

The amendments are presented using the following:

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- Added language is underlined



INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION

2017 APPROVED RULE AMENDMENTS

Pittsburgh, PA
October 11, 2017

Effective: March 1, 2018

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Summary of Amendments:

- *Rules 2.104 & Rule 3.107 (East Region & Rules Committee)*
- *Rule 3.101-1 (East Region)*
- *Rule 3.108-1 (Rules Committee)*
- *Rule 4.111(a) (East Region & Rules Committee)*
- *Rule 3.104 & 4.111(b) (East Region & Rules Committee)*
- *Rule 4.111(b)(c)(d) (East Region & Rules Committee)*
- *Rule 4.111(e) (Midwest Region)*

Rules 2.104 & Rule 3.107 (East Region & Rules Committee)

Rule 2.104 Forms

- (a) States shall use the forms or electronic information system authorized by the commission.
- ~~(b) The sending state shall retain the original forms containing the offender's signature until the termination of the offender's term of compact supervision.~~
- (c) Section (a) shall not be construed to prohibit written, electronic or oral communication between compact offices.

Rule 3.107 Transfer request

- (a) A transfer request for an offender shall be transmitted through the electronic information system authorized by the commission and shall contain:
- ~~(1) transfer request form;~~
 - (1) A narrative description of the instant offense in sufficient detail to describe the circumstances, type and severity of offense and whether the charge has been reduced at the time of imposition of sentence;
 - (2) photograph of offender;
 - (3) conditions of supervision;
 - (4) any orders restricting the offender's contact with victims or any other person;
 - (5) any known orders protecting the offender from contact with any other person;
 - (6) information as to whether the offender is subject to sex offender registry requirements in the sending state along with supportive documentation;
 - (7) pre-sentence investigation report, unless distribution is prohibited by law or it does not exist;
 - (8) information as to whether the offender has a known gang affiliation, and the gang with which the offender is known to be affiliated;

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- (9) supervision history, if the offender has been on supervision for more than 30 calendar days at the time the transfer request is submitted;
- (10) information relating to any court-ordered financial obligations, including but not limited to, fines, court costs, restitution, and family support; the balance that is owed by the offender on each; and the address of the office to which payment must be made.
- (11) summary of prison discipline and mental health history during the last 2 years, if available, unless distribution is prohibited by law.
- (b) ~~The original signed Offender Application for Interstate Compact Transfer shall be maintained in the sending state.~~ A copy of the signed Offender Application for Interstate Compact Transfer shall be attached to the transfer request.
- (c) Additional documents, necessary for supervision in the receiving state, such as the Judgment and Commitment, may be requested from the sending state following acceptance of the offender. The sending state shall provide the documents within no more than 30 calendar days from the date of the request, unless distribution is prohibited by law or a document does not exist.

Justification:

Many jurisdictions nationwide are moving toward a paperless system. Proposal provides an option for the sending state to retain originals if they choose. Requiring a ‘paperless’ state to create a folder just to save a printed copy of an Application for Interstate Transfer form is in direct conflict with what they are trying to achieve.

Rule 3.101-1 (East Region)

Rule 3.101-1 Mandatory reporting instructions and transfers of military, families of military, family members employed, employment transfer, and veterans for medical or mental health services

- (a) At the discretion of the sending state, an offender shall be eligible for transfer of supervision to a receiving state under the compact, and the receiving state shall accept transfer for:
- (1) *Transfers of military members-* An offender who is a member of the military and has been deployed by the military to another state, shall be eligible for reporting instructions and transfer of supervision. A copy of the military orders or other proof of deployment for the military member shall be provided at the time of the request.
- (2) *Transfer of offenders who live with family who are members of the military-* An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and (e)(2)

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- and who lives with a family member who has been deployed to another state, shall be eligible for reporting instructions and transfer of supervision, provided that the offender will live with the military member in the receiving state. A copy of the military orders or other proof of deployment for the military member shall be provided at the time of the request.
- (3) *Employment transfer of family member to another state*- An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and (e)(2) and whose family member, with whom he or she resides, is transferred to another state by their full-time employer, at the direction of the employer and as a condition of maintaining employment, shall be eligible for reporting instructions and transfer of supervision, provided that the offender will live with the family member in the receiving state. Documentation from the current employer noting the requirements shall be provided at the time of the request.
- (4) *Employment transfer of the offender to another state* – An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and is transferred to another state by their full-time employer, at the direction of the employer and as a condition of maintaining employment shall be eligible for reporting instructions and transfer of supervision. Documentation from the current employer noting the requirements shall be provided at the time of the request.
- (5) *Transfers of veterans for medical or mental health services*- An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and who is a veteran of the United States military services who is eligible to receive health care through the United States Department of Veterans Affairs, Veterans Health Administration and is referred for medical and/or mental health services by the Veterans Health Administration to a regional Veterans Health Administration facility in the receiving state shall be eligible for reporting instructions and transfer of supervision provided:
- (A) the sending state provides documentation to the receiving state of the medical and/or mental health referral; and
- (B) the transfer of supervision will be accepted if the offender is approved for care at the receiving state Veterans Health Administration facility.
- (b) The receiving state shall issue reporting instructions no later than 2 business days following receipt of such a request from the sending state.
- (c) If the receiving state rejects the transfer request for an offender who has been granted reporting instructions and has arrived in the receiving state, the receiving state shall

