

LORMAN EDUCATION SERVICES

*SEMINAR NAME: ADOPTION PRACTICE,
PROCEDURE AND PITFALLS IN MICHIGAN*

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SOUTHFIELD, MICHIGAN*

*THE INTERSTATE COMPACT ON
THE PLACEMENT OF CHILDREN*

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THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

- I. **THE PLACEMENT OF CHILDREN ACROSS STATE LINES IS A REGULATED ACTIVITY.**
 - A. The interstate placement of children for the purpose of foster care or adoption is regulated by the Michigan Family Independence Agency and its counterpart agencies in other states pursuant to the Interstate Compact on the Placement of Children, MCLA 3.711.
 - B. The Interstate Compact on the Placement of Children (“ICPC”) is an agreement legally adopted by all 50 states and some U.S. territories. Each state or territory has enacted laws implementing the ICPC:
 1. Alabama--Code 1975, §§ 44-2-20 to 44-2-26.
 2. Alaska--AS 47.70.010 to 47.70.080.
 3. Arizona--A.R.S. §§ 8-548 to 8-548.06.
 4. Arkansas--A.C.A. §§ 9-29-201 to 9-29-208.
 5. California--West's Ann.Cal.Fam.Code, §§ 7900 to 7912.
 6. Colorado--West's C.R.S.A. §§ 24-60-1801 to 24-60-1803.
 7. Connecticut--C.G.S.A. § 17a-175 to 17a-182.
 8. Delaware--31 Del.C. §§ 381 to 389.
 9. District of Columbia--D.C. Official Code, 2001 Ed. §§ 4-1421 to 4-1424.
 10. Florida--West's F.S.A. §§ 409.401 to 409.405.
 11. Georgia--O.C.G.A. §§ 39-4-1 to 39-4-10.

12. Hawaii--H R S §§ 350E-1 to 350E-9.
13. Idaho--I.C. §§ 16-2101 to 16-2107.
14. Illinois--S.H.A. 45 ILCS 15/0.01 to 15/9.
15. Indiana--West's A.I.C. 12-17-8-1 to 12-17-8-8.
16. Iowa--I.C.A. §§ 232.158 to 232.168.
17. Kansas--K.S.A. 38-1201 to 38-1206.
18. Kentucky--KRS 615.030 to 615.050, 615.990.
19. Louisiana--LSA-Ch.C. arts. 1608 to 1622.
20. Maine--22 M.R.S.A. §§ 4191 to 4247.
21. Maryland--Code, Family Law, §§ 5-601 to 5-611.
22. Massachusetts--M.G.L.A. c. 119 App., §§ 2-1 to 2-8.
23. Michigan--M.C.L.A. §§ 3.711 to 3.717.
24. Minnesota--M.S.A. §§ 260.851 to 260.91.
25. Mississippi--Code 1972, §§ 43-18-1 to 43-18-17.
26. Missouri--V.A.M.S. §§ 210.620 to 210.640.
27. Montana--M.C.A. 41-4-101 to 41-4-109.
28. Nebraska--R.R.S. 1943, 43-1101.
29. Nevada--N.R.S. 127.320 to 127.350.
30. New Hampshire--RSA 170-A:1 to 170-A:6.
31. New Jersey--N.J.S.A. 9:23-5 to 9:23-17.
32. New Mexico--NMSA 1978, §§ 32A-11-1 to 32A-11-7.
33. New York--McKinney's Social Services Law, § 374-a.

34. North Carolina--G.S. §§ 7B-3800 to 7B-3806.
35. North Dakota--NDCC 14-13-01 to 14-13-08.
36. Ohio--R.C. §§ 5103.20 to 5103.28.
37. Oklahoma--10 Okl.St. Ann. §§ 571 to 576.
38. Oregon--ORS 417.200 to 417.260.
39. Pennsylvania--62 P.S. §§ 761 to 765.
40. Rhode Island--Gen. Laws. 1956, §§ 40-15-1 to 40-15-10.
41. South Carolina--Code 1976, §§ 20-7-1980 to 20-7-2070.
42. South Dakota--SDCL 26-13-1 to 26-13-9.
43. Tennessee--T.C.A. §§ 37-4-201 to 37-4-207.
44. Texas--V.T.C.A., Family Code §§162.101 to 162.107.
45. Utah--U.C.A. 1953, 62A-4a-701 to 62A-4a-709.
46. Vermont--33 V.S.A. §§ 5901 to 5910.
47. Virginia--Code 1950, §§ 63.2-1000, 63.2-1100 to 63.2-1105.
48. Virgin Islands--34 V.I.C. §§ 121 to 127.
49. Washington--West's RCWA 26.34.010 to 26.34.080.
50. West Virginia--Code, 49-2A-1, 49-2A-2.
51. Wisconsin--W.S.A. 48.988, 48.989.
52. Wyoming--Wyo. Stat. Ann. §§ 14-5-101 to 14-5-108.

