

38-336. Enactment of compact. The interstate compact on adoption and medical assistance is hereby enacted into law and entered into by this state with any other state or states legally joining therein in the form substantially as follows:

INTERSTATE COMPACT ON ADOPTION AND MEDICAL ASSISTANCE

The contracting states solemnly agree that:

ARTICLE I. FINDINGS

The party states find that:

(a) In order to obtain adoptive families for children with special needs, prospective adoptive parents must be assured of substantial assistance (usually on a continuing basis) in meeting the high costs of supporting and providing for the special needs and services required by such children.

(b) The states have a fundamental interest in promoting adoption for children with special needs because the care, emotional stability and general support and encouragement required by such children to surmount their physical, mental or emotional conditions can be best, and often only, obtained in family homes with a normal parent-child relationship.

(c) The states obtain advantages from providing adoption assistance because the customary alternative is for the state to defray the entire cost of meeting all the needs of such children.

(d) The special needs involved are for the emotional, physical maintenance of the child, and medical support and services.

(e) The necessary assurances of adoption assistance for children with special needs, in those instances where children and adoptive parents are in states other than the one undertaking to provide the assistance, is to establish and maintain suitable substantive guarantees and workable procedures for interstate payments to assist with the necessary child maintenance, procurement of services and medical assistance.

ARTICLE II. PURPOSES

The purposes of this compact are to:

(a) Strengthen protections for the interests of the children with special needs on behalf of whom adoption assistance is committed to be paid, when such children are in or move to states other than the one committed to make adoption assistance payments.

(b) Provide substantive assurances and procedures which will promote the delivery of medical and other services on an interstate basis to children through programs of adoption assistance established by the laws of the party states.

ARTICLE III. DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

(a) "Child with special needs" means a minor who has not yet attained the age at which the state normally discontinues children's services or 21, where the state determines that the child's mental or physical handicaps warrant the continuation of assistance, for whom the state has determined the following:

(1) That the child cannot or should not be returned to the home of such child's parents;

(2) that there exists with respect to the child a specific factor or condition (such as ethnic background, age or membership in a minority or sibling group, or the presence of factors such as medical condition or physical, mental or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance;

(3) that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance payments.

(b) "Adoption assistance" means the payment or payments for maintenance of a child, which payment or payments are made or committed to be made pursuant to the adoption assistance program established by the laws of a party state.

(c) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands or a territory or possession of the United States.

(d) "Adoption assistance state" means the state that is signatory to an adoption assistance agreement in a particular case.

(e) "Residence state" means the state of which the child is a resident by virtue of the residence of the adoptive parents.

(f) "Parents" means the singular or plural of the word "parent."

ARTICLE IV. ADOPTION ASSISTANCE

(a) Each state shall determine the amounts of adoption assistance and other aid which it will give to children with special needs and their adoptive parents in accordance with its own laws and programs. The adoption assistance and other aid may be made subject to periodic reevaluation of eligibility by the adoption assistance state in accordance with its laws. The provisions of this article and of article V are subject to the limitation set forth in this paragraph.

(b) The adoption assistance and medical assistance services and benefits to which this compact applies are those provided to children with special needs and their adoptive parents from the time of the final decree of adoption or the interlocutory decree of adoption, as the case may be, pursuant to the laws of the adoption assistance state. In addition to the content required by subsequent provisions of this article for adoption assistance agreements, each such agreement shall state whether the initial adoption assistance period thereunder begins with the final or interlocutory decree of adoption. Aid provided by party states to children with special needs during the preadoptive placement period or earlier shall be under the foster care or other programs of the states and, except as provided in paragraph (c) of this article, shall not be governed by the provisions of this compact.

(c) Every case of adoption assistance shall include an adoption assistance agreement between the adoptive parents and the agency of the state undertaking to provide the adoption assistance. Every such agreement shall contain provisions for the fixing of actual or potential interstate aspects of the adoption assistance, as follows:

(1) An express commitment that the adoption assistance shall be payable without regard for the state of residence of the adoptive parents, both at the outset of the agreement period and at all times during its continuance.

