

## **Guidelines for Compliance with the Interstate Compact on the Placement of Children: Residential Treatment Facility/Institutional Placement (Article VI)**

The Interstate Compact on the Placement of Children (ICPC) (TCA 37-4-201 et seq.) is a state statute adopted in all 50 States, the District of Columbia and the Virgin Islands. The purpose of the ICPC is to secure safe and appropriate placements for children who are *placed* across state lines for the purposes of foster care or preliminary to an adoption or for services/treatment in a licensed Residential Treatment Facility, or Group Home or Maternity Home or Child-Caring agency or Institutional Placement under Article VI of the ICPC.

*Placement* of children by parents or guardians, courts or public or private agencies or other entities into licensed facilities or institutions in another State herein referred to as Residential Treatment Facilities (RTF)/Institutions are subject to compliance with the ICPC statute and ICPC Regulation #4. Such facilities or institutions may be identified as licensed residential treatment facilities, group homes, maternity homes, Child-Caring Institutions and Institutional Care (Article VI) Adjudicated Delinquent; ergo, those facilities providing a level of 24-hour, supervised care that is beyond what is needed for assessment or treatment of an acute condition.

### **What does compliance with the ICPC mean? What is the process for compliance and how does it affect your agency?**

Compliance with the ICPC starts with the filing of an appropriately completed ICPC referral packet by the “sending agency or agent” defined as the designated parent or guardian, court or public or private agency or other entity with jurisdiction over the child including the right to plan for and *place* a child into another State.

The ICPC referral packet will contain:

- a) Cover letter prepared, signed and dated by the “sending agency or agent” which:
  - ◆ Identifies the current circumstances which resulted in the need for Residential Treatment Facilities (RTF)/Institution services for the child;
  - ◆ Addresses the efforts to secure the needed services/placement “in-state” and the reasons that those in-state resources were not selected or available for use;
  - ◆ Confirms the responsibility for payment of the fees for services and other costs of placement of the child while in the Residential Treatment Facilities (RTF)/Institution placement including the name and address of the person or entity that is making the payment and who is otherwise financially responsible as well as the arrangements for medical coverage established between the sending agency or agent and the residential facility which falls outside of the scope of fees for service; and,
  - ◆ Confirms the understanding/commitment that the child is to be returned to the custody/guardianship of the sending agent and the jurisdiction of the sending state upon discharge or disruption from the Residential Treatment Facilities (RTF)/Institution.

- b) Form **Interstate Compact Placement Request (ICPC 100A)** which is fully completed and signed and dated by the “sending agency or agent”;
- c) Court order or other documentation which grants the “sending agency or agent” the authority to place the child including where appropriate:
- ◆ **Delinquent child**-A copy of the court order indicating the child has been adjudicated delinquent, has been afforded a court hearing with notice to the parent or guardians prior to being sent into another party jurisdiction for institutional care and includes the court finding that equivalent facilities for the child are not available in the sending agency’s jurisdiction; and institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship per Article VI of the Compact;
  - ◆ **Public Agency Child**-The current court order indicating the sending agency has authority to place the child, or, if authority does not derive from a court order, a written legal document executed in accordance with the laws of the sending state that provides the basis for which the sending agency has authority to place the child and documentation that supervision is on-going or a copy of the Voluntary Placement Agreement, as defined in Section 472 (f) (2) of the Social Security Act executed by the sending agency and the child’s parent or guardian.
  - ◆ **Child in the Custody of a Relative or Legal Guardian** – A current court order or legal document is required indicating the sending agent (i.e. the relative or legal guardian) has the authority to place the child.
  - ◆ **Parent Placement** (no court involvement) –The form **Interstate Compact Placement Request (ICPC 100A)** is required and is signed by the sending agency or agent with the box checked under legal status indicating the parent has custody or guardianship.
  - ◆ Both the sending or receiving state ICPC office has the discretion to request any additional documents to support the legal status marked on form **Interstate Compact Placement Request (ICPC 100A)** including copies of the birth certificate or divorce decree.
- d) Letter of Acceptance from the Residential Treatment Facilities (RTF)//Institution which provides a statement of support that the Residential Treatment Facilities (RTF)//Institution has “received” an admission packet containing the credentials required by the agency on the child and their potential placement including medical summary and prescription regimes as appropriate. The letter confirms that the Residential Treatment Facilities (RTF)//Institution has “screened” the child’s credentials and determined the child appropriate for placement and services. The letter includes dates or a date range for child to be accepted, is on the Residential Treatment Facilities (RTF)//Institution’s letterhead and is signed/dated by appropriate authority in the Residential Treatment Facilities (RTF)//Institution;
- e) Current Case History or Social History for the child, as appropriate;
- f) Current Case Plan or Permanency Plan for the child, as appropriate;

