

## **Assessment of Legal Issues and Court Proceedings in Indiana Involving Out of State Placements**

This assessment of legal issues in child welfare cases for which there has been an out of state placement ordered will explore whether Indiana law allows or prohibit the following issues:

1. **May parties testify and present evidence without being physically present in the state or, if within the state, at the hearing.**

In Child In Need of Services (CHINS) cases when children are placed out of state under the Interstate Compact on the Placement of Children the court needs to attempt to include the child and the caregiver in the review hearings as required by Indiana law.

### **IC 31-34-21-4**

#### **Notice of case review; testimony in periodic case review**

Sec. 4. (a) Except as provided in subsection (f), at least ten (10) days before the periodic case review, including a case review that is a permanency hearing under section 7 of this chapter, the department shall send notice of the review to each of the following:

- (1) The child's parent, guardian, or custodian.
  - (2) An attorney who has entered an appearance on behalf of the child's parent, guardian, or custodian.
  - (3) A prospective adoptive parent named in a petition for adoption of the child filed under IC 31-19-2 if:
    - (A) each consent to adoption of the child that is required under IC 31-19-9-1 has been executed in the form and manner required by IC 31-19-9 and filed with the county office;
    - (B) the court having jurisdiction in the adoption case has determined under any applicable provision of IC 31-19-9 that consent to adoption is not required from a parent, guardian, or custodian; or
    - (C) a petition to terminate the parent-child relationship between the child and any parent who has not executed a written consent to adoption under IC 31-19-9-2 has been filed under IC 31-35 and is pending.
  - (4) Any other person who:
    - (A) the department has knowledge is currently providing care for the child; and
    - (B) is not required to be licensed under IC 12-17.2 or IC 31-27 to provide care for the child.
  - (5) Any other suitable relative or person whom the department knows has had a significant or caretaking relationship to the child.
- (b) At least ten (10) days before the periodic case review, including a case review that is a permanency hearing under section 7 of this chapter, the department shall provide notice of the review to the child's foster parent or long term foster parent by the same process prescribed under Indiana Trial Rule 4.1. The department shall present proof of service of the notice at the case review.
- (c) The court shall provide to a person described in subsection (a) or (b) an opportunity

to be heard and to make any recommendations to the court in a periodic case review, including a permanency hearing under section 7 of this chapter. The right to be heard and to make recommendations under this subsection includes:

(1) the right of a person described in subsection (a) or (b) to submit a written statement to the court that, if served upon all parties to the child in need of services proceeding and the persons described in subsection (a) or (b), may be made a part of the court record; and

(2) the right to present oral testimony to the court and cross examine any of the witnesses at the hearing.

(d) Except as provided in subsection (f), this section does not exempt the department from sending a notice of the review to each party to the child in need of services proceeding.

(e) The court shall continue the review if, at the time of the review, the department has not provided the court with signed verification from the child's foster parent or long term foster parent, as obtained through subsection (b), that the foster parent or long term foster parent, has been notified of the review at least five (5) business days before the review. However, the court is not required to continue the review if the child's foster parent or long term foster parent appears for the review.

(f) If the parent of an abandoned child does not disclose the parent's name as allowed by IC 31-34-2.5-1(c), the parent is not required to be notified of a proceeding described in subsection (a).

Indiana's Administrative Rules provide for audio/video testimony in cases involving all cases, including those cases concerning children in foster care.

#### **Rule 14. Audio/Video Telecommunication in Criminal, Juvenile, Mental Health, and Civil Proceedings**

**(A) Authority.** A trial court may, in its discretion, conduct hearings and proceedings utilizing audio/video telecommunications pursuant to the provisions of this rule in the following circumstances:

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3) In juvenile proceedings a court may utilize video telecommunications:

a) When a child is alleged to be a delinquent child, for a detention hearing pursuant to IC 31-37-6 or a periodic review hearing pursuant to IC 31-37-20-2;

b) When a child is alleged to be a child in need of service, for a detention hearing pursuant to IC 31-34-5 or a periodic review hearing pursuant to IC 31-34-21-2;

4) In civil proceedings, witness testimony may be presented by audio/video telecommunications when the parties consent;

\* \* \*

In addition, there is caselaw in Indiana that provides that it is within the discretion of the trial court to determine if testimony taken by speakerphone accords parties the right to cross-examine the absent witness. *Archem, Inc. v. Simco*, 549 N.E.2d 1054 (Ind.Ct.App. 1990). In *Archem*, the attorney for the defendant missed his flight and missed a deposition. The trial court allowed the admission of the videotaped disposition

upon the condition that the attorney could cross-examine the witness, which he did by telephone. The Court of Appeals determined, however, that in this case the trial court erred in allowing the videotaped deposition into evidence because counsel for the opposing party could not effectively cross-examine by telephone because the jury was not able to determine the deponent's credibility from his demeanor. Regardless, the Court held that the right to effectively cross-examine may be waived and had it been waived in *Archem*.

Moreover, the UCCJEA as adopted in Indiana provides for telephonic testimony in custody hearings. Apparently this testimony does not necessarily have to be in a court, but may be at another appropriate location.

**I.C. 31-21-4-6. Means of taking testimony in another state.**

An Indiana court may permit a person residing in another state to be deposed or to testify by:

- (1) telephone;
- (2) audiovisual means; or
- (3) other electronic means;

before a designated court or another location in that state. An Indiana court shall cooperate with courts in other states in designating an appropriate location for the deposition or testimony.

Review hearings in CHINS cases are not adjudicative and it would appear under the caselaw, the rules and by comparison the UCJEEA, that if all parties agree, then having these witnesses present by telephone would be acceptable practice.

It seems unlikely that an out of state relative or other caregiver in a receiving state would be called as a witness at the adjudicatory stage of the case as the caregiver would not have first hand information regarding the specific allegations contained in a Petition Alleging Child in Need of Services.

**2. May attorneys in other states to file motions, question, or cross-examine witnesses in Indiana hearings**

The Indiana Rules of Professional Conduct clearly prohibit the practice of law by attorney who is not licensed to practice in this jurisdiction unless admitted *pro hac vice*. There is an exception for the temporary practice, provided the out of state lawyer is assisted by an attorney admitted to practice in Indiana.

