

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER b: PROGRAM AND TECHNICAL SUPPORT

PART 328
INTERSTATE PLACEMENT OF CHILDREN

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AUTHORITY: Implementing and authorized by the Interstate Compact on the Placement of Children Act [45 ILCS 15]; Sections 4 and 5 of the Children and Family Services Act [20 ILCS 505/4 and 5]; Section 16 of the Child Care Act of 1969 [225 ILCS 10/16], and the Interstate Compact on Adoption Act [45 ILCS 17/5-1] (see P.A. 90-28).

SOURCE: Adopted and codified at 7 Ill. Reg. 9207, effective August 5, 1983; amended at 23 Ill. Reg. 5245, effective May 1, 1999; 26 Ill. Reg. 11773, effective August 1, 2002; amended at 40 Ill. Reg. 780, effective December 31, 2015; amended at 40 Ill. Reg. 7770, effective May 16, 2016; amended at 42 Ill. Reg. 2222, effective January 17, 2018.

SUBPART A: INTERSTATE COMPACT ON PLACEMENT OF CHILDREN

Section 328.1 Purpose

The purpose of this Subpart is to assure that each child expected to be placed across state lines receives appropriate care, to ensure that both sending and receiving authorities are able to make informed decisions on suitable placements, and to establish appropriate jurisdictional responsibility for placements.

(Source: Amended at 23 Ill. Reg. 5245, effective May 1, 1999)

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Section 328.2 Definitions

"Children for Whom the Department has Legal Responsibility" or "Department Wards", as used in this Part means children for whom the Department of Children and Family Services has temporary protective custody, custody or guardianship via court order, or children whose parents have signed an adoptive surrender or voluntary placement agreement with the Department.

"Facility" means a person, group of persons, or corporation caring for children licensed under applicable laws. Facility includes, but is not limited to, child care institution, related or non-related foster family home or group home.

"Fictive kin" means any individual, unrelated by birth or marriage, who:

is shown to have significant and close personal or emotional ties with the child or the child's family prior to the child's placement with the individual; or

is the current foster parent of a child in the custody or guardianship of the Department pursuant to the Child and Family Services Act and the Juvenile Court Act of 1987, if the child has been placed in the home for at least one year and has established a significant and family-like relationship with the foster parent, and the foster parent has been identified by the Department as the child's permanent connection. [20 ILCS 505/7(b)]

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising the child if the parent cannot raise the child. If the person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria as contained in 89 Ill. Adm. Code 301.60 (Placement Selection Criteria) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in 89 Ill. Adm. Code 301.80 (Relative Home Placement) must be met.

"Interstate Compact on the Placement of Children" is a law, enacted by all 50 states and the territories of Guam and the Virgin Islands, for the purpose of establishing uniform procedures for handling the interstate placement of children in foster homes, adoptive homes, or other child care facilities.

"Permanent connection" means a family-like relationship, consistent with a child's best interests, health, safety and well-being, that provides:

safe, stable and committed parenting;

unconditional love and lifelong support; and

a permanent legal status between child and family.

For a child for whom the Department is legally responsible, a permanent connection may be the child's parents or another caregiver in the child's home of origin. When the child cannot be safely returned home, a permanent connection may be the current or former foster parent or relative caregiver, an individual identified as an adoptive or legal guardianship placement resource, or another individual from among the child's or family's lifelong connections with whom a child has developed a familial relationship.

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"Placement", as used in this Part, means the arrangement for the continuing care of a child in a foster or adoptive family home, group home, child care institution, or other child care facility as defined by the Child Care Act of 1969 [225 ILCS 10]. Placements do not include care of a child in a medical facility, a mental health facility, a correctional facility or an educational facility.

"Relative", for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great-uncle, or great-aunt;

is the spouse, or party to a civil union, of such a relative;

is the child's step-father, step-mother, step-grandfather, step-grandmother or adult step-brother or step-sister; or

is the partner, or adult child of a partner, in a civil union with the child's mother or father; or

is a fictive kin as defined in this Section.

