



Interstate Compact Rules Training

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Rules

Definitions

The definitions in Rule 1.101 are specific to the Interstate Compact for Adult Offender Supervision.

"Offender"

An adult placed under, or made subject to, supervision as the result of a criminal offense and released to the community under jurisdiction of:

- Courts
- Paroling Authorities
- Corrections
- Other Criminal Justice Agencies

And who meets eligibility requirements of the Interstate Compact for Adult Offender Supervision

“Supervision”

- **Supervision has two distinct criteria:**

- Authority or oversight exercised by a supervising authority which includes courts
- Condition, qualification, special condition or requirement which is imposed on the offender at the time of release to the community.

- **EFFECTIVE MARCH 1, 2010:**

AN OFFENDER PLACED ON SUPERVISION FOR THE SOLE PURPOSE OF PRESERVING JURISDICTION IN ORDER TO COLLECT COURT-ORDERED FEES, FINES, COSTS, OR RESTITUTION IS NOT CONSIDERED A TRANSFERABLE CASE THROUGH INTERSTATE COMPACT. THE OFFENDER MUST BE ORDERED TO REPORT TO OR BE MONITORED BY SUPERVISING AUTHORITIES, AND REQUIRED TO COMPLY WITH CONDITIONS OF SUPERVISION, OTHER THAN MONETARY CONDITIONS.

"Sex Offender"

- Meets "offender" definition
 - Subject to supervision
 - Meets eligibility requirements
- And is required to register as a sex offender either in the sending or receiving state

Eligibility

Who Can Transfer?

■ Eligible Offenders:

- ALL Felons
- Certain Misdemeanants
(Rule 2.105)
- Deferred sentences
(Rule 2.106)
 - *Is there a finding of guilt?*
 - *Has a plea been entered?*
 - *Given up the right to trial?*
- “Unsupervised”
Offenders requiring
monitoring
 - Bench Probation

■ Non-eligible Offenders:

- Certain Misdemeanants *(Rule 2.105)*
- Those on work-release *(Rule 2.107)*
- or released under furlough
(Rule 2.107)
- or on a pre-parole program
(Rule 2.107)
- Those on a Pre-Trial
Intervention Program
- or offenders released on bail

Misdemeanants

A misdemeanor offender whose sentence includes one year or more of supervision shall be eligible for transfer...and the instant offense includes one or more of the following:

1. An offense in which a person incurred direct or threatened physical or psychological harm;
2. An offense that involves the use or possession of a firearm;
3. A second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol;
4. A sexual offense that requires the offender to register as a sex offender in the sending state

Rule 2.105

2 Types of Transfers

- **Mandatory** – if the offender meets the criteria to transfer, the receiving state **MUST** accept supervision
- **Discretionary** –
 - Offenders not eligible for mandatory transfer
 - Sending state must justify “WHY”
 - Receiving state has the sole discretion to accept or reject supervision
- **ALL TRANSFERS REQUIRE JUSTIFICATION**

Mandatory Transfer of Supervision

Decision to transfer is solely at the discretion of the sending state. An Offender shall be eligible and the receiving state shall accept transfer, if the offender:

- a) Has more than 90 days of supervision remaining at time transfer is submitted; and
- b) Has a valid plan of supervision; and
- c) Is in substantial compliance in the sending state; and
- d) Is a Resident of the Receiving State; or
- e) (1) has resident family in receiving state who are willing to assist and have the ability to assist. and,
(2) can obtain employment or has means of support

Rule 3.101

Additional Mandatory Transfers

(a) Offender in the Military

** (b) Offender Living with Military Family Member

** (c) Employment Transfer of Family Member

Must meet the criteria of 3.101

- (a) Have more than 90 days of supervision remaining
- (b) Have a valid plan of supervision
- (c) Be in substantial compliance
- (e)(2) Can obtain employment in the receiving state or have a means of support

**** The offender must currently reside with the family member and continue to reside with the family member in the receiving state.**

Rule 3.101-1(a), (b) & (c)

Additional Mandatory Transfers

Eligible for Reporting Instructions *(within 2 business days of request)*

EFFECTIVE MARCH 1, 2010

3.101-1 (d) Employment transfer of the offender to another state:

An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and is involuntarily transferred to another state by his/her full-time employer shall be eligible for reporting instructions and transfer of supervision.

