

Finding Permanent Homes for Adoptable Children: Removing the Barriers to Interstate Adoption



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Preface

This report was prepared as part of the Capstone Policy Seminar experience at the Pepperdine School of Public Policy. The Seminar, one of the integral parts of the preparation for students receiving the Master of Public Policy degree, provides students with the opportunity to explore a public policy program in depth and to prepare a set of specific recommendations to policy makers to solve the problem. These reports are prepared by a team of 6-8 students over the course of only twelve weeks, providing for an intensive and challenging experience.

The results of the team's analysis is then presented to a panel of experts in a public workshop setting where the student panelists are given the opportunity to interact directly with the policy professionals, not only presenting their findings but engaging in an exchange of ideas and views regarding the specifics of those recommendations. The policy expert panel for this report included Judge Michael Nash, presiding judge of the Los Angeles County Juvenile Court, Amy Pellman, legal director at The Alliance for Children's Rights, and Shahrzad Talieh, director of the Child Advocates Office for Los Angeles County.

The Pepperdine School of Public Policy would like to thank our students for their hard work and commitment in preparing this policy analysis. We are proud of your achievement.

Executive Summary

There are few societal distresses as perplexing and persistent as that of children in need of permanent homes and families. However, in the year 2000, 131,000 foster care children in the United States awaited adoption. An overwhelming sixty percent of these children are defined as “hard to place,” meaning they are over the age of five, are in a minority or sibling group, have mental or physical disabilities, or remain in the foster care system after a period of six months. Nationally, case goals for foster care children focus primarily on reunification with biological parents or principal caregivers, while only twenty percent have an adoption permanency goal. Such goals translate into indefinite timelines when attempting to reunify, more kinship care agreements being made than permanent placements, and ultimately more time spent in the system before adoption becomes a viable option. Due to difficulties with terminating parental rights and problems in recruiting a sufficient number of adoptive families for “hard to place” children, the number of children in foster care grows as the number of completed adoptions decreases. Despite these decreasing numbers, a recent study by the Dave Thomas Foundation and the Evan B. Donaldson Foundation for Adoption found that four of ten Americans, or nearly 81.5 million people, at some point consider adoption. If one of every five hundred of those who considered adoption followed through, not one child in foster care would await a home. The increasing number of families willing to adopt suggests not a lack of demand for children waiting for adoptive homes, but a recruitment and adoption completion issue that must be resolved in order to bridge the disconnect between families wanting children and those children waiting for families.

California is one state struggling to place children in permanent homes, and when reviewed in the Final Report of California Child and Family Services Review, it did not achieve substantial conformity in promoting permanency in children’s living situations. The percentage of children adopted within twenty-four months of entering the system did not meet the national standard of thirty-two percent, as California saw only eighteen percent in the year 2000. If the children languishing in the foster care system could be placed out of state in an efficient manner, the time they spend without permanent homes and families would decrease, as the pool of potential adoptive parents would increase.

The Adoptive Family Resource Center reports that California has over 2,500 foster care children placed out of state, and that although this only approaches three percent of the over 100,000 children in foster care, children are increasingly placed out of state as part of a national movement to secure more permanent homes. However, the process of placing children across state lines is timely, costly, and administratively daunting. The Interstate Compact on the Placement of Children (ICPC) has as its objective this very goal of facilitating the safe placement of children across state lines. The ICPC is a statutory law in all fifty states, the District of Columbia, Guam, the U.S. Virgin Islands, and Puerto Rico. The Adoptions and Safe Families Act (ASFA) requires that states provide a plan for effectively using cross-jurisdictional resources, and they are not permitted to deny or delay a child's placement if an approved family is available outside the child's home jurisdiction. To ensure an adequate supply of adoptive families for eligible foster care children, it is necessary to recruit a larger base of potential adoptive families, and using interstate adoption as mandated by the ASFA as a tool to expand that base is essential.

In March of 2000, the United States Department of Health and Human Services reported that the permanency goal of 131,000 children in foster care was adoption, and this was an increase from those in foster care during the 1990's, due to the implementation of the ASFA. In order to make the interstate adoption process a more effective and manageable option for placing children into permanent homes, some key trouble areas must be identified. A number of quandaries plague the ICPC process, including incomplete staff knowledge about how to use the ICPC to place children out of state, a lack in the capacity of states to complete home studies and offer post placement services across state lines, a lack of mandatory timelines and reporting techniques, little accountability for ICPC provisions matching ICPC practice, and jurisdictional uncertainty in presiding over custody hearings involving the ICPC.

The motivating force of this report is to place more children into permanent adoptive homes by better using the ICPC. Currently, there are two viable options for achieving this goal, but the recommended course of action will meet the following criteria. In order to develop a policy that places more children into permanent adoptive homes, offers a more enforceable and less bureaucratic process, provides guidance to judges, caseworkers, and lawyers, demands accountability from public agencies, and is politically and economically feasible in the current administration, the Association of Administrators for the Interstate Compact on the Placement of Children (AAICPC) may choose to revise the ICPC process as it stands now or it may pursue federalization of the ICPC. Given the criteria previously postulated for selecting any potential solution, amending the ICPC as it exists now is the best possible option.

Although federalization of a statute such as the ICPC brings uniformity of practice, greater funding, enforceability, stronger standing in court proceedings, mandatory reporting and assessment, and greater public scrutiny, the disadvantages outweigh these positive forces. This federalization option creates an increased bureaucratic burden, thus it will unlikely be “adoption friendly” due to timely procedure. This option is also not politically viable within the current federal administration. It is true that this option will ease further state budgetary constraints, but it will add to the current federal deficit. According to the Inter-Jurisdictional Adoptions Clearinghouse (1-JAC), the actual administrative process, which is what will change most by federalization, is the section of the process that works relatively well. The real problem is not administrative in nature; rather it is the preparation and follow-up work done by both the sending and receiving states. Ultimately, these symptoms are difficult to change with the federalization of the ICPC.

The most important positive aspect of a revision of the ICPC is that the current framework is functioning in placing children, only not at an optimal level. Our proposed revisions will increase efficiency through better allocation and use of both funding and people power. Preserving state and county sovereignty will keep accountability on a local level. A superior method when working with a framework that is case specific is one that formulates solutions at the source of the problem, rather than a blanket uniform solution such as that of federalization. The economic and political viability of a revision of the ICPC is feasible, while a blanket federal system carries less chance of success. The ICPC has and will place children while a federal system has not proven itself and runs a higher risk of failure. The greatest negative aspect of revising the current ICPC is the heterogeneity of the entire system. A framework that is based on local control has great variability in requirements and definitions, but revisions of the ICPC are focused on increasing the homogeneity of the system. The other challenge to this revision option is that ICPC processes have a history of being short on funding. Again, the revisions are focused on harnessing the creative spirit of ICPC personnel, so that they may pull funding from adoption, recruitment, and foster care services. The education, training, and incentive structure that the revision option provides for judges, lawyers, and caseworkers will increase communication between ICPC personnel and make locating funding for ICPC cases less challenging.

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Chapter 1. An Introduction to Interstate Placement

Every child deserves to grow up in a loving and safe environment, yet for many children in the United States, such a childhood is never a reality. In the year 2000, 131,000 children nationwide waited for adoptive families while only 51,000 were actually placed in permanent homes. The mean stay in foster care for these children was 44 months, or nearly four years, yet according to the national standards set by the 1997 Adoption and Safe Families Act, completed adoptions should take no longer than 12 months.¹ For children spending these extended periods of time in foster care, the future can seem uncertain and frightening. Not only do those in foster care report higher incidents of abuse and neglect than those in permanent homes, but they are less likely to graduate from high school and more likely to be incarcerated as adults. Many children simply age out of the foster care system having never been placed in a permanent home. Many of these former foster care children tell stories of birthdays without cake and balloons, or even recognition, and high school graduations with no one sitting in the audience in support of this mile stone event. Given this reality, finding permanent homes for children in the care of the state should be the primary goal of all social workers, judges, and child advocates.

There are several avenues used to place children in adoptive homes, including many programs used by the state in expanding the base of potential adoptive parents. Sari Grant, head of Los Angeles County's Department of Child and Family Services adoptive parent recruitment, identified the One Church One Child program, as well as Wednesday's Child, and various adoption fairs and internet databases as some of the methods currently used to place children considered hard to place. For the purposes of this analysis, hard to place is defined as any child not matched with an adoptive family within six months of coming into the care of the state. This group generally consists of children (largely of minority groups) over the age of six, in sibling groups, and children with special needs. An estimated 60 percent of children available for adoption are considered hard to place, and the majority of these children's cases are handled by public agencies.²

¹ U.S. Department of Social Services. Administration on Children Youth and Families and the Children's Bureau.

² Harrigan, Sheila. "Addressing the Needs of Hard to Place Children." The New York Public Welfare Association, Inc. June 18, 2003. <http://nypwa.com/PublicPly/htp/addrhtp.htm>. Google search engine. Accessed January 24, 2003.

Recognizing that improvements have been made in recent years in the Child Welfare system and the adoption process, there is still a need to secure more permanent homes for children who have languished in the state system. According to Ms. Grant,³ giving social workers an increased ability to place Los Angeles County kids into homes throughout the country could make a significant difference in finding permanent homes for these children. Inter-jurisdictional and/or out-of-state placements have, in the past, proven an effective tool when used in California. "California has approximately 2,865 children in foster care placed out of state. While this represents only 2.9 percent of the 100,000 children in foster care, more and more children are being placed out of state in a nation-wide effort to secure permanent homes for children."⁴ The Interstate Compact on the Placement of Children (ICPC), which has as its objective this very goal of facilitating the safe placement of children across state lines, currently operates as the vehicle for which a new policy initiative can take place. This paper will attempt to outline the current trends in the adoption market, explain the role and function of the ICPC in the interstate adoption process, illuminate the problem areas in the current ICPC system, and, finally, propose possible solutions that will allow social workers, judges and child advocates to more effectively place children in permanent, loving homes.

A Question of Supply and Demand

Of the 486,000 children in foster care in 1994, approximately 100,000 did not return to their biological families and were in need of adoption planning services. The majority of these waiting children qualified as hard-to-place (HTP), with more than one-third between the ages of 1 and 5 and nearly 45 percent between the ages of 6 and 12. In addition, 60 percent of waiting children were children of color, part of sibling groups that need to be adopted together, or children with special physical, emotional and developmental needs requiring special services. Due to an emphasis on reunification with their biological families, difficulties with terminating parental rights, and problems in recruiting a sufficient number of adoptive families for HTP children, the number of children in foster care continues to grow as the number of adoptions being completed decreases. In spite of the decreasing numbers of completed adoptions, a recent study by the Dave Thomas Foundation and the Evan B. Donaldson Foundation for Adoption has found that 4 of 10 Americans have, at some point, considered adoption. This totals around 81.5 million people. If just 1 in 500 of those who considered adoption followed through there would not be one child

³Grant, Sari. L.A. County, CA, DCFS. Personal Interview on January 24, 2003.

⁴The Adoptive Family Resource Center. "Adoption Fact Sheet California Children Placed Out Of State." http://www.sierraadoption.org/afrc_aap_cachildren.htm. Google search engine. Accessed January 18, 2003.

in the foster care system in want of a permanent home.⁵ Another study found that in 1988 200,000 women had, at some point, considered adoption and by 1995, this number grew to 500,000. This suggests that the number of those willing to adopt continues to increase.⁶ The increasing number of families willing to consider adoption seems to suggest not a lack of demand for children waiting for adoptive homes, but a recruitment and adoption completion issue that must be evaluated and rectified in order to bridge the disconnect between those families wanting children and those children waiting for families.

It is a generally held estimate that between 130,000 to 150,000 adoptive families are formed each year, but as many as 40,000 of these adoptions are of either infants or very young children. Although the number of infants being placed for adoption continues to decline (see Appendix A for comprehensive adoption and foster care statistics), the number of children in foster care continues to rise as a result of poverty, abuse, and neglect. However, while the demand for children weighs heavily on infants, the majority of children in foster care are over the age of six. To ensure an adequate number of adoptive families for eligible foster care children, it is essential to recruit a larger base of potential adoptive families; using interstate adoption as a tool to expand that base is a step that demands further examination. In 1990, 47.2 percent of the children adopted were adopted by former foster parents, 7 percent by relatives, and 41.5 percent by families unrelated to them. However, the U.S. Department of Health and Human Services predicts that the number of foster care parents who adopt is likely to continue the decline that began in the 1980's. In addition, the literature suggests that many family members, who serve as foster parents for their related children, resist formal adoption due to concerns over disrespecting the child's relationship to the birth parent and financial considerations.

Due to the decrease of foster care parents and relative adoptions, the base of unrelated adoptive families must expand. Data show that unrelated children are most commonly adopted by childless women, women with fecundity impairments, white women, and those with higher levels of income and education. These groups of individuals represent an important resource for children in foster care. As the number of single individuals and single parents through biological procreation has grown, the number of single parent adoptions has also increased. In 1975, 2.5 percent of adoptions were with single parents, and studies suggest substantial growth in this percentage since then.

⁵ Adoption Institute. National Adoption Attitudes Survey. http://www.adoptioninstitute.org/survey/Adoption_Exec_Summ.pdf

⁶ Freivalds, Susan, Freunlich, Madelyn, and Scopetta, Nicholas. "Forum on Adoption Issues." April 14 1998. <http://www.adoptioninstitute.org/proed/forum.html>. Google search engine. Accessed February 27, 2003.

Similarly, large families, with three or more children in the home, are growing. The number of large families, which decreased from 10.4 million in 1970 to 6.5 million in 1990, increased again in 1994 to 7.1 million. As the trend toward larger families rises, more families may consider adding to their existing biological families through adoption. A 1994 survey of adoptive families in New York State revealed that 81.4 percent of the families who adopted children with special needs already had children in the home. Of those adoptive families with other children in the home, the mean number of children was 2.28. These families were much more likely to adopt older children than families without other children in the home.⁷ By targeting and recruiting these groups across state lines, the expectation is that more children could be placed in permanent homes. The Interstate Compact on the Placement of Children (ICPC) is precisely the tool to meet that end. It is to a more detailed explanation of that compact that we now turn.

What is the Interstate Compact on the Placement of Children (ICPC)?

During the 1950's, a group of east coast social service administrators informally joined together to study the problems associated with moving children out of state for foster care or adoption. Among the problems they identified was the failure of importation and exportation statutes enacted by individual states to provide protection for children. They recognized that a state's jurisdiction ends at its borders and that a state can only compel an out-of-state agency or individual to discharge its obligations toward a child through a compact. The administrators were also concerned that a state to which a child was sent did not have to provide supportive services even though it might agree to do so on a courtesy basis. In response to these and other problems, they drafted the ICPC and in 1960 New York signed on as the first state to enact the compact (for the complete text of the ICPC see Appendix C).

The Interstate Compact on the Placement of Children (ICPC) is statutory law, or an agreement, in all 52-member jurisdictions, and serves as a binding contract between members. As of January 1, 2001, those signed on to the compact included all fifty states, the District of Columbia, the U.S. Virgin Islands and Puerto Rico (registered as one jurisdiction). The compact's primary goal is to coordinate the transfer of children across state lines and see that all children placed out-of-state receive the same protections and services that would be provided if they remained in their home states. The ICPC establishes legal and administrative procedures governing the interstate placement of children in order to meet the jurisdictional, administrative and human rights obligations of all parties involved in interstate placement. The compact contains 10 articles that establish procedures to be followed in making interstate placements

⁷ Freundlich, Madelyn, Reforming the Interstate Compact on the Placement of Children: A new Framework for Interstate Adoption, The Evan B. Donaldson Adoption Institute. 1999. www.adoptioninstitute.org/policy/inters1.html

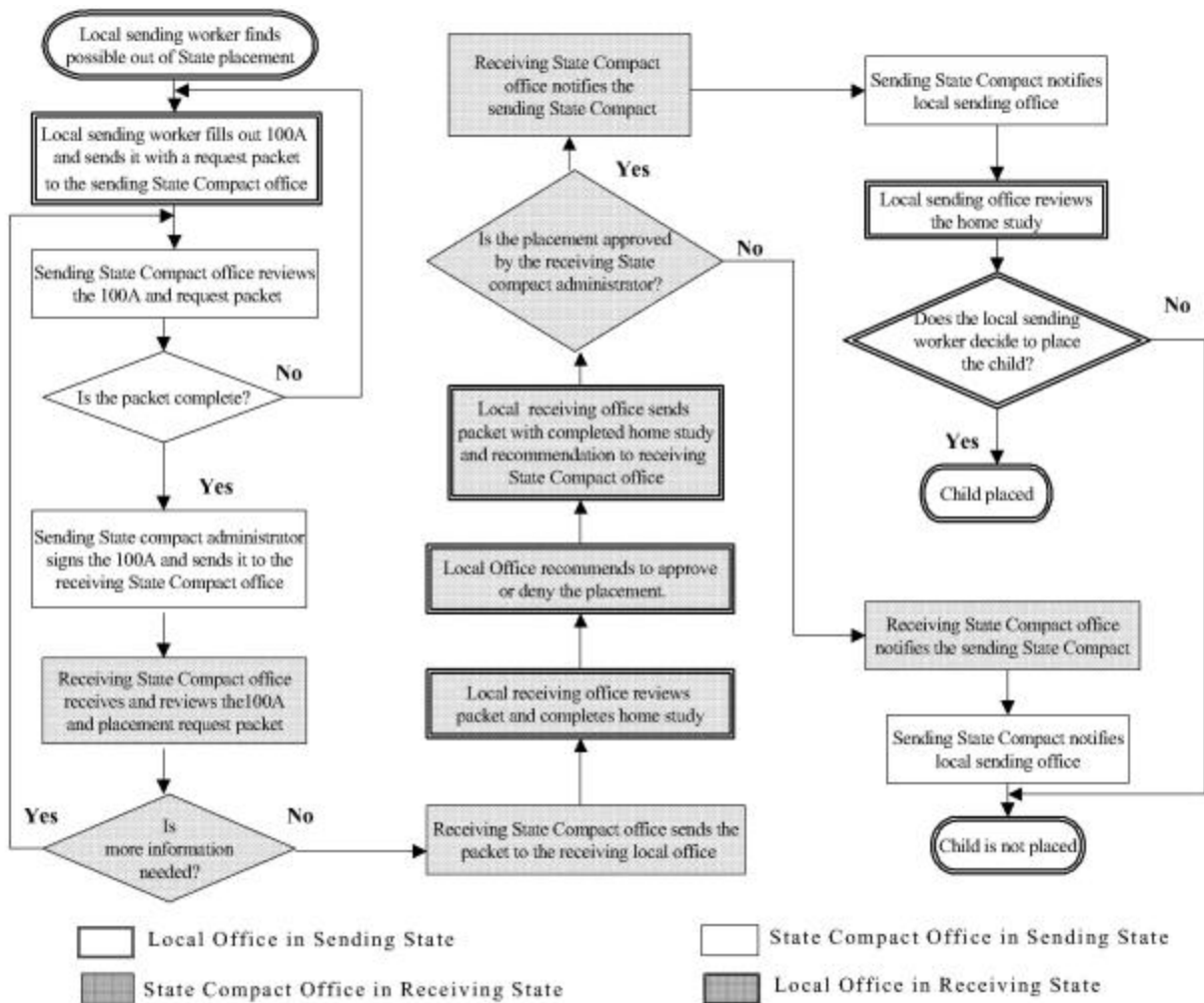
and assigns responsibilities to those handling a child's placement. The ICPC provides guidance and authority for inter-jurisdictional and/or interstate adoptive, foster care, relative, group home, childcare institution, and residential treatment facility placements.⁸ For the purposes of this report, however, the focus lies primarily with adoption placements and the ICPC's role with regard to those procedures.

