

1593 ICJ SUPERVISION TRANSFER FROM NEW HAMPSHIRE

Chapter: **Case Management Standards for CP and JJ Field Services**

Section: **Case Transfers and Interstate Compact**



New Hampshire Division for Children, Youth and Families Policy Manual

Policy Directive: **17-12**

Effective Date: **February 2017**

Scheduled Review Date:

Approved:

A handwritten signature in black ink that reads "Lorraine Bartlett".

Lorraine Bartlett, DCYF Director

Related Statute(s): [RSA 169-A](#), [RSA 169-B](#), and [RSA 169-D](#)

Related Admin Rule(s):

Related Federal Regulation(s):

Interstate Compact for Juveniles Rules: 4-101; 4-102; 4-103; and 4-104

Related Form(s): [ICJ Form IA/VI](#), [ICJ Form IV](#), [ICJ Form V](#), [ICJ Form VII](#), and [ICJ Form VIII](#)

[ICJ Form VIII](#)

Bridges' Screen(s) and Attachment(s):

The Division for Children, Youth and Families (DCYF) is committed to professionalism in the delivery of juvenile probation and parole services while recognizing its responsibility to work in cooperation with other compacting states to the Interstate Compact for Juveniles (ICJ). Supervision transfer within the ICJ affords youthful offenders the opportunity to move between states for permanency and other reasons consistent with their successful completion of probation or parole (e.g., family relocation, change of legal custodian or guardian, educational or employment opportunities).

Purpose

This policy outlines the requirements of the Interstate Compact for Juveniles (ICJ) rules regarding the interstate supervision transfer for youthful offenders from New Hampshire to another compacting state. This policy is used in conjunction with policy [1591 ICJ – General Provisions and Forms](#) and other applicable ICJ policies.

Definitions

"Home Evaluation" means evaluation and subsequent report of findings to determine if supervision in a proposed residence is in the best interest of the juvenile and the community (see: [Interstate Commission for Juveniles](#)) [2016].

"Interstate Compact for Juveniles" or **"ICJ"** means the agreement pertaining to the legally authorized transfer of supervision and care, as well as the return of juveniles from one state to another, which has been adopted by all member states that have enacted legislation in substantially the same language. The agreement does not include or provide for the transfer of court jurisdiction from one state to another (see: [Interstate Commission for Juveniles](#)) [2016]. The compact is codified in NH [RSA 169-A](#).

"JJS Staff" means staff employed as a Juvenile Probation and Parole Officer (JPPO), Juvenile Probation and Parole Supervisor (JPPS), or Juvenile Justice Field Administrator.

"Juvenile Sex Offender" means a juvenile having been adjudicated for an offense involving sex or of a sexual nature as determined by the sending state or who may be required to register as a sex offender in the sending or receiving state (see: [Interstate Commission for Juveniles](#)) [2011].

“New Hampshire Interstate Compact for Juveniles - Deputy Compact Administrator” or “NH ICJ DCA” means the Division employee who has been designated to act as liaison for the Interstate Compact for Juveniles.

“Probation/Parole” means any kind of supervision or conditional release of youth authorized under the laws of the compacting state (see: [Interstate Commission for Juveniles](#)) [2015].

“Receiving State” means a state to which a youth is sent for supervision under the provision of the ICJ (see: [Interstate Commission for Juveniles](#)) [2010].

“Sending State” means a state which has sent or is in the process of sending a youth to another state for supervision under the ICJ (see: [Interstate Commission for Juveniles](#)) [2010].

“Supervision” means the oversight exercised by authorities of a sending or receiving state over a youth for a period of time determined by a court or appropriate authority, during which time the youth is required to report to or be monitored by appropriate authorities, and to comply with regulations and conditions, other than monetary conditions, imposed on the youth (see: [Interstate Commission for Juveniles](#)) [2010].

“Travel Permit” means written permission granted to a youth authorizing travel from one state to another (see: [Interstate Commission for Juveniles](#)) [2016].

Policy

NOTE: Specific provisions apply to the ICJ transfer requirements of youth who have been adjudicated for offense(s) involving sex or of a sexual nature, see ICJ Rules Section IV below.

