister, uncle or aunt, and their spouses, per Code of Alabama, § 38-7-2 (13). If relatives do not fall within this degree of relationship, a foster home study must be requested.**

The request from the other state should include sufficient information to enable the County Department to make an appropriate evaluation (see Section VII A Request for Relative Placement). If the information provided by the other state is inadequate, the County Department shall request additional information in writing before proceeding with the home study. Such requests shall be routed through the Family Services Division, ICPC Office.

Foster care children placed in Alabama by another state who are (1) placed in relative placements; (2) receive a board payment; and, (3) are IV-E eligible in the sending state may receive IV-E Medicaid in Alabama. The sending state must furnish documentation of the IV-E eligibility through the usual ICPC process. The

Family Services Division, ICPC Office will request that the Alabama Medicaid Agency certify these children for Medicaid because ACWIS will not permit the certification of Medicaid for children in related home placements. These children are registered on ACWIS in the custody of another agency, with a Y in the ICPC field, and a placement type of “related home.”

The County Department must provide to the sending state in writing the name of the worker assigned to the case. If there will be an unusually long delay (longer than **60** days) in completing the home evaluation, the sending state shall be notified. The County Department must also notify the Family Services Division, ICPC Office.

B. Request For Foster Care Placement

A foster home study is mandatory if the degree of relationship of the child does not meet the definition of relative as defined in Code of Alabama, § 38-7-2 (13), the child is unrelated; or termination of parental rights (TPR) has been identified as the case plan.

Any sending agency wishing to place a child in Alabama must submit the request for placement to Family Services Division, ICPC Office, which will forward the request to the appropriate County Department for an evaluation of the proposed plan. If a County Department receives a request, which appears to be an ICPC matter, directly from an agency in another state, a copy of all correspondence received must be forwarded to Family Services Division, ICPC Office immediately.

The request from the other state should include sufficient information to enable the County Department to make an appropriate evaluation (see Section IV B, Request for Foster Care Placement for a detailed discussion of what information the sending state should have submitted). If the information provided by the other state is inadequate, the County Department shall request additional information in writing before proceeding with the home study. Such requests shall be routed through the Family Services Division, ICPC Office.

The prospective resource shall be approved according to the “Minimum Standards For Foster Family Homes.” Provisionally approved foster family homes are not accepted in the ICPC program. The completed home study shall be submitted before a decision regarding placement is made.

C. Requirements and Guide for Home Studies And Placement Evaluations

1. Requirements For Interstate Home Studies

Safe and Timely Interstate Placement of Foster Children Act of 2006 (Public Law 109-239) places home study requirements on states to implement the following:

- States must conduct, complete and **return** a report on a home study to the requesting state **within 60 days of the receipt of request** (“receipt of request” is the date that the request is received and date stamped in the Division of

Family Services). The **60 day** timeframe includes the receipt of the report by the requesting state. **In order to meet this stringent time frame, counties are given a 50-day time frame to conduct, complete and return the home study to the Office of Interstate Compact for the Placement of Children.** This provides time for the State ICPC Office to review and return the report to the requesting state.

- States are required to treat completed home study reports received from another state, Indian tribe or private agency under contract with another state as meeting any requirements imposed by the State for the completion of a home study before placing a child in the home, unless within 14 days after receipt of the report, the State determines, based on grounds that are specific to the content of the report, that making a decision in reliance on the report would be contrary to the welfare of the child;
- The determination and decision not to place in the home study state is a joint decision between the SDHR ICPC Office and the county department. If such a determination is made, the home study state will be notified by the ICPC Office.
- Parts of the home study involving education and training of prospective foster and adoptive parents do not have to be completed within the 60-(or 75-) day timeframe.

law 109-239 provides some relief for home studies begun prior to September 30, 2008. States have an additional 15 days (total of 75 days) to complete home studies begun before September 30, 2008 if the home study was delayed due to circumstances beyond state control (e.g. failure by federal agency to provide results of background check, failure of any entity to provide completed medical forms). The state must have made a request for the documents within 15 days of receipt of request for a home study. Further, the state must document the circumstances involved and certify that completing the home study is in the best interest of the child.

Public Law 109-239 establishes three types of home studies.

- (1) Home Study: The term “home study” used alone is an evaluation of a home environment conducted in accordance with applicable requirements of the state in which the home is located to determine whether a proposed placement of a child would meet the individual needs of the child, including the child’s safety, permanency, health, well being and mental, emotional and physical development.
- (2) Interstate Home Study: This is a home study conducted by a State at the request of another State, to facilitate an adoptive or foster placement in the State conducting the

home study of a child in foster care under the responsibility of the State requesting the home study.

- (3) Timely Interstate Home Study: Public Law 109-239 establishes “timely interstate home studies” as those studies described in the definition of “Interstate Home Study” and completed within 30 days after receipt of the request and a report on the results of the study is provided to the requesting state within 30 days. The 30 days for completion does not involve education and training requirements.

Public Law 109-239 provides for incentive payments to states for the completion of Timely Interstate Home Studies. The incentive payment for each timely interstate home study completed is \$1500. The State will multiply the number of timely interstate home studies completed during a fiscal year to arrive at a total incentive payment.

2. Guide For Completion of Home Study/Evaluation

A home study for the proposed placement of a child shall be as comprehensive as possible and completed within 30-60 days of receipt of the request. The following information must be included in the study.

- (1) Summary of Agency Experience – Indicated number of visits and interviews and prior contacts of family with agency.
- (2) Identifying Data – Give names, ages, sex, religion and occupation of family members.
- (3) Physical and Personality Description – Include height, weight, coloring and any special aspects of physical appearance and manner. Discuss adjustment to their present life situation including information that reflects personality traits.
- (4) Quality of Marriage – Describe roles of husband and wife in their marriage and relationship with each other. Verify marriage and any previous marriages and divorces and give evaluation of previous marriages.
- (5) Background and Inter-personal Relationships – Describe relationship with own parents and siblings in childhood and early adult years. Describe present relationship to extended family, friends, reference/standing in community, general reputation, court and police records, if any. Describe couple’s education and employment histories, special interests, abilities, religion, social and cultural identity. Discuss their capacity to fulfill role of parents – strengths that show ability to meet physical and emotional needs of children. Discuss attitudes toward child to be placed and attitude toward this child’s parents and possible

visits by the parents.