Transfer of Supervision of Sex Offenders

■ Eligibility for Transfer

- A sex offender shall not be allowed to leave the sending state until the sending state's request for transfer of supervision has been approved, or reporting instructions have been issued, by the receiving state.

Discretionary Transfer of Supervision

- A sending state MAY request transfer of supervision of an offender who does not meet the mandatory requirements in Rule 3.101.
- The sending state must provide sufficient documentation to justify the requested transfer.
- The receiving state shall have the discretion to accept or reject the transfer of supervision in a manner consistent with the purpose of the compact.

Rule

3.101-2

(Public Safety, Rehabilitation of Offenders)

INVESTIGATION PERIOD

Investigation Period

- An investigation shall be completed within 45 calendar days following receipt of a completed transfer request in the receiving state's compact office.
- If a receiving state determines that an offender transfer request is incomplete, the receiving state shall notify the sending state by rejecting the transfer request and include specific reason for rejection. If the offender is in the receiving state with reporting instructions, those instructions shall remain in effect for 15 calendar days from the date of the rejection. The sending state must, within this time frame, order the offender to return or submit a complete transfer request.

INVESTIGATION PERIOD CONT...

APA UNITS

IF DURING A PLACEMENT INVESTIGATION YOU ARE UNABLE TO MAKE CONTACT WITH THE SPONSOR ON THE INITIAL ATTEMPT, PLEASE MAKE SUFFICIENT SUBSEQUENT ATTEMPTS TO INVESTIGATE THE PLACEMENT PRIOR TO THE REPLY TO TRANSFER BEING DUE.

THIRD STATE TRANSFER REQUEST

THIRD STATE TRANSFER REQUEST

- The sending state shall initiate request for transfer to a subsequent state.
- The receiving state shall assist the sending state in acquiring offender's information and any required signatures and submit a progress report.
- Receiving state shall issue travel permit when the sending state informs the receiving state that the request to the subsequent state has been approved.
- Acceptance of the transfer and issuance of reporting instructions by the subsequent receiving state terminates the previous receiving state's supervisory obligations for the offender.
- Notification of offender's departure and arrival shall be made.

Transfer Request Packets for Outgoing Cases

Transfer Request Packets for Outgoing Cases

- All transfer request must be submitted via ICOTS and contain the following:
 - Signed copy of the offender's application for interstate compact transfer (Mandatory)
 - Court sentencing entry/journal entry (Mandatory)
 - Instant Offense DETAILS (e.g. PSI OR POLICE REPORT) (Mandatory)
 - Photograph (Mandatory)
 - Conditions of Supervision (Mandatory)
 - Contact Restrictions (if applicable)
 - Protection Orders (if applicable)
 - Sex Offender Registration Requirements (if applicable)
 - Supervision History (if applicable)
 - Financial Obligation information (if applicable)

Transfer Packet-Sex Offender Requirements

- Additional Requirements for Sex Offenders; if available
 - Assessment Information, including sex offender specific
 - Social History
 - Information relevant to the offender's criminal sexual behavior
 - Law Enforcement Report
 - Victim Information
 - Demographics
 - Statement
 - Supervision/Treatment plan - *current or recommended*

Travel Restrictions

Travel Restrictions

No state shall permit an offender who is eligible for transfer under this compact to relocate to another state except as provided by these rules.

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

Rule 2.110

Travel Restrictions for Offenders with a Pending Transfer

- Sending state shall not allow offender to travel to the receiving state until the receiving state has approved the transfer request. **(Unless offender has approved reporting instructions).**
- States which allow eligible offenders to travel to the receiving state prior to the transfer investigation being completed are in violation of the Compact .

Rule 3.102(b) & Rule 2.110

Travel Restrictions for Offenders with a Pending Transfer

EFFECTIVE 3/1/2010

RULE 2.110 (C): Upon notice that a sending state has permitted an offender to relocate to another state in violation of the rules or notice of rejection of transfer request has been submitted, the sending state shall direct the offender to return to the sending state within 15 calendar days of receiving such notice. If offender does not return, the sending state shall issue a nationwide warrant no later than 10 calendar days from the date offender failed to return.

