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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 291
DEPARTMENT OF CORRECTIONS

FILED
11/21/2024 3:40 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Interstate Compact

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 01/13/2025 12:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S)

Together with ORS 144.600, these rules establish Oregon's participation in the Interstate Compact for Adult Offender Supervision (ICAOS) and the processing and management of adults on supervision transferring into or out of Oregon under the provisions of this compact. They provide guidance to county community corrections agencies and Department of Corrections institutions regarding the transfer and management of adults on supervision sent or received from other states under this compact.

These revisions align this directive with state statute (ORS 144.600) regarding Oregon's participation in the Interstate Compact for Adult Offender Supervision (ICAOS); clarify Purpose statement by adding reference to the enabling legislation establishing Oregon's participation in the ICAOS; make changes for consistency throughout these rules and to change "offender" to "adult on supervision" to align with department philosophy; adopt definitions for these rules; reorganize for clarity; make non-substantive edits (such as, capitalization); update Extradition Services mailing address, and update statutory authority.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Interstate Compact for Adult Offender Supervision (ICAOS) rules as published by the Interstate Commission for Adult Offender Supervision. The rules may be viewed at the Interstate Compact for Adult Offender Supervision (ICAOS) website at www.interstatecompact.org.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The Department of Corrections anticipates that the proposed rules as amended will have an overall positive impact on racial equity in the state of Oregon. Together with ORS 144.600 the Department's division 180 rules establish Oregon's participation in the Interstate Compact for Adult Offender Supervision (ICAOS) and the processing and management of adults on supervision transferring into or out of Oregon under the provisions of this compact.

Chief among the substantive amendments to the rules proposed by the Department is an amendment to OAR 291-180-

0252 that incorporates by reference the current official ICAOS rules, as amended, adopted by the Interstate Commission for Adult Offender Supervision effective November 1, 2024. Oregon's enabling compact legislation, ORS 144.600, provides that all rules and their amendments promulgated by the Interstate Commission are binding on compacting states as of the date specified in each rule or amendment. Accordingly, this proposed amendment to the department's division 180 rules is needed to conform the department's rules to statutory requirements. As a result, the department anticipates that this rule amendment will have no impact on racial equity in this state.

Also included in this rulemaking action are proposed amendments that change the terminology used by the department when referring to and addressing individuals who are on probation, parole, post-prison supervision, or any other form of temporary or transitional leave from custody or conditional release. These proposed amendments replace the term "offender" with the term "adult on supervision" when referring to individuals on probation, parole, post-prison supervision, or any other form of temporary or transitional leave from custody or any form of conditional release. This change in terminology aligns with department's mission and guiding principles by seeking to normalize and humanize the custodial and supervision experience for persons who are committed to its custody and supervision by the courts. The department understands that all adults on supervision, including minority racial groups, are positively impacted when a culture of inclusivity, normalization, and humanization is created, and that these proposed rule amendments represent another step toward creating this culture. For this reason, the department anticipates that these proposed rule amendments will have a positive on racial equity in this state.

Lastly, there is a proposed amendment to the rules that updates the address to which a compact application fee is submitted and is not considered a substantive change. As a result, the department anticipates that this proposed rule amendment will have no impact on racial equity in this state.

FISCAL AND ECONOMIC IMPACT:

These revisions to OAR 291-180 are mostly housekeeping and definitional changes to the rule.

The changes are not anticipated to have an impact on DOC, AICs, other state agencies, local governments (the counties), or the general public.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

None.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were not involved in the development of these rules as they will not be impacted by these rules.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The department has determined that use of an advisory committee would have not provided any substantive assistance in drafting these rule revisions either because the changes are minor or technical, or the substantive changes are required per Oregon's participation in the Interstate Compact for Adult Offender Supervision (ICAOS).

RULES PROPOSED:

291-180-0106, 291-180-0107, 291-180-0252, 291-180-0262, 291-180-0265, 291-180-0274, 291-180-0275

AMEND: 291-180-0106

RULE SUMMARY: Amends rule to clarify Purpose statement by adding reference to the enabling legislation establishing Oregon's participation in the ICAOS; for consistency throughout these rules, and to change "offender" to "adult on supervision" to align with department philosophy.

