

I.C.P.C.

OTHERWISE KNOWN AS

“ON THE ROAD AGAIN”

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN
by
Office of General Counsel
Oklahoma Department of Human Services
July 2007

I.

WHAT IS THE ICPC?

The ICPC is a compact or an agreement among all the states, the District of Columbia and the U. S. Virgin Islands which regulates the movement or placement of children from one state to another.

The compact, which has been adopted by all states, specifically defines:

- (a) the types of placements and placers subject to its terms;
- (b) the procedures to be followed in making an interstate placement; and
- (c) the protections, services, and requirements afforded by the adoption of the law.

The language of the ICPC is exactly the same in each of the states which has adopted it. This assures that the provisions in one state are identical to every other state.

Hence, the ICPC is a contract between the participating states which sets forth the procedures for the interstate placement of children and establishes the responsibilities for those placing and receiving the child.

II.

WHY IS IT NECESSARY TO HAVE THE ICPC?

A state's legal jurisdiction ends at its borders. Accordingly, without the ICPC, if a child who is the subject of a deprived action in Oklahoma is placed with an aunt in

Texas, the Oklahoma Court would have no legal way to determine the suitability of the placement, monitor the placement, order services or to enforce any orders it may make with regard to the child. Without the ICPC, the state into which the child is sent would have no legal obligation to provide services or other assistance related to the placement of the child. The ICPC addresses these problems by:

- Ensuring the jurisdiction over the child is not lost when he/she moves to the receiving state.
- Having the prospective receiving state conduct homestudies and evaluations of the proposed placement in its state before the placement is made.
- Allowing the prospective receiving state to make sure that its laws and policies have been followed and to determine if the placement is “contrary to the interests of the child before approving the placement.”
- Establishing that the sending agency or individual continues to be legally and financially responsible for the child.
- Maintaining necessary services and supervision even though the child is not in the state where the deprived action is pending.
- Providing the sending agency the opportunity to remain informed and to receive reports as to any issues relating to the placement.

It is taken for granted that all of these safety measures are available when the child remains in the state where the deprived action is pending. However, without the ICPC, when a child is placed in another state these safeguards would not be available.

It is only because of the ICPC that these safety measures are available and legally enforceable.

III.

HOW DO YOU KNOW IF YOU HAVE AN ICPC PLACEMENT ISSUE?

A. TYPES OF PLACEMENTS COVERED

- General Rule: When a child is sent to another state for some sort of out of home living arrangement, you should always consider whether the ICPC applies.
- Parents: "Placements"¹ with parents when a parent or relative is not making the placement. Accordingly, EVEN IF THE COURT OR THE DEPARTMENT IS CONSIDERING "PLACEMENT" WITH A PARENT IN ANOTHER STATE, THE ICPC APPLIES AND SHOULD BE FOLLOWED! If 24 hour 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 considered to be foster care and subject to the ICPC.
- Foster Care: Placements into foster care, including foster homes, group homes, and residential treatment facilities and mental institutions for treatment of chronic or long-term conditions.
- Relatives: Placements with relatives when a parent or relative is not making the placement. "**Relative**" is defined in the ICPC as a "parent, step-parent, grandparent, adult brother or sister, adult aunt or uncle."
- Adoption: Placements preliminary to an adoption.

¹ Placement: The arrangement for the care of a child in the home of a relative or unrelated individual whether or not the placement provider receives compensation for the care of the child. Placement

- Delinquents: Placements of adjudicated delinquents in institutions in other states.

B. TYPES OF PLACEMENTS NOT COVERED

- Hospitals/Medical Facilities: Hospitals or medical facilities which are providing treatment and care for physical conditions.
- Treatment of Acute Emotional, Psychiatric, and Behavioral Conditions: Placements made in hospitals, medical facilities, residential, and mental health facilities for the acutely ill, i.e. short term treatment. Admission to a facility for treatment of an acute mental or behavioral condition requiring stabilization of such condition by short-term treatment is exempt from the ICPC.
- Education Facilities: Placements made in institutions that are primarily educational in character.
- Transfer of Custody to Non-Custodial Parent: Whenever the court transfers custody to a non-custodial parent with respect to whom the court does not have evidence that such parent is unfit, does not seek such evidence, and does not retain jurisdiction over the child after the court transfers custody.
- Relative to Relative: Placements of a child made by a relative (parent, step-parent, grandparent, adult brother or sister, aunt or uncle) or the child's non-agency guardian, IF, AND ONLY IF one of these close relatives is placing the child with another close relative and provided the person's full legal right to plan for the child has been established by law prior to initiation of the placement arrangement and whose legal rights have not been voluntarily terminated, diminished, or severed by