- (6) Children In The Home, If Any – Describe development and personality of each child, quality of parent/child relationship and relationship of children to each other, and attitudes toward child to be placed.
- (7) Health – Discuss health of all family members, particularly the proposed placement resource.
- (8) Description Of Physical Environment – Give description of home and plans for accommodating child to be placed. Describe neighborhood (e.g., proximity to school, stores, urban, suburban, rural).
- (9) Financial Situation – Describe economic situation of family –employment income and stability of employment, other assets and obligations, money management. Indicate whether or not they will provide for child or require financial assistance. This should be carefully explored, especially the family's ability to care for medical needs. The financial plan should be worked out, with the agreement of all parties, prior to placement.
- (10) **ABI (state) and FBI (national) criminal history checks must be completed on all requests for home studies. Counties must submit fingerprint cards to obtain ABI and FBI suitability letters. Fingerprint cards should be completed expeditiously. The prospective resource will be responsible for any financial cost incurred for this service.**
- (11) **Central Registry clearances must be completed on all household members age fourteen (14) years and older. If the county worker determines that other individuals are in the home on a regular basis, clearances shall be completed on these individuals as well. Follow the Minimum Standards For Foster Family Homes in clearing the Central Registry. Child welfare staff must follow local procedures when clearing the Central Registry.**
- (12) References – Contact and carefully evaluate a minimum of three (3) references – persons who know the entire family. No more than one reference should be related by blood or marriage.
- (13) Recommendation Regarding Placement – This shall be a joint decision between worker and supervisor. The recommendation to place must be carefully considered as any placement that disrupts can be emotionally damaging to child. **The home evaluation must include a recommendation regarding placement.**

D. Finalization Of Placement

The home study must be sent to the Family Services Division, ICPC Office, for final review, recommendation, and disposition of ICPC-100As (DHR-1238) and forwarding to the sending state. If a foster home study is being completed, also send the Foster Family Approval (DHR-DFC-614). **The County Department must not send the study directly to the sending agency.**

If placement is recommended, ICPC-100As (DHR-1238) will be signed by the Family Services Division, ICPC Office, and forwarded to the sending state. A copy will be returned to the County Department. A child must not be brought into the state prior to the Family Services Division, ICPC Office's, approval of placement. After approval for placement by Family Services Division, ICPC Office, the local office in the sending state may make final arrangements for placement directly with the County Department.

The sending state must submit ICPC-100Bs (DHR-1239) to confirm placement date. After the child is placed in Alabama, the county department or private agency provides supervision. Reports on the children's adjustment are made in accordance with the previously agreed upon plan or more frequently when indicated. The county department is responsible for maintaining adequate controls to assure that reports are submitted on a timely basis. Progress reports are to be submitted in triplicate to Family Services Division, ICPC Office, for forwarding to the sending state.

If the placement proves to be unsatisfactory, the County Department must notify the local agency in the sending state. The Family Services Division, ICPC Office, must also be notified and especially if there are problems in returning the child(ren) to the sending state.

If the child has to be removed from the home and placed in out-of-home care (e.g., shelter) prior to the return to the sending state, the sending state is responsible for payment of that care. The sending state must be notified that the child has been placed in out-of-home care and apprised of the daily cost.

E. Case Closure

A report in triplicate summarizing the adjustment of the child and recommending case closure must be sent to the Family Services Division, ICPC Office. **The report must not be sent directly to the sending state.** The concurrence of the Family Services Division, ICPC Office, is necessary before the sending state can terminate their case. When termination is recommended, the sending state should send copies of the court order terminating the case and ICPC-100Bs (DHR-1239) to the receiving state.

VI. INTERSTATE PLACEMENT IN GROUP HOMES AND CHILD CARE INSTITUTIONS

- A. Request From An Alabama County Department For Placement In Other States
1. Request for placement of a child in a child care institution or group home in another state is sent in triplicate to the Family Services Division, ICPC Office. The request shall include a statement of why the proposed placement in another state is believed to be in the best interest of the child. A contact may be made by the county with the out-of-state child care facility to determine if the proposed placement is appropriate and will meet the child's needs. All referrals to out-of-state childcare facilities must be submitted through the Family Services Division, ICPC Office. All proposed referrals must be approved by the Family Services Division, ICPC Office prior to placement.
 2. A child can only be referred to, placed in, or provided services by child care facilities which are licensed or approved in accordance with the laws in the state in which they are located. Additionally the childcare facility must be in compliance with Title VI of the Civil Rights Act of 1964.
 3. A social history on the child and his family, any additional information requested by the out-of-state facility and the ICPC-100A (DHR-1238) must be included in the request.
 4. The Family Services Division, ICPC Office, determines which interstate placement statutes applies and routes the request accordingly.
 5. If the receiving state concurs that this placement is in the best interest of the child, Family Services Division, ICPC Office is notified in writing by the appropriate authority in the receiving state and the ICPC-100As (DHR-1238) are returned. The Family Services Division, ICPC Office then notifies the County Department. Prior to the placement, the court having jurisdiction must be notified for written concurrence with the out-of-state plan for a child who is in the temporary or permanent custody of the Department.
 6. Payment must be worked out before placement. The receiving state and facility shall be aware of the amount of payment before placement occurs.
 7. The child care institution shall be informed as to how the medical bills will be handled prior to placement. If the child is Title IV-E eligible, certification of eligibility shall be sent to the childcare institution.
 8. Following approval of the Compact Administrators of both states, the County Department makes the final arrangements for placement. The ICPC –100B (DHR-1239) is submitted at the time of placement to the Family Services Division, ICPC Office.

9. After the child is placed in the receiving state, reports on adjustment by the supervising agency will be requested in accordance with the previously agreed upon plan.
10. When it is determined that placement in the out-of-state childcare institution should be terminated, the County Department is responsible for alternate plans for the child. If the County Department needs assistance in making an alternate plan for the child, Family Services Division, ICPC Office, may be contacted for consultation. **ICPC-100Bs (DHR-1239) must be submitted to Family Services Division, ICPC Office to officially terminate the placement.**

B. Placement By Parents Or Legal Guardians

If a parent or guardian having legal custody of a child places the child in a child care institution or group home in another state, this is considered an ICPC placement. The County Department in the county of residence of the legal parent is notified through ICPC channels of the placement. It is the county's responsibility to assist the parent in completing the ICPC-100As (DHR-1238) and forwarding the forms with any information obtained about the placement to the Family Services Division, ICPC Office. The County Department is notified when the placement is approved. Usually no other services are required. The receiving state or parent/guardian shall notify the Family Services Division, ICPC Office, when the child leaves the group home or child care institution. The ICPC-100Bs (DHR-1239) to officially close the case will be completed by the Compact Office of the sending state.

C. Procedures For Placement Of Children In Out-of-State Residential Treatment Facilities

When the ISP for a child includes the possible placement of that child in an out-of-state residential treatment facility, refer to Family and Children's Services Manual, Volume II, Chapter XI Foster Care, Section XI, Residential Facilities for Children and Youth for procedures to follow.

D. Referrals From Child Care Facilities To County Departments

When a child care facility, which is not also a licensed child placing agency holds legal custody of a child and needs to have a relative resource explored for the child's possible placement, the facility shall refer the request for this service to the County Department in the county where the custody order was entered. The County Department in which the custody order was entered will initiate the ICPC request. Such service can be provided by the Department only to childcare facilities that are in compliance with Title VI of the Civil Rights Act of 1964. When a child care facility is licensed as a child placing agency, it can act as the sending agency in the ICPC request and follow procedures as previously outlined for the County Departments.

