

Interstate Compact for Juveniles

JUDICIARY ROLE In ICJ regulation of Juveniles

Updated 7/1/10



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Introduction and History

- Original Juvenile Compact enacted in 1955
- New Juvenile Compact written in 2000, enacted in 2008
- Law in 47 states/territories with more to join (7.1.10)*
- Provides for the welfare and protection of juveniles and the public
- Is the only **legal** process for returning runaways
- Promotes public safety and ensures effective monitoring of juveniles moving across state lines



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2

Introduction and History - cont.

- Every jurisdiction in each member state is subject to ICJ rules
- Commission has statutory authority to enforce compliance
- Members pay an annual assessment fee
- Every state shall establish an Advisory Council
- Establishes uniform system for reporting, collecting & exchanging data
- Rule making authority which has force and effect of federal law



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3

Why is there a Need for an Interstate Compact?

- Due to variations in state laws, a person who is considered a juvenile in one state may not be considered a juvenile in another state
- A person's status as a juvenile is determined by the sending or demanding state
- The Supreme Court has ruled that Compact law is *special legislation* and, as such, supersedes state law. [Virginia v West Virginia, 246 US 565 (1918).]



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Other Compacts of Interest

- Interstate Compact on the Placement of Children (ICPC)
- Interstate Compact on Mental Health (ICMH)
- Interstate Compact for Adult Offender Supervision (ICAOS)
- Interstate Compact on Educational Opportunity for Military Children (MIC3)



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5

Return of Juveniles



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What Situations Require the Return of a Juvenile?

Situations where a:

- Non-delinquent juvenile runs away
- Delinquent juvenile runs away
- Juvenile under supervision has a failed placement



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7

Release of Non-delinquent Juveniles to Parent/Guardian

- Authorities may release a juvenile to their parent/legal guardian within the first 24 hours (excluding weekends & holidays) without applying Rule 6-102
 - Exceptions to this rule are instances where abuse/neglect is suspected
- If the juvenile remains in custody beyond 24 hours, the holding state's ICJ Office must be notified

Rule 6-101



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8

Holding Non-delinquents in Secure Facilities

- Non-delinquent juveniles who are endangering themselves or others held beyond 24 hours are to be held in secure facilities until returned by the home state

OJJDP Exclusion – Out of State runaways held beyond 24 hours solely for the purpose of being returned to proper custody must be reported

Juveniles held pursuant to the ICJ are excluded from this federal requirement



Voluntary Return of Out-of-State Juveniles

- When an out-of-state juvenile is found and detained:
 1. Holding state's ICJ Office will inform home state's ICJ Office of the case
 - Home state's ICJ Office determines juvenile's residency/jurisdictional facts
 2. At a court hearing, the judge informs the juvenile of his/her rights using ICJ Juvenile Rights Form (optional form)
 - Court may appoint counsel or guardian *ad litem*

If the juvenile agrees to return, the juvenile signs ICJ Form III (Consent for Voluntary Return)



Voluntary Return of Out-of-State Juveniles – cont.

3. Home state responds to holding state's court order in returning its juvenile
4. Juveniles are returned to home state within 5 business days of receipt of ICJ Form III (Consent for Voluntary Return)
5. Can be extended with approval from both ICJ Offices

Rule 6-102



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11

Form III



INTERSTATE COMPACT FOR JUVENILES **FORM III**

CONSENT FOR VOLUNTARY RETURN BY RUNAWAY, ESCAPEE OR ABSCONDER OR JUVENILE CHARGED AS DELINQUENT

FORM III

I, _____, (Juvenile's Name) _____, recognize that I legally belong with _____ in _____ (City/State) and I voluntarily consent to return there without further formality, either by myself or in the company of such person as the appropriate authority may appoint for that purpose.

