

LEGISLATIVE HISTORY CHECKLIST

NJSA: 9:23-5

(Child placement
interstate
compact)

LAWS OF: 1989

CHAPTER: 284

Bill No: S543

Sponsor(s): Brown

Date Introduced: Pre-filed

Committee: Assembly: Health & Human Services

Senate: Childrens Services

Amended during passage: No

Date of Passage: Assembly: January 4, 1990

Senate: April 24, 1989

Date of Approval: January 12, 1990

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

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Message on signing: No

Following were printed:

Reports: No

Hearings: No

P.L.1989, CHAPTER 284, *approved January 12, 1990*
1988 Senate No. 543

1 AN ACT providing for an interstate compact in regard to the
2 placement of children between the State of New Jersey and
3 other states and supplementing Title 9 of the Revised Statutes.
4

5 BE IT ENACTED *by the Senate and General Assembly of the*
6 *State of New Jersey:*

7 1. The Interstate Compact on the Placement of Children is
8 enacted into law and entered into with all other jurisdictions
9 legally joining therein in the form substantially as follows:
10

11 PART I

12 INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

13 ARTICLE I. PURPOSE AND POLICY
14

15 1. It is the purpose and policy of the party states to
16 cooperate with each other in the interstate placement of
17 children to the end that:

18 a. Each child requiring placement shall receive the maximum
19 opportunity to be placed in a suitable environment and with
20 persons or institutions having appropriate qualifications and
21 facilities to provide a necessary and desirable degree and type
22 of care.

23 b. The appropriate authorities in a state where a child is to
24 be placed may have full opportunity to ascertain the
25 circumstances of the proposed placement hereby promoting full
26 compliance with applicable requirements for the protection of
27 the child.

28 c. The proper authorities of the state from which the
29 placement is made may obtain the most complete information
30 on the basis of which to evaluate a projected placement before
31 it is made.

32 d. Appropriate jurisdictional arrangements for the care of
33 children will be promoted.

ARTICLE II. DEFINITIONS

1
2
3 1. a. "Child" means a person who, by reason of minority, is
4 legally subject to parental, guardianship or similar control.

5 b. "Sending agency" means a party state, officer or employee
6 thereof; a subdivision of a party state, or officer or employee
7 thereof; a court of a party state; a person, corporation,
8 association, charitable agency or other entity which sends,
9 brings, or causes to be sent or brought any child to another party
10 state.

11 c. "Receiving state" means the state to which a child is sent,
12 brought, or caused to be sent or brought, whether by public
13 authorities or private persons or agencies, and whether for
14 placement with state or local public authorities or for
15 placement with private agencies or persons.

16 d. "Placement" means the arrangement for the care of a
17 child in a family free or boarding home or in a child-caring
18 agency or institution but does not include any institution caring
19 for the mentally ill, mentally defective or epileptic or any
20 institution primarily educational in character, and any hospital
21 or other medical facility.

ARTICLE III. CONDITIONS FOR PLACEMENT

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25 1. a. No sending agency shall send, bring, or cause to be sent
26 or brought into any other party state any child for placement in
27 foster care or as a preliminary to a possible adoption unless the
28 sending agency shall comply with each and every requirement
29 set forth in this article and with the applicable laws of the
30 receiving state governing the placement of children therein.

31 b. Prior to sending, bringing or causing any child to be sent or
32 brought into a receiving state for placement in foster care or as
33 a preliminary to a possible adoption, the sending agency shall
34 furnish the appropriate public authorities in the receiving state
35 written notice of the intention to send, bring, or place the child
36 in the receiving state. The notice shall contain:

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

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

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

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

7 c. Any public officer or agency in a receiving state which is
8 in receipt of a notice pursuant to subsection a. of paragraph 1.
9 of this article may request of the sending agency, or any other
10 appropriate office or agency of or in the sending agency's state,
11 and shall be entitled to receive therefrom, such supporting or
12 additional information as it may deem necessary under the
13 circumstances to carry out the purpose and policy of this
14 compact.

