

## INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN [R.C. 5103.23]

The Interstate Compact on the Placement of Children (ICPC) gives the appropriate authorities in the receiving state the full opportunity “to ascertain the circumstances of the proposed placement....”

The ICPC provides for the retention of jurisdiction. However, it does not defeat a claim of jurisdiction by a receiving state in dealing with acts of delinquency or crimes committed by the child placed in the receiving state.

The current compact is governed by regulations promulgated by the Association of Administrators of the Interstate Compact on the Placement of Children (ICPC), an affiliate of the American Public Human Services Association. These regulations are on the association’s website at [www.icpc.aphsa.org](http://www.icpc.aphsa.org) under the “Resource Page” tab. Forms and instructions are also available from this website. They also are in the Ohio Adm.Code 5101:2-52.

## APPLIES TO ABUSE, NEGLECT, OR DEPENDENCY CASES

Regulation No. 2 of the ICPC specifically states that it applies to cases involving children “under the jurisdiction of a court for abuse, neglect or dependency, as a result of action taken by a child welfare agency....”

## EXCLUSIONS

1. Placements made “with a parent from whom the child was not removed, and the court has no evidence that the parent is unfit, does not seek any evidence from the receiving state that the parent is either fit or unfit, and the court relinquishes jurisdiction over the child immediately upon placement with the parent....” [ICPC Reg. 2(3)]
2. “Placements handled in divorce, paternity or probate courts....” [ICPC Reg. 3, part or to placements made by private individuals with a legal right to do so (3)(c-d)]; see also [Ohio Adm.Code 5101:2-52-08(B)].

## RELOCATION

If a parent or relative having custody of the child relocates to the receiving state, the court may use the ICPC to maintain jurisdiction. [ICPC Reg. 3(2)(c)(3)] This includes the provision of protective supervision. Compare [ICPC Reg. 3(2)] with [ICPC Reg. 3(3)]; see also [Ohio Adm.Code 5101:2-52-04(L)]

## HOME STUDY TIMEFRAMES

Safe and timely interstate home studies are to be completed as soon as possible and within 60 calendar days of receipt of the home study request. However, the decision may be delayed in states that require the potential placements to complete licensing requirements. [ICPC Reg. 2(7)]

The receiving state is limited to an approval or denial of the proposed placement. [ICPC Reg. 2(8)(c)]; see also [Ohio Adm.Code 5101:2-52-04(C)] Upon approval, the home study is only valid for six months from the date that form ICPC -100A was signed by the receiving state. [ICPC Reg. 2(8)(d)]; see also [Ohio Adm.Code 5101:2-52-04(E)(2)]

The rules also provide for a request for reconsideration. [ICPC Reg. 2(9)]

## EXPEDITED PLACEMENT DECISIONS

[ICPC Regulation No. 7]

Provides that a court may issue an order for an expedited, or priority, placement decision when the proposed placement is the child’s:

1. Parent (However see exceptions noted above)
2. Stepparent
3. Grandparent
4. Adult uncle or aunt
5. Adult brother or sister, or
6. Guardian. [ICPC Reg. 7(3)]; accord [Ohio Adm.Code 5101:2-52-04(D)(i)(i)]; but see [Ohio Adm.Code 5101:2-52-04(D)(i)(ii)] (providing further conditions for priority placement).

## ORDERS FOR EXPEDITED PLACEMENT

[ICPC Regulation 7 Order]

To utilize this process, the court must:

1. Provide the sending agency with a signed copy of its order within 2 business days of its issuance. [ICPC Reg. 7(9)(b)]
2. That order must contain the following information for the clerk of court or designated court administrator of the sending court:
  - a. Name
  - b. Mailing address
  - c. E-mail address
  - d. Telephone and facsimile numbers. [ICPC Reg. 7(9)(b)]

The Order shall be consistent with the Form Order for Expedited Placement Decisions adopted under ICPC Reg. 7 by the Compact Administrators and contain the following:

