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SUMMARY OF REVISION/REVIEW


PROCESS – IV.A. – Language updated. VI.A.4. – Section deleted. VI.B.6. – Language updated.
 VI.B.7. – Language updated. VI.B.11. – Section deleted. VI.B.12. – Section deleted. VI.B.13. – Section
 deleted. VII. Packet Process – Section completely rewritten. VIII. – Language updated.
 XIII.A. – Language updated. XIX.A. – Language updated. Minor grammar changes throughout.

APPROVED:

Rob Jeffreys

Rob Jeffreys (Dec 13, 2024 09:25 EST)

Rob Jeffreys, Director
 Nebraska Department of Correctional Services

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PURPOSE

To establish uniform procedures for interstate transfer requests for all adult correctional facilities within the Nebraska Department of Correctional Services (NDCS). It is the policy of NDCS to provide incarcerated individuals the opportunity to request a transfer to another state in accordance with State statute and the Interstate Compact Act. NDCS shall provide incarcerated individuals the opportunity to request transfer to a state under contract with NDCS for reasons defined in State statute, the contract and this policy.

Nothing in this policy shall prohibit the director from taking other actions outside the above stated guidelines when deemed necessary.

PROCESS

I. CONTRACTUAL AGREEMENTS

NDCS is authorized to enter into contractual agreements with other states and the Federal Bureau of Prisons to assist rehabilitation efforts through interstate transfer of incarcerated individuals. The director is the approving authority for all Interstate Compact Contracts.

II. INTERSTATE CORRECTIONS COMPACT

The classification division is responsible for all aspects of the Interstate Corrections Compact (ICC). The assistant deputy director–classification shall designate a point of contact to serve as the agency ICC coordinator. The ICC coordinator, under the supervision of the assistant deputy director–classification, shall coordinate and document all actions related to the provisions of the ICC.


III. INCARCERATED INDIVIDUALS REQUESTING INTERSTATE TRANSFER

Interstate transfer may be considered for one or more of the following reasons:

- A. To assist treatment and rehabilitation by enabling the incarcerated individual to be closer to and maintain family ties or gainful employment.
- B. To allow for the concurrent serving of sentence.
- C. To provide for the greater immediate personal safety of an incarcerated individual.
- D. To provide for greater facility security, custody and control.
- E. To provide for treatment and rehabilitation through specialized programs not available in the sending state that is consistent with the terms of the Compact.

IV. NON-CONSIDERATION FOR INTERSTATE TRANSFER

Nebraska incarcerated individuals with pending litigation or appeals in Nebraska courts and/or detainers that have not been adjudicated or otherwise resolved shall not be considered for interstate transfer. Facility team members will request a check of detainers/notifiers from the special services supervisor and include it with the packet. Further criteria for referrals is as follows:

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- A. No guilty findings of extortion, mutinous actions, murder, sexual assault, assault or specific and reliable information the incarcerated individual is involved in trafficking or is a leader in a security threat group within the previous 24 months. No pending misconduct (disciplinary) actions and no more than eight guilty findings within the previous 12 months of any of the following charges: use of threatening language or gestures/fighting; disobeying a direct order; unauthorized areas; and/or drug or intoxicant abuse.
- B. The incarcerated individual is not within 12 months of his/her discharge date or tentative release date.
- C. The incarcerated individual is not assigned to Long Term Restrictive Housing (LTRH) except in cases when assignment to LTRH is for the sole purpose of protective custody. The incarcerated individual must have been removed from LTRH for 12 months prior to being eligible for referral except when assignment to LTRH was for the sole purpose of protective custody.

V. TRANSPORTATION EXPENSES

Transportation expenses for transferring incarcerated individuals shall be the responsibility of the sending state.

- A. All transportation expenses for transferring Nebraska incarcerated individuals to other states are to be paid by the incarcerated individual. The amount of the cost of the transfer shall be frozen in the incarcerated individual's institutional account prior to consideration for transfer. If the transfer is anticipated to be made on an even exchange basis, only half the amount of the cost needs to be frozen. Estimated costs will be computed by the special services supervisor and can be obtained by facility team members through the ICC coordinator.


Exceptions to the incarcerated individual paying for transportation expenses must be approved by the director/designee.

- B. Transportation expenses for Nebraska incarcerated individuals in another state wishing to return to Nebraska shall be paid by the incarcerated individual unless otherwise decided by the director/designee. If the individual needs to be returned immediately to Nebraska, but does not have the funds available, the transfer may be made and the incarcerated individual's account frozen until the funds are available.

