visited on 5/15/2018

Interstate Commission for Adult Offender Supervision

Ensuring Public Safety for the 21st Century

ICAOS Rules

General information

Effective Date:
March 01, 2018

visited on 5/15/2018

Introduction

The Interstate Commission for Adult Offender Supervision is charged with overseeing the day-to-day operations of the Interstate Compact for Adult Offender Supervision, a formal agreement between member states that seeks to promote public safety by systematically controlling the interstate movement of certain adult offenders. As a creature of an interstate compact, the Commission is a quasi-governmental administrative body vested by the states with broad regulatory authority. Additionally, the Interstate Compact for Adult Offender Supervision has congressional consent under Article I, § 10 of the United States Constitution and pursuant to Title 4, Section 112(a) of the United States Code.

Through its rulemaking powers, the Commission seeks to achieve the goals of the compact by creating a regulatory system applicable to the interstate movement of adult offenders, provide an opportunity for input and timely notice to victims of crime and to the jurisdictions where offenders are authorized to travel or to relocate, establish a system of uniform data collection, provide access to information on active cases to 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. The Commission is also empowered to monitor compliance with the interstate compact and its duly promulgated rules, and where warranted to initiate interventions to address and correct noncompliance. The Commission will coordinate training and education regarding regulations of interstate movement of offenders for state officials involved in such activity.

These rules are promulgated by the Interstate Commission for Adult Offender Supervision pursuant to Article V and Article VIII of the Interstate Compact for Adult Offender Supervision. The rules are intended to effectuate the purposes of the compact and assist the member states in complying with their obligations by creating a uniform system applicable to all cases and persons subject to the terms and conditions of the compact. Under Article V, Rules promulgated by the Commission "shall have the force and effect of statutory law and shall be binding in the compacting states[.]" All state officials and state courts are required to effectuate the terms of the compact and ensure compliance with these rules. To the extent that state statutes, rules or policies conflict with the terms of the compact or rules duly promulgated by the Commission, such statutes, rules or policies are superseded by these rules to the extent of any conflict.

To further assist state officials in implementing the Compact and complying with its terms and these rules, the Commission has issued a number of advisory opinions. Additionally, informal opinions can be obtained from the Commission as warranted. Advisory opinions, contact information and other important information, can be found on the Commission's website at http://www.interstatecompact.org.

visited on 5/15/2018

INTRODUCTION 1

CHAPTER 1 DEFINITIONS 5

Rule 1.101 Definitions 5

CHAPTER 2 GENERAL PROVISIONS 10

Rule 2.101 Involvement of interstate compact offices 10

Rule 2.102 Data collection and reporting [Expired; See history] 11

Rule 2.103 Dues formula 12

Rule 2.104 Forms 13

Rule 2.105 Misdemeanants 14

Rule 2.106 Offenders subject to deferred sentences 15

Rule 2.107 Offenders on furlough, work release 16

Rule 2.108 Offenders with disabilities 17

Rule 2.109 Adoption of rules; amendment 18

Rule 2.110 Transfer of offenders under this compact 21

CHAPTER 3 TRANSFER OF SUPERVISION 22

Rule 3.101 Mandatory transfer of supervision 22

Rule 3.101-1 Mandatory reporting instructions and transfers of military, families of military, family members employed, employment transfer, and veterans for medical or mental health services 24

Rule 3.101-2 Discretionary transfer of supervision 26

Rule 3.101-3 Transfer of supervision of sex offenders 27

Rule 3.102 Submission of transfer request to a receiving state 28

Rule 3.103 Reporting instructions; offender living in the receiving state at the time of sentencing or after disposition of a violation or revocation proceeding 30

Rule 3.104 Time allowed for investigation by receiving state 32

Rule 3.104-1 Acceptance of offender; issuance of reporting instructions 33

Rule 3.105 Pre-release transfer request 34

Rule 3.106 Request for expedited reporting instructions 35

visited on 5/15/2018

Rule 3.107 Transfer request 36

Rule 3.108 Victim notification 37

Rule 3.108-1 Victims' right to be heard and comment 38

Rule 3.109 Waiver of extradition 39

CHAPTER 4 SUPERVISION IN RECEIVING STATE 40

Rule 4.101 Manner and degree of supervision in receiving state 40

Rule 4.102 Duration of supervision in the receiving state 41

Rule 4.103 Conditions of supervision 42

Rule 4.103-1 Force and effect of conditions imposed by a receiving state 43

Rule 4.104 Offender registration or DNA testing in receiving or sending state 44

Rule 4.105 Arrival and departure notifications; withdrawal of reporting instructions 45

Rule 4.106 Progress reports on offender compliance and non-compliance 46

Rule 4.107 Fees 47

Rule 4.108 Collection of restitution, fines and other costs 48

Rule 4.109 Violation reports requiring retaking 49

Rule 4.109-1 Authority to arrest and detain 50

Rule 4.109-2 Absconding Violation 51

Rule 4.110 Transfer to a subsequent receiving state 52

Rule 4.111 Offenders returning to the sending state 53

Rule 4.112 Closing of supervision by the receiving state 54

CHAPTER 5 RETAKING 55

Rule 5.101 Discretionary retaking by the sending state 55

Rule 5.101-1 Pending felony or violent crime charges 56

Rule 5.101-2 Discretionary process for disposition of violation in the sending state for a new crime conviction 57

Rule 5.102 Mandatory retaking for a new felony or new violent crime conviction 58

Rule 5.103 Offender behavior requiring retaking 59

visited on 5/15/2018

Rule 5.103-1 Mandatory retaking for offenders who abscond **60**

Rule 5.103-2 Mandatory retaking for violent offenders and violent crimes [REPEALED] **61**

Rule 5.104 Cost of retaking an offender **62**

Rule 5.105 Time allowed for retaking an offender **63**

Rule 5.106 Cost of incarceration in receiving state **64**

Rule 5.107 Officers retaking an offender **65**

Rule 5.108 Probable cause hearing in receiving state **66**

Rule 5.109 Transport of offenders **68**

Rule 5.110 Retaking offenders from local, state or federal correctional facilities **69**

Rule 5.111 Denial of bail or other release conditions to certain offenders **70**

CHAPTER 6 DISPUTE RESOLUTION AND INTERPRETATION OF RULES 71

Rule 6.101 Informal communication to resolve disputes or controversies and obtain interpretation of the rules **71**

Rule 6.102 Formal resolution of disputes and controversies **72**

Rule 6.103 Enforcement actions against a defaulting state **73**

Rule 6.104 Judicial Enforcement **75**

visited on 5/15/2018

Chapter 1 Definitions

Rule 1.101 Definitions

As used in these rules, unless the context clearly requires a different construction-

"Abscond" means to be absent from the offender's approved place of residence or employment and avoiding supervision.

"Adult" means both individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law.

"Application fee" means a reasonable sum of money charged an interstate compact offender by the sending state for each application for transfer prepared by the sending state.

"Arrival" means to report to the location and officials designated in reporting instructions given to an offender at the time of the offender's departure from a sending state under an interstate compact transfer of supervision.

"Behavior Requiring Retaking" means an act or pattern of non-compliance with conditions of supervision that could not be successfully addressed through the use of documented corrective action or graduated responses and would result in a request for revocation of supervision in the receiving state.

"By-laws" means those by-laws established by the Interstate Commission for Adult Offender Supervision for its governance, or for directing or controlling the Interstate Commission's actions or conduct.

"Compact" means the Interstate Compact for Adult Offender Supervision**.**

"Compact administrator" means the individual in each compacting state appointed under the terms of this compact and responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the Interstate Commission for Adult Offender Supervision, and policies adopted by the State Council under this compact.

"Compact commissioner" or "commissioner" means the voting representative of each compacting state appointed under the terms of the Interstate Compact for Adult Offender Supervision as adopted in the member state.

"Compliance" means that an offender is abiding by all terms and conditions of supervision, including payment of restitution, family support, fines, court costs or other financial obligations imposed by the sending state.

visited on 5/15/2018

"Deferred sentence" means a sentence the imposition of which is postponed pending the successful completion by the offender of the terms and conditions of supervision ordered by the court.

"Detainer" means an order to hold an offender in custody.

"Discharge" means the final completion of the sentence that was imposed on an offender by the sending state.

"Extradition" means the return of a fugitive to a state in which the offender is accused, or has been convicted of, committing a criminal offense, by order of the governor of the state to which the fugitive has fled to evade justice or escape prosecution.

References:
ICAOS Dispute Resolution
2-2004 [Offenders not transferred through the ICAOS must be returned through the extradition clause of the U.S. Constitution]

"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.

References:
ICAOS Advisory Opinion
9-2004 [CSL offenders seeking transfer of supervision are subject to ICAOS-New Jersey]

"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.

"Probable cause hearing" a hearing in compliance with the decisions of the U.S. Supreme Court, conducted on behalf of an offender accused of violating the terms or conditions of the offender's parole or probation.

