



2007 RULE AMENDMENT PROPOSALS AND JUSTIFICATIONS

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RULE TITLE

Rule 1.101 Definitions

RULE LANGUAGE

“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.

REFERRED BY

Executive Committee

JUSTIFICATION

To effectively implement and administer special rules regarding the movement of sex offenders there is a need for a sex offender definition. States need to identify the offender that is required to adhere to the new rules, as established. The sub-committee recognizes that each state is unique, in regards to who is a sex offender, and subsequently discussed a definition that does not unnecessarily impose on individual definitions. This is a “process definition”.

The Rules Committee amended language to make consistent with other definitions.

EFFECT ON OTHER RULES

No effect of ICAOS Rules, Advisory Opinions, or Dispute Resolutions

PROPOSED EFFECTIVE DATE

January 1, 2008

RULE TITLE

RULE 2.104 Forms

RULE LANGUAGE

(a) States shall use the forms or electronic information system authorized by the commission for all communication regarding offenders between or among states.

(b) The sending state shall retain the original forms containing the offender's signature until the termination of the offender's term of compact supervision.

REFERRED BY

Rules Committee

JUSTIFICATION

Automation of the interstate transfer process is supported by allowing the sending state to retain original forms containing the offender's signature, thereby, not requiring original paper documents to be transmitted as part of the transfer application packet. If the receiving state needs such documents during the supervision process, they will be available by request from the sending state.

EFFECT ON OTHER RULES

To support this change to Rule 2.104, a change to Rule 3.107 (q) is also recommended as follows: signed copy of the "Offender Application for Interstate Compact Transfer" form, which shall include "Agreement to Return on Demand of the sending state" and "Waiver of Extradition...."

PROPOSED EFFECTIVE DATE

January 1, 2008

RULE TITLE

RULE 2.109 *Adoption of rules; amendment*

RULE LANGUAGE

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 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 sixty 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 ninety 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 the purpose of correcting typographical errors, errors in format or grammatical errors. Public notice of any revision 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 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.

REFERRED BY

Rules Committee

JUSTIFICATION

2.109 (b): The existing rules have been in place since August 1, 2004 and revisions have been made each year since then. The current process of revising rules on an annual basis has resulted in unforeseen issues such as:

- Training – once states and the training committee complete training on updated rules (which can take several months), they have to start over at the beginning of the calendar year to include the new set of revisions. Each revision requires states and the commission to expend time and money, or to forego updating training materials. Repeated changes also cause confusion among officers, agents, and staff.
- Compliance – for reasons stated above, it is difficult to enforce compliance when the same rules change every year, whether it is time frame changes, etc., since it is not possible to provide the updated training to all member states by January 1st.

Considering rule amendments and/or proposals for new rules every other year will alleviate some of the training and compliance issues and will allow the commission to “test” rules to see which ones are working and which ones need further revision. The proposal does not affect the commission’s ability to pass an emergency rule should the need arise.

The proposed amendment does not prevent the Rules Committee from bringing a proposal to the Commission for final action prior to the Annual Business Meeting in an odd numbered year.

2.109 (k): Clerical and typographical errors are likely to occur when rules are proposed for publication. This rule clarifies and provides authority to make editorial corrections without the need for action by the full commission. The rule allows any commissioner to challenge a revision if it appears to make a material change to a rule.

EFFECT ON OTHER RULES

No effect on existing rules, advisory opinions or dispute resolutions.

PROPOSED EFFECTIVE DATE

January 1, 2008

RULE TITLE

RULE 3.101 *Mandatory transfer of supervision*

RULE LANGUAGE

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 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 a means of support.

REFERRED BY

East Region

JUSTIFICATION

The revision clarifies how the 90 day period contemplated by this rule is to be determined. The Rules Committee modified language based on comments received in section (a). Also in section (a) the word “transmits” was substituted for the word “submits” in this proposal to be consistent with language in other rules.

EFFECT ON OTHER RULES

No effect on other ICAOS rules. Incorporates the decision in Advisory Opinion 6-2006.

PROPOSED EFFECTIVE DATE

January 1, 2008

RULE TITLE

RULE 3.101-1 Mandatory Transfers of Military, Families of Military, and Family Members Employed;

RULE LANGUAGE

- (a) *Transfer of military members-* An offender who is a member of the military and has been deployed by the military to another state, shall be immediately eligible for reporting instructions and transfer of supervision. The receiving state shall issue reporting instructions no later than two business days following receipt of such a request from the sending state.
- (b) *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 immediately 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 two business days following receipt of such a request from the sending state.
- (c) *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, shall be immediately 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 two business days following receipt of such a request from the sending state.

REFERRED BY

Rules Committee

JUSTIFICATION

The current language provides that a receiving state provide reporting instructions under this rule “immediately.” The word immediately is open to interpretation. In addition, the proposed change is consistent with the time frame in reporting instruction Rule 3.103.

