

Amendment to HB 1280

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT prohibiting a parent's refusal to vaccinate a child from being used as evidence in any  
4 proceeding to terminating parental rights and enacting the 2009 interstate compact  
5 for the placement of children.  
6

7 Amend the bill by replacing all after the enacting clause with the following:

8

9 1 Termination of Parental Rights; Grounds for Termination of the Parent-Child Relationship;  
10 Decision to Vaccinate Prohibited. Amend RSA 170-C:5, II to read as follows:

11 II. That, although the parents are financially able, they have substantially and continuously  
12 neglected to provide the child with necessary subsistence, education or other care necessary for his  
13 mental, emotional, or physical health or have substantially and continuously neglected to pay for  
14 such subsistence, education or other care when legal custody is lodged with others; provided,  
15 however, it shall not be grounds for the termination of the parent-child relationship for the sole  
16 reason the parent of said child relies upon spiritual means through prayer in accordance with a  
17 recognized religious method of healing in lieu of medical treatment for the healing of said child. ***A***  
18 ***parent's decision not to have their child vaccinated shall not be used as evidence in any***  
19 ***proceeding to terminate parental rights.***

20 2 Interstate Compact for the Placement of Children. RSA 170-A is repealed and reenacted to  
21 read as follows:

22

CHAPTER 170-A

23

INTERSTATE COMPACT

24

FOR THE PLACEMENT OF CHILDREN

25

170-A:1 Interstate Compact for the Placement of Children. On the effective date of this chapter,  
26 based upon the enactment of the Interstate Compact for the Placement of Children into law by the  
27 thirty-fifth compacting state, the governor is authorized and directed to execute a compact on behalf  
28 of this state with any other state or states legally joining therein in the form substantially as follows:

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ARTICLE I

30

Purpose

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The purpose of this Interstate Compact for the Placement of Children is to:

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I. Provide a process through which children subject to this compact are placed in safe and  
33 suitable homes in a timely manner.



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1 VIII. "Interstate Commission for the Placement of Children" means the commission that is  
2 created under Article VIII of this compact and which is generally referred to as the "Interstate  
3 Commission."

4 IX. "Jurisdiction" means the power and authority of a court to hear and decide matters.

5 X. "Legal risk placement" or "legal risk adoption" means a placement made preliminary to  
6 an adoption where the prospective adoptive parents acknowledge in writing that a child can be  
7 ordered returned to the sending state or the birth mother's state of residence, if different from the  
8 sending state, and a final decree of adoption shall not be entered in any jurisdiction until all  
9 required consents are obtained or are dispensed with in accordance with applicable law.

10 XI. "Member state" means a state that has enacted this compact.

11 XII. "Noncustodial parent" means a person who, at the time of the commencement of court  
12 proceedings in the sending state, does not have sole legal custody of the child or has joint legal  
13 custody of a child, and who is not the subject of allegations or findings of child abuse or neglect.

14 XIII. "Nonmember state" means a state which has not enacted this compact.

15 XIV. "Notice of residential placement" means information regarding a placement into a  
16 residential facility provided to the receiving state, including, but not limited to, the name, date, and  
17 place of birth of the child, the identity and address of the parent or legal guardian, evidence of  
18 authority to make the placement, and the name and address of the facility in which the child will be  
19 placed. Notice of residential placement shall also include information regarding a discharge and any  
20 unauthorized absence from the facility.

21 XV. "Placement" means the act by a public or private child-placing agency intended to  
22 arrange for the care or custody of a child in another state.

23 XVI. "Private child-placing agency" means any private corporation, agency, foundation,  
24 institution, or charitable organization, or any private person or attorney, that facilitates, causes, or  
25 is involved in the placement of a child from one state to another and that is not an instrumentality of  
26 the state or acting under color of state law.

27 XVII. "Provisional placement" means a determination made by the public child-placing  
28 agency in the receiving state that the proposed placement is safe and suitable, and, to the extent  
29 allowable, the receiving state has temporarily waived its standards or requirements otherwise  
30 applicable to prospective foster or adoptive parents so as to not delay the placement. Completion of  
31 the receiving state requirements regarding training for prospective foster or adoptive parents shall  
32 not delay an otherwise safe and suitable placement.

33 XVIII. "Public child-placing agency" means any government child welfare agency or child  
34 protection agency or a private entity under contract with such an agency, regardless of whether the  
35 entity acts on behalf of a state, a county, a municipality, or another governmental unit, and which  
36 facilitates, causes, or is involved in the placement of a child from one state to another.

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1           XIX. “Receiving state” means the state to which a child is sent, brought, or caused to be sent  
2 or brought.