- g) Financial /Medical Plan/Form: A written description of the responsibility for payment of the fees for services and cost of placement of the child in the Residential Treatment Facilities (RTF)/Institution including the name and address of the person or entity that is making the payment and who is otherwise financially responsible. Financial and Medical coverage is arranged and confirmed between the sending agent/agency and the RTF/Institution prior to the placement. The Financial/Medical Plan or form may require, as appropriate, the following attachments:
- ◆ Title IV-E eligibility verification (Limited to Public or Private Agency Placements);
  - ◆ Contract for medical services;
  - ◆ Verification of insurance coverage including when coverage will expire and vendor.
- h) Placement Discharge/Disruption Agreement which indicates who is responsible for the return of the child to the sending state upon discharge whether that discharge is due to treatment completed or if the child disrupts from the program prior to treatment being completed or a request is made for the child's removal and return to the sending state before treatment is completed. This Agreement should be on the Residential Treatment Facilities (RTF)/Institution Letterhead and signed by both the Sending agent and the Residential Treatment Facilities (RTF)/Institution authority agent.

The ICPC referral packet is submitted by the "sending agency or agent" to their State's ICPC Administrative Office ***prior to the placement*** of the child into the Residential Treatment Facilities (RTF)/Institution.

The Sending State ICPC office has the responsibility to review the ICPC referral to determine if that referral meets and documents appropriate laws and policy of the Sending State. If determined appropriate, the Sending State ICPC administrator submits the referral to the Receiving State ICPC office.

The Receiving State ICPC office has the responsibility and authority to determine whether the placement of the child into the designated Residential Treatment Facilities (RTF)/Institution is "contrary to the interests of the child." That determination is made based on a report or other documentation available to the Receiving State ICPC office. In the case of an Residential Treatment Facilities (RTF)/ Institution which is licensed in the State of Tennessee, the Tennessee ICPC State Office issues a decision regarding placement based on the current licensure of that Residential Treatment Facilities (RTF)/Institution as issued through the Department of Mental Health and Substance Abuse Services as well as DCS and any reports from the appropriate Tennessee licensing regulatory authority regarding the status of that licensure.

The Receiving State ICPC office provides the decision regarding placement, in writing, on the Section IV form ***Interstate Compact Placement Request (ICPC 100A)*** within three (3) business days from receipt of the completed request. The Receiving State ICPC office distributes copies of the signed and dated form ***Interstate Compact Placement Request (ICPC Form 100A)*** to all parties, including the Residential Treatment Facilities (RTF)/Institution in the Receiving State and the Sending State ICPC office in expedited manner agreed to between both states.

Until and unless written approval for the placement has been determined by the Receiving State ICPC administrator, physical placement of the child into that Residential Treatment Facilities (RTF)/Institution is not authorized. The placement of a child or the acceptance of a child, physically into a Residential Treatment Facilities (RTF)/Institution prior to “approval” under the ICPC or without the filing of an ICPC referral violates Article III of the ICPC statute and places the child and the agency at risk. The penalties for non-compliance as outlined under Article IV of the ICPC statute may include suspension of admissions for a specific period of time as well as revocation of licensure.

Regulation #4 provides for “Emergency Residential Facility Placement Temporary Decision” in limited cases wherein a decision regarding temporary emergency placement may be issued within one (1) business day if both the sending and receiving ICPC state offices mutually agree with those procedures. If emergency placement approval is temporarily granted in writing from the receiving state ICPC office, the formal ICPC placement approval will not be final (full compliance) until the complete referral has been executed with both Sending and Receiving ICPC offices.

Once placement is approved in writing, the “sending agency or agent” has responsibility to determine to use the approved placement in the receiving state or withdraw the placement request.

According to ICPC Reg. #4, the receiving state ICPC 100A approval for placement in an Residential Treatment Facilities (RTF)/Institution expires thirty (30) calendar days from the date form **Interstate Compact Placement Request (ICPC 100A)** was signed by the receiving State. The thirty (30) calendar-day timeframe can be extended upon mutual agreement between the sending and receiving state ICPC office. Tennessee ICPC as a receiving state allows an approval for placement into a Tennessee RTF/Institution placement to be valid for a 90 day period from the date of approval.

