

The Revised Interstate Compact for Juveniles (ICJ) Guide

What is the purpose of the Revised Interstate Compact for Juveniles (ICJ)?

The Revised ICJ is utilized when one state transfers their supervision responsibilities for juvenile delinquents and status offenders to another state.

In the context of the Revised ICJ transfers, the same two considerations that control juvenile delinquency are also considerations when it comes to transfers: (a) the best interest of the child and (b) public safety. Whether both of these considerations are to be given equal weight in the dispositional and transfer process has not been fully and finally determined by the courts.

To whom does the IJC apply?

Article I of the Revised ICJ provides significant insight into who is subject to the Compact. Broadly speaking, the Revised ICJ applies to juveniles alleged to be delinquent or a status offender; juveniles adjudicated delinquent or as a status offender; and non-offenders in need of supervision who have not been alleged delinquent or a status offender. However, a juvenile is not subject to the Revised ICJ if there was no court order supervision imposed for the underlying offense. *Note: "Juvenile" refers to any person defined as a juvenile by any state that is a member of the ICJ. The laws of the state where the offense occurred trigger the provisions of the Revised ICJ, even if the person would not have been considered a juvenile in any other member state.*

Status Offenders: a person who is charged with or adjudicated of an offense which would not be a criminal offense if it were committed by an adult. The receiving state may be obligated to provide supervision and services to a juvenile even though the juvenile would not be considered a status offender under the laws of the receiving state.

Runaways: a child under the juvenile jurisdictional age limit established by the state who has run away from his/her place of residence without the consent of the parent, guardian, person or agency entitled to his/her legal custody. The revised ICJ applies to runaways exclusively in the context of returning them to the state where the parent or legal guardian reside.

What is the length of supervision requirements?

Eligibility for transfer supervision exists if the plan requires relocating the juvenile to another state for a period exceeding 90 consecutive days in any 12-month period; and there are more than 90 days or an indefinite period of supervision remaining when the state submits the request the request; and the transfer is not solely to collect restitution. It is important to note that the juvenile is not subject to the Revised ICJ if both of the two lengths of supervision requirements are not met. Length of supervision and age of majority are determined under the laws of the sending state. It is the age of majority determination of the sending state that sets the status of the offender notwithstanding any difference with the laws of the receiving state.

What are the restrictions on eligibility of transfer?

The receiving state may reject a proposed transfer if (a) the proposed placement is determined to be unsuitable or (b) the juvenile is not in substantial compliance with the terms and conditions of supervision required by the sending or receiving state. The term 'unsuitable placement' could include any number of situations in which the receiving state could deny placement, including one in which the placement might present a danger to other children in the household, or where the residence involved is near where other children might be in danger.

It is important to note that Rule 5-101 (5) allows an “override” of the receiving state’s authority to deny a placement when there is no custodial parent or guardian in the sending state and a custodial parent or guardian resides in the receiving state. In this circumstance, the receiving state has no discretion to deny the placement, even if there are concerns about the placement.

How are referrals processed?

All member states are required to process referrals so long as the juvenile is under some form of court or juvenile authority jurisdiction in the sending state. An additional requirement, though not stated in the rule, is the requirement of “supervision.” Therefore, to be a valid referral, the juvenile must (a) currently be subject to the jurisdiction of the sending state, and (b) be subject to some form of supervision. *Note: The Revised ICJ is generally not applicable in cases involving the concurrent jurisdiction of both the Revised ICJ and the Interstate Compact on Placement of Children (ICPC). Therefore, juveniles who are neglected or dependent are subject to the ICPC, and would generally have supervision transferred pursuant to that compact and not the Revised ICJ.*

Each ICJ office shall forward all its cases within (5) five business days of receipt. This rule establishes several procedural requirements designed to ensure expeditious consideration of referrals. Different rules apply for juvenile parolees and probationers as to both form and timing. Regardless of whether a juvenile is a parolee or probationer, the ICJ Office in the receiving state should: (1) request its local offices complete a home evaluation within thirty (30) calendar days after receipt of referral; and (2) within forty-five (45) calendar days of receipt of the referral, make reasonable efforts to forward to the sending state the home evaluation along with the final approval or disapproval of the request for cooperative supervision. Summary of timelines is below.