**Rule 5.5. Unauthorized Practice of Law; Multijurisdictional Practice of Law**

(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

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(c) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction that:

- (1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter;

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**Rule 3. Admission of Attorneys**

***Section 1.*** Admission of Attorneys.

The Supreme Court shall have exclusive jurisdiction to admit attorneys to practice in Indiana. Admission to practice law by the Court pursuant to Rule 21 shall entitle attorneys to practice in any of the courts of this state.

***Section 2.*** Temporary Admission on Petition.

(a) *Requirements for Temporary Admission on Petition.*

The Supreme Court, the Court of Appeals, the Tax Court, or a trial court, of this state, in the exercise of discretion, may permit a member of the bar of another state or territory of the United States, or the District of Columbia, not admitted pursuant to Rule 21, to appear in any particular proceeding, only if the court before which the attorney wishes to appear determines that there is good cause for such appearance and that each of the following conditions is met:

- (1) A member of the bar of this state has appeared and agreed to act as co- counsel.
- (2) The attorney is not a resident of the state of Indiana, regularly employed in the state of Indiana, or regularly engaged in business or professional activities in the state of Indiana.
- (3) The attorney has made payment to the Clerk of the Supreme Court an annual registration fee in the amount set forth in Admission and Discipline Rule 2(b), accompanied by a copy of the Verified Petition for Temporary Admission that the attorney intends to file pursuant to subdivision (4) below. Upon receipt of the registration fee and petition, the Clerk of the Supreme Court will issue a temporary admission attorney number and payment receipt to the attorney seeking admission. If the attorney’s verified petition for temporary admission is thereafter denied, the attorney shall provide a copy of the order denying temporary

admission to the Clerk of the Supreme Court, and the Clerk shall issue a refund of the registration fee.

- (4) The attorney files a verified petition, co-signed by co-counsel designated pursuant to subdivision (a)(1), setting forth:
  - (i) The attorney's residential address, office address, and the name and address of the attorney's law firm or employer, if applicable;
  - (ii) The states or territories in which the attorney has ever been licensed to practice law, including the dates of admission to practice and any attorney registration numbers;
  - (iii) That the attorney is currently a member in good standing in all jurisdictions listed in (ii);
  - (iv) That the attorney has never been suspended, disbarred or resigned as a result of a disciplinary charge, investigation, or proceeding from the practice of law in any jurisdiction; or, if the attorney has been suspended, disbarred or resigned from the practice of law, the petition shall specify the jurisdiction, the charges, the address of the court and disciplinary authority which imposed the sanction, and the reasons why the court should grant temporary admission notwithstanding prior acts of misconduct;
  - (v) That no disciplinary proceeding is presently pending against the attorney in any jurisdiction; or, if any proceeding is pending, the petition shall specify the jurisdiction, the charges and the address of the disciplinary authority investigating the charges. An attorney admitted under this rule shall have a continuing obligation during the period of such admission promptly to advise the court of a disposition made of pending charges or the institution of new disciplinary proceedings;
  - (vi) A list of all proceedings, including caption and cause number, in which either the attorney, or any member of a firm with which the attorney is currently affiliated, has appeared in any of the courts of this state during the last five years. Absent special circumstances, repeated appearances by any person or by members of a single law firm pursuant to this rule shall be cause for denial of the petition;
  - (vii) A demonstration that good cause exists for the appearance. Good cause shall include at least one of the following:
    - (a) the cause in which the attorney seeks admission involves a complex field of law in which the attorney has special expertise,
    - (b) there has been an attorney-client relationship with the client for an extended period of time,
    - (c) there is a lack of local counsel with adequate expertise in the field involved,
    - (d) the cause presents questions of law involving the law of the foreign jurisdiction in which the applicant is licensed, or
    - (e) such other reason similar to those set forth in this subsection as would present good cause for the temporary admission.

- (viii) A statement that the attorney has read and will be bound by the Rules of Professional Conduct adopted by the Supreme Court, and that the attorney consents to the jurisdiction of the State of Indiana, the Indiana Supreme Court, and the Indiana Supreme Court Disciplinary Commission to resolve any disciplinary matter that might arise as a result of the representation.
- (ix) A statement that the attorney has paid the registration fee to the Clerk of the Supreme Court in compliance with subdivision (a)(3) of this rule, together with a copy of the payment receipt and temporary admission attorney number issued by the Clerk of the Supreme Court pursuant to subdivision (3).

(b) *Notice of Temporary Admissions.*

All attorneys granted temporary admission under the provisions of subsection 2(a) shall file a Notice with the Clerk of the Supreme Court within thirty (30) days after a court grants permission to appear in the proceeding. A separate Notice of Temporary Admission must be filed with the Clerk of the Supreme Court for each proceeding in which a court grants permission to appear. Failure to file the notice within the time specified shall result in automatic exclusion from practice within this state. The notice shall include the following:

- (1) A current statement of good standing issued to the attorney by the highest court in each jurisdiction in which the attorney is admitted to practice law; and
- (2) A copy of the verified petition requesting permission to appear in the court proceedings, along with the court order granting permission.

(c) *Renewal of Registration for Temporary Admission.*

If an attorney continues to appear on the basis of a temporary admission in any case pending as of the first day of a new calendar year, the attorney shall pay a renewal fee equal to the annual registration fee set out in Admission and Discipline Rule 2(b). This renewal fee shall be due within thirty (30) days of the start of that calendar year and shall be tendered to the Clerk of the Supreme Court, accompanied by a copy of the Notice of Temporary Admission for each continuing proceeding in which a court has granted permission to appear. Failure to pay the required renewal fee within the time specified shall result in automatic exclusion from practice within this state. The Clerk of the Indiana Supreme Court shall notify the trial court of the attorney's exclusion. If the proceeding has concluded or if the attorney has withdrawn his or her appearance, the attorney must so notify the Clerk of the Supreme Court by the deadline for renewal of registration.

(d) *Responsibilities of Attorneys.*

Members of the bar of this state serving as co-counsel under this rule shall sign all briefs, papers and pleadings in the cause and shall be jointly responsible therefore. The signature of co-counsel constitutes a certificate that, to the best of co-counsel's knowledge, information and belief, there is good ground to support the signed document and that it is not interposed for delay or any other improper

reason. Unless ordered by the trial court, local counsel need not be personally present at proceeding before the court.

