

Sixth District Department of Correctional Services POLICY	Issue Date 09/98	Effective Date 07/15/20	Policy Number 1200-20
Subject INTERSTATE COMPACT		Review Month September	Author 0600 (DKO)
Rescinds 1200-19	References Iowa Code 907B; Administrative Code 201-46; ICAOS Rules; and Article I, § 10 of the United States Constitution and pursuant to Title 4, Section 112(a) of the United States Code		

POLICY:

Department staff follows the policies and procedures outlined in the online manual for the Interstate Commission for Adult Offender Supervision (ICAOS). Compact business processes and case-related activities are facilitated through the Interstate Compact Offender Tracking System (ICOTS). Refer to Overview of Interstate Compact Process (1200A).

DEFINITIONS:

1. **"ICON" is the acronym for Iowa Corrections Offender Network.** ICON is a comprehensive database designed to record, store and provide data on offenders.
2. **"ICAOS" is the acronym for the Interstate Commission for Adult Offender Supervision.** ICAOS is a quasi-governmental administrative body vested by the states with broad regulatory authority. ICAOS oversees the operations of the Interstate Compact for Adult Offender Supervision. ICAOS guides the transfer of offenders in a manner that promotes effective supervision strategies consistent with public safety, offender accountability, and victim's rights. ICAOS also monitors compliance with the rules governing interstate movement of offenders and initiates interventions to address and correct noncompliance.
3. **"ICOTS" is an acronym for the Interstate Compact Offender Tracking System.** ICOTS is a web-based application that allows member states to facilitate all compact business processes. ICOTS provides a managed workflow and maintains a database of offender transfer requests and other case-related information.
4. **"Compact" means the Interstate Compact for Adult Offender Supervision,** a formal agreement between member states that seeks to promote public safety and victims' rights by systematically controlling the interstate movement of certain adult offenders. All 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands are members of the Compact.
5. **"Compact administrator" means the individual in each state responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of the Compact.**
6. **"Relocate" means to remain in another state for more than forty-five (45) consecutive days in any twelve (12) month period.**

DEFINITIONS: (continued)

7. **"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.
8. **"Application fee"** means a reasonable sum of money charged to a Compact offender by the sending state for each application for transfer prepared by the sending state.
9. **"Supervision fee"** means a fee collected by the receiving state for the supervision of an offender.

PROCEDURE:

1. All state officials and state courts are required to effectuate the terms of the Compact and ensure compliance with these rules. Compact terms and rules supersede conflicting state statutes, rules, or policies. ICAOS rules have the force and effect of federal law.

ICAOS rules, advisory opinions, contact information, definitions and other important information, can be found on the ICAOS website: <http://www.interstatecompact.org/>

2. Upon completion of the pre-requisite training courses (refer to 1200H), ICOTS users are required to read and understand the ICOTS Privacy Policy (1200B) and sign an ICOTS End User Licensing Agreement/Application for ICOTS Access (1200C) prior to receiving an ICOTS user account. Annual training is required thereafter. All ICOTS users are required to adhere to the ICOTS Privacy Policy and End User Licensing Agreement/Application for ICOTS Access. The End User Licensing Agreement governs access privileges and the use of ICOTS. The End User Licensing Agreement and User Application is obtained from the Compact Administrator. Once approved by Iowa's Compact Administrator, the user will receive the information necessary to access the ICOTS website: <https://icots.interstatecompact.org/ICOTS/login>
3. Staff determine eligibility of transfer for outgoing cases (refer 1200F & G for eligibility guidelines) and do not permit an offender who is eligible for transfer under the Compact to relocate to another state except as provided by ICAOS rules. **If an offender plans to relocate for more than forty-five (45) consecutive days for any reason including treatment or employment, an Offender Application for Interstate Compact Transfer** is transmitted via ICOTS. An adult offender does not have to be in formal probation or parole status to qualify for transfers and supervision under the ICAOS. Eligibility for Transfer includes:
 - A. Sentence or release from incarceration with community-based supervision and the offender is:
 - 1) A felon, or

