



INTERSTATE COMMISSION FOR ADULT  
OFFENDER SUPERVISION

**2013 APPROVED RULE  
AMENDMENTS**

Boston, Massachusetts  
August 28, 2013

**Motion:** Any rule that has a time requirement for action of less than 30 days shall be amended to reflect that those days are business days; any time requirement of 30 days or more shall be amended to reflect that those days are calendar days.

\*See attachment

Effective: March 1, 2014

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### ***Rule 1.101 Definitions***

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

#### ***Justification***

*Proposal to delete the language clarifies the definition of abscond as used in Rule 4.109-2 which still requires action on the part of the receiving state to determine if the absence is to avoid supervision.*

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

#### ***Justification***

*Rule 5.103-2 was repealed making definition unnecessary.*

“**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.

#### ***Justification***

*Proposal to clarify that the issuance of warrants for compact offenders should not allow for a bond to be set.*

Effective: March 1, 2014

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

(a) 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 for:

(1) *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.~~

(2) *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.~~

(3) *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.~~

(4) *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.~~

(5) *Transfers of veterans for medical or mental health services-* An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and 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:

(A) the sending state provides documentation to the receiving state of the medical and/or mental health referral; and

(B) the transfer of supervision will be accepted if the offender is approved for care at the receiving state Veterans Health Administration facility.

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

***Justification***

*Creates a new mandatory reason for transfer and reporting instructions for veterans, in light of the regional nature of VA facilities used to help and treat veterans on community supervision and the increasing use of “Veterans Treatment Courts.”*

Effective: March 1, 2014

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***Rule 3.102 - Submission of transfer request to a receiving state***

(a) Except as provided in sections (c) & (d), and subject to the exceptions in Rule 3.103 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) Except as provided in sections (c) & (d), and subject to the exceptions in Rule 3.103 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.

(c) An offender who is employed in the receiving state at the time the transfer request is submitted and has been permitted to travel to the receiving state for the employment may be permitted to continue to travel to the receiving state for the employment while the transfer request is being investigated, provided that the following conditions are met:

- (1) Travel is limited to what is necessary to report to work, perform the duties of the job and return to the sending state.
- (2) The offender shall return to the sending state daily during non-working hours, and
- (3) The Transfer Request shall include notice that the offender has permission to travel to and from the receiving state, pursuant to this rule, while the transfer request is investigated.

(d) When a sending state verifies an offender is released from incarceration in a receiving state and the offender requests to relocate there and the offender meets the eligibility requirements of Rule 3.101 (a), (b) & (c), the sending state shall request expedited reporting instructions within 2 business days of the notification of the offender’s release. The receiving state shall issue the reporting instructions no later than 2 business days. If the proposed residence is invalid due to existing state law or policy, the receiving state may deny reporting instructions.

- (1) The receiving state shall assist the sending state in acquiring the offender's signature on the "Application for Interstate Compact Transfer" and any other forms that may be required under Rule 3.107, and shall transmit these forms to the sending state within 7 business days and mail the original to the sending state.
- (2) The provisions of Rule 3.106 (b), (c) & (d) apply.

***Justification***

*This provides alternate language drafted by the Rules Committee in response to the Midwest Proposal for an exception for offenders released in a receiving state on a parole detainer. Upon subsequent review and lengthy discussion, the rules committee decided to offer a proposal to amend Rule 3.102. By referring to the provisions of Rule 3.106, this eliminates the need for an ICOTS enhancement. Based on comments received this is a simpler approach to address this issue.*

*To be clear, the rules committee would note that if the offender is released from a federal facility exclusively for a federal crime this rule would not apply.*

Effective: March 1, 2014

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***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.

***Justification***

*This language appears in Rule 3.105 (c) which allows receiving states to withdraw acceptances when a pre-release transfer is accepted but the offender fails to report following the submission of an NOD. However, Rule 3.104-1 does not include this language which suggests that states cannot withdraw their acceptances when offenders fail to report following the submission of an NOD. The current language of 3.104-1 only provides for the withdrawal of an acceptance if the sending state fails to submit an NOD within the 120 day time frame.*

Effective: March 1, 2014

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### **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) summary of prison discipline and mental health history during the last 2 years, if available, unless distribution is prohibited by law.
- (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.

***Justification***

*Institutional history provides additional information regarding incarcerated offenders when requesting transfer. PSI's typically include only offender information prior to incarceration.*

Effective: March 1, 2014

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***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 10 business days following transmission receipt by the ~~receiving~~ sending state. ~~Receipt of a violation report shall be presumed to have occurred by the 5th business day following its transmission by the receiving state;~~~~
  - (2) The response by the sending state shall include action to be taken by the sending state and the date by which that action will begin and its estimated completion date.

***Justification***

*With the advent of ICOTS there is no need for this language which has been construed to add 5 business days to the time limit for responses and is inconsistent with other rules which have already had this type of language removed after ICOTS. "Transmission" is the language used by ICOTS.*

Effective: March 1, 2014

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### **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 calendar 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 transmit 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.

