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  
20. Alyssa Miller  ND  

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 State 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.

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**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:

- Alaska  Yes
- Alabama  Yes
- Arkansas  Yes
- Arizona  Yes
- California  Yes
- Colorado  Yes
- Connecticut  Yes
- Dist. of Columbia  Yes
- Delaware  Yes
- Florida  Yes
- Georgia  Yes
- Hawaii  Yes
- Idaho  Yes
- Illinois  Yes
- Indiana  Yes
- Kansas  Yes
- Kentucky  Yes
- Louisiana  Yes
- Maine  Yes
- Maryland  Yes
- Massachusetts  Yes
- Michigan  Yes
- Minnesota  Yes
- Mississippi  Yes
- Missouri  Yes
- Montana  Yes
- Nebraska  Yes
- Nevada  Yes
- New Hampshire  Yes
- New Jersey  EMAIL VOTE YES*
- New Mexico  Yes
- New York  Yes
- North Carolina  Yes
- North Dakota  Yes
- Ohio  Yes
- Oklahoma  Yes
- Oregon  Yes
- Pennsylvania  Yes
- Puerto Rico  Yes
- Rhode Island  Yes
- South Dakota  Yes
- Tennessee  EMAIL VOTE YES*
- Texas  Yes
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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Kentucky  Yes  Tennessee  EMAIL VOTE YES*
Louisiana  Yes  Texas  Yes
Massachusetts  Yes  Utah  Yes
Maryland  Yes  Virginia  Yes
Maine  Yes  U.S. Virgin Islands  Yes
Michigan  Yes  Vermont  Yes
Minnesota  Yes  Washington  Yes
Missouri  Yes  Wisconsin  Yes
Mississippi  Yes  West Virginia  Yes

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

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.