includes the arrangement by the sending agency for the care of a child in the home of his parent, other

the action or order of any court. It is important to note that the "close relatives" exception requires that the "close relative" must be on both sides of the transaction in order to remove the applicability of the ICPC. These are placements made outside of DHS and generally do not involve the Department.

- Visits: Visits to another state are not subject to the ICPC. A visit is considered to be a stay of 30 days or less with a definite arrival and departure date. A stay of more than 30 days can be considered as a visit if it begins and ends in the period of a child's vacation from school, e.g., summer vacation. A "visit" may not be extended beyond the 30 days or school vacation period. If it is extended, it becomes a "placement" subject to the ICPC. Visits are not to be used to circumvent the use of the ICPC.

IV.

HOW DO YOU MAKE AN ICPC REQUEST?

- See policy: OAC 340-75-1-86
ITS No. 1-10
- Contact: Foster Care Placements:
Melanie Slotter
Deputy Compact Administrator
(405) 522-0672
Department of Human Services
ICPC Unit
P.O. Box 25352
Oklahoma City, OK 73125

relative, or non-agency guardian.

Adoption:
Linda Foster
ICPC Deputy Compact Administrator
Swift Adoptions
c/o Heritage Family Services
5110 S. Yale, Suite 525
Tulsa, OK 74135
(918) 491-6767

V.

**HOW DOES THE ICPC AFFECT OR RELATE TO THE
COURT PROCEEDINGS IN A DEPRIVED ACTION?**

I. PLACEMENT DECISIONS AND TIMING

**A. COURT SHOULD BE AWARE OF OR MADE AWARE OF APPLICABILITY OF
ICPC.**

- 1) Advise court of possible out-of-state placement as soon as possible.
- 2) Advise court of applicability of ICPC and that ICPC request has been/is being made.

a. Adjudication: The ICPC applies whether or not the child has been adjudicated. In other words, A CHILD DOES NOT HAVE TO BE ADJUDICATED BEFORE AN ICPC REQUEST CAN BE MADE.

- 3) Advise court of reasons for ICPC, i.e., determine suitability of placement, arrange for needed services, monitor placement, etc.

**B. IF COURT INCLINED TO MAKE OUT-OF-STATE PLACEMENT WITHOUT ICPC
APPROVAL:**

- 1) Custody Taken Out of DHS: Even if the court takes custody out of DHS and gives it to someone else, the ICPC applies unless it fits into one of the previously described exemptions. For example, if the court gives custody to

an aunt in another state while the deprived action proceeds in Oklahoma, the ICPC still applies. The court would be the "sending agency", however, DHS would prepare the paperwork and the judge would sign the 100A.

- 2) Guardianship: Appointing someone from another state as a guardian does not negate the applicability of the ICPC. If the court grants guardianship of the minor to a person from another state the ICPC still applies unless it fits into one of the previously described exemptions.
- 3) Courteously remind the Court that if ICPC is not followed then Oklahoma DHS has no way to supervise the placement or provide services and the receiving state is not required to supervise the placement or provide progress reports.
 - a) Notify ICPC Deputy Compact Administrator immediately.

C. TIME FRAME FOR RECEIVING STATE TO APPROVE OR DENY PLACEMENT

1) USUAL REQUESTS

The Safe and Timely Interstate Placement of Foster Children Act of 2006 requires all states to conduct, complete and report results of an interstate homestudy within sixty (60) days after the receiving state has received the request. See, 1-8-07 memo attached.

2) REGULATION 7 REQUESTS

- a) 'REGULATION 7' provides for two situations in which the court may order expedited processing.

(1) REGULATION 7 Priority Request For An Initial ICPC Request
Requires:

(a) The proposed caretaker must be a relative (parent, step-parent, grandparent, adult brother or sister, adult aunt or uncle) AND must meet one but only one of the following three (3) criteria:

[1] the child is under two (2) years of age;

[2] the child is in an emergency shelter; or

[3] the court finds that the child has spent a substantial amount of time in the home of the proposed placement recipient.