3           XX. “Relative” means someone who is related to the child as a parent, stepparent, sibling by  
4 half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin or a nonrelative with  
5 such significant ties to the child that the nonrelative may be regarded as a relative as determined by  
6 the court in the sending state.

7           XXI. “Residential facility” means a facility providing a level of care that is sufficient to  
8 substitute for parental responsibility or foster care and that is beyond what is needed for assessment  
9 or treatment of an acute condition. For purposes of the compact, the term “residential facility” does  
10 not include institutions primarily educational in character, hospitals, or other medical facilities.

11           XXII. “Rule” means a written directive, mandate, standard, or principle issued by the  
12 Interstate Commission promulgated pursuant to Article XI of this compact that is of general  
13 applicability and that implements, interprets, or prescribes a policy or provision of the compact. A  
14 rule has the force and effect of an administrative rule in a member state and includes the  
15 amendment, repeal, or suspension of an existing rule.

16           XXIII. “Sending state” means the state from which the placement of a child is initiated.

17           XXIV. “Service member’s permanent duty station” means the military installation where an  
18 active duty United States Armed Services member is currently assigned and is physically located  
19 under competent orders that do not specify the duty as temporary.

20           XXV. “Service member’s state of legal residence” means the state in which the active duty  
21 United States Armed Services member is considered a resident for tax and voting purposes.

22           XXVI. “State” means a state of the United States, the District of Columbia, the  
23 Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the  
24 Northern Mariana Islands, and any other territory of the United States.

25           XXVII. “State court” means a judicial body of a state that is vested by law with  
26 responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency, or status  
27 offenses of individuals who have not attained the age of 18.

28           XXVIII. “Supervision” means monitoring provided by the receiving state once a child has  
29 been placed in a receiving state pursuant to this compact.

ARTICLE III

Applicability

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31  
32           I. Except as otherwise provided in paragraph II, this compact shall apply to:

33           (a) The interstate placement of a child subject to ongoing court jurisdiction in the  
34 sending state, due to allegations or findings that the child has been abused, neglected, or deprived as  
35 defined by the laws of the sending state; provided, however, that the placement of such a child into a  
36 residential facility shall only require notice of residential placement to the receiving state prior to  
37 placement.

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1 (b) The interstate placement of a child adjudicated delinquent or unmanageable based  
2 on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:

3 (1) The child is being placed in a residential facility in another member state and is  
4 not covered under another compact; or

5 (2) The child is being placed in another member state and the determination of  
6 safety and suitability of the placement and services required is not provided through another  
7 compact.

8 (c) The interstate placement of any child by a public child-placing agency or private  
9 child-placing agency as a preliminary step to a possible adoption.

10 II. The provisions of this compact shall not apply to:

11 (a) The interstate placement of a child in a custody proceeding in which a public child-  
12 placing agency is not a party; provided, however, that the placement is not intended to effectuate an  
13 adoption.

14 (b) The interstate placement of a child with a nonrelative in a receiving state by a parent  
15 with the legal authority to make such a placement; provided, however, that the placement is not  
16 intended to effectuate an adoption.

17 (c) The interstate placement of a child by one relative with the lawful authority to make  
18 such a placement directly with a relative in a receiving state.

19 (d) The placement of a child, not subject to paragraph I, into a residential facility by his  
20 or her parent.

21 (e) The placement of a child with a noncustodial parent, provided that:

22 (1) The noncustodial parent proves to the satisfaction of a court in the sending state  
23 a substantial relationship with the child;

24 (2) The court in the sending state makes a written finding that placement with the  
25 noncustodial parent is in the best interests of the child; and

26 (3) The court in the sending state dismisses its jurisdiction in interstate placements  
27 in which the public child-placing agency is a party to the proceeding.

28 (f) A child entering the United States from a foreign country for the purpose of adoption  
29 or leaving the United States to go to a foreign country for the purpose of adoption in that country.

30 (g) Cases in which a child who is a United States citizen living overseas with his or her  
31 family, at least one of whom is in the United States Armed Services and stationed overseas, is  
32 removed and placed in a state.

33 (h) The sending of a child by a public child-placing agency or a private child-placing  
34 agency for a visit as defined by the rules of the Interstate Commission.

35 III. For purposes of determining the applicability of this compact to the placement of a child  
36 with a family member in the United States Armed Services, the public child-placing agency or

1 private child-placing agency may choose the state of the service member's permanent duty station or  
2 the service member's declared legal residence.

3 IV. Nothing in this compact shall be construed to prohibit the concurrent application of the  
4 provisions of this compact with other applicable interstate compacts, including the Interstate  
5 Compact for Juveniles and the Interstate Compact on Adoption and Medical Assistance. The  
6 Interstate Commission may, in cooperation with other interstate compact commissions having  
7 responsibility for the interstate movement, placement, or transfer of children, promulgate similar  
8 rules to ensure the coordination of services, timely placement of children, and reduction of  
9 unnecessary or duplicative administrative or procedural requirements.