15 d. The child shall not be sent, brought, or caused to be sent or
16 brought into the receiving state until the appropriate public
17 authorities in the receiving state shall notify the sending
18 agency, in writing, to the effect that the proposed placement
19 does not appear to be contrary to the interests of the child.
20

21 ARTICLE IV. PENALTY FOR ILLEGAL PLACEMENT

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23 1. The sending, bringing, or causing to be sent or brought into
24 any receiving state of a child in violation of the terms of this
25 compact shall constitute a violation of the law respecting the
26 placement of children of both the state in which the sending
27 agency is located or from which it sends or brings the child and
28 of the receiving state. Such violation may be punished or
29 subjected to penalty in either jurisdiction in accordance with its
30 laws. In addition to liability for any such punishment or penalty,
31 any such violation shall constitute full and sufficient grounds for
32 the suspension or revocation of any license, permit, or other
33 legal authorization held by the sending agency which empowers
34 or allows it to place, or care for, children.
35

36 ARTICLE V. RETENTION OF JURISDICTION

37
38 1. a. The sending agency shall retain jurisdiction over the
39 child sufficient to determine all matters in relation to the

1 custody, supervision, care, treatment and disposition of the child
2 which it would have had if the child had remained in the sending
3 agency's state, until the child is adopted, reaches majority,
4 becomes self-supporting or is discharged with the concurrence
5 of the appropriate authority in the receiving state. Such
6 jurisdiction shall also include the power to effect or cause the
7 return of the child or its transfer to another location and
8 custody pursuant to law. The sending agency shall continue to
9 have financial responsibility for support and maintenance of the
10 child during the period of the placement. Nothing contained
11 herein shall defeat a claim of jurisdiction by a receiving state
12 sufficient to deal with an act of delinquency or crime
13 committed therein.

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

19 c. Nothing in this compact shall be construed to prevent a
20 private charitable agency authorized to place children in the
21 receiving state from performing services or acting as agent in
22 that state for a private charitable agency of the sending state;
23 nor to prevent the agency in the receiving state from
24 discharging financial responsibility for the support and
25 maintenance of a child who has been placed on behalf of the
26 sending agency without relieving the responsibility set forth in
27 subsection a. of paragraph 1. hereof.

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ARTICLE VI. INSTITUTIONAL CARE OF DELINQUENT CHILDREN

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

38 a. Equivalent facilities for the child are not available in the
39 sending agency's jurisdiction; and

1 **b. Institutional care in the other jurisdiction is in the best**
2 **interest of the child and will not produce undue hardship.**

3
4 **ARTICLE VII. COMPACT ADMINISTRATOR**

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

13
14 **ARTICLE VIII. LIMITATIONS**

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16 1. This compact shall not apply to:

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

21 b. Any placement, sending or bringing of a child into a
22 receiving state pursuant to any other interstate compact to
23 which both the state from which the child is sent or brought and
24 the receiving state are party, or to any other agreement
25 between said states which has the force of law.

26
27 **ARTICLE IX. ENACTMENT AND WITHDRAWAL**

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29 1. This compact shall be open to joinder by any state,
30 territory or possession of the United States, the District of
31 Columbia, the Commonwealth of Puerto Rico, and, with the
32 consent of Congress, the government of Canada or any province
33 thereof. It shall become effective with respect to any such
34 jurisdiction when such jurisdiction has enacted the same into
35 law. Withdrawal from this compact shall be by the enactment
36 of a statute repealing the same, but shall not take effect until
37 two years after the effective date of such statute and until
38 written notice of the withdrawal has been given by the
39 withdrawing state to the governor of each other party

1 jurisdiction. Withdrawal of a party state shall not affect the
2 rights, duties and obligations under this compact of any sending
3 agency therein with respect to a placement made prior to the
4 effective date of withdrawal.

