

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.

Act 372 of the Regular Session

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: H3/2/07

A Bill

HOUSE BILL 2239

5 By: Representatives Pennartz, Burkes, Breedlove, J. Roebuck, Wagner, Cook
6 By: Senator Salmon
7

For An Act To Be Entitled

10 AN ACT TO AMEND THE INTERSTATE COMPACT ON THE
11 PLACEMENT OF CHILDREN; AND FOR OTHER PURPOSES.
12

Subtitle

14 TO AMEND THE INTERSTATE COMPACT ON THE
15 PLACEMENT OF CHILDREN.
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17
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 9-29-201 is amended to read as follows:

21 9-29-201. Text of Compact.

22 The Interstate Compact on the Placement of Children is enacted into law
23 and entered into with all other jurisdictions legally joining therein in form
24 substantially as follows:
25

26 INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

27 ARTICLE I

28 Purpose and Policy

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

31 (a) Each child requiring placement shall receive the maximum
32 opportunity to be placed in a suitable environment and with persons or
33 institutions having appropriate qualifications and facilities to provide a
34 necessary and desirable degree and type of care.

35 (b) The appropriate authorities in a state where a child is to be



1 placed may have full opportunity to ascertain the circumstances of the
2 proposed placement, thereby promoting full compliance with applicable
3 requirements for the protection of the child.

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

7 (d) Appropriate jurisdictional arrangement for the care of children
8 will be promoted.

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10 ARTICLE II

11 Definitions

12 As used in this compact:

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

15 (b) "Sending agency" means a party state, officer or employee thereof;
16 a subdivision of a party state, or officer or employee thereof, a court of a
17 party state, a person, corporation, association, charitable agency, or other
18 entity which sends, brings, or causes to be sent or brought any child to
19 another party state;

20 (c) "Receiving state" means the state to which a child is sent,
21 brought or caused to be sent or brought, whether by public authorities or
22 private persons or agencies, and whether for placement with state or local
23 public authorities or for placement with private agencies or persons;

24 (d) "Placement" means:

25 (1) The arrangement for the care of a child in a family, free or
26 boarding home or in a child-caring agency or institution but does not include
27 any institution caring for the mentally ill, mentally defective or epileptic
28 or any institution primarily educational in character, and any hospital or
29 other medical facility; and

30 (2) The arrangement for the care of a child in the home of his
31 or her parent, other relative, or non-agency guardian in a receiving state
32 when the sending agency is any entity other than a parent, relative, guardian
33 or non-agency guardian making the arrangement for care as a plan exempt under
34 Article VIII(a) of the compact.

35 (e)(1) "Foster care" means the care of a child on a twenty-four-hour-
36 a-day basis away from the home of the child's parent or parents. The care may

1 be by a relative of the child, by a non-related individual, by a group home,
2 or by a residential facility or any other entity.

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

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

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

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

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

14 (2) The state agency has thirty (30) days to complete a request
15 for a priority placement.

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

18 (g) "Home study" means a written report that is obtained after an
19 investigation of a household and that may include a criminal background
20 check, including a fingerprint-based criminal background check in the
21 national crime information database and a local criminal background check on
22 any person in the household sixteen (16) years of age and older.

24 ARTICLE III

25 Conditions for Placement

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

32 (b) Prior to sending, bringing, or causing any child to be sent or
33 brought into a receiving state for placement in foster care or as a
34 preliminary to a possible adoption, the sending agency shall furnish the
35 appropriate public authorities in the receiving state written notice of the
36 intention to send, bring, or place the child in the receiving state. The

1 notice shall contain:

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

3 (2) The identity and address or addresses of the parents or
4 legal guardian;

5 (3) The name and address of the person, agency, or institution
6 to or with which the sending agency proposes to send, bring, or place the
7 child;

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

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

16 (d) The child shall not be sent, brought, or caused to be sent or
17 brought into the receiving state until the appropriate public authorities in
18 the receiving state shall notify the sending agency, in writing, to the
19 effect that the proposed placement does not appear to be contrary to the
20 interests of the child.

