

CHAPTER 14-13
INTERSTATE CHILD PLACEMENT COMPACT

14-13-01. Establishment of interstate compact - Text.

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:

1. 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.
2. 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.
3. 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.
4. Appropriate jurisdictional arrangements for the care of children will be promoted.

ARTICLE II - DEFINITIONS

As used in this compact:

1. "Child" means a person who, by reason of minority, is legally subject to parental, guardianship, or similar control.
2. "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.
3. "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.
4. "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency, or other entity which sends, brings, or causes to be sent or brought any child to another party state.

ARTICLE III - CONDITIONS FOR PLACEMENT

1. No sending agency may 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 complies 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.
2. 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 must contain:
 - a. The name, date, and place of birth of the child.
 - b. The identity and address or addresses of the parents or legal guardian.
 - c. The name and address of the person, agency, or institution to or with which the sending agency proposes to send, bring, or place the child.
 - d. 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.
3. Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph 2 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 is 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.

4. The child may 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 constitutes 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 constitutes 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

1. 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 also includes 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 may defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.
2. 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.
3. Nothing in this compact may 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 1 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 may be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to the child 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 must be general coordinator of activities under this compact in the officer's 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 does not apply to:

1. The sending or bringing of a child into a receiving state by the child's parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or the child's

guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

2. 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 is 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 becomes effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact must be by the enactment of a statute repealing the same, but does 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 does 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 must be liberally construed to effectuate the purposes thereof. The provisions of this compact are severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance is not affected thereby. If this compact is held contrary to the constitution of any state party thereto, the compact must remain in full force and effect as to the remaining states and in full force as to the state affected as to all severable matters.

14-13-02. Determination of financial responsibility.

Financial responsibility for any child placed pursuant to the provisions of the Interstate Compact on the Placement of Children must 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 North Dakota laws fixing responsibility for the support of children also may be invoked.

14-13-03. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Appropriate authority in the receiving state" as used in paragraph 1 of article V of the compact with reference to this state means the commissioner of the department of health and human services or designee.
2. "Appropriate public authorities" as used in article III of the compact with reference to this state means the department of health and human services, and the department shall receive and act with reference to notices required by article III.

14-13-04. Authority to enter into agreements - Limitation.

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 2 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 on this state or subdivision or agency thereof is not binding unless it has the approval in writing of the governor in the case of the state and of the chief local fiscal officer in the case of a subdivision of the state.

14-13-05. Inspection and supervision in other state.

Any requirements for visitation, inspection, or supervision of children, homes, institutions, or other agencies in another party state which may apply under chapter 50-11 must be deemed to be met if performed pursuant to an agreement entered into by appropriate officers or agencies of this state or a subdivision thereof as contemplated by paragraph 2 of article V of the Interstate Compact on the Placement of Children.

14-13-06. Restrictions not to apply.

The provisions of section 50-12-16 do not apply to placements made pursuant to the Interstate Compact on the Placement of Children.

14-13-07. Placement of delinquent children.

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

14-13-08. Governor to appoint compact administrator.

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