CHANGES TO RULE:

291-180-0106

Authority, Purpose, Policy, and Applicability ¶¶

(1) Authority: The authority for ~~these~~ these rules is granted to the Director of the Department of Corrections in accordance with ORS 144.600, 179.040, 423.020, 423.030, and 423.075.¶

(2) Purpose: ~~Together with ORS 144.600,~~ these rules establish Oregon's participation in the Interstate Compact for Adult Offender Supervision (ICAOS) and the processing and management of ~~offenders~~ adults on supervision transferring into or out of Oregon under the provisions of this compact. They provide guidance to county community corrections agencies and Department of Corrections institutions regarding the transfer and management of ~~offenders~~ adults on supervision sent or received from other states under this compact.¶

(3) Policy: It is the policy of the Department of Corrections to fully participate in the Interstate Compact for Adult Offender Supervision in accordance with ORS 144.600 and comply with rules lawfully promulgated by the National Interstate Commission within the inherent limitations of resources.¶

(4) Applicability: These rules apply to all ~~offenders~~ adults on supervision relocating to other states; ~~or~~ or applying for or receiving interstate compact services under the Interstate Compact for Adult Offender Supervision (ICAOS). Statutory/Other Authority: ORS 144.600, 179.040, 423.020, 423.030, 423.075

Statutes/Other Implemented: ORS 144.600, 179.040, 423.020, 423.030, 423.075

ADOPT: 291-180-0107

RULE SUMMARY: Adopts rule to establish definitions for these rules.

CHANGES TO RULE:

291-180-0107

Definitions

Adult on Supervision: Any person under the supervision of the Department of Corrections or a county community corrections agency who is on probation, parole, post-prison supervision, leave, or any other form of supervision.

Statutory/Other Authority: ORS 144.600, 179.040, 423.020, 423.030, 423.075

Statutes/Other Implemented: ORS 144.600, 179.040, 423.020, 423.030, 423.075

AMEND: 291-180-0252

RULE SUMMARY: Amends rule to remove reference to the term "offender"; for consistency within these rules; and to change the term "offender" to "adult on supervision" to align with the department's philosophy.

CHANGES TO RULE:

291-180-0252

Standards for Interstate Transfer of ~~Adult Offenders~~Supervision ¶

The Department of Corrections adopts by this reference standards for the interstate transfer of ~~adult offender~~ supervision set out in the official Interstate Compact for Adult Offender Supervision (ICAOS) rules, published by the Interstate Commission for Adult Offender Supervision, as updated to reflect amendments to the rules effective ~~April 2~~November 1, 2020~~4~~. The rules may be viewed at the Interstate Compact for Adult Offender Supervision (ICAOS) website at www.interstatecompact.org.

Statutory/Other Authority: ORS 144.600, 179.040, 423.020, 423.030, 423.075

Statutes/Other Implemented: ORS 144.600, 179.040, 423.020, 423.030, 423.075

AMEND: 291-180-0262

RULE SUMMARY: Amends rule to reorganize for clarity; for consistency within these rules; and to change "offender" to "adult on supervision" to align with department philosophy.

CHANGES TO RULE:

291-180-0262

Travel Permits ¶

(1) ~~No offenders~~ Adults on supervision shall not relocate to another state except as provided by the ICAOS Interstate Compact for Adult Offender Supervision (ICAOS) rules. Travel ~~P~~permits may be issued for up to 30 days, with a subsequent extension of 15 days in emergency situations. ~~Offenders~~ Adults on supervision shall be transferred pursuant to ICAOS Interstate Compact for Adult Offender Supervision (ICAOS) rules if their need exceeds 45 consecutive days in another state. The ~~offender~~ adult on supervision shall return and remain in Oregon pending the Interstate Compact transfer process. ~~No pers~~ ¶

(2) Adults on supervision shall not be allowed to travel out of state for treatment or programming purposes that exceeds 45 consecutive days unless they have been accepted through the Interstate Compact transfer process. ¶

(~~23~~) This rule applies retroactively to all ~~offenders~~ adults on supervision relocating to other states, applying for, or receiving interstate compact services under the Interstate Compact for Adult Offender Supervision, (ICAOS) rules on or after August 31, 2011.

Statutory/Other Authority: ORS 144.600, 179.040, 423.020, 423.030, 423.075

Statutes/Other Implemented: ORS 144.600, 179.040, 423.020, 423.030, 423.075

AMEND: 291-180-0265

RULE SUMMARY: Amends rule to change "offender" to "adult on supervision" to align with department philosophy; and for non-substantive edits.

