



Illinois Department of Corrections

Administrative Directive

Number: 01.07.260	Title: Interstate Agreement on Detainers	Effective: 3/1/2022
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Authorized by:	<i>[Original Authorized Copy on File]</i> Rob Jeffreys Director
Supersedes:	01.07.260 effective 5/1/2015

Authority: 730 ILCS 5/3-8-9	Related ACA Standards: 5-ACI-1A-07, 10, 5-ACI-1F-08, 5-ACI-5F-05
Referenced Policies:	Referenced Forms:

I. POLICY

The Department shall ensure the Records Office notifies the individual in custody upon receipt of detainers from other states in accordance with the Interstate Agreement on Detainers, 730 ILCS 5/3-8-9, that provides for the expeditious and orderly disposition of all untried indictments, informations and complaints outstanding against individuals in custody.

II. PROCEDURE

A. Purpose

The purpose of this directive is to establish a written procedure for processing warrants under the Interstate Agreement on Detainers.

B. Applicability

This directive is applicable to all correctional facilities within the Department.

C. Facility Reviews

A facility review of this directive shall be conducted at least annually.

D. Designees

Individuals specified in this directive may delegate stated responsibilities to another person or persons unless otherwise directed.

E. Definitions

State – shall refer to Illinois and other states that are a party to this agreement, the United States of America, the District of Columbia and the Commonwealth of Puerto Rico.

F. Forms

The following forms have been uniformly adopted by all the party states for use in the proceedings under the Interstate Agreement on Detainers.

1. Correctional facilities shall use the following Interstate Agreement on Detainers Forms I through IV:
 - a. Interstate Agreement on Detainers Form I: Notice of Untried Indictment, Information or Complaint (Form I) shall be used to notify the individual in custody that untried indictments, informations or complaints have been filed by another state, and explains

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individual in custody rights under the Interstate Agreement on Detainers, including but not limited to the right to initiate a request for disposition or to oppose a prosecutor's request for the individual in custody's temporary custody. Form I shall be prepared in duplicate and shall list all detainers on file from other states. Copies are to be distributed as follows:

- (1) Individual in custody; and
- (2) Master record file.

b. Interstate Agreement on Detainers Form II: Inmate's Notice of Place of Imprisonment and Request for Disposition of Indictments, Informations or Complaints (Form II), is used as a request by the individual in custody for a final disposition of untried indictments, informations or complaints and operates as a waiver of extradition for trial and for service of any sentence imposed after completion of the term of imprisonment in Illinois. Copies of completed Form II, bearing the signature of the individual in custody and a witness in the two places so designated, shall be distributed as follows:

- (1) Individual in custody;
- (2) Illinois Compact Administrator;
- (3) Prosecuting attorney in the jurisdiction (state) to which the individual in custody's request is specifically directed;
- (4) If applicable, all other prosecuting officers in other jurisdictions in the same state that have lodged detainers;
- (5) Clerk(s) of the Court(s) of the receiving state;
- (6) Legal Services; and
- (7) Master record file.

c. Interstate Agreement on Detainers Form III: Certificate of Inmate Status (Form III) shall be used to advise the jurisdiction(s) of the terms of the individual in custody's commitment and status.

- (1) Copies of Form III shall be attached to all copies of Form II.
- (2) Copies of Form III shall be sent to the prosecutor upon receipt by the Chief Administrative Officer (CAO) of an Interstate Agreement on Detainers Form V: Request for Temporary Custody (Form V). Also, copies shall be sent to all other prosecutors in the same state who have lodged detainers against the individual in custody. Copies of Form III shall be distributed in the same manner as Form II.

d. Interstate Agreement on Detainers Form IV: Offer to Deliver Temporary Custody (Form IV) shall be used by the CAO to offer to deliver the individual in custody to the prosecuting attorney. In the case of an individual in custody's request for disposition, copies of this form shall be attached to all copies of Form II and Form III. In the case of a request by a prosecutor, this form shall be held until the request for temporary custody has been approved by the Governor and the court. Copies of Form IV shall be distributed in the same manner as Form II.

2. The prosecutor may use the Interstate Agreement on Detainers Forms V through IX.

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- a. Form V, signed by the prosecuting officer, is used to request temporary custody of the individual in custody.
- b. Interstate Agreement on Detainers Form VI: Evidence of Agent's Authority to Act for Receiving State (Form VI) is used to designate the agent authorized to take custody of the individual in custody. Form VI must be signed by the agent(s) and the Compact Administrator of the receiving state. The completed Form VI shall be mailed to the correctional facility, and the designated transporting agent(s) shall bring a copy of the completed Form VI to the correctional facility on the day the individual in custody's custody is to be transferred and the individual in custody transported. The agent's copy of Form VI shall be compared to the completed Form VI mailed to the correctional facility, and only the designated agent(s) shall be allowed to take custody and transport the individual in custody.
- c. Interstate Agreement on Detainers Form VII: Prosecutor's Acceptance of Temporary Custody Offered with an Inmate's Request for Disposition of a Detainer (Form VII), is used to notify the state holding the individual in custody that temporary custody of the individual in custody is accepted.
- d. Interstate Agreement on Detainers Form VIII: Prosecutor's Acceptance of Temporary Custody Offered in Connection with a Prosecutor's Request for Disposition of a Detainer (Form VIII), is used when an offer of temporary custody is made as a result of another prosecutor's request for disposition of a detainer.
- e. Interstate Agreement on Detainers Form IX: Prosecutor's Report of Disposition of Charges (Form IX) is used to notify the CAO of the disposition of the charges.