Travel Restrictions for Offenders with a Pending Transfer

EFFECTIVE MARCH 1, 2010

AN OFFENDER EMPLOYED IN THE RECEIVING STATE AT THE TIME TRANSFER REQUEST IS SUBMITTED AND HAS BEEN PERMITTED TO TRAVEL TO THE RECEIVING STATE FOR THE EMPLOYMENT MAY BE PERMITTED TO CONTINUE TO TRAVEL TO THE RECEIVING STATE WHILE TRANSFER IS PENDING WITH THE FOLLOWING STIPULATIONS.....

Travel Restrictions for Pending Transfer Due to Employment

EFFECTIVE 3/1/2010

- **TRAVEL IS LIMITED TO WHAT IS NECESSARY TO REPORT TO WORK**
- **OFFENDER MUST RETURN TO THE SENDING STATE DURING NON-WORKING HOURS**
- **TRANSFER REQUEST SHALL INCLUDE NOTICE THAT THE OFFENDER HAS PERMISSION TO TRAVEL TO AND FROM RECEIVING STATE FOR WORK PURPOSES ONLY.**

Transfer Acceptance

Acceptance of Offender

- Upon Acceptance:
 - The receiving state shall include instructions to report in the acceptance to include, date, time, location, and officer.
 - Upon notice, the sending state shall issue a travel permit to the offender and send a Departure Notice

- An acceptance by the receiving state shall be valid for 120 calendar days.

- Receiving State shall submit an Arrival Notice to the sending state when an offender reports in the receiving state.

Rule 3.104-1

Rule 4.105

Transfer Acceptance: Arrival & Departure Notice

- Departure Notifications: The sending state shall notify the receiving state of the offender's intended departure date via the ICOTS Departure Notice
- Arrival Notifications: The receiving state shall notify the sending state of the offender's arrival or failure to arrive via the ICOTS Arrival Notice
 - Note: The NOA cannot be completed in ICOTS until the sending state submits the NOD in ICOTS

Rule 4.105

REPORTING INSTRUCTIONS

IS THERE A DIFFERENCE
BETWEEN REPORTING INSTRUCTS
AND A TRANSFER REQUEST?

YES!

Reporting Instructions

PROBATIONER LIVING in receiving state at time of sentencing

- Sending state shall request RI within 7 calendar days of sentencing or within 7 calendar days of release to probation supervision after incarceration of 6 months or less
 - Ensure offender signs the application-waiver
 - ***Sending state may grant one 7 day travel permit only (excluding those convicted of a sex offense)***
 - ***Receiving state must issue RI within 2 business days***
 - Sending State shall transmit Notice of Departure
 - Sending State retains supervision until arrival in Receiving State
 - Receiving State assumes supervision upon offender arrival
 - Receiving State shall submit Notice of Arrival
 - ***Sending state shall send completed TR – 15 calendar days***

Rule 3.103

Reporting Instructions for Sex Offenders

- Reporting Instructions for **Sex Offenders** Living in the Receiving State at the Time of Sentencing.
 - Rule 3.103 applies except for the following:
 - **5 business days** to respond
 - Invalid residence – may deny Reporting Instructions
 - **Travel permits are NOT permitted w/o approved Reporting Instructions**

Reporting Instructions

EXPEDITED

- **Both states must agree that an emergency exists.** If the Receiving state does not agree, the offender SHALL NOT proceed until acceptance is received.
 - Response to RFRI – 2 business days
 - Ensure offender signs the application-waiver
 - Sending state will transmit a Notice of Departure
 - Receiving state shall transmit Notice of Arrival
 - Receiving state shall assume supervision of offender upon the offender's arrival and during the investigation
 - Sending state shall send completed TR – 7 calendar days

Reporting Instructions Cont.....

