INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION
RULES COMMITTEE MEETING MINUTES

January 21, 2015
1:00pm ET
WebEx

Members in Attendance:
1. Jane Seigel  Chair, IN
2. Dori Ege  AZ
3. Jenny Nimer  FL
4. Chris Moore  GA
5. John Rubitschun  MI
6. Milt Gilliam  OK
7. Tracy Hudrlik  WI
8. Ed Ligtenberg  SD
9. Jim Ingle  Ex-Officio, UT
10. Shawn Arruti  Ex-Officio, NV
11. Pat Odell  Ex-Officio, WY
12. Shari Britton  Ex-Officio, FL
13. Rick Masters  Legal Counsel

Members not in Attendance:
1. Dawn Sides  WY
2. John Gusz  Ex-Officio, NJ

Guests:
1. Regina Grimes  TX
2. Phyllis Bloomberg  WY

Staff:
1. Harry Hageman
2. Mindy Spring
3. Xavier Donnelly
4. Kevin Terry
Call to Order
Commissioner J. Seigel (IN) called the meeting to order at 1:00 p.m. ET. Eight out of nine voting members were present, quorum was established.

Approval of Agenda
Agenda was approved by acclamation.

Approval of Minutes
Commissioner D. Ege (AZ) moved to approve the minutes from November 12, 2014 as drafted. Commissioner J. Nimer (FL) seconded.

Minutes approved as presented.

Discussion
The Committee reviewed the bylaws proposals submitted by the Executive Committee.

2015-EXEC-By-LawArt2Sec2

Proposal to create/amend rules:

Section 2. Ex-Officio Members

The Commission membership shall also include but are not limited to individuals who are not commissioners and who shall not have a vote, but who are members of interested organizations. Such non-commissioner members must include a member representative of the National Governors Association, the National Conference of State Legislatures, the Conference of Chief Justices, the National Association of Attorneys General and the National Organization for Victim Assistance, of the national organizations of governors, legislators, state chief justices, attorneys general and crime victims. In addition representatives of the National Institute of Corrections, the American Probation and Parole Association, and the Association of Paroling Authorities International, the Interstate Commission for Juveniles, the Association of Prosecuting Attorneys, the Conference of State Court Administrators, the National Sheriff’s Association, the National Association of Criminal Defense Lawyers, the American Jail Association, the National Association of Police Organizations and the International Association of Chief of Police shall may be ex-officio members of the Commission.

Justification:

Needed

Commissioner E. Ligtenberg (SD) moved to forward the proposal 2015-EXEC-By-LawArt2Sec2 for the Commission’s review. Commissioner J. Rubitschun (MI) seconded. Motion passed.

The Committee reviewed the proposal 2015-EXEC-By-LawArt2Sec2 submitted by the Executive Committee.

2015-EXEC-By-LawArt2Sec2

Proposal to create/amend rules:

Section 1. Executive Committee.
The Commission may establish an executive committee, which shall be empowered to act on behalf of the Commission during the interim between Commission meetings, except for rulemaking or amendment of the Compact. The Committee shall be composed of all officers of the Interstate Commission, the chairpersons or vice-chairpersons of each committee, the regional representatives or designees, and the ex-officio victims’ representative to the Interstate Commission. The immediate past chairperson of the Commission shall also serve as an ex-officio member of the executive committee and both the ex-officio victims’ representative and immediate past chairperson shall serve for a term of two years. The procedures, duties, budget, and tenure of such an executive committee shall be determined by the Commission. The power of such an executive committee to act on behalf of the Commission shall at all times be subject to any limitations imposed by the Commission, the Compact or these By-laws.

Section 2. Standing Committees.

The Commission may establish such other committees as it deems necessary to carry out its objectives, which shall include, but not be limited to Finance Committee; Rules Committee; Compliance Committee; Information Technology Committee; and Training, Education and Public Relations Committee. The composition, procedures, duties, budget and tenure of such committees shall be determined by the Commission. In the event a chairperson of a standing committee is unable to attend a specified meeting of a standing committee or a meeting of the executive committee, each standing committee may designate a vice-chairperson to act on behalf of the standing committee at a specified standing or executive committee meeting.

