

# Intrastate Transfer of Adult Probation Supervision

## I. Eligibility for Intrastate Transfer of Probation Supervision: Sentencing Court Responsibilities

A. At sentencing or anytime thereafter, the court that placed the person on probation may transfer supervision to a court of another jurisdiction in Indiana when one of the following has been verified:

1. The person resides in the receiving county;
2. The person works in the receiving county;
3. The person is taking educational courses in the receiving county; or
4. The person has other significant contacts in the receiving county. The original sentencing court must review petitions for subsequent transfers of probation to another county.

The person must be current with all fines, costs, probation and program fees owed to the sentencing court and incurred prior to the intrastate transfer request unless forgiven by the sentencing court, a payment agreement with due date has been signed, or a review hearing has been set. The sentencing court is responsible for collecting all fees assessed by the sentencing court.

B. The sentencing court may designate in the sentencing order or a separate order that the person is eligible for transfer of probation supervision to another Indiana county. The supervision transfer process can be initiated by either the sentencing court or by request of the person on probation

C. Under IC 35-38-2-2.3(i), supervision of a person who is required to register as a sex or violent offender (as defined in IC 11-8-8-5) may not be transferred during the period in which the sex or violent offender is required to register **unless** the sentencing court and the receiving court each enter a written order approving the transfer.

Under IC 35-38-2-2.3 (j) and (k), the orders must include factual findings related to the following factors in the receiving county:

1. whether the person has a family member who resides in the county;
2. whether the person has verified employment in the county; and

3. whether the person has verified living arrangements in the county, not including a communal housing arrangement for released prisoners.

D. A sentencing court's order must include directions for sanctioning authority. The sentencing court may:

1. retain authority to impose sanctions for any probation violation.
2. authorize the receiving court's probation department to administer administrative sanctions for technical probation violations.
3. authorize a receiving court to conduct probation revocation proceedings and impose sanctions for violations of conditions of probation. A receiving court that does not accept the authority to conduct probation revocation proceedings and impose sanctions must notify the sentencing court when accepting the transfer of supervision.

E. If the sentencing court has designated the person is eligible for transfer of probation supervision, the sentencing court must:

1. Have the person complete the "Application for Intrastate Probation Transfer" with the following information:
  - a) name and social security number (last four numbers),
  - b) address where the person resides or will reside in the receiving county,
  - c) telephone number, email address, place of employment, language (if other than English), and
  - d) significant contacts/relatives residing in receiving county (if applicable).

The person must acknowledge that they may be subject to additional probation conditions from the receiving court, factfinding, and dispositional proceedings conducted by the receiving court if authorized by the sentencing court.

2. Contact the receiving court's probation transfer contact person to determine the following:
  - a) specific date, time, location, and person the defendant should report to in the receiving county;
  - b) residency restrictions for sex or violent offenders;
  - c) availability of certified alcohol and drug program;

d) availability of sober living facilities, reentry facilities, or homeless shelters;  
and

e) availability of electronic monitoring.

3. Provide the receiving court with the signed application form and the transfer request form.

4. Confirm the availability of the following in Odyssey, INcite, or Supervised Release System:

a) Pre-sentence Investigation Report (PSI) (including attachments),

b) sentencing order,

c) transfer order (if not included in the sentencing order),

d) sex or violent offender transfer orders (orders from sentencing court and receiving court accepting the transfer),

e) probation order,

f) Indiana Risk Assessment System information (IRAS CSST completed if PSI waived),

g) complementary assessment information (if available),

h) photograph and identifying traits of the defendant,

i) whether the person's DNA has been collected, and

j) any other information the sentencing court deems appropriate.

5. Provide the receiving court with the sentencing court's probation officer contact, phone number, and email address.

6. Provide the receiving court with information if the person is already on probation under another case number, whether the other term of probation runs concurrently or consecutively, and whether the person is or has been compliant with the terms of probation.

7. Provide the receiving court with information if the person has been unsuccessfully terminated on probation previously.

F. The sentencing court may resume supervision at any time, in the sentencing court's sole discretion, after providing notice to the receiving county.

G. If the sentencing court does not transfer supervision of a person who resides in another county, the sentencing court must notify the contact person in the other county of the person's probation status.

## II. Eligibility for Intrastate Transfer of Probation Supervision: Probationer Responsibilities

A. The person on probation supervision must supply all information required by the sentencing court's probation department to determine eligibility for transfer of supervision to another county. The person must pay an intrastate transfer fee to the receiving court unless found indigent by the receiving court. The person also must be current with all fines, costs, probation fees and program fees owed to the sentencing court and incurred prior to the intrastate transfer request unless forgiven by the sentencing court, a payment agreement with due date has been signed, or a review hearing is set.

B. Conditions of Intrastate Transfer of Probation Supervision:

1. The person must report to the receiving court's contact person on the date, location, and time specified by the receiving court's probation department.
2. The person, in addition to any specific or general terms of probation imposed by the sentencing court, must agree to any specific or general terms of probation imposed by the receiving court. The receiving court may structure additional terms based upon results of an approved risk assessment and availability of programs for the offense(s) (i.e., anger management in battery cases) if approved by the sentencing court.
3. The person must agree to a fact-finding hearing, dispositional hearing, and sanctions for violating conditions of probation in the receiving county if approved by the sentencing court.
4. The person must agree to be subject to any administrative sanctions in the receiving county, whether imposed by the receiving court or the receiving court's probation department, for technical violations of probation if permitted by the sentencing court.

