



**Division of Criminal
Justice Services**

ICAOS Rule Amendment Training

Presented by:

Kelly Palmateer, Compact Office Coordinator

Penney Belcher, Supervisor

May 8, 2017

Summary Of Amendments

Rule changes to be effective 6/1/2017

- Rule 1.101
- Rule 3.108
- Rule 4.101
- Rule 4.103
- Rule 4.103-1
- Rule 4.106
- Rule 4.109
- Rule 4.109-1
- Rule 5.103
- Rule 5.108



Rule 1.101 - Definitions



Rule 1.101 Definitions

Definition ‘Special condition’ has been removed

Definition ‘Significant Violation’ has been removed

New Definition Added:

‘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.



Rule 1.101 Definitions

Importance of these changes:

- Emphasizes the importance of DOCUMENTATION.
- Enhances community safety by holding interstate probationers accountable for their behaviors in the receiving state.
- Establishes a single standard of supervision in compact states for all probationers



Rule 3.108 – Victim Notification



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 ~~Commits a significant violation~~;
- (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.



Rule 4.101 – Manner and degree of supervision in the receiving state



Rule 4.101 Manner and degree of supervision in the receiving state

A receiving state shall supervise an ~~offender transferred under the interstate compact in a manner determined by the receiving state and~~ 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.



Rule 4.101 Manner and degree of supervision in the receiving state

Why are these changes important?

- Enhances community safety by holding interstate probationers accountable for their behaviors in the receiving state.
- Establishes a single standard of supervision for all probationers.
- Affirms the authority of the receiving state to impose terms and conditions and to supervise interstate probationers as they would individuals sentenced in the receiving state, including the use of incentives and graduated sanctions.



Rule 4.103 – Special Conditions



Rule 4.103 Special Conditions

New language for title of rule: **Rule 4.103 Conditions of supervision**

- (a) At the time of acceptance or during the term of supervision, ~~the compact administrator or supervising authority in the receiving state~~ may impose a ~~special~~ condition on an offender ~~transferred under the interstate compact~~ if that ~~special~~ condition would have been imposed on ~~the~~ an offender if sentenced had been ~~imposed~~ in the receiving state.
- (b) A receiving state shall notify a sending state that it intends to impose or has imposed a ~~special~~ condition on the offender, ~~the nature of the special condition, and the purpose.~~
- (c) A sending state shall inform the receiving state of any ~~special~~ conditions to which the offender is subject at the time of the request for transfer is made or at any time thereafter.
- (d) A receiving state that is unable to enforce a ~~special~~ condition imposed in the sending state shall notify the sending state of its inability to enforce a ~~special~~ condition at the time of request for transfer of supervision is made.



Rule 4.103-1 – Effect of special conditions or requirements



Rule 4.103-1 Effect of special conditions or requirements

- New language for title of rule:

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

- Title change made as ‘special conditions’ is no longer defined by the compact.
- Keeps language consistent throughout compact



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

~~For purposes of revocation or other punitive action against an offender, the probation or paroling authority of a The sending state shall give the same force and effect to a violation of special conditions or requirement imposed by a receiving state as if those conditions or requirement had been imposed by the sending state. Failure of an offender to comply with special conditions or additional requirements imposed by a receiving state shall form the basis of punitive action in the sending state notwithstanding the absence of such conditions or requirements in the original plan of supervision issued by the sending state. For purposes of this rule, the original plan of supervision shall include, but not be limited to, any court orders setting forth the terms and conditions of probation, any orders incorporating a plan of supervision by reference, or any orders or directives of the paroling or probation authority~~



Rule 4.106 – Progress Reports



Rule 4.106 Progress Reports

New language for title of rule:

4.106 – Progress reports on offender compliance and non-compliance

- Title change made to clarify intended use of this report.
- Current misconception that progress reports should be used to report compliant behavior only.



4.106 Progress reports on offender compliance and non-compliance

~~(a) A receiving state shall provide to the sending state a progress report annually, or more frequently, upon the request of the sending state, for good cause shown. The receiving state shall provide the progress report within 30 calendar days of receiving the request.~~

(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.

~~(b)~~ (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;

(9) any other information requested by the sending state that is available in the receiving state.



4.106 Progress reports on offender compliance and non-compliance

Why are these changes important?

- Eliminates the requirement for a receiving state to submit progress reports annually.
- Progress reports are the mechanism for documenting supervision practices in ICOTS.

What do you need to know?

- Receiving states are still responsible for submitting progress reports within 30 calendar days of receiving a request from the sending state.
- This will a managed process in ICOTS (similar to reply to transfer and OVR).



