

JUVENILE EXTRADITION UNDER INTERSTATE COMPACT FOR JUVENILES

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Grant County Circuit Court, Branch II

WHY ME?

- ▶ Why would you like to know this information?



- ▶ Goal is to assure you are aware of the ICJ, not to make you an expert in it.

- ▶ You will be the calm, informed superhero of the day.



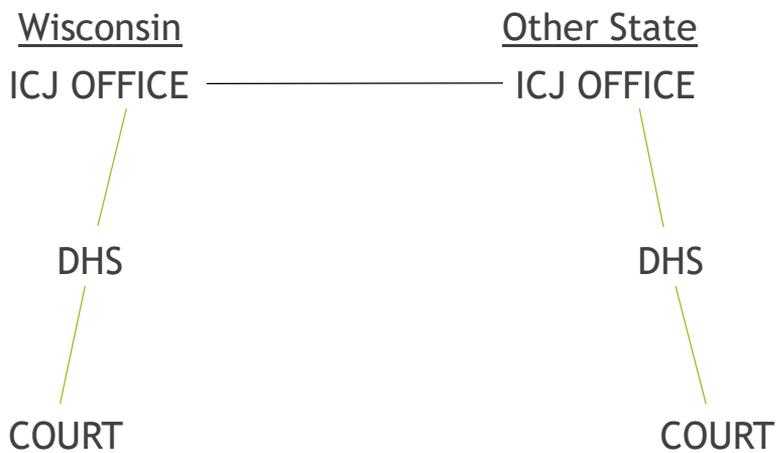
WISCONSIN AUTHORITY FOR ICJ

- ▶ Wis. § 938.14 - the court has exclusive jurisdiction over proceedings under the Interstate Compact for Juveniles under Wis. § 938.999.
- ▶ Wis. § 938.999 Organizational Structure of the Compact.
- ▶ ICJ Rules found at: www.juvenilecompact.org

TWO POINTS OF ENTRY TO ICJ

- ▶ Home/Demanding state
- ▶ Holding state

LINES OF COMMUNICATION



TWO PROCESSES FOR RETURN

▶ Voluntary Return

- ▶ The return of a juvenile runaway, escapee, absconder, or accused delinquent who has consented to voluntarily return to the home/demanding state.

▶ Involuntary Return

- ▶ The return of a juvenile runaway, escapee, absconder, or accused delinquent who has not consented to voluntarily return to the home/demanding state.

DEMANDING STATE SCENARIO

- ▶ Accused delinquent: Chris - 15 years old
- ▶ Failed to appear 6 months ago - capias issued
- ▶ Human services calls on Friday at 3:45 P.M. - Chris has been picked up in Hennepin County, Minnesota
- ▶ What happens from there?

HOLDING STATE SCENARIO

- ▶ Human services leaves you a message at 6:55 A.M. on Monday
- ▶ They have taken physical custody of Shannon - 15 years old
- ▶ Your sheriff picked Shannon up on an outstanding Requisition for Runaway Juvenile from Polk County, Iowa this morning at 1:00 A.M.
- ▶ What happens from there?

TWO CATEGORIES OF JUVENILES

- ▶ Runaways and Accused Status Offenders
 - ▶ Runaways - persons within the juvenile jurisdictional age limit established by the home state who (1) have voluntarily left their residence without permission of their legal guardian or custodial agency or (2) refuse to return to their residence as directed by their legal guardian or custodial agency, but who may or may not have been adjudicated.
 - ▶ Accused Status Offender - a person charged with an offense that would not be a criminal offense if committed by an adult.
- ▶ Supervision Absconders, Escapees, and Accused Delinquents
 - ▶ Absconder - a juvenile probationer or parolee who hides, conceals, or absents him/herself so that he/she is unavailable for the legal process or authorized control.
 - ▶ Escapee - a juvenile who had made an unauthorized flight from in custody status or a facility to which he/she has been committed by a lawful authority.
 - ▶ Probation/Parole - any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.
 - ▶ Accused Delinquent - a person charged with an offense that, if committed by an adult, would be a criminal offense.
 - ▶ Adjudicated Delinquent - a person found to have committed an offense that, if committed by an adult, would be a criminal offense.
 - ▶ Adjudicated Status Offender - a person found to have committed an offense that would not be a criminal offense if committed by an adult.

