

North Dakota Assessment of Interstate Compact on Placement of Children (ICPC)

The method of assessing the Interstate Compact on Placement of Children in North Dakota included inquiry of the State Court Administrative Office as to whether there existed within state statutes or court rules any barriers or impediments to the expedited process of placement of children out of state, survey of the judicial officers, surveys of county social service directors, and an interview with ICPC coordinator for the state of North Dakota.

The staff attorney for the State Court Administrator's Office (SCAO) found no current language in statutes or court rules that would be classified as a barrier or impediment. An inquiry as to a rule in the Admissions To Practice Rules, Rule 3: Pro Hac Vice Admission and Registration of Non-Resident Attorney, might in fact appear to be such a barrier for expedited processing. Both the staff attorney and the Clerk of the Supreme Court indicated that they do not feel that the rule creates a barrier. The rule states: "Pro hac vice admission is required for all non resident attorneys admitted and licensed to practice law in another state or the District of Columbia, but not licensed in North Dakota, and who engage in the practice of law in this state by appearing, either in person by signing pleadings, or by being designated as counsel in actions filed in state courts, administrative agencies, or tribunals." It is not a difficult process for an out of state attorney to associate with an in-state attorney for purposes of appearing on cases or filing pleadings.

The North Dakota Judicial System consists of a Supreme Court and seven judicial districts of general jurisdiction. There are 42 district court judges and 8 referees who have limited jurisdiction consisting of juvenile matters, child support and small claims. Most of the child welfare cases, called deprivation cases in North Dakota, are heard by referees except in those judicial districts that do not have referees assigned.

The judicial officer surveys were sent to all 42 district court judges and the 8 referees. A total of 14 responses were received. Most judicial officers, 12 of 14, who responded to the survey, allow parents, children, other interested parties, and attorneys to participate without requiring parties to travel. Of that group, all 12 allow participation by phone and 5 allow interactive video. A majority of the respondents, 10 out of 14, request timely evaluations of foster homes or relative placements in other states and all but two require those evaluations to be within 60 days. A majority of those who answered the survey, 64 %, believe that current state law and court practices allow for expedited interstate placement. The minority responses, 36 %, offered very little recommendations to expedite the process. The responses include the following comments: "less paperwork and formality would expedite; having a child's best interest in mind, haste should not necessarily be the criteria; not sure what controls, if any, we could have over an out of state placement office to expedite the process in their end."

There are 53 counties in North Dakota and therefore 53 county social service agencies. Some counties share resources, therefore there are approximately 40 social service directors managing 53 county agencies. We received 22 responses to a survey sent to all county social service directors. Over 50 % of those who responded indicated that they have had fewer than three ICPC

cases over the past 5 years. Only four indicated that they had more than 10 cases over that same five-year period. The directors indicated that 13 out of 22 feel the ICPC process takes too long and 8 out of the 13 perceived the receiving ICPC office was the main reason for the delay. Half of the 22 respondents indicated that the agency notifies the court of an out of state placement is a permanency goal within 60 days. All but two of the respondents indicated that they complete a home study for another state within 60 days of notice to do a home study.

The Compact Administrator for North Dakota for ICPC offices is in the Department of Human Services, Children and Family Division. The Compact Administrator reports that she meets with county social services agencies and trains the staff ICPC with special attention to Regulation 7, Priority Placement. The Compact Administrator acknowledges that the main cause of delay in these type of cases seems to be the receiving state. The Compact Administrator indicated that she must get referrals from other states out in three days as a part of her performance evaluation. The Compact Administrator indicated that the Safe and Timely Act requires a home study be done within 60 days but does not require a placement decision.

When asked what suggested court practices she would recommend to improve protections for children as well as the safe and timely placement of children across state lines, the Compact Administrator cited the following:

- a) Enforcement of compliance with ICPC: some agencies look for ways in which to circumvent the ICPC, due to the fact that many times the approval process is long and frustrating.
- b) Ensuring that the completion of court orders does not delay the ICPC process: a quick turn around from hearing to court order will expedite the referral process.
- c) Court orders should require custodians involved in the cases before the court to make an early determination of the possible need for an ICPC home study.
- d) Judges should require regular status reports from custodial agencies to determine the progress of the ICPC progress.
- e) Judges to judge communication: when there is no progress, ask the local judge in other jurisdictions for help.
- f) Issue a Regulation 7, Priority Placement, court order when applicable.

The assessment would indicate that North Dakota does not have any legal barriers to accomplish the safe and timely placement of children. The main concerns seem to be working with the receiving state and getting the home studies done by the local agencies within the 60 days. The court will examine options to accelerate the process through the Court Improvement Program Committee and make recommendations to the Administrative Council or other appropriate authorities.

