

## INTRASTATE CASE TRANSFER POLICY (4/01/09)

- A. Transfer Eligibility Criteria** – Offenders, regardless of immigration status, will be eligible for a Transfer Investigation Request (TIR), Form 269, and the county of proposed residency will determine the suitability of the offenders’ plans to relocate and will submit a Reply to Transfer Investigation Request, Form 275, when offenders are:
1. on probation from a court, on supervised release or subject to the Interstate Compact but not in a pre-trial status or released from jail with conditions without also being on probation, supervised release or subject to the interstate compact, and
  2. planning to or have taken up permanent residency in another county, and
  3. not residents of proximate counties that have formal agreements not to transfer offenders between themselves, and
  4. included in one or more of the following categories:
    - a) Gross Misdemeanor Driving While Under the Influence and gross misdemeanor and misdemeanor person offenders, including, but not limited to those convicted of domestic assault, disorderly conduct with domestic assault-related conditions, or the violation of orders for protection, who have a minimum of six months of probation remaining at the time a TIR is submitted, and are:
      - assessed as high risk by the sending county using a current, validated instrument or a detailed narrative which clearly articulates why the offender should be supervised in the receiving county, e.g., significant criminal history, mental health or chemical issues or victim concerns etc. or
      - assessed as medium risk by the sending county using a current, validated instrument or a detailed narrative which clearly articulates why the offender should be supervised in the receiving county, e.g., significant criminal history, mental health or chemical issues and have unsatisfied conditions remaining other than:
        - financial obligations
        - avoidance of same or similar behaviors
        - no use of mood-altering substances without court-ordered testing, AA/NA attendance, completion of an alcohol education program or

- CWS/STS or MADD panel completion.
- b) Felony probationers, who have a minimum of six months remaining when the TIR is submitted, and are:
- assessed as medium or high risk by the sending county using a current, validated risk instrument or by a detailed narrative which clearly articulates why the offender should be supervised in the receiving county, e.g., significant criminal history, mental health or chemical issues or victim concerns etc. or
  - assessed as low risk by the sending county and have unsatisfied conditions other than:
    - financial obligations
    - avoidance of same or similar behaviors
    - no use of mood-altering substances without court-ordered testing, AA/NA attendance, or completion of an alcohol education program or
    - or CWS/STS or MADD panel completion.
- c) Any supervised release offender.
- d) All levels of offenders whose current conviction is for a sex offense or sex-related offense, which includes any offense for which registration is required and Failure to Register.
- e) Stand-alone misdemeanor, gross misdemeanor or felony offenders not included in one of the aforementioned categories who constitute a recognizable threat to public safety, and the relevant supervisors in the sending and receiving counties agree to the transfer before a Transfer Investigation Request is initiated. If the agent in the sending county is uncertain of an offender's eligibility for transfer per this provision, it is recommended that the agent in the sending county contact the relevant county liaison in the receiving county.
5. There will be no courtesy supervision. Offenders who meet the eligibility criteria will be referred to the county of residency to determine the suitability of transfer. Offenders, who are temporarily in another county in a halfway house, treatment facility or a sober house (when the sober house is a residence with the expectation of sobriety and other program requirements), will not be referred for transfer until a permanent residence is established. College students who meet eligibility criteria for transfer will be eligible for transfer. If an offender temporarily in another county is determined to be high risk, the liaison in the county of residency will be notified of the offender's placement, conviction offense and history.

6. When an offender eligible for transfer pursuant to this policy takes up residency in another county, is on either supervised release or probationary supervision with a requirement to register as a predatory offender, is assessed as high risk, and there is a pending violation that will likely result in a revocation hearing, the agent in the sending county will notify the liaison in the receiving county of the offender's presence and status. However, the jurisdiction will remain with the agent in the sending county unless the counties jointly make a decision to initiate a Transfer Investigation Request prior to the resolution of the pending violation. If the sentencing court in the sending county or the Hearings and Release Unit (HRU) declines to act on the violation, the offender will be eligible for transfer.

