

CHAPTER 10

INTERJURISDICTIONAL AGREEMENTS AND STATUTES

Authority

N.J.S.A. 2A:159A-1 et seq., 2A:160-6 et seq., 30:1B-6, 30:1B-10, 30:7C-1 et seq. and 30:7D-1, U.S.C. Const. Art. 4, Sec. 2, cl.2 and 18 U.S.C. App. Sec. 2.

Source and Effective Date

R.2003 d.325, effective July 14, 2003.
See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

Chapter Expiration Date

Chapter 10, Interjurisdictional Agreements and Statutes, expires on July 14, 2008.

Chapter Historical Note

Chapter 10, Inter-Jurisdictional Agreements and Statutes, was adopted as Subchapter 6, International Transfer, by R.1987 d.331, effective August 17, 1987. See: 19 N.J.R. 916(a), 19 N.J.R. 1650(c). Subchapter 3, Interstate Corrections Compact, was adopted as R.1991 d.586, effective December 16, 1991. See: 23 N.J.R. 2221(a), 23 N.J.R. 3756(b).

Pursuant to Executive Order No. 66(1978), Chapter 10, Inter-Jurisdictional Agreements and Statutes, was readopted as R.1992 d.310, effective July 9, 1992. See: 24 N.J.R. 1939(a), 24 N.J.R. 2731(b). Pursuant to Executive Order No. 66(1978), Chapter 10, Inter-Jurisdictional Agreements and Statutes, expired on July 9, 1997.

Chapter 10, Interjurisdictional Agreements and Statutes, was adopted as new rules by R.1998 d.135, effective March 16, 1998. See: 35 N.J.R. 1639(a), N.J.R. 3559(a).

Subchapter 4, Agreement on Detainers, was adopted as R.2002 d.66, effective March 4, 2002. See: 33 N.J.R. 3860(a), 34 N.J.R. 1030(a), 34 N.J.R. 1431(a).

Chapter 10, Interjurisdictional Agreements and Statutes, was readopted as R.2003 d.325, effective July 14, 2003. See: Source and Effective Date. See, also, section annotations.

Subchapter 7, Notification of Foreign Consuls when Foreign Nationals are Imprisoned, was adopted as New Rules by R.2005 d.306, effective September 6, 2005. See: 37 N.J.R. 1916(a), 37 N.J.R. 3374(b).

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SUBCHAPTER 1. GENERAL PROVISIONS

10A:10-1.1 Purpose

(a) The purpose of this chapter is to:

1. Establish requirements for the interstate transfer of an inmate(s) for confinement in a correctional facility(ies);
2. Establish requirements for the interstate transfer of an inmate for the purpose of disposing of charges filed against the inmate in an out-of-State jurisdiction;
3. Establish requirements in accordance with the Uniform Criminal Extradition Act (see N.J.S.A. 2A:160-6 et seq.);
4. Establish requirements for the international transfer of an inmate(s) who is a citizen of a foreign country to the country of citizenship (see N.J.S.A. 30:7D-1); and
5. Establish provisions in accordance with the Vienna Convention on Consular Relations of 1963, Art. 36, 37 and 42 for the notification of a foreign consul when a foreign national is committed to the custody of the New Jersey Department of Corrections.

Amended by R.2002 d.66, effective March 4, 2002.
See: 33 N.J.R. 3860(a), 34 N.J.R. 1030(a).

In (a), added 3.

Amended by R.2003 d.325, effective August 4, 2003.
See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

Rewrote the section.

Amended by R.2005 d.306, effective September 6, 2005.
See: 37 N.J.R. 1916(a), 37 N.J.R. 3374(a).

In (a)3, deleted "and" following "et seq."; in (a)4, substituted ";" and for "." following "30:7D-1"; added (a)5.

10A:10-1.2 Scope

(a) Unless otherwise stated, N.J.A.C. 10A:10-1 and 3 shall be applicable to the New Jersey Department of Corrections and State sentenced inmates transferred or being considered for a transfer.

(b) Unless otherwise stated, N.J.A.C. 10A:10-1 and 3 shall be applicable to inmates from contracting states who are transferred outside their state of conviction to the New Jersey Department of Corrections.

(c) Unless otherwise stated, N.J.A.C. 10A:10-1 and 4 shall be applicable to an inmate against whom a detainer has been filed by an out-of-State jurisdiction.

(d) Unless otherwise stated, N.J.A.C. 10A:10-1 and 5 shall be applicable to inmates extradited from another state to the State of New Jersey and to inmates extradited from the State of New Jersey to another state.

(e) Unless otherwise stated, N.J.A.C. 10A:10-1 and 6 shall be applicable to inmates having foreign citizenship who are transferred to their countries of citizenship pursuant to the treaty that exists between the United States and the foreign country.

