

# TENNESSEE COURT IMPROVEMENT PROGRAM

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## Assessment of Tennessee's Interstate Placement of Foster Children

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*Produced under the auspices of the Tennessee Court Improvement Program of the Tennessee Supreme Court, Administrative Office of the Courts, and the provisions of Section 13712 of Subchapter C, Part I of the Omnibus Budget Reconciliation Act of 1993: Grants for State Courts.*

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## Overview of Report

### *Purpose of the Assessment*

The Tennessee Supreme Court received the initial Court Improvement Program (CIP) grant in 1995. Funds for the basic CIP grants are appropriated from the Promoting Safe and Stable Families Program (PSSF). The Deficit Reduction Act of 2005 (P.L. 109-171) authorized two additional CIP grants - the data collection and analysis grant and the training grant. The funds for the basic CIP grant are awarded to provide for assessments of state laws and judicial processes in the child welfare system; and to develop and implement plans of system improvement. CIP has completed two such assessments:

- *Tennessee Court Improvement Program for Juvenile Dependency Cases: An Assessment of Tennessee's Court Performance and a Plan for Improvements*<sup>1</sup>
- *A Re-Assessment of Tennessee's Judicial Process in Foster Care Cases*<sup>2</sup>

The Safe and Timely Interstate Placement of Foster Children Act of 2006, Public Law 109-239, requires an additional assessment. Each state must evaluate the role, responsibilities, and effectiveness of the courts in the interstate placement of foster children and implement improvements to expedite these placements. The assessment requires states to identify any legal barriers that prevent timely judicial decisions regarding interstate placement.

Specifically, the assessment must include an evaluation and recommendations of:

- effective laws pertaining to information sharing with out-of-state courts;
- methods for obtaining information and testimony from agencies and parties in other states without requiring travel; and
- procedures to permit parents, children, attorneys and others to participate in cases without requiring interstate travel.

The *Assessment of Tennessee's Interstate Placement of Foster Children* was prepared by evaluating applicable federal law, Tennessee's statutes and court rules, and the Department of Children's Services policies; collecting data through surveys; and conducting extensive interviews with Cheri Stewart, Tennessee ICPC Deputy Compact Administrator, Department of Children's Services. CIP contracted with David Wilstermann to develop the survey instruments, gather and analyze the data, and produce the data portion of this report.

The authors of this report extend a special thanks to Cheri Stewart, Tennessee ICPC Deputy Compact Administrator, for her time, patience and expertise of the Compact. Her years of experience and knowledge proved invaluable to completing the assessment.

Tennessee Court Improvement Program staff includes Leslie Barrett Kinkead, Esq., CIP Coordinator; Nyasha N. Justice, CIP Attorney, Nannette Clark, CIP Attorney, and Jenness Graham, CIP Administrative Assistant. The Court Improvement Program is located at the Administrative Office of the Courts, 511 Union Street, Suite 600, Nashville, TN 37219; 615-741-2687.

### *Interstate Compact on the Placement of Children*

The Interstate Compact for the Placement of Children<sup>3</sup>, (hereinafter referred to as ICPC or Compact), drafted in 1960, controls the lawful movement of children across state lines. It is statutory law in all fifty states, the District of Columbia and the Virgin Islands.

The Compact helps ensure protection and services to children placed across state lines for placements with relatives, foster care, pre-adoption or institutional care of delinquent children. The Compact is a binding contract between member states and establishes procedures regarding the interstate placement of children. The law offers uniform guidelines and procedures to ensure that the placement of children occurs in ways that promote the best interests of the children. It delineates administrative procedures and financial responsibilities for the states involved in the interstate placement.

The Compact is administered by the Association of Administrators of the Interstate Compact on the Placement of Children (AAICPC), as an affiliate of the American Public Human Services Association (APHSA). The AAICPC has promulgated regulations<sup>4</sup> in order to implement the Compact. In addition, APHSA and AAICPC published the *Guide to the Interstate Compact on the Placement of Children*.<sup>5</sup> The *Guide* includes a description of the Compact, the ten articles of the Compact and the Regulations promulgated under the Compact.

Of significant note to this report are the applications defined under ICPC Regulation 7 (Priority Placement). An ICPC referral under Regulation 7 may be used to expedite the interstate placement of children through a court order. The Regulation requires specific information to be included in the court order; specifies timeframes for the receiving state to make a determination and notify the sending state; and outlines the circumstances for which the court may order a priority placement. This Regulation is not widely understood or used.

The process is initiated with a court order finding entitlement to a priority placement under Regulation 7. The order must make the following express findings and include facts to support the findings:

- the proposed placement recipient must be with a relative as specified in Article VIII(a), specifically the child's parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or non-agency guardian; and
- the child is under two (2) years of age; or
- the child is in an emergency shelter; or

- the court finds that the child has spent a substantial amount of time in the home of the proposed placement recipient. [Regulation #7 Part (a)] Or:
- The receiving state Compact Administrator has a properly completed ICPC 100A and supporting documentation (referral) for over 30 days, but the sending agency has not received a notice of the decision pursuant to Article III(d). [Regulation #7 Part (b)]

T.C.A. § 37-4-201, *et. seq.*, establishes Tennessee's joinder in the Interstate Compact for the Placement of Children (ICPC). The Tennessee law was enacted in 1974, and duplicates the model interstate compact law enacted by all 50 states, the District of Columbia and the Virgin Islands. State agencies and courts must comply with the Compact when placing children in foster or group homes, residential treatment facilities or with the child's relatives who live in another state. The law also applies when private adoptions occur across state lines and when parents place children in residential treatment facilities, group homes and other licensed facilities. This Assessment evaluates the processes when the Tennessee Department of Children's Services or the juvenile courts place children in another state. It does not address private out-of-state adoptions or placement by parents of their children in treatment facilities.

T.C.A. § 37-4-203 provides that the compact administrator is the commissioner of the Department of Children's Services (DCS). DCS serves children who are at risk of entering care, or who are in foster care, including dependent, neglect, abused, unruly and delinquent children.

The current compact administrator and deputy compact administrator in Tennessee are:

Compact Administrator

Viola P. Miller, Commissioner  
TN Department of Children's Services.  
436 6th Avenue North  
7th Floor Cordell Hull Building  
Nashville, TN 37243-1290  
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*Safe and Timely Interstate Placement of Foster Children Act*

The Safe and Timely Interstate Placement of Foster Children Act of 2006, P.L. 109-239 was enacted by Congress "(t)o improve protections for children and to hold States accountable for the safe and timely placement of children across State lines." Prior to the passage of this law, issues had been identified that caused delay in the ICPC process.

The U.S. Department of Health and Human Services conducted a review in 1998 of the ICPC structure and process.<sup>6</sup> The report concluded that states were unaware children had been placed in their jurisdiction as a result of: 1) children being placed through ICPC with the receiving state unaware the placement had been finalized; and 2) children being placed

outside the ICPC process. Half of the states did not know how many children they had placed through the ICPC process because of inadequate record keeping and differing standards between the states. In 1999, the U.S. Department of Health and Human Services conducted a second study, focusing on the implementation of ICPC.<sup>7</sup> The results included: 1) a lack of knowledge and understanding of ICPC by judges, attorneys and caseworkers; 2) violations of the ICPC; and 3) a belief that the ICPC process is too lengthy.<sup>8</sup>

In 2006, Rachael Lord, Senior Research Assistant of the National Center for Juvenile Justice, identified the following issues as delaying ICPC cases:

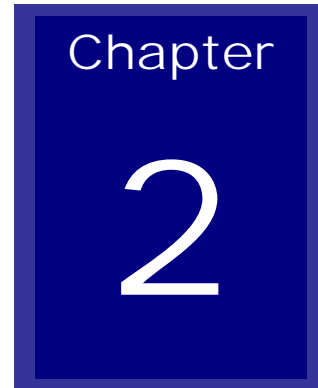
- Child welfare workers with high caseloads do not give priority to ICPC home studies; to the permanency process of children who have moved out-of-state; or to court reviews of children who are placed from another state;
- Conflicts of policies in sending and receiving states;
- Financial conflicts in payments for education and medical expenses of children placed across state lines; and
- Miscommunication and ineffective communication between states because of differences in child welfare systems, missing paperwork and delays in obtaining home study approvals.<sup>9</sup>

The Safe and Timely Interstate Placement of Foster Children Act requires the assessment of interstate placement by the Court Improvement Programs. In addition, the Act mandates that states complete an interstate home study on resources within 60 days after a home study request is received. If the failure to complete the home study within this period is beyond a state's control (e.g., background checks), then the home study must be completed within 75 days. Incentive payments to states for timely home studies are provided if the State completes the interstate home study in 30 days or less. However, incentive payments have not been authorized by Congress.

The shortened period for home studies pursuant to the Act potentially conflicts with the regulations promulgated pursuant to the Adoption and Safe Families Act of 1997 (P.L. 103-89 and hereinafter referred to as ASFA) In order for states to receive federal funding under the Social Security Act, Title IV-E, they must comply with ASFA.. This includes the requirement that in order to place a child in a foster care or adoptive home, adults in the home must undergo a criminal records check, including fingerprinting, and caretakers must receive training.

The Act requires consideration of interstate placements in permanency planning, at permanency hearings and when using concurrent planning. If a child is placed out-of-state, at the permanency hearing the court must determine if the placement continues to be appropriate and in the child's best interest.

# State Laws, Court Rules and Policies



## *Foster Care Laws*

Dependent, neglect, abused, delinquent or unruly children may be placed in custody of DCS. T.C.A. §§ 37-1-130, 131 and 132. T.C.A. § 37-1-129(a)(2)(e) provides that any order of the court that places custody of a child with DCS empowers the Department to select any specific residential or treatment placements or programs for the child according to the determination made by DCS. The statute provides for a court hearing to review the placement and a judicial placement recommendation.

When a court commits or retains a child in custody of DCS, the court must make a finding that: 1) there is no less drastic alternative to removal; 2) reasonable efforts have been made to prevent removal or to reunify the family; and 3) continuation in the home is contrary to the best interest of the child. If reasonable efforts to prevent removal or reunify the family are not in the child's best interest, the court must make a finding of reasonable efforts to place the child in another permanent placement. T.C.A. § 37-1-166.

T.C.A. § 37-2-403 provides that within 30 days of custody, DCS must develop a permanency plan with a goal(s) of: 1) return of the child to the parent; 2) placement with a relative; 3) adoption; 4) permanent guardianship or 5) planned permanent living arrangement. The juvenile court must ratify the permanency plan within 60 days of custody. A review of the permanency plan must be held within 90 days of custody by the court or a foster care review board. Another review must be held by the court or foster care review board of the plan within 9 months of the child being placed in custody. Subsequent reviews are held every 6 months until the child is released from custody. T.C.A. §§ 37-2-404 and 406. A permanency hearing must be held by the juvenile court within 12 months of the child being placed in custody and every 12 months thereafter as long as the child remains in custody. T.C.A. § 37-2-409.

## *Interstate Compact on the Placement of Children*

The ten articles of the Interstate Compact on the Placement of Children (ICPC or Compact) are codified in T.C.A. § 37-4-201 as follows.

### Article I. Purpose and Policy

Party states to the Compact shall cooperate with each other in the interstate placement of children in order for each child to receive the maximum opportunity to be placed in a



suitable environment with caretakers who are able to provide the necessary care for the child. The receiving state shall ascertain whether the proposed placement is appropriate for the protection of the child. The sending state may obtain complete information on the projected placement in order to evaluate the placement. Appropriate jurisdictional arrangements for the care of the children are promoted.

#### Article II. Definitions

This Article defines the following terms: child, placement, receiving state and sending agency. Placement includes a family free or boarding home, child-care agency or institution; but excludes institutions of education, mental health or developmental disabilities, and medical facilities. Sending agency includes a party state or its employees, courts, persons, corporations/associations and charitable agencies.

