

**PROBATION DEPARTMENT  
ADULT MANUAL**

<b>Chapter No.</b> 3207	<b>Page 1</b>
<b>Issue Date:</b>	08/15/77
<b>Revised:</b>	08/21/19

**Notes and  
References**

**SUPERVISION IN ANOTHER STATE**

I. No state shall permit a person who is eligible for transfer under this compact to relocate to another state except as provided by the Interstate Compact

ICAOS Rule  
2.110

A. General

The Interstate Compact requires an approved Transfer Request or Reporting Instructions on all Felons and Eligible Misdemeanants prior to relocation of the offender.

All acceptance, rejection, termination, communication, modification, transfer, or violation reports regarding an Interstate Compact case will be handled through the Interstate Compact Administrator for each respective state.

ICAOS Rule  
2.101

1. Mandatory Transfer of Supervision:

ICAOS Rule  
3.101

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

- a. Has more than 90 days or an indefinite period of supervision remaining at the time the sending state transmits the transfer request; and
- b. Has a valid plan of supervision; and
- c. Is in substantial compliance in the sending state; and
- d. Is a resident of the receiving state; or has resident family in the receiving state who have indicated a willingness and ability to assist as specified in the plan of supervision; and
- e. Can obtain employment in the receiving state or has means of support; OR

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**SUPERVISION IN ANOTHER STATE (Continued)**

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- f. The offender is an active military member who has been deployed to another state OR is an offender who will live with an active military member who has been deployed to another state OR is an offender who will live with a family member who has been transferred to another state by their fulltime employer.
  - i. **A resident of receiving state:** a person who (1) has continuously inhabited a state for at least one year prior to the commission of the offense for which the offender is under supervision, (2) with the intent that such state shall be the person’s principal place of residence and (3) who has not, unless incarcerated, relocated to another state or states for a continuous period of six months or more with the intent to establish a new principal place of residence.
  - ii. **Resident family:** 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 days or longer, **and** (2) indicates willingness and ability to assist the offender as specified in the plan of supervision
  - iii. **Eligible Misdemeanants:** A misdemeanor offender whose sentence includes one year or more of supervision shall be eligible for transfer, provided that all other criteria for transfer, as specified in Rule 3.101, have been satisfied; and the instant offense includes one or more of the following:
    - a) An offense in which a person has incurred direct or threatened physical or psychological harm;
    - b) An offense that involves the use or possession of a firearm;

ICAOS Rule  
2.105

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- c) A second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol;
- d) A sexual offense that requires the offender to register as a sex offender in the sending state.
- iv. If it is clear from the record that an offender wants to move to a state where he/she is not a legal resident or has no family ties, the supervision officer should defer approval of such a move until the defendant can provide a verifiable plan which includes employment and living arrangements.
- v. In the case of an offender who wants to leave the state, a request must be evaluated regarding current compliance on probation, supervision objectives and a treatment plan. If the supervision officer believes such a move is warranted, he/she must decide which of the following procedures is most appropriate:
  - a) Supervision by mail (ineligible misdemeanants only)
  - b) Interstate Compact supervision, or
  - c) Temporary permission to visit another state.
  - d) If the offender continues to request travel permits to the same address in another state that exceed 45 calendar days per year, the case must be considered for an Interstate Compact Transfer.

ICAOS Advisory  
Opinions  
4-2012

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2. Supervision by Mail

- a. Probationers are permitted to leave the state and report to the supervision officer by mail only if the offense is deemed an ineligible misdemeanor.
- b. An offender who is not eligible for transfer under Interstate Compact is not subject to these rules and remains subject to the laws and regulations of the state responsible for the offender's supervision. If supervision by mail is deemed appropriate, the supervision officer proceeds as follows:
  - i. Reviews the terms and conditions of probation with the probationer and emphasizes the importance of compliance with all Court Orders.
  - ii. Supplies the probationer with sufficient monthly report forms.
  - iii. Instructs the probationer that he/she is to advise the supervision officer of any change of address or status, and that he/she is not to leave the receiving state nor return to this area without notifying the supervision officer immediately.

ICAOS Rule  
2.110(b)

3. Discretionary Transfer of Supervision:

A sending state may request a transfer of supervision of an offender who does not meet 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.

- a. The sending state must provide sufficient documentation to justify the requested transfer.

