

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005  
4  
5 By: Senator Madison  
6  
7

# A Bill

SENATE BILL 1012

## For An Act To Be Entitled

9 AN ACT TO REPEAL THE CURRENT INTERSTATE COMPACT  
10 ON THE PLACEMENT OF CHILDREN, § 9-29-201 ET SEQ.,  
11 AND LAWS RELATING TO THE COMPACT; AND TO ENACT  
12 THE NEW INTERSTATE COMPACT FOR THE PLACEMENT OF  
13 CHILDREN; AND FOR OTHER PURPOSES.  
14

## Subtitle

15 TO REPEAL THE CURRENT INTERSTATE COMPACT  
16 ON THE PLACEMENT OF CHILDREN AND LAWS  
17 RELATED TO THE COMPACT, AND TO ENACT THE  
18 NEW INTERSTATE COMPACT FOR THE PLACEMENT  
19 OF CHILDREN.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. The purpose of this act is to repeal the current Interstate  
26 Compact on the Placement of Children, Arkansas Code § 9-29-201 et seq., and  
27 laws related to the compact, and to enact the new Interstate Compact for the  
28 Placement of Children.  
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30 SECTION 2. Arkansas Code Title 9, Chapter 29, Subchapter 2 is  
31 repealed.

32 ~~9-29-201. Text of Compact.~~

33 ~~The Interstate Compact on the Placement of Children is enacted into law~~  
34 ~~and entered into with all other jurisdictions legally joining therein in form~~  
35 ~~substantially as follows:~~

36 ~~INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN~~



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2 ~~ARTICLE I~~3 ~~Purpose and Policy~~

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

6 ~~(a) Each child requiring placement shall receive the maximum~~  
7 ~~opportunity to be placed in a suitable environment and with persons or~~  
8 ~~institutions having appropriate qualifications and facilities to provide a~~  
9 ~~necessary and desirable degree and type of care.~~

10 ~~(b) The appropriate authorities in a state where a child is to be~~  
11 ~~placed may have full opportunity to ascertain the circumstances of the~~  
12 ~~proposed placement, thereby promoting full compliance with applicable~~  
13 ~~requirements for the protection of the child.~~

14 ~~(c) The proper authorities of the state from which the placement is~~  
15 ~~made may obtain the most complete information on the basis of which to~~  
16 ~~evaluate a projected placement before it is made.~~

17 ~~(d) Appropriate jurisdictional arrangement for the care of children~~  
18 ~~will be promoted.~~

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20 ~~ARTICLE II~~21 ~~Definitions~~

22 ~~As used in this compact:~~

23 ~~(a) "Child" means a person who, by reason of minority, is legally~~  
24 ~~subject to parental, guardianship, or similar control;~~

25 ~~(b) "Sending agency" means a party state, officer or employee thereof;~~  
26 ~~a subdivision of a party state, or officer or employee thereof, a court of a~~  
27 ~~party state, a person, corporation, association, charitable agency, or other~~  
28 ~~entity which sends, brings, or causes to be sent or brought any child to~~  
29 ~~another party state;~~

30 ~~(c) "Receiving state" means the state to which a child is sent,~~  
31 ~~brought or caused to be sent or brought, whether by public authorities or~~  
32 ~~private persons or agencies, and whether for placement with state or local~~  
33 ~~public authorities or for placement with private agencies or persons;~~

34 ~~(d) "Placement" means:~~

35 ~~(1) The arrangement for the care of a child in a family, free or~~  
36 ~~boarding home or in a child caring agency or institution but does not include~~

1 ~~any institution caring for the mentally ill, mentally defective or epileptic~~  
 2 ~~or any institution primarily educational in character, and any hospital or~~  
 3 ~~other medical facility; and~~

4 ~~(2) The arrangement for the care of a child in the home of his~~  
 5 ~~or her parent, other relative, or non agency guardian in a receiving state~~  
 6 ~~when the sending agency is any entity other than a parent, relative, guardian~~  
 7 ~~or non agency guardian making the arrangement for care as a plan exempt under~~  
 8 ~~Article VIII(a) of the compact.~~

9 ~~(e)(1) "Foster care" means the care of a child on a twenty four hour-~~  
 10 ~~a day basis away from the home of the child's parent or parents. The care may~~  
 11 ~~be by a relative of the child, by a non related individual, by a group home,~~  
 12 ~~or by a residential facility or any other entity.~~

13 ~~(2) In addition, if twenty four hour a day care is provided by~~  
 14 ~~the child's parents by reason of a court ordered placement and not by virtue~~  
 15 ~~of the parent child relationship, the care is foster care.~~