Governance of the ICPC retains the collaborative tenor on which the compact was originally created. The Association of Administrators of the Interstate Compact on the Placement of Children (AAICPC) was established in 1974 and consists of members from all 50 states, the District of Columbia, the U.S. Virgin Islands, and Puerto Rico. The AAICPC's authority under the ICPC is to "promulgate rules and regulations to carry out more effectively the terms and provisions of this compact."⁹ The AAICPC obtains its Secretariat Services as an affiliate of the American Public Human Services Association (APHSA). It is the responsibility of the Secretariat to the AAICPC to provide ongoing administrative, legal, and technical assistance to individual states that administer the Compact. The Secretariat provides resources and information for the purpose of resolving problems of mutual concern, and formulating common policies, practices and goals. The AAICPC Secretariat does not generally handle questions about individual cases. Questions about individual cases are referred to the public human service agency or private child-placing agency responsible for the case.

While the ICPC has remained a locally controlled, collaborative agreement between states, attempts to reform the process have not gone without notice. They have also not been relegated to local reform; some of the most recent attention paid to the ICPC process came with a federal policy looking to influence child welfare procedures.

⁸ The American Public Human Services Association. Guide to the Interstate Compact on the Placement of Children. Revised 2002. http://icpc.aphsa.org/documents/Guidebook_2002.pdf

⁹ American Public Human Services Association. Association of the Administrators of the Interstate Compact on the Placement of Children. (<http://icpc.aphsa.org/>).



SOURCE: HHS Office of the Inspector General, The Interstate Compact on the Placement of Children: State Structure and Process, Report OEI-02-95-00041, 11/98, <http://oig.hhs.gov/oei/reports/oei-02-95-00041.pdf>, p.7 Accessed April 2003.

In March of 2000, the United States Department of Health and Human Services reported that 134,000 children in foster care had adoption as part of their permanency plan, an increase from those in foster care during the 1990's, due to the implementation of the Adoptions and Safe Families Act (ASFA),¹⁰ signed by President Clinton in 1997. Among other issues addressed in the bill, section 442(12) of the ASFA requires that the states provide a plan for effectively using cross-jurisdictional resources in their IV-B plan, and Section 474(e) states that as a condition for receiving Title IV-E funding (Social Security Act), states “shall not deny or delay the placement of a child for an adoption when an approved family is

¹⁰ Children’s Rights. “The Adoption and Safe Families Act and Geographical Barriers to Adoption.” http://www.childrensrights.org/policy/adoption_and_safe_families.htm. Google search engine. Accessed February 11, 2003.

available outside the jurisdiction with responsibility for handling the case of the child.”¹¹ The penalty for states violating this provision ranges from a 2 percent to 5 percent penalty in the federal funds given the state for foster care and adoption assistance services (Children’s Rights). The states must make reasonable effort to place children interjurisdictionally if an adoptive home is available, with reasonable effort defined by ASFA Section 471(15)(E)(ii) as those efforts that “shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child”¹² (see Appendix D for the complete text of the Adoption and Safe Families Act). For each case, the state agency must also document the steps it is taking to find permanent placement for a child.¹³ While the ICPC does not fall directly under this mandate, the connection to focus on here is that ASFA has provided a level of accountability to the process not seen before, particularly with the reporting requirements written into the legislation. The reporting requirements within ASFA speak to cases within the public system; some of which become placements that fall under ICPC authority. It is an indirect relationship to be sure, but one that cannot be overlooked when recognizing recent legislation that has changed the process. Interestingly enough, it was with Children’s Bureau funds, of whose goals was to assist states in meeting ASFA requirements, that I-JAC was initiated; one of five pilot projects created with this mandate to improve the placement of children throughout the country. Further discussion of I-JAC will come later in this report, but it is important to refer to it now to illustrate just how closely connected the ICPC is with current policy and to understand that relationship for our overall conversation about change.

While interstate placements have increased and services improved under this reform effort, there is still a need for continued scrutiny and substantial improvements.

¹¹ The New York State Citizen’s Coalition for Children, Inc (NYSCCC). “A Guide to Interjurisdictional Adoptions: Creative Ways to Remove Barriers to Interagency, Intercounty, and Interstate Adoptions.” December 12, 2002. <http://www.nysccc.org/Adoptive%20Parent%20Info/InterjurisNotes.htm>. Google search engine. Accessed February 6, 2003.

¹² *Ibid.*

¹³ *Ibid.*

Chapter 2. What Are Challenges Reducing the Potential Effectiveness of the ICPC?

The ICPC is currently the only official avenue for placing children across state lines, covering interstate foster care placement as well as public, private and independent adoptions. The compact was created with language open enough for local interpretation, however, as time has gone by and as the authoritative reach of the ICPC has grown, that language has not been updated. The lack of direction within the compact has perpetuated a discretionary system that intimidates agencies with questionable guidelines and heavy administrative responsibilities. While the ICPC has enjoyed a relatively successful history, it is a process that has been plagued by ambiguity and administrative confusion. The process as a result, has remained procedurally cumbersome and underutilized. In order to make the interstate adoption process a more effective and manageable option for placing children into permanent homes, some key trouble areas must first be identified and then resolved. The problems evolve out of four categories:

- Bureaucracy and Standards
- Resources
- Accountability
- Jurisdiction

A closer look at each of these areas will provide a better understanding of the ICPC process and the points at which restructuring must take place.

1. Bureaucracy and Standards

A report from the Office of the Inspector General (OIG) using data from FY 1997 (and the most recent report on the ICPC process) pinpoints areas of weaknesses in ICPC implementation. Among them is the lack of knowledge among judges, attorneys, and caseworkers about the process, hesitation to concede control to other jurisdictions, difficulty locating resources and services in other jurisdictions, and a lack of staff time to engage in the ICPC process.¹⁴ According to the report caseworkers are often reluctant to use the ICPC as a tool to place children and judges often ignore it primarily due to a convoluted process.

¹⁴ *Ibid.*

Furthermore, the compact does not have the strength of federal law to ensure enforcement¹⁵ so individual discretion on the part of caseworkers and judges proceeds without the threat of sanctions for non-compliance. According to a White House aide, states do not have to report the number of interstate adoptions they complete, which makes it more difficult to measure the efficacy of the ICPC.¹⁶

The OIG report suggests that providing more education and training for caseworkers, attorneys, and judges will increase ICPC compliance and alleviate much of the confusion surrounding the process. Such efforts at training have proven helpful in the past and continue even today, albeit sporadically. In 1995 the National Council of Juvenile and Family Court Judges published *Resource Guidelines: Improving Court Practices in Child Abuse and Neglect Cases*¹⁷, to provide a guide for those on the bench handling adoption cases. The Council of Chief Justices at their annual meeting has since endorsed the Guidebook. The issuance of ICPC guidelines to all state Compact Administrators is indeed respected with the current process; however, there are no uniform standards for making those guidelines available to individual caseworkers involved with the process. As a result, ICPC procedures in some states have been interpreted not by actual guidelines laid out in the compact but rather historical treatment of such cases by individual workers. High turnover rates for caseworkers and the problems that accompany them aside for a moment, the current ICPC system is one that teaches procedure based on practice not rule. Such a system breeds distinction, discrepancies and, ultimately, the confusion makes for untimely placements. Providing a similar guidebook for all those involved in the adoption process could potentially answer many of the unanswered questions regarding the processes and procedures of the ICPC.

Completing home studies across state lines in a timely manner is a formidable obstacle and one that feeds the attitude held by many that ICPC cases are laborious and should then command less priority than intra-jurisdictional placements. The ICPC places the responsibility for preparation and the conducting of home studies on the receiving state. Agency overload, however, causes a burden to be placed on the sending state, as children await a permanent home and family and the agency incurs more cost to keep the children in foster care (see Appendix B for a detailed description of the costs associated with public agency adoption). Some states have purchase of service agreements, with legislature-supported budgets, that more quickly arrange home studies and post-placement services for families who request them.

¹⁵ The U.S. Department of Health and Human Services. "IV. Overcoming Barriers to Interstate Adoptions.", January 1, 2001. <http://www.acf.dhhs.gov/programs/cb/initiatives/photolts/sect4.htm>. Google search engine. Accessed February 6, 2003.

¹⁶ Wetzstein, Cheryl. "A Special Report. State Line Stall Interstate Adoptions: Prospective Parents are Stymied Despite Law to Ease Process." *The Washington Times*. September 2, 2001. http://www.adoptionnation.com/wash_times_9-2-01.htm. Google search engine. Accessed February 6, 2003.

¹⁷ National Council of Juvenile and Family Court Judges. *Resource Guidelines: Improving Court Practices in Child Abuse and Neglect Cases*. <http://www.pppncjfcj.org/html/adoptguid.html>

These agreements may be entered into when an agency cannot provide a particular service or when an agency simply lacks the capacity to meet service demand.

Agencies may also choose to provide some services and contract others. For states without well-established purchase of service agreements, prospective adoptive parents may choose to hire a private, licensed adoption agency to complete the home study. Prospective adoptive parents may pay between \$700 and \$1,700 for a home study, according to the Adoption Guide published by the Adoptive Families Magazine in New York. One couple revealed that after spending thousands of dollars to have a home study completed by a private agency in Minnesota, they then refused to release the report results to another state without an additional \$10,000 fee.¹⁸ If the family adopts the child under the provisions of the Small Business Job Protection Act of 1996, they can recover the fee for the home study. The Act provided a \$5,000 tax credit for families who adopt and a \$6,000 tax credit for families who adopt a child with special needs. However, for families with incomes exceeding \$75,000 annually, the tax credit begins to phase out. In addition, there are problems regarding the acceptance of home studies between states managing interstate adoptions. Since requirements in home studies vary between states, the information gathered in the receiving state may be insufficient in meeting the requirements of the sending state. Currently, the American Public Human Services Association (APHSA) established the “Geographic Barriers Task Force of APHSA to Identify Barriers to Placements across State Lines” to include state agency representatives in developing a model home study protocol.¹⁹

As it stands now, the language of the ICPC does not provide for the opportunity to use any of the above-mentioned strategies nor does it set even minimal standards for home study requirements. While some states have been improvising in order to better alleviate the home study conundrum, there are no official homestudy guidelines within the ICPC.

Another factor contributing to the confusion is the lack of direction provided in the language of the compact itself. Although Article I is explicit regarding the objectives of interstate adoption approval, assuring that children “receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable

¹⁸ Wetzstein, Cheryl. “A Special Report. State Line Stall Interstate Adoptions: Prospective Parents are Stymied Despite Law to Ease Process.” *The Washington Times*. September 2, 2001. http://www.adoptionnation.com/wash_times_9-2-01.htm. Google search engine. Accessed February 6, 2003.

¹⁹ The U.S. Department of Health and Human Services. “IV. Overcoming Barriers to Interstate Adoptions.” January 1, 2001. <http://www.acf.dhhs.gov/programs/cb/initiatives/photolts/sect4.htm>. Google search engine. Accessed February 6, 2003.

degree and type of care,”²⁰ the only said requirement of the receiving state is that the approval be given in writing. The ICPC mandates little else concerning the actual approval process the receiving state must use. There are no minimum standards for the assessment of suitability, appropriateness, and desirability of care, and rather than stating that the ICPC standard of approval is in the best interests of the child, it instead states that the approved placement should not appear contrary to the child’s interests.²¹ The ambiguity here again leaves much room for individual discretion and overall fragmentation within the process.

Nowhere within the ICPC are timeliness and/or responsiveness to the needs of children waiting for interstate adoptive placement articulated as objectives. Courts have been critical of the inefficient bureaucracy fostered by the ICPC, expressing disappointment in the compact’s ability to stay informed on how state laws may affect ICPC placement practices. Often, the delays force caseworkers to work around the ICPC in order to complete an adoption for a child in foster care. Furthermore, agencies do not have enforceable expectations of completion dates to ensure that children are placed as soon as possible, preventing them from languishing unnecessarily in the foster care system.

2. Resources

Post placement services are offered for children who are in adoptive placement, but the adoption has not been finalized. These services may last up to six months or until finalization, and among them are therapy, special school programs, and home visits in which the social worker assesses the child’s adjustment in the new home. Agencies completing intrastate adoptions, however, complete these services with greater ease than they do with interstate adoptions, as the state may not have the resources to provide post placement services to the child and the family. The sending state is ultimately responsible for the post placement supervision; therefore, if it does not find that the services provided by the receiving state are adequate, the sending state must arrange for the services to be delivered or it must contract with a private, licensed adoption agency to provide the service. The ICPC exists to ensure that these post placement services are provided in one manner or another.²²

²⁰ The Evan B. Donaldson Adoptions Institute. “The ICPC and the Best Interests of Children in the Public Child Welfare System.” 1999. <http://www.adoptioninstitute.org/policy/inters4.html>. Google search engine. Accessed February 6, 2003.

²¹ *Ibid.*

²² The U.S. Department of Health and Human Services. “IV. Overcoming Barriers to Interstate Adoptions.” January 1, 2001. <http://www.acf.dhhs.gov/programs/cb/initiatives/photolts/sect4.htm>. Google search engine. Accessed February 6, 2003.

Perhaps the most valuable resource for this process, and one that remains difficult to retain once found, is knowledgeable staff whose responsibility it is to follow through and complete the ICPC process. The turn over rate for county caseworkers continues to run high, due in part to high caseloads and low pay, and as a result, the supply of capable workers familiar with the ICPC process dwindles every time a resignation is submitted. With the current training process already suspect, namely the lack of standardized training for workers, this frequent changing of the guard confounds problems found within a system that requires rigorous administrative attention and time. ICPC cases, unlike other intra-jurisdictional placements, are specialized. Much like any other specialization, management that does not understand the particular nuances of the system inevitably leads to a breakdown. Currently, there are too few specialized caseworkers to handle the ICPC demand and the process is faltering because of it.

3. Accountability

As it is written, the ICPC requires compliance from the laws of the receiving state only. However, in practice, the ICPC Secretariat's position is that the laws of both the receiving and sending states must comply with the compact before a placement is finalized. This divergence between provision and practice virtually guarantees a disjointed system once again reliant upon individual discretion. Although the required compliance with the laws of the receiving state recognizes that each state's law has its own procedures for determining whether a placement is appropriate for a specific child, it does not account for the fact that sending states may be better able to handle cases where relinquishment of parental rights is voluntary and adoption consented to. So while the desire to change the requirements is understandable, there is no such allowance in the compact. Compact administrators consistently side with the Secretariat and approve placements only when they comply with the laws of the receiving and sending states. The courts, however, interject yet another opinion, in fact they have not always adhered to the Secretariat's position, and often hold that compliance is only required with the receiving state's laws, pursuant to the explicit language of the compact. It is clear that the multiple interpretations have done nothing to solidify the ICPC process, only deepen the attitude that the language is malleable and the process ripe for individual interpretation. These issues must be dealt with in a manner that creates a semblance between the language of the compact and its actual practice.²³

The accountability issue does not stop at discrepancies, currently the ICPC has no required reporting requirements set for states nor does it enjoy a consistent tracking system from which to derive statistical

²³ The Evan B. Donaldson Adoptions Institute. "The ICPC and the Best Interests of Children in the Public Child Welfare System." 1999. <http://www.adoptioninstitute.org/policy/inters4.html>. Google search engine. Accessed February 6, 2003.

information. Reporting is offered on a voluntary, quarterly basis and numbers of children involved with the ICPC process are hard to come by if not all together impossible to find because of it. In a report examining the state structure and process of the ICPC, the Department of Health and Human Services found that out of the 52 states involved with the compact, only 27 were able to report numbers for the placement of children through the ICPC – and most could not report exact numbers²⁴. Furthermore, states use different techniques and standards to measure the number of children helped through the compact (some count referrals in their final numbers while others use approvals only) and so the numbers that are available remain relatively suspect while national numbers for the ICPC are unavailable.