(f) Unless otherwise stated, N.J.A.C. 10A:10-1 and 7 shall be applicable to inmates who are not citizens or permanent resident aliens (green card holders) of the United States and who are foreign visitors or illegal aliens who have been committed to the custody of the New Jersey Department of Corrections.

Amended by R.2002 d.66, effective March 4, 2002.

See: 33 N.J.R. 3860(a), 34 N.J.R. 1030(a).

Inserted new (c) and recodified former (c) as (d).

Amended by R.2003 d.325, effective August 4, 2003.

See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

Inserted a new (d) and recodified former (d) as (e).

Amended by R.2005 d.306, effective September 6, 2005.

See: 37 N.J.R. 1916(a), 37 N.J.R. 3374(a).

Added (f).

10A:10-1.3 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Foreign national" means any person who is not a citizen or permanent alien resident (green card holder) of the United States and who is a foreign visitor or illegal alien.

"Legal rights" means State or Federal rights.

"Receiving state" means a state receiving an inmate transferred from a sending state.

"Sending state" means a state which is transferring to another state an inmate committed within the sending state's jurisdiction.

"State" (upper case "S") means the State of New Jersey; "state" (lower case "s") means a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; and the Commonwealth of Puerto Rico.

New Rule, R.2003 d.325, effective August 4, 2003.

See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

Former N.J.A.C. 10A:10-1.3, Forms, recodified to N.J.A.C. 10A:10-1.4.

Amended by R.2005 d.306, effective September 6, 2005.

See: 37 N.J.R. 1916(a), 37 N.J.R. 3374(a).

Added definition "Foreign national".

10A:10-1.4 Forms

(a) The following forms related to the Interstate Corrections Compact shall be reproduced by each correctional facility from originals that are available by contacting the Administrative Rules Unit:

1. 822-I Inmate Request for Transfer Under Interstate Corrections Compact;

2. 822-II Inmate Agreement of Waiver Regarding Interstate Transfer;

3. 822-III Notice of Intent To Seek Nonconsensual Interstate Transfer;

4. 822-IV Notice of Decision Regarding Interstate Transfer;
5. 822-V Receipt for Inmate as an Interstate Transferee; and
6. 822-VI Notice of Emergency Transfer.

(b) The following forms relate to the Interstate Agreement on Detainers. Forms necessary for use by the correctional facility shall be available by contacting the Office of Interstate Services, New Jersey Department of Corrections:

1. Form 867-I Notice of Untried Indictment, Information or Complaint and of Right to Request Disposition;
2. Form 867-II Inmate's Notice of Place of Imprisonment and Request for Disposition of Indictments, Informations or Complaints;
3. Form 867-III Certificate of Inmate Status;
4. Form 867-IV Offer to Deliver Temporary Custody;
5. Form 867-V Request for Temporary Custody;
6. Form 867-VI Evidence of Agent's Authority to Act for Receiving State;
7. Form 867-VII Prosecutor's Acceptance of Temporary Custody Offered in Connection with a Prisoner's Request for Disposition of a Detainer;
8. Form 867-VIII Prosecutor's Acceptance of Temporary Custody Offered in Connection with Another Prosecutor's Request for Disposition of a Detainer; and
9. Form 867-IX Prosecutor's Report on Disposition of Charges.

(c) The following forms related to International Transfer are available by contacting the Office of Interstate Services, New Jersey Department of Corrections:

1. Form I—Transfer Inquiry;
2. Form II—Inmate Information Provided to Treaty Nation; and
3. Form III—Notice Regarding International Prisoner Transfer.

(d) The following forms related to notification of a foreign consul when a foreign national is committed to the custody of the New Jersey Department of Corrections are available by contacting the Office of Interstate Services.

1. 849-I Report of Imprisonment of a Foreign National; and
2. 849-IV Death of an Offender.

Amended by R.2002 d.66, effective March 4, 2002.
See: 33 N.J.R. 3860(a), 34 N.J.R. 1030(a).

Added a new (b) and recodified former (b) as (c).
Administrative change.
See: 35 N.J.R. 1137(a).

Recodified from N.J.A.C. 10A:10-1.3 by R.2003 d.325, effective August 4, 2003.

See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).
Amended by R.2005 d.306, effective September 6, 2005.
See: 37 N.J.R. 1916(a), 37 N.J.R. 3374(a).

Added (d).
Amended by R.2006 d.152, effective May 1, 2006.
See: 38 N.J.R. 99(a), 38 N.J.R. 1837(a).

Deleted (a)2; recodified (a)3 and 4 as (a)2 and 3, rewrote (a)2 and made a stylistic revision in (a)3; and recodified (a)5 through 7 as (a)4 through 6.