ICAOS Rule  
3.101-2

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- b. 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.
- B. Transfer of Sex Offender
  - 1. 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 the transfer of supervision has been approved, or reporting instructions have been issued by the receiving state. In addition to the information required in an application for transfer pursuant to Rule 3.107, the sending state shall provide the following information if available:
    - a. Assessment information, including sex offender specific assessments.
    - b. Social history
    - c. Information relevant to the sex offender's criminal sexual behavior
    - d. Law enforcement report that provides specific details of sex offense
    - e. Victim information (name, sex, age, and relationship to the offender) as well as the statement of the victim or victim's representative
    - f. The sending state's current or recommended supervision and treatment plan
  - 3. Reporting instructions for sex offenders living in the receiving state at the time of sentencing-Rule 3.103 applies, except for the following:

ICAOS Rule  
3.101-3

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- a. The receiving state shall have five (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
- b. No travel permit shall be granted by the sending state until reporting instructions are issued by the receiving state.

**C. Transfer Request Process**

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. The sending state shall not allow the offender to travel to the receiving state until the receiving state has replied to the transfer request. 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.

- 1. A Reporting Instructions Request for an offender who was living in the receiving state at the time of sentencing shall be submitted by the sending state within seven (7) calendar days of the sentencing date or release from custody. The sending state may grant a seven (7) day travel permit to an offender who was living in the receiving state at the time of sentencing. The receiving state shall issue reporting instructions no later than two (2) business days of receipt by the receiving state. Upon approval of Reporting Instructions, the sending state shall transmit a completed Transfer Request no later than 15 days following the granting of reporting instructions. If the receiving state rejects the transfer request, the sending state shall, upon receiving notice of rejection, direct the offender to return to the sending state within fifteen (15) calendar days. If the offender does not return as ordered, the sending state shall initiate retaking of the offender by issuing a warrant.

ICAOS Rule  
3.107

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2. Transfer requests are to be investigated within 45 days of receipt by the receiving state.
  
3. An offender applying for interstate supervision shall execute, at the time of application, a Waiver of Extradition from any state to which the offender may abscond while under supervision in a receiving state.
  - a. Upon receipt of acceptance or rejection of supervision, the supervision officer will make an appropriate event notation in IMPACT. If the case is accepted for supervision, the supervision officer will instruct the offender to report to the supervision agency as directed by the receiving state’s reporting instructions, issue a travel permit to the offender and notify the receiving state as required under Rule 4.105 by submitting a notice of departure via the Interstate Compact Administrator. Furthermore, upon notice of acceptance of supervision by the receiving state, the case file will be transferred to the Outgoing ICOTS Caseload Officer for extended case supervision (except PSS and PRCS cases which will remain with the respective contact DPO for extended case supervision). Thereafter, supervision will be carried on by the receiving state under provisions of the Interstate Compact and the offender will have no direct contact with this Department unless it becomes necessary to discuss fines, restitution or failure-to-provide payments that are to be made to the County of Santa Barbara. (Jurisdictions do not collect payments ordered by a Court of another state.) Supervision fees must be terminated upon acceptance by the receiving state by submitting an updated Pro-129.

ICAOS Rule  
3.104

  

ICAOS Rule  
3.109

**NOTE:** With the exception of failure-to-provide payments, the supervision officer should attempt to have the probationer satisfy all financial obligations in this jurisdiction before Interstate Compact transfer requests are initiated.

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| <ul style="list-style-type: none"> <li>b. The receiving state shall notify the sending state of an act or pattern of behavior requiring retaking within 30 days of discovery or determination by submitting a violation report.</li> <li>c. Upon conviction of a new felony, completion of custody time for that conviction, or placement under supervision for that offense, the receiving state may request the sending state to order the defendant to return to the sending state.</li> <li>d. Temporary Visits to Other States</li> <li>1. Temporary visits to another state may be authorized for purposes of emergencies or vacation, provided: <ul style="list-style-type: none"> <li>a. Probationer requests a travel permit via kiosk or signs the "Travel Permit" form (Pro-117)</li> <li>b. Appropriate instructions are given to the probationer and the method of reporting during his/her absence is clearly specified by the supervision officer (generally, a monthly report form, letter or postcard is acceptable), and</li> <li>c. Waiver of Extradition was completed at time of initial transfer request.</li> </ul> </li> </ul> | <p>ICAOS Rule 4.109</p> <p>ICAOS Rule 5.102</p> <p>ICAOS Rule 5.103</p> |
| <ul style="list-style-type: none"> <li>E. Victim Notification <ul style="list-style-type: none"> <li>1. Notification to victims upon transfer of offenders <ul style="list-style-type: none"> <li>a. Within one business day of the issuance of reporting instructions or acceptance of transfer by the receiving state, the sending state shall initiate notification procedures to victims in the sending state, and the receiving state shall initiate notification procedures to victims in the receiving state.</li> </ul> </li> </ul> </li> </ul>  | <p>ICAOS Rule 3.108</p>   |



