



Interstate Commission for Adult Offender Supervision

Ensuring Public Safety for the 21st Century

Annual Business Meeting 2010

San Antonio, Texas

Oct. 12-13, 2010





INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION
2010 ANNUAL BUSINESS MEETING DOCKET BOOK

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**INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION
ANNUAL BUSINESS MEETING**

October 12-13, 2010

**Crowne Plaza Riverwalk Hotel
San Antonio, Texas**

Monday, October 11, 2010

3:00 pm – 5:00 pm **Executive Committee Meeting**
Executive Salon 4, 3rd floor

Tuesday, October 12, 2010

8:30 am – 11:30 pm **Commissioner's Training**
Texas Ballroom B, 2nd floor

9:00 am – 12:00 pm **Ad Hoc on Victims Issues Committee Meeting**
Boardroom, 3rd floor

11:30 pm – 1:00 pm *Lunch [on your own]*

1:00 pm – 2:45 pm **East Region Meeting**
Executive Salon 4, 3rd floor
South Region Meeting
Texas Ballroom B, 2nd floor
Midwest Region Meeting
Boardroom, 3rd floor
West Region Meeting
Executive Salon 3, 3rd floor

3:00 pm – 4:00 pm **Public Hearing**
Executive Salon 5, 3rd floor

4:00 pm – 6:00 pm **Reception**
River Plaza/San Antonio Ballroom

Wednesday, October 13, 2010

8:00 am -8:15 am **General Session** *Texas Ballroom, 2nd floor*
Flag Presentation
Roll Call
Approval of Agenda

Approval of Minutes

- *November 4, 2009*

8:15 am – 8:45 am

Welcome & Overview

- *Kathie Winckler, Texas Commissioner*
 - *Recorded remarks from Texas Governor Rick Perry*
- *Brad Livingston, Executive Director of Texas Department of Criminal Justice*
- *Ken Merz, Chairman*

8:45 am – 10:00 am

Committees Reports

- **Compliance Committee Report**
 - *Mike McAlister, Chair*
- **Training, Education and Public Relations Committee Report**
 - *Dori Ege, Chair*
- **Finance Committee Report**
 - *Kevin Kempf, Chair*
 - *Ad Hoc Dues Committee*
- **Legal Counsel Report**
 - *Rick Masters, Legal Counsel*
- **DCA Liaison Committee Report**
 - *Charles Lauterbach, Chair*
- **Information & Technology Committee Report**
 - *Kathie Winckler, Chair*
- **Victim Advocate Report**
 - *Pat Tuthill, Victim's Advocate*
 - *Ad Hoc on Victims Issues*
- **Ad Hoc on Violations and Retaking**
 - *Milt Gilliam, Chair*
- **Rules Committee Report**
 - *William Rankin, Chair*
 - **New Rule Proposals**

10:00 am – 10:15 am

Break

10:15 am – 12:00 pm

Committees Reports (Continued)

Annual Business Meeting • San Antonio, Texas • October 12-13, 2010

12:00 pm – 1:00 pm	<i>Lunch</i>
1:00 pm – 3:00 pm	Discussion (based on the Commissioner Training and Region meetings discussions)
3:00 pm – 3:15 pm	<i>Break</i>
3:15 pm – 3:30 pm	Awards Presentation
3:30 pm – 4:00 pm	New Business/Old Business
4:00 pm – 4:45 pm	Nomination Committee Meeting/ Nominees Address Commission
4:45 pm – 5:00 pm	Election Oath of Office
5:00 pm	Adjourn
5:15 pm – 6:15 pm	Executive Committee Meeting <i>Boardroom, 3rd floor</i>



INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION ANNUAL BUSINESS MEETING MINUTES

November 4, 2009
Grand Sierra Resort,
Reno, NV

Call to Order

The meeting was called to order by Chairman K. Merz (MN) at 8:06 a.m. PST. Chairman K. Merz (MN) gave welcoming remarks.

Roll Call

Roll was called by Executive Director H. Hageman. Forty-seven out of fifty-three members were present, thereby constituting a quorum.

- | | |
|-------------------------|--------------------|
| 1. Alabama | Chris Norman |
| 2. Alaska | Donna White |
| 3. Arizona | Dori Ege |
| 4. Arkansas | David Eberhard |
| 5. Colorado | Jeaneene Miller |
| 6. Connecticut | Tracy Johnson |
| 7. Delaware | Alan Grinstead |
| 8. District of Columbia | Adrienne Poteat |
| 9. Florida | Jenny Nimer |
| 10. Georgia | David Morrison |
| 11. Hawaii | Janice Yamada |
| 12. Idaho | Kevin Kempf |
| 13. Illinois | Michelle Buscher |
| 14. Indiana | Jane Seigel |
| 15. Iowa | Charles Lauterbach |
| 16. Kansas | Keven Pellant |
| 17. Kentucky | Angela Tolley |
| 18. Maine | Wayne Theriault |

19. Maryland	Patrick McGee
20. Michigan	John Rubitschun
21. Minnesota	Ken Merz
22. Mississippi	Lora Cole
23. Missouri	Brian Jamison
24. Montana	Pam Bunke
25. Nebraska	Sally Reinhardt-Stewart
26. Nevada	Bernard Curtis
27. New Hampshire	Mike McAlister
28. New Jersey	Yolette Ross
29. New Mexico	Edward Gonzales
30. New York	Andrea Evans
31. North Carolina	Anne Precythe
32. North Dakota	Warren Emmer
33. Ohio	Linda Janes
34. Oklahoma	Milton Gilliam
35. Oregon	Mark Cadotte
36. Pennsylvania	Benjamin Martinez
37. Rhode Island	Kevin Dunphy
38. South Carolina	Samuel Glover
39. South Dakota	Nancy Allard
40. Tennessee	Gary Tullock
41. Texas	Kathie Winckler
42. Utah	Brent Butcher
43. Virgin Islands	Arline Swan
44. Washington	Lin Miller
45. West Virginia	Henry Lowery
46. Wisconsin	William Rankin
47. Wyoming	Les Pozsgi

Welcome & Overview

Commissioner B. Curtis (NV) and Chief Justice of the Nevada Supreme Court J. Hardesty welcomed participants to Reno, Nevada.

Chairman K. Merz (MN) instructed the Commission on the rules and procedures for the meeting.

Training, Education and Public Relations Committee Report

Commissioner D. Ege (AZ), the Training Committee Chair, expressed her gratitude towards the Committee members and the National Office staff.

Commissioner D. Ege (AZ) reported on the on-site trainings delivered by the Committee members and the National Office staff: Judicial Workshop (Sun Valley, Idaho and Oklahoma City, Oklahoma); ICAOS Workshops (Oklahoma City, Oklahoma and

Anaheim, California), Victim's Workshop (Boston, Massachusetts); State Council Workshop (Mesa, Arizona) and ICOTS Training (Virginia, Maryland and District of Columbia).

The Committee members and the National Office staff provided the following WebEx trainings: ICAOS Rules Trainings and ICOTS Trainings (Compact Office Users, Compact Workload, Manage Caseload and 6.0 Code Release).

Commissioner D. Ege (AZ) informed the Commission that the Training Committee received continuing Legal Education accreditation for on-demand modules from Alabama, Alaska, California, Colorado, Florida, Kentucky, Louisiana, New York, North Carolina, Texas, Vermont, Washington and Wyoming.

Commissioner D. Ege (AZ) presented an overview of the on-demand usage statistics from March 2006 until September 2009.

Commissioner D. Ege (AZ) informed the Commission that throughout the year, the Training Committee revised and updated the Rules training curriculum, On-Demand Modules (New ICOTS Privacy Policy Module added), Commissioner Handbook and ICOTS Training curriculum. The Training Committee released nine training bulletins in the past year.

Commissioner D. Ege (AZ) motioned to accept the Training, Education and Public Relations Committee report. Commissioner G. Tullock (TN) seconded and the Commission voted to accept.

Approval of Agenda

Commissioner H. Lowery (WV) moved to approve the agenda. Commissioner E. Gonzales (NM) seconded.

Commissioner W. Rankin (WI) noted that during the Rules Committee report, the Commission will consider the final actions for the proposed rules amendments.

Approved as drafted.

Approval Minutes

Commissioner H. Lowery (WV) motioned to approve the 2008 Annual Business Meeting minutes. Commissioner L. Janes (OH) seconded.

Official Designee S. Reinhardt-Steward requested to change the date on p. 11 from *November 2-4, 2008 in Reno, NV* to *November 2-4, 2009 in Reno, NV*.

Approved as amended.

Compliance Committee Report

Commissioner M. McAlister (NH), Chair of the Compliance Committee, presented the report.

Commissioner M. McAlister (NH) reported that the states reported four incidents in the past year; however, as the result of open communication and hard work, all were resolved without formal complaints. The reports are tracked by the National Office who uses the information to identify training needs.

In the past year the Compliance Committee examined two issues. (1) a deadline for providing Appriss, Inc. with the required legacy data and (2) Puerto Rico's non-payment of dues. Both issues were referred to the Executive Committee and have since been resolved. The Compliance Committee also revised the ICAOS Dues Enforcement Policy based on their recent experience with Puerto Rico.

The Committee is scheduled to meet again in December 2009 to review the draft Audit Standards and Policy.

Commissioner M McAlister (NH) motioned to accept the Compliance Committee report. Commissioner J. Miller (CO) seconded. Report accepted.

DCA Liaison Committee Report

Commissioner W. Emmer (ND), Chair of the DCA Liaison Committee, thanked the Committee members for their hard work throughout the past year.

Commissioner W. Emmer (ND) summarized the Committee's objectives and achievements which includes the appointment of a DCA regional chair for each region. During the year each region chair held meetings to discuss the work of the committee.

Compact Administrator C. Placek (ND) along with other Committee members developed a DCA survey designed to learn more about how ICOTS is being used and to find ways for implementing the Committee goals. The Committee presented the results of the survey at the DCA Meeting on November 3, 2009.

Commissioner W. Emmer (ND) notified the Commission that the Executive Committee approved the establishment of the first biennial DCA Training Institute that is scheduled for August 2010.

Commissioner W. Emmer (ND) motioned to accept the DCA Liaison Committee report. Commissioner K. Pellant (KS) seconded. Report accepted.

Legal Counsel Report

Legal Counsel R. Masters presented his report to the Commission.

Throughout the year, Legal Counsel R. Masters assisted the Commission with interpretation, application and enforcement of the Compact provision and Rules as well as provided judicial trainings.

Legal Counsel R. Masters informed the Commission that the Dana County Circuit Court dismissed the Commission from the Stanton lawsuit.

Commissioner H. Lowery (WV) motioned to accept the Legal Counsel Report. Commissioner B. Martinez (PA) seconded. Report accepted.

Victims' Advocate Report

Chairman K. Merz (MN) notified the Commission that due to a personal injury Victims' Advocate P. Tuthill (FL) was not able to attend the meeting. The Commission received P. Tuthill's comments regarding the proposed rule amendments via email prior to the meeting.

Rules Committee Report

Commissioner W. Rankin (WI), the Rules Committee Chair, presented his report to the Commission. He also provided an overview of the Committee goals and accomplishments in the past two years.

The Committee took into consideration the rules referred by the Commission at the previous business meetings, issues identified in ICAOS dispute resolutions and advisory opinions, rule amendments that were proposed by the regions and standing committees as well as proposals that were originated by the Rules Committee.

The Commission reviewed the proposed amendment to Rule 1.101 referred by the West Region.

Commissioner W. Rankin (WI) informed the Commission that the proposed amendment had no effect on other Rules, Advisory Opinions or Dispute Resolutions and had no ICOTS impact. The Rules Committee recommended this rule amendment in favor of adoption by 7 to 0 vote.

Motion to accept the proposed definition of "supervision" by Commissioner W. Rankin (WI) seconded by Commissioner D. Ege (AZ).

Commissioner K. Winckler (TX) spoke against the proposal due to its ambiguity.

Commissioner L. Miller (WA) informed the Commission that the proposal provided clarity for Washington State that has statutory complications.

Motion passed by vote of 43 to 4.

RULE 1.101 Definitions

“Supervision” means the ~~authority or oversight exercised by supervising~~ authorities of a sending or receiving state over an offender for a period of time determined by a court or releasing authority, during which time the offender is required to report to or be monitored by supervising authorities, ~~and includes any condition, qualification, special condition or requirement~~ and to comply with regulations and conditions, other than monetary conditions, imposed on the offender at the time of the offender’s release to the community or during the period of supervision in the community.

PASSED: effective date March 1, 2010

The Commission reviewed an amendment to Rule 2.104 submitted by the Rules Committee.

Commissioner W. Rankin (WI) informed the Commission that the rule amendment had no effect on other Rules, Advisory Opinions or Dispute Resolutions and had no ICOTS impact. By a vote of 7 to 0, the Rules Committee recommended adoption of this rule amendment.

Motion to accept the proposed amendment to Rule 2.104 by Commissioner W. Rankin (WI) seconded by Commissioner D. Ege (AZ). Motion passed by vote of 45 to 0.

RULE 2.104 Forms

(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.

(c) Section (a) shall not be construed to prohibit written, electronic or oral communication between compact offices.

PASSED: effective date March 1, 2010

The Commission reviewed an amendment to Rule 2.106 submitted by the South Region.

Commissioner W. Rankin (WI) informed the Commission that the rule amendment was consistent with Advisory Opinion 6-2005 and had no ICOTS impact. The Rules Committee recommended against adoption of this rule amendment, by vote of 4 to 3.

Motion to accept the proposed amendment to Rule 2.106 by Commissioner W. Rankin (WI) seconded by Commissioner D. Ege (AZ). Motion passed by vote of 26 to 21.

RULE 2.106 Offenders subject to deferred sentences

Offenders subject to deferred sentences are eligible for transfer of supervision under the same eligibility requirements, terms, and conditions applicable to all other offenders under this compact.

Persons subject to supervision pursuant to a pre-trial release intervention program, bail, or similar program are not eligible for transfer under the terms and conditions of this compact.

PASSED: effective date March 1, 2010

The Commission reviewed an amendment to Rule 2.110 submitted by the Rules Committee.

Commissioner W. Rankin (WI) informed the Commission that the rule amendment did not have effect on other Rules, Advisory Opinions or Dispute Resolutions and had no ICOTS impact. By a vote of 7 to 0, the Rules Committee recommended adoption of this rule amendment.

Motion to accept the proposed amendment to Rule 2.110 by Commissioner W. Rankin (WI) seconded by Commissioner D. Ege (AZ).

Commissioner D. Ege (AZ) stated that the proposed amendment was a necessary addition to ensure the public safety.

Motion passed by vote of 43 to 2.

RULE 2.110 Transfer of offenders under this compact

(a) No state shall permit an offender who is eligible for transfer under this compact to relocate to another state except as provided by the Compact and these rules.

(b) An offender who is not eligible for transfer under this Compact is not subject to these rules and remains subject to the laws and regulations of the state responsible for the offender's supervision.

(c) Upon violation of section (a), the sending state shall direct the offender to return to the sending state within 15 calendar days of receiving such notice. If the offender does not return to the sending state as ordered, the sending state shall issue 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.

PASSED: effective date March 1, 2010

The Commission reviewed an amendment to Rule 3.101 submitted by the West Region.

Commissioner W. Rankin (WI) informed the Commission that the rule amendment did not have effect on other Rules, Advisory Opinions or Dispute Resolutions and had no ICOTS impact.

The Rules Committee amended the language clarifying that all three violations and returns must occur from the same receiving state. The Rules Committee recommended against adopting this rule amendment, by 7 to 0 vote.

Motion to accept the proposed amendment to Rule 3.101 by Commissioner W. Rankin (WI) seconded by Commissioner D. Ege (AZ).

Motion failed by vote of 19 to 28.

RULE 3.101 Mandatory transfer of supervision

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 means of support.

(f) Upon 3 returns from the same receiving state for violations and closures within five years of a specific offender to the sending state under the terms of this rule, any future applications for transfer to the same receiving state shall be considered under Rule 3.101-2.

FAILED

The Commission reviewed an amendment to Rule 3.101-1 submitted by the West Region.

Commissioner W. Rankin (WI) informed the Commission that the rule amendment did not have effect on other Rules, Advisory Opinions or Dispute Resolutions. Based on Appriss' calculation, the impact on ICOTS may be significant, requiring changes to code, menus, screens, forms and reports. The estimated development cost is \$11,360.

Based on the received website comments, the Rules Committee replaced some of the language in the proposal and justification without materially altering the intent of the proposal. By a vote of 7 to 0, the Rules Committee recommended adoption of this rule amendment.

Motion to accept the proposed amendment to Rule 3.101-1 by Commissioner W. Rankin (WI) seconded by Commissioner D. Ege (AZ).

Commissioner D. Morrison (GA) spoke in favor of proposal noting that the proposed amendment helped an offender with his transition to the society.

Commissioner H. Lowery (WV) spoke against the proposal stating that there was always a possibility that the offender may lose his job and support.

Commission G. Tullock (TN) spoke in favor if the proposal.

Commissioner D. Ege (AZ) spoke against the adoption of the proposal noting that the Rule did not exclude sex offenders and that *two business days* was not enough time to issue the reporting instructions.

Motion passed by vote of 33 to 14.

RULE 3.101-1 Mandatory transfers of military, families of military, and family members employed, and employment transfer.

(a) Transfers of military members- An offender who is a member of the military and has been deployed by the military to another state, shall be 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 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, at the direction of the employer and as a condition of maintaining employment, shall be 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.

(d) Employment transfer of the offender to another state – An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and is transferred to another state by their full-time employer, at the direction of the employer and as a condition of maintaining employment shall be 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.

PASSED: effective date March 1, 2010

The Commission reviewed an amendment to Rule 3.101-3 submitted by the Midwest Region.

Commissioner W. Rankin (WI) informed the Commission that the rule amendment did not have effect on other Rules, Advisory Opinions or Dispute Resolutions and had no ICOTS impact. In response to the Commission comments on the website, the Rules Committee removed the language *have been* with *are* placed on probation.

The Rules Committee recommended against adopting this rule amendment, by 4 to 3 vote.

Motion to accept the proposed amendment to Rule 3.101-3 by Commissioner W. Rankin (WI) seconded by Commissioner D. Ege (AZ).

Commissioner G. Tullock (TN) spoke against the proposed amendment noting that the rule amendment needs revision.

Commissioner K. Pellant (KS) spoke in favor of the proposed amendment stating that the opposite action could create a public safety issue and create financial burden on a state agency.

Commissioner D. Ege (AZ) concurred with Commissioner Tullock.

Motion failed by vote of 21 to 26.

RULE 3.101-3 Transfer of supervision of sex offenders

(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 the following 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
 - (A) the name, sex, age and relationship to the offender;
 - (B) 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, who are placed on probation for a sex

offense requiring registration in the sending or receiving states 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 instruction. 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.

FAILED

The Commission reviewed an amendment to Rule 3.102 submitted by the Rules Committee.

Commissioner W. Rankin (WI) informed the Commission that the rule amendment did not have effect on other Rules, Advisory Opinions or Dispute Resolutions and had no ICOTS impact. By a vote of 6 to 1, the Rules Committee recommended adoption of this rule amendment, with the effective date March 1, 2010.

Motion to accept the proposed amendment to Rule 3.102 by Commissioner W. Rankin (WI) seconded by Commissioner D. Ege (AZ). Motion passed by vote of 41 to 5.

