INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION

Rules Committee
June 26-27, 2007
Lexington, KY

Members in Attendance:

1. William Rankin (WI)
2. Ed Ligenberg (SD)
3. Jeanette Bucklew (IA)
4. Kathie Winckler (TX)
5. Dori Ege (AZ)
6. Frank Herman (NY)
7. Karen Tucker (ex-officio)

Guests:

1. Mike Hayden (NY)

Staff:

1. Ashley Hassan
2. Mindy Spring
3. Kevin Terry
4. Bryant Bridgewaters
5. Sam Razor
6. Xavier Donnelly
7. Kelli Price
8. Rick Masters (Legal Counsel)

Members not in attendance:

1. Doreen Geiger (WA)
2. Pat Tuthill (ex-officio)
3. Justice Gerald VandeWalle (ex-officio)
4. Kevin Dunphy (ex-officio)

Call to Order

The meeting was called to order at 9:15 a.m. EDT. Six, of the seven members were present. A quorum was established.

The Committee discussed how proposals will be presented at 2007 Annual Business Meeting in September. Similar provision may need to be combined into 1 motion. The Committee discussed the process of getting feedback from Commissioners regarding the amendment proposals.

Approval of Agenda

E. Ligtenberg made motion to approve agenda, seconded by F. Herman. Motion approved.

Approval of Minutes

W. Rankin asked for any comments or corrections to minutes.
K. Winckler stated that “3.103-3” in bold on pg. 2, should be deleted.

April 3, 2007 minutes approved by acclimation of committee.

Chair update

W. Rankin announced the departure of John D’Amico as a Commissioner and from the Committee. A replacement has yet to be chosen. The committee discussed the procedures outlined in the By-Laws for choosing committee members.

National office update

A. Hassan stated that Don Blackburn is no longer with the national office.

A. Hassan stated that X. Donnelly has published the on-demand judicial training to the website.

A. Hassan stated that S.Razor is working with Appriss and recently finished the Joint Application Development Session earlier this month.

A. Hassan stated that M.Spring is in training to become National Trainer.

A. Hassan stated that K. Terry is working on website enhancements and K. Price has begun 2007 Annual Business Meeting preparations.
Drafts of Final Proposals

Rule 1.101

The Committee reviewed comments submitted by Commission members and discussed issues with the proposal. Most comments noted the amendment is unnecessary.

Motion to withdraw Rule 1.101 “Offender” amendment proposal based on comments received by Commission members and further review by the Rules Committee made by D. Ege, seconded by E. Ligtenberg. Motion carried.

RULE 1.101 Definition of Offender

“Offender” means an adult placed under, or made subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies, and who is subject to the rules governing transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision.

RULE 1.101 Definition of “Sex Offender” proposal from Executive Committee has been withdrawn by the Sex Offender Ad Hoc Committee who will be proposing a new definition to the Executive Committee at its next meeting scheduled Jun 28, 2007. The Committee decided to postpone taking action on this rule and the additional proposal regarding the transfer of sex offenders, new proposed RULE 3.101-4, until further direction from the Executive Committee.

Rule 2.104

The Committee reviewed comments received from Commission members for the proposed amendment of Rule 2.104.

Motion to forward Rule 2.104 amendment proposal to be voted on by the Commission at the 2007 ABM made by J. Bucklew, seconded by F. Herman. Motion carried.

RULE 2.104 Forms

(a) States shall use the forms or electronic information system authorized by the commission for all communication regarding offenders between or among states.
The sending state shall retain the original forms containing the offender’s signature until the termination of the offender’s term of compact supervision.

Rule 2.109

The Committee reviewed comments received from Commission members for the proposed amendment of Rule 2.109.

Motion to forward Rule 2.109 amendment proposal to be voted on by the Commission at the 2007 ABM with additional changes made by the Rules Committee, based on comments received by the Commission members and further review by the Rules Committee, made by E. Ligtenberg, Seconded by F. Herman. Motion Carried.

RULE 2.109 Adoption of rules; amendment

Proposed new rules or amendments to the rules shall be adopted by majority vote of the members of the Interstate Commission in the following manner.