(e) *Failure to Register, Renew, or Otherwise Perform as Required.*

Any foreign attorney who fails to register or pay the registration fee as required under subsection (a), fails to file a Notice of Temporary Admission under subsection (b), or fails to pay a renewal registration fee required under subsection (c) shall be subject to discipline in this state. Members of the bar of this state serving as co-counsel under this rule shall be subject to discipline if the attorney admitted under this rule fails to pay the required fees or otherwise fails to satisfy the requirements of this rule.

### **3. May judges order and monitor timely evaluations of out of state homes?**

There is no statutory authority that provides that Indiana courts may order timely ICPC homes studies to be completed by the receiving state, other than their authority under Regulation 7.

Indiana courts are not necessarily ordering or monitoring timely evaluations of the placements, but rather the agency is taking this responsibility under in its own policies. In fact, it appears that in Indiana most juvenile court judges consider the implementation and follow-up of the ICPC is an agency function and not a process in which the courts should or could become involved.<sup>1</sup>

### **4. Is it permissible to allow verbal, written or demonstrative evidence to be sent between states?**

Another issue that may arise in an ICPC cases is the ability of the Indiana court to adequately monitor and evaluate the home in the receiving state. The purpose of the Interstate Compact on the Placement of Children is 1) to maximize the opportunity for the placement of a child by facilitating interstate placement; 2) to provide a channel for exchange of information between the sending state and the receiving state; and 3) to resolve jurisdictional conflicts. In Indiana, the juvenile courts rely on the quarterly reports from receiving states for information and updates regarding the placement. In addition, Indiana Department of Child Services (DCS) policy requires face-to-face contact once every 60 days with children place out-of-state through the ICPC. It also requires Family Case Managers to make formal requests via the 100A for the receiving state to have fact-to-face-contact with the child every 60 days on a different schedule than the Indiana worker so that the child is seen every thirty days. Thus, the juvenile court has the reports from the receiving state, the visitation reports from the receiving states and the visitation reports form the local DCS for placement review hearings. Pursuant to Indiana law, these reports are admissible at review hearings.

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<sup>1</sup> Indiana also conducted an ICPC survey as part of its assessment. Several comments had to do with frustration with the timeliness of the ICPC evaluation process. However, as one comment pointed out, “the judge never gets involved in the ICPC process.”

**I.C. 31-34-22-3 Admissibility of report - Controversion of report.**

Sec 3 (a) Any report may be admitted into evidence to the extent that the report contains evidence of probative value even if the evidence would otherwise be excluded.

(b) If a report contains information that should not be released to the child or the child's parent, guardian, custodian, or any other person who is entitled to receive a report under section 2 [IC 31-34-22-2] of this chapter, a factual summary of the report may be admitted.

(c) The following shall be given a fair opportunity to controvert any part of the report admitted into evidence:

- (1) The child.
- (2) The child's parent, guardian, or custodian.
- (3) The person representing the interests of the state.
- (4) Any other person who is entitled to receive a report under section 2 of this chapter.

Moreover, it would appear that Indiana's version of the IJCEAA would permit the admissibility of documentary evidence.

**I.C. 31-21-4-7. Documentary evidence transmitted from another state.**

Documentary evidence transmitted from another state to an Indiana court 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.

Finally, Indiana Rules of Evidence provide for the admissibility of certain reports;

**Rule 803. Hearsay exceptions: availability of declarant immaterial.**

The following are not excluded by the hearsay rule, even though the declarant is available as a witness.

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(6) Records of regularly conducted business activity A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony or affidavit of the custodian or other qualified witness, unless the source of information or the method or circumstances of preparation indicate a lack of

trustworthiness. The term "business" as used in this Rule includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

(8) Public records and reports Unless the sources of information or other circumstances indicate lack of trustworthiness, records, reports, statements, or data compilations in any form, of a public office or agency, setting forth its regularly conducted and regularly recorded activities, or matters observed pursuant to duty imposed by law and as to which there was a duty to report, or factual findings resulting from an investigation made pursuant to authority granted by law. The following are not within this exception to the hearsay rule: (a) investigative reports by police and other law enforcement personnel, except when offered by an accused in a criminal case; (b) investigative reports prepared by or for a government, a public office, or an agency when offered by it in a case in which it is a party; (c) factual findings offered by the government in criminal cases; and (d) factual findings resulting from special investigation of a particular complaint, case, or incident, except when offered by an accused in a criminal case.

(9) Records of vital statistics Records or data compilations in any form, of births, fetal deaths, deaths, or marriages, if the report thereof was made to a public office pursuant to requirements of law.

(10) Absence of public record or entry To prove the absence of a record, report, statement, or data compilation in any form, or the nonoccurrence or nonexistence of a matter of which a record, report, statement, or data compilation in any form was regularly made and preserved by a public office or agency, evidence in the form of a certification in accordance with Rule 902, or testimony, that a diligent search failed to disclose the record, report, statement, or data compilation, or entry.

(11) Records of religious organizations Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood or marriage, or other similar facts of personal or family history, contained in a regularly kept record of a religious organization.

(12) Marriage, baptismal, and similar certificates Statements of fact contained in a certificate that the maker performed a marriage or other ceremony or administered a sacrament, made by a clergyman, public official, or other person authorized by the rules or practices of a religious organization or by law to perform the act certified, and purporting to have been issued at the time of the act or within a reasonable time thereafter.

(13) Family records Statements of fact concerning personal or family history contained in family Bibles, genealogies, charts, engravings on rings, inscriptions on family portraits, engravings on urns, crypts, or tombstones, or the like.

(14) Records of documents affecting an interest in property The record of a document purporting to establish or affect an interest in property, as proof of the content of the original recorded document and its execution and delivery by each person by whom it

purports to have been executed, if the record is a record of a public office and an applicable statute authorized the recording of documents of that kind in that office.

(15) Statements in documents affecting an interest in property A statement contained in a document purporting to establish or affect an interest in property if the matter stated was relevant to the purposes of the document, unless dealings with the property since the document was made have been inconsistent with the truth of the statement or the purport of the document.

(16) Statements in ancient documents Statements in a document in existence thirty years or more, the authenticity of which is established.