Tracking technology is a major component that differs from state to state, which makes the number of children helped as well the number of children currently in the system difficult to obtain and manage. Twelve of the 52 states in the above referenced report used computers to track their ICPC cases, another 12 relied solely on manual tracking, the others reported employing a variety of approaches – again, all with varying degrees of efficacy. None of these systems have proven to be overwhelmingly successful in keeping track of the children placed through the compact, “many states believe that children have probably been placed in their state without their knowledge.”²⁵

Problems with accountability and reporting are not singular to children placed through the ICPC; the federal government has found the same challenge when asking states to report numbers of children involved in and adopted from the foster care systems; the data is simply not there. The Adoption and Foster Care Analysis and Reporting System (AFCARS) was initiated in 1994, and, since that time, it has been found that “not all states have been reporting data and some that are, are submitting poor quality.”²⁶ When looking at the ICPC reporting system from this perspective, it is not surprising that the numbers are difficult to come by and in some cases, impossible to find all together. Both of these challenges make the issue of accountability within the ICPC process much harder to resolve. In plain language, the current system does not have the capability nor does it have the oversight power needed to consistently place children, and it is not held accountable when it does not.

²⁴The U.S. Department of Health and Human Services, Office of the Inspector General. “The Interstate Compact on the Placement of Children: State Structure and Process.” November 1998 – all data reported was for FY 1997. <http://oig.hhs.gov/oei/reports/oei-02-95-00041.pdf>. Google search engine. Accessed February 28, 2003.

²⁵ *Ibid.* 2

²⁶ *Ibid.* 3

4. Jurisdictional Uncertainty and ICPC Standing in the Courts

There are three primary pieces of legislation that directly effect judicial interpretations of the ICPC, the Uniform Child Custody Jurisdiction Act (UCCJA), the Parental Kidnapping Prevention Act (PKPA) and the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA.) The purpose of all three pieces of legislation was to homogenize the ICPC.

The National Conference of Commissioners on Uniform State Laws (NCCUSL) enacted the UCCJA in 1968, and it governed the existence and exercise of jurisdiction in initial child-custody determinations and cases involving modification of existing orders. Congress enacted the PKPA in 1980 in an attempt to deter parents from illegally taking custody of children to states whose courts may render favorable decisions. The UCCJEA enacted by the NCCUSL in 1997 attempts to provide enforcement for uniform guidelines for the ICPC. Both the UCCJA and the PKPA have added complexity to the interpretation of the ICPC, while the UCCJEA has yet to be approved by all states.

The most prevalent problem in dealing with these three pieces of legislation is the uncertainty they produce when two jurisdictions apply different pieces of legislation to the same case. Issues such as which piece of legislation takes precedence in case of a dispute, which jurisdiction has legitimate authority over the case and how to resolve such disputes plague the process. Several recent cases help illustrate how these issues affect the interstate adoption process and the potentially life-changing impact on the children that they affect.

The landmark Arizona Supreme Court case, *J.D.S. v. Franks*,²⁷ outlines the conflicts between the ICPC and the UCCJA. K.W. was a single mother who gave birth to a baby girl in Phoenix, Arizona. K.W. and the biological father of the child, J.D.S., did not live together at the time of the baby's birth. Franks served as the presiding judge. Several months after giving birth, K.W. decided to place her child for adoption and contacted attorney Kerry B. Moore. On November 12, 1993, she consented to relinquish her child for adoption and signed the appropriate forms. Moore contacted a private adoption agency in Florida and provided the necessary information to both the State of Arizona and Florida's ICPC administrators. J.D.S. was included among those who received this information. On November 23, 1993, Arizona's ICPC administrator approved the placement of the child with prospective adoptive parents G.H. and K.H. Further, on November 24, 1993; Florida's ICPC administrator also approved the placement. A licensed Florida adoption agency, Bond of Love, performed a home study of G.H. and K.H. before the placement, and recommended them as adoptive parents. On November 30, 1993, the adoption

²⁷ *J.D.S. v. Franks*. 182 Ariz. 81; 893 P.2d 732; 1995 Ariz. LEXIS 36; 188 Ariz. Adv. Rep. 3

proceedings began in a Florida Circuit Court. Additionally, pediatrician Rosy D. Fortunato performed a health inspection of the adoptive child, and found that her condition was one resembling “a classical medical picture of child neglect,” because she was underweight and had severe diaper rash. Moreover, under G.H. and K.H., the child’s health improved constantly and significantly. Problems arose when the biological father opposed the Florida adoption proceedings. Despite the fact that the child’s original birth certificate did not mention the father’s name, there existed various other certificates that did. J.D.S. obtained a court order of paternity on December 7, 1993, and on that same day petitioned for a writ of habeas corpus in the Maricopa County Superior Court of Arizona. He was granted the petition, and the Arizona court determined that the child be returned from Florida to Arizona. This sparked a series of legal events which lead to a court hearing held over the telephone, involving the trial courts of Arizona and Florida, as well as the biological parents’ and adoptive parents’ attorneys. Throughout the hearing, the trial court of Arizona acknowledged that the Uniform Child Custody Jurisdiction Act (UCCJA) was not applicable to the case, but rather the ICPC was applicable, since both states had adopted it. As a consequence, the trial court of Arizona determined that it lacked jurisdiction to order a writ of habeas corpus. Due to the latter resolution, J.D.S. filed a petition for special action in the State of Arizona Court of Appeals, alleging that under the ICPC, the State of Arizona retained jurisdiction. Consequently, the court of Appeals of Arizona ordered the trial court to take all necessary measures to have the child returned to the state of Arizona. The Court of Appeals ordered such a disposition, based on the belief that the UCCJA is applicable to the present adoption case, and was not superseded by the ICPC (meaning that the UCCJA terms are legally superior to those of the ICPC). Moreover, the court determined that Florida was not in substantial conformity with the UCCJA, “because Arizona is both the child’s home state and the state with the closest connection to the child.” The Court of Appeals further interpreted that the Arizona ICPC retains jurisdiction over the matter, because the precedent states “the sending agency shall retain jurisdiction over the child until the child is adopted.” Since the adoption process had not been concluded, Arizona retained legitimate jurisdiction. The Court of Appeals also granted significant importance to the fact that the father of the child was not notified of the adoption process evolving around his child. This, considered the court, caused a lack of compliance with the ICPC, both by the sending agency and the ICPC administrators. The Supreme Court of Arizona considered that the State’s Court of Appeals erred by not allowing the trial court’s deferral of jurisdiction to the State of Florida.

The jurisdictional complications caused by the multiplicity of laws that exist to govern interstate adoption and custody proceedings illustrates some of the jurisdictional issues that make the interstate adoption process cumbersome and complicated. Certainly, over the matter of adoption itself, the ICPC was naturally applicable, being the proper legal instrument to apply when dealing with the interstate adoption process. However, when a legal dispute may arise over the interstate adoption process, it is said that the

Uniform Child Custody Jurisdiction Act (UCCJA) deals with jurisdiction matters. In the present case, two legal resolutions resulted; 1) From the State of Florida stating that the child's best interest was to remain with her soon-to-be adoptive parents and 2) From the State of Arizona's Court of Appeals claiming that the child should be returned immediately to Arizona, because the father's rights were not respected during the adoption process. The Supreme Court of Arizona overruled the Court of Appeals resolution dictating that the child was to be returned to the biological father, and jurisdiction was assigned to Florida, favoring the adoptive family.²⁸

Similar jurisdictional problems arose when the California Department of Child and Family Services (DCFS) challenged the ICPC in the recent case, *Los Angeles County Department of Social Services v. Superior Court*.²⁹ The Court of Appeals in the Second District, Division 4 ruled that the ICPC had violated DCFS discretion when it approved the adoption of a child by an Oregon family in spite of the protests of the child's foster parent in California. The Oregon family had previously adopted the sibling of the child in question when the birth mother requested that the siblings be placed together. However, the foster mother of the child had also expressed interest in adopting and when the ICPC approved the Oregon adoption, California DCFS filed a writ with the court that was denied without hearing. It was then filed in the appellate court and the decision was reversed. The court held that because parental rights had been terminated, California DCFS had legal jurisdiction over the child and thus final discretion on placement. The child was ordered to return to Los Angeles and the foster mother. If these cases highlight anything, it is the continued discrepancy in interpreting the ICPC's authority when it comes to jurisdiction and priority.

All of the issues and concerns outlined here set the context for the next portion of this analysis; identifying possible options for reform. The challenges facing the ICPC are substantial but not indomitable. The challenge for policy makers is to develop creative ways to improve the system and help more children find permanent homes. For that challenge to be adequately met, we first must discuss and ultimately incorporate benchmarks that can be used to measure the success of any recommendation pursued. The next chapter will include these benchmarks as well as realistic options to be considered and the recommended course of action.

²⁸ *Ibid.*

²⁹ *Los Angeles County Department of Social Services V. Superior Court (Paul Anthony C.)* (1998) 62 Cal.App.4th 1, 72 Cal.Rptr.2d 369.

Chapter 3. Enhancing Interstate Placement: Federalization or Reform?

We must now turn to the question of how to best address the problems detailed in the preceding chapter. Clearly there are a range of possible solutions but, as will be shown below, there are two leading options: using the federal legislative process to create uniformity and consistency in the interstate process or to modify and reform the existing multilateral compact to improve its performance. As will be shown, there are both advantages and disadvantages to these approaches. This chapter will analyze the options for reform and recommend a specific approach. First, let us turn to the objectives that a successful reformation of the interstate placement process will achieve.

Criteria for Selecting a Course of Action

In order for any approach to the problem to be successful at enhancing the interstate placement process, it should simultaneously work toward six goals: (1) it should increase the placement of children into permanent homes; (2) it should improve the enforceability of the rules within the interstate adoption process; (3) it should provide guidance and uniform principles and rules to both judges and placement professionals; (4) it should enhance the accountability of all those involved in the placement process; (5) it should provide education and informational resources to the placement community; and (6) it should be both politically viable and promote economic efficiency. Let us now turn to each of these issues.

Increase Permanent Placement of Adoptable Children

The most important standard by which any policy must be measured is that of creating a system that moves more children waiting for permanent placement into adoptive homes. This criterion is based on the presumption that children waiting for a permanent home will more likely flourish in an adoptive settings rather than in long-term foster care placements.

Improve Enforceability within the Interstate Adoption Procedure

The ICPC, as it was constructed and as it stands today, however well intentioned, lacks the necessary enforceability and has created administrative black holes in the interstate placement process. A system that was created to encourage interstate cooperation requires a procedure that is not only relatively consistent but one that holds the power of enforcement when one individual, or state, does not follow the

rules. Currently, the ICPC has no such power. The agreement was originally entered into under a good faith effort to protect children, and it is that, and little else, which binds the parties together now. A nation-wide operation, which places children in homes from state to state, requires something more than a mere promise to act responsibly; true enforceability is necessary.

Provide Guidance and Uniformity

The lack of enforcement power, which the ICPC has at its discretion when procedures break down, has given way to a growing involvement by the courts. Judicial interpretation has varied when it comes to state disagreements and the placement of children, and as a result, the process has become equally indiscriminate. Such discrepancies do little to clarify or strengthen the ICPC's role and they have done even less in terms of making the interstate adoption process more manageable for the actors. What the courts have done to the ICPC process is in fact redefine it, and while there are few judges who will grant adoption petitions without ICPC approval, they have used their authority to amend that process when they see fit. In addition to lack of uniformity in the judicial system currently, the definitions within the ICPC of "sending" and "receiving" agencies are vague and much easier to translate for foster care placements than they are for adoptions. Because the ICPC has authority over public, private and independent interstate adoptions (versus the foster care placements, which are relegated solely to the public agencies), the issue of who constitutes a "sending" and "receiving" agency becomes more complicated. Moreover, the ICPC was designed to place children in safe environments across State lines, the well-being of a child has never been articulated in the ICPC goals and still remains absent today. With this language missing from the compact, the notion of what is best for a child's well being is left to the individual state, social worker, or judge to decide. Contradictory to the growing scope of the ICPC over the last thirty years, the language, for the most part, has not changed. Since the intention here is to alleviate ambiguity within the process, offer more direction through a clear and consistent set of regulations, and solidify the authoritative reach of the ICPC, amending the current language to meet the current need cannot be avoided. The Resource Guidebook offers one solution to this dilemma, but at this point, it remains underutilized by both the ICPC and its administrators and judges on the interstate adoption process.

Demand More Accountability

In a report issued by the Office of the Inspector General, examining the structure and process of the ICPC,³⁰ only 27 of the 52 states involved with the compact were able to report the number of placements

³⁰ "The Interstate Compact on the Placement of Children: State Structure and Process", Department of Health and Human Services, Office of the Inspector General.

that had been finalized through the ICPC; and many of those numbers were estimates (including California). Many States “believe that children have probably been placed in their State without their knowledge due to not knowing when a placement has been finalized or placements that ignore the compact all together.”³¹ Differing procedural standards among States, the varying sophistication of tracking techniques within those States, and the lack of accountability when the ICPC process falters are all issues that come up repeatedly when searching for answers for this confusion. If a true change is to be made with the interstate adoption of children, a renewed commitment to holding our public agencies accountable for where these children end up must be upheld. Policies must include checks and balances that demand accountability from all states involved in the compact, constant assessments of current cases, and the resources must be there for States to comply. Finally, the current interstate adoption process is wrought with administrative differences, the result of which, at times, has been a lackadaisical management of the placement of children. Such haphazard administration is unacceptable.

Provide Information for Those Involved With Interstate Adoptions

With any policy proposed, resources must be available so that such changes do not go overlooked and unpracticed. Ideas for such an effort have been previously raised such as a guidebook of regulations and procedures for public agencies, private adoption companies, lawyers, judges, and parents. While this is an excellent first step, any policy that is adopted must retain the capability to train and educate people involved with this process on an ongoing basis. Resources and limitations on the prospect of widespread education vary depending on the route taken with standardizing the ICPC, but the simple issuance of a written document seems only the tip of the iceberg. Substantial communication from the American Public Human Services Association (the Secretariat for the Association of Administrators of the ICPC) must be in place with any policy that is adopted. Without the effort to re-educate people about the ICPC and the interstate adoption process, the differences that plague the current process will see little change.

Represent Politically and Economically Viable Solutions

Regardless of the avenue chosen to standardize the ICPC process, amending the current compact is necessary. Any changes proposed must then be considered with the caveat that they are financially and politically operable. Without such support, any proposed policy will remain unrealized. The course of action that places the least strain on the federal government and budget is the preferable alternative.

³¹ The U.S. Department of Health and Human Services, Office of the Inspector General. “The Interstate Compact on the Placement of Children: State Structure and Process.” November 1998 – all data reported was for FY 1997. Google search engine. Accessed February 28, 2003.

Options for Reforming the ICPC

With the guidance of these criteria, the question of the best approach to improving interstate placements is now addressed. At present, there are two main options to explore with regard to the role of the ICPC in interstate adoptions. Both fulfill the criteria outlined earlier and satisfy the ultimate goal of this report; to place more children into permanent adoptive homes through a more efficient ICPC process. The first option is to begin the process of federalizing the ICPC, which brings with it federal enforcement power and government funding. The second option is to revise the ICPC process as it stands now, maintaining the reciprocity agreement between states but updating it and making it a more effective tool for public agencies to use. An analysis of each of these options is necessary before recommending a course of action.

Though only two options are examined in detail here, it should be noted that other options exist. First, one consideration is to leave the system intact and allow the natural course of action to proceed. The current process is not fatally flawed, that is to say that interstate adoptions are completed, but the best interests of the children are not met when they remain in the foster care system for longer than is necessary. Thus, the *status quo* option cannot answer the points that are raised in previous parts of this report, and it is not a preferable option. Second, another option is to eliminate the ICPC and allow states to independently create agreements with other states to facilitate interstate placements. This is indeed a possible option, but we feel that the ICPC system should not be completely eliminated, because the underlying intent of the compact is sound and the process is relatively effective. In short, while there are other possible solutions to resolving complicated interstate adoption processes, they do not sufficiently meet the criteria and simply do not present the benefits provided by the following two options.

Option One: Federalizing the ICPC

One approach to addressing the problems with the interstate placement process is to federalize the entire process. This approach overrides the local and collaborative approach on which the compact is based, and replaces it with federal oversight. It is a move that is not inconsistent with recent federal government policy changes regarding the management of child placements; however, the new administration may not be open to extending federal control to interstate adoption. That being said, let us proceed with the examination of this option.

“Federal legislation that supplants the existing compact is a more realistic alternative to reform of the ICPC process. Federal Law, in the form of Titles IV-B and IV-E of the Social Security Act and the Child

Abuse Prevention and Treatment and Adoption Reform Act, already addresses critical aspects of child welfare. The inclusion of interstate placements of children in publicly supported foster care within the ambit of federal law...is likely to be the only realistic alternative to true interstate placement reform.”³² After reviewing some of the major challenges to the ICPC process, the suggestion to replace the locally controlled process with that which requires federal compliance is valid. This choice appears similar to option two with regard to the necessary consensus from the ICPC states in order to begin communication with state representatives. However, the distinction comes with the *direction* the ICPC takes when that conversation begins. In option one, the compact is either incorporated into an existing child welfare federal mandate (ASFA is a good example) or a separate program and mandate exclusively for ICPC regulation is created. The means to this end remains consensus between and assistance from the individual states involved with the ICPC. Without the support from those who carry out the compact on a daily basis, these conversations will remain of secondary importance to politicians.

Advantages of Federalizing the Interstate Placement Process

The federalization option has some significant benefits and fulfills some of the criteria required of an effective recommendation. The benefits of stronger uniformity and enforceability are the greatest strengths of federalizing the ICPC, which satisfies one of the criteria. Under the current system, some of the barriers borne out of the ICPC system include the problems with conflicting requirements for home studies and discrepancies in the financing process. Federal law creates nationwide standards that may facilitate a more uniform process, and thus one set of guidelines eliminates much of the current confusion between jurisdictions. The federal system then alleviates the variation between states; a tension that now creates a more cumbersome process for interstate placements.

The other major advantage to federalization of the ICPC is the enforceability power that follows it. As previously addressed, one of the problems with the current ICPC process is the subjectivity within the compact for judges. The courts are not required to uphold the ICPC process in rulings, and as a result, the discretion at times creates conflicting outcomes from case to case. Under a federal system, all parties involved in the interstate adoption process, including judges, are required to follow ICPC procedures. Such a move will create stronger standing in court for the ICPC.