(a) Proposed new rules and amendments to existing rules shall be submitted to the Interstate Commission office for referral to the Rules Committee in the following manner:

(1) Any Commissioner may submit a proposed rule or rule amendment for referral to the Rules Committee during the annual Commission meeting. This proposal would be made in the form of a motion and would have to be approved by a majority vote of a quorum of the Commission members present at the meeting.

(2) Standing ICAOS Committees may propose rules or rule amendments by a majority vote of that committee.

(3) ICAOS Regions may propose rules or rule amendments by a majority vote of members of that region.

(b) The Rules Committee shall prepare a draft of all proposed rules and provide the draft to all Commissioners for review and comments. All written comments received by the Rules Committee on proposed rules shall be posted on the Commission’s website upon receipt. Based on the comments made by the Commissioners the Rules Committee shall prepare a final draft of the proposed rule(s) or amendments for consideration by the Commission not later than the next annual meeting.
(c) Prior to the Commission voting on any proposed rule or amendment, the text of the proposed rule or amendment shall be published by the Rules Committee not later than 30 days prior to the meeting at which vote on the rule is scheduled, on the official web site of the Interstate Commission and in any other official publication that may be designated by the Interstate Commission for the publication of its rules. In addition to the text of the proposed rule or amendment, the reason for the proposed rule shall be provided.

(d) Each proposed rule or amendment shall state—

(1) The place, time, and date of the scheduled public hearing;
(2) The manner in which interested persons may submit notice to the Interstate Commission of their intention to attend the public hearing and any written comments; and
(3) The name, position, physical and electronic mail address, telephone, and telefax number of the person to whom interested persons may respond with notice of their attendance and written comments.

(e) Every public hearing shall be conducted in a manner guaranteeing each person who wishes to comment a fair and reasonable opportunity to comment. No transcript of the public hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall pay for the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Interstate Commission from making a transcript or recording of the public hearing if it so chooses.

(f) Nothing in this section shall be construed as requiring a separate public hearing on each rule. Rules may be grouped for the convenience of the Interstate Commission at public hearings required by this section.

(g) Following the scheduled public hearing date, the Interstate Commission shall consider all written and oral comments received.

(h) The Interstate Commission shall, by majority vote of the commissioners, take final action on the proposed rule or amendment by a vote of yes/no. The Commission shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(i) Not later than sixty days after a rule is adopted, any interested person may file a petition for judicial review of the rule in the United States District Court of the District of Columbia or in the federal district court where the Interstate Commission’s principal office is located. If the court finds that the Interstate Commission’s action is not supported by substantial evidence, as defined in the federal Administrative Procedures Act, in the rulemaking record, the court shall hold the rule unlawful and set it aside. In the event that a petition for
judicial review of a rule is filed against the Interstate Commission by a state, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys’ fees.

(j) Upon determination that an emergency exists, the Interstate Commission may promulgate an emergency rule that shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. An emergency rule is one that must be made effective immediately in order to—

1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of federal or state funds;
3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
4. Protect human health and the environment.

(k) The Chair of the Rules Committee may direct revisions to a rule or amendment adopted by the commission, for the purpose of correcting typographical errors, errors in format or grammatical errors. Public notice of any revision shall be posted on the official website of the Interstate Commission and in any other official publication that may be designated by the Interstate Commission for the publication of its rules. For a period of 30 days after posting, the revision is subject to challenge by any commissioner. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the Executive Director of the Commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without approval of the commission.

Rule 3.101

The Committee reviewed comments received from Commission members for the proposed amendment of Rule 3.101.

Motion to change “submits” to “transmits” in rule language made by E. Ligtenberg, seconded by D. Ege. Motion carried.

Motion to forward Rule 3.101 amendment proposal to be voted on by the Commission at the 2007 ABM with additional changes made by the Rules Committee made by E. Ligtenberg, Seconded by K. Winckler. Motion Carried.

**RULE 3.101**  **Mandatory transfer of supervision**
At the discretion of the sending state, an offender shall be eligible for transfer of supervision to a receiving state under the compact, and the receiving state shall accept transfer, if the offender:

(a) has more than 90 days or an indefinite period of supervision remaining at the time the sending state transmits the transfer request; and
(b) has a valid plan of supervision; and
(c) is in substantial compliance with the terms of supervision in the sending state; and
(d) is a resident of the receiving state; or
(e) (1) has resident family in the receiving state who have indicated a willingness and ability to assist as specified in the plan of supervision; and
   (2) can obtain employment in the receiving state or has a means of support.