- I. When a delinquent youth or a child in need of services (CHINS) has been adjudicated by a New Hampshire court, or has a deferred adjudication for either a CHINS or delinquency pending, and will reside in another state longer than 90 days, JJS Staff shall prepare for the transfer of supervision as follows:
 - A. Adhere to the requirements of policy [1403 Recommendations for Non-Resident Youth](#);
 - B. Establish the youth is eligible for transfer according to ICJ Rules Section I below;
 - C. Meet with the youth and his or her parent(s)/guardian(s) to:
 1. Obtain the information necessary to initiate the supervision transfer from New Hampshire to the receiving state, including: new residence address, telephone numbers, school assignment, effective date, and any other pertinent data; and
 2. Complete all necessary ICJ forms, including signatures and compile referral information, as described in ICJ Rules Section II-B:2 below.
 - D. Notify the parties of record, in writing, regarding the pending out-of-state residence and supervision transfer;

- E. Obtain written approval from the court evidenced by a judge’s signature on ICJ Form IA/VI “Application for Services and Waiver and Memorandum of Understanding and Waiver” for the out-of-state residence and supervision transfer; and
 - F. Submit the referral packet to the NH ICJ DCA or designee who shall forward all necessary information to the ICJ Office in the receiving state.
- II. If a youth committed by a New Hampshire court is paroled by the NH Juvenile Parole Board and will reside in another state during the term of his or her parole, JJS staff shall prepare for the transfer of supervision as follows:
- A. Adhere to the requirements of policy [1403 Recommendations for Non-Resident Youth](#);
 - B. Meet with the youth and his or her parent(s)/guardian to:
 - 1. Obtain the information necessary to initiate the supervision transfer from New Hampshire to the receiving state, including: new residence address, telephone numbers, school assignment, effective date, and any other pertinent data; and
 - 2. Complete all necessary ICJ forms, including signatures and compile referral information, as described in ICJ Rules Section II-B:1 below.
 - C. Notify the committing court, Juvenile Parole Board, Sununu Youth Services Center (SYSC) and the parties of record, in writing, regarding the pending out-of-state residence and supervision transfer;
 - D. Attend any scheduled court or Juvenile Parole Board hearings; and
 - E. Submit the referral packet to the NH ICJ DCA or designee who:
 - 1. Has the authority to sign ICJ Form IA/VI “Application for Services and Waiver” for paroled youth; and
 - 2. Shall forward all necessary information to the ICJ Office in the receiving state.
- III. When a committed youth is paroled directly from the SYSC to the receiving state, the following shall apply:
- A. JJS staff shall collaborate with SYSC staff regarding ICJ supervision transfer for youth committed and discharged directly from the SYSC;
 - B. JJS staff shall contact the NH ICJ DCA or designee to provide required information and referral documents pursuant to Section II above;
 - C. The receiving state must have previously accepted supervision of the youth before leaving the SYSC; and
 - D. The receiving state must receive the referral documentation 45 calendar days prior to the youth’s anticipated arrival.

ICJ Rules

- I. (4-101) Eligibility Requirements for the Transfer of Supervision:
- A. Each 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 the juvenile jurisdiction in the sending state (4-101 (1)).
 - B. No state shall permit a juvenile who is eligible for transfer under the ICJ to relocate to another compacting state except as provided by the ICJ rules. A juvenile shall be eligible for transfer under the ICJ if the following conditions are met (4-101 (2)):
 - 1. Is classified as a juvenile in the sending state; and
 - 2. Is an adjudicated delinquent, adjudicated status offender, or has a deferred adjudication pending in the sending state; and
 - 3. Is under the jurisdiction of a court or appropriate authority in the sending state; and
 - 4. Has a plan inclusive of relocating to another compacting state for a period exceeding ninety (90) consecutive days in any twelve (12) month period; and
 - 5. Has more than ninety (90) days or an indefinite period of supervision remaining at the time the sending state submits the transfer request; and
 - 6. Will reside with a legal guardian, relative, non-relative or independently, excluding residential facilities; or
 - 7. 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.
 - C. If a juvenile is placed pursuant to the ICJ and is also subject to the Interstate Compact on the Placement of Children (ICPC), placement and supervision through the ICPC would not be precluded (4-101 (3)).
 - D. A request for the transfer of supervision for the sole purpose of collecting restitution and/or court fines is not permitted (4-101 (4)).
 - E. A juvenile who is not eligible for transfer under this Compact is not subject to these rules (4-101 (5)).
- II. (4-102) Sending and Receiving Referrals:
- A. Each ICJ Office shall develop policies/procedures on how to handle ICJ matters within its state (4-102 (1)).
 - B. The sending state shall maintain responsibility until supervision is accepted by, and the juvenile has arrived in, the receiving state (4-102 (2)).
 - 1. State Committed (Parole) Cases:

