

CHAPTER 10
INTERJURISDICTIONAL AGREEMENTS
AND STATUTES

Authority

N.J.S.A. 30:1B-6 and 30:1B-10.

Source and Effective Date

R.1998 d.135, effective March 16, 1998.
See: 30 N.J.R. 5(a), 30 N.J.R. 1039(b).

Executive Order No. 66(1978) Expiration Date

Chapter 10, Interjurisdictional Agreements and Statutes, expires on March 16, 2003.

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: Source and Effective Date.

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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); and
2. Establish requirements for the international transfer of an inmate(s) who is a citizen of a foreign country to the country of citizenship.

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 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.

10A:10-1.3 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 Standards Development Unit:

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

- 2. 822-IIA Agreement of Waiver—Regarding Transfer of Custody;
- 3. 822-IIB Agreement of Waiver—Regarding Interstate Transfer;
- 4. 822-III Notice of Intent to Seek Non-Consensual Interstate Transfer;
- 5. 822-IV Notice of Decision Regarding Interstate Transfer;
- 6. 822-V Receipt for Inmate as an Interstate Transfer-ee; and
- 7. 822-VI Notice of Emergency Transfer.

(b) 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.

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 is authorized to designate a Deputy Compact Administrator who shall have full authority to act for the Interstate Compact Administrator in all matters pertaining to the Interstate Corrections Compact.

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:

“Legal rights” means State or Federal constitutional rights.

“Receiving state” means a state compact member of the Interstate Corrections Compact receiving an inmate transferred from a sending state.

“Sending state” means a state compact member of the Interstate Corrections Compact which is transferring an inmate committed and convicted within the sending state’s jurisdiction to another state who is a compact member.

“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.

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

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

10A:10-3.16 Administration of conditions of confinement, hearings and administrative proceedings to which inmates are entitled

(a) All inmates who may be confined to a correctional facility pursuant to the provisions of the Interstate Corrections Compact shall be treated in a reasonable and humane manner and shall be treated equally to similarly situated inmates under the jurisdiction of the receiving state with regard to:

1. The terms and conditions of confinement;
2. Custody status;
3. Program eligibility and participation (with the exception that provisions may be made for the approval of 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.

(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.

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 teleconferencing (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.

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.

SUBCHAPTERS 4 THROUGH 5. (RESERVED)

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 detainers, 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 offender may be excluded from international transfer should the Immigration and Naturalization Service (INS) have an interest regarding the deportation proceedings.

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).

10A:10-6.4 Role of the classification officer

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

(b) The classification officer shall forward Form I—Transfer Inquiry, to all offenders identified as having national or citizenship status in a party nation.

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

1. Indicate that the offender is interested in pursuing a transfer by signing Form I and returning it to the classification officer along with proof of citizenship; or
2. Indicate that the offender is not interested in pursuing a transfer by returning Form I to the classification officer without proof of citizenship.

(d) If the offender indicates on Form I—Transfer Inquiry, that he or she is interested in pursuing a transfer, the correctional facility classification officer shall complete Form II—Inmate Information Provided to Treaty Nation and Form III—Notice Regarding International Prisoner Transfer.

(e) The following material shall be forwarded, in triplicate, by the classification officer to the Superintendent of the correctional facility:

1. Form I—Transfer Inquiry;
2. Form II—Inmate Information Provided to Treaty Nation;
3. Form III—Notice Regarding International Prisoner Transfer;
4. Proof of citizenship;
5. A statement of offender's eligibility;
6. The presentence investigation report;
7. Classification materials;
8. Current psychological and medical reports;
9. A signed release of confidential information forms;
10. The criminal history sheet(s);
11. Judgments of conviction or adjudication of delinquency; and
12. Any statement of interest regarding deportation proceedings from the Immigration and Naturalization Service (INS).

10A:10-6.5 Role of the Superintendent of the correctional facility

The Superintendent shall sign Form III—Notice Regarding International Prisoner Transfer, and forward the application and the material required in N.J.A.C. 10A:10-6.4(e), in triplicate, to the Office of Interstate Services, New Jersey Department of Corrections.

10A:10-6.6 Role of Office of Interstate Services

- (a) The Office of Interstate Services shall:
1. Investigate the request to ensure that all eligibility requirements are met;
 2. Request a records check to verify records listed in N.J.A.C. 10A:10-6.3(a)8;
 3. Review application and materials for completeness and compliance with treaty terms;
 4. Develop and recommend assurances, where indicated; and
 5. Provide written notification of the transfer request to the:

- i. Attorney General's Office;
- ii. State Police;
- iii. Prosecutor; and
- iv. Sentencing court.

6. Receive objections or other comments on the transfer request from persons and agencies listed in (a)5 above for 30 days following notification.

(b) If the Office of Interstate Services' investigation determines that the application and materials are incomplete, or do not comply with the terms of the treaty, the application shall be rejected and returned to the correctional facility in which the inmate is housed and the inmate shall be notified by the Superintendent or designee.

(c) If the investigation of the Office of Interstate Services determines that the application and materials are complete and are in compliance with the terms of the treaty, the application and materials shall be forwarded to the Commissioner, New Jersey Department of Corrections, through the appropriate Assistant Commissioner.

Amended by R.1988 d.29, effective January 19, 1988.
See: 19 N.J.R. 1620(a), 20 N.J.R. 194(c).

10A:10-6.7 Role of the Commissioner, New Jersey Department of Corrections

(a) The Commissioner, Department of Corrections, shall review the application and materials and if approved, the application and materials shall be forwarded to the Office of the Governor for authorization to transfer.

(b) Applications which are not approved by the Commissioner will be returned to the sending correctional facility and the inmate shall be notified by the Superintendent or designee.

10A:10-6.8 Referral to the United States Department of Justice, Office of International Affairs

(a) Upon receipt of the Governor's authorization for international transfer, the application and materials shall be forwarded to the United States Department of Justice, Office of International Affairs, by the New Jersey Department of Corrections, Office of Interstate Services.

(b) The Office of Interstate Services shall notify the inmate, the sending Superintendent and the Office of the Governor of the decision on the application for international transfer.

(c) All arrangements relative to the treaty process and proposed assurances shall be negotiated between the Office of Interstate Services and the United States Department of Justice, Office of International Affairs. The Office of Interstate Services shall notify the Office of the Governor of the results of the negotiated arrangements.

10A:10-6.9 Transfer of offender

(a) If the inmate is accepted for international transfer by the United States Department of Justice, Office of International Affairs, the offender shall be transported by the Department of Corrections to the Federal District Court for purposes of a verification hearing to ensure that the offender consents to the international transfer.

(b) Jurisdiction over the offender shall thereafter be relinquished to the United States Department of Justice.