PROCEDURE FOR DEMANDING/HOME STATE

- ▶ Demands for return occur in 3 different ways:
 - ▶ A juvenile who refuses to voluntarily return in response to a warrant after being taken into custody;
 - ▶ A juvenile whose whereabouts are known but not in custody; or
 - ▶ A juvenile who has left the state but failed to return.
- ▶ Warrant - an order authorizing any law enforcement or peace officer to apprehend and detain a specified juvenile.
- ▶ Requisition - a written demand for the return of a non-delinquent runaway, probation or parole absconder, escapee, or accused delinquent.

DEMANDING STATE - RUNAWAYS OR ACCUSED STATUS OFFENDERS

- ▶ A legal guardian or custodian of a runaway or accused status offender shall petition the court in the home state for a requisition.
- ▶ If the guardian or custodian is unable or refuses to initiate the requisition process, the state's appropriate authority shall initiate the process on behalf of the juvenile.
- ▶ Petitioner may use form A Petition for Requisition to Return a Runaway Juvenile or other petition.
- ▶ The petition shall state:
 - ▶ Juvenile's name and date of birth;
 - ▶ Name of petitioner;
 - ▶ The basis of entitlement to the juvenile's custody;
 - ▶ The circumstances of his/her running away;
 - ▶ Juvenile's location at the time the application is made;
 - ▶ Other facts showing that the juvenile is endangering his/her own welfare or the welfare of others; and
 - ▶ Facts showing the juvenile is not an emancipated minor.

DEMANDING STATE - RUNAWAYS OR ACCUSED STATUS OFFENDERS cont'd

- ▶ The petition shall:
 - ▶ Be verified by affidavit; and
 - ▶ Be accompanied by a certified copy of documents demonstrating petitioner's entitlement to custody, such as:
 - ▶ Birth certificate;
 - ▶ Letter of guardianship; and/or
 - ▶ Custody decree.
- ▶ If the court determines that a juvenile should be returned, the court shall execute form I Requisition for Runaway Juvenile.
- ▶ The requisition, accompanied by the petition and supporting documents, shall be forwarded to the demanding state's ICJ office.

DEMANDING STATE PROCEDURE FOR JUVENILE HELD

- ▶ When a demanding state is advised that its juvenile is being held, the state's ICJ office shall immediately initiate measures to determine the juvenile's residency and jurisdictional facts in that state.

VOLUNTARY RETURN

- ▶ When a juvenile consents to return, the demanding state shall be responsive to the holding state's orders in affecting return.
- ▶ ICJ offices shall have policies and procedures to ensure safety of the public and juveniles during the return process.
- ▶ Juveniles shall be returned within 5 business days of the receipt of consent, subject to the 5 day extension.

INVOLUNTARY RETURN OF ESCAPEE, ABSCONDER OR ACCUSED DELINQUENT

- ▶ When notified of a juvenile's refusal to voluntarily return, the demanding state shall within 60 days of notification:
 - ▶ Present to the appropriate authority in the holding state a form II Requisition for Escapee, Absconder or Accused Delinquent.
- ▶ The requisition shall:
 - ▶ Be verified by affidavit; and
 - ▶ Accompanied by copies of supporting documents that show entitlement to the juvenile, such as:
 - ▶ Judgment;
 - ▶ Order of Adjudication;
 - ▶ Order of Commitment;
 - ▶ Petition alleging delinquency; and/or
 - ▶ Other affidavits or informative documents.
- ▶ Demanding state ICJ office shall ensure the requisition packet is in order and submit to the ICJ office in the state where the juvenile is located.

PROCEDURE FOR HOLDING STATE/SENDING STATE

- ▶ Procedure largely the same for voluntary or involuntary.
- ▶ If holding a non-delinquent runaway, may release within the first 24 hours to guardian or custodian without applying to the Compact.
- ▶ If a non-delinquent runaway is held more than 24 hours, must contact State's ICJ office and invoke Compact provisions.
- ▶ The holding state shall detain the following in secure facilities until returned:
 - ▶ Runaways and accused status offenders who are a danger to themselves or others;
 - ▶ Absconders, escapees, or accused delinquents who have an active warrant.

PROCEDURE FOR HOLDING STATE/SENDING STATE cont'd

- ▶ Secure Facility - a facility which is approved for the holding of juveniles and is one which is either staff-secured or locked and which prohibits a juvenile in custody from leaving.
- ▶ Wis. § 938.208(2) - may hold in detention facility if probable cause that juvenile is a fugitive from another state.
- ▶ The holding state has discretion to hold all others at a location it deems appropriate.
- ▶ Once an out of state juvenile is found and detained, the holding state's ICJ office shall be immediately advised that the juvenile is being detained.
- ▶ The holding state's ICJ office shall notify the home state's ICJ office no later than the next business day.