#### Article III. Conditions for Placement

All sending agencies placing children for foster care or as a pre-adoptive placement shall comply with each requirement of this Article and with applicable laws of the receiving state governing placement of children. Sending agencies shall furnish appropriate public authorities in the receiving state a written notice of the intent to send the child. The Article outlines the information required in the notice. No child shall be placed in the receiving state until the receiving state notifies the sending state in writing that the placement does not appear to be contrary to the interests of the child.

#### Article IV. Penalty for Illegal Placement

Sending or bringing a child in violation of the terms of the ICPC violates laws of both the sending and receiving states. Violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. Any violation constitutes grounds for suspension or revocation of any license or permit of the sending agency.

#### Article V. Retention of Jurisdiction

The sending agency retains jurisdiction over the child sufficient to determine all matters relating to custody, supervision, care, treatment and disposition of the child which it would have had if the child remained in the sending agency's state until the child is adopted, reaches majority becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. This jurisdiction includes the power to return the child to the sending agency or transfer custody to another location. The sending agency continues to have financial responsibility for the child during the placement. The receiving state has jurisdiction sufficient to deal with an act of delinquency or crime committed there. A sending agency that is a public agency may enter into agreements with an authorized public or private agency in the receiving state to provide services for the child.

#### Article VI. Institutional Care of Delinquent Children

Provisions are allowed for placement of a delinquent child in an institution in a party state.

#### Article VII. Compact Administrator

The executive head of each jurisdiction party designates the compact administrator.

Article VIII. Limitations

The ICPC does not apply to the sending or bringing of a child into the receiving state by the child's parent, stepparent, grandparent, adult sibling, adult aunt or uncle or guardian who leaves the child with any such relative of non-agency guardian in the receiving state. The ICPC also does not apply to any placement of a child in a receiving state pursuant to any other interstate compact to which both states are parties.

Article IX. Enactment and Withdrawal

Joinder to the ICPC is allowed for all states and U.S. territories, the District of Columbia, Puerto Rico and, with the consent of congress, the government or any province of Canada. The Article provides for the terms to withdraw from the Compact.

Article X. Construction and Severability

The provisions of the Compact shall be liberally construed and are severable if any part of the Compact is declared to be contrary to the constitution of any party state or the United States.

T.C.A. § 37-4-202 provides that the "appropriate authority" in Article V (i.e. discharged with the concurrence of the appropriate authority in the receiving state) and Article III is the Department of Children's Services. The "executive head" in Article VII is the governor. T.C.A. § 37-4-203 establishes the commissioner of children's services as the ICPC compact administrator in accordance with Article VII of the ICPC.

T.C.A. § 37-4-204 provides that financial responsibility for any child placed pursuant to the ICPC shall be determined in accordance with Article V thereof. It further provides in the event of partial or complete default of performance, the provisions of any laws of the state of Tennessee fixing responsibility for the support of children also may be invoked.

T.C.A. § 37-4-205 authorizes the officers and agencies of this state and its subdivisions having authority to place children are empowered to enter into agreements with appropriate officers or agencies of or in other party states pursuant to paragraph (b) of Article V of the ICPC. It further provides that any such agreement which contains a financial commitment or imposes a financial obligation on this state or subdivision or agency shall not be binding unless it has the approval in writing of the commissioner of children's services.

### *Uniform Child Custody Jurisdiction and Enforcement Act*

The Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) is a uniform state law that was approved in 1997 by the National Conference of Commissioners on Uniform State Laws to replace the 1968 Uniform Child Custody Jurisdiction Act (UCCJA). The UCCJEA outlines a standard for initial child custody determination jurisdiction and clarifies modification jurisdiction. The law essentially grants full faith and credit to out-of-state custody orders, and allows individuals not residing in Tennessee to participate in court proceedings by electronic means. Other aspects of this Act focus on simultaneous proceedings, clean hands and forum non conveniens. The UCCJEA was designed to deter interstate parental kidnapping while promoting uniform jurisdiction and enforcement provisions.

The UCCJEA is codified at T.C.A. §. 36-6-201, *et. seq.* The UCCJEA became effective in Tennessee in 1999, replacing the UCCJA.

The law applies to child custody proceedings in which the legal or physical custody or visitation of the child is an issue. A child custody proceeding includes cases involving divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights and protection from domestic violence. T.C.A. §. 36-6-205(4).

## **JURISDICTIONAL ISSUES**

A purpose of the UCCJEA, as provided in T.C.A. § 36-6-202, is to avoid conflicts between Tennessee courts and courts in other states in child custody proceedings that result from the interstate movement of children that may negatively effect children's wellbeing. Any question regarding jurisdiction must be given priority and determined expeditiously. T.C.A. § 36-6-210. As provided in T.C.A. § 36-6-217(b), subsection (a) of that section is the exclusive jurisdictional basis to make a determination of the legal or physical custody or visitation of the child by a Tennessee court. Subsection (c) provides that neither physical presence of a party or child nor personal jurisdiction over them is necessary or sufficient to make the determination.

### **A. Jurisdiction of Juvenile Courts & the UCCJEA**

The UCCJEA does not confer jurisdiction to determine custody issues on the juvenile courts in Tennessee. The appellate court held in the case of *In re S.L.M.*, 207 S.W.3d 288, (Tenn. App. 2006):

The UCCJEA does not confer subject matter jurisdiction on juvenile courts to decide custody matters. By its own terms, the Act is a tool that is available only to courts that are "authorized under state law to establish, enforce, or modify a child custody determination." 18 Tenn. Code Ann. § 36-6-205(6). Thus, we must look elsewhere for the statute or statutes that confer subject matter jurisdiction on juvenile courts in cases of this sort. *Id.* at 296.

The juvenile courts in Tennessee may exercise only the powers conferred by statute. T.C.A. § 37-1-101(c) authorizes the jurisdiction of juvenile courts as prescribed by T.C.A., Title 37, Chapter 1, Part 1.; or conferred by special or private act that is not inconsistent with the statute. T.C.A. § 37-1-103 provides for the exclusive jurisdiction of the juvenile courts, including proceedings in which a child is alleged to be dependent, neglected, abused, delinquent or unruly. T.C.A. § 37-1-104 grants juvenile courts concurrent jurisdiction with other courts in certain proceedings. These statutes do not reference the UCCJEA.

### **B. Initial Custody Determination Jurisdiction**

The jurisdiction of a Tennessee court to make an initial custody determination pursuant to the UCCJEA is provided at T.C.A. § 36-6-216. An initial custody determination is the first determination made as to the legal or physical custody or visitation of a particular child. T.C.A. § 36-6-205(4) & (8). A Tennessee court has jurisdiction of the matter if:

- Tennessee is the home state of the child when the proceeding was commenced [i.e. the child has resided with a parent or person acting as a parent for at least six consecutive months immediately prior to the proceeding. T.C.A. § 36-6-205(7)]; or, Tennessee was the home state of the child within six months prior to the initiation of the proceeding; *and*
  - A court in another state does not have “home state” jurisdiction or has declined to exercise its jurisdiction because Tennessee is a more appropriate forum; and
    - the child and at least one parent or person acting as a parent have a significant connection to Tennessee; or,
    - substantial evidence is available in Tennessee concerning the child’s care, protection, training and personal relationships.
- T.C.A. § 36-6-216(a)(1)&(2).

Also, pursuant to T.C.A. § 36-6-216(a)(3)&(4), a Tennessee court may exercise jurisdiction if:

- All states having jurisdiction pursuant to T.C.A. § 36-6-216(a)(1)&(2) decline to exercise jurisdiction because this state is the more appropriate forum; or
- No court in any other state has jurisdiction pursuant to T.C.A. § 36-6-216(a)(1)&(2).

### **C. Temporary Emergency Jurisdiction**

Pursuant to the UCCJEA, T.C.A. § 36-6-219 confers temporary emergency jurisdiction on the courts in Tennessee if the child is present in Tennessee, and:

- the child has been abandoned; or
- it is necessary in an emergency to protect the child; or
- a sibling or parent of the child is subjected to or threatened with mistreatment or abuse.

T.C.A. § 36-6-219(a).

If a child is present in this state and one of the above circumstances occurs, a Tennessee court may enter a temporary emergency order. If there is not a prior child custody determination enforceable under the UCCJEA and a proceeding has not been commenced in a court of another state having jurisdiction pursuant to the UCCJEA, the order remains in effect until an order is obtained from a court in another state having jurisdiction. If a proceeding is not commenced in a court in another state having jurisdiction, then the order becomes final if it so provides and Tennessee becomes the home state of the child. T.C.A. § 36-6-219(b).

When a prior child custody determination exists that is enforceable under the UCCJEA, or a custody proceeding has been commenced in a court of another state having jurisdiction, then the emergency order issued by the Tennessee court must specify an adequate period to allow the petitioner to obtain an order from a state having jurisdiction. The order issued in Tennessee remains in effect until the subsequent order is obtained within the period specified. If the order is not obtained within the period specified, the Tennessee order terminates upon expiration of the specified period. T.C.A. § 36-6-219(c).

T.C.A. § 36-6-219(d) requires a Tennessee court with temporary emergency jurisdiction to communicate with the court in another state where a child custody proceeding is

commenced or a custody determination has been made. Similarly, when a Tennessee court is exercising UCCJEA jurisdiction and another state obtains temporary emergency jurisdiction, the Tennessee court must communicate with the other court.

#### D. Continuing Jurisdiction

A Tennessee court that has made a determination as to the legal or physical custody or visitation of a child consistent with the UCCJEA has exclusive, continuing jurisdiction to modify its decree until:

- A Tennessee court determines that neither the child, nor the child and a parent or person acting as a parent have significant connections with Tennessee; and substantial evidence regarding the child's care, protection, training and personal relationships is no longer available in Tennessee; or
- A Tennessee court or court of another state determines that the child, parents or any person acting as a parent presently do not reside in Tennessee.

T.C.A. § 36-6-217(a).

Should one of these situations occur, and the Tennessee court no longer has continuing jurisdiction to modify its determination, that court may only make a modification if it currently has jurisdiction to make an initial determination, as described above. T.C.A. § 36-6-217(b). A modification is defined as determination of the legal or physical custody or visitation of a child that changes, replaces, supersedes or is made after a previous determination concerning the child, whether or not it is made by the same court that made the previous determination. T.C.A. § 36-6-205(11).

In the recent case of *In re Z.T.S.*, 2008 Tenn. App. LEXIS 71, No. E2007-00949-COA-R3-PT (Tenn. Ct. App. February 12, 2008), the Eastern Section Court of Appeals vacated the order of a Tennessee juvenile court that terminated the mother's parental rights. This case involves a child in custody of DCS and placed in Texas with a relative, pursuant to the ICPC. DCS, having custody of the child, filed a petition to terminate the mother's rights. The juvenile court granted the petition and the mother appealed. The mother conceded that the juvenile court had jurisdiction of the initial determination of dependency and neglect, but argued that the juvenile court did not have "exclusive, continuing jurisdiction" when the termination proceeding was commenced. *Id.* at \*6.

The child in this case was placed in the custody of DCS on an emergency removal petition and subsequently adjudicated dependent and neglected. Ten months after the adjudication, the juvenile court entered an order transferring physical custody of the child to an aunt in Texas after the Texas ICPC had approved the placement. DCS retained custody of the child and filed the termination proceeding 18 months later. The petition alleged the mother also lived in Texas. The father was unknown and his rights were terminated prior to the appeal. The Court found that though DCS retained legal custody of the child, it was not defined as "a person acting as a parent" as it did not have or had not had physical custody of the child for six consecutive months within one year immediately prior to the commencement of the termination proceeding, citing T.C.A. § 36-6-205(13)(A). Therefore, Tennessee had lost the continuing jurisdiction pursuant to T.C.A. § 36-6-217(a)(2), [e.g. A Tennessee court or court

of another state determines that the child, parents or any person acting as a parent presently do not reside in Tennessee.] *Id.* at \*10-11.