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**Rule 3.101-3**

The Committee reviewed comments submitted by Commission members and discussed issues with the proposal of Rule 3.101-3.

**Motion to withdraw proposed Rule 3.101-3 based on comments received by Commission members and further review by the Rules Committee made by D. Ege, seconded by F. Herman. Motion carried.**

**RULE 3.101-3 Mandatory transfer of offenders subject to federal supervision**

(a) An offender, who is subject to federal supervision at the same time he or she is subject to supervision by a sending state, shall be eligible for reporting instructions and transfer of supervision, provided that the offender has been placed in, or released to, the receiving state by federal prison or probation authorities. The receiving state shall issue reporting instructions no later than two business days following receipt of such a request from the receiving state.

(b) Upon termination of federal supervision, if the sending state’s case has not been discharged, the receiving state may require the offender to return to the sending state, unless the offender is eligible for transfer under **Rule 3.101 Mandatory transfer of supervision**

(c) Upon request pursuant to section (b) by the receiving state, the sending state shall order the offender to return. 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
Rule 3.102

The Committee reviewed comments received from Commission members for proposals (Option A & B) for Rule 3.102. It was determined that only one option would be forwarded to the Commission to be voted on at the 2007 ABM.

Option A

**RULE 3.102 Submission of transfer request to a receiving state**

(a) Subject to the exceptions in Rule 3.103(b) and 3.106, a sending state seeking to transfer supervision of an offender to another state shall submit a completed transfer request with all required information to the receiving state prior to allowing the offender to leave the sending state.

(b) Subject to the exceptions in Rule 3.103(b) and 3.106, the sending state shall not allow the offender to travel to the receiving state until the receiving state has replied to the transfer request. The receiving state shall be given the opportunity to investigate the proposed plan of supervision prior to allowing the offender to leave the sending state.

Motion to forward Option A for Rule 3.102 proposal to be voted on by the Commission at the 2007 ABM made by D. Ege, seconded by J. Bucklew. Motion carried.

Rule 3.103

The Committee reviewed comments received from Commission members for the proposed amendment of Rule 3.103.

- Motion to change 30 calendar days in rule language to 15 calendar days based upon further review by rules Rules Committee made by K. Winckler, seconded by F. Herman. Motion carried
- Motion to strike “Disposition of violation language from title and (a)(1)” made by D. Ege, seconded by E. Ligtenberg. Motion carried.
- Motion to replace word “exception” with “section” in (a)(5) made by W. Rankin, seconded by E. Ligtenberg. Motion carried.
- Motion to delete “failure to send transfer request” language from (e)(1) made by D. Ege, seconded by E. Ligtenberg.
Motion to forward Rule 3.103 amendment proposal to be voted on by the Commission at the 2007 ABM with additional changes made by the Rules Committee made by D. Ege, seconded by E. Ligtenberg. Motion Carried.

**RULE 3.103 Reporting Instructions; Probation Exception to Rule 2.110 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 signs all forms requiring the offender’s signature under Rule 3.107 prior to granting a travel permit to the offender. Signed forms shall be maintained in the sending state until termination of compact supervision. 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 exception 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)(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 calendar 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 within 30 15 calendar days of receiving notice of rejection immediately and the supervision responsibility shall revert to the sending state. 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 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 3.105-1

The Committee reviewed comments received by Commission members regarding the proposal for Rule 3.105-1.

Motion to forward Rule 3.105-1 proposal to be voted on by the Commission at the 2007 ABM with a “no pass” recommendation of the Rules Committee made by K. Winckler, seconded by F. Herman. Motion Carried.

Rule 3.105-1 Pre-Dispositional Transfer Requests

(a) A sending state may request the transfer for a convicted offender awaiting a pre-sentence report and/or final sentencing disposition 120 calendar days prior to final sentencing in accordance with Rules 3.101, 3.101-1 and 3.103.

