INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION

RULES COMMITTEE MEETING MINUTES

February 20-21, 2013

Indianapolis, IN

Members in Attendance:
1. Jane Seigel Chair, IN
2. David Eberhard AR
3. Dori Ege AZ
4. Jenny Nimer FL
5. Chris Moore GA
6. Tim Hand CO
7. Ed Ligtenberg SD
8. John Rubitschun MI
9. Michael Potteiger PA
10. Jim Ingle Ex-Officio, UT
11. John Gusz Ex-Officio, NJ
12. Shari Britton Ex-Officio, FL

Members not in Attendance:
1. Jule Cavanaugh WI
2. Gerald VandeWalle Ex-Officio, ND

Staff:
1. Rick Masters
2. Harry Hageman
3. Mindy Spring

Call to Order
Chair J. Seigel (IN) called the meeting to order at 8:32 a.m. ET. Nine voting members were present, a quorum was established.

Approval of Agenda
Agenda approved by acclamation.

Approval of Minutes

Approved on 05/03/2013. B.S. 1
Commissioner E. Ligttenberg (SD) moved to approve the minutes from November 1, 2012 as drafted. Commissioner D. Eberhard (AR) seconded. Minutes approved as drafted.

Discussion
The Committee decided to review rule proposals submitted by standing committees in order of rule number.

The Committee reviewed an amendment to Rule 1.101 proposed by the Midwest Region.

*West Region Rule 1.101*

“Abscond” means to be absent from the offender’s approved place of residence or employment with the intent of and avoiding supervision.

The Committee unanimously endorsed the proposal.

The Committee reviewed an amendment to Rule 1.101 proposed by the West Region.

*West Region Rule 1.101*

“Warrant” means a written order of the court or authorities of a sending or receiving state or other body of competent jurisdiction which is made on behalf of the state, or United States, issued pursuant to statute and/or rule and which commands law enforcement to arrest an offender. The warrant shall be entered in the National Crime Information Center (NCIC) Wanted Person File with a nationwide pick-up radius with no bond amount set.

The Committee unanimously endorsed the proposal.

The Committee reviewed two rule proposals to Rule 2.105 proposed by the West Region.

*West Region Rule 2.105 version 1*

**Rule 2.105 Misdemeanants**

(a) A misdemeanor offender whose sentence includes 1 year or more of supervision shall be eligible for transfer, provided that all other criteria for transfer, as specified in Rule 3.101, have been satisfied; and the instant offense includes 1 or more of the following:

1. an offense in which a person has incurred direct or threatened physical or psychological harm;
2. an offense that involves the use or possession of a firearm;
3. a 2nd or subsequent misdemeanor offense of driving while impaired by drugs or alcohol;
4. a sexual offense that requires the offender to register as a sex offender in the sending state.

*West Region Rule 2.105 version 2*

**Rule 2.105 Misdemeanants**
A misdemeanor offender whose sentence includes 1 year 25 months or more of supervision shall be eligible for transfer, provided that all other criteria for transfer, as specified in Rule 3.101, have been satisfied; and the instant offense includes 1 or more of the following—

(1) an offense in which a person has incurred direct or threatened physical or psychological harm;
(2) an offense against a person that involves the use or possession of a firearm;
(3) a 2nd or subsequent misdemeanor offense of driving while impaired by drugs or alcohol;
(4) a sexual offense that requires the offender to register as a sex offender in the sending state.

The Committee discussed the version #2 in regards to determining which misdemeanants should be available for transfer of supervision.

- Issues with Colorado municipal courts not recognizing the Compact and the fact that some states do not have the infrastructure to identify all qualifying misdemeanants
- Receiving state can do its own risk assessment to determine supervision level
- Handling of retaking since many states do not want to spend the money to return misdemeanor offenders
- Commissioner D. Eberhard (AR) stated that offenses covered in Rule 2.105 are not typically offenders who reoffend, but the public perceives the offenses to be in need of supervision
- Sending state should have more discretion in determining which misdemeanants should be transferred
- Misdemeanants should be allowed to return as directed without a warrant when subject to retaking
- Commissioner J. Seigel (IN) stated that Indiana has statutory language to ensure the responsible jurisdiction pays for any fines imposed by the Compact for non-compliance with the rules.

After discussion, the Rules Committee drafted an amendment to Rule 2.105 version #3.

