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## INVITATION TO COMMENT SPR12-19

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<b>Title</b>	<b>Action Requested</b>
Juvenile Law: Interstate Compact on the Placement of Children	Review and Submit Comments by June 15, 2012
<b>Proposed Rules, Forms, Standards, or Statutes</b>	<b>Proposed Effective Date</b>
Amend rule 5.616 and revise forms JV-565 and JV-567	January 1, 2013
<b>Proposed by</b>	<b>Contact</b>
Family and Juvenile Law Advisory Committee Hon. Kimberly J. Nystrom-Geist, Cochair Hon. Dean Stout, Cochair	Mara Bernstein, 415-865-7728 <a href="mailto:mara.bernstein@jud.ca.gov">mara.bernstein@jud.ca.gov</a>

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### Executive Summary and Origin

The interstate agreement known as the Interstate Compact on the Placement of Children or ICPC governs the placement of California children in other states, as well as the placement of out-of-state children in California. Although the Interstate Compact on the Placement of Children has not changed in recent years, the regulations implementing the ICPC were amended in 2010 and again in 2011. Most notably, 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) of the California Rules of Court, which concerns placement of a child out of state in the home of a parent. These developments require that rule 5.616 and two ICPC-related forms be revised to bring them in line with the new requirements.

### Background

#### The Interstate Compact on the Placement of Children

The ICPC is a formal agreement among the 50 states, the District of Columbia, and the U.S. Virgin Islands for handling placements of children that cross state lines. The purpose of the ICPC is to establish consistent and timely practices and sharing of information among participating jurisdictions to ensure the safety and well-being of children placed in out-of-state relatives' homes, foster homes, and group homes.

*The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.*

The ICPC is codified in California as Family Code sections 7900–7907.5. The 10 articles which make up the interstate compact, found in section 7901, have remained unchanged since their endorsement by the 52 signatory members in 1974.

### **ICPC regulations**

The ICPC Regulations<sup>1</sup> provide guidance to state and local child welfare agencies and the courts on implementation of the ICPC. In contrast to the ICPC itself, the regulations are updated periodically. The ICPC regulations are promulgated by the Association of Administrators of the Interstate Compact on the Placement of Children (AAICPC), which was established in 1974 and consists of members from all 50 states, the District of Columbia, and the U.S. Virgin Islands. The AAICPC has authority under the ICPC to “promulgate rules and regulations to carry out more effectively the terms and provisions” of the ICPC. The AAICPC obtains its secretariat services from the American Public Human Services Association (APHSA) as an affiliate.

### **The Proposal**

#### **ICPC regulations: recent changes**

The ICPC regulations were changed significantly twice in the past two years.<sup>2</sup> In 2010, Regulation No. 1 (Relocation of Family Units) was updated and Regulation No. 11 (Responsibility of States to Supervise Children) was adopted, with the changes going into effect October 1, 2010. Neither of these changes had a significant court impact, so no rule or form changes were proposed last year.

In 2011, three more regulations were updated: Regulation No. 2 (Public Court Jurisdiction Cases: Placements for Public Adoption or Foster Care in Family Settings and/or with Parents, Relatives), Regulation No. 3 (Definitions and Placement Categories: Applicability and Exemptions), and Regulation No. 7 (Expedited Placement Decision). In addition, a new sample court order accompanying Regulation No. 7 (Regulation 7 Form Order for Expedited Placement Decision Pursuant to the ICPC) was adopted. These changes went into effect October 1, 2011. The regulations can be found on the AAICPC website at <http://icpc.aphsa.org/Home/regulations.asp> and the sample order at <http://icpc.aphsa.org/Home/Doc/FormOrderforExpeditedPlacementDecision2011.pdf>.

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<sup>1</sup> The regulations are known simply as ICPC regulations, with no formal name or citation by which to refer to them. They govern our proceedings in California, but are not codified in California.

<sup>2</sup> The committee has received information from the California ICPC Compact Administrator’s Office at the Department of Social Services that the ICPC regulations are expected to be amended again around May 2012, with an anticipated effective date of October 2012. What additional changes will be made and whether there will be any court impact or need for further rule or form revisions are unknown. The committee recommends that (1) any minor rule and form revisions necessitated by the 2012 regulation changes be incorporated into this proposal as soon as those changes are adopted and information becomes available, and (2) any significant rule and form revisions be considered separately in a spring 2013 proposal.