C. The ICPC has the force of law in each enacting state. Accordingly, violations of the ICPC can be punished identically to violations of other laws. ICPC Article IV.

1. Conduct prohibited by the ICPC constitutes a violation of the laws of both the state from which the child is sent (“sending state”) and the state into which the child is displaced (receiving state”).
2. The same conduct also constitutes grounds for the revocation of the license of any child placing agency or other person that improperly placed the child.

II. DESIGNATION OF ICPC OFFICER

- A. Article VII authorizes the governor of each contracting state (or equivalent officer) to appoint an ICPC officer to administer the compact.
- B. In Michigan, the compact officer for voluntary adoptive placements is Dale Murray, Family Independence Agency, 235 South Grand Avenue, P.O. Box 30037, Lansing, MI 48909, (phone: (517) 373-6918, murrayd2@mich.gov.
- C. The ICPC officers of the other states and territories that have executed the compact are:

Alabama	Anne Holliday	Not Furnished
Alaska	Marcia Pickering	(907) 465-2105
Arizona	Ruby Pittman	(602) 235-9134 Ext. 7102
Arkansas	Marty Nodurft	(501) 682-8556
California	Jackie Rodriguez	(916) 322-5391
Colorado	Chantal Smith	(303) 866-2998
Connecticut	Sandra Matlack	(860) 550-6392

Delaware	Rose Marie Holmquist	(302) 633-2698/ 2683
District of Columbia	Sharlynn Bobo	(202) 442-6100
Florida	Samuel G. Ashdown, Jr.	(850) 487-2760
Georgia	James Graves John Hutto (Public Agency Adoptions)	(404) 657-3567 (404) 657-3564
Hawaii	Cynthia Goss	(808) 586-5699
Idaho	Carolyn K. Ayres Barbara Jarrett (Adoptions)	(208) 334-5700 (208) 334-5652
Illinois	Ron Davidson	(217) 557-5384
Indiana	Nancy Ingle	(317) 232-4769
Iowa	Sarah Stark	(515) 281-5730
Kansas	Angie Casey	(785) 296-0918
Kentucky	Mike Overstreet	(502) 564-5813
Louisiana	Leola McClinton	(225) 342-4034
Maine	Charles Gagnon	(207) 287-5060
Maryland	Stephanie Pettaway	(410) 767-7506
Massachusetts	Paula Sweeney	(617) 748-2375
Michigan	Dale Murray	(517) 373-6918
Minnesota	Kelly Simmons	(651) 296-2725
Mississippi	Patricia Hickman	(601) 359-4986
Missouri	Mary Kay Kliethermes	(573) 751-2981
Montana	Kandice Morse	(406) 444-5917

Nebraska	Suzanne Schied	(402) 471-9245
Nevada	Connie Martin	(775) 684-4418
New Hampshire	Linda Bombaci	(603) 271-4708
New Jersey	Benita Rommel	(609) 292-3188
New Mexico	Peg A. Tassett	(505) 827-8457
New York	James M. Keeler, Jr.	(518) 473-1591
North Carolina	Osborne Shamberger	(919) 733-9465
North Dakota	Deb Petry (Foster Care)	(701) 328-3581
	Delores Friedt (Adoption)	(701) 328-4152
Ohio	Heidi Stone	(614) 466-9274
Oklahoma	Margaret Linneman	(405) 522-1599
Oregon	Victor Congleton	(503) 945-6685
Pennsylvania	Larry Yarberough	(717) 772-5505
Rhode Island	Everett Thornton	(401) 254-7077
South Carolina	Mary Williams	(803) 898-7318
South Dakota	Duane E. Jenner DiAnn Kleinsasser (Adoptions)	(605) 773-3227
Tennessee	Cheri Stewart	(615) 532-5618
Texas	Carolyn Thompson	(512) 834-4474
Utah	Mike Chapman	(801) 538-4364
Vermont	Margo Bryce	(802) 241-2141
U.S. Virgin Islands	Cheryl S. Hyndman	(340) 774-0930

Virginia	RoseMarie Keith	(804) 692-1274/1279
Washington	Janette Benham (Adoptions)	(360) 902-7987
	Tina Neswick (Foster Care)	(360) 902-7984
West Virginia	Nancy Chalhoub	(304) 558-1260
Wisconsin	Connie Klick	(608) 266-1489
	Lynn Lehr	(608) 266-8501
	Kathy Gerber	(608) 267-2075
Wyoming	Maureen Clifton	(307) 777-3570

III. PURPOSE AND GOALS OF THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN.

A. Article I of the ICPC identifies four goals of the Compact.

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.
- B. The ICPC promotes permanence in the placement; seeks the optimal placement for the benefit of the child; and strives to reduce the risk of legal issues necessitating the later unraveling of a placement.
- IV. PROCESS UNDER THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN.
- A. No child may be moved across state lines in connection with a foster placement or as a preliminary to a possible adoption unless the sending agency complies with both the ICPC and the laws of the receiving state regarding the type of placement involved.
- B. Practice under the ICPC requires handshaking between the adoption laws of the sending jurisdiction and the laws of the receiving jurisdiction. This is sometimes difficult to coordinate.
1. Consultation between the attorneys in both states is needed to determine the best state in which to file the adoption petition. The laws of the state in which the petition is filed will govern process and procedure in the adoption itself. Sometimes, the law of the state in which the petition is filed requires that the termination of parental rights occur under the laws of the state in which the

adoptee is found (e.g. the sending state); in this case the laws of the sending state are also relevant.