E. Request From Other State Agencies For Placement Of A Child In A Group Home Or Child Care Institution In Alabama requires the following:

1. A group home or childcare institution must contact the Family

Services Division, ICPC Office prior to accepting a child from out of state. The department cannot accept referrals of a child to a child care facility that does not comply with Title VI of the Civil Rights Act of 1964.

2. Requests for placement of a child in a child care institution or group home in Alabama are sent to the Family Services Division, ICPC Office. The Family Services Division, ICPC Office, routes the request to the childcare facility. If a foster care maintenance payment is to be made by the requesting state, Title IV-E eligibility status information is required. If the child is IV-E eligible in the other state, the Family Services Division, ICPC Office will certify IV-E Medicaid eligibility to the Alabama Medicaid agency.
3. A Social history on the child and family shall be included.
4. If an out-of-state agency writes directly to an Alabama childcare facility, the agency shall be advised in writing by the childcare facility of the interstate placement statutes, with a copy sent to the Family Services Division, ICPC Office.
5. The Family Services Division, ICPC Office, will contact the childcare facility as to whether the child will be accepted into the facility. If the placement is approved, the sending state will be requested to send an ICPC-100B (DHR-1239) indicating placement date.

VII. INTERCOUNTRY PLACEMENT OF CHILDREN AND INTERNATIONAL ADOPTIONS

The Family Services Division, ICPC Office, has had a long-standing cooperative working relationship with International Social Services in the intercountry placement of children. When a County Department has reason to contact another country with a request for service or the possible placement of a child, this request must be sent through the Family Services Division, ICPC Office. The ICPC Office must be contacted when children enter State custody due to the disruption or dissolution of an international adoption.

VIII. CHILDREN MOVING WITH FOSTER PARENTS BETWEEN STATES

- A. Procedures When Foster Children From Alabama Relocate To Another State With Their Foster Family

Should it be determined through the ISP process that it is in the best interest of a foster child to move with the foster parents to another state, this placement is subject to the Interstate Compact on the Placement of Children. The concurrence of the court of jurisdiction must be obtained for the child to leave the state with their foster parents. **Children who are in care on an Agreement for**

Foster Care (DHR-DFC-731) cannot be placed out-of-state with foster parents until the County Department obtains legal custody of the children.

If a foster child is to relocate to another state within a period of forty-five (45) days or longer from the date the county is notified of the relocation, a normal ICPC referral shall be initiated. **Refer to Section VII, Procedures for Placement of Children from Alabama, of this chapter.** The ICPC-100As (DHR-1238) and the information accompanying the referral shall make it clear that relocation of a foster family is involved and that the family's residence is not yet established in the receiving state. As much information as reasonably possible shall be given to the receiving state concerning the location and character of the intended family home in the receiving state.

If a foster child is to relocate to another state with the foster parents in forty-five (45) days or less, an ICPC-100A (DHR-1238) and its supporting documentation shall be prepared immediately following the decision by the County Department to allow the relocation and forwarded to the Family Services Division, ICPC Office. A request shall be made to the receiving state that the case be expedited. Some or all documents may be sent by express mail, faxed or any other recognized method for expedited communication. The receiving state may request and shall be entitled to receive originals or duly certified copies if it considers them necessary for a legally sufficient record under its law.

The documentation provided with the ICPC referral for foster children relocating to another state with their foster parent(s) in forty-five (45) days or less must include the following:

1. Fully completed ICPC-100As (DHR-1238) on all ICPC children in the foster home;
2. A copy of the court order providing the county department with authority to place the child;
3. A case history for the child(ren);
4. A copy of the most recent foster home approval;
5. A copy of the foster home resource record;
6. A copy of each child's most recent ISP which stipulates the permanency plan and any supplements to the permanency plan; and
7. A statement of the child's current Title IV-E eligibility status.

The County Department can continue to award foster care board payments during the transition period. Alabama board rates will be paid for foster children residing in other states. It is the County Department's responsibility to request periodic reports on the child's progress and adjustments for foster children placed in another state. If it is subsequently determined that the placement in the receiving state appears to be contrary to the interest of the child, plans to return the child or for an alternative placement are to be made immediately.

- B. Procedures When Foster Children Move To Alabama With Their Foster Family

The foster family home study received from the sending state must be reviewed. The family's home must be evaluated in accordance with Minimum Standards for Foster Family Homes and meet foster family approval in Alabama. Group Preparation Selection (GPS) will be provided in accordance with agency policy and practice. **Deciding Together can be used to avoid excessive delays in processing foster care referrals when the GPS group process is not available or appropriate for the applicant.** **Note:** A receiving state shall recognize required training from the sending state for foster parents or other parent training if the training program is shown to be substantially equivalent to training offered for the same purpose in the receiving state and the evidence submitted is in the form of an official certificate or other document identifying the training.

The home must be reapproved annually. **It is the responsibility of the County Department to keep adequate controls whereby reapprovals can be submitted as required. A copy of the approval form, Foster Family Approval (DHR-DFC 614) or Related Foster Family Home Approval (DHR-DFC 615) should be sent to the sending state.**

Within thirty (30) days of being notified by the sending state or by the foster parents that the foster family and children have arrived in the state, the appropriate county worker shall make an initial contact with the foster parents and children to begin the process of foster family home approval in the State of Alabama. Foster parents must comply with the laws of Alabama promptly after arrival into the state. The placement shall be supervised and reports on the placement furnished to the sending state as often as requested but at least every six- (6) months.

IX. CHILDREN PLACED FOR ADOPTION BETWEEN STATES

Adoptive home study requests regarding placement of children who are in the permanent custody of another child welfare agency must be conducted by the Department of Human Resources. Group Preparation Selection (GPS) is required.

A. Children Brought Into The State For The Purpose Of Adoption (Permanent Custody With Another State)

There are certain requirements to follow when a child is to be brought into the State of Alabama for the purpose of adoption. These are as follows:

1. The sending state must prepare Form ICPC-100As (DHR-1238), Request to Place Child, in quadruplicate and send it to the Family Services Division, ICPC Office.
2. The sending agency must send, in triplicate, case material on the child to be placed to the Alabama Compact Administrator. Information shall include social and medical information about the child and birth family. The birth or legal parents of the child shall be interviewed by the other state social service agency. Birth verification and medical reports shall be included for the child.

3. Court documents must be included. The sending state shall send court termination orders or copies of relinquishments in instances

where termination of parental rights was not required. The adoptive home study request will not be processed by the ICPC Office if the termination of parental rights is under appeal because the child is not free for adoption.

