



The Interstate Compact on Juveniles and Status Offense Advocacy

To learn more about representing juvenile status offenders generally, visit the American Bar Association's website at <http://new.abanet.org/child/Pages/rjso.aspx>.

What is the Interstate Compact on Juveniles (ICJ)?

The ICJ is a contract between the states that regulates the interstate movement of children who are under court supervision or who have run away from home and left their state of residence.¹ The ICJ provides for states' supervision and return of youth:

- who have run away from home and left their state of residence;
- who are on probation, parole or under supervision, and have escaped to another state;
- who have been accused of an offense in another state;
- in need of institutionalization or special services in another state; and
- offenders who have been released into the community and who wish to relocate to another state.²

When does the ICJ apply to status offense cases?

ICJ requires compacting states to "proper[ly] supervis[e] or return juveniles, delinquents and *status offenders* who are on probation or parole[.]"³ The ICJ also applies to all status offenders who are under court supervision; have run away; are accused of offenses in another state; are in need of services or institutionalization in another state; or may be relocated to another state.⁴

How does the ICJ relate to the Interstate Compact on the Placement of Children (ICPC)?

Generally, the ICPC applies to out of state foster placements. The ICJ applies to the return of youth to their home state when they have run away and were on probation or parole. However, both compacts seem to apply when youth under state supervision need out of state residential treatment.⁵ In this instance, Article XIII of the ICJ states that other state laws conflicting with the ICJ are superseded to the extent of the conflict, but state Constitutions and *other interstate compacts* are not superseded.⁶ The ICJ Rules further state that where both compacts apply, the ICPC controls:

All cases being transferred to another state are pursuant to the ICJ except cases involving concurrent jurisdiction under the Interstate Compact on Placement of Children, known as ICPC. A juvenile who is not eligible for transfer under this Compact is not subject to these rules and remains subject to the laws and regulations of the state responsible for the juvenile's supervision.⁷

For more information on the ICPC and its application to status offenders, visit:
http://new.abanet.org/child/PublicDocuments/ICPC_factsheet.pdf



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Tips for lawyers representing status offenders

Lawyers working with status offenders should be knowledgeable about the ICJ's requirements for the transfer of youth between states. When a state requests a youth be returned under the ICJ, the youth has the right to a hearing at several stages of the return process for which a lawyer may be present to advocate the child's wishes:⁸

- If the youth is being detained pending an official request for return, the youth has a right to a hearing to determine whether sufficient cause exists to hold him.
- If the youth agrees to return home voluntarily, the judge in the holding state must hold a court hearing and must inform the youth of his rights under the ICJ before he agrees to the return (e.g., the court must inform him of his right to an attorney).
- If the youth refuses to return to the requesting state, the requesting state must follow specific procedures for preparing and submitting a requisition. Within 30 days of the sending state's receipt of the requisition, the sending state must hold a hearing to ensure that the requisition is in order before it will honor the request.⁹

Lawyers should make sure that states follow ICJ requirements when their client is being detained out of state. The youth's lawyer should:

- Maintain regular contact with the authorities preparing the requisition to ensure an accurate and timely completion to minimize detention time.¹⁰
- Seek court relief if the holding state has kept the youth for more than 90 days pending receipt of the requesting state's requisition.¹¹
- Request a hearing if the youth has not been returned home within 10 days of the home state's completion of the requisition. At the hearing the court will determine whether continued detention is justified. If the holding state fails to hold this hearing, the youth must be discharged from detention.¹²

Additional Resources

Holloway, Christopher. *OJJPD Fact Sheet: Interstate Compact on Juveniles*, Washington, DC: Office of Juvenile Justice and Delinquency Prevention, 2000, available at <http://www.ncjrs.gov/pdffiles1/ojjdp/fs200012.pdf>.

ICJ Rules, Lexington, KY: Interstate Commission for Juveniles, 2009, available at <http://www.juvenilecompact.org/LinkClick.aspx?fileticket=hvMqJ-56kQk%3d&tabid=648>.

The Council of State Governments. *Interstate Compact on Juveniles Resource Kit*, available at <http://www.csg.org/knowledgecenter/docs/ncic/ICJ-ResourceKit.pdf>.

Interstate Commission on Juveniles (website): <http://www.juvenilecompact.org/>.

Association of Juvenile Compact Administrators (website): <http://ajca.us/>.



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¹ Holloway, Christopher. *OJJPD Fact Sheet: Interstate Compact on Juveniles*, Washington, DC: Office of Juvenile Justice and Delinquency Prevention, 2000, available at <http://www.ncjrs.gov/pdffiles1/ojjdp/fs200012.pdf>.

² Interstate Compact for Juveniles, Article I, available at <http://www.juvenilecompact.org/LinkClick.aspx?fileticket=MvTpL5EP7Do%3d&tabid=684&mid=2046>.

³ *Ibid.* (emphasis added).

⁴ *Ibid.* at Art. II, H, 3,4. (The Act's definition of "juveniles" includes all accused or adjudicated status offenders. The Act does not include a definition for "juvenile offender," but nothing in the Act suggests that this phrase excludes status offenders.)

⁵ Interstate Commission for Juveniles, 2010 Rules of the Interstate Compact for Juveniles, Rule 4-101, available at <http://www.juvenilecompact.org/LinkClick.aspx?fileticket=hvMqJ-56kQk%3d&tabid=648> (The Rules state that:

"[e]ach state that is a party to the ICJ shall process all referrals involving juveniles, for whom services have been requested, provided those juveniles are under juvenile jurisdiction in the sending state.); Interstate Compact on the Placement of Children, Article VI ("A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact.").

⁶ Article X of the ICPC on the other hand states that provisions of the compact that conflict with the constitution of any state or of the United States are severable; but it does not say the same for provisions that conflict with other compacts.

⁷ Interstate Commission for Juveniles, 2010 Rules of the Interstate Compact for Juveniles, Rule 4-101, available at <http://www.juvenilecompact.org/LinkClick.aspx?fileticket=hvMqJ-56kQk%3d&tabid=648>.

⁸ Interstate Commission on Juveniles, 2010 Rules, 6-102, 6-103, 6-108, and 6-109.

⁹ Interstate Commission on Juveniles, 2010 Rules, 6-102 and 6-103. Under the ICJ youth must be informed by the court of their right to counsel or a guardian *ad litem* at a voluntary return hearing. Optional Form, Interstate Compact on Juveniles Rights for Voluntary Return of Runaway, Absconder, Escapee, or Juvenile Being Charged as Delinquent, available at http://ajca.us/documents/blank_VOLUNTARY_RETURN_RUNAWAY.pdf. A judge "may" appoint counsel for the youth during other hearings, such as the requisition hearing. Interstate Commission for Juveniles, 2010 Rules, 6-103.

¹⁰ Interstate Commission on Juveniles, 2010 Rules, 6-103.

¹¹ Optional Form, Interstate Compact on Juveniles Rights for Voluntary Return of Runaway, Absconder, Escapee, or Juvenile Being Charged as Delinquent.

¹² Interstate Commission for Juveniles, 2010 Rules, 6-109.