



Judicial Council of California · Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on October 26, 2012

Title	Agenda Item Type
Juvenile Law: Interstate Compact on the Placement of Children	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Amend Cal. Rules of Court, rule 5.616; revise forms JV-565 and JV-567	January 1, 2013
Recommended by	Date of Report
Family and Juvenile Law Advisory Committee	September 11, 2012
Hon. Kimberly J. Nystrom-Geist, Cochair	Contact
Hon. Dean T. Stout, Cochair	Mara Bernstein, 415 710-7724 mara.bernstein@jud.ca.gov

Executive Summary

The Family and Juvenile Law Advisory Committee recommends amending one of the California Rules of Court and revising two Judicial Council forms to implement recent changes in the law related to the Interstate Compact on the Placement of Children (ICPC). The ICPC is an interstate agreement that governs the placement of California children in other states, as well as the placement of out-of-state children in California. Although the compact has not changed in recent years, the regulations implementing the ICPC were amended in 2010 and again in 2011. Most notably, ICPC Regulation No. 7, regarding expedited out-of-state placements of dependent children, was significantly expanded and revised in 2011. In addition, a 2010 Court of Appeal opinion invalidated rule 5.616(b)(1). These developments necessitate that rule 5.616 and two ICPC-related forms be revised to incorporate the new requirements.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2013:

1. Amend rule 5.616 of the California Rules of Court, Interstate Compact on the Placement of Children, to clarify that sending a California child to live with his or her parent in another state is not a placement requiring ICPC compliance, to make the rule consistent with regulatory changes, and to incorporate new processes for expedited placements of certain dependent children, under revised Regulation No. 7;
2. Revise form JV-565 to change form title to *Request for Assistance with Expedited Placement Under the Interstate Compact on the Placement of Children*, to add contact information for the sending and receiving judicial officers, to clarify procedures, and to make the form optional rather than mandatory; and
3. Revise form JV-567 to change form title to *Expedited Placement Under the Interstate Compact on the Placement of Children: Findings and Orders*, to meet the court order requirements of Regulation No. 7 regarding expedited out-of-state placements for certain children, and to bring the form into compliance with current California law regarding placement with parents.

The text of the proposed rule and forms is attached at pages 10–23.

Previous Council Action

The Judicial Council adopted rule 5.616 as rule 1428, effective January 1, 1999, to include procedures implementing the ICPC (codified in California as Family Code section 7900 et seq.) and specifically priority placement as described in Regulation No. 7 of the national ICPC Regulations.¹ The Judicial Council amended and renumbered the rule as rule 5.616, effective January 1, 2007. Rule 5.616(b)(1) was held invalid by the Court of Appeal, Fourth Appellate District, in 2010 (*In re C.B.*, 188 Cal.App.4th 1024, attached as Attachment A).

The Judicial Council approved *Findings and Request for Assistance Under Interstate Compact on the Placement of Children (ICPC)* (form JV-565) and *Interstate Compact on the Placement of Children Findings and Orders* (form JV-567) effective July 1, 1998. The forms were adopted in response to the issuance of Regulation No. 7 of the ICPC Regulations, which became effective in October 1996. Both forms were made mandatory, effective January 1, 2006, as part of a proposal to make mandatory a large number of forms used in juvenile proceedings.

¹ The ICPC Regulations are promulgated by the Association of Administrators of the Interstate Compact on the Placement of Children (AAICPC). The regulations do not have a more formal name or citation but are simply known as the ICPC Regulations. They can be found here: <http://icpc.aphsa.org/Home/regulations.asp> and at Attachment B.

Rationale for Recommendation

Rule 5.616 and forms JV-565 and JV-567 were adopted specifically to implement ICPC priority placement procedures (now known as expedited placement) in California (although rule 5.616 addresses other aspects of ICPC implementation as well). Regulation No. 7, which describes the criteria and procedures for expedited placement, was significantly changed, effective October 1, 2011. Other revisions to the regulations were adopted, effective October 1, 2010, and October 1, 2011. The recommended changes to the rules and forms are needed to bring rule 5.616 and forms JV-565 and JV-567 into compliance with the most recent versions of Regulation No. 7 and the other ICPC Regulations.

The Association of Administrators of the Interstate Compact on the Placement of Children, which promulgates the regulations, took the additional step in 2011 of adopting a sample court order for use in Regulation No. 7 cases. This sample order is known as the *Form Order for Expedited Placement Decision*. Regulation No. 7, section 8, requires that the “sending state court shall enter an order consistent with the Form Order for Expedited Placement Decision adopted with this modification of Regulation No. 7 subject to any additions or deletions required by federal law or the law of the sending state.” For this reason, the proposed revised version of form JV-567 is much longer than and significantly different from the current form. The proposed form meets the requirement of being consistent with the national sample form, except to the extent that the national form conflicts with California law.

In addition, *In re C.B.*, following a long line of California cases and one relevant federal case, held that ICPC requirements do not apply to children placed with their own parents. Rule 5.616(b)(1) was held invalid by the *C.B.* court because the subdivision indicated that ICPC procedures were required for placements with parents under certain circumstances.² The rule must now be revised to delete the invalid subdivision and replace it with language consistent with the court’s ruling. The revised version of form JV-567, similarly, must clearly indicate that expedited placement procedures under the ICPC are not mandated for California children being placed out-of-state with their parents.

Comments, Alternatives Considered, and Policy Implications

This proposal was circulated for comment as part of the spring 2012 invitation-to-comment cycle from April 17 to June 15. In addition to the standard mailing list for proposals—which includes appellate presiding justices, appellate court administrators, trial court presiding judges, trial court executive officers, county counsel, district attorneys, parents’ and children’s attorneys, social workers, probation officers, and other juvenile court professionals—the committee sought

² Rule 5.616(b)(1)(A) states that “[a] court directing or making an award of custody to a parent of the child is not a placement within the meaning of this rule, unless the sending court retains dependency jurisdiction over the child or the order or award requests or provides for supervision or other services or places some other condition or restriction on the conduct of the parent.”

comment from the Joint Rules Working Group of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee and the ICPC Compact Administrator's Office at the California Department of Social Services. Eleven comments were received; five commentators agreed with the proposal, four agreed if modified. No one disagreed with the proposal. Two commentators didn't state a position but made suggestions for improving and changing the rule and forms, so their comments could best be categorized as "agree if modified."

The comments were generally favorable but included many specific suggestions about particular features of the rule and forms, including word choice, formatting, and consistency with federal law and California practice. Of the topics addressed in the comments, the following were of the greatest importance or interest. Each is described in further detail below.

- Delegation of ICPC administrative process to counties
- Definitions of "placement" and "parent"
- Applicability of ICPC to placement with parents
- Optional court actions when placing with parent
- Factual basis for court orders for expedited placement
- Urgency of ICPC processing
- Implementation costs and timing

A list of the commentators and a chart summarizing the comments and the committee's responses are attached at pages 24–62.

Delegation of ICPC administrative process to counties

A few commentators noted that California has a county-based child welfare system in which the ICPC administrative functions are delegated from the state Compact Administrator's Office at the California Department of Social Services to the local child welfare agencies or other delegated sending agencies (which include county probation departments, licensed public and private adoption agencies, and state adoption offices). In most states, ICPC placement requests are sent from the local child welfare agency to the state Compact Administrator's Office, which then forwards the paperwork to the receiving state. This is the process described in the ICPC regulations. In California, however, the middle step of sending the documents through the state-level office is not used, except when the child will be placed in an out-of-state group home. These commentators asked that the rule and forms be modified to acknowledge this system and to avoid creating new, unnecessary requirements for documents to be sent through the Compact Administrators Office.

Because of the complexity of, and lack of legal authority for,³ the county-delegation system, Administrative Office of the Courts staff conferred at length with Rosalind Hyde at the

³ The only known authority for the county delegation is an All County Information Notice sent to the counties by the California Department of Social Services in 1991 (*All County Information Notice I-73-91*).

California Department of Social Services (CDSS) Out-of-State Placement Policy Unit to ensure that the final versions of the rule and forms correctly captured California state and local practice. Ms. Hyde explained that in addition to the delegated sending agencies, each California county has an ICPC Liaison, who is responsible for reviewing and signing the ICPC paperwork from the child welfare agency and then sending the papers directly to the receiving state's Compact Administrator's Office. In some smaller counties, the duties of the delegated sending agency and the ICPC Liaison are handled by the same person or office. The expedited placement process described in Regulation No. 7 of the ICPC Regulations includes steps that are expected to be performed by the state-level compact administrator; for California, these steps are all accomplished locally. Changes have been made throughout the rule and forms to acknowledge this county-delegated system and to use the term "ICPC Liaison" when appropriate, rather than "Compact Administrator's Office."

Definitions of "placement" and "parent"

One commentator noted that the first paragraph of the definition of "placement" in Rule 5.616(b)(1) included the term "treatment facility," which was inconsistent with the definition in article 2(d) of the compact, which states that "'Placement' . . . 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." In response, the committee rewrote this section, not only to remove the reference to treatment facilities, but also to make the whole paragraph consistent with the new regulations. It now reads, "'Placement' is defined in article 2(d) of the compact. It includes placements with a relative, as defined in Regulation No. 3, paragraph 4, item 56, a legal guardian of the child, a placement recipient who is not related to the child, a residential agency or institution, or a group home."

The same commentator pointed out that the definition of "parent" in the ICPC Regulations, (Reg. No. 3, sec. 4, def. 45.) was a broad definition that included legal guardians. By not specifically defining parent in rule 5.616, the committee was adopting, by reference, this definition which is inconsistent with California practice. The committee addressed this concern by adding a new subdivision in the definitions section, which reads "'Parent,' as used in this rule, does not include de facto parents or legal guardians." (Proposed Cal. Rules of Court, rule 5.616(b)(3)). The committee considered various versions of this definition, but opted to use a short definition, that simply excluded de facto parents and legal guardians, rather than a longer definition that defined which types of parents (adoptive, biological, presumed, alleged, etc) would be included in the category "parent".

Applicability of ICPC to placement with parents

California law and practice diverge from the requirements in the federal regulations in a number of areas, most notably out-of-state placement with parents. For many years, rule 5.616(b)(1)(A) has required that the ICPC process be used for certain placements with parents. This requirement was consistent with the federal regulations but inconsistent with the ICPC compact itself, and with California and federal case law. Most recently, the Court of Appeal, Fourth Appellate District, in *In re C.B.* ((2010) 188 Cal.App.4th 1024), held that the ICPC is never required when

a child will be placed out-of-state with his or her parent. In the version of the rule circulated for comment, the committee brought the rule into compliance with the *C.B.* decision, by changing rule 5.616(b)(1)(A) to read, “A court directing or making an award of custody to a parent of the child or placing a child with his or her parent is not a placement within the meaning of this rule.”

A number of commentators noted this discrepancy between California law and the federal regulations and expressed concerns about rule 5.616(b)(1)(A) and about California law in this area generally. For example, one expressed concern that the requirements are “vague” when the child is to be placed with a parent. Another wrote, “Obviously, there is a great concern about the resulting gap in supervision of children who are placed with their parents in another state where a California dependency court retains supervision over the family. It is hoped that the ICPC will be amended in the near future to require compliance with the ICPC for some of these situations, especially for offending parents.” One commentator disagreed with the Court of Appeal’s interpretation of the compact, arguing that, “Although it is being determined that ICPC will not apply to placements with parents in California, it was never the intent of the compact not to apply to parents when placements with parents are being made and when parents are not parenting pursuant to their right to do so, but at the direction of a court.” Since the version of rule 5.616(b)(1)(A) circulated for comment was consistent with California law, the committee did not make additional changes in response to any of these general concerns.

One commentator expressed concern that “juvenile and appellate courts may interpret this amended rule as precluding them from ever using the ICPC process when placing with an out of state parent” and asserted, “this is neither warranted nor appropriate.” The commentator argued that “[t]he juvenile court still has the ICPC process to gather evidence to assist it in making the initial placement decision, and it still has the voluntary agreement provisions of the ICPC to facilitate services and supervision in other states when appropriate. The ICPC is simply not a requirement to placing with an out of state parent.” This commentator suggested that in order for juvenile courts be given maximum flexibility, rule 5.616(b)(1)(A) should be modified to read, “A court directing or making an award of custody to a parent of the child or placing a child with his or her parent is not a placement requiring compliance with this rule.” The committee agreed that this suggestion provides courts with additional flexibility while conforming to the requirements in the *C.B.* decision and modified rule 5.616(b)(1)(A) accordingly.

Optional court actions when placing with parent

Rule 5.616(g) is a new section of the proposed rule, titled “Placing a Child With an Out-of-State Parent.” It was added to provide California judicial officers with options for obtaining information about out-of-state parents before placement, as well as ensuring children’s safety once placed, without relying on the mandates in the ICPC process.

The version of rule 5.616(g)(1) circulated for comment suggested that judicial officers could “direct the child welfare agency to obtain a home study under ICPC guidelines.” One commentator pointed out that California child welfare agencies could be directed to “request” but not to “obtain” a home study, because California agencies have no control over how other

states respond to requests. The committee agreed and made that change. A second commentator noted that the phrase “under ICPC guidelines” was confusing and needed clarification. She suggested using the language from ICPC Regulations No. 2, section 3 (titled “Placements made without ICPC protection”), which talks about “an independent (not ICPC-related) courtesy check for placement with a parent.”⁴ This language was incorporated into the rule; rule 5.616(g)(1) now provides that one step the judicial officer may choose to take is “[D]irecting the child welfare agency to request an independent, non-ICPC home study or courtesy check.”

The same commentator wanted language added to rule 5.616(g) limiting which parents it applies to, including adding the phrase “from whom the child was not removed” to describe the parent with whom the child will be placed and adding “the court has no evidence and sought no evidence that the parent is fit or unfit.” Although these limitations are consistent with the regulations, they are inconsistent with California law and have not been added.

Factual basis for court orders for expedited placement

Rule 5.616(h) contains the requirements related to expedited placement of dependent children under ICPC Regulation No. 7. The court order requirements in rule 5.616(h)(4)(A) of the version of rule 5.616 circulated for comment required that the order “state the factual basis” both for the finding that the child meets the criteria for expedited placement and for any request for the provisional approval of that placement. This “factual basis” requirement comes from Regulation No. 7, section 8. Several commentators pointed out that the corresponding court order form (form JV-567) did not include this “factual basis” requirement and had no space in which to indicate the factual basis in item 9 (expedited placement criteria) or item 17 (provisional placement request). One commentator asked whether the check boxes on form JV-567, item 9, were sufficient to meet the requirements. Although the check box format is consistent with the national sample order, the committee took steps to address this concern to ensure that California court orders meet the Regulation No. 7 requirements.

Changes were made both to rule 5.616 and to form JV-567. The rule was modified to include new subdivision 5.616(h)(4)(A), which reads, “The court must enter an order for expedited placement, stating on the record or in the written order the factual basis for that order. If the court is also requesting provisional approval of the proposed placement, the court must so order, and must state on the record or in the written order the factual basis for that request.” Form JV-567 was modified to include the phrase, “based on the facts stated in the record” in items 9 and 17.

⁴ This phrase comes from subdivision (b) of Regulation No. 2, section 3, which states, “When a sending court/agency seeks an independent (not ICPC-related) courtesy check for placement with a parent from whom the child was not removed, the responsibility for the credentials and quality of the courtesy check rests directly with the sending court/agency and the person or party in the receiving state who agree to conduct the courtesy check without invoking the protection of the ICPC home study process. This would not prohibit a sending state from requesting an ICPC.”

Urgency of ICPC processing

Judge Leonard P. Edwards suggested that a paragraph be added to the Advisory Committee Comment at the end of the rule urging judicial officers, social workers, and all others working on out-of-state placement cases to process ICPC cases as quickly as possible for the benefit of the children involved. The committee agreed with this suggestion, and the suggested language has been added. It reads, “Urgency of ICPC Matters. Implementation of the ICPC has long frustrated judicial officers and other professionals. The overriding concern is that the process takes too long, and children cannot wait. In all ICPC actions, there should be a sense of urgency, and all professionals involved should take action as quickly as possible.”

Implementation costs and timing

When this proposal was circulated for public comment, the Invitation to Comment memorandum included requests for specific comments on a number of issues. A group of questions asked courts to indicate if the proposal would provide cost savings and whether it would necessitate implementation requirements or costs for courts. Courts were also asked to comment on whether the proposed effective date of January 1, 2013, provided sufficient time for implementation.

Two commentators addressed these fiscal matters. The Superior Court of San Diego County answered the first question, “Will the proposal provide cost savings?” by stating, “Yes, to the extent form JV-567 provides courts with the ‘order consistent with the Form Order for Expedited Placement Decision’ required by Regulation No. 7, and to the extent form JV-565 provides judicial officers with an approved format for requesting assistance from judicial officers in other jurisdictions.” The San Diego Court did not answer the additional question about implementation requirements or costs.

The Joint Rules Working Group of the Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee agreed with the proposal and found that the potential fiscal impact is “minimal.” The working group addressed fiscal and operational impacts, stating, “Courts may incur standard reproduction costs associated with printing the revised forms. In additional [*sic*], the amended rule and revised forms may require courts to incur minimal training costs for judicial officers and court staff to familiarize themselves with the revised forms.” The working group also found that impact on existing automated systems, training requirements, and staff workload were all “minimal.” Finally, the working group agreed that the January 1, 2013, implementation date provided sufficient time for implementation.

Court procedures when California is the receiving state in expedited placement cases

Not included in the proposed revisions to rule 5.616 is any process for a California court to provide assistance when California is the receiving state and the sending state’s judge has requested help with the expedited placement process. Regulation No. 7, section 11, allows the judge in the receiving state to “render such assistance, including the holding of hearings, taking of evidence, and the making of appropriate orders.” Holding such a hearing is complicated, however, since in this situation, where an out-of-state child is being placed in a relative’s home in California, there would be no open court case in California, and no clear basis for court

jurisdiction. The Family and Juvenile Law Advisory Committee, after discussing the jurisdictional and procedural hurdles of implementing such a process in California, agreed to form a working group to look at this issue in 2012-2013 and, if appropriate, to make recommendations and/or propose rule and form changes, to implement this aspect of the regulations.

Implementation Requirements, Costs, and Operational Impacts

The changes to the ICPC Regulations impose implementation costs primarily on local and state child welfare agencies. The court impact of these new requirements is minimal. The amended rule and revised forms create no requirements for the courts or justice partners that were not already mandated by the ICPC, the ICPC Regulations, or the California courts.

The implementation of the revised forms will incur standard reproduction costs. In addition, the amended rule and revised forms may require the courts to incur minimal costs for training and implementation. This proposal creates no new hearings or new court processes.

Cost savings are likely associated with revised form JV-567. Regulation No. 7 requires each jurisdiction requesting expedited placement of a child in another state to use a court order consistent with the national sample Form Order. If JV-567 were not revised to meet this requirement, each California court would be required to adopt a local form for the court orders in these cases. The revised form JV-567 will make these efforts unnecessary.

As described above, all commentators who commented on implementation costs requirements noted that the costs would be minimal or that the proposal would result in cost savings to the local courts.

Relevant Strategic Plan Goals and Operational Plan Objectives

This proposal promotes two strategic plan goals. First, Goal II, Independence and Accountability, is furthered by providing judicial officers with up-to-date rules and forms to assist them in following state law and complying with national agreements in the very complex area of interstate placements of dependent children and wards. Second, by providing consistent and accurate procedures to meet the needs of children in the foster care system, the proposal furthers Goal IV, Quality of Justice and Service to the Public.

Attachments

1. Cal. Rules of Court, rule 5.616, at pages 10–18
2. Forms JV-565 and JV-567, at pages 19–23
3. Chart of comments, at pages 24–62
4. Attachment A: Text of *In re C.B.* case
5. Attachment B: ICPC Regulations
6. Attachment C: Form Order for Expedited Placement Decision

Rule 5.616 of the California Rules of Court is amended, effective January 1, 2013, to read:

1 **Rule 5.616. Interstate Compact on the Placement of Children**

2
3 **(a) Applicability of rule (Fam. Code, § 7900 et seq.)**

4
5 This rule implements the purposes and provisions of the Interstate Compact on the
6 Placement of Children (ICPC or the compact). California juvenile courts must
7 apply this rule when placing children who are dependents or wards of the juvenile
8 court and for whom placement is indicated in any other state, the District of
9 Columbia, or the U.S. Virgin Islands.

10
11 ~~(1) The rule applies to the placement in California of children who are~~
12 ~~dependents or wards of the juvenile court in any of the above named~~
13 ~~jurisdictions.~~

14
15 ~~(2)(1) This rule also applies to priority expedited placements as described below in~~
16 ~~(b)(2)(h).~~

17
18 ~~(3)(2) This rule does not apply to placements made under the Interstate Compact on~~
19 ~~for Juveniles (Welf. & Inst. Code, § 13001400 et seq.).~~

20
21 **(b) Definitions (Fam. Code, § 7900 et seq.; ICPC Regulations)**

22
23 (1) “Placement” is defined in article H~~2~~(d) of the compact. It includes
24 placements with a relative, as defined in Regulation No. 3, paragraph 4, item
25 56, a stepparent, a grandparent, an adult brother or sister, an adult aunt or
26 ~~uncle, a nonagency~~ a legal guardian of the child, a placement recipient who is
27 not related to the child, a residential agency or institution, or a group home,
28 ~~or a treatment facility.~~

29
30 (A) A court’s directing or making an award of custody to a parent of the
31 child or placing a child with his or her parent is not a placement ~~within~~
32 ~~the meaning of requiring compliance with this rule, unless the sending~~
33 ~~court retains dependency jurisdiction over the child or the order or~~
34 ~~award requests or provides for supervision or other services or places~~
35 ~~some other condition or restriction on the conduct of the parent.~~

36
37 (B) ~~Except in cases in which a child is placed with a parent and jurisdiction~~
38 ~~has been terminated or in cases in which dependency is maintained~~
39 ~~only to provide services to or impose conditions on the noncustodial~~
40 ~~parent remaining in the sending jurisdiction, the following situations~~
41 ~~each constitute a placement, and the compact must be applied:~~

42
43 (i) An order causing a child to be sent or brought to ~~another party a~~
44 person, other than a parent, in a compact jurisdiction without a
45 specific date of return to the sending jurisdiction;
46

- (ii) An order causing a child to be sent or brought to another party a person, other than a parent, in a compact jurisdiction with a return date more than 30 days from the start of the visit or beyond the ending date of a school vacation period, under Regulation No. 9;
- (iii) An out-of-state placement for the purpose of an anticipated adoption, whether independent, private, or public;
- (iv) An out-of-state placement with a related or unrelated caregiver in a licensed or approved foster home;
- (v) An out-of-state placement with relatives, except when a parent or relative sends or brings the child to the relative's home in the receiving state, as defined in article 8(a) of the ICPC; or
- (vi) An out-of-state group home or residential placement of any child, including a child adjudicated delinquent.

(2) ~~“Priority placement” means a placement or placement request made by a court with specific findings of one or more of the following circumstances:~~

~~(A) The proposed placement recipient is a relative belonging to a class of persons who, under article VIII(a) of the compact, could receive the child from another person belonging to such a class, without complying with the compact, if the child is not under the jurisdiction of the court, and if:~~

~~(i) The child is under two years of age;~~

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

~~(iii) The court finds that the child has spent a substantial period of time in the home of the proposed placement recipient.~~

~~(B) The receiving compact administrator has been in possession of a properly completed interstate compact placement request form and supporting documentation for over 30 business days, but the sending agency has not received a notice under article III(d) of the compact determining whether or not the child may be placed.~~

(2) “Child,” for the purposes of ICPC placement, includes nonminor dependents up to age 21. If a California nonminor dependent is to be placed out of state, the placing county may request supervision from the receiving state, but such services are discretionary. If the receiving state will not supervise the nonminor dependent, the sending county must make other supervision

1 arrangements, which may include contracting with a private agency to
2 provide the supervision.

3
4 (3) “Parent,” as used in this rule, does not include de facto parents or legal
5 guardians.

6
7 (4) ICPC Regulations Nos. 3, 4, 9, 10, and 11 contain additional definitions that
8 apply to California ICPC cases, except where inconsistent with this rule or
9 with California law.

10
11 (c) **Compact requirements (Fam. Code, § 7901; ICPC Regulations)**

12
13 Whenever the juvenile court makes a placement in another jurisdiction included in
14 the compact or reviews a placement plan, the court must adhere to the provisions
15 and regulations of the compact.

16
17 (1) Cases in which out-of-state placement is proposed in order to place a child
18 for public adoption, in foster care, or with relatives, and where the criteria for
19 expedited placement are not met, must meet all requirements of Regulation
20 No. 2, except where inconsistent with California law.

21
22 (2) Expedited placement cases must meet the requirements in (h) and of
23 Regulation No. 7, except where the requirements of Regulation No. 7 are
24 inconsistent with California law.

25
26 (d) **Notice of intention; authorization (Fam. Code, § 7901)**

27
28 A sending jurisdiction must provide to the designated receiving jurisdiction written
29 notice of intention to place the child, using ~~an interstate compact placement request~~
30 Form ICPC-100A: Interstate Compact on the Placement of Children Request.

31
32 (1) The representative of the receiving jurisdiction may request and receive
33 additional information as the representative deems necessary.

34
35 (2) The child must not be placed until the receiving jurisdiction has determined
36 that the placement is not contrary to the interest of the child and has so
37 notified the sending jurisdiction in writing.

38
39 (e) **Placement of delinquent children in institutional care (Fam. Code, §§ 7901,**
40 **art. 6, and 7908)**

41
42 A child declared a ward of the court under Welfare and Institutions Code section
43 602 may be placed in an institution in another jurisdiction under the compact only
44 when:
45

- 1 (1) Before the placement, the court has held a properly noticed hearing at which
2 the child, parent, and guardian have had an opportunity to be heard;
3
4 (2) The court has found that equivalent facilities for the child are not available in
5 the sending jurisdiction; and
6
7 (3) Institutional care in the other jurisdiction is in the best interest of the child
8 and will not produce undue hardship for the child.
9

10
11 **(f) Relocation of Family Units (ICPC Reg. No. 1)**
12

- 13 (1) The ICPC applies to family relocation cases when the child has been placed
14 and continues to live with a family approved by California, the family
15 relocates to another state with the child, and supervision by California is
16 ongoing.
17
18 (2) The ICPC does not apply when the family with whom the child is placed
19 relocates to another state and there will be no ongoing supervision by the
20 sending state or the relocation will be temporary (90 days or less) and will
21 not recur.
22
23 (3) Additional procedural requirements for cases involving relocation of family
24 units are in ICPC Regulation No. 1.
25

26 **(g) Placing a Child With an Out-of-State Parent (Fam. Code, §§ 7901, art. 5(b),**
27 **and 7906; ICPC Reg. No. 2, § 3)**
28

29 When a child will be placed with his or her parent in another state, compliance
30 with the requirements of the ICPC is not required. However, the court has
31 discretion to take the steps it deems necessary to ensure the child's safety and
32 well-being in that placement. Those steps may include:
33

- 34 (1) Directing the child welfare agency to request an independent, non-ICPC
35 home study or courtesy check;
36
37 (2) Directing the child welfare agency to enter into a contract with a public or
38 private agency in the receiving state to obtain a home study or other needed
39 information;
40
41 (3) Directing the child welfare agency to enter into an informal agreement with a
42 public or private agency in the receiving state, or requesting a courtesy check
43 from such an agency, to obtain needed information; or
44
45 (4) Any other steps that the court deems necessary to ensure the child's safety
46 and well-being.

