INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION
Rules Committee

October 21, 2005
12:00 pm EST

Web Conference
1-866-469-3239 Room 699 799 150

Committee Members in Attendance

1. Milt Gilliam
2. Dori Ege
3. Karen Stoll
4. Mike DePetrio
5. Henry Lowery
6. Doreen Geiger
7. Judge John D’Amico
8. Ed Ligtenberg
9. Gregg Smith (ex-officio)
10. Pat Tuthill (ex officio)
11. Kevin Dunphy (ex-officio)

Committee Members Not in Attendance

1. Gerald Vandewalle (ex-officio)
2. Karen Tucker (ex-officio)

Staff

1. Don Blackburn
2. Ashley Kenoyer
3. Mindy Spring
4. Kelli Price
5. Xavier Donnelly
6. Rick Masters (legal counsel)
7. David Guntharp (Commission Chairman)

Call to Order

The meeting was called to order by M. Gilliam at 12:08 pm EST. 8 of 8 members were present establishing a quorum.

Approval of Agenda

Motion to approve the agenda made by E. Ligtenberg, seconded by M. DePietro. With no objection, the agenda was approved.

Approval of Minutes

Motion to postpone the approval of minutes made by D. Ege, seconded by H. Lowery. Motion carried.

Chair Update

M. Gilliam noted that A. Wright is retiring as the Commissioner of Nevada. K. Stoll has replaced her on the Rules Committee.

Staff Update

D. Blackburn noted that Massachusetts is out of conference and the Governor is expected to sign the Compact legislation soon.

Old Business

Rule 1.101-Definition of Relocate

- Top concern is “90 days” The Committee reviewed the survey results from the Annual Meeting.
- Discussion of “continuous” versus “consecutive”
- M. Gilliam noted the previous proposed definition did pass and will go into effect January 1, 2006. The proposed changes will be voted on January 19th at the National teleconference.
- Discussion of “consecutive” versus “cumulative”
- Discussion of “remain” to mean “consecutive”
- Discussion of the definition of “resident”
- D. Ege noted that the Compact has no authority over a local probation department.
- Discussion of “3 months” (Eligibility Rule)
- P. Tuthill believes “90 days” will be abused
- K. Stoll suggested adding “consecutive”
Motion to delete “90” and add “30 consecutive” made by K. Stoll, seconded by M. DePietro. Motion failed.

Discussion of adding language “overnight”

Motion to add “overnight” made by J. D’Amico, seconded by D. Ege. Motion carried.

Motion to add “cumulative” made by H. Lowery, seconded by J. D’Amico. Friendly amendment offered by G. Smith to add “any” before. Accepted. Motion carried.

Motion to replace “90” with “45” made by M. DePietro. Motion dies for lack of a second.

**RULE 1.101 Definitions**

(ii) “Relocate” means to remain overnight in another any one state for more than 90 cumulative days in any 12 month period.

**Rule 3.103 Acceptance of the offender by receiving state; exception**

- Discussion of forms remaining in the sending state.
- Motion to add to (b)(1)(C) “Upon written request, the sending state shall transmit all signed forms within 5 business days” made by M. DePietro, seconded by H. Lowery. Motion carried.
  - Discussion of Rule 3.107. It was noted the Rules Committee cannot propose any changes to 3.107 at the January national teleconference.
  - D. Ege offered a friendly amendment to add “from the receiving state” and delete “written.” Accepted.
  - Discussion of forms being uploaded into NACIS. It was noted that with a scanner all of the signed forms can be uploaded into the system.
  - Discussion of faxed forms
  - Discussion of certified copies versus originals. R. Masters noted the Commission determines what constitutes what is an original or certified document.
- Discussion of (E) & (F): Prison versus jail time.
- Discussion of “expedited transfer” to alleviate the issues with (E) & (F). H. Lowery noted that states need to be aware of the Compact when determining their sentencing structure.

**RULE 3.103 Acceptance of the offender by receiving state; exception**

(a) A sending state shall not allow an offender under supervision in the sending state to relocate to a receiving state without the receiving state’s acceptance of the transfer of supervision.