Offender	Initial Referral (Sending State)	Local Referral & Home Study (Receiving State)	Approval/Deny (Receiving State)
Parolee	5 days within receiving referral and 45 days prior to anticipated arrival in receiving state	30 days after receipt by receiving state ICJ Office	45 days after receipt of referral from sending state
Probationer	5 days within receiving referral	30 days after receipt by receiving state ICJ Office	45 days after receipt of referral from sending state

What state has jurisdiction when the supervision of a juvenile is transferred?

The transfer of supervision is not a transfer of jurisdiction. The jurisdiction of a case, including the authority to alter the terms and conditions of supervision, remains with the court of the sending state. Violations of the conditions of supervision must be handled by the courts of the sending state upon notice from the receiving state unless the violations constitute new delinquency or status offense conduct under the laws of the receiving state *and* the state decides to prosecute.

What are the rules for transferring the supervision of sex offenders?

The transfer and supervision of sex offenders imposes special requirements on both the sending and receiving states. Among the key requirements are the following:

- The sending state shall not allow a juvenile who has been adjudicated of a sex related offense to transfer to the receiving state until the sending state’s request to transfer supervision has been approved or the receiving state has issued reporting instructions.
- Pertinent documentation should be provided to the receiving state in duplicate including petition and/or arrest report, order of adjudication and disposition.
- In conducting home evaluations for juvenile sex offenders, the receiving state shall ensure compliance with local policies or laws to issuing reporting instructions.
- If the proposed placement is unsuitable, the receiving state may deny acceptance.
- A juvenile sex offender must abide by the offender registration requirements, notifications and DNA testing. A juvenile sex offender who fails to register is subject to the laws of the receiving state.
- The receiving state shall receive a travel permit at least 48 hours prior to the juvenile sex offender’s departure from the sending state with the exception of emergency circumstances.
- A travel permit shall not be granted by the sending state until reporting instructions are issued by the receiving state.

Victim Notification: *Compliance with victim notification requirements are the responsibility of the sending state in accordance with the laws and policies of that state. The sending state must request information as necessary to fulfill victim notification requirements, including obtaining information from the receiving state. The receiving state must respond to the information request of the sending state within five (5) business days.*

What state receives restitution payments?

Where a court has ordered restitution payments as part of its dispositional order, the juvenile or juvenile’s family are obligated to make such payments directly to the adjudicating court or agency in the sending state.

When/how are juveniles returned to sending state?

The return of an out-of-state juvenile may occur under one of the four following broad categories, pursuant to Rule 6-101 and Rule 6-103:

- **Release of non-delinquent juvenile to parent or legal guardian**
A non-delinquent juvenile may be released to a parent or legal guardian within the first twenty-four (24) hours of detention (excluding weekends and holidays), except in cases where abuse or neglect is suspected by holding authorities. The juvenile may be released to the parent/legal guardian without applying the procedures set out in Rule 6-102.

Rule 6-101:

1. All remedies and procedures proved by this Compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities. To this end, the following rules shall apply:
 - a. Juvenile authorities may release a non-delinquent juvenile to their parent/legal guardian within the first 24-hours (excluding weekends and holidays) of detainment without applying Rule 6-102, except in cases where abuse or neglect is suspected by holding authorities.
 - b. If the juvenile remains in custody beyond 24 hours, the holding state’s ICJ office shall be contacted.
2. Non-delinquent juveniles who are endangering themselves or others held beyond 24 hours shall be held in secure facilities until returned by the home/demanding state.

- **Voluntary return of out-of-state juveniles**

This rule applies to non-delinquent juveniles, probation and parole absconders, escapees and juveniles accused of being delinquent. The holding state's ICJ office shall be advised of the juvenile's detention and shall contact the juvenile's home/demanding state's ICJ Office concerning the case. The home/demanding state's ICJ office is required to immediately initiate measures to determine the juvenile's residency and jurisdictional facts in that state. Juveniles are to be returned only with the consent of the holding state or after charges are resolved when pending charges exist in the holding state.

When the juvenile is a non-delinquent being held in secure detention past the initial 24 hours, pending return to the home/demanding state, Section 3.2 of the 2007 provides that "Out-of-state runaways securely held beyond 24 hours solely for the purpose of being returned to proper custody in another state in response to a warrant or request from a jurisdiction in the other state or pursuant to a court order must be reported as violations of the DSO requirement. Juveniles held pursuant to the Interstate Compact on Juveniles enacted by the state are excluded from the DSO requirements in total."

