

“Relocate” means to remain in another state for more than 90 45 consecutive days in any 12 month period.

PASSED: Effective January 1, 2007

RULE 2.101 Involvement of interstate compact offices

- (a) Acceptance, rejection or termination of supervision of an offender under this compact shall be made only with the involvement and concurrence of a state's compact administrator or the compact administrator's designated deputies.
- (b) All **formal** written, electronic, and oral communication regarding an offender under this compact shall be made only through the office of a state's compact administrator or the compact administrator's designated deputies.
- (c) Transfer, modification or termination of supervision authority for an offender under this compact may be authorized only with the involvement and concurrence of a state's compact administrator or the compact administrator's designated deputies.
- (d) Violation reports or other notices regarding offenders under this compact shall be transmitted only through direct communication of the compact offices of the sending and receiving states.

FAILED

RULE 2.105 Misdemeanants

- (a) A misdemeanor offender whose sentence includes one year or more of supervision shall be eligible for transfer, provided that all other criteria for transfer, as specified in Rule 3.101, have been satisfied; and the instant offense includes one or more of the following—
- (1) an offense in which a person has 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.
 - (5) a drug offense which due to its seriousness originated as a felony and was amended to a misdemeanor.

FAILED

RULE 2.109 Adoption of rules; amendment

Proposed new rules or amendments to the rules shall be adopted by majority vote of the members of the Interstate Commission in the following manner.

- (a) Proposed new rules and amendments to existing rules shall be submitted to the Interstate Commission office for referral to the Rules Committee in the following manner:
 - (1) Any Commissioner may submit a proposed rule or rule amendment for referral to the Rules Committee during the annual Commission meeting. This proposal would be made in the form of a motion and would have to be approved by a majority vote of a quorum of the Commission members present at the meeting.
 - (2) Standing ICAOS Committees may propose rules or rule amendments by a majority vote of that committee.
 - (3) ICAOS Regions may propose rules or rule amendments by a majority vote of members of that region.
- (b) The Rules Committee shall prepare a draft of all proposed rules and provide the draft to all Commissioners for review and comments. All written comments received by the Rules Committee on proposed rules shall be posted on the Commission's website upon receipt. Based on the comments made by the Commissioners the Rules Committee shall prepare a final draft of the proposed rule(s) or amendments for consideration by the Commission not later than the next annual meeting.
- (c) Prior to the Commission voting on any proposed rule or amendment, the text of the proposed rule or amendment shall be published by the Rules Committee not later than 30 days prior to the meeting at which vote on the rule is scheduled, on the official web site of the Interstate Commission and in any other official publication that may be designated by the Interstate Commission for the publication of its rules. In addition to the text of the proposed rule or amendment, the reason for the proposed rule shall be provided.
- (d) Each proposed rule or amendment shall state—
 - (1) The place, time, and date of the scheduled public hearing;
 - (2) The manner in which interested persons may submit notice to the Interstate Commission of their intention to attend the public hearing and any written comments; and
 - (3) The name, position, physical and electronic mail address, telephone, and telefax number of the person to whom interested persons may respond with notice of their attendance and written comments.
- (e) Every public hearing shall be conducted in a manner guaranteeing each person who wishes to comment a fair and reasonable opportunity to comment. No transcript of the public hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall pay for the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Interstate Commission from making a transcript or recording of the public hearing if it so chooses.

- (f) Nothing in this section shall be construed as requiring a separate public hearing on each rule. Rules may be grouped for the convenience of the Interstate Commission at public hearings required by this section.
- (g) Following the scheduled public hearing date, the Interstate Commission shall consider all written and oral comments received.
- (h) The Interstate Commission shall, by majority vote ~~of a quorum~~ of the commissioners, take final action on the proposed rule or amendment by a vote of yes or no. ~~or by referring the rule back to the Rules Committee for further action.~~ The Commission shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.
- (i) Not later than sixty days after a rule is adopted, any interested person may file a petition for judicial review of the rule in the United States District Court of the District of Columbia or in the federal district court where the Interstate Commission's principal office is located. If the court finds that the Interstate Commission's action is not supported by substantial evidence, as defined in the federal Administrative Procedures Act, in the rulemaking record, the court shall hold the rule unlawful and set it aside. In the event that a petition for judicial review of a rule is filed against the Interstate Commission by a state, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.
- (j) Upon determination that an emergency exists, the Interstate Commission may promulgate an emergency rule that shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. An emergency rule is one that must be made effective immediately in order to--
- (1) Meet an imminent threat to public health, safety, or welfare;
 - (2) Prevent a loss of federal or state funds;
 - (3) Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
 - (4) Protect human health and the environment.