FAILURE TO SUBMIT TRANSFER REQUEST TIMELY OR TRANSFER IS REJECTED

- Direct Offender to Return within 15 calendar days of rejection or failure to submit a transfer request.
 - Receiving state retains authority to supervise until
 - The offender's directed departure date; or
 - Issuance of the sending state's warrant

*If offender does not return as ordered, the sending state shall issue a warrant that is effective in all compact member states **within 10 calendar days.***

Rule 3.103 & Rule 3.106

REPORTING INSTRUCTIONS: OFFENDER FAILS TO REPORT

EFFECTIVE 3/1/2010

- A receiving state may withdraw its approved reporting instructions submit closure if the offender does not report to receiving state as directed and shall immediately notify sending state.

****APA UNITS:** Please send compact action request to the sending state prior to withdrawing the approved reporting instruction indicating that offender failed to report.

Offender Request to Return to Sending State

- The receiving state shall request reporting instructions, unless offender is under active criminal investigation or is charged with a new criminal offense.
 - *The offender shall remain in the receiving state until receipt of reporting instructions.*
- The sending state shall grant the request and provide reporting instructions no later than two business days
 - *In victim sensitive case, provisions of Rule 3.108-1 (Victim notification) must be followed prior to granting reporting instructions.*
- A receiving state shall notify the sending state as required.

SUPERVISION

Supervision

- Receiving state shall supervise an interstate offender consistent with the supervision of other similar offenders sentenced in the receiving state:
- Duration of supervision is determined by the sending state.



Rule 4.101 & 4.102

Special Conditions

- At the time of Acceptance or during supervision the Compact Administrator or supervising authority in receiving state may impose special conditions.
 - Must be consistent with what they would impose on one of their own offenders.
 - Receiving state shall notify sending state that it intends to impose a special condition, its nature and purpose.
- Sending state shall inform receiving state of special conditions imposed in sending state at the time of request for transfer or at any time thereafter.
- Receiving state shall inform sending state of special conditions they cannot enforce at the time of transfer.

Rule 4.103

FEES

Fees

- A sending state may impose an application fee for each transfer application.
- A receiving state may impose a supervision fee upon an offender accepted for supervision.
 - Sending state may not charge a monthly supervision fee, administrative fee or any other fee that has the appearance of a supervision fee while the offender is being supervised under the compact in a receiving state.

Rule 4.107

Financial Obligations

- A sending state is responsible for collecting all:
 - Fines
 - Family support
 - Restitution
 - Court costs
 - Other financial obligations.
- Upon notice by the sending state of non-compliance for payment of financial obligations, the receiving state shall notify the offender that he/she is in violation & must comply.

OHIO APPLICATION FEE

THE OHIO INTERSTATE COMPACT OFFICE HAS PROPOSED TO THE OHIO INTERSTATE COUNCIL AN \$80 APPLICATION FEE FOR ALL OFFENDERS WANTING TO TRANSFER OUT OF STATE. THE OHIO INTERSTATE COUNCIL WILL VOTE ON THE PROPOSAL IN JANUARY 2010. MORE INFORMATION WILL BE PROVIDED TO COUNTY AND STATE SUPERVISING AUTHORITIES IF THE APPLICATION FEE IS APPROVED BY THE COUNCIL.

PROGRESS REPORTS

Progress Reports

- A Receiving state shall provide to the sending state a progress report annually or upon request for good cause shown.
- A progress Report shall include:
 - Offender's name
 - Offender's residence address;
 - Offender's telephone number
 - Name and address of offender's employer;
 - Supervising officer's summary of offender's conduct, progress, attitude and compliance.
 - Programs of treatment attempted and completed
 - Sanctions imposed by sending state
 - Recommendation
 - Any other information requested by sending state that is available.

PROGRESS REPORTS CONT....

EFFECTIVE MARCH 1, 2010

Creation of Rule 4.106 (c)

A receiving state shall provide to the sending state a progress report annually, or more frequently, upon the request of the sending state, for good cause shown. **The receiving state shall provide the progress report within 30 calendar days of receiving the request.**

VIOLATION REPORTS

Violation Reports

- A receiving state shall notify sending state of significant violations within 30 calendar days using the ICOTS SYSTEM.

Significant Violation

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.

