

FOSTER KIDS IN LIMBO

The Effects of the Interstate Compact on the Placement of Children on the Permanency of Children in Foster Care

A Report to the Annie E. Casey Foundation

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**“MY PERSONAL EXPERIENCES
WITH THE ICPC PROCESS
CAN BEST BE DESCRIBED
AS MYSTIFYING AND
FRUSTRATING. IN THE WORDS
OF ONE OF MY FELLOW
JURISTS, ‘ICPC CASES SEEM
TO GO INTO A BLACK HOLE.’”**

Juvenile Court Judge



EACH YEAR, child welfare agencies make over 40,000 requests for home studies to determine whether children in foster care can be placed with parents, relatives and others living in another state. Each of these requests is governed by the Interstate Compact on the Placement of Children (“ICPC”), a uniform law adopted by every state to coordinate the placement of foster children in other states. Under the ICPC, a child can only be placed in foster care in another state after the receiving state conducts a home study and approves the proposed placement.

Despite its good intentions, the ICPC has become unworkable. It contains no specific deadlines for the completion of interstate home studies. It does not set clear standards for how child welfare agencies must evaluate potential placements. It allows child welfare agencies to deny placements with parents and relatives for seemingly arbitrary reasons. And it prohibits courts from reviewing placement denials yet fails to provide administrative procedures for parents and relatives seeking an independent review of a denial.

This project sought to gain a better understanding of these problems by obtaining data from states to answer basic questions about the ICPC

- How many children are affected by the ICPC each year?
- What sorts of placements are most commonly impacted by the ICPC?
- How long do home studies take?
- Why, and how frequently, are potential placements denied following home studies?
- How can home study denials be reviewed or appealed?

Data was requested from each state to answer these questions. Twenty-seven states responded.

THE ICPC AFFECTS THOUSANDS OF CHILDREN EACH YEAR

Child welfare agencies make approximately 40,000 ICPC home study requests each year. These agencies make the most requests for home studies of relatives. Potential placements with birth parents, adoptive parents and foster parents receive roughly equal requests for home studies.

STATE DATA AT A GLANCE

Incoming Requests 2006-2011

State	Parent Placements	Relative Placements	Adoptions	Foster Care	Other
Alaska	80	181	223	78	4
Colorado	608	740	159	400	295
Florida	973	2053	1042	674	310
Idaho	499	697	195	419	241
Louisiana	921	2118	746	785	6
Maine	209	229	266	205	57
Nebraska	520	789	427	154	434
North Carolina	1347	2081	622	125	997
Pennsylvania	1438	N/A	2120	3150	3835
Texas	3779	6871	2648	3017	1118
Virginia	1367	1756	1718	2116	2289
Total	11741 (19.5%)	17515 (29.1%)	10166 (16.9%)	11123 (18.5%)	9586 (15.9%)

Parent, Relative, and Foster Care Placements: Outgoing Requests 2006-2011

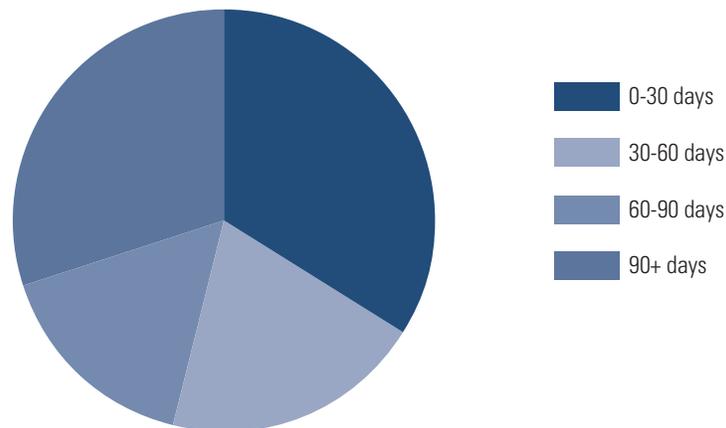
State	2006	2007	2008	2009	2010	2011
Alaska	57	110	68	53	56	94
Colorado	1109	1127	989	1023	1062	987
Florida	1181	988	1042	829	694	726
Louisiana	819	614	541	637	607	542
Maine	114	89	49	50	73	64
Nebraska	239	553	445	401	376	97
Pennsylvania	664	686	735	766	671	N/A
Texas	1625	1624	1544	1467	1613	1114
Virginia	784	784	856	703	684	711
Total	6592	6575	6269	5929	5836	4335

DELAYS IN COMPLETING ICPC HOME STUDIES ARE ROUTINE

Policies guiding the completion of ICPC home studies require home studies to be completed within 30 business days. Yet, only 30% of home studies are completed within this time period. Federal law requires states to complete interstate home studies within 60 days, but this only occurs in about 45% of cases. Approximately 30% of home studies take longer than 90 days to complete.

Home studies involving birth parents take months to complete. In one state, the average length of time it took to complete an ICPC home study of a birth parent was 68 days. In another state, over 76% of parent home studies took longer than 30 days. Forty-three percent took longer than 60 days.