10 ARTICLE IV

11 Jurisdiction

12 I. Except as provided in Article IV, paragraph VIII, and Article V, subparagraph II(b) and  
13 (c), concerning private and independent adoptions, and in interstate placements in which the public  
14 child-placing agency is not a party to a custody proceeding, the sending state shall retain jurisdiction  
15 over a child with respect to all matters of custody and disposition of the child which it would have  
16 had if the child had remained in the sending state. Such jurisdiction shall also include the power to  
17 order the return of the child to the sending state.

18 II. When an issue of child protection or custody is brought before a court in the receiving  
19 state, such court shall confer with the court of the sending state to determine the most appropriate  
20 forum for adjudication.

21 III. In cases that are before courts and subject to this compact, the taking of testimony for  
22 hearings before any judicial officer may occur in person or by telephone, audio-video conference, or  
23 such other means as approved by the rules of the Interstate Commission, and judicial officers may  
24 communicate with other judicial officers and persons involved in the interstate process as may be  
25 permitted by their code of judicial conduct and any rules promulgated by the Interstate Commission.

26 IV. In accordance with its own laws, the court in the sending state shall have authority to  
27 terminate its jurisdiction if:

28 (a) The child is reunified with the parent in the receiving state who is the subject of  
29 allegations or findings of abuse or neglect, only with the concurrence of the public child-placing  
30 agency in the receiving state;

31 (b) The child is adopted;

32 (c) The child reaches the age of majority under the laws of the sending state;

33 (d) The child achieves legal independence pursuant to the laws of the sending state;

34 (e) A guardianship is created by a court in the receiving state with the concurrence of  
35 the court in the sending state;

36 (f) An Indian tribe has petitioned for and received jurisdiction from the court in the  
37 sending state; or

1 (g) The public child-placing agency of the sending state requests termination and has  
2 obtained the concurrence of the public child-placing agency in the receiving state.

3 V. When a sending state court terminates its jurisdiction, the receiving state child-placing  
4 agency shall be notified.

5 VI. Nothing in this article shall defeat a claim of jurisdiction by a receiving state court  
6 sufficient to deal with an act of truancy, delinquency, crime, or behavior involving a child as defined  
7 by the laws of the receiving state committed by the child in the receiving state which would be a  
8 violation of its laws.

9 VII. Nothing in this article shall limit the receiving state's ability to take emergency  
10 jurisdiction for the protection of the child.

11 VIII. The substantive laws of the state in which an adoption will be finalized shall solely  
12 govern all issues relating to the adoption of the child, and the court in which the adoption proceeding  
13 is filed shall have subject matter jurisdiction regarding all substantive issues relating to the  
14 adoption, except:

15 (a) When the child is a ward of another court that established jurisdiction over the child  
16 prior to the placement;

17 (b) When the child is in the legal custody of a public agency in the sending state; or

18 (c) When a court in the sending state has otherwise appropriately assumed jurisdiction  
19 over the child prior to the submission of the request for approval of placement.

20 IX. A final decree of adoption shall not be entered in any jurisdiction until the placement is  
21 authorized as an "approved placement" by the public child-placing agency in the receiving state.

22 ARTICLE V

23 Placement Evaluation

24 I. Prior to sending, bringing, or causing a child to be sent or brought into a receiving state,  
25 the public child-placing agency shall provide a written request for assessment to the receiving state.

26 II. For placements by a private child-placing agency, a child may be sent or brought, or  
27 caused to be sent or brought, into a receiving state upon receipt and immediate review of the  
28 required content in a request for approval of a placement in both the sending and receiving state  
29 public child-placing agencies. The required content to accompany a request for approval shall  
30 include all of the following:

31 (a) A request for approval identifying the child, the birth parents, the prospective  
32 adoptive parents, and the supervising agency, signed by the person requesting approval.

33 (b) The appropriate consents or relinquishments signed by the birth parents in  
34 accordance with the laws of the sending state or, where permitted, the laws of the state where the  
35 adoption will be finalized.

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1 (c) Certification by a licensed attorney or authorized agent of a private adoption agency  
2 that the consent or relinquishment is in compliance with the applicable laws of the sending state or,  
3 where permitted, the laws of the state where finalization of the adoption will occur.

4 (d) A home study.

5 (e) An acknowledgment of legal risk signed by the prospective adoptive parents.

