

# INTERSTATE COMPACT FOR JUVENILES (ICJ) RETURNS

## BENCH CARD

*This Bench Card has been created by the Administrative Office of the Court as a resource for judges. Bench Cards do not represent statements of law by the Idaho Supreme Court and do not constitute legal advice.*

### PURPOSE<sup>1</sup>

To outline the process for returning a detained out-of-state juvenile who has entered Idaho without permission.

### WHO<sup>2</sup>

The Interstate Compact for Juveniles (ICJ) is applied to an out-of-state juvenile who has crossed state lines without the permission of a parent/guardian or the state of residence and is detained.

Non-Delinquent Juvenile: Any juvenile who has not been adjudicated delinquent and does not have an active detention order or warrant.

Delinquent Juvenile: Probation/parole absconders, escapees, or accused and adjudicated delinquents and/or status offenders.

### WHERE

#### Placement / Detention Review:

Within the first 24 hours of detainment (excluding weekends and holidays), non-delinquent juveniles may be released to a legal guardian or custodial agency without applying the ICJ. After 24 hours, the state ICJ Office shall be notified and the ICJ shall be applied.<sup>3</sup>

Non-delinquent and delinquent juveniles who are not a threat to themselves or others and do not have an active warrant or detention order may be held in a location the court/state deems appropriate.

Non-delinquent and delinquent juveniles who are a threat to themselves or others or have a detention order or warrant shall be detained in a secure facility until returned to the home/demanding state.<sup>4</sup>

### HEARINGS

Once an out-of-state juvenile is detained for longer than 24 hours (excluding weekends and holidays) the ICJ applies, and the court shall hold a hearing.<sup>5</sup>

Notice of the right to be represented by counsel, and right to counsel at public expense where financial inability exists on the part of the juvenile, parent(s), or guardian, shall be given at the earliest possible time.<sup>6</sup>

#### Voluntary Return:<sup>7</sup>

At the hearing, if the juvenile agrees to voluntarily return to the home state, the court will:

1. inform the juvenile of the juvenile's due process rights (The court may use the [ICJ Juvenile Rights Form](#));
2. review [ICJ Form III - Consent for Voluntary Return of Out of State Juvenile](#), ensuring specific details from the demanding state/agency/person are listed;
3. witness the juvenile's signature on the ICJ Form III;
4. sign the ICJ Form III;

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5. forward the fully completed ICJ Form III to the Idaho ICJ Office; and
6. ensure the juvenile is returned to the home state within 5 business days. This time period can be extended up to an additional 5 business days with the approval of both ICJ Offices.

## **Non-Voluntary Return:**<sup>8</sup>

At the hearing, if the juvenile refuses to voluntarily return to the home state, the court will:

1. inform the juvenile of his/her due process rights;
2. continue to hold the juvenile in an appropriate location or secure facility; and
3. notify the Idaho ICJ Office.

After the hearing, the Idaho ICJ Office will:

1. notify the home/demanding state ICJ Office, who will have 60 days to produce a requisition for the juvenile's return; and
2. provide the court with a petition for requisition and request that a requisition hearing be held within 30 days.

Upon receiving a petition for requisition, the court will set a requisition hearing within 30 days.

## **Requisition Hearing:**

At the requisition hearing, the court will:

1. inform the juvenile of the juvenile's due process rights;
2. inform the juvenile of the demand made for the juvenile's return to the home/demanding state;
3. review the petition for requisition, that may include [Form I](#), [Form II](#), and/or [Form A, Petition for Requisition to Return a Runaway Juvenile](#), and determine proof of entitlement for the return of the juvenile;<sup>9</sup> and

### Proof of Entitlement

*Proof of entitlement may be determined by facts found within the petition, which may include:*

#### *Runaway or Non-delinquent Juveniles:*

- a. Birth certificate;
- b. Custody decree;
- c. Letters of Guardianship;
- d. Other affidavits and documents.<sup>10</sup>

#### *Escapee, Absconder, or Accused Delinquent Juveniles:*

- a. Judgment;
- b. Order of Adjudication;
- c. Order of Commitment;
- d. Petition Alleging Delinquency;
- e. Other affidavits and documents submitted with requisition.<sup>11</sup>

*If proof of entitlement is not established, the court shall issue written findings detailing the reason(s) for denial and immediately forward the findings to the ICJ Office.*

*If proof of entitlement is established, the order granting requisition shall be forwarded to the ICJ Office.*

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4. return the Juvenile to the home/demanding state within 5 business days of the receipt of the order granting the requisition. This time period may be extended up to an additional 5 business days with approval from both ICJ Offices.

Juveniles held in detention, pending non-voluntary return to the home/demanding state, may be held for a maximum of 90 calendar days. Regular status hearings should be held to ensure timelines are met.<sup>12</sup>

## **RETURN OF JUVENILES WHEN ABUSE OR NEGLECT IS REPORTED:<sup>13</sup>**

When a holding state has reason to suspect abuse or neglect by a person in the home/demanding state, the holding state's ICJ Office shall notify the home/demanding state's ICJ Office of the suspected abuse or neglect. The home/demanding state's ICJ Office shall work with the appropriate authority and/or court of competent jurisdiction in the home/demanding state to affect the return of the juvenile.

Allegations of abuse or neglect do not alleviate a holding state's responsibility to return a juvenile within the time frames in accordance with the rules.

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<sup>1</sup> I.C. § 20-505(3), I.C. § 16-1901; Interstate Compact for Juveniles (I.C.J.) Rules. See also <https://www.juvenilecompact.org/west/idaho>.

<sup>2</sup> I.C.J. Rule 1-101, I.C.J. §§ 600 et. al. See also <https://www.juvenilecompact.org/legal/toolkit-for-judges> and [https://www.juvenilecompact.org/sites/default/files/Bench%20Book\\_Web.pdf](https://www.juvenilecompact.org/sites/default/files/Bench%20Book_Web.pdf).

<sup>3</sup> I.C.J. Rule 6-101.

<sup>4</sup> I.C.J. Rule 6-102.

<sup>5</sup> I.C.J. Rule 6-102; I.J.R. 7(c).

<sup>6</sup> I.J.R. 9.

<sup>7</sup> I.C.J. Rule 6-102.

<sup>8</sup> I.C.J. Rule 6-103.

<sup>9</sup> I.C.J. Rule 6-103, 6-103A.

<sup>10</sup> I.C.J. Rule 6-102.

<sup>11</sup> I.C.J. Rule 6-103A.

<sup>12</sup> I.C.J. Rule 6-103.

<sup>13</sup> I.C.J. Rule 6-105.