³² Madelyn Freundlich, “Reforming the Interstate Compact on the Placement of Children: A New Framework for Interstate Adoption”, The Evan B. Donaldson Adoption Institute, © 1999. www.adoptioninstitute.org/policy/inters1.html. Google Search Engine. Accessed January 20, 2003.

Funding is another advantage that accompanies federalization. Similar to other child welfare programs, federal mandate is expected to include federal funding. The current ICPC system operates with standard allocation of funds; this carries with it the burden on states to pull funds from their own budgets to support the interstate placement endeavor. This budgetary responsibility creates further strains on existing state deficits, and federal dollars would help ease that burden. Such funds also answer many of the challenges posed by public agencies operating on finite figures and continuous requests for aid. The expectation that comes with federal funding is that these requests not only be met, but also met in a more timely and responsible fashion. Funding to secure the manpower and technology to manage placement cases are two of the largest obstacles now facing the ICPC, and option one speaks to these concerns.

In addition to the challenges federal funding overcomes, there is also a level of accountability provided by federalization not present in the current ICPC process. The issues discussed at length throughout this report concerning judicial inconsistency, varying standards between states and counties, and the different degrees of tracking sophistication are each addressed with federalization and eased with federal dollars. For instance, there is less room for state interpretation with regard to home studies and finalization approval, there is a federal standard for judges to refer to and comply with in their own jurisdictions, and placements made outside the ICPC are subject to enforceability not yet seen in the current process. Federalization provides an entirely new level of oversight not now enjoyed by the ICPC. While reporting is now voluntary, a federal mandate eliminates that aspect and demands constant assessment by each state involved. Tracking methodology receives ample attention in this discussion as well, and if the ASFA mandate is used as an indicator, resources as well as expectations for consistent assessments will follow.

Disadvantages of Federalizing the Interstate Placement Process

Though this approach achieves many of the report's goals, it also imposes major costs. This approach places a large bureaucratic burden on public agencies. Therefore, it is unlikely to be a more "adoption friendly" option, as many federal initiatives are perpetually lost within the bureaucracy. Part of the advantage of the current system is that states are allowed to establish the equivalent of "community standards" in assuring the appropriate placement of children. In a federalized approach, this freedom is replaced with one rule for all communities. The collaborative, local control long held by the ICPC then becomes virtually obsolete. With federalization comes federal direction, a conversation that dictates rather than discusses, and in the long run it is more difficult to instigate change when it is required.

One other substantial disadvantage is the viability of extending federal consideration to interstate placements under the current administration. Taking into account the current priorities and preoccupations of the nation, both at home and abroad, there may be hesitation by the Bush

Administration to increase the federal orbit. It is true that this option eases state budgetary constraints, but conversely, it adds to the federal responsibility and federal budget. Moreover, with *Operation Iraqi Freedom* continuing into its most urgent stage, significant monies directed towards any new policy proposal are unlikely.

Option one requires at the very least restructuring the ICPC, and at the most, uprooting the current system. Such a move, especially when directed on a large, countrywide scale, requires time and planning for the long term and for the interim period when the system is in flux. This lag time certainly will not precipitate more timely placements, one of the criteria laid out for a successful policy, and it is not in the best interest of the child in need of placement. If the overall goal remains to place more children into more adoptive homes, perpetuating a process that keeps children in the system, even if it is done under the guise of change, is not consistent.

The actual administrative process for the ICPC, which is what will face the most dramatic change under option one, is the step within the process that functions relatively well. The real problem is not the administrative aspect of the ICPC, but rather the preparation and follow-up work done by both the sending and receiving state. This is to say that the initial communication in each state is effective, and it is the filtering of information and the responsiveness of agencies and individuals that slows the process. These symptoms are difficult to remedy with the federalization of the interstate placement process. Regardless of an added supervisor, the dynamics on the local level, including activities of the social workers and agencies, require modification. In the end, federalizing this process retards the most effective aspect of the process by creating an additional layer of administrative oversight. In so doing, it actually impedes the efforts to create improvements and pursue avenues in the best interests of the children.

Finally, federalization is not necessarily an option that educates more people about interstate placements. Nothing within the federalization process makes it safe to presume that if states submit this control to the federal government, the federal government will take the responsibility of placing more children into homes more seriously. Recruitment efforts for parents will still rest with the states, but ultimate approval is required of the centralized authority. Outreach programs intent on educating more people about the ICPC option also remain removed from local control and are less effective if handled by the federal government; what works for one state may not work for another, and with planning occurring from one “desk,” the differences are rarely accounted for.

Conclusions: Federalizing Does Not Represent the Best Course

Ultimately, the strengths of option one are outweighed by the disadvantages of such an approach. Federalization offers no creative way to better use the ICPC, a system that is flawed, not broken. Option one eliminates the possibility for collaboration by replacing one governing body with a much larger one. When analyzing the foster care system, a program managed by federal directives, the numerous stories of abuse, neglect, and even death within that system are evident, and this provides strength in the argument against centralized management. A discussion of a more decentralized and creative option that uses the inherent strengths of public agencies and addresses the weaknesses within the standing system follows.

Option Two: Revision of the ICPC

The second option is to execute a revision of the multilateral agreement that currently provides the infrastructure of the ICPC. The revision of the ICPC, with the maintenance of the compact's original collaborative tone, is a challenging task but not one that is insurmountable. As it is written, the AAICPC (a representative delegation from all 52 jurisdictions in place for support and regulatory direction) requires agreement from each state or jurisdiction before initiating compact revision begins. After reaching such consensus, it is the responsibility of the individual state legislatures to approve the recommendations and incorporate the ICPC into local legislation. Option two involves revising the language of the ICPC, creatively revising the procedural directives in the compact, and using both short- and long-term objectives for restructuring the process while state legislatures take time to examine these revisions and accept them.

Advantages of Reforming the Existing Multilateral Agreement

The most important consideration in analyzing option two is that the current framework is functioning. The ICPC process is successful at placing children, only not at an optimal level. The tools for an effective process exist within the ICPC now, but with an effort to update the compact, suitable to address the needs of current placements, these tools are put to a more effective use. The administrative aspect of the ICPC operates relatively efficiently, but local preparation and follow-up are not enjoying a similar level of success. The proposed revisions seek to increase efficiency through better allocation and use of funding and people power. Subsequently, a more effective process ensures successful placements, those most consistent with best interests of the child.

The revisions proposed in option two maintain the collaborative integrity and local control of the ICPC. They also go further in providing incentives to harness the creative spirit of ICPC personnel; much more so than seen in the standing compact process. Preserving state and county sovereignty not only sustains

the creative spirit, but it also maintains local accountability. A superior method when working with a framework that is case specific is one that formulates solutions at the source of the problem, not a blanket uniform solution. The level of flexibility offered by a local system best meets local needs.

Restructuring the ICPC and maintaining the reciprocal state agreement is both economically and politically viable. Although both options require consensus and legislative approval, the system already proven effective will more smoothly pass through the legislative approval process. The ICPC continues to place children while a federal system remains questionable. Option two provides suggestions to revise the compact and thereby the procedure, accepting current process and offering short-term remedies while revision awaits approval. If the federal approach is embraced but fails to pass with legislative approval, the foster care system may fill beyond capacity; interstate placements then having nowhere to rest. Taking into account our current economic recession, the political priorities and the receptiveness of the American public to new and broad sweeping policies, there seems to be little room for anything beyond revisions to the current system. Moreover, those working with the ICPC understand the hesitation articulated above. Susan Quash-Mah³³, Patti Colston, and Jackie Rodriguez³⁴ all agree that the system works in part, that is to say that it does not need a complete overhaul, rather revisions to the existing framework serve as the best answer to the problems discussed throughout this report. It goes without saying that if those within the ICPC system do not support the plan to fix it, any hope of improvement is minimal. Option two incorporates suggestions made by child welfare professionals and the expectation is that this option will enjoy the support of these professionals.

Disadvantages of Reforming the Existing ICPC

The greatest negative aspect of revising the current ICPC framework is the heterogeneity of the entire system. A framework based on local control will have variation in requirements and definitions, which is inherently less efficient. With a non-uniform system, any level of enforceability is much more difficult, because enforceability requires a monitoring system with significant resources. Additionally, the proposed amendments will add another layer to an already complicated process.

The current framework also has a history of lacking funding. Ms. Grant maintains that her largest problem with interstate adoption is fiscal support for new programs when her budget for recruitment is approximately \$50,000 annually. Although restructuring the ICPC requires public agencies to expend

³³ Quash-Mah, Susan Baxter and Patti Colston. Project Coordinator and Community Education Coordinator for the Implementation of Collaborative Planning to Increase Inter-Jurisdictional Adoptions Project. Personal Interview on March 7, 2003.

³⁴ Rodriguez, Jackie. ICPC Coordinator, Sacramento, California. Phone Interview on March 10, 2003.

resources to pull funding from permanent sources, such as adoption or foster care, it provides agencies a type of autonomy not provided by federalization. There is, however, no guarantee that the federal funding offered by option one will actually reach the ICPC process.

Finally, the amendment process to change the compact is tedious. A unanimous decision in the AAICPC is necessary to pass an amendment of the compact, and this must occur in 52 jurisdictions and legislatures. During the 30 years of the compact's existence, little changed, and this implies that the process is not amenable to restructuring.

Conclusion of Restructuring Option:

The revisions will focus on increasing the homogeneity of the system while capitalizing on the aspects of the ICPC process that currently do function well. If the amendments are successful, it will not result in an additional level of complication, but rather clear up previous discrepancies. Under a federal system, more funding will likely be spent on an inefficient system. The current funding structure will achieve success when an incentive framework is introduced that harnesses the abilities of ICPC personnel. The revisions are dedicated to increasing the communication and accessibility of information between caseworkers, administrators, judges, lawyers, and even the possible adoptive families.

Restructuring the ICPC offers the opportunity to maintain the current level of federal bureaucracy and even decrease it, while improving the process. Increasing federal control brings minimum results, while the system already in place has the ability to make the necessary changes in order to create a better environment for interstate adoptions. Upon reviewing the advantages and disadvantages of both options, it is clear that the enhancement and revision of the ICPC is the most viable course of action. With a vision for reforming the existing ICPC framework standing as the recommendation, the analysis will focus on the specific reforms necessary to address the challenges facing the current framework, as well as a detailed assessment of the manner by which to implement these reforms.

Chapter 4. Making the Necessary Changes in the ICPC Framework

The elements of implementing the ICPC restructuring include long-term and short-term strategies. The long-term strategy exists to achieve political passage. The most significant challenge to this process is that it requires the legislative approval of 52 jurisdictions in order to make the final changes to the interstate compact. Due to this timely obstacle, the short-term strategy, composed of elements not requiring far reaching political passage, creates positive changes in the interim. The long-term elements involve changes to the actual ICPC, including specific language alterations that will significantly improve the system, better accommodate interstate adoptions, and will meet the best interests of children. A discussion of the short-term goals precedes the discussion of the long-term changes necessary to permanently achieve success.

Short-Term Goals and Actions

There are interim improvements that states will implement while awaiting actualization of the long-term strategy. These initial goals and actions involve:

- The use of an agency, such as the I-JAC, as a model.
- The initiation of training and education for caseworkers, judges, administrators, and lawyers.
- The provision of checklists stipulating requirements for home studies to lessen confusion.
- The specialization of some caseworkers to complete only ICPC cases.

Create an Interjurisdictional Taskforce

The Inter-Jurisdictional Adoption Clearinghouse (I-JAC) currently acts, under the mandate and fiscal tutelage of the ASFA³⁵, as a mediator and support system for California, Washington, Nevada, and Oregon. It is their responsibility to assess individual needs and develop better methods with which each state may accomplish more inter-jurisdictional placements. The I-JAC helps break down the communication barriers between social workers, compact administrators, and judges that currently confuse the process and prevent much improvement in the areas of efficiency, consistency, and timely placements. The ability to have one team whose job it is to listen, assess, and eliminate unnecessary

³⁵ The Adoption and Safe Families Act was signed into law 1997 under President Clinton.

bottlenecks through revised procedures is a necessary step in providing clarity and consistent direction for those involved with the ICPC process. Such a team engages in a collaborative effort with specific states to better use the compact, streamline their procedures, and place more children. In addition to these strategies, bilateral or multilateral agreements like I-JAC can be made to further meet the individual circumstances that exist in other states to create a more effective overall process.

Create Checklists

Normally, when paperwork for an ICPC case is sent to a receiving state, a checklist for required standards from the sending state is not included; one state is unaware of what the other requires. As a result, applications are denied and children await permanent placement for an excessive amount of time. The I-JAC suggests attaching checklists when paperwork is sent, and these will include the necessary items to successfully complete the process to allow a child's placement. Cases are not completed, in some instances, because receiving states need references from certain caseworkers or administrators in order to complete a home study that differs from the sending state. The sending state receives back paperwork explaining that the necessary paperwork is not complete, but from their view, it does seem complete and the confusion begins. Checklists will allow the caseworkers on both ends of the ICPC procedure to be informed of the requirements before the process begins, and a simple adjustment such as this will ease communication and create a more seamless process.

Initiate Training

The I-JAC also began the planning of training programs for social workers in an effort to increase the number of completed interjurisdictional adoptive placements³⁶ within California, Washington, Nevada, and Oregon. As social workers must already be trained and educated to manage foster care and adoption cases, incorporating a session specifically on interjurisdictional placements is not likely to impede current administrative functions. In addition, a guidebook similar to that used by juvenile and family court judges will be created and distributed to the caseworkers who may manage ICPC cases. Such training and educational sessions guarantee that caseworkers will have the knowledge and ability to maneuver the complex ICPC process when it becomes evident that such a placement is necessary to find a child a permanent home.

³⁶ The first pilot training program aims to be ready for September, 2003.

Assign Specialized Workers

Another key to increase the effectiveness of the overall process is to use the tool of specialized labor. For example, Sacramento County in California employs one individual to manage all ICPC placements. This is a highly effective approach, as the element of uncertainty in the inherent complications diminishes when familiarity with the ICPC process increases. The transaction costs between the sending and receiving states will decrease with specialization, because fluency in the process will ultimately result in the process taking less time. Without specialization, which is how the majority of ICPC states manage the process now, many individuals handle adoptions generally, and each time they encounter a potential ICPC case, re-familiarization with the process and a loss of valuable time for the children waiting in foster care ensues. This produces a more inefficient outcome that is avoided by having only a few individuals incur the initial high cost of learning this process. A higher volume of placements will be completed at lower “costs” over time. If for some reason a particular agency does not have the manpower in numbers to assign specialized ICPC staff, the installation of a point system is a viable solution as well, as recommended by Susan Quash-Mah and Patti Colston of the I-JAC. This system will allow ICPC cases to be “worth” more points when completing adoptions, because these cases do require more time and administrative rigor. In other words, completing one ICPC case is equal to completing two intrastate placements, and therefore there is an incentive to complete the more arduous ICPC cases.

Long-Term Goals and Actions

The long-term implementation strategy focuses on the revisions that face the formidable challenge being subject to AAICPC and legislative approval and passage. These revisions require the greatest dedication both through the hours of work and lobbying efforts involved, but they will occur concurrently with the short-term revisions. The following discussion carries the assumption that the short-term implementation strategy will successfully continue and supplement the success of the long-term strategy.

Revise The Language of the ICPC

The vague and at times ambiguous language of the ICPC promotes heterogeneity, both in the courts and with the ICPC administration. There has been little alteration since its inception 30 years ago, implying that throughout the entire framework the language of the compact is outdated and continues to be interpreted regionally. Rather than requiring a national standard to remedy this problem, more specific compact language will achieve the same goal, as room for interpretation will decrease.

The one area in greatest need for definition of language is the articulation of placements that reflect the child’s best interest as the primary goal in the process. A standard perspective must to be maintained in

order to gauge the best interest of the child, and unambiguous principles are needed to qualify that perspective. These specific principals will be determined by the AAICPC and stated in the ICPC guidebooks. Beyond the best interest standardization, attention must be directed at clarifying the definitions of “sending” and “receiving” agencies, specifically when and under what circumstances either agency gains control and jurisdiction over the placement of the child. After a complete review of the ICPC process and consideration of what level of standardization is acceptable to the states for approval, the AAICPC will lobby in the states for implementation of the appropriate standards.

Look Toward Outside Assistance

The contracting out of ICPC specific services will now be held accountable to the uniform language standard outline above. The current tracking system is in the most need of an efficient homogenous replacement. “Twelve states (out of the 52) report tracking compact cases entirely by computer, while another twelve report having no automation in their tracking system. The remaining states use a combination of computer and manual tracking systems.”³⁷ A private company to manage and maintain the system may achieve this goal at a lower cost than the current system. Using the power of specialization and efficiency that the private sector provides will significantly assist the ICPC process.

The question of funding is an inevitable one, and one that cannot be underemphasized for the ICPC, which lacks secure funding. First, the member dues that each state pays to be active with the ICPC are actually a viable vehicle by which to begin paying for such a contract. Outside funding is also available, as it has been successfully awarded to efforts such as the I-JAC³⁸ pilot studies, and private companies interested in the area of adoption should certainly be considered. A grant writer will address these proposals. The Association of Administrators of the Interstate Compact on the Placement of Children (AAICPC or the Association) coupled with the grant writer should be looked to manage this process and forward the compact’s visibility and funding opportunities. There will be long-term economic savings resulting from each privatization effort discussed here, and these will be directed towards a grant writer, who will work to secure an even greater amount of outside funding.

In other words, funding does not necessarily have to come from adoption, recruitment, foster care, or AAICPC membership funding; other funds are available and will be pursued. Privacy and confidentiality issues will also be important issues to consider with funding, however, these too will be dealt with during

³⁷ “The Interstate Compact on the Placement of Children: State Structure and Process”, Department of Health and Human Services, Office of the Inspector General, November 1998 – all data reported was for FY 1997 – this is the most recent data available.