Section 4. Regional Representatives.

A regional representative of each of the four regions of the United States, Northeastern, Midwestern, Southern, and Western, shall be elected or reelected, beginning with the 2005 annual meeting, by a plurality vote of the commissioners of each region, and shall serve for two years or until a successor is elected by the commissioners of that region. The states and territories comprising each region shall be determined by reference to the regional divisions used by the Council of State Governments. In the event a regional representative is unable to attend a regional meeting or a meeting of the executive committee, that region shall be authorized to designate an alternative representative who is a commissioner from the same region to act on behalf of a regional representative at a specified regional or executive committee meeting.

Justification:

Needed.

Commissioner D. Ege (AZ) moved to forward the proposal 2015-EXEC-By-LawArt2Sec2 for the Commission’s review. Commissioner J. Nimer (FL) seconded. Motion passed.

The Committee reviewed the proposal 2015-WEST-3103 submitted by the West Region.

2015-WEST-3103

Proposal to create/amend rules:

Rule 3.103 Reporting instructions; offender living in the receiving state at the time of sentencing

(a)

(1) A reporting instructions request for an offender who was living in the receiving state at the time of sentencing shall be submitted by the sending state within 7 business days of the sentencing date or release from incarceration to probation supervision. The sending state may grant a 7 day travel permit to an offender who was living in the receiving state at the time of sentencing. Prior to granting a travel permit to an offender, the sending state shall verify that the offender is living in the receiving state.
(2) The receiving state shall issue reporting instructions no later than 2 business days following receipt of such a request from the sending state.
(3) The sending state shall ensure that the offender sign all forms requiring the offender’s signature under Rule 3.107 prior to granting a travel permit to the offender. Upon request from the receiving state the sending state shall transmit all signed forms within 5 business days.
(4) The sending state shall transmit a departure notice to the receiving state per Rule 4.105.
(5) This section is applicable to offenders incarcerated for 6 months or less and released to probation supervision.

(b) The sending state retains supervisory responsibility until the offender’s arrival in the receiving state.

c) A receiving state shall assume responsibility for supervision of an offender who is granted reporting instructions upon the offender’s arrival in the receiving state. The receiving state shall submit an arrival notice to the sending state per Rule 4.105.

d) A sending state shall transmit a completed transfer request for an offender granted reporting instructions no later than 15 business days following the granting to the offender of the reporting instructions.

e) (1) If the receiving state rejects the transfer request for an offender granted reporting instructions, or if the sending state fails to send a completed transfer request by the 15th business day following the granting of reporting instructions, the sending state shall, upon receiving notice of rejection or upon failure to timely send a required transfer request, direct the offender to return to the sending state. The offender shall be required to return within 15 business days of receiving notice of rejection or failure to send a transfer request. The receiving state retains authority to supervise the offender until the offender’s directed departure date from the receiving state or issuance of the sending state’s warrant.

(2) If the offender does not return to the sending state, as ordered, the sending state shall initiate the retaking of the offender by issuing a warrant that is effective in all states without limitation as to specific geographic area, no later than 10 business days following the offender’s failure to appear in the sending state.

Justification:

Minor wording change to clarify that the offender is required to return within 15 business days.

Commissioner J. Rubitschun (MI) moved to forward the proposal 2015-WEST-3103 for the Commission’s review. Commissioner C. Norman (AL) seconded. Motion passed.

The Committee reviewed the proposal 4.111 submitted by the Midwest Region.

2015-MIDWEST-4111

Proposal to create/amend rules:

Rule 4.111 Offender requesting return to the sending state

(a) Upon an offender’s request to return to the sending state, the receiving state shall request reporting instructions, unless the offender is under active criminal investigation or is charged with a subsequent criminal offense in the receiving state. The offender shall remain in the receiving state until receipt of reporting instructions.
(b) Except as provided in subsection (c), the sending state shall grant the request and provide reporting instructions no later than 2 business days following receipt of the request for reporting instructions from the receiving state.