"Relative" also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. For children who have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a "relative" may also include any person who would have qualified as a relative under this definition prior to the adoption, but only if the Department determines that it would be in the best interests of the child to consider this person a relative. [20 ILCS 505/7(b)]

(Source: Amended at 42 Ill. Reg. 2222, effective January 17, 2018)

Section 328.3 Placement of Illinois Children

- a) The following is applicable to all Illinois children except those placed under the Indian Child Welfare Act (see Department of Children and Family Services rules, 89 Ill. Adm. Code 307 (Indian Child Welfare Services)).
 - 1) The following entities must submit a request to the Illinois Compact Administrator if they wish to place an Illinois child with a person who resides outside the State of Illinois:
 - A) any person not related, as defined in this Part, to the child;
 - B) any person who does not have legal guardianship of the child;
 - C) a court; or
 - D) a public or private agency.

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- 2) Prior to placement in another state the Compact Administrator in the receiving state shall have notified the Illinois Compact Administrator, in writing, that the proposed placement does not appear to be contrary to the interests of the child.
 - 3) Prior to discharge from placement in another state the Compact Administrator in the receiving state shall have notified the Illinois Compact Administrator, in writing, that the proposed discharge from placement does not appear to be contrary to the interests of the child.
 - 4) The sending party (person, court, public or private agency) shall retain jurisdiction over the child concerning all matters related to custody, supervision, and care of the child as if the child had remained in Illinois. Jurisdiction ends when the child is adopted, has reached the age of majority, is self-supporting, is the subject of a court approved subsidized guardianship agreement or is discharged from care.
 - 5) The sending party continues to be financially responsible for the child during placement and shall return the child to Illinois if requested to do so in writing by the receiving state.
- b) In addition to the requirements specified above in (a)(1) through (5) the Department, prior to placing Department wards in other states, shall have determined that:
- 1) the applicable court of jurisdiction approves of the placement;
 - 2) the placement complies with Department rules, is the best choice to ensure continuity of care for the child, to secure a specialized resource for the child or to maintain proximity to the child's family;
 - 3) the benefits of the placement have been considered and weighed in light of the effects of the separation or family reunification;
 - 4) the facility is licensed or license-exempt under the receiving state's applicable laws;
 - 5) a contractual per diem has been negotiated with the facility; and
 - 6) the appropriate public agency in the receiving state has been provided with sufficient information to enable continuing supervision of the placement and has approved the proposed placement.

(Source: Amended at 23 Ill. Reg. 5245, effective May 1, 1999)

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Section 328.4 Placement of Children From Other States

- a) A child from another state shall not be placed in Illinois until the Illinois Compact Administrator or designee notifies the Compact Administrator in the sending state that the proposed placement is not contrary to the interests of the child.
- b) The sending person, court, public or private agency shall retain jurisdiction over the child until such jurisdiction ends because the child is adopted, reaches the age of majority, is self-supporting or is discharged from care with the concurrence of the Illinois Compact Administrator or designee.
- c) The sending party shall continue to be financially responsible for the child during placement and shall return the child to the other state if requested to do so by the Illinois Compact Administrator or designee.

(Source: Amended at 23 Ill Reg. 5245, effective May 1, 1999)

Section 328.5 Removal of Illinois Children

An Illinois child shall be removed from a facility in another state when:

- a) the facility is not licensed, if a license is required, under the state's applicable laws; or
- b) the facility's license or other operating authority is revoked; or
- c) the facility commits or omits an action which would be grounds for license revocation in Illinois; or
- d) the service provided is no longer appropriate for the child's needs nor for the child's permanency goal; or
- e) any event threatens the life, health or safety of a child; or
- f) removal is requested in writing by the other state; or
- g) without cause, provided 30 days notice of the removal is given.

(Source: Amended at 23 Ill. Reg. 5245, effective May 1, 1999)

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SUBPART B: INTERSTATE COMPACT ON ADOPTION AND MEDICAL ASSISTANCE

Section 328.100 Purpose

The purpose of this Subpart is to assure that special needs children who are adopted and move across state lines will be assured a medical card and support services in their new state of residence.

