



Interstate Commission for Adult Offender Supervision and Florida Misdemeanor Courts



What is the Interstate Commission for Adult Offender Supervision (ICAOS) and why is it important?

Compacts such as ICAOS (Interstate Commission for Adult Offender Supervision) have the authority of federal law and supersede any state law to the contrary. Currently, all 50 states, Washington D.C., Puerto Rico and the U.S. Virgin Islands are members of the Commission. The Commission promulgates rules to achieve the goals of the compact, ensures an opportunity for input and timely notice to victims and to jurisdictions where defined offenders are authorized to travel or to relocate across state lines and will establish a system of uniform data collection, provide access to information on active cases by authorized criminal justice officials, and coordinate regular reporting of Compact activities to heads of state councils, state executive, judicial, and legislative branches and criminal justice administrators. All courts and executive agencies in each member state must enforce the Compact and take all necessary actions to effectuate its purposes. Non-compliance could result in the member state receiving fines, remedial training/technical assistance, legal enforcement, or suspension/termination of membership in the Compact. Florida bound itself to this compact through FS 949.07 and requires that "The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent."

How are Misdemeanor Courts affected?

A misdemeanor is eligible for transfer (Rule 2.105) when:

Sentence = 1+ years of supervision AND	
Instant Offense includes one or more:	
<ul style="list-style-type: none"> Person incurred direct or threatened physical or psychological harm. 	<ul style="list-style-type: none"> 2nd or subsequent offense of driving while impaired by drugs or alcohol
<ul style="list-style-type: none"> Use or possession of a firearm involved. 	<ul style="list-style-type: none"> Sex offense requiring registration in the sending state

Transfer of Offenders under this Compact

Eligible Offenders	Non-eligible Offenders
All Felons Certain Misdemeanants (Rule 2.105) above	Certain Misdemeanants (Rule 2.105)
Deferred Sentences (Rule 2.106) <ul style="list-style-type: none"> Is there a finding of guilt? Has a plea been entered? Given up the right to trial? 	Those on work-release (Rule 2.107) <ul style="list-style-type: none"> Or released under furlough Or on a pre-parole program Those on a Pre-Trial Intervention Programs
"Unsupervised" Offenders requiring monitoring <ul style="list-style-type: none"> Bench Probation 	Offenders released on bail



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Eligibility of Offenders, Residency Requirements

The authority to initiate an offender for out of state placement lies exclusively within the discretion of the sending state. (Rule 3.101) An offender has no constitutional right to transfer. Rule 3.101 creates an obligation on a receiving state to accept an offender for supervision, *once the sending state has made a determination to transfer supervision*. The sending state's denial of the transfer of supervision would appear absolute and entitled to deference by the courts.

At the discretion of the sending state, an offender shall be eligible for transfer of supervision to a receiving state under the Compact. Outlined below are the 2 types of transfer:

ALL transfers are solely at discretion of the Sending State	
Mandatory <i>Receiving State MUST accept supervision after receiving state validates the information in the transfer request</i>	Discretionary <i>Receiving State has the discretion to accept or reject supervision</i>
<ul style="list-style-type: none"> • 90+ days supervision remaining • <u>Valid</u> 'plan of supervision' • 'Substantial compliance' • Qualifying reason <ul style="list-style-type: none"> • Resident of receiving state • Resident family in receiving state • Other reasons per Rule 3.101-1 	<ul style="list-style-type: none"> • Offenders not eligible for mandatory transfer • Sending state must justify "WHY" • Valid Plan of Supervision <ul style="list-style-type: none"> • Why is the offender going to be more successful in the Receiving State • Describe support system • Means of support • Living situation

- No state shall permit an offender who is eligible for transfer under this compact to relocate to another state except as provided by the Compact and these rules.
- An offender who is not eligible for transfer under this Compact is not subject to these rules and remains subject to the laws and regulations of the state responsible for the offender's supervision.

Emergency Request and Probationers Returning Home after Sentencing, (Reporting Instructions).

The rules, specifically (rule 3.103), allows for offenders who are living in the receiving state, at the time of sentencing, to receive reporting instructions pending a full investigation being conducted. This rule allows for offenders to be able to go back home. A reporting instructions request for an offender who was living in the receiving state at the time of sentencing shall be submitted by the sending state within 7 business days of the sentencing date or release from incarceration to probation supervision. **This rule is applicable to offenders incarcerated for 6 months or less and released to supervision only. This rule is not applicable to a sex offender who cannot be allowed to transfer until permission is granted.**

The sending state may grant a 7 day travel permit to an offender, excluding sex offenders, who was living in the receiving state at the time of sentencing. Prior to granting a travel permit to an offender, the sending state shall verify that the offender is living in the receiving state.

