



The Interstate Compact for Adult Offender Supervision: What Jail Administrators Need to Know

The **Interstate Compact for Adult Offender Supervision** provides for the orderly transfer of probation or parole supervision from one state to another. The rules of the Interstate Compact for Adult Offender Supervision (ICAOS) have the force and effect of federal law. All 50 states, Washington D.C., Puerto Rico and the U.S. Virgin Islands are members of the Compact.

Under New York State Executive Law, probation and parole agencies, law enforcement, the courts, the parole board, jails and other executive agencies within New York State are subject to the rules of the Compact. Compliance with the Compact is enforced by the Interstate Commission for Adult Offender Supervision.

The Compact does not provide for the transfer of legal jurisdiction, which is retained by the sending state. For example, if an offender is placed on probation supervision in Florida and transfers through the Compact to New York (the receiving state), New York provides supervision; the sentencing court in Florida (the sending state) retains legal jurisdiction over the offender. The courts in New York would have no legal authority over this probationer's interstate transfer. Similarly, the parole board in Florida would retain legal jurisdiction if the offender were a parolee.

How does the Compact affect jail facilities?

When offenders apply for transfer under the Compact, they are required to sign the **offender's application for interstate compact transfer**. Often referred to as the "waiver of extradition," this form is signed by the offender and states, "...I will not resist or fight any effort by any state to return me to the sending state and I agree to waive any right I may have to extradition. I waive this right freely, voluntarily and intelligently."

ICAOS Rule 4.109 (Authority to Arrest and Detain) states: "An offender in violation of the terms and conditions of supervision may be taken into custody or continued in custody by the receiving state."

If an interstate offender is non-compliant with the conditions of their supervision in the receiving state, the receiving state may submit an offender violation report to the sending state requesting the issuance of an interstate warrant. The sending state may issue an interstate warrant, which is then uploaded into the National Crime Information Center with a nationwide pick-up radius and with **no** bond amount set.

When the receiving state executes the interstate warrant, the interstate offender must be taken directly to the jail facility in the receiving state and must be detained until he/she is retaken by the sending state.

Note: The interstate offender, who has previously waived his/her right to extradition by signing the offender application for interstate compact transfer, is not a fugitive from justice and must not be charged as a fugitive under New York State Criminal Procedure Law § 570.

The court in the receiving state has no authority over this offender's interstate transfer case.

Retaking vs. Extradition

An offender's application for interstate compact transfer (waiver of extradition) must be signed by the interstate probationer or parolee prior to their departure/transfer from the sending state. ICAOS Rules provide that, "...states that are party to this compact waive all legal requirements to extradition of offenders who are fugitives from justice."

Retaking: Only those probationers or parolees, who have transferred supervision to the receiving state through the Compact and pursuant to ICAOS Rules, can be returned to a sending state through the act of retaking.

Extradition: Fugitives are to be returned under the U.S. Constitution extradition clause (Article VI, Section 2).

Once a jail facility has taken custody of an interstate offender, **ICAOS Rule 5.105** provides that, "[t]he 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.**" (*emphasis added*)

ICAOS Rule 5.101-1: "...if an offender is charged with a subsequent felony or violent crime, the offender shall not be retaken or ordered to return until the 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."

ICAOS Rule 5.106: "The receiving state shall be responsible for the cost of detaining the offender in the receiving state..."

Other Relevant ICAOS Rules

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

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:

- No detainer has been placed against the offender by the state in which the correctional facility lies, and
- No extradition proceedings have been initiated against the offender by a third party state.

ICOAS 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** (*emphasis added*) be admitted to bail or other release conditions in any state.

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