### Rule 2.105 Misdemeanants version #3

(a) A misdemeanor offender who is initially charged with a felony and whose sentence includes 1 year or more of supervision shall be eligible for transfer, provided that all other criteria for transfer, as specified in Rule 3.101, have been satisfied; and the instant offense includes 1 or more of the following—

(1) an offense in which a person has incurred direct or threatened physical or psychological harm;
(2) an offense that involves the use or possession of a firearm;
(3) a 2nd or subsequent misdemeanor offense of driving while impaired by drugs or alcohol;
(4) a sexual offense that requires the offender to register as a sex offender in the sending state.

(b) A misdemeanor offender who is not initially charged with a felony and whose sentence includes 1 year or more of supervision and is convicted of one of the above offenses may,
at the discretion of the sending state, be eligible for transfer, provided that all other
criteria for transfer, as specified in Rule 3.101, have been satisfied.

Commissioner E. Ligtenberg (SD) moved to propose Rule 2.103 version #3 to the

The Committee reviewed a new rule proposed by the West Region.

**Rule 3._____ Reporting Instructions; Offenders Released on a Parole Detainer**

(a) When a sending state verifies an offender has been paroled to a detainer is extradited to
another state and subsequently released on that detainer, upon notification of the
offenders release the sending state shall request reporting instructions for the offender
within 24 hours of release.

(b) The receiving state shall issue reporting instructions no later than 2 business days
following the receipt of the request from the sending state.

(c) The receiving state shall assist the sending state in completion of the Offender Application
for Interstate Compact Transfer and mail the original to the sending state to attach in the
transfer request.

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

(e) 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:

(1) 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 within 15 calendar 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
calendar days following the offender’s failure to appear in the sending state.

The Committee discussed the origin of the proposal – the rule was proposed because of
Reporting Instructions are denied, when offender is in the receiving state prior to acceptance.

Commissioner D. Ege (AZ) stated that the proposal does not address sex offenders and is
inconsistent with Rule 3.101-3. The situation addressed in the proposal is a training and
communication issue and states can use Rule 3.106 to get Reporting Instructions for these
offenders.
Commissioner D. Ege (AZ) stated that most of the time, these offenders cannot leave Arizona when they are released.

Commissioner D. Ege (AZ) will write reasons why this rule is not necessary. If the Region decides to still move forward with the proposal, Commissioner D. Ege (AZ) will list the missing elements and other considerations that need to be addressed before the final action is taken by the Commission.

The Committee reviewed an amendment to Rule 3.103 proposed by the Technology Committee.

**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 seven calendar days of the sentencing date or release from incarceration to probation supervision. The sending state may grant a seven 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 two 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 calendar days following the granting to the offender of the reporting instructions.

(e) Upon rejection of the transfer request or if sending state fails to send a completed transfer request by the 15th calendar day following the granting of reporting instructions, the receiving state may allow the offender to remain in the receiving state. If the receiving state decides to return the offender to the sending state, the receiving state shall request reporting instructions for the offender to return.
(f) Except as provided in subsection (g), the sending state shall grant the request and provide reporting instructions no later than two business days following receipt of the request for reporting instructions from the receiving state.

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

(h) The offender shall remain in the receiving state until the directed departure date. The receiving state retains authority to supervise the offender until the offender’s directed departure date or issuance of the sending state’s warrant. Upon departing, the receiving state shall notify the sending state as required in Rule 4.105 and submit a case closure as required by 4.112.

(i) 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 calendar days following the offender’s failure to appear in the sending state.

Commissioner D. Ege (AZ) noted that after the rejection, the sending state is responsible for the offender and the correspondence for returning these offenders is typically conducted outside of ICOTS.

The proposal is intended to use existing tracking component in ICOTS via returning reporting instructions and subsequent Notice of Departure and Notice of Arrival.

Commissioner D. Ege (AZ) stated reporting instructions would not be appropriate since case is in “rejected” status and it is unclear in the rule what the intention is for the language “retains authority to supervise.”

Commissioner J. Nimer (FL) suggested that the “may allow to remain” in the Technology Committee’s proposal could be in regards to allowing the offender to get another placement before requiring the offender to return.

Ex-Officio J. Ingle (UT) suggested implementing the concept of the proposal into Rule 4.112 and using the Case Closure process to verify the offender has returned as ordered.

The Committee decided to adjust the order of proposals to look at modifying Rule 4.112 and communicate to the Technology Committee of its action and suggestion.

The Committee reviewed an amendment to Rule 4.112 proposed by the East Region.

East Region Proposal Rule 4.112

Rule 4.112 Closing of supervision by the receiving state

(a) The receiving state may close its supervision of an offender and cease supervision upon-
(1) The date of discharge indicated for the offender at the time of application for supervision unless informed of an earlier or later date by the sending state;
(2) Notification to the sending state of the absconding of the offender from supervision in the receiving state;
(3) Notification to the sending state that the offender has been sentenced to incarceration for 180 days or longer, including judgment and sentencing documents and information about the offender’s location;
(4) Notification of death; or
(5) Return to sending state.