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- 2) misdemeanor whose sentence includes one year or more of supervision and the underlying offense includes one or more of 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;
 - c. a second or subsequent misdemeanor conviction 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.
4. An undocumented immigrant who meets the definition of "offender" and seeks to transfer under the Compact is subject to the jurisdiction of the Compact and the immigrant's status as "undocumented" would not be a per se disqualification as long as the immigrant establishes that the prerequisites of ICAOS Rule 3.101 have been satisfied. This includes the requirement that the immigrant be in substantial compliance with the terms and conditions of supervision.
5. Staff follow special Rules for transfer of military personnel and their families as established by ICAOS Rule 3.101.
6. The decision to transfer supervision of an offender is purely within the discretion of authorities in the sending state. Offenders have no constitutional right to relocate. Sending states have no obligation to allow an offender to travel to or relocate in another state. Except as provided in the ICAOS and its rules, member states do not have an obligation to assume jurisdiction and supervision over offenders from other states. The ability of an individual offender to relocate and the obligations of states to either approve relocation or accept relocation are defined by federal law or interstate agreements such as ICAOS.
7. At the discretion of the sending state, an offender is eligible for transfer of supervision to a receiving state under the Compact, and the receiving state accepts the transfer, if the offender:
 - A. has more than ninety (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 with the terms of supervision in the sending state; and
 - D. is a resident of the receiving state; or
 - 1) has resident family in the receiving state who have indicated a willingness and ability to assist as specified in the plan of supervision; and
 - 2) can obtain employment in the receiving state or has a means of support.

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8. As a precondition to transfer, the offender must agree to waive extradition from any state to which the offender may have absconded while under supervision in the receiving state. States under the Compact waive all legal requirements regarding extradition of offenders who are fugitives from justice. The waiver is included in the Offender's Application for Interstate Compact Transfer.
9. An offender relocating to another state is not issued a travel permit without the permission of the receiving state. There is an exception for an offender living in the receiving state at the time of sentencing or after disposition of a violation or revocation proceeding. Refer to ICAOS Rule 3.103. ***Travel permits are not granted to sex offenders without approved reporting instructions from the receiving state.***
10. For eligible outgoing cases, the Offender's Application for Interstate Compact Transfer and required documentation established in ICAOS Rule 3.107 is transmitted via ICOTS.
11. The transfer application generated in ICOTS is a release of information that is compliant with the Health Insurance Portability and Accountability Act (HIPAA). Sending substance abuse and mental health records in ICOTS is not an issue provided the application is signed by the offender. The application also authorizes a transfer request to be sent pursuant to the rules of the Compact.
12. For OUTGOING PROBATION CASES, the sending agent who initiates the transfer becomes the primary case manager assigned in ICON upon acceptance by the receiving state. The sending agent remains responsible for monitoring case activity to include:
 - A. Entering required ICOTS documentation and responding to Compact activity requests transmitted via ICOTS;
 - B. Notifying the receiving state of any special conditions the offender is subject to at the time of the transfer request or any time thereafter;
 - C. Monitoring payment of restitution, costs and fees, if applicable;
 - D. Requesting progress reports as specified by Compact rules and updating ICON information accordingly;
 - E. Responding to significant violations (including action to be taken, date action begins and estimated completion date) as declared in violation reports transmitted via ICOTS by receiving states within ten (10) days and completing violation reports in ICON from the information transmitted, if applicable;
 - F. Ordering an offender to return to Iowa in lieu of issuing a warrant when the receiving state rejects the transfer or when Sixth Judicial District staff fails to send the completed transfer request within 15 days of an offender being granted reporting instructions;

