Interstate Compact on the Placement of Children (ICPC): A Social Worker’s Guide

This guide was adapted from the Northern California Training Academy’s online course: Interstate Compact on the Placement of Children (ICPC).
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This guide was adapted from the Northern California Training Academy’s online course: Interstate Compact on the Placement of Children (ICPC).
I. ICPC Basics

a. What is ICPC?

The Interstate Compact on the Placement of Children (ICPC) is a uniform law enacted by all 50 states, the District of Columbia and the U.S. Virgin Islands. California became a compact member January 1, 1975.

The ICPC is a set of articles and regulations, adopted verbatim into each member’s state statutes, designed to ensure that children who are placed across state lines for foster care or adoption and/or for placements with relatives and Non-Relative Extended Family Members (NREFMs) receive services and protection in the other state. It is the set of laws and regulations for sending a child from one state (sending state) to another state (receiving state) with information about the proposed placement and giving both states the opportunity to assess the safety and suitability of the proposed placement and ensure that the placement is in the child's best interest before placement is made.

The ICPC establishes both procedures and responsibilities for those placements.

The basic structure of ICPC is:

- **Ten Articles**: California Family Code sections 7900 to 7912 are the California statutes related to ICPC. Section 7901 contains the ten articles adopted verbatim into California law (similar statute adopted by each of the 52 members.) The articles provide a framework for how the ICPC works and when it applies.

- **Eleven Model Regulations**: Article VII of the compact gives each compact administrator, designated by its own member jurisdiction, the power to promulgate (publish) rules and regulations to carry out the terms of the compact. These are formulated by the Association of Administrators of the Interstate Compact on the Placement of Children (AAICPC), which is made up of the compact members.

- **Secretariat Opinions** may be requested and are persuasive. They are issued in response to particular placement cases or specific questions and are reviewed and approved by the Executive Committee before issuance.

b. Who are the Compact Administrators?

Each state must designate a compact administrator with the following duties:
Know and understand the text and provisions of the ICPC
Process ICPC requests from other states
Facilitate, educate and ensure training of parties who act as sending agencies including private agency representatives, attorneys and juvenile court representatives
Enforce ICPC rules and regulations in the state
Establish and sustain relationships with all parties directly or indirectly involved in placements out of state
Submit quarterly statistics, keep state pages up to date and participate and vote at annual business meetings/trainings
Promulgate and publish model rules and regulations with other compact administrators

c. What is the Secretariat?
This office, part of the American Public Human Service Association (APHSA), provides training, administrative, legal and technical services to support individual state operation of the compact. The Secretariat provides advisory or secretariat opinions to address common issues involving the ICPC.

d. When does the ICPC Apply?
It applies whenever a sending agency wants to send, bring or cause to be sent or brought into any party (to the compact) state “any child for placement in foster care or as a preliminary to a possible adoption....” (Article III(a)).

e. When does the ICPC NOT apply?
According to Article VIII, “This compact shall not apply to:

a. “The sending or bringing of a child into a receiving state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or non-agency guardian in the receiving state.

b. “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.”
f. What is a sending agency?

Article II(b) defines sending agency as “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.”

g. What is a placement?

Article II(d) defines placement as “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.”

Regulation No. 3 states placement, as defined in Article II(d), includes “the arrangement for the care of a child in the home of his parent, other relative, or non-agency guardian in a receiving state when the sending agency is any entity other than a parent, relative, guardian or non-agency guardian making the arrangement for care as a plan exempt under Article VIII(a) of the Compact.”

The key question is whether the local child welfare, including probation agencies, had custody of the child, so that child cannot be moved from the state without following ICPC rules. If the juvenile court orders place the child in the care and custody of the agency for suitable placement, then even though parents may have the child with them in their home, the agency is still responsible for the child because the agency has official custody.

h. What is foster care?

Regulation No. 3 states foster care “as used in Article III of ICPC, except as modified in this paragraph, means care of a child on a 24-hour a day basis away from the home of the child’s parent(s). Such care may be by a relative of the child, by a non-related individual, by a group home, or by a residential facility or any other entity. In addition, if 24-hour a day care is provided by the child’s parent(s) by reason of a court-ordered placement (and not by virtue of the parent-child relationship), the care is foster care.”