Many of the 2011 changes to the regulations affect California court practice and render inaccurate the existing rules and forms related to the ICPC, specifically rule 5.616 of the California Rules of Court and Judicial Council forms JV-565 and JV-567. These rules and forms need significant revisions to be consistent with the new and revised regulations and sample order, to the extent permitted by California law (see discussion of *In re C.B.* below for these limitations).

### ***In re C.B.* and related cases**

In addition to the new regulations, recent developments in California case law also necessitate rule and form revisions. 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.

*In re C.B.* was one of a string of California appellate opinions to take this position (see *In re Z.K.* (2011) 201 Cal.App.4th 51, *In re John M.* (2006) 141 Cal.App.4th 1564, *In re Emmanuel R.* (2001) 94 Cal.App. 4th 452, *In re Johnny S.* (1995) 40 Cal.App.4th 969, and *Tara S. v. Superior Court* (1993) 13 Cal.App.4th 1834), but it was the first to invalidate Rule 5.616(b)(1) in its present form. In the only federal court case to date to address the issue, the Third Circuit held similarly that the provisions of the ICPC do not apply to placements with parents (*McComb v. Wambaugh*, (3d Cir. 1991) 934 F.2nd 474).

Rule 5.616(b)(1) in its current form is consistent with the ICPC regulations, requiring that ICPC procedures be followed for some placements with a parent in another state. The *C.B.* decision clarifies that this is an incorrect interpretation of the ICPC Compact itself. The court found that the Compact requires that ICPC procedures be followed for placements with relatives but not with parents, and in this situation of a discrepancy between the Compact and both the California Rules of Court and national regulations, the Compact is controlling. Rule 5.616 and form JV-567 therefore require revisions to ensure that courts are not mandating completion of the ICPC approval process when it is not required.

### **Rule and Form changes**

Changes to rule 5.616 and forms JV-565 and JV-567 are needed to ensure that these rules and forms comply with the recent changes in the law described above. The existing rule and forms are legally inaccurate, and, if used, will create confusion in our courts and the courts in other states that are the recipients of these orders. Therefore, updating them is essential. All the recommended amendments to the rule, and revisions to the forms, are either directly required by the updated regulations and the *C.B.* decision, or are practical changes necessary to implement the legal requirements. The key changes are described below.

**Rule 5.616.** The proposed amendments to rule 5.616 (Interstate Compact on the Placement of Children) of the California Rules of Court include:

- Updated definitions, clarifying that ICPC compliance is not mandated for out-of-state placements with parents and listing the categories of placements that require ICPC compliance;
- A new section on placing a child with an out-of-state parent, with guidance about discretionary actions judges can take in this circumstance;
- A new definition of “child” that allows ICPC procedures to extend to cover nonminor dependents up to age 21, to comply with Regulation No. 3;
- A new section on relocation of family units, with citation to Regulation No. 1;
- Updated requirements for expedited placement cases under Regulation No. 7, including documents that must be filed with the court, required court orders, and a listing of the new criteria for determining which cases can be handled using the expedited placement procedures;
- Updated language on steps a California judge can take to communicate with the out-of-state judge to request assistance when California is the sending state and the receiving state appears to be noncompliant with Regulation No.7 requirements;
- Updated references to statutes and regulations, including clarifications of which regulations apply in various placement scenarios; and
- A new advisory committee comment with the web address for the official ICPC regulations page and suggestions to judges for addressing ex parte communication concerns that may arise should they communicate directly with the judge in the receiving state.

Not included in the proposed revisions to rule 5.616 is any process for providing assistance to the sending state when California is the receiving state and the sending state’s judge has requested help with the expedited placement process. Regulation No. 7 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 there would be no open court case in California, and no clear basis for court jurisdiction. A working group of the Family and Juvenile Law Advisory Committee will look at this issue in 2012 and, if appropriate, make recommendations for development of a process to overcome the jurisdictional and procedural hurdles of implementing this clause in California.