Rule 6-102: Once an out-of-state juvenile is found and detained, the following rules shall apply:

1. The holding state's ICJ Office shall be advised of juvenile detainment. The holding state's ICJ Office shall contact the home/demanding state's ICJ office advising them of case specifics.
2. The home/demanding state's ICJ Office shall immediately initiate measures to determine juvenile's residency and jurisdictional facts in the state.
3. At a court hearing (physical or electronic), the judge in the holding state shall inform the juvenile of his/her rights under the compact using the ICJ Juvenile Rights Forms or an alternate, comparable procedure. The court may elect to appoint counsel or a guardian ad litem to represent the juvenile in this process.
4. If in agreement with the return, the juvenile will sign the approved ICJ Form III, consenting to voluntary return.
5. When consent has been duly executed, it shall be forwarded to and filed with the Compact administrator, or designee, of the hold state. The holding state's Compact office shall in turn, forward a copy of the consent to the Compact administrator, or designee, of the home/demanding state.
6. The home/demanding state shall be responsive to the holding state's court orders in effecting the return of its juveniles. Each ICJ Office shall have policies/procedures in place involving the return of juveniles that will ensure the safety of the public and juveniles.
7. Juveniles are to be returned by the home/demanding state in a safe manner and within five (5) business days or receiving a completed Form III. This time period may be extended up to and additional five (5) business days with approval from both ICJ Offices.

- **Non-voluntary return of out-of-state juveniles.**

An out-of-state juvenile is subject to arrest and detention upon request of either the home/demanding state or sending state. This rule applies to non-delinquent juveniles, probation and parole absconders, escapees and juveniles accused of being delinquent. Such a return procedure applies to all juveniles in custody who refuse to voluntarily return to their home/demanding state, or juveniles whose whereabouts are known but are not in custody.

To effect such a return, the appropriate person or authority in the home/demanding state shall prepare a written requisition sixty (60) calendar days of notification of either a refusal to voluntarily return as provided in Rule 6-102, or to request that a court take custody a juvenile that is allegedly in their jurisdiction. Once in detention, such a juvenile may be held, pending non-voluntary return to the home/demanding state, for a maximum of ninety (90) calendar days.

Rule 6-103: The following shall apply to all juveniles in custody who refuse to voluntarily return to their home/demanding state; or juveniles whose whereabouts are known, but are not in custody:

1. The appropriate person or authority in the home/demanding state shall prepare a written requisition within sixty (60) calendar days of notification: (a) of refusal of the juvenile to voluntarily return as prescribed in Rule 6-102, or (b) to request that a court take into custody a juvenile that is allegedly located in their jurisdiction.
2. Juveniles held in detention, pending non-voluntary return to the demanding state, may be held for a maximum of ninety (90) calendar days. The home/demanding state's office shall maintain regular contact with the authorities preparing the requisition to ensure accurate preparation and timely delivery of said documents to minimize detention time.
3. When the juvenile is a non-delinquent runaway, the parent/legal guardian or custodial agency must petition the court of jurisdiction in the home/demanding state for a requisition.
4. The home/demanding state's appropriate state authority shall initiate the requisition process upon notification by the holding state's ICJ Office that a non-delinquent juvenile in custody refuses to voluntarily return and the parent or legal guardian in the home/demanding state is unable or refuses to initiate the requisition process.
5. The judge in the home/demanding state shall determine if a. the petitioner is entitled to legal custody of the juvenile; b. the juvenile ran away without consent; c. the juvenile is an emancipated minor; and it is in the best interest of the juvenile to compel his/her return to the state.
6. When it is determined that the juvenile should be return, the judge in the home/demanding state shall sign the Requisition for Runaway in duplicate
7. When the juvenile is an absconder, escapee or accused of being delinquent, the appropriate authority shall present the appropriate court the Requisition for Escapee or Absconder or Juvenile Accused of Being Delinquent form where the juvenile is alleged to be located. The requisition must be verified by affidavit and accompanied by two (2) certified copies of supporting documents that show entitlement to the juvenile.
8. The ICJ Office retains one copy of the packet and forwards two copies of the requisition to the ICJ office of the state where the juvenile is located, that office will forward the requisition to the appropriate courts.
9. If not already detained, the court shall order the juvenile be held pending a hearing on the requisition.
10. A hearing in the state where the juvenile is located shall occur within thirty (30) calendar days of receipt of requisition.
11. The order concerning the requisition shall be forwarded immediately from the holding court to the holding state's ICJ office which shall forward to the home/demanding state ICJ office.
12. Juveniles are to be returned by the home/demanding state within (5) business days of receipt of the order granting requisition.