2. Jurisdiction for filing the adoption petition is usually appropriate in the state in which the prospective adoptive parents reside. Jurisdiction may also be appropriate in the state where the prospective adoptee is found.
3. If there is a choice of states in which to file the petition, adoption attorneys may select the state having the laws most favorable to achieve the desired outcome.

C. The ICPC filing consists of triplicate packages sent to the sending state's ICPC officer containing at least the following information:

1. I100A form (the basic ICPC cover sheet describing the proposed interstate placement);
2. The home study of the prospective adoptive parents who reside in the receiving state;
3. Social, genetic and medical history of the adoptee, including hospital birth information if the child is a newborn;
4. Hospital birth verification or birth certificate;
5. Depending upon the laws of the receiving state regarding acceptance of at risk placements, appropriate evidence that the child is freed for the proposed placement:
 - a. Court orders terminating parental rights.

- b. Relinquishment of parental rights documents.
 - c. “At risk” placement documents from the biological parent.
Typically the prospective adoptive parents must also sign a document acknowledging the at risk nature of the placement.
- 6. Additional paperwork necessitated by the particular situation as required by the sending or receiving state.
 - 7. It is recommended to include a prepaid overnight courier envelope so that the sending state can easily transmit documents to the receiving state for approval in an expeditious time frame.
- D. The sending state reviews the ICPC packet to determine whether the placement is consistent with its requirements so that the child is properly being placed outside of the parental home. Upon approval, the sending state’s ICPC office forwards the packet to the receiving state. The receiving state then reviews the submission to determine if the placement is consistent with the laws of the receiving state regarding the adoption of the child.
- 1. Placements can be denied because of legal concerns with the process used to make the child available for out of home placement.
 - 2. Placements can be denied because of concerns about the social appropriateness of a placement due to the demonstrated needs of

the adoptee and the apparent strengths or weaknesses of the prospective adoptive parents. This is usually a concern with older children and foster placements.

a. The ICPC office may not approve a placement if there is concern that the placement may disrupt due to behavioral issues with the adoptee.

b. The ICPC office may not approve a placement if there are concerns about the general compatibility of the prospective adoptive parents and the adoptee.

E. If placement is denied, the prospective adoptive parent may appeal the denial through the FIA administrative chain of command.

F. Following the placement, the sending agency files the I100-B reporting on the placement. (copy attached).

V. JURISDICTION OVER DISPUTES IN ICPC PLACEMENTS.

A. Article V of the ICPC provides that “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.”

1. Per Article II, “sending agency” means a party state, or 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. This refers to the individual adoption agency or attorney involved in the placement.
2. This provision does not clearly answer which state’s laws govern in a case seeking, for example, return of the child to the biological parent.
 - a. Example: Prospective adoptive parents reside in Michigan. Biological mother resides in New Mexico. The adoption attorneys determine that the adoption petition will be filed in Michigan, but that the relinquishment of parental rights of both biological mother and biological father will occur in New Mexico pursuant to the laws of that state. Michigan’s Adoption Code permits the Michigan court to enter an order formally placing the adoptee with the prospective adoptive parents based upon a relinquishment properly executed pursuant to the laws of another state. If

the biological mother later seeks to revoke her relinquishment, will the laws of Michigan or New Mexico govern the proceedings, and is the biological mother required to bring her revocation in Michigan or in New Mexico?

VI. EXCEPTIONS TO THE ICPC

The ICPC does not apply The sending or bringing of a child into a receiving state by the child's parent, step-parent, 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. ICPC, Article VIII(a).

A. The ICPC does not apply to interstate placement in an institution caring for the mentally ill, mentally defective, or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

VII. CAUTIONS IN ICPC CASES

A. Plan in advance which state laws will govern the adoption – e.g. where will the adoption petition be filed?

B. Comply explicitly with the governing state's laws, especially regarding the relinquishment of parental rights.

C. Submit a complete package to the ICPC office. In unusual or complex cases, contact the ICPC office in advance of birth to determine if ICPC approval is likely in a particular case.

- D. Emphasize to the prospective adoptive parents the illegality of leaving the sending state with the adoptee prior to ICPC approval of the placement by both the sending and receiving states.