RULE 3.102 Submission of transfer request to a receiving state

- (a) Except as provided in section (c), and Subject to the exceptions in Rule 3.103 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) Except as provided in section (c), and Subject to the exceptions in Rule 3.103 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.
- (c) An offender who is employed in the receiving state at the time the transfer request is submitted and has been permitted to travel to the receiving state for the employment may be permitted to continue to travel to the receiving state for the employment while the transfer request is being investigated, provided that the following conditions are met:

- 1) Travel is limited to what is necessary to report to work, perform the duties of the job and return to the sending state.
- 2) The offender shall return to the sending state daily during non-working hours, and
- 3) The Transfer Request shall include notice that the offender has permission to travel to and from the receiving state, pursuant to this rule, while the transfer request is investigated.

PASSED: effective date March 1, 2010

The Commission reviewed an amendment to Rule 3.104 submitted by the Rules Committee.

Commissioner W. Rankin (WI) informed the Commission that the rule amendment did not have effect on other Rules, Advisory Opinions or Dispute Resolutions. Appriss estimated \$2,600 development cost to make the appropriate changes to ICOTS.

By a vote of 6 to 1, the Rules Committee recommended adoption of this rule amendment.

Motion to accept the proposed amendment to Rule 3.104 by Commissioner W. Rankin (WI) seconded by Commissioner Y. Ross (NJ). Motion passed by vote of 45 to 2.

RULE 3.104 Time allowed for investigation by receiving state

- (a) A receiving state shall complete investigation and respond to a sending state's request for an offender's transfer of supervision no later than the 45th calendar day following receipt of a completed transfer request in the receiving state's compact office.
- (b) If a receiving state determines that an offender transfer request is incomplete the receiving state shall notify the sending state by rejecting the transfer request with the specific reason(s) for the rejection. If the offender is in the receiving state with reporting instructions, those instructions shall remain in effect provided that the sending state submits a completed transfer request within 15 calendar days following the rejection.

PASSED: effective date March 1, 2010

The Commission reviewed an amendment to Rule 3.104-1 submitted by the Rules Committee.

Commissioner W. Rankin (WI) informed the Commission that the rule amendment did not have effect on other Rules, Advisory Opinions or Dispute Resolutions and had no

ICOTS impact. By a vote of 7 to 0, the Rules Committee recommended adoption of this rule amendment.

Motion to accept the proposed amendment to Rule 3.104-1 by Commissioner W. Rankin (WI) seconded by Commissioner D. Ege (AZ). Motion passed by vote of 45 to 2.

RULE 3.104-1 Acceptance of offender; issuance of reporting instructions

- (a) If a receiving state accepts transfer of the offender, the receiving state's acceptance shall include reporting instructions.
- (b) Upon notice of acceptance of transfer by the receiving state, the sending state shall issue a travel permit to the offender and notify the receiving state of the offender's departure as required under Rule 4.105.
- (c) A receiving state shall assume responsibility for supervision of an offender upon the offender's arrival in the receiving state and shall submit notification of arrival as required under Rule 4.105.
- (d) An acceptance by the receiving state shall be valid for 120 calendar days. If the sending state has not sent a departure notice to the receiving state in that time frame, the receiving state may withdraw its acceptance and close interest in the case.

PASSED: effective date March 1, 2010

The Commission reviewed an amendment to Rule 3.107 submitted by the Rules Committee.

Commissioner W. Rankin (WI) informed the Commission that the rule amendment did not have effect on other Rules, Advisory Opinions or Dispute Resolutions. Appriss estimated \$1,000 cost to make the appropriate changes to ICOTS. By a vote of 7 to 0, the Rules Committee recommended adoption of this rule amendment.

Motion to accept the proposed amendment to Rule 3.107 by Commissioner W. Rankin (WI) seconded by Commissioner D. Ege (AZ).

Commissioner J. Seigel (IN) and Commissioner D. Ege (AZ) spoke in favor of this amendment.

Motion passed by vote of 47 to 0.

RULE 3.107 Transfer Request

- (a) A Transfer request for an offender shall be transmitted through the electronic information system authorized by the commission and shall contain—
 1. transfer request form;

2. 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;
3. photograph of offender;
4. conditions of supervision;
5. any orders restricting the offender's contact with victims or any other person;
6. any known orders protecting the offender from contact with any other person;
7. information as to whether the offender is subject to sex offender registry requirements in the sending state along with supportive documentation;
8. pre-sentence investigation report, if available;
9. supervision history, if available;
10. 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.

(b) The original signed Offender Application for Interstate Compact Transfer shall be maintained in the sending state. A copy of the signed Offender Application for Interstate Compact Transfer shall be attached to the transfer request.

(c) Additional documents, such as the Judgment and Commitment, and any other information may be requested from the sending state following acceptance of the offender. The sending state shall provide the documents if available.

PASSED: effective date March 1, 2010

The Commission reviewed an amendment to Rule 4.106 submitted by the South Region.

Commissioner W. Rankin (WI) informed the Commission that the rule amendment did not have effect on other Rules, Advisory Opinions or Dispute Resolutions. Based on the Appriss' calculation, the estimated cost to make appropriate changes to ICOTS is \$7,360. By a vote of 7 to 0, the Rules Committee recommended adoption of this rule amendment.

Motion to accept the proposed amendment to Rule 4.106 made by Commissioner W. Rankin (WI) seconded by Commissioner D. Ege (AZ).

Commissioner D. Ege (AZ) spoke in favor of this amendment stating that the progress reports were vital to the Compact business.

Motion passed by vote of 46 to 1

RULE 4.106 Progress reports

- (a) A receiving state shall provide to the sending state a progress report annually, or more frequently, upon the request of the sending state, for good cause shown. The receiving state shall provide the progress report within thirty (30) calendar days of receiving the request.
- (b) A progress report shall include-
- (1) offender's name;
 - (2) offender's residence address;
 - (3) offender's telephone number and electronic mail address;
 - (4) name and address of offender's employer;
 - (5) supervising officer's summary of offender's conduct, progress and attitude, and compliance with conditions of supervision;
 - (6) programs of treatment attempted and completed by the offender;
 - (7) information about any sanctions that have been imposed on the offender since the previous progress report;
 - (8) supervising officer's recommendation;
 - (9) any other information requested by the sending state that is available in the receiving state.

PASSED: effective date March 1, 2010

Commissioner W. Rankin (WI) extended his appreciation to the Committee members and the Executive Director and the National Office staff for their hard work.

Commissioner W. Rankin (WI) motioned to accept the Rules Committee Report. Commissioner W. Emmer (ND) seconded. Report accepted.

Finance Committee Report

Commissioner K. Kempf (ID), the Finance Committee Chair, presented his report to the Commission expressing his appreciation towards Committee members and the National Office staff hard work.

Commissioner K. Kempf (ID) informed the Commission that current dues formula was outdated and required modification. At the request of the Finance Committee, the Executive Committee agreed to appoint an ad hoc Committee to review the dues formula.

Commissioner K. Kempf (ID) stated that in 2007 the Commission voted to increase dues by 6% for three consecutive years to establish a 25% reserve fund. The recommended budget for FY 2011 does not include the 3rd year increase of 6%, because of the following accomplishments:

- The National Office substantially reduced spending
- The National Office consolidated duties with 25% reduction in staffing
- The Commission has a \$1.37M reserve fund
- In October of this year the Commission made the final payment on the original ICOTS development

- The Technology Committee is working with Appriss to develop a plan for enhancing ICOTS that will not exceed the current technology budget.

Commissioner K. Kempf (ID) presented FY 2009 Budget Summary to the Commission.

- \$314,752 (17.7%) below the approved budget
- \$230,755 (13.6%) below revenue
- \$1,377,631 fund balance

Commissioner K. Kempf (ID) also mentioned that the FY 2010 Budget was projected to finish 8-10% below the approved budget.

Commissioner K. Kempf (ID) motioned to accept the proposed FY 11 budget and the Finance Committee report. Commissioner W. Emmer (ND) seconded. Budget approved and report accepted.

Commissioner W. Emmer (ND) thanked Executive Director H. Hageman and the National Office staff for diligent and valuable work especially considering recent 25% reduction in staffing.

The states who are interested in serving on the Ad Hoc Dues Committee should contact Chairman K. Merz (MN) or the National Office.

Chairman K. Merz (MN) recognized Ex-Officio members: Senator D. Darrington with the National Conference of State Legislatures; C. Wicklund with the American Probation and Parole Association; S. Holewa with the Conference of State Court Administrators and T. Beauclair with the National Institute of Corrections.

Information & Technology Report

Commissioner K. Winckler (TX), Technology Committee Chair, thanked the Technology Committee members for their service to the Committee.

Commissioner K. Winckler (TX) stated that in the last year the Technology Committee met eight times since the last Business Meeting in September, 2008. She encouraged all Commission members to attend monthly WebEx Technology Committee meetings.

Commissioner K. Winckler (TX) provided the Commission with an update on the ICOTS development and implementation.

Commissioner K. Winckler (TX) indicated that in the past six months, Appriss received 1,853 ICOTS support calls/emails inquiries and the National Office received 3,370 calls/emails. Calls are presently decreasing on average of 13.5% per month.

The Council of State Governments surveyed the states regarding satisfaction with the implementation and operation of ICOTS. The Survey's results indicate that 75% of the

users believe that ICOTS has improved the efficiency of the compact office operation in their state.

Commissioner K. Winckler (TX) informed the Commission that Rule 2.102(c) did not expire until the Electronic Information System was fully implemented and functional.

The Technology Committee recommends to the Commission to adopt a date for Rule 2.102 to expire defining **Implemented** and **Functional** as the following:

Implemented: Every member state has put ICOTS into operation for their jurisdiction, including migrating legacy data, assigning users and establishing user accounts

Functional: The electronic system is serving the function for which it was designed. All interstate compact transfers are processed in ICOTS.

Commissioner K. Winckler (TX) motioned for the Commission to adopt the date of June 30, 2010 as the expiration date of Rule 2.102. Official Designee A. Precythe (NC) seconded.

Commissioner W. Theriault (ME) offered an amendment to change the expiration date to December 31, 2009.

Commissioner K. Winckler (TX) and Official Designee A. Precythe (NC) agreed to amend the motion.

Commissioner G. Tullock (TN) informed the Commission that some states unable to attend the meeting may not be ready to rely of ICOTS completely.

Commissioner D. Ege (AZ) spoke in favor of the June 30th, 2010 expiration date.

Commissioner W. Rankin (WI) clarified to the Commission that states have time to clean their data prior to any re-calculation of the dues.

Commissioner J. Seigel (IN) called for the question. Commissioner M. Gilliam (OK) seconded. The motion passed by vote 41 to 6.

The Commission voted on Commissioner Winckler's amended motion. **The motion passed by vote 32 to 15.**

Commissioner K. Winckler (TX) encouraged Commissioners and their staff to read an essay *ICOTS: Our Shared Vehicle* written by Commissioner W. Rankin (WI), the Rules Committee Chair. The essay provides a good analogy between operation of ICOTS and a car.

Since the Commission passed rule proposals that would require ICOTS enhancements, Commissioner K. Winckler (TX) recommended authorizing the expenditure on these enhancements.

Commissioner D. Ege (AZ) motioned for the Commission to approve no more than \$25,000 expenditure required by the four approved rule amendments (3.101, 3.104, 3.107 and 4.106) that impact ICOTS. Commissioner W. Theriault (ME) seconded. The motion passed.

Commissioner K. Winckler (TX) informed the Commission that Appriss Representative B. Oldham was present to answer any questions the Commission had in regards to ICOTS.

Commissioner K. Winckler (TX) motioned to approve the Technology Committee report. Commissioner K. Pellant (KS) seconded. Report accepted.

Commissioner D. Ege (AZ) brought to the Commission's attention an issue of closed cases that remain active due to the sending state.

Old Business

None

New Business

R. Maccarone, State Director of New York State Division of Probation and Correctional Alternatives, suggested an alternative approach to state transfer which he calls the complete transfer.

Award Presentations

- *Executive Chair Award* presented to Commissioner K. Winckler (TX) by Chairman K. Merz (MN).
- *Executive Director Award* presented to DCA R. Bisch (MN) by Executive Director H. Hageman.
- *Peyton Tuthill Award* presented to Victims' Advocate J. Marsh (KS) by Commissioner K. Pellant (KS).

Executive Director H. Hageman presented a plaque to past Assistant Director A. Lippert in recognition of her leadership and service to the Commission.

Chairman K. Merz (MN) recognized the achievements of past Chairman and Commissioner of North Dakota, W. Emmer. Commissioner Emmer announced he is retiring on December 31, 2009.

Chairman K. Merz (MN) recognized those who preserve the *Spirit of the Compact* and expressed his appreciation for their work: D. Sherman (CO); K. Goodard (CO); R. Grimes (TX); K. Tucker (FL); C. Lauterbach (IA); R. Goines (IL); R. Cohen (NM); W. LaCour (TX); D. Schmidt (CO); P. McCracken (CO); G. Grable (NE); J. Gusz (NJ); K. Luth (AK); J. Sisk (VA) and J. Reed (TN).

Region Chair Recognition

Region Chairs recognized for their service and dedication include:

Commissioner W. Theriault (ME), East Region
Commissioner L. Janes (OH), Midwest Region
Commissioner G. Tullock (TN), South Region
Commissioner E. Gonzales (NM), West Region

Oath of Officers

Senator D. Darrington (ID) delivered the Oath of Officers to the newly elected Region Chairs: Commissioner E. Gonzales (West Region), Commissioner W. Theriault (East Region), Commissioner L. Janes (Midwest Region) and Commissioner C. Norman (South Region).

New Business

Chairman K. Merz (MN) announced that the next Annual Business Meeting would take place on October 11-13, 2010 in San Antonio, Texas.

Adjourn

Commissioner G. Tullock (TN) made a motion to adjourn. Commissioner E. Gonzales (NM) seconded. The motion passed.

The Commission adjourned at 3:07 pm PDT.



Notice of Public Hearing

The Interstate Commission for Adult Offender Supervision (ICAOS) will vote on proposals to create or amend ICAOS rules at the 2010 Annual Business Meeting in San Antonio, TX on Wednesday, October 13, 2010.

In accordance with ICAOS Rule 2.109(c), the Rules Committee shall publish the text of the proposed rules or amendments no later than 30 days prior to the meeting at which the vote on the rule is scheduled. The full text of the proposals may be viewed at www.interstatecompact.org.

A public hearing is scheduled for these rules. Interested persons may submit written comments regarding the above proposed rules or amendments. Written comments must be received by Monday, October 4, 2010 and may be sent electronically to srazor@interstatecompact.org, by facsimile to 859-244-8001, or by mail to Sam Razor, Assistant Director, Interstate Commission for Adult Offender Supervision, P.O. Box 11910, Lexington, KY, 40578-11910.

Interested persons may testify in person at the Public Hearing by submitting notice of their intention to attend the Public Hearing to Barno Saturday, bsaturday@interstatecompact.org or by calling 859-244-8235.

Public Hearing Location

Place: Executive Salon 5, Crowne Plaza Riverwalk Hotel, 111 East Pecan Street, San Antonio, TX 78205

Date: Tuesday, October 12, 2010

Time: 3:00 pm – 4:00 pm (CST)

2010-EXEC-101.1-1

Rule 1.101 Definitions:

“Violent crime” means any crime involving the unlawful exertion of physical force with the intent to cause injury or physical harm to a person; or an offense in which a person has incurred direct or threatened physical or psychological harm as defined by the criminal code of the state in which the crime occurred; or the use of a deadly weapon in the commission of a crime; or any sex offense requiring registration.

“Violent offender” means an offender under supervision for a violent crime.

Justification:

Definitions are necessary to promulgate retaking rules on violent offenders and offenders who are convicted of violent crimes.

Effect on other rules, advisory opinions or dispute resolutions:

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

ICOTS impact:

These definitions do not require adjustments to ICOTS.

Rules Committee action:

The committee considered the comments received and modified the language in the definition of violent crime.

On 8/19/2010, by 6-0 vote, the Rules Committee recommended the proposal be adopted.

Effective date:

March 1, 2011

2010-EXEC-101.1-2

Rule 1.101 Definitions:

“Warrant” means a written order of the court or authorities of a sending or receiving state or other body of competent jurisdiction which is made on behalf of the state, or United States, issued pursuant to statute and/or rule and which commands law enforcement to arrest an offender. The warrant shall be entered in the National Crime Information Center (NCIC) Wanted Person File with a nationwide pick-up radius.

Justification:

Defines a term which is used in the rules, but not previously defined. The definition is necessary because there is no uniform language or standard for states issuing Violation Warrants. This definition creates a standard requirement that any warrant issued by a state *pursuant to ICAOS rules* will be listed and enforced nationwide. The term identifies the functional purpose of the warrant. The term, when used in concert with the ICAOS term “detainer”, will reduce miscommunications that arise between jurisdictions and which result in failure to either notify a holding facility or a failure on the part of a holding facility to recognize a state’s order.

Effect on other rules, advisory opinions or dispute resolutions:

Eliminates the need for recurring language related to geographic enforcement wherever the term is used. The term is used in concert with “detainer” in proposed language in 5.101, 5.102, 5.103 and new proposed rules 5.103-1 and 5.103-2.

ICOTS impact:

These amendments do not require adjustments to ICOTS.

Rules Committee action:

On 8/19/2010, by 6-0 vote, the Rules Committee recommended the proposal be adopted.

Effective date:

March 1, 2011

Rule 3.107 Transfer Request

- (a) A Transfer request for an offender shall be transmitted through the electronic information system authorized by the commission and shall contain—
- (1) transfer request form;
 - (2) **A narrative description of the** instant offense in sufficient detail to describe the **circumstances**, type and severity of offense and whether the charge has been reduced at the time of imposition of sentence;
 - (3) photograph of offender;
 - (4) conditions of supervision;
 - (5) any orders restricting the offender’s contact with victims or any other person;
 - (6) any known orders protecting the offender from contact with any other person;
 - (7) information as to whether the offender is subject to sex offender registry requirements in the sending state along with supportive documentation;
 - (8) pre-sentence investigation report, ~~if available,~~ **unless distribution is prohibited by law or it does not exist.**
 - (9) supervision history, ~~if available,~~ **unless it does not exist.**
 - (10) 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.
- (b) The original signed Offender Application for Interstate Compact Transfer shall be maintained in the sending state. A copy of the signed Offender Application for Interstate Compact Transfer shall be attached to the transfer request.
- (c) Additional documents, **necessary for supervision in the receiving state**, such as the Judgment and Commitment, ~~and any other information~~ may be requested from the sending state following acceptance of the offender. The sending state shall provide the documents ~~if available.~~ **within no more than 30 calendar days from the date of the request, unless distribution is prohibited by law or a document does not exist.**

Justification:

Clarifies the requirement to provide instant offense details and other documents in the transfer request and establishes the time period for responding to requests for information necessary for supervision, following acceptance.

Effect on other rules, advisory opinions or dispute resolutions:

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

ICOTS impact:

These amendments do not require adjustments to ICOTS.

Rules Committee action:

On 8/19/2010, by 6-0 vote, the Rules Committee recommended the proposal be adopted.

Effective date:

March 1, 2011

4.109-2 Absconding Violation

(a) If there is reason to believe that an offender has absconded the receiving state shall attempt to locate the offender. Such activities shall include, but are not limited to:

- (1) Conducting a field contact at the last known place of residence;
- (2) Contacting the last known place of employment, if applicable;
- (3) Contacting known family members and collateral contacts.

(b) If the offender is not located the receiving state shall submit a violation report pursuant to rule 4.109(b)(9).

Justification:

Proposed rule clarifies the receiving state's responsibility to determine that the offender absconded, prior to submitting a violation report.

Effect on other rules, advisory opinions or dispute resolutions:

4.109-2 has direct impact on 4.109 and proposed rule 5.103-1 because it specifies steps required before a state may issue an absconder violation report.

