



INTERSTATE COMPACT & MUNICIPAL COURTS

WHAT IS THE INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION (ICAOS) AND WHY IS IT IMPORTANT?

Compacts such as ICAOS (Interstate Commission for Adult Offender Supervision) have the authority of federal law and supersede any state law to the contrary. Currently, all 50 states, Washington D.C., Puerto Rico and the U.S. Virgin Islands are members of the commission. The Commission promulgates rules to achieve the goals of the compact, ensures an opportunity for input and timely notice to victims and to jurisdictions where defined offenders are authorized to travel or to relocate across state lines and will establish a system of uniform data collection, provide access to information on

active cases by authorized criminal justice officials, and coordinate regular reporting of Compact activities to heads of state councils, state executive, judicial, and legislative branches and criminal justice administrators. All courts and executive agencies in each member state must enforce the Compact and take all necessary actions to effectuate its purposes. Non-compliance could result on the member state receiving fines/fees, remedial training/technical assistance, legal enforcement, or suspension/termination of membership in the Compact.

HOW ARE MUNICIPAL COURTS AFFECTED?

A misdemeanor is eligible for transfer when:

Sentence = 1+ Years of Supervision	
AND	
Instant Offense Includes One or More:	
<ul style="list-style-type: none"> • Person incurred direct or threatened physical or psychological harm. 	<ul style="list-style-type: none"> • 2nd or subsequent offense of driving while impaired by drugs or alcohol.
<ul style="list-style-type: none"> • Use or possession of a firearm involved. 	<ul style="list-style-type: none"> • Sex offense requiring registration in the sending state.

Transfer of Offenders Under This Compact	
<u>Eligible Offenders</u>	<u>Non-eligible Offenders</u>
All Felons Certain Misdemeanants (Rule 2.105)	Certain Misdemeanants (Rule 2.105)
Deferred Sentences (Rule 2.106) <ul style="list-style-type: none"> • Is there a finding of guilt? • Has a plea been entered? • Given up the right to trial? 	Those on work-release (Rule 2.107) <ul style="list-style-type: none"> • Or released under furlough • Or on a pre-parole program • Those on a Pre-Trial Intervention Programs
“Unsupervised” Offenders requiring monitoring <ul style="list-style-type: none"> • Bench Probation 	Offenders released on bail

ELIGIBILITY OF OFFENDERS, RESIDENCY REQUIREMENTS

The authority to approve an offender for out of state placement lies exclusively within the discretion of the sending state. (Rule 3.101) An offender has no constitutional right to transfer. Rule 3.101 creates an obligation on a receiving state to accept an offender for supervision, once the sending state has made a determination to transfer supervision. The sending state's

denial of the transfer of supervision would appear absolute and entitled to deference by the courts.

At the discretion of the sending state, an offender shall be eligible for transfer of supervision to a receiving state under the Compact. Outlined below are the 2 types of transfer:

ALL Transfers are Solely at Discretion of the Sending State	
MANDATORY Receiving State MUST accept supervision	DISCRETIONARY Receiving State has the discretion to accept or reject supervision
<ul style="list-style-type: none"> • 90+ days supervision remaining • Valid 'plan of supervision' • 'Substantial compliance' • Qualifying reason <ul style="list-style-type: none"> • Resident of receiving state • Resident family in receiving state • Other reasons per Rule 3.101-1 	<ul style="list-style-type: none"> • Offenders not eligible for mandatory transfer • Sending state must justify "WHY"

- No state shall permit an offender who is eligible for transfer under this compact to relocate to another state except as provided by the Compact and these rules.
- An offender who is not eligible for transfer under this Compact is not subject to these rules and remains subject to the laws and regulations of the state responsible for the offender's supervision.

EMERGENCY REQUEST AND PROBATIONERS RETURNING HOME AFTER SENTENCING (REPORTING INSTRUCTIONS)

The rules, specifically, (rule 3.103) allows for offenders who are living in the receiving state, at the time of sentencing, to receive reporting instructions pending a full investigation being conducted. This rule allows for offenders to be able to go back home. 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 7 business days of the sentencing date or release from incarceration to probation supervision. **This rule is applicable to offenders incarcerated for 6 months or less and released to supervision only. This rule is not applicable to a sex offender who cannot be allowed to transfer until permission is granted.**

The sending state may grant a 7 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.

A sex offender who is a probationer returning home, must await approval of request for reporting instructions and cannot proceed unless sending states have granted approval.

The rules also allow for other types of emergency request to be made, in which states are required to respond within 2 business days of request.

A complete transfer request must be submitted within 7 business days of any offender granted reporting instructions.

TRANSFERRED OUT OF STATE – BASIC SUPERVISION GUIDELINES

Once you submit your Transfer Request packet (electronic document through ICOTS), the receiving state has 45 days to provide their reply. If Reporting Instructions have been approved and the offender has departed for the receiving state, a Notice of Departure must be submitted. The receiving state has three (3) business days to provide the Notice of Arrival. These electronic documents must be submitted for every case.