³⁸ Funding for I-JAC currently comes from the DHHS, the Children’s Bureau, and a grant from Adoptions Opportunities – www.ijac.org/funding.htm - accessed 3-03.

the contractual process. With such funding agreements, any organization that takes on this task is legally bound to respect the concerns and specific standards that individual states require.

Another area that will benefit from the contracting out of services is the home study aspect of the ICPC process. Several states began this process by requesting help from local Volunteer Court Appointed Special Advocates (CASA) organizations; certainly other non-profit agencies that are involved with this field may be used to help complete the home study process. This assumes, of course, that home study requirements are clarified through revised compact language. The agencies that are appropriately trained to do such work (and local organizations such as CASA fit perfectly here) should be considered valuable assets and ones that will improve the efficiency of the ICPC process.

Imposition of Further Standards and Reporting

Specific timelines and minimal standards for the completion of home studies, approval, and finalization of the process will all provide direction for the ICPC process and will supply the accountability benchmarks that the compact lacks now. Instructions in the form of checklists for agencies to follow when participating in the ICPC will ensure the process is uniform and timely. All the language suggested here provides more direction to the ICPC process through specificity; leaving less room for individual states, social workers, or judges to interpret the compact individually. A compact that contains within itself standards to measure the success or failure of the process is something that the ICPC must have in order to more efficiently place children into permanent homes.

By maintaining the reciprocity of the ICPC while encouraging accountability, a certain level of necessary enforcement power will follow. The vehicle of enforcement power will originate from the requirement of quarterly reports that are submitted first to the counties, then to the state compact administrator, and ultimately are reviewed by the Association. Currently, the reports are voluntary, therefore the present lack of statistics is not unusual, however, they are suspect if not all together unreliable. With the database for tracking information present, the reporting of that information is required. Such reports will be made available to the public, which provides another source of accountability. Reports will include, but not be limited to, the following information:

- The number of children currently eligible and involved with the ICPC process, separated by the various goals of adoption, foster care, kinship care, or guardianship agreements.
- Individual case tracking information with documentation of all communications regarding that case, status of placement, steps yet to be accomplished, and a running time of the case from initiation to finalization.

- The numbers of children successfully placed through the ICPC process within that quarter, and this includes only finalized cases.

Upon receiving the reports, it is the responsibility of the Association to assess the success of particular states with regard to compliance with the standards articulated in the ICPC and guidebooks. The new enforceability provision comes with the passing of four quarters without demonstrated improvement or outright non-compliance. At such time, the Association will appoint an independent auditor of the violating state, paid for by the state itself, and sent out with the intention of assessing the causes of non-compliance and creating a strategy for reasonable changes. After completion of the assessment, the state in question has two more quarters by which to implement the suggestions made by the auditor and the strategy developed by the Association. If compliance is still not achieved by said time, the Association will fine the violating state. Communication between the Association and the state's director of child welfare services should provide an ample amount of pressure to the participating ICPC agencies so that compliance is ultimately reached. All fines collected through this process will stay within the ICPC and be used to support such endeavors as technological maintenance, training, and future audits. It is important to note here, that the motivation behind the new reporting procedure is not to extract funds, but to supply some means by which the ICPC can enforce its new standards with its own members. Without the accountability and enforceability provided by a system such as this, the success of the ICPC will remain inconsistent.

Concluding Remarks

The short- and long-term implementation strategies that will improve the effectiveness of the interstate adoption process are expansive and aggressive. The financial, administrative, and legislative aspects of the ICPC will be reconstructed in a manner that achieves a greater number of permanent adoptive placements for foster care children. The suggested revisions to the ICPC process will result in the compact functioning at an optimal level. This is a timely endeavor, and it requires the support and dedication of the caseworkers, judges, lawyers, and administrative staff who are responsible for executing the ICPC process. Without a conscious commitment by these parties to use the ICPC as a consistent and leading tool for placing children, this statute will not achieve its intended goals. The consequences are costly when public agencies are unable to maneuver the ICPC process to its full potential. The over 100,000 foster care children languishing in the system are suffering from the lack of stability during their formative years. The quality of life for foster care children is often greatly diminished, as demonstrated by horrific instances of abuse, neglect, and criminal behavior. The fact that the mental, physical, and psychological wellness of a fragile child in foster care will improve when given a family cannot be

understated here. An even more practicable ICPC process will aid public agencies in locating adoptive families for those children approved for and awaiting permanent homes.

Literature Cited

- AdoptionStatistics.com. "Statistics on Placing Children for Adoption."
http://www.adoptionstatistics.com/placing_children_for_adoption.asp. Google search engine.
Accessed February 27, 2003.
- The Adoptive Family Resource Center. "Adoption Fact Sheet California Children Placed Out Of State."
http://www.sierraadoption.org/afrc_aap_cachildren.htm. Google search engine.
Accessed January 18, 2003.
- The American Public Human Services Association (APHSA). "Guide to the Interstate Compact on the Placement of Children." Revised 2002.
http://icpc.aphsa.org/documents/Guidebook_2002.pdf. Google search engine. Accessed February 12, 2003.
- The American Public Human Services Association (APHSA). "Association of Administrators on the Interstate Compact on the Placement of Children." January 14, 2003. <http://www.icpc.aphsa.org>.
Google search engine. Accessed February 12, 2003.
- California State Department of Justice, the Office of the Attorney General. "Legal Rights of Persons with Disabilities (Chapter 6 - Parental Rights)." 2001.
<http://caag.state.ca.us/consumers/general/adach6.htm>. Google search engine. Accessed January 20, 2003.
- Children's Rights. "The Adoption and Safe Families Act and Geographical Barriers to Adoption."
http://www.childrensrights.org/policy/adoption_and_safe_families.htm. Google search engine.
Accessed February 11, 2003.
- The Evan B. Donaldson Adoptions Institute. "The ICPC and the Best Interests of Children in the Public Child Welfare System." 1999. <http://www.adoptioninstitute.org/policy/inters4.html>
Google search engine. Accessed February 6, 2003.
- The Family Law Organization. "Uniform Child Custody and Jurisdiction Act." 1997.
<http://www.familylaw.org/uniformchildcustodyact.htm>. Google search engine. Accessed February 12, 2003.
- Freivalds, Susan, Freundlich, Madelyn, and Scoppetta, Nicholas. "Forum on Adoption Issues." April 14 1998. <http://www.adoptioninstitute.org/proed/forum.html>. Google search engine. Accessed February 27, 2003.
- Freundlich, Madelyn, "Reforming the Interstate Compact on the Placement of Children: A new Framework for Interstate Adoption", The Evan B. Donaldson Adoption Institute. 1999.
www.adoptioninstitute.org/policy/inters1.html. Google search engine. Accessed January 20, 2003.
- Freundlich, Madelyn. "The Future of Adoption for Children in Foster Care: Demographics in a Changing Socio-political Environment." The Evan B. Donaldson Adoption Institute.

- <http://www.adoptioninstitute.org/policy/polfos.html>. Google search engine. Accessed February 27, 2003.
- Grant, Sari. Personal Interview. Los Angeles County, California, Department of Child and Family Services. January 24, 2003.
- Harrigan, Sheila. "Addressing the Needs of Hard to Place Children." The New York Public Welfare Association, Inc. June 18, 2003. <http://nypwa.com/PublicPlcy/htp/addrhpt.htm>. Google search engine. Accessed January 24, 2003.
- The Inter-jurisdictional Adoptions Clearinghouse. "The Adoptions and Safe Families Act of 1997." http://www.ijac.org/documents/asfa_1997.htm. Google Search Engine. Accessed March 27, 2003.
- Lexis-Nexis. "*J.D.S. v. Franks*." Pepperdine Libraries On-line Database. Accessed February 18, 2003.
- McWilliams, Jackie. Personal Interview. Manager for the Sierra Adoption Services Project. February 13, 2003.
- The New York State Citizen's Coalition for Children, Inc (NYSCCC). "A Guide to Interjurisdictional Adoptions: Creative Ways to Remove Barriers to Interagency, Intercounty, and Interstate Adoptions." December 12, 2002. <http://www.nysccc.org/Adoptive%20Parent%20Info./InterjurisNotes.htm>. Google search engine. Accessed February 6, 2003.
- Portocarerro, Ivania. Personal Interview. Birthparent Outreach Coordinator for the Adoption Connection. February 14, 2003.
- Quash-Mah, Susan Baxter and Patti Colston. Project Coordinator and Community Education Coordinator for the Implementation of Collaborative Planning to Increase Inter-Jurisdictional Adoptions Project. Personal Interview on March 7, 2003
- Rodriguez, Jackie. ICPC Coordinator, Sacramento, California. Phone Interview on March 10, 2003.
- The U.S. Army Judge Advocate General Corps. [http://www.jagcnet3.army.mil/JAGCNETInternet/Hompages/AC/TJAGSAWeb.nsf/8f7edfd448e0ec6c8525694b0064ba51/326de4f0d09b17f385256c4e004db33f/\\$FILE/Chapter%20Q.pdf](http://www.jagcnet3.army.mil/JAGCNETInternet/Hompages/AC/TJAGSAWeb.nsf/8f7edfd448e0ec6c8525694b0064ba51/326de4f0d09b17f385256c4e004db33f/$FILE/Chapter%20Q.pdf). Google search engine. Accessed February 12, 2003.
- The U.S. Department of Health and Human Services, Office of the Inspector General. "The Interstate Compact on the Placement of Children: State Structure and Process." November 1998 – all data reported was for FY 1997. Google search engine. Accessed February 28, 2003.
- The U.S. Department of Health, Administration for Children and Families, The Administration on Children, Youth and Families, and The Children's Bureau. "Final Report California Child and Family Services Review." Google search engine. Accessed January 12, 2003.
- The U.S. Department of Health and Human Services. "IV. Overcoming Barriers to Interstate Adoptions." January 1, 2001. <http://www.acf.dhhs.gov/programs/cb/initiatives/photolts/sect4.htm>. Google search engine. Accessed February 6, 2003.

The U.S. Department of Health and Human Services and the Administration for Children and Families. "The AFCARS Report." www.acf.hhs.gov/programs/cb/publications/afcars/report7.htm. Accessed January 20, 2003.

The U.S. Department of Health and Human Services Administration for Children and Families. The Adoption and Foster Care Analysis and Reporting System (AFCARS) Data Submitted in FY 2000, for October 1, 1999 thru September 30, 2000. From <http://acf.dhhs.gov/programs/cb/publications/afcars/report7.htm>. Google search engine. Accessed February 18, 2003.

The U.S. Department of Health and Human Services Administration for Children and Families. The National Adoption Information Clearinghouse. "Cost of Adopting." January 28, 2003. http://www.calib.com/naic/pubs/s_cost.cfm. Google search engine. Accessed February 18, 2003.

Wetzstein, Cheryl. "A Special Report. State Line Stall Interstate Adoptions: Prospective Parents are Stymied Despite Law to Ease Process." *The Washington Times*. September 2, 2001. http://www.adoptionnation.com/wash_times_9-2-01.htm. Google search engine. Accessed February 6, 2003.

The Wyoming State Legislature. "Chapter 5: Interstate Compact on the Placement of Children." <http://legisweb.state.wy.us/statutes/titles/title14/chapter05.htm>. Google search engine. Accessed February 27, 2003.

Appendix A. Foster Care and Adoption Statistics for 2000

The following appendix contains detailed statistics regarding foster care and adoption from the fiscal year 2000. U.S. Department of Health and Human Services Administration for Children and Families. The Adoption and Foster Care Analysis and Reporting System (AFCARS) Data Submitted in FY 2000, for October 1, 1999 thru September 30, 2000

From <http://acf.dhhs.gov/programs/cb/publications/afcars/report7.htm>. Google search engine. Accessed February 18, 2003.

Ages of Children in Foster Care

Age	Percent of Total	Number
Under 1 year	4%	22,766
1 thru 5 years	24%	134,919
6 thru 10 years	25%	137,047
11 thru 15 years	29%	161,397
16 thru 18 years	16%	89,751
19 plus years	2%	10,120
Mean years: 10.1 years		
Median years: 10.4 years		

The Placement Settings of Children in Foster Care

Setting	Percent of Total	Number
Pre-Adoptive Home	4%	23,159
Foster Family Home, Relative	25%	137,385
Foster Family Home, non-	47%	260,636
Group Home	8%	43,893
Institution	10%	56,512
Supervised Independent Living	1%	5,108
Runaway	2%	9,964
Trial Home Visit	3%	19,343

The Lengths of Stay for the Children in Foster Care

Length of Stay	Percent of Total	Number
<1 month	4%	23,057
1 to 5 months	16%	87,222
6 to 11 months	15%	83,723
12 to 17 months	12%	64,299
18 to 23 months	9%	47,742
24 to 29 months	7%	41,101
30 to 35 months	6%	32,799
3 to 4 years	15%	82,784
More than 5 years	17%	93,274

Mean Months: 33
Median Months: 20

The Case Goals for Children in Foster Care

Goal	Percent of Total	Number
Reunify with Parents or Principal Caregiver	43%	239,552
Live with Other Relatives	5%	25,291
Adoption	20%	110,536
Long Term Foster Care	9%	49,609
Emancipation	6%	33,026
Guardianship	3%	15,201
Case Plan Goal Not Yet Established	15%	82,785

The Race and Ethnicity of Children in Foster Care

Race and Ethnicity	Percent of Total	Number
Non-Hispanic	2%	10, 994
Asian, Pacific Islander Non-Hispanic	1%	5,978
Black Non-Hispanic	40%	220,660
Hispanic	15%	81,890
White Non-Hispanic	38%	208,632
Unable to determine	4%	20,280
Two or more races Non-Hispanic	1%	7,566

The Ages of Children Entering Foster Care in FY 2000

Age	Percent of Total	Number
Under 1 year	13%	39,060
1 thru 5 years	25%	71,505
6 thru 10 years	21%	62,535
11 thru 15 years	29%	85,593
16 thru 18 years	11%	32,091
19 plus years	0%	216

Mean age: 8.6 years

Median age: 8.7 years

Total Number of Children Entering Foster Care in FY 2000: 291,000

The Race and Ethnicity of Children Entering Foster Care in FY 2000

Race and Ethnicity	Percent of Total	Number
Non-Hispanic	3%	7,906
Asian, Pacific Islander Non-Hispanic	2%	4,550
Black Non-Hispanic	29%	83,283
Hispanic	15%	42,480
White Non-Hispanic	47%	135,566
Unable to determine	4%	12,049
Two or more races Non-Hispanic	2%	5,166

The Ages of Children Exiting Foster Care in FY 2000

Age	Percent of Total	Number
Under 1 year	4%	11,136
1 thru 5 years	26%	71,223
6 thru 10 years	23%	63,953
11 thru 15 years	24%	66,806
16 thru 18 years	21%	56,617
19 plus years	2%	5,265

Mean age: 10.2 years

Median age: 10.2 years

Total Number of Children Exiting Foster Care in FY 2000: 275,000

The Race and Ethnicity of Children Exiting Foster Care in FY 2000

Race and Ethnicity	Percent of Total	Number
Non-Hispanic	2%	6,550
Asian, Pacific Islander Non-Hispanic	2%	4,426
Black Non-Hispanic	31%	84,920
Hispanic	15%	40,097
White Non-Hispanic	45%	123,021
Unable to determine	4%	11,987
Two or more races Non-Hispanic	1%	3,998

The Lengths of Stay of Children Who Exited Foster Care in FY 2000

Length of Stay	Percent of Total	Number
<1 month	19%	52,312
1 to 5 months	17%	46,091
6 to 11 months	14%	39,288
12 to 17 months	11%	29,377
18 to 23 months	8%	20,872
24 to 29 months	6%	16,409
30 to 35 months	5%	13,108
3 to 4 years	11%	30,204
More than 5 years	10%	27,338

The Outcomes of Children Exiting Foster Care During FY 2000

Outcomes	Percent of Total	Number
Reunify with Parents or Primary Caregivers	57%	157,712
Living with Other Relatives	10%	26,291
Adoption	17%	46,581
Emancipation	7%	19,895
Guardianship	4%	10,341
Transfer to Another Agency	3%	7,726
Runaway	2%	5,865
Death of Child	0%	589

Deaths are due to medical conditions, accidents, and homicide.

The Race and Ethnicity of Children Entering Foster Care in FY 2000

Race and Ethnicity	Percent of Total	Number
Non-Hispanic	3%	7,906
Asian, Pacific Islander Non-Hispanic	2%	4,550
Black Non-Hispanic	29%	83,283
Hispanic	15%	42,480
White Non-Hispanic	47%	135,566
Unable to determine	4%	12,049
Two or more races Non-Hispanic	2%	5,166

Using data from the U.S. Bureau of the Census, children of Hispanic origin may be of any race. Children may reserve more than one race designation, beginning in FY 2000.

The Ages of Children Exiting Foster Care in FY 2000

Age	Percent of Total	Number
Under 1 year	4%	11,136
1 thru 5 years	26%	71,223
6 thru 10 years	23%	63,953
11 thru 15 years	24%	66,806
16 thru 18 years	21%	56,617
19 plus years	2%	5,265

Mean age: 10.2 years

Median age: 10.2 years

Total Number of Children Exiting Foster Care in FY 2000: 275,000

On September 30, 2000, 131,000 children had a goal of adoption, and/or their parental rights had been terminated, but they were still waiting in foster care.

The Race and Ethnicity of Children Waiting in FY 2000

Race and Ethnicity	Percent of Total	Number
Non-Hispanic	2%	2,306
Asian, Pacific Islander Non-Hispanic	1%	1,119
Black Non-Hispanic	43%	56,195
Hispanic	13%	17,441
White Non-Hispanic	34%	45,130
Unable to determine	5%	6,612
Two or more races Non-Hispanic	2%	2,197

Using data from the U.S. Bureau of the Census, children of Hispanic origin may be of any race. Children may reserve more than one race designation, beginning in FY 2000.