ICOTS impact:

These amendments do not require adjustments to ICOTS.

Rules Committee action:

Language was added to clarify the rule and made it grammatically correct.

On 8/19/2010, by 6-0 vote, the Rules Committee recommended the proposal be adopted.

Effective date:

March 1, 2011

2010-EXEC-4.109

Rule 4.109 Violation reports

- (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~~

Justification:

The language is removed because it is determined to be beyond the scope of this rule and the concepts in the language have been carried forward in proposed new rules.

Effect on other rules, advisory opinions or dispute resolutions:

The concepts removed from this rule are incorporated in proposed new rules 4.109-2 and 5.103-1.

ICOTS impact:

These amendments do not require adjustments to ICOTS.

Rules Committee action:

On 8/19/2010, by 6-0 vote, the Rules Committee recommended the proposal be adopted.

Effective date:

March 1, 2001

2010-EXEC-5.101

Rule 5.101 Retaking by the sending state

- (a) Except as required in Rules 5.102, and ~~5.103~~, 5.103-1 and 5.103-2 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) **Upon its determination to retake the offender, the sending state shall issue a warrant and file a detainer with the holding facility when the offender is in custody.**
- (c) 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.

Justification:

Clarifies responsibility of the sending state when the state, in its discretion, has determined that an offender will be retaken. Specifically identifying the functional requirements to issue a warrant and file a detainer will reduce miscommunications that arise between jurisdictions and which result in failure to either notify a holding facility or a failure on the part of a holding facility to recognize a state's order. The rule does not require the warrant and detainer to be separate documents or processes, as long as the functional requirements are met.

Effect on other rules, advisory opinions or dispute resolutions:

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

ICOTS impact:

These amendments do not require adjustments to ICOTS.

Rules Committee action:

Inserted reference to rule proposals 5.103-1 and 5.103-2, to be consistent with references to other mandatory retaking rules.

On 8/19/2010, by 6-0 vote, the Rules Committee recommended the proposal be adopted.

Effective date:

March 1, 2011

2010-EXEC-5.102

Rule 5.102 Mandatory retaking for a new felony conviction

(a) 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:

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

(b) When a sending state is required to retake an offender, the sending state shall issue a warrant and file a detainer with the holding facility when the offender is in custody.

~~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 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.~~

Justification:

The amendment eliminates the sending state's option to order the return of an offender subject to mandatory retaking. The new language clarifies responsibility of the sending state with regard to retaking. Specifically identifying the functional requirements to issue a warrant and file a detainer will reduce miscommunications that arise between jurisdictions and which result in failure to either notify a holding facility or a failure on the part of a holding facility to recognize a state's order. The rule does not require the warrant and detainer to be separate documents or processes, as long as the functional requirements are met.

Effect on other rules, advisory opinions or dispute resolutions:

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

ICOTS impact:

These amendments do not require adjustments to ICOTS.

Rules Committee action:

Corrected formatting, to be consistent with other rules.

On 8/19/2010, by 6-0 vote, the Rules Committee recommended the proposal be adopted.

Effective date:

March 1, 2011

5.103-1 Mandatory retaking for offenders who abscond

- (a) Upon receipt of an absconder violation report and case closure, the sending state shall issue a warrant and file a detainer with the holding facility when the offender is in custody.
- (b) 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).
- (c) Upon a finding of probable cause the sending state shall retake the offender from the receiving state.
- (d) If probable cause is not established, the receiving state shall resume supervision upon the request of the sending state.
- (e) The sending state shall keep its warrant and detainer in place until the offender is retaken pursuant to paragraph (c) or supervision is resumed pursuant to paragraph (d).

Justification:

Clarifies responsibility of the sending state with regard to retaking absconders.

Effect on other rules, advisory opinions or dispute resolutions:

The rule incorporates concepts removed by the proposed amendment to 4.109.

ICOTS impact:

These amendments do not require adjustments to ICOTS.

Rules Committee action:

Rearranged sequence and renumbered subsections; added clarifying language to (e).

On 8/19/2010, by 6-0 vote, the Rules Committee recommended the proposal be adopted.

Effective date:

March 1, 2011

Rule 5.103-2 Mandatory retaking for violent offenders and violent crimes

- (A) Upon a request from the receiving state, a sending state shall retake a violent offender who has committed a significant violation.
- (B) Upon a request from the receiving state, a sending state shall retake an offender who is convicted of a violent crime.
- (C) When a sending state is required to retake an offender, the sending state shall issue a warrant and file a detainer with the holding facility when the offender is in custody.

Justification: Creates a rule to retake violent offenders and offenders who commit violent crimes. Specifically identifying the functional requirements to issue a warrant and file a detainer will reduce miscommunications that arise between jurisdictions and which result in failure to either notify a holding facility or a failure on the part of a holding facility to recognize a state's order. The rule does not require the warrant and detainer to be separate documents or processes, as long as the functional requirements are met.

Effect on other rules, advisory opinions or dispute resolutions:

Gives effect to the definitions of violent crime and violent offender.

ICOTS impact:

These amendments do not require adjustments to ICOTS.

Rules Committee action:

On 8/19/2010, by 6-0 vote, the Rules Committee recommended the proposal be adopted.

Effective date:

March 1, 2011

2010-EXEC-5.103

Rule 5.103 Mandatory retaking for violation 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 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.~~ **When a sending state is required to retake an offender, the sending state shall issue a warrant and file a detainer with the holding facility when the offender is in custody.**

Justification:

The amendment eliminates a sending state's option to order the return of an offender subject to mandatory retaking following a third significant violation. The new language clarifies responsibility of the sending state with regard to retaking. Specifically identifying the functional requirements to issue a warrant and file a detainer will reduce miscommunications that arise between jurisdictions and which result in failure to either notify a holding facility or a failure on the part of a holding facility to recognize a state's order. The rule does not require the warrant and detainer to be separate documents or processes, as long as the functional requirements are met.

Effect on other rules, advisory opinions or dispute resolutions:

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

ICOTS impact:

These amendments do not require adjustments to ICOTS.

Rules Committee action:

Corrected formatting.

On 8/19/2010, by 4-2 vote, the Rules Committee recommended the proposal be adopted.

Effective date:

March 1, 2011

Offenders on Compact Supervision as of the close of FY2010

States	Incoming Cases				Outgoing Cases				Total Incoming/Outgoing Offenders
	Probation Only	Parole Only	Probation and Parole	Total Incoming	Probation Only	Parole Only	Probation and Parole	Total Outgoing	
Alabama	2,985	718	92	3,795	1,364	419	25	1,808	5,603
Alaska	192	65	9	266	196	30	44	270	536
Arizona	1,400	511	48	1,959	2,434	317	69	2,820	4,779
Arkansas	1,964	806	73	2,843	1,218	1,303	62	2,583	5,423
California	3,705	1,336	77	5,118	2,107	805	27	2,939	8,055
Colorado	1,044	289	46	1,379	1,973	690	29	2,692	4,070
Connecticut	836	162	24	1,022	1,188	123	29	1,340	2,359
Delaware	536	107	35	678	379	33	23	435	1,113
District of Columbia	690	125	45	860	424	6	0	430	1,289
Florida	4,580	1,898	175	6,653	6,588	263	25	6,876	13,528
Georgia	3,672	869	59	4,600	7,213	1,573	334	9,120	13,713
Hawaii	173	44	3	220	328	132	2	462	682
Idaho	408	145	13	566	1,003	407	17	1,427	1,992
Illinois	3,616	1,397	109	5,122	1,956	913	29	2,898	8,019
Indiana	2,289	743	61	3,093	1,919	464	37	2,420	5,513
Iowa	1,150	303	27	1,480	764	272	21	1,057	2,535
Kansas	1,278	451	36	1,765	931	485	42	1,458	3,223
Kentucky	1,839	466	51	2,356	2,259	755	94	3,108	5,463
Louisiana	2,133	760	72	2,965	1,687	1,058	89	2,834	5,799
Maine	284	79	10	373	213	2	4	219	592
Maryland	2,873	472	78	3,423	980	322	159	1,461	4,881
Massachusetts	1,481	284	27	1,792	973	106	58	1,137	2,927
Michigan	1,781	606	54	2,441	1,399	914	32	2,345	4,784
Minnesota	1,108	336	53	1,497	2,248	289	27	2,564	4,060
Mississippi	1,532	582	41	2,155	1,434	426	89	1,949	4,104
Missouri	2,342	885	69	3,296	4,034	1,607	164	5,805	9,097
Montana	342	94	20	456	720	238	59	1,017	1,473
Nebraska	539	193	17	749	341	70	1	412	1,161
Nevada	753	211	17	981	878	346	24	1,248	2,229
New Hampshire	401	58	11	470	402	248	13	663	1,132
New Jersey	1,893	502	35	2,430	2,911	767	42	3,720	6,147
New Mexico	1,122	335	16	1,473	650	135	121	906	2,379
New York	3,867	726	74	4,667	2,021	1,325	42	3,388	8,053
North Carolina	3,418	901	128	4,447	1,302	111	11	1,424	5,871
North Dakota	575	89	15	679	377	19	52	448	1,127
Ohio	2,635	990	99	3,724	1,820	483	34	2,337	6,061
Oklahoma	1,985	946	63	2,994	1,104	197	20	1,321	4,313
Oregon	923	277	31	1,231	1,118	574	85	1,777	3,005
Pennsylvania	2,714	572	77	3,363	2,773	1,094	141	4,008	7,371
Puerto Rico	212	117	9	338	78	21	0	99	437
Rhode Island	462	44	14	520	919	44	33	996	1,516
South Carolina	1,856	514	56	2,426	1,100	273	25	1,398	3,824
South Dakota	325	82	15	422	379	294	15	688	1,110

States	Incoming Cases				Outgoing Cases				Total Incoming/Outgoing Offenders
	Probation Only	Parole Only	Probation and Parole	Total Incoming	Probation Only	Parole Only	Probation and Parole	Total Outgoing	
Tennessee	3,341	1,032	106	4,479	1,607	549	28	2,184	6,663
Texas	4,224	1,999	218	6,441	7,706	3,235	134	11,075	17,512
Utah	517	150	17	684	256	136	8	400	1,084
Vermont	205	40	6	251	227	57	5	289	539
Virginia	1,710	521	71	2,302	5,310	259	88	5,657	7,957
Virgin Islands	36	5	2	43	3	4	1	8	51
Washington	1,648	618	76	2,342	626	135	42	803	3,144
West Virginia	1,003	161	32	1,196	219	321	18	558	1,753
Wisconsin	1,387	313	17	1,717	1,915	1,322	129	3,366	5,081
Wyoming	367	108	18	493	423	71	8	502	995
TOTAL:	84,351	26,037	2,647	113,035	84,397	26,042	2,710	113,149	226,127

	FY10 FINAL	FY11 Budget	FY12 Proposed Budget
REVENUE			
DUE ASSESSMENT	1,524,275.80	1,524,275.80	1,524,275.80
ICJ MOU	7,765.66		
Carried Over Reserves	57,800.00		
Refunds			
INTEREST INCOME**	40,460.85	42,000.00	43,000.00
Total Administration Revenue	1,630,302.31	1,566,275.76	1,567,275.76
EXPENSE			
60000 SALARIES & WAGES	391,861.19	435,000.00	435,000.00
61000 EMPLOYEE BENEFITS	89,837.53	100,000.00	100,000.00
61079 EDUCATION, ACCREDITATION	1,824.00	5,000.00	5,000.00
61089 PROFESSIONAL MEMBERSHIP FEES	600.00	575.00	575.00
62000 SUPPLIES	4,839.91	4,161.60	4,161.60
62010 POSTAGE	822.49	1,560.60	1,250.00
62090 COMPUTER SEVICES/SUPPORT	18,648.29	19,767.60	20,000.00
62130 OUTSIDE WEB SUPPORT	14,816.50	5,000.00	6,000.00
62140 SOFTWARE PURCHASE	887.15	1,560.60	1,560.60
62280 INSURANCE	6,528.00	8,171.30	12,000.00
62310 PHOTOCOPY	1,549.35	2,080.80	2,080.80
62320 MISCELLANEOUS		500.00	500.00
62340 CREDIT CARD MERCHANT FEES	300.40		500.00
62360 DIRECT TELEPHONE EXPENSE	8,528.38	9,176.33	11,000.00
62370 CELL PHONE EXPENSE	2,590.49	2,080.80	2,300.00
62400 CONFERENCE CALLS		200.00	200.00
62410 MARKETING/ADVERTISING	440.00	1,000.00	500.00
66000 EQUIPMENT PURCHASE	2,715.38	10,000.00	5,000.00
68200 WEB/VIDEO CONFERENCE (WebEx)	26,044.07	32,720.00	34,356.00
68230 MEETING EXPENSE	323.90	1,500.00	1,500.00
72000 CONSULTANT SERVICES	14,612.22	50,000.00	50,000.00
74000 STAFF TRAVEL	14,780.65	18,727.20	15,000.00
78050 PRINTING	2,532.00	5,000.00	3,000.00
80000 LEGAL SERVICES	35,700.00	35,000.00	30,000.00
85000 RENT	37,904.84	43,696.80	43,696.80
85080 STORAGE	229.50		250.00
91010 INDIRECT COST	91,653.70	106,984.61	109,200.00
Total Administration Expenditures	770,569.94	899,463.24	894,630.80
OTHER EXPENSE			
11356 Executive Committee Meetings	24,959.81	15,000.00	10,000.00
11363 Annual Meeting	133,038.46	115,000.00	150,000.00
11364 Compliance Committee	92.66	15,000.00	10,000.00
11365 Finance Committee	8.98		1,000.00
11366 Rules Committee	9,601.43	15,000.00	10,000.00
11367 Technology Committee	2,821.39	15,000.00	10,000.00
11368 Training/Education Committee	10,477.35	15,000.00	10,000.00
11371 DCA Liaison Committee	89.22		1,000.00
11372 Annual Report & Handbook	55.33		
11569 DCA Training Institute	421.99	75,000.00	
11373 Shop ICAOS	(577.86)		
Defense Litigation	2,833.64		
11354 ICOTS	435,769.54	325,000.00	350,000.00
Other Indirect Cost	24,816.02	57,775.00	76,545.00
Total Other Expense	644,407.96	647,775.00	628,545.00
Total Commission Expenses	1,472,777.90	1,547,238.24	1,523,175.80
Over/Under Budget	\$182,340.43	19,037.52	44,099.96
Fund Balance and Liabilities	2,355,670.25		

**Interstate Compact for Adult Offender Supervision
State Dues Assessment - FY'11**

<u>State</u>	<u>State Dues Ratio</u> ²	<u>State Population</u> ³	<u>U.S. Population</u> ³	<u>State Offender Transfers</u> ⁴	<u>U.S. Offender Transfers</u> ⁴	<u>Dues Per State</u> ¹
U.S. Virgin Islands (a)	0.000358	102,000	285,230,516	83	231,324	\$10,314.65
Alaska	0.002271	626,932	285,230,516	542	231,324	\$20,629.30
Wyoming	0.002580	493,782	285,230,516	793	231,324	\$20,629.30
North Dakota	0.003231	642,200	285,230,516	974	231,324	\$20,629.30
Vermont	0.003320	608,827	285,230,516	1,042	231,324	\$20,629.30
South Dakota	0.003690	754,844	285,230,516	1,095	231,324	\$20,629.30
Maine	0.003705	1,274,923	285,230,516	680	231,324	\$20,629.30
New Hampshire	0.004090	1,235,786	285,230,516	890	231,324	\$20,629.30
Rhode Island	0.004228	1,048,319	285,230,516	1,106	231,324	\$20,629.30
Hawaii	0.004274	1,211,537	285,230,516	995	231,324	\$20,629.30
Montana	0.004370	902,195	285,230,516	1,290	231,324	\$20,629.30
Delaware	0.004374	783,600	285,230,516	1,388	231,324	\$20,629.30
Idaho	0.004985	1,293,953	285,230,516	1,257	231,324	\$20,629.30
West Virginia	0.005582	1,808,344	285,230,516	1,116	231,324	\$20,629.30
Dist. of Columbia	0.005782	572,059	285,230,516	2,211	231,324	\$20,629.30
Nebraska	0.005864	1,711,263	285,230,516	1,325	231,324	\$20,629.30
Utah	0.005925	2,233,169	285,230,516	930	231,324	\$20,629.30
New Mexico	0.007205	1,819,046	285,230,516	1,858	231,324	\$20,629.30
Puerto Rico (a)	0.007757	3,808,610	285,230,516	500	231,324	\$20,629.30
Nevada	0.009821	1,998,257	285,230,516	2,923	231,324	\$28,651.80
Kansas	0.010021	2,688,418	285,230,516	2,456	231,324	\$28,651.80
Iowa	0.010717	2,926,324	285,230,516	2,585	231,324	\$28,651.80
Mississippi	0.010736	2,844,658	285,230,516	2,660	231,324	\$28,651.80
Oregon	0.011310	3,421,399	285,230,516	2,458	231,324	\$28,651.80
Connecticut	0.011313	3,405,565	285,230,516	2,472	231,324	\$28,651.80
Arkansas	0.012178	2,673,400	285,230,516	3,466	231,324	\$28,651.80
Oklahoma	0.014833	3,450,654	285,230,516	4,064	231,324	\$28,651.80
Kentucky	0.014957	4,041,769	285,230,516	3,642	231,324	\$28,651.80
Colorado	0.015010	4,301,261	285,230,516	3,456	231,324	\$28,651.80
South Carolina	0.016038	4,012,012	285,230,516	4,166	231,324	\$28,651.80
Alabama	0.016727	4,447,100	285,230,516	4,132	231,324	\$28,651.80
Indiana	0.016797	6,080,485	285,230,516	2,840	231,324	\$28,651.80
Washington	0.017130	5,894,121	285,230,516	3,145	231,324	\$28,651.80
Arizona	0.017175	5,130,632	285,230,516	3,785	231,324	\$28,651.80
Massachusetts	0.017480	6,349,097	285,230,516	2,938	231,324	\$28,651.80
Tennessee	0.017705	5,689,283	285,230,516	3,577	231,324	\$28,651.80
Louisiana	0.018399	4,468,976	285,230,516	4,888	231,324	\$28,651.80
Minnesota	0.018785	4,919,479	285,230,516	4,701	231,324	\$28,651.80
Wisconsin	0.018779	5,363,675	285,230,516	4,338	231,324	\$28,651.80
Maryland	0.021642	5,296,486	285,230,516	5,717	231,324	\$36,674.30
New Jersey	0.024261	8,414,350	285,230,516	4,400	231,324	\$36,674.30
Michigan	0.025553	9,938,444	285,230,516	3,762	231,324	\$36,674.30
North Carolina	0.028959	8,049,313	285,230,516	6,870	231,324	\$36,674.30

<u>State</u>	State Dues Ratio ²	State Population ³	U.S. Population ³	State Offender Transfers ⁴	U.S. Offender Tranfers ⁴	Dues Per State ¹
Ohio	0.029566	11,353,140	285,230,516	4,471	231,324	\$36,674.30
Missouri	0.029886	5,595,211	285,230,516	9,289	231,324	\$36,674.30
Pennsylvania	0.031311	12,281,054	285,230,516	4,526	231,324	\$36,674.30
Georgia	0.032896	8,186,453	285,230,516	8,580	231,324	\$36,674.30
Virginia	0.035536	7,078,515	285,230,516	10,700	231,324	\$36,674.30
Florida	0.047986	15,982,378	285,230,516	9,239	231,324	\$44,696.81
New York	0.053455	18,976,457	285,230,516	9,341	231,324	\$44,696.81
Illinois	0.054608	12,419,293	285,230,516	15,192	231,324	\$44,696.81
Texas	0.089491	20,851,820	285,230,516	24,492	231,324	\$52,719.31
California	0.115527	33,871,648	285,230,516	25,978	231,324	\$52,719.31
				231,324		\$1,524,275.80