6 III. The sending state and the receiving state may request additional information or  
7 documents prior to finalization of an approved placement, but they may not delay travel by the  
8 prospective adoptive parents with the child if the required content for approval has been submitted,  
9 received, and reviewed by the public child-placing agency in both the sending state and the receiving  
10 state.

11 IV. Approval from the public child-placing agency in the receiving state for a provisional or  
12 approved placement is required as provided for in the rules of the Interstate Commission.

13 V. The procedures for making the request for an assessment shall contain all information  
14 and be in such form as provided for in the rules of the Interstate Commission.

15 VI. Upon receipt of a request from the public child-placing agency of the sending state, the  
16 receiving state shall initiate an assessment of the proposed placement to determine its safety and  
17 suitability. If the proposed placement is a placement with a relative, the public child-placing agency  
18 of the sending state may request a determination for a provisional placement.

19 VII. The public child-placing agency in the receiving state may request from the public child-  
20 placing agency or the private child-placing agency in the sending state, and shall be entitled to  
21 receive, supporting or additional information necessary to complete the assessment or approve the  
22 placement.

23 VIII. The public child-placing agency in the receiving state shall approve a provisional  
24 placement and complete or arrange for the completion of the assessment within the timeframes  
25 established by the rules of the Interstate Commission.

26 IX. For a placement by a private child-placing agency, the sending state shall not impose  
27 any additional requirements to complete the home study that are not required by the receiving state,  
28 unless the adoption is finalized in the sending state.

29 X. The Interstate Commission may develop uniform standards for the assessment of the  
30 safety and suitability of interstate placements.

31 **ARTICLE VI**

32 **Placement Authority**

33 I. Except as otherwise provided in this compact, no child subject to this compact shall be  
34 placed in a receiving state until approval for such placement is obtained.

35 II. If the public child-placing agency in the receiving state does not approve the proposed  
36 placement, then the child shall not be placed. The receiving state shall provide written



1 documentation of any such determination in accordance with the rules promulgated by the  
2 Interstate Commission. Such determination is not subject to judicial review in the sending state.

3 III. If the proposed placement is not approved, any interested party shall have standing to  
4 seek an administrative review of the receiving state's determination.

5 (a) The administrative review and any further judicial review associated with the  
6 determination shall be conducted in the receiving state pursuant to its applicable administrative  
7 procedures act.

8 (b) If a determination not to approve the placement of the child in the receiving state is  
9 overturned upon review, the placement shall be deemed approved; provided, however, that all  
10 administrative or judicial remedies have been exhausted or the time for such remedies has passed.

11 ARTICLE VII

12 Placing Agency Responsibility

13 I. For the interstate placement of a child made by a public child-placing agency or state  
14 court:

15 (a) The public child-placing agency in the sending state shall have financial  
16 responsibility for:

17 (1) The ongoing support and maintenance for the child during the period of the  
18 placement, unless otherwise provided for in the receiving state; and

19 (2) As determined by the public child-placing agency in the sending state, services  
20 for the child beyond the public services for which the child is eligible in the receiving state.

21 (b) The receiving state shall only have financial responsibility for:

22 (1) Any assessment conducted by the receiving state; and

23 (2) Supervision conducted by the receiving state at the level necessary to support the  
24 placement as agreed upon by the public child-placing agencies of the receiving and sending states.

25 (c) Nothing in this section shall prohibit public child-placing agencies in the sending  
26 state from entering into agreements with licensed agencies or persons in the receiving state to  
27 conduct assessments and provide supervision.

28 II. For the placement of a child by a private child-placing agency preliminary to a possible  
29 adoption, the private child-placing agency shall be:

30 (a) Legally responsible for the child during the period of placement as provided for in the  
31 law of the sending state until the finalization of the adoption.

32 (b) Financially responsible for the child absent a contractual agreement to the contrary.

33 III. The public child-placing agency in the receiving state shall provide timely assessments,  
34 as provided for in the rules of the Interstate Commission.

35 IV. The public child-placing agency in the receiving state shall provide, or arrange for the  
36 provision of, supervision and services for the child, including timely reports, during the period of the  
37 placement.

1 V. Nothing in this compact shall be construed to limit the authority of the public child-  
2 placing agency in the receiving state from contracting with a licensed agency or person in the  
3 receiving state for an assessment or the provision of supervision or services for the child or otherwise  
4 authorizing the provision of supervision or services by a licensed agency during the period of  
5 placement.

6 VI. Each member state shall provide for coordination among its branches of government  
7 concerning the state's participation in and compliance with the compact and Interstate Commission  
8 activities through the creation of an advisory council or use of an existing body or board.

9 VII. Each member state shall establish a central state compact office which shall be  
10 responsible for state compliance with the compact and the rules of the Interstate Commission.

