

# Interstate Compact Transfer Guide

*This guide is intended to provide lawyers and the judiciary with a better understanding of the mandatory steps to be taken when transferring supervision to another state. (MN Statute 243.1605)*

The Interstate Commission for Adult Offender Supervision (ICAOS) rules were created to promote public safety and facilitate the movement of 250,000 offenders nationally. ICAOS rules are federal law and do not impact the judicial sentencing of an offender, only how the offender is transferred and supervised over state lines and returned to the sending state when necessary.

Compacts such as ICAOS have the **authority of federal law** and supersede any state law to the contrary. The ICAOS allows for enforcement of the compact against member states for noncompliance by: imposing fines and fees, remedial training and technical assistance, legal enforcement, and suspension or termination of membership in the Compact. All 50 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands are members of this interstate agreement.

An eligible offender placed under supervision in Minnesota **cannot** leave the state without permission from the Minnesota Interstate Compact Office.

## Transfer of Offenders under this compact (Rule 2.110 (a))

*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.* “Relocate” means to remain in another state for more than 45 consecutive days in any 12-month period.

If a compact-eligible offender is found in another state without proper authorization it is a valid reason for the transfer request to be denied. The law requires Minnesota to have the offender return to Minnesota and; if the offender refuses to return, a nationwide warrant must be entered into NCIC without any geographical restrictions.

## Eligibility

Determining eligibility requires a multi-prong analysis beginning with the definition of offender, followed by the definition of supervision and eligibility criteria.

### Definition of offender

Under the compact, an offender is defined as an adult placed under, or made subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies, and who is required to request transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision.

### Definition of supervision

Supervision has two distinct criteria:

- ✓ Authority or oversight exercised by a supervising authority, which includes courts and parole boards, for a period of time determined by a court or releasing authority; and,
- ✓ During this period the offender is required to report to or be monitored by supervising authorities, and to comply with regulations and conditions, other than monetary conditions, imposed on the offender at the time of the offender’s release to the community or during the period of supervision in the community.

## Why establish rules for every member state?

Stephanie Peyton Tuthill is the face of this interstate compact. Tuthill, a 24-year-old graduate student, was attending college in Colorado when she was murdered by Dante Terrous Paige. In college, she was the president of her sorority, an environmentalist, and a volunteer with many community programs.

Paige served 22 months of a 20-year sentence in Maryland for assault and armed robbery before he was released and transferred to Colorado to participate in a halfway house program. Paige had no family or other contacts in Colorado and his transfer occurred without any notice to Colorado authorities. Paige walked away from his program before he even began.

On February 24, 1999, Tuthill returned to her apartment to find it had been burglarized and that the burglar was still there. It was Paige. Paige proceeded to rape and murder Peyton Tuthill. The State of Maryland settled a civil suit brought by the family.

The definition of supervision captures offenders placed on “unsupervised” probation who are required to comply with certain conditions and those conditions are being monitored for compliance. The true “unsupervised” cases for compact transfer purposes are those whose only condition is monetary.

### Eligibility criteria

All felony offenders

Misdemeanor offenders with one year or more of supervision and the instant offense(s) include one or more of the following:

- ✓ An offense in which a person has incurred direct or threatened physical or psychological harm;
- ✓ An offense that involves the use or possession of a firearm;
- ✓ A second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol; or
- ✓ A sexual offense that requires the offender to register as a sex offender in the sending state.

Deferred sentences, if:

- ✓ There is a finding of guilt;
- ✓ A plea has been entered; or
- ✓ The offender has given up the right to trial.

### Offenders Living in the Receiving State at the Time of Sentencing (Rule 3.103)

A non-sex offender living in the receiving state at the time of sentencing and returning immediately after sentencing or release from incarceration of 6 months or less, can be issued a temporary 7 day travel permit to return to their home. The agent in Minnesota has 7 calendar days to obtain approved reporting instructions from the receiving state.

### Transfer of Sex Offenders (Rule 3.101-3)

- A sex offender (person required to register in either Minnesota or the receiving state) **shall not be allowed** to leave Minnesota until approved reporting instructions or final acceptance of the transfer request have been given by the receiving state.
- When requesting reporting instructions, the receiving state has 5 business days to review the proposed residence to ensure compliance with local policies or laws. If the residence is found to be invalid due to the existing state law or policy, the receiving state may deny the reporting instructions.
- No travel permit shall be granted while the transfer is pending.

### Collection of Money

A receiving state is NOT responsible for the collection of any monies owed; they are only responsible for advising the defendant of arrears when notified by Minnesota.

### Prior to Leaving Minnesota

- Most conditions of probation can be considered for transfer **except** active jail time. If another state cannot enforce a particular condition of supervision, the receiving state will notify Minnesota so it can be addressed.
- Supervision fees are collected by the receiving state and not the sending state once the case is transferred for supervision.
- If required the offender must submit a DNA sample or comply with other registration requirements.
- ALL offenders must meet with a probation officer to sign the "Offender Application for Interstate Compact Transfer" (In signing this form the offender waives all rights to extradition); a photo must be obtained, a copy of the conditions of supervision must be given to the offender, and a payment schedule established if the offender owes any money.

### Out of State Treatment

Facts to consider would be the length of the treatment program, and if the treatment program is required to provide reports back to the court or any other supervising authority. If the case is compact-eligible it most likely would not qualify under mandatory criteria; therefore, the receiving state will have the option to allow or disallow the offender to proceed immediately and ultimately accept or reject the transfer.