The Court then looked to subsection (b) of T.C.A. § 36-6-217 that provides once a state has lost jurisdiction under subsection (a), a modification of a determination may only be made if the state has initial custody determination jurisdiction pursuant to T.C.A. § 36-6-216. The Court held that, at the time the termination proceeding was filed, the juvenile court did not have initial custody determination jurisdiction as Tennessee was not the home state as defined, and a Texas court had not declined to exercise jurisdiction. *Id.* at \*11-14.

## **ICPC & UCCJEA IMPLICATIONS**

Article V(a) of the ICPC provides that the sending agency (i.e., court) shall retain jurisdiction over a child placed pursuant to the ICPC for the purpose of determining custody, supervision, care, treatment and disposition until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the receiving state. T.C.A. § 37-4-201. The Court of Appeals in *In re Z.T.S.* did not reference the ICPC in its analysis; though it is obvious from the opinion the Court was aware the child was placed out-of-state through the ICPC process. The facts of *In re Z.T.S.* were such that the child, his mother, the person acting as a parent and all relevant evidence concerning the child were in Texas, the father being unknown.

The implication of *In re Z.T.S.* on ICPC cases is not known, but it raises questions regarding the ICPC and UCCJEA. In the majority of ICPC cases, it is assumed that one parent will continue to reside in Tennessee so that the situation in subsection (2) of T.C.A. § 36-6-217(a) would not effect the exclusive, continuing jurisdiction of the juvenile court. However, subsection (1) may be applicable to many ICPC cases where:

- Neither the child, nor the child and one parent, nor the child and a person acting as a parent have a significant connection with Tennessee; and
- Substantial evidence is no longer available in Tennessee regarding the child's care, protection, training and personal relationships.

Another question arises as to whether a “modification” defined by T.C.A. § 36-6-205(11) includes the judicial reviews and permanency hearings required to be held for children in foster care. Modification is a child custody determination (i.e., physical or legal custody or visitation) that changes, replaces, supercedes or is otherwise made after the previous determination.

## ***Information Sharing, Testimony & Participation***

One issue required by the assessment of interstate placement of children is the sharing of information with courts in other states. T.C.A. § 36-6-213 provides that a Tennessee court may communicate with an out-of-state court in UCCJEA proceedings. The court has discretion to allow the parties to participate in the communication, and must notify the parties promptly of the communication. If the parties are not able to participate they must be provided an opportunity to present facts and legal arguments before a decision is entered

regarding jurisdiction. A record must be made of the communication and the parties must be provided access to the record. The courts may communicate about scheduling issues, court records, and similar matters without informing the parties or making a record.

A Tennessee court may request a court in another state to:

- Hold an evidentiary hearing.
- Order a person to produce or give evidence.
- Order an evaluation in regard to custody of a child.
- Forward to the Tennessee court a certified copy of a transcript of the record of the hearing or the evaluation.
- Order a party to the proceeding or any person with physical custody of the child to appear with or without the child.

T.C.A. § 36-6-215.

The assessment also requires an analysis of methods to obtain information and testimony from agencies and parties, and allow participation by parents, children, other necessary parties and attorneys, without requiring interstate travel. In UCCJEA proceedings:

- Parties and witnesses residing out-of-state may testify through deposition, telephone, audiovisual means or other electronic means before a designated court or at another location in the other state. T.C.A. §. 36-6-214(a) & (b).
- Documentary evidence transmitted by technological means to the Tennessee court from another state may not be excluded based on an objection that the original writing is not produced. T.C.A. §. 36-6-214(c).

Tennessee Code Annotated, Title 24, Chapter 9 was amended in April 2008 by designating the existing language as Part 1 and by adding the Section 24-9-201 to be known as the “Uniform Interstate Depositions and Discovery Act”. Rules governing interstate depositions vary from state to state. The Uniform Interstate Depositions and Discovery Act provides procedures to enable a party in one state to effectuate depositions of witnesses, discover documents, or inspect premises in other states. The goal is to simplify and standardize the current procedures across the various states for deposing witnesses for purposes of out-of-state litigation. This Act has been enacted only in Tennessee, Maryland, Colorado and Utah.

The Tennessee Rule of Civil Procedure Rule 30.02 permits the court to order and alternatively, the parties to stipulate, that the testimony at a deposition will be recorded by other than stenographic means, and that a deposition may be conducted by telephone. In addition, a party has a right to record a deposition by video tape without a stenographic record. Neither a court order nor the consent of other parties is necessary. The video tape is the official record of the deposition. The Rule provides for the procedure that must be applied when taking an audio-visual deposition.

The Tennessee Rules of Evidence Rule 804 and Rules of Civil Procedure Rule 32 provide that a deposition of a witness, whether or not a party to the proceeding, may be admitted for any purpose if the court finds the witness is unavailable. “Unavailability” includes situations

where the witness' appearance cannot be procured by process, or the witness is more than 100 miles from the location of the trial. This does not apply to a discovery deposition taken of an expert.

Rule 25 of the Tennessee Rules of Juvenile Procedure provides that parties in dependent, neglect and abuse cases have access to information which would be available through discovery in the circuit court. However, the means to acquire discovery is to be provided by local rule, informal or otherwise, as is appropriate for the individual juvenile court. If a proceeding involves the UCCJEA or termination of parental rights, then the Rules of Civil Procedure regarding discovery apply.

The Tennessee Rules of Civil Procedure Rule 5A.02 provides that the trial court clerk shall accept papers for filing by facsimile, and that the trial court clerk shall maintain a dedicated telephone line for its facsimile machine. Documents excluded from facsimile filing are pleadings, summons, wills, a confidential document ordered previously by the court to be filed under seal, and a notice of appeal. The filing of the original document shall not be required after facsimile filing. This Rule applies to UCCJEA or termination of parental rights cases but would not apply to dependency, neglect or abuse proceedings.

Rule 901 of the Tennessee Rules of Evidence states the requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to the court to support a finding that the matter in question is what its proponent claims. Tennessee Rules of Evidence 901 provides examples of authentication or identification of documents, including public records or reports. Rule 902 provides for documents that are self-authenticating.

Tennessee Supreme Court Rule 19 permits an attorney, who is licensed and authorized to practice law in another United States jurisdiction, and who resides outside Tennessee, to practice in Tennessee. Out-of-state attorneys may be permitted to appear *pro hac vice*, file pleadings, motions, briefs, and other papers; and to fully participate in a particular proceeding before a trial or appellate court of Tennessee. A lawyer seeking admission under this Rule must file a motion in the court before which the lawyer seeks to appear not later than the first occasion on which the lawyer files any pleading or paper with the court or otherwise personally appears. Out-of-state attorneys extended the courtesy to practice in Tennessee are required to adhere to the same obligations and responsibilities placed on licensed in-state attorneys and must consent to be bound by the Tennessee Rules of Professional Conduct. They also must comply with all of the requirements of Tennessee Supreme Court Rule 19.

Tennessee recently passed an amendment to T.C.A. § 37-2-409. Effective July 1, 2008 all children in foster care shall be present for the permanency hearing. There are two exceptions to the child being present: (1) the child is under a doctor's care preventing attendance or (2) the child is placed outside the state. For all children, absent or present, evidence shall be presented as to the child's progress and needed services. If the child is absent, the court shall require the guardian ad litem, DCS case manager or other case manager for the child to attest that the child participated in the development of the permanency plan or has been counseled on the provisions of the permanency plan, if age appropriate. In the child's absence, evidence shall be presented as to the child's progress and needed services.



*Department of Children's Services Policies and Procedures on ICPC*

DCS applies the *Administrative Policies and Procedures: 1.30, Interstate Compact on the Placement of Children* and the *Interstate Compact on the Placement of Children Practices and Procedures Manual* for an inter-jurisdictional placement of a child into or outside of Tennessee. The policy provides for cooperation with other member states to the ICPC; and administration of ICPC in accordance with the specified mandates of TCA § 37-4-201, *et. seq.*, and the Safe & Timely Interstate Placement of Children in Foster Care Act of 2006, by DCS staff, its private providers and contract vendors. All ICPC requests are administered and processed through DCS Office ICPC (TN ICPC). In accordance to Article VII, the Commissioner of DCS is the designated Compact Administrator of the Compact who appoints a DCS ICPC Deputy Compact Administrator who is responsible for the day-to-day operation of ICPC.

The TN ICPC is the clearinghouse for all referrals and other documents regarding children subject to compliance with the Compact and with the Safe and Timely Interstate Placement of Children in Foster Care Act of 2006.

The interstate placement processes that follow govern temporary court wards, who do not qualify for Indian Child Welfare Act provisions. DCS ICPC requires that notice be sent to tribes when a child may qualify under the Indian Child Welfare Act.

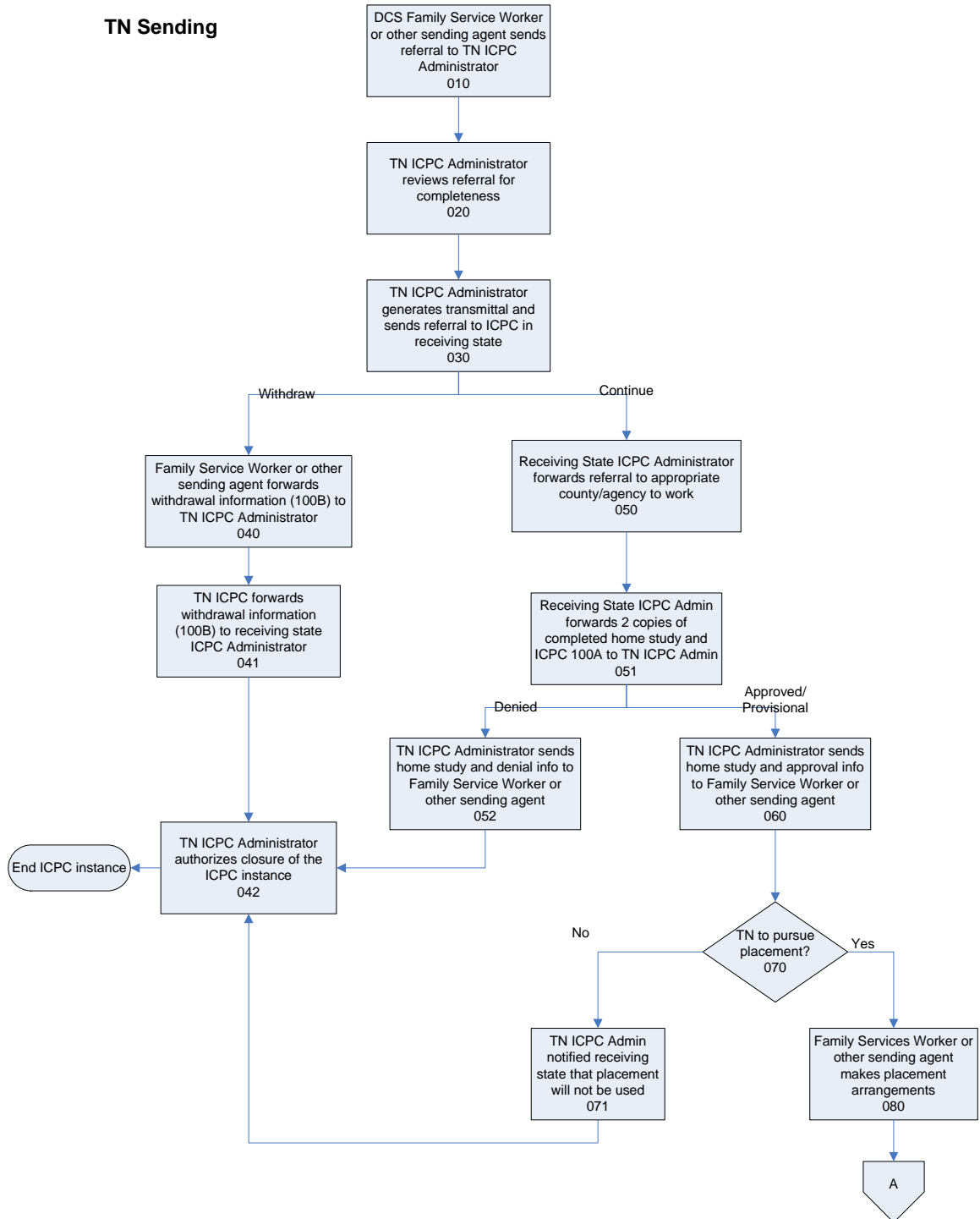
**ICPC PROCESS - TENNESSEE AS SENDING STATE**

- A resource is identified as a potential out-of-state placement option.
- The DCS caseworker initiates the interstate placement request, or a court orders interstate placement initiation. The caseworker sends to the TN ICPC office the initial referral packet which must include:
  - ICPC Form 100A for each child for each placement resource and a letter summarizing the child's current situation and permanency plan, indicating why out-of-state placement is sought, specific concerns to be evaluated by the receiving state, and details of the potential placement's ability to care for the child.
  - Family Functional Assessment and Guide or current social history
  - Custody order indicating the child's legal status and agency having legal custody; and other pertinent court documents.
  - Current permanency plan
  - Financial/Medical plan
  - DCS education passport with all supporting documents, including Individual Education Plan, as appropriate, and
  - Well-Being History/Information
- TN ICPC protocol is to process requests within 3 business days by reviewing and determining if the referral is complete and sends the request to the receiving state ICPC. If TN ICPC finds the request is not complete it is transmitted back to the person requesting ICPC with a notice of which documents are needed for completion. The TN ICPC office initiates the start date of the referral for at the time the file is complete.