"Receiving state" means a state to which an offender requests transfer of supervision or is transferred.

visited on 5/15/2018

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

References:
ICAOS Advisory Opinion
4-2012 ['Relocate' does not appear to limit the cumulative number of days within which an offender may be permitted to remain in another state to a total of 45 cumulative days during the same 12 month period.]

"Reporting instructions" means the orders given to an offender by a sending or receiving state directing the offender to report to a designated person or place, at a specified date and time, in another state. Reporting instructions shall include place, date, and time on which the offender is directed to report in the receiving state.

"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 calendar 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.

"Retaking" means the act of a sending state in physically removing an offender, or causing to have an offender removed, from a receiving state.

"Rules" means acts of the Interstate Commission, which have the force and effect of law in the compacting states, and are promulgated under the Interstate Compact for Adult Offender Supervision, and substantially affect interested parties in addition to the Interstate Commission.

"Sending state" means a state requesting the transfer of an offender, or which transfers supervision of an offender, under the terms of the Compact and its rules.

"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.

visited on 5/15/2018

"Shall" means that a state or other actor is required to perform an act, the non-performance of which may result in the imposition of sanctions as permitted by the Interstate Compact for Adult Offender Supervision, its by-laws and rules.

"Subsequent receiving state" means a state to which an offender is transferred that is not the sending state or the original receiving state.

"Substantial compliance" means that an offender is sufficiently in compliance with the terms and conditions of his or her supervision so as not to result in initiation of revocation of supervision proceedings by the sending state.

References:
ICAOS Advisory Opinion
7-2004 [determining "substantial compliance when there are pending charges in a receiving state]

"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.

References:
ICAOS Advisory Opinions
9-2004 [CSL offenders released to the community under the jurisdiction of the Courts]
8-2004 [Suspended sentence requiring payment of monitored restitution]
3-2005 [Requirement to complete a treatment program as a condition of supervision]
3-2010 & 4-2010 [Offenders not subject to supervision by corrections may be subject to ICAOS if reporting to the courts is required.]

"Supervision fee" means a fee collected by the receiving state for the supervision of an offender.

"Temporary travel permit" means, for the purposes of Rule 3.108 (b), the written permission granted to an offender, whose supervision has been designated a "victim-sensitive" matter, to travel outside the supervising state for more than 24 hours but no more than 31 calendar days. A temporary travel permit shall include a starting and ending date for travel.

"Travel permit" means the written permission granted to an offender authorizing the offender to travel from one state to another.

visited on 5/15/2018

"Victim" means a natural person or the family of a natural person who has incurred direct or threatened physical or psychological harm as a result of an act or omission of an offender**.**

"Victim-sensitive" means a designation made by the sending state in accordance with its definition of "crime victim" under the statutes governing the rights of crime victims in the sending state. The receiving state shall give notice of offender's movement to the sending state as specified in Rules 3.108 and 3.108-1.

"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.

"Waiver" means the voluntary relinquishment, in writing, of a known constitutional right or other right, claim or privilege by an offender.

"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 with no bond amount set.

History: Adopted November 3, 2003, effective August 1, 2004; "Compliance" amended October 26, 2004, effective January 1, 2005; "Resident" amended October 26, 2004, effective January 1, 2005; "Resident family" amended October 26, 2004, effective January 1, 2005; "Substantial compliance" adopted October 26, 2004, effective January 1, 2005; "Supervision" amended October 26, 2004, effective January 1, 2005; "Travel permit" amended September 13, 2005, effective January 1, 2006; "Victim" amended September 13, 2005, effective January 1, 2006; "Relocate" adopted September 13, 2005, effective January 1, 2006; "Compact" adopted September 13, 2005, effective January 1, 2006; "Resident" amended September 13, 2005, effective January 1, 2006; "Relocate" amended October 4, 2006, effective January 1, 2007; "Sex offender" adopted September 26, 2007, effective January 1, 2008.; "Supervision" amended November 4, 2009, effective March 1, 2010. "Warrant" adopted October 13, 2010, effective March 1, 2011; "Violent Crime" adopted October 13, 2010, effective March 1, 2011; "Violent Offender" adopted October 13, 2010, effective March 1, 2011; "Resident" amended September 14, 2011, effective March 1, 2012; "Violent Offender" amended September 14, 2011, effective March 1, 2012; "Abscond" amended August 28, 2013, effective March 1, 2014; "Resident Family" amended August 28, 2013, effective March 1, 2014; "Temporary Travel Permit" amended August 28, 2013, effective March 1, 2014; "Warrant" amended August 28, 2013, effective March 1, 2014; "Violent Offender" repealed August 28, 2013, effective March 1, 2014; "Behavior Requiring Retaking" adopted September 14, 2016, effective June 1, 2017; "Significant Violation" repealed September 14, 2016, effective June 1, 2017; "Special Condition" repealed September 14, 2016, effective June 1, 2017.

visited on 5/15/2018

Chapter 2 General Provisions

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.

History: Adopted November 3, 2003, effective August 1, 2004.

visited on 5/15/2018

Rule 2.102 Data collection and reporting [Expired; See history]

(a) As required by the compact, and as specified by the operational procedures and forms approved by the commission, the states shall gather, maintain and report data regarding the transfer and supervision of offenders supervised under this compact.

(b)
- (1) Each state shall report to the commission each month the total number of offenders supervised under the compact in that state.
- (2) Each state shall report to the commission each month the numbers of offenders transferred to and received from other states in the previous month.
- (3) Reports required under Rule 2.102 (b)(1) and (2) shall be received by the commission no later than the 15th day of each month.

(c) This Rule will not expire until the Electronic Information System approved by the commission is fully implemented and functional.

History: Adopted November 3, 2003, effective August 1, 2004; amended September 14, 2005, effective December 31, 2005. On November 4, 2009, the commission found that the electronic information system in (c) is fully implemented and functional, and ordered that this rule expire, effective December 31, 2009.

visited on 5/15/2018

Rule 2.103 Dues formula

(a) The commission shall determine the formula to be used in calculating the annual assessments to be paid by states. Public notice of any proposed revision to the approved dues formula shall be given at least 30 calendar days prior to the Commission meeting at which the proposed revision will be considered.

(b) The commission shall consider the population of the states and the volume of offender transfers between states in determining and adjusting the assessment formula.

(c) The approved formula and resulting assessments for all member states shall be distributed by the commission to each member state annually.

(d)

(1) The dues formula is the—

(Population of the state **divided by** Population of the United States**) plus (**Number of offenders sent from and received by a state **divided by** Total number of offenders sent from and received by all states**)** divided by 2.

(2) The resulting ratios derived from the dues formula in Rule 2.103 (d)(1) shall be used to rank the member states and to determine the appropriate level of dues to be paid by each state under a tiered dues structure approved and adjusted by the Commission at its discretion.

History: Adopted November 3, 2003, effective August 1, 2004; amended August 28, 2013, effective March 1, 2014.

visited on 5/15/2018

Rule 2.104 Forms

(a) States shall use the forms or electronic information system authorized by the commission.

(b) Section (a) shall not be construed to prohibit written, electronic or oral communication between compact offices.

History: Adopted November 3, 2003, effective August 1, 2004; amended September 26, 2007, effective January 1, 2008; amended November 4, 2009, effective March 1, 2010; amended October 11, 2017, effective March 1, 2018.

visited on 5/15/2018

Rule 2.105 Misdemeanants

(a) A misdemeanor offender whose sentence includes 1 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 1 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 2nd or subsequent misdemeanor conviction 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.

References:
ICAOS Advisory Opinion
4-2005 [Misdemeanant offender not meeting criteria of 2.105 may be transferred under Rule 3.101-2, discretionary transfer]
7-2006 [There are no exceptions to applicability of (a)(3) based on either the time period between the first and subsequent offense(s) or the jurisdiction in which the convictions occurred]
16-2006 [If the law of the sending state recognizes the use of an automobile as an element in an assault offense and the offender is so adjudicated, Rule 2.105 (a)(1) applies]
2-2008 [Based upon the provisions of the ICAOS rules, offenders not subject to ICAOS may, depending on the terms and conditions of their sentences, be free to move across state lines without prior approval from the receiving state and neither judges nor probation officers are prohibited by ICAOS from allowing such offenders to travel from Texas to another state]
1-2011 [All violations involving the use or possession of a firearm, including hunting, are subject to Compact transfer.]

History: Adopted November 3, 2003, effective August 1, 2004; amended March 12, 2004; amended October 26, 2004, effective January 1, 2005; amended October 7, 2015, effective March 1, 2016.

visited on 5/15/2018

Rule 2.106 Offenders subject to deferred sentences

Offenders subject to deferred sentences are eligible for transfer of supervision under the same eligibility requirements, terms, and conditions applicable to all other offenders under this compact. Persons subject to supervision pursuant to a pre-trial release program, bail, or similar program are not eligible for transfer under the terms and conditions of this compact.