1
2 **(f) (h) Priority Expedited placement (ICPC Reg. No. 7)**
3

4 When seeking expedited approval of an out-of-state placement of a child with a
5 relative or guardian, A a California court in a sending jurisdiction may designate a
6 proposed placement as a priority placement an expedited placement and use
7 expedited by using procedures as described in regulation 7 of the compact this
8 section.
9

10 (1) Expedited placement under Regulation No. 7 does not apply to any situation
11 in which a California child is being placed with his or her parent in another
12 state.
13

14 ~~(1)(2)~~ Before tThe court may designate a priority orders an expedited placement,
15 the court must make on express findings that: the child is a dependent child
16 removed from and no longer residing in the home of a parent and now being
17 considered for placement in another state with a stepparent, grandparent,
18 adult aunt or uncle, adult sibling, or legal guardian. In addition, the court
19 must find that the child to be placed meets at least one of the following
20 criteria:
21

22 (A) ~~The compact administrator of the receiving jurisdiction has had~~
23 ~~possession of a properly completed interstate compact placement~~
24 ~~request form and supporting documents for over 30 business days, and~~
25 ~~the sending jurisdiction agency has not received a notice indicating~~
26 ~~whether or not placement in the receiving jurisdiction is contrary to the~~
27 ~~interest of the child; or~~
28

29 (B) ~~The proposed placement recipient is a parent, stepparent, grandparent,~~
30 ~~adult sibling, adult uncle or aunt, or guardian of the child; and~~
31

32 (i) ~~The child is under two years of age;~~
33

34 (ii) ~~The child is in an emergency shelter; or~~
35

36 (iii) ~~The court finds that the child has spent a substantial period of~~
37 ~~time in the home of the proposed placement recipient.~~
38

39 (A) Unexpected dependency due to the sudden or recent incarceration,
40 incapacitation, or death of a parent or guardian. Incapacitation means
41 the parent or guardian is unable to care for the child due to the parent's
42 medical, mental, or physical condition;
43

44 (B) The child is 4 years of age or younger;
45

- (C) The child is part of a group of siblings who will be placed together, where one or more of the siblings is 4 years of age or younger;
- (D) The child to be placed, or any of the child's siblings in a sibling group to be placed, has a substantial relationship with the proposed placement resource as defined in section 5(c) of Regulation No. 7; or
- (E) The child is in an emergency placement.

(3) Before the court orders an expedited placement, the child welfare agency must provide to the court, at a minimum, the documents required by section 7(a) and (b) of Regulation No. 7:

- (A) A signed statement of interest from the potential placement, or a written statement from the assigned case manager affirming that the potential placement resource confirms appropriateness for the ICPC expedited placement decision process. The statement must include all items listed in Regulation No. 7, section 7(a); and
- (B) A statement from the assigned case manager or other child welfare agency representative stating that he or she knows of no reason why the child could not be placed with the proposed placement and that the agency has completed and is prepared to send all required paperwork.

~~(2)~~(4) On findings of the court under ~~(f)~~(1)(h)(2) and (3) that a proposed priority placement is necessary the child meets the criteria for an expedited placement and that the required statements have been provided to the court, the court case must proceed as follows:

(A) The court must enter an order for expedited placement, stating on the record or in the written order the factual basis for that order. If the court is also requesting provisional approval of the proposed placement, the court must so order, and must state on the record or in the written order the factual basis for that request.

~~(A)~~(B) The court's findings and orders must be noted in a written order using *Expedited Placement Under the Interstate Compact on the Placement of Children: Findings and Orders* (form JV-567), which must include the name, address, e-mail address, telephone number, and fax number of the clerk of court and the judicial officer or designated court administrator.

~~(B)~~(C) The order must be transmitted by the court to the sending agency of the court's jurisdiction within 2 business days of the hearing or consideration of the request.

1 ~~(C)~~(D) The sending child welfare agency must be ordered to transmit to the
2 ~~compact administrator of the sending jurisdiction~~ county ICPC Liaison
3 in the sending jurisdiction within 3 business days of receipt of the order
4 the following:

5
6 (i) A copy of the completed *Expedited Placement Under the*
7 *Interstate Compact on the Placement of Children; Findings and*
8 *Orders* (form JV-567); and

9
10 (ii) A completed ~~interstate compact placement request form~~ Interstate
11 Compact on the Placement of Children Request (form ICPC-
12 100A), along with form ICPC-101, the statements required under
13 section (h)(3), above, and all required supporting documentation
14 as noted on that form.

15
16 ~~(D)~~(E) Within 2 business days after receipt of the paperwork, the ~~compact~~
17 ~~administrator~~ county ICPC Liaison of the sending jurisdiction must
18 transmit ~~by overnight mail~~ the documents described in ~~(C)~~(D) to the
19 compact administrator of the receiving jurisdiction with a ~~notice that~~
20 the request is entitled to priority placement for an expedited placement
21 decision, as well as any request for provisional placement.

22
23 ~~(3)~~ (5) The compact administrator of the receiving jurisdiction must determine
24 immediately, and no later than 20 business days after receipt, whether ~~or not~~
25 the placement is ~~acceptable~~ approved and must transmit the completed
26 written report and form ICPC 100A, as required by Regulation 7, section 9
27 interstate compact placement request form by fax to the compact
28 administrator of county ICPC Liaison in the sending jurisdiction.

29
30 (4) ~~(6)~~ If the compact administrator of the receiving jurisdiction fails to comply with
31 ~~(f)(3)~~ within the required time limit, the sending court may inform an
32 appropriate court in the receiving jurisdiction that the compact administrator
33 in that jurisdiction has not complied with the compact; provide the receiving
34 jurisdiction court with relevant documents, including *Findings and Request*
35 *for Assistance Under Interstate Compact on the Placement of Children*
36 *(ICPC)* (form JV 565); and request assistance. The transmission of any
37 documentation, request for information, or decision may be by overnight
38 mail, fax, e-mail, or other recognized, secure method of communication. The
39 receiving state may also request original documents or certified copies if it
40 considers them necessary for a legally sufficient record.

41
42 (5) The receiving jurisdiction court that receives notification may render
43 appropriate assistance and may issue orders to secure compliance with the
44 compact and regulations.

- 1 (6) ~~The time limits for a single case may be modified by written agreement~~
2 ~~between the sending court, the sending agency, and the compact~~
3 ~~administrators of the sending and receiving jurisdictions.~~
4
- 5 (7) ~~To fulfill its obligations under the compact, a jurisdiction, its local agencies,~~
6 ~~and the court are required to process interstate cases as quickly as intrastate~~
7 ~~cases and to devote equal efforts to interstate and intrastate hardship cases.~~
8
- 9 (A) ~~If in doing so, a receiving jurisdiction's compact administrator finds~~
10 ~~that extraordinary circumstances make compliance within the time~~
11 ~~requirements impossible, strict compliance may be excused.~~
12
- 13 (B) ~~The receiving jurisdiction compact administrator must immediately~~
14 ~~notify the sending jurisdiction compact administrator by fax of the~~
15 ~~inability to comply and must designate a date on or before which there~~
16 ~~will be compliance.~~
17
- 18 (C) ~~The notice must contain a full identification and explanation of the~~
19 ~~extraordinary circumstances that are delaying compliance.~~
20
- 21 (7) When California is the sending state and there appears to be a lack of
22 compliance with Regulation No. 7 requirements by state officials or the local
23 child welfare agency in the receiving state regarding the expedited placement
24 request, the California judicial officer may communicate directly with the
25 judicial officer in the receiving state.
26
- 27 (A) This communication may be by telephone, e-mail, or any other
28 recognized, secure communication method.
29
- 30 (B) The California judicial officer may do any one or more of the
31 following:
32
- 33 (i) Contact the appropriate judicial officer in the receiving state to
34 discuss the situation and possible solutions.
35
- 36 (ii) Provide, or direct someone else to provide, the judicial officer of
37 the receiving state with copies of relevant documents and court
38 orders.
39
- 40 (iii) Request assistance with obtaining compliance.
41
- 42 (iv) Use *Request for Assistance with Expedited Placement Under the*
43 *Interstate Compact on the Placement of Children* (form JV-565)
44 to communicate the request for assistance to the receiving state
45 judicial officer. When this form is used, a copy should be
46 provided to the county ICPC Liaison in the sending jurisdiction.

1
2 (8) All other requirements, exceptions, timelines, and instructions for expedited
3 placement cases, along with procedures for provisional approval or denial of
4 a placement and for removal of a child from the placement, are stated in
5 Regulation No. 7.
6

7 **(i) Authority of sending court or agency to place child (ICPC Reg. No. 2, § 8(d))**
8

9 When the receiving state has approved a placement resource, the sending court has
10 the final authority to determine whether to use the approved placement resource.
11 The sending court may delegate that decision to the child welfare agency. The
12 determination to place the child in the approved home must be made within six
13 months from the date form ICPC-100A was signed by the receiving state.
14

15 **(g) (i) Ongoing jurisdiction**
16

17 If a child is placed in another jurisdiction under the terms of the compact, the
18 sending court must not terminate its jurisdiction until the child is adopted, reaches
19 majority, or is emancipated, or the dependency is terminated with the concurrence
20 of the receiving state authority.
21

22 **Advisory Committee Comment**
23

24 **Urgency of ICPC Matters.** Implementation of the ICPC has long frustrated judicial officers and
25 other professionals. The overriding concern is that the process takes too long, and children cannot
26 wait. In all ICPC actions, there should be a sense of urgency, and all professionals involved
27 should take action as quickly as possible.
28

29 **Subdivision (h)(7).** Judicial officers requesting assistance under subdivision (h)(7) from the
30 receiving state judge or judicial officer should be cognizant of ethical concerns raised by such ex
31 parte communication. These concerns can be addressed in various ways, including but not limited
32 to using form JV-565, obtaining a stipulation from all parties to permit judge-to-judge phone or e-
33 mail contact, or conducting the discussion by phone with parties and a court reporter present.
34

35 **Validity of California Placements in Receiving Jurisdictions.** When a California child is
36 placed with an out-of-state parent, and the placement is consistent with California law, the
37 receiving jurisdiction may consider the placement invalid if it does not comply with the law of the
38 receiving jurisdiction. In this situation, the receiving jurisdiction would have no obligation to
39 provide services.
40

41 **Regulations and Forms.** The ICPC regulations and forms can be found on the website of the
42 Association of Administrators of the Interstate Compact on the Placement of Children at
43 <http://icpc.aphsa.org/>.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
REQUEST FOR ASSISTANCE WITH EXPEDITED PLACEMENT UNDER THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN	CASE NUMBER:

TO

Honorable (name): _____, of (court name): _____

in (jurisdiction): _____

- On (date): _____, this court made orders concerning the expedited placement (under Regulation No. 7 of the Interstate Compact on the Placement of Children (ICPC)) of the above-named child with a relative in your jurisdiction. A copy of that order is included in attachment 1.
- Our records indicate that a copy of the order and all other required documents were sent to the Compact Administrator in your jurisdiction on (date): _____
- Copies of additional court orders or other documentation are attached (list): _____
- The Compact Administrator of your jurisdiction has been in possession of all required documents for the expedited placement request under Regulation No. 7 for more than 20 business days.
- The sending agency has not received notice under ICPC article 3(d) of whether the child may be placed as requested.

REQUEST FOR ASSISTANCE

- Therefore, in an effort to promote cooperation between our jurisdictions and our courts and to continue to promote and protect the interests of the children who come before us, I am requesting that your court take whatever steps you deem appropriate or necessary, within your jurisdiction and authority—such as holding hearings, taking evidence, or issuing court orders—to assist this court in determining the suitability of the proposed placement and to expedite the completion of the home study, as directed by Regulation No. 7.
- In addition, I request and urge you, consistent with applicable laws, to communicate directly with me to discuss any issues raised in this request or the submitted documents.

Name: _____ Superior Court of California, County of: _____
 Phone No.: _____ Fax No.: _____
 E-mail: _____

NOTE: Under ICPC article 5(a), the sending agency will retain jurisdiction over the child and continue to assume financial responsibility for the support and maintenance of the child during the period of placement.

Date: _____

JUDICIAL OFFICER

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>): <hr/> TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ E-MAIL ADDRESS (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
EXPEDITED PLACEMENT UNDER THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN: FINDINGS AND ORDERS	CASE NUMBER:

1. This matter came before the court for the issuance of an order for an expedited placement decision under Regulation No. 7 of the Interstate Compact on the Placement of Children (ICPC) on
 - a. Hearing Date: _____ Time: _____ Dept.: _____ Room: _____
 - b. Judicial Officer: _____
 - c. Court Telephone No.: _____
 - d. Court Fax No.: _____
 - e. Court E-mail: _____
2. Child's name: _____
 Child's date of birth: _____
3. The court has read and considered and admits into evidence
 - a. Signed statement of interest from the potential placement or statement from the social worker regarding the appropriateness of the potential placement, as required by Regulation No. 7, section 7(a) (*statement date*):
 - b. Statement from the child welfare agency that it is unaware of any fact that would prohibit the child from being placed with the potential placement and that it has completed, and is prepared to send, all required paperwork to the county ICPC Liaison, as required by Regulation No. 7, section 7(b) (*statement date*):
 - c. Report of social worker, dated: _____
 - d. Report of CASA volunteer, dated: _____
 - e. Case plan, dated: _____
 - f. Other: _____

BASED ON THE EVIDENCE LISTED ABOVE AND ALL OTHER EVIDENCE BEFORE THE COURT, THE COURT FINDS AND ORDERS

4. These findings are made by a preponderance of the evidence.
5. The child for whom out-of-state placement is sought is the child named in item 2. The child is a dependent child within the jurisdiction of this court, based on a petition filed by the child welfare agency. The child does not currently live in the home of the parent or guardian from whom the child was removed.
6. The court has the authority to determine custody and placement of the child or has delegated that authority to the child welfare agency.
7. Sections 5, 6, and 7 of Regulation No. 7 of the ICPC apply to the child.

CASE NAME: _____	CASE NUMBER: _____
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8. The proposed placement for the child in the receiving state is the home of the child's

- a. Stepparent
- d. Grandparent
- b. Adult brother or sister
- e. Adult uncle or aunt
- c. Guardian
- f. Other (*specify*):

Proposed placement (*name*):

Located at (*address*):

9. Based on the facts stated in the record, the court finds that the child meets the following expedited placement criteria (*check one or more*):

- a. Unexpected dependency due to one of the following:
 - (1) Sudden or recent incarceration of a parent or guardian;
 - (2) Incapacitation of a parent or guardian, defined as a parent or guardian who is unable to care for the child because of the parent's or guardian's unexpected medical, mental, or physical condition; or
 - (3) Death of a parent or guardian.
- b. The child is 4 years of age or younger.
- c. The child is part of a group of siblings who will be placed together, where one or more of the child's siblings is 4 years of age or younger (*names and dates of birth of siblings 4 years of age or younger*):
- d. The child has a substantial relationship with the person named as the proposed placement in item 8., above. (Substantial relationship means the person has spent more than cursory time with the child, is known to the child, and has established more than a minimal bond with the child.)
- e. One or more of the child's siblings in the sibling group sought to be placed has a substantial relationship with the person named as the proposed placement in item 8., above (*name of sibling or siblings*):
- f. The child is currently in an emergency placement.

10. The child welfare agency has provided the court with one of the following documents, as required by Regulation No. 7, section 7(a):

- a. A signed statement of interest from the person named as the proposed placement in item 8., confirming that he or she meets each of the Regulation No. 7, section 7(a), requirements; or
- b. A signed statement from the assigned California social worker stating that the social worker spoke to the person named as the proposed placement in item 8. and that the person confirmed that he or she meets each of the Regulation No. 7, section 7(a), requirements.

11. The child welfare agency has completed and is prepared to send all required paperwork to the county ICPC Liaison, including the statement regarding the proposed placement and forms ICPC-100A and ICPC-101.

Child Welfare Agency Orders

- 12. The child welfare agency is ordered to be the sending agency in this matter and directed to complete, execute, and file all necessary forms and carry out all obligations and responsibilities as the sending agency under the ICPC.
- 13. The child welfare agency is ordered to send to the county ICPC Liaison in the sending jurisdiction, within three business days of receipt of this order, completed forms ICPC-100A and ICPC-101, a copy of this order, and, if not already sent, all documentation required for compliance with Regulation No. 7 and any supporting documentation under ICPC article 3. The county ICPC Liaison is ordered to forward all documents to the receiving state's compact administrator within two business days.
- 14. The child welfare agency is ordered to request a comprehensive home study of the potential placement resource in the receiving state and an expedited placement decision.

CASE NAME: _____	CASE NUMBER: _____
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- 15. The child welfare agency is ordered to take whatever additional steps are necessary, including follow-up contacts, to ensure that the process is completed in a timely manner so as to protect the best interests of the child.
- 16. The child welfare agency is ordered to inform this court promptly and regularly of the progress and results of this order. This includes informing this court as soon as possible on learning that the home study has not been completed and sent to California by the receiving state within 20 business days after receipt of the completed documentation, as required by Regulation No. 7, section 9(h).

Provisional Placement Request

- 17. The child welfare agency
 - a. is ordered, based on the facts stated in the record
 - b. is not ordered
 to request approval for a provisional placement of the child in the receiving state while the home study and expedited placement decision are pending, under Regulation No. 7, section 6.
- 18. If the receiving state approves a request for provisional placement, the child welfare agency is ordered to request that the matter be placed on the court calendar as soon as possible, but no later than 10 court days after receipt of the approval from the receiving state, in order for the court to determine if the provisional placement is in the best interests of the child.
- 19. If the receiving state denies a request for provisional placement, the child must remain in California until the expedited placement decision process is completed.

Designated Individuals for Sending and Receiving Information

- 20. The court designates the following court employee, or his or her designee, to send to the child welfare agency—via e-mail, fax, or overnight mail—copies of this and other orders needed to comply with ICPC Regulation No. 7 within two business days of their entry:
 - a. Name: _____ Title: _____
 - b. Mailing Address: _____
 - c. E-mail: _____
 - d. Telephone No.: _____
 - e. Fax No.: _____
- 21. The California child welfare agency employee designated to receive communications regarding the progress of the ICPC process in this matter is the following person or his or her designee:
 - a. Name: _____ Local ICPC Liaison Other title (*specify*): _____
 - b. Mailing Address: _____
 - c. E-mail: _____
 - d. Telephone No.: _____
 - e. Fax No.: _____

Further Proceedings

- 22. When the expedited placement decision process has been completed by the receiving state, and the California child welfare agency has received the written notification of approval from the receiving state, the California child welfare agency
 - a. must proceed to place the child with the proposed placement in the receiving state; or
 - b. is ordered to request that the matter be placed on calendar for further hearing, before sending the child to the proposed placement; or
 - c. other (*specify*): _____
- 23. Hearing for progress report further disposition other (*specify*): _____
 is set for (*date*): _____ at (*time*): a.m. p.m. in department: _____

CASE NAME: _____	CASE NUMBER: _____
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24. The court makes these additional findings and orders under the ICPC and Regulation No. 7:

- a. This court has jurisdiction over the child under articles 2, 3, and 5(a) of the ICPC to invoke the ICPC for the purpose of requesting one or more home study assessments and expedited placement decisions on potential resource families living in one or more receiving states.
- b. Under ICPC article 3(d), this court may place, or authorize the child welfare agency to place, the child in an approved placement in a receiving state, including a provisional placement as authorized by Regulation No. 7 of the ICPC, only after receipt of written notification from the receiving state that the proposed placement does not appear to be contrary to the interests of the child.
- c. If the child is placed in an approved placement in the receiving state, this court will retain jurisdiction over the child (under ICPC article 5(a)) sufficient to determine all matters related to the custody, supervision, care, and disposition of the child that it would have had if the child had remained in California. This court will not terminate jurisdiction over the child or terminate the supervisory responsibility of the child welfare agency having custody of the child during the period of placement in the receiving state until the child is adopted, reaches the age of majority, becomes self-supporting, or is discharged with concurrence of the appropriate authority in the receiving state.
- d. Under article 5(a) of the ICPC, the sending agency will continue to assume financial responsibility for the support and maintenance of the child during the period of the placement in the receiving state.
- e. This court expressly finds that its jurisdiction over the child includes the power to effect the return of the child to California or transfer of the child to another location or custodian within five business days of receipt of written notification from the receiving state's Compact Administrator that placement will not be approved or that previous placement approval has been withdrawn by the receiving state. In these circumstances, this court order provides sufficient authority and direction for the sending agency to immediately return the child to California.
- f. Within two business days after receipt of a complete Regulation No. 7 request, the county ICPC Liaison must transmit the request for the home study assessment and for any provisional placement to the receiving state Compact Administrator. The request must include a copy of this order. If the county ICPC Liaison finds that the ICPC documentation is incomplete or insufficient, it must request the necessary information from the local sending agency.
- g. If a provisional placement is requested by California, the receiving state must make a determination to approve or deny the request within seven calendar days of receipt of the request packet. The provisional approval or denial must be communicated in writing by the receiving state's Compact Administrator to the California sending agency through expedited means.
- h. If the child is sent, or allowed to go, to a provisional placement in a receiving state, this court finds that any such placement must be in compliance with ICPC Regulation No. 7, of which this court takes judicial notice, including its purpose in defining and regulating a provisional placement under the ICPC.
- i. The person designated in item 21 to receive communication must maintain contact with the California sending agency to assist this court in determining the status of the ICPC process and must submit a status report in writing to the court, the parties, and their counsel no later than seven days before any scheduled court hearing and also provide updates closer to the hearing date should new developments merit attention. The California sending agency must cooperate with and work with the above-designated person and provide information and assistance regarding the progress of the ICPC process for the child.
- j. The transmission of any documentation, request for information, or decision must be sent by overnight mail, by fax, or as an e-mail attachment, if approved by the receiving state, or by such other equally expedient method as may become available.

Date: _____ JUDICIAL OFFICER

SPR12-19**Juvenile Law: Interstate Compact on the Placement of Children** (amend rule 5.616, and revise forms JV-565 and JV-567)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
1.	County Welfare Directors Association Diana Boyer, Senior Policy Analyst	NI	<p><u>Form JV-567:</u> Following is a suggestion on this particular proposed rule of court, as it relates to the proposed form: Counties suggest a minor revision of the proposed JV form to indicate on the form the person in the county designated to receive and coordinate ICPC communications with/to the Court, with a contact phone number/email. CA is a de-centralized ICPC state, each county has a central point of contact.</p>	The committee agreed with this suggestion. Form JV-567, item 21, will be updated to indicate that in most cases, the county child welfare agency employee designated to receive communications from the court will be the county ICPC liaison or his or her designee.
2.	Judge Leonard P. Edwards (Ret.) Retired Superior Court Judge Santa Clara County Superior Court	A	<p><u>Rule 5.616:</u> I agree, but would like to have the attached comment added to the commentary: “Urgency of ICPC Matters. Implementation of the ICPC has long frustrated judicial officers and other professionals. The overriding concern is that the process takes too long, and children cannot wait. In all ICPC actions, there should be a sense of urgency, and all professionals involved should take action as quickly as possible.”</p>	The committee agreed with this suggestion. This language will be added to the Advisory Committee Comment at the end of the rule.
3.	Kern County Department of Human Services Jeff Mendoza, ICPC Liaison	A	<p><u>Rule 5.616:</u> So if a child is a court dependent in a California county and is receiving court ordered Family Maintenance services and the parent moves out of state, it sounds like we may not be able to get courtesy supervision. Or similarly, if a parent lives out of state and</p>	<p>This situation, known as a family relocation case, is governed by Regulation No. 1 of the ICPC regulations, and by 5.616(f) in the proposed rule of court. Both the regulation and the rule state that the ICPC applies to this situation, so supervision by the child welfare agency in the state the family moves to should be available.</p> <p>This is the situation addressed by the Court of</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>our court wants to send the child to live with that parent but wants family maintenance services (not just to dismiss the case) it gets pretty vague at that point. Am I missing something?</p>	<p>Appeal in the <i>In re C.B.</i> (188 Cal.App.4th 1024) case. The Court clarified that sending a child to live with his or her out-of-state parent is not a “placement”, so the ICPC does not apply. (Unlike the national regulations, which take the position that sending a child to a parent is a placement, under certain circumstances, and ICPC does apply.). The proposed rules of court follow California law as enunciated in the <i>C.B.</i> decision (see proposed rule 5.616(b)(1)(A)). Subdivision (g) of proposed rule 5.616 provides options that the court can take to ensure the safety of a child in the parent’s home.</p>
4.	<p>Office of the Los Angeles County Counsel James Owen, Division Chief</p>	AM	<p><u>*Rule 5.616:</u></p> <p><u>5.616(a) Applicability of rule:</u> By adding the word “expedited” it shows that there is a need for a swift assessment of the proposed placement in the other state. The word “priority” was less specific and could be used to characterize the placement as the first one to be assessed, such as when relative caretakers are deemed to have a priority for suitable placements under the Welfare and Institutions Code.</p> <p>This amendment adequately reflects that the Welf. & Inst. Code containing the ICPC was changed from §1300 to §1400, beginning in 2010.</p> <p><u>5.616(b)(1)Definitions, “Placement”</u> (A) <i>A court directing or making an award</i></p>	<p>No response required.</p> <p>No response required.</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p><i>of custody to a parent of the child or placing a child with his or her parent is not a placement within the meaning of this rule.</i></p> <p>This amendment does make clear that based upon the holding of <i>In re C.B.</i> (2010) 188 Cal.App.4th 1024 that ICPC does not apply to any placement in the home of a parent, whether offending or non-offending. Therefore, the current Rule 5.616 was found to be not valid as it relied on an improper interpretation of the ICPC. Thus Regulation III expanded the rules beyond the scope of the ICPC.</p> <p>Obviously, there is a great concern about the resulting gap in supervision of children who are placed with their parents in another state where a California dependency court retains supervision over the family. It is hoped that the ICPC will be amended in the near future to require compliance with the ICPC for some of these situations, especially for offending parents.</p> <p><u>5.616(b)(1)(B) Definitions, "Placement"</u> This amendment does make clear that, based upon the holding of <i>In re C.B.</i> (2010) 188 Cal.App.4th 1024, the ICPC does not apply to any placement in the home of a parent, regardless of the case circumstances. The fact that the juvenile court retains jurisdiction over the child who is residing with a parent in another state does not serve as a basis to apply the compact.</p>	<p>No response required.</p> <p>The committee agreed with this concern. Proposed section (g) ("Placing a child with an out-of-state parent") was added to rule 5.616 to provided the court with options for assuring children's safety when they are placed with a parent outside of California.</p> <p>No response required.</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>The language in subdivision (b)(1)(B)(i) which discusses “causing a child to be sent or brought to another party in a compact jurisdiction” may lead to confusion. The term “party” usually refers to someone who has standing to participate in a lawsuit. In dependency proceedings, each parent is considered a party in the case. ICPC Regulation 3 does not define “party” in its list of definitions. Additionally, under Article 2 of the Compact, the reference to the work “party” is used to describe a “party state” that is a state that is a state that is a member of the Compact. Therefore, using the word “party” in this subdivision may lead to the mistaken impression that this word refers to a parent. Instead of using the word “party,” it is preferable to change the sentence to state: causing a child to be sent or brought to another person, other than a parent, in a compact jurisdiction</p> <p><u>5.616(c) Compact Requirements</u> It is recommended that the changes reflect more specifically that ICPC compliance is not required to place with a parent in another jurisdiction, rather than using the statement “except where inconsistent with California law.”</p> <p><u>5.616 (d) Notice of intention; authorization</u> The amendment is appropriate to specify that Form ICPC-100A must be used by the sending jurisdiction to notify of the intention to place a</p>	<p>The committee agreed with this suggestion. The wording in rule 5.616(b)(1)(B)(i) will be changed to eliminate this source of confusion. It will now read, “An order causing a child to be sent or brought to <u>a person, other than a parent, in a compact jurisdiction...</u>”</p> <p>The committee disagreed with this suggestion. The phrase “except where inconsistent with California law” is deliberately broad, in order to encompass placements with parents, and any other areas in which our California law diverges from the requirements in the regulations.</p> <p>No response required.</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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			<p>child in the receiving jurisdiction.</p> <p><u>5.616 (e) Placement of delinquent children in institutional care</u> Although no substantial changes have been made, other than to include the related sections of the Family Code in the title, it is suggested that subdivision (1) be changed to reflect that notice must be provided to the parents before the court may conduct the hearing to determine the placement of the delinquent in an institution in another jurisdiction. Thus, subdivision (1) could be amended to state: “(1)Before the placement, the court has held a properly noticed hearing at which the child, parent, and guardian have had an opportunity to be heard;”</p> <p><u>5.616(f) Relocation of Family Units</u> ICPC compliance is required under Regulation 1, where the temporary relocation will recur. Under subdivision (2), it requested that additional language be added to state: “The ICPC does not apply when the family with whom the child is placed relocates to another state and there will be no ongoing supervision by the sending state or the relocation will be temporary (90 days or less) and will not recur.”</p> <p>Regulation 1 requires that specific procedures be followed when a family relocates to another jurisdiction. Under subdivision (3), it is requested that additional language be added to</p>	<p>The committee agreed with this suggestion; this subdivision will be changed to add the words “properly noticed”.</p> <p>The committee agreed with this suggestion. The words “and will not recur” will be added to this subdivision, consistent with Regulation 1, section 4.</p> <p>The committee agreed with this suggestion. The wording will be changed to include the word “procedural” as suggested by the commentator.</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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			<p>state: “See additional procedural requirements that must be followed for cases involving relocation of family units in ICPC Regulation No. 1.”</p> <p><u>5.616 (g) Placing a Child with an Out-of-State Parent</u> As ICPC compliance is not mandated for placement with a parent, the child welfare agency's ability to obtain a home study through ICPC is uncertain. Regulation 2, paragraph 3 states that although ICPC does not apply to certain placements with a parent, the regulation “would not prohibit a sending state from requesting an ICPC.” Therefore, it is requested that the language in subdivision (1) be changed to state: “Directing the child welfare agency to request a home study under the ICPC guidelines”</p> <p><u>5.616(h) Expedited Placement</u> Subdivisions 7 and 8 are based upon language included in the prior version of Regulation 7, under subdivisions (7) and (8). The current Regulation 7 does not state that “time limits for a single case may be modified by written agreement between the sending court, the sending agency, and the compact administrators of the sending and receiving jurisdictions.” Additionally it does not impose a duty under the compact, upon “a jurisdiction, its local agencies, and the court are required to process interstate cases as quickly as intrastate cases and to devote</p>	<p>The committee agreed with this suggestion. The suggested language better reflects the fact that the California child welfare agency has the ability to request, but not necessarily the ability to obtain, a home study from an out-of-state agency. Rule 5.616 (g)(1) will be changed to indicate that the court can direct the child welfare agency “to request” a home study rather than “to obtain” one.</p> <p>The committee agreed with this suggestion. The subdivisions numbered (h)(7) and (h)(8) in the version of rule 5.616 circulated for comment ((h)(6) and(h)(7) in the version of rule 5.616 currently in effect) will be deleted from the rule.</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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			<p>equal efforts to interstate and intrastate hardship cases.” Additionally, the statement in subdivision 8(A), which provides “If in doing so, a receiving jurisdiction’s compact administrator finds that extraordinary circumstances make compliance within the time requirements impossible, strict compliance may be excused,” was taken from subdivision 8 of the prior version of Regulation 7, but it is not included in the current version. As there is no support in Regulation 7 for these provisions, it is recommended that they be stricken from the final version of Rule 5.616.</p> <p><u>5.616(i) Authority of sending court or agency to place child</u> This addition to the rule is appropriate to designate that the sending court has final authority over the placement decision and that the placement must be made within six months from the date that Form ICPC-100A was signed by the receiving state.</p> <p><u>5.616 (j) Ongoing jurisdiction</u> No substantive changes have been made to this section other than the letter of the subdivision.</p> <p><u>Advisory Committee Comment</u> It is requested that a statement be added that judicial officers should take measures to avoid ex parte communication. “Judicial officers should take measures to avoid ex parte communication. These measures may include,</p>	<p>No response required.</p> <p>No response required.</p> <p>The committee disagreed with this suggestion. Federal laws such as the UCCJEA do not have cautionary language reminding judicial officers to avoid ex parte communication. Similarly, the California rules of court do not take the approach</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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			<p>using form JV-565, obtaining a stipulation from all parties to permit judge-to-judge phone or e-mail contact, or conducting the discussion by phone with parties and a court reporter present.”</p> <p><u>Request for Specific Comments in the Invitation to Comment</u></p> <p>Q. Does the proposal appropriately address the stated purpose?</p> <p>A. The proposal does address its stated purpose. Please see the additional comments for each section of the proposed rule included above.</p> <p>Q. Does the new wording regarding placement with parents in rule 5.616 subdivisions (b)(1) and 5.616(g) meet the dual goals of compliance with the <i>In re C.B.</i> decision and of providing court with sufficient tools to protect the safety and well-being of children who will be placed with their out-of-state parents?</p> <p>A. The wording of the rule does comply with the <i>In re C.B.</i> decision, however the ability to obtain a home study where the anticipated placement is the home of a parent is unclear. Therefore, it is requested that subdivision (g) be changed to state that the child welfare agency request a home study, rather than obtain said home study.</p> <p>Q. Are the procedures for Expedited Placement</p>	<p>of telling judges to follow the law or reminding them of their ethical duties. Available books on judicial ethics adequately address these issues (See, for example Edwards, Leonard, <i>The Role of the Juvenile Court Judge: Practice and Ethics</i> (2012), at pp.144-238).</p> <p>No additional response required; suggestions made here are included in the comments and responses above.</p> <p>No additional response required; suggestions made here are included in the comments and responses above.</p>

