



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.

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|----------------------|---------------------------------|
| 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 | <i>Not in attendance</i> |
| 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	<i>Not in attendance</i>
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

1. Lorna Colver	AK	19. Betty Payton	NC
2. Matthew Poyzer	AZ	20. Alyssa Miller	ND
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
11. Holly Kassube	IL	29. Deborah Duke	TN

12. Matthew Billinger	KS	30. Brandon Watts	TX
13. Jennifer Adkins	ICJ	31. Pamela Thielke	TX
14. Lavon Hill	KY	32. Julie Lohman	VA
15. LaShonda Lee-Campbell, MD		33. Autumn Witten	WA
16. Denis Clark	ME	34. Tanja Gilmore	WA
17. Daryn Cobb	MI	35. Mary Evans	WI
18. Tracy Hudrlik	MN		

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 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.

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	Montana	Yes
Alabama	Yes	North Carolina	Yes
Arkansas	Yes	North Dakota	Yes
Arizona	Yes	Nebraska	Yes
California	Yes	New Hampshire	Yes
Colorado	Yes	New Jersey	EMAIL VOTE YES*
Connecticut	Yes	New Mexico	Yes
Dist. of Columbia	Yes	Nevada	Yes
Delaware	Yes	New York	Yes
Florida	Yes	Ohio	Yes
Georgia	Yes	Oklahoma	Yes
Hawaii	Yes	Oregon	Yes
Idaho	Yes	Pennsylvania	Yes
Illinois	Yes	Puerto Rico	Yes
Indiana	Yes	Rhode Island	Yes
Kansas	Yes	South Dakota	Yes
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.

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.

Alaska	Yes	Montana	Yes
Alabama	Yes	North Carolina	Yes
Arkansas	Yes	North Dakota	Yes
Arizona	Yes	Nebraska	Yes
California	Yes	New Hampshire	Yes
Colorado	Yes	New Jersey	EMAIL VOTE YES*
Connecticut	Yes	New Mexico	Yes
Dist. of Columbia	Yes	Nevada	Yes
Delaware	Yes	New York	Yes
Florida	Yes	Ohio	Yes
Georgia	Yes	Oklahoma	Yes
Hawaii	Yes	Oregon	Yes
Idaho	Yes	Pennsylvania	Yes
Illinois	Yes	Puerto Rico	Yes
Indiana	Yes	Rhode Island	Yes
Kansas	Yes	South Dakota	Yes

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.