11 VIII. The public child-placing agency in the sending state shall oversee compliance with the  
12 provisions of the Indian Child Welfare Act, 25 U.S.C. section 1901 et seq., for placements subject to  
13 the provisions of this compact, prior to placement.

14 IX. With the consent of the Interstate Commission, states may enter into limited  
15 agreements that facilitate the timely assessment and provision of services and supervision of  
16 placements under this compact.

17 ARTICLE VIII

18 Interstate Commission for the Placement of Children

19 The member states hereby establish, by way of this compact, a commission known as the "Interstate  
20 Commission for the Placement of Children." The activities of the Interstate Commission are the  
21 formation of public policy and are a discretionary state function. The Interstate Commission shall:

22 I. Be a joint commission of the member states and shall have the responsibilities, powers,  
23 and duties set forth herein and such additional powers as may be conferred upon it by subsequent  
24 concurrent action of the respective legislatures of the member states.

25 II. Consist of one commissioner from each member state who shall be appointed by the  
26 executive head of the state human services administration with ultimate responsibility for the child  
27 welfare program. The appointed commissioner shall have the legal authority to vote on policy-  
28 related matters governed by this compact binding the state.

29 (a) Each member state represented at a meeting of the Interstate Commission is entitled  
30 to one vote.

31 (b) A majority of the member states shall constitute a quorum for the transaction of  
32 business, unless a larger quorum is required by the bylaws of the Interstate Commission.

33 (c) A representative shall not delegate a vote to another member state.

34 (d) A representative may delegate voting authority to another person from that state for  
35 a specified meeting.

36 III. Include, in addition to the commissioners of each member state, persons who are  
37 members of interested organizations as defined in the bylaws or rules of the Interstate Commission.

1 Such members shall be ex officio and shall not be entitled to vote on any matter before the Interstate  
2 Commission.

3 IV. Establish an executive committee which shall have the authority to administer the day-  
4 to-day operations and administration of the Interstate Commission. The executive committee shall  
5 not have the power to engage in rulemaking.

6 ARTICLE IX

7 Powers and Duties of the Interstate Commission

8 The Interstate Commission shall have the following powers:

9 I. To promulgate rules and take all necessary actions to effect the goals, purposes, and  
10 obligations as enumerated in this compact.

11 II. To provide for dispute resolution among member states.

12 III. To issue, upon request of a member state, advisory opinions concerning the meaning or  
13 interpretation of the interstate compact, its bylaws, rules, or actions.

14 IV. To enforce compliance with this compact or the bylaws or rules of the Interstate  
15 Commission pursuant to Article XII.

16 V. Collect standardized data concerning the interstate placement of children subject to this  
17 compact as directed through its rules, which shall specify the data to be collected, the means of  
18 collection and data exchange, and reporting requirements.

19 VI. To establish and maintain offices as may be necessary for the transacting of its business.

20 VII. To purchase and maintain insurance and bonds.

21 VIII. To hire or contract for services of personnel or consultants as necessary to carry out its  
22 functions under the compact and establish personnel qualification policies and rates of  
23 compensation.

24 IX. To establish and appoint committees and officers, including, but not limited to, an  
25 executive committee as required by Article X.

26 X. To accept any and all donations and grants of money, equipment, supplies, materials, and  
27 services, and to receive, utilize, and dispose thereof.

28 XI. To lease, purchase, accept contributions or donations of, or otherwise to own, hold,  
29 improve, or use any property, real, personal, or mixed.

30 XII. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any  
31 property, real, personal, or mixed.

32 XIII. To establish a budget and make expenditures.

33 XIV. To adopt a seal and bylaws governing the management and operation of the Interstate  
34 Commission.

35 XV. To report annually to the legislatures, the governors, the judiciary, and the state  
36 advisory councils of the member states concerning the activities of the Interstate Commission during

1 the preceding year. Such reports shall also include any recommendations that may have been  
2 adopted by the Interstate Commission.

3 XVI. To coordinate and provide education, training, and public awareness regarding the  
4 interstate movement of children for officials involved in such activity.

5 XVII. To maintain books and records in accordance with the bylaws of the Interstate  
6 Commission.

7 XVIII. To perform such functions as may be necessary or appropriate to achieve the  
8 purposes of this compact.

9 **ARTICLE X**

10 **Organization and Operation of the Interstate Commission**

11 **I. Organization.**

12 (a) Within 12 months after the first Interstate Commission meeting, the Interstate  
13 Commission shall adopt rules to govern its conduct as may be necessary or appropriate to carry out  
14 the purposes of the compact.

15 (b) The Interstate Commission's rules shall establish conditions and procedures under  
16 which the Interstate Commission shall make its information and official records available to the  
17 public for inspection or copying.