The Age of Waiting Children When Removed from Parents or Caregivers

Age	Percent of Total	Number
Less than 1 year	27%	35,322
1 to 5 years	40%	51,874
6 to 10 years	26%	33,957
11 to 15 years	7%	9,584
16 to 18 years	0%	263

Duration Taken After Termination of Parental Rights Until Adoption for Waiting Children

Duration	Percent of Total	Number
Less than 1 month	4 %	1,903
1 to 5 months	18%	8,994
6 to 11 months	29%	14,617
12 to 17 months	20%	10,449
18 to 23 months	12%	6,224
24 to 29 months	6%	3,185
30 to 35 months	4%	1,960
3 to 4 years	5%	2,661
More than 5 years	2%	1,009

Mean duration: 16 months

Median duration: 12 months

Adopted Children Receiving Adoption Subsidy

Subsidy	Percent of Total	Number
Yes	88%	44,986
No	12%	6,014

The Race and Ethnicity of Children Adopted for the Public Foster Care System in FY 2000

Race and Ethnicity	Percent of Total	Number
Non-Hispanic	1%	643
Asian, Pacific Islander Non-Hispanic	1%	489
Black Non-Hispanic	39%	19,659
Hispanic	14%	7,234
White Non-Hispanic	38%	19,562
Unable to determine	5%	2,463
Two or more races Non-Hispanic	2%	951

The Ages of Children When Adopted from the Public Foster Care System in FY 2000

Age	Percent of Total	Number
Under 1 year	2%	929
1 thru 5 years	45%	23,149
6 thru 10 years	35%	17,835
11 thru 15 years	16%	7,954
16 thru 18 years	2%	1,087
19 plus years	0%	43

Mean age: 6.9 years

Median age: 6.3 years

Appendix B. The Cost of an Adoption From a Public Agency

The following Appendix contains a detailed description of the costs associated with public agency adoption. U.S. Department of Health and Human Services Administration for Children and Families. The National Adoption Information Clearinghouse. "Cost of Adopting." January 28, 2003. http://www.calib.com/naic/pubs/s_cost.cfm. Google search engine. Accessed February 18, 2003.

Domestic Adoption Costs

Fees	Low	High
Agency Application fee	\$100	\$500
Agency home study and	\$700	\$2,500
Agency post placement	\$200	\$1,500
Agency parent physical; for each	\$35	\$150
Agency psychiatric evaluation; if	\$250	\$400
Legal representation	\$500	\$1,500
Attorney document preparation	\$500	\$2,000
Attorney petition and court	\$2,500	\$12,000
Advertising	\$500	\$5,000
Medical expenses; prenatal, birth	\$0	\$10,000 to \$20,000
Living expenses; rent, food,	\$500	\$12,000
Counseling	\$500	\$2,000

These costs vary due to the type of adoption, the area of the United States in which the adoption takes place, whether or not the agency charges a sliding-scale fee based on the adoptive family income, the country of origin of the child, the amount of state or federal subsidy offered for special needs children, the availability of state or federal tax credits for reimbursement of adoption expenses, availability of employer adoption benefits, and state reimbursement for non-recruiting expenses for the adoption of special needs children.

The cost of an adoption from a domestic public agency ranges from \$0 to \$2,500 for the adoptive family. For purposes of comparison, the cost to an adoptive family adopting from a domestic private agency ranges from \$4,000 to \$30,000, from a domestic independent adoption from \$8,000 to \$30,000, and from an intercountry adoption from \$7,000 to \$25,000.

Appendix C. The Interstate Compact on the Placement of Children

This appendix contains the detailed California legislation that enacts the Interstate Compact on the Placement of Children. The Wyoming State Legislature. "Chapter 5: Interstate Compact on the Placement of Children."

<http://legisweb.state.wy.us/statutes/titles/title14/chapter05.htm>. Google search engine. Accessed February 27, 2003.

14-5-101. Compact provisions generally.

The Interstate Compact on the Placement of Children is enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:

Article I. Definitions.

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(b) "Sending agency" means a party state, or 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 which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means 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.

(d) "Placement" means the arrangement for the care of a child in a family free or 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, or a hospital or other medical facility.

Article II. Conditions for Placement.

(a) No sending state 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. The notice shall contain:

(1) The name, date and place of birth of the child.

(2) The identity and address or addresses of the parents or legal guardian.

(3) The name and address of the person, agency or institutions to or with which the sending agency proposes to send, bring, or place the child.

(4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) 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, or in violation of the law of the receiving state.

Article III. Penalty for Illegal Placement.

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. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

Article IV. Retention of Jurisdiction.

(a) The sending agency shall retain jurisdiction over the child 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 the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to

another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

Article V. Institutional Care of Delinquent Children.

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

1. Equivalent facilities for the child are not available in the sending agency's jurisdiction; and
2. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

Article VI. Compact Administrator.

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers or other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

Article VII. Limitations.

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his parents, step-parent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian or the leaving of the child with any such relative or nonagency guardian in the receiving state.

(b) 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.

Article VIII. Enactment and Withdrawal.

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the commonwealth of Puerto Rico, and with the consent of congress, the government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two (2) years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

Article IX. Construction and Severability.

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

14-5-102. Financial responsibility.

Financial responsibility for any child placed pursuant to the provisions within W.S. 14-5-101 shall be determined in accordance with the provisions of article IV thereof.

14-5-103. Duties of department of family services.

(a) "Appropriate public authorities" as used in article II of W.S. 14-5-101 and "appropriate authority in the receiving state" as used in article IV(a) of W.S. 14-5-101 mean the Wyoming department of family services. The department shall:

- (i) Receive and act with reference to notices required by article II of W.S. 14-5-101; and
- (ii) Act as compact administrator in accordance with article VI of W.S. 14-5-101.

14-5-104. Agreements with other party states authorized; when approval required.

Officers and agencies of the state of Wyoming and its subdivisions having authority to place children may enter into agreements with appropriate officers or agencies of other party states pursuant to article IV(b) of W.S. 14-5-101. Any agreement which contains a financial commitment or imposes a financial obligation on the state of Wyoming, a subdivision or agency thereof is not binding unless it has the written approval of the administrator of the budget division of the Wyoming department of administration and information or the county treasurer in the case of a county.

14-5-105. Inspection and supervision of children and facilities in other states.

Any requirements for inspection or supervision of children, homes, institutions or other agencies in another party state which apply under W.S. 14-4-101 through 14-4-111 are deemed met if performed pursuant to an agreement entered into by appropriate officers or agencies of this state or a subdivision thereof as specified in article IV (b) of W.S. 14-5-101 and performed by agents of an administrative or governmental agency of another state.

14-5-106. Placement of child in out-of-state institution.

Any district or juvenile court in any district in Wyoming which finds a child to be delinquent or guilty of committing a felony may place the child in an institution in another state pursuant to article V of W.S. 14-5-101 and shall retain jurisdiction as provided in article IV thereof.

14-5-107. Prerequisites for placement of children from other states.

Any person, firm, partnership, corporation, state or political subdivision or agency thereof shall not send, bring or cause to be sent or brought to the state of Wyoming any child for placement in foster care or as a preliminary to a possible adoption unless the sending person, firm, corporation, state, political subdivision or agency thereof complies with the prerequisites required in article II of W.S. 14-5-101.

14-5-108. Penalties for violations.

Any person, firm or corporation which places a child in the state of Wyoming or receives a child in this state without meeting the requirements of W.S. 14-5-101 through 14-5-107 is guilty of a misdemeanor and shall be fined one hundred dollars (\$100.00) or imprisoned in the county jail for a maximum of thirty (30) days, or both. Each day of violation is a separate offense.

Appendix D. The Adoptions and Safe Families Act

The following provides the language of the Adoptions and Safe Families Act passed by the U.S. Congress in 1997. Interjurisdictional Adoption Clearinghouse. http://www.ijac.org/pdf/asfa_1997.pdf. Google search engine. Accessed February 24, 2003.

One Hundred Fifth Congress
of the
United States of America
AT THE FIRST SESSION

Begun and held at the City of Washington on Tuesday, the seventh day of January, one thousand nine hundred and ninety-seven

An Act

To promote the adoption of children in foster care.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE- This Act may be cited as the `Adoption and Safe Families Act of 1997'.

(b) TABLE OF CONTENTS- The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I--REASONABLE EFFORTS AND SAFETY REQUIREMENTS FOR FOSTER CARE AND ADOPTION PLACEMENTS

Sec. 101. Clarification of the reasonable efforts requirement.

Sec. 102. Including safety in case plan and case review system requirements.

Sec. 103. States required to initiate or join proceedings to terminate parental rights for certain children in foster care.

Sec. 104. Notice of reviews and hearings; opportunity to be heard.

Sec. 105. Use of the Federal Parent Locator Service for child welfare services.

Sec. 106. Criminal records checks for prospective foster and adoptive parents.

Sec. 107. Documentation of efforts for adoption or location of a permanent home.

TITLE II--INCENTIVES FOR PROVIDING PERMANENT FAMILIES FOR CHILDREN

Sec. 201. Adoption incentive payments.

Sec. 202. Adoptions across State and county jurisdictions.

Sec. 203. Performance of States in protecting children.

TITLE III--ADDITIONAL IMPROVEMENTS AND REFORMS

Sec. 301. Authority to approve more child protection demonstration projects.

Sec. 302. Permanency hearings.

Sec. 303. Kinship care.

Sec. 304. Clarification of eligible population for independent living services.

Sec. 305. Reauthorization and expansion of family preservation and support services.

Sec. 306. Health insurance coverage for children with special needs.

Sec. 307. Continuation of eligibility for adoption assistance payments on behalf of children with special needs whose initial adoption has been dissolved.

Sec. 308. State standards to ensure quality services for children in foster care.

TITLE IV--MISCELLANEOUS

Sec. 401. Preservation of reasonable parenting.

Sec. 402. Reporting requirements.

Sec. 403. Sense of Congress regarding standby guardianship.

Sec. 404. Temporary adjustment of Contingency Fund for State Welfare Programs.

Sec. 405. Coordination of substance abuse and child protection services.

Sec. 406. Purchase of American-made equipment and products.

TITLE V--EFFECTIVE DATE

Sec. 501. Effective date.

TITLE I--REASONABLE EFFORTS AND SAFETY REQUIREMENTS FOR FOSTER CARE AND ADOPTION PLACEMENTS

SEC. 101. CLARIFICATION OF THE REASONABLE EFFORTS REQUIREMENT.

(a) IN GENERAL- Section 471(a)(15) of the Social Security Act (42 U.S.C. 671(a)(15)) is amended to read as follows:

“(15) provides that--

“(A) in determining reasonable efforts to be made with respect to a child, as described in this paragraph, and in making such reasonable efforts, the child's health and safety shall be the paramount concern;

“(B) except as provided in subparagraph (D), reasonable efforts shall be made to preserve and reunify families--

“(i) prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child's home; and

“(ii) to make it possible for a child to safely return to the child's home;

`(C) if continuation of reasonable efforts of the type described in subparagraph (B) is determined to be inconsistent with the permanency plan for the child, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child;

`(D) reasonable efforts of the type described in subparagraph (B) shall not be required to be made with respect to a parent of a child if a court of competent jurisdiction has determined that--

`(i) the parent has subjected the child to aggravated circumstances (as defined in State law, which definition may include but need not be limited to abandonment, torture, chronic abuse, and sexual abuse);

`(ii) the parent has--

`(I) committed murder (which would have been an offense under section 1111(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of the parent;

`(II) committed voluntary manslaughter (which would have been an offense under section 1112(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of the parent;

`(III) aided or abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter; or

`(IV) committed a felony assault that results in serious bodily injury to the child or another child of the parent; or

`(iii) the parental rights of the parent to a sibling have been terminated involuntarily;

`(E) if reasonable efforts of the type described in subparagraph (B) are not made with respect to a child as a result of a determination made by a court of competent jurisdiction in accordance with subparagraph (D)--

`(i) a permanency hearing (as described in section 475(5)(C)) shall be held for the child within 30 days after the determination; and

`(ii) reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child; and

`(F) reasonable efforts to place a child for adoption or with a legal guardian may be made concurrently with reasonable efforts of the type described in subparagraph (B);'

(b) DEFINITION OF LEGAL GUARDIANSHIP- Section 475 of such Act (42 U.S.C. 675) is amended by adding at the end the following:

`(7) The term 'legal guardianship' means a judicially created relationship between child and caretaker which 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 decisionmaking. The term 'legal guardian' means the caretaker in such a relationship.'

(c) CONFORMING AMENDMENT- Section 472(a)(1) of such Act (42 U.S.C. 672(a)(1)) is amended by inserting `for a child' before `have been made'.

(d) RULE OF CONSTRUCTION- Part E of title IV of such Act (42 U.S.C. 670-679) is amended by inserting after section 477 the following:

SEC. 478. RULE OF CONSTRUCTION.

Nothing in this part shall be construed as precluding State courts from exercising their discretion to protect the health and safety of children in individual cases, including cases other than those described in section 471(a)(15)(D).

SEC. 102. INCLUDING SAFETY IN CASE PLAN AND CASE REVIEW SYSTEM REQUIREMENTS.

Title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended--

(1) in section 422(b)(10)(B)--

(A) in clause (iii)(I), by inserting `safe and' after `where'; and

(B) in clause (iv), by inserting `safely' after `remain'; and

(2) in section 475--

(A) in paragraph (1)--

(i) in subparagraph (A), by inserting `safety and' after `discussion of the'; and

(ii) in subparagraph (B)--

(I) by inserting `safe and' after `child receives'; and

(II) by inserting `safe' after `return of the child to his own'; and

(B) in paragraph (5)--

(i) in subparagraph (A), in the matter preceding clause (i), by inserting `a safe setting that is' after `placement in'; and

(ii) in subparagraph (B)--

(I) by inserting `the safety of the child,' after `determine'; and

(II) by inserting `and safely maintained in' after `returned to'.

SEC. 103. STATES REQUIRED TO INITIATE OR JOIN PROCEEDINGS TO TERMINATE PARENTAL RIGHTS FOR CERTAIN CHILDREN IN FOSTER CARE.

(a) REQUIREMENT FOR PROCEEDINGS- Section 475(5) of the Social Security Act (42 U.S.C. 675(5)) is amended--

(1) by striking `and' at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting `; and'; and

(3) by adding at the end the following:

(E) in the case of a child who has been in foster care under the responsibility of the State for 15 of the most recent 22 months, or, if a court of competent jurisdiction has determined a child to be an abandoned infant (as defined under State law) or has made a determination that the parent has committed murder of another child of the parent, committed voluntary manslaughter of another child of the parent, aided or abetted,

attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter, or committed a felony assault that has resulted in serious bodily injury to the child or to another child of the parent, the State shall file a petition to terminate the parental rights of the child's parents (or, if such a petition has been filed by another party, seek to be joined as a party to the petition), and, concurrently, to identify, recruit, process, and approve a qualified family for an adoption, unless--

`(i) at the option of the State, the child is being cared for by a relative;

`(ii) a State agency has documented in the case plan (which shall be available for court review) a compelling reason for determining that filing such a petition would not be in the best interests of the child; or

`(iii) the State has not provided to the family of the child, consistent with the time period in the State case plan, such services as the State deems necessary for the safe return of the child to the child's home, if reasonable efforts of the type described in section 471(a)(15)(B)(ii) are required to be made with respect to the child.'

(b) DETERMINATION OF BEGINNING OF FOSTER CARE- Section 475(5) of the Social Security Act (42 U.S.C. 675(5)), as amended by subsection (a), is amended--

(1) by striking `and' at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting `; and'; and

(3) by adding at the end the following:

`(F) a child shall be considered to have entered foster care on the earlier of--

`(i) the date of the first judicial finding that the child has been subjected to child abuse or neglect; or

`(ii) the date that is 60 days after the date on which the child is removed from the home.'

(c) TRANSITION RULES-

(1) NEW FOSTER CHILDREN- In the case of a child who enters foster care (within the meaning of section 475(5)(F) of the Social Security Act) under the responsibility of a State after the date of the enactment of this Act--

(A) if the State comes into compliance with the amendments made by subsection (a) of this section before the child has been in such foster care for 15 of the most recent 22 months, the State shall comply with section 475(5)(E) of the Social Security Act with respect to the child when the child has been in such foster care for 15 of the most recent 22 months; and

(B) if the State comes into such compliance after the child has been in such foster care for 15 of the most recent 22 months, the State shall comply with such section 475(5)(E) with respect to the child not later than 3 months after the end of the first regular session of the State legislature that begins after such date of enactment.

(2) CURRENT FOSTER CHILDREN- In the case of children in foster care under the responsibility of the State on the date of the enactment of this Act, the State shall--

(A) not later than 6 months after the end of the first regular session of the State legislature that begins after such date of enactment, comply with section 475(5)(E) of the Social Security Act with respect to not less than 1/3 of such children as the State shall select,

giving priority to children for whom the permanency plan (within the meaning of part E of title IV of the Social Security Act) is adoption and children who have been in foster care for the greatest length of time;

(B) not later than 12 months after the end of such first regular session, comply with such section 475(5)(E) with respect to not less than 2/3 of such children as the State shall select; and

(C) not later than 18 months after the end of such first regular session, comply with such section 475(5)(E) with respect to all of such children.

(3) TREATMENT OF 2-YEAR LEGISLATIVE SESSIONS- For purposes of this subsection, in the case of a State that has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

(4) REQUIREMENTS TREATED AS STATE PLAN REQUIREMENTS- For purposes of part E of title IV of the Social Security Act, the requirements of this subsection shall be treated as State plan requirements imposed by section 471(a) of such Act.

(d) RULE OF CONSTRUCTION- Nothing in this section or in part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.), as amended by this Act, shall be construed as precluding State courts or State agencies from initiating the termination of parental rights for reasons other than, or for timelines earlier than, those specified in part E of title IV of such Act, when such actions are determined to be in the best interests of the child, including cases where the child has experienced multiple foster care placements of varying durations.