(b) A receiving state shall not terminate its supervision of an offender while the sending state is in the process of retaking the offender under Rule 5.101.

(c) At the time a receiving state closes supervision, a case closure notice shall be provided to the sending state which shall include last known address and employment. The receiving state shall submit a case closure notice within 10 business days after the maximum expiration date.

(d) The sending state shall submit the case closure notice reply to the receiving state within 10 business days of receipt.

The Rules Committee endorsed the proposal with a slight modification to the change the word “of” to “after” clarifying that the case closure should not be submitted before the closure date.

The Rules Committee drafted a new proposal for Rule 4.112 to add (a)(6) and (e) intended to track rejected offenders and encourage action by the receiving state when a warrant is issued.

**Rule 4.112 Closing of supervision by the receiving state**

(a) The receiving state may close its supervision of an offender and cease supervision upon-

(1) The date of discharge indicated for the offender at the time of application for supervision unless informed of an earlier or later date by the sending state;
(2) Notification to the sending state of the absconding of the offender from supervision in the receiving state;
(3) Notification to the sending state that the offender has been sentenced to incarceration for 180 days or longer, including judgment and sentencing documents and information about the offender’s location;
(4) Notification of death; or
(5) Return to sending state; or
(6) Rejection of transfer request.

(b) The receiving state shall continue to supervise an offender until the sending state has retaken the offender or the offender has returned to the sending state. A receiving state shall not terminate its supervision of an offender while the sending state is in the process of retaking the offender under Rule 5.101.

(c) At the time a receiving state closes supervision, a case closure notice shall be provided to the sending state which shall include last known address and employment.

(d) The sending state shall submit the case closure notice reply to the receiving state within 10 business days of receipt.
(e) For offenders in the receiving state with approved reporting instructions whose transfer request has been rejected, the sending state shall not transmit the case closure reply until the offender has either returned to the sending state as ordered or a warrant is issued.

Commissioner D. Ege (AZ) moved to propose Rule 4. 112 (a)(b) and (e) to the Commission. Commissioner J. Rubitschun (MI) seconded. Motion passed unanimously.

The Committee reviewed an amendment to Rule 3.104-1 proposed by the Rules Committee.

**Rule 3.104-1 Acceptance of offender; issuance of reporting instructions**

(a) If a receiving state accepts transfer of the offender, the receiving state’s acceptance shall include reporting instructions.

(b) Upon notice of acceptance of transfer by the receiving state, the sending state shall issue a travel permit to the offender and notify the receiving state of the offender’s departure as required under Rule 4.105.

(c) A receiving state shall assume responsibility for supervision of an offender upon the offender’s arrival in the receiving state and shall submit notification of arrival as required under Rule 4.105.

(d) An acceptance by the receiving state shall be valid for 120 calendar days. If the sending state has not sent a Departure Notice to the receiving state in that time frame, the receiving state may withdraw its acceptance and close interest in the case.

(e) A receiving state may withdraw its acceptance of the transfer request if the offender does not report to the receiving state by the 5th business day following transmission of notice of departure and shall provide immediate notice of such withdrawal to the sending state.

The Committee reviewed Notice of Departure Date versus Departure Date. The Committee reviewed Rule 4.105.

The Committee reviewed “calendar” versus “business” day. Commissioner D. Ege (AZ) indicated Rule 3.105 would also require a change.

Commissioner J. Nimer (FL) moved to modify previously accepted proposal for Rule 3.104-1 to change “calendar” to “business” day. Commissioner D. Eberhard (AR) seconded. Motion passed.

The Committee reviewed an amendment to Rule 3.105(c) proposed by the Rules Committee.

**Rule 3.105 Pre-release transfer request**

(a) A sending state may submit a completed request for transfer of supervision no earlier than 120 days prior to an offender’s planned release from a correctional facility.
(b) If a pre-release transfer request has been submitted, a sending state shall notify a receiving state:

(1) if the planned release date changes; or

(2) if recommendation for release of the offender has been withdrawn or denied.

(c) A receiving state may withdraw its acceptance of the transfer request if the offender does not report to the receiving state by the 5th calendar business day following transmission of notice of the offender’s intended date of departure and shall provide immediate notice of such withdrawal to the sending state.

Commissioner M. Potteiger (PA) moved to modify previously accepted proposal for Rule 3.105 to change “calendar” to “business” day. Commissioner E. Ligtenberg (SD) seconded. Motion passed.