4. When the above information is received in the Family Services Division, ICPC Office, the County Department will be requested to complete a home study of the prospective adoptive parents. A complete home study will include GPS or Deciding Together, ABI and FBI letters of suitability, Central Registry clearances (on all household members age 14 and older) and adoption forms. Adoption forms include the Application to Adopt, Financial Statement, Physical Examination for Prospective Adoptive Parents and Information Regarding Immediate Relatives (Refer to *Adoption Policies and Procedures*).
5. If the child coming into Alabama receives Title IV-E adoption subsidy, the Family Services Division, Office of Adoption will certify eligibility for Alabama Medicaid to the Alabama Medicaid Agency upon receipt of the necessary documentation from the sending state. If a child coming into Alabama receives a state adoption subsidy with Medicaid, the Office of Adoption will certify eligibility for Alabama Medicaid with the Alabama Medicaid Agency upon receipt of the necessary documentation from the sending state if that state has signed a reciprocity agreement through Interstate Compact on Adoptions and Medical Assistance. A list of states providing reciprocity for state adoption assistance Medicaid is maintained in the Office of Adoption. Any questions should be addressed to Office of Adoption Intake.
6. The Family Services Division, ICPC Office, will review the recommendation of the County Department and if planning concurrence can be given, the Family Services Division, ICPC Office, will inform the Compact Administrator in the sending state whether the placement is approved or disapproved. The details of actual placement will be worked out between the sending agency and the County Department.
7. Once placement is confirmed with the 100B (DHR-1239) from the sending state, supervision and quarterly reports shall be provided by the County Department in triplicate to the Family Services Division, ICPC Office until finalization. Supervisory reports will be forwarded to the sending state through the Family Services Division, ICPC Office. **County Departments should not send correspondence directly to the sending state.**
8. If the adoption is finalized in Alabama, the County Department will send a copy of the Final Decree of Adoption in triplicate, to the Family Services Division, ICPC Office. The Family Services Division, ICPC Office, will forward copies of the Final Decree of Adoption to the sending state and request 100Bs (DHR-1239) to terminate service.

In the event the County Department receives information that the placement is contrary to the child's best interests, the County Department shall notify the Family Services Division, ICPC Office, immediately. It may be necessary for the County Department to seek removal of the child from the home and place the child in a foster home until arrangements can be made for the sending state to plan for the child. The County Department shall clear this with the Family Services Division, ICPC Office, before making any plans as to removal of the child from the adoptive home unless there is imminent danger.

If it comes to the attention of the County Department that a placement has occurred without the prior approval of the ICPC office, the Family Services Division, ICPC Office must be contacted.

B. Children Placed Out Of State For The Purpose Of Adoption (State DHR Has Permanent Custody).

When a child in the permanent custody of the State of Alabama is to be placed out of the state for the purpose of adoption, the following requirements must be met:

1. The Interstate Compact Request must contain the following information in triplicate (original and two copies):
 - a. a cover letter directed to the Alabama Interstate Compact Administrator;
 - b. a cover letter directed to the local receiving agency in the other state;
 - c. ICPC transmittal cover letter (DHR-DFC 1766);
 - d. the ICPC 100A (DHR-1238), Request to Place the Child in quadruplicate (original and three copies), and
 - e. the following case material, in triplicate,
 - (1) social and medical information on the child and birth family;
 - (2) birth certificates;
 - (3) medical reports/psychological evaluations/reports as appropriate, and
 - (4) court termination of parental rights orders.
2. When the above information is received in the Family Services Division, ICPC Office, the request will be processed to the Interstate Compact Administrator in the receiving state who will then forward the request to their local agency for completion.
3. Once the adoptive home study has been completed, the Compact Administrator in the receiving state will advise the Compact Administrator in Alabama of the approval or disapproval of the placement request by signing the 100A (DHR-1238). The Office of Adoption (non-foster parent adoptions) or County Department (foster parent adoptions) will be notified by the Family Services

Division, ICPC Office. If approved the details of the actual placement will be worked out between the Office of Adoption or County Department and the local agency in the receiving state including the completion of the Adoptive Home Placement Agreement and Subsidy Agreements (if applicable).

4. The Office of Adoption or County Department must confirm the placement by providing 100Bs (DHR-1239) in triplicate to the Family Services Division, ICPC Office. Supervision and quarterly reports will be provided by the local agency in the receiving state to their ICPC Administrator. Reports will be sent to the Family Services Division, ICPC Office and then forwarded to the Office of Adoption. No correspondence shall be sent by the local agency in the other state directly to the County Department or Office of Adoption. All correspondence is to be routed through the Interstate Compact Office.
5. When a recommendation for finalization of the adoption is made by the local agency in the receiving state, the Office of Adoption or County Department must forward the Consent to Adopt if the adoption is to be finalized in the other state. When finalized, the other state must send a copy of the Final Decree through its Interstate Compact Office for forwarding to Alabama ICPC. It will be routed to the County Department or the Office of Adoption. 100Bs (DHR-1239) are to be completed by the County Department or Office of Adoption.
6. If the adoption is finalized in Alabama, the Office of Adoption or County Department will send copies of the final decree along with 100Bs (DHR-1239) showing adoption finalization, in triplicate to the Family Services Division, ICPC Office. The Family Services Division, ICPC Office will forward copies of the final decree and 100Bs (DHR-1239) to the receiving state.

In the event, the receiving state provides information that the placement is contrary to the child's best interests prior to finalization, the Family Services Division, ICPC Office will notify the Office of Adoption or County Department immediately. The County Department must return the child to Alabama and make alternate plans for the child.

C. Children Placed For Adoption Coming Into Alabama (Private/Independent Adoptions)

When a child is to be brought into the state of Alabama for the purpose of adoption, the following basic requirements must be met:

1. The sending state must prepare ICPC Form – 100A (DHR-1238), Request to Place Child in quadruplicate and send it to the Family Services Division, ICPC Office.
2. The sending agency shall send in triplicate, case material on the child to be placed to the Alabama Compact Administrator. Information must include social and medical information about the birth family. A representative of a licensed child-placing agency or

Private Independent Practitioner (PIP), licensed by the Alabama Board of Social Work Examiners, shall interview the birth parents of the child. Birth verification, hospital records and a current medical report (if applicable) shall be included for the child. An adoptive home study completed by a licensed child placing agency or Private Independent Practitioner (PIP) is also required.

3. Court documents must be included. The sending state shall send termination of parental rights court orders or copies of consents to the adoption in instances where there was no termination of parental rights.
4. A complete home study will include ABI and FBI letters of suitability, Central Registry clearances (on all household members age 14 and older), medicals, adoption application and financial forms. The Central Registry clearances and medicals must be updated annually until the adoption is final. ABI and FBI letters of suitability must be updated every two (2) years until the adoption is final. Additional information may be required. This information may include but is not limited to, Legal Risk Affidavits and Native American Indian Affidavits.

If the County Department is ordered by the court to complete an independent adoptive home study, the adoption home study shall be completed according to agency guidelines (refer to *Adoption Policies and Procedures*).