(b) Thus, if the proposed caretaker is a relative and any one of the conditions in [1], [2], or [3] above can be met, the worker should ask the court for a Regulation 7 Priority Order. See. Sample forms attached. The order should be sent to the Oklahoma Deputy Compact Administrator.

(2) REGULATION 7 Priority Request After The Initial ICPC Request Has Been Made:

(a) If the Court finds the receiving state has had a properly completed ICPC request and supporting documentation for over thirty (30) business days (6 weeks) and the sending agency has not received a notice regarding whether the child may or may not be placed then the Court can order the referral to be treated as a priority request.

(b) Thus, if the receiving state has had the completed request for more than 30 business days and has not responded, the worker

should contact the ICPC Deputy Compact Administrator. If, after the Deputy Compact Administrator contacts the receiving state there is no response or explanation by the receiving state, the worker should ask the court for a Regulation 7 Priority Order. See, attached sample forms. The order should be sent to the Oklahoma Deputy Compact Administrator.

b) Time Frame for REGULATION 7 Priority Request:

(1) The receiving state has twenty (20) working days (4 weeks) from the date of the receipt of the completed referral to complete its homestudy, etc.

(2) Because certifying or licensing an approved regular foster home requires more than 20 working days, Regulation 7 Orders do not apply to requests for licensed or certified foster homes. Basically Regulation 7 will apply to non-paid kinship placements.

c) Regulation 7 priority orders do not apply and cannot be used when the child is already in the receiving state in violation of the ICPC.

d) Penalty For Failure To Comply With Time Frames:

(1) The sending state court (judge) can call the receiving state's court (judge) and ask for assistance in obtaining compliance with the order.

e) **Some of the time-frames in Regulation 7 could be inconsistent with the Safe and Timely Act. However, at this time, it is**

undetermined how the mandated time frame in the Safe and Timely Act will affect Regulation 7 requests.

II. RESPONSIBILITY AFTER PLACEMENT

A. WHILE CHILD IN OUT OF STATE PLACEMENT THE SENDING AGENCY'S LEGAL AND FINANCIAL RESPONSIBILITIES AND JURISDICTION OVER THE CHILD CONTINUE UNTIL:

- 1) The child is returned to the home State;
- 2) The child is legally adopted;
- 3) The child becomes self-supporting;
- 4) The child reaches majority; or
- 5) For other reasons with the prior concurrence of the receiving state.

a) This means that when the child is placed in another state unless one of the above conditions exists, THE DEPRIVED ACTION IN OKLAHOMA SHOULD NOT BE DISMISSED UNTIL THE OTHER STATE CONCURS IN WRITING AS TO THE PROPOSED DISMISSAL.

This provision is designed to prevent the sending state from dismissing its action thereby leaving children in the receiving state without the means of legal custody or support, (commonly referred to as "dumping the child in another state"). EVEN IF THE COURT PLACES CUSTODY IN SOMEONE ELSE, (e.g. GUARDIANSHIP) IT MUST STILL HAVE THE APPROVAL OF THE RECEIVING STATE BEFORE IT DISMISSES THE DEPRIVED ACTION IN OKLAHOMA.

VI.

WHAT ARE THE CONSEQUENCES FOR NOT FOLLOWING THE ICPC?

- If a placement is made contrary to the provisions of the ICPC it is considered to be an illegal placement.
- Violations of the ICPC may be punished or penalties imposed in accordance with the laws of the sending or receiving state.
- Violations constitute grounds for suspension or revocation of any license, permit, or other legal authorization held by the sending agency which authorizes or allows it to place, or care for children.
- If a child is illegally placed in another state, the receiving state has the authority to order the child to be returned to the sending state.
- Neither the Court nor DHS has any legal means of monitoring or supervising the placement.

Regulation No. 9

Definition of a Visit

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.