The Rules Committee decided by consensus to change all timeframes of 15 days and under from “calendar” to “business” days.

The Committee reviewed an amendment to Rule 3.106 proposed by the Technology Committee.

**Rule 3.106 Request for expedited reporting instructions**

(a)

(1) A sending state may request that a receiving state agree to expedited reporting instructions for an offender if the sending state believes that emergency circumstances exist and the receiving state agrees with that determination. If the receiving state does not agree with that determination, the offender shall not proceed to the receiving state until an acceptance is received under Rule 3.104-1.

(2)

(A) A receiving state shall provide a response for expedited reporting instructions to the sending state no later than two business days following receipt of such a request. The sending state shall transmit a departure notice to the receiving state upon the offender’s departure.

(B) The sending state shall ensure that the offender signs all forms requiring the offender’s signature under Rule 3.107 prior to granting reporting instructions to the offender. Upon request from the receiving state the sending state shall transmit all signed forms within 5 business days.

(b) A receiving state shall assume responsibility for supervision of an offender who is granted reporting instructions during the investigation of the offender’s plan of supervision 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.

(c) A sending state shall transmit a completed transfer request for an offender granted reporting instructions no later than the seventh calendar day following the granting to the offender of the reporting instructions.

(d) Upon rejection of the transfer request or if sending state fails to send a completed transfer request by the 15th calendar day following the granting of reporting instructions, the receiving state may allow the offender to remain in the receiving
If the receiving state decides to return the offender to the sending state, the receiving state shall request reporting instructions for the offender to return.

(e) Except as provided in subsection (f), the sending state shall grant the request and provide reporting instructions no later than two business days following receipt of the request for reporting instructions from the receiving state.

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

(g) The offender shall remain in the receiving state until the directed departure date. The receiving state retains authority to supervise the offender until the offender’s directed departure date or issuance of the sending state’s warrant. Upon departing, the receiving state shall notify the sending state as required in Rule 4.105 and submit a case closure as required by 4.112.

(h) 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 calendar days following the offender’s failure to appear in the sending state.

The Rules Committee discussed the Technology Committee proposal for Rule 3.106 regarding requiring return reporting instructions for an offender in a receiving state on approved reporting instructions whose transfer request is rejected.

The Rules Committee agreed by consensus that the changes proposed in Rule 4.112 would address the same concerns the Technology Committee had with Rule 3.106. The Committee will notify the Technology Committee of its action and suggestion.

The Committee reviewed an amendment to Rule 3.107(a)(12) proposed by the South Region.

**Rule 3.107 Transfer request**

(a) A transfer request for an offender shall be transmitted through the electronic information system authorized by the commission and shall contain:

(1) transfer request form;
(2) A narrative description of the instant offense in sufficient detail to describe the circumstances, type and severity of offense and whether the charge has been reduced at the time of imposition of sentence;
(3) photograph of offender;
(4) conditions of supervision;
(5) any orders restricting the offender’s contact with victims or any other person;
(6) any known orders protecting the offender from contact with any other person;
(7) information as to whether the offender is subject to sex offender registry requirements in the sending state along with supportive documentation;
(8) pre-sentence investigation report, unless distribution is prohibited by law or it does not exist;
(9) information as to whether the offender has a known gang affiliation, and the gang with which the offender is known to be affiliated;
(10) supervision history, if the offender has been on supervision for more than 30 calendar days at the time the transfer request is submitted;
(11) information relating to any court-ordered financial obligations, including but not limited to, fines, court costs, restitution, and family support; the balance that is owed by the offender on each; and the address of the office to which payment must be made.

(12) institutional history if offender has been incarcerated for a period of 6 months or greater prior to being released to supervision, if available, including disciplinary records and mental health evaluations.

(b) The original signed Offender Application for Interstate Compact Transfer shall be maintained in the sending state. A copy of the signed Offender Application for Interstate Compact Transfer shall be attached to the transfer request.

(c) Additional documents, necessary for supervision in the receiving state, such as the Judgment and Commitment, may be requested from the sending state following acceptance of the offender. The sending state shall provide the documents within no more than 30 calendar days from the date of the request, unless distribution is prohibited by law or a document does not exist.

The Rules Committee agreed that there may be issues if distribution is prohibited by law.

The Committee decided to draft changes to Rule 3.105, as an alternate proposal, since the intention of the South Region was to only provide the information for paroling offenders.

The Rules Committee drafted a new section (b) in Rule 3.105 to be included in its proposal.

**Rule 3.105 Pre-release transfer request**

(a) A sending state may submit a completed request for transfer of supervision no earlier than 120 days prior to an offender’s planned release from a correctional facility.