References:
ICAOS Advisory Opinions
June 30, 2004 [Determining eligibility should be based on legal actions of a court rather than legal definitions]
6-2005 [Deferred prosecution may be equivalent to deferred sentence if a finding or plea of guilt has been entered and all that is left is for the Court to impose sentence]
2-2015 [An offender who has been granted a conditional pardon in the Commonwealth of Virginia and is transferred to a secure treatment facility in the State of Florida is eligible for transfer of supervision under the Interstate Compact for Adult Offender Supervision]
3-2015 [An offender who has been convicted of a criminal offense and who is released to the community under a Home Incarceration Program in Maryland, or similar program in another state, and relocates to the State of Florida, or any other compact state, for the purpose of completing 90 days or more of a period of time required by such a program is eligible for transfer of supervision under the Interstate Compact for Adult Offender Supervision]

History: Adopted November 3, 2003, effective August 1, 2004; amended March 12, 2004; amended October 26, 2004, effective January 1, 2005; amended November 4, 2009, effective March 1, 2010.

visited on 5/15/2018

Rule 2.107 Offenders on furlough, work release

A person who is released from incarceration under furlough, work-release, or other pre-parole program is not eligible for transfer under the compact.

History: Adopted November 3, 2003, effective August 1, 2004.

visited on 5/15/2018

Rule 2.108 Offenders with disabilities

A receiving state shall continue to supervise offenders who become mentally ill or exhibit signs of mental illness or who develop a physical disability while supervised in the receiving state.

History: Adopted November 3, 2003, effective August 1, 2004.

visited on 5/15/2018

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 falling in an odd-numbered year.

(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 calendar 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

visited on 5/15/2018

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 the commissioners, take final action on the proposed rule or amendment by a vote of yes/no. 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 60 calendar 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 90 calendar 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.

(k) The Chair of the Rules Committee may direct revisions to a rule or amendment adopted by the Commission, for purposes of correcting typographical errors, errors in format or grammatical errors. Public notice of any revisions shall be posted 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. For a period of 30 calendar days after posting, the revision is subject to challenge by any commissioner. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the Executive Director of the Commission, prior to the end of the notice

visited on 5/15/2018

period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without approval of the commission.

References:
ICAOS Advisory Opinion
3-2006 [No provisions of the compact contemplates that a proposed rule or rule amendment may be officially voted upon at any point in the rulemaking process by anyone other than the duly appointed Commissioner of each state]

History: Adopted November 3, 2003, effective August 1, 2004; amended September 13, 2005, effective September 13, 2005; amended October 4, 2006, effective October 4, 2006; amended September 26, 2007, effective January 1, 2008; amended August 28, 2013, effective March 1, 2014.

visited on 5/15/2018

Rule 2.110 Transfer of offenders under this compact

(a) 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.

(b) 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.

(c) Upon violation of section (a), the sending state shall direct the offender to return to the sending state within 15 business days of receiving such notice. If the offender does not return to the sending state as ordered, the sending state shall issue a warrant that is effective in all compact member states, without limitation as to specific geographic area, no later than 10 business days following the offender's failure to appear in the sending state.

References:
ICAOS Advisory Opinions
3-2004 [Offenders relocating to another state shall not be issued travel permits without the permission of the receiving state as provided by ICAOS rules]
9-2006 [States which allow eligible offenders to travel to a receiving state pending investigations are in violation of Rule 2.110 and Rule 3.102. In such circumstances the receiving state may properly reject the request for transfer]
2-2008 [The provisions of Rule 2.110 (a) limit the applicability of the ICAOS rules regarding transfer of supervision to eligible offenders who 'relocate' to another state]
3-2012 [When an offender's supervision was never transferred to a receiving state under the Compact and no application for transfer or waiver of extradition ever occurred, neither the Compact nor the ICAOS rules apply to this offender who, as a 'fugitive from justice' having absconded from probation in California, must be apprehended and returned under the extradition clause of the U.S. Constitution.]
4-2012 ['Relocate' does not appear to limit the cumulative number of days within which an offender may be permitted to remain in another state to a total of 45 cumulative days during the same 12 month period.]

History: Adopted November 3, 2003, effective August 1, 2004; amended September 13, 2005, effective January 1, 2006; amended November 4, 2009, effective March 1, 2010; amended August 28, 2013, effective March 1, 2014.

visited on 5/15/2018

Chapter 3 Transfer of Supervision

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 calendar days or an indefinite period of supervision remaining at the time the sending state transmits the transfer request; 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 means of support.

References:
ICAOS Advisory Opinions
7-2004 [While a sending state controls the decision of whether or not to transfer an offender under the Compact, the receiving state has no discretion as to whether or not to accept the case as long as the offender satisfies the criteria provided in this rule]
9-2004 [Upon proper application and documentation for verification of mandatory criteria of Rule 3.101, CSL offenders are subject to supervision under the Compact]
7-2005 [All mandatory transfers are subject to the requirement that they be pursuant to a "valid plan of supervision"]
8-2005 [The sending state determines if an offender is in substantial compliance. If a sending state has taken no action on outstanding warrants or pending charges the offender is considered to be in substantial compliance]
13-2006 [An undocumented immigrant who meets the definition of "offender" and seeks transfer under the Compact is subject to its jurisdiction and would not be a per se disqualification as long as the immigrant establishes the prerequisites of Rule 3.101 have been satisfied]
15-2006 [There is no obligation of the sending state to retake when requirements of 3.101 are no longer met]
2-2007 [A receiving state is not authorized to deny a transfer of an offender based solely on the fact that the offender intends to reside in Section 8 housing]
1-2010 [ICAOS member states may not refuse otherwise valid mandatory transfers of supervision under the compact on the basis that additional information, not required by Rule 3.107, has not been provided.]
1-2012 [ICAOS opines that persons 'acquitted' by reason of insanity under the New Jersey 'Carter-Krol' statute are not eligible for interstate transfer of supervision under the Compact.]

visited on 5/15/2018

***History:** Adopted November 3, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended September 13, 2005, effective January 1, 2006; amended October 4, 2006, effective January 1, 2007; amended September 26, 2007, effective January 1, 2008; amended August 28, 2013, effective March 1, 2014.*

visited on 5/15/2018

Rule 3.101-1 Mandatory reporting instructions and transfers of military, families of military, family members employed, employment transfer, and veterans for medical or mental health services

(a) 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 for:

(1) *Transfers of military members*- An offender who is a member of the military and has been deployed by the military to another state, shall be eligible for reporting instructions and transfer of supervision. A copy of the military orders or other proof of deployment for the military member shall be provided at the time of the request.

(2) *Transfer of offenders who live with family who are members of the military*- An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and (e)(2) and who lives with a family member who has been deployed to another state, shall be eligible for reporting instructions and transfer of supervision, provided that the offender will live with the military member in the receiving state. A copy of the military orders or other proof of deployment for the military member shall be provided at the time of the request.

(3) *Employment transfer of family member to another state*- An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and (e)(2) and whose family member, with whom he or she resides, is transferred to another state by their full-time employer, at the direction of the employer and as a condition of maintaining employment, shall be eligible for reporting instructions and transfer of supervision, provided that the offender will live with the family member in the receiving state. Documentation from the current employer noting the requirements shall be provided at the time of the request.

(4) *Employment transfer of the offender to another state* – An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and is transferred to another state by their full-time employer, at the direction of the employer and as a condition of maintaining employment shall be eligible for reporting instructions and transfer of supervision. Documentation from the current employer noting the requirements shall be provided at the time of the request.

(5) *Transfers of veterans for medical or mental health services*- An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and who is a veteran of

visited on 5/15/2018

the United States military services who is eligible to receive health care through the United States Department of Veterans Affairs, Veterans Health Administration and is referred for medical and/or mental health services by the Veterans Health Administration to a regional Veterans Health Administration facility in the receiving state shall be eligible for reporting instructions and transfer of supervision provided:

(A) the sending state provides documentation to the receiving state of the medical and/or mental health referral; and

(B) the transfer of supervision will be accepted if the offender is approved for care at the receiving state Veterans Health Administration facility.

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

(c) If the receiving state rejects the transfer request for an offender who has been granted reporting instructions and has arrived in the receiving state, the receiving state shall initiate the offender's return to the sending state under the requirements of Rule 4.111.

(d) If the sending state fails to send a completed transfer request by the 15th business day for an offender who has been granted reporting instructions and has arrived in the receiving state, the receiving state may initial the offender's return to the sending state under the requirements of Rule 4.111.

History: Adopted September 13, 2005, effective January 1, 2006; amended October 4, 2006, effective January 1, 2007; amended September 26, 2007, effective January 1, 2008; amended November 4, 2009, effective March 1, 2010; amended August 28, 2013, effective March 1, 2014; amended October 7, 2015, effective March 1, 2016; amended October 11, 2017, effective March 1, 2018.

visited on 5/15/2018

Rule 3.101-2 Discretionary transfer of supervision

(a) A sending state may request transfer of supervision of an offender who does not meet the eligibility requirements in Rule 3.101, where acceptance in the receiving state would support successful completion of supervision, rehabilitation of the offender, promote public safety, and protect the rights of victims.

