

INTERSTATE PLACEMENT REPORT

Consistent with the application requirement to provide an analysis of interstate placement cases in Illinois, various elements of the process were examined. First, an analysis of Illinois law was conducted (relevant law is documented later in this report). Second, a survey was designed and distributed to the Chief Circuit Judges of the twenty-three Illinois circuits, a copy of which is provided in this report. Third, extensive collaboration with the DCFS occurred through data collection and an interview with the Interstate Compact Coordinator to learn of the interstate placement process in Illinois and areas of concern with same.

I. Current State Law Analysis

The statutory authority for the Interstate Compact on the Placement of Children can be found at 45 ILCS 15/1. Other applicable law for interstate placements includes the Uniform Child-Custody Jurisdiction and Enforcement Act (750 ILCS 36/111 and §112.)

Interstate Compact on the Placement of Children (45 ILCS 15/1)

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 on which to evaluate a projected placement before it is made.

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

750 ILCS 36/111- Taking Testimony In Another State.

(a) In addition to other procedures available to a party, a party to a child-custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in this State for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is taken.

(b) A court of this State may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that state. A court of this State shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

(c) Documentary evidence transmitted from another state to a court of this State by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

750 ILCS 36/112- Cooperation Between Courts; Preservation Of Records.

(a) A court of this State may request the appropriate court of another state to:

(1) hold an evidentiary hearing;

(2) order a person to produce or give evidence pursuant to procedures of that state;

(3) order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;

(4) forward to the court of this State a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; and

(5) order a party to a child-custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

(b) Upon request of a court of another state, a court of this State may hold a hearing or enter an order described in subsection (a).

(c) Travel and other necessary and reasonable expenses incurred under subsections (a) and (b) may be assessed against the parties according to the law of this State.

(d) A court of this State shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child-custody proceeding until the child attains 18 years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of those records.

Illinois law does allow for testimony and depositions to be taken in other states, permits evidentiary proceedings to be conducted in other states, and provides other means similar to assist in expediting interstate placement cases. The survey results indicate most trial courts are not utilizing such procedures.

Most of the cases involving interstate placement are instigated and facilitated by the child welfare agency and with limited involvement of the courts. DCFS internal rules require documentation the judge has been provided information regarding the placement. A court order approving the placement is not required. Attached is a copy of the Illinois Department of Children and Family Services' rule pertaining to the interstate placement of children.

II. Current Court Practices - Circuit Survey Results

The results of the circuit-wide Interstate Placement Survey indicate several circuits have not had an occasion to place children out of state. Of those circuits reporting out-of-state placements, most rely on DCFS to facilitate the placements. Areas of concern, as reported by some courts, include the delay in interstate placement home studies and delays in the return of a child placed out of state if that placement is subsequently deemed inappropriate for the child.

In response to describing the process used for the interstate placement of children, judges rely on statutes, including the Interstate Placement Act, for guidance in placing children in other states. In addition, some courts report relying on the home study requested by the social service agency to assist them in their placement decisions.

Three of the circuits which responded to the survey reported the use of teleconferencing or videoconferencing as a means to conduct court proceedings. Additional findings are as follows:

Thirteen circuits report accepting testimony and/or documentary evidence obtained in another state.

No circuits have requested judges from other states to take testimony of a witness or party.

No circuits have requested a judge from another state to oversee a deposition.

Nine circuits have requested a judge from another state to transmit documents.

No circuits have been requested by a judge from another state to take the testimony of a witness or party.

No circuits have been requested by a judge from another state to oversee a deposition.

Five circuits have been requested by a judge from another state to transmit documents.

The only reported training received by judges is that provided by judicial education seminars sponsored by the AOIC.

Circuit _____

**SURVEY OF CHIEF CIRCUIT JUDGES
TO ASSESS THE EFFECTIVENESS OF THE
INTERSTATE PLACEMENT OF CHILDREN**

In order to ascertain the effectiveness of Interstate Placement of Children in family/foster care child custody proceedings, the Administrative Office of the Illinois Courts, Child Welfare Unit, is conducting a brief survey of all the circuits in Illinois. Child custody proceedings are defined at 750 ILCS 36/102(4) (neglect, abuse, guardianship, termination of parental rights, etc.). Please take a moment to answer the questions below. If you have questions about the survey, please feel free to contact Ms. Michelle Thielen at 217-785-4275. Thank you for your assistance.

1. Does your circuit have occasion to make interstate placement of children in custody cases?

Yes / No Comment:

If yes:

During the past one year period, approximately how many Illinois children were placed out-of-state from your circuit? _____

During the past one year period, approximately how many out-of-state children were placed in Illinois through your circuit? _____

2. Briefly describe the process in your circuit for the interstate placement of children in family/foster care custody matters:

3. The statutory authority for the Interstate Compact on Placement of Children is found at 45 ILCS 15/1. The taking of testimony in another state is allowed by 750 ILCS 36/111, and 750 ILCS 36/112 provides authority for cooperation between courts in two different states. Based on this statutory authority, and in the context of an interstate placement, does your circuit utilize:

Hearings via telephone or by video conference? Yes / No

Comment (frequency, circumstances, etc.):

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Testimony and/or documentary evidence obtained in another state? Yes / No

Comment (frequency, circumstances, etc.):

Other procedures (please specify)?