VI. VOLUNTEER BASIS ONLY

Nebraska incarcerated individuals wishing to transfer to another state must do so on a volunteer basis. No incarcerated individual shall be transferred against his/her will.

- A. The incarcerated individual must initiate the request for interstate transfer by contacting his/her case manager and completing the following forms:
 1. *Application for the Use of the Interstate Corrections Compact Services* (Attachment A)
 2. *Waiver to Appear Before the Nebraska Board of Parole* (Attachment B)

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3. *Incarcerated Individual Account Status for Interstate Transfer Request* (Attachment C)

B. The case manager shall forward the following to the ICC coordinator:

1. *Application for the use of the interstate Corrections Compact Services* (Attachment A)
2. *Waiver to Appear Before the Nebraska Board of Parole* (Attachment B)
3. *Incarcerated Individual Account Status for Interstate Transfer Request* (Attachment C) (if incarcerated individual is to pay transportation expenses)
4. Medical Release, see *Outside Agency Medical Transfer Sheet* (Attachment D)
5. *Interstate Corrections Compact Application Checklist* (Attachment G)
6. Initial classification
7. Most recent case plan
8. Copy of the Court Commitment Papers (available from records)
9. FBI sheet (available from records)
10. Fingerprint Card and Photograph (available from records)

VII. PACKET PROCESS

Upon receipt of the packet, the ICC coordinator shall forward the Incarcerated Individual Account Status for Interstate Request to inmate accounting to have transportation funds frozen.


VIII. INTERSTATE CORRECTIONS COMPACT COORDINATOR

Upon approval by the assistant deputy director – classification of the above packet, the ICC coordinator shall include copies of the *Application for the Use of the Interstate Corrections Compact Services* (Attachment A) and the *Waiver to Appear Before the Nebraska Board of Parole* (Attachment B) and forward all materials to the proposed receiving State's interstate compact coordinator.

IX. NOTIFICATION

The ICC coordinator shall notify the appropriate facility of the other state's decision about acceptance/denial for transfer, and the facility unit administrator shall be responsible for informing the incarcerated individual of the decision. A reclassification will then be initiated and processed through the normal classification procedures. The reclassification must be approved by the assistant deputy director-classification.

If the request is denied at the facility level the incarcerated individual shall be informed of the decision and the reason for it. A copy of the request and reasons for denial shall be forwarded to the ICC coordinator.

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If the request is approved at the facility level the classification and packet shall be forwarded to the assistant deputy director-classification for final approval.

X. COORDINATION

The ICC coordinator shall coordinate actual travel arrangements with the special services supervisor and the appropriate team member in the receiving state and ensure the facility warden is notified of the transfer date.

XI. PRIOR TO TRANSFER

The ICC coordinator will ensure the medical department, accounting, and the Nebraska Board of Parole are advised when the transfer occurs.

XII. LOG

A log of the parole review dates shall be maintained by the ICC coordinator. Two months prior to the scheduled review by the Nebraska Board of Parole, the ICC coordinator shall request a progress report from the receiving state and also request a courtesy review by the Parole Board in the receiving state. This information shall be forwarded to the Nebraska Board of Parole no later than the first day of the month the incarcerated individual is to have his/her case reviewed.


XIII. INCARCERATED INDIVIDUALS REMAIN UNDER THE JURISDICTION OF THE SENDING STATE

- A. Requests by other states for custody promotions, furloughs, work/educational release programs, etc. for Nebraska incarcerated individuals shall be processed through the NDCS classification system, assistant deputy director-classification.
- B. Custody promotions, furloughs, work/educational release programs, etc. for incarcerated individuals from other states will be processed through normal classification procedures. However, upon completion of the process, the proposed action shall be sent to the ICC coordinator to be forwarded to the sending state for appropriate action.

XIV. THE RECEIVING STATE CONTROL

The receiving state, as agent for the sending state, shall have physical control over and power to exercise disciplinary authority over incarcerated individuals from the sending state.

- A. When reports concerning Nebraska incarcerated individuals are received from other states, which constitute a violation punishable by loss of good time, the assistant deputy director-classification will make such a determination. Good time may be restored pursuant to NDCS policy. The incarcerated individual shall be notified in writing if good time is forfeited.
- B. Disciplinary action for incarcerated individuals from other states shall follow NDCS' normal disciplinary process. In those instances when the recommended sanction may affect the incarcerated individual's sentence structure (e.g., forfeiture of good time), the proposed action shall be sent to the interstate corrections compact coordinator to be forwarded to the sending state for appropriate action.