(b) A sending state shall immediately notify a receiving state of the offender’s final disposition.

(c) A receiving state may notify the sending state that it is withdrawing its acceptance or discontinuing its investigation if the final disposition results in “ineligibility” for compact services or incarceration for greater than 120 calendar days.

(d) Following withdrawal or discontinuance of the receiving state’s acceptance or investigation, a sending state shall direct the offender to return to the sending state and it may resubmit a request for transfer pursuant to Rule 3.103.

Rule 3.106
The Committee reviewed comments received from Commission members for the proposed amendment of Rule 3.106.

- **Motion to add “directed” and “date” to (d) (1) of proposal made by E. Ligtenberg, seconded by D. Ege. Motion carried.**

**Motion to forward Rule 3.106 amendment proposal to be voted on by the Commission at the 2007 ABM with additional changes made by the Rules Committee made by E. Ligtenberg, seconded by F. Herman. Motion Carried.**

**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 that agrees to expedited reporting instructions for an offender shall immediately issue reporting instructions for the offender, and an accepting state shall provide a response to a request 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. Signed forms shall be maintained in the sending state until termination of compact supervision. 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)(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 seventh calendar 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 within 15 calendar days of receiving notice of rejection. 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, immediately and the supervision responsibility shall revert to the sending state.

(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
Rule 3.107

The Committee reviewed comments received from Commission members for the proposed amendment of Rule 3.107.

The Committee updated the proposal to reflect changes to lettering.

Motion to forward Rule 3.107 amendment proposal to be voted on by the Commission at the 2007 ABM with additional changes made by the Rules Committee made by J. Bucklew, seconded by E. Ligtenberg. Motion Carried.

**RULE 3.107 Application for transfer of supervision:**

An application for transfer of supervision of an offender shall contain—
(a) Offender’s full name and any aliases by which the offender is known;
(b) Indication of whether the offender seeks transfer to the receiving state based on residency in the receiving state, family residing in the receiving state, or consent of the receiving state;
(c) Name, address, and telephone number of family in the receiving state if the offender bases the transfer request on family’s residency in the receiving state;
(d) Offender’s proposed residence in the receiving state;
(e) Offender’s current or prospective employer in the receiving state;
(f) Offender’s criminal justice identification number in the sending state;
(g) Offender’s date of birth;
(h) Offender’s social security number, if known;
(i) County of conviction or imposition of supervision;
(j) Indication of the type of criminal justice supervision to which the offender has been sentenced;
(k) Instant offense in sufficient detail to describe the type and severity of offense and whether the charge has been reduced at the time of imposition of sentence;
(l) Offender’s criminal history;
(m) Notice, if applicable, indicating that the supervision of the offender is a victim-sensitive matter;
(n) Date supervision is to begin, if known;
(o) Date supervision is to terminate, if known;
(p) Name and title of supervising officer;
(q) Copy of the original signed “Offender Application for Interstate Compact Transfer” form, which shall include “Agreement to Return on Demand of the sending state” and “Waiver of Extradition”;
(r) Signed “Consent to Random Drug or Alcohol Testing and to Searches Based on Reasonable Suspicion” form;
(s) Signed “Authorization for Release of Medical and Psychological Information” form;
(t) Photograph of offender;
(u) Conditions of supervision;
(v) Any orders restricting the offender’s contact with victims or any other person;
(w) Any known orders protecting the offender from contact with any other person;
(x) Information as to whether the offender is subject to sex offender registry requirements in the sending state along with supportive documentation;
(y) Judgment and commitment documents;
(z) Pre-sentence investigation report, if available;
(aa) Supervision history, if available;
(bb) 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.
(ee) Medical information, if available; and
(dd) Psychological evaluation, if available.

Rule 4.104

The Committee reviewed comments received from Commission members for the proposed amendment of Rule 4.104.

- Discussion of the words “shall” and “whenever feasible.” The Committee decided to delete phrase from previous proposal.

Motion to forward Rule 4.104 amendment proposal to be voted on by the Commission at the 2007 ABM with additional changes made by the Rules Committee made by D. Ege, seconded by E. Ligtenberg. Motion Carried.
A receiving state shall require that an offender transferred under the interstate compact comply with any offender registration and DNA testing requirements in accordance with the laws or policies of the receiving state and shall assist the sending state to ensure DNA testing requirements and offender registration requirements of a sending state are fulfilled.