4. a. To timely manage an interstate placement case, do judges in your circuit request judges from another state to:

Take testimony of any witness or party? Yes / No

Comment / Explanation:

Oversee a deposition? Yes / No

Comment / Explanation:

Transmit documents? Yes / N

Comment / Explanation:

Other (please specify)?

- b. Have judges in your circuit been requested by judges from another state to:

Take testimony of any witness or party? Yes / No

Comment / Explanation:

Oversee a deposition? Yes / No

Comment / Explanation:

Transmit documents? Yes / No

Comment / Explanation:

Other (please specify)?

5. Do judges in your circuit receive training in regard to interstate placement cases?

Yes / No Comment:

If Yes, please describe:

6. What legal barriers, if any, prevent timely and/or thorough judicial decision-making regarding interstate placements?

7. What changes, if any, in legislation, court rule, or training of judges and lawyers, would you recommend to help improve the interstate placement process?

ADDITIONAL COMMENTS AND EXPLANATION

Please feel free to provide any additional comments and explanation that may assist us in understanding your responses. Thank you for your participation in this survey.

Survey Prepared by: _____

Telephone: _____ Date: _____

Please respond by FAX (217-785-3793) to Michelle Thielen no later than May 1, 2008.

III. The Interstate Placement Process in Illinois

Once a request for an interstate home study is received by the DCFS interstate placement office, it is assigned an interstate worker based on geographical location. The home study requests are forwarded to contractual private agencies for completion. Illinois is one of the few states that contracts with purchase of service providers to conduct all of their home studies for interstate placement cases. In the event an interstate referral is received for placement in a home that is not that of a parent, relative or a licensed foster parent/group home, it is managed by the local DCFS office to first begin the licensing process. Under the Safe and Timely Interstate Placement of Foster Children Act of 2006 (Safe and Timely Act) guidelines, the receiving state has sixty days to complete a home study. This time frame excludes the time it takes to complete a background check and any required foster parent training.

The home study should be completed within the sixty day mandate, but the data demonstrates this timeline is not always adhered to. Once the home study is completed, it is returned to the receiving state's interstate compact coordinator. A completed home study can be sent to the requesting state without the approval or denial from the sending state as such a decision could be dependent on the outcome of the background check or training completion. Once a decision is made to either approve or deny the request, the DCFS interstate compact coordinator provides the decision to his/her counterpart in the requesting state. If the request is denied, the case is closed, and no further action is required from Illinois. However, if the child was already placed in Illinois and the placement is denied, the child will need to return to the sending state.

If the placement is approved, the sending state is notified that Illinois will open a case and monitor the placement monthly. Supervision will occur from the local DCFS office, or if the

placement is in Cook County, by the private agency, Kmetko, which monitors all of Cook County's interstate placement cases. Illinois provides quarterly reports to the sending state. The sending state retains jurisdiction of the case. Illinois continues to monitor the case until the placement is disrupted, the child reaches permanency, or the sending state closes their case. If adoption is the permanency option, Illinois will perform an adoption home study, and if approved, the adoption can proceed in Illinois or in the sending state.

When Illinois is the sending state (state requesting to place a child in another state via the interstate compact), the request for such placement is sent from the local caseworker to Illinois' interstate placement office (DCFS). The interstate placement coordinator compiles the necessary packet of information received from the worker to then forward to his/her counterpart in the receiving state. There are several necessary documents needed for an interstate placement request, one of which is a court order granting DCFS temporary custody with the right to consent to medical treatment. Once the necessary information packet is completed and sent to the receiving state, the receiving state begins the home study process.

The home study should be completed within the sixty days, but again as the data below demonstrates, the timeline is not always adhered to. Once Illinois receives a decision of either approving or denying the placement request, the caseworker making the request is notified. The receiving state then monitors the case and sends quarterly reports to the interstate placement office, which then forwards them to the assigned caseworker. The case remains open until permanency is reached, the placement is disrupted, or the child is adopted.

There is no recourse if other states fail to comply with the timelines of the Safe and Timely

Act. The interstate compact coordinator did report noticeable change in the time that it takes for home studies to be completed since the enactment of the Safe and Timely Act. States are now generally completing home studies in a more timely fashion. He stated that Illinois has added a clause to the contracts of the private agencies conducting the home studies that requires the studies to be completed in the sixty-day time period. This provision was not present prior to the enactment of Safe and Timely Act.

Summary of Interstate Placement Activity in Illinois

Number of interstate requests (Parent Relative Adoption Foster) coming in from other states:

Calendar Year: 2006

Cook Co: 426

Downstate: 625

Calendar Year: 2007

Cook Co: 473

Downstate: 656

Total Number of Requests sent out:

Calendar Year: 2006 – 177

Calendar Year: 2007 – 151

Avg time it took to complete a home study incoming to IL:

Calendar Year: 2006

Cook Co: 35 days

Downstate: 76 days

Calendar Year: 2007

Cook Co: 42 Days

Downstate: 61 Days

Outgoing Cases Avg Number of Days (the time it took the other state):

Calendar Year: 2006 – 141

Calendar Year: 2007 – 92