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- G. Ensuring an arrest warrant is issued subsequent to a Violation Report Requiring Retaking and ensuring the warrant is entered in National Crime Information Center (NCIC) with a **nationwide pick-up radius and no provision for bond.**
 - H. Completing discharge summaries in ICON from the information obtained from progress reports transmitted via ICOTS;
 - I. Reviewing Address, Phone, Employment, Specialties, Supervision Modifiers, Intervention Programs, and Interventions to ensure data entry is current and accurate in ICON.
13. For OUTGOING PAROLE CASES, Iowa's Compact Administrator becomes the primary case manager assigned in ICON and ICOTS after both a Notice of Arrival is submitted and upon acceptance of the transfer by the receiving state. Iowa's Compact Administrator is then responsible for monitoring case activity of transferred parolees. The Sixth Judicial District sends notice via email to Iowa's Compact Administrator that case assignment of a parole case needs to be switched over to Iowa's Compact Administrator in ICOTS.
14. For OUTGOING PROBATION and PAROLE CASES, when an offender is not available for active supervision because an out-of-state transfer is pending or has occurred, the Agent completes an Iowa Risk Revised Assessment which is overridden by a Supervisor to Level 1. The Agent adds the supervision modifier of "Supervised in Other State."
15. Fee and Restitution Collection:
- A. Application fee:
 - 1) The Sixth Judicial District imposes a fee for each transfer application prepared for an offender (1200D). The offender and Agent sign and date the Interstate Compact Application Fee Acknowledgement prior to allowing an offender to proceed to receiving state. Interstate Compact Application Fee Acknowledgement is generated in ICON Reports > Templates > Report Template Generate > IC Fee Ack and Travel Permit – Out.
 - B. Supervision fee:
 - 1) The Sixth Judicial District imposes a reasonable supervision fee on an offender accepted for supervision, which shall not be greater than the fee charged Iowa's own offenders. Offenders transferring to the Sixth Judicial District sign the Notice of Supervision Fee (138E).
 - 2) A supervision fee is not imposed by the Sixth Judicial District on an offender whose supervision has been transferred to a receiving state immediately upon being granted probation or parole. If the offender returns to Iowa to complete supervision, the fee is then collected.

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- C. 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.
 - D. As established by ICAOS Rule 4.108 on collection of restitution, fines and other costs, the 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. Upon notice by the sending state that the offender is not complying with family support and restitution, and financial obligations, the receiving state notifies the offender that the offender is in violation of the conditions of supervision and must comply. The receiving state informs the offender of the address to which payments are to be sent.
16. Staff complete investigations and respond to a sending state's transfer request submitted via ICOTS no later than forty-five (45) calendar days. If staff determine that the sending state request is incomplete, staff notifies the sending state by rejecting the transfer with the specific reasons for rejection. If the offender is in Iowa with approved reporting instructions, those instructions remain in effect and staff continue to supervise the offender provided that the sending state submits a completed transfer request within fifteen (15) business days following the rejection.
 17. Offenders transferred to the Sixth Judicial District under the Compact are supervised in a manner consistent with the supervision of other similar Iowa offenders, which means the same type of referrals, intermediate sanctions and other interventions. Sign-up, intake, assessments and case management practices are conducted according to Sixth Judicial District policies.
 18. Offenders transferred to the Sixth Judicial District under the Compact are supervised for a length of time as specified by the sending state.
 19. Both the sending state and receiving state possess authority to impose special conditions as an element of transfer under the ICAOS. Staff may impose special conditions on a transferred offender if the special conditions are imposed on a similarly situated Iowa offender. Conditions are reasonably related to the goal of offender rehabilitation and/or promotion of community safety, and do not unduly interfere with fundamental liberty interests, including the right to meaningful employment. The receiving agent notifies the sending state of the intention to impose special conditions, and the purpose. This is done at the time of transfer acceptance or later, as needed, by transmitting a Progress Report in ICOTS.
 20. When the Sixth Judicial District is unable to enforce a special condition imposed in the sending state, the receiving agent notifies the sending state of the inability to enforce.