(b) Exception—
(1)(A) A sending state may grant a travel permit to an offender who was living in the receiving state at the time of sentencing.

(1)(A) A sending state may request reporting instructions from a receiving state through the electronic information system and 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.

(B) This exception is not applicable to offenders released to supervision from prison.

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

(C) The sending state shall ensure that the offender sign all forms requiring the offender’s signature under Rule 3.107 (a) 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.

(D) The sending state shall transmit a departure notice to the receiving state per Rule 4.105 (a).

(E) This exception is applicable to offenders sentenced to jail as a condition of probation and released to probation supervision from a jail facility.

(F) This exception is not applicable to offenders released to supervision from prison.

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

(3) 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.

(4) 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.
(5)(A) If the receiving state rejects the transfer request for an offender granted a travel permit reporting instructions, or if the sending state fails to send a completed transfer request by the 15th day following the granting of a travel permit reporting instructions, the sending state shall, upon receiving notice of rejection or upon failure to timely send a required transfer request from the receiving state, direct the offender to return to the sending state by a date specified by the sending state within 30 calendar days after the receipt of notification of the rejection of the transfer request.

(B) If the offender does not return to the sending state, as directed, the sending state shall initiate the retaking of the offender by issuing a warrant or an order to return no later than 10 calendar days following the offender’s failure to appear in the sending state.

(C) The receiving state shall continue to supervise the offender until a warrant is issued or notice is given by the sending state as required under Rule 4.105.

**Rule 3.106 Request for Expedited Reported Instructions**

- Motion to add same language from Rule 3.103 (b)(1)(C) to (a)(2)(B) made by D. Geiger, seconded by M. DePietro. Motion carried.

**RULE 3.106 Request for expedited reporting instructions**

(a)(1) A sending state may request that a receiving state agree to expedited transfer reporting instructions of 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 transfer reporting instructions of an offender shall immediately issue reporting instructions for the offender, and a sending state shall immediately issue a travel permit and transmit a departure notice.

(B) The sending state shall ensure that the offender signs all forms requiring the offender’s signature under Rule 3.107 (a) prior to granting a travel permit reporting instructions to the offender. The sending state shall immediately transmit the signed forms electronically or by telefax to the receiving state. 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.

(C) At the time of transmission of the signed forms, the sending state shall provide the receiving state with a copy of the offender's orders and conditions, documentation of the offender's residency, copy of any available pre-sentence report, copy of any order of protection, where applicable, and whether the offender is subject to sex offender registration in the sending state.

(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 a travel permit reporting instructions no later than the seventh calendar day following the granting to the offender of the travel permit reporting instructions.

(d)(1) If the receiving state rejects the transfer request for an offender granted a travel permit reporting instructions, or if the sending state fails to send a completed transfer request by the 7th seventh calendar day following the granting of a travel permit 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 by a date specified by the sending state within 30 calendar days after receipt of notification of the rejection of the transfer request.

(1) If the offender does not return to the sending state as directed, the sending state shall initiate the retaking of the offender no later than 10 calendar days following the offender's failure to appear in the sending state.

(2) The receiving state shall continue to supervise the offender until a warrant is issued or notice is given by the sending state as required under Rule 4.105.
New Business

- M. Gilliam noted the proposed amendments will be sent out early next week with a cover letter for review and comment. The Committee will review those comments and prepare final drafts at the December 2, 2005 meeting.
- M. Gilliam noted the Committee will be working on amendments referred to the Rules Committee during new business at the Annual Meeting last month and working with R. Masters and Mike Buenger on rewriting Chapter 5.
- Discussion of face-to-face meeting for the Rules Committee. M. Gilliam stated he will prepare costs for holding 2 face-to-face committee meetings at the next Executive Committee meeting and will report back with their decision.

Next Meeting

- Next meeting is scheduled for December 2, 2005.

Adjourn

- Motion to adjourn made by J. D’Amico, seconded by H. Lowery. Meeting adjourned at 1:55 pm EST.