SPR12-19

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			<p>Cases, in result 5.616(h) and form JV-567, clear and easy to follow? Are any clarifications needed?</p> <p>A. Although the procedures are lengthy, they are clear and fairly easy to follow. It is recommended that the portions of subdivision (h) that are not supported by the revised Regulation 7 be omitted.</p> <p>Q. Is the second paragraph of the Advisory Committee Comment, regarding judge-to-judge communication helpful, or is something more needed?</p> <p>A. A further comment should be added to state that judicial officers should take appropriate steps to avoid ex parte communication. Please see comments made under this section of the proposed rule.</p>	<p>No additional response required; suggestions made here are included in the comments and responses above.</p> <p>No additional response required; suggestions made here are included in the comments and responses above.</p>
5.	Orange County Bar Association Dimetria Jackson, President	AM	<p><u>*Form JV-565:</u> A statement should be added to the form indicating that a copy of the form will be submitted to the local California child welfare ICPC coordinator so that person will be aware of the request and better able to assist with its goals.</p> <p><u>Form JV-567:</u> Clarify in item 19 on page 3 that the child welfare agency employee designated to receive</p>	<p>The committee agreed that this form would be valuable for the ICPC liaison to receive. However, due to court staffing limitations, such a process cannot be mandated. Instead, non-mandatory instructions will be added to rule 5.616(h)(7)(B)(iv), indicating that a copy of the form “should be provided” to “the county ICPC Liaison in the sending jurisdiction.”</p> <p>The committee agreed with this suggestion. Form JV-567, item 21 (item 19 in the version circulated</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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			communications will be the local ICPC coordinator.	for comment), will be updated to indicate that in most cases, the county child welfare agency employee designated to receive communications from the court will be the county ICPC liaison or his or her designee.
6.	Rosalind Hyde, Manager Out-of-State Placement Policy Unit Deputy Compact Administrator - ICPC Co-Deputy Compact Administrator - ICAMA (Co-CA CDHCS) California Department of Social Services	NI	<p>*Clarifying language I would like added is CAPITALIZED to show possible suggested solutions; strikeouts show as strikeouts (many address California’s decentralized practice).</p> <p><u>Rule 5.616:</u></p> <p><u>5.616(b)(1)(A):</u> Could a disclaimer could be added somewhere regarding non-parent placements to the effect that: <u>Placements consistent with California law may not be honored by receiving states which would have no obligation to provide services.</u> Maybe under (b)(1)(A) as last sentence? A court is still causing the “placement” to be made.</p> <p><u>5.616(b)(1)(B)(ii):</u> An order causing a child to be sent or brought to a person, other than a parent, in a compact jurisdiction with a return date of more than 30 days from the start of the visit or beyond the ending date of a school vacation period (ADD <u>pursuant to Regulation 9</u>)?</p> <p><u>5.616(e):</u> A child declared a ward of the court under (INSERT WELFARE AND</p>	<p>The committee agreed with this suggestion, but not with the suggested placement in 5.616(b). A paragraph will instead be added to the Advisory Committee Comment at the end of the rule, with an advisement that will read, “When a child is placed with an out-of-state parent, and the placement is consistent with California law, that placement may not be considered a valid placement by the receiving jurisdiction. In this situation, the receiving jurisdiction would have no obligation to provide services.”</p> <p>The committee agreed with this suggestion; the phrase “under Regulation No. 9” will be added to this section.</p> <p>The committee agreed with this suggestion; “Welfare and Institutions Code” will be added to</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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			<p>INSTITUTIONS CODE as we've been addressing Family Code until now?) <u>Welfare and Institutions Code</u> section 602 may be placed....</p> <p><u>5.616(g)</u>: Page 12, paragraph (g), line 20-39. Would like some clarifying language added: "When a child will be placed with his or her parent FROM WHOM THE CHILD WAS NOT REMOVED in another state, compliance with the requirements of the ICPC is not required." ... This helps define what parent the child is being placed with and differentiates from a non-offending parent, which is not interpreted nor used by all in the same manner.</p> <p>Should lines 23 and 24 (the first paragraph of 5.616(g)) also be expanded to more fully conform to the regulation's paragraph 3., Placement made without ICPC protection, to indicate the court has no evidence and sought no evidence that parent is fit or unfit (raising the "non-offending parent" issue) and is relinquishing jurisdiction? This emphasizes there is no continued jurisdiction and services, because without ICPC there is no vehicle for such.</p> <p>Page 12, paragraph (g)(1), line 28-29. Does the use of the word "under" in the phrase "obtain a home study 'under' the ICPC guidelines" lead the reader to think the court can mandate an ICPC home study, even though the placement is not made via ICPC? Or is the emphasis on</p>	<p>this section.</p> <p>The committee disagreed with this suggestion. Although typically a child being placed with an out-of-state parent would be placed with a parent from whom he or she was not removed, there is no such legal requirement in California. The <i>In re C.B.</i> court stated, explicitly, "an out of state placement with a parent is <i>never</i> subject to the ICPC." (<i>In re C.B.</i>, 188 Cal.App.4th 1024, at 1036)</p> <p>The committee disagreed with this suggestion. California law, as stated in the <i>C.B.</i> case, does not distinguish between offending and non-offending parents for out-of-state placement purposes, and does not require that jurisdiction be dismissed when a child is placed with an out-of-state parent.</p> <p>The committee agreed with this suggestion to clarify Rule 5.616(g)(1) and take out the reference to "ICPC guidelines". That subdivision will be changed to read, "Directing the child welfare agency to request an independent, non-ICPC home study or courtesy check".</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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			<p>“guidelines” versus ICPC, as the procedure to use and with ICPC as a vehicle to get an out-of-state check? If so, should it simply say, “(1) Directing the child welfare agency to request an INDEPENDENT, NON-ICPC RELATED courtesy CHECK?” This limits the mandate to the courtesy request by California county, versus trying to mandate another state to perform an ICPC home study with all related elements.</p> <p><u>5.616(h)(1): Expedited Placement under Regulation No. 7 does not apply to any situation in which a California Child is being placed with his or her parent in another state (CAN WE ADD) <u>except as addressed in (g)(1) through (4) above.</u></u></p> <p><u>5.616(h)(2): Before the court orders an expedited placement, the court must make express findings that the child is a dependent child removed from and no longer residing in the home of a parent and now being considered for placement in another state with a (FOR CONSISTENCY SHOULD WE USE HERE THE SAME LANGUAGE AS (b)(1) <u>a relative, as defined in Regulation 3, paragraph 4, item 56, or a legal guardian of the child - INSTEAD OF stepparent, grandparent, adult aunt or uncle, adult sibling, or legal guardian.</u></u></p>	<p>The committee disagreed with this suggestion. Proposed section 5.616(g) provides steps that judicial officers can take when placing children with their out-of-state parents. It does not, however, provide an exception to the statement in 5.616(h)(1) that expedited placement procedures under ICPC regulation 7 do not apply to placements of California children with their out-of-state parents.</p> <p>The committee disagreed with this suggestion. The definition of relative in regulation 3 is distinct from the definition in regulation 7, section 5, of who a child may be placed with on an expedited basis. Rule 5.616(h)(2) follows the regulation 7 definition (except regarding parents, where the rule follows California law instead of following regulation 7).</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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			<p><u>5.616(h)(5)</u> The compact administrator of the receiving jurisdiction must determine immediately, and no later than 20 business days after receipt, whether the placement is approved (WE NEED TO CHANGE TO placement <u>may or shall not be made</u>) and must transmit to match the 100A.</p> <p><u>Form JV-567, item 5.</u> Would like to add explicatory language to the second sentence: “The child is a dependent child OR SUBJECT TO A DEPENDENCY PETITION within the jurisdiction of the court, based on a petition filed by the child welfare agency.” This ensures children in emergency placements (9.f.) who are not yet dependents where a petition has been filed are included versus only being a dependent subject to a petition.</p> <p><u>JV-567, item 7.</u> Under findings and orders, item 7 states, “Paragraphs 5, 6, and 7 of Regulation No. 7 of the ICPC may apply to the child.” Should this be REMOVED as redundant? Paragraph 5 (criteria) of Reg 7 is included in No. 9 (a) through (f) on page 2 of the form. Paragraph 6 is addressed in No. 17, Provisional Placement Request on page 3 of the form. And paragraph 7 of Reg 7 is included in No. 10 on page 2 of the form.</p>	<p>The committee did not believe this change was necessary. “Whether the placement is approved” has the same meaning as a determination of whether the placement “may or shall not be made”, and is clearer and easier to understand. The rule language is consistent with Regulation 7, section 9h, which uses the phrase “approving or denying the placement.”</p> <p>The committee disagreed with this suggestion, because the regulations do not allow expedited placement requests for children who are not under the court's jurisdiction. Regulation 7, section 5 requires that before a request for an expedited placement can be made, the child must be “under the jurisdiction of a court” and the court must have “the authority to determine custody and placement”. A child for whom a petition has been filed, who has not yet been adjudicated dependent is not under the court’s jurisdiction, nor does the court yet have the authority to determine custody and placement.</p> <p>The committee disagreed with this suggestion. Although item 7 is somewhat redundant with other line items on the JV-567 form, this wording comes nearly verbatim from the sample <i>Form Order for Expedited Placement</i>, which was adopted with Regulation 7. Courts are required by Regulation 7, section 8 to enter orders “consistent with the Form Order...subject to any additions or deletions required by federal law or the law of the sending state.” Form JV-567, item 7, is not contrary to California law, therefore the</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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			<p><u>JV-567, generally.</u> California counties in 1991 were delegated authority to work directly with receiving states to make placements, unless the placement is into an out-of-state group home which must be done at the state level; that specific function was recentralized in 1998 in conjunction with requirements of Senate Bill 933, Chapter 311, Statutes of 1998.</p> <p><u>JV-567, item 13.</u> Because California is a county-administered, decentralized state, most functions are delegated to and performed at the county level, and the county works directly with other states without going through the California central state office. Thus, any time the regulation addresses the sending agency or sending state, in California, that means the county or local child welfare agency. I understand this to be addressing California counties as sending agencies here, as paragraph 12 orders the child welfare agency to carry out all obligations and responsibilities of the sending agency. Would like to change the language of 13 to reflect that, otherwise another layer will be added to the procedure, and this office will be receiving requests it should not receive and for which authority to process has been delegated and the progression will be slowed: “The DELEGATED SENDING child welfare agency is ordered to send FORWARD to</p>	<p>committee prefers to leave this language in our California form.</p> <p>The committee agrees to correct that language throughout the form to indicate that most ICPC functions have been delegated to the counties. (Delegation of these functions to the counties was announced in California Department of Social Services <i>All County Information Notice I-73-91</i> (1991).)</p> <p>The committee agreed with this suggestion. This change will be made throughout the form, indicating that the local child welfare agency, as well as the office of the ICPC liaison in each county, rather than the state level Compact Administrator’s Office, are responsible for most ICPC functions in California.</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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			<p>California THE RECEIVING STATE Compact Administrator, within three business days of receipt of this order: completed ICPC” This reflects California practice as a decentralized, county-administered state.</p> <p><u>JV-567, item 18.</u> This requires the name and title of court employees designated to accomplish this function and is limited to only one person by demanding a name and their title. Given the very limited time frame, this could be expanded to address situations, such as illness or vacation, where the single individual might not be available to perform the function, and we could end up out of compliance with this section. The language could say, “The court designates the following court employee OR PERSON RECOGNIZED TO ACT FOR THE EMPLOYEE to send the child welfare agency, via email, fax” Or this could be accomplished by identifying perhaps the category or office or the particular type of employee.</p> <p><u>JV-567, item 19.</u> The California child welfare agency employee designated to receive communications regarding the progress of the ICPC process in this matter is: [a. Name and Title, b., c., d., e.]” Again, this requires the name and title of county employees designated to accomplish this function and is limited to only one person by demanding a name and their title. Given the very limited time frame, should</p>	<p>The committee agreed with this suggestion. The phrase “or his or her designee” will be added to form JV-567, items 20 and 21 (items 18 and 19 in the version of the form circulated for public comment).</p> <p>The committee agreed with this suggestion. The phrase “or his or her designee” will be added to form JV-567, , items 20 and 21 (items 18 and 19 in the version of the form circulated for public comment).</p>

SPR12-19

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			<p>this be expanded to address situations, such as illness or vacation, where the single individual might not be available to perform the function.</p> <p>The language again could say, “The California child welfare agency employee OR PERSON RECOGNIZED TO ACT FOR THE EMPLOYEE designated to receive communications regarding the progress of the ICPC process in this matter is:” Or this also could be accomplished by identifying the category or office or the particular type of employee.</p> <p><u>JV-567, item 23.</u> The court makes these additional findings and orders under the ICPC and Regulations No. 7: (a. through j.) The language here needs to address the practice of delegation of the ICPC in a decentralized, county administered state, such as here in California. So instead of “California’s Compact Administrator” in subparagraphs (f), (g) and (i), the language should read THE CALIFORNIA DELEGATED SENDING AGENCY. This reflects California practice as a decentralized, county-administered state.</p> <p>f. Replace “California’s compact administrator” with “THE CALIFORNIA DELEGATED SENDING AGENCY must ENSURE THE PACKET IS COMPLETE, SPECIFY FOR AND REQUEST FROM THE LOCAL SENDING AGENCY WHAT ADDITIONAL INFORMATION IS NEEDED, AND transmit the COMPLETE request for the home study</p>	<p>The committee agreed to correct the language throughout form JV-567, item 24 (item 23 in the version circulated for comment) to indicate that the child welfare agency, acting as the delegated sending agency, rather than the Compact Administrators Office, handles most ICPC sending-state functions in California. Other functions are handled by the ICPC Liaison in each of the 58 counties.</p> <p>The Committee agreed that this item needed clarification to be consistent with California procedures. Item 24(f) on form JV-567 has been changed to, “Within two business days after receipt of a complete Regulation 7 request, the county ICPC Liaison must transmit the request for the home study assessment and for any provisional placement to the receiving state</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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			<p>assessment and for any provisional placement to the receiving state Compact Administrator.” Delete: “In the event that California’s Compact Administrator county sending agency finds that the ICPC documentation received is substantially insufficient, he or she must specify to the child welfare agency in the sending county what additional information is needed and request such information from that agency.”</p> <p>g. Replace: “California’s Compact Administrator” with “THE CALIFORNIA DELEGATED SENDING AGENCY” This reflects California practice as a decentralized, county-administered state.</p> <p>i. Replace: “California’s Compact Administrator” with “THE CALIFORNIA DELEGATED SENDING AGENCY” and replace “7” with “SEVEN.” This reflects California practice as a decentralized, county-administered state and local courts would confer with local agencies with whom they are working.</p> <p><u>Additional Issue 1:</u> Although it is being determined that ICPC will not apply to placements with parents in California, it was never the intent of the compact not to apply to parents when placements with parents are being made and</p>	<p>Compact Administrator. The request must include a copy of this order. If the county ICPC Liaison finds that the ICPC documentation is incomplete or insufficient, it must request the necessary information from the local sending agency.”</p> <p>The committee agreed to correct the language throughout form JV-567, item 24 to indicate that the child welfare agency, acting as the delegated sending agency, rather than the Compact Administrators Office, handles most ICPC sending-state functions in California. Other functions are handled by the ICPC Liaison in each of the 58 counties.</p> <p>The committee agreed to correct the language throughout form JV-567, item 24 to indicate that the child welfare agency, acting as the delegated sending agency, rather than the Compact Administrators Office, handles most ICPC sending-state functions in California. Other functions are handled by the ICPC Liaison in each of the 58 counties.</p> <p><u>Response to Additional Issue 1:</u> The committee disagreed with this comment. The Court of Appeal in the <i>In re C.B.</i> case clarified that sending a child to live with his or her out-of-state parent is not a “placement” for ICPC purposes, so the ICPC does not apply. (Unlike the</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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			<p>when parents are not parenting pursuant to their right to do so, but at the direction of a court. The compact specifies protections, services and requirements needed to protect vulnerable children and ensure safe and suitable placement not contrary to the child’s interests wherever they are placed. This is evidenced in several ways. (<i>Comment continues as footnote 1, below.</i>)¹</p>	<p>national regulations, which take the position that sending a child to a parent is a placement, and ICPC does apply.). The proposed rule of court follows California law as enunciated in the <i>C.B.</i> decision (see proposed rule 5.516(b)(1)(A)). Although the ICPC does not apply, subdivision (g) of proposed rule 5.616 provides options that the court can take to ensure the safety of a child in the parent’s home.</p>

¹ Article II(b), Definitions, defines for purposes of compact, the sending agency and includes a “person,” which would include a parent, as a sending agency, sending, bringing or causing to be sent or brought any child to another party state. Article II(c), Definitions, defines for purposes of compact, receiving state as, “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.” Parent fits within this definition. Article II(d), Definitions, also defines placement and specifically identifies exclusions; parent is not an exclusion in that definition. Article III, discusses Conditions for Placement, and directs that an agency which sends, brings, or causes to be sent or brought to another party state for placement in foster care or preliminary to adoption comply with Article III and the applicable receiving state laws governing placement when placing for purposes of foster care or adoption; nothing about excluding parents:

“(a) No sending agency shall 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 shall comply 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.

“(b) 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.”

Foster Care definition from Regulation 3: “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.” Article VIII, Limitations, establishes when the compact does not apply and specifically names parents, but only when the placement is within the enumerated list of relatives, which includes parent, stepparent, grandparent, adult sibling, adult uncle or aunt or guardian. If the compact were not meant to apply to parents to assure safety for children, parents would not be listed as an exclusion only under these particular circumstances.

California has a 1978 Attorney General’s Opinion, holding the compact applies when the juvenile court places a child with a parent in a member jurisdiction; that a court cannot avoid coming under the compact by delegating a parent to place the court’s dependent child; or terminate jurisdiction to avoid coming under the compact when a child is a juvenile court dependent.

ICPC Regulation 7, which implements provisions of the articles, adopted May 1, 2011, and effective October 1, 2011, allows for provisional placements in particular circumstances. Its purpose is to accelerate “ICPC approval or denial by a receiving state for the placement of a child with a **parent**, stepparent, grandparent, adult uncle or aunt, adult brother or sister, or the child’s guardian,” and to “help protect the safety of children while minimizing the potential trauma to children caused by interim or multiple placements while **ICPC approval to place with a parent** or relative is being sought through a more comprehensive home study process.” Regulation 7 is the vehicle which can be used to help expedite the process of placing a child across state lines and still provide for a safe and suitable placement and assurance of a return should the placement prove to be contrary to the child’s interest or the need for out-of-state services cease and to prevent abandonment in the receiving state.

AOC is citing case law that has invalidated application of ICPC to parents. In late 2010, the Fourth Appellate District of the Court of Appeal issued an opinion in *In re C.B.* (2010) 188 Cal.App.4th 1024 that invalidated rule 5.616(b)(1). That subdivision requires that ICPC procedures be applied when a child is placed out of state with a parent, under certain circumstances. The *C.B.* court held that the ICPC does not apply to any placement with a parent. It notes California cases have consistently held ICPC does not apply to a parent. It also notes this brings California into conflict with jurisdictions with case law that holds ICPC does apply to a parent (e.g., Alabama, Arizona, Delaware, Massachusetts, Mississippi, New York and Oregon). The case points out “the resulting lack of

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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	Commentator	Position	Comment	Committee Response
			<p><u>Additional Issue 2:</u> As a final note, between 2005 and 2011 hundreds and hundreds of California parents have made placements into out-of-state group homes; the numbers of placements of which we are aware because they were processed via ICPC range from 517 to 1821 per year in those</p>	<p><u>Response to Additional Issue 2:</u> This issue is beyond the scope of this proposal. The provisions of the proposed amended rule 5.616 and revised forms JV-565 and JV-567 do not affect the placements commentator describes. The placements she describes involve parents, acting as private parties, placing their children in</p>

uniformity is dysfunctional, that courts and rule makers have not been able to fix it, and hence that it may call for a multi-state legislative response.” It says, “Even assuming, however, that a “*family free home” can include the home of a parent, and therefore that a “placement” can include a placement with a parent, the notice provisions do not apply unless the placement is “in foster care or as a preliminary to a possible adoption.” However, this section, Article III(a), does not say that. It says in section (a) if you are placing for purposes of foster care of adoption, then you must comply with this article and the laws of the receiving state, and in section (b) you must give notice to the receiving state. [(a) No sending agency shall 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 shall comply 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. And (b) 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.]

Family free: as used in Article II (d) of the ICPC means the home of a relative or unrelated individual whether or not the placement recipient receives compensation for care or maintenance of the child, foster care payments, or any other payments or reimbursements on account of the child’s being in the home of the placement recipient (has same meaning as boarding home).

Parent is a specific placement category requiring compliance with ICPC and is included as a placing agency in Regulation 3, which was effective October 1, 2011:

“2. Placement categories requiring compliance with ICPC: Placement of a child requires compliance with the Compact if such placement is made under one of the following four types of placement categories:

“(a) Four types of placement categories:

“(1) Adoptions: Placement preliminary to an adoption (independent, private or public adoptions)

“(2) Licensed or approved foster homes (placement with related or unrelated caregivers)

“(3) Placements with **parents** and relatives when a **parent** or relative is not making the placement as defined in Article VIII (a) ‘Limitations.’”

Regulation 3, as noted, also defines foster care to includes parents: “(26) Foster care: 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. In addition to the federal definition (45 C.F.R. § 1355.20 “Definitions”) this includes 24-hour substitute care for children placed away from their parents or guardians and for whom the state agency has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions and pre-adoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the state or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of an adoption, or whether there is federal matching of any payments that are made.” The purpose of regulations is to implement and give effect to the provisions of the articles.