- **Return of juveniles after failed placements**

It is important to note that neither the compact nor the Revised ICJ Rules expressly provide how the determination of a 'failed placement' will be made, nor whether the sending state, the receiving state or both of them are responsible for making such determination. However, it is clear that under Rule 4-104 (1) a receiving state can apply a standard which is applied to its own juveniles in the evaluation of a particular placement.

If it is determined necessary to return a juvenile whose placement has failed to the sending state, and the ICJ Application for Compact Serves and Waiver Form has the appropriate signature, no further court procedures are required for this return. The sending state is required to return the juvenile in such cases within five (5) business days upon receiving notice of the failed placement, in a safe manner, pursuant to Rules 6-106 and 6-111. *Note: A juvenile arrested and detained for violating the terms and conditions of supervision may have certain due process rights. If the sending state intends to use the juvenile's violations in the receiving state as the basis for possibly revoking the juvenile's conditional release, U.S. Supreme Court decisions, which may be applicable in the context of ICJ retakings, require that the sending and receiving states comply with various hearing requirements.*

Rule 6-104:

1. If it is determined necessary to return a juvenile, whose placement has failed, to the Sending State and the ICJ Application for Compact Services and Memorandum of Understanding and Waiver Form has the appropriate signatures, no further court procedures will be required for the juvenile's return. The ICJ pre-signed voluntary waiver provides the due process requirement for this return.
2. Upon notifying the sending state's ICJ office, a duly accredited officer of a sending state may enter a receiving state and apprehend and retake any such juvenile on probation or parole. If this is not practical, a warrant may be issued and the supervising state shall honor that warrant in full.
3. Upon notice of a juvenile's failed placement for purposes of his/her return, the sending state shall return the juvenile in a safe manner, pursuant to ICJ Rules 6-106 and 6-111, and within five (5) business days. This time period may be extended with the approval of both ICJ offices.
4. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive and not reviewable within the receiving state. In those cases where the juvenile is suspected of having committed a criminal offense or an act of juvenile delinquency in the receiving state, the juvenile shall not be returned without the consent of the receiving state until discharged from prosecution, or other form of proceeding, imprisonment, detention, or supervision.
5. The officer of the sending state shall be permitted to transport delinquent juveniles being returned through any and all states party to this Compact, without interference.

Do out-of-state juveniles have right to counsel?

Under the Revised ICJ Rules, a state is not specifically obligated to provide counsel in circumstances of revocation or retaking, although in the case of a requisition hearing to effect the non-voluntary return of an absconder, escapee or accused delinquent, a court has the discretion to appoint counsel or guardian ad litem. However, if the proceeding is a result of the revocation or parole or probation, a state should consider providing counsel if the juvenile has difficulty presenting their version of facts, questioning witnesses or presenting evidence.

The requirement to provide counsel would generally not be required where the juvenile is being retaken and the sending state does not intend to revoke conditional release based on violations that occurred in the receiving state.

Where the retaking of a juvenile may result in a revocation of conditional release by the sending state, the juvenile is entitled to basic due process considerations. The juvenile may waive the probable cause hearing only if he or she admits to one or more significant violations of their supervision. The probable cause hearing required to meet the applicable due process requirements need not be a full "judicial proceeding". A variety of persons can fulfill the requirement of a "neutral and detached" person for purposes of the probable cause hearing. If officials other than judicial officers are qualified to handle revocation proceedings, these same officials can preside over a probable cause hearing in the receiving state.

Can a receiving state grant bail?

A juvenile offender subject to a warrant issued under ICJ jurisdiction has no right to bail. The Revised ICJ and its rules impose an absolute prohibition against admitting a juvenile to bail when the home/demanding state enters a warrant as a "no bond/bail warrant." The sending state may issue a warrant for the juvenile and request that the receiving state arrest and detain the juvenile pending retaking. However, an offender cannot be held indefinitely.