This is interpreted by California to include private placements by parents into out-of-state group homes or residential treatment facilities and include placements made pursuant to an Individualized Education Program (IEP) of a Seriously Emotionally Disturbed (SED) child by a county mental health department when the SED child is also a dependent or ward as a result of court adjudication.
II. Recognizing a Placement Covered by the Compact

Although the compact law is short, it may be confusing to persons unfamiliar with it. If you are considering placing a child in another state, the placement may be subject to the compact in the following general circumstances:

- If the state in which you (or your agency) reside and the state to which the child is to be sent (or from which the child is to be brought) are both party to the compact
- If you are not related to the child (or not the child’s non-agency guardian) or, if you are related, and you are sending the child to live with someone other than a close relative or non-agency guardian named in Article VIII(a) of the compact
- If you are sending, bringing, or causing the child to be brought or sent into a party state, whether or not you have custody of the child, and without regard to the present location of the child
- If you are placing the child with someone or some agency other than any institution caring for children with mental illness or developmental disabilities or any institution primarily educational in character, and any hospital or other medical facility.

If the circumstances of the proposed placement fit into those described above, you should be sure that you are following the ICPC requirements.

III. Basic Process of ICPC

ICPC placements are initiated with the ICPC 100A and 100B forms. The flow/distribution of the ICPC 100A and 100B forms is bulleted on the bottom of each individual form. Generally, the process is similar to the following steps:

1. Sending state’s local child welfare agency sends required paperwork (ICPC Form 100A) to sending state’s ICPC office. Paperwork includes an eligibility determination and a financial/medical plan, the social history of the child and the case plan.
2. Sending state’s ICPC office sends the required paperwork to the receiving state’s ICPC office.
3. Receiving state’s ICPC office sends required paperwork to receiving state’s local child welfare agency.
4. Receiving state’s local child welfare agency sends results of the home study to receiving state’s ICPC office.
5. Receiving state’s ICPC office ensures the placement is safe and suitable and not contrary to the best interest of the child being placed and checks whether the placement may be made or shall not be made on the 100A.

6. Receiving state’s ICPC office sends determination to sending state’s ICPC office.

7. Sending state’s ICPC office forwards the results of the local child welfare agency home study in receiving state to its local agency.

8. Sending state determines whether or not placement in the receiving state is in the best interest of the child and whether or not the placement resource will be used.

9. California’s process, however, is different. California joined the compact in 1975. In 1991, California delegated ICPC administrative functions to county welfare and probation departments, licensed public and private adoption agencies and the CDSS State Adoptions District Offices, although in 1998 California recentralized only for purposes of placements into out-of-state group homes. Thus, California is a decentralized and county-administered state, and that process is a little different. Therefore, whether California is the sending or receiving state, the paperwork is sent directly to and from the California county ICPC office. Thus, the sending county ICPC office sends required paperwork, including the ICPC Form 100A, directly to the receiving state’s central ICPC office.

In addition to the 100A, paperwork includes the ICPC 100B form (if the child has been placed without prior approval in the receiving state); current court order specifying authority to place child; current case history for the child; any relevant and available information regarding prior placement with same resource in sending state; child’s case plan; Title IV-E eligibility verification; financial/medical plan; and a copy of (or official document verifying) child’s social security card and birth certificate, if available.

The request must also contain a signed statement from the sending agency case manager that: 1) confirms the potential placement resource’s interest in being a placement resource; 2) includes name and correct physical and mailing address of the potential placement resource and other relevant contact information; 3) lists the number and types of bedrooms in the home and the number of people who will be residing in the home; 4) states the potential placement resource acknowledges that sufficient financial resources are available to care for child; and 5) affirms the potential placement resource acknowledges that a criminal records and child abuse history check will be completed on any persons residing in the home as required under the law of the receiving state.
Remember, in non-decentralized states, the sending state or central ICPC office sends the required paperwork to the receiving state ICPC office.