Timing: Incoming Requests 2006-2011



Robbed Of The Chance To See Their Mother

Two siblings, ages 14 and 12, entered foster care because their mother had a substance abuse problem. Their mother worked with the child welfare agency to complete her service plan and the court was prepared to send the children back home.

But their mother now lived in a different state and the child welfare agency insisted that an ICPC home study was required before they could live with her. While the other state was completing the home study, the children were not allowed to visit their mother. Child welfare agencies in both states believed that such visits would violate the ICPC.

Five months later, the process had still not been completed. The children remained stuck in foster care. Tragically, their mother was killed in a car accident. The delay created by the ICPC robbed the children of their chance to see their mother before she was killed.

ICPC HOME STUDIES ARE ROUTINELY DENIED



Child welfare agencies deny roughly 40% of all ICPC placement requests.

Home studies may be denied for arbitrary reasons. Very few states have different standards for evaluating homes of parents or relatives than those that exist for other types of foster placements.

Despite the fundamental constitutional right of a parent and child to live together, the following reasons were cited to deny parent home studies

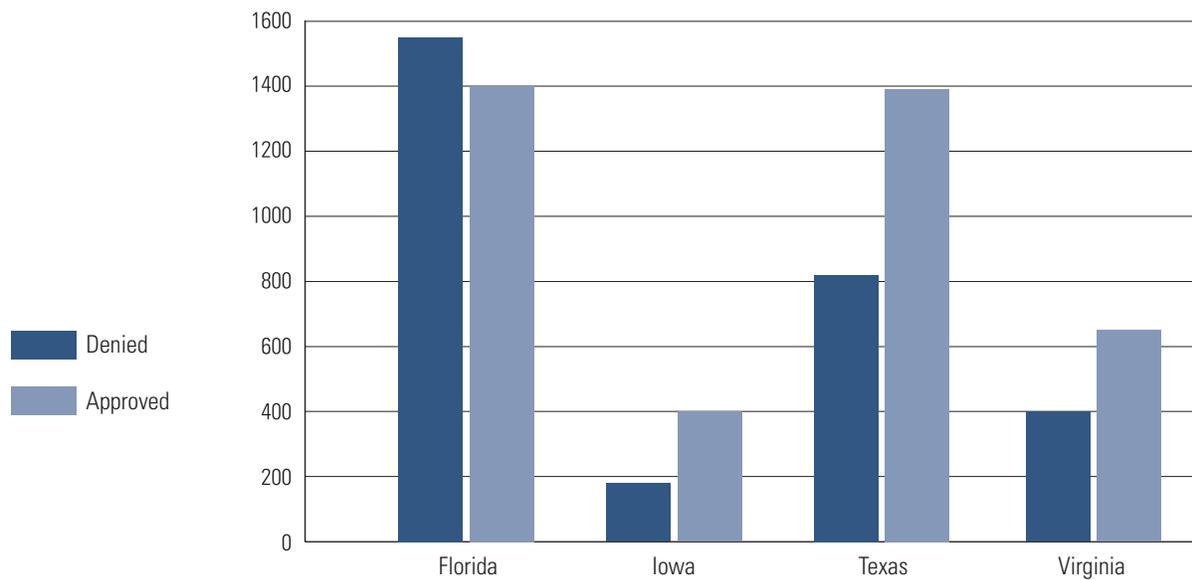
- “insufficient living space”
- “unstable housing”
- “parent would have to sleep on the couch to accommodate children.”
- “the client does not meet qualification due to shared housing.”
- “financially fragile”

Cumulative Denial Rates: Outgoing Requests 2006-2011

State	Outgoing - Denied %
Alaska	36.55%
Colorado	44.85%
Delaware	32.63%
Florida	50.92%
Idaho	37.54%
Illinois	26.30%
Iowa	38.83%
Kansas	49.14%
Kentucky	50.73%
Louisiana	45.16%
Maine	33.90%
Michigan	52.56%
Montana	39.67%
Nebraska	30.30%
North Carolina	26.80%
Pennsylvania	32.79%
South Dakota	75.51%
Texas	36.50%
Virginia	39.07%
CUMULATIVE TOTAL %	41.15%

"From the kids' point of view, it's like they're being punished." Relative

Sample Denial Rates: Outgoing Requests in 2010



Frustrated By Delays

A juvenile court judge received the case of two middle-school aged girls who entered foster care because their mother abused them. Soon after the judge received the case, he learned that the children's father, a non-offending parent, lived in another state. The judge immediately ordered an ICPC home study to be completed with the hopes of placing the children with their father in the upcoming school year.

Eight months after the court's order, nothing had occurred. The judge allowed the children to visit their father over the summer but felt constrained to force them to return to their group home because the home study had not yet been completed. The judge's requests for information from the child welfare agency in the other state went unanswered.