(b) The sending state shall provide sufficient documentation to justify the requested transfer.

(c) 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 specifying the discretionary reasons for rejection.

References:
ICAOS Advisory Opinions
4-2005 [Offenders not eligible for transfer under the provisions of Rule 2.105 and Rule 3.101 are eligible for transfer of supervision as a discretionary transfer]
8-2006 [Special condition(s) imposed on discretionary cases may result in retaking if the offender fails to fulfill requirements of the condition(s)]

History: Adopted September 13, 2005, effective January 1, 2006; amended October 7, 2015, effective March 1, 2016.

visited on 5/15/2018

Rule 3.101-3 Transfer of supervision of sex offenders

(a) *Eligibility for Transfer*-At the discretion of the sending state a sex offender shall be eligible for transfer to a receiving state under the Compact rules. 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. In addition to the other provisions of Chapter 3 of these rules, the following criteria will apply.

(b) *Application for Transfer*-In addition to the information required in an application for transfer pursuant to Rule 3.107, in an application for transfer of supervision of a sex offender the sending state shall provide the following information, if available, to assist the receiving state in supervising the offender:
- (1) assessment information, including sex offender specific assessments;
- (2) social history;
- (3) information relevant to the sex offender's criminal sexual behavior;
- (4) law enforcement report that provides specific details of sex offense;
- (5) victim information
  - (A) the name, sex, age and relationship to the offender;
  - (B) the statement of the victim or victim's representative;
- (6) the sending state's current or recommended supervision and treatment plan.

(c) *Reporting instructions for sex offenders*- Rules 3.101-1, 3.103 and 3.106 apply to the transfer of sex offenders, as defined by the compact, except for the following:
- (1) The receiving state shall have 5 business days to review the proposed residence to ensure compliance with local policies or laws prior to issuing reporting instructions. If the proposed residence is invalid due to existing state law or policy, the receiving state may deny reporting instructions.
- (2) No travel permit shall be granted by the sending state until reporting instructions are issued by the receiving state; except for Rule 3.102 (c).

References:
ICAOS Advisory Opinions
1-2008 [An investigation in such cases would be largely meaningless without the cooperation of the sending state in providing sufficient details concerning the sex offense in question and a refusal to provide such information so as to allow the receiving state to make a reasonable determination as to whether the proposed residence violates local policies or laws would appear to violate the intent of this rule]

History: Adopted September 26, 2007, effective January 1, 2008; editorial change effective February 17, 2008; amended October 7, 2015, effective March 1, 2016.

visited on 5/15/2018

Rule 3.102 Submission of transfer request to a receiving state

(a) Except as provided in sections (c) & (d), and subject to the exceptions in Rule 3.103 and 3.106, a sending state seeking to transfer supervision of an offender to another state shall submit a completed transfer request with all required information to the receiving state prior to allowing the offender to leave the sending state.

(b) Except as provided in sections (c) & (d), and subject to the exceptions in Rule 3.103 and 3.106, the sending state shall not allow the offender to travel to the receiving state until the receiving state has replied to the transfer request.

(c) An offender who is employed or attending treatment or medical appointments in the receiving state at the time the transfer request is submitted and has been permitted to travel to the receiving state for employment, treatment or medical appointment purposes may be permitted to continue to travel to the receiving state for these purposes while the transfer request is being investigated, provided that the following conditions are met:

(1) Travel is limited to what is necessary to report to work and perform the duties of the job or to attend treatment or medical appointments and return to the sending state.
(2) The offender shall return to the sending state daily, immediately upon completion of the appointment or employment, and
(3) The transfer request shall include notice that the offender has permission to travel to and from the receiving state, pursuant to this rule, while the transfer request is investigated.

(d) When a sending state verifies an offender is released from incarceration in a receiving state and the offender requests to relocate there and the offender meets the eligibility requirements of Rule 3.101 (a), (b) & (c), the sending state shall request expedited reporting instructions within 2 business days of the notification of the offender's release. The receiving state shall issue the reporting instructions no later than 2 business days. If the proposed residence is invalid due to existing state law or policy, the receiving state may deny reporting instructions.

(1) The receiving state shall assist the sending state in acquiring the offender's signature on the "Application for Interstate Compact Transfer" and any other forms that may be required under Rule 3.107, and shall transmit these forms to the sending state within 7 business days and mail the original to the sending state.
(2) The provisions of Rule 3.106 (b), (c) & (d) apply.

References:
ICAOS Advisory Opinions
3-2004 [Once an application has been made under the Compact, an offender may not travel to the receiving state without the receiving state's permission]
9-2006 [States which allow eligible offenders to travel to a receiving state, without the receiving state's permission, are in violation of Rule 2.110 and 3.102. In such

visited on 5/15/2018

circumstances, the receiving state can properly reject the request for transfer of such an offender]

History: ***Adopted November 4, 2003, effective August 1, 2004; amended September 26, 2007, effective January 1, 2008; amended November 4, 2009, effective March 1, 2010; amended August 28, 2013, effective March 1, 2014; amended October 7, 2015, effective March 1, 2016.***

visited on 5/15/2018

Rule 3.103 Reporting instructions; offender living in the receiving state at the time of sentencing or after disposition of a violation or revocation proceeding

(a)

(1) A request for reporting instructions for an offender who was living in the receiving state at the time of initial sentencing or after disposition of a violation or revocation proceeding shall be submitted by the sending state within 7 business days of the initial sentencing date, disposition of violation, revocation proceeding or release from incarceration to probation supervision. The sending state may grant a 7 day travel permit to an offender who was living in the receiving state at the time of initial sentencing or disposition of violation or revocation proceeding. Prior to granting a travel permit to an offender, the sending state shall verify that the offender is living in the receiving state.

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

(3) 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 to the offender. 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 section 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) A receiving state shall assume responsibility for supervision of an offender who is granted reporting instructions 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) A sending state shall transmit a completed transfer request for an offender granted reporting instructions no later than 15 business days following the granting to the offender of the reporting instructions.

(e) If the receiving state rejects the transfer request for an offender who has been granted reporting instructions and has arrived in the receiving state, the receiving state shall initiate the offender's return to the sending state under the requirements of Rule 4.111.

(f) If the sending state fails to send a completed transfer request by the 15th business day for an offender who has been granted reporting instructions and has arrived in the receiving state, the receiving state may initiate the offender's return to the sending state under the requirements of Rule 4.111.

visited on 5/15/2018

References:
ICAOS Advisory Opinions
3-2004 [Rule 3.103 provides an exemption to 3.102 allowing for certain offenders to obtain reporting instructions pending a reply to a transfer request]
1-2006 [Rule 3.103 is not applicable to offenders released to supervision from prison]
3-2007 [If the investigation has not been completed, reporting instructions are required to be issued as provided in Rule 3.103(a). Upon completion of investigation, if the receiving state subsequently denies the transfer on the same basis or upon failure to satisfy any of the other requirements of Rule 3.101, the provisions of Rule 3.103(e)(1) and (2) clearly require the offender to return to the sending state or be retaken upon issuance of a warrant]

History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended October 4, 2006, effective January 1, 2007; amended September 26, 2007, effective January 1, 2008; editorial change effective February 17, 2008; amended August 28, 2013, effective March 1, 2014; amended October 7, 2015, effective March 1, 2016.

visited on 5/15/2018

Rule 3.104 Time allowed for investigation by receiving state

(a) A receiving state shall complete investigation and respond to a sending state's request for an offender's transfer of supervision no later than the 45th calendar day following receipt of a completed transfer request in the receiving state's compact office.

(b) 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 with the specific reason(s) for the rejection. If the offender is in the receiving state with reporting instructions, those instructions shall remain in effect provided that the sending state submits a completed transfer request within 15 business days following the rejection.

(c) If a receiving state determines that an offender's plan of supervision is invalid, the receiving state shall notify the sending state by rejecting the transfer request with specific reason(s) for the rejection. If the receiving state determines there is an alternative plan of supervision for investigation, the receiving state shall notify the sending state at the time of rejection. If the offender is in the receiving state with reporting instructions, those instructions shall remain in effect provided that the sending state submits a completed transfer request with the new plan of supervision within 15 business days following the rejection.

References:
ICAOS Advisory Opinion
5-2006 [45 calendar days is the maximum time the receiving state has under the rules to respond to a sending state's request for transfer]

History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended September 13, 2005, effective June 1, 2009; amended November 4, 2009, effective March 1, 2010; amended August 28, 2013, effective March 1, 2014; amended October 11, 2017, effective March 1, 2018.

visited on 5/15/2018

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) A receiving state shall assume responsibility for supervision of an offender upon the offender's arrival in the receiving state and shall submit notification of arrival as required under Rule 4.105.

