1.4.G.3 Interstate Compact

I Policy Index:

II Policy:

The South Dakota Department of Corrections (DOC) will participate in the Interstate Compact for Adult Offender Supervision program, pursuant to SDCL §§ 1-15-10.1 and 1-15-10.3. The program establishes a means to allow offenders to transfer to and from other correctional systems. The Director of Classification is the Interstate Compact Administrator for the adult system.

III Definitions:

Interstate Compact for Adult Offender Supervision:
A formal agreement between member states that seeks to promote public safety by systematically controlling the interstate movements of certain adult offenders.

Man Day Credit:
The total number of inmate days that another correctional system owes the State of South Dakota.

Man Day Debt:
The total number of inmate days owed to another correctional system by the State of South Dakota.

Mixed:
Inmate sentences to the South Dakota prison system as a result of a parole violation or a suspended sentence violation with an additional conviction and sentence where at least one (1) of the prison sentences is a new system offense. Inmates with mixed sentences may have multiple parole dates.

New System:
Inmate sentences to the South Dakota prison system as a result of a crime committed on or after July 1, 1996.

Old System:
Inmate sentences to the South Dakota prison system as a result of a crime committed prior to July 1, 1996.

Receiving State:
A state to which an offender requests transfer or is transferred.
**Sending State:**
A state requesting the transfer of an offender, or which transfers an offender.

**IV Procedures:**

1. **Overview:**
   
   A. No inmate has any an implied right or expectation to be housed in any particular facility, to participate in any specific program, or receive any specific service. Inmates are subject to transfer from a facility, program or service at the discretion of the Warden or Secretary of Corrections (See SDCL § 24-2-27). Nothing in this policy nor its application may be the basis for establishing a constitutionally protected liberty, property or due process interest in any inmate.

   B. The DOC may transfer any inmate from any institution under its control to another state or federal government for like institutional care and custody (See SDCL § 1-15-10.3), even if the transfer was not requested by the inmate.

       1. To be eligible to receive a South Dakota offender, the receiving institution shall be compliant (or working towards compliance) with the Prison Rape Elimination Act (PREA) and established standards, as the standards apply to housing inmates in custody.

   C. This policy does not apply to interstate compact transfers of parolees. Parole is included as a unit affected by this policy to address the conduct of parole hearings for South Dakota inmates housed in other jurisdictions through an inmate interstate compact transfer.

2. **Inmate Requests to Transfer:**
   
   A. Inmates requesting transfer to another correctional system must submit an *Interstate Compact Request* form (See Attachment 1) to their unit staff.

       1. Unit staff will review the request and gather information pertinent to the request. The information and request will be forwarded to the Classification and Transfer office.

   B. Upon receipt of the request, the Director of Classification will enter a disposition.

       1. Possible dispositions are “denied”, “filed” or “continued for approval”.

       2. The following factors may be considered:

           a. The circumstances of the inmate’s confinement, including the term of the inmate’s sentence remaining.

           b. Protection issues, including monitoring, separation requirements or protective custody (See DOC policies 1.4.B.2 *Male Inmate Classification* and 1.4.B.14 *Female Inmate Classification*).

           c. Specific needs of the inmate.

           d. The inmate’s prior state of residence (if not South Dakota).

           e. The availability of transportation options.
f. Fiscal impact.

g. The man-day credit balance.

h. Legitimate penological interests of the SD DOC.

3. The disposition will be documented on the Interstate Compact Transfer Request Response form (See Attachment 2). The disposition will be returned to the inmate’s unit staff. Unit staff will notify the inmate of the decision. If the disposition is “continued for approval”, unit staff will proceed with the steps in Section 4 of this policy (See “Out of State Transfer Application Continued for Approval”).

C. The Director of Classification or designee will brief the Secretary or Corrections whenever there is a decision to pursue an involuntary interstate compact transfer for a South Dakota inmate.