5. The Family Services Division, ICPC Office, will review the request for approval of the placement, and the ICPC Office will inform the Compact Administrator in the sending state whether the placement is approved or disapproved.
6. Reports of post placement supervisory visits will be forwarded to Family Services Division, Office of Adoption, in accordance with the previously agreed upon plan.
7. When the adoption is finalized in Alabama, the supervising agency will send a copy of the Final Decree of Adoption in triplicate to Family Services Division, ICPC Office. The ICPC Office will forward copies of the Final Decree of Adoption to the sending state and request a 100B (DHR-1239) to terminate service. If the adoption disrupts prior to the issuance of the Final Decree of Adoption, the child shall be returned to the sending state.

In working with adoptive couples and their attorneys where an independent adoption has occurred, child welfare staff must refer the attorneys and adoptive couples to the Code of Alabama 1975, § 38-7-15, which provides that no person or agency shall bring or send any child into the State of Alabama for the purpose of placing him or procuring his adoption without first obtaining the consent of the Department.

D. Children Sent Out Of The State Of Alabama For The Purpose Of Adoption (Private/Independent Adoptions)

The sending agency or person is responsible for submitting the packet requesting placement of the child in another state, to the Family Services Division, ICPC Office. When the birth parent relinquishes a child to a licensed child-placing agency, the agency then assumes planning responsibility. The following requirements must be met.

1. The Interstate Compact Request must be sent to the Family Services Division, ICPC Office and must contain the following information:
 - a. a cover letter in triplicate (original and two copies) directed to The Alabama Interstate Compact Administrator;
 - b. ICPC Form 100A (DHR-1238), Request to Place Child in quadruplicate (original and three copies), and
 - c. the following case material, in triplicate,
 - (1) social and medical information on the child and birth family;
 - (2) birth certificates or hospital records if the child is a newborn;
 - (3) medical reports/psychological evaluations/reports as appropriate, and
 - (4) consents to adoption or relinquishments.
2. Three (3) copies of an adoption home study on the prospective adoptive parent(s) shall be included in the packet. The home study must meet the legal requirements of the State where the adoption will be finalized. Due to variations in State laws, in some instances contact will need to be made with the Compact Administrator to determine where the adoption can be legally finalized.
3. When the above information is received in the Family Services Division, ICPC Office, the request will be processed and sent to the Interstate Compact Administrator in the receiving State, who will make a determination regarding the approval or disapproval of the placement.
4. If approval for placement is received, placement shall be confirmed by the sending agency or person. The ICPC Form 100B (DHR-1239) must be forwarded in triplicate.
5. Supervisory reports will be provided by the receiving State through ICPC as specified on the 100A (DHR-1238) or until the adoption is finalized.
6. When the adoption is finalized, the sending agency or person will send copies of the Final Decree along with ICPC Form 100Bs (DHR-1239), in triplicate to the Family Services Division, ICPC Office. The Family Services Division, ICPC Office will forward

copies of the Final Decree and 100Bs (DHR-1239) to the receiving state.

If the placement disrupts before finalization the sending agency or person is responsible for returning the child to the sending State (Alabama).

Sometimes the County Department will receive an inquiry from birth parents or their attorney requesting assistance in placing their child in an independent adoption with a couple in another state. The County Department should refer the birth parents to a licensed child placing agency or a Private Independent Practitioner (PIP) for assistance.

E. Children Moving With Adoptive Parents Between States

1. After the placement of a child in an adoptive home in Alabama, and before the adoption is finalized, the adoptive parents may move to another state. As soon as the Office of Adoption or County Department learns of an anticipated move, a Request to Place Child, ICPC Form 100A (DHR-1238), must be completed and forwarded to the Family Services Division, ICPC Office. Summary information shall be prepared on the child and the family and must be submitted in quadruplicate. Information shall include the address, telephone number, and other identifying information so that the receiving agency can contact the family and determine if the placement can be approved. The complete ICPC packet including the approved adoptive home study must be forwarded to the receiving state through ICPC prior to the family's moving from Alabama.
2. If a child receiving state adoption subsidy or Federal Adoption Assistance from the Department moves to another state, the child will continue to receive the subsidy payments from Alabama as long as he or she is eligible. If a needed service(s) specified in the agreement is not available in the new state of residence, the state making the original adoption assistance payment remains financially responsible for providing the specified service(s).
3. For Medicaid accompanying Federal Adoption Assistance or state Adoption subsidy, the agency or County Department must contact Family Services Division, Adoption Intake for assistance to assure that the child receives Medicaid in the new state of residence as well as any services specified in the adoption subsidy agreement.

The Family Services Division, Office of Adoption is responsible for initiating and processing all forms required by the Interstate Compact on Adoption and Medical Assistance (ICAMA) to authorize Medicaid in the state of residence. To prevent a disruption of coverage, the county worker shall notify the Family Services Division, Office of Adoption, with the following information prior to the move:

- a. Name(s) of the adoptive parent(s);

- b. The current address of the family;
 - c. Name(s), DOB(s), SSN(s), race, and gender of the children involved;
 - d. Source of other medical coverage (SSI, SSA, Champus, or Private Insurance);
 - e. Type of subsidy (State with Medicaid or Medicaid IV-E);
 - f. Whether or not the child has other third party medical coverage through any program, organization or person; and
 - g. When the move will occur.
4. For adopted children from other states who are IV-E eligible and for those adopted children receiving state subsidies from ICAMA member states moving into Alabama, the adoption assistance state must furnish documentation on the child's eligibility and the information listed above to Family Services Division, Office of Adoption. SDHR'S Office of Adoption will request the Alabama Medicaid Agency certify the children for Alabama Medicaid. The children are not entered on ACWIS. No action is required by the County Department.
 5. Some foster parents provide care for children in the permanent custody of the Department or a licensed child placing agency and move out-of- state before the adoptive placement has been made. Follow the procedure outlined in Section IX B, and provide additional information pertinent to the proposed adoption. Agreement shall be reached by the two (2) states on when and where legal proceedings are to take place prior to the child leaving Alabama. No agency is to send any child in foster care for whom adoption may be the plan out-of-state until requirements of the receiving state have been met.

X. RETURN OF RUNAWAY CHILDREN IN CUSTODY OF STATE OR COUNTY DEPARTMENT

The Department of Human Resources is responsible for the return of a runaway child who is in the temporary custody of the County Department. The Department of Youth Services (DYS), through the Interstate Compact on Juveniles, is responsible for the return of all other runaway children to and from Alabama.

When the Department of Youth Services learns that a runaway child may be in the custody of the State or County Department of Human Resources, the Department of Youth Services will contact the State or County Department to determine if the youth is in their custody. When the County Department is notified, either by Youth Services or by some other source, of a runaway child who is in the custody of their Department, the county supervisor is to notify

the Family Services Division, ICPC Office. The Family Services Division, ICPC Office will make arrangements for travel and supervision if needed. The county worker/supervisor shall furnish the Family Services Division, ICPC Office with a pick-up order and custody order. If supervision is needed, the Family Services Division, ICPC Office is to be furnished necessary details such as a physical description of the child, clothing worn by the child, etc.