PASSED: Effective October 4, 2006

RULE 3.101

Mandatory transfer of supervision

At the discretion of the sending state, an offender shall be eligible for transfer of supervision to a receiving state under the compact, and the receiving state shall accept transfer, if the offender:

- (a) has more than 90 days or an indefinite period of supervision remaining; and
- (b) has a valid plan of supervision; and
- (c) is in substantial compliance with the terms of supervision in the sending state; and
- (d) is a resident of the receiving state; or
- (e) (1) has resident family in the receiving state who have indicated a willingness and ability to assist as specified in the plan of supervision; and
(2) can obtain employment in the receiving state or has a **visible** means of support.

PASSED: Effective January 1, 2007

RULE 3.101-1 Mandatory Transfers of Military, Families of Military, and Family Members Employed;

- (a) *Transfer of Military members-* An offender who is a member of the military and has been deployed by the military to another state, shall be immediately eligible for reporting instructions and transfer of supervision.
- (b) *Transfer of Offenders who live with family who are members of the military-* An offender who meets the **other** criteria specified in Rules 3.101 **(a), (b), &** (c) and **3.101** (e)(2) and who lives with a family member who has been deployed to another state, shall be immediately eligible for reporting instructions and transfer of supervision, provided that the offender will live with the military member in the receiving state.-
- (c) *Employment transfer of family member to another state-* An offender who meets the **other** criteria specified in Rules 3.101 **(a), (b), &** (c) and **3.101** (e)(2), and whose family member, with whom he or she resides, is transferred to another state by their full-time employer, shall be immediately eligible for reporting instructions and transfer of supervision, provided that the offender will live with the family member in the receiving state.

PASSED: Effective January 1, 2007

RULE 3.103 ~~Acceptance of the offender by receiving state; exception~~ Reporting Instructions; Probation Exception to Rule 2.110

~~(a) A sending state shall not allow an offender under supervision in the sending state to relocate to a receiving state without the receiving state's acceptance of the transfer of supervision.~~

~~(b) Exception—~~

~~(a)(1)(A) A sending state may grant a travel permit to an offender who was living in the receiving state at the time of sentencing.~~

A reporting instructions request for an offender who was living in the receiving state at the time of sentencing shall be submitted by the sending state within seven calendar days of the sentencing date or release from incarceration to probation supervision. The sending state may grant a seven day travel permit to an offender who was living in the receiving state at the time of sentencing. Prior to granting a travel permit to an offender, the sending state shall verify that the offender is living in the receiving state.

~~(B) This exception is not applicable to offenders released to supervision from prison.~~

(2) The receiving state shall issue reporting instructions no later than two business days following receipt of such a request from the sending state.

(3) The sending state shall ensure that the offender sign all forms requiring the offender's signature under Rule 3.107 prior to granting a travel permit to the offender. Signed forms shall be maintained in the sending state until termination of compact supervision. Upon request from the receiving state the sending state shall transmit all signed forms within 5 business days.

(4) The sending state shall transmit a departure notice to the receiving state per Rule 4.105.

(5) This exception is applicable to offenders incarcerated for 6 months or less and released to probation supervision.

(b) The sending state retains supervisory responsibility until the offender's arrival in the receiving state.

~~(c)(3)~~ A receiving state shall assume responsibility for supervision of an offender who is granted reporting instructions during the investigation of the offender's plan of supervision upon the offender's arrival in the receiving state. The receiving state shall submit an arrival notice to the sending state per Rule 4.105.

~~(d)(4)~~ A sending state shall transmit a completed transfer request for an offender granted reporting instructions no later than 15 calendar days following the granting to the offender of the reporting instructions.