10. Receiving state’s central ICPC office sends required paperwork to receiving state’s local child welfare agency.

11. Receiving state’s local child welfare agency sends results of the home study to receiving state’s central ICPC office.

12. Receiving state’s ICPC office makes a determination regarding whether or not placement is a safe, suitable placement in this child’s best interest and signs the 100A saying the placement may be made or shall not be made and forwards directly to the California county ICPC office.

13. Sending county’s ICPC office forwards the results of the local child welfare agency home study in receiving state to its local office. This practice can vary dependent upon the size of the California county.

14. Even if the receiving state says the placement may be made, the local sending agency or the local court can still decide not to use the placement resource if it feels the placement is not in the child’s best interest or another placement is a better fit for the child. It takes only one reviewer in the process to determine a placement will not be used, but it requires both states to be in agreement to make a placement recommendation.

15. Once a request to place a child is approved by the receiving state, the sending agency and the receiving parties work together to complete the actual placement. After all plans and agreements have been completed and the 100A has been signed by both states, the child is moved to the receiving state. The sending agency notifies the receiving state of the placement by using form ICPC-100B, “Interstate Compact on the Placement of Children Report on Child’s Placement Status.”

### IV. Time Needed to Process Requests

APHSA’s Guide to the Interstate Compact on the Placement of Children states six weeks—30 working days—is the recommended processing time from the date the receiving state compact office receives the notice of the placement until the date that the placement is approved or denied. At times, referrals may take longer to process because of other work demands placed upon the local agency in the receiving state or upon the compact office. Whenever emergencies arise, however, compact
administrators will give consideration to requests and respond by the fastest means of communication.

Congress passed the Safe and Timely Interstate Placement of Foster Children Act of 2006, effective October 1, 2006, to move children more quickly into safe, permanent homes. The Act provides that “within 60 days after the State receives from another State a request to conduct a study of a home environment for purposes of assessing the safety and suitability of placing a child in the home, the State shall, directly or by contract,” conduct and complete the study and return to the sending state a report on the results as to the extent the home would meet the child’s needs. Regulation 2 states that the homestudy shall be completed not more than 60 calendar days from the date of receiving the complete request from the sending state and a final decision to approve or deny the placement resource must be provided no later than 180 calendar days from the receipt of the complete original request.

According to ICPC Regulation 6, permission to place a child given pursuant to Article III(d) of the ICPC is valid and sufficient to authorize the making of the placement identified in the 100A, for a period of six (6) months commencing on the date when the receiving state compact administrator or representative signs the 100A. If not made within that time, the sending agency may reapply.

Experience, especially in recent years, has shown that delays in the completion of home studies by the receiving state’s local agencies can be a significant problem. Sometimes the receiving state does not complete the home studies for many months. As a result, Regulation No. 7, Priority Placement, declared to be in effect on and after July 2, 2001, was enacted.

a. Expedited ICPC process

Regulation No. 7 describes 4 criteria, at least one of which must exist before a Regulation 7 request may be made by the sending state:

- An unexpected dependency due to a sudden or recent incarceration, incapacitation or death of a parent or guardian;
- A child four years of age or younger, including older siblings sought to be placed with the same proposed placement resource;
- The court finds that any child in the sibling group sought to be placed has a substantial relationship with a placement resource; and
- A child who is currently in an emergency placement.
V. The Sending Agency’s Responsibilities

While the child remains in the out-of-state placement, the sending agency retains jurisdiction including legal and financial responsibility for the child. This means that the sending agency has both the authority and the responsibility to determine all matters in relation to the “custody, supervision, care and disposition of the child,” including the power to return or transfer the child to another location, just as the sending agency would have “if the child had remained in the sending agency's state.” (See Article V(a).) A public agency can contract in the receiving state to provide performance of services, and the receiving state is responsible to assist the sending state in locating appropriate resources for the child and/or placement resource.

The sending agency’s responsibilities for the child continue until the child is legally adopted, becomes self-supporting or reaches majority, or is discharged with the prior concurrence of the receiving state’s appropriate authority. (See Article V(a).)

