

Intrastate Transfer of Adult Probation Supervision

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

- A. At sentencing or anytime thereafter, the court that placed the offender on probation may transfer supervision of the offender to a court of another jurisdiction in Indiana (intrastate transfer) when one of the following has been verified:
1. Offender resides in the receiving county;
 2. Offender works in the receiving county;
 3. Offender is taking educational courses in the receiving county; or
 4. Offender has other significant contacts in the receiving county.

The original sentencing court must review petitions for subsequent transfers of probation to another county.

The offender 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. The sentencing court may conduct hearings and/or issue orders to insure all fees are collected prior to issuing an intrastate transfer order.

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

A sentencing court may authorize a receiving court to conduct probation revocation proceedings and impose sanctions on an offender for violating 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.

- C. If the sentencing court has designated the offender is eligible for intrastate transfer of probation, the sentencing court shall:
1. Have the offender complete the “Application for Intrastate Probation Transfer” with the following information: the offender’s name, date of birth, social security number, address where the offender will reside in the receiving county, telephone number, place of employment, and significant contacts/relatives residing in receiving county (if applicable). The application shall include that the offender may be subject to additional probation conditions from the receiving court, fact-finding and/or dispositional proceedings conducted by the receiving court, and detention in the receiving county, pursuant to these rules.
 2. Contact the receiving court’s probation transfer contact person to determine the specific date, time, location, and person the offender should report to in the receiving county.

3. Provide the receiving court with the offender's signed application form, the transfer request form, a copy of the Pre-sentence Investigation Report (PSI), the sentencing order, the transfer order (if not included in the sentencing order), the probation order, risk assessment forms/scores, a photograph and/or identifying traits of the offender, whether the offender's DNA has been collected, and any other information the sentencing court deems appropriate.
4. Provide the receiving court with the sentencing court's probation officer contact, phone number, fax number, and e-mail address.
5. Provide the receiving court with information if the offender is already on probation under another case number, whether the other term of probation runs concurrently or consecutively, and whether the offender is or has been in compliance with the terms of probation.
6. Provide the receiving court with information if the offender has been unsuccessfully terminated on probation previously.

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

II. Eligibility for Intrastate Transfer of Probation: Offender Responsibilities

- A. The offender shall supply all information required by the sentencing court's probation department to determine eligibility for intrastate transfer. The offender shall pay an intrastate transfer fee to the receiving court unless found indigent by the receiving court. The offender 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. The sentencing court may conduct hearings and/or issue orders to insure all fees are collected prior to issuing an intrastate transfer order.
- B. Offender's Conditions of Intrastate Transfer:
 1. The offender 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 offender, in addition to any specific or general terms of probation imposed by the sentencing court, shall 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 offender shall agree that he may be held in the receiving county's jail pending any violation of probation and that a fact-finding hearing may be held in the receiving county if approved by the sentencing court.
 4. The offender shall 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 Transfers: Receiving Court Responsibilities

- A. The receiving court must accept intrastate transfer of an offender from the sentencing court if the offender resides in the receiving county.
- B. The receiving court may accept intrastate transfer of an offender from the sentencing court under the following conditions:
 - 1. Offender works in the receiving county;
 - 2. Offender is taking educational courses in the receiving county; or
 - 3. Offender has other significant contacts in the receiving county.
- C. The receiving court shall assign a miscellaneous criminal case number when transfer is accepted. The caption shall be “In re: The Intrastate Transfer of Probation of _____.”
- D. The receiving court shall notify the sentencing court’s probation contact person of the following:
 - 1. The receiving court’s acceptance or rejection of the intrastate transfer. If rejected, the reasons for rejection shall be specifically stated.
 - 2. Availability of the sentencing court’s specified treatment or other appropriate services;
 - 3. The receiving court’s request for additional conditions of probation;
 - 4. The offender’s appearance or failure to appear for the first probation meeting;
 - 5. The offender’s violation of any probation conditions, including technical violations;
 - 6. The filing of a probation violation petition and whether a fact-finding hearing will be held;
 - 7. The results of fact-finding or administrative hearings held on probation violations; and
 - 8. The offender’s successful completion of the probation term.

