

BENCH CARD

TRANSFER OF SUPERVISION



WHAT IS THE ICJ?

The Interstate Compact for Juveniles (ICJ) is the only legal means to transfer a juvenile's probation or parole supervision from one state to another, and to return accused delinquents, absconders, escapees, and runaways who have been detained. All courts and executive agencies are required to enforce the Compact, which carries the weight of federal law.



COMPACT TRANSFER ELIGIBILITY

ICJ RULE 4-101

A JUVENILE WHO IS NOT BEING PLACED IN A RESIDENTIAL FACILITY IS ELIGIBLE FOR TRANSFER IF THEY:

- ✦ Are classified as a juvenile in the sending state; and
- ✦ Are an adjudicated delinquent, adjudicated status offender, or has a deferred adjudication; and
- ✦ Are under the jurisdiction of the court or appropriate authority in the sending state; and
- ✦ Have a plan that includes residing in another state for a period exceeding 90 consecutive days in any 12-month period; and
- ✦ Have more than 90 days remaining at the time the sending state submits the transfer request; and
- ✦ Will reside with a legal guardian, relative, non-relative or independently; or is a full-time student at an accredited secondary school, or accredited university, college or licensed specialized training program and can provide proof of acceptance and enrollment.

A REQUEST FOR TRANSFER OF SUPERVISION FOR THE SOLE PURPOSE OF COLLECTING RESTITUTION AND/OR COURT FINES IS NOT PERMITTED.

NO STATE MUST PERMIT A JUVENILE WHO IS ELIGIBLE FOR TRANSFER TO RESIDE IN ANOTHER STATE, EXCEPT AS PROVIDED BY THE ICJ.

REQUIREMENTS FOR TRANSFER OF JUVENILES OUT OF STATE

ICJ RULES 1-101, 4-102, 8-101; ICJ Advisory Opinion #02-2015

The sending state is responsible for submitting a complete referral packet containing the required ICJ forms and other documents to the receiving state for investigation.

- ▶ The Form VI, Application for Services and Waiver, must be signed by the judge/court (in probation cases) or ICJ official (in parole cases) to authorize the proposed receiving state to conduct the home evaluation.
- ▶ The Form VI should be signed by the juvenile prior to relocation. However, if the juvenile already resides in the receiving state, the receiving state must obtain the juvenile's signature.
- ▶ When it is necessary for the juvenile to proceed to the receiving state prior to receiving an official acceptance, the sending state must provide the juvenile with a travel permit.
- ▶ The ICJ Form VII, Out-of-State Travel Permit and Agreement to Return, must be signed by the juvenile and the supervising officer in the sending state and must not provide permission to travel in excess of 90 calendar days. The sending state must send a copy of the ICJ Form VII to the receiving state through the national data system prior to the juvenile's departure.

ACCEPTANCE OR DENIAL OF SUPERVISION

ICJ RULE 4-104

- 📌 Within 45 days of receipt of the referral, the receiving state must forward to the sending state the home evaluation along with the final approval or disapproval of the request for transfer of supervision.
- 📌 Supervision must be accepted unless the home evaluation reveals that the proposed residence is unsuitable or that the juvenile is not in substantial compliance with the terms and conditions of supervision required by the sending or receiving state. Supervision must also be accepted as provided in Rule 4-104(5), which states, "Supervision must be accepted when a juvenile has no legal guardian remaining in the sending state and the juvenile does have a legal guardian residing in the receiving state."
- 📌 The receiving state cannot deny supervision based solely on the juvenile's age or the offense.
- 📌 A denied home evaluation must contain a detailed justification to include why the proposed residence is not safe and/or suitable.
- 📌 If transfer is denied, sending state must arrange transportation for return of juvenile within five business days.



SUPERVISION REQUIREMENTS

ICJ RULE 5-101

- ✓ Upon acceptance of supervision, the receiving state must supervise the juvenile consistent with other similar juveniles under probation or parole supervision in the receiving state.
- ✓ At the time of acceptance or during supervision, a receiving state may impose any condition on a juvenile, if that condition would have been imposed on a similar juvenile in the receiving state.
- ✓ The sending state is responsible for collecting all fines, restitution, court costs, or other financial obligations imposed by the sending state on a juvenile.
- ✓ Both the sending state and the receiving state have the authority to enforce the terms of probation, which may include detention.

- ✓ The sending state determines the age of majority and length of supervision.
- ✓ The receiving state determines the level (degree) of supervision.