- Supporting documentation shall be included
 - Police reports
 - Toxicology reports
 - Preliminary findings

Response to Violation

- A sending state shall respond no later than 10 business days
- Response shall include:
 - action to be taken
 - date action will begin
 - estimated completion date

Rule 4.109

Violation Reports-Absconders

- Most recent status information on offender
- Details regarding how offender was determined to be an absconder
- Case Closure Notice
- Upon receipt of VR, sending state shall issue a warrant effective in all states
 - *If offender is apprehended on the warrant in the receiving state, upon the request of a sending state, a probable cause hearing shall be conducted as provided by Rule 5.108.*

Violation Reports for Offenders on Dual Supervision

IF A COMPACT OFFENDER BEING SUPERVISED IN OHIO AS PAROLE AND PROBATION, THE SUPERVISING OFFICER WILL BE REQUIRED TO SUBMIT TWO VIOLATION REPORTS IN ICOTS, ONE FOR THE PROBATION AND ONE FOR THE PAROLE CASE.

Authority to Arrest and Detain

- An offender in violation of the terms and conditions of supervision may be taken into custody or continued in custody by the receiving state.

Rule 4.109-1

Retaking

- Except as required in Rules 5.102,5.103, at its sole discretion, a sending state may retake an offender unless charged with a new criminal offense in receiving state.
- If offender has been charged with new offense in receiving state, the offender shall not be retaken:
 - without the consent of receiving state
 - until charges have been dismissed
 - sentence has been satisfied
 - offender released to supervision for new offense



Mandatory Retaking

Rule 5.102 & 5.103

- Upon a request from the receiving state, a sending state shall retake or order the return of an offender from the receiving state or a subsequent receiving state upon the offender's conviction for a new felony offense and
 - completion of a term of incarceration for that conviction; or
 - placement under supervision for that felony offense.
- Upon a request by the receiving state and a showing that the offender has committed three or more significant violations arising from separate incidents that establish a pattern of non-compliance of the conditions of supervision, a sending state shall retake or order the return of an offender from the receiving state or a subsequent receiving state

If offender does not return as ordered, the sending state shall issue a warrant that is effective in all compact member states within 10 calendar days.

- Sending state shall be responsible for the cost of retaking the offender (Rule 5.104)
- Sending state shall retake an offender within 30 calendar days after the decision to retake or offender has been released from incarceration in the receiving state (Rule 5.105)
- Receiving state shall be responsible for the cost of detaining the offender (Rule 5.106)
- Officers of the sending state may enter a state where the offender is found and apprehend & retake the offender subject to this compact and due process requirements
- The sending state shall be required:
 - to establish the authority of the officers
 - and the identity of the offender to be retaken (Rule 5.107)

PROBABLE CAUSE HEARINGS

Probable Cause Hearings

- **Offenders are entitled to a probable cause hearing:**

- Close proximity to where the violations occurred
- An “administrative” hearing – not to determine guilt/innocence and level of due process is less than that of a revocation hearing
- Conducted by a “neutral and detached” person

- **Offenders rights at the hearing:**

- Written notice of the alleged violation(s)
- Disclosure of non-privileged or non-confidential evidence
- The opportunity to be heard in person, present witnesses and evidence
- The opportunity to confront and cross-examine adverse witnesses, unless the hearing officer determines that a risk of harm to a witness exists

- No waiver of a PC Hearing shall be accepted unless accompanied by an admission to one or more significant violations.
- A copy of the conviction of a new felony offense shall be proof that an offender may be retaken by a sending state without the need for a PC Hearing.
- A written report of the PC Hearing must be sent to the sending state within **10 business days of the hearing**.

Rule 5.108

After the PC Hearing...

- If probable cause is established,
 - Receiving state SHALL continue to hold the offender in custody
 - Sending state SHALL notify the receiving state of the decision to retake within **15 business days** of receipt of the report
 - Sending state SHALL retake offender within **30 calendar days** from determination to retake

- If probable cause is NOT established, the receiving state SHALL:
 - Continue Supervision
 - Notify the sending state to vacate the warrant and continue supervision upon release if the offender is in custody
 - Vacate the receiving state's warrant and release the offender back to supervision within 24 hours of the hearing if the offender is in custody

Rule 5.108

Closing Supervision

Receiving state may close and cease its supervision of an offender upon:

1. Date of discharge (termination) of supervision
2. Notice to sending state of the absconding of the offender in the receiving state
3. Notice to sending state of incarceration of offender for 180 days or longer; include:
 - a) Judgment and sentencing documents
 - b) Information about the offender's location
4. Notification of death
5. Return to sending state

Closing Supervision Cont...

