



December 5, 2022

Dr. John Price
MIC3 Illinois Commissioner
Superintendent, North Chicago CUSD 187
2000 Lewis Avenue
North Chicago, IL
jprice@d187.org

RE: Legal Review of Illinois Compact Statute

Dear Commissioner Price,

Per your request, MIC3 general counsel has reviewed the Illinois compact statute for discrepancies with the MIC3 model language. This review and subsequent analysis have raised several concerns regarding the state of the compact in Illinois. These concerns are described generally below; we recommend that you review this letter with your state council, legal counsel, and representatives from the state legislature. After you have had the opportunity to review this information, please let me know and we will discuss this issue further.

The compact statute enacted in Illinois at 105 ILCS 70/05 *et seq.*, differs from the compact's model language in several ways. Most importantly, under Illinois' compact statute:

1. The definitions provided in Article 2 of the model language are not included (105 ILCS 70/20);
2. The Commission's rules are described as ineffective unless enacted into law by the Illinois legislature (105 ILCS 70/45 and 70/50);
3. Language authorizing the Commission to take action to enforce the compact, where it is authorized to do so under Article 13 of the model language, has been omitted from the Illinois statute;
4. Language authorizing the Commission to initiate legal proceedings in or against Illinois, where it is authorized to do so against other member states under Article 13 of the model language, has been omitted from the Illinois statute;
5. Language authorizing the Commission to find Illinois in default under the compact, to take actions based on Illinois default under the compact, or to suspend or terminate Illinois' membership in the compact, where it is authorized to do so against other

- member states under Article 13 of the model language, has been omitted from the Illinois statute;
6. The Illinois state government is not explicitly required to enforce the compact, where the legislative and judicial branches of other member states are required to “take all actions necessary and appropriate to effectuate the compact’s purposes and intent” under Article 13 of the model language; and
 7. Dues assessed by the Commission against Illinois are fixed at one dollar per military child (105 ILCS 70/60), where other member states are subject to dues as set by the Commission’s rules under Article 14 of the model language.

The intent of these changes and other discrepancies between the Illinois statute and the compact’s model language appears to be to exempt the state of Illinois from external oversight or governance. Where the Commission’s rules must be approved by the Illinois legislature, Illinois’ compliance with the compact would be largely discretionary; contrastingly, other member states are bound by the Commission’s rules immediately upon their enactment. As there are no mechanisms in the Illinois compact statute to hold it responsible for compliance with the terms of the compact, there is little assurance that the compact can be reliably enforced. Without clearly established avenues for resolving compliance issues between the member states, actions taken to enforce the compact will be complicated, expensive, and time-consuming. It is the goal of the compact and the Commission to resolve these issues as efficiently as possible; however, Illinois has not adopted the mechanisms necessary to do so.

It is fundamental to the nature of an interstate compact that it operates as a contract between the member states. Generally, the law of contracts is based upon the concept of mutual obligations; an agreement between two parties that creates obligations for one party and none for the other will not typically be legally recognized. Taken at face value, the Illinois compact statute creates obligations for the member states but does not create any reciprocal obligations for Illinois. Where other member states have adopted the model language verbatim, those states have created offsetting obligations which are sufficient to bind both themselves and the other member states to the terms of their agreement. Where Illinois has attempted to exempt itself from any requirement to comply with the Commission’s rules or enforce the compact, or to make its compliance discretionary, it has created an open question as to whether Illinois intended to enter into an enforceable agreement with the other member states.

By subjecting themselves to the rulemaking authority of the Commission and by authorizing the Commission to file suit against a defaulting state, member states who have adopted the model language have established a clear waiver of their sovereign immunity with regard to actions taken by the Commission to enforce the terms of the compact. As Illinois’ compact statute omits these provisions, Illinois does not appear to have consented to be sued for the enforcement of the compact. This will complicate any attempts by the Commission to enforce the compact in Illinois and will substantially increase the resources and time necessary to resolve cases arising in Illinois.

Going forward, we recommend that you confer with your state council, legal counsel, and legislative representatives to review the issues described above. Wherever possible, we recommend that the Illinois statute be amended to mirror the compact's model language (and accordingly the compact statutes in many other member states). At the very least, Illinois' compact statute should be amended to include provisions giving force to the Commission's rules and authorizing the Commission to enforce the compact in Illinois.

If the Illinois compact statute remains in its current state, the reliable and efficient resolution of compact cases in your state cannot be assured. This will certainly create unnecessary doubt and confusion for military families who are struggling with difficult transitions. Without effective and established routes to enforce the compact, the Commission cannot accomplish its goal of serving military families by providing simple and reliable educational transitions for their children. If Illinois intends to support its military population through membership in the compact, it must agree to comply with the Commission's rules and to allow the Commission to enforce the compact within the state.

As discussed above, please review these issues with your state council and your legal counsel. Our staff and the Commission are committed to resolving these issues as efficiently and amicably as possible, so please do not hesitate to reach out to me with any other concerns or questions that you may have. I will look forward to hearing from you, and to a fruitful discussion regarding the resolution of these issues.

Sincerely,



Cherise L.A. Imai
Executive Director
Military Interstate Children's Compact Commission

c: Laura Anastasio, Chair & Connecticut Commissioner, MIC3
Steven Bullard, Compliance Chair & Kentucky Commissioner, MIC3
General Counsel, MIC3