FULL COMMISSION MEETING MINUTES

Interstate Commission for Adult Offender Supervision

Teleconference
April 21, 2020

Call to Order
Chair J. Stromberg (OR) called the meeting to order at 2:00 p.m. ET.

Roll Call
Executive Director A. Lippert called the roll. Fifty-one out of fifty-three members were present, thereby constituting a quorum.

1. Alaska          Rebecca Brunger, Commissioner
2. Alabama         Tom Langer, Commissioner
3. Arkansas        Amber Schubert, Commissioner
4. Arizona         Dori Littler, Commissioner
5. California      Jeffrey Green, Commissioner
6. Colorado        Merideth McGrath, Commissioner
7. Connecticut     Gary Roberge, Commissioner
8. Dist. of Columbia Richard Tischner, Commissioner
9. Delaware        Terra Taylor, Commissioner
10. Florida        Joe Winkler, Commissioner
11. Georgia        Chris Moore, Commissioner
12. Hawaii         Dwight Sakai, Commissioner
13. Iowa           Not in attendance
14. Idaho          Denton Darrington, Commissioner
15. Illinois       Rebecca Walton, Commissioner
16. Indiana        Mary Kay Hudson, Commissioner
17. Kansas         Hope Cooper, Commissioner
18. Kentucky       Steve Turner, Commissioner
19. Louisiana      Pete Fremin, Commissioner
20. Massachusetts  Gloriann Moroney, Commissioner
21. Maryland       Martha Danner, Commissioner
22. Maine          Susan Gagnon, Commissioner
23. Michigan       Russ Marlan, Commissioner
24. Minnesota      Allen Godfrey, Commissioner
25. Missouri       Julie Kempker, Commissioner
26. Mississippi    Christy Gutherz, Commissioner
27. Montana        Cathy Gordon, Commissioner
28. North Carolina Tim Moose, Commissioner
29. North Dakota Amy Vorachek, Commissioner
30. Nebraska Jacey Rader, Commissioner
31. New Hampshire Benjamin Jean, Commissioner
32. New Jersey Samuel Plumeri, Commissioner
33. New Mexico Roberta Cohen, Commissioner
34. Nevada Sheri Sliva, Commissioner
35. New York Robert Maccarone, Commissioner
36. Ohio Katrina Ransom, Commissioner
37. Oklahoma James Rudek, Commissioner
38. Oregon Jeremiah Stromberg, Commissioner
39. Pennsylvania Linda Rosenberg, Commissioner
40. Puerto Rico Raquel Colon, Commissioner
41. Rhode Island Patricia Coyne-Fague, Commissioner
42. South Carolina Not in attendance
43. South Dakota Bradley Lewandowski, Commissioner
44. Tennessee Lisa Helton, Commissioner
45. Texas David Gutierrez, Commissioner
46. Utah Dan Blanchard, Commissioner
47. Virginia Jim Parks, Commissioner
48. U.S. Virgin Islands Wynnie Testamark, Commissioner
49. Vermont Dale Crook, Commissioner
50. Washington Mac Pevey, Commissioner
51. Wisconsin Joselyn Lopez, Commissioner
52. West Virginia Diann Skiles, Commissioner
53. Wyoming Coltan Harrington, Commissioner

Executive Director A. Lippert recognized ex-officio members:

- Association of Prosecuting Attorneys (APA) – David LaBahn
- Interstate Commission for Juveniles (ICJ) – Jedd Pelander
- National Governors Association (NGA) – Nicole Banister
- National Association of Attorneys General (NAAG) – Amie Ely
- National Institute of Corrections (NIC) – Holly Busby

**Guests**

3. Veronique Vangheem CO 21. Sally Reinhardt-Stewart NE
4. Natalie Latulippe CT 22. Jeanne Stewart NH
5. Angella New FL 23. Matthew Charton NY
6. Brook Mamizuka HI 24. Mark Patterson OR
7. Emma Goode ICJ 25. Ingrid Siliezar RI
8. Leslie Anderson ICJ 26. Chris Harris SC
9. MaryLee Underwood ICJ 27. Chuck Frieberg SD
10. Judy Mesick ID 28. Sarah Ball SD

