

prepare in triplicate.

STATE OF NEW YORK
ORDER OF INTRASTATE TRANSFER OF INTERIM PROBATION SUPERVISION

Court

County

TO (Receiving Probation Department)

Address

NAME OF INTERIM PROBATIONER

NYSID NUMBER

DATE OF BIRTH

TELEPHONE

ADDRESS OF INTERIM PROBATIONER (In Receiving County)

IN ACCORDANCE WITH SECTION 410.80 OF THE CRIMINAL PROCEDURE LAW THE FOLLOWING ORDER OF TRANSFER IS MADE:

This court designates the receiving probation department to perform the duties of probation supervision for the above interim probationer and hereby transfers supervision of said individual to the probation department subject to rules and regulations promulgated by the Division of Criminal Justice Services. Where applicable, pursuant to Criminal Procedure Law 216.05, the court has granted permission to the defendant to reside in another jurisdiction while participating in a judicial diversion program under conditions set by the court and agreed to by the defendant pursuant to subdivisions 5 and 6 of said section.

In all cases, the sending court retains its powers and duties and shall have sole jurisdiction with respect to the interim probation cases and subsequent sentencing.

DATE

SIGNATURE OF SENDING JUDGE

SENDING PROBATION DEPARTMENT REMARKS

THE ABOVE NAMED INTERIM PROBATIONER HAS BEEN INSTRUCTED TO:

await notification by your department

phone your department by _____

report to your department on _____

write to your department by _____

ENCLOSURES (Check):

Order and Conditions of Interim Probation Supervision

Summary of Interim Probation Supervision

Correspondence

Presentence Investigation Report

Modification or Enlargement of the

Other (Specify)

Sex Offender Registration Form

Conditions of Interim Probation Supervision

Other (Specify)

Fingerprints taken

No

Yes

Not Applicable

SORA Registration Completed

No

Yes

Not Applicable

If "No" to either of the above 2 requirements describe action taken to meet requirement:

DATE

NAME AND ADDRESS OF DEPARTMENT

NAME, TITLE AND SIGNATURE OF DIRECTOR OR DESIGNEE

For Receiving Probation Department Only

ACKNOWLEDGMENT OF RESIDENCY OR NON-RESIDENCY

TO (Sending Probation Department)

CHECK APPLICABLE BOX(ES):

Receipt of the above order with attachments and verification of residency in jurisdiction is hereby acknowledged. If address of interim probationer listed above is inaccurate, please indicate correct address here:

Returning the above order with attachments due to non-residency, because of the following:

interim probationer has absconded

interim probationer never resided at specified address

Interim probationer will not be living at the specified address

REMARKS

DATE

NAME AND ADDRESS OF DEPARTMENT

NAME, TITLE AND SIGNATURE OF DIRECTOR OR DESIGNEE

INTRASTATE TRANSFER
(Pursuant to CPL 216.05, 410.80, and NYCRR Part 349)

Form DCJS/OPCA-16 C must be used for the purpose of transferring a person under interim probation supervision from one county to another within the State. Any such transfer shall be pursuant to the Order of Transfer of Interim Probation Supervision made by the sending court.

NOTE: The transfer becomes effective at the time of verification of residency or after the sixtieth calendar day the Order of Transfer is received if no notification of residency or non-residency occurs within said period.

Additionally, no Intrastate Transfer shall be initiated when:

1. there exists a pending violation of interim probation in the sending jurisdiction unless the receiving probation department expresses in writing willingness to accept transfer;
2. there exists pending criminal charge(s), other than for which the defendant is under interim probation supervision, in the sending jurisdiction unless the interim probationer is a resident of the receiving jurisdiction at time of commission of the offense or when placed under interim probation supervision, or has family residing in the receiving jurisdiction with whom he/she will reside, the transfer enhances public safety, and the receiving probation department expresses in writing willingness to accept transfer.]

PREPARING FORM DCJS/OPCA-16C

A. TRANSFERRING SUPERVISION

To transfer the duties of supervision, the sending probation department must:

1. complete all sections except the section reserved for the judge's signature and the last section (acknowledgment); and
2. obtain the judge's signature.

B. PREPARING THE TRANSFER PACKET

On every interim probationer, mail to the receiving probation department a packet containing:

1. three (3) signed copies of Form DCJS/OPCA-16C;
2. Order and Conditions of Interim Probation Supervision;
3. presentence investigation and report; and
4. Sex Offender Registration Form (if applicable);
5. Order(s) of Protection (if applicable)

On a person already under supervision, also include in the packet:

1. modification or enlargement of the conditions of interim probation supervision, if any;
2. summary of interim probation supervision;
3. any existing Order(s) of Protection;
4. all completed Periodic Supervision Summaries;
5. Risk/Need Assessments and Reclassification Instruments;
6. correspondence or any other information concerning supervision.