16 ~~(f)(1) "Priority placement" means whenever a court, upon request or on~~  
 17 ~~its own motion or where court approval is required, determines that a~~  
 18 ~~proposed priority placement of a child from one (1) state into another state~~  
 19 ~~is necessary because:~~

20 ~~(A) The child is under two (2) years of age;~~

21 ~~(B) The child is in an emergency shelter; or~~

22 ~~(C) The court finds that the child has spent a substantial~~  
 23 ~~amount of time in the home of the proposed placement recipient.~~

24 ~~(2) The state agency has thirty (30) days to complete a request~~  
 25 ~~for a priority placement.~~

26 ~~(3) Requests for placement shall not be expedited or given~~  
 27 ~~priority except as outlined in this subsection.~~

## 29 ~~ARTICLE III~~

### 30 ~~Conditions for Placement~~

31 ~~(a) No sending agency shall send, bring, or cause to be sent or~~  
 32 ~~brought into any other party state any child for placement in foster care or~~  
 33 ~~as a preliminary to a possible adoption unless the sending agency shall~~  
 34 ~~comply with each and every requirement set forth in this article and with the~~  
 35 ~~applicable laws of the receiving state governing the placement of children~~  
 36 ~~therein.~~

1           ~~(b) Prior to sending, bringing, or causing any child to be sent or~~  
 2 ~~brought into a receiving state for placement in foster care or as a~~  
 3 ~~preliminary to a possible adoption, the sending agency shall furnish the~~  
 4 ~~appropriate public authorities in the receiving state written notice of the~~  
 5 ~~intention to send, bring, or place the child in the receiving state. The~~  
 6 ~~notice shall contain:~~

7                   ~~(1) The name, date and place of birth of the child;~~

8                   ~~(2) The identity and address or addresses of the parents or~~  
 9 ~~legal guardian;~~

10                  ~~(3) The name and address of the person, agency, or institution~~  
 11 ~~to or with which the sending agency proposes to send, bring, or place the~~  
 12 ~~child;~~

13                  ~~(4) A full statement of the reasons for such proposed action and~~  
 14 ~~evidence of the authority pursuant to which placement is proposed to be made.~~

15           ~~(c) Any public officer or agency in a receiving state which is in~~  
 16 ~~receipt of a notice pursuant to paragraph (b) of this article may request of~~  
 17 ~~the sending agency, or any other appropriate officer or agency of or in the~~  
 18 ~~sending agency's state, and shall be entitled to receive therefrom, such~~  
 19 ~~supporting or additional information as it may deem necessary under the~~  
 20 ~~circumstances to carry out the purpose and policy of this compact.~~

21           ~~(d) The child shall not be sent, brought, or caused to be sent or~~  
 22 ~~brought into the receiving state until the appropriate public authorities in~~  
 23 ~~the receiving state shall notify the sending agency, in writing, to the~~  
 24 ~~effect that the proposed placement does not appear to be contrary to the~~  
 25 ~~interests of the child.~~

#### 27 ARTICLE IV

##### 28 Penalty for Illegal Placement

29           ~~(e)(1) If the home study is denied, the sending state agency shall~~  
 30 ~~present the home study to the juvenile division judge in the sending state.~~

31                   ~~(2) The sending state juvenile division judge shall review the~~  
 32 ~~home study and make specific written findings of fact regarding the concerns~~  
 33 ~~outlined in the home study.~~

34                   ~~(3) If the sending state juvenile division court finds that the~~  
 35 ~~health and safety concerns cannot be addressed or cured by services, the~~  
 36 ~~court will not make the placement.~~

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~~ARTICLE IV~~

~~Penalty for Illegal Placement~~

~~The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.~~

~~ARTICLE V~~

~~Retention of Jurisdiction~~

~~(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment, and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting, or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.~~

~~(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one (1) or more services in respect of such case by the latter as agent for the sending agency.~~

~~(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable~~

1 ~~agency of the sending state, nor to prevent the agency in the receiving state~~  
2 ~~from discharging financial responsibility for the support and maintenance of~~  
3 ~~a child who has been placed on behalf of the sending agency without relieving~~  
4 ~~the responsibility set forth in paragraph (a) hereof.~~

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6 ~~ARTICLE VI~~

7 ~~Institutional Care of Delinquent Children~~

8 ~~A child adjudicated delinquent may be placed in an institution in another~~  
9 ~~party jurisdiction pursuant to this compact but no such placement shall be~~  
10 ~~made unless the child is given a court hearing on notice to the parent or~~  
11 ~~guardian with opportunity to be heard, prior to his being sent to such other~~  
12 ~~party jurisdiction for institutional care and the court finds that:~~

