

**Crossing State Lines: Interstate Compacts for Adult and Juvenile Supervision
A Collaborative Webinar Brought to You by NAGTRI, ICAOS, ICJ, APA, and NDAA
(June 8, 2020 @ 2 pm ET)**

Q&A

Q. My understanding about juvenile deferred disposition/sentencing agreements is that they cannot be transferred to another state because there is no probation order from the court. Has this changed?

A (ICJ): Juveniles with a deferred adjudication are eligible if there are conditions that require supervision. If there is no order requiring the juvenile to comply with regulations and conditions, then there is no supervision to be transferred.

Q. Can a juvenile be transferred to another state to live with a relative that does not have custody?

A (ICJ): Yes; the juvenile can reside with a legal guardian, relative, non-relative, live independently, or attend an accredited secondary school in the receiving state, but the juvenile must meet the other criteria to be eligible for a transfer of supervision. Because this is not a mandatory transfer, the home evaluation must also show that the residence is acceptable or the receiving state could deny the transfer.

Q. You stated that additional conditions of probation can be imposed by the receiving state; does this require that the juvenile is re-sentenced when he is received?

A (ICJ): The receiving state can impose conditions on a juvenile if they would have been imposed on a juvenile being supervised in the receiving state. The receiving state can also impose sanctions. In both cases, the receiving state is responsible for costs incurred by any conditions or sanctions that they impose. This does not require that the juvenile be re-sentenced.

Q: Can you walk us through in chronological order the individuals steps, agencies, and stakeholders that need to sign off from a request for relocation of supervision via the compact?

A (ICAOS): The decision to request transfer is at a sending state's sole discretion. Specific agency and stakeholders who may be responsible for making such decision vary by jurisdiction and the specifics of the transfer. Typically, a probation or parole officer decides a transfer request should be made after verifying a valid plan of supervision exists in a receiving state (which includes verifying the proposed residence and employment or viable means of support). From there, the request is submitted through the sending state's compact office ensuring all required documentation exists then is officially transmitted to a receiving state for investigation and approval.

Q: If the individual has a pressing need to return to another state and supervision is impracticable, i.e. college student with a gun charge where supervision is necessary, but we don't want to disrupt their college education continuing out of state - what workarounds that you see in other jurisdictions (if any) are available?

A (ICAOS): When justified and sending and receiving states agree it is in the best interest for public safety and the offender (or an emergency exists), reporting instructions can be requested and issued for an offender to be/remain in the receiving state during the 45-day investigation period. This permission provides the receiving state supervisory authority over the offender to ensure seamless supervision. (See [ICAOS Rules](#) 3.101-1, 3.103 & 3.106 for more information on reporting instructions.)

Q: Suppose an offender seeks to transfer supervision under ICAOS as soon as a case is plead and sentenced. How long is it from the time when an offender is placed on supervision in the sending state to the time they physically arrive in the receiving state?

A (ICAOS): Assuming you are referring to an offender who lives in a receiving state at the time of sentencing, [Rule 3.103](#) allows an offender to immediately return to his or her residence requiring the sending state to provide a request for reporting instructions within 7 business days of sentencing. Reporting instructions provide permission for an offender to be in a receiving state during the investigation period. For offenders who do not qualify for reporting instructions (See [ICAOS Rules](#) 3.101-1, 3.103 & 3.106) the investigation could take

up to 45 calendar days once a completed transfer request is received by a receiving state.

Q. How long after a request to return has been sent to the sending state do they have to respond?

A (ICAOS): Requests for an offender to return to the sending state (via reporting instructions) must be replied to within 2 business days. See [Rule 4.111 \(c\)](#)

A (ICJ): A. For the voluntary return of a juvenile, once the home/demanding/sending state receives the signed ICJ Form III Consent for Voluntary Return of Out-of-State Juveniles, they have five (5) business days to return the juvenile.

Time frames for non-voluntary returns differ slightly due to required court hearings in both states. After a juvenile refuses to sign the ICJ Form III to return voluntarily, the home/demanding/sending state has 60 calendar days to petition the court of jurisdiction and obtain an ICJ Form I: Requisition for Runaway Juvenile or ICJ Form II: Requisition for Escapee, Absconder, or Accused Delinquent. Upon receipt of the appropriate signed ICJ Form for the requisition, the holding state has thirty (30) calendar days to hold a hearing to determine proof of entitlement of the juvenile. After this hearing, assuming proof of entitlement is established, the ICJ Office in the holding state submits the order granting the requisition to the home/demanding/sending state ICJ Office. When the order is received, the home/demanding/sending state has five (5) business days to return the juvenile.

In all cases, the return time frame may be extended an additional five (5) business days if both the home/demanding/sending state and holding state ICJ Offices agree to an extension.

Q. If a warrant is issued by the receiving state, does the sending have to respond?

A(ICJ) & (ICAOS): ICJ and ICAOS Rules only specifically address warrants issued by the sending state. Nonetheless, such a warrant could trigger a response by the sending state.

Q. If someone is not eligible for the compact, does that mean they cannot relocate?

A (ICJ): If a juvenile is not eligible for the compact, they are not subject to the rules of the compact. Therefore, the compact does not control whether or not they can relocate.

A(ICAOS): No, ineligible offenders are not subject to these rules and remain subject to the laws and regulations of the state responsible for the offender's supervision. See [Rule 2.110](#)

Q. How do you handle an offender who resides in one state at the time of sentencing, stays in a different state for two weeks on a job location and relocates after to a different state? They never returned to their residential state following sentencing; the entire time the plan was relocation. How do you appropriately transfer this case? This information was put on the record, and no objection was provided by the prosecutors.

A (ICAOS): Such a situation is going to require involvement of all stakeholders (including the prosecutors) and the compact offices of the states where the offender plans to reside. It will be imperative the justification for reporting instructions illustrate the need for the offender to be in those states during the investigation (for the permanent address) and that there are no gaps in supervision as the offender crosses state lines. Most rejections and denials for reporting instructions or transfers are due to lack of verification so the burden is going to be on the sentencing state to ensure proper communication and coordination is achieved.

Q. Can you give us some common examples of types of scenarios and conditions where the court gets it wrong and you often get clarification questions about?

A (ICAOS): ICAOS's [CORE \(Compact Online Reference Encyclopedia\)](#) provides numerous case law citations, whitepapers and a Benchbook for Judges and Court Personnel highlighting common misconceptions regarding the rules and the authority of the rules which have led to violations of the compact. Examples of noncompliance with interstate compact rules involving the courts include:

- The issuance of court orders allowing offenders to proceed to and remain in another state beyond the 45-day time frame to participate in a treatment program, attend school or work;
- The issuance of warrants by sending states that do not include all 53 compact member states and are limited to the sending state and/or surrounding states only;
- The dismissal or quashing of warrants for offenders prior to the execution of the warrant and the physical return of the offender to the sending state.

Q. Do the compacts or any other parallel process cover pre-trial supervision as well - or is that on the states themselves? Never had this come up yet, but with the coronavirus issues, I could see it happening in jurisdictions like D.C.

A (ICAOS): For purposes of the Compact, the offender must be “convicted” by a court. Therefore, those subject to supervision in a pre-trial status are not eligible for the Compact. See [Rule 2.106](#)