G. General Provisions

1. Parole and probation violation warrants do not fall within the terms of the Interstate Agreement on Detainers.
2. Upon receipt of a detainer or a Form V from another state, the Records Office shall notify the individual in custody and complete, in duplicate, Form I.
 - a. One copy of Form I, signed by the individual in custody and the CAO, and one copy of the detainer or the Form V shall be filed in the individual in custody's master record file.
 - b. One copy of Form I, signed by the CAO, and one copy of the detainer or the Form V shall be given to the individual in custody.

NOTE: If the individual in custody refuses to acknowledge receipt of Form I, the Records Office shall record the date the individual in custody was notified of same.
3. All copies of forms sent to appropriate prosecuting officers and courts shall be sent by certified or registered mail and a return receipt shall be requested.
4. An individual in custody transferred according to the Interstate Agreement on Detainers shall be released in the same manner as any individual in custody transferred to state courts on writs.

H. Individual in Custody's Request for Disposition - Article III

1. If the individual in custody indicates a desire to request a final disposition:
 - a. The Records Office Supervisor shall complete Form II, Form III and Form IV.

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- b. The individual in custody must sign Form II.
 - c. The individual in custody shall be interviewed and advised that this request for final disposition is deemed to be a waiver of extradition with respect to any proceedings contemplated thereby, and to serve any sentence therein imposed upon him or her, if necessary, upon completion of his or her term in Illinois.
2. After the individual in custody signs Form II:
 - a. The Records Office shall send Form II, Form III and Form IV to the prosecutor and appropriate court of the prosecuting officer whose detainer is specifically requested to be disposed of by the individual in custody.
 - b. The Records Office shall notify all appropriate prosecuting officers and courts in any other jurisdictions within the receiving state who have lodged detainers that the individual in custody has initiated a request for final disposition of all outstanding charges pending against him or her within the receiving state.
 - c. Copies of the letters and forms shall be distributed in the same manner as Form II.
 3. The individual in custody shall be released to the receiving state's custody only after the Records Office has received Form VI and Form VII. Any change in the agent(s) designated on Form VI shall be verified in writing by the requesting officer and the other state's Compact Administrator. The individual in custody shall be returned to Illinois custody with a copy of Form IX.
 4. Escape from custody by an individual subsequent to his or her execution of the request for final disposition shall void the request.
 5. If the individual in custody is not brought to trial within 180 days, he or she shall have cause to be delivered written notice of his or her written request for final disposition of the outstanding charge(s) to the court and prosecuting officer, and the court is required to dismiss the charge(s) with prejudice. Upon such an occasion, the Records Office shall write to the court and advise them that the statutory time period has elapsed. However, the detainer may not be removed from the individual in custody's master record file until the court order dismissing the indictment, informations or complaint has been received. The return receipt must be stapled to Form II.

I. Prosecuting Official's Request - Article IV

1. When a Form V is received from a prosecutor, the Records Office shall advise the individual in custody, in person, that he or she may request the Governor to disapprove the request as provided in Form I.
2. If the individual in custody agrees to sign Form II, such signature shall operate as if the individual in custody requested disposition, and the procedure in paragraph II.H shall then be followed in effectuating the individual in custody's transfer to the receiving state. In this situation, however, it will not be necessary for the prosecuting officer to complete Form VII.
3. If the individual in custody refuses to sign Form II, the Records Office shall forward Forms III and Form V, a copy of the detainer and a cover memorandum indicating the individual in custody's status to the Department's legal staff, with a copy to the State's Attorney of the county where the correctional facility is located. The Department's legal staff shall send the prosecutor's request to the Governor's office. The Records Office will be sent copies of the Governor's approval or disapproval. The Records Office shall send Form III to the prosecuting officer who initiated the custody request and, if applicable, send Form III and Form V to all other prosecuting officers in the receiving state who have lodged detainers.

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4. If the Governor approves the request, the Records Office shall notify the local State's Attorney's office to arrange for a pretransfer judicial hearing for the individual in custody pursuant to the United States Supreme Court Case *Cuyler v. Adams*, (1981) 449 U.S. 433.

 5. If the court approves the transfer, the Records Office shall notify the requesting prosecutor and other prosecuting officers, if applicable, by sending Form IV, and make arrangements to transfer the individual in custody to the receiving state upon receipt of Form VI and, if applicable, Form VIII.
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