Rule 4.109

The Committee reviewed comments received from Commission members for the proposed amendment of Rule 4.109.

The Committee discussed issues regarding absconders and how Rule 5.108 relates to section (c). Revisions were made to proposals for (c)(3) & (c)(4).

Motion to forward Rule 4.109 amendment proposal to be voted on by the Commission at the 2007 ABM with additional changes made by the Rules Committee made by J. Bucklew, seconded by F. Herman. Motion Carried.

RULE 4.109 Violation reports

(a) A receiving state shall notify a sending state of significant violations of conditions of supervision by an offender within 30 calendar days of discovery of the violation.

(b) A violation report shall contain—
   (1) Offender’s name and location;
   (2) Offender’s state-issued identifying numbers;
   (3) date of the offense or infraction that forms the basis of the violation;
   (4) Description of the offense or infraction;
   (5) Status and disposition, if any, of offense or infraction;
   (6) Dates and descriptions of any previous violations;
   (7) Receiving state’s recommendation of actions sending state may take;
   (8) Name and title of the officer making the report; and
   (9) if the offender has absconded, the offender’s last known address and telephone number, name and address of the offender’s employer, and the date of the offender’s last personal contact with the supervising officer and details regarding how the supervising officer determined the offender to be an absconder.
   (10) Supporting documentation regarding the violation including but not limited to police reports, toxicology reports, and preliminary findings.

(c)(1) The sending state shall respond to a report of a violation made by the receiving state no later than ten business days following receipt by the sending state. Receipt of a violation report shall be presumed to have
Rule 4.110

The Committee reviewed comments received from Commission members for the proposed amendment of Rule 4.110.

Motion to forward Rule 4.110 proposal to be voted on by the Commission at the 2007 ABM made by F. Herman, seconded by E. Ligtenberg. Motion carried.

RULE 4.110 Transfer to a subsequent receiving state

(a) At the request of an offender for transfer to a subsequent receiving state, and with the approval of the sending state, the sending state shall prepare and transmit a request for transfer to the subsequent state in the same manner as an initial request for transfer is made.

(b) The receiving state shall assist the sending state in acquiring the offender’s signature on the “Application for Interstate Compact Transfer,” the “Agreement to Return on Demand of the sending state,” and the “Consent to Random Drug Testing and to Searches Based on Reasonable Suspicion” forms, and any other forms that may be required under Rule 3.107, and shall transmit these forms to the sending state.

(c) The receiving state shall submit a statement to the sending state summarizing the offender’s progress under supervision.

(d) The receiving state shall issue a travel permit to the offender when the sending state informs the receiving state that the offender’s transfer to the subsequent receiving state has been approved.
(e) Notification of offender’s departure and arrival shall be made as required under Rule 4.105.

(f) Acceptance of the offender’s transfer of supervision by a subsequent state and issuance of reporting instructions to the offender terminate the receiving state’s supervisory obligations for the offender.

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**Rule 4.111**

The Committee reviewed comments received from Commission members for the proposed amendment of Rule 4.111.

The Committee discussed notifications of victims as well as cross-referencing other rules.

**Motion to forward Rule 4.111 proposal to be voted on by the Commission at the 2007 ABM made by F. Herman, seconded by K. Winckler. Motion carried.**

**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.  

(b) Receiving state. The offender shall remain in the receiving state until receipt of reporting instructions.

(c) Except as provided in subsection (e), 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.

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

(e) Receiving state shall notify the sending state as required in Rule 4.105.

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**Rule 4.112**

The Committee reviewed comments received from Commission members for the proposed amendment of Rule 4.112.

**Motion to forward Rule 4.112 amendment proposal to be voted on by the Commission at the 2007 ABM with additional changes made by the Rules Committee made by J. Bucklew, seconded by K. Winckler. Motion Carried.**
**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) **(A)** 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 of the sentencing of the offender to incarceration for 180 days or longer and provision of the judgment and sentence and the offender’s location; and receipt from the sending state of a warrant and detainer or other acknowledgement by the sending state of responsibility for the offender within 90 days of the notification. If the sending state fails to provide the warrant and detainer or other acknowledgement within 90 days of notification, the receiving state may close its supervision of the offender.

