Interstate Compact for Juveniles (ICJ) and Interstate Compact on the Placement of Children(ICPC)

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ICJ and ICPC

Working Together to serve youth and communities.





How do ICJ and ICPC work together to serve youth and communities?

This training will look at current rules and practices regarding how ICJ and ICPC work together in moving children across state lines.





Goals and Objectives:

- ø Distinguish the difference between ICJ and ICPC.
- © Provide examples, tools and resources to collaborate with other juvenile justice, child welfare professionals and courts when moving children across state lines.
- g Identify case scenarios in which either ICPC, ICJ or both compacts apply.
- Know when these compacts apply to your organization/agency and the youth that you serve.





What is a Compact?

Compact

A compact is an agreement or contract between persons, nations, or states, esp. between governments or states.

Contract and Statutory Law

ಶ Contract – an agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law.





TN Statutes:

ICJ- TCA 37-4-100's

ICPC- TCA 37-4-200's





Who Administers the ICJ and the ICPC?



ICJ – Interstate Commission for Juveniles



ICPC – Association of Administrators of the Interstate Compact on the Placement of Children



Interstate Commission for Juveniles

Serving Juveniles While Protecting Communities

Overview

ICJ Compact History

- Revised Compact enacted in 2008
- Ensures effective monitoring of juvenile offenders moving across state lines

Advantages of the New ICJ Compact



Improved mechanism that provides enhanced:

- & Accountability
- & Enforcement
- & Visibility
- **№** Communication

Authority of the Compact

Crime Control Act, 4 U.S.C. Section 112 (1965)



Cooperative efforts and mutual assistance

All courts and executive agencies subject to the ICJ







Who is served by the ICJ?

A juvenile who:

Is on probation or parole and plans to move out of state

Is an accused delinquent who runs away to another state

Escapes from an institution to another state

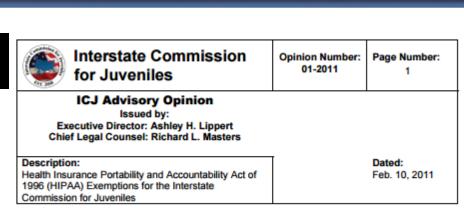
Absconds from probation/parole to another state

Is a non-delinquent who runs away to another state

Requires
institutional care
and specialized
services in another
state

Communication Between States

- & ALL communication occurs at the ICJ Office level



Background:

Pursuant to Commission Rule 8-101.3, a request has been made by the state of North Dakota to address the following issues:

Transfer of Supervision

Three components of supervision:

Oversight exercised over a juvenile determined by a court or appropriate authority for a period of time

Requires a juvenile to report to or be monitored by appropriate authorities

Regulations and conditions are imposed on the juvenile

*Supervision solely for monetary conditions is not applicable under the ICJ.



Eligibility Criteria for Juveniles (ICJ)

Persons eligible for Transfer of Supervision

- A person classified as a 'juvenile' by the sending state and who is under the jurisdiction of a court or appropriate authority
- Adjudicated delinquents
- Adjudicated status offenders
- Juveniles with deferred adjudication

- Must relocate for 90 consecutive days in receiving state
- Have 90 days or more of supervision remaining
- Must meet residential criteria



Residential Criteria for Transfers

Resides with:

- k Legal Guardian
- & Relative

*Excluding residential facilities

<u>Is a full-time student at:</u>

- & Accredited secondary school
- & Accredited university
- k College
- Licensed specialized training program

^{*}Must provide proof of acceptance and enrollment

Sending Referrals

<u>Parole</u>

- Submit referral documents 45 days prior to anticipated arrival
- The sending state shall maintain responsibility until supervision is accepted by, and the juvenile has arrived in, the receiving state

<u>Items included in referral packet</u>:

- ✓ Form IV
- ✓ Form IA/VI*
- Order of Commitment
- ✓ Court Order
- Petition/ Arrest Reports
- ✓ Legal & Social History
- Parole Conditions (upon release from facility

Probation

The sending state **shall maintain responsibility** until supervision is accepted by, and the juvenile has arrived in, the receiving state.

