



## Interstate Commission for Adult Offender Supervision

### South Region Meeting MINUTES

July 28, 2022 · 1:00 pm ET  
Video Conference

---

#### **Members in Attendance:**

1. Julie Kempker (MO), Chair
2. Tom Langer (AL)
3. Amber Schubert (AR)
4. Chris Moore (GA)
5. Joe Winkler (FL)
6. Steve Turner (KY)
7. Martha Danner (MD)
8. Timothy Moose (NC)
9. David Gutierrez (TX)
10. Diann Skiles (WV)

#### **Members not in Attendance:**

11. Richard Tischner (DC)
12. Jamie Lee (LA)
13. Nathan Blevins (MS)
14. James Rudek (OK)
15. Lisa Helton (TN)
16. Jerry Adger (SC)
17. Jim Parks (VA)

#### **Guests:**

1. Gary Roberge (CT)
2. Elizabeth Powell (DC)
3. Tim Strickland (FL)
4. Miriam Dyson (GA)
5. Don Werner (KY)
6. LaVon Hill (KY)
7. Darla Hood (LA)
8. Alison Woodruff (MO)
9. Mandy Boots (MO)
10. Richie Spears (MS)
11. Betty Payton (NC)
12. Emily Keefer (OK)
13. Richie Spears (MS)
14. Christopher Harris (SC)
15. Lloyd Turner (SC)
16. Rene Green (TN)
17. Brittany Holley (TN)

18. Rene Hinojosa (TX)
19. Jocelyn Angton (TX)
20. Cynthia Stout (TX)
21. Julie Lohman (VA)

### **Staff**

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

### **Call to Order**

Chair J. Kempker (MO) called the meeting to order at 1:00 pm ET. Executive Director A. Lippert called the roll. Ten out of seventeen voting members were present, a quorum was established.

### **Approval of Agenda and Minutes**

Chair J. Kempker (MO) introduced Commissioner G. Roberge (CT) to the region. Commissioner G. Roberge who serves as the Commission's Treasurer presented the Executive Committee's budget recommendations. She asked to add the "Budget Update/Announcement" discussion item to the top of the agenda.

**Commissioner C. Moore (GA) moved to approve the agenda as amended. Commissioner D. Skiles (WV) seconded. Agenda approved.**

**Commissioner D. Skiles (WV) moved to approve the minutes from April 19, 2022, as clarified. Commissioner D. Gutierrez (TX) seconded. Minutes approved.**

### **Discussion**

*Budget Announcement:* Commissioner G. Roberge (CT) and Executive Director A. Lippert presented the Executive Committee's recommendation to increase the annual dues assessment. The Commission will vote on the recommendation at the upcoming Annual Business Meeting.

The Commission approved a three-year dues increase of 6% per year at the 2007 Annual Business Meeting. The increase was intended to fund ICOTS, permit one DCA from each state to attend the annual business meeting, and establish a reserve fund. The increase was not implemented in 2010 due to cost-cutting measures implemented by the third year.

Despite rising program and operational expenses resulting from a 33% cumulative inflation rate between 2010 and today, the Commission's annual dues assessment has remained unchanged since 2010. Consequently, revenue increased only marginally after two states moved to higher dues tiers following the decennial Census review.

Roughly a third of the Commission's budget goes directly to ICOTS, which fulfills a statutory requirement while also being crucial to the organization's day-to-day operations. The Commission spends approximately \$500k per year on system upgrades, maintenance, and

hosting. With a system upgrade or rewrite, the Commission anticipates the need for financial adjustments to ensure stability and solvency of the Compact's finances.

In addition to capital expenditures for ICOTS, the Commission's total annual operating expenses have begun to exceed available dues and interest income. The Commission has already implemented significant cost-cutting measures such as disaffiliating with the Council of State Governments, transitioning to remote work environments, and proactively reducing administrative costs. The only remaining alternative to ensure the Commission's continued financial stability is a dues increase.

The Executive Committee approved the Finance Committee's recommendation for the Commission to increase dues by a standard 5.25% for five years starting in FY2024. In FY2029, the standard annual increase reduces to 3%.

Chair J. Kempker (MO) supports the recommendation. There were no other comments from the region.