ADDITIONAL REQUIREMENTS FOR JUVENILE SEX OFFENDERS

ICJ RULE 4-103

A sending state must not allow a juvenile sex offender to proceed to a receiving state, until the sending state's request for transfer of supervision has been approved or reporting instructions have been provided by the receiving state, unless the juvenile has no legal guardian remaining in the sending state. In this instance only, the sending state must determine if the circumstances of the juvenile's immediate transfer justify the use of a travel permit and the appropriateness of the residence in the receiving state.

- If immediate transfer is necessary, the completed ICJ Form VII, Out-of-State Travel Permit and Agreement to Return, must include a justification and be sent to the receiving state prior to the juvenile's departure from the sending state.
- Receiving state must ensure compliance with local policies or laws when issuing reporting instructions. If the proposed residence is unsuitable, the receiving state may deny acceptance. Juvenile sex offenders must abide by registration laws in receiving state (i.e. felony or sex offender registration, notification or DNA testing).
- A juvenile sex offender who fails to register in the receiving state when required will be subject to the laws of the receiving state.
- The receiving state must advise the sending state of any sex offender registration requirements and/or reporting instructions the juvenile may have in the receiving state. The sending state maintains supervision responsibility until the transfer is officially accepted by the receiving state. The receiving state has the authority to supervise the juvenile sex offender pursuant to reporting instructions.

VIOLATIONS AND RETAKING

Violations must be reported to the sending state using the Form IX, Violation Report, and must include detailed information about new citations or violations; status and disposition; supporting documentation; a description of efforts to redirect the behavior; and receiving state recommendations. **ICJ Rule 5-103**

Where detention is required in the receiving state, the type of secure facility must be determined by the laws regarding age of majority in the receiving state. **ICJ Rule 7-105**

When revocation or discharge is recommended, sending states have 10 business days to respond to violation reports with the action to be taken and the date that action will occur. **ICJ Rule 5-103**

The sending state's decision to retake a juvenile on probation or parole must be conclusive and not revocable within the receiving state. **ICJ Rule 5-103**

Detained juveniles are not available for retaking. If the juvenile is suspected of committing a criminal offense or act of juvenile delinquency in the receiving state, the juvenile must not be returned without the consent of the receiving state until discharged from prosecution, or other form of proceeding, imprisonment, detention, or supervision. **ICJ Rule 5-103**

If it is necessary to return a juvenile to the sending state and the ICJ Form VI, Application for Services and Waiver, has the appropriate signatures, no further court action is required in the receiving state. The Form VI satisfies due process requirements. **ICJ Rule 5-103**



ICJ RULE 5-103A: FAILED SUPERVISION DETERMINED BY RECEIVING STATE

The receiving state may determine supervision has failed when:

A legal guardian remains in the sending state, the receiving state has documented efforts or interventions to redirect the behavior, and:

- ✦ The juvenile no longer resides in the residence approved by the receiving state due to documented instances of violation of conditions of supervision; or
- ✦ An alternative residence is determined to be in the best interest of the juvenile due to documented instances of violation of conditions of supervision **and** no viable alternatives have been located in the receiving state; or
- ✦ An immediate, serious threat to the health and safety of the juvenile and/or others in the residence or community is identified; or

The juvenile does not reside with a legal guardian and the person with whom the juvenile resides requests the juvenile be removed from his/her home; or

The juvenile is a student or resides independently in the receiving state and the transfer of supervision fails due to documented instances of violations of conditions of supervision, and the receiving state has documented efforts or interventions to redirect the behavior.

Sending states have 10 business days to either secure alternative living arrangements or return the juvenile.

If a sending state is required to return a juvenile and fails to do so within 10 business days, a judicial hearing must be provided in the holding/receiving state. The court must determine whether the grounds submitted justify the continued detention of the juvenile subject to the provision of the ICJ. A juvenile may be discharged from detention to a legal guardian or his/her designee if the holding/receiving state's court determines that further detention is not appropriate. **ICJ Rule 7-105**





**INTERSTATE COMMISSION
FOR JUVENILES**

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INTERSTATE COMMISSION FOR JUVENILES

The **Interstate Commission for Juveniles** is the governing body of the ICJ, collectively formed by the Commissioners from each member state and territory.

The Commission's authority extends to all 50 states, the District of Columbia, and the United States Virgin Islands.

The Commission works to preserve child welfare and promote public safety by providing **enhanced accountability, enforcement, visibility, communication, and dispute resolution** among the states in the return of juveniles who have left their state of residence without permission.

Moreover, the ICJ maintains the cooperative supervision of delinquent juveniles who travel or relocate across state lines.



FOR ADDITIONAL INFORMATION:

- ✓ ICJ Toolkit for Judges
- ✓ ICJ Bench Book for Judges and Court Personnel
- ✓ Visit the Commission's website
- ✓ Contact your state's Compact Office