(Date) _____ (Juvenile's Signature) _____

I, _____, Judge of _____ (Court or Jurisdiction) having informed the juvenile named above of his her rights under the Interstate Compact for Juveniles prior to the execution of the foregoing consent, do hereby find that the voluntary return of said juvenile to: _____ in _____ (Legal Guardian/Custodian or agency seeking return) (Contact name & phone number) (City/State) is appropriate and in the best interest of said juvenile, and do so order such return as provided below (fill in or check appropriate item):

Unaccompanied OR Accompanied by: _____

(Date) _____ (Judge's Signature) _____

TO BE COMPLETED ONLY IF COUNSEL OR GUARDIAN AD LITEM IS APPOINTED:

I, _____ being the Counsel Guardian Ad Litem of _____ (Name of Juvenile) recognize and agree that said juvenile should return to _____ in _____ (Legal Guardian or Custodian or agency seeking return) (City/State) either unaccompanied or in the company of such person as the appropriate authority may appoint. I hereby consent to such return.

(Date) _____ (Signed - Counsel or Guardian Ad Litem)

(Form will be certified or authenticated in accordance with practice of the court.)
Original: Court file: 1 copy each: Juvenile, Holding State's Compact Administrator, Home/Demanding State's Compact Administrator, Local Court in Demanding State.

DETAILED PHYSICAL AND CLOTHING DESCRIPTION OF JUVENILE, & CONTACT INFORMATION

DOB: _____ Race: _____ Sex: _____ HT: _____ WT: _____ Eye color: _____

Hair color and style: _____

Tattoos, scars, identifying marks: _____

Clothing (including shoes): _____

Home/Demanding State's contact name and phone #: _____



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12

Non-voluntary Return of Out-of-State Juveniles

1. The appropriate person or authority in the home/demanding state shall prepare a written requisition within **60** days of notification of refusal of the juvenile to sign the consent form for the return of a juvenile who has refused to voluntarily return or to request that a court take into custody a juvenile that is allegedly located in their jurisdiction.
2. Judge in the home state determines if;
 - Petitioner is entitled to legal custody
 - The juvenile ran away without consent
 - The juvenile is an emancipated minor
 - It is in the best interest of the juvenile to compel his/her return to the home state



Non-voluntary Return of Out-of-State Juveniles (cont.)

3. The judge signs the requisition if it is determined that the juvenile should be returned
4. The Requisition is addressed to the juvenile court in the holding state
Verified by 2 copies of affidavit
Accompanied by 2 certified copies of supporting documents that show entitlement

- Judgment
- Order of Adjudication
- Petition alleging delinquency
- Birth Certificate
- Custody Decree
- Letter of Guardianship



Non-voluntary Return of Out-of-State Juveniles (cont.)

5. Home state's ICJ Office ensures the requisition is in order and forwards 2 copies to the ICJ Office in the holding state
6. ICJ Office in holding state forwards requisition to the court where the juvenile is believed to be located.
7. Maximum time juveniles can be held, pending receipt of requisition, is **90** days
8. A hearing commences in the holding state within **30** calendar days of receipt of requisition
9. ICJ Office in the holding state notifies demanding state of outcome

Rule 6-1039



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15

Non-voluntary Return of Out-of-State Juveniles (cont.)

10. A hearing commences within **30** calendar days of receipt of requisition
 - Time can be extended by approval of both ICJ offices
 - The court may elect counsel or guardian *ad litem*
 - If requisition is in order, the judge orders the return of juvenile to home state
 - If requisition is not honored, judge shall issue order in writing advising why
 - Order of return is sent immediately to the holding state's ICJ Office and home state's ICJ Office

Rule 6-103



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16

Non-voluntary Return of Out-of-State Juveniles (cont.)

11. Requisitioned juveniles are accompanied while they are being retrieved by the home state unless both ICJ offices determine otherwise
 - Juveniles are to be retrieved within 5 business days of receipt of order by demanding state's ICJ Office

Rule 6-103



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17

Warrants

- All warrants must be entered into the National Crime Information Center (NCIC) in order for another state to pick up juvenile
 - Holding state honors all warrants
- Once a juvenile is detained
 - demanding state has up to 2 business days to decide if juvenile will be retrieved (Rule 6-108)
- Juvenile to be held in secure detention
- “No bond/bail warrants”
 - **Juvenile remains in custodial detention regardless of individual state statute**
 - Juvenile DOES have opportunity for a hearing