¹ - Based on total projected operating budget

² - (State population / U.S. Population) + (State Offender Transfers / Total U.S. Offender Transfers) / 2

³ - Population data; U.S. Dept. of Commerce & U.S. Census Bureau; Census 2000

⁴ - Compact populations as of April 1, 2002; annual number of offender transfers both into and out of the state

(a) - Territory data is projected based on an average state offender transfers to population ratio (1:1236)

Training, Education & Public Relations Committee Report

October 13, 2010

Committee Members

- Dori Ege (AZ), Chair
- Milton Gilliam (OK)
- Edward Gonzales (NM)
- Anne Precythe (NC)
- Rose Ann Bisch (MN)
- Kari Rumbaugh (NE)

Updates

- Rules training curriculum revised
 - March 1, 2010
- On-Demand Modules
 - New ICOTS End User Module
 - Rule Modules updated
- Bench book updated
 - March 1, 2010

Updates

- ICOTS Training
 - New Curriculum
- 1 Training Bulletin Released
- CLE Accreditation for On-Demand Modules
 - AL, AK, CA, CO, FL, KY, LA, NY, NC, TX, VT, WA, WY

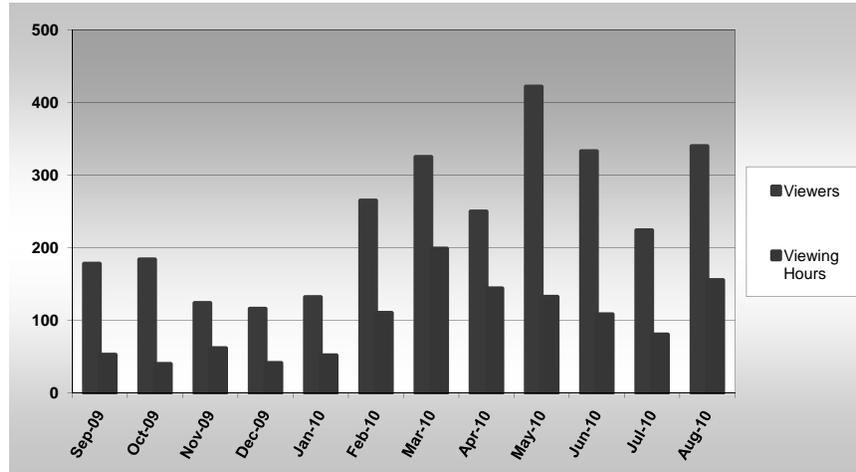
Trainings Delivered

- Commissioner
 - San Antonio, Texas (October 12, 2010)
- DCA Training Institute
 - Lexington, Kentucky (August 9-11, 2010)
- ICAOS Workshops
 - APPA
 - APAI

WebEx Trainings

- Rules Training Sessions
 - Amendment Training (January 2010)
 - 12 Rules Training sessions
 - Nearly 1,000 participants
- ICOTS Trainings
 - 11 Technical and Training Assistance requests approved (68 sessions)
 - Offender Management Training for ICOTS State Administrators (June 2010)

On-Demand Usage By Month March 2009 – August 2010



On-Demand Usage Key Points

Since March 2006 launch

- Trained more than 15,400 individuals
- More than 9,300 hours of viewing time

Since September 2009 (1 Year)

- Average 241 trainees per month
- Average 98 viewing hours per month



Interstate Commission for Adult Offender Supervision 2010 Annual Meeting

2010 Report of the General Counsel for the Interstate Commission

General Legal Work:

The General Counsel's Office assists the commission by providing legal guidance to the Interstate Commission and its committees with respect to legal issues which arise in the conduct of their responsibilities under the terms of the Compact, its Bylaws and administrative rules. The provisions of the Compact specifically authorize formal legal opinions concerning the meaning or interpretation of the actions of the Interstate Commission which are issued through the Executive Director's Office in consultation with the Office of General Counsel. These advisory opinions are made available to state officials who administer the compact for guidance. The General Counsel's office also works with the Commission and its member states to promote consistent application of and compliance with its requirements including the coordination and active participation in litigation concerning its enforcement and rule-making responsibilities.

Since the last annual report, in addition to day to day advice and counsel furnished to the Commission's Executive Director, the Executive Committee, the Rules Committee, the Compliance Committee, the Technology Committee and the Interstate Commission, the General Counsel's Office in conjunction with the Executive Director has issued five (5) advisory opinion concerning the interpretation and application of various provisions of the compact and its administrative rules and assisted with a number of informal requests for legal guidance from member states. The advisory opinions are public record and are available at the website of the Commission.

Judicial training concerning the Compact and its administrative rules has also been provided in a number of states under the auspices of the General Counsel's office. Other activities included assisting in the updates to the 'On-Demand' Judicial Training Modules now available on the ICAOS website, assisting in the update of the ICAOS Bench Book and review and update of Judicial training and New Commissioner training materials as well as Parole and Probation Officer legal and liability training modules used for both WebEx and live training sessions.

In addition the General Counsel assisted the Compliance Committee, the Executive Committee and Executive Committee Workgroup in several matters pertaining to investigation, compliance, and enforcement responsibilities under the compact.

Litigation Matters:

While two (2) enforcement matters pertaining to dues collection and compact commissioner appointment were referred to counsel by the Compliance and Executive Committees for litigation, both matters were successfully resolved prior to actual filing of legal action with the U.S. District Court.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard P. Masters". The signature is written in a cursive style with a horizontal line extending from the end.

Rick Masters, General Counsel



Report of the Deputy Compact Administrator Liaison Committee San Antonio, Texas October 13, 2010

Mr. Chairman and Members of the Commission:

It is my pleasure to report that during this business year the Deputy Compact Administrator Liaison Committee has continued in our mission promote and improve the efficiency and effectiveness of Deputy Compact Administrators across the country.

This year the primary business of the Deputy Compact Administrator Liaison Committee involved planning, in collaboration with the Training Committee, the first ever DCA Training Institute, which was held in Lexington, Kentucky on August 9th to 11th 2010.

The curriculum for the Training Institute was based upon a survey of Deputy Compact Administrators completed in late 2009. Based on the input of the Deputy Compact Administrators it was decided the Training Institute should include seminars on writing effective reports, retaking rules, the definition of "Supervision", effective communication between compact offices, the role and expectations of the Deputy Compact Administrator, educating judges, and constructive use of the dispute resolution process. On the second day of the institute a "Train the Trainer" seminar was held which presented tips and tools to train field staff and attorneys. The training was very well received by the 60 Deputy Compact Administrators from 47 states who attended the institute. The committee would like to thank the staff of the national office for their hard work in making the institute a success. It is the hope of the DCA Liaison Committee that the DCA Training Institute will continue to have the support of the commission in coming years.

Our committee includes the following Deputy Compact Administrators and Compact Administrators who should be recognized and commended for their dedication and commitment to the DCA Liaison Committee during the past year:

Anne Precythe, North Carolina DCA, South Region Chair
Sydney Nakamoto, Hawaii Probation DCA, West Region Chair
Kari Rumbaugh, Nebraska Probation DCA, Midwest Region Chair
John Gusz, New Jersey Probation DCA, East Region Chair
Charles Placek, North Dakota Compact Administrator
Shawn Arruti, Nevada Deputy Compact Administrator

In this time of budget austerity in many states the DCA Liaison Committee will continue to propose efficiency measures that will maximize the productivity of compact offices and will encourage the participation of all commissioners in the work of the commission.

Respectfully Submitted,

Charles R. Lauterbach, Commissioner (IA), DCA Liaison Committee Chair



INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION

Information and Technology Committee Report

Annual Business Meeting San Antonio, Texas

October 13, 2010

TO: Commissioners of the Interstate Commission for Adult Offender Supervision

**FROM: Kathie Winckler, Chair, Information and Technology Committee and
Commissioner, State of Texas**

The Information and Technology Committee met by telephone and WebEx conference ten times since last year's Annual Business Meeting. In April 2010, Commission Chair Ken Merz appointed Mark Cadotte (Oregon) vice chair of the committee, and Mark conducted the April and May meetings of the committee.

The past year has been very eventful for the Information and Technology Committee. ICOTS has been fully adopted by all states, and all of the information on paper that was once communicated over days or weeks by the U.S. mail system is now done in seconds by electronic means. While in no sense a perfect system, the implementation of ICOTS has, for many states, freed up resources to concentrate on decision making rather than paper chasing.

Following are the highlights of the activities of the Technology Committee for the 2009-2010 business year.

ICOTS Performance Issues: At several times in the past year, multiple states have complained of very slow performance from ICOTS. In order for the National Office to investigate the cause of the slowdowns, the Executive Director asked for and received authority from the Executive Committee to employ a consultant to run tests to determine the origin and extent of the slowdowns. These tests were conducted in July and again in August, and showed the system slowing down considerably as additional users were added. Appriss was given the results and agreed that the slowdown was originating on their end. In August 2010, Appriss adopted new software establishing intelligent rather than random queuing. While the system has shown some increase in speed, the issue of its slowing down as users are added still remains and is being worked on. Further testing is scheduled for October.

External Reports: Twelve external reports have been created by the National Office for use by users in six subject areas, many of which have more than one associated report. Those subject areas are: ICOTS users; duplicate offender management; incoming and outgoing activities; active offenders; supervision end dates; and active rejected cases. Users have made good use of the reports, with peak usage of reports at a monthly high of 1,800 in April, and a total for a nine-month period of 7,100. More reports will be created by the National Office as they are needed and requested.

Public Web Portal: The Public Web Portal was launched in March 2010, allowing interested parties to view information about the whereabouts of transferred offenders of interest and showing contact information for officials in the state where the offender is residing. Usage of the Portal has been low but growing, from a monthly total of 126 visits to a high in July of 172 visits. A request by a Commission-member state was approved by the Executive Committee that would allow the Public Portal to be linked to the VINE website so that interested parties may more easily follow offenders of interest.

Support contacts: Over the past year there have been ICOTS-related 1,700 contacts made to Appriss and 4,400 contacts made to the National Office. (A “contact” includes any communication, telephone, email or other, to Appriss or the National Office about any issue related to ICOTS.) Since January 2010, contacts have been steadily decreasing by about seven percent a month.

New software releases: Appriss launched four releases of the ICOTS software in the past year. The releases were: 7.0, report fixes; 8.0, internal Appriss updating; 9.0, 2010 rule amendment changes; and 10.0, creating the ability to edit offender demographics. Another planned release, 11.0, to repair software bugs, may be launched by the end of 2010, but no date certain has been set.

ICAOS website redesign: The National Office undertook the redesign of the ICAOS website, which had not been changed since November 2007. Led by National Office staff, design ideas were submitted to commissioners and other users several times, and the final product was based on the feedback given by the users. The new site was launched in February 2010, to positive reviews from users. Between September 2009 and August 2010, the ICAOS website had 104,000 unique visitors, 420,000 visits, and 1.3 million page views.

Appriss contract renewal: Since early 2010, the Executive Director and the Technology Committee chair have had multiple meetings and conference calls with representatives of Appriss in an effort to forge agreement on a contract for services following the expiration of the original contract. Many drafts of the proposed contract have gone back and forth, but no agreement has been finalized. In August 2010, Appriss told the Executive Director that Appriss did not wish to continue providing services for the further development, maintenance, or hosting of ICOTS at the current price, \$325,000 per year. Instead, should the Commission wish to retain Appriss’s services in the future, the annual price would be approximately \$570,000 plus any hourly fees for further development, i.e., design, engineering and quality assurance of enhancements. However, at the current contract fee, Appriss has agreed to continue to provide hosting and maintenance of

ICOTS for a 12-month period until the Commission determines how to proceed. Therefore, there will be no disruption of ICOTS services to the users.

In order to decide on the best course, the Executive Director sought out vendors that could advise the Commission. In August 2010, the Executive Committee voted to approve an agreement between the Commission and SEARCH, a non-profit company that provides information sharing advice to criminal justice and law enforcement agencies. SEARCH has agreed to provide these services to the Commission, at no charge to the Commission, under a grant from the Bureau of Justice Assistance. As of this writing, SEARCH has made plans to visit Louisville and Lexington, Kentucky, in late September to learn more about ICOTS and the Commission's needs. SEARCH will provide a report on its findings and recommendations to the Executive Director some time in mid November.

Thank you for your attention and continuing support of the Commission's technology projects.

Respectfully submitted,

Kathie Winckler

Kathie Winckler
Chair, Information and Technology Committee



ICAOS Annual Business Meeting – October 2010 Ex-officio Victims' Representative Report Submitted by Pat Tuthill

Teleconference Meetings and Other Communication

- Respond to calls from victim advocates related to victim concerns for information regarding offender status and notification.
- Chairing ICAOS Ad Hoc Victim Issues Committee

Criminal Justice and Victim Outreach Presentations

- APPA Public Hearing -Provided Testimony on victim notification issues to regarding victim notification issues and differences in state laws as notification relates to ICAOS.
 - Requested support for automated victim notification system to work in conjunction with ICOTS.
 - Panel members - BJA, Deputy Director, Jim Burch; OVC, Deputy Director, Joye Frost, Victims' Rights Caucus, Rachel Latta, Assistant Attorney General Mary Lou Leary, and the VAWA Program Manager
 - Received a commitment from BJA and OVC to address the issue with ICAOS
 - Requested to serve on OVC Hope 3 advisory board over 2010 – 2011.

Three more \$1,000 scholarships awarded by the Peyton Tuthill Foundation "Hearts of Hope Scholarships" to young homicide survivors. Since 2008 \$9,000 in scholarships has been awarded.



Report of the ad hoc Committee on Violations and Retaking

The ad hoc Committee on Violations and Retaking respectfully submits the following report of its findings and recommendations.

Creation of Committee

On March 31, 2010, the ICAOS Executive Committee voted unanimously to authorize the ad hoc Committee on Violations and Retaking. Ken Merz, Interstate Commission for Adult Offender Supervision (ICAOS)-Chair appointed the following members to the committee:

Chair: Milton Gilliam (OK), Commissioner
Mike McAlister (NH), Commissioner
William Rankin (WI), Commissioner
Dori Ege, (AZ), Commissioner
Sara Andrews (OH), Commissioner
Scott Blonien (WA), Commissioner
Warren Emmer, (ND)-Ex-Officio
Regina Grimes, (TX)-Ex-Officio
Rick Masters (KY)-General Counsel

Charge to the Committee

The Executive Committee hereby authorizes creation of the ad hoc Committee on Violations and Retaking. The ad hoc committee is directed to study the question:

Do the ICAOS Rules provide adequate authority and sufficient clarity, in regard to procedures for responding to violations and retaking of offenders, to ensure public safety, provide due process to offenders, and balance the legitimate interests of the sending and receiving states?

If the ad hoc committee determines that the current rules are inadequate or insufficient, the ad hoc committee shall submit proposals to create or amend existing rules. The ad hoc committee shall include in its deliberations consideration of proposals recommended by the State of Washington.

Activities of the Committee

The ad hoc committee convened a 2-day meeting in Oklahoma City, Oklahoma, May 4-5, 2010. The committee meeting began with an explanation of the purpose of the committee and a discussion of the incident involving Maurice Clemmons, Arkansas parolee that was transferred to the State of Washington. During his supervision

Clemmons shot and killed four police officers in Washington. This incident was one of the factors that was discussed when the decision was made to authorize this committee to review violations and retaking.

An outline of the rules and a list of questions about those particular rules in reference to violations and retaking as well as one rule concerning the transfer process was reviewed by the committee and it was agreed to use it as a guide for the discussion. During the next two days the committee discussed the rules and the issues and made several recommendations about violations including new and amended rules and referrals to the training and rules committee.

Recommendations of the Committee

After discussion of the issues and rules surrounding these issues the committee is making the following recommendations and referrals to the ICAOS Executive Committee for action.

1. Abscond-The committee recommends changes to Rule 4.109 by deleting certain language. The committee is proposing a new rule specifically addressing the violation of absconding. This new rule details the types of attempts that should be made to determine if the offender is an absconder. Another new rule is being proposed by the committee to require mandatory retaking of offenders who abscond supervision.
2. Violations-The committee is proposing a new rule that designates mandatory retaking for violent offenders or for offenders who commit a violent crime. Due to the proposed rule the committee is recommending new definitions for violent offender and violent crime. A referral will be made to the training committee chair to draft an ICOTS enhancement recommending change of the information on the violation and violation response forms.
3. Transfer Request-Recommendations are being made to amend Rule 3.107 in order to strengthen language referring to the description of the offense and to the section of the rule dealing with the terminology, “if available”. Additional language is also recommended to clarify that documents necessary for supervision shall be provided within a specified time frame if they exist.
4. Custody-The recommendations for this area include continued training on the authority to detain the offender and the responsibility of holding the probable cause hearing. It was noted that items were a current training item and it was recommended that they be topics at the 2010 Deputy Compact Administrator’s training and at the ICAOS Annual Business meeting. Discussion was held concerning compact warrants being issued by Commissioners. This item will be referred to the Rules Committee for further study.
5. Warrants-The committee is proposing a new definition of the term warrant. The term is used in the ICAOS Rules, but is not currently defined. The Training Committee will be asked to clarify the difference between a warrant and a detainer in a training bulletin and will be asked to include training at the

2010 Deputy Compact Administrator's training and the ICAOS Annual Business meeting in reference to standard language for NCIC entries. The committee is recommending added language to several current rules and proposed rules to specify the responsibility for issuing a warrant for an offender and lodging a detainer with the holding facility. A referral will be made to the Rules Committee for further study in regards to standardizing warrant language.

6. Probable Cause Hearings-There are no recommendations at this time from the committee.
7. The recommendation from the committee is to strike language in Rules 5.102 and 5.103 that allows an offender to be ordered to return and requires that a warrant be issued to retake offender when requested from the receiving state. After discussion of retaking without the intent to revoke and who makes the decision of when an offender should be retaking when there are pending charges in the receiving state it was determined that the training committee is already providing training on these issues.

The ad hoc Committee on Violations and Retaking made several recommendations for proposed rules additions and changes for consideration by the full Commission at the 2010 ICAOS Annual Business Meeting. The following proposals will be submitted to the ICAOS Executive Committee Meeting, May 18, 2010, for review and action. It will also be recommended that the ad hoc Committee on Violations and Retaking remain active until after the presentation of the proposals to the Commission at the ICAOS Annual Business Meeting.



VIOLATIONS AND RETAKING

Due to concerns by states, as well as high profile media cases the Interstate Commission for Adult Offender Supervision (ICAOS), Executive Committee voted during their March, 2010, meeting to appoint an ad hoc committee to study issues and rules concerning violations and retaking of interstate compact offenders. The focus of this committee was to review current rules to determine if they were adequate to respond to violations and retaking by ensuring public safety, providing due process to offenders, and balancing the interest of both the sending and receiving state. After review the committee was tasked with submitting proposals to the ICAOS Executive Committee such as creating or amending existing rules and/or making referrals to other standing ICAOS committees. The committee convened in Oklahoma City, Oklahoma, May 4 & 5, 2010.

The ICAOS rules were reviewed in reference to violations and retaking to determine their current effectiveness, how they impact public safety, and the effect they would have on each ICAOS member state. After exhaustive discussion and review the committee has made several recommendations ranging from proposed new rules, proposed rule amendments, and referrals to the training committee and rules committee.