(2) A provision setting forth with particularity the types of child care and services toward which the adoption assistance state will make payments.

(3) A commitment to make medical assistance available to the child in accordance with article V of this compact.

(4) An express declaration that the agreement is for the benefit of the child, the adoptive parents and the state and that it is enforceable by any or all of them.

(d) Any services or benefits provided by the residence state and the adoption assistance state for a child may be facilitated by the party states on each other's behalf. To this end, the personnel of the child welfare agencies of the party states will assist each other and beneficiaries of adoption assistance agreements with other party states in implementing benefits expressly included in adoption assistance agreements. However, it is recognized and agreed that in general children to whom adoption assistance agreements apply are eligible for benefits under the child welfare, education, rehabilitation, mental health and other programs of their state of residence on the same basis as other resident children.

(e) Adoption assistance payments, when made on behalf of a child in another state, shall be made on the same basis and in the same amounts as they would be made if the child were in the state making the payments.

ARTICLE V. MEDICAL ASSISTANCE

(a) Children for whom a party state is committed in accordance with the terms of an adoption assistance agreement to make adoption assistance payments are eligible for medical assistance during the entire period for which such payments are to be provided. Upon application therefor, the adoptive parents of a child on whose behalf a party state's duly constituted authorities have entered into an adoption assistance agreement, the adoptive parents shall receive a medical assistance identification made out in the child's name. The identification shall be issued by the medical assistance program of the residence state and shall entitle the child to the same benefits, pursuant to the same procedures, as any other child who is a resident of the state and covered by medical assistance, whether or not the adoptive parents are eligible for medical assistance.

(b) The identification shall bear no indication that an adoption assistance agreement with another state is the basis for issuance. However, if the identification is issued on account of an outstanding adoption assistance agreement to which another state is a signatory, the records of the issuing state and the adoption assistance state shall show the fact, shall contain a copy of the adoption assistance agreement and any amendment or replacement therefor, and all other pertinent information. The adoption assistance and medical assistance programs of the adoption assistance state shall be notified of the identification issuance.

(c) A state which has issued a medical assistance identification pursuant to this compact, which identification is valid and currently in force, shall accept, process and pay medical assistance claims thereon as on any other medical assistance eligibilities of residents.

(d) An adoption assistance state which provides medical services or benefits to children covered by its adoption assistance agreements, which services or benefits are not provided for those children under the medical assistance program of the residence state, may enter into cooperative arrangements with the residence state to facilitate the delivery and administration of such services and benefits. However, any such arrangements shall not be inconsistent with this compact nor shall they relieve the residence state of any obligation to provide medical assistance in accordance with its laws and this compact.

(e) A child whose residence is changed from one party to another party state shall be eligible for medical assistance under the medical assistance program of the new state of residence.

ARTICLE VI. JOINDER AND WITHDRAWAL

(a) This compact shall be open to joinder by any state. It shall enter into force as to a state when its duly constituted and empowered authority has executed it.

(b) In order that the provisions of this compact may be accessible to and known by the general public and so that its status as law in each of the party states may be fully implemented, the full text of the compact, together with a notice of its execution, shall be caused to be published by the authority which has executed it in each party state. Copies of the compact shall be made available upon request made of the executing authority in any state.

(c) Withdrawal from this compact shall be by written notice sent by the authority which executed it to the appropriate officials of all other party states, but no such notice shall take effect until one year after it is given in accordance with the requirements of this paragraph.

(d) All adoption assistance agreements outstanding and to which a party state is signatory at the time when its withdrawal from this compact takes effect shall continue to have the effects given to them pursuant to this compact, until they expire or are terminated in accordance with their provisions. Until such expiration or termination, all beneficiaries of the agreements involved shall continue to have all rights and obligations conferred or imposed by this compact and the withdrawing state shall continue to administer the compact to the extent necessary to accord and implement fully the rights and protections preserved hereby.

History: L. 1983, ch. 141, § 2, July 1.