(b) In addition to the information required in Rule 3.107, an application for transfer of supervision shall include the following information, if available and distribution is not prohibited by law:

1) summary of behavioral history during the last 2 years; and
2) current mental health evaluations.

(c) If a pre-release transfer request has been submitted, a sending state shall notify a receiving state:

3) if the planned release date changes; or

4) if recommendation for release of the offender has been withdrawn or denied.

(d) A receiving state may withdraw its acceptance of the transfer request if the offender does not report to the receiving state by the 5th calendar business day following transmission of notice the offender’s intended date of departure and shall provide immediate notice of such withdrawal to the sending state.

**Commissioner D. Ege (AZ) moved to modify previously accepted proposal for Rule 3.105 to include new section (b). Commissioner J. Rubitschun (MI) seconded. Motion passed.**
The Rules Committee reviewed their previously approved proposal for Rule 3.106 and made no changes.

The Committee reviewed an amendment to Rule 4.102 proposed by the East Region.

Rule 4.102 Duration of supervision in the receiving state

(a) A receiving state shall supervise an offender transferred under the interstate compact for a length of time determined by the sending state.

(b) This shall not apply to extensions of supervision for strictly monitoring of costs, fines, and restitution.

The Rules Committee determined by consensus that the definition of supervision covers the concern and reason for the proposal.

The Rules Committee does not endorse the proposal.

The RC reviewed their previously approved proposal for Rule 4.109 and made no changes.

Technology committee proposal for Rule 4.111 which is intended to generalize the process for returning an offender to the sending state requiring a request for reporting instructions in all instances regardless of the reason the offender is returning to the sending state.

Rule 4.111 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 two 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 provisions of Rule 3.108-1 have been followed.

(d) The receiving state retains authority to supervise the offender until the offender’s directed departure date or issuance of the sending state’s warrant. The receiving state shall notify the sending state as required in Rule 4.105 and submit a case closure as required by 4.112.

(e) If the offender does not return to the sending state as ordered, the sending state shall issue a warrant no later than 10 calendar days following the offender’s failure to appear in the sending state.

The Committee discussed Rule 4.111 proposed by the Technology Committee. The Rules Committee does not endorse the proposal.
Commissioner J. Rubitschun (MI) moved to change title of existing Rule 4.111 to “Offender requesting return to the sending state.” Commissioner E. Ligtenberg (SD) seconded. Motion passed.

Legal Counsel R. Masters stated this is considered an editorial change and would not be considered a rule amendment.

The Committee reviewed the Compliance Committee’s questions regarding the retaking rules. The Committee decided to look at these as they go through each proposal of the retaking rules.

The Committee reviewed the West Region’s proposal for Rule 5.101 that adds language to include an option to order the return of an offender in lieu of retaking.

**Rule 5.101 Retaking by the sending state**

(a) Except as required in Rules 5.102, 5.103, 5.103-1 and 5.103-2 at its sole discretion, a sending state may retake an offender, unless the offender has been charged with a subsequent criminal offense in the receiving state.

(b) Upon its determination to retake the offender, the sending state shall retake or order the return of the offender from the receiving state or a subsequent receiving state, issue a warrant and file a detainer with the holding facility when the offender is in custody.

(c) If the offender does not return to the sending state as ordered, then the sending state shall issue a warrant that is effective in all compact member states, without limitation as to specific geographic area, no later than 10 calendar days following the offender’s failure to appear in the sending state.

(d) If the offender has been charged with a subsequent criminal offense in the receiving state, the offender shall not be retaken without the consent of the receiving state, or until criminal charges have been dismissed, sentence has been satisfied, or the offender has been released to supervision for the subsequent offense.

In addition to the “order to return” issue, the Rules committee by consensus decided the issue of retaking offenders with pending charges should be addressed. The topic was tabled for the next day’s meeting.

The Rules Committee reviewed Rule 6.103 (b) at the request of the Executive Committee drafted the following amendment:

(b) The grounds for default include, but are not limited to, failure of a Compacting State to perform such obligations or responsibilities imposed upon it by this compact, Interstate Commission by-laws, or duly promulgated rules. The Interstate Commission shall immediately notify the defaulting state in writing of the potential penalties that may be imposed by the Interstate Commission on the defaulting state pending a cure of the default. The Interstate Commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the Interstate Commission, in addition to any other penalties imposed herein, the defaulting state may be terminated from the...
Compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this Compact shall be terminated from the effective date of suspension.