The attached recommendations by this committee are a comprehensive approach to make needed changes and additions to rules as well as continuing our training efforts on the existing rules in an effort to promote public safety around the country. This committee would like to encourage all Compact Commissioners to study these recommendations as a part of an all-inclusive plan to ensure that we are following through with the violation and retaking process to make sure we are protecting the citizens of our respective states.



REPORT OF THE STANDING COMMITTEE ON RULES

San Antonio, Texas

October 13, 2010

Mr. Chairman and Members of the Commission:

On behalf of the Rules Committee I am pleased to present this report of the committee's activities since the 2009 Annual Business Meeting.

The committee met in January to establish a committee work plan and business calendar. In keeping with Rule 2.109, which directs the committee to bring proposals to the full commission "not later than the next annual meeting falling in an odd-numbered year," the committee established a two-year plan. The plan identifies the critical dates and time frames for bringing new or amended rule proposals to the full commission at the 2011 Annual Business Meeting. The general outline of the schedule is:

- Region and standing committees discuss issues and generate proposals throughout 2010. Proposals approved by a majority vote of a committee may be submitted to the Rules Committee through the national office.
- January 31, 2011: All proposals for consideration at the 2011 ABM are due to the Rules Committee.
- April 1 - July 1, 2011: Post draft proposals for review and comment by all Commissioners, Compact Administrators, deputies and *ex officio* members.
- August 1, 2011: Post final form of proposals and notice of public hearing.
- September 13-14, 2011: Public hearing and ICAOS Annual Business Meeting

Within this broad structure, the Rules Committee scheduled quarterly meetings to discuss issues referred to the committee or raised for consideration by committee members. The initial list of issues identified for further discussion included:

- Review of Advisory Opinion 1-2009. Specifically, should Rule 3.105 be revised?
- Review a proposed Memorandum of Understanding between ICAOS and the Administrative Office of the United States Courts regarding supervision of offenders subject to dual jurisdictions. (*Considered and returned to the Executive Committee with a recommendation that the commission does not pursue the agreement.*)
- Consideration of mandatory reporting instructions for discharged military personnel
- Should the rules be revised to clarify when an offender's presence in another state requires transfer through the compact? Do the current rules contain "loopholes" which permit states to avoid following the compact?

- Do current rules provide sufficient structure and clarity to the process of issuing warrants and retaking violators?

This last issue was taken off the Rules Committee's agenda when the Executive Committee created the *ad hoc* Committee on Violations and Retaking. Subsequently, the Executive Committee received from the *ad hoc* committee nine (9) proposals to create or amend rules. By a majority vote of the Executive Committee, those proposals were referred to the Rules Committee with instruction to bring those proposals to the full commission for final consideration at the 2010 Annual Business Meeting.

Following an initial review by the Rules Committee, the proposals were posted to a discussion group forum on the commission's website for comment. This forum was open to all Commissioners, Compact Administrators, Deputy Compact Administrators and *ex officio* members. The forum was open from May 21 through August 9, 2010. During this period, compact offices were encouraged to review and discuss the proposals within their states and within their regions.

The great advantage of the discussion group forum is that it is a vehicle for sharing questions, concerns and general opinions with other states. The comments help the committee determine if there are conflicts within the rules, confusing or misleading language and general agreement or disagreement with a proposal. During the discussion period, a total of 33 comments were posted by twelve (12) different individuals. In at least two cases, the comments reflected the opinions of state councils. The Rules Committee expresses our appreciation to everyone who took the time to share their thoughts about the proposals.

On August 19th, the Rules Committee met to consider the comments received, approve the final form of each proposal, expand or clarify the justification, identify the impact on ICOTS or on other rules and make a recommendation to the commission to approve or disapprove each proposal. The committee's actions are listed at the end of this report.

It should be noted here that the committee received a number of suggestions and advice on ways to improve proposals. While these suggestions may have merit, the committee did not incorporate any changes which would affect the scope or intent of a proposal. The committee is bound to bring forward proposals from standing committees without substantive changes. Commissioners who may have hoped to see their language in a final proposal should consider bringing the issue to a regional meeting for discussion. If a majority of the region's members agree, the suggestion can be brought to the Rules Committee in the form of a proposal for the 2011 business meeting.

At this time, the Rules Committee will introduce the final proposals for consideration by the commission. Where a rule contains multiple, independent substantive issues, the amendment is divided into separate motions. Where two or more rules are interdependent, the rules will be presented as a single motion. The commissioners will take final action on the motions as they are presented, without amendments from the floor.

(See proposed 2010 Rule Amendments)

Following this meeting, the Rules Committee will resume its deliberations of the issues previously mentioned. Questions or suggestions about those issues may be directed to your region's representatives on the Rules Committee.

The committee will also accept any new proposals from other committees and review any Advisory Opinions which may be issued. Since our last meeting, several Advisory Opinions have been issued and the committee has received a proposal from the East Region to create Rule 3.101-4, providing for the "complete transfer of resident" probationers. This proposal and any others adopted by a region or standing committee before January 31, 2011 will be taken up by this commission at the 2011 Annual Business Meeting.

Throughout most of this year, the committee has been able to maintain its balance of two voting members from each region. During the year, Commissioner Robert Ambroselli withdrew from the committee's membership, but was soon replaced by another West Region Commissioner, Scott Blonien. In August, Commissioner Yulette Ross was replaced as New Jersey's commissioner, creating a vacancy for an East Region commissioner. We thank both of these individuals for their service to the committee and we welcome Commissioner Blonien to the committee, along with two new *ex officio* members, New Jersey's Deputy Compact Administrator John Gusz and California's Deputy Compact Administrator Frank Torres. Each has shown himself to be a valuable contributor to the committee's work.

As always, the committee wishes to express our great appreciation to the Executive Director and staff of the national office. They continue to provide the highest level of support.

Respectfully submitted,

William Rankin, Commissioner (WI)
Rules Committee Chair

2010 PROPOSALS TO CREATE OR AMEND ICAOS RULES
FINAL RULES COMMITTEE ACTION

RULE	TITLE	REFERRED BY	COMMITTEE RECOMMENDATION
1.101	<i>Definitions: Violent crime; Violent Offender</i>	Exec Cmte	Adopt; 6-0
1.101	<i>Definitions: Warrant</i>	Exec Cmte	Adopt; 6-0
3.107	<i>Transfer request</i>	Exec Cmte	Adopt; 6-0
4.109	<i>Violation reports</i>	Exec Cmte	Adopt; 6-0
4.109-2	<i>Absconding violation</i>	Exec Cmte	Adopt; 6-0
5.101	<i>Retaking by the sending state</i>	Exec Cmte	Adopt; 6-0
5.102	<i>Mandatory retaking for a new felony conviction</i>	Exec Cmte	Adopt; 6-0
5.103	<i>Mandatory retaking for violation of conditions of supervision</i>	Exec Cmte	Adopt; 4-2
5.103-1	<i>Mandatory retaking for offenders who abscond</i>	Exec Cmte	Adopt; 6-0
5.103-2	<i>Mandatory retaking for violent offenders and violent crimes</i>	Exec Cmte	Adopt; 6-0



Interstate Commission for Adult Offender Supervision West Region Report

Submitted by Chair: Edward Gonzales

The West Region attempted to meet every quarterly to provide an opportunity for Commissioners and guests to discuss current compact issues facing individual states, the region and the nation. Our meetings provide for open and frequent communication between our neighboring states. It is the goal of the West Region to cooperate and assist one another in an effort to fulfill the mission and purpose of the Interstate Compact for Adult Offender Supervision.

Teleconference meetings held since the November 2009 Annual Business Meeting:

- March 2, 2010
- May 4, 2010
- July 14, 2010

Topics discussed:

- The state of the economy's impact on the individual member states organization and staffing
- Encourage Commissioner participation in ICAOS Committees and elected positions
- Executive Committee Meeting
- Training issues
- 2010 proposed rule changes
- National office audits



Interstate Commission for Adult Offender Supervision Midwest Region Report

Submitted by Chair: Sara Andrews, Ohio
Deputy Director
Ohio Department of Rehabilitation and Correction

During the past year, the Midwest region met face to face at the 2009 Annual Business Meeting in Reno, NV. The region elected Linda Janes, OH to serve as chair; however, Linda resigned as chair later in the year when promoted to the position of Assistant Director of the Ohio Department of Corrections. The Region subsequently elected Sara Andrews to finish Linda's term as Chair.

In 2010, the Midwest Region held quarterly WebEx meetings and planed to have a face to face meeting at the Annual Business Meeting in San Antonio, TX. Attendance at the Midwest Region meetings is generally not an issue and the states prepared to participate in discussion on national issues as wells as those of importance to their state and the region. Topic discussed at the region meetings included:

- Retirements and new Commissioner Appointments
- Declining state budgets and employee furloughs
- Establishing and maintaining a State Council
- State Council Activities
- MOUs with ICJ and Federal Probation and Parole
- Proposed Rules Amendments

At the November 2009 region meeting, Commission Chair Warren Emmer, ND announced his pending retirement and Ken Merz, MN announced his interest in running for Chair. Warren's commitment to the Commission and his professionalism is unquestionable and many will miss his steadfast leadership and legendary humor. At the meeting, Warren also introduced North Dakota's newest DCA, Janice Young. Ken Merz, MN announced that MN joined the Juvenile Compact. Commissioners Linda Janes, OH, John Rubitschun, MI and William Rankin, WI also introduced new DCAs, Debra Hearn, OH, Don Matson, MI and Mary Keys, WI. Linda Janes, OH discussed a recent Ohio Supreme Court decision and its impact on Ohio's Post Release Control program and the OH's plan to develop an informational brochure for compact offenders and their families. William Rankin, WI announced that WI is busy training field officers to use ICOTS.

At its January 2010 meeting, the region received updates regarding upgrades to ICOTS and discussed plans for the March 2010 release of the *ICOTS Public Portal*. Commission Chair Ken Merz announced the formation of a Dues Adhoc Committee and encouraged

Midwest Region commissioners to participate. Commissioner Buscher, IL announced the addition of new staff to the compact office; IN, OH and ND discussed ongoing training programs; Commissioner Pellant and Ken Merz reported on recent State Council meetings and activities and the National Office reminded the states to submit their roster of State Council members and minutes from the State Council meetings.

In June 2010, Sara Andrews, OH chaired her first Midwest Region meeting. The meeting started with an update from the National Office who reported on the most recent Executive Committee meeting. IL discussed its efforts to fill vacancies on its State Council and IN talked about the outcome of their recent in-service training program for field staff. MI reported that their State Council has recently met and appointed two new members. MI also talked about plans to introduce telephone reporting for MI offenders and noted that states are likely to hear about the program when processing compact offenders. Ken Merz, MN reported on an active legislative session and noted that effective 8/1/2010 MN will be a member of the Juvenile Compact. Ken also discussed MN's plans to appoint one State Council to represent both the adult and juvenile compacts. Both MN and IA discussed concerns with ICOTS and the way it populates several forms. ND announced new judicial appointments to its State Council and discussed its efforts to offer rules training to field officers. Ohio announced that its State Council passed a motion to implement a compact application fee of \$80 and WI noted that the WI State Council met in May 2010 and Commissioner Rankin was elected as the Chair and Secretary. The WI State Council is also working on appointing its victim representative. Under new business, Rules Committee Chair William Rankin, WI encouraged members to check the website forums and to offer comments on the rule amendments proposed by the Violation and Retaking Adhoc Committee. Commissioner discussed the proposed rule amendments in detail and answered questions.

The next meeting of the Midwest Region took place in August 2010. The Executive Director gave on ongoing audit, 2010 DCA Training institute results, ABM registration, the Annual Report FY2010, the recently posted Advisory Opinion 2-2010, 3-2010 and 4-2010 and the Executive Committee approval to use the consulting group SEARCH to determine next step with ICOTS project. All Midwestern states are preparing for the upcoming audit. IL and MI are working on their state council's appointments. DCA A. Hegewald, IN is retiring from the Compact. MN, IA and NE's state councils will meet prior to the Annual Business Meeting to discuss the proposed rules amendments. IA is waiting on its DCA appointment. Commission Chair Ken Merz, MN suggested the Midwest Region to take a closer look at the *complete transfer* proposal.

Midwest Commissioners, Deputy Compact Administrators and Victim Representatives served on the following Committees:

Executive Committee

Commissioner Ken Merz, MN (Chair)
Commissioner Sara Andrews, OH
Commissioner Charles Lauterbach, IA
Commissioner William Rankin, WI

Rules

Commissioner John Rubitschun, MI
Commissioner Ed Ligtenberg, SD
Commissioner William Rankin, WI (Chair)

Compliance

Commissioner Jane Seigel, IN
Commissioner John Rubitschun, MI
Ex-Officio Sally Holewa, ND
Commissioner Ellen Brokofsky, NE

DCA Liaison

Commissioner Charles Lauterbach, IA (Chair)
Compact Adm. Charles Placek, ND
DCA Kari Rumbaugh, NE

Technology

Commissioner Keven Pellant, KS
Compact Adm. Charles Placek, ND
DCA Joe Kuebler, GA

Training

DCA Rose Ann Bisch, MN
DCA Kari Rumbaugh, NE

Ad hoc – Violation and Retaking

Commissioner William Rankin, WI
Commissioner Sara Andrews, OH
Past Chair Warren Emmer, ND

Ad hoc – Victim Issues

Commissioner Keven Pellant, KS
Commissioner John Rubitschun, MI
Victim Representative Suzanne Elwell, MN
Victim Representative Anne Seymour, DC



Interstate Commission for Adult Offender Supervision South Region Report

Submitted by Chair: Chris Norman

Members of the South Region met face to face at the Annual Business Meeting that was held on November 3, 2009, in Reno Nevada. During the meeting Chris Norman, Commissioner from Alabama was elected as Chair of the South Region. In 2010, the South Region met via Webex on January 21, 2010, April 22, 2010 and August 5, 2010.

The South Regions Meetings during 2010 provided open discussion on pertinent issues concerning the Interstate Compact. Three primary issues that were discussed during the meetings were the Compliance Audit, the rule amendments proposed by the Ad-Hoc Committee of Violations and Retaking, and the Interstate Compact Offender Tracking System.

Ken Merz, ICAOS Commission Chair appointed Milt Gilliam, Commissioner, Oklahoma, Chair of the Ad-Hoc Committee of Violations and Retaking. Regina Grimes, DCA, Texas was also appointed as a member of the committee.

Additionally, South Region Commissioners, Deputy Compact Administrators and Victim Representatives served on the following Committees:

Executive Committee

Commissioner, Milt Gilliam, OK
Commissioner, Chris Norman, AL
Commissioner, Kathie Winckler, TX
Pat Tuthill, Victims Representative, FL

Rules Committee

Commissioner, David Morrison, GA
Commissioner, Gary Tullock, TN

Compliance Committee

Commissioner, Chris Norman, AL
Commissioner, Genie Powers, LA
Victoria Jakes, Deputy Compact Administrator
Pat Tuthill, Victim Representative, FL

Information Technology Committee

Commissioner, Kathie Winckler, TX

Commissioner, David Morrison, GA
Commissioner, Patrick McGee, MD
Ann Precythe, Deputy Compact Administrator, NC

Training Committee

Commissioner, Milt Gilliam, OK
Anne Precythe, Deputy Compact Administrator, NC

DCA Liaison Committee

Anne Precythe, Deputy Compact Administrator, NC

Ad Hoc: Audit Committee

Gregg Smith, Ex-Officio, LA

Dues Formula Ad Hoc Committee

Commissioner, Milt Gilliam, OK
Commissioner, Gary Tullock, TN
Commissioner, Kathie Winckler, TX

Ad Hoc Committee on Victims Notification Issues

Commissioner, James Camachee, VA
Commissioner, Jenny Nimer, FL
Pamela Levine, Deputy Compact Administrator, FL
Pat Tuthill, Victim Representative, FL

ICAOS RULES



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Introduction

The Interstate Commission for Adult Offender Supervision is charged with overseeing the day-to-day operations of the Interstate Compact for Adult Offender Supervision, a formal agreement between member states that seeks to promote public safety by systematically controlling the interstate movement of certain adult offenders. As a creature of an interstate compact, the Commission is a quasi-governmental administrative body vested by the states with broad regulatory authority. Additionally, the Interstate Compact for Adult Offender Supervision has congressional consent under Article I, § 10 of the United States Constitution and pursuant to Title 4, Section 112(a) of the United States Code.

Through its rulemaking powers, the Commission seeks to achieve the goals of the compact by creating a regulatory system applicable to the interstate movement of adult offenders, provide an opportunity for input and timely notice to victims of crime and to the jurisdictions where offenders are authorized to travel or to relocate, establish a system of uniform data collection, provide access to information on active cases to authorized criminal justice officials, and coordinate regular reporting of Compact activities to heads of state councils, state executive, judicial, and legislative branches and criminal justice administrators. The Commission is also empowered to monitor compliance with the interstate compact and its duly promulgated rules, and where warranted to initiate interventions to address and correct noncompliance. The Commission will coordinate training and education regarding regulations of interstate movement of offenders for state officials involved in such activity.

These rules are promulgated by the Interstate Commission for Adult Offender Supervision pursuant to Article V and Article VIII of the Interstate Compact for Adult Offender Supervision. The rules are intended to effectuate the purposes of the compact and assist the member states in complying with their obligations by creating a uniform system applicable to all cases and persons subject to the terms and conditions of the compact. Under Article V, Rules promulgated by the Commission “shall have the force and effect of statutory law and shall be binding in the compacting states[.]” All state officials and state courts are required to effectuate the terms of the compact and ensure compliance with these rules. To the extent that state statutes, rules or policies conflict with the terms of the compact or rules duly promulgated by the Commission, such statutes, rules or policies are superseded by these rules to the extent of any conflict.

To further assist state officials in implementing the Compact and complying with its terms and these rules, the Commission has issued a number of advisory opinions. Additionally, informal opinions can be obtained from the Commission as warranted. Advisory opinions, contact information and other important information, can be found on the Commission’s website at <http://www.interstatecompact.org>.

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Chapter 1 Definitions

Rule 1.101 Definitions

As used in these rules, unless the context clearly requires a different construction-

“Abscond” means to be absent from the offender’s approved place of residence or employment with the intent of avoiding supervision.

“Adult” means both individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law.

“Application fee” means a reasonable sum of money charged an interstate compact offender by the sending state for each application for transfer prepared by the sending state.

“Arrival” means to report to the location and officials designated in reporting instructions given to an offender at the time of the offender’s departure from a sending state under an interstate compact transfer of supervision.

“By-laws” means those by-laws established by the Interstate Commission for Adult Offender Supervision for its governance, or for directing or controlling the Interstate Commission’s actions or conduct.

“Compact” means the Interstate Compact for Adult Offender Supervision.

“Compact administrator” means the individual in each compacting state appointed under the terms of this compact and responsible for the administration and management of the state’s supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the Interstate Commission for Adult Offender Supervision, and policies adopted by the State Council under this compact.

“Compact commissioner” or “commissioner” means the voting representative of each compacting state appointed under the terms of the Interstate Compact for Adult Offender Supervision as adopted in the member state.

“Compliance” means that an offender is abiding by all terms and conditions of supervision, including payment of restitution, family support, fines, court costs or other financial obligations imposed by the sending state.

“Deferred sentence” means a sentence the imposition of which is postponed pending the successful completion by the offender of the terms and conditions of supervision ordered by the court.

“Detainer” means an order to hold an offender in custody.

“Discharge” means the final completion of the sentence that was imposed on an offender by the sending state.

“Extradition” means the return of a fugitive to a state in which the offender is accused, or has been convicted of, committing a criminal offense, by order of the governor of the state to which the fugitive has fled to evade justice or escape prosecution.