HOLDING STATE HEARING

- ▶ A physical or electronic hearing shall be held - this is a quasi-TPC hearing.
 - ▶ Hold hearing within 24 hours of end of day of detention.
 - ▶ No petition or motion need be filed.
 - ▶ Order held per Wis. § 938.208(2).
- ▶ The court:
 - ▶ Shall inform the juvenile of his due process rights (may use the ICJ Juvenile Right's form); and
 - ▶ May appoint counsel or guardian ad litem.

HOLDING STATE HEARING cont'd

- ▶ If the juvenile agrees to return, the juvenile shall sign Form III Consent for Voluntary Return of Out-of-State Juveniles.
 - ▶ Shall be signed by the juvenile in the physical/electronic presence of the court.
 - ▶ Shall be signed by the court.
- ▶ Signed consent is filed with holding state's Compact office, which in turn forwards it to the demanding state's Compact office.
- ▶ If consent not given, court refers for requisition process.

VOLUNTARY RETURN

- ▶ Consenting juvenile shall be returned to the home state within 5 business days of home state receiving completed consent form.
- ▶ Time period may be extended an additional 5 business days upon approval of both ICJ offices.
- ▶ Juvenile shall be returned in a “safe manner”.
- ▶ If charges are pending in the holding state, return occurs only after those charges are resolved unless both courts and both ICJ offices agree otherwise.

NON-VOLUNTARY RETURN

- ▶ If the juvenile refuses voluntary return, the court notifies the holding state ICJ office of the refusal and a requisition process begins.
- ▶ When the requisition process is complete in the home state, the requisition is delivered to the appropriate court in the holding state.
 - ▶ Court shall hold a hearing within 30 days of the receipt of the requisition.
 - ▶ Court shall order the juvenile held pending the hearing.
 - ▶ 30 day time period may be extended upon approval of both ICJ offices.

HOLDING STATE REQUISITION HEARING

- ▶ At the requisition hearing, the holding state court:
 - ▶ Shall inform the juvenile of the demand for return; and
 - ▶ May appoint counsel or a guardian ad litem.
- ▶ The court shall at the hearing determine whether demanding state is entitled to the juvenile by examining requisition documents and other evidence.
- ▶ If return is denied, court shall issue a written decision detailing the reasons for the denial.
- ▶ Whether granted or denied, the holding court's order shall be immediately forwarded to the holding state's ICJ office, which then forwards to the demanding state's ICJ office.

NON-VOLUNTARY RETURN TIME LIMITS

- ▶ Juvenile may be held in detention for a maximum 90 calendar days pending return, measured from the date of initial detention.
- ▶ Juveniles shall be accompanied in their return.
- ▶ Return shall be made within 5 business days of the receipt by the home state of the order approving the return.
 - ▶ This time period may be extended up to 5 business days with approval of both ICJ offices.
- ▶ No return until pending charges in holding state resolved.

ABUSE/NEGLECT SITUATIONS

- ▶ When a holding state has reason to suspect abuse or neglect of the juvenile in the home state, the holding state shall:
 - ▶ Notify the holding state ICJ office of the suspicion, which shall then notify the home state ICJ office; and
 - ▶ Follow its procedures for reporting and investigating allegations of abuse or neglect.
- ▶ The home state's ICJ office then works with appropriate court/authority in the home state to affect the safe return of the juvenile.
- ▶ Abuse/Neglect allegations do not change responsibilities to timely return juveniles.

FINANCIAL RESPONSIBILITY

- ▶ The home/demanding state is responsible for:
 - ▶ Costs of transportation;
 - ▶ Making transportation arrangements; and
 - ▶ Assuring timely return.
- ▶ The holding state shall not be reimbursed for detaining or transporting juveniles unless the home state fails to affect return in accordance with the ICJ.

PUBLIC SAFETY

- ▶ The home state shall determine appropriate measures and arrangements to ensure safety of the public and juveniles being transported.
- ▶ Determination is based upon both states' assessment of the juvenile, such as psychological and medical condition.
- ▶ If the home state determines juvenile is a risk to harm himself/herself or others, the juvenile shall be accompanied on return.

ICJ CONTACT INFORMATION

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