The sending agency must notify the receiving state’s compact administrator of any change in the child’s status using form ICPC-100B. Changes of status may include a termination of the interstate placement or such things as a new placement of the child in the receiving state or a transfer of legal custody.

VI. Penalties for Illegal Placements

At the time ICPC was enacted, no specific recommendation was made to insert criminal penalties. The rationale then (and maybe today) was that public sentiment does not appear to favor heavy criminal punishments for child placement offenses. However, a handful of states have enacted criminal offense provisions expressly for violation of the ICPC. Interstate placements made in violation of the law 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” (Article IV). Violators are subject to punishment or penalties in both jurisdictions in accordance with their laws and are grounds for suspending or revoking a license, permit, etc. Imposition of penalties has been rare, but since 1980, there have been several cases in which a child placed illegally was ordered returned to the sending state.

A local court in one state has no jurisdiction over an ICPC office in a separate state. The receiving state’s ICPC office has the final decision regarding whether it is okay to place a child under its authority, but the sending agency makes the final determination to use or not use the placement resource. Several people along the review process help determine if the placement would be in the child’s best interest.
Illegal placements can put the child in danger in several ways. By not waiting for a thorough home study, the child could be at risk for being physically or emotionally harmed by unforeseen circumstances. If a child is injured and information comes out that should have been known prior to placement, all parties involved in placing the child can be held legally responsible for their negligence. This can also lead to unnecessary subsequent placements and bonding issues for the child.

If a child is placed illegally in another state, the caretakers in that state might not have proper state identification for the child. This can result in the child being denied access to public schools or not being able to get medical care. If the child has special needs, those services may also be withheld because the child has not been in the state system.

It should never be assumed that placing a child illegally is okay because the receiving state will ultimately approve of the placement. A receiving state can still deny an illegal placement once it is discovered or even deny the placement after it completes the home study. Adults involved in illegal placements are gambling with the child’s safety, happiness and chance for a permanent home.

Keep in mind that pursuant to Regulation No. 11, Responsibility of States to Supervise Children, adopted by AAICPC on April 18, 2010, a receiving state must supervise a child placed pursuant to ICPC, but the sending state continues to have financial responsibility under Article V for support and maintenance of the child during the placement period. Because of the added responsibility a state takes on, it has the authority to deny any form of illegal placement. By illegally placing a child and getting his/her hopes up for a possible adoption, the adults involved may actually hurt the child if that adoption is cancelled or nullified by the receiving state. The child would most likely be returned to the sending state, separating him/her from the potential parents.

VII. Frequently Asked Questions

a. Why is the ICPC process sometimes so slow?

The experience of most social workers and state administrators is that the ICPC process can take an extensive period of time, sometimes between three months to a year. Here are some reasons for the time frame:

- Need for resolution of medical and financial issues
- Time needed to complete criminal and child abuse background checks
- Incomplete information on the family
- Inadequate home studies
Lack of resources

Family Code sections 7901.1 (which include independent adoptions) and 7906.5 were added to California’s ICPC statutes to comply with the Safe and Timely Interstate Placement of Foster Children Act of 2006, which attempts to address ICPC delays. The new law encourages members of the compact to make efforts in each of their states to help remedy delays. This new section requires California to accept other states’ home studies, unless it determines within 14 days it would be contrary to the welfare of the child to rely on the report. This section also authorizes counties to contract with private agencies to do the home study so that it can be completed within 60 days.

The Safe and Timely Interstate Placement of Foster Children Act of 2006 was adopted to address the time frame for home studies in order to help states recognize and implement deadlines for completion and approval of home studies within 60 days. California enacted Senate Bill 703 in 2007 to come into conformity with the Act.

b. What are ICPC standards?