References:

ICAOS Dispute Resolution

2-2004 [Offenders not transferred through the ICAOS must be returned through the extradition clause of the U.S. Constitution]

“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 request transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision.

References:

ICAOS Advisory Opinion

9-2004 [CSL offenders seeking transfer of supervision are subject to ICAOS-New Jersey]

“Plan of supervision” means the terms under which an offender will be supervised, including proposed residence, proposed employment or viable means of support and the terms and conditions of supervision.

“Probable cause hearing” a hearing in compliance with the decisions of the U.S. Supreme Court, conducted on behalf of an offender accused of violating the terms or conditions of the offender’s parole or probation.

“Receiving state” means a state to which an offender requests transfer of supervision or is transferred.

“Relocate” means to remain in another state for more than 45 consecutive days in any 12 month period.

“Reporting instructions” means the orders given to an offender by a sending or receiving state directing the offender to report to a designated person or place, at a specified date and time, in another state. Reporting instructions shall include place, date, and time on which the offender is directed to report in the receiving state.

“Resident” means a person who—

- (1) has continuously inhabited a state for at least one 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, remained in another state or states for a continuous period of six months or more with the intent to establish a new principal place of residence.

“Resident family” means a parent, grandparent, aunt, uncle, adult child, adult sibling, spouse, legal guardian, or step-parent who--

- (1) has resided in the receiving state for 180 days or longer as of the date of the transfer request; and
- (2) indicates willingness and ability to assist the offender as specified in the plan of supervision.

“Retaking” means the act of a sending state in physically removing an offender, or causing to have an offender removed, from a receiving state.

“Rules” means acts of the Interstate Commission, which have the force and effect of law in the compacting states, and are promulgated under the Interstate Compact for Adult Offender Supervision, and substantially affect interested parties in addition to the Interstate Commission,

“Sending state” means a state requesting the transfer of an offender, or which transfers supervision of an offender, under the terms of the Compact and its rules.

“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.

“Shall” means that a state or other actor is required to perform an act, the non-performance of which may result in the imposition of sanctions as permitted by the Interstate Compact for Adult Offender Supervision, its by-laws and rules.

“Significant violation” means an offender’s failure to comply with the terms or conditions of supervision that, if occurring in the receiving state, would result in a request for revocation of supervision.

“Special condition” means a condition or term that is added to the standard conditions of parole or probation by either the sending or receiving state.

“Subsequent receiving state” means a state to which an offender is transferred that is not the sending state or the original receiving state.

“Substantial compliance” means that an offender is sufficiently in compliance with the terms and conditions of his or her supervision so as not to result in initiation of revocation of supervision proceedings by the sending state.

References:

ICAOS Advisory Opinion

7-2004 [determining “substantial compliance when there are pending charges in a receiving state]

“Supervision” means the oversight exercised by authorities of a sending or receiving state over an offender for a period of time determined by a court or releasing authority, during which time the offender is required to report to or be monitored by supervising authorities, and to comply with regulations and conditions, other than monetary conditions, imposed on the offender at the time of the offender’s release to the community or during the period of supervision in the community.

References:

ICAOS Advisory Opinions

9-2004 [CSL offenders released to the community under the jurisdiction of the Courts]

8-2004 [Suspended sentence requiring payment of monitored restitution]

3-2005 [Requirement to complete a treatment program as a condition of supervision]

“Supervision fee” means a fee collected by the receiving state for the supervision of an offender.

“Temporary travel permit” means, for the purposes of Rule 3.108 (b), the written permission granted to an offender, whose supervision has been designated a “victim-sensitive” matter, to travel outside the supervising state for more than 24 hours but no more than 31 days. A temporary travel permit shall include a starting and ending date for travel.

“Travel permit” means the written permission granted to an offender authorizing the offender to travel from one state to another.

“Victim” means a natural person or the family of a natural person who has incurred direct or threatened physical or psychological harm as a result of an act or omission of an offender.

“Victim-sensitive” means a designation made by the sending state in accordance with its definition of “crime victim” under the statutes governing the rights of crime victims in the sending state. The receiving state shall give notice of offender’s movement to the sending state as specified in Rules 3.108 and 3.108-1.

“Waiver” means the voluntary relinquishment, in writing, of a known constitutional right or other right, claim or privilege by an offender.

History: Adopted November 3, 2003, effective August 1, 2004; “Compliance” amended October 26, 2004, effective January 1, 2005; “Resident” amended October 26, 2004, effective January 1, 2005; “Resident family” amended October 26, 2004, effective January 1, 2005; “Substantial compliance” adopted October 26, 2004, effective January 1, 2005; “Supervision” amended October 26, 2004, effective January 1, 2005; “Travel permit” amended September 13, 2005, effective January 1, 2006; “Victim” amended September 13, 2005, effective January 1, 2006; “Relocate” adopted September 13, 2005, effective January 1, 2006; “Compact” adopted September 13, 2005, effective January 1, 2006; “Resident” amended September 13, 2005, effective January 1, 2006; “Relocate” amended October 4, 2006, effective January 1, 2007; “Sex offender” adopted September 26, 2007, effective January 1, 2008.; “Supervision” amended November 4, 2009, effective March 1, 2010.

Chapter 2 General Provisions

Rule 2.101 Involvement of interstate compact offices

- (a) Acceptance, rejection or termination of supervision of an offender under this compact shall be made only with the involvement and concurrence of a state's compact administrator or the compact administrator's designated deputies.
- (b) All formal written, electronic, and oral communication regarding an offender under this compact shall be made only through the office of a state's compact administrator or the compact administrator's designated deputies.
- (c) Transfer, modification or termination of supervision authority for an offender under this compact may be authorized only with the involvement and concurrence of a state's compact administrator or the compact administrator's designated deputies.
- (d) Violation reports or other notices regarding offenders under this compact shall be transmitted only through direct communication of the compact offices of the sending and receiving states.

History: Adopted November 3, 2003, effective August 1, 2004.

Rule 2.102 Data collection and reporting [Expired; See history]

- (a) As required by the compact, and as specified by the operational procedures and forms approved by the commission, the states shall gather, maintain and report data regarding the transfer and supervision of offenders supervised under this compact.
- (b)
 - (1) Each state shall report to the commission each month the total number of offenders supervised under the compact in that state.
 - (2) Each state shall report to the commission each month the numbers of offenders transferred to and received from other states in the previous month.
 - (3) Reports required under Rule 2.102 (b)(1) and (2) shall be received by the commission no later than the 15th day of each month.
- (c) This Rule will not expire until the Electronic Information System approved by the commission is fully implemented and functional.

History: Adopted November 3, 2003, effective August 1, 2004; amended September 14, 2005, effective December 31, 2005. On November 4, 2009, the commission found that the electronic information system in (c) is fully implemented and functional, and ordered that this rule expire, effective December 31, 2009.

Rule 2.103 Dues formula

- (a) The commission shall determine the formula to be used in calculating the annual assessments to be paid by states. Public notice of any proposed revision to the approved dues formula shall be given at least 30 days prior to the Commission meeting at which the proposed revision will be considered.
- (b) The commission shall consider the population of the states and the volume of offender transfers between states in determining and adjusting the assessment formula.
- (c) The approved formula and resulting assessments for all member states shall be distributed by the commission to each member state annually.
- (d)
 - (1) The dues formula is the—
(Population of the state **divided by** Population of the United States) **plus**
(Number of offenders sent from and received by a state **divided by** Total number of offenders sent from and received by all states) divided by two.
 - (2) The resulting ratios derived from the dues formula in Rule 2.103 (d)(1) shall be used to rank the member states and to determine the appropriate level of dues to be paid by each state under a tiered dues structure approved and adjusted by the Commission at its discretion.

History: Adopted November 3, 2003, effective August 1, 2004.

Rule 2.104 Forms

- (a) States shall use the forms or electronic information system authorized by the commission.
- (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.
- (c) Section (a) shall not be construed to prohibit written, electronic or oral communication between compact offices.

History: Adopted November 3, 2003, effective August 1, 2004; amended September 26, 2007, effective January 1, 2008; amended November 4, 2009, effective March 1, 2010.

Rule 2.105 Misdemeanants

- (a) A misdemeanor offender whose sentence includes one year or more of supervision shall be eligible for transfer, provided that all other criteria for transfer, as specified in Rule 3.101, have been satisfied; and the instant offense includes one or more of the following—
- (1) an offense in which a person has incurred direct or threatened physical or psychological harm;
 - (2) an offense that involves the use or possession of a firearm;
 - (3) a second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol;
 - (4) a sexual offense that requires the offender to register as a sex offender in the sending state.

References:

ICAOS Advisory Opinion

- 4-2005 [Misdemeanant offender not meeting criteria of 2.105 may be transferred under Rule 3.101-2, discretionary transfer]
- 7-2006 [There are no exceptions to applicability of (a)(3) based on either the time period between the first and subsequent offense(s) or the jurisdiction in which the convictions occurred]
- 16-2006 [If the law of the sending state recognizes the use of an automobile as an element in an assault offense and the offender is so adjudicated, Rule 2.105 (a)(1) applies]
- 2-2008 [Based upon the provisions of the ICAOS rules, offenders not subject to ICAOS may, depending on the terms and conditions of their sentences, be free to move across state lines without prior approval from the receiving state and neither judges nor probation officers are prohibited by ICAOS from allowing such offenders to travel from Texas to another state]

History: Adopted November 3, 2003, effective August 1, 2004; amended March 12, 2004; amended October 26, 2004, effective January 1, 2005.

Rule 2.106 Offenders subject to deferred sentences

Offenders subject to deferred sentences are eligible for transfer of supervision under the same eligibility requirements, terms, and conditions applicable to all other offenders under this compact. Persons subject to supervision pursuant to a pre-trial release program, bail, or similar program are not eligible for transfer under the terms and conditions of this compact.

References:

ICAOS Advisory Opinions

June 30, 2004 [Determining eligibility should be based on legal actions of a court rather than legal definitions]

6-2005 [Deferred prosecution may be equivalent to deferred sentence if a finding or plea of guilt has been entered and all that is left is for the Court to impose sentence]

History: Adopted November 3, 2003, effective August 1, 2004; amended March 12, 2004; amended October 26, 2004, effective January 1, 2005; amended November 4, 2009, effective March 1, 2010.

Rule 2.107 Offenders on furlough, work release

A person who is released from incarceration under furlough, work-release, or other pre-parole program is not eligible for transfer under the compact.

History: Adopted November 3, 2003, effective August 1, 2004.

Rule 2.108 Offenders with disabilities

A receiving state shall continue to supervise offenders who become mentally ill or exhibit signs of mental illness or who develop a physical disability while supervised in the receiving state.

History: Adopted November 3, 2003, effective August 1, 2004.

Rule 2.109 Adoption of rules; amendment

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 purposes of correcting typographical errors, errors in format or grammatical errors. Public notice of any revisions 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.

References:

ICAOS Advisory Opinion

3-2006 [No provisions of the compact contemplates that a proposed rule or rule amendment may be officially voted upon at any point in the rulemaking process by anyone other than the duly appointed Commissioner of each state]

History: Adopted November 3, 2003, effective August 1, 2004; amended September 13, 2005, effective September 13, 2005; amended October 4, 2006, effective October 4, 2006; amended September 26, 2007, effective January 1, 2008.

Rule 2.110 Transfer of offenders under this compact

- (a) No state shall permit an offender who is eligible for transfer under this compact to relocate to another state except as provided by the Compact and these rules.
- (b) An offender who is not eligible for transfer under this Compact is not subject to these rules and remains subject to the laws and regulations of the state responsible for the offender's supervision.
- (c) Upon violation of section (a), the sending state shall direct the offender to return to the sending state within 15 calendar days of receiving such notice. If the offender does not return to the sending state as ordered, the sending state shall issue 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.

References:

ICAOS Advisory Opinions

- 3-2004 [Offenders relocating to another state shall not be issued travel permits without the permission of the receiving state as provided by ICAOS rules]
- 9-2006 [States which allow eligible offenders to travel to a receiving state pending investigations are in violation of Rule 2.110 and Rule 3.102. In such circumstances the receiving state may properly reject the request for transfer]
- 2-2008 [The provisions of Rule 2.110 (a) limit the applicability of the ICAOS rules regarding transfer of supervision to eligible offenders who 'relocate' to another state]

History: Adopted November 3, 2003, effective August 1, 2004; amended September 13, 2005, effective January 1, 2006; amended November 4, 2009, effective March 1, 2010.

Chapter 3 Transfer of Supervision

Rule 3.101 Mandatory transfer of supervision

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 means of support.

References:

ICAOS Advisory Opinions

- 7-2004 [While a sending state controls the decision of whether or not to transfer an offender under the Compact, the receiving state has no discretion as to whether or not to accept the case as long as the offender satisfies the criteria provided in this rule]
- 9-2004 [Upon proper application and documentation for verification of mandatory criteria of Rule 3.101, CSL offenders are subject to supervision under the Compact]
- 7-2005 [All mandatory transfers are subject to the requirement that they be pursuant to a “valid plan of supervision”]
- 8-2005 [The sending state determines if an offender is in substantial compliance. If a sending state has taken no action on outstanding warrants or pending charges the offender is considered to be in substantial compliance]
- 13-2006 [An undocumented immigrant who meets the definition of “offender” and seeks transfer under the Compact is subject to its jurisdiction and would not be a per se disqualification as long as the immigrant establishes the prerequisites of Rule 3.101 have been satisfied]
- 15-2006 [There is no obligation of the sending state to retake when requirements of 3.101 are no longer met]
- 2-2007 [A receiving state is not authorized to deny a transfer of an offender based solely on the fact that the offender intends to reside in Section 8 housing]

History: Adopted November 3, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended September 13, 2005, effective January 1, 2006; amended October 4, 2006, effective January 1, 2007; amended September 26, 2007, effective January 1, 2008.

Rule 3.101-1 Mandatory transfers of military, families of military, family members employed, and employment transfer

- (a) *Transfers of military members-* An offender who is a member of the military and has been deployed by the military to another state, shall be 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 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, at the direction of the employer and as a condition of maintaining employment, shall be 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.
- (d) *Employment transfer of the offender to another state –* An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and is transferred to another state by their full-time employer, at the direction of the employer and as a condition of maintaining employment shall be 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.

History: Adopted September 13, 2005, effective January 1, 2006; amended October 4, 2006, effective January 1, 2007; amended September 26, 2007, effective January 1, 2008; amended November 4, 2009, effective March 1, 2010.

Rule 3.101-2 Discretionary transfer of supervision

- (a) A sending state may request transfer of supervision of an offender who does not meet the eligibility requirements in Rule 3.101.
- (b) The sending state must provide sufficient documentation to justify the requested transfer.
- (c) The receiving state shall have the discretion to accept or reject the transfer of supervision in a manner consistent with the purpose of the compact.

References:

ICAOS Advisory Opinions

4-2005 [Offenders not eligible for transfer under the provisions of Rule 2.105 and Rule 3.101 are eligible for transfer of supervision as a discretionary transfer]

8-2006 [Special condition(s) imposed on discretionary cases may result in retaking if the offender fails to fulfill requirements of the condition(s)]

History: Adopted September 13, 2005, effective January 1, 2006.

Rule 3.101-3 Transfer of supervision of sex offenders

- (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 the following 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
 - (A) the name, sex, age and relationship to the offender;
 - (B) 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 instruction. 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.

References:

ICAOS Advisory Opinions

1-2008 [An investigation in such cases would be largely meaningless without the cooperation of the sending state in providing sufficient details concerning the sex offense in question and a refusal to provide such information so as to allow the receiving state to make a reasonable determination as to whether the proposed residence violates local policies or laws would appear to violate the intent of this rule]

History: Adopted September 26, 2007, effective January 1, 2008; editorial change effective February 17, 2008

Rule 3.102 Submission of transfer request to a receiving state

- (a) Except as provided in section (c), and subject to the exceptions in Rule 3.103 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) Except as provided in section (c), and subject to the exceptions in Rule 3.103 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.
- (c) An offender who is employed in the receiving state at the time the transfer request is submitted and has been permitted to travel to the receiving state for the employment may be permitted to continue to travel to the receiving state for the employment while the transfer request is being investigated, provided that the following conditions are met:
 - (1) Travel is limited to what is necessary to report to work, perform the duties of the job and return to the sending state.
 - (2) The offender shall return to the sending state daily during non-working hours, and
 - (3) The Transfer Request shall include notice that the offender has permission to travel to and from the receiving state, pursuant to this rule, while the transfer request is investigated.

References:

ICAOS Advisory Opinions

3-2004 [Once an application has been made under the Compact, an offender may not travel to the receiving state without the receiving state's permission]

9-2006 [States which allow eligible offenders to travel to a receiving state, without the receiving state's permission, are in violation of Rule 2.110 and 3.102. In such circumstances, the receiving state can properly reject the request for transfer of such an offender]

History: Adopted November 4, 2003, effective August 1, 2004; amended September 26, 2007, effective January 1, 2008; amended November 4, 2009, effective March 1, 2010.

Rule 3.103 Reporting instructions; offender living in the receiving state at the time of sentencing

- (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 sign all forms requiring the offender's signature under Rule 3.107 prior to granting a travel permit to the offender. 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 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 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.
 - (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 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.

References:

ICAOS Advisory Opinions

3-2004 [Rule 3.103 provides an exemption to 3.102 allowing for certain offenders to obtain reporting instructions pending a reply to a transfer request]

1-2006 [Rule 3.103 is not applicable to offenders released to supervision from prison]

3-2007 [If the investigation has not been completed, reporting instructions are required to be issued as provided in Rule 3.103(a). Upon completion of investigation, if the receiving state subsequently denies the transfer on the same basis or upon failure to satisfy any of the other requirements of Rule 3.101, the provisions of Rule 3.103(e)(1) and (2) clearly require the offender to return to the sending state or be retaken upon issuance of a warrant]

History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended October 4, 2006, effective January 1, 2007; amended September 26, 2007, effective January 1, 2008; editorial change effective February 17, 2008.

Rule 3.104 Time allowed for investigation by receiving state

- (a) A receiving state shall complete investigation and respond to a sending state's request for an offender's transfer of supervision no later than the 45th calendar day following receipt of a completed transfer request in the receiving state's compact office.
- (b) If a receiving state determines that an offender transfer request is incomplete, the receiving state shall notify the sending state by rejecting the transfer request with the specific reason(s) for the rejection. If the offender is in the receiving state with reporting instructions, those instructions shall remain in effect provided that the sending state submits a completed transfer request within 15 calendar days following the rejection.

References:

ICAOS Advisory Opinion

5-2006 [45 calendar days is the maximum time the receiving state has under the rules to respond to a sending state's request for transfer]

History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended September 13, 2005, effective June 1, 2009; amended November 4, 2009, effective March 1, 2010.

Rule 3.104-1 Acceptance of offender; issuance of reporting instructions

- (a) If a receiving state accepts transfer of the offender, the receiving state's acceptance shall include reporting instructions.
- (b) Upon notice of acceptance of transfer by the receiving state, the sending state shall issue a travel permit to the offender and notify the receiving state of the offender's departure as required under Rule 4.105.
- (c) A receiving state shall assume responsibility for supervision of an offender upon the offender's arrival in the receiving state and shall submit notification of arrival as required under Rule 4.105.
- (d) An acceptance by the receiving state shall be valid for 120 calendar days. If the sending state has not sent a Departure Notice to the receiving state in that time frame, the receiving state may withdraw its acceptance and close interest in the case.

History: Adopted October 26, 2004, effective August 1, 2004; amended September 13, 2005, effective January 1, 2006; amended October 4, 2006, effective January 1, 2007; amended November 4, 2009, effective March 1, 2010.

Rule 3.105 Request for transfer of a paroling offender

- (a) A sending state shall submit a completed request for transfer of a paroling offender to a receiving state no earlier than 120 days prior to the offender's planned prison release date.
- (b) A sending state shall notify a receiving state of the offender's date of release from prison or if recommendation for parole of the offender has been withdrawn or denied.
- (c)
 - (1) A receiving state may withdraw its acceptance of the transfer request if the offender does not report to the receiving state by the fifth calendar day following the offender's intended date of departure from the sending state.
 - (2) A receiving state that withdraws its acceptance under Rule 3.105 (c) (1) shall immediately notify the sending state.
 - (3) Following withdrawal of the receiving state's acceptance, a sending state must resubmit a request for transfer of supervision of a paroling offender in the same manner as required in Rule 3.105 (a).

References:

ICAOS Advisory Opinion

5-2005 [A sending state must notify a receiving state if a parolee's release date has been withdrawn or denied]

History: Adopted November 4, 2003, effective August 1, 2004.

Rule 3.106 Request for expedited reporting instructions

- (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.
 - (2)
 - (A) A receiving state shall provide a response 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. 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.
 - (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 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.

History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended October 4, 2006, effective January 1, 2007; amended September 26, 2007, effective January 1, 2008.

Rule 3.107 Transfer Request

- (a) A Transfer request for an offender shall be transmitted through the electronic information system authorized by the commission and shall contain—
- (1) transfer request form;
 - (2) 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;
 - (3) photograph of offender;
 - (4) conditions of supervision;
 - (5) any orders restricting the offender's contact with victims or any other person;
 - (6) any known orders protecting the offender from contact with any other person;
 - (7) information as to whether the offender is subject to sex offender registry requirements in the sending state along with supportive documentation;
 - (8) pre-sentence investigation report, if available;
 - (9) supervision history, if available;
 - (10) 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.
- (b) The original signed Offender Application for Interstate Compact Transfer shall be maintained in the sending state. A copy of the signed Offender Application for Interstate Compact Transfer shall be attached to the transfer request.
- (c) Additional documents, such as the Judgment and Commitment, and any other information may be requested from the sending state following acceptance of the offender. The sending state shall provide the documents if available.

References:

ICAOS Advisory Opinions

5-2005 [For paroling offenders a release date is to be required for the transfer application]

History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended September 13, 2005 (to be effective upon the implementation of electronic system; date to be determined by Executive Committee), effective October 6, 2008; amended September 26, 2007, effective January 1, 2008; amended November 4, 2009, effective March 1, 2010.

Rule 3.108 Victim notification

- (a) *Notification to victims upon transfer of offenders-* Within one business day of the issuance of reporting instructions or acceptance of transfer by the receiving state, the sending state shall initiate notification procedures of the transfer of supervision of the offender in accordance with its own laws to known victims in the sending state, and the receiving state shall initiate notification procedures of the transfer of supervision of the offender in accordance with its own laws to victims in the receiving state.
- (b) *Notification to victims upon violation by offender or other change in status-*
- (1) The receiving state is responsible for reporting information to the sending state when an offender-
 - (A) Commits a significant violation;
 - (B) Changes address;
 - (C) Returns to the sending state where an offender's victim resides;
 - (D) Departs the receiving state under an approved plan of supervision in a subsequent receiving state; or
 - (E) Is issued a temporary travel permit where supervision of the offender has been designated a victim-sensitive matter.
 - (2) Both the sending state and the receiving state shall notify known victims in their respective states of this information in accordance with their own laws or procedures.
- (c) The receiving state shall respond to requests for offender information from the sending state no later than the fifth business day following the receipt of the request.

History: Adopted November 4, 2003, effective August 1, 2004.

Rule 3.108-1 Victims' right to be heard and comment

- (a) When an offender submits a request to transfer to a receiving state or a subsequent receiving state, or to return to a sending state, the victim notification authority in the sending state shall, at the time of notification to the victim as required in Rule 3.108 (a), inform victims of the offender of their right to be heard and comment. Victims of the offender have the right to be heard regarding their concerns relating to the transfer request for their safety and family members' safety. Victims have the right to contact the sending state's interstate compact office at any time by telephone, telefax, or conventional or electronic mail regarding their concerns relating to the transfer request for their safety and family members' safety. The victim notification authority in the sending state shall provide victims of the offender with information regarding how to respond and be heard if the victim chooses.
- (b)
 - (1) Victims shall have ten business days from receipt of notice required in Rule 3.108-1 (a) to respond to the sending state. Receipt of notice shall be presumed to have occurred by the fifth business day following its sending.
 - (2) The receiving state shall continue to investigate the transfer request while awaiting response from the victim.
- (c) Upon receipt of the comments from victims of the offender, the sending state shall consider comments regarding their concerns relating to the transfer request for their safety and family members' safety. Victims' comments shall be confidential and shall not be disclosed to the public. The sending state or receiving state may impose special conditions of supervision on the offender, if the safety of the offender's victims or family members of victims is deemed to be at risk by the approval of the offender's request for transfer.
- (d) The sending state shall respond to the victim no later than five business days following receipt of victims' comments, indicating how victims' concerns will be addressed when transferring supervision of the offender.

History: Adopted November 4, 2003, effective August 1, 2004.

Rule 3.109 Waiver of extradition

- (a) An offender applying for interstate supervision shall execute, at the time of application for transfer, a waiver of extradition from any state to which the offender may abscond while under supervision in the receiving state.
- (b) States that are party to this compact waive all legal requirements to extradition of offenders who are fugitives from justice.

References:

ICAOS Advisory Opinion

2-2005 [In seeking a compact transfer of supervision, the offender accepts that a sending state can retake them at anytime and that formal extradition hearings would not be required]

History: Adopted November 4, 2003, effective August 1, 2004.

Chapter 4 Supervision in Receiving State

Rule 4.101 Manner and degree of supervision in receiving state

A receiving state shall supervise an offender transferred under the interstate compact in a manner determined by the receiving state and consistent with the supervision of other similar offenders sentenced in the receiving state.

References:

ICAOS Advisory Opinions

- 2-2005 [Out of state offenders can be arrested and detained for failure to comply with conditions of probation if such a failure would have resulted in an arrest of a similar situated in-state offender]
- 5-2006 [This rule does not permit a state to impose the establishment of sex offender risk level or community notification on offenders transferred under the Compact if the receiving state does not impose these same requirements on its own offenders]
- 1-2007 [This rule does not permit the receiving state to provide no supervision and at a minimum the rules of the Compact contemplate that such an offender will be under some supervision for the duration of the conditions placed upon the offender by the sending state under Rule 4.102]

History: Adopted November 4, 2003, effective August 1, 2004.

Rule 4.102 Duration of supervision in the receiving state

A receiving state shall supervise an offender transferred under the interstate compact for a length of time determined by the sending state.

History: Adopted November 4, 2003, effective August 1, 2004.

Rule 4.103 Special conditions

- (a) At the time of acceptance or during the term of supervision, the compact administrator or supervising authority in the receiving state may impose a special condition on an offender transferred under the interstate compact if that special condition would have been imposed on the offender if sentence had been imposed in the receiving state.
- (b) A receiving state shall notify a sending state that it intends to impose or has imposed a special condition on the offender, the nature of the special condition, and the purpose.
- (c) A sending state shall inform the receiving state of any special conditions to which the offender is subject at the time the request for transfer is made or at any time thereafter.
- (d) A receiving state that is unable to enforce a special condition imposed in the sending state shall notify the sending state of its inability to enforce a special condition at the time of request for transfer of supervision is made.

References:

ICAOS Advisory Opinion

2-2005 [In seeking a compact transfer of supervision, the offender accepts that a sending state can retake them at anytime and that formal extradition hearings would not be required and that he or she is subject to the same type of supervision afforded to other offenders in the receiving state.....The receiving state can even add additional requirements on an offender as a condition of transfer]

1-2008 [Rule 4.103 concerning special conditions does not authorize a receiving state to deny a mandatory transfer of an offender under the compact who meets the requirements of such a transfer under Rule 3.101]

History: Adopted November 4, 2003, effective August 1, 2004; amended September 13, 2005, effective January 1, 2006.

Rule 4.103-1 Effect of special conditions or requirements

For purposes of revocation or other punitive action against an offender, the probation or paroling authority of a sending state shall give the same effect to a violation of special conditions or requirement imposed by a receiving state as if those conditions or requirement had been imposed by the sending state. Failure of an offender to comply with special conditions or additional requirements imposed by a receiving state shall form the basis of punitive action in the sending state notwithstanding the absence of such conditions or requirements in the original plan of supervision issued by the sending state. For purposes of this rule, the original plan of supervision shall include, but not be limited to, any court orders setting forth the terms and conditions of probation, any orders incorporating a plan of supervision by reference, or any orders or directives of the paroling or probation authority.

History: Adopted October 26, 2004, effective January 1, 2005; amended October 4, 2006, effective January 1, 2007.

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

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.

History: Adopted November 4, 2003, effective August 1, 2004; amended September 26, 2007, effective January 1, 2008.

Rule 4.105 Arrival and departure notifications; withdrawal of reporting instructions

- (a) *Departure notifications*-At the time of an offender's departure from any state pursuant to a transfer of supervision or the granting of reporting instructions, the state from which the offender departs shall notify the intended receiving state, and, if applicable, the sending state, through the electronic information system of the date and time of the offender's intended departure and the date by which the offender has been instructed to arrive.
- (b) *Arrival notifications*-At the time of an offender's arrival in any state pursuant to a transfer of supervision or the granting of reporting instructions, or upon the failure of an offender to arrive as instructed, the intended receiving state shall immediately notify the state from which the offender departed, and, if applicable, the sending state, through the electronic information system of the offender's arrival or failure to arrive.
- (c) A receiving state may withdraw its reporting instructions if the offender does not report to the receiving state as directed.

History: Adopted November 4, 2003, effective August 1, 2004; amended September 13, 2005, effective June 1, 2009.

Rule 4.106 Progress reports

- (a) A receiving state shall provide to the sending state a progress report annually, or more frequently, upon the request of the sending state, for good cause shown. The receiving state shall provide the progress report within thirty (30) calendar days of receiving the request.

- (b) A progress report shall include-
 - (1) offender's name;
 - (2) offender's residence address;
 - (3) offender's telephone number and electronic mail address;
 - (4) name and address of offender's employer;
 - (5) supervising officer's summary of offender's conduct, progress and attitude, and compliance with conditions of supervision;
 - (6) programs of treatment attempted and completed by the offender;
 - (7) information about any sanctions that have been imposed on the offender since the previous progress report;
 - (8) supervising officer's recommendation;
 - (9) any other information requested by the sending state that is available in the receiving state.

History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended November 4, 2009, effective March 1, 2010.

Rule 4.107 Fees

- (a) *Application fee*-A sending state may impose a fee for each transfer application prepared for an offender.
- (b) *Supervision fee*-
- (1) A receiving state may impose a reasonable supervision fee on an offender whom the state accepts for supervision, which shall not be greater than the fee charged to the state's own offenders.
 - (2) A sending state shall not impose a supervision fee on an offender whose supervision has been transferred to a receiving state.

References:

ICAOS Advisory Opinions

2-2006 [The sending state is prohibited from imposing a supervision fee once the offender has been transferred under the Compact]

14-2006[A fee imposed by a sending state for purposes of defraying costs for sex offender registration and victim notification, not appearing to fit criteria of a "supervision fee," may be collected on Compact offenders at a sending state's responsibility]

History: Adopted November 4, 2003, effective August 1, 2004.

Rule 4.108 Collection of restitution, fines and other costs

- (a) A sending state is responsible for collecting all fines, family support, restitution, court costs, or other financial obligations imposed by the sending state on the offender.
- (b) Upon notice by the sending state that the offender is not complying with family support and restitution obligations, and financial obligations as set forth in subsection (a), the receiving state shall notify the offender that the offender is in violation of the conditions of supervision and must comply. The receiving state shall inform the offender of the address to which payments are to be sent.

References:

ICAOS Advisory Opinion

14-2006[A fee imposed by a sending state for purposes of defraying costs for sex offender registration and victim notification, not appearing to fit criteria of a “supervision fee,” may be collected on Compact offenders at a sending state’s responsibility. A receiving state would be obligated for notifying the offender to comply with such financial responsibility under Rule 4.108 (b)]

History: Adopted November 4, 2003, effective August 1, 2004.

Rule 4.109 Violation reports

- (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).

History: Adopted November 4, 2003, effective August 1, 2004; amended September 26, 2007, effective January 1, 2008.

Rule 4.109-1 Authority to arrest and detain

An offender in violation of the terms and conditions of supervision may be taken into custody or continued in custody by the receiving state.

History: Adopted October 4, 2006, effective January 1, 2007.

References:

ICAOS Advisory Opinion

17-2006[Each state should determine the extent to which authority is vested in parole and probation officers as well as other law enforcement and peace officers to effect such an arrest, including the need for a warrant.]

Rule 4.110 Transfer to a subsequent receiving state

- (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," 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.

History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended September 13, 2005 (to be effective upon the implementation of electronic system; date to be determined by Executive Committee) amended September 26, 2007, effective January 1, 2008.

Rule 4.111 Return to the sending state

- (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).

History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective day January 1, 2005; amended September 26, 2007, effective January 1, 2008.

Rule 4.112 Closing of supervision by the receiving state

- (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) 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;
 - (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.

References:

ICAOS Advisory Opinion

11-2006[A receiving state closing supervision interest, does not preclude the jurisdiction of the Compact except for cases where the original term of supervision has expired]

History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended September 26, 2007, effective January 1, 2008.

Chapter 5 Retaking

Rule 5.101 Retaking by the sending state

- (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.

References:

ICAOS Advisory Opinion

12-2006[Neither the time frame nor the means by which the retaking of the offender shall occur as outlined in Rule 5.101 (a) are provided]

History: Adopted November 4, 2003, effective August 1, 2004; amended September 26, 2007, effective January 1, 2008.

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 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.

History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended October 4, 2006, effective January 1, 2007; amended September 26, 2007, effective January 1, 2008.

Rule 5.103 Mandatory retaking for violation 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 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.

References:

ICAOS Advisory Opinions

- 2-2005 [An out of state offender may be arrested and detained by a receiving state who are subject to retaking based on violations of supervision, *See* Rule 4.109-1]
- 10-2006 [Offenders transferred prior to the adoption of ICAOS rules August 1, 2004 may be retaken under the current rules if one of the significant violations occurred after August 1, 2004]
- 4-2007 [It is unreasonable to assume the subsequent application of Rule 5.103 (a) to include violations occurring prior to an application being accepted as a basis to require retaking]

History: Adopted November 4, 2003, effective August 1, 2004; amended October 4, 2006, effective January 1, 2007; amended September 26, 2007, effective January 1, 2008.

Rule 5.104 Cost of retaking an offender

A sending state shall be responsible for the cost of retaking the offender.

History: Adopted November 4, 2003, effective August 1, 2004.

Rule 5.105 Time allowed for retaking an offender

A sending state shall retake an offender within 30 calendar days after the decision to retake has been made or upon release of the offender from incarceration in the receiving state.

History: Adopted November 4, 2003, effective August 1, 2004.

Rule 5.106 Cost of incarceration in receiving state

A receiving state shall be responsible for the cost of detaining the offender in the receiving state pending the offender's retaking by the sending state.

History: Adopted November 4, 2003, effective August 1, 2004.

Rule 5.107 Officers retaking an offender

- (a) Officers authorized under the law of a sending state may enter a state where the offender is found and apprehend and retake the offender, subject to this compact, its rules, and due process requirements.
- (b) The sending state shall be required to establish the authority of the officer and the identity of the offender to be retaken.

History: Adopted November 4, 2003, effective August 1, 2004.

Rule 5.108 Probable cause hearing in receiving state

- (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 place where the alleged violation occurred.
- (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 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.
- (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.
- (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.

References:

ICAOS Advisory Opinion

2-2005 [Although Rule 5.108 requires that a probable cause hearing take place for an offender subject to retaking for violations of conditions that may result in revocation as outlined in subsection (a), allegations of due process violations in the actual revocation of probation or parole are matters addressed during proceedings in the sending state after the offender's return]

17-2006 [Each state should determine the extent to which authority is vested in parole and probation officers as well as other law enforcement and peace officers to effect such an arrest, including the need for a warrant.]

[*Gagnon v. Scarpelli*, 411 U.S. 778 \(1973\)](#)

Ogden v. Klundt, 550 P.2d 36, 39 (Wash. Ct. App. 1976)

See, *People ex rel. Crawford v. State*, 329 N.Y.S.2d 739 (N.Y. 1972)

State ex rel. Nagy v. Alvis, 90 N.E.2d 582 (Ohio 1950)

State ex rel. Reddin v. Meekma, 306 N.W.2d 664 (Wis. 1981)

Bills v. Shulsen, 700 P.2d 317 (Utah 1985)

California v. Crump, 433 A.2d 791 (N.J. Super. Ct. App. Div. 1981)

California v. Crump, 433 A.2d at 794, *Fisher v. Crist*, 594 P.2d 1140 (Mont. 1979)

State v. Maglio, 459 A.2d 1209 (N.J. Super. Ct. 1979)

In re Hayes, 468 N.E.2d 1083 (Mass. Ct. App. 1984)

[*Morrissey v. Brewer*, 408 U.S. 471 \(1972\)](#)

In State v. Hill, 334 N.W.2d 746 (Iowa 1983)

See e.g., *State ex rel. Ohio Adult Parole Authority v. Coniglio*, 610 N.E.2d 1196, 1198 (Ohio Ct. App. 1993)

History: Adopted November 4, 2003, effective August 1, 2004; amended October 4, 2006, effective January 1, 2007; amended September 26, 2007, effective January 1, 2008.

Rule 5.109 Transport of offenders

States that are party to this compact shall allow officers authorized by the law of the sending or receiving state to transport offenders through the state without interference.

History: Adopted November 4, 2003, effective August 1, 2004.

Rule 5.110 Retaking offenders from local, state or federal correctional facilities

- (a) Officers authorized by the law of a sending state may take custody of an offender from a local, state or federal correctional facility at the expiration of the sentence or the offender's release from that facility provided that-
- (1) No detainer has been placed against the offender by the state in which the correctional facility lies; and
 - (2) No extradition proceedings have been initiated against the offender by a third-party state.

History: Adopted November 4, 2003, effective August 1, 2004.

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

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.

History: Adopted November 4, 2003, effective August 1, 2004; amended October 4, 2006, effective January 1, 2007; amended September 26, 2007, effective January 1, 2008.

Chapter 6 Dispute Resolution and Interpretation of Rules

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

- (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.

History: Adopted November 4, 2003, effective August 1, 2004.