(17) Market reports, commercial publications Market quotations, tabulations, lists, directories, or other published compilations, generally used and relied upon by the public or by persons in particular occupations.

(18) Learned treatises To the extent called to the attention of an expert witness upon cross-examination or relied upon by the expert witness in direct examination, statements contained in published treatises, periodicals, or pamphlets that contradict the expert's testimony on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice. If admitted, the statements may be read into evidence but may not be received as exhibits.

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(22) Judgment of previous conviction Evidence of a final judgment entered after a trial or upon a plea of guilty (but not upon a plea of nolo contendere), adjudging a person guilty of a crime punishable by death or imprisonment in excess of one year, to prove any fact essential to sustain the judgment, but not including, when offered by the government in a criminal prosecution for purposes other than impeachment, judgments against persons other than the accused. The pendency of an appeal may be shown but does not affect admissibility.

(23) Judgment as to personal, family, or general history, or boundaries Judgments as proof of matters of personal, family or general history, or boundaries, essential to the judgment

## **5. May another state to hold a hearing to admit evidence and examine witnesses for Indiana.**

If the UCCJEA is applicable in a case, the following statutory provisions apply;

### **IC 31-21-4-5 Testimony of a witness located in another state**

Sec. 5. 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 Indiana

for testimony taken in another state. The court on its own motion may:

- (1) order that the testimony of a person be taken in another state; and
- (2) prescribe the manner in which and the terms on which the testimony is taken.

#### **IC 31-21-4-6 Depositions or testimony of a person residing in another state**

Sec. 6. An Indiana court may permit a person residing in another state to be deposed or to testify by:

- (1) telephone;
- (2) audiovisual means; or
- (3) other electronic means;

before a designated court or another location in that state. An Indiana court shall cooperate with courts in other states in designating an appropriate location for the deposition or testimony.

#### **IC 31-21-4-8 Request by an Indiana court to a court in another state**

Sec. 8. An Indiana court may request the appropriate court of another state to do the following:

- (1) Hold an evidentiary hearing.
- (2) Order a person to produce or give evidence under the procedures of the other 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 Indiana court:
  - (A) a certified copy of the transcript of the record of the hearing;
  - (B) the evidence otherwise presented; and
  - (C) an evaluation prepared in compliance with the request.
- (5) Order:
  - (A) a party to a child custody proceeding; or
  - (B) any person having physical custody of the child;to appear in the proceeding with or without the child.

### **8. Does Indiana law allow for transfer of jurisdiction?**

In dependency cases, the Indiana juvenile court has exclusive jurisdiction and there is no rule or statute that provides for transfer of jurisdiction to an out of state court.

#### **IC 31-30-1-1 Exclusive original jurisdiction**

Sec. 1. A juvenile court has exclusive original jurisdiction, except as provided in sections 9, 10, 12, and 13 of this chapter, in the following:

- (1) Proceedings in which a child, including a child of divorced parents, is alleged to be a delinquent child under IC 31-37.
- (2) Proceedings in which a child, including a child of divorced parents, is alleged to be a child in need of services under IC 31-34.
- (3) Proceedings concerning the paternity of a child under IC 31-14.
- (4) Proceedings under the interstate compact on juveniles under IC 31-37-23.
- (5) Proceedings governing the participation of a parent, guardian, or custodian in a

program of care, treatment, or rehabilitation for a child under IC 31-34-16 or IC 31-37-15.

(6) Proceedings under IC 31-34-4, IC 31-34-5, IC 31-37-5, and IC 31-37-6 governing the detention of a child before a petition has been filed.

(7) Proceedings to issue a protective order under IC 31-32-13.

(8) Proceedings in which a child less than sixteen (16) years of age is alleged to have committed an act that would be a misdemeanor traffic offense if committed by an adult.

(9) Proceedings in which a child is alleged to have committed an act that would be an offense under IC 9-30-5 if committed by an adult.

(10) Guardianship of the person proceedings for a child:

(A) who has been adjudicated as a child in need of services;

(B) for whom a juvenile court has approved a permanency plan under IC 31-34-21-7 that provides for the appointment of a guardian of the person; and

(C) who is the subject of a pending child in need of services proceeding under IC 31-34.

(11) Proceedings concerning involuntary drug and alcohol treatment under IC 31-32-16.

(12) Other proceedings specified by law.

Venue of CHINS cases is also determined by statute.

### **IC 31-32-7-1 Venue of proceedings**

Sec. 1. If a child is alleged to be a delinquent child or a child in need of services, proceedings under the juvenile law may be commenced in the county:

(1) where the child resides;

(2) where the act occurred; or

(3) where the condition exists.

However, Indiana law does provide for a change of venue to the juvenile court in the county of the child's residence. There is no case law on the issue of whether this particular statute contemplates a change to a county that outside of Indiana.

### **IC 31-32-7-2 Change of venue**

Sec. 2. A change of venue from the county may not be granted except under section 3 of this chapter.

### **IC 31-32-7-3 Assignment of case or supervision of child to county of child's residence**

Sec. 3. (a) Upon:

(1) the juvenile court's own motion;

(2) the motion of a child; or

(3) the motion of the child's parent, guardian, or custodian;

the juvenile court may assign a case to a juvenile court in the county of a child's residence at any time before the dispositional hearing.

(b) Supervision of a child may be assigned to a juvenile court in the county of the child's residence.

(c) The assigning court shall send to the receiving court certified copies of all documents pertaining to the case.

If the UCCJA is applicable, then under our statute, the following provision would apply and the judge could transfer jurisdiction if the court of another state is the more appropriate forum.

### **IC 31-21-5-8 Court declining exercise of jurisdiction**

Sec. 8. (a) An Indiana court that has jurisdiction under this article to make a child custody determination may decline to exercise its jurisdiction at any time if the Indiana court determines that:

- (1) the Indiana court is an inconvenient forum under the circumstances; and
- (2) a court of another state is a more appropriate forum.

The issue of inconvenient forum may be raised on motion of a party, the court's own motion, or request of another court.