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21. The receiving agent of the Sixth Judicial District responds to Compact Action Requests and transmits Progress Reports and Violation Reports Requiring Retaking via ICOTS.
 - A. Progress Reports and Violation Reports Requiring Retaking provide documentation of what the offender has done, how the Sixth Judicial District staff has addressed violations, and documents behaviors leading up to the need for retaking.
 - 1) Any significant activity not requiring retaking is reported using a Progress Report. Violations of conditions of supervision, interventions, and referrals are reported using a Progress Report. Documentation such as treatment reports, urinalysis results, etc. is attached to a Progress Report. New arrests are typically reported using a Progress Report with attached police reports.
 - B. A Violation Report is written when the offender has reached the point where retaking is necessary. "Behaviors Requiring Retaking" are reported using the Violation Report. It is not a "Behavior Requiring Retaking" unless all interventions and responses in the receiving state have been exhausted.
 - 1) A "Behavior Requiring Retaking" is reported within thirty (30) days of that determination being made and all documentation to support the behaviors alleged is attached. Note: If the "Behavior Being Retaken" involves a new offense, the sentence date for the new offense can be used as the ***date of discovery*** of violation to avoid being outside the 30-day reporting timeframe.
 - 2) If an offender has been charged with a subsequent felony or violent crime, the offender is not retaken or ordered to return to the sending state by the sending state until criminal charges are dismissed, sentence has been satisfied, or the offender has been released to supervision for the subsequent offense, unless the sending and receiving state mutually agree to the retaking or return.
 - 3) Pursuant to ICOAS Rule 5.102, upon request from the receiving state, a sending state retakes an offender from the receiving state after the offender's conviction for a new felony offense or new violent crime.
22. **ARREST OF COMPACT OFFENDERS** - Offenders transferred to the Sixth Judicial District under the Compact can be arrested and detained for failure to comply with conditions if such failure would have resulted in an arrest of a similarly situated Iowa offender. A Complaint of Preliminary Violation (Form 1200I) is used when a compact offender is arrested and taken into custody for violations. The Compact offenders who are subject to retaking proceedings **have no right to bail.**

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- A. Whenever a Compact offender is taken into custody, the supervising agent immediately forwards a copy of the signed Offender's Application for Interstate Compact Transfer to the local county attorney, as this includes the waiver of extradition, along with a copy of the Reply to Transfer Request as this is the transfer acceptance document. The application and transfer acceptance are available for download from ICOTS.
- B. An offender subject to retaking for violation of conditions of supervision that may result in a revocation is 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. Probable cause hearings for Compact probationers are scheduled in District Court; parolees are scheduled before the Board of Parole.
- C. A waiver of a probable cause hearing is not accepted unless accompanied by an admission by the offender to one or more significant violations of the terms or conditions of supervision. Waiver of Probable Cause Hearing is located in ICON Reports > Templates > Report Template Generate > IC – Probable Cause Hearing Waiver.
- D. A copy of a judgment of conviction regarding the conviction of a new criminal offense by the offender is deemed conclusive proof that an offender may be retaken by a sending state without the need for further proceedings.
- E. The offender is 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.
- F. The Sixth Judicial District receiving agent prepares and submits to the sending state a written report within ten (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 is forwarded to the sending state.

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- G. If the hearing officer determines there is probable cause to believe that the offender has committed the alleged violations, the offender is held in custody and, within fifteen (15) business days of receipt of the hearing officer's report, the sending state notifies the receiving agent of the decision to retake or other action to be taken.

- H. If probable cause is not established, the Sixth Judicial District receiving agent:
 - 1) Continues supervision if the offender is not in custody.
 - 2) Notifies the sending state to vacate the warrant, and continues supervision upon release if the offender is in custody on the sending state's warrant.
 - 3) Vacates Iowa's warrant and releases the offender back to supervision within twenty-four (24) hours of the hearing if the offender is in custody.

BY ORDER OF:

Bruce Vander Sanden, District Director