EFFECT ON OTHER RULES

No effect on ICAOS rules, Advisory Opinions or Dispute Resolutions.

PROPOSED EFFECTIVE DATE

January 1, 2008

RULE TITLE

Rule 3.101-3 *Transfer of supervision of sex offenders*

RULE LANGUAGE

(a) *Eligibility for Transfer* At the discretion of the sending state a sex offender shall be eligible for transfer to a receiving state under the Compact rules. A sex offender shall not be allowed to leave the sending state until the sending state's request for transfer of supervision has been approved, or reporting instructions have been issued, by the receiving state. In addition to the other provisions of Chapter 3 of these rules, the following criteria will apply.

(b) *Application for Transfer* In addition to the information required in an application for transfer pursuant to Rule 3.107, in an application for transfer of supervision of a sex offender the sending state shall provide all information, if available, to assist the receiving state in supervising the offender:

- (1) Assessment information, including sex offender specific assessments;
- (2) Social History;
- (3) Information relevant to the sex offender's criminal sexual behavior;
- (4) Law enforcement report that provides specific details of sex offense;
- (5) Victim Information:
 - i. the name, sex, age and relationship to the offender;
 - ii. the statement of the victim or victim's representative;
- (6) The sending state's current or recommended supervision and treatment plan.

(c) *Reporting Instructions for sex offenders living in the receiving state at the time of sentencing* Rule 3.103 applies to the transfer of sex offenders, except for the following:

- (1) The receiving state shall have five business days to review the proposed residence to ensure compliance with local policies or laws prior to issuing reporting instructions. If the proposed residence is invalid due to existing state law or policy, the receiving state may deny reporting instructions.
- (2) No travel permit shall be granted by the sending state until reporting instructions are issued by the receiving state.

REFERRED BY

Executive Committee

JUSTIFICATION

The Interstate Commission for Adult Offender Supervision appointed the Sex Offender Ad Hoc Committee to consider and respond to the challenges correctional systems face in the transfer of supervised sex offenders across state lines. The Committee recognizes that transferring sex offenders has become increasingly complex and difficult because of individual state laws regarding sex offender registries, residency restrictions and employment restrictions. Nonetheless, the public and elected officials expect correctional agencies to provide more oversight on the movement and supervision of sex offenders for public safety. The Committee believes a proactive approach to the issue of sex offenders will help the Interstate Commission further its broad goals of increasing public safety and offender accountability.

The Committee worked with the American Probation and Parole Association, the National Institute of Corrections, and the Center for Sex Offender Management to learn more about sex offenders and to define guiding principles for their interstate transfer. The Committee's main guiding principle is ensuring that the transfer of a sex offender enhance the offender's accountability and reduce the likelihood that the offender will recidivate. The rules drafted by the Committee are an important first step in realizing this goal: receiving states will have comprehensive information at the outset to determine the risk and appropriate supervision level for a sex offender.

The Rules Committee made changes to the numbering of the rule and sections (a) & (b) for style and consistency.

EFFECT ON OTHER RULES

The limiting effect of this proposal on Rule 3.103 is stated in subsection (c) of the proposed rule. The intent, as expressed in subsection (a) is for all other provisions of Chapter 3 to apply. The proposal does not limit the applicability of any other rule, e.g., Rule 3.101-1 or 3.106, which may mandate that reporting instructions be issued or a response provided within a definite time. There do not appear to be any ICAOS Advisory Opinions or Dispute Resolutions affected by this proposal.

PROPOSED EFFECTIVE DATE

January 1, 2008

RULE TITLE

RULE 3.102 *Submission of transfer request to a receiving state*

RULE LANGUAGE

- (a) Subject to the exceptions in Rule 3.103 ~~(b)~~ 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) Subject to the exceptions in Rule 3.103 ~~(b)~~ 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. shall be given the opportunity to investigate the proposed plan of supervision prior to allowing the offender to leave the sending state.

REFERRED BY

Rules Committee

JUSTIFICATION

The amendment removes the reference to Rule 3.103 (b), which was amended at the commission's annual business meeting in 2006. The reference is no longer applicable to section (b) of Rule 3.103.

The amendment adds references to Rule 3.106, which also creates an exception allowing an offender to travel to a receiving state before a complete transfer request is submitted and before the receiving state has replied. The word "replied" is used to section (b) vs the word "accepted." States cannot assume that all cases will be accepted; and denied cases are not prohibited from temporary travel.

Section (b) is amended to clarify the intent of the section.

EFFECT ON OTHER RULES

No effect on existing rules, advisory opinions or dispute resolutions.

