

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.

Amended by R.2006 d.419, effective December 4, 2006.

See: 38 N.J.R. 3226(a), 38 N.J.R. 5161(a).

In the introductory paragraph of (a), deleted "shall be reproduced by each correctional facility from originals that" preceding "are available" and inserted "by accessing the Department of Corrections computer network (DOCNet). Interested individuals who do not have access to DOCNet may obtain copies of forms" and ", New Jersey Department of Corrections".

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).

10A:10-1.6 Transfer of inmate property

The disposition of inmate personal property shall be handled in accordance with the provisions set forth in N.J.A.C. 10A:1-11.7, Disposition of personal property when an inmate is transferred.

New Rule, R.2007 d.127, effective May 7, 2007.

See: 39 N.J.R. 155(a), 39 N.J.R. 1730(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 may not be considered for interstate transfer unless authorized by the Commissioner.

(c) Inmates who are sentenced to death pursuant to N.J.S.A. 2C:11-3 or inmates sentenced as sexual offenders pursuant to N.J.S.A. 2A:164-3 or 2C:47-1 et seq. 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).

Amended by R.2007 d.199, effective July 2, 2007.

See: 39 N.J.R. 747(a), 39 N.J.R. 2537(a).

In (b), substituted “may” for “for open charges shall”, and inserted “unless authorized by the Commissioner”.

Amended by R.2008 d.149, effective June 16, 2008.

See: 40 N.J.R. 1056(a), 40 N.J.R. 3726(a).

In (c), inserted “or inmates sentenced as sexual offenders pursuant to N.J.S.A. 2A:164-3 or 2C:47-1 et seq.”.

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;

10A:10-5.2 Request for extradition and related document handling

(a) The request for extradition of an inmate/parole violator shall be initiated by the Office of Interstate Services (OIS), New Jersey Department of Corrections or the Office of Interstate Services (OIS), New Jersey State Parole Board upon notice of an out-of-State arrest and upon the determination that the inmate/parole violator is wanted and has refused to waive.

(b) When returning an inmate/parole violator to the State of New Jersey, the number of complete sets of documents which shall be executed shall conform to the requirements of the sending state from which extradition is requested. This information is available in the Directory of the National Association of Extradition Officials.

(c) When returning an inmate/parole violator to the State of New Jersey, the petition for extradition with supporting documentation shall be forwarded by the Administrator or designee to the Extradition Secretary, Division of Criminal Justice, PO Box 085, 25 Market Street, 5th Floor, West Wing, Trenton, New Jersey 08625.

10A:10-5.3 Role of the classification officer

(a) When rendering an inmate who is under the custody of the New Jersey Department of Corrections to a receiving state, the highest ranking classification officer or designee shall be responsible for:

1. Monitoring the status of the extradition case while the inmate is in temporary custody; and
2. If applicable, ensuring the appropriate warrants are received from the receiving state prior to returning the inmate to that state.

(b) When returning an inmate/parole violator who is under the custody of a sending state to the State of New Jersey and upon notification by the OIS, New Jersey Department of Corrections or the OIS, New Jersey State Parole Board, the highest ranking classification officer or designee shall prepare the request for extradition which shall consist of the following documents:

1. A petition by the Administrator of a correctional facility to the Governor requesting extradition of an inmate/parole violator;
2. An affidavit signed by the Administrator verifying the petition for the inmate/parole violator;
3. A copy of the inmate's/parole violator's indictment, judgement and commitment certified as a true copy of the court clerk;
4. Copies of photographs and fingerprints identifying the inmate/parole violator;
5. An affidavit from the Senior Identification Officer or highest ranking classification officer or designee stating

that he or she is the custodian of the classification records of the correctional facility and attesting to the accuracy of the photographs and fingerprints of the inmate/parole violator;

6. Copies of the Special Investigations Division incident report charging the inmate with escape, if applicable;
7. The parole violator's certificate of parole which includes the condition(s) of parole, if applicable;
8. The Declaration of Delinquency for the parole violator, if applicable;
9. The Revocation of Parole for the parole violator, if applicable; and
10. Certified copies of the escape warrant or parole violation.

10A:10-5.4 Exceptions to the mandatory use of the Uniform Criminal Extradition Act

(a) When an inmate in the custody of the New Jersey Department of Corrections is to be released to an out-of-State detainer and/or commitment detainer, the Uniform Criminal Extradition Act may not be invoked by the highest ranking classification officer or designee in the following instances:

1. Under Article III, Interstate Agreement on Detainers, when the out-of-State commitment detainer was filed as a result of temporary custody granted to out-of-State prosecuting agencies to dispose of the indictment at the inmate's request as evidenced by a signed Form II;
2. When released to Federal jurisdiction/Federal U.S. Marshals upon presentation of appropriate identification and the appropriate writ signed by a Federal judge; or
3. When material witness requests are received by the New Jersey Department of Corrections from out-of-State authorities and/or from the Federal government. No extradition is required for an inmate as a material witness who has signed the appropriate consent form prepared by the New Jersey Office of the Attorney General.

