

Interstate Compact for Juveniles Overview

The Revised Interstate Compact on Juveniles (ICJ), in general, is a contract or agreement between the member states and is enforceable as federal law which controls interstate movement and travel by juveniles who are under court supervision or who have run away to another state. As applied to Juvenile Delinquency Court, the ICJ determines the requirements for supervision, transfer of juvenile supervision to another state and return of juveniles who are on probation, parole, or other supervision, or have escaped to another state; have run away from home to another state; or have been accused of an offense in another state.

N.C. Gen. Stat. 7B-4000 through 7B-4002 sets out the purpose and definitions of the ICJ and establishes the Interstate Commission (the agency in charge of overseeing and implementing compliance with the ICJ) and its bylaws. However, the actual Compact is substantially longer and can be located on the website listed below along with the current Judges' bench book on the ICJ. This article is intended to provide a brief overview of the most relevant sections of the ICJ for use in delinquency court. For an in depth look at the ICJ, Defenders should access the Interstate Commission for Juveniles website at www.juvenilecompact.org.

The ICJ is most frequently an issue in delinquency matters when a juvenile relocates to another state while on probation, or when a juvenile runs away from home and crosses state lines. Certain other applications exist as well and Defenders should familiarize themselves with Rule 1-101 of the ICJ, which provides definitions of numerous terms.

Under the ICJ, a juvenile who is placed on probation shall not be permitted to relocate to another state except through the rules of the ICJ. Section 400 of the ICJ controls transfer of supervision with Rule 4-101 determining eligibility for transfer. Counsel should note that transfer is not allowed unless there is a plan "inclusive of relocating to another state for a period exceeding ninety (90) consecutive days in any twelve (12) month period; and has more than ninety (90) days or an indefinite period of supervision remaining at the time the sending state" requests transfer. Requests to transfer for the sole purpose of collecting restitution or court fines are not allowed and the receiving state may initiate procedures to close supervision if collection of restitution or court fines is the only remaining condition/need being addressed.

A receiving state can deny the transfer of supervision under certain circumstances. A denial can not be based solely on the juvenile's age or the underlying offense. Prior to transfer, a home evaluation is completed in the receiving state on the proposed residence. Transfer can be denied if the home is found to be unsuitable. There is an exception if no legal guardian resides in the sending state, but a legal guardian resides in the receiving state. Counsel should explain this to any juvenile where transfer out of state is proposed. In addition to a finding of an unsuitable home, transfer can be denied if the juvenile is not in compliance with supervision requirements and applicable laws. Counsel should note that immigration status could be used as grounds for denial of transfer for "undocumented juveniles." See ICJ Advisory Opinion 05-2010, Revised 03-14-2018. Counsel should also note that the ICJ and ICPC (Interstate Compact on the

Placement of Children) are not the same. Placement of a juvenile through the ICPC is not precluded by eligibility or placement under the ICJ.

Juveniles subject to transfer under the ICJ for alleged or adjudicated sex offenses are addressed in Rule 4-103 of the ICJ. Counsel should consider SORNA consequences for such juveniles and **note that juveniles are required to follow the receiving state's laws regarding registration and DNA testing**. Juvenile defenders should assist in seeking appropriate placements for juveniles adjudicated of sex offenses keeping in mind registration issues. Counsel should also note that extensive information regarding a juvenile adjudicated of a sex offense is provided to the receiving state including the petition and/or arrest report, safety plan, specific assessments, legal and social history and victim information. This information is mandatory and is included in the initial referral. Any failure to register is subject to the laws of the receiving state.

For supervision issues, section 500 of the ICJ applies. Both the sending and receiving state have authority to enforce the terms of probation, which may include time in detention in the receiving state. Transfer of supervision to another state does not transfer jurisdiction. The sending state has sole authority to discharge/terminate supervision with only two exceptions: a juvenile is convicted of a crime and sentenced as an adult in the receiving state or the court order or maximum term of supervision has expired. Violations of probation are handled by and in the sending state. Under the ICJ, states are not specifically required to provide counsel for revocation or retaking in the receiving state. However, the bench book directs that courts should consider appointing counsel in hearings which may result in revocation of probation. If counsel is appointed in a North Carolina delinquency court for a juvenile based solely upon a requisition/retaking issue, IDS has indicated that payment would issue with an appropriately submitted fee application, form AOC-J-411. In that case, counsel should mark the appropriate boxes for "Other" and note that it is an ICJ matter.

The ICJ has other implications in juvenile court including the issuance of warrants for juveniles. These warrants are entered into the National Crime Information Center (NCIC). Juveniles with warrants under the ICJ are not eligible for bond pending return to the requesting/home state. See ICJ Rule 7-104. Additionally, juveniles who are considered a danger to themselves or others shall be detained in secure facilities at a location deemed appropriate by the holding state until their return which should occur within ninety (90) days. See ICJ Rules 6-102, 6-103, and 6-103A. Allegations of abuse or neglect do not terminate a state's responsibility to return a juvenile to the home/demanding state. See ICJ Rule 6-105.

Another common use of the ICJ for delinquency court is the issuance of travel permits which is covered in Section 800. While some jurisdictions are requiring travel permits for any out-of-state travel, such permits are only mandatory under certain circumstances. Travel permits are mandatory if the travel out of state exceeds 24 hours **and** meets one of the following:

1. Adjudicated juveniles on supervision for sex-related offenses, violent offenses that have resulted in personal injury or death, or offenses committed with a weapon; or

2. Juveniles who are state committed; relocating pending a request for transfer of supervision, returning to the state from which they transferred for visitation, transferring to a subsequent state with approval by the original sending state, or transferred and the victim notification laws of either the sending or receiving state require notification.

Counsel should note these conditions making travel permits mandatory and make argument where appropriate when juveniles are subject to more restrictive travel conditions, particularly for juveniles adjudicated of minor offenses.

Counsel should review the ICJ and relevant portions of the bench book for any case involving the possibility of transfer of supervision to another state and for other cases such as absconding and/or runaway issues for clients. Included in the bench book for judges are certain advisory opinions regarding the ICJ. Counsel should review those opinions for issues regarding HIPAA, immigration, tribal jurisdiction and other specific questions not clearly addressed in the text of the ICJ. Many districts assign a specific court counselor to handle all ICJ issues. Counsel with questions regarding ICJ issues may be able to contact the North Carolina Interstate Commission Deputy Compact Administrator (currently, Stephen Horton) at 919-324-6396. Additional contact information for North Carolina Commission members along with contacts for all other states can be located on the website for the Interstate Commission on Juveniles (www.juvenilecompact.org). For general information and questions, defenders can also contact the Office of the Juvenile Defender at 919-890-1650.