**Commissioner E. Ligtenberg (SD) moved to propose an amendment to Rule 6.103(b). Commissioner J. Nimer (FL) seconded. Motion passed.**

The Rules Committee drafted language to amend proposal for Rule 4.112 (a) (5), 4.112(b), 4.112 (f) and 5.101, as well as proposed a new Rule 5.101-1 to address issues of offenders subject to retaking, when pending charges exist. It is intended that the Rules Committee version would incorporate the West Region proposal for Rule 5.101.

**Rule 4.112 Closing of supervision by the receiving state**

(a) The receiving state may close its supervision of an offender and cease supervision upon-

1. The date of discharge indicated for the offender at the time of application for supervision unless informed of an earlier or later date by the sending state;
2. Notification to the sending state of the absconding of the offender from supervision in the receiving state;
3. Notification to the sending state that the offender has been sentenced to incarceration for 180 days or longer, including judgment and sentencing documents and information about the offender’s location;
4. Notification of death; or
5. Retaking by or return to sending state; or
6. Rejection of transfer request.

(b) The receiving state shall continue to supervise an offender until the sending state has retaken the offender or the offender has returned to the sending state. A receiving state shall not terminate its supervision of an offender while the sending state is in the process of retaking the offender under Rule 5.101.

(c) At the time a receiving state closes supervision, a case closure notice shall be provided to the sending state which shall include last known address and employment.

(d) The sending state shall submit the case closure notice reply to the receiving state within 10 business days of receipt.

(e) For offenders in the receiving state with approved reporting instructions whose transfer request has been rejected, the sending state shall not transmit the case closure reply until the offender has either returned to the sending state as ordered or a warrant is issued.

(f) The sending state shall not transmit the case closure reply until the offender has either returned to the sending state as ordered or a warrant is issued.

**Commissioner D. Ege (AZ) moved to amend the Rules Committee proposal for Rule 4.112(a)(5), 4.112 (b) & 4.112 (f). Commissioner E. Ligtenberg (SD) seconded. Motion passed.**
Rule 5.101 Discretionary retaking by the sending state

(a) Except as required in Rules 5.102, 5.101-1, 5.103, 5.103-1 and 5.103-2 at its sole discretion, a sending state may retake or order the return of an offender, unless the offender has been charged with a subsequent criminal offense in the receiving state.

(b) Upon its determination to retake the offender, the sending state shall issue a warrant and file a detainer with the holding facility when the offender is in custody.

(b) If the offender does not return to the sending state as ordered, then the sending state shall issue a warrant no later than 10 business days following the offender’s failure to appear in the sending state.

(c) If the offender has been charged with a subsequent criminal offense in the receiving state, the offender shall not be retaken without the consent of the receiving state, or until criminal charges have been dismissed, sentence has been satisfied, or the offender has been released to supervision for the subsequent offense.

Commissioner D. Ege (AZ) moved to forward the Rules Committee proposal for Rule 5.101. Commissioner T. Hand (CO) seconded. Motion passed.

Rule 5.101-1 Pending felony or violent crime charges

Notwithstanding any other rule, if an offender is charged with a subsequent felony or violent crime, the offender shall not be retaken or ordered to return until criminal charges have been dismissed, sentence has been satisfied, or the offender has been released to supervision for the subsequent offense, unless the sending and receiving states mutually agree to the retaking or return.

Commissioner D. Ege (AZ) moved to forward the Rules Committee proposal for Rule 5.101-1 to the Commission for review. Commissioner D. Eberhard (AR) seconded.

Friendly amendment accepted to add language “notwithstanding any other rule” to ensure the rule would apply in mandatory retaking situations. Motion passed.

Rule 5.103 Mandatory retaking for violation of conditions of supervision

(a) Upon a request by the receiving state and a showing that the offender has committed 3 or more significant violations, as defined by the compact, arising from separate incidents that establish a pattern of non-compliance of the conditions of supervision, a sending state shall issue a warrant to retake or order the return of an offender from the receiving state or a subsequent receiving state within 15 business days of the receipt of the request by the receiving state.

(b) If the offender does not return to the sending state as ordered, then the sending state shall issue a warrant that is effective in all compact member states, without limitation as to specific geographic area, no later than 10 calendar business days following the offender’s failure to appear in the sending state.
Commissioner J. Rubitschun (MI) moved to amend the Rules Committee proposal for Rule 5.103 to change “calendar” to “business” day. Commissioner J. Nimer (FL) seconded. Motion passed.

The Committee reviewed the South Region proposal for Rule 5.103-2.

**Rule 5.103-2 Mandatory retaking for violent offenders and of offenders convicted of a violent crimes**

(a) Upon a request from the receiving state, a sending state shall retake a violent offender who has committed a significant violation.