- (a) The sending state shall ensure the following referral is complete and forwarded to the receiving state forty five (45) calendar days prior to a juvenile's anticipated arrival:
 - (1) Form IV "Parole or Probation Investigation Request;"
 - (2) Form IA/VI "Application for Services and Waiver and Memorandum of Understanding and Waiver;"
 - (3) Order of Commitment;
 - (4) Petition and/or Arrest Report(s), if available;
 - (5) Legal and Social History;
 - (6) Any other pertinent information deemed to be of benefit to the receiving state; and
 - (7) Parole conditions, if not already included, shall be forwarded to the receiving state upon a juvenile's release from an institution.
 - (b) Form V "Report of Sending State Upon Parolee or Probationer Being Sent to the Receiving State" shall be forwarded prior to the juvenile relocating to the receiving state.
 - (c) When it is necessary for a State Committed (paroled) juvenile to relocate prior to the acceptance of supervision (under the provision of Section III-C below), the sending state must determine if the circumstances of the juvenile's immediate relocation justifies the use of Form VII "Out-of-State Travel Permit and Agreement to Return," including consideration of the appropriateness of the residence.
 - (1) If approved by the sending state, it shall provide the receiving state with the approved Form VII "Out-of-State Travel Permit and Agreement to Return" along with a written explanation as to why ICJ procedures for submitting the referral could not be followed.
 - (2) If not already submitted, the sending state shall provide the complete referral to the receiving state within ten (10) business days of the Form VII "Out-of-Sate Travel Permit and Agreement to Return" being issued.
 - (3) The receiving state shall make the decision whether or not it will expedite the referral.
2. Probation Cases: The sending state shall ensure the following referral is complete and forwarded to the receiving state:
- (a) Form IV "Parole or Probation Investigation Request;"
 - (b) Form IA/VI "Application for Services and Waiver and Memorandum of Understanding and Waiver;"

- (c) Order of Adjudication and Disposition;
 - (d) Conditions of Probation;
 - (e) Petition;
 - (f) Arrest Report(s);
 - (g) Legal and Social History, if available;
 - (h) Any other pertinent information deemed to be of benefit to the receiving state; and
 - (i) Form V "Report of Sending State Upon Parolee or Probationer Being Sent to the Receiving State" shall be forwarded prior to relocating if the juvenile is not already residing in the receiving state.
- C. The sending state shall forward additional documentation, if available, at the request of the receiving state. The receiving state shall not delay the investigation pending receipt of the additional documentation (4-102 (3)).
- D. The receiving state shall, within forty five (45) calendar days of receipt of the referral, forward to the sending state the home evaluation along with the final approval or disapproval of the request for supervision or provide an explanation of the delay to the sending state (4-102 (4)).
- III. (4-103) Transfer Of Supervision Procedures For Juveniles Sex Offenders:
- A. When transferring a juvenile sex offender, the sending state shall not allow the juvenile to transfer to the receiving state until the sending state request for transfer of supervision has been approved, or reporting instructions have been issued by the receiving state unless Section IV-D below is applicable (4-103 (1)).
 - B. When transferring a juvenile sex offender, the referral shall consist of:
 1. Form IA/VI, "Application for Services and Waiver and Memorandum and Waiver;"
 2. Form IV, "Parole or Probation Investigation Request;"
 3. Form V, "Report of Sending State Upon Parolee or Probationer Being Sent to the Receiving State;"
 4. Order of Adjudication and Disposition;
 5. Conditions of Supervision;
 6. Petition and/or Arrest Report;
 7. Safety Plan, if available;
 8. Specific Assessments, if available;