(b) Before determining whether an Indiana court is an inconvenient forum, the Indiana court shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the Indiana court shall allow the parties to submit information and shall consider the relevant factors, including the following:

- (1) Whether domestic violence has occurred and is likely to continue in the future and which state is best able to protect the parties and the child.
- (2) The length of time the child has resided outside Indiana.
- (3) The distance between the Indiana court and the court in the state that would assume jurisdiction.
- (4) The relative financial circumstances of the parties.
- (5) An agreement of the parties as to which state should assume jurisdiction.
- (6) The nature and location of the evidence required to resolve the pending litigation, including the child's testimony.
- (7) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence.
- (8) The familiarity of the court of each state with the facts and issues in the pending litigation.

(c) If an Indiana court determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, the Indiana court:

- (1) shall stay the proceedings on condition that a child custody proceeding be promptly commenced in another designated state; and
- (2) may impose any other condition the Indiana court considers just and proper.

(d) An Indiana court may decline to exercise its jurisdiction under this article if a child custody determination is incidental to an action for dissolution of marriage or another proceeding while still retaining jurisdiction over the dissolution of marriage or other proceeding.

### **9. Does Indiana law provide for cooperation with other state's request for central registry requests**

Indiana law requires the DCS to receive and maintain reports of alleged abuse or neglect.

#### **IC 31-33-7-1 Arrangement for receipt of reports**

Sec. 1. The department shall arrange for receipt, on a twenty-four (24) hour, seven (7) day per week basis, of all reports under this article of suspected child abuse or neglect.

#### **IC 31-33-7-4 Written report; contents**

Sec. 4. (a) The department shall make a written report of a child who may be a victim of child abuse or neglect not later than forty-eight (48) hours after receipt of the oral report required of individuals by IC 31-33-5-4.

(b) Written reports under this section must be made on forms supplied by the administrator. The written reports must include, if known, the following information:

(1) The names and addresses of the following:

(A) The child.

(B) The child's parents, guardian, custodian, or other person responsible for the child's care.

(2) The child's age and sex.

(3) The nature and apparent extent of the child's injuries, abuse, or neglect, including any evidence of prior:

(A) injuries of the child; or

(B) abuse or neglect of the child or the child's siblings.

(4) The name of the person allegedly responsible for causing the injury, abuse, or neglect.

(5) The source of the report.

(6) The person making the report and where the person can be reached.

(7) The actions taken by the reporting source, including the following:

(A) Taking of photographs and x-rays.

(B) Removal or keeping of the child.

(C) Notifying the coroner.

(8) The written documentation required by IC 31-34-2-3 if a child was taken into custody without a court order.

(9) Any other information that:

(A) the director requires by rule; or

(B) the person making the report believes might be helpful.

Pursuant to Indiana statute, the Department is cooperate with other public agencies.

#### **IC 31-25-2-14 Cooperation with public and private agencies**

Sec. 14. (a) The department shall cooperate with and shall seek and receive the cooperation of appropriate public and private agencies, including the following:

(1) Law enforcement agencies.

(2) The courts.

(3) Organizations, groups, and programs providing or concerned with services related to the prevention, identification, or treatment of a child who may be a victim of child abuse or neglect.

(b) The department shall also cooperate with public and private agencies, organizations, and groups that provide family services designed to prevent a child's removal from the child's home.

(c) Cooperation and involvement under this section may include the following:

- (1) Consultation services.
- (2) Planning.
- (3) Case management.
- (4) Public education and information services.
- (5) Use of each other's facilities, staff, and other training.

The Department is also responsible for maintaining a comprehensive child protection index.

#### **IC 31-33-26-2 Establishment and maintenance of child protection index**

Sec. 2. The department shall establish and maintain a centralized, computerized child protection index to organize and access data regarding substantiated reports of child abuse and neglect that the department receives from throughout Indiana under this article.

#### **IC 31-33-26-4 Case history file; automatic search requirements**

Sec. 4. (a) In addition to the components described in section 3 of this chapter, the index must have the capability to maintain a case history file.

(b) Whenever a person enters a new child abuse or neglect report into the index, the index must have the capability to automatically search for reports that match the name of the:

- (1) perpetrator;
- (2) victim; or
- (3) person who is legally responsible for the victim's welfare;

with the persons named in the new report as described in this chapter.

(c) If the index identifies a previous, substantiated report, the index must have the capability to transfer the report to the county where the new report originated not later than twenty-four (24) hours after receipt of the new report. If a previous, matching report is located, a case history extract must be made available to the assigned caseworker.

The index is confidential, but the information contained therein may be disclosed to specific individuals and entities, including .

#### **IC 31-33-26-16 Access to index information**

Sec. 16. (a) A person or an organization may have access to information contained in the index as follows:

(1) A law enforcement agency may have access to a substantiated report for purposes of investigating or criminally prosecuting a person identified as a perpetrator of child abuse or neglect.

(2) A child care provider, upon submitting a written consent for release of information signed by an individual who:

- (A) is employed by or who has applied for employment with the child care provider;
- (B) has volunteered to provide services to the child care provider in a capacity

that would place the individual in direct contact, on a regular and continuous basis, with children who are or will be under the direct supervision of the child care provider; or

(C) is at least eighteen (18) years of age and resides in the home of the child care provider;

may have access to any information relating to a substantiated report of child abuse or neglect that names the employee, applicant, volunteer, or household resident as the perpetrator of child abuse or neglect.

(3) A person may have access to any information that is contained in the index pertaining to the person, with protection for the identity of:

(A) a person who reports the child abuse or neglect; and

(B) any other appropriate person.

(4) A person or an agency to whom child abuse and neglect reports are available under IC 31-33-18 may have access to information contained in the index.

(5) Representatives of the division of family resources designated by the director of the division may have access to and use any information relating to a substantiated report of child abuse or neglect that would constitute a basis for denial or revocation of a license for a child care center under IC 12-17.2-4 or a child care home under IC 12-17.2-5.

(6) Representatives of the department designated by the director may have access to and use any information relating to a substantiated report of child abuse or neglect that would constitute a basis for denial or revocation of a license for a child caring institution, foster family home, group home, or child placing agency under IC 31-27.

(7) Any representative of the department, a court having juvenile jurisdiction, and any party in a case under IC 31-34 or IC 31-37 may have access to and use any information relating to a substantiated report of child abuse or neglect in connection with a determination of an appropriate out of home placement for a child under any applicable provision of IC 31-34 or IC 31-37 that requires a criminal history check (as described in IC 31-9-2-22.5) concerning any person.