<u>Items included in referral packet:</u>

- ✓ Form IV
- ✓ Form IA/VI*
- Order of Adjudication and Disposition
- Conditions of Probation
- ✓ Petition/ Arrest Reports

Transferring Juvenile Sex Offenders

May not travel into receiving state unless:

- Request for transfer approved
- Receiving state issues reporting instructions
- Transfer request qualifies for expedited transfer status

Items included in referral packet:

- Parole/probation documents
- Risk assessment
- Safety plan specific assessments (if available)
- Legal/social history
- Victim information
- ✓ Treatment plan
- ✓ Petition/arrest reports

Home Evaluations - Overview

Within 45 calendar days of receipt, the receiving state's ICJ Office forwards the completed Form VIII to the sending state's ICJ Compact Office

- Signed by appropriate authority
- Receiving state may deny supervision if it is unsuitable
- If necessary, explanation of delay required



Runaways

Rule 1-101 Definitions Runaways:

persons within the juvenile jurisdictional age limit established by the home state who have (1) voluntarily left their residence without permission of their legal guardian or custodial agency or (2) refuse to return to their residence as directed by their legal guardian or custodial agency (effective 3/20), but who may or may not have been adjudicated.

- **Returning Runaways**



Release of Non-Delinquent Runaways

- Authorities may release non-delinquent runaways to their legal guardian or custodial agency within the first 24 hours of detainment
- If a non-delinquent runaway remains in custody beyond 24 hours, the holding state shall contact its ICJ Office

Holding Runaways in Secure Facilities

- k If "a danger to themselves or others, "runaways SHALL be held in secure facilities.
- ⋈ Otherwise, Holding State has discretion to hold runaways at location it deems appropriate.



OJJDP Exclusion Update

Juveniles held pursuant to the ICJ are **excluded** from the deinstitutionalization of status offenders requirements. In 2018, the Juvenile Justice and Delinquency Prevention Act (JJDPA) was reauthorized and updated for the first time in 16 years. The Act itself is the JJDPA and should continue to referred to as such. The legislation that amended it was the Juvenile Justice Reform Act of 2018. The ICJ Exception Reference Code is: 34 U.S.C. § 11133(a)11 (A)(i)

Voluntary Return of Juveniles

The holding state's ICJ Office notifies the home/demanding state's ICJ Office of the case

The home/demanding state's ICJ Office determines residency and jurisdictional facts

At a hearing (physical or electronic), the judge informs the juvenile of his/her due process rights



Voluntary Return of Juveniles, cont.

If the juvenile agrees to return, the juvenile signs Form III in the presence (physical or electronic) of a judge

The home/demanding state may accept an adult waiver instead of the ICJ Form III

Authorities forward Form III to the holding state's ICJ Office

The holding state forwards a copy of the Form III to the home/demanding state's ICJ Office

Within 5 business days* of receiving the signed Form III or adult waiver, the home/demanding state returns the juvenile.



Non-Voluntary Returns

Rules 6-103 and 6-103A divide non-voluntary returns into two distinct processes:

Rule 6-103

Family / Dependency
Court

6-103A

Delinquency Court
Charging Agency

Returning runaways and/or accused status offenders

Returning escapees, absconders, or accused delinquents



Non-Voluntary Returns: Requisitions

 Requisitions apply to all juveniles in custody who refuse to voluntarily return to their home/demanding state or to request a juvenile whose whereabouts are known but not in custody be picked up and detained pending return



Samminday (5)	INTERSTATE COMPACT FOR JUVENIVES REQUISITION FOR RUNAWAY JOVENIVES REQUISITION FOR RUNAWAY JOVENIVES REQUISITION FOR RUNAWAY JOVENIVES	FORMI
TO:FROM:	(Court of Jurisdiction in Holding State) (Requisitioning Court or Agency in Home/Demanding State)	uency

EST. 1980	INTERSTATE COMPACT FOR JUVENILES REQUISITION FOR ESCAPEE OR ABSCONDER REQUISITION FOR ACCUSED DELINQUENT Characteristics	FORM II
TO:	(Court of Jurisdiction)	01124
FROM:	September 100 to	THE STATE OF THE S
l,	(Name of Court or Agency) requisition the return of	<u> </u>

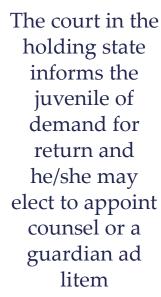
- The legal guardian or custodial agency **shall** petition the court of jurisdiction in the home/demanding state for a requisition; when the juvenile is already in custody, this shall be done within **60** calendar days of notification
 - Form A (optional)
 - Petition for Requisition to Return a Runaway Juvenile