The application of the compact to a parent is also defined in the new regulation, Regulation No. 4, Residential Placement, adopted May 2012, effective October 1, 2012. Section 1.a.1 specifically includes parent as a sending agency: “Sending agency includes the parent, guardian, court or agency ultimately responsible for the planning, financing and placement of the child as designated in section I of the form 100A. (See Article II(b) or Regulation 3 section 4.(62) for full definition of sending agency)”

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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	Commentator	Position	Comment	Committee Response
			<p>years, with 394 placed thus far in 2012. An informal survey of states and practice yielded the following information on parent placements: <i>(Comment continues as footnote 2, below)</i>²</p> <p><u>Closing:</u> I appreciate your consideration of my remarks and hope they can be of some use in this process and ensure the spirit and intent, as well as the letter of the law, are followed for this purpose. ICPC envisions permanence for children and protecting all children who fall within its jurisdiction by ensuring their interstate placements are made into safe and nurturing environments and that children are fully supported for the duration of their placements, and the Association of Administrators of the Interstate Compact on the Placement of Children is committed to that goal.</p>	<p>out-of-state group homes, with no court involvement. By definition, rules of court would not control when there is no court action or jurisdiction.</p> <p>No response required.</p>

²An informal survey of states and practice yielded the following information on parent placements: Idaho law does not “allow” for parent placements to Residential Facilities in Idaho prior to ICPC approval, this office most often does not receive the 100A request for placement approval until after the child has already been placed. Utah facilities send California the paperwork signed by the parents (understand Utah has a licensing law requiring their residential facilities to comply with ICPC when placing there). In Oregon we do allow out-of-state parents to place into Oregon Res Treatment facilities prior to ICPC approval. We do require submission of a 100A request, but this can occur on or near the date of placement, and the 100A and 100B are often received together. Assuming the facility has a license in good standing, we automatically approve the placement. Maine does not allow parental placements in residential facilities without ICPC approval. Michigan does not allow parental placements in a residential facility without ICPC approval. New York does not allow for placement of a child who is in care to be placed with a parent prior to ICPC approval. Tennessee does not allow parental placements of a child into a TN licensed RTC’s prior to ICPC approval. Massachusetts doesn’t allow placement into a Residential facility until ICPC has approved the placement. North Carolina does not allow parental placements prior to ICPC approval. Wisconsin does not allow placement in a Residential facility prior to ICPC approval.

Without the application of ICPC to private placements in group homes, there is no way to track children in cases of disaster as either a sending or receiving state, because there is no notice requirement. Group home placements in California were recentralized as the result of a death of a child in an out-of-state facility. At least with ICPC the state has notice that its child is placed out-of-state should a natural or man-made disaster occur.

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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7.	San Diego County Counsel Lisa Maldonado, Senior Deputy County Counsel	AM	<p><u>Rule 5.616</u></p> <p>San Diego HHSA acknowledges California case law holding ICPC approval is not required when the child is being placed with an out of state parent. (See, e.g., <i>In re C.B.</i> (2010) 188 Cal.App.4th 1024, 1032–1033, 116 Cal.Rptr.3d 294 [holding Rule 5.616 invalid in its requirement for compliance with the ICPC process if maintaining supervision over out-of-state parent]; <i>In re John M.</i> (2006) 141 Cal.App.4th 1564, 1575, 47 Cal.Rptr.3d 281 [“compliance with the ICPC is not required for placement with an out-of-state parent”].)</p> <p>As such, San Diego HHSA agrees modification of Rule 5.616 is needed. But the proposed modification goes too far and fails to recognize the ICPC has its legitimate uses relating to cases in which a child is placed with a parent out of state.</p> <p>In <i>John M.</i>, despite holding compliance with the ICPC is not required for placement with an out-of-state parent, the appellate court noted a very valuable use of the ICPC in such cases – information gathering. There the out-of-state father wanted placement. Recognizing the juvenile court had little information regarding him, the father requested the disposition hearing be continued to obtain the ICPC report. The trial court denied the continuance request. The appellate court held that in light of the child's age and special circumstances delaying the hearing was not contrary to the child's best interest and found denial of the continuance request was an abuse of discretion. (<i>In re John</i></p>	No response required.

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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			<p><i>M.</i>, supra, 141 Cal.App.4th 1564, 1572, 47 Cal.Rptr.3d 281.) As the Court noted, “While... ICPC compliance is not required for an out-of-state placement with a parent, nothing in the ICPC prevents the use of an ICPC evaluation as a means of gathering information before placing a child with such a parent.” (Ibid.) The proposed modification to Rule 5.616 could be construed as precluding this, however.</p> <p>The ICPC process may also be used in certain cases to facilitate communication between state agencies and the provision or coordination of services and supervision needed or desired by out-of-state parents. As noted in the <i>C.B.</i> decision, many states and the ICPC Administrators hold the ICPC does apply to placements with out-of-state parents. (<i>In re C.B.</i>, supra, 188 Cal.App.4th 1024, 1027, 116 Cal.Rptr.3d 294 [citing Alabama, Arizona, Delaware, Massachusetts, Mississippi, New York, and Oregon, with Florida varying depending on the court].)</p> <p>Further, as recognized by the appellate court in the case of <i>In re Johnny S.</i> (1995) 40 Cal.App.4th 969, 47 Cal. Rptr. 2d 94, if an out-of-state placement with a parent cannot be monitored from California the ICPC allows for voluntary agreements with agencies in other states for services and supervision. As that Court noted, “We do not discourage such voluntary agreements, which are clearly permitted and appropriate for many cases. We hold, however, that the provisions of the ICPC</p>	<p>No response required.</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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	Commentator	Position	Comment	Committee Response
			<p>are not mandatory in connection with placement of a child with a natural parent in another state.” (Id. at p. 979.)</p> <p>Again, however, the proposed modification to Rule 5.616 could be construed as precluding this.</p> <p>As proposed, Rule 5.616(b)(1)(A) reads: “A court directing or making an award of custody to a parent of the child or placing a child with his or her parent is not a placement within the meaning of this rule.”</p> <p>San Diego HHSA is concerned juvenile and appellate courts may interpret this amended rule as precluding them from ever using the ICPC process when placing with an out of state parent. As illustrated, this is neither warranted nor appropriate. The juvenile court still has the ICPC process to gather evidence to assist it in making the initial placement decision, and it still has the voluntary agreement provisions of the ICPC to facilitate services and supervision in other states when appropriate. The ICPC is simply not a requirement to placing with an out of state parent. In order to give the juvenile courts the flexibility they require, San Diego HHSA suggests the rule be amended as follows: “A court directing or making an award of custody to a parent of the child or placing a child with his or her parent is not a placement requiring compliance with this rule.”</p>	<p>The committee agreed with this suggestion. To provide courts with maximum flexibility, the wording of Rule 5.616(b)(1)(A) will be changed to read, “A court directing or making an award of custody to a parent of the child or placing a child with his or her parent is not a placement requiring compliance with this rule.”</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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8.	State Bar of California Standing Committee on the Delivery of Legal Services Catherine Bennett, Chair	A	<u>Forms JV-565 and JV-567</u> It seems that these form changes are in compliance with recent updates due to case law, rules and ICPC updated regulation.	No Response Required
9.	Superior Court of San Diego County Mike Roddy, Executive Director	AM	<u>Rule 5.616</u> Rule 5.616(a)(1) provides that the rule applies to the placement in California of dependents and wards of other ICPC jurisdictions. If so, the requirements imposed by rule 5.616 on courts and child welfare agencies also would apply to courts and child welfare agencies <i>of other jurisdictions</i> , e.g., if Arizona is the sending jurisdiction, the Arizona court is required to make certain findings and orders, etc. To the extent the rule purports to impose requirements on courts and agencies of other jurisdictions, it can be considered invalid. This problem of “reverse application” of rule 5.616 to other jurisdictions seeking to place children in California was mentioned in the proposal. “Not included ... is any process for providing assistance to the sending state when California is the receiving state [I]n this situation there would be no open court case in California, and no clear basis for court jurisdiction.” (Proposal, p. 4.) Accordingly, until the FJLAC develops “a process to overcome the jurisdictional and procedural hurdles” of applying rule 5.616 to out-of-state dependents and wards, it should consider deleting paragraph (1) from subd. (a) and renumbering the remaining paragraphs.	The Committee agreed with this suggestion. Rule 5.616(a)(1) has, for many years, stated, “This rule applies to the placement in California of children who are dependents or wards of the juvenile court in any of the above-named jurisdictions.” The Judicial Council’s rule-making power does not extend to the courts of other jurisdictions. Since this section seeks do so, by asserting the Council’s authority over children who are under the jurisdiction of a state court other than California’s, the subsection is invalid. It will be removed from the rule.

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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			<p>Note: If the rule is amended to apply only to the interstate placement of California dependents and wards, references to “the compact administrator of the sending jurisdiction” or “the sending jurisdiction compact administrator” should be changed to “California’s Compact Administrator” for consistency with item 13 of form JV-567. (See subs. (h)(4)(C) & (D), (h)(8)(B).) Also, revisions to subs. (h)(9), (i), and (j) should be revised. <i>(Comment continues as footnote 3, below.)</i>³</p> <p>Rule 5.616(b)(1) includes “a treatment facility” in the definition of a “Placement [as] defined in Article 2(d) of the compact,” but Article 2(d) of the compact states that “Placement” ... does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in</p>	<p>The committee agreed in part with this suggestion. Sections of rule 5.616 that direct an out-of-state agency to take specific action will be removed, unless the requirements come directly from the regulations and are needed for context within the rule. References to the “Compact Administrator of the sending jurisdiction” have been replaced with either the “California Compact Administrator”, when it is an action performed by the state office, or “the sending child welfare agency” or “ICPC Liaison” when it is a local child welfare agency or local ICPC Liaison’s office that must take the action. The terms “sending jurisdiction” or “sending state” have been replaced, where appropriate, although in some circumstances they word “sending” will remain in the rule to clearly distinguish these duties from those of the receiving jurisdiction.</p> <p>The committee agreed with this suggestion. This general definition of “placement” will be updated to make it consistent with ICPC Article 2(d), and with the definitions in the ICPC regulations. The revised paragraph will read, “Placement” is defined in Article H2(d) of the compact. It includes placements with <u>a relative, as defined in</u></p>

³ For example: “When ~~California is the sending state and~~ there appears to be a lack of compliance with Regulation No. 7 requirements by state officials or the local child welfare agency in the receiving state regarding the expedited placement request, the California judicial officer may communicate directly with the judicial officer in the receiving state.” (Subd. (h)(9).)

“When the receiving state has approved a placement resource, the ~~sending~~ California court has the final authority to determine whether to use the approved placement resource. The ~~sending~~ California court may delegate that decision to the child welfare agency. ...” (Subd. (i).)

“If a child is placed in another jurisdiction under the terms of the compact, the ~~sending~~ California court must not terminate its jurisdiction until the child is adopted” (Subd. (j)).

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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			<p>character, and any hospital or other medical facility.” Is it correct to include “treatment facility” in the rule’s definition of “placement”? It seems inconsistent with Article 2(d) of the compact.</p> <p>Rule 5.616(b)(1)(B)(v) includes as a placement “An out-of-state placement with relatives, except when a parent or relative is placing the child as defined in Article 8(a) of the ICPC.” Suggestion: Change “placing” to “sending or bringing,” which is the terminology used in Article 8(a) (“The sending or bringing of a child into a receiving state”) and is distinguished from “placement” in Article 8(b).</p> <p>Suggested change to rule 5.616(f)(3) for consistency of format with (f)(1) and (f)(2): “See a <u>Additional requirements for cases involving relocation of family units are in ICPC Regulation No. 1.</u>” (Alternative change: “See a <u>ICPC Regulation No. 1 sets forth additional requirements for cases involving relocation of family units in ICPC Regulation No. 1.</u>”</p> <p>In rule 5.616(h), delete “of the ICPC” in the second sentence because the title of Regulation No. 7 is “Expedited Placement Decision,” not “Expedited Placement Decision of the ICPC.”</p> <p>Rule 5.616, subds. (g) & (h), refer to a “parent,” which is defined in Reg. 3 as “a biological, adoptive parent or legal guardian as</p>	<p>Regulation 3, paragraph 4, item 56, a stepparent, a grandparent, an adult brother or sister, an adult aunt or uncle, a nonagency legal guardian of the child, a placement recipient who is not related to the child, a residential agency or institution, or a group home, or a treatment facility.</p> <p>The committee agreed with this suggestion. This subsection has been changed to read, “An out-of-state placement with relatives, except when a parent or relative sends or brings the child to the relative's home in the receiving state, as defined in Article 8(a) of the ICPC; or”</p> <p>The committee agreed with this suggestion. The first of the two suggested options has been used.</p> <p>The committee agreed with this suggestion. The suggested change has been made.</p> <p>The committee agreed that the Regulation 3 definition, which includes legal guardians as “parents”, and excludes other categories of</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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			<p>determined by applicable state law and is responsible for the care, custody and control of a child or upon whom there is legal duty for such care.” (Reg. No. 3, § 4, def. 45.) Arguably, this definition of “parent” would render subds. (g) & (h) inapplicable to a nonbiological presumed parent. The FJLAC might want to consider adding a more expansive definition of “parent” to subd. (b) [“Definitions”].</p> <p>In rule 5.616(h)(2), insert a space between “(2)” and “The court.”</p> <p>In rule 5.616(h)(2)(D), insert “section 5(c) of” between “as defined in” and “Regulation No. 7” (“... has a substantial relationship with the proposed placement resource as defined in <u>section 5(c) of Regulation No. 7</u>”) to make the definition easier to find, as Regulation No. 7 is quite lengthy.</p> <p>In rule 5.616(h)(2)(E), delete “currently” for brevity. It is unnecessary because “is” conveys the present tense.</p> <p>In rule 5.616(h)(3) & (3)(A), “paragraph” might need to be changed to “section.” As noted in the comments below regarding form JV-567, the ICPC regulations are inconsistent in</p>	<p>parents such as presumed parents, is inapplicable in California. The committee did not, however, want to distinguish, in this rule, among presumed, biological, alleged, and other categories of parents used in California. Thus, a new subdivision has been added to the definitions section, which reads, “‘Parent,’ as used in this rule, does not include de facto parents or legal guardians.” (Rule 5.616(b)(3))</p> <p>This formatting issue will be corrected in the published version of the rules.</p> <p>The committee agreed with this suggestion. The suggested change has been made.</p> <p>The committee agreed with this suggestion. The suggested change has been made.</p> <p>The committee agreed with this suggestion. The suggested changes have been made; the word “section” has been used throughout the rule and forms.</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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	Commentator	Position	Comment	Committee Response
			<p>how lettered and numbered parts are designated. Sometimes they are called “paragraphs,”⁴ sometimes “subparagraphs,”⁵ and other times “sections.”⁶</p> <p>In rule 5.616(h)(4), insert a space between “(4)” and “On findings.”</p> <p>In rule 5.616(h)(4)(A), vertically align the first “The” with the rest of the paragraph, and change the second “The” to lower case “the” [“<i>Expedited Placement Under The Interstate Compact</i>”]. (See Cal. Style Manual, § 4:9, ¶ 2.)</p> <p>In rule 5.616(h)(4)(A), added language states, “The order must state the factual basis for the finding that the child meets the expedited placement criteria.” Is it sufficient for the court to check off the applicable boxes in item 9 of form JV-567, or should a more fact-specific statement be provided? If the latter, where on the form should those facts be provided? Likewise, the next sentence requires the court to state the factual basis for a request for provisional approval, but item 17 does not</p>	<p>This formatting issue will be corrected in the published version of the rules.</p> <p>The committee agreed with this suggestion. The suggested changes have been made.</p> <p>The committee agreed that this concern must be better addressed in Rule 5.616 and form JV-567. In the rule, a new section, numbered 5.616(h)(4)(A) has been added which reads, “The court must enter an order for expedited placement, stating on the record or in the written order the factual basis for that order. If the court is also requesting provisional approval of the proposed placement, the court must so order, and must state on the record or in the written order the factual basis for that request.” Prior section (h)(4)(A) has</p>

⁴ See Reg. 1 [5(c), “Requests ... shall be as provided in paragraph 5(a)”] [9, “the requirements of paragraph 5(a)”]; Reg. 3 [4--def. 29, “for the purposes of this paragraph”]; Reg. 5 [2, “described above in this paragraph”]; Reg. 6 [2, “as described in Paragraph 1. of this Regulation”]; Reg. 7 [6(d), “paragraph 12 of this regulation”], [9(a), “request for information under paragraph 10”], [9(c), “required under Paragraph 7”], [10(d), “information under this paragraph”]; Reg. 9 [4, “as described in Paragraph 2”]; Reg. 10 [1(a), “for the purposes of this paragraph”].

⁵ See Reg. 1 [10, “identified in subparagraph 5(b)”]; Reg. 10 [1(a), “as defined in subparagraph (b) hereof”], [1(b), “as defined in subparagraph (a) hereof”].

⁶ See Reg. 1 [4, “information required in Section 5(b) below”]; Reg. 2 [2(b), “(see Regulation No. 3 section 2(a))”]; Reg. 3 [2(b), “as described below in Section 3”] [4, “The purpose of this section”], [4--def. 29, “[see ICPC Regulation No. 10 section 1(a)]”], [4--def. 41, “[see ICPC Regulation No. 10 section 1(b)]”]; Reg. 7 [6(a), “receipt of the documentation set forth in Section 7”], [6(c), “decision is made pursuant to Section 9 below”].

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>provide any space for the factual basis.</p> <p>In rule 5.616(h)(4)(B), add “of the hearing or consideration of the request” after “within 2 business days”: per ICPC Regulation No. 7, ¶ 9(b). (See, e.g., language to be added to subd. (h)(4)(C).)</p> <p>In rule 5.616(h)(4)(C), change “compact administrator of the sending jurisdiction” to “California’s Compact Administrator” for consistency with item 13 of JV-567? (See comment <i>ante</i> regarding subd. (a)(1).)</p> <p>In rule 5.616(h)(4)(C)(i), change the second “The” to lower case “the” [<i>Expedited Placement Under The Interstate Compact</i>]. (See Cal. Style Manual, § 4:9, ¶ 2.)</p> <p>In rule 5.616(h)(4)(C)(ii), capitalize “<u>I</u>nterstate <u>C</u>ompact <u>P</u>lacement <u>R</u>equest” as in the title of the form, change “(form 100A)” to “(<u>F</u>orm <u>ICPC</u>-100A)” and change “form 101” to “<u>F</u>orm <u>ICPC</u>-101” for consistency with ICPC Regulation No. 7, ¶ 9(c) (see also rule 5.616(d) & (i)).</p> <p>In rule 5.616(h)(4)(D), change “compact</p>	<p>been renumbered (h)(4)(B) and the language about “factual basis” has been removed from it. In addition, form JV-567 has been modified, so that items 9 and 17 both now include “based on the facts stated on the record.”</p> <p>The committee agreed with this suggestion. The suggested changes to this section, now numbered 5.616(h)(4)(C), have been made.</p> <p>This rule section, now numbered 5.616(h)(4)(D), and items 13 and 24 on form JV-567, have been updated to indicate that in the county-run system in California, the local child welfare agency, acting as the delegated sending agency, sends the documents directly to the county ICPC Liaison in the sending county.</p> <p>The committee agreed with this suggestion. The suggested change to this section, now numbered 5.616(h)(4)(D)(i), has been made.</p> <p>The committee agreed with this suggestion. The suggested changes to this section, now numbered 5.616(h)(4)(D)(ii), have been made.</p> <p>This rule section, now numbered 5.616(h)(4)(E),</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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			<p>administrator of the sending jurisdiction” to “California’s Compact Administrator” for consistency with item 13 of JV-567? (See comment <i>ante</i> regarding subd. (a)(1).) Change “as well as” to “and” for brevity.</p> <p>In rule 5.616(h)(5), insert a space between “(5)” and “The compact administrator”; delete “or not” (“whether or not”) for brevity (deletion does not change meaning of sentence).</p> <p>In rule 5.616(h)(6), insert a space between “(6)” and “The transmission.”</p> <p>In rule 5.616(h)(7), insert a space between “(7)” and “The time limits.”</p> <p>In rule 5.616(h)(8), insert a space between “(8)” and “To fulfill.”</p> <p>In rule 5.616(h)(8)(B), change “the sending jurisdiction compact administrator” to “California’s Compact Administrator” for consistency with item 13 of JV-567? (See comment <i>ante</i> regarding subd. (a)(1).)</p> <p>In rule 5.616(h)(9)(B)(iv), vertically align “Use” with the rest of the paragraph, and change “With” and “The” to lower case [<i>Request for Assistance Wwith Expedited Placement Under Tthe Interstate Compact ...</i>]. (See Cal. Style Manual, § 4:9, ¶ 2.)</p>	<p>has been updated to indicate that in the county-run system in California, the local ICPC Liaison, after receiving the paperwork from the child welfare agency, sends the documents to the receiving state’s compact administrator.</p> <p>Regarding the space after “(5)”: This formatting issue will be corrected in the published version of the rules. The committee agreed with the suggestion to delete the two unnecessary words. The suggested change has been made.</p> <p>This formatting issue will be corrected in the published version of the rules.</p> <p>This section has been deleted from the rule.</p> <p>This section has been deleted from the rule.</p> <p>This section has been deleted from the rule.</p> <p>The committee agreed with these suggestions. The changes to this subdivision, now numbered 5.616(h)(7)(B)(iv) have been made.</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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	Commentator	Position	Comment	Committee Response
			<p>In rule 5.616(h)(10), change “found” to “set forth.”</p> <p>In the title of rule 5.616(i), “paragraph” might need to be changed to “section.” (See comment regarding rule 5.616(h)(3) & (3)(A).)</p> <p>In the second paragraph of the Advisory Committee Comment, “(h)(7)” should be changed to “(h)(9)”; “judicial officers” should be changed to the singular (like the preceding “judge”); and a space should be inserted between the second “(h)(9)” and “from”: Subdivision (h)(79). Judicial officers requesting assistance under subdivision (h)(79) from the receiving state judge or judicial officers ...</p> <p>Form JV-565: <u>Top of Form:</u> Transpose the colon and close paragraph in the second line for consistency throughout the form:</p> <p><u>Item 4.</u> Change “the receiving jurisdiction” to “your jurisdiction” for consistency with item 2.</p> <p><u>Item 5:</u> Capitalize “article” for consistency with rule 5.616 (e.g., subd. (b)(1)) and boxed “NOTE” near bottom of form.</p> <p><u>Item 7:</u> Insert “the” before “submitted documents.” Insert periods in “Phone No.,” and “Fax No.” for consistency with other forms.</p>	<p>The committee agreed with this suggestion. The changes to this subdivision, now numbered 5.616(h)(8) have been made.</p> <p>The committee agreed with this suggestion. The suggested change has been made.</p> <p>The reference to (h)(7) is now correct, due to deletions of other sections above it. The committee agreed with the other suggestions; these changes have been made.</p> <p>The committee agreed with all suggested changes to form JV-565. The suggested changes have been made.</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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			<p><u>Footer</u>: Change “Form Adopted for Optional Use” to “Form Approved for Optional Use.”</p> <p><u>Form JV-567:</u> Proposed changes to Rule 5.616(H)(4) require that the JV-567 now state the factual basis for the finding. This requirement has expanded the JV-567 from 1 page to 4 pages which makes it more cumbersome to use. The minute order for the hearing where the placement order is made already has all the findings and orders. That is provided to the sending agency to transmit with the existing JV-567 and ICPC 100A. It appears the added language on the form would be duplicative and generates more paper to transmit.</p> <p><u>Items 3.a., 3.b., 7, 10, 16, and 17:</u> The ICPC regulations are inconsistent in how their subparts are designated. Sometimes they are called “paragraphs,” sometimes “subparagraphs”, and other times “sections”. Assuming it is decided to use “paragraph,” items 7, 10, and 17 can remain unchanged, but items 3.a., 3.b., and 16 should be changed as follows: Item 3.a.: “... as required by Regulation No. 7, item <u>paragraph 7(a)</u>”; Item 3.b.: “... as required by Regulation No. 7, item <u>paragraph 7(b)</u>”; Item 16: “... as required by Regulation No. 7, item <u>paragraph 9(h)</u>” If, on the other hand, it is decided to use “section,” the following changes should be made: Item 3.a.: “... as required by Regulation</p>	<p>JV-567 has been expanded to a four-page form to meet the requirement, in Regulation 7, section 8, that the state court order for expedited placement must be “consistent with” the “Form Order for Expedited Placement Decision” (which is a four-page, single-spaced form). The proposed version of JV-567 meets that requirement, by including all of the findings and orders in the national Form Order, except where inconsistent with California Law.</p> <p>The committee agreed with this suggestion to use consistent language to describe the subparts of the regulations. The word “section” is now used throughout rule 5.616, and form JV-567, to denote subparts of the regulations.</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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	Commentator	Position	Comment	Committee Response
			<p>No. 7, item <u>section 7(a)</u>”; Item 3.b.: “... as required by Regulation No. 7, item <u>section 7(b)</u>” Item 7: “Paragraphs <u>Sections</u> 5, 6, and 7 of Regulation No. 7 ...”; Item 10: “... minimum requirements under paragraph <u>section 7(a)</u>” Item 16: “... as required by Regulation No. 7, item <u>section 9(h)</u>”; Item 17: “... under Regulation No. 7, paragraph <u>section 6</u>”; <u>Item 3.b.</u>: Insert space between “No.” and “7.”</p> <p><u>Item 9</u>: Are the check boxes sufficient to satisfy the requirement in proposed rule 5.616(h)(4)(A) which states, “The order must state the factual basis for the finding that the child meets the expedited placement criteria”? The language next to the check boxes sets forth findings, but no space is provided for the factual basis supporting a finding. As an alternative to providing such spaces on the form, courts could ensure that the factual basis is stated on the record, and item 9 could be amended to read: “Based on the facts stated in the record, the court finds that the child meets the following expedited placement criteria (<i>check one or more</i>):”</p> <p><u>Item 10</u>: Insert parentheses in “7a” – i.e., “<u>paragraph 7(a)</u>” – in first sentence.</p> <p><u>Item 10</u>: In item 10.b., the text “the potential placement resource meets the minimum requirements” is unnecessary because the first part of the sentence already states “the potential</p>	<p>The committee agreed that this concern must be better addressed in Rule 5.616 and form JV-567. In the rule, a new section, numbered 5.616(h)(4)(A) has been added which reads, “The court must enter an order for expedited placement, stating on the record or in the written order the factual basis for that order. If the court is also requesting provisional approval of the proposed placement, the court must so order, and must state on the record or in the written order the factual basis for that request.” Prior section (h)(4)(A) has been renumbered (h)(4)(B) and the language about “factual basis” has been removed from it. In addition, form JV-567 has been modified, so that items 9 and 17 both now include “based on the facts stated on the record.”</p> <p>The committee agreed with the suggestion. The suggested change has been made.</p> <p>The committee agreed with the commentator that this section was redundant. JV-567, Item 10 has been rewritten to eliminate the redundancy. It now reads, “The child welfare agency has</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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			<p>placement resource meets the minimum requirements”; also “(s)” should be added to “resource” for consistency with item 10.a.</p> <p><u>I</u></p> <p><u>Item 11:</u> Delete comma after “resource.” Change references to forms for consistency with rule 5.616, subs. (d), (h)(4)(C)(ii), and (i). It should read: “The child welfare agency has completed and is prepared to send all required paperwork to California's Compact Administrator, including the statement regarding the potential placement resource and Forms ICPC-100A and ICPC-101.”</p> <p><u>Item 13:</u> Change references to forms for consistency with rule 5.616, subs. (d), (h)(4)(C)(ii), and (i). Delete “(Request for Placement)” because that is not the correct title for either form. The title of ICPC-100A is “Interstate Compact Placement Request.” The title of ICPC-101 is “Sending State’s Priority Home Study Request.”. It should read: “The child welfare agency is ordered to send to California's Compact Administrator, within three business days of receipt of this order:</p>	<p>provided the court with one of the following documents, as required by Regulation No. 7, section 7(a): a) a signed statement of interest from the person named as the proposed placement in item 8., confirming that he or she meets each of the Regulation No. 7, section 7(a), requirements; or (b) a signed statement from the assigned California social worker stating that the social worker spoke to the person named as the proposed placement in item 8. and that the person confirmed that he or she meets each of the Regulation No. 7, section 7(a), requirements.”</p> <p>The committee agreed in part with this suggestion. JV-567, Item 11, as well as related sections in Rule 5.616, have been rewritten to accurately reflect the California practice that the local child welfare agency, serving as the delegated sending agency is responsible for sending the relevant documents to the county ICPC Liaison, who in turn, sends them directly to the <i>receiving state</i> Compact Administrator.</p> <p>The committee agreed in part with this suggestion. All form titles have been corrected to be consistent with the titles on the forms.</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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			<p>completed Forms ICPC-100A and ICPC-101, a copy of this order, and, if not already sent, all documentation required for compliance with Regulation No. 7 and any supporting documentation under ICPC Article 3.”</p> <p><u>Item 17:</u> Are the check boxes sufficient to satisfy the requirement in proposed rule 5.616(h)(4)(A) that the order indicate the factual basis for a request for provisional approval of the placement? The language permits the court to order a request for provisional approval, but no space is provided to state the factual basis for that request. As an alternative to providing space on the form, courts could ensure that the factual basis is stated on the record, and item 17 could be amended to read: “17. The child welfare agency [] is ordered, based on the facts stated in the record, [] is not ordered to request approval for a provisional placement of the child in the receiving state while the home study and expedited placement decision are pending, under Regulation No. 7, paragraph 6.”</p> <p><u>Item 18:</u> Insert comma after “fax.”</p> <p><u>Item 23.a.:</u> Insert comma after “3.”</p>	<p>See response above, regarding JV-567, item 9.</p> <p>The committee agreed with the suggestion. The suggested change has been made to item 20 (item 18 in the version circulated for comment).</p> <p>The committee agreed with the suggestion. The suggested change has been made in item 24.a. (item 23.a. in the version circulated for comment).</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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			<p><u>Item 23.c.:</u> Change “accordance with item 23 b,” to “an approved placement in the receiving state” for clarity.</p> <p><u>Item 23.e.:</u> Delete “authorization” for clarity.</p> <p><u>Item 23.i.:</u> In the second sentence, change “The sending state” to “California’s” for consistency with the previous sentence. It could read: “California’s Compact Administrator must cooperate with and work with the above-designated person and provide information and assistance regarding the progress of the ICPC process for the child.”</p> <p><u>Request for Specific Comments</u> Q. Does the proposal appropriately address the stated purpose? A. Yes.</p> <p>Q. Does the new wording regarding placement with parents ... meet the dual goals of compliance with [<i>In re C.B.</i>] and of providing courts with sufficient tools to protect the safety and well-being of children who will be placed with their out-of-state parents? A. Yes.</p> <p>Q. Are the procedures for Expedited Placement Cases ... clear and easy to follow? Are any clarifications needed? A. See comments above, particularly the need to</p>	<p>The committee agreed with the suggestion. The suggested change has been made in item 24.c.</p> <p>The committee agreed with the suggestion. The suggested change has been made in item 24.e.</p> <p>Item 24.i. has been updated to reflect current practice in California. “California’s Compact Administrator” has been corrected to read “the California sending agency.”</p> <p>No response required.</p> <p>No response required.</p> <p>No response required, issue was responded to</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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			<p>accommodate the factual basis for certain findings required by rule 5.616(h)(4)(A), as noted in comments on form JV-567, items 9 and 17 .</p> <p>Q. Is the second paragraph of the Advisory Committee Comment, regarding judge-to-judge communication helpful, or is something more needed? A. See comments above.</p> <p>Q. Will the proposal provide cost savings? A. Yes, to the extent form JV-567 provides courts with the “order consistent with the Form Order for Expedited Placement Decision” required by Regulation No. 7, and to the extent form JV-565 provides judicial officers with an approved format for requesting assistance from judicial officers in other jurisdictions.</p>	<p>above.</p> <p>No response required, issue was responded to above.</p> <p>The committee was pleased that the Superior Court of San Diego agreed with the committee's assessment that cost savings will be achieved by the development and dissemination of form JV-567 to the superior courts.</p>
10.	TCPJAC/CEAC (Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee) Joint Rules Working Group	A	<p>The TCPJAC/CEAC Joint Rules Working Group agrees with the proposed changes.</p> <p><u>Potential Fiscal Impact</u> The court impact to the implementation of these new requirements is minimal. Courts may incur standard reproduction costs associated with printing the revised forms. In addition, the amended rule and revised forms may require courts to incur minimal training costs for judicial officers and court staff to familiarize themselves with the revised forms.</p>	<p>No response required.</p> <p>No response required.</p>

