

WHITMAN COUNTY DISTRICT COURT

Interstate Compact Transfer Eligibility and Process

GENERAL INFORMATION

The Interstate Compact on Adult Offender Supervision (hereafter called “Compact”) is an agreement between the states that provides a legal and procedural process for the movement of offenders between states. The Compact has long been in effect for adult and juvenile felony matters, but has recently been extended to certain misdemeanors. (ESHB 1402, Ch. 400, Laws 2005, effective 7/1/2005.) The law is well settled that offenders do not have a constitutional right to travel. The Compact is intended to promote better safety to the public and is in the best interest of the Offender.

It should be noted that the Whitman County District Court does not have any authority to allow or order an offender to move to a new state without explicit acceptance by that “receiving” state.

WHICH MISDEMEANOR OFFENSES ARE COVERED BY THE COMPACT?

Movement to another state will be governed by the compact if the offender is subject to jurisdiction of the court for one year or more (regardless of the jail time ordered), there are 90 or more days remaining of that jurisdiction, there are active conditions (not just payment of fines/costs or no further law violations), and the offense falls into any of these categories:

1. An offense for which a person has incurred direct or threatened physical or psychological harm;
2. An offense that involves the use or possession of a firearm;
3. A second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol. Offenses include only the charge of DUI.
4. A sexual offense that requires the offender to register as a sex offender in the State of Washington. Offenses include Communicating with a Minor for Immoral Purposes and Sexual Misconduct with a Minor.

WHAT ARE THE ELIGIBILITY REQUIREMENTS FOR COMPACT TRANSFER TO ANOTHER STATE?

Persons who are subject to jurisdiction by the court or the probation department (whether called supervised, unsupervised, active, or court/bench probation) may be eligible to transfer their conditions (defined as “supervision” under the Compact) from Whitman County, Washington to another state if certain criteria are met. To be considered for

transfer to another state, offenders must be either a resident of that state or have immediate family and employment in that state. The following definitions will be helpful:

- Resident: For the purpose of transfer of supervision under the terms of the Compact, an offender on probation supervision may be considered a resident of the state if the offender has been an actual inhabitant of such state continuously for more than one year prior to coming to the State of Washington, intends that such state shall be the person's principal place of residence, and has not resided in the State of Washington for more than six months immediately preceding the commission of the offense for which the offender has been convicted.

Residency is a strict definition used in the Compact; being "born and raised" or having lived in a state for a long time does not necessarily qualify an applicant.

- Family: For purposes of the Compact, family is defined to be parents, grandparents, adult children, adult siblings, legal spouse, legal guardian and stepparents, who have resided in the receiving state for 180 + days. Girlfriends, boyfriends, common-law spouses, fiancées, aunts, uncles, friends, employers, etc., are not recognized family under the Compact.

- Employment: Employment is defined as full time work for an employer for which livable wages are paid and is of ongoing duration. Self-employment may be difficult to prove and is not easily accepted by a receiving state. Public grants and welfare are not accepted as employment. A receiving state may accept any offender as a discretionary acceptance independent of their qualifications under the Compact. For example, discretionary acceptance might be allowed to permit an offender to accept a college scholarship in a state he does not otherwise have a right to transfer to under the Compact. Discretionary transfers happen rarely and only for extraordinary or emergency situations.

NOTE: In order to qualify under the Compact, offenders must be in substantial compliance with the sentencing conditions. Offenders with outstanding warrants or pending court hearings for probation violations are not allowed to transfer until the non-compliance issues are resolved.

WHAT IS THE APPLICATION PROCESS?

For offenders with qualifying Whitman County District Court offenses, application for Interstate Compact transfer to another state may only be made by first applying to the Whitman County District Court Probation Department. Compact transfer requires submission of a completed application to the Probation Department, and approval of the offender's probation officer as well as the court in certain situations (Deferred Prosecution). Family, friends, or others are not permitted to apply for compact transfer of an offender.

An offender desiring to be transferred to another state should contact the Whitman County District Court Probation Department for further instructions. If Compact eligible,

there is an application that the offender is required to complete, together with a mandatory fee of \$100.00 at the time of application.

