

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.

The following information is drafted by the Rules Committee

Effect on other rules, advisory opinions or dispute resolutions:

Upon utilization of the rule (after adoption & authorization) the Executive Committee would determine its effect on rules as specified

ICOTS impact:

None.

Scope and Metric

N/A

Region/Committee action:

Rules Committee April 2020: Motion to recommend adoption made by NY, seconded by GA. Approved

Full Commission Vote (April 21st):

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.

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.

Motion passed unanimously.

Effective date:

Immediately (April 21st, 2020) upon adoption in accordance with Rule 2.109 (j)