

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

Bench Card

PURPOSE¹

To meet the needs of children for safe and appropriate placements outside the state of Idaho and to facilitate cooperation between Idaho and other states to improve services and protection for children in need of placement.

WHEN

1. The consent of the court must be obtained whenever the Department makes a decision to place a child out of state.²
2. The Interstate Compact on the Placement of Children (ICPC) applies when the child is in the custody of the Department, the Department seeks to place the child out of state, and the child:³
 - a. is being placed with a parent or relative;
 - b. is entering foster care or a placement for the purpose of adoption; or
 - c. is being placed in a group home and/or residential facility.

JURISDICTION⁴

Idaho courts must retain jurisdiction sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in Idaho. The court's jurisdiction continues until the child is adopted, reaches majority or until the child is discharged with the concurrence of the appropriate authority in the receiving state.

ICPC REQUIREMENTS

1. The Department must provide written notice to the receiving state of its intent to send, bring, or place the child in the receiving state.⁵
2. The Department must respond to any requests from the receiving state for additional information supporting the out-of-state placement of the child.⁶
3. The Department must receive notification in writing by the appropriate public agency in the receiving state that the proposed placement does not appear to be contrary to the interests of the child prior to sending the child to the receiving state.⁷

PRIORITY PLACEMENTS

A party or the court on its own motion may request that the court enter an order for priority placement under the ICPC. To be valid, the order for priority placement must contain findings that placement is with a close relative, and:⁸

1. an unexpected dependency due to a sudden or recent incarceration, incapacitation,⁹ or death of a parent or guardian; or
2. one child in the sibling group is age 4 years or younger; or
3. the child is currently in an emergency placement; or

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4. the court finds that any child in the sibling group has a substantial relationship¹⁰ with the proposed placement.

If an appropriate order is entered and processed and the receiving state does not respond within 20 business days of receipt of the request, the Idaho court may inform an appropriate court in the receiving state, provide the court with copies of relevant documentation in the case, and request assistance.¹¹

When the court orders a priority placement under Regulation 7, a specific order and supporting affidavit is required.¹²

ADDITIONAL CONSIDERATIONS

1. To ensure stability for the child, the court should monitor whether there is a possibility of an out-of-state placement and status of placement options for the child as early in the case as possible.
2. ICPC placements are often invoked so children may be placed with relatives. Courts should be especially conscious of the possibility of out-of-state placement with kin.

EXTENDED FOSTER CARE¹³

ICPC only applies to youth under the age of 18. Therefore, the requirements under the Compact are not applicable where the court has extended foster care beyond the age of 18.

ENDNOTES

¹ I.C. § 16-2101.

² I.C. § 16-1629(8).

³ I.C. § 16-2102.

⁴ I.C. § 16-2102 Art. V.

⁵ I.C. § 16-2102 Art. III(b).

⁶ I.C. § 16-2102 Art. III(c).

⁷ I.C. § 16-2102 Art. III(d).

⁸ I.C.P.C. Reg. No. 7.

⁹ 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. I.C.P.C. Reg. No. 7(5)(a).

¹⁰ 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. I.C.P.C. Reg. No. 7(5)(c).

¹¹ I.C.P.C. Reg. No. 7.

¹² *Id.*

¹³ I.J.R. 59.