

## Interstate Compact for Juveniles (ICJ)

NC District Court Judges Summer Conference  
Wrightsville Beach, NC

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## Topics

- The Law
  - Old Compact (Art. 28 of Ch. 7B)
  - Revised ICJ (Art. 40 of Ch. 7B)
- Who's Covered?
- Rules and Procedures
  - Transfer of Supervision
  - Return of Runaways
  - Return of Other Out-of-State Juveniles

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## The Law

### "Revised" ICJ



Interstate Commission  
for Juveniles  
Serving Juveniles While Protecting Communities

- Est. 2008
- Article 40 of Ch. 7B
  - no specific rules or procedures
  - only purposes, definitions,
  - and role of Interstate Commission for Juveniles
- Replaces "Old" Compact
  - Art. 28 of Ch. 7B (for contingent repeal)
- Adopted by all states
  - GA was last to sign; effective 7/1/14

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## ICJ Rules

- Promulgated by Interstate Commission
- Resources:
  - <http://www.juvenilecompact.org>
    - ICJ Rules
    - Directory of ICJ Officials (by State)
    - Forms
    - Bench Book
      - "Quick Reference Guide" (pp. 11-27)

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## ICJ Officials in NC

Commissioner (main contact)  
Traci Marchand  
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## Who's Covered?

Revised ICJ applies to:

1. Runaways who run to or from NC,
2. Juveniles who are "**adjudicated delinquents**" or "**adjudicated status offenders**" in one state and need to be supervised in a different state,
3. Juveniles who are "**accused delinquents**" or "**accused status offenders**" in one state and are located in a different state.

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## Definition of "Juvenile"



**Juvenile** - Any person defined as a juvenile in any member state or by ICJ rules.

## Transfer of Supervision

- ICJ Officials
  - Complete forms
    - Waiver (ICJ Form IAVI)
  - Process referrals
  - Approve or deny transfer requests



District Court Judges have no authority to authorize or deny transfer of supervision.

## Transfer Eligibility Requirements

- defined as "juvenile" in sending state
- subject to some form of supervision
  - adjudicated delinquent, adjudicated status offender
  - or deferred adjudication
- still under jurisdiction of sending state
- length of relocation and supervision are both > 90 days
- juvenile will either:
  - reside with parent, legal guardian, relative, non-relative, or live independently (not in residential facility); or
  - be a full-time student.



ICJ Rule 4-101

## Residential Facilities

- No transfer of supervision for placement in out-of-state residential treatment facility
  - ICJ Rule 4-101(2)(f)
- But, ICPC may allow placement
  - Only certain facilities (e.g., PRTF, YDC)
  - See, e.g.,
    - G.S. 7B-3800, Art. VI
    - G.S. 7B-3805

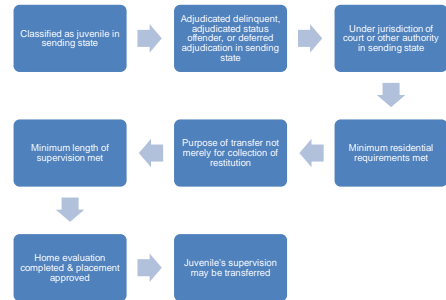
## Restrictions on Transfer

Transfer may be denied if:

- sole purpose is to collect restitution
- home evaluation finds placement "unsuitable"
- juvenile is not in "substantial compliance" with terms of supervision

❖ Except when juvenile's only parent or legal guardian is located in receiving state ICJ Rule 4-104

## Approval Process



## Special Considerations

- Jurisdiction
  - Remains with sending state
  - Sending state handles:
    - Violations
    - Termination of supervision
    - Transportation
- Cost of Treatment
  - Paid by sending state, if not covered by Medicaid or private insur. (unless provided by supervising agency)
- Juvenile Sex Offenders
  - Laws of receiving state govern
    - Sex offender registration, Victim notification, DNA testing



## Retaking / Failed Placement

- Sending state can:
  - Enter and retake juvenile
    - w/o court procedures, if juvenile signed waiver form (ICJ Form IA/VI)
  - Issue warrant for arrest (if retaking not practical)
- Retaking requires consent of receiving state
  - If juvenile has pending charge there