PROPOSED EFFECTIVE DATE

January 1, 2008

RULE TITLE

RULE 3.103 Reporting Instructions; ~~Probation Exception to Rule 2.110~~ Offender Living in the Receiving State at the Time of Sentencing

RULE LANGUAGE

- (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 seven calendar days of the sentencing date, or release from incarceration to probation supervision. The sending state may grant a seven-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 two business days following receipt of such a request from the sending state.
- (3) The sending state shall ensure that the offender signs all forms requiring the offender's signature under Rule 3.107 prior to granting a travel permit to the offender. ~~Signed forms shall be maintained in the sending state until termination of compact supervision.~~ 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 ~~exception 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 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 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 30 15 calendar days of receiving notice of rejection or failure to send a transfer request. immediately and the supervision responsibility shall revert to the sending state. 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 compact member states without limitation as to specific geographic area, no later than 10 calendar days following the offender's failure to appear in the sending state.

REFERRED BY

2006 Annual Business Meeting, without direction

JUSTIFICATION

Title: The amendment changes the title to more clearly reflect the subject of the rule. To be consistent with Title change language in (a)(5) was proposed to be "exception" to "section."

3.103 (a)(3): This revision eliminates an unnecessary sentence which has created confusion and apparent conflict with the requirements of Rule 3.107.

3.103 (e)(1): An offender residing in the receiving state may not have resources to return to a sending state immediately upon rejection or failure of the sending state to submit a timely transfer request. Based on comments received, the Rules Committee proposes allowing the offender up to 15 days to return to the sending state. The amendment restores the receiving state's authority to exercise control of the offender during the period between notice of rejection and the date the offender is expected to return to the sending state, or until the sending state has issued a warrant.

3.103 (e)(2): The revision eliminates redundant language, i.e., "compact member."

EFFECT ON OTHER RULES

These changes will have no effect on other ICAOS Rules, Advisory Opinions or Dispute Resolutions.

PROPOSED EFFECTIVE DATE

January 1, 2008

RULE TITLE

New Proposed Rule

Rule 3.105-1 Pre-Dispositional Transfer Requests

RULE LANGUAGE

- (a) A sending state may request the transfer for a convicted offender awaiting a pre-sentence report and/or final sentencing disposition 120 calendar days prior to final sentencing in accordance with Rules 3.101, 3.101-1 and 3.103.
- (b) A sending state shall immediately notify a receiving state of the offender's final disposition.
- (c) A receiving state may notify the sending state that it is withdrawing its acceptance or discontinuing its investigation if the final disposition results in "ineligibility" for compact services or incarceration for greater than 120 calendar days.
- (d) Following withdrawal or discontinuance of the receiving state's acceptance or investigation, a sending state shall direct the offender to return to the sending state and it may resubmit a request for transfer pursuant to Rule 3.103.

REFERRED BY

2006 Annual Business Meeting, upon motion by Ad Hoc Sex Offender Committee

JUSTIFICATION

The Sex Offender Ad-Hoc Committee met several times during 2005 and 2006 to discuss possible rule amendments or proposals to provide states with better and up front information concerning an offender's plan to relocate. The proposal is an idea that is heading in the right direction but it is agreed that this concept needs further thought and comment. Comments from states were mixed, but more negative than positive. Objections were related to potentially creating unnecessary work, scope of the rule, authority for the rule and need for the rule.

Based on comments and further review the Rules Committee recommends that this proposal not be adopted.

EFFECT ON OTHER RULES

This proposal may conflict with the compact definition of “offender” since the definition includes someone who is placed under or made subject to supervision. Individuals pending disposition may not meet this definition.

PROPOSED EFFECTIVE DATE

January 1, 2008

RULE TITLE

RULE 3.106 Request for expedited reporting instructions

RULE LANGUAGE

(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.

Comment [MS1]: Section (a)
Proposal, Motion #1

(2) (A) A receiving state that agrees to expedited reporting instructions for an offender shall immediately issue reporting instructions for the offender, and a receiving state shall provide a response to a request for expedited reporting instructions to the sending state no later than two 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. Signed forms shall be maintained in the sending state until termination of compact supervision. 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 seventh calendar 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 seventh calendar 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 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, immediately and the supervision responsibility shall revert to the sending state.

Comment [MS2]: Section (d)
Proposal, Motion #2

(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 compact member states without limitation as to specific geographic area, no later than 10 calendar days following the offender's failure to appear in the sending state.

REFERRED BY

2006 Annual Business Meeting, without direction

JUSTIFICATION

3.106 (a)(2)(A): Current language does not specify a time within which a state must reply to a request for expedited reporting instructions. The absence of a timeframe creates confusion in sending states which do not know if a reply is forthcoming. Given the “emergency” nature of these requests, a timely response is necessary. This revision creates an expectation similar to the requirement found in Rule 3.103.