3. Denied or Open/Active Requests:

A. If the request for transfer to the receiving state is denied, the inmate may reapply for a transfer to that state one year from the date the request was denied.

B. If the request for transfer is denied, the inmate may reapply for a transfer to another state one year from the date of denial.

C. If the request is filed, staff will maintain the request on active/open status for future reference, should the circumstances contributing to the decision change; e.g. a change in man-day credit balance.

D. Inmates with an active/open request to transfer to a specific receiving state may not reapply for transfer that same state while the request is active/open. The inmate must notify the Director of Classification in writing if they wish to terminate the request.

E. Duplicate requests submitted by an inmate will be disposed of without a response.

4. Applications:

A. Unit staff will have the inmate sign an Application for Transfer Pursuant to the Interstate Corrections Compact form (See Attachment 3) and forward this to DOC Central Records in Sioux Falls, SD for placement in the inmate’s legal file.

B. The Director of Classification or designee will initiate the Transfer Mental Health Care Summary and Transfer Health Care Summary (See Attachments 4 & 5), which Behavioral Health and Health Services staff will complete and return to the director or designee.

C. The Director of Classification will send copies of the following information to the compact administrator for the prospective receiving system/state:

1. Judgment and sentence papers.
2. Pre-sentence Investigation (PSI).
3. Current NCIC III.
4. Fingerprint card.
5. Current inmate photo.

6. Most recent classification review.

7. Transfer screen.

8. Assignment screen.

9. Sentence information.

10. Disciplinary record.

11. Visit list.

12. Copy of completed Attachments 3, 4 and 5.

13. Health evaluation.


15. Related assessments (SOMP, High Risk, IPD).

D. Upon acceptance by the receiving state, the Director of Classification or designee will make the necessary arrangements to transfer the inmate. If the inmate requested the transfer, he/she may be responsible for all or part of the transportation expenses. Involuntarily interstate compact transfers are not generally responsible for transportation expenses without cause.

E. If the request to transfer is denied by the receiving state, the Director of Classification or designee will notify the inmate’s unit staff, who will notify the inmate of the denial.

5. Requests to Transfer to the South Dakota DOC:

A. All requests to transfer to the South Dakota DOC received from an inmate housed in another state DOC, must be reviewed and approved by the Director of Classification. If approved by the director, the request will be forwarded to the respective Warden for consideration.

1. Requests from male inmates must be approved by the respective Warden of the receiving male facility. Requests from female inmates must be approved by the Warden of the South Dakota Women’s Prison.

2. The review and the final disposition will be documented on the Interstate Compact Transfer Review (See Attachment 6).

B. If the application is approved, the Director of Classification or designee will contact the sending state and coordinate the transfer.

C. If the application is denied, the Director of Classification or designee will notify the sending state.

D. The Director of Classification or designee will be responsible for maintaining an accurate record of the man-day debt or credit.

E. The Director of Classification or designee will notify the Secretary of Corrections, Director of Prison Operations and the applicable Warden of all finalized transfers to or from another correctional system on a monthly basis.
6. Parole Hearings for South Dakota Inmates:

A. Parole hearings for SD inmates transferred to another state will be conducted telephonically or electronically (See SDCL §§ 24-15-8 and 24-15A-35).

V Related Directives:

1.4. B.2 – Male Inmate Classification
1.4. B.14 – Female Inmate Classification

VI Revision Log:
Removed revisions from October 2002 to October 2009.


October 2010: Revised formatting of Section I.