*Proposal to amend Rule 5.101-2:* Commissioner J. Winker (FL) presented a proposal to amend Rule 5.101-2 for the region's consideration.

**Proposed Rule Title:**

Rule 5.101-2 Discretionary process for disposition of violation in the sending state for a new crime conviction

**Proposed Rule:**

Notwithstanding any other rule, a sentence imposing a period of incarceration and/or supervision on an offender convicted of a new crime which that occurred outside the sending state during the compact period may satisfy or partially satisfy the sentence imposed by the sending state for the violation committed. This requires the approval of the sentencing or releasing authority in the sending state and the consent of the offender.

(a) Unless waived by the offender, the sending state shall conduct, at its own expense, an electronic or in-person violation hearing

(b) The sending state shall send the violation hearing results to the receiving state within 10 business days.

(c) If the offender's sentence to incarceration or supervision for the new crime fully satisfies the incarceration or supervision sending state's sentence for the violation imposed by the sending state for the new crime, the sending state is no longer required to retake if Rules 5.102 and 5.103 apply.

(d) If the offender's sentence to incarceration or supervision for the new crime only partially satisfies the incarceration sentence for the violation imposed by the sending state for the new crime, the sending state is required to retake if Rules 5.102 and 5.103 apply.

(e) The receiving state may close the case under Rule 4.112 (a)(3).

**Justification:**

Why is rule needed? [rule proposal versus addressing as a training issue]

With the upsurge of remote court appearances during the pandemic, many states have continued remote/electronic hearings and sentencing. When offenders are convicted of a new crime and supervision in the receiving state is ordered, the receiving state has determined that the offender is suitable for continued community supervision. This update will provide an alternative mechanism for disposition of a Violation of Probation due to a new crime conviction outside of the sending state where supervision is also ordered. In these cases, revocation is not likely, and this rule change will provide clarity that the offender does not have to currently be incarcerated to utilize the electronic hearing alternative process to dispose of a Violation of Probation where incarceration or supervision is ordered for the new conviction.

**Case Example:**

Florida Offender Sterling Klippenstein (960557) was transferred under a Resident Family Transfer (parent) to Alaska in May 2019 on four cases of Felony Criminal Mischief for spray-painting cars. On October 20, 2021, Klippenstein was convicted of Misdemeanor DUI and Misdemeanor Assault. Klippenstein was sentenced to 180 days in county jail with 170 days suspended and 36 months probation for the new convictions.

Alaska submitted an Offender Violation Report under Rule 5.102 as one of the convictions was for a violent crime. Florida requested to invoke Rule 5.101-2. Alaska denied the request as the offender was no longer incarcerated. The Florida Court improperly terminated the case instead of retaking. After educating the court, the offender was retaken from Alaska and the Florida court revoked his supervision sentencing him to 66 days in county jail with credit for 66 days.

The Florida sentence would have been satisfied by the new Alaska sentence but since the offender was no longer incarcerated, it was interpreted that Rule 5.101-2 could not be used and Alaska insisted on retaking. If Rule 5.101-2 had been used the sending state would not have had the expense of thousands of dollars in retaking costs and ultimately the outcome would not have changed.

Adding the language of being sentenced to supervision in the receiving state to Rule 5.101-2 is consistent with the purposes of the Compact to provide a more stable environment for the offender. As the majority of transfers are for Resident or Resident Family the offender has the best opportunity for stability in the receiving state where supervision has been ordered.

**Description/Frequency of issue: Unknown**

The region shared their concerns if the supervision sentence were to be extended and whether retaking would be required.

Commissioner D. Skiles (WV) inquired which state would incur the burden of providing legal counsel for hearings in these instances. It was noted, the rule is a discretionary process invoked by a sending state and the sending state may proceed with retaking.

The region asked Florida to revise the proposal incorporating comments in red and present it at the next meeting in September.

*Proposal to amend Rule 4.104-1:* Commissioner J. Winker (FL) presented a proposal to amend Rule 4.104-1 for the region's consideration.

