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Vivek Sankaran

*University of Michigan Law School, vss@umich.edu*

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## Foster Kids in Limbo: The Effects of the Interstate Compact on Children in Foster Care

by Vivek S. Sankaran

“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 request 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 completing 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.

A study I performed with support from the Annie E. Casey Foundation 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

### 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

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 results follow.

### 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.

### 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.

### 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”

### 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

### 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%
<b>TOTAL:</b>	<b>41.15%</b>

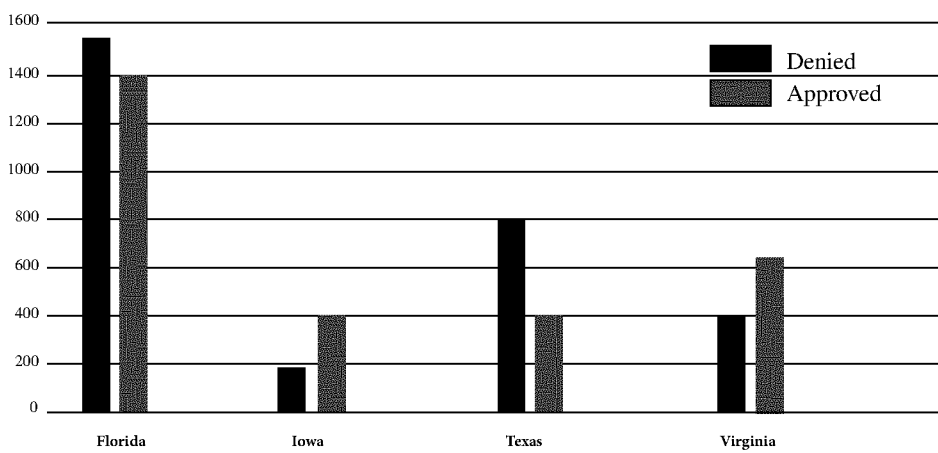
58% for parents and 46.4% for relatives. The total average denial rate for all placement types was 35%.

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.

### 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

Sample Denial Rates: Outgoing Requests in 2010



### Checklist: Needed Reforms

Some changes that could improve handling of child welfare cases that cross state lines are:

- ✓ Impose specific and enforceable deadlines for completing ICPC home studies.
- ✓ Rest authority with the juvenile court to make all placement decisions.
- ✓ Allow states to continue to supervise placements and provide services to children if juvenile courts order placements over their objection.
- ✓ Require expedited home studies when placements involve birth parents.
- ✓ Require electronic transmission of ICPC documents.

foster parents have no constitutional rights with respect to the children in their care. The ICPC explicitly prohibits courts from reviewing home study denials.

### 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 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 presumed fit 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.

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*Vivek S. Sankaran, JD*, is a clinical professor of law at the Child Advocacy Law Clinic, University of Michigan School of Law.

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