



Interstate Commission for Adult Offender Supervision

Ensuring Public Safety for the 21st Century

Parole Board Guide

This guide is intended to assist in the management of offenders releasing to supervision to another state via the Interstate Compact

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Background and Purpose

The Interstate Commission for Adult Offender Supervision (ICAOS)

- Enacted in 2002 (replacing the 1937, Interstate Compact for the Supervision of Parolees and Probationers (ICPP), through Congressional consent under the Crime Control Act of 1934
- Equivalent to federal law with legislation passage by all 50 states and 3 territories
- Promotes public safety
- Protects victim's rights
- Supports community re-entry
- Facilitates the transfer of supervision from one state to another, the supervision of the offender and the return of an offender to the sending state
- Does not impose a constitutional or statutory right for an offender to transfer
- Does not impact the judicial sentencing of an offender
- Forces a legal obligation for all state officials to comply
- Imposes liability when compact is circumvented or violated

Contacts

ICAOS National Office: (859) 721-1050

Web site Address: www.interstatecompact.org

Eligibility for Transfer

No state is permitted to allow an offender who is eligible under the Compact to relocate to another state except as provided in the Compact and its rules (Rule 2.110)

- *Relocate is defined as remaining in another state for more than 45 consecutive days*
- *Out of state treatment may trigger the Compact if more than 45 day stay*

Offenders subject to supervision & released to the community

- Convicted of felony or eligible misdemeanor (Rule 2.105)
 - *Including deferred sentences (Rule 2.106)*
- A minimum of 90 days of supervision remaining
- Considered in substantial compliance by Sending State

All communications regarding compact offenders must be done with the involvement of each state's compact office via the Interstate Compact Offender Tracking System (ICOTS) (Rule 2.101)

Waiver of Extradition

All offenders requesting to transfer must sign the Offender Application for transfer **agreeing to waive extradition from any state**

- This is EXTREMELY IMPORTANT as it replaces the need for an extradition hearing in the Receiving State and the need for a Governor's warrant by the Sending State (Rule 3.109)

An offender subject to the Compact is subject to the "alternative procedures" provided in the Compact and its rules, not the provisions of the Uniform Criminal Extradition and Rendition Act

Courts have held that the Compact rules relating to interstate apprehension and retaking of offenders without formalities of extradition laws do not violate due process of law

Transfer Request

The decision to transfer is at discretion of the Sending State

- *A Sending State may impose a transfer application fee (Rule 4.107)*

Pre-release transfer requests may be submitted within 120 days prior to an offender's planned release if offender is incarcerated (Rule 3.105)

- ***Immediate notification to the Receiving State if date of release is withdrawn or changed***
- ***Acceptance may be withdrawn by a Receiving State if the offender does not report within 5 calendar days of the intended departure date from the Sending State***
- ***Release date is determined PRIOR to requesting transfer, therefore acceptance to transfer to another state via the Interstate Compact DOES NOT determine an offender's release date (Advisory Opinion 2-2012)***

Must include a valid "plan of supervision" & justification

May be mandatory (Receiving State must accept) or discretionary (Receiving state has discretion regarding acceptance)

- *Most mandatory transfer requests (98%) state the offender is either a "resident" of the Receiving State by compact definition or has "resident family" in the receiving state who are willing and able to assist as specified in the "plan of supervision" (Rule 3.101 & 3.101-1)*

Receiving state has up to 45 calendar days to investigate plan (Rule 3.104)

- *No travel allowed to receiving state pending investigation decision*
- *Exceptions exist for offenders with emergency circumstances who may qualify for reporting instructions (Rule 3.106)*

Manner of Supervision

Level and degree of supervision is determined by the Receiving State consistent with how a similar offender convicted in that state is supervised (Rule 4.101)

- *A Receiving State may impose a supervision fee consistent with fees charged to its own offenders (Rule 4.107)*
 - *Upon transferring to a Receiving State, the Sending State can no longer collect supervision fees.*
- *The Receiving State must notify of any conditions of supervision it imposes on an offender (Rule 4.103) and also must notify of any Sending State conditions they cannot enforce*
- *Sending State controlling authority must recognize and address violations of conditions of supervision imposed by the receiving state. (Rule 4.103-1)*
- *Violations determined by the Receiving State to be "significant" by compact definition are reported to the Sending State within 30 days of discovery (Rule 4.109)*
 - *Sending State must respond with action to be taken within 10 business days of receipt indicating status of warrant or other appropriate action*
 - *Violation(s) may trigger a mandatory retaking rule requiring a warrant*
- *The Receiving State provides progress reports annually or within 30 days of a request from the sending state (Rule 4.106)*
 - *The progress report is many times used to report violations not considered to be "significant"*

Victim Notification is required upon violation by the offender or other change in status (Rule 3.108)

- *Upon notification, the victim shall be informed of his or her right to comment and voice concerns relating to the transfer of an offender (Rule 3.108-1)*

Absconders

Prior to declaring an offender an absconder, a Receiving State must at a minimum:

1. Conduct a field contact at the last known place of residence;
2. Contact the last known place of employment, if applicable;
3. Contact known family members and collateral contacts

A Violation Report, including a narrative of how the offender was determined an absconder, and Case Closure Notice may be transmitted by a Receiving State. (Rule 4.109-2)

Upon notice an offender has absconded, a warrant must be issued by the Sending State.