**Request for Assistance with Expedited Placement under The Interstate Compact on the Placement of Children (Form JV-565).** When California is the sending state in an expedited placement case, this form may be used by the California judge to request that the judge in the other state assist in obtaining compliance with the expedited placement process. The proposed revisions to this form include:

- An updated title and other minor wording changes to make the form consistent with the updated terminology and requirements in the current Regulation No. 7

- New line items for the name of the judge and court to whom the request is addressed and the name and contact information of the sending judge, to facilitate communication; and
- Making the form optional rather than mandatory to indicate that judge-to-judge communication can be initiated with this form or by other means, such as telephone or e-mail.

**Expedited Placement Under The Interstate Compact on the Placement of Children: Findings and Orders (Form JV-567).** This is the court order form used to make all required findings and orders for expedited placement cases under Regulation No. 7. Paragraph 8 of that regulation (Sending state court orders) requires that “[t]he 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.”

Based on this requirement that the California court order be consistent with the national form order, form JV-567 has been completely rewritten to include all findings and orders from the national form except those addressing placements with parents. JV-567 differs from the Form Order in formatting, word choice and organization, however, in order to make the form as clear and straightforward as possible for California judicial officers and other users and to make the form consistent with other California forms. The most significant of the changes to this form include:

- Addition of space to provide the child’s name and birthday, and judicial officer’s name and contact information;
- A new section for the court to indicate the evidence that has been read and considered, including the two statements required to be submitted to the court under Regulation No. 7;
- Changes to the section listing the various criteria that can be used to qualify a child for expedited placement (formerly “priority placement”), consistent with Regulation No. 7;
- New, lengthier findings and orders to include all requirements in Regulation No. 7 and the form order;
- A new check box for the court to indicate whether provisional placement of the child is sought during the period of time when the home study and expedited placement decision are pending;
- New line items where the judicial officer may designate court and child welfare agency employees to send and receive court orders and other ICPC-related materials, as required by the form order;
- A new section titled “Further Proceedings” which includes the next hearing date and a place for the court to indicate whether an additional hearing is required prior to the child welfare agency physically placing the child in the other state.

## **Alternatives considered**

Many of the processes required by the ICPC and the ICPC Regulations mandate action by the county child welfare agency or social worker in the sending or receiving state or the state-level ICPC Compact Administrator in either state, rather than by the court. One alternative considered in drafting this proposal was to include all new regulatory requirements, but it was determined that only court-related requirements need to be added. As a result, many existing and new requirements in the regulations are not reflected in this proposal. Instead, the proposed amendments to the rules and forms reflect only the regulatory changes that involve court processes, or otherwise affect the courts, as well as the changes mandated by *In re C.B.*

In addition, the decision was made in drafting this proposal to include cross-references to the regulations, rather than listing each requirement from the regulation, where feasible. These cross-references were added in a number of places. For the Expedited Placement section, however, most of the requirements from Regulation No. 7 were written into rule 5.616(h), both because of the complexity of the underlying regulation, and to clarify which parts of the regulation apply in California, and which parts do not.

Alternatives to rules and forms, such as education, training, or guidelines, were not possible for this proposal, since the existing rule and forms already addressed these ICPC issues, but were out of date and legally inaccurate. Repealing the outdated rule and forms and relying on the national regulations is also an inadequate solution, because without the California rule and forms, it would be very difficult for judicial officers and others to determine which elements of the ICPC Regulations are applicable in California.

## **Implementation Requirements, Costs, and Operational Impacts**

The changes to the ICPC Regulations impose implementation costs primarily on local and state level child welfare agencies. The court impact of these new requirements is minimal. The amended rule and revised forms do not create any requirements for the courts or justice partners that were not already mandated by the ICPC, the ICPC Regulations, or the California courts.

In implementing the revised forms, courts will incur standard reproduction costs. In addition, the amended rule and revised forms may require courts to incur some costs for training and implementation, but these should be minimal. There are no new hearings or new court processes created by this proposal.

There may be cost savings 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.

## Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- 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 *In re C.B.* decision 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?
- Are the procedures for Expedited Placement Cases, in rule 5.616(h) and form JV-567, clear and easy to follow? Are any clarifications needed?
- Is the second paragraph of the Advisory Committee Comment, regarding judge-to-judge communication helpful, or is something more needed?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Will the proposal provide cost savings? If so please quantify.
- What are the implementation requirements for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management system, or modifying case management system.
- Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

### Attachments and Links

The amended rule and forms as proposed are attached for review and comment as follows:

1. Rule 5.616 (Interstate Compact on the Placement of Children), at pages 9–17
2. *Request for Assistance with Expedited Placement Under The Interstate Compact on the Placement of Children*, (form JV-565), at page 18
3. *Expedited Placement Under The Interstate Compact on the Placement of Children: Findings and Orders* (form JV-567), at pages 19–22

Supplemental documents that inform this proposal are available online via the following links:

- Interstate Compact on the Placement of Children (ICPC) Regulations  
<http://icpc.aphsa.org/Home/regulations.asp>
- *Regulation 7 Form Order for Expedited Placement Decision Pursuant to the ICPC*  
(sample court order)  
<http://icpc.aphsa.org/Home/Doc/FormOrderforExpeditedPlacementDecision2011.pdf>
- *In re C.B.* (2010) 188 Cal.App.4th 1024:  
[www.courtinfo.ca.gov/opinions/archive/E050209.pdf](http://www.courtinfo.ca.gov/opinions/archive/E050209.pdf)
- The Interstate Compact on the Placement of Children, as codified in California Family Code section 7900 et seq.:  
<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=fam&group=07001-08000&file=7900-7913>

Rule 5.616 of the California Rules of Court would be 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) This rule also applies to ~~priority~~ expedited placements as described ~~below~~ in  
16 ~~(b)(2)(h)~~.  
17  
18 (3) 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 stepparent, a grandparent, an adult brother or sister, an  
25 adult aunt or uncle, a nonagency guardian of the child, a placement recipient  
26 who is not related to the child, a residential institution, a group home, or a  
27 treatment facility.  
28  
29 (A) A court directing or making an award of custody to a parent of the child  
30 or placing a child with his or her parent is not a placement within the  
31 meaning of this rule, ~~unless the sending court retains dependency~~  
32 ~~jurisdiction over the child or the order or award requests or provides for~~  
33 ~~supervision or other services or places some other condition or~~  
34 ~~restriction on the conduct of the parent.~~  
35  
36 (B) ~~Except in cases in which a child is placed with a parent and jurisdiction~~  
37 ~~has been terminated or in cases in which dependency is maintained~~  
38 ~~only to provide services to or impose conditions on the noncustodial~~  
39 ~~parent remaining in the sending jurisdiction, T~~the following situations  
40 each constitute a placement, and the compact must be applied:  
41  
42 (i) An order causing a child to be sent or brought to another party in  
43 a compact jurisdiction without a specific date of return to the  
44 sending jurisdiction;  
45

- (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;
- (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 is placing the child 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) ICPC Regulations Nos. 3, 4, 9, 10, and 11 contain additional definitions that  
5 apply to California ICPC cases, except where inconsistent with California  
6 law.

7  
8 (c) **Compact requirements (Fam. Code, § 7901; ICPC regulations)**

9  
10 Whenever the juvenile court makes a placement in another jurisdiction included in  
11 the compact or reviews a placement plan, the court must adhere to the provisions  
12 and regulations of the compact.

13  
14 (1) Cases in which out-of-state placement is proposed in order to place a child  
15 for public adoption, in foster care, or with relatives, and where the criteria for  
16 expedited placement are not met, must meet all requirements of Regulation  
17 No. 2, except where inconsistent with California law.

18  
19 (2) Expedited placement cases must meet the requirements in (h) and of  
20 Regulation No. 7, except where the requirements of Regulation No. 7 are  
21 inconsistent with California law.

22  
23 (d) **Notice of intention; authorization (Fam. Code, § 7901)**

24  
25 A sending jurisdiction must provide to the designated receiving jurisdiction written  
26 notice of intention to place the child, using ~~an interstate compact placement request~~  
27 Form ICPC-100A: Interstate Compact Placement Request.