(B) After 90 days the sending state shall be responsible for the offender.

(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.

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**Rule 5.101**

The Committee reviewed comments received from Commission members for the proposed amendment of Rule 5.101.

**Motion to forward Rule 5.101 proposal to be voted on by the Commission at the 2007 ABM made by D. Ege, seconded by F. Herman. Motion carried.**
**Rule 5.101 Retaking by the Sending State**

(a) Except as required in Rules 5.102 and 5.103, 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) 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.

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**Rules 5.102 and 5.103**

The Committee reviewed comments received from Commission members for the proposed amendments of Rules 5.102 and 5.103.

Discussion of states’ ability to comply with the 10 day timeframe for retaking.

**Motion to forward Rule 5.102 and 5.103 proposals to be voted on by the Commission at the 2007 ABM made by J. Bucklew, seconded by E. Ligtenberg.**

Motion carried.

**RULE 5.102 Mandatory retaking for a new felony conviction.**

Upon a request from the receiving state, a sending state shall retake or order the return of an offender from the receiving state or a subsequent receiving state upon the offender’s conviction for a new felony offense and —

(a) Completion of a term of incarceration for that conviction; or

(b) Placement under supervision for that felony offense.

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 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 5.103 Mandatory retaking for violations of conditions of supervision**

(a) Upon a request by the receiving state and a showing that the offender has committed three or more significant violations arising from separate incidents that establish a
pattern of non-compliance of the conditions of supervision, a sending state shall retake or order the return of an offender from the receiving state or a subsequent 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 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 5.108

The Committee reviewed comments received from Commission members for the proposed amendments of Rule 5.108.

Discussion of detaining offenders

Discussion of timeframes being too long.

- **Motion to amend section (e) and change 30 calendar days to 10 business days** made by W. Rankin, seconded by E. Ligtenberg. Motion carried.
- **Motion to amend section (f) and change 30 calendar days to 15 business days,** made by W. Rankin, seconded by E. Ligtenberg. Motion carried.

Motion to forward Rule 5.108 amendment proposal to be voted on by the Commission at the 2007 ABM with additional changes made by the Rules Committee made by W. Rankin, seconded by E. Ligtenberg. Motion Carried.

**RULE 5.108 Probable cause hearing in receiving state**

(a) An offender subject to retaking for violation of conditions of supervision that may result in a revocation shall be afforded the opportunity for a probable cause hearing before a neutral and detached hearing officer in or reasonably near the receiving state place where the alleged violation(s) occurred consistent with due process requirements.

(b) No waiver of a probable cause hearing shall be accepted unless accompanied by an admission by the offender to one or more significant violations of the terms or conditions of supervision.

(c) A copy of a judgment of conviction regarding the conviction of a new felony offense by the offender shall be deemed conclusive proof that an offender may be retaken by a sending state without the need for further proceedings.
(d) The offender shall be entitled to the following rights at the probable cause hearing:

1. Written notice of the alleged violation(s);
2. Disclosure of non-privileged or non-confidential evidence regarding the alleged violation(s);
3. The opportunity to be heard in person and to present witnesses and documentary evidence relevant to the alleged violation(s);
4. The opportunity to confront and cross-examine adverse witnesses, unless the hearing officer determines that a risk of harm to a witness exists.

(e) The receiving state shall prepare and submit to the sending state a written report within 30 business calendar days of the hearing that identifies the time, date and location of the hearing; lists the parties present at the hearing; and includes a clear and concise summary of the testimony taken and the evidence relied upon in rendering the decision. Any evidence or record generated during a probable cause hearing shall be forwarded to the sending state.

(f) If the hearing officer determines that there is probable cause to believe that the offender has committed the alleged violations of conditions of supervision, the receiving state shall hold the offender in custody, and the sending state shall, within 15 business days of receipt of the hearing officer’s report, notify the receiving state of the decision to retake or other action to be taken. Within 30 calendar days of receipt of the hearing officer’s report and determination.

