

What the Interstate Compact Rules Say About Out-of-State Runaways

When a juvenile runs from North Carolina to another state or to North Carolina from another state, interstate procedures apply to facilitate the juvenile's safe return to his or her home state. Recently, law enforcement officials in multiple North Carolina counties have encountered out-of-state runaways and yesterday, this topic appeared on one of the School of Government monitored listservs. So, it seems like a good time to review what the [Interstate Compact for Juveniles](#) says about the legal process for returning these children to their homes.

What is the Interstate Compact for Juveniles?

The Interstate Compact for Juveniles (ICJ) is a contract between all 50 states that governs interstate procedures involving juveniles who are adjudicated in one state but need supervision in another state or who have run away from their home state and need to be returned. The ICJ rules are promulgated by the Interstate Commission for Juveniles which is comprised of a commissioner from each member state. The original compact, adopted in 1955, was set out in Article 28 of the North Carolina Juvenile Code. However, in 2008, the "Revised ICJ" replaced the earlier compact when it was adopted by 35 states. In 2014, when all states had officially adopted the Revised ICJ, Article 28 was automatically repealed (see S.L. 2005-194, s. 2).

The Revised ICJ is set out in [Article 40](#) of the Juvenile Code, but unlike the earlier compact, it does not contain the actual ICJ rules. Instead, it addresses purposes, definitions, and the organization and role of the Interstate Commission. Judges and other court officials must access the Commission's [website](#) to find the complete ICJ rules, procedures, and forms.

With the exception of state constitutions and other interstate compacts, the Revised ICJ supersedes all state laws that conflict with its provisions. It should not be confused with the Interstate Compact on the Placement of Children (ICPC), which generally applies to out-of-state foster placements. Both compacts seem to apply when a juvenile runs away from an ICPC placement. Initially, the juvenile may be returned according to ICPC rules. However, if the juvenile is held in a secure facility beyond 24 hours, ICJ procedures must be followed (see [ICJ Rule 6-104](#)).

Important Definitions

The following definitions are relevant in understanding the applicable rules for returning out-of-state runaways under the Revised ICJ.

- A **"runaway"** is a child "within the juvenile jurisdictional age limit established by the home state" who runs away from his or her place of residence without the consent of a legal guardian or custodial agency.

- The “**holding state**” is the state where the juvenile is located.
- The “**home state**” is the state where the child’s legal guardian or custodial agency is located.
- A “**requisition**” is a written demand for the return of a non-delinquent runaway.

Step I: Secure Custody

An officer or juvenile court counselor who encounters a suspected runaway has the authority to take the child into temporary custody. [G.S. 7B-1900](#). Normally, temporary custody of runaways and other status offenders may not exceed 12 hours on weekdays, or 24 hours on weekends and holidays. [G.S. 7B-1901](#). These time limitations are designed to comply with federal law prohibiting the detention of non-delinquent juveniles in secure facilities. (See 42 U.S.C. § 5633(a); the Juvenile Justice and Delinquency Prevention Act or “JJJPA”)

However, out-of-state runaways may be held in secure custody for up to 90 days pending return to their home state. The JJJPA creates an exemption to the provision requiring the “deinstitutionalization of status offenders” for non-delinquent runaways who are being held under the ICJ. See [42 U.S.C. § 5633\(a\)\(11\)\(A\)\(iii\)](#). Thus, challenges to such detention under federal law would likely be unsuccessful.