- The judge in the home/demanding state determines if:
 - The petitioner is entitled to legal custody
 - ✓ The juvenile ran away without consent
 - ✓ Whether the juvenile is an emancipated minor
 - Determination of whether it is in the best interest of the juvenile to return is a home state concern, not a holding state concern.
- Form I: Requisition for Runaway Juvenile



The ICJ Office in the state where the juvenile is located forwards Form I to appropriate court to request a hearing be held within 30 calendar days of the receipt of requisition





Juveniles shall
be returned by
the
home/demandi
ng state within
five (5) business
days of the
receipt of the
order granting
the requisition.

The time period may be extended up to an additional five (5) business days with approval from both ICJ Offices.



- Other things to consider:
 - ✓ Juveniles may be held for a maximum of 90 calendar days
 - ✓ If the legal guardian or custodial agency in the home/demanding state is unable or refuses to initiate the requisition process, the home/demanding state's appropriate authority shall initiate the process on behalf of the juvenile



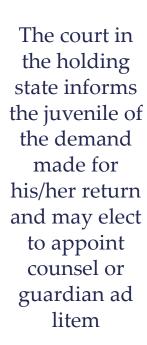
- Probation/parole escapees, absconders or accused delinquents who are in custody on a warrant shall be detained in secure facilities until returned by the demanding state
- The home/demanding state presents the court or appropriate authority the Form II: Requisition for Escapee, Absconder, or Accused Delinquent
 - This shall be done within **60** days of notification of juvenile's refusal to return voluntarily



- The requisition shall be verified by affidavit, unless a judge is the requisitioner, and shall be accompanied by supporting documents:
 - √ Judgement
 - Order of Adjudication
 - Order of Commitment
 - ✓ Petition Alleging Delinquency
 - Other affidavits and documents
- Judge or appropriate authority signs Form II:
 Requisition for Escapee, Absconder, or Accused
 Delinquent



The ICJ Office where the juvenile is located forwards requisition to court and requests hearing to be held within 30 calendar days



Orders concerning requisitions shall be forwarded immediately from the holding court to the holding state's ICJ Office who then forwards it to the home/ demanding state

Juveniles shall be accompanied on their return to the demanding state within 5 business days of the receipt of the order granting the requisition. The time frame may be extended an additional 5 business days with approval from both ICJ office.



- Other things to consider:
 - ✓ Juveniles may be held for a maximum of 90 calendar days
 - Juveniles shall be accompanied on their return to the demanding state unless both ICJ Offices determine otherwise



Returns: ICPC Recognition

Real ICJ recognizes the authority of the AAICPC under Article V of the Interstate Compact for the Placement of Children and supports their authority to return ICPC youth who have run away from their out-of-state placement resulting in a demand for their return by the sending state.



In the event a juvenile is held in a secure facility beyond twenty-four (24) hours (excluding weekends and holidays), the appropriate provisions of the ICJ Rules shall apply.

Returns: Abuse and Neglect

Holding state
suspects abuse or
neglect by person
in
home/demanding
state



Holding state notifies home/demanding state



Home/demanding state's ICJ Office works with appropriate authority and/or court of competent jurisdiction in the home/demanding state



*Allegations of abuse or neglect **do not** alleviate a state's responsibility to return a juvenile within the appropriate time frames

Return Requirements - Financial

Home/Demanding/Sending State

- Establish authority of accredited officers
- Issue warrant if necessary
- Ensure no pending charges in receiving state
- Return juvenile within 5
 business days *extension of 5
 business days with the
 approval of both states
- Make transportation plans
- Be responsible for cost of transportation

Holding/Receiving State

- No bond or bail release for juveniles held on warrants
- Return juvenile within 5
 business days *extension of 5
 business days with the
 approval of both states
- Shall not be reimbursed for detaining **or transporting** juveniles.



Return Requirements – Pending Charges

7-103 Charges Pending in Holding/Receiving State

Juveniles shall be returned only after charges are resolved when pending charges exist in the holding/receiving state, unless consent is given by the holding/receiving and demanding/sending states' courts and ICJ Offices.