If the County Department learns of a runaway from another state who cannot be returned under the Juvenile Compact, the Family Services Division, ICPC Office must be contacted as to the handling of these cases.

XI. CHILDREN VISITING IN OTHER STATES

A visit is not a placement within the meaning of the Interstate Compact on the Placement of Children and does not require ICPC approval. The purpose of a visit is to provide the child with a social or cultural experience of short duration, such as a stay in a camp or with a friend or relative who has not assumed legal responsibility for providing child care services. The following constitutes a visit rather than a placement:

1. A child's stay of thirty (30) days or less and the purpose of the stay is to provide the child with a social or cultural experience of short duration;
or
2. A stay or proposed stay of longer than thirty (30) days that begins or ends within the period of a child's vacation from school as ascertained from the academic calendar of the school.

A visit may not be extended or renewed in a manner that causes or will cause it to exceed thirty (30) days or the school vacation period. If a stay does not, from the outset, have an expressed termination or end date, or if its duration is not clear from the circumstances, it must be considered a placement or proposed placement and not a visit.

A request for a home study or supervision made by the person or agency which sends or proposes to send a child on a visit will conclusively establish that the intent of the stay or proposed stay is not a visit.

Home evaluations and supervision during **visits** are not required as they are considered a non-compact matter.

ALABAMA COURT IMPROVEMENT PROGRAM ADVISORY COMMITTEE

Minutes of the Meeting May 9, 2008

The Alabama Court Improvement Program Advisory Committee convened on Friday, May 9, 2008, in the Small Classroom of the Heflin-Torbert Judicial Building in Montgomery. The meeting began at approximately 10:10 a.m. The following members were present:

Hon. John Davis, Retired Circuit Judge and Chairperson
Hon. Lyn Stuart, Associate Justice, Supreme Court of Alabama
Hon. Bill Thompson, Judge, Alabama Court of Civil Appeals
Hon. Philip Lisenby, Circuit Judge, 6th Judicial Circuit
Delane Goggans, Chief Probation Officer, Elmore County (sitting for Hon. Maura Culberson, District Judge, Elmore County)
Ms. Shirley Scanlan, Deputy Director, Family Services Division, Alabama Department of Human Resources
David W. Smith, Esq., DHR Attorney, Montgomery Regional Office
Juliana Taylor, Esq., Guardian ad Litem, Montgomery
James A Tucker, Esq., Alabama Disabilities Advocacy Program, University of Alabama School of Law
Ms. Marian Loftin, Executive Director, Children's Trust Fund

Alabama Administrative Office of Courts (AOC) staff included the following:

Tom Wright, Esq., Assistant Director, Family Court Division
Bob Maddox, Esq., Legal Advisor, Family Court Division

Welcome and Introduction of Attendees/ New Members

Judge John Davis, Chairperson of the Committee (on behalf of Chief Justice Sue Bell Cobb, Administrative Director of Courts Callie T. Dietz, Family Court Division Director Karen Trussell, and CIP Training Grant Manager April Johnson) welcomed the persons present and asked the members to introduce themselves.

Caseflow Management Training Workshops

Judge Davis described the Juvenile Dependency Caseflow Management Training Workshops. There have been 4 (actually 5 separate) Workshops since last year.

The Workshops were well-received by the participants mostly consisting of a juvenile court judge, a clerk or docketing person, a DHR foster care supervisor, and a DHR attorney. The participants attending the Workshop this past week at the Alabama 4-H

Center noted that they especially benefitted hearing reports from 3 counties that participated in last year's Workshops describing improvements and accomplishments in their local caseload management process.

Bob Maddox referred the members to a handout showing the dates and locations of the Workshops, the counties represented, and some of the project planning objectives noted by the counties. Bob also referred the persons present to an agenda from the May, 2008, Workshop, which was basically the same agenda followed in the previous workshops. The participants were trained and participated in group exercises on how to make the first event (the shelter care hearing) more meaningful, "walking the tracks," how to use data and information systems to see how to improve your process, and developing a caseload management plan.

Bob also described the Reunion Workshop held this past February for 17 of the original 19 counties trained last year. Some of the improvements noted by the county teams since last year, as well as agendas for both Reunion Workshops, were included in the handout.

Guardian ad Litem Certification and Recertification Program

Judge Davis and Bob Maddox gave an update of the GAL training courses. The federal Child Abuse Prevention and Treatment Act (CAPTA), as a condition of federal funding, requires the chief executive officer of each State to certify to the federal government that GALs in dependency cases are trained as to their role. As of April 21, 2008, the AOC has 978 attorneys who have been certified and placed on the master appointment list, which is sent to all the Presiding Circuit Judges and the juvenile and family court judges.

This calendar year, four 6-hour certification courses and eight 2-hour recertification courses are being conducted as noted in the handout. Bob referred the members present to copies of agendas from the Tuscaloosa courses held on April 10 and 11, 2008. Additionally, the 2-hour course is available to be taken online on both ABICLE's and Cumberland's websites.

James Tucker pointed out that training is needed for parents' attorneys. Judge Lisenby said he does not appoint attorneys for parents unless they are on the GAL appointment list. David Smith asked if a lot of the GALs who are trained and are placed on the appointment list are also parents' attorneys. Juliana Taylor said that 978 is just a portion of the total Family Law bar and may not include all attorneys who are appointed for parents.

Bob also pointed out that the new Juvenile Code Revision bill contains provisions distinguishing between a child's attorney and a guardian ad litem and a section providing for minimum duties for GALs.

Juvenile Code Bill and Other Legal Updates

Bob Maddox just received news that the Juvenile Code Revision Bill (HB 28) was signed by the Governor and is now Act No. 2008-277. It would take a while to describe all the major changes, so Bob just explained some of the changes related to the dependency area. In the handout, the Supreme Court of Alabama amended and/or adopted court

rules in order for the State to comply with amendments to the Adoption and Safe Families Act. Specifically, Rules 13(E), 24, and 32, Alabama Rules of Juvenile Procedure, provide for notice and a right to be heard in any proceeding involving a foster child for foster parents, preadoptive parents, and relative caregivers and for certain requirements in permanency hearings. These provisions were also placed in the Juvenile Code Revision Act. Some “clean-up” changes were made to the dependency and TPR sections.

