

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR POLK COUNTY, FLORIDA

ADMINISTRATIVE ORDER NO. 2-67.2

IN RE: PROCEDURES FOR EXTRADITION AND DETENTION OF OUT OF STATE
V.O.P. PROBATIONERS AND PAROLEES UNDER THE INTERSTATE COMPACT

WHEREAS, it is necessary to adopt a uniform procedure for handling cases involving fugitive extradition being detained under Chapter 941, Florida Statutes, and out-of-state probationers and parolees being detained in the Polk County Jail under the Interstate Commission for Adult Offender Supervision (“I.C.A.O.S.” or “Interstate Compact”), and

WHEREAS, in accordance with the authority vested in the chief judge under article V, section 2(d), Florida Constitution; section 43.26, Florida Statutes; and Florida Rule of Judicial Administration 2.215(b)(2); it is

ORDERED that the following procedures are to be used in the handling of cases involving Out-of-State Probationers and Parolees:

- I. Extradition: All persons arrested upon a charge of treason, felony, or other crime from any other state must be brought before the court for an initial extradition hearing which will be scheduled on the First Appearance Hearing (“FAH”) Docket. Pursuant to §941.10(1), Florida Statutes, the FAH Judge “shall inform the person of the demand made for his or her surrender and of the crime with which the person is charged, and that the person has the right to demand and procure legal counsel; and if the prisoner or his or her counsel shall state that he or she or they desire to test the legality of the arrest, the judge of such court of record shall fix a reasonable time to be allowed him or her within which to apply for a writ of habeas corpus.” If subsequent hearings are deemed necessary, such hearings will be scheduled on an appropriate felony docket.
- II. Detention of Out-of-State VOP Probationers and Parolees:
 1. Whenever an offender who has been transferred for supervision under the interstate compact from a sending state is booked into the Polk County Jail by warrant or warrantless arrest on a violation of probation or parole violation, they are entitled to a first appearance hearing. See I.C.A.O.S. R. 5.108. They are not entitled to “bail or other release conditions . . .” See I.C.A.O.S. R. 5.111.
 2. At the FAH, the FAH Judge will advise the offender of their rights and will schedule a probable cause hearing, within three (3) calendar days or as close thereto as possible, on an appropriate felony docket. The Clerk, at the FAH, must also set a status hearing twenty-one (21) calendar days or as close thereto as possible on an appropriate felony docket.
 - a. If probable cause is not found, the offender must be released.
 - b. If probable cause is found, and if the offender is charged with a new criminal felony or misdemeanor charge, the offender must not be released to the sending

state until the charges are dismissed or otherwise resolved, the offender is placed on probation, or the State Attorney consents.

- c. If probable cause is found, and if the offender does not have any pending charges, then the Department of Corrections must notify the sending state and the sending state will have 15 business days thereafter to notify of its decision to retake the offender. If the sending state decides to retake the offender, the offender must be released to the sending state regardless of any status hearings, etc.
3. The status of any offender will continue to be monitored until the offender is retaken by the sending state or released. Upon the resolution of any pending charges, the Sheriff's Office Warrants Division must notify the Department of Corrections, and the sending state will have thirty (30) calendar days to pick up the offender from the date the local charges were disposed of or the offender was released from incarceration on local charges.
4. If the offender is still in custody, the Department of Corrections must update the presiding judge at the time of the offender's next status (or other) hearing of the sending state's decision to retake or not to retake the offender. If the sending state has issued a warrant for the offender, that shall be prima facie evidence of the sending state's decision to retake.
5. If the offender is arrested on the sending state's warrant and the sending state does not retake the offender within thirty (30) calendar days, the offender must be released and not rearrested on that warrant. However, the offender shall be ordered by the presiding judge to leave the State of Florida and return to the sending state and the court of appropriate jurisdiction within thirty (30) calendar days. The Offender's failure to leave the State of Florida as ordered by the Court will result in contempt of court and constitute a new violation of probation or parole for which a new warrant will be issued, and the offender shall be taken into custody and the sending state re-notified.

Effective September 8, 2021, at 12:00 a.m., Administrative Order No. 2-67.1, entered on October 4, 2005, is hereby VACATED and SUPERCEDED by this order.

DONE AND ORDERED on this 1st day of September, 2021.

s/ELLEN S. MASTERS, Chief Judge

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