

GUIDELINES FOR COMPLIANCE WITH THE INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN FOR INDEPENDENT OR PRIVATE AGENCY ADOPTIVE PLACEMENTS / Non-Custodial Placement: ICPC Independent or Private Agency Adoptive Placement Referral

Compliance with the Interstate Compact on the Placement of Children, herein after referred to as ICPC, (TCA 37-4-201 et seq. including ICPC Regulations) is required for placements of a child or children across State lines for the purpose of foster care or preliminary to an adoption. This includes all independent or private agency adoptive placements initiated by a birthparent or birthparents or legal guardians with right of consent; all private licensed child-placing agency placements of a child or children who are in the partial or full guardianship of the agency; and adoptive placements authorized by the Tennessee Court between relatives other than those described in the ICPC Article VIII. Guidelines for compliance with the ICPC for the adoptive placement of a child or children across State lines wherein the public agency has guardianship over the child are different and are addressed under separate procedures defined in the Tennessee DCS ICPC Practice and Procedure Manual.

Procedures for Compliance:

Articles I, III and V of the ICPC and Regulation #12 serve as the basis for the procedures for ICPC compliance for the independent or private agency foster or adoptive placement of a child into another State. These procedures include a referral process, study process, the basis for and the authority to issue a decision regard the placement, the case-management process and closure process including permanency or disruption for each child. *This guide provides limited but specific information regarding submission of an ICPC referral.* Please review the Interstate Compact on the Placement of Children Procedures Manual: Independent and Private Agency Adoptive Placement Handbook located on:

<http://www.tn.gov/assets/entities/dcs/attachments/ICPCProcedureandPracticeManual.pdf> for more complete details and specific processing procedures.

Per Article III of the ICPC statute, a referral (“notice of intention to place”) must be filed with the ICPC authority in the sending state prior to any “placement” (the physical removal of a child or children from the sending state) into a receiving state and the “placement” cannot be made until and unless the receiving State ICPC authority has issued a written notice on the Form ICPC 100A that the “placement is not contrary to the interests of the child.”

- 1. The sending agent (birthparent(s), non-agency guardian with right to consent;** all private licensed child-placing agency who is vested with partial or complete guardianship of the child or a court with jurisdiction of a child and sole authority to place the child for adoption with relatives other than those described in the ICPC Article VIII) is responsible to develop and initiate an ICPC Independent or Private Agency Adoptive Placement Referral seeking compliance for the placement of the child with the identified resource. The ICPC Independent or Private Agency Adoptive Placement Referral packet is to be submitted in duplicate to the Tennessee DCS State ICPC office by mail or overnight mail.

2. The ICPC Independent or Private Agency Adoptive Placement Referral is reviewed for compliance by the Tennessee ICPC Administrator. The Tennessee ICPC Administrator notifies the sending agent if additional information is needed.
3. The ICPC Independent or Private Agency Adoptive Placement Referral is entered in the Tennessee Family and Children's Tracking System (TFACTS) by the appropriate Tennessee ICPC Administrator upon receipt in the Tennessee DCS State ICPC office.
4. The ICPC Independent or Private Agency Adoptive Placement Referral contains the following required documentation:
 - a) **Cover Letter**. A cover letter from the "sending agent", who is vested with the authority to "place" a child for adoption or their designated representative, which is appropriately signed and dated. The cover letter at a minimum :
 - ◆ Identifies all parties involved in the proposed placement arrangement including the identity and the address of birth parent(s) and /or legal parent(s) and/or legal guardian(s) and the representative (legal or otherwise) of the birthparent(s), the child and the adoptive resource;
 - ◆ Address issues such as how and when the arrangements for the potential placement of the specified child became known to all parties and summarize the intended arrangements for the placement of the designated child with the designated resource;
 - ◆ Identify legal procedures involved in addressing the rights of the birthparent, birthparents, legal parent or legal guardian, or alleged father;
 - ◆ identify the party with jurisdictional responsibility for the child, which includes authority to return the child to the sending state if the placement disrupts prior to finalization or the finalization is not achieved as prescribed;
 - ◆ Identify the party financially responsible for the child designated in a statement by the prospective placement resource or a contractual agreement with an agency;
 - ◆ Identify the post-placement supervisory agency in the receiving state;
 - ◆ Identify the state where the adoption is finalized and clarify the time frame that "permanency through adoption" can be achieved;
 - ◆ Verify that all parties have been informed of compliance with the ICPC and the requirements thereto and consequences of violation of the law to the safety and legal standing of the child in each state, and;
 - ◆ The entity or representative of the parent or birthparent or prospective adoptive parents who are assisting or making arrangements for the adoption placement on behalf of the parents or prospective parents or the child-placing agent or agency must attach verification of their current licensure to practice child-placing activities in the sending state.
 - b) Form **CS-0525) ICPC 100A, Interstate Compact Placement Request**. This is the ICPC 100A form used by the sending State. The Form is completed, signed and dated by the appropriate ICPC "sending agent" responsible for the child ,i.e. a birthparent or birthparents; a public or private licensed child-placing agency