(g) If probable cause is not established, the receiving state shall:

1. Continue supervision if the offender is not in custody
2. Notify the sending state to vacate the warrant, and continue supervision upon release if the offender is in custody on the sending state’s warrant.
3. Vacate the receiving state’s warrant and release the offender back to supervision within 24 hours of the hearing if the offender is in custody.

W. Rankin stated that section (a), section (e) and section (f) will be presented to the Commission as separate motions at the ABM.

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**Rule 5.111**

The Committee reviewed comments received from Commission members for the proposed amendments of Rule 5.111 proposed originally by the East Region and the proposal from the Rules Committee. It was determined that the East Region proposal would be presented first at the 2007 ABM.
Motion to forward Rule 5.111 proposal from East Region to be voted on by the Commission at the 2007 ABM with a “no pass” recommendation of the Rules Committee made by J. Bucklew, seconded by D. Ege. Motion Carried.

**RULE 5.111 Denial of bail to certain offenders**

An offender against whom retaking procedures have been instituted by a sending or receiving state shall not be admitted to bail or other release conditions in any state.

Motion to forward Rule 5.111 proposal from the Rules Committee to be voted on by the Commission at the 2007 ABM made by E. Ligtenberg, seconded by F. Herman. Motion Carried.

**Rule 5.111 Denial of bail or other release conditions to certain offenders**

An offender against whom retaking procedures have been instituted by a sending or receiving state shall not be admitted to bail or other release conditions in any state.

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**Rule 5.112**

The Committee reviewed comments received from Commission members for the proposed amendments of Rule 5.112.

Discussion regarding the proposal being unnecessary and may only be motive for receiving states to force offenders out of their states.

Motion to forward Rule 5.112 proposal to be voted on by the Commission at the 2007 ABM with a “no pass” recommendation of the Rules Committee made by D. Ege, seconded by K. Winckler. Motion Carried.

**RULE 5.112 Retaking an offender accepted under Rule 3.101-2**

(a) Upon a request by a receiving state, a sending state shall retake or order the return of an offender from the receiving state if:

1. Acceptance was based upon Rule 3.101-2 (Discretionary transfer of supervision); and
2. the receiving state added to its acceptance a special condition requiring the sending state to retake or order the return of the offender if specific criteria, which were the basis for acceptance, no longer existed; and
3. The special condition added by the receiving state relates directly to the sole reason the sending state requested the transfer; and
(4) The receiving state confirms to the sending state that the criteria upon which
the acceptance was made no longer exist.

(b) 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.

Rule 6.101

The Committee reviewed comments received from Commission members for the
proposed amendments of Rule 6.101.

Discussion regarding the proposal being unnecessary. R. Masters stated that in the future
it will be less advisory opinions because we will make it hard to get rules passed.

There was a discussion on some states finding ways to circumvent rules.

Motion to forward Rule 6.101 proposal to be voted on by the Commission at the
2007 ABM with a “no pass” recommendation of the Rules Committee made by K.
Winckler, seconded by D. Ege. Motion Carried.

RULE 6.101 Informal communication to resolve disputes or controversies and
obtain interpretation of the rule.

(a) Through the office of a state’s compact administrator, states shall attempt to
resolve disputes or controversies by communicating with each other by telephone,
telefax, or electronic mail.

(b) Failure to resolve dispute or controversy

(1) Following an unsuccessful attempt to resolve controversies or disputes
arising under this compact, its by-laws or its rules as required under Rule 6.101
(a), states shall pursue one or more of the informal dispute resolution processes
set forth in Rule 6.101 (b)(2) prior to resorting to formal dispute resolution
alternatives.

(2) Parties shall submit a written request to the executive director for
assistance in resolving the controversy or dispute. The executive director shall
provide a written response to the parties within ten business days and may, at the
executive director’s discretion, seek the assistance of legal counsel or the
executive committee in resolving the dispute. The executive committee may
authorize its standing committees or the executive director to assist in resolving
the dispute or controversy.
(c) Interpretation of the rules
Any state may submit an informal written request to the executive director for assistance in interpreting the rules of this compact. The executive director may seek the assistance of legal counsel, the executive committee, or both, in interpreting the rules. The executive committee may authorize its standing committees to assist in interpreting the rules. Interpretations of the rules shall be issued in writing by the executive director or the executive committee and shall be circulated to all of the states.