3.106 (a)(2)(B): This revision eliminates an unnecessary sentence which has created confusion and apparent conflict with the requirements of Rule 3.107. The amendment is consistent with proposed revision of Rule 3.103.

3.106 (d)(1): An offender who has relocated to a receiving state may not have resources to return to a sending state immediately upon rejection or failure of the sending state to submit a timely transfer request. This amendment allows offenders in receiving states with expedited reporting instructions up to 15 days after notice of rejection to return to the sending state. The amendment restores the receiving state’s authority to exercise control of the offender during the period between notice of rejection and the date the offender has been directed to return to the sending state, or until the sending state has issued a warrant.

3.106 (d)(2): The revision eliminates redundant language, i.e., “compact member.”

EFFECT ON OTHER RULES

Proposed revisions have no effect on existing ICAOS rules, Advisory Opinions and Dispute Resolutions.

PROPOSED EFFECTIVE DATE

January 1, 2008

RULE TITLE

RULE 3.107 Application for transfer of supervision:

RULE LANGUAGE

An application for transfer of supervision of an offender shall contain—

- (a) offender's full name and any aliases by which the offender is known;
- (b) indication of whether the offender seeks transfer to the receiving state based on residency in the receiving state, family residing in the receiving state, or consent of the receiving state;
- (c) name, address, and telephone number of family in the receiving state if the offender bases the transfer request on family's residency in the receiving state;
- (d) offender's proposed residence in the receiving state;
- (e) offender's current or prospective employer in the receiving state;
- (f) offender's criminal justice identification number in the sending state;
- (g) offender's date of birth;
- (h) offender's social security number, if known;
- (i) county of conviction or imposition of supervision;
- (j) indication of the type of criminal justice supervision to which the offender has been sentenced;
- (k) instant offense in sufficient detail to describe the type and severity of offense and whether the charge has been reduced at the time of imposition of sentence;
- (l) offender's criminal history;
- (m) notice, if applicable, indicating that the supervision of the offender is a victim-sensitive matter;
- (n) date supervision is to begin, if known;
- (o) date supervision is to terminate, if known;
- (p) name and title of supervising officer;
- (q) copy of the original signed "Offender Application for Interstate Compact Transfer" form, which shall include "Agreement to Return on Demand of the sending state" and "Waiver of Extradition";
- ~~(r) signed "Consent to Random Drug or Alcohol Testing and to Searches Based on Reasonable Suspicion" form;~~
- ~~(s) signed "Authorization for Release of Medical and Psychological Information" form;~~
- ~~(r)(t)~~ photograph of offender;
- ~~(s)(u)~~ conditions of supervision;
- ~~(t)(v)~~ any orders restricting the offender's contact with victims or any other person;
- ~~(u)(w)~~ any known orders protecting the offender from contact with any other person;

- ~~(v)(x)~~ information as to whether the offender is subject to sex offender registry requirements in the sending state along with supportive documentation;
- ~~(w)(y)~~ judgment and commitment documents;
- ~~(x)(z)~~ pre-sentence investigation report, if available;
- ~~(y)(aa)~~ supervision history, if available;
- ~~(z)(bb)~~ 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.
- ~~(aa)(ee)~~ medical information, if available; and
- ~~(bb)(dd)~~ psychological evaluation, if available.

REFERRED BY

This Rule was referred by the Commission at the 2006 ABM.

JUSTIFICATION

The proposal to eliminate (r) and (s) was submitted by the Commission at the 2006 Annual Business Meeting. A change to (q) is recommended to support proposed change to Rule 2.104 and to require that sending state retain original forms.

EFFECT ON OTHER RULES

Elimination of (r) and (s) is consistent with modification of Rule 4.110, to take effect upon implementation of electronic system, but creates inconsistency with current requirements of 4.110. An amendment to Rule 4.110 will be proposed to eliminate the conflict.

PROPOSED EFFECTIVE DATE

January 1, 2008

RULE TITLE

Rule 4.104 *Offender registration or DNA testing in receiving or sending state.*

RULE LANGUAGE

A receiving state shall require that an offender transferred under the interstate compact comply with any offender registration and DNA testing requirements in accordance with the laws or policies of the receiving state and shall assist the sending state to ensure DNA testing requirements and offender registration requirements of a sending state are fulfilled.

REFERRED BY

Rules Committee

JUSTIFICATION

This Rule heading should refer to offender registration and testing in receiving or sending state and should establish that the receiving state shall assist to ensure such registration and testing timely occurs. Under current rules, a receiving state has no obligation to assist in obtaining registration or DNA collection. This has forced some offenders to return to the sending state or face violation. This amendment supports public safety by facilitating completion of these processes. The committee removed “wherever feasible” from the proposal based upon comments received and further review.