SEC. 104. NOTICE OF REVIEWS AND HEARINGS; OPPORTUNITY TO BE HEARD.

Section 475(5) of the Social Security Act (42 U.S.C. 675(5)), as amended by section 103, is amended--

(1) by striking `and' at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting `; and'; and

(3) by adding at the end the following:

`(G) the foster parents (if any) of a child and any preadoptive parent or relative providing care for the child are provided with notice of, and an opportunity to be heard in, any review or hearing to be held with respect to the child, except that this subparagraph shall not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party to such a review or hearing solely on the basis of such notice and opportunity to be heard.'.

SEC. 105. USE OF THE FEDERAL PARENT LOCATOR SERVICE FOR CHILD WELFARE SERVICES.

Section 453 of the Social Security Act (42 U.S.C. 653) is amended--

(1) in subsection (a)(2)--

(A) in the matter preceding subparagraph (A), by inserting `or making or enforcing child custody or visitation orders,' after `obligations,'; and

(B) in subparagraph (A)--

(i) by striking `or' at the end of clause (ii);

(ii) by striking the comma at the end of clause (iii) and inserting `; or'; and

(iii) by inserting after clause (iii) the following:

`(iv) who has or may have parental rights with respect to a child,'; and

(2) in subsection (c)--

(A) by striking the period at the end of paragraph (3) and inserting `; and'; and

(B) by adding at the end the following:

`(4) a State agency that is administering a program operated under a State plan under subpart 1 of part B, or a State plan approved under subpart 2 of part B or under part E.'

SEC. 106. CRIMINAL RECORDS CHECKS FOR PROSPECTIVE FOSTER AND ADOPTIVE PARENTS.

Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is amended--

(1) by striking `and' at the end of paragraph (18);

(2) by striking the period at the end of paragraph (19) and inserting `; and'; and

(3) by adding at the end the following:

`(20)(A) unless an election provided for in subparagraph (B) is made with respect to the State, provides procedures for criminal records checks for any prospective foster or adoptive parent before the foster or adoptive parent may be finally approved for placement of a child on whose behalf foster care maintenance payments or adoption assistance payments are to be made under the State plan under this part, including procedures requiring that--

`(i) in any case in which a record check reveals a felony conviction for child abuse or neglect, for spousal abuse, for a crime against children (including child pornography), or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery, if a State finds that a court of competent jurisdiction has determined that the felony was committed at any time, such final approval shall not be granted; and

`(ii) in any case in which a record check reveals a felony conviction for physical assault, battery, or a drug-related offense, if a State finds that a court of competent jurisdiction has determined that the felony was committed within the past 5 years, such final approval shall not be granted; and

`(B) subparagraph (A) shall not apply to a State plan if the Governor of the State has notified the Secretary in writing that the State has elected to make subparagraph (A) inapplicable to the State, or if the State legislature, by law, has elected to make subparagraph (A) inapplicable to the State.'

SEC. 107. DOCUMENTATION OF EFFORTS FOR ADOPTION OR LOCATION OF A PERMANENT HOME.

Section 475(1) of the Social Security Act (42 U.S.C. 675(1)) is amended--

(1) in the last sentence--

(A) by striking `the case plan must also include'; and

(B) by redesignating such sentence as subparagraph (D) and indenting appropriately; and

(2) by adding at the end the following:

`(E) In the case of a child with respect to whom the permanency plan is adoption or placement in another permanent home, documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangement for the child, to place the child with an adoptive family, a fit and willing relative, a legal guardian, or in another planned permanent living arrangement, and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include child specific recruitment efforts such as the use of State, regional, and national adoption exchanges including electronic exchange systems.'

TITLE II--INCENTIVES FOR PROVIDING PERMANENT FAMILIES FOR CHILDREN

SEC. 201. ADOPTION INCENTIVE PAYMENTS.

(a) IN GENERAL- Part E of title IV of the Social Security Act (42 U.S.C. 670-679) is amended by inserting after section 473 the following:

SEC. 473A. ADOPTION INCENTIVE PAYMENTS.

(a) GRANT AUTHORITY- Subject to the availability of such amounts as may be provided in advance in appropriations Acts for this purpose, the Secretary shall make a grant to each State that is an incentive-eligible State for a fiscal year in an amount equal to the adoption incentive payment payable to the State under this section for the fiscal year, which shall be payable in the immediately succeeding fiscal year.

(b) INCENTIVE-ELIGIBLE STATE- A State is an incentive-eligible State for a fiscal year if--

(1) the State has a plan approved under this part for the fiscal year;

(2) the number of foster child adoptions in the State during the fiscal year exceeds the base number of foster child adoptions for the State for the fiscal year;

(3) the State is in compliance with subsection (c) for the fiscal year;

(4) in the case of fiscal years 2001 and 2002, the State provides health insurance coverage to any child with special needs (as determined under section 473(c)) for whom there is in effect an adoption assistance agreement between a State and an adoptive parent or parents; and

(5) the fiscal year is any of fiscal years 1998 through 2002.

(c) DATA REQUIREMENTS-

(1) IN GENERAL- A State is in compliance with this subsection for a fiscal year if the State has provided to the Secretary the data described in paragraph (2)--

(A) for fiscal years 1995 through 1997 (or, if the first fiscal year for which the State seeks a grant under this section is after fiscal year 1998, the fiscal year that precedes such first fiscal year); and

(B) for each succeeding fiscal year that precedes the fiscal year.

(2) DETERMINATION OF NUMBERS OF ADOPTIONS-

(A) DETERMINATIONS BASED ON AFCARS DATA- Except as provided in subparagraph (B), the Secretary shall determine the numbers of foster child adoptions and of special needs adoptions in a State during each of fiscal years 1995 through 2002, for purposes of this section, on the basis of data meeting the requirements of the system established pursuant to section 479, as reported by the State and approved by the Secretary by August 1 of the succeeding fiscal year.

(B) ALTERNATIVE DATA SOURCES PERMITTED FOR FISCAL YEARS 1995 THROUGH 1997- For purposes of the determination described in subparagraph (A) for fiscal years 1995 through 1997, the Secretary may use data from a source or sources other than that specified in subparagraph (A) that the Secretary finds to be of equivalent completeness and reliability, as reported by a State by November 30, 1997, and approved by the Secretary by March 1, 1998.

(3) NO WAIVER OF AFCARS REQUIREMENTS- This section shall not be construed to alter or affect any requirement of section 479 or of any regulation prescribed under such section with respect to reporting of data by States, or to waive any penalty for failure to comply with such a requirement.

`(d) ADOPTION INCENTIVE PAYMENT-

`(1) IN GENERAL- Except as provided in paragraph (2), the adoption incentive payment payable to a State for a fiscal year under this section shall be equal to the sum of--

`(A) \$4,000, multiplied by the amount (if any) by which the number of foster child adoptions in the State during the fiscal year exceeds the base number of foster child adoptions for the State for the fiscal year; and

`(B) \$2,000, multiplied by the amount (if any) by which the number of special needs adoptions in the State during the fiscal year exceeds the base number of special needs adoptions for the State for the fiscal year.

`(2) PRO RATA ADJUSTMENT IF INSUFFICIENT FUNDS AVAILABLE- For any fiscal year, if the total amount of adoption incentive payments otherwise payable under this section for a fiscal year exceeds the amount appropriated pursuant to subsection (h) for the fiscal year, the amount of the adoption incentive payment payable to each State under this section for the fiscal year shall be--

`(A) the amount of the adoption incentive payment that would otherwise be payable to the State under this section for the fiscal year; multiplied by

`(B) the percentage represented by the amount so appropriated for the fiscal year, divided by the total amount of adoption incentive payments otherwise payable under this section for the fiscal year.

`(e) 2-YEAR AVAILABILITY OF INCENTIVE PAYMENTS- Payments to a State under this section in a fiscal year shall remain available for use by the State through the end of the succeeding fiscal year.

`(f) LIMITATIONS ON USE OF INCENTIVE PAYMENTS- A State shall not expend an amount paid to the State under this section except to provide to children or families any service (including post-adoption services) that may be provided under part B or E. Amounts expended by a State in accordance with the preceding sentence shall be disregarded in determining State expenditures for purposes of Federal matching payments under sections 423, 434, and 474.

`(g) DEFINITIONS- As used in this section:

`(1) FOSTER CHILD ADOPTION- The term `foster child adoption' means the final adoption of a child who, at the time of adoptive placement, was in foster care under the supervision of the State.

`(2) SPECIAL NEEDS ADOPTION- The term `special needs adoption' means the final adoption of a child for whom an adoption assistance agreement is in effect under section 473.

`(3) BASE NUMBER OF FOSTER CHILD ADOPTIONS- The term `base number of foster child adoptions for a State' means--

`(A) with respect to fiscal year 1998, the average number of foster child adoptions in the State in fiscal years 1995, 1996, and 1997; and

`(B) with respect to any subsequent fiscal year, the number of foster child adoptions in the State in the fiscal year for which the number is the greatest in the period that begins with fiscal year 1997 and ends with the fiscal year preceding such subsequent fiscal year.

`(4) BASE NUMBER OF SPECIAL NEEDS ADOPTIONS- The term `base number of special needs adoptions for a State' means--

`(A) with respect to fiscal year 1998, the average number of special needs adoptions in the State in fiscal years 1995, 1996, and 1997; and

`(B) with respect to any subsequent fiscal year, the number of special needs adoptions in the State in the fiscal year for which the number is the greatest in the period that begins with fiscal year 1997 and ends with the fiscal year preceding such subsequent fiscal year.

`(h) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS-

`(1) IN GENERAL- For grants under subsection (a), there are authorized to be appropriated to the Secretary \$20,000,000 for each of fiscal years 1999 through 2003.

`(2) AVAILABILITY- Amounts appropriated under paragraph (1) are authorized to remain available until expended, but not after fiscal year 2003.

`(i) TECHNICAL ASSISTANCE-

`(1) IN GENERAL- The Secretary may, directly or through grants or contracts, provide technical assistance to assist States and local communities to reach their targets for increased numbers of adoptions and, to the extent that adoption is not possible, alternative permanent placements, for children in foster care.

`(2) DESCRIPTION OF THE CHARACTER OF THE TECHNICAL ASSISTANCE- The technical assistance provided under paragraph (1) may support the goal of encouraging more adoptions out of the foster care system, when adoptions promote the best interests of children, and may include the following:

`(A) The development of best practice guidelines for expediting termination of parental rights.

`(B) Models to encourage the use of concurrent planning.

`(C) The development of specialized units and expertise in moving children toward adoption as a permanency goal.

`(D) The development of risk assessment tools to facilitate early identification of the children who will be at risk of harm if returned home.

`(E) Models to encourage the fast tracking of children who have not attained 1 year of age into pre-adoptive placements.

`(F) Development of programs that place children into pre-adoptive families without waiting for termination of parental rights.

`(3) TARGETING OF TECHNICAL ASSISTANCE TO THE COURTS- Not less than 50 percent of any amount appropriated pursuant to paragraph (4) shall be used to provide technical assistance to the courts.

`(4) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS- To carry out this subsection, there are authorized to be appropriated to the Secretary of Health and Human Services not to exceed \$10,000,000 for each of fiscal years 1998 through 2000.'

(b) DISCRETIONARY CAP ADJUSTMENT FOR ADOPTION INCENTIVE PAYMENTS-

(1) SECTION 251 AMENDMENT- Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)), as amended by section 10203(a)(4) of the Balanced Budget Act of 1997, is amended by adding at the end the following new subparagraph:

`(G) ADOPTION INCENTIVE PAYMENTS- Whenever a bill or joint resolution making appropriations for fiscal year 1999, 2000, 2001, 2002, or 2003 is enacted that specifies an amount for adoption incentive payments pursuant to this part for the Department of Health and Human Services--

`(i) the adjustments for new budget authority shall be the amounts of new budget authority provided in that measure for adoption incentive payments, but not to exceed \$20,000,000; and

`(ii) the adjustment for outlays shall be the additional outlays flowing from such amount.'.

(2) SECTION 314 AMENDMENT- Section 314(b) of the Congressional Budget Act of 1974, as amended by section 10114(a) of the Balanced Budget Act of 1997, is amended--

(A) by striking `or' at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting `; or'; and

(C) by adding at the end the following:

`(6) in the case of an amount for adoption incentive payments (as defined in section 251(b)(2)(G) of the Balanced Budget and Emergency Deficit Control Act of 1985) for fiscal year 1999, 2000, 2001, 2002, or 2003 for the Department of Health and Human Services, an amount not to exceed \$20,000,000.'.

SEC. 202. ADOPTIONS ACROSS STATE AND COUNTY JURISDICTIONS.

(a) STATE PLAN FOR CHILD WELFARE SERVICES REQUIREMENT- Section 422(b) of the Social Security Act (42 U.S.C. 622(b)) is amended--

(1) in paragraph (10), by striking `and' at the end;

(2) in paragraph (11), by striking the period and inserting `; and'; and

(3) by adding at the end the following:

`(12) contain assurances that the State shall develop plans for the effective use of cross-jurisdictional resources to facilitate timely adoptive or permanent placements for waiting children.'.

(b) CONDITION OF ASSISTANCE- Section 474 of such Act (42 U.S.C. 674) is amended by adding at the end the following:

`(e) Notwithstanding subsection (a), a State shall not be eligible for any payment under this section if the Secretary finds that, after the date of the enactment of this subsection, the State has --

`(1) denied or delayed the placement of a child for adoption when an approved family is available outside of the jurisdiction with responsibility for handling the case of the child; or

`(2) failed to grant an opportunity for a fair hearing, as described in section 471(a)(12), to an individual whose allegation of a violation of paragraph (1) of this subsection is denied by the State or not acted upon by the State with reasonable promptness.'.

(c) STUDY OF INTERJURISDICTIONAL ADOPTION ISSUES -

(1) IN GENERAL- The Comptroller General of the United States shall--

(A) study and consider how to improve procedures and policies to facilitate the timely and permanent adoptions of children across State and county jurisdictions; and

(B) examine, at a minimum, interjurisdictional adoption issues --

(i) concerning the recruitment of prospective adoptive families from other States and counties;

(ii) concerning the procedures to grant reciprocity to prospective adoptive family home studies from other States and counties;

(iii) arising from a review of the comity and full faith and credit provided to adoption decrees and termination of parental rights orders from other States; and

(iv) concerning the procedures related to the administration and implementation of the Interstate Compact on the Placement of Children.

(2) REPORT TO THE CONGRESS- Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the appropriate committees of the Congress a report that includes--

(A) the results of the study conducted under paragraph (1); and

(B) recommendations on how to improve procedures to facilitate the interjurisdictional adoption of children, including interstate and intercounty adoptions, so that children will be assured timely and permanent placements.

SEC. 203. PERFORMANCE OF STATES IN PROTECTING CHILDREN.

(a) ANNUAL REPORT ON STATE PERFORMANCE- Part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.) is amended by adding at the end the following:

SEC. 479A. ANNUAL REPORT.

The Secretary, in consultation with Governors, State legislatures, State and local public officials responsible for administering child welfare programs, and child welfare advocates, shall--

(1) develop a set of outcome measures (including length of stay in foster care, number of foster care placements, and number of adoptions) that can be used to assess the performance of States in operating child protection and child welfare programs pursuant to parts B and E to ensure the safety of children;

(2) to the maximum extent possible, the outcome measures should be developed from data available from the Adoption and Foster Care Analysis and Reporting System;

(3) develop a system for rating the performance of States with respect to the outcome measures, and provide to the States an explanation of the rating system and how scores are determined under the rating system;

(4) prescribe such regulations as may be necessary to ensure that States provide to the Secretary the data necessary to determine State performance with respect to each outcome measure, as a condition of the State receiving funds under this part; and

(5) on May 1, 1999, and annually thereafter, prepare and submit to the Congress a report on the performance of each State on each outcome measure, which shall examine the reasons for high performance and low performance and, where possible, make recommendations as to how State performance could be improved.'

(b) DEVELOPMENT OF PERFORMANCE-BASED INCENTIVE SYSTEM - The Secretary of Health and Human Services, in consultation with State and local public officials responsible for administering child welfare programs and child welfare advocates, shall study, develop, and recommend to Congress an incentive system to provide payments under parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq., 670 et seq.) to any State based on the State's performance under such a system. Such a system shall, to the extent the Secretary determines feasible and appropriate, be based on the annual report required by section 479A of the Social Security Act (as added by subsection (a) of this section) or on any proposed modifications of the annual report. Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a progress report on the feasibility, timetable, and consultation process

for conducting such a study. Not later than 15 months after such date of enactment, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the final report on a performance-based incentive system. The report may include other recommendations for restructuring the program and payments under parts B and E of title IV of the Social Security Act.

TITLE III--ADDITIONAL IMPROVEMENTS AND REFORMS

SEC. 301. EXPANSION OF CHILD WELFARE DEMONSTRATION PROJECTS.

(a) ~~IN GENERAL~~- Section 1130(a) of the Social Security Act (42 U.S.C. 1320a-9) is amended to read as follows:

~~(a) AUTHORITY TO APPROVE DEMONSTRATION PROJECTS-~~

~~(1) IN GENERAL-~~ The Secretary may authorize States to conduct demonstration projects pursuant to this section which the Secretary finds are likely to promote the objectives of part B or E of title IV.

~~(2) LIMITATION-~~ The Secretary may authorize not more than 10 demonstration projects under paragraph (1) in each of fiscal years 1998 through 2002.

~~(3) CERTAIN TYPES OF PROPOSALS REQUIRED TO BE CONSIDERED-~~

~~(A)~~ If an appropriate application therefor is submitted, the Secretary shall consider authorizing a demonstration project which is designed to identify and address barriers that result in delays to adoptive placements for children in foster care.

~~(B)~~ If an appropriate application therefor is submitted, the Secretary shall consider authorizing a demonstration project which is designed to identify and address parental substance abuse problems that endanger children and result in the placement of children in foster care, including through the placement of children with their parents in residential treatment facilities (including residential treatment facilities for post-partum depression) that are specifically designed to serve parents and children together in order to promote family reunification and that can ensure the health and safety of the children in such placements.