Return Requirements - Warrants

- All warrants issued for juveniles subject to the Compact shall be entered into the NCIC with a nationwide pickup radius with no bond amount set.
- Holding states shall honor all lawful warrants entered by other states; and shall no later than the next business day, notify the ICJ the home/demanding/sending state that the juvenile has been placed in custody pursuant to the warrant. Upon notification, the home/demanding/sending state shall issue a detainer or provide a copy of the warrant to the holding state.
- Within two (2) business days of notification, the home/ demanding/sending state shall inform the holding state whether they intend to withdraw the warrant. Withdrawal of the warrant does not negate the home/demanding/sending state's responsibility to return the juvenile under other applicable rules.





Returning Juveniles: Transportation

- The holding/receiving state shall not return to juveniles any personal belongings which could jeopardize the health, safety or security of the juvenile or others**
- The holding/receiving state shall confiscate all questionable personal belongings and return those belongings to the legal guardians by approved carrier, COD or at the expense of the home/demanding state

 The holding/receiving state ensures the juvenile has a picture I.D. and copies of applicable ICJ paperwork, appropriate due process documentation



Returning Juveniles via Ground & Air

- The home/demanding/sending state shall not use commercial ground transportation unless all other options have been considered or the juvenile is accompanied by an adult
- The duly accredited officers of any compacting state, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this Compact, without interference.

Airport Supervision

- All states provide supervision to unescorted juveniles at intermediate airports
- Juveniles shall be supervised from arrival to departure
- Home/demanding/sen ding states shall provide 48 hours advance notice to the state providing airport supervision



<u>Liability</u>

- Webster defines liable as "Held legally responsible..."
- All Compact member states can be held liable for circumventing or violating the ICJ Rules
- There is a legal obligation to follow and enforce the ICJ Rules as written

Types of Public Acts

Discretionary Acts

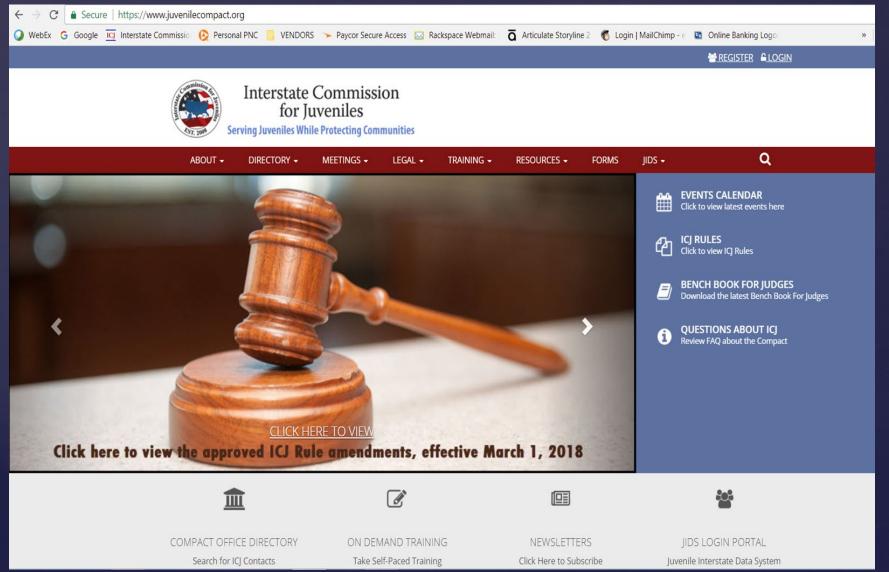
• The public employee has the freedom to exercise good judgment and care in carrying out an act

Ministerial Acts

 The public employee is required by law to fulfill



Commission Website: www.juvenilecompact.org



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315 Deaderick St. – UBS Tower, 9th Floor Nashville, TN 37243 615-741-9856 615-741-2559 (fax)

Best Practice between ICJ & ICPC

On May 21, 2012, the ICJ and the AAICPC entered into a Memorandum of Understanding (MOU). The MOU outlines the collaboration between ICJ and ICPC and the roles and responsibilities of each Compact.

