

MEMORANDUM

DATE: May 2, 2008

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Ms. Daniese McMullin-Powell
Chairperson
State Council for Persons with Disabilities

RE: S.S. 1 for S.B. 71 [Interstate Compact on Placement of Children]

The State Council for Persons with Disabilities (SCPD) has reviewed S.S. 1 for S.B. 71 which would replace the existing Interstate Compact on the Placement of Children. The new compact was developed as a collaborative effort among states, and provides increased protections and services for children in the foster care system that may be placed in another state. The new compact will become effective when ratified by thirty five states, and upon final approval of the Interstate Commission. Until such time, the existing Compact will remain in effect. The proposed legislation would officially add Delaware to the list of approving states.

As background, Delaware is a current participant in an interstate compact for placement of children codified at Title 31 Del.C. §§381-389. The existing compact requires a “sending state” contemplating placement of a child out-of-state for foster care or adoption [§381] to notify the “receiving state”. The child cannot be transferred until the “receiving state” determines that the “proposed placement does not appear to be contrary to the interests of the child.” The “sending state” retains “fiscal responsibility for support and maintenance of the child during the period of placement.” Placements in the following types of facilities are exempt: institutions for the “mentally ill, mentally defective or epileptic or any institution primarily educational in character, or any hospital or other medical facility.” Id. Delinquent children can be transferred to an out-of-state institution only if a court hearing is convened with opportunity for parental input and the court finds that an equivalent in-state facility is not available and the placement is in the best interest of the child.

SCPD has the following observations.

First, the new compact is more comprehensive than the current compact. It adds many positive features, including uniform data collection (line 15); explicit requirement of a multi-focused assessment by the receiving state prior to placement by a public child placing agency (lines 27-30 and 198-201); an appeal process if the “receiving state “vetoes” the placement (lines 214-226); and establishment of an interstate commission to coordinate compact activities (lines 264-389.

Second, since the compact is a “uniform” document which must be approved by states in equivalent

form, there is little room for amendment. However, policymakers may wish to assess whether a fiscal note should be included with this bill based on the following: a) deletion of a requirement (Title 31 Del.C. §385) that agreements between Delaware and other states which impose a financial obligation must be approved in writing by the State budget director; b) requirement that Delaware, when acting as a receiving state, complete an assessment within certain timeframes (lines 198-207, 235, and 246-247); c) requirement that Delaware, when acting as receiving state, “supervise” the placement based on terms agreed upon by the sending state (lines 236-237 and 248); d) requirement that Delaware, when acting as receiving state, issue “timely reports” on the placement (lines 248-249); and e) requirement that Delaware pay a levy (annual dues) to support the Interstate Commission (lines 482-486, 516-517, and 534-535).

SCPD endorses the proposed legislation subject to policymaker consideration of its potential fiscal impact.

Thank you for your consideration and please contact SCPD if you have any questions regarding our position on the proposed legislation.

cc: The Honorable Ruth Ann Minner
Governor’s Advisory Council for Exceptional Citizens
Developmental Disabilities Council

Sb71 ss1 compact 5-2-08