- (e)(1) If the receiving state rejects the transfer request for an offender granted a ~~travel permit~~ reporting instructions, or if the sending state fails to send a completed transfer request by the 15th calendar day following the granting of ~~a travel permit~~ reporting instructions, the sending state shall, upon receiving notice of rejection or upon failure to timely send a required transfer request ~~from the receiving state~~, direct the offender to return to the sending state immediately ~~by a date specified by the sending state~~ and the supervision responsibility shall revert to the sending state.
- (2) If the offender does not return to the sending state, as ordered, the sending state shall initiate the retaking of the offender by issuing a warrant that is effective in all compact member states without limitation as to specific geographic area, ~~or an order to return~~ no later than 10 calendar days following the offender's failure to appear in the sending state.

~~(C) The receiving state shall continue to supervise the offender until a warrant is issued or notice is given by the sending state as required under Rule 4.105.~~

PASSED: Effective January 1, 2007

PASSED: Refer to Rules Committee (motion by Texas, seconded by Maryland)

RULE 3.104-1 Acceptance of offender; issuance of reporting instructions

- (a) If a receiving state accepts transfer of the offender, the receiving state's acceptance shall include reporting instructions.
- (b) Upon notice of acceptance of transfer by the receiving state, the sending state shall issue a travel permit to the offender and notify the receiving state of the offender's departure as required under Rule 4.105.
- (c) An acceptance by the receiving state shall be valid for 120 calendar days. If the sending state has not sent a Departure Notice to the receiving state in that time frame, the receiving state may withdraw its acceptance and close interest in the case. ~~This does not apply to paroling offenders. See Rule 3.105 (c)(1).~~

PASSED: Effective January 1, 2007

RULE 3.106 Request for expedited reporting instructions

- (a)(1) A sending state may request that a receiving state agree to expedited transfer reporting instructions for an offender if the sending state believes that emergency circumstances exist and the receiving state agrees with that determination. If the receiving state does not agree with that determination, the offender shall not proceed to the receiving state until an acceptance is received under Rule 3.104-1.
- (2) (A) A receiving state that agrees to expedited transfer reporting instructions for an offender shall immediately issue reporting instructions for the offender, and a sending state shall immediately issue a travel permit transmit a departure notice.
- (B) The sending state shall ensure that the offender signs all forms requiring the offender's signature under Rule 3.107 prior to granting a travel permit reporting instructions to the offender. The sending state shall immediately transmit the signed forms electronically or by telefax to the receiving state. Signed forms shall be maintained in the sending state until termination of compact supervision. Upon request from the receiving state the sending state shall transmit all signed forms within 5 business days.
- ~~(C) At the time of transmission of the signed forms, the sending state shall provide the receiving state with a copy of the offender's orders and conditions, documentation of the offender's residency, copy of any available pre-sentence report, copy of any order of protection, where applicable, and whether the offender is subject to sex offender registration in the sending state.~~
- (b) A receiving state shall assume responsibility for supervision of an offender who is granted reporting instructions during the investigation of the offender's plan of supervision upon the offender's arrival in the receiving state. The receiving state shall submit an arrival notice to the sending state per Rule 4.105.
- (c) A sending state shall transmit a completed transfer request for an offender granted a travel permit reporting instructions no later than the seventh calendar day following the granting to the offender of the travel permit reporting instructions.
- (d)(1) If the receiving state rejects the transfer request for an offender granted a travel permit reporting instructions, or if the sending state fails to send a completed transfer request by the 7th seventh calendar day following the granting of a travel permit reporting instructions, the sending state shall, upon receiving notice of rejection or upon failure to timely send a required transfer request, direct the offender to return to the sending state immediately and the supervision responsibility shall revert to the sending state. by a date specified by the sending state.
- (2) If the offender does not return to the sending state as ordered, the sending state shall initiate the retaking of the offender by issuing a warrant that is effective in all compact member states without limitation as to specific geographic area, no later than 10 calendar days following the offender's failure to appear in the sending state.