## **B. Transfer of Case Assignment**

1. Transfer Investigation Process
  - a) A Transfer Investigation Request will be initiated before an offender moves to another county when practical, but never more than 30 days before the offender plans to move to the second county.
  - b) When an offender takes up residency in another county without the prior approval of the receiving county, a Transfer Investigation Request will be initiated within fifteen days.
  - c) When an offender is living in another county at the time of sentencing, the sending county will initiate a Transfer Investigation Request within 30 days.
  - d) Permission must be received from the receiving county before an intensive supervised release (ISR) offender moves to another county unless the ISR offender has been under supervision for a minimum of two years without experiencing revocation or restructure.
  - e) When an offender under supervision with an assigned end-of-confinement (ECRC) Level II or III advises the supervising agent of intent to move or moves from a sending county to a receiving county, the agent in the sending county will notify the liaison in the receiving county as soon as possible. Notification will occur by telephone if necessary to accomplish prompt notification.
  - f) To the extent possible, the sending county will verify the existence and legitimacy of the proposed residence prior to submitting a Transfer Investigation Request.

2. The Transfer Investigation Request, Form 269, and accompanying materials will include:
  - a) Complete supervised release or probation information, i.e., the information identified in the Form 269 including the appropriate assessments and required attachments, information regarding the status of each condition of the offender's sentence or sentences, balances of uncompleted financial conditions, and the chronological record of the past year (except any chronological record created prior to 1/1/09) as well as copies of recent, relevant progress reports, violation reports or restructures and attachments or explanations for any un-provided information or reports. If the offender has been convicted of a person offense, victim information will be provided as well as any protection order history.
  - b) Whenever possible, a signed, legible probation or supervised release agreement.
  - c) A "Recommendation/Summary of Adjustment to Date" section which will include information regarding the offender's compliance with conditions, employment status and history and note any legal, chemical use, mental health, relationship, victim or other issues.
  - d) If the absence of a program or service or some other circumstance in the receiving county makes it impossible for an offender to comply with the conditions of supervision, the situation will be resolved with the supervising authority by the sending county before transfer occurs.
3. The receiving county will:
  - a) Identify and request information perceived to be missing or needed in addition to that provided.
  - b) Advise the sending county of the name and telephone number or e-mail address of the assigned agent within thirty days of the initiation of the Transfer Investigation Request.
  - c) Return a Reply to Transfer Investigation Request within 45 days of receipt of the Transfer Investigation Request or advise by memorandum, telephone or e-mail of the progress of the investigation. Upon completion of the Reply to Transfer Investigation Request accepting supervision, the receiving county will place the offender in a status in the county's data base to indicate the identity of the new agent in the Statewide Supervision System. Supervision jurisdiction transfers to the receiving agent at this point.

4. The sending agent will:
  - a) Upon receipt of a Reply to Transfer Investigation Request accepting supervision, send any new file material not previously sent to the receiving agent.
  - b) Place the offender in a status in the county's data base that maps to a transfer status in the Statewide Supervision System upload and verify the offender's supervision is accurately reflected in the Statewide Supervision System.
5. The level of supervision in the receiving county will be determined by the receiving county.

### **C. Transfer of Case Assignment Special Issues**

1. When an offender is eligible for transfer to a county that is served by the Department of Corrections and a County Probation Office and there are companion cases, which meet the transfer eligibility criteria established by this policy and they are supervised by both systems in the receiving county, all cases will be formally transferred to the agency providing the supervision for the highest-level offense.
2. When the supervision of an offender is transferred to another county:
  - a) It is the responsibility of the sending county to arrange jail service required as a condition of the supervision being transferred.
  - b) If the receiving county has been the offender's primary county of residence, it is the responsibility of the receiving county to arrange STS, electronic monitoring and uncompleted assessments ordered as a condition of supervision, the costs of which will be determined and assessed by the receiving county. This circumstance occurs most frequently when the offender is a resident of the receiving county when an offense is committed and is convicted of the offense in the sending county.
  - c) If an offender's primary county of residence has been the sending county or a county other than the receiving county, it is the responsibility of the sending county to arrange electronic monitoring and uncompleted assessments ordered as a condition of supervision whenever possible, and it is the offender's responsibility to arrange STS.