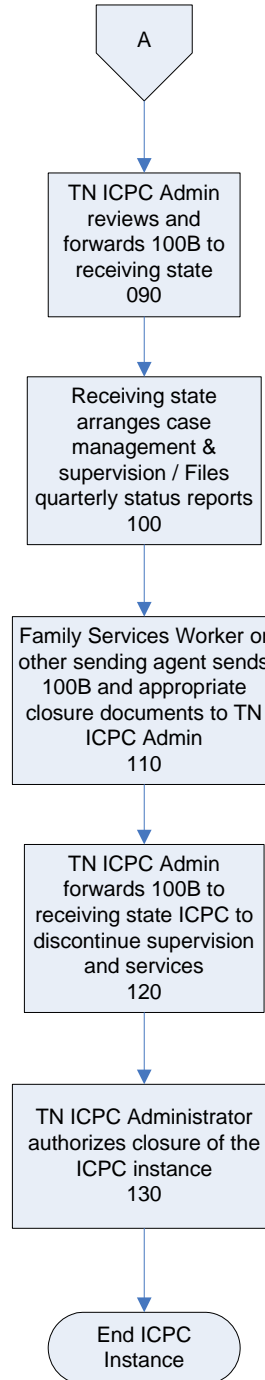
- The receiving state ICPC sends the request to local office to complete a home study in accordance with its state laws. If a child is eligible for Medicaid under Title IV-E the home must be certified eligible for that purpose and must include a criminal background check and fingerprint checks of all adults living in the proposed placement, and training for the proposed caregiver. The Safe and Timely Interstate Placement of Children in Foster Care Act requires the receiving state to complete the home study within 60 to 75 days. A local background check is required. Expedited home studies that do not include a complete criminal background check and training will not qualify the placement for federal funds. A state would have to provide a board payment from state funds until those requirements are met.
- The receiving state local office sends assessment results to its state ICPC office. The receiving state decides if the placement is approved. A placement cannot be approved if it is contrary to the child's best interest.
- The receiving state sends the assessment results and approval or denial to TN ICPC.

Diagram 1 below illustrates the ICPC process when Tennessee is the sending state.

DIAGRAM 1



**TN Sending**

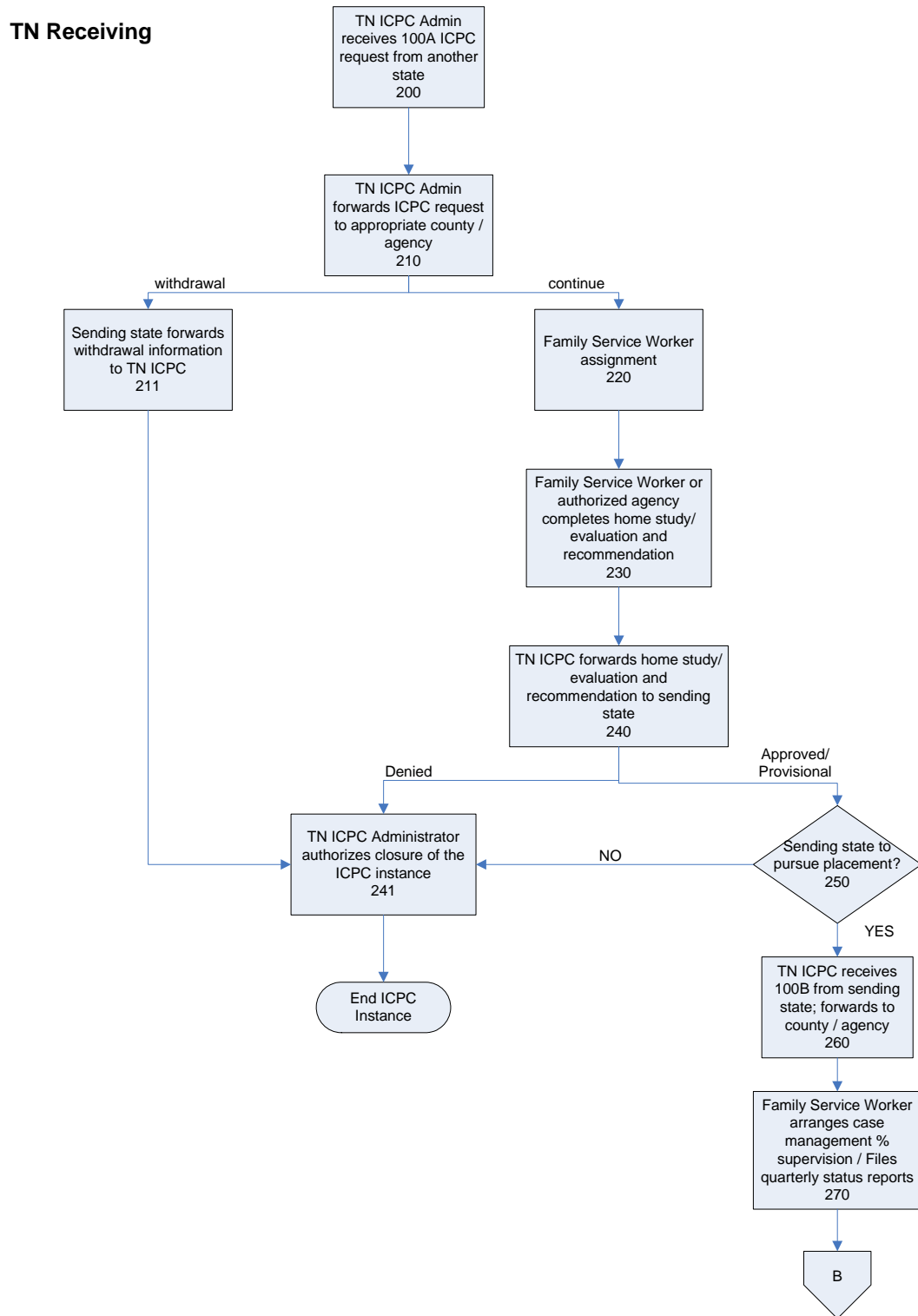


## ICPC PROCESS -TENNESSEE AS RECEIVING STATE

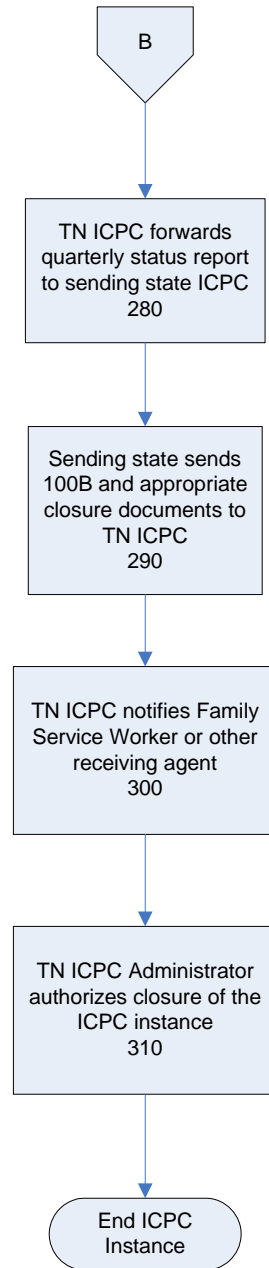
- The DCS ICPC office receives a placement request from the sending state.
- The referral received from another state is to contain the same minimal documents as required by Tennessee when it is the sending state. The TN ICPC office reserves the right to request additional or supporting information from the sending state prior to processing the referral.
- All documents received are reviewed, registered, documented and as appropriate processed within 3 working days.
- The Tennessee ICPC office enters all ICPC referrals received from other states into TNKIDS ICPC intake with demographics on each child and assigns the referral electronically to the TNKIDS unassigned pool for the county of residence of the placement resource. Tennessee ICPC authorizes the entry of the resource home as an “inquiry” in TNKIDS, establishing the resource in the TNKIDS resource home listing.
- TN ICPC office enters each intake in the TN ICPC ACCESS system. In addition, the TN ICPC office processes the paper referral to the Regional designee by regular mail or UPS unless otherwise specified.
- The local office in Tennessee conducts the home study evaluation in accordance to TN DCS Foster Policy, either 16.20 or 16.4, depending on the type of evaluation requested (e.g., parent, relative, foster family ,or adoptive home evaluation). The TN ICPC office is the authorizing agent to issue a decision regarding placement of a child into TN under the ICPC. The study or report serves as a basis for that decision.
- Within 2 working days of receipt of the study or report, TN ICPC will issue a decision on the ICPC Form 100A and submit notice of the decision to the sending state ICPC office. Approval will be granted if the placement is not contrary to the child's best interest. TN ICPC notifies the TN DCS or the appropriate party by submitting a copy of the ICPC Form 100A.

Diagram 2 below illustrates the ICPC process when Tennessee is the receiving state.

DIAGRAM 2



TN Receiving



## **ICPC DATA COLLECTION**

The TN ICPC office utilizes the ICPC ACCESS database to compile statistical information regarding all referrals and placements under the ICPC. Due to a system crash in October, 2007, the TN ICPC office lost data on 4400 cases. The reason for the loss of data has not been identified nor fully resolved with technical support.

The Department of Children's Services made plans to transfer the ICPC data files to the TNKIDS database system in September 2005. However in August, 2005 the ICPC office was informed that this would not occur due to the eventual move to the SACWIS system. The ICPC data was not given priority with the state database as there were no federal dollars to gain or lose and there was no federal mandate requiring that the data be maintained. In 2006, the Safe and Timely Interstate Placement of Children in Foster Care Act requirement regarding completion of home studies was added to the ICPC, but there was still no federal money to implement data collection.

The ICPC office ran the original prototype of the ACCESS database program, which was created by Indiana. Although several upgrades were available through the years, the TN ICPC office was unable to upgrade due to other budgetary priorities at the state level. TN ICPC office has had extremely limited web support over the past ten years, although there has been limited improvement in the past three months.

With the ICPC system crash in October, 2007 and the loss of 4400 cases, the web support team was able to recover some data from the server. The time period June 1, 2006 and November 1, 2007 was completely lost and much of the data for the past ten years is missing as well. In the spring of 2008, some of the data was recovered. Little priority has been given to tracking the lost data.