CHANGES TO RULE:

291-180-0265

Fugitives ~~From Justice~~ ¶

Transfer investigations shall not be requested or accepted ~~on offenders~~ for adults on supervision with outstanding warrants who are non-residents of the receiving state. Fugitive status is inconsistent with a proper "valid plan of supervision" and compliance with conditions of supervision. Exceptions may be granted by the Compact Administrator or ~~their~~ designee.

Statutory/Other Authority: ORS 144.600, 179.040, 423.020, 423.030, 423.075

Statutes/Other Implemented: ORS 144.600, 179.040, 423.020, 423.030, 423.075

AMEND: 291-180-0274

RULE SUMMARY: Amends rule for non-substantive edits and to improve clarity, to update Extradition Services mailing address, to update statutory authority, and to change "offender" to "adult on supervision" to align with department philosophy.

CHANGES TO RULE:

291-180-0274

Application Fee for Interstate Compact Transfers ¶

(1) Payment of Nonrefundable Application Fee Required:¶

~~(a) Offenders on probation, parole, or post-pris:¶~~

(a) Adults on supervision who request transfer of their supervision to another state under the compact must be required to submit a nonrefundable application fee of \$50.00 to the supervisory authority. The fee must be received by the supervisory authority before the Department of Corrections will process the offenderadult on supervision's transfer request.¶

(b) Payment of an additional application fee will not be required of offendersadults on supervision for processing revised or subsequent requests for transfer of their supervision to the same state. However, offendersadults on supervision who request transfer of their supervision to the same state after being returned to Oregon from the receiving state from a previous compact transfer; and offendersadults on supervision that make a subsequent request for transfer of their supervision to a different state must pay a new nonrefundable application fee.¶

(2) The supervisory authority shall collect the application fee and forward it to the Governor's Office for deposit in the Arrest and Return Account as defined in ORS 133.865.¶

(a) The fee shall be paid and collected in the form of a bank money order or cashier's check made payable and mailed to "State of Oregon, c/o Director of Extradition Services, Governor's Office, Room 160 State Capitol Building Suite 254, Salem, OR 97310"¶

(b) The payment should be identified as an Interstate Compact Application fee and include the offender's name and ~~SID~~adult on supervision's name and state identification number (SID).¶

(3) The application fee is not subject to waiver; however, upon the recommendation of the supervisory authority, the Department of Corrections may reduce the amount of the fee by up to 50% percent. In determining if a fee reduction is warranted, the supervisory authority shall consider:¶

(a) The offenderadult on supervision's financial resources;¶

(b) The burden the application fee will impose in light of the offenderadult on supervision's overall obligations;¶

(c) The rehabilitative effect of the application fee and compact transfer; and¶

(d) The community's interests in the transfer of the offenderadult on supervision.

Statutory/Other Authority: ORS 179.040, 423.020, 423.030, 423.030, 144.600, 144.605

Statutes/Other Implemented: ORS 179.040, 423.020, 423.030, 423.030, 144.600, 144.605

AMEND: 291-180-0275

RULE SUMMARY: Amends rule for consistency within these rules and to change "offender" to "adult on supervision" to align with department philosophy.

CHANGES TO RULE:

291-180-0275

Retaken ~~Offenders~~ Adults on Supervision ¶¶

(1) An ~~offender~~ adult on supervision who was previously retaken and returned to this state from another state at cost to the State of Oregon, whether by formal or informal means, shall not be approved by the Department of Corrections for an interstate compact supervision transfer under these rules until such time as the ~~offender~~ adult on supervision repays to the State of Oregon all costs incurred by the State of Oregon in effecting the ~~offender~~ adult on supervision's return to this state. Limited exceptions may be granted by the Compact Administrator or designee based on individual circumstances. ¶¶

(2) This rule applies to all ~~offenders~~ adults on supervision applying for a transfer of their supervision to another state under the Interstate Compact for Adult Offender Supervision (ICAOS) rules before, on, or after January 1, 2012; whose applications have not been previously approved by the Department of Corrections.

Statutory/Other Authority: ORS 144.600, 179.040, 423.020, 423.030, 423.075

Statutes/Other Implemented: ORS 144.600, 179.040, 423.020, 423.030, 423.075