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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			<p><u>Impact on Existing Automated Systems</u> Minimal impact to existing court case management system. Forms JV-565 and JV-567 are already existing forms, and will need to be modified.</p> <p><u>Increase Training Needs Requiring the Commitment of Staff Time and Court Resources</u> Minimal training is anticipated to familiarize judicial officers and court staff with new procedures and revised forms.</p> <p><u>Increase to Existing Court Staff Workload</u> Minimal increase in existing staff workload. Courts may need to identify or designate a court staff to send court orders needed to child welfare agencies to comply with Regulation No. 7.</p> <p><u>Implementation</u> The working group agrees with the January 1, 2013 implementation since the rule and forms changes are necessary to conform to federal regulations and case law and should be implemented as quickly as practical.</p>	<p>No response required.</p> <p>No response required.</p> <p>Most courts have existing procedures in place to provide all dependency court orders to the child welfare agency. This requirement differs only in that a specific person is designated on the court order form to receive the orders.</p> <p>No response required.</p>
11.	Cynthia Wojan Juvenile Court Coordinator Solano County	A	In Solano County, where we have an air force base and people moving regularly. I think it is important to keep up with the changes and be consistent with ICPC, especially if we want to place a minor with an out of state parent.	The Committee agreed in part with this suggestion. The revised rule and updated forms are designed to be as consistent as possible with the ICPC and the new regulations. For the issue of placement of children with their out-of-state parents, however, California rules and forms must

SPR12-19

Juvenile Law: Interstate Compact on the Placement of Children (amend rule 5.616, and revise forms JV-565 and JV-567)

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	Commentator	Position	Comment	Committee Response
				follow California law as stated by the Court of Appeal in the <i>In re C.B.</i> case.

Filed 9/27/10

CERTIFIED FOR PARTIAL PUBLICATION*

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re C.B. et al., Persons Coming Under the Juvenile Court Law.	
RIVERSIDE COUNTY DEPARTMENT OF PUBLIC SOCIAL SERVICES, <p style="text-align: center;">Plaintiff and Appellant,</p> <p>v.</p> B.B. et al., <p style="text-align: center;">Defendants and Respondents.</p>	E050209 (Super.Ct.No. RIJ118567) OPINION

APPEAL from the Superior Court of Riverside County. Gary Vincent, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Pamela J. Walls, County Counsel, and Anna M. Deckert, Deputy County Counsel, for Plaintiff and Appellant.

Michael D. Randall, under appointment by the Court of Appeal, for Defendant and Respondent B.B.

* Pursuant to California Rules of Court, rules 8.1105(b) and 8.1110, this opinion is certified for publication with the exception of part II.

Leslie A. Barry, under appointment by the Court of Appeal, for Defendant and Respondent C.B.

“One of the key elements of any interstate compact is uniformity in interpretation. Uniformity, however, is lacking with respect to the issue of whether the [Interstate Compact on the Placement of Children (ICPC)] applies to the placement of a child with a natural parent” (Butler, *Child Welfare — Outside the Interstate Compact on the Placement of Children — Placement of a Child with a Natural Parent* (1992) 37 Villanova L.Rev. 896, 916.)

As we will discuss, California cases have consistently held that the ICPC does *not* apply to an out-of-state placement with a parent. They have even gone so far as to invalidate statewide rules and regulations that purported to make the ICPC apply. Other jurisdictions that have taken the same position include Arkansas (*Ark. Dept. of Human Servs. v. Huff* (2002) 347 Ark. 553, 562-564 [65 S.W.3d 880, 886-888]), New Hampshire (*In re Alexis O.* (2008) 157 N.H. 781, 788-791 [959 A.2d 176, 182-185]), New Jersey (*State, DYFS v. K.F.* (2002) 353 N.J.Super. 623, 631-636 [803 A.2d 721, 726-729]), Washington (*In re Dependency of D.F.-M.* (2010) 157 Wash.App. 179, 182-191 [236 P.3d 961]), and the Third Circuit (*McComb v. Wambaugh* (3rd Cir. 1991) 934 F.2d 474, 481).

This brings California into conflict with those jurisdictions holding that the ICPC *does* apply to an out-of-state placement with a parent. These include Alabama (*D.S.S. v. Clay Co. Dept. of Human Res.* (Ala.Civ.App. 1999) 755 So.2d 584, 590), Arizona (*Arizona Dept. of Economic Sec. v. Leonardo* (2001) 200 Ariz. 74, 79-83 [22 P.3d 513,

518-522]), Delaware (*Green v. Div. of Family Servs.* (2004) 864 A.2d 921, 926-928), Massachusetts (*Adoption of Warren* (1998) 44 Mass.App.Ct. 620, 623-624 [693 N.E.2d 1021, 1024-1025]), Mississippi (*K.D.G.L.B.P. v. Hinds County DHS* (Miss. 2000) 771 So.2d 907, 913), New York (*Faison v. Capozello* (2008) 50 A.D.3d 797, 797-798 [856 N.Y.S.2d 179, 179-180]), and Oregon (*State ex rel. Juvenile Dept. of Clackamas County v. Smith* (1991) 107 Or.App. 129, 132, fn. 4 [811 P.2d 145, 147]).¹

We find the decisions in California and elsewhere holding that the ICPC does not apply to be far better reasoned than those holding that it does. Accordingly, we see no reason not to follow our sister California courts. We are publishing this opinion, however, to point out that the resulting lack of uniformity is dysfunctional, that courts and rule makers have not been able to fix it, and hence that it may call for a multistate legislative response.

I

FACTUAL AND PROCEDURAL BACKGROUND

A. *The Beginning of the Dependency.*

B.B. (the father) and C.B. (the mother) are married. They have three children.

C.B., a boy, is eight. T.B., another boy, is six. H.B., a girl, is one.

¹ Florida can't seem to make up its mind. (Compare *State, Dept. of Children & Family Services v. L.G.* (Fla.App. 2001) 801 So.2d 1047, 1051-1052 [First Dist.], with *H.P. v. Department of Children & Fam.* (Fla.App. 2003) 838 So.2d 583, 585-586 [Fifth Dist.] and *Department of Children & Families v. Benway* (Fla.App. 1999) 745 So.2d 437, 439 [Fifth Dist.].)

In August 2009, when H.B. was born, the mother tested positive for methamphetamine. The father was out of state, working offshore in the Gulf of Mexico as an underwater welder. He was “gone for 3 months or more at a time” The mother and the children were living temporarily with the mother’s grandmother. However, they were planning on moving to the Gulf area to be with the father.

The Department of Public Social Services (the Department) believed the father was aware of the mother’s drug abuse, because he had been present when she was arrested in December 2008 for being under the influence of a controlled substance.

On August 25, 2009, the Department filed a dependency petition concerning all three children. Although it purported to detain them, it detained them from the “father only”— in other words, it left them with the mother. At the initial detention hearing, the juvenile court approved the detention of the children from the father only, and it placed them in the custody of the mother.

The only allegation of the petition with respect to the father was that “[t]he father failed to protect his children, despite the mother’s substance abuse history and prior arrests for being under the influence of a controlled substance, [in that] the father left the [s]tate and allowed his children to remain in the mother’s care.” (Allegation b-4.)²

On September 2, 2009, the social worker contacted the father by telephone. The father said he knew that the mother had two prior drug-related arrests, but he added that she did not use drugs when he was around. He said he had gone to work outside the state

² This allegation was numbered b-3 in the original complaint and b-4 in the amended complaint. We will refer to it as b-4 throughout for consistency and clarity.

“to make a better life for his family” He was making about \$6,000 a month. His paychecks were sent to the mother, who in turn sent him small sums, as needed. He wanted the whole family to move to the Gulf area.

In the jurisdictional/dispositional report, the social worker concluded that there was insufficient evidence to sustain Allegation b-4: “[T]he family concurs that the father left the state to provide a better life for his family. . . . [T]hey were supposed to [go] to . . . [the Gulf area] to reside with the father. . . . [H]e was not aware of [the] mother’s recent substance abuse and felt that the mother and children were safely staying with the maternal great grand[-]mother until he was able to move them to [the Gulf area].”

B. The Amended Petition.

On September 29, 2009, the mother tested positive for methamphetamine. On October 6, when a social worker made an unannounced home visit, she discovered that the mother had moved out, taking the children with her. The Department therefore filed an amended petition.

The father immediately returned to California. On October 13, 2009, when a social worker called him, he reported that the mother and the children were with him. The Department detained the children, but only from the mother. In other words, it placed them with the father, on the condition that the mother not live with them.

On October 14, 2009, at the detention hearing on the amended petition, the juvenile court approved the detention of the children from the mother only, and it placed them in the custody of the father.

C. *The Jurisdictional Hearing.*

In November 2009, at the jurisdictional hearing, counsel for the Department asked the juvenile court to find Allegation b-4 true. Counsel for the father pointed out that the social worker had concluded that it was not supported by sufficient evidence. Counsel for the Department responded: “[T]he Department as a whole disagrees with the statement of this social worker”

The juvenile court found Allegation b-4 true. It also found true the following allegations with respect to the mother:

Allegation b-1: When the youngest child was born, both the mother and the youngest child tested positive for methamphetamine.

Allegation b-2: The mother had “an extensive history” of abusing methamphetamine and “numerous” drug-related arrests.

Allegation b-3: The mother had failed to participate in services, continued to abuse methamphetamine, and absconded with the children.

The juvenile court therefore asserted jurisdiction based on failure to protect. (Welf. & Inst. Code, § 300, subd. (b).) Pending a further dispositional hearing, it placed the children in the father’s custody.

On November 4, 2009, the father indicated he was planning to go back to the Gulf area, leaving the children with the mother’s mother. The social worker approved this, on the condition that they not be left alone with the mother. Accordingly, on November 10, the father left the state again. On December 3, the juvenile court allowed the children to

go to the Gulf area for an extended holiday visit with the father. The mother was allowed to go with the children, on the condition that she not be left alone with them.

D. *The Dispositional Hearing.*

On January 14, 2010, at the dispositional hearing, the juvenile court placed the children with the father, with family maintenance services; it ordered the mother not to live in the home and to participate in reunification services.

A discussion of the ICPC ensued. Counsel for the Department argued that the juvenile court could not place the children out of state with the father unless it complied with the ICPC. Counsel for the father argued that the ICPC did not apply to a placement with a parent. Counsel for the Department agreed that the ICPC did not apply to a placement with a nonoffending, noncustodial parent, but she argued that the father was an offending parent. The juvenile court continued the hearing.

On January 21, 2010, at the continued dispositional hearing, counsel for the Department reported that, according to the Alabama ICPC coordinator, the children could not be placed in Alabama other than pursuant to the ICPC. The juvenile court ordered the Department to initiate a priority ICPC placement of the children in Alabama. It continued the dispositional hearing so it could review the status of the ICPC process.

E. *The ICPC Status Review Hearing.*

As of the continued hearing, on February 3, 2010, Alabama had not yet responded to the ICPC notice.

Counsel for the Department argued that “mother and father need . . . to remain here in California awaiting ICPC before they relocate to Alabama” Counsel for the

father argued again that the ICPC did not apply. Counsel for the mother and counsel for the minors concurred. After hearing argument, the juvenile court stated:

“We make efforts all the time here to try to find a way down a mountain in order to reunite families. . . . The way down this mountain is to, in theory, allow father to go out of the state and mother remain here. What’s the protection? We still have jurisdiction. If mother leaves the state, I issue warrants for her and the children. We bring them back. . . .

“. . . This is the best thing for this family. Pursuant to [Welfare and Institutions Code section] 390, I will set aside my finding[] that [Allegation] b-4 . . . is true, rendering the father a non offending father.”

Counsel for the Department objected, citing Code of Civil Procedure section 1008. The juvenile court responded: “A simple [petition under Welfare and Institutions Code section] 388 would cure that. It’s still going to be my order”

The juvenile court authorized the father to leave California with the children. It ordered, however, that his custody of the children be subject to supervision by the Department. It also ordered him to participate in family maintenance services and specifically to participate in Al-Anon. It ordered the mother not to leave California.

II

THE DENIAL OF A STAY

When the juvenile court ordered that the father could take the children out of California, counsel for the Department requested a stay so she could “file an

extraordinary writ.” The juvenile court denied the stay. Along with its appeal, the Department filed a petition for writ of supersedeas, which this court denied.

The Department now contends the trial court erred by refusing to grant a stay pending appeal.

The parents respond that this contention is moot. We agree. The only purpose of a stay pending appeal is to preserve the status quo until the appeal can be decided. By filing our opinion, by definition, we decide the appeal. Thus, there is no point to addressing, in this opinion, whether a stay should have been granted. (See *Pillsbury, Madison & Sutro v. Schectman* (1997) 55 Cal.App.4th 1279, 1283.)

III

THE APPLICATION OF THE ICPC

The Department contends that the juvenile court erred by placing the children with the father out of state without complying with the ICPC.

The juvenile court acted on the assumption that the ICPC does not apply to an out-of-state placement with a noncustodial, nonoffending parent; it set aside Allegation b-4 to make the father a nonoffending parent, and thus to obviate the need to comply with the ICPC. The Department argues that the ICPC *does* apply to an out-of-state placement with a noncustodial, nonoffending parent, at least when, as here, the juvenile court orders further supervision and services for that parent. Alternatively, the Department argues that the father was both a custodial parent and, in light of the true finding on Allegation b-4 — which, it argues, the juvenile court should not have set aside — an offending

parent. The parents, on the other hand, contend the ICPC does not apply to an out-of-state placement with a parent at all.

“Interstate compacts, like the ICPC, ‘are formal agreements among and between states that have the characteristics of both statutory law and contractual agreements. They are enacted by state legislatures that adopt reciprocal laws that substantively mirror one another.’ [Citation.] The ICPC has been enacted in all fifty states, the District of Columbia and the U.S. Virgin Islands. [Citation.]” (*In re Alexis O.*, *supra*, 157 N.H. at p. 784.) California adopted the ICPC in 1974. (Former Civ. Code, § 264 et seq.; Stats. 1974, ch. 956, § 1, p. 1992.) “‘The purpose of the ICPC is to facilitate cooperation between participating states in the placement and monitoring of dependent children. [Citation.]’” (*In re Emmanuel R.* (2001) 94 Cal.App.4th 452, 458.)

The key provisions of the ICPC state: “Before 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.” (Fam. Code, § 7901, art. 3, subd. (b), italics added.) “The child shall 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.” (*Id.*, subd. (d).) (We will refer to these as the notice provisions.)

“Sending agency” is defined as any person or other entity that “sends, brings, or causes to be sent or brought any child to another . . . state.” (Fam. Code, § 7901, art. 2, subd. (b).)

“Receiving state” is defined as “the state to which a child is sent, brought, or caused to be sent or brought . . . for placement” (Fam. Code, § 7901, art. 2, subd. (c).)

“Placement” is defined as “the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution” (Fam. Code, § 7901, art. 2, subd. (d).)

In our view, the notice provisions do not apply to a placement with a parent. Admittedly, the definition of “placement” is somewhat ambiguous. “Family free home” is not a term of art, and its meaning is by no means clear on its face. Even assuming, however, that a “family free home” can include the home of a parent, and therefore that a “placement” can include a placement with a parent, the notice provisions do not apply unless the placement is “in foster care or as a preliminary to a possible adoption.” Thus, the notice provisions would not apply to an out-of-state placement with a parent. In 1978, the Attorney General came to the same conclusion. (61 Ops.Cal.Atty.Gen. 535, 540 (1978).)³

³ As the Attorney General cautioned, other requirements of the ICPC are not necessarily limited to placements in foster care or for adoption. (61 Ops.Cal.Atty.Gen., *supra*, at p. 544.) These would include the requirement that the sending agency retain jurisdiction over the child. (*Ibid.*, citing Fam. Code, § 7901, art. 5, subd. (a).) In this case, however, there is no claim that the juvenile court has failed to comply with these

[footnote continued on next page]

The California courts have consistently followed this view. First, *Tara S. v. Superior Court* (1993) 13 Cal.App.4th 1834 [Fourth Dist., Div. One] held that the ICPC does not apply to an out-of-state placement with a parent. It explained that the ICPC is “limit[ed] . . . to foster care and possible adoption — neither of which would involve natural parents.” (*Id.* at p. 1837.) Next, *In re Johnny S.* (1995) 40 Cal.App.4th 969 [Sixth Dist.] likewise held that the ICPC does not apply to an out-of-state placement with a parent. (*Id.* at pp. 976-977.) Finally, *In re John M.* (2006) 141 Cal.App.4th 1564 [Fourth Dist., Div. One] held that “[p]lacement with an out-of-state parent need not follow ICPC procedure” (*Id.* at pp. 1573-1575.)

Various rule-making bodies, however, have battled to extend the ICPC to a placement with a parent. One such body is the Association of Administrators of the Interstate Compact on the Placement of Children (the Association). The ICPC authorizes the Association “to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.” (Fam. Code, § 7901, art. 7; see also <<http://icpc.aphsa.org/Home/about.asp>> [as of Sept. 21, 2010].) In 1978, the Association adopted its regulation III. Regulation III defined “placement” for purposes of the ICPC as “includ[ing] the arrangement for the care of a child in the home of his parent . . . when the sending agency is any entity other than a parent, relative, or non-agency guardian” (Available at Texas Dept. of Family & Protective Svcs., Child Protective

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requirements or has made compliance with them impossible. For example, the juvenile court intended to retain jurisdiction. Only the notice provisions are at issue.

Services Handbook, Appendix 9110-B, <http://www.dfps.state.tx.us/handbooks/CPS/Files/CPS_px_9110b.jsp> [as of Sept. 21, 2010].) It also provided that the notice provisions of the ICPC applied to any placement as defined *either* by the ICPC *or* by regulation III. (*Ibid.*)

In *McComb v. Wambaugh*, *supra*, 934 F.2d 474, however, the court invalidated this aspect of regulation III. First, it held, based on the text of the ICPC, that “the Compact applies only to substitutes for parental care such as foster care or arrangements preliminary to adoption.” (*Id.* at p. 480.) “[T]he Compact does not apply to parental placements.” (*Id.* at p. 481.) Thus, regulation III “expands the scope of the Compact. . . .” (*Ibid.*) “‘A regulation cannot be upheld if it is contrary to the statute under which it was promulgated.’ [Citation.] No regulation can override legislative intent and extend beyond the legislative scheme. [Citation.] ‘[I]n any conflict between a statute and a regulation purporting to implement the statute’s provision, the regulation must, of course, give way.’ [Citations.] Reviewed under the above standard, the regulation as it might be applied here is of no effect and the statutory language must govern.” (*Ibid.*)

Similarly, chapter 31-510 of California’s “Child Welfare Services Program Manual of Policies and Procedures”⁴ provides that the ICPC’s notice provisions apply to an out-of-state placement in the home of a parent. (Available at

⁴ The manual has the status of a statewide regulation. (Cal. Admin. Code, tit. 22, div. 2, pt. 1.)

<<http://www.dss.cahwnet.gov/ord/entres/getinfo/pdf/cws4.pdf>> [as of Sept. 21, 2010].)

In 1995, however, *In re Johnny S.*, *supra*, 40 Cal.App.4th 969, citing *McComb*, invalidated this provision: “These regulations were promulgated by an executive agency pursuant to its rulemaking authority. To the extent that regulations conflict with statutes or decisional law, the law controls the regulations. [Citation.] The ICPC . . . requirement of advance approval from the receiving state for a placement is clearly limited to cases of placement ‘in foster care or as a preliminary to a possible adoption’ [Citation.] Regulations requiring such advance approval for placement with a parent are neither binding nor persuasive in light of the limitations expressed in the statute itself.” (*Johnny S.*, at p. 978.)

In 1996, the Association carved out one exception to its overall position that the ICPC should apply to an out-of-state placement with a parent: It recommended that the ICPC should not apply to an out-of-state placement with a nonoffending, noncustodial parent, provided the sending state does not retain jurisdiction. (Seiser & Kumli, *Cal. Juvenile Courts Practice and Procedure* (2006) § 2.128[3], p. 2-252 (Seiser & Kumli).)

Effective January 1, 1999, the Judicial Council adopted former rule 1428 of the California Rules of Court (Rule 1428). Rule 1428 was designed, in part, to implement the Association’s 1996 recommendation. (Seiser & Kumli, *supra*, § 2.128[3], p. 2-252.) It has since been renumbered as California Rules of Court, rule 5.616 (Rule 5.616), without any relevant substantive change. Accordingly, Rule 5.616(b)(1) now provides:

“(A) A court directing or making an award of custody to a parent of the child is not a placement within the meaning of this rule, unless the sending court retains

dependency jurisdiction over the child or the order or award requests or provides for supervision or other services or places some other condition or restriction on the conduct of the parent.

“(B) Except in cases in which a child is placed with a parent and jurisdiction has been terminated or in cases in which dependency is maintained only to provide services to or impose conditions on the noncustodial parent remaining in the sending jurisdiction, the following situations constitute a placement and the compact must be applied:

“(i) An order causing a child to be sent or brought to another party in a compact jurisdiction without a specific date of return to the sending jurisdiction; or

“(ii) An order causing a child to be sent or brought to another party in a compact jurisdiction with a return date more than 30 days from the start of the visit or beyond the ending date of a school vacation period.”

In re John M., supra, 141 Cal.App.4th 1564, however, held that “to the extent that [R]ule 1428 requires ICPC compliance in the case of an out-of-state placement with a parent, it is ineffective.” (*Id.* at p. 1575.) “The Judicial Council is empowered to ‘adopt rules for court administration, practice and procedure.’ [Citation.] ‘[R]ules of court are supposed to assist in interpreting and implementing the legislative scheme for dependent minors. In cases of conflict or ambiguity the statutory language, and Supreme Court decisions interpreting those statutes, must control over the rules.’ [Citations.] Rule 1428 attempts to expand the application of the ICPC to placements with out-of-state parents. It

thus conflicts with the statutory language, which controls over the rule.” (*Ibid.*)

Although *In re John M.* involved Rule 1428, it applies equally to Rule 5.616(b)(1).⁵

In this case, the juvenile court seemed to read Rule 5.616 to mean that the application of the notice provisions of the ICPC turned on whether the father could be deemed a nonoffending, noncustodial parent. That was why it set aside Allegation b-4. Under Rule 5.616(b)(1)(A), however, *any* out-of-state placement with a parent — even a nonoffending, noncustodial parent — is subject to the notice provisions of the ICPC, provided the sending court either (1) retains jurisdiction over the child or (2) places some condition or restriction on the conduct of the out-of-state parent. Here, the juvenile court did retain jurisdiction. Moreover, it required the father to attend Al-Anon and to participate in family maintenance services. Accordingly, *if Rule 5.616(b)(1) was valid*, then the juvenile court erred by failing to comply with the ICPC.

Rule 5.616(b)(1), however, was *not* valid. Under *Tara S.*, *Johnny S.*, and *John M.*, an out-of-state placement with a parent is *never* subject to the ICPC. Thus, the juvenile court did not err by failing to comply with the ICPC.

We therefore need not decide whether the juvenile court erred in setting aside Allegation b-4. The ICPC simply did not apply, regardless of whether the father was an

⁵ Indeed, but for a quirk of timing, the Judicial Council might not have even adopted Rule 5.616(b)(1). Rule 5.616 was adopted on June 30, 2006, but it did not go into effect until January 1, 2007. (Historical Notes, 23 pt. 1B West’s Ann. Court Rules (2006 ed.) foll. rule 5.616, p. 594.) Meanwhile, on August 16, 2006, *In re John M.* was decided. Thus, Rule 5.616(b)(1) was essentially dead on arrival.

offending or a nonoffending parent. The juvenile court did the right thing, even if for the wrong reasons. Any error in setting aside Allegation b-4 is harmless.⁶

In sum, we agree with the California case law cited above; even if we did not, we might well adhere to it as a matter of stare decisis. We are publishing this opinion, however, to point out that there are potentially thorny practical issues arising out of the lack of uniformity in this area.

First, the sending agency may inadvertently violate the law of the receiving state. The ICPC provides: “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. A violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws.” (Fam. Code, § 7901, art. 4.) This, in turn, may jeopardize the placement. Here, counsel for the Department advised the juvenile court that the Alabama authorities had taken the position that the children could not be placed there until “full completion of the ICPC.” (See *D.S.S. v. Clay Co. Dept. of Human Res.*, *supra*, 755 So.2d at p. 590.) Counsel further advised the court that “placing a child in a state without approval from the receiving state . . . can prevent us from having any other future placements in their state.”

