

Questions from ICAOS/NCSC Webinar (April 30, 2020 @ 3 pm ET)

Q: Does the single condition to "obey all laws" trigger a compact on eligible misdemeanor cases?

A: No, it does not. The condition must also include instructions for reporting to an entity or supervising agency (be a condition that is monitored.)

Q: When should we expect the travel restrictions and the ability to start submitting travel requests again?

A: We are seeing states already beginning to lift their travel restrictions. However, many have imposed restrictions through the month of May. You can find a full list of restrictions here on our website: <https://www.interstatecompact.org/covid19>

Q: Will there be conversation around what to do about transfer request? Specifically, I know we are able to get reporting instructions, but not having access to clients for required documents such as the signed transfer application, photo etc.

A: Yes, this is part of the presentation as the Commission has recognized there are limitations in which states may expect delays in fulfilling compact requirements and timeframes for transfers. Given the COVID-19 crisis, some states have taken emergency actions recognizing the need for signatures (i.e. notarization) to continue and have issued executive orders or enacted/considered emergency laws to allow for digital signatures. However, every state is different and has taken different measures. The onus is on the sending state to ensure the documentation they provide as a sending state is verified and legally adequate in accordance with what their state laws allow.

Q: I've noticed that offenders attempt to manipulate the 45 consecutive days by requesting numerous out of state travel passes to circumvent this Rule. How do I stop these requests and educate the Courts about Interstate Compact to create consistency?

A: Although it is known this does occur, Compact offices and supervising officers should be monitoring this to prevent it from occurring. Furthermore, this should not be occurring with the compact office's knowledge. Be sure to contact the office in your state for assistance as these actions are certainly ones the Commission would like to mitigate.

Q: Can a state deny submitting a transfer request based on money when significant proof exists showing the offender's best chance for success is in another state due to employment in a different state?

A: Practices that deny an offender the ability to access a good plan for supervision is not within the purposes of the compact. In regards to fees specifically, each state has its own requirements for waiving fees. As stated by Chair Stromberg, denying a transfer solely because of unpaid fees where a good plan truly exists in another state is not something he would support from his state.

Q: Can states deny a Transfer Request and ask us to resubmit it at a later date? Or should they wait to respond until it can be investigated? If a transfer has been denied due to COVID-19 inappropriately, does it have to be resubmitted?

A: This is a process question that has come up throughout the pandemic. States should submit requests and utilize ICOTS knowing that there may be delays in response. The Commission has recognized these delays in its passage of the emergency rule covered in this training which allows for suspension of enforcement for timelines outlined in the rules covering transfer processes. Entering data into ICOTS is the Commission's best measure to see the impact of COVID-19 on compact operations. Receiving state should not deny a Transfer Request solely due to the inability to investigate at the current time. If a transfer has been denied and your state wishes to proceed with a transfer, it will need to be resubmitted due to the functionality of the ICOTS system. ICAOS has made efforts to ensure states stop this practice through regional discussions and ensuring states are looking at requests on a case by case basis. For example, for mandatory requests, states are utilizing alternate methods for investigation to process transfers.

Q: What does it mean for a court who cancels the hold so they do not have to extradite? The offender is released to the street with no one's knowledge or follow up. Even in light of COVID-19, this should not happen, correct?

A: Correct, this action (violation of Rule 5.111) is a major concern for the Commission during this pandemic. Compact states need to prevent losing track of offenders and ensure this is not occurring.

Q: If a Sending state notifies a receiving state that they will not pick up the probationer for the foreseeable future, is there any issue with releasing the probationer on bond until they decide to pick him up? For how long?

A: In some instances, some states are working with the sending states (there must be an agreement between the states) to order an offender to return in lieu of retaking. It depends on the case. You will want to work with your compact office to see what your options are along with your agency legal counsel.