If the sending agency determines not to use the approved placement within thirty (30) calendar day period, the “sending agency or agent” is responsible to file form **Interstate Compact Report on Child’s Placement Status (ICPC 100B)** within thirty (30) calendar day period to confirm that the placement will not be used and the ICPC will be closed. No placement authorized. Nothing prohibits the Tennessee RTF/Institution from notifying the Tennessee ICPC that the child either was not placed or would not be placed in that thirty (30) calendar day period and requesting that the ICPC case be closed.

If the sending agency determines to use the approved placement within the thirty (30) calendar days, the “sending agency or agent” is responsible to file form **Interstate Compact Report on Child’s Placement Status (ICPC 100B)** within that thirty (30) calendar day period to confirm the date of actual physical placement with the Sending State ICPC office. Nothing prohibits the Tennessee RTF/Institution from notifying the Tennessee ICPC of the date that the child was physically placed into the facility within that thirty (30) calendar day period.

TN ICPC State Office protocol requires a “notice of placement” from either the sending state or the Residential Treatment Facilities (RTF)/Institution i.e. filing of an ICPC 100B to confirm the placement or withdraw the placement during that thirty (30) calendar day period or the ICPC request will be closed with notice to all parties including licensing authorities that no placement was authorized.

Article V of the ICPC requires the “sending agency or agent” to maintain jurisdiction over the placement and to maintain responsibility for planning and all financial arrangements for the child during the period of placement. Examples include where a parent or guardian is the “sending agent”, that parent or guardian continues to maintain custody/guardianship; is accountable for planning with the Residential Treatment Facilities (RTF)/Institution all services provided to the child while in placement and is responsible for all cost for services or medical to the child while in placement. If the sending agent is the court, the court is to retain jurisdiction over the child, is accountable for planning and the financial costs while the child is in placement to the extent that the court must maintain/.retain jurisdiction over the child sufficient to return the child to the court’s jurisdiction of the placement disrupts. The court order which places the child into an Residential Treatment Facilities (RTF)/Institution may identify the entity that is responsible for financial costs, service fees and medical costs while the child is in placement in the Institution a Residential Treatment Facilities (RTF)/s well as the responsibility of any cost to return the child to the sending state if the placement disrupts.

A public or private agency who is the “sending agency or agent” is responsible to maintain custody/ jurisdiction over the child; is accountable for planning of services provided to the child and is responsible for all costs of services including medical services for the child while in placement. The public or private agency is also responsible to secure a return of the child to their jurisdiction if the placement disrupts or at the time that treatment is completed.

Once placement is made, the Residential Treatment Facilities (RTF)/Institution is responsible to follow a treatment plan developed in conjunction with the “sending agency or agent”; secure coverage for medical services for the child while in placement as appropriate through available state resources including identification of vendors for the “sending agent” to secure coverage, provide supervision for the child and *file written progress reports quarterly with the Receiving State ICPC office for the duration of the child’s placement in the Residential Treatment Facilities (RTF)/Institution.\*\* More frequent written progress reports may be needed depending upon circumstances regarding the child. Copies of those written progress reports are to be filed by the Residential Treatment Facilities (RTF)/Institution with the Receiving State ICPC office in a timely manner; nothing prohibits the Residential Treatment Facilities (RTF)/Institution in concurrently filing those written reports directly to the “sending agency or agent”.\*\**

Once the child completes treatment or leaves the program at the Residential Treatment Facilities (RTF)/Institution, the Residential Treatment Facilities (RTF)/Institution is responsible to file a “discharge summary” along with a form **Interstate Compact Report on Child’s Placement Status (ICPC 100B)** with the receiving State ICPC office to confirm that the child is no longer in placement at the Residential Treatment Facilities (RTF)/Institution. In all circumstances, the Residential Treatment Facilities (RTF)/Institution are to release/return the child to the “sending agency or agent” who retains jurisdiction/custodial responsibility over the child.

Under no circumstances is the child to be released to the custody of the Receiving State public agency unless the child has committed an act of delinquency or crime and subject to a claim of jurisdiction by a receiving state court.

Upon filing of the form **Interstate Compact Report on Child’s Placement Status (ICPC 100B)** the ICPC record is closed to further action.

As a licensed Residential Treatment Facilities (RTF)/Institution, your facility or institution is required by your regulatory authority to be in compliance with applicable federal and state laws.

Documentation of compliance with the ICPC requires a copy of form **Interstate Compact Placement Request (ICPC 100A)** and copies of form **Interstate Compact Report on Child's Placement Status (ICPC 100B)** to be available, as appropriate, in the record of each individual child who is in placement into your facility from another state. These documents are to be provided to your Licensure Monitor upon review or audit.

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