The primary guideline is that any decision not be “contrary to the interests of the child” and that the compact be liberally construed to effectuate the purposes of the compact; that is, to place the child in a safe and suitable environment with appropriate qualifications and facilities; to ascertain the circumstances of the proposed placement and promote full compliance for the protection of the child; to have the most complete information to evaluate a placement before it is made; to ensure jurisdictional arrangements; to guarantee provision of services; and simply to protect the child in the same way s/he would have been protected had they remained in the sending state. The home study process and its attendant laws and regulations in each state, including licensing and approval standards, are a large part of this process.

c. Is there a review process for an ICPC denial?

No, a court review of an ICPC denial is not allowed. There are no clear administrative procedures to appeal a denial. The placement must comply with the compact and with the applicable laws of the receiving state. The ICPC home study processes are the determining factors in deciding whether the placement pursuant to the ICPC is safe and suitable for a particular child and not contrary to the interest of that child. The ICPC process is a collaborative process, and Article X of the compact instructs that the provisions of the contract are to be “liberally construed to effectuate the purposes thereof.” Both states have to decide the placement is appropriate, and approval of a placement resource does not mandate its use.
d. Does the ICPC apply to an out-of-state placement with a parent?

Yes, ICPC applies only in particular circumstances. Regulation 3 in paragraph 4 defines foster case as used in Article III as 24-hour-a-day care if provided by the child’s parent(s) by reason of a court-ordered placement (and not by virtue of the parent-child relationship). A December 8, 1978, Attorney General Opinion concluded that “Except for the prior notice provisions in Article III of the compact, the compact applies when the juvenile court places a child with a parent in another compact state.” However, as in all law, there can be conflicting opinions and court decisions. The AAICPC Secretariat has a listing of state and federal case law.

IX. Related Compacts

a. The Interstate Compact on Adoption and Medical Assistance

The Interstate Compact on Adoption and Medical Assistance (ICAMA) is for adoptive cases and applies to pre-adoptive placement only in the event an adoption assistance agreement is in effect prior to finalization. It ensures children with special needs receive the services and benefits provided for in their adoption assistance agreement, particularly medical assistance in interstate cases. It facilitates the delivery of benefits and services when families move during the continuance of the adoption assistance agreement or in cases when the child is initially placed for adoption across state lines. The compact was developed in response to the mandate of the Adoption Assistance and Child Welfare Act of 1980 that directs states to protect the interstate interests of adopted children with special needs. The Interstate Compact on Adoption and Medical Assistance has been enacted by 49 states and the District of Columbia. Wyoming is a non-member state but has COBRA reciprocity with all states.

b. The Interstate Compact on Juveniles

The Interstate Compact on Juveniles permits interstate supervision of adjudicated delinquents on probation or parole and provides for the placement of certain juvenile delinquents in out-of-state public institutions. California became a member in January, 2010. The ICPC in Article VI, Institutional Care of Delinquent Children, allows for the placement of a child adjudicated delinquent into an institution in another party jurisdiction with certain conditions and findings. The ICJ also authorizes the return of juvenile escapees and absconders to their home states and can be used to arrange the return to their homes of non-delinquent runaways for children originally placed under ICPC.
c. The Interstate Compact on Mental Health

The purpose of the Interstate Compact on Mental Health and of the party states is to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally challenged under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

X. Resources

- 2010 California Rules of Court - Rule 5.616. Interstate Compact on the Placement of Children
  http://www.courtinfo.ca.gov/rules/index.cfm?title=five&linkid=rule5_616

- Association of Administrators of the Interstate Compact
  http://icpc.aphsa.org/home/home_news.asp

- Interstate Compact on the Placement of Children (ICPC) information on CDSS website
  www.dss.cahwnet.gov/cfsweb/PG1316.htm or
  www.childsworld.ca.gov/pg1316.htm

- ICPC guidebook (ten Articles & ten Model Regulations) from CDSS website

- The Safe and Timely Interstate Placement of Foster Children Act of 2006 on ACF website

- ICPC form 100A
  www.dss.cahwnet.gov/forms/english/ICPC100A.PDF

- ICPC form 100B
  www.dss.cahwnet.gov/forms/english/ICPC100B.PDF

- All County Letter 11-79 Interstate Compact on the Placement of Children (ICPC) Regulations 2, 3, and 7