IV. Procedures for Addressing Probation Violations in Intrastate Transfer cases

- A. The offender may be returned at any time to the sentencing court, in the sentencing court’s sole discretion, unless new criminal charges are pending in the receiving county. The sentencing court shall notify the receiving court of its decision to recall the offender and, if the offender is in custody, shall be responsible for the manner and costs of transportation back to the county of the sentencing court.
- B. If the offender 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 shall file a notice of violation of probation under the case number assigned by the receiving court when transfer was accepted.
 - 2. The receiving court shall notify the sentencing court of the probation violation allegations.

3. The receiving court may require the offender to appear at a probation violation fact-finding hearing by summons or warrant and may detain the offender with or without bond.
4. The receiving court may conduct a fact-finding hearing to determine if probable cause exists to believe that the offender has violated any probation conditions.
5. If the receiving court finds that there is no violation of probation, probation shall continue, and the receiving court shall notify the sentencing court concerning such finding.
6. If the receiving court determines that there is probable cause to believe that a violation of probation exists, and that the dispositional hearing should be held by the sentencing court, then the receiving court shall forward the fact-finding order to the sentencing court's probation contact person and shall set forth the alleged violations, the facts supporting the allegations, and whether the receiving court would accept the offender for continued probation in that county.
7. If the receiving court determines that there is a violation of probation, and that the sentencing court has permitted the dispositional hearing to be held by the receiving court, then the receiving court shall forward the fact-finding order to the sentencing court's probation contact person and such order shall set forth the alleged violations, the facts supporting the allegations, the sanctions that were imposed, and whether the offender will continue to be monitored by the receiving court.
8. After a finding of probable cause on a probation violation by the receiving court, the offender shall be transferred to the sentencing court for the dispositional hearing, unless otherwise specified by the sentencing court in its transfer order.
9. The sentencing court shall be responsible for the manner and/or cost of transportation of the offender back to the sentencing court if the offender is in custody in the receiving county.
10. The receiving court shall be responsible for the cost of detaining the offender in the receiving county pending resolution of the violation of probation and the securing of the offender for transport by the sentencing court.
11. In addition to the receiving court's fact-finding hearing on the probation violation, the sentencing court may require the offender to appear in the sentencing court for a dispositional hearing. The sentencing court may require the offender to appear at the dispositional hearing by summons or warrant and may detain offender with or without bond.

C. The offender has the following rights when a probation violation is filed in the receiving court:

1. Written notice of the alleged violations;
2. Right to counsel;
3. Right to remain silent if the violation involves allegations of criminal activity;
4. Right to hearing on the allegations;
5. Advisement that the State must prove allegations by a preponderance of evidence from evidence presented in open court;
6. Right to confront and cross-examine adverse witnesses;
7. Advisement of opportunity to obtain witnesses and issue subpoenas for such witnesses; and

8. Advisement of possible sanctions that could be imposed for the violation of probation.
- D. If one of the allegations for the violation of probation is that the offender committed another criminal act in the receiving county or some other county, the receiving court may delay the fact-finding hearing until resolution of the criminal charges.

V. Distribution of Probation Fees

- A. The offender is responsible for all costs, fines and fees owed to the sentencing court prior to the approval of intrastate transfer. The fees owed by the offender 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 prior to the grant of transfer. A sentencing court may determine if an offender 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 offender 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 offender must also pay a \$75 transfer fee to the receiving court. The receiving court has the obligation to collect and enforce these fees from the offender. A receiving court may determine if an offender 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 offender 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 an offender request multiple intrastate transfers, the offender shall be liable for a transfer fee for each transfer request.