Technical support pulled recovered data in April and May 2008. During that one month time period, eighty to ninety cases were lost. Therefore, the integrity of the system is still extremely flawed. Currently there are no plans in place to repair the system, especially since \$73 million dollars of federal funding has been discontinued. Business maps are available for the TFACTS (Tennessee Family and Children Tracking System) - SACWIS system. However, TFACTS is still in the development stages and roll out of that system is not anticipated for two years. When the TFACTS system becomes available for the TN ICPC office, the new cases will be input. The pending cases at that time will not be transferred.



## Chapter

## 3

## Data Collection

All states, including Tennessee, were to assess the Interstate Compact on the Placement of Children (ICPC) and determine the system practices that need to change in order to expedite ICPC cases. Delays occur at many stages of an ICPC case and involve numerous partners in the dependency system. Statewide information regarding the ICPC was collected through surveys of key stakeholder groups in the child welfare system in Tennessee. The stakeholder groups included juvenile court judges, Department of Children's Services (DCS) attorneys, private attorneys (guardians ad litem [GALS], children's attorneys and parents' attorneys), ICPC specialists within DCS and CASA directors.

Many of the questions were asked of several, if not all, of the stakeholder groups. The results were compiled so that common questions across the groups are presented together. If a response group is not presented in a table below, they were not asked a related question. Occasionally, the results are discussed via population groups as indicated by the survey participants. It is to be assumed that if there is no discussion of population group differences, no notable differences existed in the data.

The Court Improvement Program (CIP) also planned to collect data through ICPC file reviews. This request was denied by DCS based on its interpretation of federal and state confidentiality laws.

*Methodology*

In April and May of 2008, juvenile court judges, Department of Children's Services (DCS) attorneys, private attorneys (GAL's, children's attorneys and parents' attorneys), ICPC specialists within DCS and CASA directors were surveyed to gain multiple perspectives on the functioning of ICPC in Tennessee. The following table lists the response rates by the various participants to the surveys in this assessment:

<b>Respondents</b>	<b>Number of Surveys Sent</b>	<b>Number of Responses</b>	<b>Response Rate</b>
Judges	96	46	48%
DCS Attorneys	75	28	37%
Private Attorneys	597	235	39%
ICPC Specialists	39	27	69%
CASA directors	22	19	86%

The questionnaires contained common sections and items, as well as questions targeted to each respondent group. Each questionnaire was pilot-tested by members of the analogous stakeholder group.

*Results of Surveys*

**Survey Participant Demographics**

Table 1 displays the years of experience survey respondents have in their current positions. Sixty-seven percent (67%) of judges, 75% of DCS attorneys, 71% of private attorneys and 84% of CASA directors indicated having 10 or fewer years of experience in their current positions.

**Table 1: Years of Experience**

	Judges	DCS Attorneys	Private Attorneys	CASA Directors
Less than a year	0.0%	3.6%	11.9%	10.5%
1-5 years	32.6%	<b>39.3%</b>	<b>40.9%</b>	<b>52.6%</b>
6-10 years	<b>34.8%</b>	32.1%	18.3%	21.1%
11-15 years	8.7%	3.6%	13.6%	10.5%
16-20 years	10.9%	10.7%	4.7%	5.3%
More than 20 years	13.0%	10.7%	10.6%	0.0%
Response Count	46	28	235	19

DCS attorneys and ICPC specialists were asked to indicate the DCS region in which their office is located. Table 2 lists the percentages of each that responded from the 12 DCS regions. No DCS attorneys responded from the Shelby or Southeast regions and nearly 27% of the respondents were from the Davidson region. ICPC specialists from all regions responded to the survey with the most (19%) from the Upper Cumberland region.

**Table 2: DCS Regions of Survey Respondents**

DCS Region	DCS Attorneys	ICPC Specialists
1) Davidson	<b>26.9%</b>	7.7%
2) East Tennessee	11.5%	7.7%
3) Hamilton	11.5%	3.8%
4) Knox	15.4%	7.7%
5) Mid-Cumberland	3.8%	3.8%
6) Northeast	11.5%	11.5%
7) Northwest	3.8%	7.7%
8) Shelby	0.0%	3.8%
9) South Central	3.8%	11.5%
10) Southeast	0.0%	11.5%
11) Southwest	3.8%	3.8%
12) Upper Cumberland	3.8%	<b>19.2%</b>
Response Count	26	26

Table 3 lists the grand divisions, or areas of the state, that the judicial, private attorney and CASA director respondents were from. Nearly 60% of the judges and CASA directors who responded to the survey were from Middle Tennessee. Private attorney respondents were more evenly distributed with 41% from East Tennessee, 33% from Middle Tennessee and 27% from West Tennessee.

**Table 3: Tennessee Grand Divisions of Survey Respondents**

	Judges	Private Attorneys	CASA Directors
East	25.9%	<b>40.5%</b>	35.7%
Middle	<b>59.3%</b>	32.5%	<b>57.1%</b>
West	14.8%	27.0%	7.1%
Response Count	27	126	14

All survey respondents were asked to indicate what they would consider the population to be for the county where their office is located; either greater or less than 100,000 people. The distribution of respondents from both population groups was remarkably even. Table 4 lists the percentages from each group for judges, DCS attorneys, private attorneys, ICPC specialists and CASA directors.

**Table 4: Population of the County of Respondent**

	Judges	DCS Attorneys	Private Attorneys	ICPC Specialists	CASA Directors
Under 100,000 people	<b>55.6%</b>	46.2%	48.4%	50.0%	<b>57.1%</b>
Over 100,000 people	44.4%	<b>53.8%</b>	<b>51.6%</b>	50.0%	42.9%
Response Count	27	26	126	26	14

**ICPC Case Involvement**

Table 5 displays data for the number of ICPC cases judges, DCS Attorneys, private attorneys and CASA directors have been involved in. The most frequent response from judges and DCS attorneys was “more than 20” with 39% of judges and 61% of DCS attorneys indicating so. Private attorneys and CASA directors indicated “1 to 5 cases” as their most frequent response 36% and 42% of the time, respectively. Respondents with zero ICPC case experience were not asked any more survey questions.

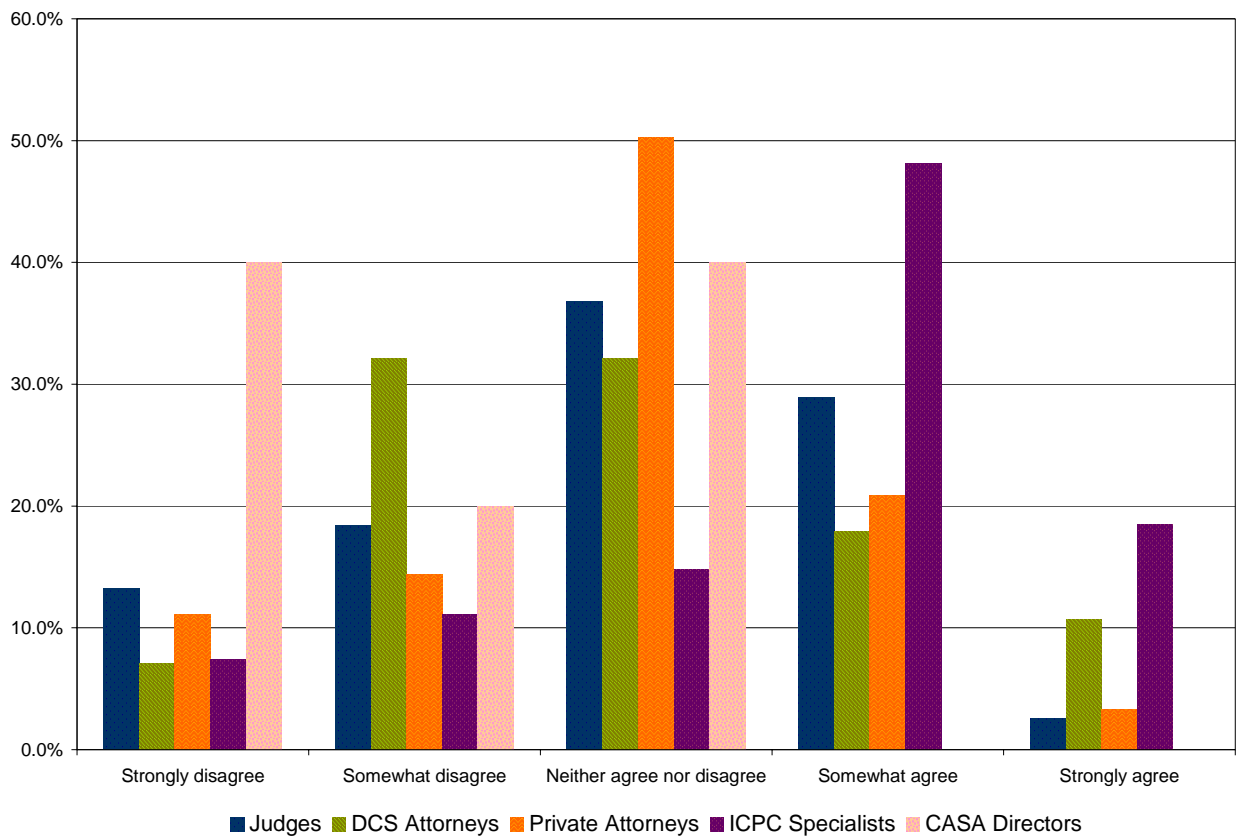
**Table 5: Number of ICPC Case Involvement**

	Judges	DCS Attorneys	Private Attorneys	CASA Directors
Zero cases	17.4%	0.0%	31.9%	21.1%
1 to 5 cases	15.2%	0.0%	<b>36.2%</b>	<b>42.1%</b>
6 to 10 cases	23.9%	21.4%	12.8%	15.8%
11 to 20 cases	4.3%	17.9%	7.7%	5.3%
More than 20	<b>39.1%</b>	<b>60.7%</b>	11.5%	15.8%
Response Count	46	28	235	19

Judges, DCS attorneys, private attorneys, CASA directors and ICPC specialists were all asked the level to which they agreed with the statement, “Within the last five years, I have seen improvement in the manner in which ICPC cases are processed.” To that statement, over half of all respondents except for ICPC specialists “neither agreed nor disagreed” or “somewhat disagreed.” Seven percent (7%) to 40% more strongly disagreed with it. Nearly 70% of ICPC specialists “somewhat” or “strongly agreed” that there had been improvement in how ICPC cases were processed. Figure 1 displays the percentages of the responses regarding improvement in ICPC cases.

Responses from participants who indicated they practice in counties with more than 100,000 people were compared to those who indicated less than 100,000 people. Differences emerged for judges and DCS attorneys. Those from larger population counties were more likely to indicate improvement in the manner in which ICPC cases were processed. Fifty-eight percent (58%) of judges and 43% of DCS attorneys from counties with populations greater than 100,000 stated that they "somewhat agree" or "strongly agree" with the statement that they have seen improvement. Only 20% of judges and 17% of DCS attorneys from counties with less than 100,000 indicated the same.

**Figure 1: Level of Agreement with the statement: I have seen improvement in the manner in which ICPC cases are processed**



DCS attorneys were asked to identify the party that informs the judicial officer that a case requires ICPC approval. Table 6 displays how often DCS attorneys recorded that caseworkers, DCS attorneys, GALs/child's attorneys and CASA informed the judicial officer of a case requiring such. DCS attorneys rate themselves followed by caseworkers as informing judicial officers most often. When others were asked if they ever brought to the attention of the court that a case requires ICPC approval, 67% of CASA directors and 77% of private attorneys indicated that they had done so. CASA directors and private attorneys were not asked what percentage of the time.