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XV. PROGRESS REPORTS

Facility team members shall prepare progress reports for incarcerated individuals from other states on at least an annual basis, or more frequently if requested by the sending state, see *Interstate Corrections Compact Progress Report* (Attachment E). The Nebraska Board of Parole will schedule incarcerated individuals from other states for courtesy reviews the same as for Nebraska incarcerated individuals or as requested by the sending state. All reports and notices shall be forwarded to the other states through the office of the interstate corrections compact coordinator or as directed by the ICC coordinator.

XVI. OTHER STATE CONSIDERATION

Only those incarcerated individuals from other states indicating a willingness to transfer to Nebraska will be considered. Primary consideration will be given to incarcerated individuals who have resided in Nebraska or have immediate family currently residing in Nebraska. Incarcerated individuals accepted from other states are to sign a form indicating their understanding that Nebraska's disciplinary policies and procedures may differ from the sending state and waiving the right to the disciplinary policies and procedures of the sending state while incarcerated in Nebraska, see *Request for Transfer to Nebraska* (Attachment F). However, the forfeiture of good time, or any other sanction, which may affect an incarcerated individual's sentence structure, will not be imposed without the approval of his/her sending state.

XVII. MEDICAL EXPENSES

Extraordinary medical expenses, for service other than that rendered by team members in regularly maintained facilities operated or utilized by the receiving facility, shall be the responsibility of the sending state. Unless an emergency is involved, the sending state will be contacted in advance for approval to provide the medical services. In the case of an emergency, medical services are to be provided and the sending state contacted as soon as possible and provided details of condition, treatment, and estimated cost.


XVIII. GATE PAY

Pursuant to their respective policies and procedures, the sending states are responsible for providing gate pay, bus tickets, etc. to their incarcerated individuals upon discharge or parole.

XIX. RETURNING INCARCERATED INDIVIDUALS

The process for returning incarcerated individuals to the sending state will be as follows:

- A. Incarcerated individuals from other states wishing to return to their sending state shall contact the ICC coordinator. The ICC coordinator will contact the sending state.
- B. NDCS wardens recommending return of an incarcerated individual to the sending state shall notify the ICC coordinator with his/her request. The ICC coordinator shall process the request through the assistant deputy director-classification, and if approved, contact the sending state to coordinate the return.


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- C. Nebraska incarcerated individuals requesting to return to Nebraska shall do so through the ICC coordinator who will process the request through the assistant deputy director-classification for a final decision. Nebraska incarcerated individuals will be returned at the request of officials in the receiving state and such requests do not need assistant deputy director-classification approval. Transportation arrangements to return Nebraska incarcerated individuals will be made through the special services supervisor.
- D. Incarcerated individuals returned from interstate placement shall be returned to the Reception and Treatment Center (RTC) or the Nebraska Correctional Center for Women (NCCW) for an updated assessment and classification.

XX. PROPERTY

The receiving state will notify NDCS what property NDCS incarcerated individuals are allowed to bring when transferring. All other items must be donated or sent out at the incarcerated individual's expense. Incarcerated individuals transferring to NDCS from other states will only be permitted to bring the following property items:

- A. 1 wedding band or ring.
- B. 1 commercial religious medallion, no homemade or hobby items. Medallions must be no more than 2 inches in width, no more than ¼" thick and shall not exceed 2 oz in weight.
- C. 1 Bible, Qur'an or other approved books of sacred writings
- D. Photographs (limit 25)
- E. Letters (reasonable amount and post marked within the last 7 days)
- F. Legal papers pertaining to a pending case and a small address book
- G. Prescription medications (will be given to medical)
- H. Prescription eyeglasses and soft case (darkened lenses must be approved by the eye clinic)
- I. Necessary medical devices as approved by NDCS medical team members.

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REFERENCE

I. STATUTORY REFERENCE AND OTHER AUTHORITY

A. Neb. Rev. Stat. §29-3401, §29-3402

II. NDCS POLICIES – None noted

III. ATTACHMENTS

A. Application for the Use of the Interstate Corrections Compact Services (DCS-A-adm-110-pc)

B. Waiver to Appear Before the Nebraska Board of Parole (DCS-A-adm-111-pc)

C. Incarcerated Individual Account Status for Interstate Transfer Request (DCS-A-adm-112-pc)

D. Outside Agency Medical Transfer Sheet (DCS-A-med-066-pc)

E. Interstate Corrections Compact Progress Report

F. Request for Transfer to Nebraska

G. Interstate Corrections Compact Application Checklist

IV. AMERICAN CORRECTIONAL ASSOCIATION (ACA) - None noted