10A:10-1.5 Records

The Administrator or designee shall ensure that the computerized inmate information recordkeeping system(s) is updated with information relative to the interstate or international transfer or extradition of an inmate.

New Rule, R.2003 d.325, effective August 4, 2003.
See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

SUBCHAPTER 2. (RESERVED)

SUBCHAPTER 3. INTERSTATE CORRECTIONS COMPACT

10A:10-3.1 Statutory authority

(a) N.J.S.A. 30:7C-1 et seq. established the Interstate Corrections Compact which provides that the State of New Jersey may enter into a contract with any other signatory state of the United States whereby prisoners from contracting states may be transferred between such states and confined in correctional facilities outside the state of conviction on a reciprocal basis or as otherwise provided for by the contract or a rider.

(b) The Commissioner, New Jersey Department of Corrections, is the designated Administrator of the Interstate Corrections Compact. The Commissioner may delegate this authority to an appropriate designee who shall have full authority to act on all matters pertaining to the Interstate Corrections Compact.

Amended by R.2003 d.325, effective August 4, 2003.
See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

In (b), rewrote the second sentence.

10A:10-3.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Administrator of the Interstate Corrections Compact” means the Commissioner of the Department of Corrections of the State of New Jersey.

“Consensual interstate transfer” means the interstate transfer of an inmate from the New Jersey Department of Corrections to a receiving state with the consent of that inmate.

“Nonconsensual interstate transfer” means the interstate transfer of an inmate from the New Jersey Department of Corrections to a receiving state without the consent of that inmate.

“State compact member” means any state having membership in the Interstate Corrections Compact.

Amended by R.2003 d.325, effective August 4, 2003.
See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

Added “Administrator of the Interstate Corrections Compact”, “Consensual interstate transfer”, and “Nonconsensual interstate transfer”; deleted “Legal rights”, “Receiving state”, “Sending state”, and “State”.

10A:10-3.3 Applicability of compact

(a) The Interstate Corrections Compact is applicable to inmates under the jurisdiction of the New Jersey Department of Corrections, except those inmates sentenced under N.J.S.A. 2A:164-3 or 2C:47-1 et seq.

(b) The New Jersey Department of Corrections shall accept only adult state sentenced inmates from contracting states.

10A:10-3.4 Eligibility criteria for interstate transfer consideration

(a) Inmates considered for interstate transfer must be sentenced for a term of imprisonment such that the earliest parole or release dates are not less than one and a half years from the date of application for transfer. Exceptions to this rule shall be made on a case-by-case basis and may include:

1. Inmates in protective custody;
2. Inmates considered to be security risks;
3. Inmates who require special treatment; and/or
4. Consensual transfers.

(b) Inmates with detainers for open charges shall not be considered for interstate transfer.

(c) Inmates who are sentenced to death pursuant to N.J.S.A. 2C:11-3 shall not be considered for interstate transfer.

(d) The types of inmates who may be considered for interstate transfers under the Interstate Corrections Compact are inmates:

1. Who are bona fide residents of the prospective receiving state to which transfer is desired;

2. Whose behavior constitutes a threat to the safety, security or orderly operation of any New Jersey correctional facility;

3. Whose continued presence in any New Jersey correctional facility poses a threat to themselves;

4. Who can demonstrate a substantial and bona fide reason for being transferred to another state; or

5. Who are residents of New Jersey and meet the classification and custody criteria of out-of-State correctional facilities where bed space is offered for lease or per diem costs by a state which is a state compact member of the Interstate Corrections Compact. Interstate transfer of inmates of this type shall be considered:

- i. When an order is issued by the Commissioner, New Jersey Department of Corrections;

- ii. In response to a correctional facility emergency, such as, but not limited to, overcrowding or a catastrophic occurrence; and/or

- iii. In accordance with a court order.

Amended by R.2003 d.325, effective August 4, 2003.
See: 35 N.J.R. 1639(a), 35 N.J.R. 3559(a).

Inserted a new (c) and recodified former (c) as (d).

10A:10-3.5 Riders to contracts

(a) The three types of riders which may be affixed to authorized contracts between the New Jersey Department of Corrections and another state compact member are as follows:

1. A rider to extend the duration of the contract;
2. A rider to set forth the particulars of individual transferring arrangements or special care and custody; and
3. A rider mutually agreeing to a change or amendment to the original contractual terms.

(b) Riders shall be ratified by the signatures of the Administrator of the Interstate Corrections Compact or appropriate designee and the appropriate counterpart in the other state compact member.

(c) Year-to-year riders may be utilized to extend the original contract.

(d) A rider setting forth the particulars of an inmate's transfer shall contain information regarding:

1. The inmate's identification;
2. The inmate's sentence;
3. Any specialized housing or programming;
4. Paroling arrangements; and
5. The method of exchange agreed upon in the inmate's case, such as: