INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION
WEST REGION MEETING MINUTES

October 23, 2014
2:00 pm ET
WebEx

Members in Attendance:
1. Anmarie Aylward  Washington, Chair
2. Dori Ege  Arizona
3. Jeremiah Stromberg  Oregon
4. Sidney Nakamoto  Hawaii
5. Denton Darrington  Idaho
6. Kim Madris  Nevada
7. Roberta Cohen  New Mexico
8. Geri Miller-Fox  Utah
9. Dawn Sides  Wyoming

Members not in Attendance
1. Carrie Belden  Alaska
2. Daniel Stone  California
3. Pamela Bunke  Montana
4. Walt Pesterfield  Colorado

Guests:
1. Shawn Arruti (NV)
2. Jim Ingle (UT)
3. Patricia Odell (WY)
4. Mark Patterson (OR)
5. Kathryn Luth (AK)
6. Cathy Gordon (MT)
7. Marjorie Martin (WA)
8. Lyn Miller (WA)
9. Judy Mesick (ID)
10. Victoria Vigil (NM)
11. Joe White (CO)
12. Brook Mamizuka (HI)
13. Devon Whitefield (CO)

Approved on 3/11/2015. B.S.
Call to Order
Commissioner A. Aylward (WA) called the meeting to order at 2:00 pm ET. Nine out of thirteen members were present, quorum was established.

Approval of Agenda
Commissioner G. Miller-Fox (UT) made a motion to approve the agenda. Commissioner D. Ege (AZ) seconded. Agenda approved.

Approval of Minutes
Commissioner D. Ege (AZ) made a motion to approve the minutes from August 26, 2014. Commissioner K. Madris (NV) seconded. Minutes approved as written.

Discussion
Commissioner G. Miller-Fox (UT) introduced rule proposal 5. to the Region for discussion.

Rule 5.—

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

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

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

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

Approved on 3/11/2015. B.S.
Commissioner G. Miller-Fox (UT) moved to forward the rule proposal 5.__ to the Rules Committee. Commissioner D. Ege (AZ) seconded.

Commissioner G. Miller-Fox (UT) amended the motion with the following “any prison-time incarceration”. Commissioner D. Ege (AZ) seconded.

Commissioner D. Ege (AZ) spoke in favor of the motion.

Commissioner K. Madris (NV) spoke in favor of the motion.

Motion passed.

Commissioner K. Madris (NV) presented an amendment to Rule 2.105 to the Region.

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 one of the following:

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

Justification for revision:

This proposal would amend the misdemeanor rule to specifically address the misdemeanor offender whose instant offense was a sexual offense that requires the offender to register as a sex offender in the sending state and whose sentence includes 1 year or more of supervision.

There has been extensive discussion by the Commission regarding misdemeanants and their inclusion within the requirements of the Interstate Compact. Debate has centered around whether misdemeanants should continue to be included, whether the qualifiers

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should be modified or whether misdemeanants should be eliminated from the Compact. Many regions and standing committees have submitted proposed amendments to the misdemeanor rule for consideration. This proposal provides an alternate approach for consideration.

The existing language in ICAOS Rule 3.101-2, Discretionary Transfer of Supervision, already provides us with the language needed to address “misdemeanants” if the misdemeanor rule were to be amended and/or eliminated by the Commission. Additionally, Advisory Opinion 4-2005 already directly supports that sending states may submit offense ineligible offenders for discretionary transfer consideration under the current rules of the Compact. During discussions and training, facilitators would need to emphasize that sending states would still have the ability to submit those cases they deem appropriate, based on the specific circumstances of the case, giving the prospective receiving state the opportunity to supervise those cases.

For sending states with supervised misdemeanants that need to be transferred, nothing in these proposed changes will impact those states from continuing to submit their misdemeanor cases for consideration by a prospective receiving state. However, for those states with lower level misdemeanants that are not supervised by the paroling or probation authority, but still trigger the requirements of the compact, this would remove the liability issue that has previously been discussed by removing those lower level misdemeanor cases, which states may not even be aware of, from the mandatory transfer criteria.

Adoption of this amendment would require the following additional changes to existing ICAOS definitions as follows:

**Current:**

**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 required to request transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision.

**Recommended Change:**

**Offender** – means an adult placed under, or made subject to, supervision as the result of a felony conviction for a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies, and who is required to request transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision.

As the misdemeanor rule as proposed to be amended would only apply to the misdemeanor offender whose instant offense was a sexual offense that requires the offender to register as a sex offender in the sending state and whose sentence includes 1 year or more of supervision, no change would be required to the existing definition for “Sex Offender” which reflects as follows:

**Sex 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 required to register as a sex offender either in the sending or receiving state
and who is required to request transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision.

Commissioner K. Madris (NV) moved to forward the rule proposal 2.105 to the Rules Committee. Commissioner S. Nakamoto (HI) seconded.

Commissioner K. Madris (NV) amended the motion to include a new definition for “offender” as reflected on the screen. Commissioner S. Nakamoto (HI) seconded.

Motion passed.

Commissioner D. Ege (AZ) introduced rule proposal 3.101-2 to the Region.