9. Legal and Social History information pertaining to the delinquent behavior, if available;
 10. Victim Information, i.e., sex, age, relationship to the juvenile, if available;
 11. Current or recommended Supervision and Treatment Plan, if available;
 12. All other pertinent materials if available; and,
 13. Parole conditions, if not already included, shall be forwarded to the receiving state upon the juvenile's release from an institution. (4-103 (2)).
- C. When it is necessary for a juvenile sex offender to relocate with a legal guardian prior to the acceptance of supervision, and there is no legal guardian residing in the sending state, the sending state must determine if the circumstances of the juvenile's immediate relocation justifies the use of Form VII "Out of State Travel Permit and Agreement to Return," including consideration of the appropriateness of the residence. If approved by the sending state's ICJ Office, the following procedures shall be initiated (4-103 (3)):
1. The sending state shall provide the receiving state with an approved Form VII "Out of State Travel Permit and Agreement to Return" along with a written explanation as to why ICJ procedures for submitting the referral could not be followed (4-103 (3) (a)).
 2. If not already submitted, the sending state shall transmit a completed ICJ referral to the receiving state within ten (10) business days of the Form VII "Out of State Travel Permit and Agreement to Return" being issued. The receiving state shall make the decision whether it will expedite the referral or process the referral according to ICJ Rule 4-102 (4-103 (3) (b)).
 3. Within five (5) business days of receipt of the Form VII "Out of State Travel Permit and Agreement to Return," the receiving state shall advise the sending state of applicable registration requirements and/or reporting instructions, if any. The sending state shall be responsible for communicating the registration requirement and/or reporting instructions to the juvenile and their family in a timely manner (4-103 (3) (c)).
 4. The sending state shall maintain responsibility until supervision is accepted by, and the juvenile has arrived in, the receiving state. The receiving state shall have the authority to supervise the juvenile pursuant to reporting instructions issued in ICJ Rule 4-103(3) (c) above (4-103 (3) (d)).
- D. In conducting home evaluations for juvenile sex offenders, the 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 referred to in ICJ Rule 4-104 (4) below (4-103 (4)).
- E. Juvenile sex offenders shall abide by the registration laws in the receiving state i.e. felony or sex offender registration, notification or DNA testing (4-103 (5)).

- F. Juvenile sex offender who fails to register in the receiving state when required shall be subject to the laws of the receiving state (4-103 (6)).

IV. (4-104) Authority to Accept/Deny Supervision

- A. Only the receiving state's authorized Compact Office staff shall accept or deny supervision of a juvenile by that state after considering the recommendation by an investigating officer (4-104 (1)).
- B. The receiving state's Compact Office staff's signature is required on or with the Form VIII "Home Evaluation" that accepts or denies supervision of a juvenile by that state (4-104 (2)).
- C. Supervision cannot be denied solely on the juvenile's age or offense (4-104 (3)).
- D. Supervision may be denied when 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, except 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 (4-104 (4)).
- E. Upon receipt of acceptance of supervision from the receiving state, and within five (5) business days prior to the juvenile's departure if the juvenile is not already residing in the receiving state, the sending state shall provide reporting instructions to the juvenile and provide written notification of the juvenile's departure to the receiving state (4-104 (5)).
- F. If the transfer of supervision in the receiving state is denied, the sending state shall make transportation arrangements for the return of the juvenile within five (5) business days (4-104 (6)).

Practice Guidance

Can minors who are adjudicated juvenile delinquents and referred to a residential treatment program in another state, but who do not qualify for transfer under the ICPC, be transferred under the ICJ?