who has partial or complete guardianship of the child (with right to consent) or the designated judicial authority of the court which hold jurisdiction over the child.

- c) **Background Forms** A background form(s) includes social and medical history appropriately completed by or on both birthparents. If these forms are completed by other than the birthparent, the interviewer/reporter must be identified and their credentials/licensure must be attached.

Note: For the placement of a Tennessee child into another State, the Social-Medical History on the Birthparent filed with the Tennessee court as part of the Tennessee surrender process is the document of preference.

- d) **Surrender/ Termination/Consent/Relinquishment/Waiver Documents-** All documents, which address the rights of birthparents, any legal parent or guardian who maintains right of consent or any alleged father. These documents include surrenders, terminations, consents, relinquishments, or waivers as well as documentation of and/or results of orders of publication or putative father registry on alleged fathers conducted in accordance to appropriate law of the sending state or if requested, by the receiving state (presumed to be the state of finalization) in accordance with the laws of the receiving state. If the birthparent is permitted and elects to follow the laws of a state other than his or her state of residence to address his or her rights to the child, then he or she should specifically waive, in writing the laws of his or her state of residence and acknowledge that he or she has a right to sign a surrender/ termination/consent/relinquishment/waiver under the law and has been informed as to the process and procedure and legal consequences of this action in both the sending and the receiving state.
- e) **Certification:** Certification by a licensed attorney or authorized agent of a licensed private adoption agency or licensed independent entity that the surrender/ termination/consent/relinquishment or waiver is in compliance with the applicable laws of the sending state or where requested, the laws of the receiving state.
- f) **Custodial Status of Child:** All documents which establish the child or children's legal custodial status. Persons, corporations, agencies or other entities who are issued partial or complete guardianship or temporary custody by an appropriate authority document verification of current licensure and must address their ability to make a foster or adoptive placement. *Pursuant to TCA 36-1-111 (r) (2) and TCA 36-1-111 (r) (6) (C) neither the Tennessee surrender nor the parental consent itself is sufficient to vest custodial or guardianship authority with the licensed child-placing agency or the prospective adoptive parents. Upon satisfactory completion of the necessary requirements and execution of the Surrender or parental consent by the licensed child-placing agency or the prospective adoptive parents, the court may enter an Order of Guardianship or Partial Guardianship to the licensed child-placing agency or the prospective adoptive parents. The Court where the surrender or parental consent and the Order of Guardianship or Partial Guardianship is executed or filed will maintain jurisdiction of all matters pertaining to the child pursuant to TCA and Article V (a) of the Compact.*