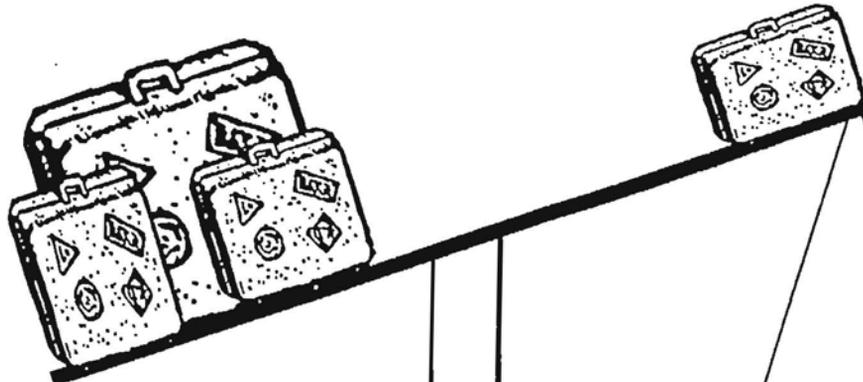
6. A request for a home study or supervision made by the person or agency which sends or proposes to send a child on a visit, that is pending at the time the visit is proposed, will establish a rebuttable presumption that the intent of the stay or proposed stay is not a visit.

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 as first adopted April 26, 1983, by resolution of the Association of Administrators of the Interstate Compact on the Placement of Children is 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; amended June, 2002.

PLACEMENT OR VISIT



A PROPOSED
STAY OF LONGER
THAN 30 DAYS

A SHORT VISIT WITH
THE HOPE OR
INTENTION
TO PLACE

FROM THE
CIRCUMSTANCES, THE
DURATION OF THE STAY
IS NOT CLEAR

FROM THE ONSET, THE STAY
DOES NOT HAVE AN
EXPRESS TERMINAL DATE

PLACEMENT

OR

SHALL NOT BE EXTENDED
BEYOND 30 DAYS

A SOCIAL EXPERIENCE OF
SHORT DURATION *< 30 days!*
It considers w/ach. intention

VISIT

DISTINGUISHED ON THE BASIS OF
PURPOSE / DURATION / INTENTION

IN THE DISTRICT COURT IN AND FOR TULSA COUNTY
STATE OF OKLAHOMA - JUVENILE DIVISION

IN THE MATTER OF:

)
)
)
)
)

Case No. JV-

Judge _____

An alleged deprived child under
18 years of age; to-wit:

ORDER FOR REGULATION VII - ICPC PRIORITY HOME STUDY

NOW on this _____ day of _____, 2000, this matter comes on for Special Hearing upon the oral application of the Department of Human Services ["DHS" or "Department"] for the Court to enter an order for Regulation VII Interstate Compact on Placement of Children ["ICPC"] priority home study processing, and the Court, upon consideration of the Department's application and being fully advised in the premises, **FINDS:**

1. The above named child is [or children are] under the jurisdiction of this Court and in the legal custody of the Oklahoma Department of Human Services; **AND,**

_____ The receiving state Compact Administrator has had a properly completed ICPC-100 A (referral) and supporting documentation for over thirty (30) business days but the sending agency has not received a notice regarding whether the child may or may not be placed;

OR

_____ The proposed placement recipient is a relative belonging to a class of persons who, under Article VIII(a) of ICPC could receive a child from another person belonging to such a class, without complying with ICPC. The proposed recipient is a:

- _____ parent or step-parent;
- _____ grandparent;
- _____ adult brother or sister;
- _____ adult uncle or aunt;

AND one (1) or more of the following criteria exists:

_____ The child is under the age of two (2);

_____ The child is in emergency shelter care;

_____ The child has spent a substantial amount of time in the home of the proposed placement recipient.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THE COURT that the findings made herein above are incorporated and made a part of the Court's adjudication.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED BY THE COURT that based upon the Court's findings, the child is entitled to priority processing of the ICPC home study request and such priority processing is so ordered.