- * Communication
- * Collaboration
- * Education
- * Training
- * Guides











The Interstate Compact on the Placement of Children (ICPC)

Overview

What will be covered:

- **№ What is the ICPC**
- **№ Purposes of the ICPC**
- **№** Application of the ICPC
- **& What ICPC Provides**
- **№ ICPC Process**



What is the ICPC?



- ©Drafted in the late 1950s and enacted by the first state in 1960 (New York)
- ka Formal agreement between the states (contract)
- &Statutory law in all 50 states, the District of Columbia, and the U.S. Virgin Islands



Purposes of the ICPC

ICPC helps to ensure safety and protection, as well as provision of services and supervision to children placed across state lines for foster care or preliminary to an adoption.



Types of placements covered:

- 尽 Placements preliminary to adoptionindependent, private or public
- Residents into licensed or approved foster homes (placement with related or unrelated caregivers)
- 尽 Placements with parents and relatives when a parent or relative is not making the placement
- Replacements into group homes/residential settings of all children, including adjudicated delinquents in institutions in other states

What ICPC Provides:

- The sending agency the opportunity to obtain home studies and an evaluation of the proposed placement.
- The receiving state an opportunity to ensure that the placement is not "contrary to the interests" of the child.
- The applicable laws and policies of the receiving state have been followed.
- The sending agency's state court does not lose jurisdiction over the child once the child moves to the receiving state.
- The sending agency will be able to obtain supervision and regular reports on the child's placement from the receiving state.



ICPC Regulations





- Regulation 2- Placement into Family Settings and/or with Parents,
 Relatives
- Regulation 3-Definitions of Placement Categories
- Regulation 4- Residential Placement
- Regulation 7- Expedited Placement Decision
- Regulation 9- Definition of a Visit

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Regulation 3- CJO

Sending court has open abuse, neglect or dependency cast that establishes court jurisdiction with authority to supervise, remove and/or place child

& Court becomes sending agency

& Legal responsibilities per ICPC Article V



ICPC Article V

Article V requires the "sending agent" or sending state to retain jurisdiction over the child once placed until the child is adopted, or is discharged with concurrence of the appropriate authority in the receiving state.



ICPC Article VIII

Limitations:

- ☼ The sending or bringing of a child into a receiving state by his parent, stepparent, grandparent, adult brother/sister, adult uncle/aunt, or guardian and leaving child with any such relative or non-agency guardian.
- Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both states are parties



ICPC Referral Types

The following study types may be requested:

Parent
Relative
Foster
Adoptive

*Regulation 7 may only be utilized to request Parent or Relative studies.



The ICPC Process:

Responsibilities of the Local Sending Agency

Prepare
Referral packets
and forward to
Sending State
ICPC Office



Retain custody/ jurisdiction (Article V)



Provide ongoing planning for the child (Article V)



Make travel arrangements for the child



Maintain financial obligation (Article V);

Maintenance payment (e.g., IV-E eligibility, state funds)

Medical payment

Counseling, if necessary



The ICPC Process:

The completed ICPC referral packet should be submitted to the Sending Agent's ICPC State office and approved PRIOR to placement.

TNICPC.EI-DCS@tn.gov



The ICPC Process:

Responsibilities of the Receiving State ICPC

Review & forward referrals to receiving state local agency



Authorize that placement can be made by sending agency ("the proposed placement does not appear contrary to the interests of the child" (Article III(d))

Approve dismissal of sending agency's custody (Concurrence)



Monitor
placement status
& assure
ongoing
compliance





Placement Decision



- The "sending agent" must submit form 100B to indicate placement decision.

ICPC Closure

k The receiving state must provide Concurrence in writing of their agreement to the transfer of custody prior to custody being granted.

CHISHIE

- k If custody/adoption is granted, a copy of the terminating court order must accompany the closure 100B.







ICPC and AAICPC Resources available:

- https://aphsa.org/AAICPC/default.aspx
- k AAICPC c/o APHSA 1133 19th St. N.W. – Suite 400 Washington, DC 20036 (202) 682-0100

ICPC/ICJ Crossover Youth

Runaways

ICJ

Non-Delinquent Youth, Escapees, Absconders

ICPC

Foster/Adoptive Placement

Both

Juveniles that run from an ICPC out of state placement & the placement does not want them back into the program





Cases That May Involve Both Compacts

Runaways

Residential Placements

Family Settings





For more information contact:

ICJ National Office www.juvenile.compact.org

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