(d) 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.

(e) A receiving state may withdraw its acceptance of the transfer request if the offender does not report to the receiving state by the 5th business day following transmission of notice of departure and shall provide immediate notice of such withdrawal to the sending state.

History: Adopted October 26, 2004, effective August 1, 2004; amended September 13, 2005, effective January 1, 2006; amended October 4, 2006, effective January 1, 2007; amended November 4, 2009, effective March 1, 2010; amended August 28, 2013, effective March 1, 2014.

visited on 5/15/2018

Rule 3.105 Pre-release transfer request

(a) A sending state may submit a completed request for transfer of supervision no earlier than 120 calendar days prior to an offender's planned release from a correctional facility.

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

(1) if the planned release date changes; or

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

(c) A receiving state may withdraw its acceptance of the transfer request if the offender does not report to the receiving state by the 5th business day following the offender's intended date of departure and shall provide immediate notice of such withdrawal to the sending state.

References:
ICAOS Advisory Opinions
5-2005 [A sending state must notify a receiving state if a parolees release date has been withdrawn or denied]
1-2009 [A sending state may request that a receiving state investigate a request to transfer supervision under the compact prior to the offender's release from incarceration when the offender is subject to a "split sentence" of jail or prison time and release to probation supervision.]
2-2012[Neither the acceptance of a request for transfer by a receiving state nor approval of reporting instructions can be the basis for either the determination of whether the sending state will release an offender from a correctional facility or the planned release date.]

History: Adopted November 4, 2003, effective August 1, 2004; amended September 14, 2011, effective March 1, 2012; amended August 28, 2013, effective March 1, 2014.

visited on 5/15/2018

Rule 3.106 Request for expedited reporting instructions

(a)

(1) A sending state may request that a receiving state agree to expedited 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 shall provide a response for expedited reporting instructions to the sending state no later than 2 business days following receipt of such a request. The sending state shall transmit a departure notice to the receiving state upon the offender's departure.

(B) The sending state shall ensure that the offender signs all forms requiring the offender's signature under Rule 3.107 prior to granting reporting instructions to the offender. Upon request from the receiving state the sending state shall transmit all signed forms within 5 business days.

(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 reporting instructions no later than the 7th business day following the granting to the offender of the reporting instructions.

(d) If the receiving state rejects the transfer request for an offender who has been granted reporting instructions and has arrived in the receiving state, the receiving state shall initiate the offender's return to the sending state under the requirements of Rule 4.111.

(e) If the sending state fails to send a completed transfer request by the 7th business day for an offender who has been granted reporting instructions and has arrived in the receiving state, the receiving state may initiate the offender's return to the sending state under the requirements of Rule 4.111.

History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended October 4, 2006, effective January 1, 2007; amended September 26, 2007, effective January 1, 2008; amended August 28, 2013, effective March 1, 2014; amended October 7, 2015, effective March 1, 2016.

visited on 5/15/2018

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) 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;
   (2) photograph of offender;
   (3) conditions of supervision;
   (4) any orders restricting the offender's contact with victims or any other person;
   (5) any known orders protecting the offender from contact with any other person;
   (6) information as to whether the offender is subject to sex offender registry requirements in the sending state along with supportive documentation;
   (7) pre-sentence investigation report, unless distribution is prohibited by law or it does not exist;
   (8) information as to whether the offender has a known gang affiliation, and the gang with which the offender is known to be affiliated;
   (9) supervision history, if the offender has been on supervision for more than 30 calendar days at the time the transfer request is submitted;
   (10) 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.
   (11) summary of prison discipline and mental health history during the last 2 years, if available, unless distribution is prohibited by law.

(b) 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.

References:
ICAOS Advisory Opinions
5-2005 [For paroling offenders a release date is to be required for the transfer application]

History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended September 13, 2005 (to be effective upon the implementation of electronic system; date to be determined by Executive Committee), effective October 6, 2008; amended September 26, 2007, effective January 1, 2008; amended November 4, 2009, effective March 1, 2010; amended October 13, 2010, effective March 1, 2011; amended September 14, 2011, effective March 1, 2012; amended August 28, 2013, effective March 1, 2014; amended October 11, 2017, effective March 1, 2018.

visited on 5/15/2018

Rule 3.108 Victim notification

(a) *Notification to victims upon transfer of offenders*- Within 1 business day of the issuance of reporting instructions or acceptance of transfer by the receiving state, the sending state shall initiate notification procedures of the transfer of supervision of the offender in accordance with its own laws to known victims in the sending state, and the receiving state shall initiate notification procedures of the transfer of supervision of the offender in accordance with its own laws to victims in the receiving state.

(b) *Notification to victims upon violation by offender or other change in status*-

(1) The receiving state is responsible for reporting information to the sending state when an offender-

(A) Engages in behavior requiring retaking;

(B) Changes address;

(C) Returns to the sending state where an offender's victim resides;

(D) Departs the receiving state under an approved plan of supervision in a subsequent receiving state; or

(E) Is issued a temporary travel permit where supervision of the offender has been designated a victim-sensitive matter.

(2) Both the sending state and the receiving state shall notify known victims in their respective states of this information in accordance with their own laws or procedures.

(c) The receiving state shall respond to requests for offender information from the sending state no later than the 5th business day following the receipt of the request.

History: Adopted November 4, 2003, effective August 1, 2004; amended September 14, 2016, effective June 1, 2017.

visited on 5/15/2018

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 15 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 5th 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.

(d) The sending state shall respond to the victim no later than 5 business days following receipt of victims' comments, indicating how victims' concerns will be addressed when transferring supervision of the offender.

History: Adopted November 4, 2003, effective August 1, 2004; amended October 11, 2017, effective March 1, 2018.

visited on 5/15/2018

Rule 3.109 Waiver of extradition

(a) An offender applying for interstate supervision shall execute, at the time of application for transfer, a waiver of extradition from any state to which the offender may abscond while under supervision in the receiving state.

(b) States that are party to this compact waive all legal requirements to extradition of offenders who are fugitives from justice.

References:
ICAOS Advisory Opinion
2-2005 [In seeking a compact transfer of supervision, the offender accepts that a sending state can retake them at any time and that formal extradition hearings would not be required]

History: Adopted November 4, 2003, effective August 1, 2004.

visited on 5/15/2018

Chapter 4 Supervision in Receiving State

Rule 4.101 Manner and degree of supervision in receiving state

A receiving state shall supervise offenders consistent with the supervision of other similar offenders sentenced in the receiving state, including the use of incentives, corrective actions, graduated responses, and other supervision techniques.

References:
ICAOS Advisory Opinions
2-2005 [Out of state offenders can be arrested and detained for failure to comply with conditions of probation if such a failure would have resulted in an arrest of a similar situated in-state offender]
5-2006 [This rule does not permit a state to impose the establishment of sex offender risk level or community notification on offenders transferred under the Compact if the receiving state does not impose these same requirements on its own offenders]
1-2007 [This rule does not permit the receiving state to provide no supervision and at a minimum the rules of the Compact contemplate that such an offender will be under some supervision for the duration of the conditions placed upon the offender by the sending state under Rule 4.102]
3-2008 [Compact offenders should be subject to the same exceptions as offenders sentenced in the receiving state.]
1-2015 [An offender whose supervision is transferred under the Compact to North Carolina and commits a violation of one or more of the terms and conditions of probation may be subjected to confinement for short periods in lieu of revocation of probation pursuant to a state statute applicable to offenders sentenced in North Carolina.]

History: Adopted November 4, 2003, effective August 1, 2004; amended September 14, 2016, effective June 1, 2017.

visited on 5/15/2018

Rule 4.102 Duration of supervision in the receiving state

A receiving state shall supervise an offender transferred under the interstate compact for a length of time determined by the sending state.

History: Adopted November 4, 2003, effective August 1, 2004.

visited on 5/15/2018

Rule 4.103 Conditions of supervision

(a) At the time of acceptance or during the term of supervision, the receiving state may impose a condition on an offender if that condition would have been imposed on an offender sentenced in the receiving state.

(b) A receiving state shall notify a sending state that it intends to impose, or has imposed, a condition on the offender.

(c) A sending state shall inform the receiving state of any conditions to which the offender is subject at the time the request for transfer is made or at any time thereafter.

(d) A receiving state that is unable to enforce a condition imposed in the sending state shall notify the sending state of its inability to enforce a condition at the time of request for transfer of supervision is made.