Page 2 of 7
12. Matthew Billinger  
KS  

13. Jennifer Adkins  
ICJ  

14. Lavon Hill  
KY  

15. LaShonda Lee-Campbell, MD  
33. Autumn Witten  
WA  

16. Denis Clark  
ME  

17. Daryn Cobb  
MI  

18. Tracy Hudrlik  
MN  

30. Brandon Watts  
TX  

31. Pamela Thielke  
TX  

32. Julie Lohman  
VA  

34. Tanja Gilmore  
WA  

35. Mary Evans  
WI  

Staff:  
1. Ashley Lippert, Executive Director  
2. Allen Eskridge, Policy and Operations Director  
3. Barno Saturday, Logistics and Administrative Coordinator  
4. Mindy Spring, Administrative and Training Coordinator  
5. Xavier Donnelly, ICOTS Project Manager  
6. Thomas Travis, ICAOS Legal Counsel  

Agenda  
Commissioner G. Roberge (CT) moved to approve the agenda as presented. Commissioner R. Maccarone (NY) seconded. Agenda approved.  

Opening Remarks  
Chair J. Stromberg (OR) stated that the Commission’s Bylaws require a written notice of Commission meetings posted at least 30 days prior to their scheduled date. He asked for a motion to suspend the 30-day meeting notice to conduct this emergency Commission meeting.  

Commissioner H. Cooper (KS) moved to suspend the 30-day meeting notice to conduct the emergency Commission meeting. Commissioner J. Rader (NE) seconded. Motion passed.  

Chair J. Stromberg (OR) thanked commissioners for taking time to attend the emergency meeting. He stated that the declarations of emergency from the federal and state governments impacted Compact members ability to comply with timelines and procedural requirements as outlined in the Commission’s Rules. Despite these difficulties, the Commission must maintain a consistent and rational legal hierarchy for addressing this emergency and potential future crisis.  

Chair J. Stromberg (OR) noted that given the prolonged nature of the current emergency, the previously adopted Administrative Policy 01-2020 on Emergency Guidelines must have a strengthened statutory justification afforded by a new Commission Rule. After consultation with legal counsel and the national office, Chair J. Stromberg charged the Rules Committee with drafting a rule granting the Executive Committee emergency discretion to suspend enforcement of Commission rules or parts thereof. The new rule should require states to define the authority for their suspensions and should promote a return to normalcy as quickly as possible.  

The new rule will allow the Commission to act in advance when a crisis occurs. He noted that should the Commission not pass this rule, enforcement as outlined by the Commission prevails and states will be held accountable regardless of the crisis at hand.
Commissioner M. Hudson (IN), Rules Committee Chair, presented the rule to the Commission. She thanked members of the Rules Committee and the Executive Committee for coming together quickly to address this matter.

Commissioner M. Hudson (IN) stated that the proposed New Rule 2.111 would provide a mechanism for the Emergency Suspension of Enforcement of Commission Rules based upon a declaration of a national emergency by the President of the United States and/or declaration of emergency by one or more Governors of member states.

This rule allows for suspension of enforcement of ICAOS Rules during a crisis, such as the one facing the nation at this time. She added that members would still be obligated to perform all the duties required by the Compact.

Commissioner M. Hudson (IN) stated that because such a suspension of the rules should only be undertaken in extreme cases, this rule would establish a two-step process: (1) A majority of the full Commission would have to vote to authorize the Executive Committee to suspend enforcement of the rules; and (2) The Executive Committee would need to vote to exercise the authority granted to them by the Commission.

She added that the suspension of enforcement is subject to the length of the emergency declaration, unless preemptively concluded by the Executive Committee.