18 **II. Meetings.**

19 (a) The Interstate Commission shall meet at least once each calendar year. The  
20 chairperson may call additional meetings and, upon the request of a simple majority of the member  
21 states, shall call additional meetings.

22 (b) Public notice shall be given by the Interstate Commission of all meetings, and all  
23 meetings shall be open to the public.

24 (c) The bylaws may provide for meetings of the Interstate Commission to be conducted  
25 by telecommunication or other electronic communication.

26 **III. Officers and staff.**

27 (a) The Interstate Commission may, through its executive committee, appoint or retain a  
28 staff director for such period, upon such terms and conditions, and for such compensation as the  
29 Interstate Commission may deem appropriate. The staff director shall serve as secretary to the  
30 Interstate Commission but shall not have a vote. The staff director may hire and supervise such  
31 other staff as may be authorized by the Interstate Commission.

32 (b) The Interstate Commission shall elect, from among its members, a chairperson and a  
33 vice chairperson of the executive committee, and other necessary officers, each of whom shall have  
34 such authority and duties as may be specified in the bylaws.

35 **IV. Qualified immunity, defense, and indemnification.**

36 (a) The Interstate Commission's staff director and its employees shall be immune from  
37 suit and liability, either personally or in their official capacity, for a claim for damage to or loss of

1 property or personal injury or other civil liability caused or arising out of or relating to an actual or  
2 alleged act, error, or omission that occurred or that such person had a reasonable basis for believing  
3 occurred within the scope of Interstate Commission employment, duties, or responsibilities;  
4 provided, however, that such person shall not be protected from suit or liability for damage, loss,  
5 injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of  
6 such person.

7 (b)(1) The liability of the Interstate Commission's staff director and employees or  
8 Interstate Commission representatives, acting within the scope of such person's employment or  
9 duties, for acts, errors, or omissions occurring within such person's state may not exceed the limits of  
10 liability set forth under the Constitution and laws of that state for state officials, employees, and  
11 agents. The Interstate Commission is considered to be an instrumentality of the states for the  
12 purposes of any such action. Nothing in this subsection shall be construed to protect such person  
13 from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional  
14 or willful and wanton misconduct of such person.

15 (2) The Interstate Commission shall defend the staff director and its employees and,  
16 subject to the approval of the attorney general or other appropriate legal counsel of the member  
17 state, shall defend the commissioner of a member state in a civil action seeking to impose liability  
18 arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate  
19 Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for  
20 believing occurred within the scope of Interstate Commission employment, duties, or responsibilities;  
21 provided, however, that the actual or alleged act, error, or omission did not result from intentional or  
22 willful and wanton misconduct on the part of such person.

23 (3) To the extent not covered by the state involved, a member state, or the Interstate  
24 Commission, the representatives or employees of the Interstate Commission shall be held harmless  
25 in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such  
26 persons arising out of an actual or alleged act, error, or omission that occurred within the scope of  
27 Interstate Commission employment, duties, or responsibilities, or that such persons had a  
28 reasonable basis for believing occurred within the scope of Interstate Commission employment,  
29 duties, or responsibilities; provided, however, that the actual or alleged act, error, or omission did  
30 not result from intentional or willful and wanton misconduct on the part of such persons.

31 ARTICLE XI

32 Rulemaking Functions of the Interstate Commission

33 I. The Interstate Commission shall promulgate and publish rules in order to effectively and  
34 efficiently achieve the purposes of the compact.

35 II. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws  
36 and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles  
37 of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1

1 (2000), or such other administrative procedure acts as the Interstate Commission deems  
2 appropriate, consistent with due process requirements under the United States Constitution as now  
3 or hereafter interpreted by the United States Supreme Court. All rules and amendments shall  
4 become binding as of the date specified, as published with the final version of the rule as approved  
5 by the Interstate Commission.

6 III. When promulgating a rule, the Interstate Commission shall, at a minimum:

7 (a) Publish the proposed rule's entire text stating the reasons for that proposed rule;

8 (b) Allow and invite any and all persons to submit written data, facts, opinions, and  
9 arguments, which information shall be added to the record and made publicly available; and

10 (c) Promulgate a final rule and its effective date, if appropriate, based on input from  
11 state or local officials or interested parties.

12 IV. Rules promulgated by the Interstate Commission shall have the force and effect of  
13 administrative rules and shall be binding in the compacting states to the extent and in the manner  
14 provided for in this compact.

15 V. Not later than 60 days after a rule is promulgated, an interested person may file a  
16 petition in the United States District Court for the District of Columbia or in the federal district  
17 court where the Interstate Commission's principal office is located for judicial review of such rule. If  
18 the court finds that the Interstate Commission's action is not supported by substantial evidence in  
19 the rulemaking record, the court shall hold the rule unlawful and set it aside.