Rule 4.109 – Violation reports



Rule 4.109 Violation Reports

New language for title of rule:

Rule 4.109 Violation reports requiring retaking

- Clarifies that violation reports should be submitted **ONLY** when the violation behavior being reported meets the compact definition of a behavior requiring retaking.

Rule 4.109 Violation reports requiring retaking

(a) A receiving state shall notify a sending state of an act or pattern of behavior requiring retaking significant violations of conditions of supervision by an offender within 30 calendar days of discovery or determination of the violation 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 offense or infraction that forms the basis of the violation;

~~(4) description of the offense or infraction;~~

(4) dates, descriptions 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) dates, descriptions and documentation regarding the status and disposition, if any, of offense(s) or behavior requiring retaking infraction;

(6) dates, and descriptions and documentation of previous non-compliance, to include a description of the use of corrective actions, graduated responses or other supervision techniques; of any previous violations;

~~(7) receiving state's recommendation of actions sending state may take;~~

~~(8) (7) name and title of the officer making the report; and~~

~~(9) (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.~~

~~(10) (9) supporting documentation regarding the violation including but not limited to police reports, toxicology reports, and preliminary findings.~~

(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.

Rule 4.109 Violation reports requiring retaking

Why are these changes important:

- Emphasize the receiving state's responsibility to supervise compact offenders consistent with local offenders.
- Puts an emphasis on the importance of documenting all attempts made to bring an offender into compliance.



Rule 4.109-1 – Authority to arrest and detain



Rule 4.109-1 Authority to arrest and detain

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

Changes made for consistency and clarity. Does not alter intent or purpose of the rule.

Rule 5.103 – Mandatory retaking for violation of conditions of supervision



Rule 5.103 Mandatory retaking for Violation of conditions of supervision

5.103 Offender behavior requiring retaking ~~Mandatory retaking for violation of conditions of supervision~~

(a) Upon a request by the receiving state and documentation ~~a showing~~ that the offender's behavior requires retaking ~~has committed 3 or more significant violations, as defined by the compact, arising from separate incidents that establish a pattern of non-compliance of the conditions of supervision~~, 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 ~~request by the receiving state~~.

(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.



Rule 5.108 Probable cause hearing in receiving state



Rule 5.108 Probable cause hearing in receiving state

Rule 5.108 Probable cause hearing in receiving state

- (a) An offender subject to retaking ~~for violation of conditions of supervision~~ 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 ~~significant~~ violations of the ~~terms or~~ 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

....

Purpose of changes



Purpose of Changes:

- Establishes a single standard of supervision in compact states for all probationers.
 - Eliminates the need for 3 significant violations.
- Enhances community safety by holding interstate probationers accountable for their behaviors in the receiving state.
 - Places importance on the use of incentives and graduated sanctions/corrective action.
- Emphasizes the importance of DOCUMENTING all efforts made by a receiving state to work with an offender.
 - Supports the violation hearing and the basis of revocation in the sending state and reduces the likelihood of the sending state allowing the probationer to return immediately following violation hearing.



How will practice change?



How will practice change: Progress Reports

- Progress reports will no longer be required on an annual basis.
- Receiving state should submit a report to the sending state:
 - When new conditions have been imposed.
 - To document compliant behavior (incentives).
 - To document non compliant behavior that would not require retaking (corrective actions).
 - To report a new arrest.

How will practice change: Progress Reports

- The receiving state will need to provide the sending state with an updated progress report within 30 calendar days of receiving a request.
 - Requests will be made through a specialized Compact Action Request (CAR).
- The progress report will be submitted to the Interstate Compact Office for review. If the report is not detailed, it will be returned for correction.
 - Detailed reports will be sent to the assigned user in the sending state (similar to the replies to transfer, reporting instructions and replies to violation reports)



Assistants Compact Workload Offenders Reports Users Administrators

Progress Report

Progress Report for John Lennon

Select **Start** next to the topic that you want to visit. When you're finished en **Submit**.

Topics	Progress
Review Offender Information	<input type="checkbox"/>
Current Residence	<input type="checkbox"/>
Current Employment	<input type="checkbox"/>
Progress, Performance, and Attitude	<input checked="" type="checkbox"/>
Additional Supervision Conditions Imposed by the Receiving State	<input type="checkbox"/>
Recommendations	<input type="checkbox"/>

Delete

Preview

Copyright 2016 © Interstate Co

Progress, Performance and Attitude

Does this progress update involve a new arrest?

- Yes
- No

Review each of the offender's conditions of supervision and indicate those which the offender has violated.