28  
29 (1) The representative of the receiving jurisdiction may request and receive  
30 additional information as the representative deems necessary.

31  
32 (2) The child must not be placed until the receiving jurisdiction has determined  
33 that the placement is not contrary to the interest of the child and has so  
34 notified the sending jurisdiction in writing.

35  
36 (e) **Placement of delinquent children in institutional care (Fam. Code, §§ 7901,**  
37 **Art. 6, and 7908)**

38  
39 A child declared a ward of the court under section 602 may be placed in an  
40 institution in another jurisdiction under the compact only when:

41  
42 (1) Before the placement, the court has held a hearing at which the child, parent,  
43 and guardian have had an opportunity to be heard;

44  
45 (2) The court has found that equivalent facilities for the child are not available in  
46 the sending jurisdiction; and

- 1  
2 (3) Institutional care in the other jurisdiction is in the best interest of the child  
3 and will not produce undue hardship for the child.  
4  
5

6 **(f) Relocation of Family Units (ICPC Regulation No. 1)**  
7

- 8 (1) The ICPC applies to family relocation cases when the child has been placed  
9 and continues to live with a family approved by California, the family  
10 relocates to another state with the child, and supervision by California is  
11 ongoing.  
12  
13 (2) The ICPC does not apply when the family with whom the child is placed  
14 relocates to another state and there will be no ongoing supervision by the  
15 sending state or the relocation will be temporary (90 days or less).  
16  
17 (3) See additional requirements for cases involving relocation of family units in  
18 ICPC Regulation No. 1.  
19

20 **(g) Placing a Child with an Out-of-State Parent (Fam. Code, §§ 7901, Art. 5(b),**  
21 **and 7906; ICPC Regulation No. 2, paragraph 3)**  
22

23 When a child will be placed with his or her parent in another state, compliance  
24 with the requirements of the ICPC is not required. However, the court has  
25 discretion to take the steps it deems necessary to ensure the child's safety and  
26 well-being in that placement. Those steps may include:  
27

- 28 (1) Directing the child welfare agency to obtain a home study under the ICPC  
29 guidelines;  
30  
31 (2) Directing the child welfare agency to enter into a contract with a public or  
32 private agency in the receiving state to obtain needed information;  
33  
34 (3) Directing the child welfare agency to enter into an informal agreement with a  
35 public or private agency in the receiving state, or request a courtesy check  
36 from such an agency, to obtain needed information; or  
37  
38 (4) Any other steps that the court deems necessary to ensure the child's safety  
39 and well-being.  
40

41 **(h) Priority Expedited placement**  
42

43 A court in a sending jurisdiction may designate a proposed placement as a ~~priority~~  
44 ~~placement~~ an expedited placement and use expedited procedures as described in  
45 regulation 7 of the compact this section. Other than the exception below in (1), the  
46 requirements of ICPC Regulation No. 7 (Expedited Placement Decision of the

1 ICPC) must be followed when seeking expedited approval of an out-of-state  
2 placement of a child with a relative or guardian.  
3

4 (1) Regulation No. 7 does not apply to any situation in which a California child  
5 is being placed with his or her parent in another state.  
6

7 ~~(1)~~(2) The court may designate a priority an expedited placement on express  
8 findings that: the child is a dependent child removed from and no longer  
9 residing in the home of a parent and now being considered for placement in  
10 another state with a stepparent, grandparent, adult aunt or uncle, adult sibling,  
11 or legal guardian. In addition, the court must find that the child to be placed  
12 meets at least one of the following criteria:  
13

14 ~~(A)~~ The compact administrator of the receiving jurisdiction has had  
15 possession of a properly completed interstate compact placement  
16 request form and supporting documents for over 30 business days, and  
17 the sending jurisdiction agency has not received a notice indicating  
18 whether or not placement in the receiving jurisdiction is contrary to the  
19 interest of the child; or  
20

21 ~~(B)~~ The proposed placement recipient is a parent, stepparent, grandparent,  
22 adult sibling, adult uncle or aunt, or guardian of the child; and  
23