**Rule 3.101-2 Discretionary transfer of supervision**

a) A sending state may request transfer of supervision of an offender who does not meet the definition of offender or sex offender and the eligibility requirements in Rule 3.101.

b) The sending state must provide sufficient documentation to justify the requested transfer. The justification must also include the sending state’s risk and needs assessment score, if one exists, and sufficient explanation of what the score means as it relates to the level of supervision required in the sending state.

c) The receiving state shall have the discretion to accept or reject the transfer of supervision in a manner consistent with the purpose of the compact.

**Justification for revision:**

Adding the requirement of the sending state’s risk and needs assessment score and explanation of what that means in the sending state will assist the receiving state in making the best decision for acceptance and rejection of the discretionary transfer request.

Commissioner D. Ege (AZ) moved to forward the rule proposal 3.101-2 Discretionary transfers to the Rules Committee. Commissioner K. Madris (NV) seconded.

Motion passed.

DCA M. Martin (WA) introduced rule proposal 1.101 to the Region.

*Definition of “Resident family” means a parent, grandparent, aunt, uncle, adult child, adult sibling, spouse, legal guardian, or step-parent who

(4) does not meet the definition of resident family due to an adult adoption, unless the offender has a disability that mandates a legal guardian.

*Justification: Individuals can get around the resident family requirement by adopting the offender. Some states’ courts do not require justification for an adoption. This language would tighten up the rule so that the intent of the rule remains and it cannot be abused.

Commissioner A. Aylward (WA) moved to forward Resident Family definition to the Rules Committee. Commissioner J. Stromberg (OR) seconded.

Approved on 3/11/2015. B.S.
DCA M. Martin (WA) informed the Region that proposal was suggested by their legal counsel after a case was denied.

Commissioner D. Sides (WY) stated that the proposal is not clear.

The Region decided to forward the proposal to the Rules Committee and let it make any necessary changes to it.

Motion passed.

DCA M. Martin (WA) introduced the proposal to the Region.

Rule 3.101-1 Mandatory reporting instructions and transfers of military, families of military, family members employed, employment transfer, and veterans for medical or mental health services.

(a)(1)(a) An offender who has been discharged from the military within the last 30 days shall be eligible for reporting instructions and transfer of supervision to the state s/he resided in when s/he entered military service.

Justification: Active duty soldiers are often discharged soon after being sentenced to supervision. They are being denied reporting instructions and left having no family or resources in the state they are in. By the time (45 days) the transfer has been investigated, their funds are gone and they are homeless and don’t have the means to travel to their home state.

Commissioner A. Aylward (WA) moved to forward rule proposal 3.101-1 Mandatory Reporting Instructions for Military to the Rules Committee. Commissioner D. Ege (AZ) seconded.

Commissioner D. Ege (AZ) amended the motion by striking the language “and transfer of supervision”. Commissioner A. Aylward (WA) seconded.

Commissioner K. Madris (NV) stated that it is not necessary to create a rule for every circumstance.

DCA C. Gordon (MT) spoke in favor of the motion.

Commissioner D. Ege (AZ) respected Nevada’s comment and spoke in favor of the 30 days addition to the rule.

Motion passed unanimously.

DCA M. Martin (WA) introduced the rule proposal 3.103 to the Region.
**Rule 3.103 Reporting Instructions: offender living in the receiving state at the time of sentencing**

(e) (1) If the receiving state rejects the transfer request for an offender granted reporting instructions, or if the sending state fails to send a completed transfer request by the 15th business day following the granting of reporting instructions, the sending state shall, upon receiving notice of rejection or upon failure to timely send a required transfer request, direct the offender to return to the sending state. The offender shall be required to return within 15 business days of receiving notice of rejection or failure to send a transfer request. The sending state shall submit the instructions for the offender to report to the receiving state, via a Compact Action Request in ICOTS, within 5 working days of denial or notice of failure to timely send a required 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.

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

Commissioner D. Ege (AZ) informed the Region that the Rules Committee is already working on the second part of the proposal.

**Commissioner A. Aylward (WA) moved to forward the rule proposal 3.103 to the Rules Committee. Commissioner D. Ege (AZ) seconded.**

Commissioner K. Madris (NV) suggested changing 15 calendar days to 15 business days in justification.

**Motion passed.**

**States Update**

*Washington* worked on rule proposals. It completed the compliance audit.

*Idaho* is moving forward with justice reinvestment and its incorporation in Parole and Probation.

*Arizona’s* DCA position has been filled.

*California* is training counties probation departments and superior courts.

*Colorado’s* state audit is in the process.

*Hawaii* is working on the statewide training for probation officers, judges and attorneys.

*Montana’s* commissioner P. Bunke is retiring in a few days.

*Nevada’s* state council met in Sept. On Oct 2, the national office hosted a training session on VINE program. The legislation session will be starting shortly.
New Mexico is conducting interviews for the compact specialist position. NM will hold misdemeanor training. The national office will provide training for magistrate judges in December 2014.

Utah is working on the State Council membership. J. Ingle was invited to participate in the new judges trainings.

Oregon: Commissioner J. Stromberg is working on the Compliance Committee membership.

Wyoming: State Council met on Sept 24. WY has a new compact specialist.

Alaska: Commissioner is on the maternity leave. AK new marijuana initiative will be reviewed in a few weeks.

Commissioner A. Aylward (WA) encouraged all Region members to participate in committees.

DCA P. Odell (WY) is interested being the Rules Committee member.

Adjourn
Commissioner D. Sides (WY) moved to adjourn the meeting. Commissioner G. Miller-Fox (UT) seconded. The meeting was adjourned at 3:18 pm ET.