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**Notes and  
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2. Notification to victims upon violation by offender or other change in status
  - a. The receiving state is responsible for reporting information to the sending state when the offender:
    - 1) Commits a significant violation;
    - 2) Changes address;
    - 3) Returns to the sending state where victim resides;
    - 4) Departs the receiving state under an approved plan of supervision in a subsequent receiving state; or
    - 5) Is issued a temporary travel permit where supervision of the offender has been designated a victim-sensitive matter.
  - b. Both the sending and receiving states shall notify known victims in their respective states of this information in accordance with their own laws and procedures.
3. At the time of notification as required in Rule 3.108, the sending state shall inform victims of their right to be heard and comment regarding their concerns relating to the transfer request for their safety and family member's safety. Victims have the right to contact the sending's state interstate compact office at any time by telephone, fax, conventional mail, or electronic mail regarding these concerns. The sending state shall provide victims with information regarding how to respond and be heard if the victim chooses.
  - a. Victims shall have ten (10) business days from receipt of victim notification to respond to the sending state. Receipt of notice shall be presumed to have occurred by the fifth business day following its sending.

ICAOS Rule  
3.108-1

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| <ul style="list-style-type: none"> <li>b. Upon receipt of the comments from victims, the sending state shall consider comments and they shall remain confidential. The sending or receiving state may impose special conditions of supervision on the offender, if the safety of the victim or victim’s family members is deemed to be at risk by the approval of the offender’s request for transfer.</li> <li>c. The sending state shall respond to the victim no later than five (5) business days following receipt of victim’s comments, indicating how victim’s concerns will be addressed when transferring supervision of the offender.</li> </ul> <p>F. Retaking of an Offender</p> <ul style="list-style-type: none"> <li>1. Except as required in Rules 5.102, 5.103, 5.103-1, and 5.103-2, at its sole discretion, the sending state may retake an offender, unless the offender has been charged with a criminal offense in the receiving state. Upon determination by the sending state to retake an offender, the sending state shall issue a warrant, and upon arrest of the offender, file a detainer with the facility where the offender is in custody.</li> <li>2. Upon request from the receiving state, the sending state shall retake an offender from the receiving state upon the offender’s conviction for a new felony offense and: <ul style="list-style-type: none"> <li>a. Completion of a term of incarceration for the conviction; or</li> <li>b. Placement under supervision for that felony offense</li> </ul> </li> <li>3. Offender Behavior Requiring Retaking- 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. 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.</li> </ul> | <p>ICAOS Rule 5.101</p> <p>ICAOS Rule 5.102</p> <p>ICAOS Rule 5.108</p> <p>ICAOS Rule 5.103-1</p> |
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**Notes and  
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- a. When an offender violates probation in the receiving state and is incarcerated or subject to return to the sending state he/she has the right to a probable cause hearing.
  
- 4. Upon receipt of an absconder violation report and case closure by the receiving state, the sending state shall issue a warrant, and upon arrest of the offender, file a detainer with the facility where the offender is in custody.
  - 1. If the offender is arrested on the sending state's warrant within the jurisdiction of the receiving state, 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 Rule 5.108(b). Upon finding of probable cause, the sending state SHALL retake the offender from the receiving state. If probable cause is not established, the receiving state shall resume supervision upon request of the sending state.
  
- G. Notification to District Attorney:

Upon determination that an offender being supervised out of state has absconded, the Probation Officer shall file a Violation of Probation Report and request a no bail warrant be issued and entered in the National Crime Information Center (NCIC) for the offender. In the report, the Probation Officer will explain the defendant was in the receiving state pursuant to an ICAOS transfer and that when arrested, the offender will need to be extradited. The Probation Officer will also send an email to the filing DA in his/her region indicating a VOP warrant request has been filed for an ICAOS offender.

ICAOS Rule  
5103