Bob also discussed additional amendments of the Alabama Rules of Juvenile Procedure which were adopted in the last year or so. Rules 1 and 28(C), dealing with the time within which both postjudgment motions and notices of appeal must be filed in juvenile court, were amended to provide that the time begins running from the date the order or judgment is entered into the State Judicial Information System (SJIS). Judge Lisenby asked if there were any problems since these rules were amended. He said that sometimes there are delays in personnel entering the dates into the computer which causes problems with the time within which a postjudgment motion must be ruled on or it will be deemed denied. For example, if a postjudgment motion is filed and the judge grants the motion with an order on the 10th day, but the clerk’s office does not enter it into the computer until the 20th day, the appeal time will begin running on the 14th day since it will be deemed “denied” by operation of law. Judge Lisenby also pointed out that the date the order or judgment is “entered into the SJIS” causes problems in divorce cases with the remarriage time statute. Judge Thompson said that there are problems with orders not being entered correctly by juvenile probation officers.

Another Rule that was amended was Rule 20 dealing with the recording of juvenile court proceedings instead of testimony. Bob said that clarification is needed as to what “proceedings” need to be recorded. His opinion was that any proceeding, hearing, or review in which parties are notified and appear physically before the judge or referee and provide any information should be recorded. As a result of this Rule, Basic CIP Grant funds, as well as funds from the Court of Civil Appeals, were used to buy digital recorders. As of today, 47 recorders were provided to 37 counties.

Effective February 1st of this year, Rule 13 was amended to clarify when summonses and notices of juvenile court hearings should be issued.

Expedited Appeal Procedures Updates

Justice Lyn Stuart, Associate Justice, Alabama Supreme Court, gave an updates of the expedited appeal procedures in her Court. She noted that not many changes have been made since the last update to this Committee – they are still following internal rules whereby stickers are used to note when cases are to be expedited. Orange stickers are used for “regular” expedited cases and bright green stickers are used for juvenile expedited cases. These same color codings are used on the case management system.

Six weeks ago, a change was made to provide that once a Justice is assigned a juvenile case, the Justice writes a memorandum to the other Justices and reports on the status of the case.

As of now, the Court is current on juvenile cases.

Judge Bill Thompson, Presiding Judge, Alabama Court of Civil Appeals, reported that

over 5 years, cases are being processed faster in his court. In 2002-2003, there were 133 original juvenile cases with an average number of 209 days. 76% of the cases were handled in 290 days, and 86.5% were handled in 365 days. This past year, there were 187 original juvenile cases with an average number of 169 days. 95.2% of the cases were handled in 290 days, and 99.4% were handled in 365 days.

A handout of the expedited procedures in the Court of Civil Appeals was distributed. Judge Thompson pointed out that it appears that juvenile cases are becoming more complex. Judge Davis wondered if more training of judges and attorneys was needed to avoid cases being reversed. It was noted that attorneys are attending more ISPs. Juvenile court judges are having trouble finding people to transcribe the record causing delay in getting the transcripts to the court.

ICPC Assessment

Bob Maddox explained that as a condition of receiving next year's funding for the Basic CIP Grant, the CIP staff is required to conduct an ICPC Assessment and make the findings and recommendations a part of the 2008 Annual Report due June 30th.

Bob distributed a handout which explained the reasons for the assessment: cooperation in information sharing by courts; testimony and information across state lines without the need to travel; and participation of parties and attorneys across state lines without the need to travel.

The assessment consisted of reviewing ICPC court files on-site during the CIP Assessment; asking questions at the Caseload Management Workshops; meeting with State DHR staff on April 8th; compiling federal and state laws, policies, and procedures; and sending an e-mail survey to juvenile court judges on March 21st.

Some of the findings are that courts have not taken testimony of parties or witnesses by telephone; they allow the Alabama caseworker to testify about the information. Home studies are NOT being obtained quicker from other States since the new law passed in 2006.

Bob noted that the Advisory Committee may provide input as to any recommended law changes or policy changes to expedite interstate placements. Juliana Taylor said it may be a good idea to remind States that they have an incentive of additional federal monies if the home studies are done in 30 days. David Smith said that information can be disseminated. Shirley Scanlan noted that Commissioner Walley is trying to emphasize more timely criminal background checks, a major source of delay.

Justice Stuart suggested that Congress should provide federal funding to pay salaries of staff to do nothing but ICPC assessments and home studies. States could have people in the State office or regionally.

DHR Updates

Shirley Scanlan from the State DHR explained the handouts for the Title IV-E Federal Review and the Child and Family Services Review. Concerning the IV-E Review, the first one was conducted in 2003 for which the State was found not to be in substantial compliance, primarily due to errors related to language in court orders. However, after

much training on court order language and other initiatives, the State passed the 2006 Review. The next IV-E review is scheduled for the week of August 24, 2009. To prepare for this Review, county departments and child placing agencies are to complete by June 30th a 100% review of foster family home records to ensure proper documentation of certain safety requirements is being met. In terms of court order language and other court-related requirements, initial findings are that 2 counties have ratification of referee's findings as a problem.

The first CFSR was in 2002, and the second was last year. A "courtesy copy" of the final report has been received, but the official final report has not been issued. The Program Improvement Plan (PIP) is due June 4, 2008. Initial findings from the second review are that safety is a strength but permanency needs improvement. DHR is continuing dialogue with the courts on this issue.

David Smith noted that he will get with State DHR Legal staff on organizing some DHR attorney training on permanency issues. Justice Stuart said that the appellate courts can play a role in permanency as well.

Proposed Basic CIP Grant Plan for 2008-2010

Bob Maddox explained some of the proposed Basic CIP Grant Plan, which would encompass the following:

- *Continued assessment of the juvenile and family courts
- *Probate/Juvenile Subcommittee – Adoption Issues (August 2008)
- *GAL Certification and Recertification Courses (ongoing)
- *3 Model Juvenile Courts (Mobile, Tuscaloosa, and Lauderdale Counties) – possibly another county added this year
- *Juvenile Code Revision Act
- *Continued Collaboration Activities (State QA, Children's Justice Task Force, CFSR/Title IV-E, CAPTA)
- *Utilize funding for judges' membership to National Council of Juvenile and Family Court Judges

Proposed CIP Training Grant Plan for 2008-2010

Bob Maddox explained the proposed CIP Training Grant Plan, which would encompass some of the following:

- *Continued Dependency Caseflow Management Training (Reunions; regionals)
- *Juvenile Code Revision Act Training
- *Additional Day of Training at Various Conferences/Meetings
- *Training for Administrative Support Assistants

Other Business

Judge Davis noted that he had intended to make a special presentation in the form of a plaque from the Chief Justice and himself to Liz McCormick, Executive Director of the Alabama CASA Network, Inc., who is retiring, but she was not present.

The meeting adjourned at approximately 12:15 p.m.

Judges Survey
Interstate Compact for the Placement of Foster Children

NAME: _____

- 1. Have you had any dependency foster care cases in the previous 12 months in which the child was placed in an out-of-state foster care or adoptive placement?**

____ Yes (13)

____ No (20)

IF YOU ANSWERED "YES," CONTINUE. IF YOU ANSWERED "NO," PLEASE SEND THIS SURVEY BACK PURSUANT TO THE INSTRUCTIONS IN THE E-MAIL.