### III. Receipt of Intrastate Probation Supervision Transfers: Receiving Court Responsibilities

A. The receiving court must accept transfer of an person's probation supervision from the sentencing court if the person resides in the receiving county, unless the receiving court does not approve the transfer of supervision under IC 35-38-2-2.3(i).

B. The receiving court may accept transfer of supervision from the sentencing court under the following conditions:

1. The person works in the receiving county;
2. The person is taking educational courses in the receiving county; or
3. The person has other significant contacts in the receiving county.

Significant contacts in the receiving county include relatives who reside in the county and temporary housing such as homeless shelters, treatment facilities, and communal living facilities.

C. The receiving court must assign a miscellaneous criminal case number when transfer is accepted. The caption must be "In re: The Intrastate Transfer of Probation Supervision of \_\_\_\_\_."

D. The receiving court must notify the sentencing court's probation contact person of the following:

1. The receiving court's acceptance or rejection of the supervision transfer. If rejected, the reasons for rejection must be specifically stated.
2. Availability of the sentencing court's specified treatment or other services such as sober living facilities, in-patient treatment programs, homeless shelters, and other communal living facilities;
3. The receiving court's request for additional conditions of probation;
4. The person's appearance or failure to appear for the first probation meeting;
5. The person's violation of any probation conditions, including technical violations, administrative sanctions, and therapeutic adjustments as authorized by the sentencing court;
6. The person's violation of probation conditions not resolved by administrative sanctions (if revocation proceedings are **not** authorized by the sentencing court) ;

7. The filing of a petition to revoke probation and results of the fact-finding hearing (if authorized by the sentencing court) ; and

8. The person's successful completion of the probation term.

E. The receiving court may only close supervision transfer cases with the consent of the sending county in the case of violations or if the person has absconded.

F. The receiving court's probation department must supervise transfer cases in a manner consistent with the supervision of other similar cases sentenced in the receiving county, including the use of incentives, corrective actions, graduated responses, and other supervision techniques. Low risk offenders will be supervised according to the policies of the receiving county. Supervising probation officers should contact the sentencing court's probation department to request formal violation proceedings after graduated responses have been applied and violation behavior continues.

G. The receiving court's probation department should send progress reports to the sending county's contact person quarterly or more often if necessary or requested.

#### IV. Procedures for Addressing Probation Violations in Intrastate Transfer cases

A. If the person is alleged to have committed a violation of probation while under supervision in the receiving county, and if such violation is not resolved by administrative sanction:

1. The receiving court's probation department must file a notice of violation of probation under the case number assigned by the receiving court when transfer was accepted.

2. The receiving court must notify the sentencing court's probation contact person of the probation violation allegations.

3. The sentencing court's probation department may file a petition to revoke probation based on the alleged violation(s) from the receiving court's probation department.

4. If the sentencing court authorized the receiving court to conduct probation revocation proceedings and the receiving court determines that there is a violation of probation, the receiving court must forward the fact-finding order to the sentencing court's probation contact person with the alleged violations, the facts

supporting the allegations, the sanctions that were imposed, and whether the person will continue to be monitored by the receiving court.

5. If a petition to revoke probation is filed in the sentencing court, the sentencing county is responsible for the manner and cost of transportation of the person back to the sentencing court if the person is in custody in the receiving county.

## V. Distribution of Probation Fees

A. The person on probation is responsible for all costs, fines, and fees owed to the sentencing court prior to the approval of intrastate transfer. The fees owed to the sentencing court include the initial probation user's fee, the administrative fee, and monthly supervision fees while under the sentencing court's supervision. The sentencing court has the obligation to collect and enforce these fees. A sentencing court may determine if a person is indigent only for the fees owed to the sentencing court. A receiving court has no obligation to collect, enforce, or transfer fees owed to the sentencing court.

B. The person on probation is responsible for all fees, including monthly probation supervision fees and program fees, owed to the receiving court after the receiving court has accepted transfer. The person must also pay a \$75 transfer fee to the receiving court. The receiving court has the obligation to collect and enforce these fees. A receiving court may determine if a person is indigent only for the fees owed to the receiving court. A sentencing court has no obligation to collect, enforce, or transfer fees owed to a receiving court.

C. All Court Alcohol and Drug Program fees are distributed pursuant to the Rules for Court Administered Alcohol & Drug Programs.

D. If a sentencing court, in its discretion, designates a treatment provider for the person in a county other than the receiving county, the sentencing court has the obligation to collect and enforce those fees, and to monitor and receive all reports from the treatment provider. The receiving court has no obligation to monitor treatment outside its jurisdiction unless it expressly agrees to that responsibility in writing to the sentencing court.

E. Should a person on probation request multiple intrastate transfers, the person is liable for a transfer fee for each transfer request.