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initiate the offender's return to the sending state under the requirements of Rule 4.111.

- (d) If the sending state fails to send a completed transfer request by the 15th business day for an offender who has been granted reporting instructions and has arrived in the receiving state, the receiving state may initiate the offender's return to the sending state under the requirements of Rule 4.111.

Justification:

A high percentage of these requests are found to not meet the requirements of these rules once documentation is received. It is incumbent upon the sending state to provide documentation as part of the request.

Rule 3.108-1 (Rules Committee)

Rule 3.108-1 Victims' right to be heard and comment

- (a) When an offender submits a request to transfer to a receiving state or a subsequent receiving state, or to return to a sending state, the victim notification authority in the sending state shall, at the time of notification to the victim as required in Rule 3.108 (a), inform victims of the offender of their right to be heard and comment. Victims of the offender have the right to be heard regarding their concerns relating to the transfer request for their safety and family members' safety. Victims have the right to contact the sending state's interstate compact office at any time by telephone, telefax, or conventional or electronic mail regarding their concerns relating to the transfer request for their safety and family members' safety. The victim notification authority in the sending state shall provide victims of the offender with information regarding how to respond and be heard if the victim chooses.
- (b)
- (1) Victims shall have ~~40~~ 15 business days from receipt of notice required in Rule 3.108-1 (a) to respond to the sending state. Receipt of notice shall be presumed to have occurred by the 5th business day following its sending.
 - (2) The receiving state shall continue to investigate the transfer request while awaiting response from the victim.
- (c) Upon receipt of the comments from victims of the offender, the sending state shall consider comments regarding their concerns relating to the transfer request for their safety and family members' safety. Victims' comments shall be confidential and shall not be disclosed to the public. The sending state or receiving state may impose special conditions of supervision on the offender, if the safety of the offender's victims or family members of victims is deemed to be at risk by the approval of the offender's request for transfer.

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- (d) The sending state shall respond to the victim no later than 5 business days following receipt of victims' comments, indicating how victims' concerns will be addressed when transferring supervision of the offender.

Justification:

Victims should have 15 days as the victim may need to process the implication and impact as well as the initial emotion that may occur. This would provide for a total of 20 days. Rules provide time frames for compact offices of 30 days in many rules and offenders may request expedited instructions and travel with 7 days. Victims deserve and it should be their right to have additional time if they need it.

Rule 4.111(a) (East Region & Rules Committee)

Rule 3.104 & 4.111(b) (East Region & Rules Committee)

Rule 4.111(b)(c)(d) (East Region & Rules Committee)

Rule 4.111(e) (Midwest Region)* *due to other amendments now 4.111 (f)*

Rule 3.104 Time allowed for investigation by receiving state

- (a) A receiving state shall complete investigation and respond to a sending state's request for an offender's transfer of supervision no later than the 45th calendar day following receipt of a completed transfer request in the receiving state's compact office.
- (b) If a receiving state determines that an offender transfer request is incomplete, the receiving state shall notify the sending state by rejecting the transfer request with the specific reason(s) for the rejection. If the offender is in the receiving state with reporting instructions, those instructions shall remain in effect provided that the sending state submits a completed transfer request within 15 business days following the rejection.
- (c) If a receiving state determines that an offender's plan of supervision is invalid, the receiving state shall notify the sending state by rejecting the transfer request with specific reason(s) for the rejection. If the receiving state determines there is an alternative plan of supervision for investigation, the receiving state shall notify the sending state at the time of rejection. If the offender is in the receiving state with reporting instructions, those instructions shall remain in effect provided that the

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sending state submits a completed transfer request with the new plan of supervision within 15 business days following the rejection.