(Source: Added at 23 Ill. Reg. 5245, effective May 1, 1999)

Section 328.110 Interstate Compact

- a) In accordance with the Interstate Compact on Adoption Act [45 ILCS 17], the Department has signed the Interstate Compact on Adoption and Medical Assistance (ICAMA) administered by the American Public Welfare Association. This Compact assures that medical and related services for adopted children with special needs are provided for when a family moves from Illinois into another state, or from another state into Illinois.
- b) A copy of the Interstate Compact on Adoption and Medical Assistance may be obtained from:

Interstate Compact Office
Department of Children and Family Services
406 East Monroe Street, Station, Station #55
Springfield, Illinois 62701

(Source: Added at 23 Ill. Reg. 5245, effective May 1, 1999)

Section 328.120 Definitions

“Adoption Assistance” means financial and other assistance provided to adoptive parents to assist in meeting a child’s special needs and may include an ongoing monthly payment, a medical card, and payment for specialized services.

“Adoption Assistance Agreement”, as used in this Subpart, means an agreement between the adoptive parents and a state, agency, or subdivision thereof, in accordance with which the adoptive parents are to receive assistance and services on behalf of a child with special needs.

“Adoption Assistance State” is a state that is signatory to an adoption assistance agreement on behalf of a particular child.

“Child with Special Needs” is a child whom the original state of residence has determined has needs so unique that adoption without adoption assistance is unlikely.

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“Compact Administrator” is the person in the state who has responsibility for the administration of ICAMA.

“ICAMA” means the Interstate Compact on Adoption and Medical Assistance. It is a law, enacted by most states, for the purpose of establishing uniform procedures for assistance for medical care and support services for special needs children who are adopted and move across state lines.

“Party State” means a state that is a member of the Interstate Compact on Adoption and Medical Assistance.

“Resident State” is the state in which the child resides by virtue of the residence of the adoptive parents.

“Resident Compact Administrator” is the person responsible for the administration of ICAMA in the state where the family relocates.

(Source: Added at 23 Ill Reg. 5245, effective May 1, 1999)

Section 328.130 Relocation of Adopted Children from Illinois to Other States

- a) When the Department is notified that a family with whom it has an adoption assistance agreement is moving or has moved out of state, the Illinois Compact Administrator shall notify the Compact Administrator of the resident state and request issuance of a medical assistance (Medicaid) card.
- b) The adoptive family shall be notified that their new resident state Compact Administrator has been requested to issue a Medicaid card, and the child’s Illinois Medicaid card shall remain valid until the Department is notified that a medical assistance card has been issued by the new resident state.
- c) In the event that a family relocates to a state that is not signatory to ICAMA, the Illinois Compact Administrator shall request that the Medicaid Administrator of the resident state issue a medical assistance (Medicaid) card, and shall provide all reasonable assistance to the family to obtain Medicaid assistance. The Illinois Compact Administrator shall notify the family that a request has been made to their resident state’s Medicaid unit to issue their Medicaid card.
- d) When a family notifies the Department of their relocation to another state in which the child is ineligible for Medicaid, the Department shall provide the family written instructions regarding how the Department will continue to reimburse medical care after the family moves out-of-state.

(Source: Added at 23 Ill. Reg. 5245, effective May 1, 1999)

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Section 328.140 Relocation of Adopted Children from ICAMA Party State into Illinois

- a) The Interstate Compact Administrator in the ICAMA party state will notify the Illinois Interstate Compact Administrator that a family with whom his or her state has an adoption assistance agreement has moved or plans to move to Illinois, and request that the Illinois Compact Administrator issue an Illinois medical card on behalf of a child who relocates to Illinois.

- b) The Illinois Compact Administrator shall request the Department of Public Aid to issue an Illinois Medicaid card to the family. The Illinois Interstate Compact Administrator shall notify the Compact Administrator of the former resident state when the Illinois Medicaid card has been issued.

(Source: Added at 23 Ill. Reg. 5245, effective May 1, 1999)