- 2. At what stage was an ICPC issue usually brought to your attention?**

____ Shelter care hearing (4)

____ Adjudicatory hearing (6)

____ Review (7)

____ Permanency hearing (4)

____ TPR hearing (1)

____ Other (please specify): _____

(1) Initial appearance

(1) Out-of-state placement thru ICPC has occurred as (at?) various stages as DHR located suitable relative resources

(Note: One judge answered four times; another judge answered twice; another judge answered twice; another judge answered twice; another judge answered twice; another judge answered five times)

3. In hearings in which out-of-state placements were considered, how did you obtain information and testimony without requiring parties, attorneys, and caseworkers from other States to travel (check all that apply)?

____ Telephone conference (1)

____ Written form (9)

____ Other (please specify):

(1) By stipulation of the parties

(1) Testimony from social workers

(1) Testimony

(1) Parties appeared or local caseworker testify

(1) Usually a full report is issued by the other state agency. Very comprehensive and done in the normal course of business. Sometimes a worker is available via teleconference; usually the prospective placement adults are present at the hearing and testimony is adduced.

(1) Testimony of local DHR staff regarding conversations and work with other state, occasionally a caseworker has traveled from the other state, but rare

(1) The parties were required to travel to [my court]. An attorney was appointed to represent them as they usually were without funds to retain an attorney. Also, the Court/[local county] DHR through ICPC obtained a home evaluation from the appropriate DHR organization in the foreign state. The foreign caseworkers were not required to travel to Alabama and no objection to the home evals has been raised.

(Note: One judge answered twice; another judge answered twice; another judge answered three times)

4. How are out-of-state parties or witnesses sworn in for testimony when the hearing is conducted by telephone conference call (check all that apply)?

____ The parties/witnesses are sworn in by an official in the other state (0)

____ The parties/witnesses are sworn in by the judge or other official in Alabama (6) – One judge answered that most are present for the hearing.

NO ANSWER – (7) – One judge stated that he has not used telephone testimony; another judge stated that witnesses were present in court and not by telephone; another judge answered no conference calls; another judge answered “NA” – Not Applicable.

5. What are your acceptable methods for receiving written information from the other state (check all that apply)?

_____ Facsimile (2)

_____ Regular mail (5)

_____ Certified mail (3)

_____ E-mail (2)

_____ Telephone call (2)

_____ All information must go through the State DHR Interstate office. We do not accept information directly from other States. (7)

_____ Other (please specify): _____

(1) What was not in the ICPC Homestudy was stipulated by the Parties

(1) ICPC cases

(Note: One judge answered twice; another judge answered twice; another judge answered five times; another judge answered five times)

6. If your court is asked to provide information on cases in other states, how do you typically share information with those courts (check all that apply)?

_____ Facsimile (2)

_____ Regular mail (2)

_____ Certified mail (0)

_____ E-mail (1)

_____ Telephone call (3)

_____ All information must go through the State DHR Interstate office. We do not accept information directly from other States. (8)

_____ Other (please specify): _____

(1) DHR's job, and I follow through to see it happen

(1) I have never been asked to do that as best as I can recall

(1) Has not been an issue

NO ANSWER (1)

(Note: One judge answered twice; another judge answered five times; another judge answered three times)

7. Since the new federal law was effective October 1, 2006, have you seen other states doing home studies faster?

_____ Yes (4)

_____ No (9)

(Note: One judge answered that he has not noticed any changes in time frames)

8. What barriers/delays do you encounter in dependency cases in which out-of-state placements are being considered?

(1) Time of completion of report

(2) Home studies

(1) The usual delay is the ICPC Homestudy, however, we have received these quicker lately. It usually takes our local office to keep on the state office and the person requesting the homestudy to keep on their local office.

(1) Time to receive ICPC paperwork in which work has already been done – why does the paper ALONE take over 1 month?

(1) The timely return of home studies through ICPC and little to no timely submission of supervisory reports from the other state once placement is made in order to close case safely

(1) Most of the time, the delay is at least six months to one year.

(1) Red tape because of working through two different State's ICPC offices and working through several agencies

(1) Delays in obtaining home evaluations on prospective foster parents/relative resources. (I have telephoned the director in the foreign state to try to speed up the process on at least two occasions). Delays in getting out-of-state persons who want to file custody petitions to do so quickly even when the documents are mailed to them. Understaffing and/or high turn-over at the CDHR level delay hearings, increase continuance requests because required work cannot be completed.

(1) ICPC not being back

(1) Completion of ICPC and enough contact information

(1) Some states still do not do ICPC studies faster – balk when child is sent for a “visit” (older children placed with relatives). “Private” custody placements of

children with problems arrive in your jurisdiction and no one knows.

(1) NO ANSWER

9. Do you have ideas for changes in state laws or court rules to expedite interstate placements?

(1) Encourage and allow local personnel to conduct the homestudies. They are the ones how are interested in completing them.

(1) Not at this time

(1) I preside in a border county with [another State]. Most of my home studies are performed in the two border counties on the other side of the state line. I believe that it would be much more effective if the workers from border counties were allowed to travel into the border counties from sister states to perform home studies.

(1) Enforcement of existing sanctions, to occur quickly, as opposed to many months after the “infraction”

(1) No

(1) Enforceable penalties for States who violate the compact on a case by case basis. Compact officers who police the interaction between states. Each state already has their own Compact office which tends to be loyal to their own state.

(1) Reduce the unnecessary red tape on both ends. Having the requirement that umpteen “supervisors” fill out paperwork/administrative forms in both states does not necessarily serve the best interests of children. In some cases, egos get involved and a child can age out of the system before final decisions can be made.

(1) Sanctions for failure to comply w/in 60 days – criminal records check huge delay

(5) NO ANSWER

10. What educational or training programs, if any, would be helpful to your jurisdiction on ICPC issues?

(1) Remind people that there is an “Expedited Home Study” process for certain aged children.

(1) Very little, the standards must be met, we have little control over the other state’s response time etc.

(1) Training is not the issue. Punctuality is, and accountability!

(1) Training on how to request and obtain home studies more efficiently.

(1) I think a general information manual as to what information is required in an ICPC home study and also how state's laws differ in dealing with interstate placement of children

(1) I do not know. The Juvenile Court can only address these cases "one at a time" and only when all needed information is provided by DHR or lawyers. The "Court" is rarely involved in the ICPC process other than to sign the order.

(1) Our primary problems are with [another State] who routinely circumvents the Compact. The local staff in [the other State] needs more training. They will do anything to keep from following through with the ICPC process in full, and will rarely approve homes for children from our State even when thought viable by all involved. Training on abiding by the spirit of the law and not the letter.

(1) Just anything would be helpful – need specific training like this for DHR and judges together

(1) New workers to be trained on gathering information and with following up calls return of documents

(4) NO ANSWER