



INTERSTATE COMMISSION FOR ADULT
OFFENDER SUPERVISION

**2011 APPROVED RULE
AMENDMENTS**

Montgomery, Alabama
September 14, 2011

Rule 1.101 Definitions

“Resident” means a person who—

- (1) has continuously inhabited a state for at least one 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 six months or more with the intent to establish a new principal place of residence.

Justification

Military personnel are frequently deployed away from their home states. In these cases, location is not a voluntary decision. When these personnel are convicted of crimes in the states where they are deployed, and become subject to supervision by civil authorities, they may be discharged by the military service. However, if an offender has been away from his or her home state more than six months, the offender may no longer meet the criteria for “resident” of that state. This modification establishes that presence in a state while on military deployment will not be considered “remain[ing] in another state” under section (3) and will not, in itself, disqualify an offender from claiming residence in his or her home state.

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

Justification

The addition of "committed in the sending state" helps to clarify that the sending state statute determines whether an offender seeking transfer under the compact is under supervision for a violent crime.

Effective: March 1, 2012

Rule 3.105 Pre-release transfer R request for transfer of a paroling offender

(a) A sending state ~~shall~~ may submit a completed request for transfer of supervision no earlier than 120 days prior to an offender’s planned release from a correctional facility a ~~paroling offender to a receiving state no earlier than 120 days prior to the offender’s planned prison release date.~~

(b) If a pre-release transfer request has been submitted, a A sending state shall notify a receiving state

- (1) if the planned release date changes; of the offender’s date of release from prison
or

The amendments are presented using the following:

- Deleted language is ~~struck through~~
- Added language is underlined

(2) if recommendation for release parole of the offender has been withdrawn or denied.

(c) ~~(1)~~A receiving state may withdraw its acceptance of the transfer request if the offender does not report to the receiving state by the fifth calendar day following the offender's intended date of departure ~~from the sending state~~ and shall provide immediate notice of such withdrawal to the sending state.

~~(2) A receiving state that withdraws its acceptance under Rule 3.105 (c) (1) shall immediately notify the sending state.~~

~~(3) Following withdrawal of the receiving state's acceptance, a sending state must resubmit a request for transfer of supervision of a paroling offender in the same manner as required in Rule 3.105 (a).~~

Justification

The proposed revision clarifies the intent and scope of the rule, consistent with ICAOS Advisory Opinion 1-2009. A state may submit a request to transfer an offender incarcerated in a correctional facility, whether it be a prison, jail, halfway house, workhouse, or some other custodial facility, prior to the offender's release. Public safety is served best when a transfer investigation can be completed prior to an offender's release to supervision. Further, the compact language addresses "supervision" without exclusive reference to "parole", which is not defined in the rules. While that term might once have included anyone subject to supervision following a period of incarceration, it is no longer the case.

Effective: March 1, 2012

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Rule 3.107 Transfer Request

- (a) A transfer request for an offender shall be transmitted through the electronic information system authorized by the commission and shall contain:
- (1) transfer request form;
 - (2) A narrative description of the instant offense in sufficient detail to describe the circumstances, type and severity of offense and whether the charge has been reduced at the time of imposition of sentence;
 - (3) photograph of offender;
 - (4) conditions of supervision;
 - (5) any orders restricting the offender's contact with victims or any other person;
 - (6) any known orders protecting the offender from contact with any other person;
 - (7) information as to whether the offender is subject to sex offender registry requirements in the sending state along with supportive documentation;
 - (8) pre-sentence investigation report, unless distribution is prohibited by law or it does not exist;
 - (9) information as to whether the offender has a known gang affiliation, and the gang with which the offender is known to be affiliated;
 - (10) supervision history; unless it does not exist. if the offender has been on supervision for more than thirty (30) calendar days at the time the transfer request is submitted;
 - (11) information relating to any court-ordered financial obligations, including but not limited to, fines, court costs, restitution, and family support; the balance that is owed by the offender on each; and the address of the office to which payment must be made.
- (b) The original signed Offender Application for Interstate Compact Transfer shall be maintained in the sending state. A copy of the signed Offender Application for Interstate Compact Transfer shall be attached to the transfer request.
- (c) Additional documents, necessary for supervision in the receiving state, such as the Judgment and Commitment, may be requested from the sending state following acceptance of the offender. The sending state shall provide the documents within no more than 30 calendar days from the date of the request, unless distribution is prohibited by law or a document does not exist.

Justifications

(a) (9): Information related to offenders' known gang affiliations provides useful information to probation officers and other law enforcement agencies tracking the interstate movement of gang members. This information will also enhance the safety of the investigating officer in the receiving state.

(a) (10): Setting a specific time frame to require supervision history provides clear guidance as to when this information is required.

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Rule 4.111 Return to the sending state

(a) Upon an offender's request to return to the sending state, the receiving state shall request reporting instructions, unless the offender is under active criminal investigation or is charged with a subsequent criminal offense in the receiving state. The offender shall remain in the receiving state until receipt of reporting instructions.

(b) Except as provided in subsection (c), the sending state shall grant the request and provide reporting instructions no later than two business days following receipt of the request for reporting instructions from the receiving state.

(c) In a victim sensitive case, the sending state shall not provide reporting instructions until the victim notification provisions of Rule 3.108-1 ~~(b)(1)(C)~~ have been followed.

(d) A receiving state shall notify the sending state as required in Rule 4.105 (a).

Justification

The purpose of this proposal is to distinguish between the victim's right to be heard under Rule 3.108-1 (a) and victim notification required under Rule 3.108 during the process of an offender returning to the sending state where the victim resides. The proposal leaves intact the victim's right to be heard. Reporting instructions shall not be provided until the victim has been notified.

Effective: March 1, 2012

Rule 4.112 Closing of supervision by the receiving state

(a) The receiving state may close its supervision of an offender and cease supervision upon-

- (1) The date of discharge indicated for the offender at the time of application for supervision unless informed of an earlier or later date by the sending state;
- (2) Notification to the sending state of the absconding of the offender from supervision in the receiving state;
- (3) Notification to the sending state that the offender has been sentenced to incarceration for 180 days or longer, including judgment and sentencing documents and information about the offender's location;
- (4) Notification of death; or
- (5) Return to sending state.

(b) A receiving state shall not terminate its supervision of an offender while the sending state is in the process of retaking the offender under Rule 5.101.

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(c) 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.

(d) The sending state shall submit the case closure notice reply to the receiving state within ten (10) business days of receipt.

Justification

With the implementation of ICOTS, states are now required to submit a case closure notice response indicating validation or invalidation of a case closure by the receiving state to ensure that all parties are aware of and in agreement with closure of a case. There is not currently any provision in the Compact rules for this process or a time frame for submission of the reply. Timely closure of cases is essential to removing inactive cases from the public ICOTS portal.

Effective: March 1, 2012

ICAOS Bylaws, ARTICLE VII, COMMITTEES

Section 2. ~~Other~~ Standing Committees

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Section 3. Ad hoc Committees

The Commission may establish ad hoc committees to perform special purposes or functions. Upon creation of an ad hoc committee, the chairperson of the Commission shall issue a charge to the committee, describing the committee's duties and responsibilities. The charge shall specify the date by which the ad hoc committee shall complete its business and shall specify the means by which the ad hoc committee shall report its activities to the Commission.

Section ~~3~~ 4. Regional Representatives

Justification

The new section will clarify the authority and procedural requirements for creating ad hoc committees, and require a defined purpose and time frame for the ad hoc committee to perform its duties. Without these requirements, ad hoc committees may be unable to identify exactly what they are expected to accomplish or when it has occurred.

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