Prior to entering an offender in ICOTS, always check by name to ensure they have not previously been entered in ICOTS. If they have previously been entered in ICOTS, all you need to do is “Register Interest” to create a new case.

The sending state determines the **length** of supervision. The receiving state determines the **level** (degree) of supervision. Please ensure that the supervision start and end dates are correct in ICOTS.

Compact Action Requests (CARs) are direct communications with the supervising officer in the other state. You will receive email notifications that a CAR has been submitted. You can provide your response (CAR Reply) via the drop-down box under “Active Compact Cases”, when you open up the case in ICOTS. This electronic communication is especially helpful when communicating fines, costs and restitution payments, as well as the address where any payments should be sent.

The sending state is responsible for collecting all fines, family support, restitution, court costs, or other financial obligations imposed by the sending state on an offender. Upon notice by the sending state that an offender is not in compliance with any financial obligation, the receiving state shall notify the offender of the violation of conditions and they must comply. Additionally, offenders transferred out-of-state may be subject to a supervision fee in the receiving state as well.

Once a case has been transferred out-of-state (approved with all documents submitted), it will remain in the officer’s name in ICOTS, basically as an “Inactive” case. If there are staff changes relative to ICOTS, it is important that the case in ICOTS is switched to the correct supervising officer’s name.

The receiving state is required to provide a Progress Report yearly, or at the request of the sending state. You will receive an email notification that a Progress Report has been submitted.

Transferring supervision to another state is a privilege, not a right. Offenders are subject to any special conditions imposed by the receiving state and are supervised in a manner consistent with the supervision of other similar offenders sentenced in the receiving state.

The “HELP” tab in ICOTS includes all the rules and guidelines and is a great resource when you have questions.

VIOLATIONS/WARRANTS

Violation Reports will be submitted to the sending state within 30 days of the discovery of the violation, and will include police reports, toxicology reports and preliminary findings. Violation reports will only contain significant violations, meaning 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.

Once a violation report is received, a response is required within 10 business days. Responses vary, but can include imposing additional sanctions, requesting the monitoring of pending charges, requiring the offender to return to Ohio, or issuing a warrant.

Should the violation report indicate the offender has absconded supervision, which would require the receiving state to investigate the offender’s residence, employment, family, and collateral contacts, **a nationwide warrant will be issued for the offender**, which is mandated by the rules of Interstate Compact.

Once an offender is arrested on the nationwide warrant, they shall be extradited back to Ohio, as they are considered a fugitive and are to be returned under the extradition clause of the constitution. Prior to the offender’s transfer, they will sign the Application for Transfer, which is also a waiver of extradition, and will waive all legal requirements to extradition of offenders who are fugitives from justice.

RETAKEYING

Retaking is the act of Ohio physically removing an offender or causing to have an offender moved from a receiving state. The act of retaking requires a warrant (nationwide) and a detainer. The offender is not subject to bail, bond or any other conditions. Retaking is the only way an offender can be returned to Ohio under the compact if they originally left Ohio through an approved transfer or reporting instructions.

There are 2 types of retaking: Mandatory and Discretionary. A mandatory retake would occur when an offender incurs 3 significant violations, is convicted of a new felony or

violent crime, or is declared an absconder. **An offender with a pending charge is not available for retaking until the charge is disposed.** A discretionary retake can occur anytime outside the mandatory guidelines.

Ohio’s retaking responsibilities include: the cost of retaking, ensuring no bail or other release considerations are allowed for the offender, retaking within 30 calendar days, and ensuring there are no detainers against the offender or extradition procedures pending. Ohio may request a probable cause hearing for violations not resulting in a conviction.

Receiving State Requests Retake &:	Mandatory Retake?	Sending State Action
Report of 1-2 significant violations	No	Respond with action/non-action to be taken
Report of 3rd significant violation	Yes	Issue warrant OR Order offender to return within 15 business days <ul style="list-style-type: none"> • May ask for PC Hearing
Conviction of new felony	Yes	Issue warrant
Conviction of new violent crime	Yes	Issue warrant
“Absconder” apprehended in receiving state on sending state’s warrant	Yes	Warrant previously issued per Rule 4.109-2 <ul style="list-style-type: none"> • May ask for PC Hearing

CASE CLOSURE

The receiving state may submit a Case Closure Notice to the sending state for several reasons. These reasons include:

- The offender has reached the end of their supervision
- The offender has absconded supervision (however, a violation report must precede the case closure notice in these cases)

- The offender will be incarcerated for a period of more than 180 days
- The offender has died
- The offender has returned to the sending state

Upon receipt of the Case Closure Notice (CCN), the sending state has 10 business days to submit a Case Closure Reply.

Sara Andrews, Director • Sara.Andrews@sc.ohio.gov
 614.387.9305 • Fax: 614.387.9309
www.sc.ohio.gov/Boards/Sentencing