⁶ The Department has not argued that the order setting aside Allegation b-4 was prejudicial in any respect other than in its impact on the ICPC issue.

Second, the Association has consistently taken the position that the ICPC *should* apply to an out-of-state placement with a parent. Its opinion deserves respect; it has overwhelming expertise in this area. And it does not take an expert to conclude that there should be *some* way for one state to ask another state to supervise a placement with a parent. Although we have concluded that the ICPC does not provide for this, and that the Association and the Judicial Council do not have the legal authority to bring this about on their own, it may be time for a 50-state effort to extend the ICPC to this situation.

IV

DISPOSITION

The order appealed from is affirmed.

CERTIFIED FOR PARTIAL PUBLICATION

RICHLI
J.

We concur:

RAMIREZ
P.J.

MILLER
J.



Printer Friendly Page

ICPC Regulations

Regulation No. 0.01.

Forms

1. To promote efficiency in processing placements pursuant to the Interstate Compact on the Placement of Children (ICPC) and to facilitate communication among sending agencies, states and other concerned persons, the forms promulgated by the compact administrators, acting jointly, shall be used by all sending agencies, sending and receiving states, and others participating in the arranging, making, processing and supervision of placements.
2. ICPC forms shall be uniform as to format and substance, and each state shall make available a reference to where its forms may be obtained by the public.
3. The mandatory forms currently in effect are described below. These forms shall be reproduced in sufficient supply by each of the states to meet its needs and the needs of persons and agencies required to use them. Forms referenced in the preceding sentence, above, currently in effect are the following:
 - ICPC-100A "Interstate Compact Placement Request;"
 - ICPC-100B "Interstate Compact Report on Child's Placement Status;"
 - ICPC-100C "Quarterly Statistical Report: Placements Into An ICPC State;"
 - ICPC-100D "Quarterly Statistical Report: Placements Out Of An ICPC State;" and
 - ICPC-101 "Sending State's Priority Home Study Request."
4. Form ICPC-102 "Receiving State's Priority Home Study Request" is an optional form that is available for use.
5. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning.
6. This regulation is adopted pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting of April 29 through May 2, 2001; the regulation, as amended, was approved May 2, 2001, and is effective as of July 2, 2001.

Regulation No. 1

Conversion of Intrastate Placement into Interstate Placement:

Relocation of Family Units

Regulation No. 1 as first effective May 1, 1973, amended April 1999, is repealed and is replaced by the following:

The following regulation was amended by the Association of Administrators of the Interstate Compact on the Placement of Children on April 18, 2010, and is declared to be effective as amended as of October 1, 2010.

1. A placement initially intrastate in character becomes an interstate placement subject to the Interstate Compact on the Placement of Children (ICPC) if the child's principal place of abode is moved to another state, except as set forth herein.
2. Intent: This Regulation addresses the request for approval for placement of a child in an approved placement resource in the receiving state where the sending state has already approved the placement in the sending state and the resource now desires to move to the receiving state. The intent of Regulation 1 is to ensure that an already safe and stable placement made by a sending agency in the sending state will continue if the child is relocated to the receiving state. Additionally, it is the intent of this Regulation for supervision of the placement to be uninterrupted, for the family to comply with the requirements of the receiving state, and for both states to comply with all applicable state and federal laws, rules and regulations.
3. Applicability to Relocation: This Regulation shall apply to relocation of a child and the placement resource where supervision is ongoing. A request for a home study solely for the purpose of a periodic assessment of the placement where there is no on-going supervision shall not be governed by this regulation and shall be a matter of courtesy between the states. Nothing shall prohibit a sending state from contracting privately for a periodic assessment of the placement.

4. Applicability to Temporary Relocation: If a child is brought into the receiving state by an approved placement resource for a period of ninety (90) days or less and remains with the approved placement resource, approval of the receiving state is not required. Either the sending or receiving state may request approval of the placement, and, if the request is made, the sending and receiving states shall take the necessary action to process the request if the sending and receiving states agree to do so.

Supervision by the receiving state is not required for a temporary relocation of ninety (90) days or fewer; however, pursuant to section 422(b)(17) of the Social Security Act 422 U.S.C. 622, supervision by the sending agency is required. Supervision may be provided as a courtesy to the sending state. If supervision is requested, the sending state shall provide a Form 100B and the information required in Section 5(b) below.

If a child is brought into the receiving state by an approved placement resource for a temporary placement in excess of ninety (90) days or if the temporary relocation will recur, full compliance with this regulation is required.

The public child placing agency in the sending state is responsible to take action to ensure the ongoing safety of a child placed in a receiving state pursuant to an approved placement under Article III(d) of the ICPC, including return of the child to the sending state as soon as possible when return is requested by the receiving state.

5. Provisional Approval:

(a) In any instance where the decision to relocate into another state is made or it is intended to send or bring the child to the receiving state, or the child and existing family unit have already been sent or brought into the receiving state, an ICPC-100A and its supporting documentation shall be prepared immediately upon the making of the decision, processed within five (5) business days by the sending agency's state compact administrator and transmitted to the receiving state compact administrator with notice of the intended placement date. The sending agency's state compact administrator shall request that the receiving state respond to the case within five (5) business days of receipt of the request and with due regard for the desired time for the child to be sent or brought to the receiving state. If the family unit and child are already present in the receiving state, the receiving state's compact administrator shall determine within five (5) business days of receipt of the 100A and complete home study request packet whether provisional approval shall be granted and provide the decision in writing to the sending state compact administrator by facsimile, mail, overnight mail or electronic transmission, if acceptable.

(b) The documentation provided with a request for prompt handling shall include:

1. A form ICPC-100A fully completed.
2. A form 100B if the child is already present in the receiving state
3. A copy of the court order pursuant to which the sending agency has authority to place the child or, if authority does not derive from a court order, a statement of the basis on which the sending agency has authority to place the child and documentation that supervision is on-going.
4. A case history for the child, including custodial and social history, chronology of court involvement, social dynamics and a description of any special needs of the child.
5. In any instance where the sending state has required licensure, certification or approval, a copy of the most recent license, certificate or approval of the qualification of the placement resource(s) and/or their home showing the status of the placement resource(s), as qualified placement resource(s).
6. A copy of the most recent home study of the placement resource(s) and any updates thereof.
7. Copies of the progress reports on the family unit for the last six months and the most recent judicial review court report and court order completed in the sending state.
8. A copy of the child's case/services/permanency plan and any supplements to that plan, if the child has been in care long enough for such a plan to be required.
9. An explanation of the current status of the child's Title IV-E eligibility under the Federal Social Security Act.

(c) Requests for prompt handling shall be as provided in paragraph 5(a) hereof. Some or all documents may be communicated by express mail or any other recognized method for expedited communication, including electronic transmission, if acceptable. The receiving state shall recognize and give effect to any such expedited transmission of an ICPC-100A and/or supporting documentation, provided that it is legible and appears to be a complete representation of the original. However, the receiving state may request and shall be entitled to receive originals or duly certified copies if it considers them necessary for a legally sufficient record under its laws.

(d) In an instance where a placement resource(s) holds a current license, certificate or approval from the sending state evidencing qualification as a foster parent or other placement resource, the receiving state shall give effect to such license, certificate or approval as sufficient to support a determination of qualification pursuant to Article III(d) of the ICPC, unless the receiving state compact administrator has substantial evidence that the license, certificate, or approval is expired or otherwise not valid. If the receiving state requires licensure as a condition of placement approval, or the receiving state compact administrator determines that the license, certificate, or approval from the sending state has expired or otherwise is not valid, both the sending state and the placement resource shall state in writing that the placement resource will become licensed in the receiving state.

(e) The receiving state shall recognize and give effect to evidence that the placement resource has satisfactorily completed required training for foster parents or other parent training. Such recognition and effect shall be given if:

1. the training program is shown to be substantially equivalent to training offered for the same purpose in the receiving state; and
2. the evidence submitted is in the form of an official certificate or document identifying the training.

6. Initial Home Study Report:

(a) Pursuant to the Safe and Timely Interstate Placement of Foster Children Act of 2006, within sixty (60) days after receiving a home study request, the receiving state shall directly or by contract conduct, complete, and return a report to the sending state on the results of the study of the home environment for purposes of assessing the safety and suitability of the child remaining in the home. The report shall address the extent to which placement in the home would meet the needs of the child. In the event the parts of the home study involving the education and training of the placement resource remain incomplete, the report shall reference such items by including a prospective date of completion.

(b) Approval of the request may be conditioned upon compliance by the placement resource with any licensing or education requirement in the receiving state. If such condition is placed upon approval, a reasonable date for compliance with the education or licensing requirement shall be set forth in the documentation granting approval.

7. Final Approval or Denial:

(a) Pursuant to Article III(d), final approval or denial of the placement resource request shall be provided by the receiving state compact administrator as soon as practical but no later than one-hundred and eighty days (180) days from receipt of the initial home study request.

(b) If necessary or helpful to meet time requirements, the receiving state may communicate its determination pursuant to Article III(d) to the sending agency and the sending agency's state compact administrator by "FAX" or other means of facsimile transmission or electronic transmission, if acceptable. However, this may not be done before the receiving state compact administrator has actually recorded the determination on the ICPC-100A. The written notice (the completed ICPC-100A) shall be mailed, sent electronically, if acceptable, or otherwise sent promptly to meet Article III(d) written notice requirements.

8. Nothing in this regulation shall be construed to alter the obligation of a receiving state to supervise and report on the placement; nor to alter the requirement that the placement resource(s) comply with the licensing and other applicable laws of the receiving state after arrival therein.

9. A favorable determination made by a receiving state pursuant to Article III(d) of the ICPC and this regulation means that the receiving state is making such determination on the basis of the best evidence available to it in accordance with the requirements of paragraph 5(a) of this regulation and does not relieve any placement resource or other entity of the obligation to comply with the laws of the receiving state as promptly as possible after arrival of the child in the receiving state.

10. The receiving state may decline to provide a favorable determination pursuant to Article III(d) of the Compact if the receiving state compact administrator finds that the child's needs cannot be met under the circumstances of the proposed relocation or until the compact administrator has the documentation identified in subparagraph 5(b) hereof.

11. If it is subsequently determined by the receiving state Compact Administrator that the placement in the receiving state appears to be contrary to the best interest of the child, the receiving state shall notify the sending agency that approval is no longer given and the sending state shall arrange to return the child or make an alternative placement as provided in Article V(a) of the ICPC.

12. Supervision:

Within thirty (30) days of the receiving state compact administrator being notified by the sending state compact administrator or by the placement resource that the placement resource and the child have arrived in the receiving state, the appropriate personnel of the receiving state shall visit the child and the placement resource in the home to ascertain conditions and progress toward compliance with applicable federal and state laws and requirements of the receiving state. Subsequent supervision must include face-to-face visits with the child at least once each month. A majority of visits must occur in the child's home. Face-to-face visits must be performed by a Child Welfare Caseworker in the receiving state. Such supervision visits shall continue until supervision is terminated by the sending state. Concurrence of the receiving state compact administrator for termination of supervision should be sought by the sending state prior to termination. Reports of supervision visits shall be provided to the sending state in accordance with applicable federal laws and as set forth elsewhere in these regulations.

The public child placing agency in the sending state is responsible to take action to ensure the ongoing safety of a child placed in a receiving state pursuant to an approved placement under Article III(d) of the ICPC, including return of the child to the sending state as soon as possible when return is requested by the receiving state.

13. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning.

14. This regulation is adopted pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting of April 2010.

Regulation No. 2

Public Court Jurisdiction Cases: Placements for Public Adoption or Foster Care in Family Settings and/or with Parents, Relatives

Regulation No. 2, as adopted on May 25, 1977 by the Association of Administrators of the Interstate Compact on the Placement of Children, was repealed April 1999 and is replaced by the following:

The following regulation, adopted by the Association of Administrators of the Interstate Compact on the Placement of Children, is declared to be in effect on and after October 1, 2011. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning. If a court or other competent authority invokes the Compact, the court or other competent authority is obligated to comply with Article V (Retention of Jurisdiction) of the Compact.

1. Intent of Regulation No. 2: The intent of this regulation is to provide at the request of a sending agency, a home study and placement decision by a receiving state for the proposed placement of a child with a proposed caregiver who falls into the category of: placement for public adoption, or foster care and/or with parents, or relatives.

2. Regulation No. 2 does apply to cases involving children who are under the jurisdiction of a court for abuse, neglect or dependency, as a result of action taken by a child welfare agency: The court has the authority to determine supervision, custody and placement of the child or has delegated said authority to the child welfare agency, and the child is being considered for placement in another state.

(a) Children not yet placed with prospective placement resource: This Regulation covers consideration of a placement resource where the child has not yet been placed in the home. ICPC Regulation No. 7 Expedited Home Study can be used instead of Regulation No. 2 for this category when requirements are met for an expedited home study request.

(b) Change of status for children who have already been placed with ICPC approval: This regulation is used when requesting a new home study on the current approved placement resource. This might include an upgrade from unlicensed relative to licensed foster home or to adoption home placement category (see Regulation No. 3 section 2(a) Types of Placement Categories).

(c) Child already placed without ICPC approval, except when the child has relocated with the caregiver to the receiving state pursuant to Regulation 1: When a child has been placed in a receiving state prior to ICPC approval, the case is considered a violation of ICPC and the placement is made with the sending state bearing full liability and responsibility for the safety of the child. The receiving state may request immediate removal of the child until the receiving state has made a decision per ICPC. The receiving state is permitted to proceed, but not required to proceed with the home study/ICPC decision process, as long as the child is placed in violation of ICPC. The receiving state may choose to open the case for ICPC courtesy supervision but is not required to do so, as is required under ICPC Regulation No. 1 Relocation of Family Unit Cases.

3. Placements made without ICPC protection: Regulation No. 2 does not apply to:

(a) A placement with a parent from whom the child was not removed: When the court places the child with a parent from whom the child was not removed, and the court has no evidence that the parent is unfit, does not seek any evidence from the receiving state that the parent is either fit or unfit, and the court relinquishes jurisdiction over the child immediately upon placement with the parent, the receiving state shall have no responsibility for supervision or monitoring for the court having made the placement.

(b) Sending court makes parent placement with courtesy check: When a sending court/agency seeks an independent (not ICPC-related) courtesy check for placement with a parent from whom the child was not removed, the responsibility for credentials and quality of the courtesy check rests directly with the sending court/agency and the person or party in the receiving state who agree to conduct the courtesy check without invoking the protection of the ICPC home study process. This would not prohibit a sending state from requesting an ICPC.

4. Definitions and placement categories: (See Regulation No. 3)

5. Sending state case documentation required with ICPC-100A request: The documentation provided with a request for prompt handling shall be current and shall include:

(a) A Form ICPC-100A fully completed.

(b) A Form ICPC-100B if the child is already placed without prior approval in the receiving state. The receiving state is not obligated to provide supervision until the placement has been approved with an ICPC-100A signed by the receiving state ICPC office, unless provisional approval has been granted.

(c) A copy of the current court order pursuant to which the sending agency has authority to place the child or, if authority does not derive from a court order, a statement of the basis on which the sending agency has authority to place the child and documentation that supervision is on-going.

(d) Signed statement required from assigned sending agency case manager:

1. confirming the potential placement resource is interested in being a placement resource for the child and is willing to cooperate with the ICPC process.
2. including the name and correct physical and mailing address of the placement resource and all available telephone numbers and other contact information for the potential placement resource.
3. describing the number and type of bedrooms in the home of the placement resource to accommodate the child under consideration and the number of people, including children, who will be residing in the home.
4. confirming the potential placement resource acknowledges that he/she has sufficient financial resources or will access financial resources to feed, clothe, and care for the child, including child care, if needed.
5. that the placement resource acknowledges that a criminal records and child abuse history check will be completed for any persons residing in the home required to be screened under the law of the receiving state.

(e) A current case history for the child, including custodial and social history, chronology of court involvement, social dynamics and a description of any special needs of the child.

(f) Any child previously placed with placement resource in sending state: If the placement resource had any child placed with them in the sending state previously, the sending agency shall provide all relevant information regarding said placement to the receiving state, if available.

(g) Service (case) Plan: A copy of the child's case/service/permanency plan and any supplements to that plan, if the child

has been in care long enough for a permanency plan to be required.

(h) Title IV-E Eligibility verification: An explanation of the current status of the child's Title IV-E eligibility under the Federal Social Security Act and Title IV-E documentation, if available. Documentation must be provided before placement is approved.

(i) Financial/Medical Plan: A detailed plan of the proposed method for support of the child and provision of medical services.

(j) A copy of the child's Social Security card or official document verifying correct Social Security Number, if available, and a copy of the child's birth certificate, if available.

6. Methods for transmission of documents: Some or all documents may be communicated by express mail or any other recognized method for expedited communication, including FAX and/or electronic transmission, if acceptable by both sending and receiving state. The receiving state shall recognize and give effect to any such expedited transmission of an ICPC-100A and/or supporting documentation, provided that it is legible and appears to be a complete representation of the original. However, the receiving state may request and shall be entitled to receive originals or duly certified copies of any legal documents if it considers them necessary for a legally sufficient record under its laws. All such transmissions must be sent in compliance with state laws and/or regulations related to the protection of confidentiality.

7. Safe and Timely Interstate Home Study Report to be completed within sixty (60) calendar days. This report is not equivalent to a placement decision.

(a) Timeframe for completion of Safe and Timely Interstate Home Study Report: As quickly as possible, but not more than sixty (60) calendar days after receiving a home study request, the receiving state shall, directly or by contract, complete a study of the home environment for purposes of assessing the safety and suitability of the child being placed in the home. The receiving state shall return to the sending state a report on the results of the home study that shall address the extent to which placement in the home would meet the needs of the child. This report may, or may not, include a decision approving or denying permission to place the child. In the event the parts of the home study involving the education and training of the placement resource remain incomplete, the report shall reference such items by including an anticipated date of completion.

(b) Receiving state placement decision may be postponed: If the receiving state cannot provide a decision regarding approval or denial of the placement at the time of the safe and timely home study report, the receiving state should provide the reason for delay and an anticipated date for a decision regarding the request. Reasons for delay may be such factors as receiving state requires all relatives to be licensed as a foster home therefore ICPC office cannot approve an unlicensed relative placement request until the family has met licensing requirements. If such condition must be met before approval, a reasonable date for compliance shall be set forth in the receiving state transmittal accompanying the initial home study, if possible.

8. Decision by receiving state to approve or deny placement resource (100A).

(a) Timeframe for final decision: Final approval or denial of the placement resource request shall be provided by receiving state Compact Administrator in the form of a signed ICPC-100A, as soon as practical but no later than one hundred and eighty (180) calendar days from receipt of the initial home study request. This six (6)-month window is to accommodate licensure and/or other receiving state requirements applicable to foster or adoption home study requests.

(b) Expedited communication of decision: If necessary or helpful to meet time requirements, the receiving state ICPC office may communicate its determination pursuant to Article III(d) to the sending agency's state Compact Administrator by FAX or other means of facsimile transmission or electronic transmission, if acceptable to both receiving and sending state. However, this may not be done before the receiving state Compact Administrator has actually recorded the determination on the ICPC-100A. The written notice (the completed ICPC-100A) shall be mailed, sent electronically, if acceptable, or otherwise sent promptly to meet Article III(d) written notice requirements. The receiving state home study local agency shall not send the home study and/or recommendation directly to the sending state local agency without approval from the sending and receiving state ICPC offices.

(c) Authority of receiving state to make final decision: The authority of the receiving state is limited to the approval or denial of the placement resource. The receiving state may decline to provide a favorable determination pursuant to Article III(d) of the Compact if the receiving state Compact Administrator finds that based on the home study, the proposed caregiver would be unable to meet the individual needs of the child, including the child's safety, permanency, health, well-being, and mental, emotional and physical development.

(d) Authority of sending court/placing agency: When the receiving state has approved a placement resource, the sending court/placing agency has the final authority to determine whether to use the approved placement resource in the receiving state. The receiving state ICPC-100A approval expires six months from the date the 100A was signed by receiving state.

9. Reconsideration of an ICPC denial: (requested by the sending ICPC Office)

(a) Sending state may request reconsideration of the denial within 90 days from the date 100A denying placement is signed by receiving state. The request can be with or without a new home study, see items 9(a)(1) and 9(a)(2) below. After 90 days there is nothing that precludes the sending state from requesting a new home study.

1. Request reconsideration without a new home study: The sending ICPC office can request that the receiving state ICPC office reconsider the denial of placement of the child with the placement resource. If the receiving state ICPC office chooses to overturn the denial it can be based on review of the evidence presented by the sending ICPC

office and any other new information deemed appropriate. A new 100A giving an approval without a new home study will be signed.

2. Request new home study re-examining reasons for original denial: A sending ICPC office may send a new ICPC home study request if the reason for denial has been corrected; i.e., move to new residence with adequate bedrooms. The receiving state ICPC office is not obligated to activate the new home study request, but it may agree to proceed with a new home study to reconsider the denial decision if it believes the reasons for denial have been corrected. This regulation shall not conflict with any appeal process otherwise available in the receiving state.

(b) Receiving state decision to reverse a prior denied placement: The receiving state ICPC office has 60 days from the date formal request to reconsider denial has been received from the sending state ICPC office. If the receiving state ICPC administrator decides to change the prior decision denying the placement, an ICPC transmittal letter and the new 100A shall be signed reflecting the new decision.

10. Return of child to sending state/Receiving state requests to return child to sending state:

(a) Request to return child to sending state at time of ICPC denial of placement: If the child is already residing in the receiving state with the proposed caregiver at the time of the above decision, and the receiving state Compact Administrator has denied the placement based on 8(c) then the receiving state Compact Administrator may request the sending state to arrange for the return of the child as soon as possible or propose an alternative placement in the receiving state as provided in Article V(a) of the ICPC. That alternative placement resource must be approved by the receiving state before placement is made. Return of the child shall occur within five (5) working days from the date of notice for removal unless otherwise agreed upon between the sending and receiving state ICPC offices.

(b) Request to return child to sending state after receiving state ICPC had previously approved placement: Following approval and placement of the child, if the receiving state Compact Administrator determines that the placement no longer meets the individual needs of the child, including the child's safety, permanency, health, well-being, and mental, emotional, and physical development, then the receiving state Compact Administrator may request that the sending state arrange for the return of the child as soon as possible or propose an alternative placement in the receiving state as provided in Article V(a) of the ICPC. That alternative placement resource must be approved by the receiving state before placement is made. Return of the child shall occur within five (5) working days from the date of notice for removal unless otherwise agreed upon between the sending and receiving state ICPC offices.

The receiving state request for removal may be withdrawn if the sending state arranges services to resolve the reason for the requested removal and the receiving and the sending state Compact Administrators mutually agree to the plan.

11. Supervision for approved placement should be conducted in accordance with ICPC Regulation No. 11.

12. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning.

13. This regulation is adopted pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting, April 30–May 1, 2011.

Regulation No. 3

Definitions and Placement Categories:

Applicability and Exemptions

This Regulation No. 3 is adopted pursuant to Article VII of the Interstate Compact on the Placement of Children.

This Regulation No. 3 as first effective July 2, 2001, was amended by the Association of Administrators of the Interstate Compact on the Placement of children on May 1, 2011 and is declared to be effective as of October 1, 2011.

1. Intent of Regulation No. 3: To provide guidance in navigating the ICPC regulations and to assist its users in understanding which interstate placements are governed by, and which are exempt from, the ICPC.

(a) Nothing in this regulation shall be construed to alter the obligation of a receiving state to supervise and report on the placement; nor to alter the requirement that the placement resource(s) comply with the licensing and other applicable laws of the receiving state after placement of the child in the receiving state.

(b) Age restrictions: The ICPC Articles and Regulations do not specify an age restriction at time of placement, but rather use the broad definition of "child." The sending state law may permit the extension of juvenile court jurisdiction and foster care maintenance payments to eligible youth up to age 21. Consistent with Article V, such youth should be served under ICPC if requested by the sending agency and with concurrence of the receiving state.

2. Placement categories requiring compliance with ICPC: Placement of a child requires compliance with the Compact if such placement is made under one of the following four types of placement categories:

(a) Four types of placement categories:

1. Adoptions: Placement preliminary to an adoption (independent, private or public adoptions)
2. Licensed or approved foster homes (placement with related or unrelated caregivers)
3. Placements with parents and relatives when a parent or relative is not making the placement as defined in Article VIII (a) "Limitations"
4. Group homes/residential placement of all children, including adjudicated delinquents in institutions in other states as defined in Article VI and Regulation No. 4.

(b) Court involvement and court jurisdiction legal status: The above placement categories may involve placement by persons and/or agencies that at the time of placement may not have any court involvement (i.e., private/independent adoptions and residential placements). Where there is court jurisdiction with an open court case for dependency, abandonment, abuse and/or neglect, the case is considered a public court jurisdiction case, which requires compliance with ICPC Article III (see Regulations No. 1, No. 2, No. 7 and No. 11) note exemption for selected "parent" cases as described below in Section 3, "cases that are exempt from ICPC regulations. In most public court jurisdiction cases the court has taken guardianship and legal custody away from the "offending" caregiver and has given it to a third party at the time placement of the child is made with an alternative caregiver. However, in select cases identified below, the sending court may not have taken guardianship or legal custody away from the parent/guardian, when the ICPC-100A requesting permission to place is sent to the receiving state. Those cases are identified on the ICPC-100A with the legal status of "court jurisdiction only" as explained below.

(c) Court jurisdiction only: The sending court has an open abuse, neglect or dependency case that establishes court jurisdiction with the authority to supervise, remove and/or place the child. Although the child is not in the guardianship/custody of an agency or the court at the time of completing ICPC-100A, the agency or the court may choose to exert legal authority to supervise and or remove and place the child and therefore is the sending agency. As the sending agency/court it would have specified legal responsibilities per ICPC Article V, including the possible removal of the child if placement in the receiving state disrupts or the receiving state requests removal of the child. There are several possible situations where "court jurisdiction only" might be checked as the "legal status" on the ICPC-100A:

1. Residential placement (Regulation No. 4): The court has jurisdiction, but in some situations, such as with some probation (delinquent) cases, guardianship remains with the parent/relative, but the court/sending agency is seeking approval to place in a receiving state residential treatment program, and has authority to order placement and removal.
2. Contingency/concurrent request in cases where removal may become necessary (Regulations No. 2 or No. 7): The child may be in the custody of the offending parent or relative while the public agency tries to bring the family into compliance with court orders and or agency service (case) plan. (Some states call this an order of "protective supervision" or "show cause.") The court may have requested an ICPC home study on a possible alternative caregiver in a receiving state. It is understood at time of placement the court would have guardianship/legal custody and Article V would be binding.
3. Parent/relative relocated to receiving state (Regulation No. 1): If the sending court selects to invoke ICPC Article V and to retain court jurisdiction even though the family/relative has legal guardianship/custody and has moved to the receiving state, then the sending court may request a home study on the parent/relative who has moved with the child to the receiving state. By invoking ICPC the sending court is bound under Article V. If the receiving state determines the placement to be contrary to the interests of the child, the sending court must order removal of the child and their return to the sending state or utilize an alternative approved placement resource in the receiving state. The ICPC-100A must be signed by the sending judge or authorized agent of the public agency on behalf of the sending court in keeping with ICPC Article V.

3. Placements made without ICPC protection:

(a) A placement with a parent from whom the child was not removed: When the court places the child with a parent from whom the child was not removed, and the court has no evidence that the parent is unfit, does not seek any evidence from the receiving state that the parent is either fit or unfit, and the court relinquishes jurisdiction over the child immediately upon placement with the parent. Receiving state shall have no responsibility for supervision or monitoring for the court having made the placement.