- d) DNA testing is the responsibility of the sending county in recognition of the short time allowed for completion.
  - e) Exceptions to responsibility for the arrangement of special conditions will be justified in the Transfer Investigation Request or by the receiving county.
3. Pursuant to M.S. 244.18, Subd. 3, Community Corrections Act and County Probation Officer counties will not impose additional fees on an offender after the offender's supervision has been transferred to the Department of Corrections.
  4. Offenders referred for transfer:
    - a) Will not be denied transfer as a result of a single positive drug test.
    - b) Will not be denied transfer as a result of a single missed appointment, and the agent in the receiving county will make a diligent effort to establish contact and to assess the proposed plan.
  5. When a plan is denied, the Reply to Transfer Investigation Request will:
    - a) clearly articulate the reason/reasons for denial,
    - b) when appropriate include ample information to enable the sending county to compose a violation report,
    - c) and include the signature of the supervisor of the agent in the receiving county to indicate the supervisor's approval of the denial.
  6. If an offender moves from one county to a second county and later to third county, it is the responsibility of the second county to arrange the transfer to the third county, since the agent in the second county is the agent of record. Similarly, if an offender moves from one county to a second and later to another state, it is the responsibility of the second county to arrange the interstate transfer. Once the third county or another state has accepted the offender, the originating county will be notified via a copy of the Form 279.
  7. If an offender moves from a sending county to a receiving county and later returns to the sending county, the receiving county will verify the offender's address in the sending county before returning supervision via the Form 279. A progress report will accompany the Form 279 and will detail the offender's compliance with conditions, employment status and history in the receiving county; note any legal, chemical use, mental health, relationship, victim or other issues; and include the chronological

record of the past year (except any chronological record created prior to 1/1/09). If the offender is in violation status, a violation report will accompany the Form 279.

8. If an offender moves from one county to a second county, becomes ineligible for transfer pursuant to this policy during residency in the second county, and moves to a third county, the second county will return supervision to the first county via Form 279. A progress report will accompany the Form 279 and will detail the offender's compliance with conditions, employment status and history in the receiving county; note any legal, chemical use, mental health, relationship, victim or other issues; and include the chronological record of the past year (except any chronological record created prior to 1/1/09). If the offender is in violation status, a violation report will accompany the Form 279.
9. If an offender violates the conditions of supervision, subsequent to the transfer of supervision:
  - a) The supervising agent in the receiving county will submit a violation report to the corrections agency in the sending county.
  - b) The sending county will prepare orders and distribute the violation report according to the practice of the sending county.
  - c) Supervision will be returned to the sending county via Form 279 only:
    - after 60 days have lapsed with no communication from the sending county or
    - the court in the sending county has issued a warrant for the offender and the offender is not apprehended within 60 days.
  - d) If supervision is continued, the agent in the sending county will advise the agent in the receiving county in writing of the court's ruling and provide the documentation available from the court.
10. Offenders deported to another country from a receiving county by Immigration and Customs Enforcement (ICE) may be returned to the sending county via a Form 279. A progress report will accompany the Form 279 and will detail the offender's compliance with conditions, employment status and history in the receiving county; note any legal, chemical use, mental health, relationship, victim or other issues; and include the chronological record of the past year (except any chronological record created prior to 1/1/09). If the offender is in violation status, a violation report will accompany the Form 279.

## 11. Discharges

- a) The receiving county may transfer supervision of an offender back to the sending county by a 279 when:
  - The offender has satisfied all the conditions of probation, and
  - has met the condition for discharge in the receiving county, and
  - a report recommending discharge has been submitted, and
  - the corrections agency in the sending county has advised that it does not permit early discharge.
- b) If the sentencing court in the sending county refuses to discharge an offender, the receiving county will continue to supervise according to the supervision standards of the receiving county.
- c) If the receiving county recommends discharge, the receiving county will not close the case or return it to the sending county via Form 279 until they have received notice from the supervision authority in the sending county or 60 days has lapsed without communication from the sending county.

## 12. Expiration Reports

For felony, gross misdemeanor and stay of adjudication misdemeanor level offenders, ninety days prior to expiration of an offender's supervision, the receiving county will provide the corrections agency in the sending county with information including the results of a criminal history check and the offender's compliance with the conditions of supervision and general adjustment. For misdemeanor level offenders, the sending county may request an update on compliance with conditions ninety days prior to expiration which the receiving county will provide.

### **D. Dispute Resolution**

When there are disputes relative to the transfer of offenders, agents will attempt to resolve matters by referring to the processes and standards identified in this policy. If they are unable to do so, they will refer the matter to their respective supervisors and/or administrators. If necessary, disputed matters will ultimately be resolved by the DOC Deputy Commissioner of Community Services.