EFFECT ON OTHER RULES

No effect on ICAOS rules, Advisory Opinions or Dispute Resolutions.

PROPOSED EFFECTIVE DATE

January 1, 2008

RULE TITLE

RULE 4.109 Violation reports

RULE LANGUAGE

- (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 ten business days following receipt by the sending state. Receipt of a violation report shall be presumed to have occurred by the fifth 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.
- (3) A sending state shall, upon receipt of an absconder violation report and case closure, issue a warrant for the offender that is effective in all states without limit as to specific geographic area.
 - (4) If an offender who has absconded is apprehended on a sending state's warrant within the jurisdiction of the receiving state that issued the violation report and case closure, the receiving state shall, upon request by the sending state, conduct a probable cause hearing as provided in Rule 5.108 (d) and (e) unless waived as provided in Rule 5.108 (b).

Comment [MS1]: Section (b)(9)
Motion #1

Comment [MS2]: Section (b)(10)
Motion #2

Comment [MS3]: Section (c)(3)
Motion #3

Comment [MS4]: Section (c)(4)
Motion #4

REFERRED BY

East Region & Rules Committee

JUSTIFICATION

Rules Committee Proposal (b)(9): The purpose of the proposed language revision in this rule is twofold. First, subsection (b) (9) did not mandate that officers provide information or details regarding how they determined an offender to be an absconder. Too often, an absconder violation report does not contain sufficient information for the sentencing authority to obtain an absconder warrant.

Rules Committee Proposal (c)(3): The proposal to add subsection (c) (3) will clarify a sending state's responsibility concerning absconders. This section creates a requirement that a sending state issue a national warrant upon notification that an offender has absconded.

Rules Committee Proposal (c)(4): The proposal to add subsection (c) (4) will clarify a receiving state's responsibility to provide a probable cause hearing for an absconder. Based on comments received and further review, the Rules Committee deleted a provision requiring the receiving state to reopen the case.

East Region Proposal (b)(10): Experience has shown that a substantial number of violation reports submitted under this rule lack the documentation necessary for the sending state to render an appropriate decision. Inclusion of this provision would eliminate this problem by requiring and defining the requisite supporting documentation. The proposal of the East Region began with the phrase "any and all supporting documentation". The Rules Committee removed the words "any and all" because it may not be feasible or relevant to provide all existing documentation. The supporting documentation should be sufficient to support the reported violation.

EFFECT ON OTHER RULES

This change will have no effect on ICAOS rules, Advisory Opinions or Dispute Resolutions.

PROPOSED EFFECTIVE DATE

January 1, 2008

RULE TITLE

***RULE 4.110** Transfer to a subsequent receiving state*

RULE LANGUAGE

- (a) At the request of an offender for transfer to a subsequent receiving state, and with the approval of the sending state, the sending state shall prepare and transmit a request for transfer to the subsequent state in the same manner as an initial request for transfer is made.
- (b) The receiving state shall assist the sending state in acquiring the offender's signature on the "Application for Interstate Compact Transfer," ~~the "Agreement to Return on Demand of the sending state" and the "Consent to Random Drug Testing and to Searches Based on Reasonable Suspicion" forms,~~ and any other forms that may be required under Rule 3.107, and shall transmit these forms to the sending state.
- (c) The receiving state shall submit a statement to the sending state summarizing the offender's progress under supervision.
- (d) The receiving state shall issue a travel permit to the offender when the sending state informs the receiving state that the offender's transfer to the subsequent receiving state has been approved.
- (e) Notification of offender's departure and arrival shall be made as required under Rule 4.105.
- (f) Acceptance of the offender's transfer of supervision by a subsequent state and issuance of reporting instructions to the offender terminate the receiving state's supervisory obligations for the offender.

REFERRED BY

Rules Committee

JUSTIFICATION

The proposal reflects the determination that the deleted forms are no longer required. The commission previously removed these forms from this rule in an amendment which will take effect upon implementation of the electronic system. This proposal allows that revision to take effect prior to implementation of the electronic system. The removal makes the rule consistent with the proposed change to Rule 3.107.

EFFECT ON OTHER RULES

The proposal will eliminate a conflict with the proposed change to Rule 3.107.

PROPOSED EFFECTIVE DATE

January 1, 2008

RULE TITLE

RULE 4.111 *Return to the sending state*

RULE LANGUAGE

- (a) Upon an offender's request to return to the sending state, the receiving state shall request reporting instructions, unless the offender is under active criminal investigation or is charged with a subsequent criminal offense in the receiving state. The offender shall remain in the receiving state until receipt of reporting instructions.
- (b) Except as provided in subsection (c), the sending state shall grant the request and provide reporting instructions no later than two business days following receipt of the request for reporting instructions from the receiving state.
- (c) In a victim sensitive case, the sending state shall not provide reporting instructions until the provisions of Rule 3.108-1 have been followed.
- (d) A receiving state shall notify the sending state as required in Rule 4.105 (a)

Comment [MS1]: Section (a) Motion #1

Comment [MS2]: Section (b) & (c) Motion #2

REFERRED BY

2006 Annual Business Meeting, without direction

JUSTIFICATION

The current rule allows an offender to return to the sending state with no notice or opportunity for the victim to be heard. Adequate time must be provided for victims to express their concerns and for the sending state to impose any special conditions addressing the safety concerns of victims and their families. The Compact ensures timely notice to victims and the right to be heard and comment when offenders cross state borders.