**Table 6: Percentage of Each Party that Notifies the Judicial Officer that a Case Requires ICPC Approval as Identified by DCS Attorneys**

	<b>Caseworker/ Supervisor</b>	<b>DCS Attorney</b>	<b>GAL/Child's Attorney</b>	<b>CASA</b>
None of the time	0.0%	0.0%	6.3%	<b>50.0%</b>
Less than 25% of the time	<b>31.8%</b>	11.1%	<b>56.3%</b>	28.6%
25% - 49% of the time	18.2%	11.1%	0.0%	7.1%
50% - 74% of the time	22.7%	11.1%	18.8%	0.0%
75% - 100% of the time	27.3%	<b>66.7%</b>	18.8%	14.3%
Response Count	22	27	16	14

**Delay in ICPC Cases**

Of all survey respondents, 84% indicated that cases were delayed due to the ICPC process. DCS attorneys, private attorneys, CASA directors and ICPC specialists were asked how often cases were delayed due to the ICPC process. Eighty-six percent (86%) of DCS attorneys, 77% of private attorneys and 83% of CASA directors reported that cases are delayed 50% - 100% of the time due to the ICPC process. Fifty-two (52%) of ICPC specialists reported the same. Table 7 displays more detailed percentages of cases delayed due to the ICPC process.

**Table 7: Percentage of Cases Delayed due to the ICPC Process**

	<b>DCS Attorneys</b>	<b>Private Attorneys</b>	<b>ICPC Specialists</b>	<b>CASA Directors</b>
75% - 100% of the time	<b>42.9%</b>	<b>52.3%</b>	17.4%	<b>50.0%</b>
50% - 74% of the time	<b>42.9%</b>	24.8%	<b>34.8%</b>	33.3%
25% - 49% of the time	7.1%	12.8%	26.1%	8.3%
Less than 25% of the time	7.1%	10.1%	21.7%	8.3%
Response Count	28	109	23	12

DCS attorneys, private attorneys, CASA directors and ICPC specialists were asked to rate on a 4-point Likert-type scale potential reasons for delay in ICPC cases from “no cause for delay” to “significant cause for delay”. Tables 8 through 18 list their responses. “Delay by the Receiving State ICPC office processing the referral and sending it to their county agency for the Home Study to be done” (Table 9) and “Delay in the Home Study being done by the county in the Receiving State” (Table 10) were consistently identified as frequent or significant causes for delay.

**Table 8: Delay by the Receiving State ICPC office processing the referral and sending it to their county agency for the Home Study to be done**

	No cause for delay	Seldom cause for delay	Frequent cause for delay	Significant cause for delay	Response Count
DCS Attorneys	0.0%	21.7%	<b>69.6%</b>	8.7%	23
Private Attorneys	4.2%	16.7%	<b>46.9%</b>	32.3%	84
CASA Directors	0.0%	0.0%	<b>50.0%</b>	<b>50.0%</b>	8
ICPC Specialists	0.0%	19.0%	<b>47.6%</b>	33.3%	21

**Table 9: Delay in the Home Study being done by the county in the Receiving State**

	No cause for delay	Seldom cause for delay	Frequent cause for delay	Significant cause for delay	Response Count
DCS Attorneys	0.0%	4.0%	<b>72.0%</b>	24.0%	25
Private Attorneys	8.2%	12.4%	36.1%	<b>43.3%</b>	78
CASA Directors	0.0%	9.1%	36.4%	<b>54.5%</b>	11
ICPC Specialists	0.0%	0.0%	<b>61.9%</b>	38.1%	21

As indicated on Tables 10 through 13, private attorneys and CASA directors most often rated the reasons listed as frequent causes for delay while DCS attorneys and ICPC specialists most often rated the reasons as seldom causes for delay. The reasons rated as frequent causes for delay by private attorneys and CASA directors are:

- Delay in processing the referral and sending it to the receiving state ICPC office.
- The need by the Tennessee ICPC offices to return the ICPC referral to DCS for additional information.
- Delay in the preparation of the ICPC referral to send to the Tennessee ICPC office.
- The need by the receiving state ICPC office to return the referral to the Tennessee ICPC office for additional information.

**Table 10: Delay in processing the referral and sending it to the Receiving State ICPC Office**

	No cause for delay	Seldom cause for delay	Frequent cause for delay	Significant cause for delay	Response Count
DCS Attorneys	10.0%	<b>65.0%</b>	25.0%	0.0%	20
Private Attorneys	17.2%	26.4%	<b>43.7%</b>	12.6%	81
CASA Directors	25.0%	0.0%	<b>50.0%</b>	25.0%	8
ICPC Specialists	0.0%	<b>78.3%</b>	17.4%	4.3%	23

**Table 11: The need by the TN ICPC office to return the ICPC referral to DCS for additional information**

	No cause for delay	Seldom cause for delay	Frequent cause for delay	Significant cause for delay	Response Count
DCS Attorneys	15.0%	<b>70.0%</b>	15.0%	0.0%	20
Private Attorneys	28.4%	30.9%	<b>32.1%</b>	8.6%	96
CASA Directors	0.0%	30.0%	<b>40.0%</b>	30.0%	10
ICPC Specialists	9.1%	<b>63.6%</b>	27.3%	0.0%	22

**Table 12: Delay in the preparation of the ICPC referral to send to the TN ICPC Office**

	No cause for delay	Seldom cause for delay	Frequent cause for delay	Significant cause for delay	Response Count
DCS Attorneys	12.5%	<b>45.8%</b>	41.7%	0.0%	24
Private Attorneys	12.2%	22.4%	<b>49.0%</b>	16.3%	87
CASA Directors	8.3%	0.0%	<b>50.0%</b>	41.7%	12
ICPC Specialists	8.7%	<b>43.5%</b>	30.4%	17.4%	23

**Table 13: The need by the Receiving State ICPC office to return the referral to the TN ICPC office for additional information**

	No cause for delay	Seldom cause for delay	Frequent cause for delay	Significant cause for delay	Response Count
DCS Attorneys	4.0%	<b>64.0%</b>	24.0%	8.0%	25
Private Attorneys	21.4%	25.0%	<b>38.1%</b>	15.5%	97
CASA Directors	0.0%	10.0%	<b>60.0%</b>	30.0%	10
ICPC Specialists	14.3%	<b>52.4%</b>	33.3%	0.0%	21

Because ICPC specialists have unique system specific experience compared to the others surveyed, they also rated “Delay in receiving medical information on the resource home” (Table 14) and “Delay due to training of resource parents” (Table 15) as potential causes for delay. ICPC specialists most often (54%) indicated that delay in receiving medical information was seldom a cause for delay; however 32% did indicate that it was a frequent cause. Further analysis revealed that ICPC specialists from larger population counties were more likely to state that receiving medical information on the resource home was a frequent cause of delay. Table 19 displays that 77% of ICPC specialists felt that training of resource parents is a frequent or significant cause of delay.

**Table 14: Delay in receiving medical information on the resource home**

	No cause for delay	Seldom cause for delay	Frequent cause for delay	Significant cause for delay	Response Count
ICPC Specialists	13.6%	<b>54.5%</b>	31.8%	0.0%	22

**Table 15: Delay due to training of resource parents**

	No cause for delay	Seldom cause for delay	Frequent cause for delay	Significant cause for delay	Response Count
ICPC Specialists	4.5%	18.2%	<b>54.5%</b>	22.7%	22

Other reasons for delay reported by respondents were the problems associated with Tennessee ICPC office/DCS and the receiving state, bureaucratic tie-ups, communication issues and that the respondents do not know or do not have access to what the reasons for delay are. Notable statements regarding reasons for delay include:

- “the whole darn beaurocratic (sic) nonsense . . . it just takes time to route from local to state to state to local and back. It's maddening.”
- “The ICPC office in Tennessee is COMPLETELY unresponsive to inquiries by private counsel/Guardians ad litem. I have never had the ICPC office return a call to me, nor answer the telephone directly. A secretary takes a message and no return telephone call is ever made. Ever. I have stopped calling because it s a complete waste of time.”
- “As the GAL, I'm seldom told why there is a delay and I'm usually advised that the delay is the normal turn around time for an ICPC request.”
- “Receiving state declined to complete the request and alternative means of assessments had to be obtained.”
- “Lack of communication between the agencies involved.”
- “Lack of knowledge of the ICPC process in receiving state.”

Three items asked on the survey were typically not indicated to be reasons for delay:

- Delay in receiving background checks.
- Negotiations between the two ICPC offices regarding issues of concern found by the home study.
- Delay in entry of the court order placing the child in care.

A majority of the respondents stated that “no action was taken” or they “don’t know” when asked what the court did when ICPC cases were delayed. The most frequent action noted by judges was for the court to call the Tennessee ICPC office. Thirty-one percent (31%) of the judicial respondents indicated calling the Tennessee ICPC office as their action when cases were delayed. Figure 2 displays the court actions identified by survey respondents when ICPC cases were delayed. Survey respondents also stated that DCS either took action or was instructed by the court to take action with delayed ICPC cases. One of the private attorney respondents said that the court “has even called congressmen!!” due to delayed cases.

**Figure 2: Court Action when Cases are Delayed**

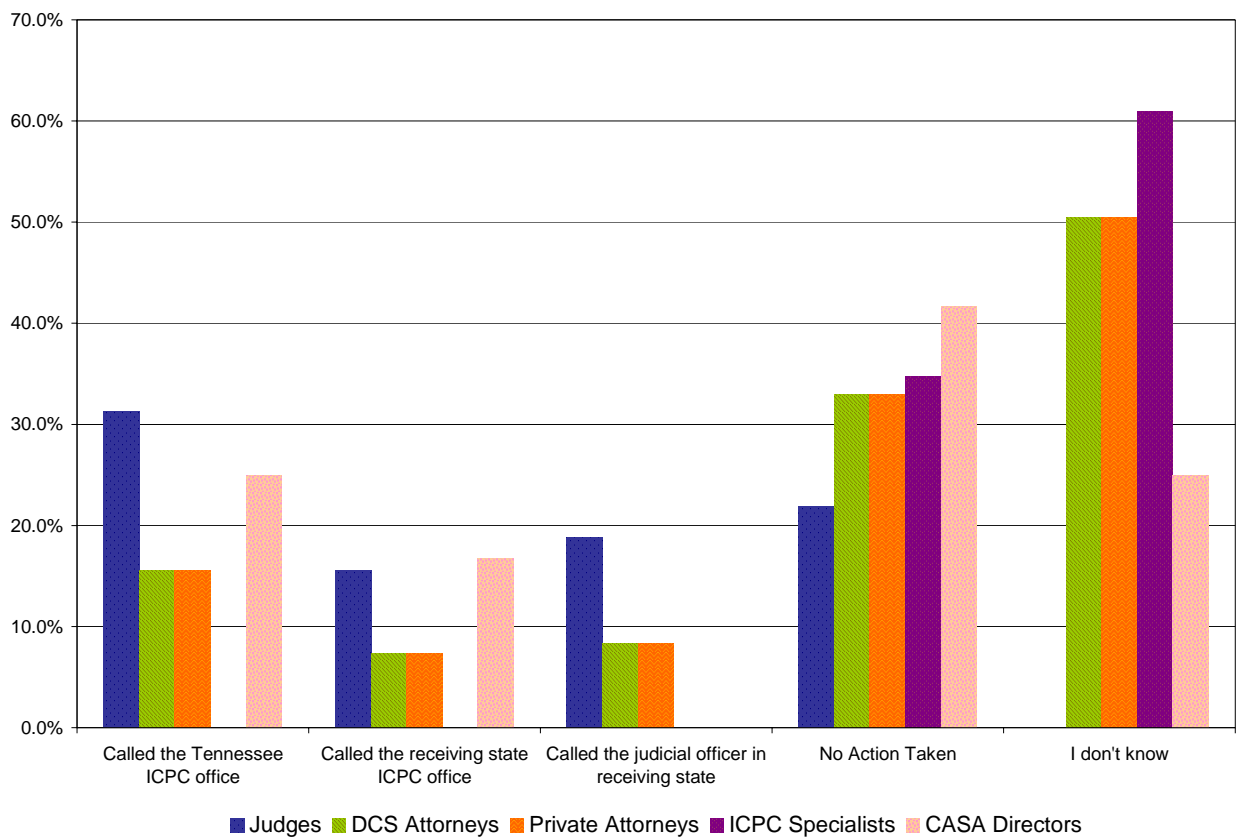


Table 16 displays the level of cooperation judges received when contacting ICPC offices in Tennessee, ICPC offices in receiving states and judicial officers in receiving states. Most reported “no contact” with any of the stated entities. Of those that had communicated, a mix of consistent and inconsistent cooperation was reported.