~~(C)~~ If an appropriate application therefore is submitted, the Secretary shall consider authorizing a demonstration project which is designed to address kinship care.

~~(4) LIMITATION ON ELIGIBILITY-~~ The Secretary may not authorize a State to conduct a demonstration project under this section if the State fails to provide health insurance coverage to any child with special needs (as determined under section 473(c)) for whom there is in effect an adoption assistance agreement between a State and an adoptive parent or parents.

~~(5) REQUIREMENT TO CONSIDER EFFECT OF PROJECT ON TERMS AND CONDITIONS OF CERTAIN COURT ORDERS-~~ In considering an application to conduct a demonstration project under this section that has been submitted by a State in which there is in effect a court order determining that the State's child welfare program has failed to comply with the provisions of part B or E of title IV, or with the Constitution of the United States, the Secretary shall take into consideration the effect of approving the proposed project on the terms and conditions of the court order related to the failure to comply.'

(b) ~~RULE OF CONSTRUCTION-~~ Nothing in the amendment made by subsection (a) shall be construed as affecting the terms and conditions of any demonstration project approved under section 1130 of the Social Security Act (42 U.S.C. 1320a-9) before the date of the enactment of this Act.

(c) AUTHORITY TO EXTEND DURATION OF DEMONSTRATIONS- Section 1130(d) of such Act (42 U.S.C. 1320a-9(d)) is amended by inserting `, unless in the judgment of the Secretary, the demonstration project should be allowed to continue' before the period.

SEC. 302. PERMANENCY HEARINGS.

Section 475(5)(C) of the Social Security Act (42 U.S.C. 675(5)(C)) is amended--

- (1) by striking `dispositional' and inserting `permanency';
- (2) by striking `eighteen' and inserting `12';
- (3) by striking `original placement' and inserting `date the child is considered to have entered foster care (as determined under subparagraph (F))'; and
- (4) by striking `future status of' and all that follows through `long term basis)' and inserting `permanency plan for the child that includes whether, and if applicable when, the child will be returned to the parent, placed for adoption and the State will file a petition for termination of parental rights, or referred for legal guardianship, or (in cases where the State agency has documented to the State court a compelling reason for determining that it would not be in the best interests of the child to return home, be referred for termination of parental rights, or be placed for adoption, with a fit and willing relative, or with a legal guardian) placed in another planned permanent living arrangement'.

SEC. 303. KINSHIP CARE.

(a) REPORT -

(1) IN GENERAL- The Secretary of Health and Human Services shall--

(A) not later than June 1, 1998, convene the advisory panel provided for in subsection (b)(1) and prepare and submit to the advisory panel an initial report on the extent to which children in foster care are placed in the care of a relative (in this section referred to as `kinship care'); and

(B) not later than June 1, 1999, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a final report on the matter described in subparagraph (A), which shall--

(i) be based on the comments submitted by the advisory panel pursuant to subsection (b)(2) and other information and considerations; and

(ii) include the policy recommendations of the Secretary with respect to the matter.

(2) REQUIRED CONTENTS- Each report required by paragraph (1) shall--

(A) include, to the extent available for each State, information on--

(i) the policy of the State regarding kinship care;

(ii) the characteristics of the kinship care providers (including age, income, ethnicity, and race, and the relationship of the kinship care providers to the children);

(iii) the characteristics of the household of such providers (such as number of other persons in the household and family composition);

(iv) how much access to the child is afforded to the parent from whom the child has been removed;

(v) the cost of, and source of funds for, kinship care (including any subsidies such as medicaid and cash assistance);

(vi) the permanency plan for the child and the actions being taken by the State to achieve the plan;

(vii) the services being provided to the parent from whom the child has been removed; and

(viii) the services being provided to the kinship care provider; and

(B) specifically note the circumstances or conditions under which children enter kinship care.

(b) ADVISORY PANEL-

(1) ESTABLISHMENT- The Secretary of Health and Human Services, in consultation with the Chairman of the Committee on Ways and Means of the House of Representatives and the Chairman of the Committee on Finance of the Senate, shall convene an advisory panel which shall include parents, foster parents, relative caregivers, former foster children, State and local public officials responsible for administering child welfare programs, private persons involved in the delivery of child welfare services, representatives of tribal governments and tribal courts, judges, and academic experts.

(2) DUTIES - The advisory panel convened pursuant to paragraph (1) shall review the report prepared pursuant to subsection (a), and, not later than October 1, 1998, submit to the Secretary comments on the report.

SEC. 304. CLARIFICATION OF ELIGIBLE POPULATION FOR INDEPENDENT LIVING SERVICES.

Section 477(a)(2)(A) of the Social Security Act (42 U.S.C. 677(a)(2)(A)) is amended by inserting '(including children with respect to whom such payments are no longer being made because the child has accumulated assets, not to exceed \$5,000, which are otherwise regarded as resources for purposes of determining eligibility for benefits under this part)' before the comma.

SEC. 305. REAUTHORIZATION AND EXPANSION OF FAMILY PRESERVATION AND SUPPORT SERVICES.

(a) REAUTHORIZATION OF FAMILY PRESERVATION AND SUPPORT SERVICES-

(1) IN GENERAL- Section 430(b) of the Social Security Act (42 U.S.C. 629(b)) is amended--

(A) in paragraph (4), by striking `or' at the end;

(B) in paragraph (5), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

`(6) for fiscal year 1999, \$275,000,000;

`(7) for fiscal year 2000, \$295,000,000; and

`(8) for fiscal year 2001, \$305,000,000.'.

(2) CONTINUATION OF RESERVATION OF CERTAIN AMOUNTS- Paragraphs (1) and (2) of section 430(d) of the Social Security Act (42 U.S.C. 629(d)(1) and (2)) are each amended by striking `and 1998' and inserting `1998, 1999, 2000, and 2001'.

(3) CONFORMING AMENDMENTS- Section 13712 of the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C. 670 note) is amended--

(A) in subsection (c), by striking `1998' each place it appears and inserting `2001'; and

(B) in subsection (d)(2), by striking `and 1998' and inserting `1998, 1999, 2000, and 2001'.

(b) EXPANSION FOR TIME-LIMITED FAMILY REUNIFICATION SERVICES AND ADOPTION PROMOTION AND SUPPORT SERVICES-

(1) ADDITIONS TO STATE PLAN- Section 432 of the Social Security Act (42 U.S.C. 629b) is amended--

(A) in subsection (a)--

(i) in paragraph (4), by striking `and community-based family support services' and inserting `, community-based family support services, time-limited family reunification services, and adoption promotion and support services,'; and

(ii) in paragraph (5)(A), by striking `and community-based family support services' and inserting `, community-based family support services, time-limited family reunification services, and adoption promotion and support services'; and

(B) in subsection (b)(1), by striking `and family support' and inserting `, family support, time-limited family reunification, and adoption promotion and support'.

(2) DEFINITIONS OF TIME-LIMITED FAMILY REUNIFICATION SERVICES AND ADOPTION PROMOTION AND SUPPORT SERVICES - Section 431(a) of the Social Security Act (42 U.S.C. 629a(a)) is amended by adding at the end the following:

`(7) TIME-LIMITED FAMILY REUNIFICATION SERVICES -

`(A) IN GENERAL- The term `time-limited family reunification services' means the services and activities described in subparagraph (B) that are provided to a child that is removed from the child's home and placed in a foster family home or a child care institution and to the parents or primary caregiver of such a child, in order to facilitate the reunification of the child safely and appropriately within a timely fashion, but only during the 15-month period that begins on the date that the child, pursuant to section 475(5)(F), is considered to have entered foster care.

`(B) SERVICES AND ACTIVITIES DESCRIBED- The services and activities described in this subparagraph are the following:

`(i) Individual, group, and family counseling.

`(ii) Inpatient, residential, or outpatient substance abuse treatment services.

`(iii) Mental health services.

`(iv) Assistance to address domestic violence.

`(v) Services designed to provide temporary child care and therapeutic services for families, including crisis nurseries.

`(vi) Transportation to or from any of the services and activities described in this subparagraph.

`(8) ADOPTION PROMOTION AND SUPPORT SERVICES- The term `adoption promotion and support services' means services and activities designed to encourage more adoptions out of the foster care system, when adoptions promote the best interests of children, including such activities as pre- and post-adoptive services and activities designed to expedite the adoption process and support adoptive families.'.

(3) ADDITIONAL CONFORMING AMENDMENTS-

(A) PURPOSES- Section 430(a) of the Social Security Act (42 U.S.C. 629(a)) is amended by striking `and community-based family support services' and inserting `, community-based family support services, time-limited family reunification services, and adoption promotion and support services'.

(B) PROGRAM TITLE- The heading of subpart 2 of part B of title IV of the Social Security Act (42 U.S.C. 629 et seq.) is amended to read as follows:

`Subpart 2--Promoting Safe and Stable Families'.

(c) EMPHASIZING THE SAFETY OF THE CHILD -

(1) REQUIRING ASSURANCES THAT THE SAFETY OF CHILDREN SHALL BE OF PARAMOUNT CONCERN- Section 432(a) of the Social Security Act (42 U.S.C. 629b(a)) is amended--

(A) by striking `and' at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8); and

(C) by adding at the end the following:

`(9) contains assurances that in administering and conducting service programs under the plan, the safety of the children to be served shall be of paramount concern.'.

(2) DEFINITIONS OF FAMILY PRESERVATION AND FAMILY SUPPORT SERVICES - Section 431(a) of the Social Security Act (42 U.S.C. 629a(a)) is amended--

(A) in paragraph (1)--

(i) in subparagraph (A), by inserting `safe and' before `appropriate' each place it appears; and

(ii) in subparagraph (B), by inserting `safely' after `remain'; and

(B) in paragraph (2)--

(i) by inserting `safety and' before `well-being'; and

(ii) by striking `stable' and inserting `safe, stable,'.

(d) CLARIFICATION OF MAINTENANCE OF EFFORT REQUIREMENT-

(1) DEFINITION OF NON-FEDERAL FUNDS- Section 431(a) of the Social Security Act (42 U.S.C. 629a(a)), as amended by subsection (b)(2), is amended by adding at the end the following:

`(9) NON-FEDERAL FUNDS- The term `non-Federal funds' means State funds, or at the option of a State, State and local funds.'.

(2) EFFECTIVE DATE- The amendment made by paragraph (1) takes effect as if included in the enactment of section 13711 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-33; 107 Stat. 649).

SEC. 306. HEALTH INSURANCE COVERAGE FOR CHILDREN WITH SPECIAL NEEDS.

Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by section 106, is amended--

(1) in paragraph (19), by striking `and' at the end;

(2) in paragraph (20), by striking the period and inserting `; and'; and

(3) by adding at the end the following:

`(21) provides for health insurance coverage (including, at State option, through the program under the State plan approved under title XIX) for any child who has been determined to be a child with special needs, for whom there is in effect an adoption assistance agreement (other than an agreement under this part) between the State and an adoptive parent or parents, and who the State has determined cannot be placed with an adoptive parent or parents without medical assistance because such child has special needs for medical, mental health, or rehabilitative care, and that with respect to the provision of such health insurance coverage--

`(A) such coverage may be provided through 1 or more State medical assistance programs;

`(B) the State, in providing such coverage, shall ensure that the medical benefits, including mental health benefits, provided are of the same type and kind as those that would be provided for children by the State under title XIX;

`(C) in the event that the State provides such coverage through a State medical assistance program other than the program under title XIX, and the State exceeds its funding for services under such other program, any such child shall be deemed to be receiving aid or assistance under the State plan under this part for purposes of section 1902(a)(10)(A)(i)(I); and

`(D) in determining cost-sharing requirements, the State shall take into consideration the circumstances of the adopting parent or parents and the needs of the child being adopted consistent, to the extent coverage is provided through a State medical assistance program, with the rules under such program.'

SEC. 307. CONTINUATION OF ELIGIBILITY FOR ADOPTION ASSISTANCE PAYMENTS ON BEHALF OF CHILDREN WITH SPECIAL NEEDS WHOSE INITIAL ADOPTION HAS BEEN DISSOLVED.

(a) CONTINUATION OF ELIGIBILITY- Section 473(a)(2) of the Social Security Act (42 U.S.C. 673(a)(2)) is amended by adding at the end the following: `Any child who meets the requirements of subparagraph (C), who was determined eligible for adoption assistance payments under this part with respect to a prior adoption, who is available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the child's adoptive parents have died, and who fails to meet the requirements of subparagraphs (A) and (B) but would meet such requirements if the child were treated as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for adoption assistance payments under this part and the prior adoption were treated as never having occurred, shall be treated as meeting the requirements of this paragraph for purposes of paragraph (1)(B)(ii).'

(b) APPLICABILITY- The amendment made by subsection (a) shall only apply to children who are adopted on or after October 1, 1997.

SEC. 308. STATE STANDARDS TO ENSURE QUALITY SERVICES FOR CHILDREN IN FOSTER CARE.

Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by sections 106 and 306, is amended--

(1) in paragraph (20), by striking `and' at the end;

(2) in paragraph (21), by striking the period and inserting `; and'; and

(3) by adding at the end the following:

`(22) provides that, not later than January 1, 1999, the State shall develop and implement standards to ensure that children in foster care placements in public or private agencies are provided quality services that protect the safety and health of the children.'

TITLE IV--MISCELLANEOUS

SEC. 401. PRESERVATION OF REASONABLE PARENTING.

Nothing in this Act is intended to disrupt the family unnecessarily or to intrude inappropriately into family life, to prohibit the use of reasonable methods of parental discipline, or to prescribe a particular method of parenting.

SEC. 402. REPORTING REQUIREMENTS.

Any information required to be reported under this Act shall be supplied to the Secretary of Health and Human Services through data meeting the requirements of the Adoption and Foster Care Analysis and Reporting System established pursuant to section 479 of the Social Security Act (42 U.S.C. 679), to the extent such data is available under that system. The Secretary shall make such modifications to regulations issued under section 479 of such Act with respect to the Adoption and Foster Care Analysis and Reporting System as may be necessary to allow States to obtain data that meets the requirements of such system in order to satisfy the reporting requirements of this Act.

SEC. 403. SENSE OF CONGRESS REGARDING STANDBY GUARDIANSHIP.

It is the sense of Congress that the States should have in effect laws and procedures that permit any parent who is chronically ill or near death, without surrendering parental rights, to designate a standby guardian for the parent's minor children, whose authority would take effect upon--

- (1) the death of the parent;
- (2) the mental incapacity of the parent; or
- (3) the physical debilitation and consent of the parent.

SEC. 404. TEMPORARY ADJUSTMENT OF CONTINGENCY FUND FOR STATE WELFARE PROGRAMS.

(a) REDUCTION OF APPROPRIATION - Section 403(b)(2) of the Social Security Act (42 U.S.C. 603(b)(2)) is amended by inserting ` , reduced by the sum of the dollar amounts specified in paragraph (6)(C)(ii)' before the period.

(b) INCREASE IN STATE REMITTANCES - Section 403(b)(6) of such Act (42 U.S.C. 603(b)(6)) is amended by adding at the end the following:

`(C) ADJUSTMENT OF STATE REMITTANCES-

`(i) IN GENERAL- The amount otherwise required by subparagraph (A) to be remitted by a State for a fiscal year shall be increased by the lesser of--

`(I) the total adjustment for the fiscal year, multiplied by the adjustment percentage for the State for the fiscal year; or

`(II) the unadjusted net payment to the State for the fiscal year.

`(ii) TOTAL ADJUSTMENT- As used in clause (i), the term `total adjustment' means--

`(I) in the case of fiscal year 1998, \$2,000,000;

`(II) in the case of fiscal year 1999, \$9,000,000;

`(III) in the case of fiscal year 2000, \$16,000,000; and

`(IV) in the case of fiscal year 2001, \$13,000,000.

`(iii) ADJUSTMENT PERCENTAGE- As used in clause (i), the term `adjustment percentage' means, with respect to a State and a fiscal year--

`(I) the unadjusted net payment to the State for the fiscal year; divided by

`(II) the sum of the unadjusted net payments to all States for the fiscal year.

`(iv) UNADJUSTED NET PAYMENT- As used in this subparagraph, the term, 'unadjusted net payment' means with respect to a State and a fiscal year--

`(I) the total amount paid to the State under paragraph (3) in the fiscal year; minus

`(II) the amount that, in the absence of this subparagraph, would be required by subparagraph (A) or by section 409(a)(10) to be remitted by the State in respect of the payment.'

(c) RECOMMENDATIONS FOR IMPROVING THE OPERATION OF THE CONTINGENCY FUND- Not later than March 1, 1998, the Secretary of Health and Human Services shall make recommendations to the Congress for improving the operation of the Contingency Fund for State Welfare Programs.

SEC. 405. COORDINATION OF SUBSTANCE ABUSE AND CHILD PROTECTION SERVICES.

Within 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services, based on information from the Substance Abuse and Mental Health Services Administration and the Administration for Children and Families in the Department of Health of Human Services, shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report which describes the extent and scope of the problem of substance abuse in the child welfare population, the types of services provided to such population, and the outcomes resulting from the provision of such services to such population. The report shall include recommendations for any legislation that may be needed to improve coordination in providing such services to such population.

SEC. 406. PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.

(a) IN GENERAL- It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

(b) NOTICE REQUIREMENT- In providing financial assistance to, or entering into any contract with, any entity using funds made available under this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

TITLE V--EFFECTIVE DATE

SEC. 501. EFFECTIVE DATE.

(a) IN GENERAL- Except as otherwise provided in this Act, the amendments made by this Act take effect on the date of enactment of this Act.

(b) DELAY PERMITTED IF STATE LEGISLATION REQUIRED- In the case of a State plan under part B or E of title IV of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this Act, the State plan shall not be regarded as failing to comply with the requirements of such part solely on the basis of the failure of the plan to meet such additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.

END