24 ~~(i)~~ The child is under two years of age;  
25

26 ~~(ii)~~ The child is in an emergency shelter; or  
27

28 ~~(iii)~~ The court finds that the child has spent a substantial period of  
29 time in the home of the proposed placement recipient.  
30

31 ~~(A)~~ Unexpected dependency due to the sudden or recent incarceration,  
32 incapacitation, or death of a parent or guardian. Incapacitation means  
33 the parent or guardian is unable to care for the child due to the parent's  
34 medical, mental, or physical condition;  
35

36 ~~(B)~~ The child is 4 years of age or younger;  
37

38 ~~(C)~~ The child is part of a sibling group that will be placed together, where  
39 one or more of the siblings is 4 years of age or younger;  
40

41 ~~(D)~~ The child to be placed, or any of the child's siblings in a sibling group  
42 to be placed, has a substantial relationship with the proposed placement  
43 resource as defined in Regulation No. 7; or  
44

45 ~~(E)~~ The child is currently in an emergency placement.  
46

- 1           (3) Before the court orders an expedited placement, the child welfare agency  
2 must provide to the court, at a minimum, the documents required by  
3 paragraph 7(a) and (b) of Regulation No. 7:  
4
- 5           (A) A signed statement of interest from the potential placement, or a  
6 written statement from the assigned case manager affirming that the  
7 potential placement resource confirms appropriateness for the ICPC  
8 expedited placement decision process. The statement must include all  
9 items listed in Regulation No. 7, paragraph 7(a).
- 10
- 11           (B) A signed statement from the assigned case manager or other child  
12 welfare agency representative stating that he or she knows of no reason  
13 why the child could not be placed with the proposed placement and that  
14 the agency has completed and is prepared to send all required  
15 paperwork.
- 16
- 17           ~~(2)~~(4) On findings of the court under ~~(f)~~(1) (h)(2) and (3) that a proposed priority  
18 placement is necessary the child meets the criteria for an expedited placement  
19 and that the required statements have been provided to the court, the court  
20 case must proceed as follows:  
21
- 22           (A) The court's findings and orders must be noted in a written order using  
23 *Expedited Placement Under The Interstate Compact on the Placement*  
24 *of Children: Findings and Orders* (form JV-567), ~~which~~ and must  
25 include the name, address, e-mail address, telephone number, and fax  
26 number of the clerk of court and the judicial officer or designated court  
27 administrator. The order must state the factual basis for the finding that  
28 the child meets the expedited placement criteria. The order must  
29 indicate if it includes a request for provisional approval of the proposed  
30 placement and the factual basis for that request.
- 31
- 32           (B) The order must be transmitted by the court to the sending agency of the  
33 court's jurisdiction within 2 business days.
- 34
- 35           (C) The sending agency must be ordered to transmit to the compact  
36 administrator of the sending jurisdiction within 3 business days of  
37 receipt of the order the following:  
38
- 39           (i) A copy of the completed *Expedited Placement Under The*  
40 *Interstate Compact on the Placement of Children: Findings and*  
41 *Orders* (form JV-567); and
- 42
- 43           (ii) A completed interstate compact placement request form (form  
44 100A), along with form 101, the statements required under  
45 section (h)(3), above, and all required supporting documentation  
46 as noted on that form.

1  
2 (D) Within 2 business days after receipt of the paperwork, the compact  
3 administrator of the sending jurisdiction must transmit ~~by overnight~~  
4 ~~mail~~ the documents described in (C) to the compact administrator of the  
5 receiving jurisdiction with a ~~notice that the request is entitled to priority~~  
6 ~~placement~~ for an expedited placement decision, as well as any request  
7 for provisional placement.  
8

9 ~~(3)~~ (5) The compact administrator of the receiving jurisdiction must determine  
10 immediately, and no later than 20 business days after receipt, whether or not  
11 the placement is ~~acceptable~~ approved and must transmit the completed  
12 interstate compact placement request form ~~by fax~~ to the compact  
13 administrator of the sending jurisdiction.  
14