References:
ICAOS Advisory Opinion
2-2005 [In seeking a compact transfer of supervision, the offender accepts that a sending state can retake them at any time and that formal extradition hearings would not be required and that he or she is subject to the same type of supervision afforded to other offenders in the receiving state…..The receiving state can even add additional requirements on an offender as a condition of transfer]
1-2008 [Rule 4.103 concerning special conditions does not authorize a receiving state to deny a mandatory transfer of an offender under the compact who meets the requirements of such a transfer under Rule 3.101]

History: Adopted November 4, 2003, effective August 1, 2004; amended September 13, 2005, effective January 1, 2006; amended September 14, 2016, effective June 1, 2017.

visited on 5/15/2018

Rule 4.103-1 Force and effect of conditions imposed by a receiving state

The sending state shall give the same force and effect to conditions imposed by a receiving state as if those conditions had been imposed by the sending state.

History: Adopted October 26, 2004, effective January 1, 2005; amended October 4, 2006, effective January 1, 2007; amended September 14, 2016, effective June 1, 2017.

visited on 5/15/2018

Rule 4.104 Offender registration or DNA testing in receiving or sending state

A receiving state shall require that an offender transferred under the interstate compact comply with any offender registration and DNA testing requirements in accordance with the laws or policies of the receiving state and shall assist the sending state to ensure DNA testing requirements and offender registration requirements of a sending state are fulfilled.

History: Adopted November 4, 2003, effective August 1, 2004; amended September 26, 2007, effective January 1, 2008.

visited on 5/15/2018

Rule 4.105 Arrival and departure notifications; withdrawal of reporting instructions

(a) *Departure notifications*-At the time of an offender's departure from any state pursuant to a transfer of supervision or the granting of reporting instructions, the state from which the offender departs shall notify the intended receiving state, and, if applicable, the sending state, through the electronic information system of the date and time of the offender's intended departure and the date by which the offender has been instructed to arrive.

(b) *Arrival notifications*-At the time of an offender's arrival in any state pursuant to a transfer of supervision or the granting of reporting instructions, or upon the failure of an offender to arrive as instructed, the intended receiving state shall immediately notify the state from which the offender departed, and, if applicable, the sending state, through the electronic information system of the offender's arrival or failure to arrive.

(c) A receiving state may withdraw its reporting instructions if the offender does not report to the receiving state as directed.

History: Adopted November 4, 2003, effective August 1, 2004; amended September 13, 2005, effective June 1, 2009.

visited on 5/15/2018

Rule 4.106 Progress reports on offender compliance and non-compliance

(a) A receiving state shall submit a progress report to the sending state within 30 calendar days of receiving a request.

(b) A receiving state may initiate a progress report to document offender compliant or non-compliant behavior that does not require retaking as well as incentives, corrective actions or graduated responses imposed.

(c) A progress report shall include-
   (1) offender's name;
   (2) offender's current residence address;
   (3) offender's current telephone number and current electronic mail address;
   (4) name and address of offender's current employer;
   (5) supervising officer's summary of offender's conduct, progress and attitude, and compliance with conditions of supervision;
   (6) programs of treatment attempted and completed by the offender;
   (7) information about any sanctions that have been imposed on the offender since the previous progress report;
   (8) supervising officer's recommendation; and
   (9) any other information requested by the sending state that is available in the receiving state.

History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended November 4, 2009, effective March 1, 2010; amended September 14, 2016, effective June 1, 2017.

visited on 5/15/2018

Rule 4.107 Fees

(a) *Application fee*-A sending state may impose a fee for each transfer application prepared for an offender.

(b) *Supervision fee*-

(1) A receiving state may impose a reasonable supervision fee on an offender whom the state accepts for supervision, which shall not be greater than the fee charged to the state's own offenders.

(2) A sending state shall not impose a supervision fee on an offender whose supervision has been transferred to a receiving state.

References:
ICAOS Advisory Opinions
2-2006 [The sending state is prohibited from imposing a supervision fee once the offender has been transferred under the Compact]
14-2006[A fee imposed by a sending state for purposes of defraying costs for sex offender registration and victim notification, not appearing to fit criteria of a "supervision fee," may be collected on Compact offenders at a sending state's responsibility]

History: Adopted November 4, 2003, effective August 1, 2004.

visited on 5/15/2018

Rule 4.108 Collection of restitution, fines and other costs

(a) A sending state is responsible for collecting all fines, family support, restitution, court costs, or other financial obligations imposed by the sending state on the offender.

(b) Upon notice by the sending state that the offender is not complying with family support and restitution obligations, and financial obligations as set forth in subsection (a), the receiving state shall notify the offender that the offender is in violation of the conditions of supervision and must comply. The receiving state shall inform the offender of the address to which payments are to be sent.

References:
ICAOS Advisory Opinion
14-2006[A fee imposed by a sending state for purposes of defraying costs for sex offender registration and victim notification, not appearing to fit criteria of a "supervision fee," may be collected on Compact offenders at a sending state's responsibility. A receiving state would be obligated for notifying the offender to comply with such financial responsibility under Rule 4.108 (b)]

History: Adopted November 4, 2003, effective August 1, 2004.

visited on 5/15/2018

Rule 4.109 Violation report(s) requiring retaking

(a) A receiving state shall notify a sending state of an act or pattern of behavior requiring retaking within 30 calendar days of discovery or determination by submitting a violation report.

(b) A violation report shall contain-
   (1) offender's name and location;
   (2) offender's state-issued identifying numbers;
   (3) date(s) and description of the behavior requiring retaking;
   (4) date(s), description(s) and documentation regarding the use of incentives, corrective actions, including graduated responses or other supervision techniques to address the behavior requiring retaking in the receiving state, and the offender's response to such actions;
   (5) date(s), description(s) and documentation regarding the status and disposition, if any, of offense(s) or behavior requiring retaking;
   (6) date(s), description(s) and documentation of previous non-compliance, to include a description of the use of corrective actions, graduated responses or other supervision techniques;
   (7) name and title of the officer making the report;
   (8) if the offender has absconded, the offender's last known address and telephone number, name and address of the offender's employer, and the date of the offender's last personal contact with the supervising officer and details regarding how the supervising officer determined the offender to be an absconder; and
   (9) supporting documentation regarding the violation.

(c)
   (1) The sending state shall respond to a report of a violation made by the receiving state no later than 10 business days following transmission by the receiving state.
   (2) The response by the sending state shall include action to be taken by the sending state and the date by which that action will begin and its estimated completion date.

History: Adopted November 4, 2003, effective August 1, 2004; amended September 26, 2007, effective January 1, 2008; amended October 13, 2010, effective March 1, 2011; amended August 28, 2013, effective March 1, 2014; amended September 14, 2016, effective June 1, 2017.

visited on 5/15/2018

Rule 4.109-1 Authority to arrest and detain

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

History: Adopted October 4, 2006, effective January 1, 2007; amended September 14, 2016, effective June 1, 2017

References:
ICAOS Advisory Opinion
17-2006[Each state should determine the extent to which authority is vested in parole and probation officers as well as other law enforcement and peace officers to effect such an arrest, including the need for a warrant.]

visited on 5/15/2018

Rule 4.109-2 Absconding Violation

(a) If there is reason to believe that an offender has absconded, the receiving state shall attempt to locate the offender. Such activities shall include, but are not limited to:

(1) Conducting a field contact at the last known place of residence;

(2) Contacting the last known place of employment, if applicable;

(3) Contacting known family members and collateral contacts.

(b) If the offender is not located, the receiving state shall submit a violation report pursuant to Rule 4.109(b) (8).

History: Adopted October 13, 2010, effective March 1, 2011

visited on 5/15/2018

Rule 4.110 Transfer to a subsequent receiving state

(a) At the request of an offender for transfer to a subsequent receiving state, and with the approval of the sending state, the sending state shall prepare and transmit a request for transfer to the subsequent state in the same manner as an initial request for transfer is made.

(b) The receiving state shall assist the sending state in acquiring the offender's signature on the "Application for Interstate Compact Transfer," and any other forms that may be required under Rule 3.107, and shall transmit these forms to the sending state.

(c) The receiving state shall submit a statement to the sending state summarizing the offender's progress under supervision.

(d) The receiving state shall issue a travel permit to the offender when the sending state informs the receiving state that the offender's transfer to the subsequent receiving state has been approved.

(e) Notification of offender's departure and arrival shall be made as required under Rule 4.105.

(f) Acceptance of the offender's transfer of supervision by a subsequent state and issuance of reporting instructions to the offender terminate the receiving state's supervisory obligations for the offender.

History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended September 13, 2005 (to be effective upon the implementation of electronic system; date to be determined by Executive Committee) amended September 26, 2007, effective January 1, 2008.

visited on 5/15/2018

Rule 4.111 Offenders returning to the sending state

(a) For an offender returning 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 receiving state shall provide the sending state with the reason(s) for the offender's return. The offender shall remain in the receiving state until receipt of reporting instructions.

(b) If the receiving state rejects the transfer request for an offender who has arrived in the receiving state with approved reporting instructions under Rules 3.101-1, 3.101-3, 3.103 or 3.106, the receiving state shall, upon submitting notice of rejection, submit a request for return reporting instructions within 7 business days, unless 3.104 (b) or (c) applies or if the location of the offender is unknown, conduct activities pursuant to Rule 4.109-2.