20 VI. If a majority of the legislatures of the member states rejects a rule, those states may by  
21 enactment of a statute or resolution in the same manner used to adopt the compact cause that such  
22 rule shall have no further force and effect in any member state.

23 VII. The existing rules governing the operation of the Interstate Compact on the Placement  
24 of Children superseded by this act shall be null and void no less than 12 months but no more than 24  
25 months after the first meeting of the Interstate Commission created hereunder, as determined by  
26 the members during the first meeting.

27 VIII. Within the first 12 months of operation, the Interstate Commission shall promulgate  
28 rules addressing the following:

29 (a) Transition rules.

30 (b) Forms and procedures.

31 (c) Timelines.

32 (d) Data collection and reporting.

33 (e) Rulemaking.

34 (f) Visitation.

35 (g) Progress reports and supervision.

36 (h) Sharing of information and confidentiality.

37 (i) Financing of the Interstate Commission.

1 (j) Mediation, arbitration, and dispute resolution.

2 (k) Education, training, and technical assistance.

3 (l) Enforcement.

4 (m) Coordination with other interstate compacts.

5 IX. Upon determination by a majority of the members of the Interstate Commission that an  
6 emergency exists:

7 (a) The Interstate Commission may promulgate an emergency rule only if it is required  
8 to:

9 (1) Protect the children covered by this compact from an imminent threat to their  
10 health, safety, and well-being;

11 (2) Prevent loss of federal or state funds; or

12 (3) Meet a deadline for the promulgation of an administrative rule required by  
13 federal law.

14 (b) An emergency rule shall become effective immediately upon adoption, provided that  
15 the usual rulemaking procedures provided hereunder shall be retroactively applied to the emergency  
16 rule as soon as reasonably possible, but no later than 90 days after the effective date of the  
17 emergency rule.

18 (c) An emergency rule shall be promulgated as provided for in the rules of the Interstate  
19 Commission.

20 ARTICLE XII

21 Oversight, Dispute Resolution, and Enforcement

22 I. Oversight.

23 (a) The Interstate Commission shall oversee the administration and operation of the  
24 compact.

25 (b) The executive, legislative, and judicial branches of state government in each member  
26 state shall enforce this compact and the rules of the Interstate Commission and shall take all actions  
27 necessary and appropriate to effectuate the compact's purposes and intent. The compact and its  
28 rules shall be binding in the compacting states to the extent and in the manner provided for in this  
29 compact.

30 (c) All courts shall take judicial notice of the compact and the rules in any judicial or  
31 administrative proceeding in a member state pertaining to the subject matter of this compact.

32 (d) The Interstate Commission shall be entitled to receive service of process in any  
33 action in which the validity of a compact provision or rule is the issue for which a judicial  
34 determination has been sought and shall have standing to intervene in any proceedings. Failure to  
35 provide service of process to the Interstate Commission shall render any judgment, order, or other  
36 determination, however so captioned or classified, void as to this compact, its bylaws, or rules of the  
37 Interstate Commission.

1 II. Dispute resolution.

2 (a) The Interstate Commission shall attempt, upon the request of a member state, to  
3 resolve disputes which are subject to the compact and which may arise among member states and  
4 between member and nonmember states.

5 (b) The Interstate Commission shall promulgate a rule providing for both mediation and  
6 binding dispute resolution for disputes among compacting states. The costs of such mediation or  
7 dispute resolution shall be the responsibility of the parties to the dispute.

8 III. Enforcement. If the Interstate Commission determines that a member state has  
9 defaulted in the performance of its obligations or responsibilities under this compact, its bylaws, or  
10 rules of the Interstate Commission, the Interstate Commission may:

11 (a) Provide remedial training and specific technical assistance;

12 (b) Provide written notice to the defaulting state and other member states of the nature  
13 of the default and the means of curing the default. The Interstate Commission shall specify the  
14 conditions by which the defaulting state must cure its default;

15 (c) By majority vote of the members, initiate against a defaulting member state legal  
16 action in the United States District Court for the District of Columbia or, at the discretion of the  
17 Interstate Commission, in the federal district where the Interstate Commission has its principal  
18 office, to enforce compliance with the provisions of the compact, its bylaws, or rules of the Interstate  
19 Commission. The relief sought may include both injunctive relief and damages. In the event judicial  
20 enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including  
21 reasonable attorney's fees; or

22 (d) Avail itself of any other remedies available under state law or the regulation of  
23 official or professional conduct.