15 ~~(4)~~ (6) ~~If the compact administrator of the receiving jurisdiction fails to comply with~~  
16 ~~(f)(3) within the required time limit, the sending court may inform an~~  
17 ~~appropriate court in the receiving jurisdiction that the compact administrator~~  
18 ~~in that jurisdiction has not complied with the compact; provide the receiving~~  
19 ~~jurisdiction court with relevant documents, including Findings and Request~~  
20 ~~for Assistance Under Interstate Compact on the Placement of Children~~  
21 ~~(ICPC) (form JV-565); and request assistance. The transmission of any~~  
22 ~~documentation, request for information, or decision may be by overnight~~  
23 ~~mail, fax, e-mail, or other recognized, secure method of communication. The~~  
24 ~~receiving state may also request original documents or certified copies if it~~  
25 ~~considers them necessary for a legally sufficient record.~~  
26

27 ~~(5)~~ ~~The receiving jurisdiction court that receives notification may render~~  
28 ~~appropriate assistance and may issue orders to secure compliance with the~~  
29 ~~compact and regulations.~~  
30

31 ~~(6)~~ (7) The time limits for a single case may be modified by written agreement  
32 between the sending court, the sending agency, and the compact  
33 administrators of the sending and receiving jurisdictions.  
34

35 ~~(7)~~ (8) To fulfill its obligations under the compact, a jurisdiction, its local agencies,  
36 and the court are required to process interstate cases as quickly as intrastate  
37 cases and to devote equal efforts to interstate and intrastate hardship cases.  
38

39 (A) If in doing so, a receiving jurisdiction's compact administrator finds  
40 that extraordinary circumstances make compliance within the time  
41 requirements impossible, strict compliance may be excused.  
42

43 (B) The receiving jurisdiction compact administrator must immediately  
44 notify the sending jurisdiction compact administrator ~~by fax~~ of the  
45 inability to comply and must designate a date on or before which there  
46 will be compliance.

1  
2 (C) The notice must contain a full identification and explanation of the  
3 extraordinary circumstances that are delaying compliance.  
4

5 (9) When California is the sending state and there appears to be a lack of  
6 compliance with Regulation No. 7 requirements by state officials or the local  
7 child welfare agency in the receiving state regarding the expedited placement  
8 request, the California judicial officer may communicate directly with the  
9 judicial officer in the receiving state.

10  
11 (A) This communication may be by telephone, e-mail, or any other  
12 recognized, secure communication method.

13  
14 (B) The California judicial officer may do any one or more of the  
15 following:

16  
17 (i) Contact the appropriate judicial officer in the receiving state to  
18 discuss the situation and possible solutions;

19  
20 (ii) Provide, or direct someone else to provide, the judicial officer of  
21 the receiving state with copies of relevant documents and court  
22 orders;

23  
24 (iii) Request assistance with obtaining compliance; or

25  
26 (iv) Use *Request for Assistance With Expedited Placement Under The*  
27 *Interstate Compact on the Placement of Children (form JV-565)*  
28 to communicate the request for assistance to the receiving state  
29 judicial officer.

30  
31 (10) All other requirements, exceptions, timelines, and instructions for expedited  
32 placement cases, along with procedures for provisional approval or denial of  
33 a placement and for removal of a child from the placement, are found in  
34 Regulation No. 7.

35  
36 (i) **Authority of sending court or agency to place child (ICPC Regulation No. 2,**  
37 **paragraph 8(d))**

38  
39 When the receiving state has approved a placement resource, the sending court has  
40 the final authority to determine whether to use the approved placement resource.  
41 The sending court may delegate that decision to the child welfare agency. The  
42 determination to place the child in the approved home must be made within six  
43 months from the date Form ICPC-100A was signed by the receiving state.

44  
45 (g) (i) **Ongoing jurisdiction**  
46

1 If a child is placed in another jurisdiction under the terms of the compact, the  
2 sending court must not terminate its jurisdiction until the child is adopted, reaches  
3 majority, or is emancipated, or the dependency is terminated with the concurrence  
4 of the receiving state authority.