The judge then contacted a fellow judge in the other state who could not provide any help. Nearly fifteen months after the initial order, the judge contacted the governor's office in the other state requesting that they intervene to expedite the process. After the governor's office became involved, the judge finally received a response from the other state. Yet the agency still continued to delay the process. Nearly two years after the judge's initial request for a home study, the home study remained outstanding and the children languished in their group home. Ultimately, the judge disregarded the ICPC, placed the children with their father and closed the child welfare case.

HOME STUDIES OF PARENTS MAY BE DENIED AT A HIGHER RATE

Specific data from two states suggest that parents and relatives may face higher than average denial rates. For example, in Tennessee, the average denial rate for incoming ICPC requests over a six-year reporting period was 58% for parents and 46.4% for relatives. The total average denial rate for all placement types was 35%.

In Pennsylvania, parents also faced a higher denial rate. In 2009-2010, the parent denial rate was 60% and in 2010-2011, the parent denial rate was 66%. The total denial rate for all home studies in both years was significantly lower.

Parent Placement Denial Rates for Incoming ICPC Requests: Pennsylvania and Tennessee

	PA Parents	PA Total	TN Parents	TN Total
2009	60%	28%	64%	40%
2010	66%	20%	65%	40%
2011	60%	25%	68%	47%



“Judges, on a daily basis, look into the eyes of the children in their courtrooms and feel the pain of the children’s individual situations. When cases are delayed, judges see the children’s tears and hear their groans of frustration.”

Juvenile Court Judge

IN THE WORDS OF STATE ICPC ADMINISTRATORS:

"<State> does not have a formal procedure for the administrative appeal of an ICPC denial outside of the normal juvenile court functions"

"Our agency does not have any written procedures to appeal a denial of an ICPC home study"

"The administrative procedure to appeal a denial is a review by legal counsel at the <State> Attorney General's office and by the manager of the Policy Unit for Division of Children, Youth and Families"

"There currently is no appeal process for denied parent and relative home studies"

"There is no formal appeal procedure for parent or relative placement denial"

"<State Statutes> do not address any provisions for appealing an ICPC decision"

ICPC HOME STUDY DENIALS ARE UNREVIEWABLE BY JUDGES OR ADMINISTRATIVE HEARING OFFICERS IN MOST STATES

There is no law or policy that requires an external, independent review of an ICPC home study denial. Most states have administrative appeal procedures within the state child welfare agency for foster parents whose licenses have been revoked or denied. But parents and relatives denied of the right to care for their kin have no administrative procedure to challenge a placement denial. Thus, in many states, potential licensed foster care placements actually have more administrative rights than parents and relatives, even though foster parents have no constitutional rights with respect to the children in their care. The ICPC explicitly prohibits courts from reviewing home study denials.

A Father Too "Financially Fragile" To Care For His Daughter

A father learns that his three-year old daughter has entered foster care in another state after being repeatedly beaten by her mother. The father had raised two other kids from his first marriage and a stepson with his new wife. He owns a home, several vehicles and acres of farmland. He is eager to have his daughter placed with him immediately. His three-year old lived with him before moving to the other state with her mother. She was now in foster care.

To get custody of his daughter, the father was forced to undergo a home study under the ICPC. For four and a half months, nothing happened. Then, the father's home study was denied because of a caseworker's belief that

he was "financially fragile" and had other children in the home who required "attention and special care." But the father was working, received public benefits and had support services in place for his family. Unfortunately, under the ICPC, the father could not go to a judge or an administrative hearing officer to challenge the caseworker's decision. His daughter remained in foster care.

The judge ordered two more home studies of the father's residence. Finally, after the third home study, the child welfare agency changed its mind and approved the father's home. Two years, after his daughter entered foster care, the father was granted custody over her.



CONCLUSION

The ICPC is an antiquated system that needs to be overhauled to protect the best interests of children in foster care. The data and findings in this study paint a picture of a broken system affecting thousands of children each year. Roughly 40,000 children each year are subject to the interstate home study process. Many of these children likely remain in foster care unnecessarily while the lengthy ICPC home study process is completed. These delays can cause major problems for children who are waiting in temporary foster care or other placements.

Additionally, a very high number of ICPC placement requests, including placements with birth parents are denied. This raises major questions about how the system operates. And, this denial rate highlights the major constitutional questions surrounding the application of the ICPC to parents. The Constitution demands that parents be accorded a presumption of fitness absent a judicial finding to the contrary. That a state agency, without any judicial finding of unfitness, could summarily declare a parent unfit to care for his or her child is a serious constitutional problem; that it apparently happens so frequently without any administrative or judicial review is evidence that the ICPC system is in serious need of reform.

“As a result of all of the problems associated with the Compact, what should take days or weeks to accomplish often takes months or, at times, over a year while children wait in temporary out-of-home placements for the adults in charge of their futures to fulfill their professional obligations.”

Professor Bruce Boyer

**THE ICPC IS A
“WELL-INTENTIONED” LAW
“DESIGNED TO HELP
CHILDREN, WHOSE NET
EFFECT HARMS CHILDREN
BY MAKING IT DIFFICULT . . .
TO ISSUE ORDERS WHICH
ARE IN THE . . .
CHILD’S BEST INTEREST.”**

Appellate Judge



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