**Proposed New Rule Title:**

Rule 4.104-1 - Offender Electronic Monitoring in receiving or sending state

**Proposed Rule Text:**

- a) A receiving state shall require that an offender transferred under the interstate compact comply with any electronic monitoring requirements in accordance with the laws or policies of the receiving state.
- b) A receiving state shall assist the sending state in retrieval of electronic monitoring equipment worn by the offender from the sending state upon arrival by removal of the equipment from the offender and shipping the equipment back to the sending state.
  - i) The sending state shall provide the receiving state with a pre-paid shipping label to return the electronic monitoring equipment.
  - ii) The receiving state shall package the electronic monitoring equipment in a shipping box and return it to the sending state utilizing the pre-paid shipping label.
  - iii) The receiving state will not be financial liable for any damage to the equipment when received by the sending state.

**Justification:**

a. Why rule is needed [rule proposal versus addressing as a training issue]  
Similar to the requirement to assist with DNA collection, some members will not assist with electronic monitoring equipment unless it is required in the receiving state. Some members perceive a liability issue by voluntarily assisting a sending state. The new rule will provide receiving states protection against any financial liability that may be perceived while providing the support sending states need in recovery of equipment.

As electronic monitoring can be a required element of supervision, either by order or statute, the sending state has a ministerial duty to enforce the condition until the receiving state assumes responsibility for supervision upon an offender's arrival in the receiving state as outlined in Rule 3.104-1. As such, a sending state must have the offender maintain the electronic monitoring equipment while in transit to the receiving state. Offenders should not be in possession of deactivated or removed electronic monitoring equipment as it provides unfettered access to inspect the equipment and possibly develop a means of circumventing the equipment. Additionally, if an offender physically removes the equipment this could be a violation of the conditions of supervision.

b. Case Example:

Florida has had experiences with members who have advised they cannot assist with equipment returns. NY has advised that while the Compact Office did not object to assisting, they could not require the field office to assist as it (equipment

retrieval) is not required by the Compact. On 03/11/2022, a similar response was provided from Puerto Rico, who advised they are not authorized to handle electronic monitoring equipment other than their equipment.

An Officer can remove the electronic monitoring equipment from the offender and provide the equipment and the return shipping label to the offender to ship the equipment back to Florida.

c. Description/Frequency of issue:

The National Office is not able to provide data for transfers based on a special condition. In Florida for calendar year 2021, a total of 183 sex offenders were accepted for transfer from Florida.

Commissioner A. Shubert (AR) expressed her concerns to shift legal burdens inside the compact rules as listed in paragraph b3. She did not see concerns with the issue on the legal level.

The region made the following changes:

**Proposed Rule Text:**

- ~~e) A receiving state shall require that an offender transferred under the interstate compact comply with any electronic monitoring requirements in accordance with the laws or policies of the receiving state.~~
  - ~~d) A receiving state shall assist the sending state in retrieval of electronic monitoring equipment worn by the offender from the sending state upon arrival by removal of the equipment from the offender and shipping the equipment back to the sending state.~~
  - ~~iv) The sending state shall provide the receiving state with a pre-paid shipping label to return the electronic monitoring equipment.~~
  - ~~v) The receiving state shall package the electronic monitoring equipment in a shipping box and return it to the sending state utilizing the pre-paid shipping label.~~
  - ~~vi) The receiving state will not be financial liable for any damage to the equipment when received by the sending state.~~
- (a) A receiving state shall require that an offender transferred under the interstate compact comply with any electronic monitoring requirements in accordance with the laws or policies of the receiving state and shall assist the sending state in retrieval of electronic monitoring equipment worn by the offender from the sending state upon arrival.
- (i) The sending state shall incur the cost to return the equipment.

**Commissioner T. Langer (AL) moved Florida to revise the proposal to Rule 4.101-1 and present the final draft at the next meeting. Commissioner D. Skiles (WV) seconded. Motion passed.**

**Old Business**

There was no old business.

**New Business**

Executive Director A. Lippert reminder the region to register for the upcoming Annual Business Meeting scheduled for Sept 26-28, 2022. The meeting will take place in New York City, NY.

**Adjourn**

**Commissioner S. Turner (KY) moved to adjourn. Commissioner T. Langer (AL) seconded.**

The meeting adjourned at 2:01 pm ET.