



# Bench Card on **TRANSFER OF SUPERVISION**

**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 juvenile runaways. The Compact is authorized by the U.S. Constitution, Compact Clause, Article 1, Section 10, and the Crime Control Act, 4 U.S.C. Section 112 (1965).

The Compact, by its express terms, also specifically requires all courts and executive agencies to enforce compacts between states and to take necessary actions to effectuate its purposes. The ICJ and ICJ Rules have the full force and effect of federal law.

## **COMPACT TRANSFER ELIGIBILITY (SEE ICJ RULE 4-101)**

A juvenile (who is not being placed in a residential facility) shall be eligible for transfer if he/she:

- Is classified as a juvenile in the Sending State; and
- Is an adjudicated delinquent, adjudicated status offender, or has a deferred adjudication; and
- Is under the jurisdiction of the court or appropriate authority in the Sending State; and
- Has a plan inclusive of residing in another state for a period exceeding 90 consecutive days in any 12-month period; and
- Has 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 shall 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**

## **(SEE 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 is already residing in the Receiving State, the Receiving State shall obtain the juvenile's signature on the Form VI, Application for Services and Waiver.***

**When it is necessary for the juvenile probationer to proceed to the Receiving State prior to receiving an official acceptance, the Sending State shall provide the juvenile with a travel permit for testing a proposed residence.**

- The ICJ Form VII, Out-of-State Travel Permit and Agreement to Return, shall be signed by the juvenile and the supervising officer in the Sending State and shall not provide permission to travel in excess of 90 calendar days. The Sending State shall send a copy of the ICJ Form VII to the Receiving State through the national data system *prior* to the juvenile's departure from the Sending State.

## **ACCEPTANCE OR DENIAL OF SUPERVISION**

### **(SEE ICJ RULES 4-104 and 5-101)**

- Within 45 calendar days of receipt of the referral, the Receiving State shall forward to the Sending State the home evaluation along with the final approval or disapproval of the request for transfer of supervision.
- The Receiving State cannot deny supervision based solely on the juvenile's age or the offense.
- Supervision shall 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 shall also be accepted as provided in Rule 4-104(5).
- 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 shall arrange transportation for return of juvenile within 5 business days.

## **ACCEPTANCE OR DENIAL OF SUPERVISION**

### **(SEE ICJ RULES 4-104 and 5-101)**

- Upon acceptance of supervision, the Receiving State shall 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, family support, restitution, court costs, or other financial obligations imposed by the Sending State on a juvenile.
- Both the Sending State and the Receiving State shall have the authority to enforce the terms of probation, which may include the imposition of detention time in the Receiving State. Any costs incurred from any enforcement sanctions shall be the responsibility of the state seeking to impose such sanctions. Neither state may impose a supervision fee. The Sending State determines the age of majority and length of supervision. The Receiving State determines the level (degree) of supervision.

Colorado

Nebraska

Iowa

Illinois

Indiana

Ohio

Kentucky

## When Juveniles Cross State Lines... Do You Know The Law?

### ADDITIONAL REQUIREMENTS FOR JUVENILE SEX OFFENDERS (SEE ICJ RULE 4-103)

**A Sending State shall *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 shall determine if the circumstances of the juvenile's immediate transfer justify the use of an ICJ Form VII 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, shall include a justification and be sent to the Receiving State prior to the juvenile's departure from the Sending State.
- Receiving State shall 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 shall 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 shall 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.



### 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 U.S. 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.

# **VIOLATIONS and RETAKING**

## **(SEE ICJ RULES 5-103; 5-103A; 7-104; 7-105)**

Violations must be reported to the Sending State 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.

Where detention is required in the Receiving State, the type of secure facility shall be determined by the laws regarding age of majority in the Receiving State.

Sending States have 10 business days to respond to violation reports with the action to be taken and the date that action will occur.

The Sending State's decision to retake a juvenile on probation or parole shall be conclusive and not reviewable within the Receiving State.

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 shall not be returned without the consent of the Receiving State until discharged from prosecution, or other form of proceeding, imprisonment, detention, or supervision.

If it is necessary to return a juvenile to the Sending State and the ICJ Form VI has the appropriate signatures, no further court action is required in the Receiving State. The Form VI, Application for Services and Waiver, satisfies due process requirements.

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 shall be provided in the Holding/Receiving State. The court shall 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.

For additional information on rules governing the return of runaways, escapees, and absconders, see the *"Toolkit for Judges"* and *"ICJ Bench Book"* available at [www.juvenilecompact.org](http://www.juvenilecompact.org) or contact Interstate Commission for Juveniles National Office at 859-721-1062.