- *If apprehended in the Receiving State, the Receiving State may require the Sending State to retake the offender.*
- *Initiation of the retaking process requires the Receiving State to conduct a probable cause hearing if requested by the Sending State (Rule 5.103-1)*

Retaking

Retaking may be initiated at the discretion of a Sending State or required at the request of a Receiving State invoking an ICAOS mandatory retaking rule

- upon conviction of a new felony offense (Rule 5.102)
- upon conviction of a new violent crime (Rule 5.103-2)
- upon notice a “violent offender” has committed 1 significant violation (Rule 5.103-2)
- upon notice the offender has committed 3 significant violations (5.103)
- upon receipt of an absconder violation report and case closure (5.103-1)

If the offender has been charged with a subsequent criminal offense in the receiving state, the offender shall not be retaken without the consent of the receiving state, or until criminal charges have been dismissed, sentence has been satisfied, or the offender has been released to supervision for the subsequent offense (Rule 5.101)

Sending State SHALL

- ***Issue timely nation-wide warrant*** (Rule 1.101 definition of “warrant”)
- *Cover the cost of retaking* (Rule 5.104)
- ***Retake within 30 days*** after decision to retake is made or upon release from incarceration (Rule 5.105)
- *Establish authority of officers* (Rule 5.107)
- *Identify the offender* (Rule 5.107 & 5.110)
 - *Ensure no detainers against offender exist*
 - *Ensure no extradition proceedings are pending*

Receiving State SHALL

- *Cover cost of detaining* (Rule 5.106)
- ***Provide no bail or other release conditions*** (Rule 5.111)
- *Conduct PC Hearing if requested* (Rule 5.108)

Dispute Resolution Process

State compact offices handle compact issues with other states and are responsible for training within their states.

Requests for assistance may be made by a state’s Commissioner via a written request to the ICAOS National Office.

Key Definitions:

“**Offender**” means an adult placed under, or made subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies, and who is required to request transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision.

“**Plan of Supervision**” means the terms under which an offender will be supervised, including proposed residence, proposed employment or viable means of support and the terms and conditions of supervision.

“**Relocate**” means to remain in another state for more than 45 consecutive days in any 12 month period.

“**Resident**” means a person who—

- (1) has continuously inhabited a state for at least 1 year prior to the commission of the offense for which the offender is under supervision; and
- (2) intends that such state shall be the person’s principal place of residence; and
- (3) has not, unless incarcerated or on active military deployment, remained in another state or states for a continuous period of 6 months or more with the intent to establish a new principal place of residence.

“**Resident Family**” means a parent, grandparent, aunt, uncle, adult child, adult sibling, spouse, legal guardian, or step-parent who—

- (1) has resided in the receiving state for 180 days or longer as of the date of the transfer request; and
- (2) indicates willingness and ability to assist the offender as specified in the plan of supervision.

“**Sex Offender**” means an adult placed under, or made subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies, and who is required to register as a sex offender either in the sending or receiving state and who is required to request transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision.

“**Significant Violation**” means an offender’s failure to comply with the terms or conditions of supervision that, if occurring in the receiving state, would result in a request for revocation of supervision.

“**Supervision**” means the oversight exercised by authorities of a sending or receiving state over an offender for a period of time determined by a court or releasing authority, during which time the offender is required to report to or be monitored by supervising authorities, and to comply with regulations and conditions, other than monetary conditions, imposed on the offender at the time of the offender’s release to the community or during the period of supervision in the community.

“**Travel Permit**” means the written permission granted to an offender authorizing the offender to travel from one state to another.

“**Violent Crime**” means any crime involving the unlawful exertion of physical force with the intent to cause injury or physical harm to a person; or an offense in which a person has incurred direct or threatened physical or psychological harm as defined by the criminal code of the state in which the crime occurred; or the use of a deadly weapon in the commission of a crime; or any sex offense requiring registration.

“**Violent Offender**” means an offender under supervision for a violent crime committed in the sending state.

“**Warrant**” means a written order of the court or authorities of a sending or receiving state or other body of competent jurisdiction which is made on behalf of the state, or United States, issued pursuant to statute and/or rule and which commands law enforcement to arrest an offender. The warrant shall be entered in the National Crime Information Center (NCIC) Wanted Person File with a nationwide pick-up radius.



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