Rule 4.111 Offenders returning to the sending state

- (a) For an offender returning to the sending state, the receiving state shall request reporting instructions, unless the offender is under active criminal investigation or is charged with a subsequent criminal offense in the receiving state. The receiving state shall provide the sending state with the reason(s) for the offender's return. The offender shall remain in the receiving state until receipt of reporting instructions.
- (b) If the receiving state rejects the transfer request for an offender who has arrived in the receiving state with approved ~~granted~~ reporting instructions under Rules 3.101-1, 3.101-3, 3.103 or 3.106, the receiving state shall, upon submitting notice of rejection, submit a request for return reporting instructions within 7 business days, unless 3.104 (b) or (c) applies or if the location of the offender is unknown, conduct activities pursuant to Rule 4.109-2.
- (c) Except as provided in subsection ~~(d)~~(e), the sending state shall grant the request ~~and provide reporting instructions~~ no later than 2 business days following receipt of the request for reporting instructions from the receiving state. The sending state instructions shall direct the offender to return to the sending state within 15 business days from the date the request was received. ~~of the reporting instructions request.~~
- (d) The receiving state shall provide the offender reporting instructions and determine the offender's intended departure date. If unable to locate the offender to provide the reporting instructions, the receiving state shall conduct activities pursuant to Rule 4.109-2.
- (e) In a victim sensitive case, the sending state shall not provide reporting instructions until the victim notification provisions of Rule 3.108 (b)(1)(C) have been followed.
- (f) The receiving state retains authority to supervise the offender until the offender's directed departure date or issuance of the sending state's warrant. Upon departing, the receiving state shall notify the sending state as required in Rule 4.105 (a) and submit a case closure as required by Rule 4.112 (a)(5). The sending state shall notify the receiving state of the offender's arrival or failure to arrive as required by Rule 4.105 (b) prior to validating the case closure notice.
- (g) If the offender does not return to the sending state as ordered, the sending state shall issue a warrant no later than 10 business days following the offender's failure to appear in the sending state.

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Justification:

Reason(s) for the offender's return 4.111 (a): Currently, when a sending state receives a RFRI for a transferred offender returning to the sending state, there is no requirement for the receiving state to explain why the offender is returning. This rule change will assist in transitioning the offender back to the sending state, will improve safety for the community and victim(s), assist in addressing the offender's needs, their plan of supervision and provide the best chance of success for the offender. This information would be valuable to have and prevents the sending state from having to rely on the offender's version only. This can be achieved through an ICOTS enhancement, Compact Action Request or other means of communication between compact offices.

Creates allowance for resubmittal without requiring offender's return 3.104 & 4.111 (b):

Currently, the only time an offender is allowed to remain in the receiving state after receiving a rejection is when the offender is there with granted reporting instructions and the rejection is due to an incomplete TREQ (Rule 3.104(b)). In that instance, the offender's reporting instructions will remain in effect provided the sending state submits a completed TREQ within 15 business days following the rejection. However, if the offender's TREQ is rejected for any other reason, i.e. some aspect of the offender's plan of supervision is found to be unacceptable, the current rule requires the receiving state to initiate the offender's return within 7 business days of submitting the rejection, even if the offender has another plan of supervision to propose. With the current way the rule is written, the receiving state has no discretion to allow an offender to remain in the receiving state with granted reporting instructions while the sending state resubmits an alternative plan of supervision for investigation after receiving a rejection.

Clarifies receiving state responsibilities to supervise and provide instructions to return 4.111 (b), (c) & (d): This rule proposal clarifies that the sending state issues the reporting instructions and provides the date the offender is to return to the sending state. This proposal also clarifies that the receiving state is responsible to provide the instructions to the offender who has previously arrived pursuant to approved reporting instructions and to determine the intended departure date. If unable to provide the instructions or the offender's location is determined unknown after arriving in the receiving state pursuant to initial approved reporting instructions, the receiving state shall follow steps in Rule 4.109-2 in an attempt to locate the offender.

Clarifies responsibility of confirming offender's return 4.111 (e) (now (f)): When an offender returns to the sending state on approved reporting instructions, the Notice of Departure is submitted upon the offender's departure by the receiving state per Rule 4.111 (e). Rule 4.112 provides the receiving state may close its supervision of an offender and cease supervision upon Rule 4.112 (a)(5) return to sending state. Since it is not explicitly referred to in Rule 4.111, the receiving state may not receive confirmation of the offender's return as required in Rule 4.105. Although the Case Closure Notice reply may include this information when it is submitted to the receiving state, which by Rule must occur within 10 business days of receipt, there is no requirement the offender's arrival or failure to arrive be documented.

The Training Committee made efforts to address this through Rule Amendment training in 2016 by emphasizing that states should verify the offender's return and submit a Notice of Arrival or

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failure to arrive before validating the Case Closure Notice. In the interest of public safety and sound accountability practices, this Rule Amendment would provide clear direction to the sending state that a Notice of Arrival shall be submitted upon the offender's arrival or failure to arrive prior to validating the Case Closure Notice.