~~(3) The receiving state shall continue to supervise the offender until a warrant is issued or notice is given by the sending state as required under Rule 4.105.~~

PASSED: Effective January 1, 2007

PASSED: Refer to Rules Committee (motion by Texas, seconded by Maryland)

RULE 3.108-1 Victims' right to be heard and comment

- (a) When an offender submits a request to transfer to a receiving state or a subsequent receiving state, or to return to a sending state, the victim notification authority in the sending state shall, at the time of notification to the victim as required in Rule 3.108 (a), inform victims of the offender of their right to be heard and comment. Victims of the offender have the right to be heard regarding their concerns relating to the transfer request for their safety and family members' safety. Victims have the right to contact the sending state's interstate compact office at any time by telephone, telefax, or conventional or electronic mail regarding their concerns relating to the transfer request for their safety and family members' safety. The victim notification authority in the sending state shall provide victims of the offender with information regarding how to respond and be heard if the victim chooses.
- (b)(1) Victims shall have ten business days from receipt of notice required in Rule 3.108-1 (a) to respond to the sending state. Receipt of notice shall be presumed to have occurred by the fifth business day following its sending.
- (2) The receiving state shall continue to investigate the transfer request while awaiting response from the victim.
- (c) Upon receipt of the comments from victims of the offender, the sending state shall consider comments regarding their concerns relating to the transfer request for their safety and family members' safety. Victims' comments shall be confidential and shall not be disclosed to the public. The sending state or receiving state may impose special conditions of supervision on the offender, if the safety of the offender's victims or family members of victims is deemed to be at risk by the approval of the offender's request for transfer.
- (e) The sending state shall respond to the victim no later than five business days following receipt of victims' comments, indicating how victims' concerns will be addressed when transferring supervision of the offender.

No Amendment was proposed

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

**No Amendment was proposed
PASSED: Refer to Rules Committee (motion by Pennsylvania,
seconded by Colorado)**

RULE 5-H2 4.103-1 Effect of special conditions or requirements

For purposes of revocation or other punitive action against an offender, the probation or paroling authority of a sending state shall give the same effect to a violation of special conditions or requirement imposed by a receiving state as if those conditions or requirement had been imposed by the sending state. Failure of an offender to comply with special conditions or additional requirements imposed by a receiving state shall form the basis of punitive action in the sending state notwithstanding the absence of such conditions or requirements in the original plan of supervision issued by the sending state. For purposes of this rule, the original plan of supervision shall include, but not be limited to, any court orders setting forth the terms and conditions of probation, any orders incorporating a plan of supervision by reference, or any orders or directives of the paroling or probation authority.

PASSED: Effective January 1, 2007

RULE 4.109-1 *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.

PASSED: Effective January 1, 2007

RULE 5.102 ~~New felony offense~~ Mandatory retaking for a new felony conviction.

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 —

- (a) completion of a term of incarceration for that conviction; or
- (b) placement ~~on probation~~ under supervision for that felony offense.

If the offender does not return to the sending state as ordered, then the sending state shall issue a warrant that is effective in all compact member states, without limitation as to specific geographic area.

PASSED: Effective January 1, 2007

RULE 5.103 **Mandatory retaking for** *violations of conditions of supervision*

(a) 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 .

(b) If the offender does not return to the sending state as ordered, then the sending state shall issue a warrant that is effective in all compact member states, without limitation as to specific geographic area.

PASSED: Effective January 1, 2007

RULE 5.108 *Opportunity for Probable cause hearing in receiving state*

- (a) An offender subject to retaking for violation of conditions of supervision that may result in a revocation shall be afforded the opportunity for a probable cause hearing in the receiving state consistent with due process requirements.
- (b) No waiver of a probable cause hearing shall be accepted unless accompanied by an admission by the offender to one or more significant violations of the terms or conditions of supervision.
- (c) A copy of a judgment of conviction regarding the conviction of a new felony offense by the offender shall be deemed conclusive proof that an offender may be retaken by a sending state without the need for further proceedings.
- (d) The offender shall be entitled to the following rights at the probable cause hearing:
- (1) Written notice of the alleged violation(s);
 - (2) Disclosure of non-privileged or non-confidential evidence regarding the alleged violation(s);
 - (3) The opportunity to be heard in person and to present witnesses and documentary evidence relevant to the alleged violation(s);
 - (4) The opportunity to confront and cross-examine adverse witnesses, unless the hearing officer determines that a risk of harm to a witness exists.
- (e) The receiving state shall prepare and submit to the sending state a written report within 30 calendar days of the hearing that identifies the time, date and location of the hearing; lists the parties present at the hearing; and includes a clear and concise summary of the testimony taken and the evidence relied upon in rendering the decision. Any evidence or record generated during a probable cause hearing shall be forwarded to the sending state.
- (f) If the hearing officer determines that there is probable cause to believe that the offender has committed the alleged violations of conditions of supervision, the receiving state shall hold the offender in custody, and the sending state shall notify the receiving state of the decision to retake or other action to be taken within 30 calendar days of receipt of the hearing officer's report and determination.
- (g) If probable cause is not established, the receiving state shall:
- (1) Continue supervision if the offender is not in custody
 - (2) Notify the sending state to vacate the warrant, and continue supervision upon release if the offender is in custody on the sending state's warrant.
 - (3) 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.