ICJ Rule 5-103

## ICJ vs. Extradition

- Uniform Criminal Extradition Act (UCEA) permits extradition of juveniles
  - If charged/adjudicated offense is a “crime”
    - *In re Boynton*, 302 Mich. App. 632 (2013)
    - *State v. J.M.W.*, 936 So.2d 555 (Ala. Crim. App. 2005)
    - *But see, People v. Butts*, 14 N.Y.S.2d 881 (1939, Supp)
  - ICJ Form IA/VI waives any extradition rights
- ❖ UCEA inapplicable to runaways

## Return of Out of State Juveniles

May occur in 1 of 4 ways:

1. Retaking (upon failed placement)
2. Release of Runaway to Parent/Guardian
  - w/n 24 hrs (excluding wknds & holidays)
3. Voluntary Return (ICJ Form III)
4. Non-Voluntary Return (Requisition Form I or II)

## Release to Parent/Guardian

- Permitted w/n 24 hrs of detainment
  - unless abuse/neglect suspected
- Beyond 24 hrs
  - Notification of home state's ICJ Office required
  - ICJ due process hearing
  - Secure custody

ICJ Rule 6-101



## Abuse/Neglect Allegation

### “Holding” State must:

- Notify home state's ICJ Office
- Hold juvenile in secure custody (max. 90 days) until . . .
  - Voluntary return (Form III)
  - Requisition I

### “Home” State must:

- Facilitate juvenile's safe return with appropriate authority (i.e. DSS)
- Initiate requisition, if juvenile not returning to parent/guardian and
  - does not consent to voluntary return

## Voluntary Return (Form III)

- Due Process Procedures:
  - Hearing held in holding state
  - Advisement of rights (see ICJ Form)
  - Counsel and/or guardian ad litem appointed
  - Form III (signed by juvenile & judge)
  - Return to home state w/n 5 days

Applies to any out-of-state juvenile

ICJ Rule 6-102



## Non-Voluntary Return Runaways and Accused Status Offenders

Procedure in home state:

- Parent/Guardian files petition w/ ICJ Office
- ICJ Office files “Requisition I”
- Judge must find:
  - Petitioner entitled to legal custody
  - Juvenile ran away w/o consent
  - Juvenile not emancipated
  - Return is in juvenile’s best interests
- Requisition packet forwarded to holding state

ICJ Rule 6-103



## Non-Voluntary Return Runaways and Accused Status Offenders

Court in holding state must:

- Hold hearing w/n 30 days of receipt
- Decide whether to appoint counsel and/or guardian ad litem
- Determine
  - “if the Requisition Form I is in order”

Judge “shall order the juvenile’s return” to home state if requisition is found to be in order.

ICJ Rule 6-103(5)



## Non-Voluntary Return Escapee, Absconder, Accused Delinquent

Procedure in home state:

- ICJ Office files “Requisition II”
  - w/ supporting documentation (petition, orders, etc.)
- Judge signs requisition
- Requisition packet forwarded to holding state

ICJ Rule 6-103A



## Non-Voluntary Return Escapee, Absconder, Accused Delinquent

Court in holding state must:

- Hold hearing w/n 30 days of receipt
- Decide whether to appoint counsel and/or guardian ad litem
- Determine
  - “if the Requisition Form II is in order”

Judge “shall order the juvenile’s return” to home state if requisition is found to be in order.

ICJ Rule 6-103A(5)



## Required Findings

*In re Teague*, 91 N.C. App. 242 (1988)



- Trial court’s finding that “requisition is in order” was insufficient to return escaped juvenile to SC.
- Held that ICJ (implicitly) required trial court to find that the juvenile being requisitioned is same juvenile before the court.



## Non-Voluntary Return

### Additional Procedures

(applicable to any non-voluntary return):

- Home state returns juvenile w/n 5 days of receipt of order granting requisition
- Denial of requisition requires written findings
- Juvenile may be held in secure custody for max. of 90 days pending return

