

the sending state to certain program assignments, such as work release);

4. Medical services; and
5. Psychiatric services.

(b) The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate correctional facility of the sending state. An inmate serving a New Jersey sentence out-of-State maintains the right to legal access by writing to the New Jersey Department of Corrections, Office of Educational Services at PO Box 863, Trenton, New Jersey 08625-0863. Such a request shall:

1. Be in writing;
2. Be legible and intelligible;
3. Contain the full name and address of the petitioner; and
4. Contain a clear and concise statement summarizing/identifying the information or subject matter sought such as, but not limited to, a specific topic, case or law.

(c) An inmate confined pursuant to the Interstate Corrections Compact may be entitled to any hearing(s) in accordance with the statutes of the sending state. The hearing(s) may be conducted by the appropriate authorities of the sending state or by appropriate authorities of the receiving state who are acting as agents of the sending state.

(d) The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state.

(e) In the event such hearing or hearings are held before officials of the receiving state, the governing statute providing for the hearing is that of the sending state. The nature and character of the hearing process is governed by the regulations and procedures administering such hearings in the receiving state.

(f) Inmates in the receiving state, pursuant to the Interstate Corrections Compact, shall be subject to the receiving state's rules and regulations governing discipline and disciplinary sanctions except that any sanction providing for the loss of commutation credits shall not affect the terms and conditions of the sending state's sentence in excess of the amount provided for by the laws and regulations governing disciplinary sanctions in the sending state.

(g) The record of the hearing or hearings, as requested by the sending state, will be made. Said record, together with any recommendations of the receiving state's hearing official(s), shall be transmitted forthwith to the sending state's official(s) before whom the hearing would have been held if it had taken place in the sending state. A final determination shall be made by the sending state.

(h) In any and all proceedings conducted pursuant to the provisions of this subchapter, the officials of the receiving state act solely as agents of the sending state and no final determination shall be made in any matter pertaining to the administration of the imposed sentence except by the appropriate officials of the sending state.

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

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

Rewrote the introductory paragraph of (b); and added (b)1 through (b)4.

10A:10-3.17 Release/return of transferred inmate

(a) Except as established in (b) below, a transferred inmate from New Jersey shall be returned to New Jersey for a court appearance in which the inmate is named as a defendant or plaintiff or when subpoenaed, and for the opportunity for a reasonable amount of consultation with counsel in connection with such court proceedings.

(b) Court appearances may be arranged and provided through video conferencing (VTC) when equipment is available and operational and when the court is amenable to the use of VTC.

(c) Any inmate confined pursuant to the Interstate Corrections Compact shall be released within the sending state, unless the inmate and the sending and receiving states agree that the inmate will be paroled to a party who will provide supervision for the parolee under the Adult Compact for the Supervision of Parolees and Probationers.

(d) An inmate may be returned to the sending state at the request of the receiving state due to behavior which poses a threat to the safe, secure, and orderly operation of the correctional facility in the receiving state. In such cases where the inmate is not charged with a prohibited act by the receiving state due to the expedited nature of the inmate's return, the sending state may charge the inmate based on such written reports and/or affidavits as are forwarded by the receiving state.

(e) A disciplinary report shall be prepared by the Office of Interstate Services as soon as possible after the return, but in any case, within no more than five business days of the inmate's return.

(f) All disciplinary procedures as stated in N.J.A.C. 10A:4 shall be followed with the exception that appeals shall be forwarded to the Office of the appropriate Assistant Commissioner, New Jersey Department of Corrections.

(g) Except as established in this section, an inmate who has been returned to the sending state shall be released at the expiration of maximum sentence within the sending state unless the receiving state and the sending state agree, in writing, that the inmate may be released within the receiving state.

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

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

Added (g).

10A:10-3.18 Rights of parents or guardians

The parents, guardian, trustee or other person or persons entitled under the statutes of the sending state to act for, advise or otherwise function with respect to any inmate shall not be deprived of or restricted in exercising any power with respect to any inmate confined pursuant to the terms of the Interstate Corrections Compact.