5
6 **ARTICLE X. CONSTRUCTION AND SEVERABILITY**
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8 1. The provisions of this compact shall be liberally construed
9 to effectuate the purposes thereof. The provisions of this
10 compact shall be severable and if any phrase, clause, sentence
11 or provision of this compact is declared to be contrary to the
12 constitution of any party state or of the United States or the
13 applicability thereof to any government, agency, person or
14 circumstance is held invalid, the validity of the remainder of
15 this compact and the applicability thereof to any other
16 government, agency, person or circumstance shall not be
17 affected thereby. If this compact shall be held contrary to the
18 constitution of any state party thereto, the compact shall
19 remain in full force and effect as to the remaining states and in
20 full force and effect as to the state affected as to all severable
21 matters.

22
23 **PART II**
24

25 2. As used in Article III of the compact "appropriate public
26 authorities" and as used in subsection a. of paragraph 1. of
27 Article V of the compact, "appropriate authority in the
28 receiving state" means, with reference to New Jersey, the
29 Department of Human Services and the department shall receive
30 and act with reference to notices required by Article III.

31 3. Any person, firm, partnership, corporation, association or
32 agency violating any provision of the compact is guilty of a
33 crime of the fourth degree. If a violation consists of
34 unintentional failure to satisfy a requirement of Article III of
35 the compact in a timely and sufficient manner, subsequent
36 satisfaction thereof and the receipt by the sending agency of a
37 notice pursuant to subsection d. of paragraph 1. of Article III
38 that the placement does not appear to be contrary to the
39 interests of the child shall be deemed to cure the violation and

1 no court or officer of this state shall impose any sentence or
2 penalty on account thereof.

3 4. The officers and agencies of this State and its subdivisions
4 having authority to place children are empowered to enter into
5 agreements with appropriate officers or agencies of or in other
6 party states pursuant to subsection b. of paragraph 1. of Article
7 V of the compact. Any agreement which contains a financial
8 commitment or imposes a financial obligation on this State or
9 any subdivision or agency thereof shall not be binding unless it
10 has the approval in writing of the State Treasurer.

11 5. As used in Article VII of the compact, the term "executive
12 head" means the Governor. The Governor is authorized to
13 appoint a compact administrator in accordance with the terms
14 of Article VII.

15 6. The provisions of chapter 7 of Title 9 of the Revised
16 Statutes shall not apply to children brought into the State in
17 accordance with the terms of the compact.

18 7. Financial responsibility for any child placed in New Jersey
19 pursuant to the compact shall be determined in the first
20 instance in accordance with the provisions of Article V thereof,
21 but, in the event of partial or complete default of performance
22 thereunder the provisions of any other law fixing the
23 responsibility for the support of children shall apply.

24 8. Whenever a court, in the course of an adoption hearing,
25 determines that the child sought to be adopted has been sent or
26 brought into the State the court shall give notice of that finding
27 to the Compact Administrator.

28 9. Children may be placed in suitable foster homes or other
29 child caring facilities in adjoining states when prior notification
30 to the Compact Administrator is not practicable, provided that
31 the sending agency has received from the Compact
32 Administrators of the receiving and sending states prior written
33 approval of the specific facilities to be used for the placement.
34 The approval shall be reviewed at least annually by the Compact
35 Administrators. No later than 10 days following these
36 placements, the sending agency shall make appropriate
37 notification in writing to the Compact Administrator in the
38 receiving state who shall acknowledge receipt of the
39 notification in writing and indicate whether or not the

1 placement is contrary to the interests of the child. If the
2 Compact Administrator in the receiving state indicates that the
3 placement is contrary to the interests of the child, the sending
4 agency shall arrange for the removal of the child as soon as
5 possible.

6 10. Any requirements for visitation, inspection or supervision
7 of children, homes, institutions or other agencies in another
8 party state which may apply under Title 30 of the Revised
9 Statutes shall be deemed to be met if performed pursuant to an
10 agreement entered into by appropriate officers or agencies of
11 this State or a subdivision thereof as contemplated by subsection
12 b. of paragraph 1. of Article V of the compact.

