



Interstate Commission for Adult Offender Supervision

Rules Committee Meeting MINUTES

June 23, 2021 - 11:00 am ET
Video Conference

Members in Attendance:

1. Mary Kay Hudson (IN), Chair
2. Dori Littler (AZ), Vice-Chair
3. Rebecca Brunger (AK)
4. Amber Schubert (AR)
5. Chris Moore (GA)
6. Susan Gagnon (ME)
7. Amy Vorachek (ND)
8. Robert Maccarone (NY)
9. Tim Strickland (FL), Ex-Officio
10. Tracy Hudrlik (MN), Ex-Officio
11. Margaret Thompson (PA), Ex-Officio
12. Pat Odell (WY), Ex-Officio
13. Thomas Travis, Legal Counsel

Guests:

1. Matthew Charton (NY)

Staff:

1. Ashley Lippert, Executive Director
2. Allen Eskridge, Policy and Operations Director
3. Barno Saturday, Logistics Coordinator
4. Mindy Spring, Administrative and Training Coordinator
5. Xavier Donnelly, ICOTS Project Manager

Call to Order

Chair M. Hudson (IN) called the meeting to order at 11:00 am ET. Executive Director A. Lippert called the roll. All voting members were present, a quorum was established.

Approval of Agenda and Minutes

Commissioner R. Maccarone (NY) moved to approve the agenda as presented. Commissioner S. Gagnon (ME) seconded. Agenda approved.

Commissioner D. Littler (AZ) moved to approve the minutes from the March 4, 2021 meeting as drafted. Commissioner R. Maccarone (NY) seconded. Minutes approved.

Discussion

Review Rule Amendment Comments: Commissioner M. Hudson (IN) stated that purpose of today's meeting was to review the Commission's comments for the rule proposals and finalize the proposals for the full Commission's vote at the Annual Business Meeting.

She noted that the numbers of comments received were low, but thoughtful.

The committee reviewed comments for the warrant timeframe amendment package. Chair M. Hudson (IN) thanked Commissioner Littler for posting her comments.

Commissioner D. Littler (AZ) was disappointed to see such small number of comments received. Next time, she suggested promoting and encouraging the Commission members to post comments in support and against of the proposals to know where the Commission stood on a particular issue.

Chair M. Hudson (IN) brought a comment by the Commonwealth of Virginia to the committee's attention. Virginia noted that the package added timeframes to rules where none existed (5.102 New Felony; Violent Crime & 5.103-1 Absconders) and cited their own limitations in issuing interstate warrants.

Chair M. Hudson (IN) noted that the Rules Committee deliberately worked on resolving the ambiguousness of the rules by adding those timeframes.

Commissioner D. Littler (AZ) added that Virginia asked to add clarifying language specifying a triggering event. She noted the current language implied that invoking retaking was the triggering event. She added that she had not heard of this language being an issue before and that this matter could be resolved through a training.

The committee discussed the difficulties states experience with issuing compact compliant warrants and agreed that all states need to figure out how to train their stakeholders to follow the Interstate Compact Rules.

Commissioner R. Maccarone (NY) expressed his appreciation for DCA Lohman's comments (VA). He added that the Commission needed to think in terms of public safety noting that three weeks was sufficient time to obtain a warrant.

Chair M. Hudson (IN) added that she would communicate to all commissioners about the Compact's commitment to public safety and that the proposed timeframes were the best balance between operational feasibility and protecting the public.

The committee agreed they would make no changes to the warrant timeframe proposal package.

The committee reviewed comments for a proposal to amend Rule 1.101 Definition of Resident. The proposal received six comments.

DCA M. Thompson (PA) suggested to make the following changes to the proposal as indicated in red: "Resident means a person who has continuously resided in a state during the ~~for~~ 12-month (or 6 month) period prior to either the...". She continued that the current wording "for at least one year prior to..." was very vague and did not provide any parameters as to when that one year of residence occurred. Using the words "during the 12-month period prior to..." clarified that it referred to the year leading up to the occurrence of either of the events outlined in the definition. The committee discussed limitations of obtaining a state residency while being incarcerated or under active military orders.

After the discussion, the committee added “continuously and immediately” to section one clarifying the trigger for when the one-year timeframe for qualification for a resident starts.

DCA M. Charton (NY) referred to the third paragraph removed by the Rules Committee and noted that if an offender was a resident of a state at the time of sentencing or their supervision start time, they should be able to go back to the original state under qualifying reasons at any time.

The committee agreed with New York and decided to remove the stricken language of section three referencing military duty and incarceration.

The committee agreed on the changes in red as listed below:

Rule 1.101 Definitions

“Resident” means a person who—

1. has resided in a state for at least 1 year continuously and immediately prior to either the supervision start date or sentence date for the original offense for which transfer is being requested ~~has continuously inhabited a state for at least 1 year prior to the commission of the offense for which the offender is under supervision;~~ and
2. intends that such state shall be the person’s principal place of residence.; and
3. has not, unless incarcerated or under active military orders ~~deployment~~, remained in another state or states for a continuous period of 6 months or more with the intent to establish a new principal place of residence.

The national office will update the justification if needed.

Commissioner R. Maccarone (NY) moved to amend the proposal to Rule 1.101 Definition of Resident and recommend its approval for the Commission’s vote at the 2021 Annual Business Meeting. Commissioner D. Littler (AZ) seconded. Motion passed.

The committee reviewed three comments for a proposal to amend Rule 5.108 Probable cause hearing in receiving state. All three comments were in support of the change.

The committee reviewed comments for a proposal to amend By-laws, Article 2, Section 2 Ex-Officio members. Both comments received were in support of the change.

Old Business/ New Business

Rule Proposal Presentation at the Annual Business Meeting: Chair M. Hudson (IN) thanked Commissioner Littler for agreeing to present with her at the Rule Proposals Presentation session at the upcoming Annual Business Meeting (ABM). Legal Counsel Travis will be present as well to answer any legal questions.

The presentation will discuss the committee’s rationale and methodology behind the rule proposals, particularly the warrant timeframe proposal package, include recent changes based on the Commission’s comments, as well as address the retaking trigger event as discussed earlier in the meeting.

Chair M. Hudson (IN) stated that she planned to alleviate states concerns by reiterating that the Rules Committee along with the national office would work with states on the implementation process.

She welcomed the other committee members to be part of the presentation.

DCA T. Hudrlik (MN) volunteered to present at the Rule Proposal Presentation.

Executive Director A. Lippert asked the committee members to express their support to Chair Hudson and Vice-chair Littler by attending and participating in the Rule Amendment Presentation session.

She noted that in accordance with Rule 2.109(c), the Rules Committee must publish the final text of the proposed rule amendments no later than 30 days prior to the meeting at which the vote on the rule is scheduled. On September 27, the Commission will hold a Public Hearing where members of the public are able to provide their testimony on the rule proposals. Even though, the presenters do not remark on comments made, it is customary for all Rules Committee members to attend the Public Hearing.

Chair Hudson and Commissioner Littler will meet before the ABM to finalize their proposal presentation.

Commissioner D. Litter (AZ) suggested including a slide on the impact of failure and passing of a proposal as well as a slide on how the passing of a proposal benefits states.

Commissioner R. Maccarone (NY) suggested advising states who plan to vote against the warrant timeframe proposal package, to understand and compile the reasons for their vote. If in fact, a state had a tragic consequence occur as a result of not issuing a compact compliant warrant in the timely fashion, the authorities would look for that answer.

Adjourn

Commissioner D. Littler (AZ) moved to adjourn. Chair M. Hudson (IN) seconded.

The meeting adjourned at 11:53 am ET.