JUDGE OF THE DISTRICT COURT

FINDING AND ORDER

Pursuant to Interstate Compact on the Placement of Children (ICPC) Regulation No. 7

Name of Court _____

Address _____

(City)

(State)

(Zip Code)

Telephone _____ Facsimile _____

Facsimile of Judge (if different from above) _____

Child(ren) Proposed To Be Placed

Name(s) _____ D.O.B. _____

Name(s) of proposed Placement Recipient(s) _____

Address _____

(City)

(State)

(Zip Code)

Telephone _____

FINDINGS

This court finds that on the basis of the facts set forth, attached hereto and hereby made a part hereof, the child(ren) named herein is/are in need of and entitled to priority placement procedure as provided in Regulation No. 7 in effect under Article VIII of the Interstate Compact on the Placement of Children (ICPC). As set forth in the state of facts, the reason(s) applicable to this finding is/are:

- 1. The proposed placement recipient is a person belonging to a class of person who, under Article VIII (a) of ICPC could receive a child from another person belonging to such a class without complying with ICPC and:
 - (a) The child is under two (2) years of age; or
 - (b) The child is in an emergency shelter; or
 - (c) The Court finds that the child has spent a substantial amount of time in the home of the proposed placement recipient.

- 2. The receiving state Compact Administrator has a properly completed ICPC-100A and supporting documentation for over thirty (30) business days, but the sending agency has not received a notice pursuant to Article III (d) of ICPC determining whether the child may or may not be placed.

ORDER

This court hereby orders:

1. That _____ shall, within three (3) business days of receipt of this order, transmit this order (and if not previously transmitted) a properly completed ICPC-100A and supporting documentation to the sending state Compact Administrator, together with a cover notice calling attention to the priority status of the request for placement.
(sending agency)
2. That the sending state Compact Administrator and all other persons to whom Regulation No. 7 is in effect, pursuant to Article VIII of ICPC, shall comply with said Regulation to the end that the request for priority placement processing ordered hereby be fully implemented.
3. That the _____ shall keep this Court appropriately informed as to the progress pursuant to this Order.
(sending agency)

Signed _____
(Judge)

Date _____

**State of Oklahoma
Department of Human Services**

TO: County Directors and Child Welfare Supervisors

FROM: Linda Smith, Director
Children and Family Services Division

Larry Johnson, Director
Field Operations Division

DATE: January 8, 2007

RE: **NEW TIMELINESS REQUIREMENTS FOR ICPC HOME STUDIES**
Implementation for the Safe and Timely Interstate Placement of Foster
Children Act 2006

The federal Safe and Timely Interstate Placement of Foster Children Act of 2006 (the "Federal Act") became effective October 1, 2006. The intent is to encourage the expedited placement of children into safe, suitable, and permanent homes across state lines. **The new Federal Act requires all states to conduct, complete, and report the results of an interstate home study within 60 days after receipt of an interstate home study request from another state. This memo is to provide guidance to those who conduct interstate home studies regarding the requirements and implementation of the new Federal Act.**

Requests for interstate home studies will continue to be received and processed by Deborah Cathey, the Compact Administrator for the Interstate Compact on the Placement of Children ("ICPC").

- CW staff responsible for interstate home studies will continue to receive the ICPC packet as well as the "Other Workload Request" ("OWR") assignment via the KIDS system.
- The OWR will provide the due date for the completed home study.
- The completed home study is to be returned to the ICPC Compact Administrator on or before the due date.
- **Completion of the training component of the home study is not required by the due date designated in the OWR.** All other parts of the home study are to be completed by the due date in the OWR.
- If the home study is not completed by the specified due date, the specific reasons it is not completed must be documented in an email to the ICPC Compact Administrator prior to the due date.

To meet the mandated timeframes, it is necessary for those conducting the home study, upon receipt of the request, to immediately initiate the requests for the applicable documentation listed on the Guidelines for Family Assessment (04AF002E – DCFS-69), page 14.

So that OKDHS can comply with the new reporting requirements, it is essential that those conducting the home study document the following in the KIDS OWR contact screens:

- all contacts,

- all requests for information, and
- date(s) of request for information

While the new Federal Act requires that all interstate home studies be completed and a report provided to the requesting state within 60 days of receipt of the request, the Federal Act also provides that home studies completed and provided to the requesting state within 30 days may be entitled to incentive payments. Additional information about the incentive payments will be provided at a later date. If you have questions please contact Deborah Cathey at Deborah.Cathey@okdhs.org or by telephone at (405) 522-0672.

Linda Smith, Director
Children and Family Services Division

Larry Johnson, Director
Field Operations Division

Cc: Youngblood
Johnson
Smith
Area Directors
CWFLs
CFSD Administrative Staff
CFSD Programs Staff
Geitgey