Conditions imposed by Kentucky					
Violated	Update	No Update/NA	Supervision Condition	Attachment	PDF
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Employment Readiness	—	—
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Special Condition: see conditions from judgment		—

Description/update on conditions imposed by Kentucky:

Conditions of Supervision required by North Carolina					
Violated	Update	No Update/NA	Supervision Condition	Attachment	PDF
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	DNA Registration	—	—

Description/update on conditions imposed by North Carolina:

Additionally Imposed Conditions					
Violated	Update	No Update/NA	Supervision Condition	Attachment	PDF
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Alcohol/Drug Treatment	—	—

Description/update on additionally imposed conditions:

Select all the incentive actions taken to address the offender's behavior:

- Written letter of recognition
- Fewer drug screens
- Verbal praise
- Modification of supervision conditions
- Waive program fees
- Decreased reporting requirements
- Submit positive letter to the court

Other, describe:

Select all the corrective actions taken to address the offender's behavior:

- Verbal reprimand/Warning
- Travel Restriction
- Community service
- Report violation to sending state through
- Behavioral contract
- GPS/House Arrest/FM



How will practice change: Violation Reports

- Retaking will be required upon the submission of one violation report requiring retaking. (absconder, new felony or violent crime conviction or one behavior requiring retaking)
 - Eliminates the need for 3 significant violations.
- There will be a greater focus on the receiving state's responsibility to supervise compact offenders in a manner consistent with local offenders.
 - Same standard of supervision.
 - Most offenders qualify for transfer as a resident/resident family. The receiving state is their home and where their ties are.

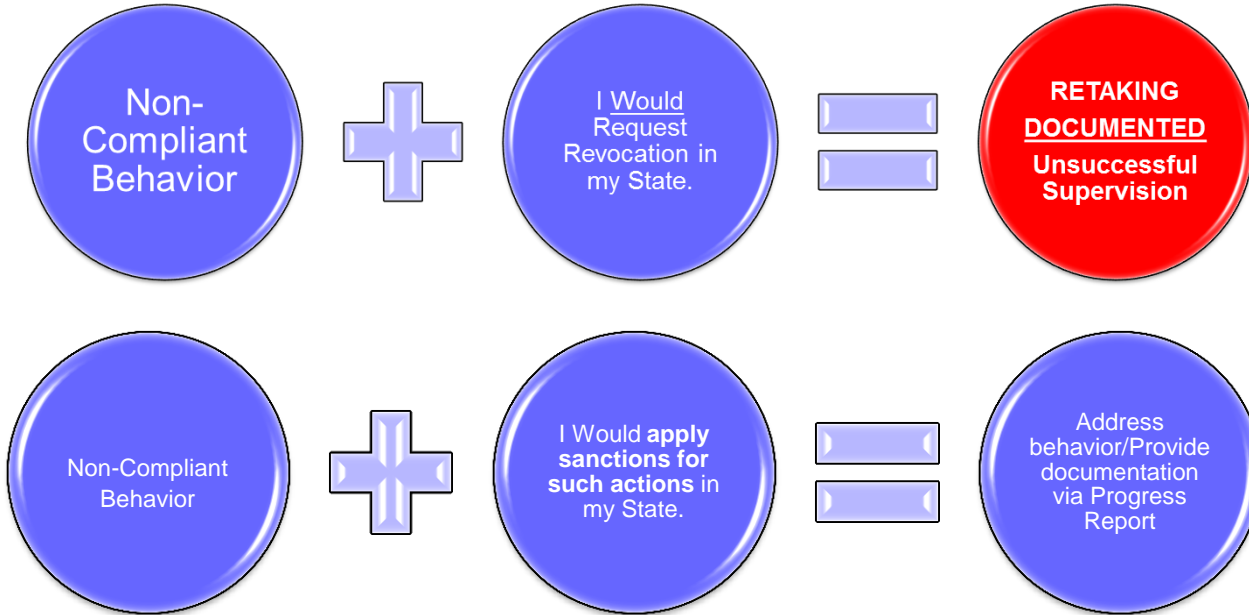
How will practice change: Violation Reports

- Violation Report = Retaking
- Violation report must be submitted within 30 calendar days of discovery OR determination that supervision is no longer a viable option.
- Supporting documentation must be included
 - Police reports
 - Toxicology reports
 - Preliminary findings
 - Details/status of infraction
 - Incentives/sanctions applied
- Your reports should provide the same level of details as your own reports submitted to the court.
- Provide specifics on how the behavior was determined to be revocable
- Has the option of working with the offender been exhausted?