A sex offender who is a probationer returning home, must await approval of request for reporting instructions and cannot proceed unless receiving state has granted approval.



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The rules also allow for other types of emergency request to be made, in which states are required to respond within 2 business days, 5 business days for sex offenders, of request. A complete transfer request must be submitted within 7 business days of any offender granted emergency expedited reporting instructions.

Transferred Out of State – Basic Supervision Guidelines

Once the Transfer Request packet is submitted, (electronic document through ICOTS), the receiving state has 45 days to provide their reply. If Reporting Instructions have been approved and the offender has departed for the receiving state, a Notice of Departure must be submitted. The receiving state has seven (7) business days to provide the Notice of Arrival. These electronic documents must be submitted for every case.

The sending state determines the **length** of supervision. The receiving state determines the **level** (degree) of supervision. Please ensure that the supervision start and end dates are correct in the information provided.

The sending state is responsible for collecting all fines, family support, restitution, court costs, or other financial obligations imposed by the sending state on an offender. Upon notice by the sending state that an offender is not in compliance with any financial obligation, the receiving state shall notify the offender of the violation of conditions and they must comply. Additionally, offenders transferred out-of-state may be subject to a supervision fee in the receiving state.

Transferring supervision to another state is a privilege, not a right. Offenders are subject to any conditions imposed by the receiving state and are supervised in a manner consistent with the supervision of other similar offenders sentenced in the receiving state.

Violations/Warrants

Violation Reports will be submitted through ICOTS to the sending state within 30 days of the discovery of the violation, and will include police reports, toxicology reports and preliminary findings. Violation reports will only contain significant violations, meaning an offender's failure to comply with the terms or conditions of supervision that, if occurring in the receiving state, would result in a request for revocation of supervision.

Once a violation report is received, a response is required within 10 business days of the violation report being received in Florida. The Florida Compact Office will email the violation information to the local office contact.

Should the violation report indicate the offender has absconded supervision, which would require the receiving state to investigate the offender's residence, employment, family, and collateral contacts, **a nationwide warrant will be issued for the offender**, which is mandated by the rules of Interstate Compact.

Once an offender is arrested on the nationwide warrant, they shall be extradited back to Florida, as they are considered a fugitive and are to be returned under the extradition clause of the constitution. Prior to the offender's transfer, they will sign the Application for Transfer, which is also a waiver of extradition, and will waive all legal requirements to extradition of offenders who are fugitives from justice.

Retaking

Retaking is the act of Florida physically removing an offender or causing to have an offender moved from a receiving state. The act of retaking requires a warrant (nationwide) and a detainer. The offender is not subject to bail, bond or any other conditions. Retaking is the only way an offender can be returned to Florida under the compact if they originally left Florida through an approved transfer or reporting instructions.

There are 2 types of retaking: Mandatory and Discretionary. A mandatory retake would occur when an offender demonstrates Behavior Requiring Retaking, is convicted of a new felony or violent crime, or is declared an absconder. **An offender with a pending charge is not available for retaking until the charge is disposed.** A discretionary retake can occur anytime outside the mandatory guidelines.



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Florida’s retaking responsibilities include: the cost of retaking, ensuring no bail or other release considerations are allowed for the offender, retaking within 30 calendar days, and ensuring there are no detainers against the offender or extradition procedures pending. Florida may request a probable cause hearing for violations not resulting in a conviction.

Receiving State requests retake &:	Mandatory Retake?	Sending State Action
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	Yes	Issue warrant
Conviction of new violent crime	Yes	Issue warrant
“Absconder” apprehended in receiving state on sending state’s warrant	Yes	<i>Warrant previously issued per Rule 4.109-2</i> <ul style="list-style-type: none"> ▪ May ask for PC Hearing

Case Closure

The receiving state may submit a Case Closure Notice to the sending state for several reasons. These reasons include:

- The offender has reached the end of their supervision
- The offender has absconded supervision (however, a violation report must precede the case closure notice in these cases)
- The offender will be incarcerated for a period of more than 180 days
- The offender has died
- The offender has returned to the sending state

Upon receipt of the Case Closure Notice (CCN), the sending state has 10 business days to submit a Case Closure Reply.

When a CCN is received on a Florida Case supervised in another state the Compact Office staff will email the information to the local office contact for validation. Please reply to the email if the closure is valid or invalid with an explanation if invalid within 8 days of email receipt.

Ask for help

The Florida Compact Office is here to help answer your questions as a resource to the State of Florida and keep Florida in compliance with the requirements of the Compact. Do not hesitate to contact us.

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