The offender will be required to provide evidence of:

1. Employment or the offer of employment in the receiving state, or other means of visible support;
2. Residency in the receiving state or has family in that state who will assist the offender with their supervision plan;
3. Compliance with all legal obligations in the State of Washington, including any other eligible offenses in any other court.

After the application packet is completed and filed with the offender's probation officer, employment and family will be verified. Once verified, the compact application packet is sent to the Washington Compact office for processing in the receiving state. A community corrections or parole officer will be assigned the case in the receiving state and will visit the proposed residence and verify employment and any other proposed plans. The receiving state is to complete this investigation and respond to Washington state with acceptance or denial of the transfer within 45 days. Processing time by the receiving states ranges from a few days to the full 45 days, depending upon a number of factors.

The offender is required to stay in Washington pending completion of the investigation and acceptance or rejection of the proposed transfer. If transfer is accepted by the receiving state, the offender will be given specific instructions on how, when and where to report in the receiving state. Travel to the receiving state during compact investigations is generally not allowed.

Washington will continue to receive reports from the sending state concerning your compliance with treatment and other conditions. If you violate the conditions of your transfer or incur new law or compliance violations in the receiving state, you can be returned to Washington. Washington has the right to require your return to this state at any time; a waiver of extradition is required as part of the application.

WHO IS ELIGIBLE FOR IMMEDIATE / EMERGENCY TRANSFER?

All offenders requesting transfer, even those requesting immediate or emergency transfer, must complete an application.

Offenders who are military members and have been deployed by the military to another state are immediately eligible for transfer, provided they are in substantial compliance with the terms of their supervision.

Offenders who live with military members, are in substantial compliance, and have a means of support in the receiving state are immediately eligible for transfer.

Offenders who live with a family member whose employment is being transferred to another state are immediately eligible provided they are in substantial compliance and have employment or a means of support, unless the receiving state can show good cause for rejecting the application.

Offenders who are already out of state residents are immediately eligible for transfer.

IN ALL ABOVE CASES, however, the offender cannot leave Washington without a valid travel permit.

FREQUENTLY ASKED QUESTIONS:

1. How can I apply for interstate compact transfer to another state?

Applications for compact transfer require the approval of the Whitman County District Court, and submission of paperwork in support of the application by the offender to the Probation Department. Offenders requesting transfer should contact the probation office at: (509) 397-6265 and ask for Mary Shaw or Sean Red. MOST OF THE TIME, THE PROBATION OFFICER'S ARE NOT AVAILABLE TO MEET DIRECTLY AFTER COURT, PLEASE CALL FOR AN APPOINTMENT

The applications forms are available at the Whitman County Probation Department.

2. What can family and friends do to assist the transfer process?

Family and friends may assist the offender by helping gather evidence of acceptable residence and employment. However, the actual application for compact transfer can only be made and completed by the offender and the probation officer.

3. How can I check on the status of an application for Interstate Compact transfer?

There is nothing that can be done to speed this process. It involves at least two agencies in two states and will normally take about 45 days. DO NOT call the compact office or the Probation Department to check on transfer status. Be patient. When the Washington compact office receives a response from the receiving state, it is immediately electronically transferred to the court/probation officer who applied and then on to the offender.

4. What can I do if my Whitman county District Court probation officer denies my request to relocate to another state?

Your Whitman County District Court probation officer is the “gate-keeper” of requests for Compact transfers. If the probation officer declines to submit a request, you may appeal to one of the District Court judges by making a request for hearing through the

District Court Clerk's office. Your completed application must be filed with the court, you must provide proof you have paid the application fee, and you must include a written statement from the probation department indicating the reason the transfer request was denied BEFORE you will be allowed to schedule a hearing before the judge.

5. What if I was sentenced before July 1, 2005 (the effective date of the Washington law)?

The law is retroactive, meaning all eligible offenders must comply with the Interstate Compact requirements even if you were sentenced before July 1, 2005. The determining factors are eligible offenses and the remaining length of probation/court jurisdiction.

This general information handout is not intended to be all-inclusive, and, due to limited resources, may not be updated as often as it could be. An additional resource is:

Interstate Commission for Adult Offender Supervision: www.interstatecompact.org