13 11. Nothing contained herein shall be deemed to prevent the
14 temporary removal of a child by the appropriate officials of the
15 receiving state from a placement approved by the Compact
16 Administrator where there is reasonable cause to believe that
17 the placement may be detrimental to the health, safety or
18 welfare of the child.

19 12. The Commissioner of Human Services shall have the
20 power to adopt regulations for the enforcement of this act
21 pursuant to the "Administrative Procedure Act," P.L.1968,
22 c.410 (C.52:14B-1 et seq.).

23 13. Neither this act nor the compact contained herein shall
24 be construed to confer on any court jurisdiction to place
25 children or any class of children if the court does not otherwise
26 have jurisdiction in making any placements into another state
27 party to the compact. A court shall follow the procedures and
28 implement the requirements as are otherwise contained in law
29 and shall also take the steps necessary for compliance with the
30 compact.

31 14. This act shall take effect 90 days following enactment.

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HUMAN SERVICES

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Children

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37 Provides for an interstate compact in regard to the placement
38 of children.

ASSEMBLY HEALTH AND HUMAN RESOURCES COMMITTEE

STATEMENT TO

SENATE, No. 543

STATE OF NEW JERSEY

DATED: DECEMBER 7, 1989

The Assembly Health and Human Resources Committee favorably reports Senate Bill No. 543.

This bill would make New Jersey a party to the Interstate Compact on the Placement of Children, which has been enacted by the other 49 states, the District of Columbia and the Virgin Islands in order to establish identified procedures to protect children placed across state lines and to facilitate permanency planning for these children.

The Interstate Compact on the Placement of Children concerns the movement of dependent children across state lines into foster care, adoption, residential care and homes of parents or other relatives. Its purposes are to assure reciprocal services among states for home or facility evaluation prior to placement, for continuing services after placement, and for firmly fixed financial and social planning responsibility so that the children have a clear source of care and support.

Currently, State law does not include a clear and enforceable provision concerning the responsibility of persons or agencies bringing children into this State or causing children to be brought into this State. In the absence of specific agreements, New Jersey has no legally enforceable authority to exercise continuing control over children sent out of this State for residential, foster and pre-adoption placement, except in the case of children accused of a crime.

Adoption of the Interstate Compact on the Placement of Children through this bill would require other member states to recognize their continuing financial and supervisory responsibility for children placed in this State, as well as permit and require New Jersey to exercise its continuing financial and supervisory responsibility for New Jersey children placed in those states.

This compact complements the Interstate Compact on Juveniles, P.L.1955, c.55 (C.9:23-1 et seq.), which addresses the issues of interstate movement of children on probation or parole and runaways.

This bill is identical to Assembly Bill No. 2249 (Baer), which the committee also reported on this date.

SENATE COMMITTEE ON CHILDREN'S SERVICES

STATEMENT TO

SENATE, No. 543

STATE OF NEW JERSEY

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DATED: APRIL 18, 1988

The Senate Committee on Children's Services favorably reports Senate Bill No. 543.

This bill provides for an interstate compact regarding the placement of children between the State of New Jersey and other states. The Interstate Compact on the Placement of Children, already enacted in 49 other states, concerns the movement of dependent children across state lines into foster care, adoption, residential care and homes of parents or other relatives. Its purposes are to assure reciprocal services among states for home or facility evaluation prior to placement, for continuing services after placement, and for firmly fixed financial and social planning responsibility so that the children have a clear source of care and support.

Adoption of the Interstate Compact on the Placement of Children, pursuant to this bill, would require other member states to recognize their continuing financial and supervisory responsibility for children placed in this State, as well as permit and require New Jersey to exercise its continuing financial and supervisory responsibility for New Jersey children placed in those states.

This compact complements the Interstate Compact on Juveniles, P.L. 1955, c. 55 (C. 9:23-1 et seq.), which addresses the issues of interstate movement of children on probation or parole and runaways.

This bill was pre-filed for introduction in the 1988 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.