(d) All written advisory opinions authored by the National Office shall be referred to the Rules Committee within thirty (30) days of issuance of said opinion. Upon receipt of the advisory opinion, the Rules Committee shall discuss this matter at the next regularly scheduled meeting and consider whether a rule change should be proposed. If the Rules Committee determines that a rule change is not warranted, such rationale shall be reduced to writing and attached to the existing advisory opinion.

The Committee recessed for the day at 5:06 P.M. EST.

The meeting reconvened and was called to order by W. Rankin at 9:00 A.M. EST on June 27, 2007.

There was a discussion on the format in which rules will be presented at 2007 Annual Business Meeting.

K. Winckler stated that an online meetings are good. She also stated that online meetings cannot take the place of face to face meetings.

A. Hassan stated that after this meeting the national office can implement an open forum meeting on webex where DCAs and commissioners can offer suggestions to the Rules Committee to prevent rules coming back to the Rules Committee for review.

K. Winckler stated that an informal meeting that is not bound by rules of parliamentary procedure would be good, because it would give more time for open discussion. It was discussed that the Public Hearing was also not a forum to discuss the impact of rule changes. There was discussion of the committee members attending the Commissioner training prior to the ABM.

The Committee reviewed the justifications of the rule proposals.

Changes were made to justification in rule 3.103
The Committee determined that 3 separate motions are necessary for Rule 3.103 when presented at the 2007 ABM. W. Rankin will modify the justification for the proposal to 3.103.

**Break at 10:19 a.m. EST**

**Meeting reconvened at 10:34 a.m. EST**

W. Rankin will modify the justification for the proposal to 3.106.

Changes were made to the justification of Rule 4.104.

D. Ege suggested that section (a) of Rule 4.111 be a motion and sections (b) and (c) can be combined into one motion when presented at the 2007 ABM.

Changes were made to the justification of Rule 4.112 commenting “rules committee modified language, which did not change meaning or intent of the proposal” into the justification.

Discussion of Rule 5.101

Discussion of Rule 5.108.

D. Ege suggested Rule 5.108 be presented in 3 motions at the 2007 ABM.

Changes were made to the justification in Rule 5.108 noting that proposed amendments to Rule 5.108(e) & (f) are intended to shorten the allowable time for the retaking process. D. Ege stated she will put together an illustration noting the time frames for the justification.

Discussion of Rule 5.112. Rules committee commented that the rule was not necessary and the concerns raised can be addressed under the existing structure of the Commission By-laws or Rules.

**Lunch - 11.31 a.m. EST**

**Meeting reconvened at 12:13 a.m. EST**

There was a general discussion on the purpose of the rules committee. W. Rankin asked for comments on things that committee can improve on.

D. Ege stated that it is good to meet every year but not to change rules every year. D. Ege stated that there is other business the commission should be focused on other than rule changes.
W. Rankin stated that day to day operations do not need to be incorporated into rule language. D. Ege stated that we need to put provisions into rules that will allow us to take action to enforce the rule in some cases.

There was discussion about capturing offenders that should not be apprehended due to definition of sex offender being too broad.

There was a general discussion on undocumented immigrants and the pending Advisory Opinion on the issue.

K. Tucker stated that there are issues with offenders being transferred and having issues with substantial compliance.

New Business

W. Rankin asked for discussion on any new business.

There was a general discussion on the ICAOS forms and what committee is responsible for keeping them updated. M. Spring noted that is typically evaluated by the Training Committee annually in conjunction with rule changes. W. Rankin stated that it will be a topic for discussion at the executive committee meeting.

D. Ege stated that she would like to see a nationally accepted form for probable cause hearings instead of a different form devised by each state. K. Tucker stated that the probable cause rule is creating problems for a lot of states and offenders are being released immediately because no probable cause is found. There was a discussion on states not following the probable cause rule and offenders being released prematurely.

Motion to adjourn made by E. Ligtenberg, seconded by F. Herman. Motion carried

Meeting adjourned June 27, 2007 at 1:46p.m. EDT