#### ***Justification***

*There should be a timeframe for submitting the case closure notice as there is for replying to one. If an offender is on supervision until the end of the last day of supervision, it is unreasonable to expect that the CCN would be provided that same day. Not all agents are in the office every day to review cases for closure.*

*Strike "Under Rule 5.101" in section (b) to eliminate confusion regarding when a case closure notice can be submitted following retaking.*

Effective: March 1, 2014

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### **Rule 5.101 Discretionary retaking by the sending state**

(a) Except as required in Rules 5.102, 5.101-1, 5.103, and 5.103-1 ~~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.~~

***Justification***

*Rule 5.101 as it is currently written is confusing because it combines the absolute authority of the sending state to retake an offender with the obligation of the receiving state to resolve all pending charges for a subsequent criminal offense prior to retaking by the sending state. The rewrite of Rule 5.101 and the creation of Rule 5.101-1 separate these two issues into two separate rules which clarifies how states resolve retaking issues while protecting the public and victims. Rule 5.101 outlines the absolute authority of the sending state to retake an offender at the state's sole discretion.*

*Rule 5.101-1 outlines the process the receiving state must follow to allow the sending state to retake an offender who has committed a subsequent felony or violent crime in the receiving state.*

Effective: March 1, 2014

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**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.

***Justification***

*Rule 5.101 as it is currently written is confusing because it combines the absolute authority of the sending state to retake an offender with the obligation of the receiving state to resolve all pending charges for a subsequent criminal offense prior to retaking by the sending state. The rewrite of Rule 5.101 and the creation of Rule 5.101-1 separate these two issues into two separate rules which clarifies how states resolve retaking issues while protecting the public and victims. Rule 5.101 outlines the absolute authority of the sending state to retake an offender at the state's sole discretion.*

*Rule 5.101-1 outlines the process the receiving state must follow to allow the sending state to retake an offender who has committed a subsequent felony or violent crime in the receiving state.*

Effective: March 1, 2014

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**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.

Effective: March 1, 2014

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**~~Rule 5.103-2 Mandatory retaking for violent offenders and 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.~~

***Justification***

*In its present form, 5.103-2 (a) prompts recommendations based on the nature of the instant offense or history of offenses instead of recommendations based on nature of the violation committed. Violations that are insignificant and would go unreported in many instances are treated as significant based on the classification "violent offender". 5.103 already addresses significant violations of conditions of supervision and 5.102 addresses new felony convictions. Originally, the recommendation was to strike (a) from 5.103-2 for reasons previously stated. Now the recommendation is to strike 5.103-2 in its entirety*

and address new violent crime convictions in a revised version of 5.102. This moves the Compact in the direction of Evidence Based Practices and away from imprudent practices.

Effective: March 1, 2014

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### **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.

#### ***Justification***

*The current verbiage in this rule is silent regarding how long a sending state has to order the return of the offender or issue a warrant for an offender. This has caused the delay in returning some offenders to the sending state and this can pose a risk to public safety. For these reasons, the additional language in (a) is being proposed to establish a time frame for sending states to affect the return of their offender under this rule .*

Effective: March 1, 2014

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### **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.~~

#### ***Justification***

*The "decision to retake" is not defined and causes confusion; the proposed language helps to clarify what triggers the 30 calendar day time frame for retaking.*

Effective: March 1, 2014

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### ***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 place where the alleged violation occurred.
- (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~~ criminal 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 10 business 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.
- (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.

***Justification***

*A judgment of conviction of any criminal offense is sufficient evidence of probable cause, so no further proceedings or a probable cause hearing would be needed.*

Effective: March 1, 2014

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***Rule 6.103 Enforcement actions against a defaulting state***

- (a) If the Interstate Commission determines that any state has at any time defaulted (“defaulting state”) in the performance of any of its obligations or responsibilities under this Compact, the by-laws or any duly promulgated rules the Interstate Commission may impose any or all of the following penalties-
- (1) Fines, fees and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission;
  - (2) Remedial training and technical assistance as directed by the Interstate Commission;
  - (3) Suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the by-laws and rules have been exhausted. Immediate notice of suspension shall be given by the Interstate Commission to the governor, the chief justice or chief judicial officer of the state; the majority and minority leaders of the defaulting state’s legislature, and the state council.
- (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 ~~penalty~~ 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.
- (c) Within 60 days of the effective date of termination of a defaulting state, the Interstate Commission shall notify the governor, the chief justice or chief judicial officer and the majority and minority leaders of the defaulting state’s legislature and the state council of such termination.
- (d) The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

- (e) The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the Interstate Commission and the defaulting state.
- (f) Reinstatement following termination of any compacting state requires both a reenactment of the Compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

***Justification***

*Provides discretion for penalties to be imposed for a defaulting state and allow for time to cure defaults if appropriate.*

Effective: March 1, 2014

## Changes Made for Calendar/Business Days

### *Rule 1.101 Definitions*

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

(1) has resided in the receiving state for 180 calendar days or longer as of the date of the transfer request; and

(2) indicates willingness and ability to assist the offender as specified in the plan of supervision.

