

Training Bulletin 1-2006

Rule 2.110

Issued: October 25, 2006

Revised: N/A

ENSURING PUBLIC SAFETY FOR THE 21ST CENTURY



ICAOS

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+ **RULE 2.110** - *Transfer of offenders under this compact*

+ **ISSUED:** Oct. 25, 2006

+ **REVISED:** N/A

+ **ISSUED BY:**

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RULE 2.110 - Transfer of offenders under this compact

- 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.
- b) 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.

The Compact has identified the violation of 2.110 as one of the major non-compliance issues facing the Commission. The Commission Compliance Committee has asked that every Commissioner and DCA make a conscious effort to bring their state into compliance with this rule. States complain that when they attempt to investigate transfer requests, in the majority of cases the offender is already in the state without permission.

Rule 2.110 was written to develop the standard for interstate travel and exclude those offenders who do not meet the criteria for transfer under the Compact.

Violation of this rule presents a real threat to the safety of the public and probation and parole officers assigned to investigate transfer requests. Violation of this rule also presents a serious liability issue to the state who allows an eligible offender to proceed without permission.

The clear meaning of this rule is if an offender meets the eligibility criteria of the compact they SHALL NOT relocate to another state without the receiving states permission. ICAOS advisory Opinion 3.2004 addressed this issue. Once a transfer application has been submitted, the sending state shall not allow the offender to travel to the receiving state without permission via approved reporting instructions. The only exception to Rule 2.110 is if an offender meets the criteria under Rule 3.103. Rule 3.103 allows an offender who was living in the receiving state at the time of sentencing to return home. [Reference Rule 3.103 (b)(1)(A)(B).]

Line officers should know that when they allow an offender who meets the eligibility criteria under the compact to travel to another state prior to the receiving state conducting an investigation they are in violation of the rules of the Interstate Compact unless this offender meets the exception criteria under Rule 3.103. These rules have statutory authority and take precedence over any conflicting state law. They also have federal implications under the law of the Union Doctrine. Violation of these established rules could place the officer at risk for potential liability. If the offender was to commit a crime in the receiving state a negligent supervision suit could be filed against the officer and the sending state. If the Court found that the officer's actions rose to a level of gross negligence the officer could face punitive damages against him or her.