(8) The department shall provide any information contained in a substantiated report of child abuse or neglect that is included in the index to an authorized agency of another state that requests information concerning a prospective foster or adoptive parent, or any other adult living in the home of a prospective foster or adoptive parent, in accordance with 42 U.S.C. 671(a)(20)(C).

(9) The department shall transmit or provide to a national index of substantiated cases of child abuse or neglect established in accordance with 42 U.S.C. 16990:

(A) a copy of any substantiated report and related information entered into the index; and

(B) information concerning expungement or amendment of any substantiated report as provided in section 14 or 15 of this chapter.

(10) To determine the eligibility of a child care provider to receive a voucher payment (as defined in IC 12-17.2-3.5-3), the division of family resources may use information contained in the index concerning whether a child has been found by a court to be a child in need of services based on a report of child abuse or neglect naming an individual described in IC 12-17.2-3.5-4.1(a) as a perpetrator.

(b) Except as provided in this section or in rules adopted under subsection (c), the department may not disclose information used in connection with the department's activities under this section.

(c) The department shall adopt rules under IC 4-22-2 relating to the procedure for disclosure of information described in this section.

**Indiana case law addressing the ICPC and its application.**

There are very few reported Indiana cases that even mention the ICPC. *Bester v. Lake County Office of Family and Children*, 839 N.E.2d 143 (Ind. 2005) is an ICPC case in which the Indiana Supreme Court reversed the trial court's judgment terminating the parental rights of Bester and his one year old son. At the time of the trial on the Petition for Termination of the Parent-Child Relationship, Bester was living in Illinois with his parents. His son spent every weekend with his father, grandparents, and other relatives. The home was described as follows:

The house is situated in a private wooded area that consists of other single-family homes in good upkeep. Mr. Bester's parents have resided in the home for the past eight years.

...

The Bester home was observed to be clean, spacious and adequately furnished. The home is equipped with working smoke and carbon monoxide detectors. There were no hazards observed that would prevent the placement of his son into the home. The home is located in a private neighborhood and is near parks, schools and shopping.

In addition to visiting with his son regularly, Father also complied with other requirements of the case plan, including submitting to psychological evaluations, random drug screens, and successfully completing parenting classes. However, Illinois denied the interstate placement based on Bester's history of arrests and convictions between 1994 and 2000, some of which involved controlled substances. The home study concluded that Father needed to distance himself further from his past behavior before the State of Illinois could allow his son to live with him there.

In the interim, the local Indiana DCS office initiated a proceeding to terminate the parent-child relationship because the child had been out of the home for at least 15 months, and because the child could not be returned to his father due to the ICPC denial, the DCS did not feel that custody could be modified to placed the child with his father.

The juvenile court granted the TPR. The Indiana Supreme Court, however, held that the trial court's finding that Bester did not have an independent home for his child did not necessarily demonstrate that the child's well-being would be threatened by Bester having custody of his child, particularly in light of other facts; that he had been visiting regularly and that he had completed all of the services required by the case plan. In a footnote the Court also noted that whether the ICPC applies to the interstate reunification of children with natural parents is an open question. Some jurisdictions have concluded the Compact does apply under those circumstances and some have taken a contrary view concluding the ICPC does not apply. Neither the courts of review in Indiana or Illinois

have addressed the question of whether the ICPC applies to the interstate reunification of a child with a natural parent. Because neither party in the Bester case had raised the issue, the Court did not take a position in the case. This remains an open question in Indiana.<sup>2</sup>

In an earlier case, *In Re the Matter of C.B., Marion County Department of Public Welfare v. Florida Beard*, 616 N.E.2d 763 (Ind. Ct. App, 1993) the Indiana Court of Appeals addressed the issue of jurisdiction and the interplay between the ICPC and UJCEAA. In that case, a child had been placed with relatives in Tennessee pursuant to the ICPC. The original plan was for the relatives to seek a guardianship of the child. In the interim, the Indiana court modified its plan and ordered the child returned to Indiana. The relatives however, sought and secured a guardianship in a Tennessee court that determined it had jurisdiction under the UCCJA.

The Indiana Court of Appeals held that the UCCJA and the Compact relate to the same general subject matter and should be read together to produce a harmonious system of legislation. According to the UCCJA, specifically T.C.A. 36-6-215 in Tennessee and I.C. 31-1-11.6-14 in Indiana, Tennessee could only exercise jurisdiction over C.B. if it was determined that Indiana did not have jurisdiction. Under Article V of the Compact, Indiana, as the sending state, clearly retains jurisdiction when it orders interstate placement. Under the Indiana statute at that time, in a CHINS proceeding, that jurisdiction continued until the child and the child's parent or guardian were discharged by the court. Thus, the Tennessee court was without jurisdiction to determine guardianship. Jurisdiction remained in the Marion County Indiana Court.

In a recent adoption case, *In Re The Adoption Of Infants H.*, 878 N.E.2d 31 (Ind.Ct.App 2007), the Indiana trial court with probate jurisdiction granted an adoption of twins born in Indiana to an individual who worked and lived in New Jersey. At some time after the adoption court had granted the pre-adoptive parent custody of the twins, but before the adoption was final, a juvenile court in another county assumed jurisdiction based on allegations of neglect. The two cases were consolidated by the probate court hearing the adoption. Although the probate court ordered the DCS to initiate the Interstate Compact process, it did not do so. In the meantime, the probate court asked the Guardian ad Litem to visit the home in New Jersey, engaged a private agency to conduct a home study and granted the adoption. The decision was upheld on appeal. The Court of Appeals noted that the DCS, who appealed the adoption, could not raise non-compliance with the ICPC as it had failed to begin the process. The New Jersey ICPC would not conduct a home study unless the request was made by the DCS.

In Newman v. Worcester County Dep't of Social Servs. (In re L.C.), 659 N.E.2d

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<sup>2</sup> Indiana DCS takes the position that the ICPC does apply to parents when the child in question is under the jurisdiction of the juvenile court. See ICPC, Indiana Interstate Compact: A Guide for Case Managers included in these materials. In the ICPC survey conducted for Indiana's assessment, one respondent commented that "ICPC is not notably an issue when the court is attempting to place a child with a parent who now resides out of state. In\goring the constitution issues, and there are many, the right of a parent to care and custody is a right that should differ dramatically from the right of any other prospective placement. We need to somehow address the application of the ICPC to parent as opposed to the third party placement."