EFFECT ON OTHER RULES

This proposed rule resolves the inconsistency with rule 3.108-1 that provides victims ten business days from the receipt of notification to respond.

PROPOSED EFFECTIVE DATE

January 1, 2008

RULE TITLE

RULE 4.112 Closing of supervision by the receiving state

RULE LANGUAGE

(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) ~~(A) Notification to the sending state that the offender has been sentenced to incarceration for 180 days or longer, including judgment and sentencing documents and information about the offender's location; of the sentencing of the offender to incarceration for 180 days or longer and receipt from the sending state of a warrant and detainer or other acknowledgement by the sending state of responsibility for the offender within 90 days of the notification. If the sending state fails to provide the warrant and detainer or other acknowledgement within 90 days of notification, the receiving state may close its supervision of the offender.~~
~~(B) After 90 days the sending state shall be responsible for the offender.~~
- (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.

REFERRED BY

South Region

JUSTIFICATION

The proposed rule changes streamlines the process and allows the receiving state to close interest, provided that the necessary documentation is forwarded to the sending state, without waiting an additional 90 days beyond the sentencing date. The Rules Committee modified language without changing meaning or intent of the proposal.

EFFECT ON OTHER RULES

This proposed rule change does not affect any other existing rule, advisory opinion or dispute resolution

PROPOSED EFFECTIVE DATE

January 1, 2008

RULE TITLE

Rule 5.101 *Retaking by the Sending State*

RULE LANGUAGE

- (a) Except as required in Rules 5.102 and 5.103, at its sole discretion, a sending state may retake an offender, unless the offender has been charged with a subsequent criminal offense in the receiving state.
- (b) 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.

REFERRED BY

Rules Committee

JUSTIFICATION

The current subsection (b) provides for two sentencing options – dismissal or supervision. The new language provides for other sentencing alternatives.

EFFECT ON OTHER RULES

No effect on ICAOS rules, Advisory Opinions or Dispute Resolutions.

PROPOSED EFFECTIVE DATE

January 1, 2008

RULE TITLE

RULE 5.102 Mandatory retaking for a new felony conviction.

RULE 5.103 Mandatory retaking for violations of conditions of supervision

RULE LANGUAGE

RULE 5.102 Mandatory retaking for a new felony conviction.

Upon a request from the receiving state, a sending state shall retake or order the return of an offender from the receiving state or a subsequent receiving state upon the offender's conviction for a new felony offense and —

- (a) completion of a term of incarceration for that conviction; or
- (b) placement under supervision for that felony offense.

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 states, without limitation as to specific geographic area, **no later than 10 calendar days following the offender's failure to appear in the sending state.**

RULE 5.103 Mandatory retaking for violations of conditions of supervision

- (a) Upon a request by the receiving state and a showing that the offender has committed three or more significant violations arising from separate incidents that establish a pattern of non-compliance of the conditions of supervision, a sending state shall retake or order the return of an offender from the receiving state or a subsequent 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 states, without limitation as to specific geographic area **no later than 10 calendar days following the offender's failure to appear in the sending state.**

REFERRED BY

Rules Committee

JUSTIFICATION

These changes are consistent with similar provisions in 3.103 and 3.106. They make clear a sending state's obligation to act promptly if an offender fails to return as directed.

EFFECT ON OTHER RULES

No effect on ICAOS rules, Advisory Opinions or Dispute Resolutions.

PROPOSED EFFECTIVE DATE

January 1, 2008

RULE TITLE

Rule 5.108 *Probable cause hearing in receiving state*

RULE LANGUAGE

- (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 receiving state place where the alleged violation occurred consistent with due process requirements. Comment [MS1]: Section(a), Motion, #1
- (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 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 30 calendar 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. Comment [MS2]: Section (e) Motion #2
- (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. within 30 calendar days of receipt of the hearing officer's report and determination. Comment [MS3]: Section (f) Motion #3

(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.