13 ~~1. Equivalent facilities for the child are not available in the~~  
14 ~~sending agency's jurisdiction; and~~

15 ~~2. Institutional care in the other jurisdiction is in the best~~  
16 ~~interest of the child and will not produce undue hardship.~~

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18 ~~ARTICLE VII~~

19 ~~Compact Administrator~~

20 ~~The executive head of each jurisdiction party to this compact shall designate~~  
21 ~~an officer who shall be general coordinator of activities under this compact~~  
22 ~~in his jurisdiction and who, acting jointly with like officers of other party~~  
23 ~~jurisdictions, shall have power to promulgate rules and regulations to carry~~  
24 ~~out more effectively the terms and provisions of this compact.~~

25  
26 ~~ARTICLE VIII~~

27 ~~Limitations~~

28 ~~This compact shall not apply to:~~

29 ~~(a) The sending or bringing of a child into a receiving state by his~~  
30 ~~parent, stepparent, grandparent, adult brother or sister, adult uncle or~~  
31 ~~aunt, or his guardian and leaving the child with any such relative or~~  
32 ~~nonagency guardian in the receiving state;~~

33 ~~(b) Any placement, sending, or bringing of a child into a receiving~~  
34 ~~state pursuant to any other interstate compact to which both the state from~~  
35 ~~which the child is sent or brought and the receiving state are party, or to~~  
36 ~~any other agreement between said states which has the force of law.~~

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~~ARTICLE IX~~

~~Enactment and Withdrawal~~

~~This compact shall be open to joinder by any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two (2) years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties, and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.~~

~~ARTICLE X~~

~~Construction and Severability~~

~~The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or 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 shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.~~

~~9-29-202. Role of Governor—Appointment of 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 authorized to appoint a compact administrator in accordance with the terms of Article VII.~~

1 ~~9-29-203. Enforcement.~~

2 ~~(a) The "appropriate public authorities" as used in Article III of the~~  
3 ~~Interstate Compact on the Placement of Children, with reference to this~~  
4 ~~state, means the Department of Human Services which shall receive and act~~  
5 ~~with reference to notices required by Article III.~~

6 ~~(b) The department shall take appropriate action in the appropriate~~  
7 ~~court as may be necessary to enforce the provisions of this compact and to~~  
8 ~~ensure that the placement of any child shall be for the best interest of that~~  
9 ~~child.~~

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11 ~~9-29-204. Director of the Department of Human Services to determine~~  
12 ~~when to discharge child.~~

13 ~~As used in paragraph (a) of Article V of the Interstate Compact on the~~  
14 ~~Placement of Children, the phrase "appropriate authority in the receiving~~  
15 ~~state" with reference to this state means the Director of the Department of~~  
16 ~~Human Services.~~

17  
18 ~~9-29-205. Agreements with other states pursuant to the compact.~~

19 ~~The officers and agencies of this state and its subdivisions having~~  
20 ~~authority to place children are empowered to enter into agreements with~~  
21 ~~appropriate officers or agencies of or in other party states pursuant to~~  
22 ~~paragraph (b) of Article V of the Interstate Compact on the Placement of~~  
23 ~~Children. Any such agreement which contains a financial commitment or imposes~~  
24 ~~a financial obligation on this state or subdivision, or agency thereof shall~~  
25 ~~not be binding unless it has the approval in writing of the Director of the~~  
26 ~~Department of Human Services in the case of the state and of the chief local~~  
27 ~~fiscal officer in the case of a subdivision of the state.~~

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29 ~~9-29-206. Agreements concerning visitation or supervision.~~

30 ~~Any requirements for visitation, inspection or supervision of children,~~  
31 ~~homes, institutions, or other agencies in another party state which may apply~~  
32 ~~under this subchapter or as required by any court of record of this state~~  
33 ~~shall be deemed to be met if performed pursuant to an agreement entered into~~  
34 ~~by appropriate officers or agencies of this state or a subdivision thereof as~~  
35 ~~contemplated by paragraph (b) of Article V of the Interstate Compact on the~~  
36 ~~Placement of Children.~~



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~~9-29-207. Courts authorized to place children in other states pursuant to this compact.~~

~~Any court having jurisdiction to place delinquent children may place such a child in an institution 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.~~

~~9-29-208. Financial responsibility for placed children.~~

~~Financial responsibility for any child placed pursuant to the provisions of the Interstate Compact on the Placement of Children shall be determined in accordance with the provisions of Article V thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of Arkansas laws fixing responsibility for the support of children may also be invoked.~~