Q: Can the requirement that a home visit be conducted before someone is considered an absconder be waived during this time? We are not conducting home visits; nor is our Sheriff due to COVID 19. I have an offender that we do not know his whereabouts and no one has seen him since March, including his grandmother with whom he is supposed to be living. He is an absconder, but I cannot get a home visit at this time.

A: The requirement for a home visit is still required under the rules. Just as mentioned with investigations for transfer, the Commission realizes traditional home visits may not be possible and are not expected. States are approaching this in a variety of ways by using technology such as skype or other telecommunication methods, 'drive-by supervision,' etc. The Commission recognizes this is a challenge. The receiving state is responsible for the offender's supervision and must do its due diligence to confirm the offender has truly absconded and a warrant be issued by the sending state.

Q: What happens if the governor shuts down an entity responsible for compact supervision requirements?

A: The compact rules and duties have the force and effect of federal law therefore supersede a governor's action which may conflict with a rule or duty of the compact. With that said, the emergency guidelines policy adopted by the Commission in March does allow some leniency in enforcement of the compact requirements to prevent conflicts arising during such a time we are experiencing. The Commission would certainly work with a state in such an instance to be educated on the impact of how supervision of instate offenders is affected as the compact requires states to supervise as they would an offender sentenced in that state. Considerations can be made in light of how states are monitoring offenders realizing flexibility may be needed.

Q: For those petitioning for early release due to COVID-19, can a request for transfer be submitted with an unknown release date? As social workers work through these cases, housing plans must be approved prior to the release being approved?

A: The Commission encourages states to work together on a case-by-case basis to ensure plans can be approved given the restrictions and constraints. States need to 'think outside the box' to prevent losing track of offenders by creating a homeless situation while supporting positive supervision outcomes for the offender population the compact serves.

Q: Does the interstate compact provide for a specific time frame that the defendant must be picked up by the requesting state, or released, after he or she has waived extradition?

A: Yes, the rules do have time frames requirements. However, as mentioned during the webinar through passage of the Commission's recent policy and emergency rule, those timeframes have been extended for enforcement purposes due to the pandemic.

Q: When someone has filed for a detainer, we typically only have the 180 days for disposition of that case. What type of extension will we be given?

A: As noted during the training, through the Commission's recent policy and emergency rule, those timeframes have been extended for enforcement purposes due to the pandemic but

procedures are expected to be followed to the greatest extent. States are expected to work case-by-case to ensure appropriate timeframes are achieved.

Q: Is this recorded presentation available at a later date? We would like to have access to it to provide it to those that need it in our office.

A: Yes, the recording and presentation can be found on the Commission's website.
<https://www.interstatecompact.org/node/2862>

Q: Is anybody managing the baseline denial of transfer?

A: Yes, the Commission is monitoring activity (particularly acceptance rates during the pandemic) to ensure states are processing activities, recognizing that timeframes have been extended. The Commission has worked with several states that are inappropriately denying cases for the sole reason of not being able to investigate during the pandemic. States should reach out to the national office if experiencing this sort of activity.

Q: If case closures are denied to due covid-19, will the offender have to pay probation fees during that extension?

A: This would be up to the individual state and its ability to waive fees.

Q: How do we obtain a copy of your rules?

A: Rules can be found on the ICAOS website. www.interstatecompact.org

Q: I have an offender that the restaurant he was working at closed due to COVID-19 and he is homeless. He requested a subsequent transfer to SC. His case is from IL. Can this case be transferred at this time?

A: Yes, states are expected to continue processing transfers including subsequent transfers. Contact your state compact office for assistance.

Q: Are we required to conduct home checks for absconders on Reporting Instructions?

A: Yes, the rules have criteria that must be met (including a home check) to meet the absconder status.

Q: I have a probationer who is pending transfer to Texas and COVID-19 caused the receiving state to tell her and the APPO here that it was on hold, more than a month has passed what can we do to move this along?

A: Contact the Compact Office, Commissioner of that state, or our office for assistance.