5  
6 **Advisory Committee Comment**  
7

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

11  
12 **Subdivision (h)(7).** Judicial officers requesting assistance under subdivision (h)(7) from the  
13 receiving state judge or judicial officers should be cognizant of ethical concerns raised by such ex  
14 parte communication. These concerns can be addressed in various ways, including but not limited  
15 to using form JV-565, obtaining a stipulation from all parties to permit judge-to-judge phone or e-  
16 mail contact, or conducting the discussion by phone with parties and a court reporter present.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):   TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<b>FOR COURT USE ONLY</b>   <b>DRAFT</b> <b>Not approved by the</b> <b>Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
<b>REQUEST FOR ASSISTANCE WITH EXPEDITED PLACEMENT UNDER THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN</b>	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 the receiving 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 or not 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 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> ): _____	<b>FOR COURT USE ONLY</b>   <b>DRAFT</b> <b>Not approved by the</b> <b>Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>  STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
<b>EXPEDITED PLACEMENT UNDER THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN: FINDINGS AND ORDERS</b>	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: \_\_\_\_\_
  - d. Court Telephone No.: \_\_\_\_\_
  - e. Court Fax No.: \_\_\_\_\_
  - f. 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, item 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 California's Compact Administrator, as required by Regulation No.7 item 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. Paragraphs 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
- b.  Adult brother or sister
- c.  Guardian
- d.  Grandparent
- e.  Adult uncle or aunt
- f.  Other (*specify*):

Proposed placement (*name*):

Located at (*address*):

9. 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 due to the parent or guardian's unexpected medical, mental or physical condition; or
  - (3)  death of a parent or guardian; or
- b.  The child is 4 years of age or younger; or
- c.  The child is part of a sibling group who will be placed together, where one or more of the child's siblings is 4 years of age or younger (*names of siblings 4 years of age or younger*):
- d.  The child 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
- e.  One or more of the child's siblings in the sibling group sought to be placed has a substantial relationship with the proposed placement resource (*name of 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 to demonstrate that the potential placement resource meets the minimum requirements under paragraph 7a of Regulation No. 7 of the ICPC:

- a.  a signed statement(s) from the potential placement resource(s), or
- b.  a signed statement from the assigned California social worker that following a conversation with the potential placement resource, the potential placement resource meets the minimum requirements.

11. 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 ICPC forms 100A and 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 California's Compact Administrator, within three business days of receipt of this order: completed ICPC Forms 100A and 101 (Request for Placement), 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.
- 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; and
- 16. The child welfare agency is ordered to inform this court promptly and on a regular basis 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, item 9(h).

**Provisional Placement Request**

- 17. The child welfare agency  is ordered  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.

**Designated Individuals for Sending and Receiving Information**

- 18. The court designates the following court employee to send to the child welfare agency, via email, 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.: \_\_\_\_\_

- 19. The California child welfare agency employee designated to receive communications regarding the progress of the ICPC process in this matter is:
  - a. Name: \_\_\_\_\_ Title: \_\_\_\_\_
  - b. Mailing Address: \_\_\_\_\_
  - c. E-mail: \_\_\_\_\_
  - d. Telephone No.: \_\_\_\_\_
  - e. Fax No.: \_\_\_\_\_

**Further Proceedings**

- 20. If provisional placement has been sought:
  - a. When the receiving state approves the 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; or
  - b. If the receiving state denies the provisional placement, the child must remain in California until the expedited placement decision process is completed
- 21. 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, prior to sending the child to the proposed placement; or
  - c.  Other: \_\_\_\_\_
- 22. Hearing for  progress report, or  further disposition, or  other (*specify*):  
 Is set for (*date*): \_\_\_\_\_ at (*time*):  a.m.  p.m. in Department: \_\_\_\_\_

CASE NAME:  _____	CASE NUMBER:  _____
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**23. 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 only 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, 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 accordance with item 23 b, 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 the child 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 authorization 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, California's Compact Administrator 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. In the event that California's Compact Administrator 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.
- 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 California's Compact Administrator 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 19 to receive communication must maintain contact with California's Compact Administrator 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 7 days prior to any scheduled court hearing and also provide updates closer to the hearing date should new developments merit attention. The sending state'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.
- j. The transmission of any documentation, request for information, or decision must be sent by overnight mail, 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