How will practice change: Violation Reports

- Violation Report = Retaking
- Violation report must be submitted within 30 calendar days of discovery OR determination that supervision is no longer a viable option.
- Supporting documentation must be included.
 - Police reports
 - Toxicology reports
 - Preliminary findings
 - Details/status of infraction
 - Incentives/sanctions applied
- Your reports should provide the same level of details as your own reports submitted to the court.
- Provide specifics on how the behavior was determined to be revocable.
 - **THE SENDING STATE ONLY KNOWNS WHAT YOU TELL THEM**
- Has the option of working with the offender been exhausted?

How will practice change: Violation Reports



How will practice change: Violation Reports

- ALL Violations will be reviewed by a supervisor in the Interstate Compact Unit of the receiving state.

Violation Report Checklist:

- ✓ Violation reported is revocable behavior
“violation would rise to level of revocation because..”
- ✓ Reported timely
- ✓ Requesting return/retake
- ✓ Availability status accurate
- ✓ Supporting documentation included
- ✓ “story” provided on why supervision is not successful

How will practice change: Violation Reports

<u>Receiving State requests retake &:</u>	Mandatory Retake?	Sending State Action
Report of 'Behavior Requiring Retaking'	Yes	Issue warrant OR Order offender to return within 15 business days <ul style="list-style-type: none"> ▪ May ask for PC Hearing
Conviction of new felony or violent crime	Yes	Issue warrant <ul style="list-style-type: none"> • If serving a new sentence of incarceration for the new crime-sending state <u>may hold violation hearing</u> <ul style="list-style-type: none"> • Requires approval of authority and offender • See Rule 5.101-2
"Absconder" apprehended in receiving state on sending state's warrant	Yes	Warrant previously issued per Rule 4.109-2 <ul style="list-style-type: none"> ▪ May ask for PC Hearing



New Offender Application



Scenarios



Rule Amendment Scenarios

Scenario #1

Only 'behavior requiring retaking' in which the behavior or infraction would rise to a level in which the receiving state recommends revocation should be reported on an offender violation report.

- a) True
- b) False

Rule Amendment Scenarios

Scenario #2

Once an offender transfers to the receiving state, the receiving state may impose a supervision fee as long as a fee is also imposed on offenders sentenced in the receiving state.

- a) True
- b) False

Rule Amendment Scenarios

Scenario #3

Although the sending state has received only progress reports notifying of non-compliant behavior, the sending state may retake the offender from the receiving state for any reason so long as no pending violent crime or felony charges exist.

- a) True
- b) False

Rule Amendment Scenarios

Scenario #4

I am supervising an offender for another state, the offender comes into my office and tests positive for cocaine for the second time. For similar circumstances, I would refer an offender sentenced in my state to a 60 day drug treatment program. However, since this is a compact offender I should submit a violation report and require the sending state to address the behavior in their state.

- a) True
- b) False

Rule Amendment Scenarios

Scenario #5

An offender under compact supervision has consistently failed to comply with conditions of supervision for several months. In addition, I have applied several sanctions to address the offender's behavior over the last few months which have not been successful at changing the offender's behavior. All of which I reported to the sending state via Progress Reports with detailed documentation. I am now at the point where efforts for addressing the behavior while supervised are no longer feasible and I would request revocation of supervision in my state. A detailed and well documented Violation Report would be appropriate.

- a) True
- b) False

Rule Amendment Scenarios

Scenario #6

I am supervising an offender who has been missing appointments, I would not request a revocation in my state. I am concerned about this continued behavior and want the sending state to know about it, plus I plan to give the offender a sanction. I would report this information on a progress report in ICOTS.

- a) True
- b) False

NY Interstate Contact Information



Contact NYS Interstate

A-G *Karla Snedecor-Flores*– Agency Program Aide

karla.snedecor-flores@dcjs.ny.gov

518-485-5155

H-O *Tyrone Catoe*– Agency Program Aide

tyrone.catoe@dcjs.ny.gov

518-457-7892

P-Z *James Haworth* – Agency Program Aide

james.haworth@dcjs.ny.gov

518-485-2400



Contact NYS Interstate

Domestic Violence cases, problem cases and unresolved issues within entire alphabet

Penney Belcher – Unit Supervisor

penny.belcher@dcjs.ny.gov or 518-457-0497

ALL Sex Offenders and juvenile problem cases:

Kelly Palmateer – Compact Office Coordinator

Juvenile Deputy Compact Administrator

kelly.palmateer@dcjs.ny.gov or 518-485-2398



Contact NYS Interstate

Adult Deputy Compact Administrator and Unit Manager

Matthew Charton

matthew.charton@dcjs.ny.gov or 518-485-2402

*make sure to CC nyprobisc if you are unsure who the email should be directed to

nyprobisc@dcjs.ny.gov



Questions ?

