

Navigating the MCCJA, PKPA, ICPC and ICWA

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN (ICPC)

M.G.L. c. 119, App. §2-1 et seq.

Why: To ensure that children placed for adoption or foster care across state lines receive proper protections and services. Failure to comply with the ICPC renders the placement illegal. This could result in termination of the placement or frustrate the delivery of services to the child and placement resource.

Where: All 50 states, the District of Columbia and U.S. Virgin Islands.

What: A contract among the states that requires the “sending” state to obtain prior approval from the “receiving state” before placing a child in the “receiving state.” *Clarifies* which state is financially responsible for the placement and which court has continuing jurisdiction over placement.

- 1. Generally applies when a “sending agency” (e.g., DCF or the court) wishes to place a child in another state for foster care or for possible adoption. Article III (a)
- 2. The sending agency must request the receiving state to conduct a home study of the proposed placement. Article III (a)
- 3. Provisional approval or denial placed with a parent or relative may be given within 7 days of receipt of completed request packet.
- 4. The child must not be placed until the receiving state notifies the sending agency, *in writing*, that the proposed placement does not appear to be contrary to the interests of the child. Article III (a)
- 5. The receiving state must:
 - complete the home study within 60 days of receiving the complete package from the sending agency. 42 U.S.C. §671(a)(26)(A);
 - provide decision on whether to approve or deny placement within 180 days of initial home study request ICPC Reg. 2(8)(a);
 - must approve or deny request for residential placement by out of state parent or sending agency, within 3 days in the form of a signed ICPC 100A. (Reg. 4 effective October 2012)
- 6. The sending agency has complete *financial responsibility* for support and maintenance of the child while placed out-of-state. Article V (a)
- 7. The sending agency retains *jurisdiction* over the child (until he is adopted, reaches majority age, is self-supporting or is discharged by agreement of the receiving state) with respect to custody, supervision, care, treatment and disposition. Article V (a)
 - The sending agency must get the receiving state’s approval *before* dismissing the action or changing the goal from foster care to guardianship.
 - The receiving state usually requires a second home study *before* the sending agency may proceed with an adoption. (Most states will not start adoption home study until TPR.)
- 8. The receiving state must supervise the placement, if requested, and must supervise if requested by a public sending agency where a public receiving agency did the home study and child is not in a group home or in residential treatment. Article V (b); ICPC Reg. No. 11
- 9. Is this a “Reg 7” matter?
 - Expedited home study and expedited placement process in which the home study must be conducted within 20 days *if* child is to be placed with parent, step-parent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian; AND
 - a) Unexpected dependency of child due to parent or guardian’s sudden or recent incapacitation or death; OR
 - b) Child is 4 years of age or younger, including older siblings sought to be placed with same placement resource; OR
 - c) Court finds any child in sibling group to be placed has substantial relationship with the proposed placement resource; OR
 - d) Child is currently in an emergency placement.

References Box

M.G.L. c. 119 App. §2-1 et seq (ICPC)

M.G.L. c. 119 App. §1-1 et seq (ICJ)

Assoc. of Administrators of ICPC, ICPC Regs.:
<http://icpc.aphsa.org/Home/regulations.asp>)

Custody of Quincy, 29 Mass. App. Ct. 981 (1990)

Adoption of Warren, 44 Mass. App. Ct. 620 (1998)

Adoption of Willow, 433 Mass. 636 (2001)

Adoption of Leland, 65 Mass. App. Ct. 580 (2006)

Safe and Timely Interstate Placement of Foster Children Act, 42 U.S.C. §671(a)(25) & (26)

ICPC Compact Administrator: Sharon Curry (617) 748-2251

ICJ Compact Administrator: Donna Reed (617) 727-5300

The ICPC does not apply if:

- Court is giving custody to out of state parent pursuant to non-child welfare probate or family court order. ICPC Reg. No. 2 and 3
- Placement of a child is made by a parent, step-parent, grandparent, adult brother or sister, adult uncle or aunt, or his non-agency guardian with any of the same listed relatives or a non-agency guardian in another state. Article VIII (a)
- Visits are no longer than 30 days, during school vacations, or are with a relative or friend who does not assume legal responsibility.
- Child is transferred to a non-custodial parent in another state provided that there is no evidence that the parent is unfit, the court does not seek such information, and court does not retain jurisdiction over placement. ICPC Reg. No. 3
- Adoptions by Massachusetts are finalized out-of state or out-of country and child does not enter Massachusetts before finalization.
- Child is placed in medical and mental health facility, boarding school, or any institution primarily educational in character. Article II (d). But see ICPC Reg. No. 4. *Note: ICPC applies to long-term residential programs for children with chronic behavioral and or emotional problems if placed by agency or by parent .If child is adjudicated delinquent, child must be given a court hearing with notice to parent or guardian and court must find that equivalent facility is not available in sending agency's jurisdiction and that out of state placement will not produce hardship to child and his or her family. Reg. 4(effective October 2012)*

The Interstate Compact on Juveniles (ICJ)

M.G.L. c. 119, App. §1-1 et seq.

Why: Provide for welfare and protection of juveniles and the public

Where: All 50 States, the District of Columbia, Virgin Islands & Guam

What: Process used (i) for prompt return from one state to another of juveniles who have run away from home or escaped or absconded from a placement in their home state, or (ii) for facilitating supervision of juveniles on probation or parole in another state.