(c) In a victim sensitive case, the sending state shall not provide reporting instructions until the victim notification provisions of Rule 3.108 (b)(1)(C) have been followed.

(d) A receiving state shall notify the sending state as required in Rule 4.105 (a).

(e) A sending state shall assume responsibility for supervision of an offender who is granted reporting instructions upon the offender’s departure from the receiving state. A sending state shall notify the receiving state as required in Rule 4.105 (b).

**Justification:**

When an offender returns to the sending state on approved reporting instructions, the Notice of Departure is submitted upon the offender’s departure by the receiving state per Rule 4.111 (d). Rule 4.112 (a) provides the receiving state may close its supervision of an offender and cease supervision upon (5) Return to sending state. Since it is not required by Rule, at the sending state’s discretion, a Notice of Arrival may or may not be submitted notifying the receiving state of the offender’s arrival. Therefore, the receiving state may not receive confirmation of the offender’s return. Although the Case Closure Notice reply may include this information when it is submitted to the receiving state, which by Rule must occur within 10 business days of receipt, there is no requirement the offender’s arrival or failure to arrive be documented. In the interest of public safety and sound accountability practices, it needs to be clear that the sending state has assumed supervision upon the offender’s return to the sending state. This Rule Amendment would provide clear direction to the sending state that a Notice of Arrival must be submitted upon the offender’s arrival or failure to do so.

Commissioner D. Ege (AZ) moved to forward the proposal 2015-MIDWEST – 4.111 for the Commission’s review. Commissioner C. Norman (AL) seconded. Motion passed.

The Committee reviewed proposal 5.____ submitted by the West Region.

2015-WEST-5____NewRule

**Proposal to create/amend rules:**

**Rule 5.---**

(a) Notwithstanding any other rule, an offender who is serving an incarceration sentence of 1 year or more in the receiving state for a new felony or misdemeanor conviction(s) which occurred during the compact period may serve any incarceration ordered by the sending state concurrent with the receiving state’s sentence and not be required to be retaken provided:

1. The sending state conducts, at its own expense, an electronic or in-person violation hearing and orders any additional incarceration time be served concurrent with the receiving state sentence.

(b) The sending state shall send the violation hearing results to the receiving state within 10 business days and the receiving state shall close the case under Rule 4.112(a)(3).

(c) In cases where the receiving state conviction is a felony or violent crime, if the offender completes the receiving state sentence prior to the sending state’s violation sentence being completed, the sending state shall retake the offender as required by Rule 5.102.

**Justification:**
Current rules require sending states to retake offenders when a new Felony or violent crime conviction has occurred in the receiving state. The offender must wait out their sentence in the receiving state before the sending state can retake the offender, deal with the violation and if applicable, order any additional incarceration time be served. The offender is prevented from serving their violation time concurrent with their new sentence by virtue of the fact that they are a compact offender. In some cases this may be years before the offender is retaken by the sending state.

This proposal would still hold the offender accountable for new conviction violations but would give the sending state flexibility to order any additional incarceration time to be served concurrent with a new conviction. The sending state would be obligated to conduct a violation hearing, and if the offender completes their time in the receiving state prior to the completion of any violation time, the offender would still be required to be retaken under existing rule 5.102. This proposal would actually enhance public safety as currently the rules only require a sending state to retake (but not necessarily re-incarcerate) an offender. Under this proposal, the offender is held accountable immediately and states will be much less likely to terminate a case after a retaking. This proposal also fits with “swift and certain” violation sanctions as advocated by justice reinvestment.

The Committee decided to table the proposal’s discussion until its face-to-face meeting.

**New Business**

The Committee will meet again at 1 pm on February 24, 2015.

Commissioner J. Seigel (IN) reminded the Committee members to register for the face-to-face meeting in Indianapolis.

**Adjourn**

Commissioner J. Rubitschun (MI) moved to adjourn the meeting. Commissioner T. Hudrlik (WI) seconded. Motion passed. The meeting adjourned at 1:32 pm ET.