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

23 (2) The sending state juvenile division judge shall review the
24 home study and make specific written findings of fact regarding the concerns
25 outlined in the home study.

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

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30 ARTICLE IV

31 Penalty for Illegal Placement

32 The sending, bringing, or causing to be sent or brought into any
33 receiving state of a child in violation of the terms of this compact shall
34 constitute a violation of the laws respecting the placement of children of
35 both the state in which the sending agency is located or from which it sends
36 or brings the child and of the receiving state. Such violation may be

1 punished or subjected to penalty in either jurisdiction in accordance with
2 its laws. In addition to liability for any such punishment or penalty, any
3 such violation shall constitute full and sufficient grounds for the
4 suspension or revocation of any license, permit, or other legal authorization
5 held by the sending agency which empowers or allows it to place, or care for
6 children.

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8 ARTICLE V

9 Retention of Jurisdiction

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

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

27 (c) Nothing in this compact shall be construed to prevent a private
28 charitable agency authorized to place children in the receiving state from
29 performing services or acting as agent in that state for a private charitable
30 agency of the sending state, nor to prevent the agency in the receiving state
31 from discharging financial responsibility for the support and maintenance of
32 a child who has been placed on behalf of the sending agency without relieving
33 the responsibility set forth in paragraph (a) hereof.

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35 ARTICLE VI

36 Institutional Care of Delinquent Children

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

7 (1) Equivalent facilities for the child are not available in the
8 sending agency's jurisdiction; and

9 (2) Institutional care in the other jurisdiction is in the best
10 interest of the child and will not produce undue hardship.

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12 ARTICLE VII

13 Compact Administrator

14 The executive head of each jurisdiction party to this compact shall
15 designate an officer who shall be general coordinator of activities under
16 this compact in his jurisdiction and who, acting jointly with like officers
17 of other party jurisdictions, shall have power to promulgate rules and
18 regulations to carry out more effectively the terms and provisions of this
19 compact.

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21 ARTICLE VIII

22 Limitations

23 This compact shall not apply to:

24 (a) (1) Except as provided under subdivision (a)(2) of this section,
25 the sending or bringing of a child into a receiving state by his parent,
26 stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his
27 guardian and leaving the child with any such relative or nonagency guardian
28 in the receiving state.

29 (2) If the guardianship is established as a prelude to a non-
30 relative adoption or to avoid compliance with this compact, the guardian
31 shall comply with this compact.

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

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1 ARTICLE IX

2 Enactment and Withdrawal

3 This compact shall be open to joinder by any state, territory, or
4 possession of the United States, the District of Columbia, the Commonwealth
5 of Puerto Rico, and, with the consent of Congress, the Government of Canada
6 or any province thereof. It shall become effective with respect to any such
7 jurisdiction when such jurisdiction has enacted the same into law.

8 Withdrawal from this compact shall be by the enactment of a statute repealing
9 the same, but shall not take effect until two (2) years after the effective
10 date of such statute and until written notice of the withdrawal has been
11 given by the withdrawing state to the governor of each other party
12 jurisdiction. Withdrawal of a party state shall not affect the rights,
13 duties, and obligations under this compact of any sending agency therein with
14 respect to a placement made prior to the effective date of withdrawal.

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16 ARTICLE X

17 Construction and Severability

18 The provisions of this compact shall be liberally construed to
19 effectuate the purposes thereof. The provisions of this compact shall be
20 severable and if any phrase, clause, sentence, or provision of this compact
21 is declared to be contrary to the constitution of any party state or of the
22 United States or the applicability thereof to any government, agency, person,
23 or circumstance is held invalid, the validity of the remainder of this
24 compact and the applicability thereof to any government, agency, person, or
25 circumstance shall not be affected thereby. If this compact shall be held
26 contrary to the constitution of any state party thereto, the compact shall
27 remain in full force and effect as to the remaining states and in full force
28 and effect as to the state affected as to all severable matters.

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/s/ Pennartz, et al

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APPROVED: 3/19/2007

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