(b) Upon a request from the receiving state, a sending state shall retake an offender who is convicted of a violent crime.

(c) When a sending state is required to retake an offender, the sending state shall issue a warrant and, upon apprehension of the offender, file a detainer with the holding facility where the offender is in custody.

The Rules Committee indicated that the definition of violent offender be deleted since this term only exists in Rule 5.103-2.

The Rules Committee drafted an alternative to the South Region proposal that deletes the entire Rule 5.103-2 and adds language to existing Rule 5.102 regarding conviction of a violent crime.

**Rule 5.102 Mandatory retaking for a new felony or new violent crime conviction**

(a) Upon a request from the receiving state, a sending state shall retake an offender from the receiving state or a subsequent receiving state upon after the offender’s conviction for a new felony offense or new violent crime and:

(1) completion of a term of incarceration for that conviction; or
(2) placement under supervision for that felony or violent crime offense.

(b) When a sending state is required to retake an offender, the sending state shall issue a warrant and, upon apprehension of the offender, file a detainer with the holding facility where the offender is in custody.

**Rule 5.103-2 Mandatory retaking for violent offenders and violent crimes**

(b) Upon a request from the receiving state, a sending state shall retake a violent offender who has committed a significant violation.

(c) Upon a request from the receiving state, a sending state shall retake an offender who is convicted of a violent crime.

(d) When a sending state is required to retake an offender, the sending state shall issue a warrant and, upon apprehension of the offender, file a detainer with the holding facility where the offender is in custody.
Rule 1.101. Definitions

“Violent Offender” means an offender under supervision for a violent crime committed in the sending state.

Commissioner D. Eberhard (AR) moved to forward the proposal for Rule 5.102, deleting Rules 5.103-2 and the Rule 1.101 Definition -“violent offender”. Commissioner T. Hand (CO) seconded. Motion passed.

The Rules Committee reviewed an amendment to Rule 5.105.

Rule 5.105 Time allowed for retaking an offender

A sending state shall retake an offender within 30 calendar days after the offender has been taken into custody on the sending state’s warrant and the offender is being held solely on the sending state’s warrant, the decision to retake has been made or upon release of the offender from incarceration in the receiving state.

Commissioner D. Ege (AZ) moved to amend previously proposed language to Rule 5.105. Commissioner J. Rubitschun (MI) seconded. Motion passed.

The Rules Committee reviewed previously proposed amendment to Rule 5.108 and made no additional changes.

The Committee discussed the Compliance Committee concern regarding Rule 5.103 and the definition of significant violations.

Commissioner D. Ege (AZ) stated it was a training and communication issue.

Commissioner J. Rubitschun (MI) stated that the definition of significant violations suggests violations in the receiving state are subject to zero tolerance.

The Committee agreed that determining significant violations is fact sensitive and offender specific. States have the discretion to deviate from a revocation matrix and in some cases it can vary within a state what the revocable offenses are. Sharing a revocation matrix with another state may not be helpful.

The Committee reviewed Rule 5.111 per the Compliance Committee request.

The Committee agreed that adding language regarding the 30 day requirement to retake could result in jurisdiction issues if offender is not retaken within the required time frame.

The Committee decided not to propose any changes to Rule 5.111 and recommends the Commission work with the current language along with the recommended change to Rule 5.105.

Old Business

Commissioner D. Ege (AZ) presented amendments to Rule 2.110 and Rule 1.101 – Relocate.
Rule 2.110 Transfer of offenders under this compact

(a) No state shall permit an offender who is eligible for transfer under this compact to relocate to reside in another state except as provided by the Compact and these rules.

(b) An offender who is not eligible for transfer under this Compact is not subject to these rules and remains subject to the laws and regulations of the state responsible for the offender’s supervision.

(c) Upon violation of section (a), the sending state shall direct the offender to return to the sending state within 15 calendar days of receiving such notice. If the offender does not return to the sending state as ordered, the sending state shall issue a warrant that is effective in all compact member states, without limitation as to specific geographic area, no later than 10 calendar days following the offender’s failure to appear in the sending state.

Rule 1.101 – Definitions

“Relocate” means to remain in another state for more than 45 consecutive days in any 12 month period.

“Reside” means to live in a state permanently or for more than 30 days in a row.

The Committee tabled the discussion.

Chair J. Seigel (IN) presented a proposal to amend Rule 3.101-1 by adding transfers of veterans for medical and mental health services as a new reason for mandatory transfer.

Rule 3.101-1 Mandatory transfers of military, families of military, family members employed, and employment transfer

(a) Transfers of military members- An offender who is a member of the military and has been deployed by the military to another state, shall be eligible for reporting instructions and transfer of supervision. The receiving state shall issue reporting instructions no later than 2 business days following receipt of such a request from the sending state.