October 2011: Reviewed with no changes

November 2012: Added “The completed form will be returned to the inmate’s unit staff. Unit staff will notify the inmate of the CTM’s decision” in Section 3 B. 3. Deleted “Last classification packet” and Replaced with “Most recent classification review” in Section 4 C. 6. Added “Inmates who are an involuntary transfer are not responsible for transportation expenses associated with the transfer” in Section 4 D. Deleted “If an inmate has signed the Acknowledge of Parole Hearing Process and Waiver of Personal Appearance, the SD Board of Pardons and Paroles may elect, at the discretion of the Board, to hold any review through:” and Replaced with “Parole hearings for inmates held out of state will be conducted telephonically (See SDCL)” in Section 6 A. Deleted “A hearing by the paroling authority in the receiving state (See SDCL) and” and Replaced with “If an out of state inmate wishes to admit to noncompliance with the individual program directive or wishes to admit to an alleged violation of conditions of parole, the inmate/parolee may waive his hearing” in Section 6 A. 1. Deleted “A hearing by teleconference, and/or a hearing based on a review of the inmate’s record including any written materials the inmate has submitted on his or her behalf” and Replaced with “The Parole Board may receive documentary evidence via facsimile machines or other electronic means of document transfer” in Section 6 A. 2. Deleted B. “If an inmate has not signed the Acknowledgement of Parole Hearing Process and Waiver of Personal Appearance, the SD Board may elect, at the discretion of the Board, to hold parole hearings” in Section 6. Deleted 1. “For old system cases through:” Deleted a. “A hearing by the paroling authority in the receiving state and/or” and Deleted b. “A hearing by teleconference and” and Deleted 2. “For new system cases through:” and Deleted a. “A hearing by the paroling authority in the receiving state and/or” and Deleted b. “A hearing by teleconference (A hearing by teleconference is not allowed for an initial non-compliance hearing or revocation hearing)” all in Section 6 B. Deleted Attachment 4 “Acknowledgement of Parole Hearing Process and Waiver of Personal Appearance”.

October 2013: Added 1. “To be eligible to receive a South Dakota offender, the receiving institution shall be compliant (or working towards compliance) with the Prison Rape Elimination Act (PREA) and the accompanying standards.” to Section 1 B.

October 2014: Reviewed with no changes.

October 2015: Reviewed with no changes.

October 2016: Reviewed with no changes.

October 2017: Reviewed with no changes.

October 2018: Replaced “CTM” with “Director of Classification or designee” in the policy. Added “and other specific needs of the inmate or availability of accommodations currently provided to the inmate” in Section 2 B. 2. b. Added “Director of Prison Operations” Section 5 E.

January 2020: Reviewed with no changes.
Attachment 1: Interstate Compact Request

The *Interstate Compact Request* form is located at:

M:\DOC\DOC Policies\Agency\DOC Policies\Attachment Templates\Interstate Compact Request.doc

The gray areas indicate the information that is to be entered.
Attachment 2: Interstate Compact Transfer Request Response

The *Interstate Compact Transfer Request Response* form is located at:

M:\DOC\DOC Policies\Agency\DOC Policies\Attachment Templates\Interstate Compact Transfer Request Response.doc

The gray areas indicate the information that is to be entered.
Attachment 3: Application for Transfer Pursuant to the Interstate Corrections Compact

The Application for Transfer Pursuant to the Interstate Corrections Compact form is located at:

M:\DOC\DOC Policies\Agency\DOC Policies\Attachment Templates\Application For Transfer Pursuant to the Interstate Corrections Compact.doc

The gray areas indicate the information that is to be entered.
Attachment 4: Transfer Mental Health Care Summary

The Transfer Mental Health Care Summary form is located at:

M:\DOC\DOC Policies\Agency\DOC Policies\Attachment Templates\Interstate Compact Transfer Mental Health Care Summary.doc

The gray areas indicate the information that is to be entered.
Attachment 5: Transfer Health Care Summary

The Transfer Health Care Summary form is located at:

M:\DOC\DOC Policies\Agency\DOC Policies\Attachment Templates\Interstate Compact Transfer Health Care Summary.doc

The gray areas indicate the information that is to be entered.
Attachment 6: Interstate Compact Transfer Review

The *Interstate Compact Transfer Review* form is located at:

M:\DOC\DOC Policies\Agency\DOC Policies\Attachment Templates\Interstate Compact Transfer Review.doc

The gray areas indicate the information that is to be entered.