- A receiving state SHALL NOT terminate supervision while sending state is in the process of retaking the offender.
- At the time a receiving state closes supervision, a case closure notice shall be provided to the sending state which shall include last known address and employment.

CLOSING SUPERVISION

- **APA UNITS:** A CASE IS NOT CLOSED UNTIL YOU RECEIVE THE CASE CLOSURE RESPONSE FROM THE OTHER STATE. **PLEASE DO NOT CLOSE CCIS UNTIL A VALID CASE CLOSURE RESPONSE IS RECEIVED**

Liability

Liability

- All compact member states can be held liable for circumventing or violating the ICAOS rules.
- ICAOS rules are federal law and there is a legal obligation to follow and enforce the rules as written.

Negligent Supervision

Liability arising from the negligent supervision of offenders on parole or probation.

Hansen vs. Scott, 645 N.W. 2d 223 (ND, 2002)

- Texas asked North Dakota to supervise Parolee without disclosing known information regarding his violent criminal past
- Employees in Texas were held liable in wrongful death case brought against them by family of victims

Tuthill case in Maryland

- Judge ordered offender to Colorado to attend Treatment
- Maryland did not notify Colorado authorities
- Family settled with State of Maryland

GENERAL ISSUES AND CONCERNS

General Issues and Concerns

- **DO NOT SEND PAPER COPIES OF REPORTS TO OHIO ISC OFFICE IF OFFENDER IS IN ICOTS.**
- **ANY OFFENDERS NOT CURRENTLY IN ICOTS AND CURRENTLY UNDER SUPERVISION OR REQUESTING TRANSFER BASED ON THE INTERSTATE COMPACT RULES MUST BE UPLOADED IN ICOTS BY THE SENDING STATE.**

GENERAL ISSUES AND CONCERNS

- **SUPERVISION AFTER REPORTING INSTRUCTIONS ARE APPROVED AND PRIOR TO TRANSFER REQUEST ACCEPTANCE=PLEASE ORDER OFFENDER INTO THE OFFICE FOR INITIAL VISIT TO SIGN OHIO CONDITIONS OF SUPERVISION. AFTER THE INITIAL VISIT YOU NEED TO SUPERVISE THE OFFENDER IN A MANNER CONSISTENT WITH OTHER OFFENDERS UNDER OUR SUPERVISION.**

GENERAL ISSUES AND CONCERNS

PLACEMENT OF INSTITUTIONAL RELEASE OF OHIO PAROLE/PRC OFFENDERS OUT OF STATE

APA UNITS: IF YOU RECEIVE AN E-MAIL FROM JOYCE GORE OR ANOTHER MEMBER OF OUR OFFICE ADVISING THAT PLACEMENT OUT OF STATE HAS BEEN REJECTED OR NO RESPONSE HAS BEEN RECEIVED, YOU WILL NEED TO GO INTO ICOTS AND RETRIEVE THE PLACEMENT PACKET TO COMMENCE YOUR PLACEMENT INVESTIGATION IN-STATE.

General Issues and Concerns

Victim Notification: RULE 3.108

The sending and receiving state shall notify known victims in their respective state in accordance with their own laws and procedures.

- Within one business day of the issuance of reporting instructions or acceptance of transfer, the sending state shall initiate victim notification procedures of an offender's transfer in accordance with its own laws and procedures.

General Concerns and Issues

Victim Notification Continued:

APA Units:

- The Ohio Interstate Compact Office will notify OVS of an offender's acceptance if there is a central office notify on record.
- If you are supervising offender when acceptance is received you will be responsible for notifying OVS via E-mail once Notice of Departure has been submitted to receiving state.

Resources

National Interstate Compact Office Website

www.interstatecompact.org

- Rules
- By-Laws
- Benchbook for Judges
- Advisory Opinions
- Training Modules (Live Webex-On-Demand)
- Directory
- Meeting Announcements

OHIO INTERSTATE COMPACT OFFICE

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