NOTE: DO NOT forward a packet to a receiving department unless it contains all the essential material to complete a transfer in accordance with law and rules and regulations promulgated by the Division of Criminal Justice Services (NYCRR Part 349).

C. WHEN THE PACKET IS RECEIVED, A DESIGNEE OR REPRESENTATIVE IN THE RECEIVING DEPARTMENT MUST:

1. make a timely finding of residency or non-residency via contact with the interim probationer;
2. complete the last part (acknowledgment) of Form DCJS/OPCA-16C;
3. if residency is verified, retain one (1) completed copy of Form DCJS/OPCA-16C and return two to the transferring probation department; and
4. if non-residency is found, return two (2) completed copies of Form DCJS/OPCA-16C back to the sending probation department within 10 days.

D. WHEN COPIES OF FORM DCJS/OPCA-16 C WITH THE COMPLETE ACKNOWLEDGMENT ARE RETURNED TO THE TRANSFERRING DEPARTMENT, THAT DEPARTMENT WILL RETAIN ONE (1) COPY FOR ITS FILE AND FORWARD THE OTHER COPY TO THE SENDING COURT.

INTERIM PROBATION AND INTRASTATE TRANSFER

Chapter 347, Laws of 2012
Effective: August 1, 2012

Section 1. Subdivisions 1 and 2 of section 410.80 of the criminal procedure law, subdivision 1 as amended by section 51 of part A of chapter 56 of the laws of 2010 and subdivision 2 as amended by chapter 191 of the laws of 2007, are amended to read as follows:

1. Authority to transfer supervision. Where a probationer at the time of sentencing or an interim probationer at the time of the imposition of the period of interim probation supervision resides in another jurisdiction within the state, the sentencing court shall transfer supervision to the appropriate probation department in such other jurisdiction. Where, after a probation sentence or interim probation supervision is pronounced, a probationer or interim probationer desires to reside in another jurisdiction within the state that is not served by the sentencing court, such court, in its discretion, may approve a change in residency and, upon approval, shall transfer supervision to the appropriate probation department serving the county of the probationer's proposed new residence. Any transfer under this subdivision must be in accordance with rules adopted by the commissioner of the division of criminal justice services.

2. Transfer of powers. **(a)** Upon completion of transfer of probation as authorized pursuant to subdivision one, the probation department in the receiving jurisdiction shall assume all powers and duties of the probation department in the jurisdiction of the sentencing court. Upon completion of transfer, the appropriate court within the jurisdiction of the receiving probation department shall assume all powers and duties of the sentencing court and shall have sole jurisdiction in the case including jurisdiction over matters specified in article twenty-three of the correction law. Further, the sentencing court shall immediately forward its entire case record to the receiving court.

(i) In transfers involving a defendant sentenced to probation upon conviction of a felony, the receiving court served by the probation department to which supervision is transferred shall be the superior court within the jurisdiction of the probation department.

(ii) In transfers involving a defendant sentenced to probation upon conviction of a misdemeanor, the receiving court served by the probation department to which supervision is transferred shall be the appropriate criminal court within the jurisdiction of the probation department. The sending probation department shall consult with the probation department to which supervision will be transferred to determine the appropriate criminal court to receive the case.

(b) Where a transfer is authorized for a defendant on interim probation supervision pursuant to subdivision one of this section, the sentencing court shall retain jurisdiction during the period of interim probation. The probation department in the receiving jurisdiction shall assume all powers and duties of the original probation department in the jurisdiction of the sentencing court.

§ 2. Subdivision 8 of section 216.05 of the criminal procedure law, as added by section 4 of part AAA of chapter 56 of the laws of 2009, is amended to read as follows:

8. During the period of a defendant's participation in the judicial diversion program, the court shall retain jurisdiction of the defendant, provided, however, that the court may allow such defendant to reside in another jurisdiction while participating in a judicial diversion program under conditions set by the court and agreed to by the defendant pursuant to subdivisions five and six of this section. The court may require the defendant to appear in court at any time to enable the court to monitor the defendant's progress in alcohol or substance abuse treatment. The court shall provide notice, reasonable under the circumstances, to the people, the treatment provider, the defendant and the defendant's counsel whenever it orders or otherwise requires the appearance of the defendant in court. Failure to appear as required without reasonable cause therefor shall constitute a violation of the conditions of the court's agreement with the defendant.

§ 3. This act shall take effect immediately.