REFERRED BY

Rules Committee

JUSTIFICATION

The proposed amendments to Rule 5.108(a) are consistent with the U.S. Supreme Court opinions in Morrissey v. Brewer, 408 U.S. 471 (1972) and Gagnon v. Scarpelli, 411 U.S. 778 (1973) and are intended to address two concerns raised by Commissioners and others. The first concern is that guidance be provided as to who can act as a hearing officer at a probable cause hearing. The Supreme Court cases require that the hearing be conducted before a "neutral and detached hearing officer"; therefore, that language has been added to the rule. The second concern relates to how one determines where the hearing should take place. The Morrissey case holds that the hearing must take place "in or reasonably near the place where the alleged violation occurred" so that the offender will have the opportunity to confront adverse witnesses and also present witnesses on his or her behalf--a process that is possible only if the hearing is held at or near the place where the witnesses are located. Accordingly, it is proposed that this language be added to the rule.

Justification for amendments to time frames in Rule 5.108 (e) and (f):

Retaking an offender can be a lengthy process, imposing a burden on a receiving state's secure custody resources. Under the current rules governing the violation and retaking process, an offender who is arrested may potentially be held in custody for 51 days before the sending state's decision is due, without violating allowable time frames. If the sending state's decision is to request a probable cause hearing, the incarceration will be extended. Current rules allow the offender to remain incarcerated in the receiving state up to 90 days after the probable cause hearing. **The proposed revisions to 5.108 (e) and (f) reduce the allowable custody time following a probable cause hearing by 25 calendar days.**

(RS = Receiving State)

(SS = Sending State)

(VR = Violation Report)

(Response = Response to Violation Report)

(PC = Probable Cause)

Current Scenario:**Potential days in custody**

RS arrests offender		
RS has 30 calendar days to forward the VR,	(4.109(a))	30
Allow 5 business days to presume receipt	(4.109(c))	37
SS has 10 business days for Response	(4.109(c))	51
SS Response requests PC hearing		51
RS conducts PC hearing		66 (est.)
(time varies/15 calendar days used here)		
RS has 30 calendar days to submit PC report	(5.108(e))	96
SS notifies RS state of decision to retake		
(has 30 calendar days)	(5.108(f))	126
SS has 30 calendar days to retake	(5.105)	156

Future Scenario with Proposed Changes**Potential days in custody**

RS arrests offender		
RS has 30 calendar days to forward the VR,	(4.109(a))	30
Allow 5 business days to presume receipt	(4.109(c))	37
SS has 10 business days for Response	(4.109(c))	51
SS Response requests PC hearing		51
RS conducts PC hearing		66 (est.)
(time varies/15 calendar days used here)		
RS has 10 business days to submit PC report	(5.108 (e))	80
SS notifies RS state of decision to retake		
(has 15 business days)	(5.108(f))	101
SS has 30 calendar days to retake	(5.105)	131

EFFECT ON OTHER RULES

No effect on ICAOS rules, Advisory Opinions or Dispute Resolutions.

PROPOSED EFFECTIVE DATE

January 1, 2008

RULE TITLE

RULE 5.111 Denial of bail to certain offenders

RULE LANGUAGE

An offender against whom retaking procedures have been instituted by a sending **or receiving** state shall not be admitted to bail or other release conditions in any state.

REFERRED BY

East Region

JUSTIFICATION

The East Region provided the following justification for the proposed revision. “The Region finds it difficult to understand the words ‘or receiving state’ in this rule. It notes that in Rule 1.101 the word ‘retaking’ refers only to actions taken by a sending state. Removal of these words would clarify this rule.”

The Rules Committee believes the “retaking” process begins when a receiving state submits a Violation Report requesting a sending state to retake an offender. Consequently, retaking may be “instituted” by a receiving state as well as a sending state.

Upon consideration of comments, further review and advice from legal counsel, the Rules Committee recommends this proposal not be adopted.

EFFECT ON OTHER RULES

This proposal may limit the applicability of the rule to offenders against whom a sending state has issued a warrant. Offenders who are subject to retaking, but against whom a sending state has not yet issued a warrant, may be excluded from the provisions of the rule. It could also delay triggering the requirement for a probable cause hearing, resulting in a denial of “due process” for a prompt hearing. This could affect offenders covered by *Rules 5.102 Mandatory retaking for a new felony conviction, 5.103 Mandatory retaking for violations of conditions of supervision and 5.108 Probable cause hearing in receiving state.*

PROPOSED EFFECTIVE DATE

January 1, 2008

RULE TITLE

*Rule 5.111 Denial of bail **or other release conditions** to certain offenders*

RULE LANGUAGE

An offender against whom retaking procedures have been instituted by a sending or receiving state shall not be admitted to bail or other release conditions in any state.

REFERRED BY

Rules Committee

JUSTIFICATION

The amendment changes the title to more clearly reflect the content of the rule.

EFFECT ON OTHER RULES

This change will have no effect on ICAOS rules, Advisory Opinions or Dispute Resolutions.