- The above referenced section of 4-101(2)(f)(1) explicitly excludes from eligibility for transfer under the ICJ, a juvenile who will reside in 'residential facilities.' This rule amendment was made by the Interstate Commission in the wake of Advisory Opinion 2-2011 which pointed out that under neither the provisions of the Compact nor the previous language of this rule, was there an exception to the application of the ICJ "based upon whether the delinquent juvenile whose supervision is transferred is placed in a public or private treatment facility." However, at the following Annual Meeting of the Commission, this specific subsection was amended as stated above with the intent to clarify that delinquent juveniles placed in residential treatment facilities are excluded. Thus, the minor referred to in Case #1 is now not eligible for transfer through ICJ because of the referral to the residential treatment program in Utah.

ICJ Rule- 4-101

Opinion #: [5-2012](#)

Date Issued: 07/26/2012

Can a sending state make a pre-adjudicated home evaluation request for a receiving state?

- Based upon the provisions of the ICJ rules and legal analysis, while a sending state is not explicitly prohibited from requesting a home evaluation for a juvenile pending adjudication on charges in the sending state, under the ICJ rules, a receiving state is not required to conduct such a home evaluation or report.

ICJ Rule- 4-102
Opinion #: [1-2016](#)
Date Issued: 07/28/2016

For purposes of detention and return of a person serving a juvenile probation or parole sentence who absconds or flees to avoid prosecution (youth with a warrant from another state) and who has the status of an adult in the home/demanding state (in this case Michigan), but is still classified as a juvenile in the holding state (in this case Ohio), must the holding state treat that person as an adult or does the law of the holding state regarding the age of majority apply?

- Based upon the provisions of the ICJ, and ICJ Rule 4-104-6, if the youth in question is serving a juvenile probation or parole sentence and absconds or flees to avoid prosecution (youth with a warrant from another state), Rule 4-106-6 creates an exception whereby the receiving state law regarding the age of majority applies to incarceration of juveniles, where "a receiving state court is required to detain any juvenile under the ICJ". Under this rule, even though such an individual is already classified as an adult in the State of Michigan, based on this rule, if detained and returned pursuant to the ICJ, such youth may be treated as a "juvenile."

ICJ Rule- 5-101(7)
Opinion #: [3-2012](#)
Date Issued: 08/23/2012

Once a juvenile is adjudicated delinquent, can the juvenile be allowed to return to his family in a home state while the sending state makes its request for transfer of supervision?

- Based upon the definition of 'juvenile' as provided in both the ICJ and ICJ Rule 1-101, as well as the requirements of Rule 4-103 (1), once the juvenile in question has been adjudicated delinquent as a sex offender, in the absence of either an approval of a transfer request or reporting instructions, allowing such juvenile to return to the home state violates both the Compact and the foregoing ICJ Rules.

ICJ Rule- 8-101
Opinion #: [4-2012](#)
Date Issued: 07/26/2012

What signatures are mandatory on the ICJ IA/VI Form?

- Based on the literal language of ICJ Rule 4-102, the sending state is required to obtain the signature of the judge (in probation cases) or Compact official (in parole cases) in order to comply with this rule. The receiving state has no authority to accept or supervise a case until permission is given by the court of jurisdiction (in probation cases) or Compact official (in parole cases) through the signing of the Form IA/VI.

ICJ Rule- 4-102
Opinion #: [2-2015](#)
Date Issued: 08/24/2015

Does a receiving state have to approve 'placement' or 'supervision' in cases where placement may violate court orders?

- Based upon the terms of the Compact, the referenced Compact provisions, ICJ Rules and the legal authorities cited herein, that ICJ Rule 4-104(4) does not authorize a receiving state to violate 'no contact' orders or other court ordered conditions of the adjudicating judge or parole authority in the sending state.

ICJ Rules- 4-104(4), ICJ Article I
Opinion #: [4-2014](#)
Date Issued: 12/11/2014

Does the term 'sanctions' used in Rule 5-101(3) include detention time?

- The term 'sanctions' as used in ICJ Rule 5-101 (3) is sufficiently broad to include detention without the need to explicitly list, in the rule, every possible sanction which might be imposed.

ICJ Rule 5-101(3)
Opinion #: [2-2014](#)
Date Issued: 06/26/2014