**Table 16: Response to Judges from Communicating with ICPC Office or Judicial Officers in Other States**

	Consistent cooperation	Inconsistent cooperation	No cooperation	No contact	Response Count
In the Tennessee ICPC Office	24.1%	13.8%	3.4%	<b>58.6%</b>	29
From Receiving State ICPC Office	0.0%	25.9%	0.0%	<b>74.1%</b>	27
From judicial officers in Receiving State	15.4%	11.5%	3.8%	<b>69.2%</b>	26

Similar to the responses in Table 16, when asked about contact with the Tennessee ICPC office, the receiving state ICPC office or the judicial officer in the receiving state, half of Tennessee judges stated that they had never contacted anyone regarding ICPC cases. Twenty percent (20%) of the judges replied that counsel was allowed to be present during any phone call to obtain information on ICPC progress. Two of the judges stated that a written report was provided to the parties and/or counsel of the results of the phone call and what was discussed. Table 17 displays judicial contact information. Other responses judges gave included:

- “I received email correspondence between our DCS staff and ICPC only; I never received anything from the receiving state.”
- “When discussed in court, no one asked to be present.”
- “I have the case manager or the DCS worker do the contact.”
- “I have required DCS to document efforts to get investigations done timely.”
- “Call to TN ICPC office to verify local office was followed through.”
- “ICPC issues are addressed in Court hearings with the parties, their attorneys, and the TN DCS

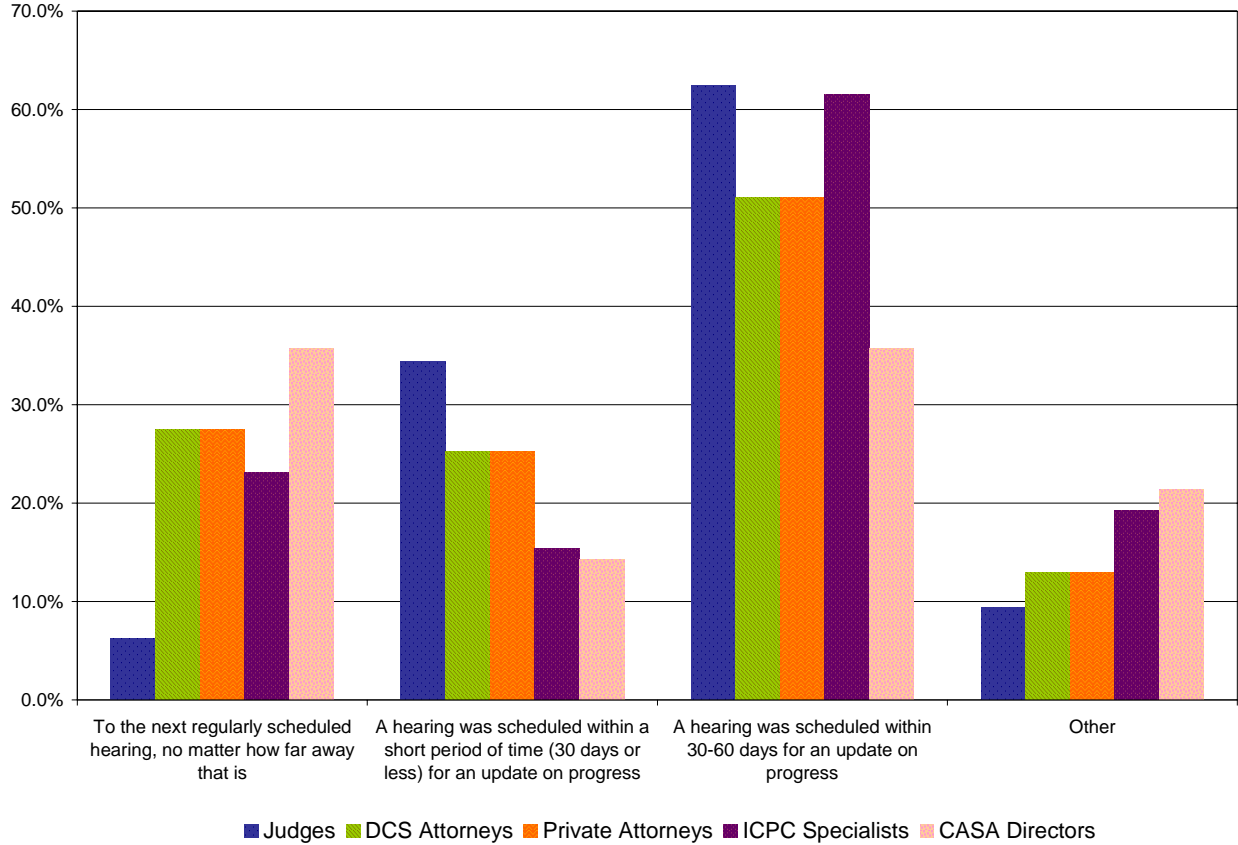
**Table 17: Percent of Judges Reporting on Contact with the Tennessee ICPC Office, the Receiving State ICPC Office or the Receiving State Judicial Officer**

Counsel was allowed to be present during any phone call to obtain information on ICPC progress	20.0%
No one was allowed to be present during phone call to obtain information on ICPC progress	3.3%
A written report was provided to the parties and/or counsel of the results of the phone call and what was discussed	6.7%
Not applicable – have never contacted anyone regarding ICPC cases	<b>50.0%</b>
Other	26.7%
<b>Response Count</b>	<b>30</b>

All survey respondents were asked to identify when cases were continued to, if cases were delayed in order for the ICPC process to be completed. Figure 3 displays their responses.

Over half of all participants except for CASA directors reported that “a hearing was scheduled within 30-60 days for an update on progress”.

**Figure 3: When Delayed Cases were Continued to by the Court**



Survey participants were asked to rate themselves and the other participants as to how often each asked for early review regarding any ICPC matter. Table 18 displays the frequencies of requests for early reviews. Each entity rated themselves as making early review requests the most often. Judges were also asked as to which participant(s) requested early reviews and responded that GAL/child’s attorneys (86%) and parent’s attorneys (79%) most often made the requests.

**Table 18: Frequencies of Requests for Early Review Regarding Any ICPC Matter**

**According to DCS Attorneys**

	<b>75% - 100% of the time</b>	<b>50% - 74% of the time</b>	<b>25% - 49% of the time</b>	<b>Less than 25% of the time</b>	<b>None of the time</b>	<b>Response Count</b>
DCS Attorney	23.1%	<b>30.8%</b>	19.2%	23.1%	3.8%	26
GAL/Attorney for Child	20.0%	12.0%	20.0%	<b>36.0%</b>	12.0%	25
Parent Attorney	16.7%	16.7%	16.7%	<b>33.3%</b>	16.7%	24

**According to Private Attorneys**

	<b>75% - 100% of the time</b>	<b>50% - 74% of the time</b>	<b>25% - 49% of the time</b>	<b>Less than 25% of the time</b>	<b>None of the time</b>	<b>Response Count</b>
DCS Attorney	10.9%	18.0%	12.5%	28.1%	<b>30.5%</b>	128
GAL/Attorney for Child	<b>24.2%</b>	21.1%	17.2%	21.9%	15.6%	128
Parent Attorney	15.0%	22.8%	14.2%	<b>29.1%</b>	18.9%	127

**According to CASA Directors**

	<b>75% - 100% of the time</b>	<b>50% - 74% of the time</b>	<b>25% - 49% of the time</b>	<b>Less than 25% of the time</b>	<b>None of the time</b>	<b>Response Count</b>
DCS Attorney	15.4%	7.7%	0.0%	23.1%	<b>53.8%</b>	13
GAL/Attorney for Child	25.0%	16.7%	8.3%	<b>33.3%</b>	16.7%	12
Parent Attorney	7.7%	7.7%	15.4%	23.1%	<b>46.2%</b>	13
CASA	<b>28.6%</b>	14.3%	14.3%	21.4%	21.4%	14

**Percent of Requests for Early Review by the following Participants According to Judges**

DCS Attorneys	57.1%
Parent's Attorneys	85.7%
GAL/Child's Attorneys	78.6%
Response Count	14

Judges, private attorneys and CASA directors were asked how out-of-state participation took place during judicial reviews. Respondents were to pick all that applied from the list of methods stated in Table 19. Over half of all respondents said that out-of-state participation took place by telephone conference. Many of the respondents also identified as an “other” choice, that out-of-state participants traveled to make personal appearances for judicial reviews.

**Table 19: Out of State Participation**

	<b>According to Judges</b>	<b>According to Private Attorneys</b>	<b>According to CASA Directors</b>
Telephone conference	<b>58.3%</b>	53.8%	<b>80.0%</b>
Video conference	0.0%	0.0%	0.0%
Written testimony	8.3%	11.5%	0.0%
Deposition	8.3%	7.7%	0.0%
Other	50.0%	<b>59.6%</b>	40.0%
Response Count	12	52	5

Table 20 displays the actions taken to swear in out-of-state participants. Sixty percent (60%) or more of judges, private attorneys and CASA directors stated that juvenile court judges swear in out-of-state participants.

**Table 20: Out of State Participants Sworn in when Hearing is Conducted by Conference Call or Videoconference**

	According to Judges	According to Private Attorneys	According to CASA Directors
The parties are sworn in by the other state	18.2%	17.4%	0.0%
By juvenile court judge	<b>72.7%</b>	<b>63.0%</b>	<b>60.0%</b>
Do not swear in out of state participants	18.2%	4.3%	20.0%
Other	9.1%	15.2%	20.0%
Response Count	11	46	5

**Information Sharing**

Judges, private attorneys and CASA directors were asked to indicate what methods were allowed by the courts for receiving and sharing out-of-state information. Table 21 lists the percentages of respondents who indicated each method of receiving information. Nearly 82% of judges stated that information comes from the DCS ICPC office while 60% of CASA directors and only 20% of private attorneys indicated so. Almost three quarters (74%) of judges indicated that information comes from facsimile. Forty-six percent (46%) of private attorneys indicated the same. The means by which information was typically shared with other states is listed in Table 22. Judges most often indicated that a phone call was made to share ICPC information with other states (63% of the time). Private attorneys and CASA directors most often indicated that they did not know how information was typically shared with courts in other states (52% and 80% respectively).

**Table 21: Methods of Receiving Out of State Information**

	According to Judges	According to Private Attorneys	According to CASA Directors
Facsimile	74.1%	<b>46.3%</b>	0.0%
Regular mail	63.0%	42.6%	0.0%
Certified mail	44.4%	33.3%	0.0%
Email	33.3%	18.5%	0.0%
Phone call	48.1%	33.3%	0.0%
From DCS ICPC office	<b>81.5%</b>	20.4%	<b>60.0%</b>
Other	14.8%	3.7%	0.0%
I don't know	-	35.2%	40.0%
Response Count	27	54	5

**Table 22: Methods of Sharing Information in Courts in Other States**

	According to Judges	According to Private Attorneys	According to CASA Directors
Facsimile	48.1%	35.7%	0.0%
Regular mail	40.7%	30.4%	0.0%
Certified mail	14.8%	17.9%	0.0%
Email	29.6%	10.7%	0.0%
Phone call	<b>63.0%</b>	30.4%	0.0%
From DCS ICPC office	51.9%	12.5%	20.0%
Other	7.4%	3.6%	0.0%
I don't know	-	<b>51.8%</b>	<b>80.0%</b>
Response Count	27	56	5

Table 23 states whether video equipment was available for depositions and testimony. Twenty-two percent (22%) of judges and private attorneys and 14% of CASA directors stated that it was.