(c) Except as provided in subsection (e), the sending state shall grant the request no later than 2 business days following receipt of the request for reporting instructions from the receiving state. The instructions shall direct the offender to return to the sending state within 15 business days from the date the request was received.

(d) The receiving state shall provide the offender reporting instructions and determine the offender's intended departure date. If unable to locate the offender to provide the reporting instructions, the receiving state shall conduct activities pursuant to Rule 4.109-2.

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

(f) The receiving state retains authority to supervise the offender until the offender's directed departure date or issuance of the sending state's warrant. Upon departing, the receiving state shall notify the sending state as required in Rule 4.105 (a) and submit a case closure as required by Rule 4.112 (a)(5). The sending state shall notify the receiving state of the offender's arrival or failure to arrive as required by Rule 4.105 (b) prior to validating the case closure notice.

(g) If the offender does not return to the sending state as ordered, the sending state shall issue a warrant no later than 10 business days following the offender's failure to appear in the sending state.

History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended September 26, 2007, effective January 1, 2008 amended September 14, 2011, effective March 1, 2012; amended October 7, 2015, effective March 1, 2016; amended October 11, 2017, effective March 1, 2018.

visited on 5/15/2018

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 calendar 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.

(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. The receiving state shall transmit a case closure notice within 10 business days after the maximum expiration date.

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

References:
ICAOS Advisory Opinion
11-2006[A receiving state closing supervision interest, does not preclude the jurisdiction of the Compact except for cases where the original term of supervision has expired]
2-2010 [If a sending state modifies a sentencing order so that the offender no longer meets the definition of "supervision," no further jurisdiction exists to supervise the offender under the compact and qualifies as a discharge requiring a receiving state to close supervision.]

History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended September 26, 2007, effective January 1, 2008; amended September 14, 2011, effective March 1, 2012; amended August 28, 2013, effective March 1, 2014.

visited on 5/15/2018

Chapter 5 Retaking

Rule 5.101 Discretionary retaking by the sending state

(a) Except as required in Rules 5.101-1, 5.102, 5.103 and 5.103-1 at its sole discretion, a sending state may retake or order the return of an offender.

(b) If the offender does not return to the sending state as ordered, then the sending state shall issue a warrant no later than 10 business days following the offender's failure to appear in the sending state.

References:
ICAOS Advisory Opinion
12-2006[Neither the time frame nor the means by which the retaking of the offender shall occur as outlined in Rule 5.101 (a) are provided]

History: Adopted November 4, 2003, effective August 1, 2004; amended September 26, 2007, effective January 1, 2008; amended October 13, 2010, effective March 1, 2011; amended August 28, 2013, effective March 1, 2014

visited on 5/15/2018

Rule 5.101-1 Pending felony or violent crime charges

Notwithstanding any other rule, if an offender is charged with a subsequent felony or violent crime, the offender shall not be retaken or ordered to return until criminal charges have been dismissed, sentence has been satisfied, or the offender has been released to supervision for the subsequent offense, unless the sending and receiving states mutually agree to the retaking or return.

History: Adopted August 28, 2013, effective March 1, 2014.

visited on 5/15/2018

Rule 5.101-2 Discretionary process for disposition of violation in the sending state for a new crime conviction

Notwithstanding any other rule, a sentence imposing a period of incarceration on an offender convicted of a new crime which occurred outside the sending state during the compact period may satisfy or partially satisfy the sentence imposed by the sending state for the violation committed. This requires the approval of the sentencing or releasing authority in the sending state and consent of the offender.

(a) Unless waived by the offender, the sending state shall conduct, at its own expense, an electronic or in-person violation hearing.

(b) The sending state shall send the violation hearing results to the receiving state within 10 business days.

(c) If the offender's sentence to incarceration for the new crime fully satisfies the sentence for the violation imposed by the sending state for the new crime, the sending state is no longer required to retake if Rules 5.102 and 5.103 apply.

(d) If the offender's sentence to incarceration for the new crime only partially satisfies the sentence for the violation imposed by the sending state for the new crime, the sending state is required to retake if Rules 5.102 and 5.103 apply.

(e) The receiving state may close the case under Rule 4.112 (a)(3).

History: Adopted October 7, 2015, effective March 1, 2016.

visited on 5/15/2018

Rule 5.102 Mandatory retaking for a new felony or new violent crime conviction

(a) Upon a request from the receiving state, a sending state shall retake an offender from the receiving state or a subsequent receiving state after the offender's conviction for a new felony offense or new violent crime and:

(1) completion of a term of incarceration for that conviction; or

(2) placement under supervision for that felony or violent crime offense.

(b) When a sending state is required to retake an offender, the sending state shall issue a warrant and, upon apprehension of the offender, file a detainer with the holding facility where the offender is in custody.

History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended October 4, 2006, effective January 1, 2007; amended September 26, 2007, effective January 1, 2008; amended October 13, 2010, effective March 1, 2011; amended August 28, 2013, effective March 1, 2014.

visited on 5/15/2018

Rule 5.103 Offender behavior requiring retaking

(a) Upon a request by the receiving state and documentation that the offender's behavior requires retaking, a sending state shall issue a warrant to retake or order the return of an offender from the receiving state or a subsequent receiving state within 15 business days of the receipt of the violation report.

(b) If the offender is ordered to return in lieu of retaking, the receiving state shall request reporting instructions per Rule 4.111 within 7 business days following the receipt of the violation report response.

(c) The receiving state retains authority to supervise until the offender's directed departure date. If the offender does not return to the sending state as ordered, then the sending state shall issue a warrant, no later than 10 business days following the offender's failure to appear in the sending state.

References:
ICAOS Advisory Opinions
2-2005 [An out of state offender may be arrested and detained by a receiving state who are subject to retaking based on violations of supervision, *See* Rule 4.109-1]
10-2006[Offenders transferred prior to the adoption of ICAOS rules August 1, 2004 may be retaken under the current rules if 1 of the significant violations occurred after August 1, 2004]
4-2007 [It is unreasonable to assume the subsequent application of Rule 5.103 (a) to include violations occurring prior to an application being accepted as a basis to require retaking]

History: Adopted November 4, 2003, effective August 1, 2004; amended October 4, 2006, effective January 1, 2007; amended September 26, 2007, effective January 1, 2008, amended August 28, 2013, effective March 1, 2014; amended October 7, 2015, effective March 1, 2016; amended September 14, 2016, effective June 1, 2017.

visited on 5/15/2018

Rule 5.103-1 Mandatory retaking for offenders who abscond

(a) Upon receipt of an absconder violation report and case closure, the sending state shall issue a warrant and, upon apprehension of the offender, file a detainer with the holding facility where the offender is in custody.

(b) If an offender who has absconded is apprehended on a sending state's warrant within the jurisdiction of the receiving state that issued the violation report and case closure, the receiving state shall, upon request by the sending state, conduct a probable cause hearing as provided in Rule 5.108 (d) and (e) unless waived as provided in Rule 5.108 (b).

(c) Upon a finding of probable cause the sending state shall retake the offender from the receiving state.

(d) If probable cause is not established, the receiving state shall resume supervision upon the request of the sending state.

(e) The sending state shall keep its warrant and detainer in place until the offender is retaken pursuant to paragraph (c) or supervision is resumed pursuant to paragraph (d).

History: Adopted October 13, 2010, effective March 1, 2011.

visited on 5/15/2018

Rule 5.103-2 Mandatory retaking for violent offenders and violent crimes [REPEALED]

REPEALED effective March 1, 2014

2-2011 [The sending state is not required to make a determination that an offender is violent at the time of transfer.]

History: Adopted October 13, 2010, effective March 1, 2011.

visited on 5/15/2018

Rule 5.104 Cost of retaking an offender

A sending state shall be responsible for the cost of retaking the offender.

History: Adopted November 4, 2003, effective August 1, 2004.

visited on 5/15/2018

Rule 5.105 Time allowed for retaking an offender

A sending state shall retake an offender within 30 calendar days after the offender has been taken into custody on the sending state's warrant and the offender is being held solely on the sending state's warrant.

History: Adopted November 4, 2003, effective August 1, 2004; amended August 28, 2013, effective March 1, 2014.

visited on 5/15/2018

Rule 5.106 Cost of incarceration in receiving state

A receiving state shall be responsible for the cost of detaining the offender in the receiving state pending the offender's retaking by the sending state.

History: Adopted November 4, 2003, effective August 1, 2004.

visited on 5/15/2018

Rule 5.107 Officers retaking an offender

(a) Officers authorized under the law of a sending state may enter a state where the offender is found and apprehend and retake the offender, subject to this compact, its rules, and due process requirements.

(b) The sending state shall be required to establish the authority of the officer and the identity of the offender to be retaken.