24 ARTICLE XIII

25 Financing of the Commission

26 I. The Interstate Commission shall pay, or provide for the payment of, the reasonable  
27 expenses of its establishment, organization, and ongoing activities.

28 II. The Interstate Commission may levy on and collect an annual assessment from each  
29 member state to cover the cost of the operations and activities of the Interstate Commission and its  
30 staff, which must be in a total amount sufficient to cover the Interstate Commission's annual budget  
31 as approved by its members each year. The aggregate annual assessment amount shall be allocated  
32 based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule  
33 binding upon all member states.

34 III. The Interstate Commission shall not incur obligations of any kind prior to securing the  
35 funds adequate to meet those obligations, nor shall the Interstate Commission pledge the credit of  
36 any of the member states, except by and with the authority of the member state.





1 II. Dissolution of compact.

2 (a) This compact shall dissolve effective upon the date of the withdrawal or default of the  
3 member state which reduces the membership in the compact to one member state.

4 (b) Upon the dissolution of this compact, the compact becomes null and void and shall be  
5 of no further force or effect, and the business and affairs of the Interstate Commission shall be  
6 concluded and surplus funds shall be distributed in accordance with the bylaws.

7 ARTICLE XVI

8 Severability and Construction

9 I. The provisions of this compact shall be severable, and, if any phrase, clause, sentence, or  
10 provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

11 II. The provisions of this compact shall be liberally construed to effectuate its purposes.

12 III. Nothing in this compact shall be construed to prohibit the concurrent applicability of  
13 other interstate compacts to which the states are members.

14 ARTICLE XVII

15 Binding Effect of Compact and Other Laws

16 I. Other laws. Nothing in this compact prevents the enforcement of any other law of a  
17 member state that is not inconsistent with this compact.

18 II. Binding effect of the compact.

19 (a) All lawful actions of the Interstate Commission are binding upon the member states.

20 (b) All agreements between the Interstate Commission and the member states are  
21 binding in accordance with their terms.

22 (c) In the event any provision of this compact exceeds the constitutional limits imposed  
23 on the legislature or executive branch of any member state, such provision shall be ineffective to the  
24 extent of the conflict with the constitutional provision in question in that member state.

25 ARTICLE XVIII

26 Indian Tribes

27 Notwithstanding any other provision in this compact, the Interstate Commission may promulgate  
28 guidelines to permit Indian tribes to utilize the compact to achieve any or all of the purposes of the  
29 compact as specified in Article I. The Interstate Commission shall make reasonable efforts to  
30 consult with Indian tribes in promulgating guidelines to reflect the diverse circumstances of the  
31 various Indian tribes.

32 3 Adoption; Reference Changed. Amend RSA 170-B:18, IV to read as follows:

33 IV. The department or a licensed child-placing agency making the required assessment may  
34 request other departments or licensed child-placing agencies within or outside this state to make the  
35 assessment or designated portions thereof as may be appropriate. Where such written assessments  
36 are made, a written report shall be filed with the court; provided, however, said report shall not  
37 violate RSA 170-A, the interstate compact ~~on~~ **for** the placement of children.

**Amendment to HB 1280**

**- Page 19 -**

1           4 Contingency. Sections 2, 3, and 6 of this act, relative to the 2009 edition of the Interstate  
2 Compact for the Placement of Children, shall take effect on the date that the commissioner of the  
3 department of health and human services certifies to the director of the office of legislative services  
4 and the secretary of state that 35 compacting states, including New Hampshire, have enacted the  
5 2009 edition of the Interstate Compact for the Placement of Children.

6           5 New Section; Interstate Compact on the Placement of Children; Placement of a Child with a  
7 Parent. Amend RSA 170-A by inserting after section 1 the following new section:

8           170-A:1-a Placement of a Child with a Parent. The provisions of this chapter shall not apply to  
9 the placement of a child with a parent, provided that:

10           I. The parent proves, to the satisfaction of a court, a substantial relationship with the child;  
11 and

12           II. The court makes a written finding that placement with the parent is in the best interests  
13 of the child.

14           6 Repeal. RSA 170-A:1-a, relative to the placement of a child with a parent under the interstate  
15 compact on the placement of children, is repealed.

16           7 Effective Date.

17           I. Sections 2, 3, and 6 of this act shall take effect as provided in section 4 of this act.

18           II. Section 5 of this act shall take effect upon its passage.

19           III. The remainder of this act shall take effect January 1, 2023.

2022-1859s

AMENDED ANALYSIS

This bill:

I. Prohibits a parent's decision not to have their child vaccinated from being used as grounds to terminate parental rights.

II. Provides for the adoption of the 2009 edition of the interstate compact for the placement of children.

III. Exempts certain child placements from the interstate compact on the placement of children in RSA 170-A.