



Interstate Commission for Adult Offender Supervision

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Executive Director
Don Blackburn

TO: State Court Judges

FROM: Richard L. Masters, Esq.
General Counsel

DATE: July 15, 2004

RE: Issuance of rules concerning adult offenders eligible for transfer under the Interstate Compact for Adult Offender Supervision

The Interstate Compact for Adult Offender Supervision (ICAOS) has now been enacted by the legislatures of 49 states and the District of Columbia. The overarching purpose of this compact, which replaces the 1937 Interstate Compact on Probation and Parole in 49 states, is to promote public safety by ensuring that sending and receiving states have adequate notice that an adult offender has relocated and by requiring that adult offenders be provided appropriate supervision in a receiving state. This interstate compact is the *only* federal or state statutory mechanism which permits and regulates the interstate movement of offenders under the supervision of courts, probation authorities, parole authorities, or other criminal justice agencies. Moreover, as a congressionally approved compact under the Crime Control Act of 1934, the ICOAS is a “law of the union” and enjoys standing as federal law. *Cf. Cuyler v. Adams*, 449 U.S. 433, 440 (1981).

The compact statute created the Interstate Commission for Adult Offender Supervision which, pursuant to this legislation, is empowered to “promulgate rules. These rules have the force and effect of statutory law and “shall be binding in the compacting states...” Pursuant to this legislatively delegated authority, the Commission has adopted new administrative rules that become effective on August 1, 2004. Many of these rules are similar to previous practice and procedure but some of these new regulations represent a significant departure from past practice. In particular, you should be aware of the new rules relating to eligibility for transfer and travel prior to acceptance in the receiving state and denial of bail to certain offenders.

Interstate Commission for
Adult Offender Supervision
c/o The Council of State Governments
2760 Research Park Drive
P.O. Box 11910
Lexington, Ky. 40578-1910
ph (859) 244-8000
fax (859) 244-8001
www.adultcompact.org

Eligibility

The criteria for eligibility are intended to exclude “minor” misdemeanants from regulation under the compact. The new regulations specify that the types of misdemeanants subject to supervision will include an offense in which a victim has incurred direct or threatened physical or psychological harm, a second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol; and, a sexual offense which requires that an offender register as a sex offender in the sending state. All felony offenders are subject to terms of the compact and its rules. Furthermore, the compact and its rules extend not only to offenders in more traditional probation or parole status, but also to those subject to deferred or suspended sentencing provisions. Consequently, an offender who has entered a plea of guilt or no contest and who has received a suspended or deferred sentence is covered by the ICAOS.

Travel prior to acceptance in the receiving state

States may not permit an offender under supervision to relocate to a receiving state without first complying with the compact. Key to compliance is that the receiving state must have knowledge of the transfer and grant permission to the transfer. In certain circumstances, receiving states are obligated to accept transfer of supervision. In other circumstances, the transfer of supervision rests within the discretion of a receiving state. Regardless of whether a transfer of supervision is mandatory or discretionary, the receiving state must provide reporting instructions before the offender is allowed to travel in that state. In most cases, offenders will be required to remain in the sending state until a receiving state has an opportunity to investigate the request and agrees to the transfer of supervision. In limited circumstances, offenders may travel to a receiving state prior to acceptance if the offender was living in the receiving state at the time of sentencing. Prior to granting the travel permit, the sending state must request reporting instructions from the receiving state within two business days. Additionally,

If the sending state believes that emergency circumstances require the offender’s immediate travel to the receiving state, and the receiving state consents, the sending state may request an expedited investigation. The receiving state will immediately issue reporting instructions.

Denial of bail to certain offenders

In the event of violation of the terms of supervision resulting in revocation and retaking procedures being initiated by a sending or receiving state, an offender against whom such action is taken shall not be admitted to bail in any state where the offender is found.

Contact Information:

The complete edition of the new regulations of the Interstate Commission for Adult Offender Supervision is available at the commission’s website, **www.adultcompact.org**. If you have other questions concerning the interstate compact or its rules and procedures, you may also contact Don Blackburn, Executive Director at (859) 244-8229 or email at dblackburn@csg.org. I may be contacted via email at rmasters@csg.org, or phone at (502)329-9065.