(b) Transfer of offenders who live with family who are members of the military- An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and (e)(2) and who lives with a family member who has been deployed to another state, shall be eligible for reporting instructions and transfer of supervision, provided that the offender will live with the military member in the receiving state. The receiving state shall issue reporting instructions no later than 2 business days following receipt of such a request from the sending state.

(c) Employment transfer of family member to another state- An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and (e)(2) and whose family member, with whom he or she resides, is transferred to another state by their full-time employer, at the direction of the employer and as a condition of maintaining employment, shall be eligible for reporting instructions and transfer of supervision, provided that the offender will live with the family member in the receiving state. The receiving state shall issue reporting instructions no later than 2 business days following receipt of such a request from the sending state.

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(d) Employment transfer of the offender to another state – An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and is transferred to another state by their full-time employer, at the direction of the employer and as a condition of maintaining employment shall be eligible for reporting instructions and transfer of supervision. The receiving state shall issue reporting instructions no later than 2 business days following receipt of such a request from the sending state.

(e) Transfers of veterans for medical or mental health services– An offender who is a veteran of the United States military services who is eligible to receive health care through the United States Department of Veterans Affairs, Veterans Health Administration and is referred for medical and/or mental health services by the Veterans Health Administration to a regional Veterans Health Administration facility in the receiving state shall be eligible for reporting instructions and transfer of supervision provided:

1. the sending state provides documentation to the receiving state of the medical and/or mental health referral; and
2. the transfer of supervision will apply only so long as the offender is under the continued care of the receiving state Veterans Health Administration facility.

The receiving state shall issue reporting instructions no later than 2 business days following receipt of such a request from the sending state.

Chair J. Seigel (IN) stated that referral provides proof offenders cannot receive treatment in the sending state.

The Committee discussed that Rule 4.111 can be used to return veterans back to the sending state after their treatment is over.

Commissioner T. Hand (CO) moved to forward the proposed amendment for Rule 3.101-1. Commissioner E. Litzenberg (SD) seconded.

Commissioner D. Ege (AZ) offered a friendly amendment to replace “court ordered” to “referral” which was accepted.

Motion passed.

Agencies Affected by ICAOS Rules

The committee, by consensus, determined that listing such agencies and requiring notification to the specific agencies could cause liability issues. If a group is left out, important information may not be provided to that group.

Committee Calendar

The following adjustments were made to the committee calendar:

- Next WebEx meeting – 1:30 -3:30 pm ET on Friday, May 3, 2013
  - Finalize justifications and
  - Prepare the proposals for the initial comment period on the ICAOS website

- Next face-to face meeting – 8am-5pm ET on Wednesday, June 12, 2013
  - Finalize rule proposals after the initial comment period

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Chair J. Seigel (IN) assigned the Committee members to draft justifications for the Rules Committee proposals and to speak with the applicable committees and regions regarding the Rules Committee alternate proposals for rules proposed by the committees and regions.

- Rule 2.105 version #3
  - J. Seigel will draft justification
  - D. Ege and T. Hand will address the West Region regarding its proposed amendments to Rule 2.105
- Rule 3.105
  - J. Nimer will draft justification and address the South Region regarding its proposed amendment to Rule 3.107
- Rule 4.112
  - J. Rubitschun and D. Ege will work on justification
  - R. Masters will address the Technology Committee regarding its proposed amendments to Rules 3.103, 3.106, 4.111 & 5.103
- Rule 5.102
  - D. Ege and C. Moore will work on justification
  - C. Moore will address the South Region regarding its proposed amendment to Rule 5.103-2
- Rule 5.103
  - D. Ege will work on justification
- Rule 5.101 & 5.101-1
  - E. Ligtenberg will work on justification
  - D. Ege will address the West Region regarding its proposed amendment to Rule 5.101
- Rule 6.103
  - J. Seigel will work on justification
- Compliance Committee questions
  - R. Masters and J. Seigel will work on response to the Compliance Committee

Commissioner D. Ege (AZ) will inform the Midwest Region that the Rules Committee by consensus felt the Midwest Region’s proposal for a new rule regarding offenders released to detainers is unnecessary.

Commissioner M. Potteiger (PA) will inform the East Region that the Rules Committee by consensus felt the East Region’s proposal to amend Rule 4.102 is unnecessary.

**Adjourn**

Commissioner T. Hand (CO) moved to adjourn the meeting. Commissioner C. Moore (GA) seconded. Motion passed. The meeting adjourned at 1:54 pm ET.