PASSED: Effective January 1, 2007

FAILED: Refer to Rules Committee (motion by Texas, seconded by Maryland)

RULE 5.111 Denial of bail to certain offenders

An offender against whom retaking procedures have been instituted by a sending or receiving state shall not be admitted to bail or other release conditions in any state ~~where the offender is found.~~

PASSED: Effective January 1, 2007

In addition, the Following Rules were referred to be voted on at the next Annual Business meeting during new business, October 5, 2006

1. RULE 3.107 Application for transfer of supervision:

An application for transfer of supervision of an offender shall contain—

- (a) offender's full name and any aliases by which the offender is known;
- (b) indication of whether the offender seeks transfer to the receiving state based on residency in the receiving state, family residing in the receiving state, or consent of the receiving state;
- (c) name, address, and telephone number of family in the receiving state if the offender bases the transfer request on family's residency in the receiving state;
- (d) offender's proposed residence in the receiving state;
- (e) offender's current or prospective employer in the receiving state;
- (f) offender's criminal justice identification number in the sending state;
- (g) offender's date of birth;
- (h) offender's social security number, if known;
- (i) county of conviction or imposition of supervision;
- (j) indication of the type of criminal justice supervision to which the offender has been sentenced;
- (k) instant offense in sufficient detail to describe the type and severity of offense and whether the charge has been reduced at the time of imposition of sentence;
- (l) offender's criminal history;
- (m) notice, if applicable, indicating that the supervision of the offender is a victim-sensitive matter;
- (n) date supervision is to begin, if known;
- (o) date supervision is to terminate, if known;
- (p) name and title of supervising officer;
- (q) signed "Offender Application for Interstate Compact Transfer" form, which shall include "Agreement to Return on Demand of the sending state" and "Waiver of Extradition";
- ~~(r) signed "Consent to Random Drug or Alcohol Testing and to Searches Based on Reasonable Suspicion" form;~~
- ~~(s) signed "Authorization for Release of Medical and Psychological Information" form;~~
- (t) photograph of offender;
- (u) conditions of supervision;
- (v) any orders restricting the offender's contact with victims or any other person;
- (w) any known orders protecting the offender from contact with any other person;
- (x) information as to whether the offender is subject to sex offender registry requirements in the sending state along with supportive documentation;

- (y) judgment and commitment documents;
- (z) pre-sentence investigation report, if available;
- (aa) supervision history, if available;
- (bb) 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.
- (cc) medical information, if available; and
- (dd) psychological evaluation, if available.

2. New Proposed Rule by Sex Offender Ad Hoc Committee

Rule 3.105-1 Pre-Dispositional Transfer Requests

- a. A sending state may request the transfer for a convicted offender awaiting a pre-sentence report and/or final sentencing disposition 120 calendar days prior to final sentencing in accordance with Rules 3.101, 3.101-1 and 3.103.**
- b. A sending state shall immediately notify a receiving state of the offender's final disposition.**
- c. A receiving state may notify the sending state that it is withdrawing its acceptance or discontinuing its investigation if the final disposition results in "ineligibility" for compact services or incarceration for greater than 120 calendar days.**
- d. Following withdrawal or discontinuance of the receiving state's acceptance or investigation, a sending state shall direct the offender to return to the sending state and it may resubmit a request for transfer pursuant to Rule 3.103.**

3. Motion was passed for Rules Committee to look at procedure for bifurcated voting on Rule amendments when there are multiple amendments to a Rule.