**Table 23: Video Equipment Available for Video Depositions or Testimony**

	According to Judges	According to Private Attorneys	According to CASA Directors
Yes	22.2%	22.2%	14.3%
No	<b>77.8%</b>	<b>51.6%</b>	28.6%
I don't know	-	26.2%	<b>57.1%</b>
Response Count	27	126	14

**ICPC Regulation 7**

Regulation 7 allows the court to order a priority placement of a child into another state under specific conditions. Judges, DCS attorneys and ICPC specialists were asked to rate the frequency in which court orders are entered in compliance with Regulation 7. The most common response was “Never” with 41% of judges, 47% of DCS attorneys and 42% of ICPC specialists stating so. Table 24 lists the frequency of court orders entered in compliance with Regulation 7 according to survey respondents. Almost 20% of judges and ICPC directors indicated that they were unfamiliar with Regulation 7.

**Table 24: Frequency of Court Orders Entered in Compliance with Regulation 7**

	According to Judges	According to DCS Attorneys	According to ICPC Specialists
Never	<b>40.7%</b>	<b>47.1%</b>	<b>42.3%</b>
1 to 3 times	14.8%	11.8%	15.4%
4 to 7 times	7.4%	11.8%	7.7%
8 to 10 times	7.4%	5.9%	3.8%
More than 10 times	11.1%	23.5%	11.5%
Unfamiliar with Regulation 7	18.5%	-	19.2%
Response Count	27	17	26

A majority of survey participants indicated that Tennessee state laws and court rules allowed for timely and thorough decisions regarding interstate placement. Sixty-three percent (63%) of judges, 77% of DCS attorneys, 68% of private attorneys and 84% of ICPC specialists expressed that Tennessee state laws and court rules allow for timely and thorough decisions regarding interstate placement. This data is also presented in Table 24.

**Table 24: Tennessee State Laws and Court Rules**

	<b>According to Judges</b>	<b>According to DCS Attorneys</b>	<b>According to Private Attorneys</b>	<b>According to ICPC Specialists</b>
Allow for timely and thorough decisions	<b>63.0%</b>	<b>76.9%</b>	<b>67.5%</b>	<b>84.6%</b>
Do not allow for timely and thorough decisions	37.0%	23.1%	32.5%	15.4%
Response Count	27	26	126	26

## *Recommendations to Expedite Safe and Timely Placement*

### *Address Jurisdictional Issues of the ICPC & UCCJEA*

The conflicting jurisdictional issues of the Interstate Compact on the Placement of Children (ICPC) and the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), as reported in Chapter 2 of this report, must be addressed. It appears the solution may rest at the federal level. Children would not be served by each state modifying the UCCJEA, resulting in inconsistent state laws. A compact may not be unilaterally amended by individual states. Therefore, states cannot modify the ICPC.

Assuming the jurisdictional issues are addressed, the UCCJEA provides the basic legal structure for courts in Tennessee to share information with courts in other states. It allows methods to obtain information and testimony from agencies and parties in another state without necessitating interstate travel. Finally, it permits participation by the parties, children and other necessary persons without requiring interstate travel.

It is recommended that the Court Improvement Program (CIP) Work Group (a multi-disciplinary group appointed by the Tennessee Supreme Court as mandated by the CIP grants) review the provisions of the ICPC, UCCJEA and appellate decisions to begin addressing the jurisdictional barriers. In addition, the Work Group should review Supreme Court Rule 19 to assess participation by attorneys without requiring interstate travel.

### *ICPC Process Issues*

As reported in Chapter 3, of all respondents to the surveys, 84% indicated that cases were delayed due to the ICPC process. The most common cause of delay was in completion of the home study. A second issue identified as causing delay was the processing of a complete ICPC referral.

**Process for Emergency Placements.** The Safe and Timely Interstate Placement of Foster Children Act provides for expedited interstate home studies. The home studies allowed, however, do not meet the requirements for Title IV-E funding. Though the Act provides for incentive payments, the funds have not been authorized. The result is that states must choose between accepting the expedited home study or waiting until the study is completed

that meets Title IV-E requirements, which may take months. If the state accepts the expedited home study, it must choose whether to provide board payments to the placement with state funds, or place the child without the assistance of board payments. The latter may result in a disruption of the child's placement.

To expedite the process, potential relative placements will obtain a "courtesy" home study from a private agency. However, the courtesy home study is not sufficient to meet ICPC requirements, and the state has to conduct another home study adding to unnecessary time and costs. To accept a courtesy home study and eliminate the secondary study, states would have to ensure that the courtesy home study meets the receiving state standards. This could be accomplished through either state regulations governing private agencies, or a national, standard home study, as discussed below. There should be a national database of acceptable home study agencies. Tennessee does currently have special contracts with agencies such as AGAPE or Catholic Charities which allows Tennessee to process home studies as a receiving state in a timelier manner. Agreements could be made to allow the sending state to contract with a private agency in the receiving state if the residence is within a reasonable distance of the sending state (example 100 miles) in order to expedite the return of a home study, especially in an emergency situation.

The priority placement rule, Regulation 7, does not anticipate immediate placement in the receiving state, but rather attempts to expedite the home study process. The same issues arise regarding funding as described above. Immediate placement with a close relative in the receiving state, on a temporary basis pending the outcome of the home study, could be more advantageous than placing the child in non-relative stranger foster care. Federal rule makers should consider a temporary placement protocol that would allow children to avoid placement in non-relative foster care, under specified conditions whenever possible.

Many judicial officers, attorneys and even ICPC specialists report that they are unfamiliar with or do not use Regulation 7. CIP should initiate training on ICPC Regulation 7. Almost 20% of judges and ICPC specialists indicated that they were unfamiliar with Regulation 7. Forty to fifty percent (40-50%) of judges, DCS attorneys and ICPC specialists reported that court orders were never entered in compliance with Regulation 7. While the Safe and Timely Interstate Placement of Foster Children Act requirement that home studies be completed within 60 days may eventually reduce the need for courts to issue priority placement orders, education of judicial officers and attorneys is necessary to expedite permanency.

**Requirement of a national, standard home study.** Allowing states to create their own standards for the home study process creates distrust in the reliability of the other state's home study process and results. A national, standard home study would add confidence to the home study results. "Delay by the Receiving State ICPC office processing the referral and sending it to their county agency for the Home Study to be done" and "Delay in the Home Study being done by the county in the Receiving State" were identified as frequent or significant causes for delay 80% to 100% of the time by all respondents.

**Judicial monitoring of ICPC referrals.** Judges in the sending state should take an active role to monitor the status of a home study being conducted by another state. Survey results indicated that the majority of respondents either did not know what action was taken by the court, or that no action was taken by the court when ICPC cases were delayed. Of significant



concern is the fact that private attorneys responded most frequently that they did not know what action was taken.

Judges should schedule court reviews to monitor the ICPC referrals. Guardians ad litem and parents' attorneys should ensure reviews are being conducted. When there is a delay in the referral process, judges should make phone calls with parties present to the TN ICPC office, as well as to the judge in the receiving state and the receiving state ICPC office. A simple phone call made by a judge to the TN ICPC office may uncover delays by the local DCS agency. Thirty-one percent (31%) of the judicial survey respondents indicated that they called the TN ICPC office and 16% called the receiving state ICPC office when cases were delayed. Half of the judges stated that they have never contacted anyone regarding ICPC cases.

**Training required.** The delay in the processing of a complete ICPC referral is a significant issue. All survey respondents agreed there that the initial step of preparing the ICPC referral and sending it to the TN ICPC office was a frequent cause of delay. Without a complete referral packet, the TN ICPC office must return the referral to the local DCS office for the required information. DCS case managers and supervisors should receive additional training on properly completing and processing the ICPC paperwork.

Judicial training is required regarding the judges role of monitoring the ICPC referral and the options available when delays occur. Judges need to understand the UCCJEA and conduct hearings that allow for methods of obtaining information and testimony from agencies and parties in another state without necessitating interstate travel; and for the participation by the parties, children, attorneys and other necessary persons without requiring interstate travel. Private attorneys should also be educated as to these issues and take an active role in assuring that permanency occurs timely for children placed out-of-state.

Judges, DCS attorneys, ICPC specialists and private attorneys should receive training on Regulation 7 and how to effectuate expedited placements under the ICPC.

**Explore border agreements.** Tennessee does not, at this writing, have an ICPC border agreement with any other state. Review of this issue showed that certain counties in Tennessee's northeast region bordering Virginia may benefit from a border agreement. There are plans to initiate a border agreement with Virginia. A memorandum of understanding has been drafted and initial conference calls have been held. However, maintaining supervision of a child physically located in another state could be cost-prohibitive as caseworkers would be prohibited from crossing state lines. Additionally, because this is a inter-jurisdictional placement that requires equal efforts and services, if Tennessee and Virginia cannot find a common ground this may not be a viable goal.

### *Technological Issues*

**ICPC data system.** As addressed in Chapter 2, the ICPC data base is flawed and the integrity of all data at this time is suspect. DCS should acquire a working case management computer system and place higher priority on maintaining the ICPC records. Though there are plans to incorporate the ICPC data into the TFACTS - SACWIS system, this will not

occur for at least two years. When the TFACTS system becomes available for the TN ICPC office, the new cases will be input. There is no plan to incorporate the pending cases at that time into the new system.

**Interactive video technology.** Only 22% of judges and private attorneys and 14% of CASA directors stated that video equipment was available for depositions and testimony. From experience, CIP staff is also aware that a number of the county courtrooms are not equipped to provide for telephone communication. Interactive video technology will be required to allow for participation of out-of-state parties, children and agencies in ICPC cases.

### *Conclusion*

This Assessment provides significant challenges to be addressed in order to assure that foster children placed out-of-state receive timely permanency. Many of the recommendations will depend on a resolution of the jurisdictional issues presented by the ICPC and UCCJEA. In addition, the recommendations surrounding the home studies and technological issues will require funding from either the state or federal level.

The Court Improvement Program will begin to address the training needs of the judiciary and attorneys identified in this report. CIP will collaborate with DCS, CASA and other stakeholders to provide for cross-training. The CIP Work Group will review the legal barriers identified to determine recommendations for amending state laws and/or court rules.

The solution to the issues identified in the interstate placement of children will also depend on changes at the federal level, in order to ensure timely, permanent placements for foster children.

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<sup>1</sup> Cindy MacLean & Rebecca Shea, *Tennessee Court Improvement Program for Juvenile Dependency Cases: An Assessment of Tennessee's Court Performance and a Plan for Improvements*, 1997.

<sup>2</sup> Nyasha Justice & Leslie Barrett Kinkead, *A Re-Assessment of Tennessee's Judicial Process in Foster Care Cases*, 2005.

<sup>3</sup> The Interstate Compact on the Placement of Children contains 10 Articles, are available at: <http://icpc.aphsa.org/Home/articles.asp>

<sup>4</sup> The ICPC Regulations are available at: <http://icpc.aphsa.org/Home/regulations.asp>

<sup>5</sup> The *2002 Guide to the Interstate Compact on the Placement of Children* is available at: [http://icpc.aphsa.org/Home/Doc/Guidebook\\_2002.pdf](http://icpc.aphsa.org/Home/Doc/Guidebook_2002.pdf)

<sup>6</sup> U.S. Department of Health and Human Services (November 1998). Interstate Compact on the Placement of Children: State Structure and Process [Report No. OEI-02-95-00041. Washington, D.C.: Office of the Inspector General. Available at: <http://oig.hhs.gov/oei/reports/oei-02-95-00041.pdf>

<sup>7</sup> U.S. Department of Health and Human Services (March 1999). Interstate Compact on the Placement of Children: Implementation [Report No. OEI-02-95-00044. Washington, D.C.: Office of the Inspector General. Available at: <http://oig.hhs.gov/oei/reports/oei-02-95-00044.pdf>

<sup>8</sup> *Id.* at pages 7-8..

<sup>9</sup> Rachael Lord, *Interstate Placements: Safeguarding Ohio's Children, Ohio Bulletin, Vol. 3 No. 2 (Fall 2006)*.