593, (Ind.Ct. App.1995), cert. denied, Social Servs., 521 U.S. 1122, 117 S. Ct. 2515, 138 L. Ed. 2d 1017, 1997, the court determined that nothing in the Interstate Compact on Placement of Children suggests that a violation of its terms results in a loss of jurisdiction.

In another case, the mother living in Tennessee sent her child to Indiana to live with her cousin and his wife who eventually filed a petition to adopt the child. Mother executed consent to the adoption.

Sometime later, the child's mother filed an emergency petition to have the adoption petition released and the child surrendered to her. The Indiana trial court eventually granted the adoption. On appeal the Indiana Court of Appeals noted that Tennessee did not retain jurisdiction over pending adoption matter pursuant to the Interstate Compact on Placement of Children where biological mother lived in Tennessee but had given custody of child to prospective adoptive parents in Indiana. "[T]he Compact, because it does not apply to 'the sending or bringing of a child into a receiving state by the child's parent . . . and leaving the child with . . . [a] non-agency guardian in the receiving state.'" Ind. Code § 12-17-8-1, Article VIII. Lowe v. White (In re M.L.L.), 810 N.E.2d 1088, 1093 (Ind.Ct.App. 2004).

## **Recent Legislation Regarding the Interstate Compact on the Placement of Children**

### **HEA 1001**

As of January 1, 2009 it is possible that Indiana will be making fewer out of state placements due to an amendment to the juvenile code that prohibits the placement of a child outside the state of Indiana except under certain circumstances.

SECTION 649. IC 31-37-19-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. (a) A juvenile court may not place a child who is a delinquent child under IC 31-37-2 in a shelter care facility that is located outside the child's county of residence unless:

- (1) placement of the child in a shelter care facility with adequate services located in the child's county of residence is unavailable; or
- (2) the child's county of residence does not have an appropriate shelter care facility with adequate services.

**(b) A juvenile court may not place a child in a home or facility that is not a secure detention facility and that is located outside Indiana unless:**

**(1) the placement is recommended or approved by the director of the department or the director's designee; or**

**(2) the court makes written findings based on clear and convincing evidence that:**

**(A) the out-of-state placement is appropriate because there is not a comparable facility with adequate services located in Indiana; or**

**(B) the location of the home or facility is within a distance not more than fifty**

**(50) miles from the county of residence of the child.**

**HEA 1290**

In addition, it should be noted that during the 2008 legislative session, Indiana adopted the new version of the Interstate Compact on Children. The prior version of the Indiana law remains in effect until December, 2013.

## **Summary of Interview with ICPC Deputy Director**

Indiana's Compact Administrator is an employee of the Department of Child Services (DCS). The ICPC in Indiana is administered in-house rather than by a contractor. Home studies and investigations requested by sending states are completed by local offices of DCS. Indiana is currently processing twice as many ICPC cases as the receiving state as referrals it is sending out as a sending state. Recent legislation will most likely decrease the number of ICPC referrals from Indiana as sending state. Courts that are seeking per diems for placements that are out of state will only be able to do so under certain conditions.<sup>3</sup>

Based on information obtained in a March 16, 2008 face-to-face interview with Nancy Ingle, Deputy Compact Administrator for the State of Indiana, Indiana has developed an efficient means of processing ICPC requests from sending states. In a directive to Regional Managers issued December 4, 2006, Director James Payne has made it very clear that it is critical that interstate home studies be completed with fifty (50) days from the date the ICPC referral is received in the Indiana Interstate office in order to give both states' ICPC office time to process and transmit the referrals within the mandatory sixty (60) day time frame. Director Payne has managed that the decision to approve or deny the referral must be sent either via fax or overnight mail to accommodate the need for a short turn around time. His strongly worded directive is attached.

Every Monday morning, Ms. Ingle receives a print-out of all ICPC referral in which more than 50 days have elapsed. Once she has reviewed that list of delinquent referrals, the list is sent to regional managers for oversight.

Larger counties within the state have supervisors and units of workers that are dedicated to investigating, monitoring and processing ICPC requests for their county when Indiana is the sending state as well as when Indiana is the receiving states. However, in the largest county of the state, there has been increased staff turnover this year and Ms. Ingle has noticed that compliance in this county has decreased.

It is also current policy that once a decision to either approve or deny the ICPC referral reaches the Indiana State Compact Administrator's office, it is sent via overnight mail to the sending state.

One factor that has contributed to the improvement in timeliness in Indiana is the decrease in the time required to get background checks completed. Indiana has contracted with PrideRock Holding Company to conduct livescan fingerprinting. This contract has been in place less than a year, but has cut down on the length of time needed to get the fingerprinting completed. Indiana does not, however, have a central data base

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<sup>3</sup> House Enrolled Act 1001 amends IC 31-34-20-1 by adding a provision that provides that a juvenile court may not place a child in a home or facility that is located outside Indiana unless the placement is recommended or approved by the director of the department or the director's designee; or the juvenile court makes written findings based on clear and convincing evidence that the out-of-state placement is appropriate because there is not a comparable facility with adequate services located in Indiana; or the location of the home or facility is within a distance not greater than fifty (50) miles from the county of residence of the child.

that provides an opportunity for local offices to complete CPS checks on all counties in the state.

Another policy change that has helped expedite interstate placements is that Indiana has rescinded its policy that all relative homes have to be licensed in order for the ICPC referral to be accepted. When Indiana was still requiring relatives' homes to be licensed, the entire process was delayed.

The ICPC is discussed and thoroughly explained in a Section 5 of the Indiana Child Welfare. The Table of Contents for Section 5 is attached.<sup>4</sup> In addition the Office of the Compact Administrator has printed a brochure for Family Case Managers in which the purpose of the ICPC and the procedure to be followed is briefly outlined. In addition, when Family Case Managers or attorneys involved in private interstate adoptions call the Compact Office, the staff has checklists of the procedure to follow that they are able to send in Word® documents as email attachments.

