

## Office of the Child Advocate

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### **Interstate Compact for the Placement of Children (ICPC): The “Iron Curtain” of Child Welfare**

By: Tom C. Rawlings, Director

In this modern age, a woman in Georgia can marry someone in California she met over the Internet. You can leave your home and family in the cornfields of Iowa for a job in New York. When we think of state borders, what comes to mind are merely those road signs on the freeway that welcome you to another part of the country and tell you who the local Governor is.

But when it comes to placing children who have been neglected or abused with relatives in another state, those border lines can become as hard to cross legally as the Rio Grande. And in a time when people often end up living far from their closest relatives, the legal and administrative hurdles can create real problems for child welfare agencies and courts that are trying to keep these children with their families.

Let's take for example a mother who has a serious drug problem and who has a daughter. The juvenile court and child protective services agency find the mother needs to undergo treatment before she can care for her daughter. If the daughter has a grandmother who lives out of state and has a good relationship with the child, it would be helpful for all involved if the little girl could live with her grandmother. And if Grandma lives in the next county over, having her home properly evaluated and doing the paperwork necessary to make that move is pretty simple. But if Grandma lives in the next state – even if that state happens to be just across the river – making the move can be a daunting bureaucratic challenge taking anywhere from six months to a year. The problem is that these interstate living arrangements are governed by the Interstate Compact for the Placement of Children (ICPC), an agreement among the states that carries the force of law and has strict requirements each state must follow.

Under the ICPC, a local child protection agency or court in the “sending” state must request in writing from its state government that a request be sent to the “receiving” state government to have a local agency perform an evaluation of the prospective relative's home. The request goes up the chain of command to the state government, then to the other state, then down to the local level, then up again until a response finally arrives back at the local court in the “sending” state. In other words, what often happens across counties via a phone call from one agency to another or from one judge to another requires a circuitous route when there are two states involved.

The idea behind the ICPC requirement is a good one. By requiring the family in the state receiving the child to have a thorough home evaluation, we can be assured that the child is going to a safe place with folks who are able to care for her. But, as a New York court recently found, this process is so frustratingly long and complicated that judges and agencies sometimes give up on trying to place these children with caring relatives in other states. The children end up in a strange foster home rather than with relatives they know and love. In the end, the ICPC “harms the child rather than helps the child,” the court held.<sup>i</sup>

Even more disconcerting, many states even require the use of the ICPC procedure when a court or agency places a child with the other parent who lives out of state or returns the child to a parent who lives in another state. The Georgia Court of Appeals recently took this position when it held that DFCS could not return a child to her mother in Florida without going through the ICPC process.<sup>ii</sup> Georgia's judges and DFCS officials have had their own struggles with delays caused by the ICPC. Recently, Judge Britt Hammond of the Toombs Circuit Juvenile Court surveyed his colleagues and found widespread irritation with the law. “ICPC cases seem to go into a black hole,” one of his colleagues told him. You can read the report he produced for the Supreme Court's Committee on Justice for Children at: <http://www.websitetoolbox.com/tool/post/justiceforchildren/vpost?id=2859433>

More and more, courts and agencies are realizing the importance of placing children with relatives when their own parents can't care for them. These relatives often have a good bond and relationship with the child, and that relationship can make a difficult situation easier on the child. But when the relatives or the noncustodial parent lives in another state, and a law such as the ICPC creates months of delay, what's a judge to do?

Most judges consider the ICPC to tie their hands. But other courts have limited the law, finding it doesn't apply to parents or only applies to placements that are intended to be temporary foster care or placements for adoption.<sup>iii</sup> Some judges have been able to call their colleagues in the other state and get things done more quickly. Others become so frustrated that they simply ignore the ICPC altogether or allow the child to “visit” for a long period of time with the relatives in the new state. Attorneys representing noncustodial parents have also challenged the law as an unconstitutional burden on their clients' parental rights.

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The ICPC may seem like an arcane statute best left to the lawyers and judges to figure out. But for those families who simply want to provide a caring home in a time of crisis for their children, grandchildren, or nephews and nieces who live in another state, it can create major roadblocks. It's time to re-examine this ICPC process.

Seven states have enacted a revised ICPC that addresses some, but not all, of the problems caused by the law. Two years ago, Congress passed a law that requires states to complete requested home evaluations within 60 days, a move that should reduce the overall time necessary to have an out-of-state home approved. You can read about these new developments at:

[www.aphsa.org/Policy/icpc2006rewrite.htm](http://www.aphsa.org/Policy/icpc2006rewrite.htm) and at [www.icpc.aphsa.org](http://www.icpc.aphsa.org).

These recent changes are a good start, but they don't go far enough to correct this outdated way of placing children across state lines. As the New York court said, "The days where it was common for an extended family to all be living in the same geographic region has long disappeared." This is the 21<sup>st</sup> century, when you can spend 24 hours a day watching a live camera in Times Square from your home computer. Our law must reflect these modern realities.

Tom Rawlings, Georgia's Child Advocate for the Protection of Children, was appointed by Governor Sonny Perdue to assure quality and efficiency in Georgia's child protective systems. The Office of the Child Advocate is a resource for those interested in the welfare of our state's neglected and abused children. Tom can be reached through the OCA website at [www.gachildadvocate.org](http://www.gachildadvocate.org)

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<sup>i</sup> Matter of Crystal A. v. Lisa B., 2006 NY Slip Op 26265, 2-3 (N.Y. Sup. Ct. 2006)

<sup>ii</sup> In the Interest of R.B., 285 Ga. App. 556 (2007)

<sup>iii</sup> Ark. Dep't of Human Servs. v. Huff, 347 Ark. 553, 561 (2002)