1. A factual basis that Reg.7 applies. [ICPC Reg. 7(8)]  
For this, the court must make one of the following findings:
  - a. Unexpected dependency due to a sudden or recent incarceration, incapacitation or death of a parent or guardian. Incapacitation means a parent or guardian is unable to care for a child due to a medical, mental or physical condition of a parent or guardian, or
  - b. The child sought to be placed is four years of age or younger. But see [Ohio Adm.Code 5101:2-52-04(D)(i)(ii)(a)] (limiting priority placement to children under two years of age), including older siblings sought to be placed with the same proposed placement resource; or
  - c. The court finds that any child in the sibling group sought to be placed has a substantial relationship with the proposed placement resource. Substantial relationship means the proposed placement has a familial or mentoring role with the child, has spent more than cursory time with the child, and has established more than a minimal bond with the child; or

d. The child is currently in an emergency placement. [ICPC Reg. 7(5)(a-d)]

2. Must require that an ICPC Form 101 be completed; [ICPC Reg. 7(8)]; accord [Ohio Adm.Code 5101:2-52-04(D)(i)]

### AND

3. Indicate whether the court is seeking provisional approval and the factual basis for such a request. [ICPC Reg. 7(8)]; accord [Ohio Adm.Code 5101:2-52-04(D)(i)]



The court also should provide certified copies of its court orders, including current approved case plans, to the sending agency to expedite the process. [ICPC Reg. 7(9)(a-b)]; see also [Ohio Adm.Code 5101:2-52-06(C)(2)(c),(e)]

### MONITORING PRACTICE

The rule also provides that where the receiving state fails to comply with the expedited timeframe, the sending court may seek the assistance of the appropriate court in the receiving state. [ICPC Reg. 7(11)]



Under the current rules, a visit may be considered a placement if it does not comply with Reg. 9. [ICPC Reg. 9(5); compare Ohio Adm.Code 5101:2-52-04(B) with Ohio Adm.Code 5101:2-52-08(B)(4)]

### RETENTION OF JURISDICTION

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:

1. The child is adopted,
2. Reaches majority,
3. Becomes self-supporting, or
4. Is discharged with the concurrence of the appropriate authority in the receiving state. [ICPC Art. V(a)]; accord [Ohio Adm.Code 5101:2-52-04(E)(3)]

## INTERSTATE COMPACT FOR JUVENILES

[R.C. 2151.56, Article 1]

Applies to the “supervision or return of juveniles, delinquents, and status offenders who are on probation or parole and who have absconded, escaped, or run away...and in so doing have endangered their own safety and the safety of others.”

The rules for this compact are promulgated by the Interstate Commission for Juveniles. [www.juvenilecompact.org](http://www.juvenilecompact.org). A bench book is available through this website.

## RESIDENTIAL PLACEMENTS/PLACEMENT OF DELINQUENT CHILDREN IN ANOTHER STATE [Article VI of the Interstate Compact on the Placement of Children]

Findings:

1. Child must be adjudicated delinquent;
2. Child must have been given a court hearing with notice to the parent or guardian and the opportunity to be heard prior to the child being placed institutionally in the receiving state;
3. Equivalent facilities for the child are not available in the sending agency’s jurisdiction;

### AND

4. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship. A residential facility that falls under this provision is defined in [ICPC Reg. 4\(2\)](#).

## OTHER ISSUES

1. U.C.C.J.E.A. – See Domestic Relations Resources Guide website.
2. Beware of ICWA. [\[R.C. 3127.03\]](#)
3. Provides for out-of-state testimony. [\[R.C. 3127.10\(B\)\]](#)
4. Allows for emergency temporary jurisdiction where the child is abandoned; or “[i]t is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.” [\[R.C. 3127.18\(A\)\(1-2\)\]](#)

## EXTENSION OF CUSTODY



If the receiving state’s requirements (i.e., home study, classes, paperwork) are incomplete, but significant progress has been made, and the agency has a reasonable cause to believe the child will otherwise be permanently placed, then the court may extend temporary custody.  
[\[R.C. 2151.415\(D\)\(1\)\]](#)