(b) Sending court makes parent placement with courtesy check: When a sending court/agency seeks an independent (not ICPC related) courtesy check for placement with a parent from whom the child was not removed, the responsibility for credentials and quality of the "courtesy check" rests directly with the sending court/agency and the person or party in the receiving state who agree to conduct the "courtesy" check without invoking the protection of the ICPC home study process. This would not prohibit a sending state from requesting an ICPC.

(c) Placements made by private individuals with legal rights to place: Pursuant to Article VIII (a), this Compact does not apply to 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 non-agency guardian and leaving the child with any such parent, relative or non-agency guardian in the receiving state, provided that such person who brings, sends, or causes a child to be sent or brought to a receiving state is a person whose full legal right to plan for the child: (1) has been established by law at a time prior to initiation of the placement arrangement, and (2) has not been voluntarily terminated, or diminished or severed by the action or order of any court.

(d) Placements handled in divorce, paternity or probate courts: The compact does not apply in court cases of paternity, divorce, custody, and probate pursuant to which or in situations where children are being placed with parents or relatives or non-relatives.

(e) Placement of children pursuant to any other Compact: Pursuant to Article VIII (b), the Compact does not apply to 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.

4. Definitions: The purpose of this section is to provide clarification of commonly used terms in ICPC. Some of these words and definitions can also be found in the Interstate Compact on the Placement of Children, ICPC Regulations, Interstate Compact on Juveniles, and federal statutes and regulations.

(Note: source of definition is identified right after the word prior to the actual definition.)

1. Adoption: the method provided by state law that establishes the legal relationship of parent and child between persons who are not so related by birth or some other legal determination, with the same mutual rights and obligations that exist between children and their birth parents. This relationship can only be termed adoption after the legal process is complete (see categories or types of ICPC adoptions below).
2. Adoption categories:
 - (a) Independent adoption: adoptions arranged by a birth parent, attorney, other intermediary, adoption facilitator or other person or entity as defined by state law.
 - (b) Private agency adoption: an adoption arranged by a licensed agency whether domestic or international that has been given legal custody or responsibility for the child including the right to place the child for adoption.
 - (c) Public adoption: Adoptions for public court jurisdiction cases.
3. Adoption home study: (definition listed under "home studies")
4. Adjudicated delinquent: a person found to have committed an offense that, if committed by an adult, would be a criminal offense.
5. Adjudicated status offender: a person found to have committed an offense that would not be a criminal offense if committed by an adult.
6. Age of majority: the legally defined age at which a person is considered an adult with all the attendant rights and responsibilities of adulthood. The age of majority is defined by state laws, which vary by state and is used in Article V, "...reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state" (see definition below of "child" as it appears in Article II).
7. Approved placement: the receiving state Compact Administrator has determined that "the proposed placement does not appear to be contrary to the interests of the child."
8. Boarding home: as used in Article II (d) of the ICPC, means the home of a relative or unrelated individual whether or not the placement recipient receives compensation for care or maintenance of the child, foster care payments, or any other payments or reimbursements on account of the child's being in the home of the placement recipient (has same meaning as family free).
9. Case history: an organized record concerning an individual, their family and environment that includes social, medical, psychological and educational history and any other additional information that may be useful in determining appropriate placement.
10. Case plan: (see "service plan" definition)
11. Central Compact office: the office that receives ICPC placement referrals from sending states and sends ICPC placement referrals to receiving states. In states that have one central Compact office that services the entire state, the term "central Compact office" has the same meaning as "central state Compact office" as described in Regulation No. 5 of the ICPC. In states in which ICPC placement referrals are sent directly to receiving states and received directly from sending states by more than one county or other regional area within the state, the "central Compact office" is the office within each separate county or other region that sends and receives ICPC placement referrals.
12. Certification: to attest, declare or swear to before a judge or notary public.
13. Child: a person, who by reason of minority, is legally subject to parental guardianship or similar control.
14. Child welfare caseworker: a person assigned to manage the cases of dependency children who are in the custody of a public child welfare agency and may include private contract providers of the responsible state agency.
15. Concurrence to discharge: is when the receiving ICPC office gives the sending agency written permission to terminate supervision and relinquish jurisdiction of its case pursuant to Article V leaving the custody, supervision and care of the child with the placement resource.
16. Concurrence: is when the receiving and sending Compact Administrator agree to a specific action pursuant to ICPC, i.e., decision as to providers.
17. Conditions for placement: as established by Article III apply to any placement as defined in Article II(d) and regulations adopted by action of the Association of Administrators of the Interstate Compact on the Placement of Children.
18. Courtesy: consent or agreement between states to provide a service that is not required by ICPC.
19. Courtesy check: Process that does not involve the ICPC, used by a sending court to check the home of a parent from whom the child was not removed.
20. Court jurisdiction only cases: The sending court has an open abuse, neglect or dependency case that establishes court jurisdiction with the authority to supervise and/or remove and place the child for whom the court has not taken guardianship or legal custody.
21. Custody: (see physical custody, see legal custody)
22. Emancipation: the point at which a minor becomes self-supporting, assumes adult responsibility for his or her welfare, and is no longer under the care of his or her parents or child placing agency, by operation of law or court order.
23. Emergency placement: a temporary placement of 30 days or less in duration.
24. Family free: as used in Article II (d) of the ICPC means the home of a relative or unrelated individual whether or not the placement recipient receives compensation for care or maintenance of the child, foster care payments, or any other payments or reimbursements on account of the child's being in the home of the placement recipient (has same meaning as boarding home).
25. Family unit: a group of individuals living in one household.
26. Foster care: 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. In addition to the federal definition (45 C.F.R. § 1355.20 "Definitions") this includes 24-hour substitute care for children placed away from their parents or guardians and for whom the state agency has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions and pre-adoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the state or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of an adoption, or whether there is federal matching of any payments that are made.
27. Foster home study: (see definition under home studies)

28. Foster parent: a person, including a relative or non-relative, licensed to provide a home for orphaned, abused, neglected, delinquent or disabled children, usually with the approval of the government or a social service agency.
29. Guardian [see ICPC Regulation No. 10 section 1(a)]: a public or private agency, organization or institution that holds a valid and effective permanent appointment from a court of competent jurisdiction to have custody and control of a child, to plan for the child, and to do all other things for or on behalf of a child for which a parent would have authority and responsibility for doing so by virtue of an unrestricted parent-child relationship. An appointment is permanent for the purposes of this paragraph if the appointment would allow the guardianship to endure until the child's age of majority without any court review, subsequent to the appointment, of the care that the guardian provides or the status of other permanency planning that the guardian has a professional obligation to carry out.
30. Home Study (see Safe and Timely Interstate Placement of Foster Children Act of 2006): an evaluation of a home environment conducted in accordance with applicable requirements of the state in which the home is located, to determine whether a proposed placement of a child would meet the individual needs of the child, including the child's safety, permanency, health, well-being, and mental, emotional and physical development.
 - (a) Adoption home study: a home study conducted for the purpose of placing a child for adoption with a placement resource. The adoption home study is the assessment and evaluation of a prospective adoptive parent(s).
 - (b) Foster home study: a home study conducted for the purpose of placing a child with a placement resource who is required to be licensed or approved in accordance with federal and/or receiving state law.
 - (c) Interstate home study (see Federal Safe and Timely Act): a home study conducted by a state at the request of another state, to facilitate an adoptive or foster care placement in the state of a child in foster care under the responsibility of the state [see foster care definition(s)].
 - (d) Parent home study: applies to the home study conducted by the receiving state to determine whether a parent placement meets the standards as set forth by the requirements of the receiving state.
 - (e) Relative home study: a home study conducted for the purpose of placing a child with a relative. Such a home study may or may not require the same level of screening as required for a foster home study or an adoptive home study depending upon the applicable law and/or requirements of the receiving state.
 - (f) Non-relative home study: a home study conducted for the purpose of placing a child with a non-relative of the child. Such a home study may or may not require the same level of screening as required for a foster home study or an adoptive home study depending upon the applicable law and/or requirements of the receiving state.
 - (g) Safe and Timely Interstate Home Study Report (see Federal Safe and Timely Act): an interstate home study report completed by a state if the state provides to the state that requested the study, within 60 days after receipt of the request, a report on the results of the study. The preceding sentence shall not be construed to require the state to have completed, within the 60-day period, the parts of the home study involving the education and training of the prospective foster or adoptive parents.
31. ICPC: The Interstate Compact on the Placement of Children is a Compact between states and parties pursuant to law, to ensure protection and services to children who are placed across state lines.
32. Independent adoption entity: any individual authorized in the sending state to place children for adoption other than a state, county or licensed private agency. This could include courts, private attorneys and birth parents.
33. Intrastate: existing or occurring within a state.
34. Interstate: involving, connecting or existing between two or more states.
35. Interstate home study: (see definition under Home studies)
36. Jurisdiction: the established authority of a court to determine all matters in relation to the custody, supervision, care and disposition of a child.
37. Legal custody: court-ordered or statutory right and responsibility to care for a child either temporarily or permanently.
38. Legal guardianship (see 45 C.F.R. § 1355.20 "Definitions"): a judicially created relationship between child and caretaker that is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control of the person, custody of the person, and decision-making. The term legal guardian means the caretaker in such a relationship.
39. Legal risk placement (legal risk adoption): a placement made preliminarily to an adoption where the prospective adoptive parents acknowledge in writing that a child can be ordered returned to the sending state or the birth mother's state of residence, if different from the sending state, and a final decree of adoption shall not be entered in any jurisdiction until all required consents or termination of parental rights are obtained or are dispensed with in accordance with applicable law.
40. Member state: a state that has enacted this Compact (see also definition of state).
41. Non-agency guardian [see ICPC Regulation No. 10 section 1(b)]: an individual holding a currently valid appointment from a court of competent jurisdiction to have all of the authority and responsibility of a guardian as defined in ICPC Regulation No. 10 section 1(a).
42. Non-custodial parent: a person who, at the time of the commencement of court proceedings in the sending state, does not have sole legal custody of the child or physical custody of a child.
43. Non-offending parent: the parent who is not the subject of allegations or findings of child abuse or neglect.
44. Non-relative: a person not connected to the child by blood, marriage or adoption, or otherwise defined by the sending or receiving state.
45. Parent: a biological, adoptive parent or legal guardian as determined by applicable state law and is responsible for the care, custody and control of a child or upon whom there is legal duty for such care.
46. Parent home study: (see definition under home studies)
47. Physical custody: Person or entity with whom the child is placed on a day-to-day basis.
48. Placement (see ICPC Article II (d) "Definitions"): the arrangement for the care of a child in a family free, in a 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.

49. Placement resource: the person(s) or facility with whom the child has been or may be placed by a parent or legal custodian; or, placed by the court of jurisdiction in the sending state; or, for whom placement is sought in the receiving state.
50. Progress report: (see "supervision report" definition)
51. Provisional approval: an initial decision by the receiving state that the placement is approved subject to receipt of required additional information before final approval is granted.
52. Provisional denial: the receiving state cannot approve a provisional placement pending a more comprehensive home study or assessment process due to issues that need to be resolved.
53. Provisional placement: a determination made in the receiving state that the proposed placement is safe and suitable and, to the extent allowable, the receiving state has temporarily waived its standards or requirements otherwise applicable to prospective foster or adoptive parents so as to not delay the placement. Completion of the receiving state requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement.
54. Public child-placing agency: any government child welfare agency or child protection agency or a private entity under contract with such an agency, regardless of whether they act on behalf of a state, county, municipality or other governmental unit and which facilitates, causes or is involved in the placement of a child from one state to another.
55. Receiving state (see ICPC Article II (c) "Definitions"): 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.
56. Relative: a birth or adoptive brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, first cousin, niece, nephew, as well as relatives of half blood or marriage and those denoted by the prefixes of grand and great, including grandparent or great grandparent, or as defined in state statute for the purpose of foster and or adoptive placements.
57. Non-relative: a person not connected to the child by blood, marriage or adoption.
58. Relative home study: (see definition under home studies)
59. Relocation: the movement of a child or family from one state to another.
60. Residential facility or residential treatment center or group home: a facility providing a level of 24-hour, supervised care that is beyond what is needed for assessment or treatment of an acute condition. For purposes of the Compact, residential facilities do not include institutions primarily educational in character, hospitals or other medical facilities (as used in Regulation 4, they are defined by the receiving state).
61. Return: the bringing or sending back of a child to the state from which they came.
62. Sending agency: (see ICPC Article II (b) "Definitions"): 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 having legal authority over a child who sends, brings, or causes to be sent or brought any child to another party state.
63. Sending state: the state where the sending agency is located, or the state in which the court holds exclusive jurisdiction over a child, which causes, permits or enables the child to be sent to another state.
64. Service (case) plan: a comprehensive individualized program of action for a child and his/her family establishing specific goals and objectives and deadlines for meeting these goals and objectives.
65. State: a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other territory of the United States.
66. State court: a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency or status offenses of individuals who have not attained the age of eighteen (18) or as otherwise defined by state law.
67. Stepparent: a man or woman married to a parent of a child at the time of the intended placement or as otherwise defined by the sending and/or receiving state laws, rules and/or regulations.
68. Supervision: monitoring of the child and the child's living situation by the receiving state after a child has been placed in a receiving state pursuant to a provisional approval or an approved placement under Article III(d) of the ICPC or pursuant to a child's relocation to a receiving state in accordance with Regulation No. 1 of the ICPC.
69. Supervision report: provided by the supervising case worker in the receiving state; a written assessment of a child's current placement, school performance and health and medical status, a description of any unmet needs and a recommendation regarding continuation of the placement.
70. Timely Interstate Home Study: (see definition under home studies)
71. Visit: as defined in Regulation No. 9.

Regulation No. 4

Residential Placement

The following regulation was adopted by the Association of Administrators of the Interstate Compact on the Placement of Children on April 20, 1983, was readopted in 1999, was amended in 2001, and is declared to be effective, as amended, as of July 2, 2001.

1. In determining whether the sending or bringing of a child to another state is exempt from the provisions of the Interstate Compact on the Placement of Children by reason of the exemption for various classes of institutions in Article II (d), the following concepts and terms shall have the following meanings:

(a) "Primarily educational institution" means an institution which operates one or more programs that can be offered in satisfaction of compulsory school attendance laws, in which the primary purpose of accepting children is to meet their educational needs; and which does not do one or more of the following:

- (1) accept responsibility for children during the entire year;
- (2) provide or hold itself out as providing child care constituting nurture sufficient to substitute for parental supervision and control or foster care;
- (3) provide any other services to children, except for those customarily regarded as extracurricular or cocurricular school activities, pupil support services, and those services necessary to make it possible for the children to be maintained on a residential basis in the aforementioned school program or programs.

(b) "Hospital or other medical facility" means an institution for the acutely ill which discharges its patients when they are no longer acutely ill, which does not provide or hold itself out as providing child care in substitution for parental care or foster care, and in which a child is placed for the primary purpose of treating an acute medical problem.

(c) "Institution for the mentally ill or mentally defective" minors means a facility which is responsible for treatment of acute conditions, both psychiatric and medical, as well as such custodial care as is necessary for the treatment of such acute conditions of the minors who are either voluntarily committed or involuntarily committed by a court of competent jurisdiction to reside in it. Developmentally disabled has the same meaning as the phrase "mentally defective."

(d) Treatment for a chronic mental or behavioral condition, as described in this regulation, that is 24-hour care away from the child's parental home is foster care as such term is used in Article III of ICPC.

2. (a) Admission for treatment of an acute condition includes the treatment and care of minors who are mentally ill or developmentally disabled and who require stabilization of such condition for short-term treatment. Such short term treatment is exempt from the Interstate Compact on the Placement of Children.

(b) Placement for treatment of a chronic condition includes the treatment and care of minors who may be mentally ill, emotionally ill, or developmentally disabled and require treatment beyond what was required for stabilization of the underlying acute condition. Treatment modalities for chronic conditions may include psychotherapy and psychopharmacology.

(c) Any placement of a minor for treatment of that minor's chronic mental or behavioral condition into a facility having treatment programs for acute and chronic conditions must be made pursuant to the Interstate Compact on the Placement of Children. The Interstate Compact on the Placement of Children becomes applicable once the minor is placed for treatment of a chronic condition regardless of whether that child was originally placed in the same facility for treatment of an acute condition.

(d) A minor may be accepted into a residential treatment center without first having been in that facility for the treatment of an acute condition. An interstate placement of a minor into such a facility must be made pursuant to the Interstate Compact on the Placement of Children.

3. An institution for the mentally ill or developmentally disabled may accept a child for treatment and care without complying with ICPC, if the treatment and care and other services are entirely out-patient in character.

4. The type of funding source or sources used to defray the costs of treatment or other services does not determine whether the Interstate Compact on the Placement of Children applies. Such determination is made on a case-by-case basis.

5. The type of license, if any, held by an institution is evidence of its character, but does not determine the need for compliance with ICPC. Whether an institution is either generally exempt from the need to comply with the Interstate Compact on the Placement of Children or exempt in a particular instance is to be determined by the services it actually provides or offers to provide. In making any such determinations, the criteria set forth in this regulation shall be applied.

6. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning.

7. This regulation was amended pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting of April 29 through May 2, 2001; such amendment was approved on May 2, 2001 and is effective as of July 2, 2001.

Regulation No. 5

Central State Compact Office

Regulation No. 5 ("Central State Compact Office"), as first effective April 1982, is amended to read as follows:

1. It shall be the responsibility of each state party to the Interstate Compact on the Placement of Children to establish a procedure by which all Compact referrals from and to the state shall be made through a central state compact office. The Compact Office shall also be a resource for inquiries into requirements for placements into the state for children who come under the purview of this Compact.

2. The Association of Administrators of the Interstate Compact on the Placement of Children deems certain appointments of officers who are general coordinators of activities under the Compact in the party states to have been made by the executive heads of states in each instance wherein such an appointment is made by a state official who has authority delegated by the executive head of the state to make such an appointment. Delegated authority to make the appointments described above in this paragraph will be sufficient if it is either: specifically described in the applicable state's documents that establish or control the appointment or employment of the state's officers or employees; a responsibility of the official who has the delegated authority that is customary and accepted in the applicable state; or consistent with the personnel policies or practices of the applicable state. Any general coordinator of activities under the Compact who is or was appointed in compliance with this paragraph is deemed to be appointed by the executive head of the applicable jurisdiction regardless of whether the appointment preceded or followed the adoption of this paragraph.

3. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning.

4. This regulation was first effective on April 20, 1982; was amended as of April 1999; and is amended by the Compact Administrators, acting jointly and pursuant to Article VII of the Interstate Compact on the Placement of Children, at their annual meeting of April 2002, with such amendments effective after June 27, 2002.

Regulation No. 6

Permission to Place Child: Time Limitations, Reapplication

The following regulation, originally adopted in 1991 by the Association of Administrators of the Interstate Compact on the Placement of Children, is amended in 2001 and declared to be in effect, as amended, on and after July 2, 2001.

1. Permission to place a child given pursuant to Article III (d) of the Interstate Compact on the Placement of Children shall be valid and sufficient to authorize the making of the placement identified in the written document ICPC-100A, by which the permission is given for a period of six (6) months commencing on the date when the receiving state compact administrator or his duly authorized representative signs the aforesaid ICPC-100A.

2. If the placement authorized to be made as described in Paragraph 1. of this Regulation is not made within the six (6) months allowed therein, the sending agency may reapply. Upon such reapplication, the receiving state may require the updating of documents submitted on the previous application, but shall not require a new home study unless the laws of the receiving state provide that the previously submitted home study is too old to be currently valid.

3. If a foster care license, institutional license or other license, permit or certificate held by the proposed placement recipient is still valid and in force, or if the proposed placement recipient continues to hold an appropriate license, permit or certificate, the receiving state shall not require that a new license, permit or certificate be obtained in order to qualify the proposed placement recipient to receive the child in placement.

4. Upon a reapplication by the sending agency, the receiving state shall determine whether the needs or condition of the child have changed since it initially authorized the placement to be made. The receiving state may deny the placement if it finds that the proposed placement is contrary to the interests of the child.

5. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning.

6. This regulation was readopted pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting of April 1999; it is amended pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting of April 29 through May 2, 2001, was approved May 2, 2001, and is effective in such amended form as of July 2, 2001.

Regulation No. 7

Expedited Placement Decision

The following regulation adopted by the Association of Administrators of the Interstate Compact on the Placement of Children as Regulation No. 7, Priority Placement, as first adopted in 1996, is amended to read as follows:

1. Words and phrases used in this regulation shall have the same meanings as those ascribed to them in the Interstate Compact on the Placement of Children (ICPC).

A word or phrase not appearing in ICPC shall have the meaning ascribed to it by special definition in this regulation or, where not so defined, the meaning properly ascribed to it in common usage.

2. This regulation shall hereafter be denoted as Regulation No. 7 for Expedited Placement Decision.

3. Intent of Regulation No. 7: The intent of this regulation is to expedite ICPC approval or denial by a receiving state for the placement of a child with a parent, stepparent, grandparent, adult uncle or aunt, adult brother or sister, or the child's guardian, and to:

(a) Help protect the safety of children while minimizing the potential trauma to children caused by interim or multiple placements while ICPC approval to place with a parent or relative is being sought through a more comprehensive home study process.

(b) Provide the sending state court and/or sending agency with expedited approval or denial. An expedited denial would underscore the urgency for the sending state to explore alternative placement resources.

4. This regulation shall not apply if:

(a) the child has already been placed in violation of the ICPC in the receiving state, unless a visit has been approved in writing by the receiving state Compact Administrator and a subsequent order entered by the sending state court authorizing the visit with a fixed return date in accordance with Regulation No. 9.

(b) the intention of the sending state is for licensed or approved foster care or adoption. In the event the intended placement [must be parent, stepparent, grandparent, adult aunt or uncle, adult brother or sister, or guardian as per Article VIII(a)] is already licensed or approved in the receiving state at the time of the request, such licensing or approval would not preclude application of this regulation.

(c) the court places the child with a parent from whom the child was not removed, the court has no evidence the parent is unfit, does not seek any evidence from the receiving state the parent is either fit or unfit, and the court relinquishes jurisdiction over the child immediately upon placement with the parent.

5. Criteria required before Regulation No. 7 can be requested: Cases involving a child who is under the jurisdiction of a court as a result of action taken by a child welfare agency, the court has the authority to determine custody and placement of the child or has delegated said authority to the child welfare agency, the child is no longer in the home of the parent from whom the child was removed, and the child is being considered for placement in another state with a parent, stepparent, grandparent, adult uncle or aunt, adult brother or sister, or the child's guardian, must meet at least one of the following criteria in order to be considered a Regulation No. 7 case:

(a) unexpected dependency due to a sudden or recent incarceration, incapacitation or death of a parent or guardian. Incapacitation means a parent or guardian is unable to care for a child due to a medical, mental or physical condition of a

parent or guardian, or

(b) the child sought to be placed is four years of age or younger, including older siblings sought to be placed with the same proposed placement resource; or

(c) the court finds that any child in the sibling group sought to be placed has a substantial relationship with the proposed placement resource. Substantial relationship means the proposed placement has a familial or mentoring role with the child, has spent more than cursory time with the child, and has established more than a minimal bond with the child; or

(d) the child is currently in an emergency placement.

6. Provisional approval or denial:

(a) Upon request of the sending agency and agreement of the receiving state to make a provisional determination, the receiving state may, but is not required to, provide provisional approval or denial for the child to be placed with a parent or relative, including a request for licensed placement if the receiving state has a separate licensing process available to relatives that includes waiver of non-safety issues.

Upon receipt of the documentation set forth in Section 7 below, the receiving state shall expedite provisional determination of the appropriateness of the proposed placement resource by:

1. performing a physical "walk through" by the receiving state's caseworker of the prospective placement's home to assess the residence for risks and appropriateness for placement of the child,
2. searching the receiving state's child protective services data base for prior reports/investigations on the prospective placement as required by the receiving state for emergency placement of a child in its custody,
3. performing a local criminal background check on the prospective placement,
4. undertaking other determinations as agreed upon by the sending and receiving state Compact Administrators, and
5. providing a provisional written report to the receiving state Compact Administrator as to the appropriateness of the proposed placement.

(b) A request by a sending state for a determination for provisional approval or denial shall be made by execution of an Order of Compliance by the sending state court that includes the required findings for a Regulation No. 7 request and a request for provisional approval or denial.

(c) Determination made under a request for provisional approval or denial shall be completed within seven (7) calendar days of receipt of the completed request packet by the receiving state Compact Administrator. A provisional approval or denial shall be communicated to the sending state Compact Administrator by the receiving state Compact Administrator in writing. This communication shall not include the signed Form 100A until the final decision is made pursuant to Section 9 below.

(d) Provisional placement, if approved, shall continue pending a final approval or denial of the placement by the receiving state or until the receiving state requires the return of the child to the sending state pursuant to paragraph 12 of this regulation.

(e) If provisional approval is given for placement with a parent from whom the child was not removed, the court in the sending state may direct its agency to request concurrence from the sending and receiving state Compact Administrators to place the child with the parent and relinquish jurisdiction over the child after final approval is given. If such concurrence is not given, the sending agency shall retain jurisdiction over the child as otherwise provided under Article V of the ICPC.

(f) A provisional denial means that the receiving state cannot approve a provisional placement pending the more comprehensive home study or assessment process due to issues that need to be resolved.

7. Sending agency steps before sending court enters Regulation No. 7 Order of Compliance: In order for a placement resource to be considered for an ICPC expedited placement decision by a receiving state, the sending agency shall take the following minimum steps prior to submitting a request for an ICPC expedited placement decision:

(a) Obtain either a signed statement of interest from the potential placement resource or a written statement from the assigned case manager in the sending state that following a conversation with the potential placement resource, the potential placement resource confirms appropriateness for the ICPC expedited placement decision process. Such statement shall include the following regarding the potential placement resource:

1. s/he is interested in being a placement resource for the child and is willing to cooperate with the ICPC process.
2. s/he fits the definition of parent, stepparent, grandparent, adult brother or sister, adult aunt or uncle, or his or her guardian, under Article VIII(a) of the ICPC.
3. the name and correct address of the placement resource, all available telephone numbers and other contact information for the potential placement resource, and the date of birth and social security number of all adults in the home.
4. a detail of the number and type of rooms in the residence of the placement resource to accommodate the child under consideration and the number of people, including children, who will be residing in the home.
5. s/he has financial resources or will access financial resources to feed, clothe and care for the child.
6. if required due to age and/or needs of the child, the plan for child care, and how it will be paid for.
7. s/he acknowledges that a criminal records and child abuse history check will be completed on any persons residing in the home required to be screened under the law of the receiving state and that, to the best knowledge of the

placement resource, no one residing in the home has a criminal history or child abuse history that would prohibit the placement.

8. whether a request is being made for concurrence to relinquish jurisdiction if placement is sought with a parent from whom the child was not removed.

(b) The sending agency shall submit to the sending state court:

1. the signed written statement noted in 7a, above, and
2. a statement that based upon current information known to the sending agency, that it is unaware of any fact that would prohibit the child being placed with the placement resource and that it has completed and is prepared to send all required paperwork to the sending state ICPC office, including the ICPC-100A and ICPC Form 101.

8. Sending state court orders: The sending state court shall enter an order consistent with the Form Order for Expedited Placement Decision adopted with this modification of Regulation No. 7 subject to any additions or deletions required by federal law or the law of the sending state. The order shall set forth the factual basis for a finding that Regulation No. 7 applies to the child in question, whether the request includes a request for a provisional approval of the prospective placement and a factual basis for the request. The order must also require completion by the sending agency of ICPC Form 101 for the expedited request.

9. Time frames and methods for processing of ICPC expedited placement decision:

(a) Expedited transmissions: The transmission of any documentation, request for information under paragraph 10, or decisions made under this regulation shall be by overnight mail, facsimile transmission, or any other recognized method for expedited communication, including electronic transmission, if acceptable. The receiving state shall recognize and give effect to any such expedited transmission of an ICPC-100A and/or supporting documentation provided it is legible and appears to be a complete representation of the original. However, the receiving state may request and shall be entitled to receive originals or duly certified copies if it considers them necessary for a legally sufficient record under its laws. Any state Compact Administrator may waive any requirement for the form of transmission of original documents in the event he or she is confident in the authenticity of the forms and documents provided.