- g) **ICPC Compliance Statement:** Documentation of compliance with the Interstate Compact on the Placement of Children which includes documentation of retention of jurisdiction by the sending state agent pursuant to Article V (a) of the Compact.
Part I, 9 and Part II.B.4or II B.8or 10 of the Tennessee Surrender incorporates a statement of compliance with the ICPC.
- h) **ICWA Compliance Statement:** Documentation of compliance with the Indian child Welfare Act, 25 U.S.C.1901 et seq.
Part I, 8 and Part II, B. 3.or II B. 9 of the Tennessee Surrender incorporates a statement of compliance with the ICWA.
- i) **Documentation of the Physical/Medical/Psychological Status of the Child:** This documentation includes but is not limited to the birth medical or discharge summary on the child; current pediatric or medical reports on the child including immunization records; current medical and/ or psychological treatment records; and, current prescription records. All documents must be validated or authorized by the appropriate treating physician or medical authority preferably on professional letterhead or form. For older children, this documentation may include school records and summary issued by the current caregiver.
- j) **Certification of Social or Legal Counseling:** Certification documents of any social or legal counseling for the birthparents. Attach a copy of or verification of current license to practice. *Part I 3 & 14 and Part II B.7 of the Tennessee Surrender incorporates a statement of compliance for social or legal counseling. If provided, the counseling services are to be documented as part of the referral on forms [CS-0643, Certification of Completion of Legal Counseling](#) and [CS-0941, Certification of Completion of Social Counseling Related to Adoption-Related to Adoptive Placement Decision\(s\) by Parent\(s\)](#).*
- k) **Affidavit Regarding the Physical Custody:** Affidavit regarding the physical custody of the child prior to surrender or consent and/or after surrenders or consent. *Part I, 12 and Part II B. 2 or II B. 5 of the Tennessee Surrender incorporates a statement of compliance regarding the physical custodial status of the child at the time of the surrender.*
- l) **Affidavit of Fees:** Affidavit of fees encumbered related to the placement. *Part I, 10 and Part II B. 4 of the Tennessee Surrender form incorporates a testimonial statement regarding fees as validated by the birthparent(s) and the prospective adoptive parents.*
- m) **At-Risk Statement:** Affidavit of an “at-risk” placement acknowledging such situations as non-termination of parental rights, revocation periods, unique medical, ICWA concerns or other situations, signed by the prospective adoptive resource.
- n) **Home Study:** The current home study or updated study or preliminary study or pre-placement report on the prospective adoptive resource which is child-specific and conducted in accordance to the appropriate law of the receiving state, including verification of compliance with federal and state background clearances, FBI fingerprinting and Child Abuse/Neglect clearances and Sex

Offender Registry clearance as appropriate to the law of the receiving state. A copy of the current licensure of the home study preparer or agency licensure is to be included.

- o) **Post-Placement Supervision:** A written statement on letterhead from the licensed person or licensed agency in the receiving state that is providing post-placement supervision (may be included in an adoption study acknowledging the obligation to provide post-placement supervision; same licensed person or agency as cited on **CS-0525) ICPC 100A, Interstate Compact Placement Request**.
 - p) **Other Documentation:** Other documentation that may be required by the Receiving State policy.
5. Two completed ICPC referral packets are to be submitted to the Tennessee ICPC office by mail or express mail. Tennessee ICPC State office reviews and processes the referrals within a three (3) workday period to the receiving State ICPC Office.
 6. If the Tennessee sending agency or representative desires processing to be by Overnight Mail, the referral packet needs to contain a label and appropriate size envelope and business or charge account # for use by the Tennessee ICPC State Office
 7. Upon confirmation of written approval on Section IV of **CS-0525) ICPC 100A, Interstate Compact Placement Request** by the appropriate ICPC authority in the Receiving State, the Tennessee ICPC office notifies all Tennessee parties; the “sending agency or agent” may initiate arrangements for the child to be physically placed into the receiving State.
 8. Placement of a child into a Receiving State prior to submission of an ICPC referral or prior to issuance of the written approval of the Receiving State ICPC authority constitutes a violation of Article III of the ICPC statute and of the laws respecting the placement of children in the state wherein the sending agency or agent is located or from which it send or brings the child and of the receiving state. As the “sending agency or agent” is responsible to retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care and disposition of the child, a penalty would be assessed to the “sending agency or agent” with a violation of Article III as the child would be considered in the Receiving state at risk and without proper guardianship. In addition to suspension or revocation of licensure, the sending agency or agent may be responsible to return the child to the jurisdiction of the sending state.
 9. Compliance with the ICPC requires filing of an ICPC **CS-0523, Interstate Compact Report on Child’s Placement Status (100B)** to denote the date the child was physically removed from the sending state as well as to identify the designated resource and location of the child in the receiving State. An ICPC form **CS-0523, Interstate Compact Report on Child’s Placement Status (100B)** is filed during the interim if the placement status or location status of the child changes.
 10. During the interim between placement and permanency (finalization of adoption), ICPC placements are subject to post-placement supervision by the agency

designated on **CS-0525) ICPC 100A, Interstate Compact Placement Request** in the receiving state. Written progress reports are exchanged between ICPC Offices in the party States. Throughout the period of placement, an agency or agent in the Receiving state is to be maintained to provide oversight on the child's safety and well-being pending finalization of the adoption.

11. The ICPC form **CS-0523, Interstate Compact Report on Child's Placement Status (100B)** is filed along with two (2) copies of the appropriate legal document which denotes the achievement of permanency for the child or children through adoption. Upon receipt of such documents, the ICPC record is closed. Depending upon the circumstances of the record, the ICPC record is submitted to the Tennessee DCS State Office Adoption Unit for disposition or is destroyed through shredding.