“**Temporary travel permit**” means, for the purposes of Rule 3.108 (b), the written permission granted to an offender, whose supervision has been designated a “victim-sensitive” matter, to travel outside the supervising state for more than 24 hours but no more than 31 calendar days. A temporary travel permit shall include a starting and ending date for travel.

### *Rule 2.103 Dues formula*

(a) The commission shall determine the formula to be used in calculating the annual assessments to be paid by states. Public notice of any proposed revision to the approved dues formula shall be given at least 30 calendar days prior to the Commission meeting at which the proposed revision will be considered.

(b) The commission shall consider the population of the states and the volume of offender transfers between states in determining and adjusting the assessment formula.

(c) The approved formula and resulting assessments for all member states shall be distributed by the commission to each member state annually.

(d)

(1) The dues formula is the—

(Population of the state **divided by** Population of the United States) **plus** (Number of offenders sent from and received by a state **divided by** Total number of offenders sent from and received by all states) divided by 2.

(2) The resulting ratios derived from the dues formula in Rule 2.103 (d)(1) shall be used to rank the member states and to determine the appropriate level of dues to be paid by each state under a tiered dues structure approved and adjusted by the Commission at its discretion.

### *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 falling in an odd-numbered year.
- (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 calendar 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 60 calendar 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 90 calendar 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 purposes of correcting typographical errors, errors in format or grammatical errors. Public notice of any revisions shall be posted 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. For a period of 30 calendar 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 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 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~~ business 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~~ business days following the offender's failure to appear in the sending state.

***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 calendar 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 means of support.

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

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

- (5) This section is applicable to offenders incarcerated for 6 months or less and released to probation supervision.
- (b) The sending state retains supervisory responsibility until the offender's arrival in the receiving state.
- (c) A receiving state shall assume responsibility for supervision of an offender who is granted reporting instructions upon the offender's arrival in the receiving state. The receiving state shall submit an arrival notice to the sending state per Rule 4.105.
- (d) A sending state shall transmit a completed transfer request for an offender granted reporting instructions no later than 15 ~~calendar~~ business days following the granting to the offender of the reporting instructions.
- (e)
- (1) If the receiving state rejects the transfer request for an offender granted reporting instructions, or if the sending state fails to send a completed transfer request by the 15th ~~calendar~~ 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 within 15 ~~calendar~~ business days of receiving notice of rejection or failure to send a transfer request. The receiving state retains authority to supervise the offender until the offender's directed departure date from the receiving state or issuance of the sending state's warrant.
- (2) If the offender does not return to the sending state, as ordered, the sending state shall initiate the retaking of the offender by issuing a warrant that is effective in all states without limitation as to specific geographic area, no later than 10 ~~calendar~~ business days following the offender's failure to appear in the sending state.

***Rule 3.104 Time allowed for investigation by receiving state***

- (a) A receiving state shall complete investigation and respond to a sending state's request for an offender's transfer of supervision no later than the 45th calendar day following receipt of a completed transfer request in the receiving state's compact office.
- (b) If a receiving state determines that an offender transfer request is incomplete, the receiving state shall notify the sending state by rejecting the transfer request with the specific reason(s) for the rejection. If the offender is in the receiving state with reporting instructions, those instructions shall remain in effect provided that the sending state submits a completed transfer request within 15 ~~calendar~~ business days following the rejection.

***Rule 3.105 Pre-release transfer request***

- (a) A sending state may submit a completed request for transfer of supervision no earlier than 120 calendar 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 the offender's intended date of departure and shall provide immediate notice of such withdrawal to the sending state.

***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 2 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 7th ~~calendar~~ business 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 7th ~~calendar~~ 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 within 15 ~~calendar~~ business days of receiving notice of rejection or failure to send a transfer request. The receiving state retains authority to supervise the offender until the

offender's directed departure date from the receiving state or issuance of the sending state's warrant.

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

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

***Rule 6.103 Enforcement actions against a defaulting state***

- (a) If the Interstate Commission determines that any state has at any time defaulted ("defaulting state") in the performance of any of its obligations or responsibilities under this Compact, the by-laws or any duly promulgated rules the Interstate Commission may impose any or all of the following penalties-
  - (1) Fines, fees and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission;
  - (2) Remedial training and technical assistance as directed by the Interstate Commission;
  - (3) Suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the by-laws and rules have been exhausted. Immediate notice of suspension shall be given by the Interstate Commission to

the governor, the chief justice or chief judicial officer of the state; the majority and minority leaders of the defaulting state's legislature, and the state council.

(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.

(c) Within 60 calendar days of the effective date of termination of a defaulting state, the Interstate Commission shall notify the governor, the chief justice or chief judicial officer and the majority and minority leaders of the defaulting state's legislature and the state council of such termination.

(d) The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

(e) The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the Interstate Commission and the defaulting state.

(f) Reinstatement following termination of any compacting state requires both a reenactment of the Compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.