10A:10-3.19 Escapees and transportation

(a) An inmate who escapes from a correctional facility in which the inmate is confined pursuant to the Interstate Corrections Compact shall be deemed a fugitive from the sending state and from the state in which the correctional facility is located.

(b) In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for initiating extradition or rendition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

(c) Authorized transportation officers of the sending state shall be permitted to transport inmates pursuant to the Interstate Corrections Compact through any and all United States territories or states without interference.

SUBCHAPTER 4. AGREEMENT ON DETAINERS**10A:10-4.1 Statutory authority**

(a) N.J.S.A. 2A:159A-1 et seq. sets forth the Interstate Agreement on Detainers (IAD). The Interstate Agreement on Detainers is intended to:

1. Encourage the orderly, expeditious disposition of an untried indictment, information or complaint, which has been lodged against a prisoner by any other state that is a party to the Agreement; and
2. Provide cooperative procedures for securing the transfer of an inmate to or from a receiving state.

(b) The Commissioner, New Jersey Department of Corrections, is the designated Agreement Administrator for the Interstate Agreement on Detainers. The Commissioner may delegate the responsibility and authority to administer the IAD to a Deputy Agreement Administrator.

10A:10-4.2 Definitions

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

“Detainer” means a notification filed with the correctional facility in which the inmate is serving a sentence, advising that the inmate is wanted to face a pending criminal charge in another jurisdiction. The detainer must be based on an untried indictment, information or complaint, an escape warrant based on an indictment, and must charge the individual with commission of a criminal offense. The detainer shall not include a charge for probation or parole violation, any matter related to the U.S. Immigration and Customs Enforcement (ICE), or any warrant to return an inmate to another jurisdiction solely for sentencing purposes.

“IAD” means the Interstate Agreement on Detainers.

“Receiving state” is the state in which the untried criminal charge(s) is pending. The receiving state may be the United States of America, the District of Columbia, or any State or territory that has codified the Agreement on Detainers Act into its statutes.

“Sending state” is the state in which the inmate is incarcerated at the time either the inmate initiates a request for final disposition of a detainer filed by a receiving state or the request for custody of the inmate is initiated by the prosecuting authority in the receiving state. All references to “sending state” in this subchapter shall mean the State of New Jersey.

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

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

Amended “Detainer”.

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

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

In definition “Detainer”, substituted “U.S. Immigration and Customs Enforcement (ICE)” for “Immigration and Naturalization Service”.

10A:10-4.3 Eligibility criteria for the Interstate Agreement on Detainers

(a) The Interstate Agreement on Detainers may be utilized by an inmate in the sending state, or a prosecuting authority in a receiving state, provided the following criteria has been established:

1. A detainer from the receiving state has been filed with the correctional facility in which the inmate is incarcerated;
2. The inmate against whom the detainer has been filed is serving a term of imprisonment for a criminal conviction;
3. The inmate against whom the detainer has been filed is not adjudged to be mentally ill; and
4. The detainer is based on an untried indictment, information or complaint that charges the inmate with the commission of a criminal offense.

10A:10-4.4 Receipt of detainer

(a) The following action shall be taken by the correctional facility upon receipt of a detainer filed by a receiving state:

1. The Administrator or designee shall advise the inmate of the right to dispose of the detainer(s) under the IAD, and shall ensure that an original and two copies of Form I Notice of Untried Indictment, Information or Complaint and of Right to Request Disposition, are provided to the inmate. A separate Form I shall be completed for each receiving state that has filed a detainer against the inmate;

2. The inmate shall sign Form I and indicate whether to dispose of the charge(s); and

3. The classification officer shall ensure that Form I is copied and distributed in accordance with the instructions printed on the form.

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 have collateral attacks or appeals on the sentence and/or conviction pending;
6. All other provisions of the imposed sentence such as fines, restitution and penalties shall be paid in full;
7. The offender shall not have detainers, 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
8. 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).

Amended by R.2009 d.74, effective March 2, 2009.

See: 40 N.J.R. 6374(a), 41 N.J.R. 1052(b).

Deleted former (a)5; and recodified former (a)6 through (a)9 as (a)5 through (a)8.

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