History: Adopted November 4, 2003, effective August 1, 2004.

visited on 5/15/2018

Rule 5.108 Probable cause hearing in receiving state

(a) An offender subject to retaking that may result in a revocation shall be afforded the opportunity for a probable cause hearing before a neutral and detached hearing officer in or reasonably near the place where the alleged violation occurred.

(b) No waiver of a probable cause hearing shall be accepted unless accompanied by an admission by the offender to one or more violations of the conditions of supervision.

(c) A copy of a judgment of conviction regarding the conviction of a new criminal 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 10 business 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, within 15 business days of receipt of the hearing officer's report, notify the receiving state of the decision to retake or other action to be taken.

(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.

References:
ICAOS Advisory Opinion

visited on 5/15/2018

2-2005 [Although Rule 5.108 requires that a probable cause hearing take place for an offender subject to retaking for violations of conditions that may result in revocation as outlined in subsection (a), allegations of due process violations in the actual revocation of probation or parole are matters addressed during proceedings in the sending state after the offender's return]

17-2006[Each state should determine the extent to which authority is vested in parole and probation officers as well as other law enforcement and peace officers to effect such an arrest, including the need for a warrant.]

5-2012[Rule 5.108 permits the use of 2-way video closed circuit television during probable cause hearings where determined by the hearing officer to be necessary to protect a witness from harm which might result from testifying in person.]

Gagnon v. Scarpelli, 411 U.S. 778 (1973)

Ogden v. Klundt, 550 P.2d 36, 39 (Wash. Ct. App. 1976)

See, People ex rel. Crawford v. State, 329 N.Y.S.2d 739 (N.Y. 1972)

State ex rel. Nagy v. Alvis, 90 N.E.2d 582 (Ohio 1950)

State ex rel. Reddin v. Meekma, 306 N.W.2d 664 (Wis. 1981)

Bills v. Shulsen, 700 P.2d 317 (Utah 1985)

California v. Crump, 433 A.2d 791 (N.J. Super. Ct. App. Div. 1981)

California v. Crump, 433 A.2d at 794,*Fisher v. Crist*, 594 P.2d 1140 (Mont. 1979)

State v. Maglio, 459 A.2d 1209 (N.J. Super. Ct. 1979)

In re Hayes, 468 N.E.2d 1083 (Mass. Ct. App. 1984)

Morrissey v. Brewer, 408 U.S. 471 (1972)

In *State v. Hill*, 334 N.W.2d 746 (Iowa 1983)

See e.g., State ex rel. Ohio Adult Parole Authority v. Coniglio, 610 N.E.2d 1196, 1198 (Ohio Ct. App. 1993)

History: Adopted November 4, 2003, effective August 1, 2004; amended October 4, 2006, effective January 1, 2007; amended September 26, 2007, effective January 1, 2008; amended August 28, 2013, effective March 1, 2014; amended September 14, 2016, effective June 1, 2017.

visited on 5/15/2018

Rule 5.109 Transport of offenders

States that are party to this compact shall allow officers authorized by the law of the sending or receiving state to transport offenders through the state without interference.

History: Adopted November 4, 2003, effective August 1, 2004.

visited on 5/15/2018

Rule 5.110 Retaking offenders from local, state or federal correctional facilities

(a) Officers authorized by the law of a sending state may take custody of an offender from a local, state or federal correctional facility at the expiration of the sentence or the offender's release from that facility provided that-
   (1) No detainer has been placed against the offender by the state in which the correctional facility lies; and
   (2) No extradition proceedings have been initiated against the offender by a third-party state.

History: Adopted November 4, 2003, effective August 1, 2004.

visited on 5/15/2018

Rule 5.111 Denial of bail or other release conditions 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.

History: Adopted November 4, 2003, effective August 1, 2004; amended October 4, 2006, effective January 1, 2007; amended September 26, 2007, effective January 1, 2008.

visited on 5/15/2018

Chapter 6 Dispute Resolution and Interpretation of Rules

Rule 6.101 Informal communication to resolve disputes or controversies and obtain interpretation of the rules

(a) Through the office of a state's compact administrator, states shall attempt to resolve disputes or controversies by communicating with each other by telephone, telefax, or electronic mail.

(b) *Failure to resolve dispute or controversy*-
   (1) Following an unsuccessful attempt to resolve controversies or disputes arising under this compact, its by-laws or its rules as required under Rule 6.101 (a), states shall pursue 1 or more of the informal dispute resolution processes set forth in Rule 6.101 (b)(2) prior to resorting to formal dispute resolution alternatives.
   (2) Parties shall submit a written request to the executive director for assistance in resolving the controversy or dispute. The executive director shall provide a written response to the parties within 10 business days and may, at the executive director's discretion, seek the assistance of legal counsel or the executive committee in resolving the dispute. The executive committee may authorize its standing committees or the executive director to assist in resolving the dispute or controversy.

(c) *Interpretation of the rules*-Any state may submit an informal written request to the executive director for assistance in interpreting the rules of this compact. The executive director may seek the assistance of legal counsel, the executive committee, or both, in interpreting the rules. The executive committee may authorize its standing committees to assist in interpreting the rules. Interpretations of the rules shall be issued in writing by the executive director or the executive committee and shall be circulated to all of the states.

History: Adopted November 4, 2003, effective August 1, 2004.

visited on 5/15/2018

Rule 6.102 Formal resolution of disputes and controversies

(a) *Alternative dispute resolution*- Any controversy or dispute between or among parties that arises from or relates to this compact that is not resolved under Rule 6.101 may be resolved by alternative dispute resolution processes. These shall consist of mediation and arbitration.

(b) *Mediation and arbitration*

(1) Mediation

(A) A state that is party to a dispute may request, or the executive committee may require, the submission of a matter in controversy to mediation.

(B) Mediation shall be conducted by a mediator appointed by the executive committee from a list of mediators approved by the national organization responsible for setting standards for mediators, and pursuant to procedures customarily used in mediation proceedings.

(2) Arbitration

(A) Arbitration may be recommended by the executive committee in any dispute regardless of the parties' previous submission of the dispute to mediation.

(B) Arbitration shall be administered by at least 1 neutral arbitrator or a panel of arbitrators not to exceed 3 members. These arbitrators shall be selected from a list of arbitrators maintained by the commission staff.

(C) The arbitration may be administered pursuant to procedures customarily used in arbitration proceedings and at the direction of the arbitrator.

(D) Upon the demand of any party to a dispute arising under the compact, the dispute shall be referred to the American Arbitration Association and shall be administered pursuant to its commercial arbitration rules.

(E)

(i) The arbitrator in all cases shall assess all costs of arbitration, including fees of the arbitrator and reasonable attorney fees of the prevailing party, against the party that did not prevail.

(ii) The arbitrator shall have the power to impose any sanction permitted by this compact and other laws of the state or the federal district in which the commission has its principal offices.

(F) Judgment on any award may be entered in any court having jurisdiction.

History: Adopted November 4, 2003, effective August 1, 2004.

visited on 5/15/2018

Rule 6.103 Enforcement actions against a defaulting state

(a) If the Interstate Commission determines that any state has at any time defaulted ("defaulting state") in the performance of any of its obligations or responsibilities under this Compact, the by-laws or any duly promulgated rules the Interstate Commission may impose any or all of the following penalties-

(1) Fines, fees and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission;

(2) Remedial training and technical assistance as directed by the Interstate Commission;

(3) Suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the by-laws and rules have been exhausted. Immediate notice of suspension shall be given by the Interstate Commission to the governor, the chief justice or chief judicial officer of the state; the majority and minority leaders of the defaulting state's legislature, and the state council.

(b) The grounds for default include, but are not limited to, failure of a Compacting State to perform such obligations or responsibilities imposed upon it by this compact, Interstate Commission by-laws, or duly promulgated rules. The Interstate Commission shall immediately notify the defaulting state in writing of the potential penalties that may be imposed by the Interstate Commission on the defaulting state pending a cure of the default. The Interstate Commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the Interstate Commission, in addition to any other penalties imposed herein, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this Compact shall be terminated from the effective date of suspension.

(c) Within 60 calendar days of the effective date of termination of a defaulting state, the Interstate Commission shall notify the governor, the chief justice or chief judicial officer and the majority and minority leaders of the defaulting state's legislature and the state council of such termination.

(d) The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

(e) The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the Interstate Commission and the defaulting state.

(f) Reinstatement following termination of any compacting state requires both a reenactment of the Compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

visited on 5/15/2018

History: Adopted November 4, 2003, effective August 1, 2004; amended August 28, 2013, effective March 1, 2014.

visited on 5/15/2018

Rule 6.104 Judicial Enforcement

The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its offices to enforce compliance with the provisions of the Compact, its duly promulgated rules and by-laws, against any compacting state in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorneys' fees.

History: Adopted November 4, 2003, effective August 1, 2004.

visited on 5/15/2018

Interstate Commission for Adult Offender Supervision

Ensuring Public Safety for the 21st Century