PROPOSED EFFECTIVE DATE

January 1, 2008

RULE TITLE

New Proposed Rule

RULE 5.112 Retaking an offender accepted under Rule 3.101-2

RULE LANGUAGE

(a) Upon a request by a receiving state, a sending state shall retake or order the return of an offender from the receiving state if:

(1) acceptance was based upon Rule 3.101-2 (Discretionary transfer of supervision); and

(2) the receiving state added to its acceptance a special condition requiring the sending state to retake or order the return of the offender if specific criteria, which were the basis for acceptance, no longer existed; and

(3) the special condition added by the receiving state relates directly to the sole reason the sending state requested the transfer; and

(4) the receiving state confirms to the sending state that the criteria upon which the acceptance was made no longer exist.

(b) 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 days following the offender's failure to appear in the sending state.

REFERRED BY

East Region

JUSTIFICATION

It is not uncommon for a non-mandatory case to be accepted based on a condition which is considered temporary. As an example, an offender who is a student attending college in a receiving state may be accepted based solely on his college attendance. If his status at the college changes by his withdrawal or dismissal, the condition of his acceptance has changed and therefore the receiving state should no longer be required to supervise and the sending state would be required to retake. The Rules Committee modified the language in (b) to make it consistent with other rules.

Upon consideration of comments and further review, the Rules Committee recommends this proposal not be adopted.

EFFECT ON OTHER RULES

This change will have no effect on ICAOS rules, Advisory Opinions or Dispute Resolutions. This revision addresses issues raised in Advisory Opinion 15-2006

PROPOSED EFFECTIVE DATE

January 1, 2008

RULE TITLE

RULE 6.101 Informal communication to resolve disputes or controversies and obtain interpretation of the rules

RULE LANGUAGE

- (a) Through the office of a state's compact administrator, states shall attempt to resolve disputes or controversies by communicating with each other by telephone, telefax, or electronic mail.
- (b) *Failure to resolve dispute or controversy*
- (1) Following an unsuccessful attempt to resolve controversies or disputes arising under this compact, its by-laws or its rules as required under Rule 6.101 (a), states shall pursue one or more of the informal dispute resolution processes set forth in Rule 6.101 (b)(2) prior to resorting to formal dispute resolution alternatives.
- (2) Parties shall submit a written request to the executive director for assistance in resolving the controversy or dispute. The executive director shall provide a written response to the parties within ten business days and may, at the executive director's discretion, seek the assistance of legal counsel or the executive committee in resolving the dispute. The executive committee may authorize its standing committees or the executive director to assist in resolving the dispute or controversy.
- (c) *Interpretation of the rules*
- Any state may submit an informal written request to the executive director for assistance in interpreting the rules of this compact. The executive director may seek the assistance of legal counsel, the executive committee, or both, in interpreting the rules. The executive committee may authorize its standing committees to assist in interpreting the rules. Interpretations of the rules shall be issued in writing by the executive director or the executive committee and shall be circulated to all of the states.
- (d) All written advisory opinions authored by the National Office shall be referred to the Rules Committee within thirty (30) days of issuance of said opinion. Upon receipt of the advisory opinion, the Rules Committee shall discuss this matter at the next regularly scheduled meeting and consider whether a rule change should be proposed. If the Rules Committee determines that a rule change is not warranted, such rationale shall be reduced to writing and attached to the existing advisory opinion.

REFERRED BY

East Region

JUSTIFICATION

Since 2004, the Commission has issued 31 Advisory Opinions. This growing list of opinions creates a burden for state practitioners who must not only be proficient with the rules but are also required to cross-reference findings from an expanding reservoir of opinions. It is very likely that additional Advisory Opinions will issue. The East Region would like to see these opinions referred to the Rules Committee so that they can eventually be incorporated into the rules, where possible, within a set time frame. The Region recognizes that not all opinions would lend themselves to this process. Its motion allows for such exceptions. For the majority of the opinions that could be merged into the rules the Region would like to see them retired.

The East Region notes that in at least two of the opinions, 15-2006 and 12-2006, the Executive Director referred the issues raised to the Rules Committee. The Region's motion is consistent with the Executive Director's intent in those opinions, but would automatically refer all opinions to the Rules Committee for consideration.

The Commission's past actions are consistent with the Region's motion. For example, the Commission voted, in 2006, to modify Rule 3.103. This modification was consistent with the Executive Director's decision in Advisory Opinion 1-2006. This action effectively retired opinion 1-2006.

The Rules Committee recommends this proposal not be adopted. The Rules Committee believes the rule is unnecessary and that the concerns raised can be addressed under the existing structure of the Commission's By-laws and Rules.

EFFECT ON OTHER RULES

No effect on existing rules, advisory opinions or dispute resolutions.

PROPOSED EFFECTIVE DATE

January 1, 2008