Per Ms. Ingle, she has seen an overall improvement in the compliance with the timelines in the past year and believes that in a majority of the cases, Indiana meets the deadlines. She does not believe, however, that new Family Case Managers are adequately trained on the ICPC nor are the attorneys that represent the DCS adequately trained. She indicated that she is aware that there are Indiana judges who are circumventing the ICPC and wonders if the DCS attorneys are objecting or even bringing to the attention of the courts that there is an ICPC requirement.

According to Ms. Ingle, there are very few Regulation 7 referrals made. She did not have hard data on this question. However, she believes that because Indiana is striving to comply with the 60 day timeframe, that the expedited referral is not much more expeditious than the standard ICPC referral. She does not believe that Family Case Managers are trained or informed about the Regulation 7 option or when it is appropriate to request.

Ms. Ingle also stated that FCM's have a misconception that they are not able to contact their counterpart in receiving states to ascertain what the status of a particular referral is. She, in fact, encourages FCM's to call workers in the receiving states directly to inquire about the status of particular pending cases. The state office staff can be helpful in locating local contact information for workers in receiving states and the staff is more than willing to do that for Indiana workers who want to make that kind of connection. Often, even though the final written report may not be available, the ICPC worker in the potential receiving state can at least provide some information about the placement and the sending worker can help the family plan for a placement that will be in the best interest of the child.

Ms. Ingle thought that although she was not aware of many judges making contact with their counterparts in other jurisdictions, such a practice would be a good way to expedite home studies in receiving states that were languishing. She does believe that some of the judges in counties that border other states have established relationships with judges in the neighboring states. She was aware that one county has a number of children from Louisville that end up in placement in Indiana and that the judges seem to work together informally on expediting these referrals. She also feels that some judges are

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<sup>4</sup> The entire 24 page section can be accessed online at <http://www.in.gov/dcs/files/cwmanual5.pdf>. It should be noted that the manual is being updated. Two new parts of this section have already been drafted and are included in the materials.

authorizing visits if and when they have reason to believe that the referral will be accepted in the near future. Although there is no formal appeals process to decisions made by the ICPC, the staff will attempt to look for resolutions if a referral is denied and there is a resolution that is appropriate.

## **Challenges Indiana Juvenile Courts Face With The ICPC And Strategies For Addressing Those Challenges**

1. Most obviously, one big challenge is going to be developing a relationship between the Courts and the new Deputy Compact Administrator. Indiana's CIP Grant Administrator and Indiana's Deputy Compact Administrator have met twice in the past year and have developed an informal procedure for addressing problems that arise as they arise. Ms. Ingles has been invited on more than one occasion to train and address questions at the annual juvenile judges meeting. At this time, Ms. Ingle is not aware of who will be replacing her at the end of March, 2008. The CIP Grants Administrator will need to contact the new Deputy as soon as that individual is named and develop a collaborative relationship.
2. Apparently Indiana still has judges who are circumventing the ICPC. Training on the ICPC with current and new judicial officers is an on-going challenge.<sup>5</sup> Although the Indiana Judicial Center has provided training on the ICPC, per Ms. Ingle, there are judges that continue to be out of compliance. The ICPC will be addressed in the new judge orientation and will be included in the 2009 annual juvenile judge's conference.
3. It is clear that not only judges, but Family Case Managers and DCS attorneys need training as well. ICPC may be addressed in the joint regional training conducted by DCS and CIP.
4. The Indiana DCS child welfare manual is in the process of being updated. Although some of the policies may not be current, this challenge is being remedied by the DCS.
5. FCM's need to be encouraged to contact directly those workers in receiving states regarding pending cases when there are delays or questions.
6. Indiana Juvenile Judges need to be encouraged to take a more active role in the ICPC process and to consider making contact with judges in receiving states when there are delays or problems.
7. Staff turnover is a challenge, particularly in the larger counties. When caseloads are uncovered, the ICPC cases tend to suffer the most.<sup>6</sup>
8. Indiana has many more ICPC cases as the receiving state than the sending state. It seems that these requests are processed quickly. However, Indiana has had problems with timely responses from sending states or with states that are sending

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<sup>5</sup> In the comments section of the survey that Indiana CIP conducted in connection with the ICPC Assessment, one respondent noted that when judges become frustrated with the length of time involved in getting the home studies completed, they may order a visit in the receiving state or will dismiss the case so that the families can make placement arrangements outside the ICPC. Another respondent noted that albeit infrequently, the judge in her jurisdiction will make placements without complying with the ICPC due to the delays in the process. Only one response indicated that her judge will call the central DCS office to ask for the process to be expedited. The survey responses indicate that although it is not being done often, Indiana does have judges who circumvent the ICPC.

<sup>6</sup> Several respondents to the survey commented that delays are caused by heavy caseloads. However, there were several comments from other respondents that the process had improved greatly within the past five years.

children to Indiana without complying with the ICPC.<sup>7</sup> Indiana judges will be encouraged to report these circumstances, when they are aware of them, to the new Deputy Compact Administrator. DCS needs to report these to their Deputy when it is made aware of these situations.

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<sup>7</sup> This statement is based on information from the comments submitted with the ICPC survey.

## Summary of Results of ICPC Survey

The survey was provided to five different groups of child welfare partners: juvenile judges and magistrates, Department of Child Services (DCS) line staff, GAL/CASA's, DCS attorneys and attorneys who represent parents (public defenders and some private attorneys).<sup>8</sup> The information garnered from the responses will be helpful in designing training events regarding the Interstate Compact on the Placement of Children.

1. Most common causes for delays in the ICPC process appear to have to do with getting criminal histories, child welfare registry checks and sexual offender registry checks for ICPC cases in which Indiana is the sending state as well as the receiving state. A significant number of respondents indicated that delays are the result of the courts' failing to timely issue orders placing children in care.
2. Indiana DCS Family Case Managers appear to be timely informing the court when a case is identified as an ICPC case.
3. Indiana DCS is timely initiating the ICPC process when it is the sending state.
4. Although courts are not often placing children without following the ICPC requirements, it is happening nonetheless.
5. Cases are often continued for more than 30 days due to delays in the ICPC process. In some cases, there has been more than one continuance due to delays.
6. However, parties are seldom asking for early court reviews to address ICPC issues.
7. Many judges take no action with regard to ICPC delays.

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<sup>8</sup> A hard copy of the survey as well as the results are attached hereto.