Rule 6-108



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18

Custodial Detention

- ICJ Office in home state will retrieve juvenile within **5** business days
 - After confirmation that due process rights have been met
 - Time period may be extended with approval both ICJ Offices
- Holding state liable for charges of detaining juvenile unless
 - ICJ Office in home state is non-responsive within the 5 business day period
- If after **10** business days the home state fails to retrieve juvenile
 - A judicial hearing will be provided
 - The juvenile may be discharged to parent/legal guardian if holding state fails to provide hearing in **10** days

Rule 6-109



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19

Timeframe for Returning a Juvenile

- After notice, the sending state has **5** business days to retrieve the juvenile
 - Time limit may be extended with approval of both ICJ Offices
- Decision of sending state to retake juvenile is **NOT** reviewable by the receiving state
 - The exception to this rule is if the juvenile is suspected of having committed a criminal offense/act of juvenile delinquency in the receiving state

Rule 6-104



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20

New Charges in Holding/ Receiving State

- Juveniles are retrieved only:
 - With the consent of holding/receiving state
 - After charges are resolved when pending charges exist in holding/receiving state

Rule 6-107

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21

Form IA/VI & Due Process

- If the ICJ Application for Compact Services and MOU & Waiver Form (Form IA/VI) has the appropriate signatures, no further court procedures are required
 - The ICJ pre-signed voluntary waiver provides the due process requirement for this return
 - This form is also used when requesting supervision and must be signed by the sending states Judge
- After notifying the sending state's ICJ Office, an accredited officer of the sending state may enter receiving state and retake juvenile
 - A warrant may be issued if such action is not practical

Rule 6-104

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22

Form IA/VI



INTERSTATE COMPACT FOR JUVENILES APPLICATION FOR SERVICES AND WAIVER

FORM IA/VI

FORM IA

APPLICATION FOR COMPACT SERVICES

TO: _____ (Receiving State) FROM: _____ (Sending State)

I, _____, hereby apply for supervision as a parolee or probationer to the Interstate Compact for Juveniles. I understand that the very fact that supervision will be in another state makes it likely that there will be certain differences between the supervision I would receive in this state and supervision which I will receive in any state to which I am asking to go. However, I urge the authorities to whom this application is made, and all other judicial and administrative authorities, to recognize that supervision in another state, if granted as requested in this application, will be a benefit to me and will improve my opportunities to make a good adjustment. In order to get the advantages of supervision under the Interstate Compact for Juveniles, I do hereby accept such differences in the course and character of supervision as may be provided, and I do state that I consider the benefits of supervision under the Compact to be worth any adjustments in my situation which may be occasioned.

In view of the above, I do hereby apply for permission to be supervised on parole probation in _____ (Receiving State)

FORM VI MEMORANDUM OF UNDERSTANDING AND WAIVER

I, _____, realize that the grant of parole probation and especially the privilege to leave the State of _____ to go to the State of _____ is a benefit to me. In return for these advantages, I promise:

- That I will make my home with _____ (Name, Relationship, and Address) until a change of residence is duly authorized by the proper authorities of the receiving state.
- That I will obey and live up to the terms and conditions of parole probation as fixed by both the sending and receiving states.
- That I will return at any time to the sending state if asked to do so by the parole probation authorities in that state. I further understand that if I do not obey or live up to these promises, I may be returned to the sending state. I have read the above or have had the above read and explained to me, and I understand its meaning and agree thereto.

Juvenile's Signature) _____ (Date) _____ (Witness' Signature) _____ (Date)

I, in my capacity as parent guardian of _____ (Juvenile's Name) do approve and subscribe to the above Memorandum of Understanding and hereby waive any right which I may have to contest the return of the juvenile referred to herein to the sending state or jurisdiction from any state or jurisdiction within or outside the United States, in which he she may be found. I also undertake to cooperate with the supervising authorities and to assist them in securing the return of the juvenile referred to herein to the sending state whenever, in their judgment, such return may be necessary or desirable.

Parent's or Guardian's Signature) _____ (Date) _____ (Witness' Signature) _____ (Date)

Permission is hereby granted to the above-named juvenile and parent or guardian to allow the said juvenile to reside in and be supervised by the State of _____ (Receiving State)

(Date) _____ SIGNED: (if probation, sending state's JUDGE; if parole, sending state's COMPACT OFFICIAL)



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