(b) Extradition is not necessary when a U.S. Marshal requests the inmate as a material witness and presents a Writ of Habeas Corpus, ad testificandum.

(c) Offenders charged with parole violation in the State of New Jersey, who are apprehended out of State; who were supervised under the Compact for the Supervision of Parolees and Probationers in the state where they were apprehended; and who have signed an agreement to return, do not require formal extradition proceedings.

(d) When an out-of-State commitment detainer has been lodged as a result of the transfer of an inmate via an Executive Agreement, the Uniform Criminal Extradition Act may not be invoked by the highest ranking classification officer or designee.

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).

SUBCHAPTER 6. INTERNATIONAL TRANSFER

10A:10-6.1 Definitions

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

“Assurance” means a special condition concerning the confinement and/or release of an offender which must be met prior to the release of the offender.

“Offender” means a person convicted of a criminal offense pursuant to the laws of New Jersey.

“Receiving state” means the jurisdiction to which the offender is to be transferred.

“Sending state” means the jurisdiction from which the offender is to be transferred.

10A:10-6.2 Commissioner’s authority

N.J.S.A. 30:7D-1 authorizes the Commissioner, Department of Corrections, to transfer offenders having foreign citizenship status to countries of citizenship, provided that a treaty exists between the United States and the foreign country.

10A:10-6.3 Eligibility criteria for international transfer

(a) Offenders must meet all of the following criteria before they may be considered for an international transfer:

1. The offender must be a citizen of the receiving state;
2. The offender must consent to transfer to the receiving state;
3. The offense of the offender must constitute a criminal offense under the laws of the receiving state;
4. The offender shall not have, at the time of the application, less than 12 months remaining on the sentence;
5. The offender shall not be under a sentence of death;
6. The offender shall not have collateral attacks or appeals on the sentence and/or conviction pending;
7. All other provisions of the imposed sentence such as fines, restitution and penalties shall be paid in full;
8. The offender shall not have detainees, lodged in a state of the United States, wanted notices based on criminal convictions, indictments, informations, complaints and/or parole or probation violation allegations pending; and

9. The offender must meet all of the eligibility requirements of the treaty with the receiving state.

(b) The U.S. Immigration and Customs Enforcement (ICE) must have lodged a detainer or have an interest regarding the deportation proceedings in order for the offender to be eligible for international transfer.

(c) Offenders who have previously applied for international transfer and were not approved shall not be permitted to reapply for a period of two years from the date of disapproval.

1. The two-year period of time shall not preclude an inmate from submitting another application for international transfer if there is a substantial change in the material submitted with the prior application pursuant to N.J.A.C. 10A:10-6.4 and 6.6.

i. The Office of Interstate Services shall determine whether a substantial change in the material exists during its review of the application for compliance with general eligibility criteria.

Amended by R.1988 d.29, effective January 19, 1988.
See: 19 N.J.R. 1620(a), 20 N.J.R. 194(c).
Amended by R.1992 d.310, effective August 3, 1992.
See: 24 N.J.R. 1939(a), 24 N.J.R. 2731(b).
Amended by R.2001 d.456, effective December 3, 2001.
See: 33 N.J.R. 2943(a), 33 N.J.R. 4108(a).
Added (c).

Amended by R.2007 d.199, effective July 2, 2007.
See: 39 N.J.R. 747(a), 39 N.J.R. 2537(a).

In (a)8, inserted “lodged in a state of the United States”; and rewrote (b).

10A:10-6.4 Role of the classification officer

(a) The highest ranking classification officer or designee of each correctional facility shall be provided with the eligibility requirements of each Prisoner Transfer Treaty.

(b) The highest ranking classification officer or designee shall forward Form I-Transfer Inquiry, to all inmates identified as having national or citizenship status in a party nation.

(c) When the inmate receives Form I-Transfer Inquiry, the offender shall:

1. Indicate that the inmate is interested in pursuing a transfer by signing Form I and returning it to the highest ranking classification officer or designee along with proof of citizenship; or

2. Indicate that the inmate is not interested in pursuing a transfer by returning Form I to the highest ranking classification officer or designee without proof of citizenship.

(d) If the inmate indicates an interest in pursuing a transfer on Form I-Transfer Inquiry, the correctional facility highest ranking classification officer or designee shall review the inmate’s classification file to verify that a period of two years has elapsed from the date of any previous disapproval for international transfer prior to processing the international transfer documents for the inmate. Upon such verification, or if the