Commissioner M. Hudson (IN) stated that the new rule was distinct from the policy. AP 01-2020 on Emergency Guidelines outlines the process by which the states inform the national office of any changes in their procedures. The new rule permits relaxation of the enforcement of Compact obligations; it does not give the states authority not to fulfill their duties under the Compact.

**Rule 2.111 Emergency Suspension of Enforcement**

(a) Upon a declaration of a national emergency by the President of the United States and/or the declaration of emergency by one or more Governors of the compact member states in response to a crisis, the Commission may, by majority vote, authorize the Executive Committee to temporarily suspend enforcement of Commission rules or parts thereof, but shall not suspend enforcement of any Compact powers and duties specified in the statute. Such suspension shall be justified based upon:

1. The degree of disruption of procedures or timeframes regulating the movement of offenders under the applicable provisions of the Compact, which is the basis for the suspension;
2. The degree of benefit (or detriment) of such suspension to the offender and/or public safety; and
3. The anticipated duration of the emergency.

(b) The length of any suspension shall be subject to the length of the national/state declaration(s) of emergency, or preemptively concluded by majority vote of the Executive Committee, whichever occurs sooner.

(c) States shall still maintain all of their duties under the Compact, unless instructed otherwise.
**Justification:**
In the wake of the COVID-19 pandemic, states of emergency have been declared by the President of the United States and the Governors of most member states. Due to these states of emergency, related executive orders, and other official directives, state compact offices throughout the nation have found it difficult or impossible to comply with the timelines and procedures set forth in the Commission’s Rules. As this crisis continues, stability and predictability is needed, as any policy adopted by the Executive Committee is legally inadequate in comparison to the Rules and the Compact itself.

As recommended by Legal counsel, this rule promulgated in accordance with Rule 2.109 (j,) gives discretion to the Executive Committee to grant the suspension of enforcement with proper justification. This emergency rule would apply only during the duration of the emergency and would be subjected to the ordinary rule making processes within ninety (90) days of its promulgation.

**Rule Vote**
Commissioner M. Hudson (IN) moved the Commission recognize that an emergency exists that justifies the promulgation of an emergency rule pursuant to Rule 2.109 (j), and that the Commission adopts the proposed new Rule 2.111 regarding Emergency Suspension of Enforcement of Rules, which will become effective immediately upon adoption.

Commissioner R. Maccarone (NY) seconded.

Chair J. Stromberg (OR) opened floor for discussion.

No comments were received.

Executive Director A. Lippert took a roll call vote:

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*Commissioners, who sent their vote via email due to technical difficulties with their audio connection.

Motion passed unanimously.

Commissioner H. Cooper (KS) moved to invoke Rule 2.111 and authorize the Executive Committee to enact its emergency provisions to suspend enforcement of the Commission’s rules.

Commissioner A. Godfrey (MN) seconded.

Chair J. Stromberg (OR) opened the floor for discussion.

Commissioner D. Littler (AZ) inquired if the rule becomes effective today.

Chair J. Stromberg (OR) stated that the rule does become effective today. The Executive Committee meets immediately after this meeting to decide which rules would be under suspended enforcement.

There were no other comments.

Executive Director A. Lippert took a roll call vote.

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Motion passed unanimously.

**Closing Remarks**
Chair J. Stromberg (OR) advised the Commission that the regular rules promulgation processes would be applied retroactively. Therefore, the Rules Committee would post the Emergency Rule 2.111 for comment from May 1 until June 1. The Rules Committee would review those comments and determine whether any amendments should be made. The Commission would hold a public hearing in June to meet the requirements in ICAOS Rules.

Chair J. Stromberg (OR) informed the Commission that the Executive Committee discussed a contingency plan for the upcoming Annual Business Meeting and would be making a decision in late May or early June.

**Adjourn**
Commissioner G. Roberge (CT) moved to adjourn. Commissioner D. Crook (VT) seconded.

The meeting adjourned at 2:29 pm ET.