(b) Sending state court orders to the sending state agency: The sending state court shall send a copy of its signed order of compliance to the sending state agency within two (2) business days of the hearing or consideration of the request. The order shall include the name, mailing address, e-mail address, telephone number and FAX number of the clerk of court or a designated court administrator of the sending state court exercising jurisdiction over the child.

(c) Sending agency sends ICPC request to sending state ICPC office: The sending state court shall direct the sending agency to transmit to the sending state Compact Administrator within three (3) business days of receipt of the signed Order of Compliance, a completed ICPC-100A and Form 101, the statement required under Paragraph 7 above and supporting documentation pursuant to ICPC Article III.

(d) Sending State ICPC office sends ICPC Request to Receiving State ICPC office: Within two (2) business days after receipt of a complete Regulation 7 request, the sending state Compact Administrator shall transmit the complete request for the assessment and for any provisional placement to the receiving state Compact Administrator. The request shall include a copy of the Order of Compliance rendered in the sending state.

(e) Timeframe for receiving state ICPC office to render expedited placement decision: no later than twenty (20) business days from the date that the forms and materials are received by the receiving state Compact Administrator, the receiving state Compact Administrator shall make his or her determination pursuant to Article III(d) of the ICPC and shall send the completed 100-A to the sending state Compact Administrator by expedited transmission.

(f) Timeframe for receiving state ICPC office to send request packet to receiving local agency: The receiving state Compact Administrator shall send the request packet to the local agency in the receiving state for completion within two (2) business days of receipt of the completed packet from the sending state Compact Administrator.

(g) Timeframe for receiving state local agency to return completed home study to central office: The local agency in the receiving state shall return the completed home study to the receiving state Compact Administrator within fifteen (15) business days (including date of receipt) of receipt of the packet from the receiving state Compact Administrator.

(h) Timeframe for receiving state ICPC Compact Administrator to return completed home study to sending state: Upon completion of the decision process under the timeframes in this regulation, the receiving state Compact Administrator shall provide a written report, a 100A approving or denying the placement, and a transmittal of that determination to the sending state Compact Administrator as soon as possible, but no later than three (3) business days after receipt of the packet from the receiving state local agency and no more than twenty (20) business days from the initial date that the complete documentation and forms were received by the receiving state Compact Administrator from the sending state Compact Administrator.

10. Recourse if sending or receiving state determines documentation is insufficient:

(a) In the event the sending state Compact Administrator finds that the ICPC request documentation is substantially insufficient, s/he shall specify to the sending agency what additional information is needed and request such information from the sending agency.

(b) In the event the receiving state Compact Administrator finds that the ICPC request documentation is substantially insufficient, he or she shall specify what additional information is needed and request such information from the sending state Compact Administrator. Until receipt of the requested information from the sending state Compact Administrator, the receiving state is not required to continue with the assessment process.

(c) In the event the receiving state Compact Administrator finds that the ICPC request documentation is lacking needed information but is otherwise sufficient, s/he she shall specify what additional information is needed and request such information from the sending state Compact Administrator. If a provisional placement is being pursued, the provisional placement evaluation process shall continue while the requested information is located and provided.

(d) Failure by a Compact Administrator in either the sending state or the receiving state to make a request for additional documentation or information under this paragraph within two (2) business days of receipt of the ICPC request and accompanying documentation by him or her shall raise a presumption that the sending agency has met its requirements under the ICPC and this regulation.

11. Failure of receiving state ICPC office or local agency to comply with ICPC Regulation No. 7: Upon receipt of the Regulation No. 7 request, if the receiving state Compact Administrator determines that it will not be possible to meet the timeframes for the Regulation No. 7 request, whether or not a provisional request is made, the receiving state Compact Administrator shall notify the sending state Compact Administrator as soon as practical and set forth the receiving state's intentions in completing the request, including an estimated time for completion or consideration of the request as a regular ICPC request. Such information shall also be transmitted to the sending agency by the sending state Compact Administrator for it to consider other possible alternatives available to it.

If the receiving state Compact Administrator and/or local state agency in the receiving state fail(s) to complete action for the expedited placement request as prescribed in this regulation within the time period allowed, the receiving state shall be deemed to be out of compliance with this regulation and the ICPC. If there appears to be a lack of compliance, the sending state court that sought the provisional placement and expedited placement decision may so inform an appropriate court in the receiving state, provide that court with copies of relevant documentation and court orders entered in the case, and request assistance. Within its jurisdiction and authority, the requested court may render such assistance, including the holding of hearings, taking of evidence, and the making of appropriate orders, for the purpose of obtaining compliance with this regulation and the ICPC.

12. Removal of a child: Following any approval and placement of the child, if the receiving state Compact Administrator determines that the placement no longer meets the individual needs of the child, including the child's safety, permanency, health, well-being, and mental, emotional, and physical development, then the receiving state Compact Administrator may request the sending state Compact Administrator arrange for the immediate return of the child or make alternative placement as provided in Article V (a) of the ICPC. The receiving state request for removal may be withdrawn if the sending state arranges services to resolve the reason for the requested removal and the receiving and sending state Compact Administrators mutually agree to the plan. If no agreement is reached, the sending state shall expedite return of the child to the sending state within five (5) business days unless otherwise agreed in writing between the sending and receiving state Compact Administrators.

13. This regulation as first effective October 1, 1996, and readopted pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting of April 1999, is amended pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting of May 1, 2011; the regulation, as amended was approved on May 1, 2011 and is effective as of October 1, 2011.

Regulation No. 8

Change of Placement Purpose

1. An ICPC-100B should be prepared and sent in accordance with its accompanying instructions whenever there is a change of purpose in an existing placement, e.g., from foster care to preadoption even though the placement recipient remains the same. However, when a receiving state or a sending state requests a new ICPC-100A in such a case, it should be provided by the sending agency and transmitted in accordance with usual procedures for processing of ICPC-100As.

2. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning.

3. This regulation is effective on and after April 30, 2000, pursuant to Article VII of the Interstate Compact on the Placement of Children by action of the Association of Administrators of the Interstate Compact on the Placement of Children at its annual meeting of April 30–May 3, 2000.

Regulation No. 9

Definition of a Visit

Regulation No. 9 ("Definition of a Visit"), as first adopted in 1999, is amended to read as follows:

1. A visit is not a placement within the meaning of the Interstate Compact on the Placement of Children (ICPC). Visits and placements are distinguished on the basis of purpose, duration, and the intention of the person or agency with responsibility for planning for the child as to the child's place of abode.

2. The purpose of a visit is to provide the child with a social or cultural experience of short duration, such as a stay in a camp or with a friend or relative who has not assumed legal responsibility for providing child care services.

3. It is understood that a visit for twenty-four (24) hours or longer will necessarily involve the provision of some services in the nature of child care by the person or persons with whom the child is staying. The provision of these services will not, of itself, alter the character of the stay as a visit.

4. If the child's stay is intended to be for no longer than thirty (30) days and if the purpose is as described in Paragraph 2, it will be presumed that the circumstances constitute a visit rather than a placement.

5. A stay or proposed stay of longer than thirty (30) days is a placement or proposed placement, except that a stay of longer duration may be considered a visit if it begins and ends within the period of a child's vacation from school as ascertained from the academic calendar of the school. A visit may not be extended or renewed in a manner which causes or will cause it to exceed thirty (30) days or the school vacation period, as the case may be. If a stay does not from the outset have an express terminal date, or if its duration is not clear from the circumstances, it shall be considered a placement or proposed placement and not a visit.
6. A request for a home study or supervision made by the person or agency which sends or proposes to send a child on a visit and that is pending at the time that the visit is proposed will establish a rebuttable presumption that the intent of the stay or proposed stay is not a visit.
7. A visit as defined in this regulation is not subject to the Interstate Compact on the Placement of Children.
8. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning.
9. This regulation was first adopted as a resolution effective April 26, 1983; was promulgated as a regulation as of April 1999; and is amended by the Compact Administrators, acting jointly and pursuant to Article VII of the Interstate Compact on the Placement of Children, at their annual meeting of April 2002, with such amendments effective after June 27, 2002.

Regulation No. 10

Guardians

Regulation No. 10 ("Guardians"), as first adopted in 1999, is amended to read as follows:

1. Guardian Defined.

As used in the Interstate Compact on the Placement of Children (ICPC) and in this Regulation:

(a) "Guardian" means a public or private agency, organization or institution which holds a valid and effective permanent appointment from a court of competent jurisdiction to have custody and control of a child, to plan for the child, and to do all other things for or on behalf of a child which a parent would have authority and responsibility for doing by virtue of an unrestricted parent-child relationship. An appointment is permanent for the purposes of this paragraph if the appointment would allow the guardianship to endure until the child's age of majority without any court review, subsequent to the appointment, of the care that the guardian provides or the status of other permanency planning which the guardian has a professional obligation to carry out. Guardian also means an individual who is a non-agency guardian as defined in subparagraph (b) hereof.

(b) "Nonagency guardian" means an individual holding a currently valid appointment from a court of competent jurisdiction to have all of the authority and responsibility of a guardian as defined in subparagraph (a) hereof.

2. Prospective Adoptive Parents Not Guardians.

An individual with whom a child is placed as a preliminary to a possible adoption cannot be considered a non-agency guardian of the child, for the purpose of determining applicability of ICPC to the placement, unless the individual would qualify as a lawful recipient of a placement of the child without having to comply with ICPC as provided in Article VIII (a) thereof.

3. Effect of Guardianship on ICPC Placements.

(a) An interstate placement of a child with a nonagency guardian, whose appointment to the guardianship existed prior to consideration of the making of the placement, is not subject to ICPC if the sending agency is the child's parent, stepparent, grandparent, adult brother or sister, or adult uncle or aunt.

(b) An appropriate court of the sending agency's state must continue its jurisdiction over a non-exempt placement until applicability of ICPC to the placement is terminated in accordance with Article V (a) of ICPC.

4. Permanency Status of Guardianship.

(a) A state agency may pursue a guardianship to achieve a permanent placement for a child in the child welfare system, as required by federal or state law. In the case of a child who is already placed in a receiving state in compliance with ICPC, appointment of the placement recipient as guardian by the sending state court is grounds to terminate the applicability of the ICPC when the sending and receiving state compact administrators concur on the termination pursuant to Article V (a). In such an instance, the court which appointed the guardian may continue its jurisdiction if it is maintainable under another applicable law.

(b) If, subsequent to the making of an interstate placement pursuant to ICPC, a court of the receiving state appoints a non-agency guardian for the child, such appointment shall be construed as a request that the sending agency and the receiving state concur in the discontinuance of the application of ICPC to the placement. Upon concurrence of the sending and receiving states, the sending agency and an appropriate court of the sending state shall close the ICPC aspects of the case and the jurisdiction of the sending agency pursuant to Article V (a) of ICPC shall be dismissed.

5. Guardian Appointed by Parent.

If the statutes of a jurisdiction so provide, a parent who is chronically ill or near death may appoint a guardian for his or her children, which guardianship shall take effect on the death or mental incapacitation of the parent. A nonagency guardian so appointed shall be deemed a nonagency guardian as that term is used in Article VIII (a) of ICPC, provided that such nonagency guardian has all of the powers and responsibilities that a parent would have by virtue of an unrestricted parent-child relationship. A placement with a nonagency guardian as described in this paragraph shall be effective for the purposes of ICPC without court appointment or confirmation unless the statute pursuant to which it is made otherwise provides and if there is compliance with procedures required by the statute. However, the parent must be physically present in the jurisdiction having the statute at the time that he or she makes the appointment or expressly submits to the jurisdiction of the appointing court.

6. Other Definitions of Guardianship Unaffected.

The definitions of "guardian" and "nonagency guardian" contained in this regulation shall not be construed to affect the meaning or applicability of any other definitions of "guardian" or "nonagency guardian" when employed for purposes or to circumstances not having a bearing on placements proposed to be made or made pursuant to ICPC.

7. Words and phrases used in this regulation have the same meanings as in the Compact, unless the context clearly requires another meaning.

8. This regulation was first promulgated in April 1999; it is amended by the Compact Administrators, acting jointly and pursuant to Article VII of the Interstate Compact on the Placement of Children, at their annual meeting of April 2002, with such amendments effective after June 27, 2002.

Regulation No. 11

Responsibility of States to Supervise Children

The following regulation was adopted by the Association of Administrators of the Interstate Compact on the Placement of Children on April 18, 2010 and is declared to be in effect on and after October 1, 2010.

1. Words and phrases used in this regulation have the same meanings as those ascribed to them in the Interstate Compact on the Placement of Children (ICPC). A word or phrase not defined in the ICPC shall have the same meaning ascribed to it in common usage.

2. Definitions:

(a) "Central Compact Office" means the office that receives ICPC placement referrals from sending states and sends ICPC placement referrals to receiving states. In states that have one central compact office that services the entire state, the term "central compact office" has the same meaning as "central state compact office" as described in Regulation 5 of the ICPC. In states in which ICPC placement referrals are sent directly to receiving states and received directly from sending states by more than one county or other regional area within the state, the "central compact office" is the office within each separate county or other region that sends and receives ICPC placement referrals.

(b) "Child Welfare Caseworker" means a person assigned to manage the cases of dependency children who are in the custody or under the supervision of a public child welfare agency.

(c) "Public Child Placing Agency" means any government child welfare agency or child protection agency or a private entity under contract with such an agency, regardless of whether they act on behalf of a state, county, municipality or other governmental unit and which facilitates, causes or is involved in the placement of a child from one state to another.

(d) "Supervision" means monitoring of the child and the child's living situation by the receiving state after a child has been placed in a receiving state pursuant to an approved placement under Article III(d) of the ICPC or pursuant to a child's relocation to a receiving state in accordance with Regulation 1 of the ICPC.

3. A receiving state must supervise a child placed pursuant to an approved placement under Article III(d) of the Interstate Compact on the Placement of Children (ICPC) if supervision is requested by the sending state, and;

(a) the sending agency is a public child placing agency, and

(b) the agency that completed the home study for placement of the child in the receiving state is a public child placing agency, and

(c) the child's placement is not in a residential treatment center or a group home.

4. Supervision must begin when the child is placed in the receiving state pursuant to an approved placement under Article III(d) of the ICPC and the receiving state has received a form 100B from the sending state indicating the date of the child's placement. Supervision can and should begin prior to receipt of the form 100B if the receiving state has been informed by other means that the child has been placed pursuant to an approved placement under Article III(d) of the ICPC.

5. (a) Supervision must continue until:

1. the child reaches the age of majority or is legally emancipated; or
2. the child's adoption is finalized; or
3. legal custody of the child is granted to a caregiver or a parent and jurisdiction is terminated by the sending state; or
4. the child no longer resides at the home approved for placement of the child pursuant to Article III(d) of the ICPC; or
5. jurisdiction over the child is terminated by the sending state; or
6. legal guardianship of the child is granted to the child's caregiver in the receiving state; or
7. the sending state requests in writing that supervision be discontinued, and the receiving state concurs.

(b) Supervision of a child in a receiving state may continue, notwithstanding the occurrence of one of the events listed above in 5(a)(1-7), by mutual agreement of the sending and receiving state's central compact offices.

6. Supervision must include face-to-face visits with the child at least once each month and beginning no later than 30 days from the date on which the child is placed, or 30 days from the date on which the receiving state is notified of the child's placement, if notification occurs after placement. A majority of visits must occur in the child's home. Face-to-face visits must be performed by a Child Welfare Caseworker in the receiving state. The purpose of face-to-face visits is to help ensure the on-going safety and well being of the child and to gather relevant information to include in written reports back to the Public Child Placing Agency in the sending state. If

significant issues of concern are identified during a face-to-face visit or at any time during a child's placement, the receiving state shall promptly notify the central compact office in the sending state in writing.

7. The Child Welfare Caseworker assigned to supervise a child placed in the receiving state shall complete a written supervision report at least once every ninety (90) days following the date of the receipt of the form 100B by the receiving state's central compact office notifying the receiving state of the child's placement in the receiving state. Completed reports shall be sent to the central compact office in the sending state from the central compact office in the receiving state. At a minimum such reports shall include the following:

- (a) Date and location of each face-to-face contact with the child since the last supervision report was completed.
- (b) A summary of the child's current circumstances, including a statement regarding the on-going safety and well-being of the child.
- (c) If the child is attending school, a summary of the child's academic performance along with copies of any available report cards, education-related evaluations or Individual Education Program (IEP) documents.
- (d) A summary of the child's current health status, including mental health, the dates of any health-related appointments that have occurred since the last supervision report was completed, the identity of any health providers seen, and copies of any available health-related evaluations, reports or other pertinent records.
- (e) An assessment of the current placement and caretakers (e.g., physical condition of the home, caretaker's commitment to child, current status of caretaker and family, any changes in family composition, health, financial situation, work, legal involvement, social relationships; child care arrangements).
- (f) A description of any unmet needs and any recommendations for meeting identified needs.
- (g) If applicable, the supervising caseworker's recommendation regarding continuation of the placement, return of legal custody to a parent or parents with whom the child is residing and termination of the sending state's jurisdiction, finalization of adoption by the child's current caretakers or the granting of legal guardianship to the child's current caretakers.

8.

- (a) The receiving state shall respond to any report of abuse or neglect of a child placed in the receiving state pursuant to an approved placement under Article III(d) of the ICPC and will respond in the same manner as it would to a report of abuse or neglect of any other child residing in the receiving state.
- (b) If the receiving state determines that a child must be removed from his or her home in order to be safe, and it is not possible for the child placing agency in the sending state to move the child at the time that the receiving state makes this determination, the receiving state shall place the child in a safe and appropriate setting in the receiving state. The receiving state shall promptly notify the sending state if a child is moved to another home or other substitute care facility.
- (c) The receiving state shall notify the central compact office in the sending state of any report of child abuse or neglect of a child placed in the receiving state pursuant to an approved placement under Article III(d) of the ICPC, regardless of whether or not the report is substantiated. Notification of the central compact office in the sending state will occur as soon as possible after such a report is received.
- (d) It is the responsibility of the public child placing agency in the sending state to take action to ensure the ongoing safety of a child placed in a receiving state pursuant to an approved placement under Article III(d) of the ICPC, including return of the child to the sending state as soon as possible when return is requested by the receiving state.
- (e) Pursuant to Article V of the ICPC, it is the responsibility of the public child placing agency in the sending state to take timely action to relieve the receiving state of any financial burden the receiving state has incurred as a result of placing a child into substitute care after removing the child from an unsafe home in which the child was previously placed by the public child placing agency in the sending state pursuant to Article III(d) of the ICPC.

9.

- (a) The child placing agency in the sending state is responsible for case planning for any child placed in a receiving state by the child placing agency in the sending state pursuant to an approved placement under Article III(d) of the ICPC.
- (b) The child placing agency in the sending state is responsible for the ongoing safety and well-being of any child placed in a receiving state by the child placing agency in the sending state pursuant to an approved placement under Article III(d) of the ICPC and is responsible for meeting any identified needs of the child that are not being met by other available means.
- (c) The receiving state shall be responsible to assist the sending state in locating appropriate resources for the child and/or the placement resource.
- (d) The receiving state shall notify the central compact office in the sending state in writing of any unmet needs of a child placed in the receiving state pursuant to an approved placement under Article III(d) of the ICPC.
- (e) If the child's needs continue to be unmet after the notification described in (d) above has occurred, the receiving state may require the child placing agency in the sending state to return the child to the sending state. Before requiring the return of the child to the sending state, the receiving state shall take into consideration the negative impact on the child that may result from being removed from his or her home in the receiving state and shall weigh the potential for such

negative impact against the potential benefits to the child of being returned to the sending state. Notwithstanding the requirement to consider the potential for such negative impact, the receiving state has sole discretion in determining whether or not to require return of a child to the sending state.



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IN THE _____ COURT OF THE STATE OF _____

IN RE: CHILD'S NAME DOB

REGULATION 7 FORM ORDER FOR EXPEDITED PLACEMENT DECISION PURSUANT TO THE ICPC

THIS CAUSE came on to be heard on _____ before the court on the motion/petition of _____ (party making request) seeking the entry of this order for compliance with Regulation 7 of the Interstate Compact on the Placement of Children (ICPC); and the court, hearing evidence and/or the parties being in agreement, does find as follows:

A. The name and date of birth of each child noted below on this date is as follows:

_____ (Name of child, date of birth)

_____ (Name of child, date of birth)

_____ (Name of child, date of birth)

B. This court has jurisdiction over each child noted pursuant to Articles II, III and V(a) of the ICPC to invoke the Compact for the purpose of requesting one or more home study assessments and expedited placement decisions on potential resource families living in one or more receiving states.

C. Pursuant to Article III(d) of the Compact, this court may only place, or authorize the department/agency to place, each child above in an approved placement in a receiving state, including a provisional placement as authorized by Regulation 7 of the ICPC, after receipt of written notification from the receiving state that the proposed placement does not appear to be contrary to the interests of the child.

D. If any child above is placed pursuant to paragraph C above, this court will retain Article V(a) jurisdiction over that child sufficient to determine all matters in relation to the custody, supervision, care and disposition of him/her, which it would have if the child had remained in this state; and this court will not terminate jurisdiction over said child or terminate the supervisory responsibility of the department/agency having custody of the child during the period of placement in the receiving state until the child is adopted, reaches the age of majority, becomes self-supporting, or is discharged with concurrence of the appropriate authority in the receiving state.

E. This court expressly finds that its jurisdiction over said child includes the power to effect or cause the return of the child to this state or its transfer to another location or custodian pursuant to law within five (5) business days of receipt of written notification from the receiving state Compact Administrator that placement authorization will not be approved or that previous placement approval has been withdrawn by the receiving state, and that the sending state has and will continue to have financial responsibility for support and maintenance of the child during the period of placement in the receiving state.

Further, this court order provides sufficient authority and direction for the sending agency to immediately return said child(ren) within five (5) working days of receipt of written notification from the receiving state Compact Administrator that placement authorization will not be approved, or that previous placement approval has been withdrawn by the receiving state for reasons determined by the receiving state.

F. If any child noted above is sent, or allowed to go, to a provisional placement in a receiving state, this court finds that any such placement must be in compliance with Regulation 7 of the ICPC of which this court takes judicial notice, including its purpose in defining and regulating a provisional placement under the Compact.

AND THE COURT having heard testimony and argument of counsel and any unrepresented parties and reviewed documents as permitted by law and Regulation 7 of the ICPC, the undersigned makes the following findings of fact by

- () clear and convincing evidence
- () a preponderance of the evidence

that paragraphs 5, 6, and 7 of Regulation 7 of the ICPC apply regarding each child noted above:

G. _____ (relative's name) is the proposed placement resource in the receiving state of _____ and is the

- a. ___ Mother
- b. ___ Father
- c. ___ Stepparent
- d. ___ Grandparent
- e. ___ Adult brother or sister
- f. ___ Adult uncle or aunt
- g. ___ Guardian

of _____ (child noted above); and

H. Each child noted above is under the jurisdiction of the court as a result of action taken by a child welfare agency.

I. The child _____ referenced in A. meet(s) one or more of the following requirements pursuant to paragraph 5 of Regulation 7:

1. The court has the authority to determine custody and placement of each child or has delegated said authority to the child welfare agency, and each child is being considered for placement in another state with a parent, stepparent, grandparent, adult brother or sister, or adult aunt or uncle, or guardian of the child named in A, and the child in A above meets the following criteria:

a. () **unexpected dependency** due to sudden or recent incarceration, incapacitation or death of a parent or guardian; incapacitation means a parent or guardian is unable to care for a child due to an unexpected medical, mental or physical condition of a parent or guardian, or

b. () at least one of the children sought to be placed is four **years of age or younger**, including older siblings sought to be placed with the same proposed placement resource; or

c. () the court finds that _____ (child's name), is one of the **children in a sibling group sought to be placed and has a substantial relationship** with the proposed placement resource; substantial relationship means the proposed placement has spent more than cursory time with the child, is known to the child, and has established more than a minimal bond with the child; or

d. () the child(ren) is/are currently in an emergency placement.

J. The department/agency has provided the court with a signed statement(s) from the potential placement resource(s) or the assigned case manager in the sending state that following a conversation with the potential placement resource, the potential placement resource confirms/meets the minimum requirements as required under Paragraph 7a of Regulation 7.

K. The sending agency has completed and is prepared to send all required paperwork to the sending state ICPC office, including the statement from the prospective placement resource or the assigned case manager under Paragraph 7a of Regulation 7, ICPC 100A and ICPC Form 101.

IN CONSEQUENCE OF THE FOREGOING, IT IS, THEREFORE, ORDERED AND ADJUDGED AS FOLLOWS:

1. This court, having jurisdiction over the above referenced child(ren), invokes the use of the Interstate Compact on the Placement of Children and authorizes and directs this state's department/agency having custody of the child(ren) to be the sending agency in this/these matter(s) and directs it to complete, execute, and file all necessary forms and carry out and effectuate all obligations and responsibilities as the sending agency under the Compact.

2. The department/agency shall seek the following:

a. () Approval for a provisional placement of each child noted above in the receiving state pending a more comprehensive home assessment of the potential placement resource by the receiving state and an expedited placement decision regarding final placement of the child(ren), or

b. () A comprehensive home assessment of the potential placement resource in the receiving state and an expedited placement decision without a provisional placement of the subject child(ren), or

c. () Approval for a provisional placement with a parent from whom the child was not removed and concurrence to relinquish jurisdiction upon final approval.

3. The transmission of any documentation or request for information in this case/these cases or decisions made shall be sent by overnight mail, FAX or as an attachment to an e-mail if approved by receiving state or such other equally expedient method as may in the future become available.

4. The court designates the following person to send copies of this and other orders needed to comply with Regulation 7 of the ICPC to the sending department/agency within two (2) business days of the entry of this and other orders entered in this case:

a. name _____

b. mailing address _____

c. e-mail address _____

d. telephone number _____

e. FAX number _____

5. The person designated to receive communication regarding the progress of the ICPC process in this/these matter(s) is:

- a. name _____
- b. mailing address _____
- c. e-mail address _____
- d. telephone number _____
- e. FAX number _____

6. The sending department/agency shall transmit, within three (3) business days of receipt of this signed order, a completed Form 100A and 101 (Request for Placement), and if not already sent, all required documentation for compliance with Regulation 7 and any supporting documentation pursuant to ICPC Article III, to the sending state Compact Administrator.

7. Within a time not to exceed two (2) business days after receipt of a complete Regulation 7 request, the sending state Compact Administrator shall transmit the complete request for the assessment and for any provisional placement to the receiving state Compact Administrator. The request shall include a copy of this Order of Compliance. In the event the sending state Compact Administrator finds that the ICPC documentation received is substantially insufficient, he or she shall specify to the sending agency what additional information is needed and request such information from the sending agency.

8. When a provisional placement sought by the sending state is approved by the receiving state for the subject child(ren), the receiving state Compact Administrator shall immediately notify the sending state Compact Administrator of that fact in writing through expedited means. Said person designated shall then seek an early hearing by this court to determine if said placement is in the best interests of the child(ren).

The person designated to receive communication in Paragraph 4 above shall maintain contact with the sending state's Compact Administrator to assist this court in determining the status of the ICPC process and shall report in writing to the court, the parties, and their counsel regarding said status no later than 7 days prior to any scheduled court hearing and provide any updates closer to the hearing date as may come to his/her attention. The sending state's Compact Administrator shall cooperate with and work with the above designated person and provide him/her with information and assistance regarding the progress of the ICPC process for the cases of the subject child(ren).

9. This case/these cases is/are continued to _____ at _____ a.m./p.m. for further hearing on the status of the ICPC process to which the parties present and their counsel are recognized to appear.

ENTERED THIS _____ DAY OF _____, 20__.

Judge/Judicial Officer