Runaways must be held in secure custody if (1) they are detained for longer than 24 hours or (2) are endangering themselves or others. (see [ICJ Rule 6-103](#))

Step II: Returning the Juvenile to the Home State

An out-of-state runaway may be returned to his or her home state in one of three ways:

1. Release to a parent or legal guardian within 24 hours (if there is no abuse or neglect)
2. Voluntary Return (with the juvenile’s consent)
3. Non-Voluntary Return (upon a requisition by parent or custodial agency)

Release to a parent or legal guardian is authorized within the first 24 hours (excluding weekends or holidays) without triggering the due process procedures of the Revised ICJ. (see [ICJ Rule 6-101](#)) However, juvenile authorities may not release the child if: (1) the child remains in custody beyond 24 hours, or (2) there are allegations of abuse or neglect by the child’s legal guardian or custodial agency. In either case, authorities must contact the holding state’s ICJ Office to initiate further proceedings under the Revised ICJ.

When there is suspected abuse or neglect:

- The holding state's ICJ office must notify the home state's ICJ office of the allegations.
- The home state's ICJ office must contact the appropriate authority in the home state to initiate an investigation (e.g., DSS).
- The appropriate authority in the home state must determine whether it is possible for the juvenile to return to his or her legal guardian.
- If the juvenile cannot return to his or her legal guardian, the appropriate authority in the home state must facilitate the juvenile's safe return through a requisition, if the juvenile will not consent to a voluntary return.
- The juvenile will remain in secure custody (for up to 90 days) pending return.

There is no duty under the Revised ICJ for the holding state to conduct its own investigation into allegations of abuse or neglect that occurred in the home state. Once the holding state's ICJ Office has notified the child's home state of the allegations, the home state has the burden to investigate and take appropriate action. (see [ICJ Rule 6-105](#)).

Voluntary returns are permitted when juveniles are detained beyond 24 hours. (see [ICJ Rule 6-102](#)) To facilitate a voluntary return, the following must occur:

1. The holding state's ICJ office notifies the home state's ICJ office.
2. The home state's ICJ office confirms residency and jurisdictional facts.
3. At a hearing in the holding state (physical or electronic), the court informs the juvenile of his or her due process rights under the Revised ICJ, which include the appointment of counsel and/or a guardian ad litem to represent the child.
4. If the juvenile agrees to return, the juvenile signs "Form III" consenting to a voluntary return in the judge's presence.
5. The form is sent to the home state's ICJ office.
6. The home state must facilitate the juvenile's return home within 5 business days.

In cases involving allegations of abuse or neglect, the child may consent to voluntarily return to the custody of the appropriate agency in the home state which is investigating the allegations.

Non-voluntary returns occur when a juvenile is detained beyond 24 hours and refuses to consent to a voluntary return. (see [ICJ Rule 6-103](#)) All non-voluntary returns must include the following steps:

1. Within 60 days of notification of the juvenile's detainment and refusal to voluntarily return, the legal guardian or custodial agency must file a petition for requisition ("Form A") in the home state.
2. If a judge in the home state determines that the petitioner is entitled to legal custody, the juvenile ran away without consent, the juvenile is not emancipated, and it is in the juvenile's best interests to return, the judge signs "Form I" approving the requisition.
3. The home state's ICJ office forwards the requisition to the holding state's ICJ office.

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4. Within 30 days of receipt, a due process hearing must be held in the holding state. The court may appoint counsel and/or a guardian ad litem to represent the juvenile.
5. The court must order the juvenile's return to the home state if it finds the requisition to be in order. However, if proof of entitlement for the juvenile's return is not established, the court must enter written findings for the denial.
6. If the requisition is granted, the home state must facilitate the juvenile's return home within 5 business days.

This summary is only a snapshot of what happens when runaways from other states are found in NC or when juveniles from NC run to other states. The provisions of the Revised ICJ are lengthy and extend far beyond the procedures mentioned in this blog post. Law enforcement authorities who encounter out-of-state runaways should immediately contact North Carolina's ICJ Commissioner, Traci Marchand, whose office is located at the central office of the Division of Adult Correction and Juvenile Justice in Raleigh. A [directory](#) of ICJ officials by state is available on the Commission's website, along with other helpful tools for lawyers and court officials trying to navigate ICJ proceedings, including a user friendly "[Toolkit for Judges](#)."