Rule 6.102 Formal resolution of disputes and controversies

- (a) *Alternative dispute resolution*- Any controversy or dispute between or among parties that arises from or relates to this compact that is not resolved under Rule 6.101 may be resolved by alternative dispute resolution processes. These shall consist of mediation and arbitration.
- (b) *Mediation and arbitration*
 - (1) Mediation
 - (A) A state that is party to a dispute may request, or the executive committee may require, the submission of a matter in controversy to mediation.
 - (B) Mediation shall be conducted by a mediator appointed by the executive committee from a list of mediators approved by the national organization responsible for setting standards for mediators, and pursuant to procedures customarily used in mediation proceedings.
 - (2) Arbitration
 - (A) Arbitration may be recommended by the executive committee in any dispute regardless of the parties' previous submission of the dispute to mediation.
 - (B) Arbitration shall be administered by at least one neutral arbitrator or a panel of arbitrators not to exceed three members. These arbitrators shall be selected from a list of arbitrators maintained by the commission staff.
 - (C) The arbitration may be administered pursuant to procedures customarily used in arbitration proceedings and at the direction of the arbitrator.
 - (D) Upon the demand of any party to a dispute arising under the compact, the dispute shall be referred to the American Arbitration Association and shall be administered pursuant to its commercial arbitration rules.
 - (E)
 - (i) The arbitrator in all cases shall assess all costs of arbitration, including fees of the arbitrator and reasonable attorney fees of the prevailing party, against the party that did not prevail.
 - (ii) The arbitrator shall have the power to impose any sanction permitted by this compact and other laws of the state or the federal district in which the commission has its principal offices.
 - (F) Judgment on any award may be entered in any court having jurisdiction.

History: Adopted November 4, 2003, effective August 1, 2004.

Rule 6.103 Enforcement actions against a defaulting state

- (a) If the Interstate Commission determines that any state has at any time defaulted (“defaulting state”) in the performance of any of its obligations or responsibilities under this Compact, the by-laws or any duly promulgated rules the Interstate Commission may impose any or all of the following penalties-
 - (1) Fines, fees and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission;
 - (2) Remedial training and technical assistance as directed by the Interstate Commission;
 - (3) Suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the by-laws and rules have been exhausted. Immediate notice of suspension shall be given by the Interstate Commission to the governor, the chief justice or chief judicial officer of the state; the majority and minority leaders of the defaulting state’s legislature, and the state council.

- (b) The grounds for default include, but are not limited to, failure of a Compacting State to perform such obligations or responsibilities imposed upon it by this compact, Interstate Commission by-laws, or duly promulgated rules. The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission on the defaulting state pending a cure of the default. The Interstate Commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the Interstate Commission, in addition to any other penalties imposed herein, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this Compact shall be terminated from the effective date of suspension.

- (c) Within sixty days of the effective date of termination of a defaulting state, the Interstate Commission shall notify the governor, the chief justice or chief judicial officer and the majority and minority leaders of the defaulting state’s legislature and the state council of such termination.

- (d) The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

- (e) The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the Interstate Commission and the defaulting state.

- (f) Reinstatement following termination of any compacting state requires both a reenactment of the Compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

History: Adopted November 4, 2003, effective August 1, 2004.

Rule 6.104 Judicial Enforcement

The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its offices to enforce compliance with the provisions of the Compact, its duly promulgated rules and by-laws, against any compacting state in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorneys' fees.

History: Adopted November 4, 2003, effective August 1, 2004.

INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION BYLAWS

ARTICLE I

COMMISSION PURPOSE, FUNCTION AND BY-LAWS

Section 1. Purpose.

Pursuant to the terms of the Interstate Compact for Adult Offender Supervision, (the “Compact”), the Interstate Commission for Adult Offender Supervision (the “Commission”) is established to fulfill the objectives of the Compact, through means of joint cooperative action among the Compacting States: to promote, develop and facilitate safe, orderly, efficient, cost effective and uniform transfer and supervision of adult offenders in the community who are authorized pursuant to the bylaws and rules of this Compact to travel across state lines both to and from each compacting state, and, when necessary, return offenders to the originating jurisdictions.

Section 2. Functions.

In pursuit of the fundamental objectives set forth in the Compact, the Commission shall, as necessary or required, exercise all of the powers and fulfill all of the duties delegated to it by the Compacting States. The Commission’s activities shall include, but are not limited to, the following: the promulgation of binding rules and operating procedures; oversight and coordination of offender transfer and supervision activities in Compacting States; provision of a framework for the promotion of public safety and protection of victims; provision for the effective tracking, supervision, and rehabilitation of these offenders by the sending and receiving states; equitable distribution of the costs, benefits and obligations of the Compact among the Compacting States; enforcement of Commission Rules, Operating Procedures and By-laws; provision for dispute resolution; coordination of training and education regarding the regulation of interstate movement of offenders for officials involved in such activity; and the collection and dissemination of information concerning the activities of the Compact, as provided by the Compact, or as determined by the Commission to be warranted by, and consistent with, the objectives and provisions of the Compact.

Section 3. By-laws.

As required by the Compact, these By-laws shall govern the management and operations of the Commission. As adopted and subsequently amended, these By-laws shall remain at all times subject to, and limited by, the terms of the Compact.

ARTICLE II

MEMBERSHIP

Section 1. Commissioners

The Commission Membership shall be comprised as provided by the Compact. Each Compacting State shall have and be limited to one Member. A Member shall be the Commissioner of the Compacting State. Each Compacting State shall forward the name of its Commissioner to the Commission chairperson. The Commission chairperson shall promptly advise the Governor and State Council for Interstate Adult Supervision of the Compacting State of the need to appoint a new Commissioner upon the expiration of a designated term or the occurrence of mid-term vacancies.

Section 2. Ex-Officio Members

The Commission membership shall also include individuals who are not commissioners and who shall not have a vote, but who are members of interested organizations. Such non-commissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general and crime victims. In addition representatives of the National Institute of Corrections, the American Parole and Probation Association and Association of Paroling Authorities International shall be ex-officio members of the Commission.

ARTICLE III

OFFICERS

Section 1. Election and Succession.

The officers of the Commission shall include a chairperson, vice chairperson, secretary and treasurer. The officers shall be duly appointed Commission Members, except that if the Commission appoints an Executive Director, then the Executive Director shall serve as the secretary. Officers shall be elected every two years by the Commission at any meeting at which a quorum is present, and shall serve for two years or until their successors are elected by the Commission. The officers so elected shall serve without compensation or remuneration, except as provided by the Compact.

Section 2. Duties.

The officers shall perform all duties of their respective offices as provided by the Compact and these By-laws. Such duties shall include, but are not limited to, the following:

a. *Chairperson.* The chairperson shall call and preside at all meetings of the Commission and in conjunction with the Executive Committee shall prepare agendas for such meetings, shall make appointments to all committees of the Commission, and, in accordance with the Commission's directions, or subject to ratification by the Commission, shall act on the Commission's behalf during the interims between Commission meetings.

b. *Vice Chairperson.* The vice chairperson shall, in the absence or at the direction of the chairperson, perform any or all of the duties of the chairperson. In the event of a vacancy in the office of chairperson, the vice chairperson shall serve as acting chairperson until a new chairperson is elected by the Commission.

c. *Secretary.* The secretary shall keep minutes of all Commission meetings and shall act as the custodian of all documents and records pertaining to the status of the Compact and the business of the Commission.

d. *Treasurer.* The treasurer, with the assistance of the Commission's executive director, shall act as custodian of all Commission funds and shall be responsible for monitoring the administration of all fiscal policies and procedures set forth in the Compact or adopted by the Commission. Pursuant to the Compact, the treasurer shall execute such bond as may be required by the Commission covering the treasurer, the executive director and any other officers, Commission Members and Commission personnel, as determined by the Commission, who may be responsible for the receipt, disbursement, or management of Commission funds.

Section 3. Costs and Expense Reimbursement.

Subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by the officers in the performance of their duties and responsibilities as officers of the Commission.

Section 4. Vacancies.

Upon the resignation, removal, or death of an officer of the Commission before the next annual meeting of the Commission, a majority of the Executive Committee shall appoint a successor to hold office for the unexpired portion of the term of the officer whose position shall so become vacant or until the next regular or special meeting of the Commission at which the vacancy is filled by majority vote of the Commission, whichever first occurs.

ARTICLE IV

COMMISSION PERSONNEL

Section 1. Commission Staff and Offices.

The Commission may by a majority of its Members, or through its executive committee appoint or retain an executive director, who shall serve at its pleasure and who shall act as secretary to the Commission, but shall not be a Member of the Commission. The executive director shall hire and supervise such other staff as may be authorized by the Commission. The executive director shall establish and manage the Commission's office

or offices, which shall be located in one or more of the Compacting States as determined by the Commission.

Section 2. Duties of the Executive Director.

As the Commission's principal administrator, the executive director shall also perform such other duties as may be delegated by the Commission or required by the Compact and these By-laws, including, but not limited to, the following:

- a. Recommend general policies and program initiatives for the Commission's consideration;
- b. Recommend for the Commission's consideration administrative personnel policies governing the recruitment, hiring, management, compensation and dismissal of Commission staff;
- c. Implement and monitor administration of all policies programs, and initiatives adopted by Commission;
- d. Prepare draft annual budgets for the Commission's consideration;
- e. Monitor all Commission expenditures for compliance with approved budgets, and maintain accurate records of account;
- f. Assist Commission Members as directed in securing required assessments from the Compacting States;
- g. Execute contracts on behalf of the Commission as directed;
- h. Receive service of process on behalf of the Commission;
- i. Prepare and disseminate all required reports and notices directed by the Commission; and
- j. Otherwise assist the Commission's officers in the performance of their duties under Article III herein.

ARTICLE V

QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION

Section 1. Immunity.

The Commission, its Members, officers, executive director, and employees shall be immune from suit and liability, either personally or in their official capacity, for any

History: Adopted November 20, 2002; amended November 3, 2003; amended October 27, 2004; amended September 13, 2005; amended October 4, 2006

claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that any such person shall not be protected from suit or liability, or both, for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

Section 2. Defense

Subject to the provisions of the Compact and rules promulgated thereunder, the Commission shall defend the Commissioner of a Compacting State, the Commissioner's representatives or employees, or the Commission, and its representatives or employees in any civil action seeking to impose liability against such person arising out of or relating to any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties, or responsibilities or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided, that the actual or alleged act, error, or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

Section 3. Indemnification.

The Commission shall indemnify and hold the Commissioner of a Compacting State, his or her representatives or employees, or the Commission, and its representatives or employees harmless in the amount of any settlement or judgment obtained against such person arising out of or relating to any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that the actual or alleged act, error, or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

ARTICLE VI

MEETINGS OF THE COMMISSION

Section 1. Meetings and Notice.

The Commission shall meet at least once each calendar year at a time and place to be determined by the Commission. Additional meetings may be scheduled at the discretion of the chairperson, and must be called upon the request of a majority of Commission Members, as provided by the Compact. All Commission Members shall be given written notice of Commission meetings at least thirty (30) days prior to their scheduled dates.

Final agendas shall be provided to all Commission Members no later than ten (10) days prior to any meeting of the Commission. Thereafter, additional agenda items requiring Commission action may not be added to the final agenda, except by an affirmative vote of a majority of the Members. All Commission meetings shall be open to the public, except as set forth in Commission Rules or as otherwise provided by the Compact. Prior public notice shall be provided in a manner consistent with the federal Government in Sunshine Act, 5 U.S.C. § 552b, including, but not limited to, the following: publication of notice of the meeting at least ten (10) days prior to the meeting in a nationally distributed newspaper or an official newsletter regularly published by or on behalf of the Commission and distribution to interested parties who have requested in writing to receive such notices. A meeting may be closed to the public where the Commission determines by two-thirds (2/3rds) vote of its Members that there exists at least one of the conditions for closing a meeting, as provided by the Compact or Commission Rules.

Section 2. Quorum.

Commission Members representing a majority of the Compacting States shall constitute a quorum for the transaction of business, except as otherwise required in these By-laws. The participation of a Commission Member from a Compacting State in a meeting is sufficient to constitute the presence of that state for purposes of determining the existence of a quorum, provided the Member present is entitled to vote on behalf of the Compacting State represented. The presence of a quorum must be established before any vote of the Commission can be taken.

Section 3. Voting.

Each Compacting State represented at any meeting of the Commission by its Member is entitled to one vote. A Member shall vote himself or herself and shall not delegate his or her vote to another Member. Members may participate and vote in meetings of the Commission and its duly authorized committees by telephone or other means of telecommunication or electronic communication. Except as otherwise required by the Compact or these By-laws, any question submitted to a vote of the Commission shall be determined by a simple majority.

Section 4. Procedure.

Matters of parliamentary procedure not covered by these By-laws shall be governed by Robert's Rules of Order.

ARTICLE VII

COMMITTEES

Section 1. Executive Committee.

The Commission may establish an executive committee, which shall be empowered to act on behalf of the Commission during the interim between Commission meetings, except for rulemaking or amendment of the Compact. The Committee shall be composed of all officers of the Interstate Commission, the chairpersons of each committee, the regional representatives, and the ex-officio victims' representative to the Interstate Commission. The immediate past chairperson of the Commission shall also serve as an ex-officio member of the executive committee and both the ex-officio victims' representative and immediate past chairperson shall serve for a term of two years. The procedures, duties, budget, and tenure of such an executive committee shall be determined by the Commission. The power of such an executive committee to act on behalf of the Commission shall at all times be subject to any limitations imposed by the Commission, the Compact or these By-laws.

Section 2. Other Committees.

The Commission may establish such other committees as it deems necessary to carry out its objectives, which shall include, but not be limited to Finance Committee; Rules Committee; Compliance Committee; Information Technology Committee; and Training, Education and Public Relations Committee. The composition, procedures, duties, budget and tenure of such committees shall be determined by the Commission.

Section 3. Regional Representatives.

A regional representative of each of the four regions of the United States, Northeastern, Midwestern, Southern, and Western, shall be elected or reelected, beginning with the 2005 annual meeting, by a plurality vote of the commissioners of each region, and shall serve for two years or until a successor is elected by the commissioners of that region. The states and territories comprising each region shall be determined by reference to the regional divisions used by the Council of State Governments.

ARTICLE VIII

FINANCE

Section 1. Fiscal Year.

The Commission's fiscal year shall begin on July 1 and end on June 30.

History: Adopted November 20, 2002; amended November 3, 2003; amended October 27, 2004; amended September 13, 2005; amended October 4, 2006

Section 2. Budget.

The Commission shall operate on an annual budget cycle and shall, in any given year, adopt budgets for the following fiscal year or years only after notice and comment as provided by the Compact.

Section 3. Accounting and Audit.

The Commission, with the assistance of the executive director, shall keep accurate and timely accounts of its internal receipts and disbursements of the Commission funds, other than receivership assets. The treasurer, through the executive director, shall cause the Commission's financial accounts and reports, including the Commission's system of internal controls and procedures, to be audited annually by an independent certified or licensed public accountant, as required by the Compact, upon the determination of the Commission, but no less frequently than once each year. The report of such independent audit shall be made available to the public and shall be included in and become part of the annual report to the governors, legislatures, and judiciary of the Compacting States.

The Commission's internal accounts, any workpapers related to any internal audit, and any workpapers related to the independent audit shall be confidential; provided, that such materials shall be made available: (i) in compliance with the order of any court of competent jurisdiction; (ii) pursuant to such reasonable rules as the Commission shall promulgate; and (iii) to any Commissioner of a Compacting State, or their duly authorized representatives.

Section 4. Public Participation in Meetings.

Upon prior written request to the Commission, any person who desires to present a statement on a matter that is on the agenda shall be afforded an opportunity to present an oral statement to the Commission at an open meeting. The chairperson may, depending on the circumstances, afford any person who desires to present a statement on a matter that is on the agenda an opportunity to be heard absent a prior written request to the Commission. The chairperson may limit the time and manner of any such statements at any open meeting.

Section 5. Debt Limitations.

The Commission shall monitor its own and its committees' affairs for compliance with all provisions of the Compact, its rules and these By-laws governing the incurring of debt and the pledging of credit.

Section 6. Travel Reimbursements.

Subject to the availability of budgeted funds and unless otherwise provided by the Commission, Commission Members shall be reimbursed for any actual and necessary

expenses incurred pursuant to their attendance at all duly convened meetings of the Commission or its committees as provided by the Compact.

ARTICLE IX

WITHDRAWAL, DEFAULT, AND TERMINATION

Compacting States may withdraw from the Compact only as provided by the Compact. The Commission may terminate a Compacting State as provided by the Compact.

ARTICLE X

ADOPTION AND AMENDMENT OF BY-LAWS

Any By-law may be adopted, amended or repealed by a majority vote of the Members, provided that written notice and the full text of the proposed action is provided to all Commission Members at least thirty (30) days prior to the meeting at which the action is to be considered. Failing the required notice, a two-third (2/3rds) majority vote of the Members shall be required for such action.

ARTICLE XI

DISSOLUTION OF THE COMPACT

The Compact shall dissolve effective upon the date of the withdrawal or the termination by default of a Compacting State that reduces membership in the Compact to one Compacting State as provided by the Compact.

Upon dissolution of the Compact, the Compact becomes null and void and shall be of no further force and effect, and the business and affairs of the Commission shall be wound up. Each Compacting State in good standing at the time of the Compact's dissolution shall receive a pro rata distribution of surplus funds based upon a ratio, the numerator of which shall be the amount of its last paid annual assessment, and the denominator of which shall be the sum of the last paid annual assessments of all Compacting States in good standing at the time of the Compact's dissolution. A Compacting State is in good standing if it has paid its assessments timely.

INTERSTATE COMPACT FOR THE SUPERVISION OF ADULT OFFENDERS

PREAMBLE

- Whereas: The interstate compact for the supervision of Parolees and Probationers was established in 1937, it is the earliest corrections “compact” established among the states and has not been amended since its adoption over 62 years ago;

- Whereas: This compact is the only vehicle for the controlled movement of adult parolees and probationers across state lines, and it currently has jurisdiction over more than a quarter of a million offenders;

- Whereas: The complexities of the compact have become more difficult to administer, and many jurisdictions have expanded supervision expectations to include currently unregulated practices such as victim input, victim notification requirements and sex offender registration;

- Whereas: After hearings, national surveys, and a detailed study by a task force appointed by the National Institute of Corrections, the overwhelming recommendation has been to amend the document to bring about an effective management capacity that addresses public safety concerns and offender accountability;

- Whereas: Upon the adoption of this Interstate Compact for Adult Offender Supervision, it is the intention of the legislature to repeal the previous Interstate Compact for the Supervision of Parolees and Probationers on the effective date of this Compact.

Be it enacted by the General Assembly (Legislature) of the state of _____:

Short title: This Act may be cited as The Interstate Compact for Adult Offender Supervision.

ARTICLE I

PURPOSE

The compacting states to this Interstate Compact recognize that each state is responsible for the supervision of adult offenders in the community who are authorized pursuant to the Bylaws and Rules of this compact to travel across state lines both to and from each compacting state in such a manner as to track the location of offenders, transfer supervision authority in an orderly and efficient manner, and when necessary return offenders to the originating jurisdictions. The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime. It is the purpose of this compact and the Interstate Commission created hereunder, through means of joint and cooperative action among the compacting states: to provide the framework for the promotion of public safety and protect the rights of victims through the control and regulation of the interstate movement of offenders in the community; to provide for the effective tracking, supervision, and rehabilitation of these offenders by the sending and receiving states; and to equitably distribute the costs, benefits and obligations of the compact among the compacting states. In addition, this compact will: create a Interstate Commission which will establish uniform procedures to manage the movement between states of adults placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies which will promulgate rules to achieve the purpose of this compact; ensure an opportunity for input and timely notice to victims and to jurisdictions where defined offenders are authorized to travel or to relocate across state lines; establish a system of uniform data collection, access to information on active cases by authorized criminal justice officials, and regular reporting of Compact activities to heads of state councils, state executive, judicial, and legislative branches and criminal justice administrators; monitor compliance with rules governing interstate movement of offenders and initiate interventions to address and correct non-compliance; and coordinate training and education regarding regulations of interstate movement of offenders for officials involved in such activity.

The compacting states recognize that there is no “right” of any offender to live in another state and that duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any offender under supervision subject to the provisions of this compact and Bylaws and Rules promulgated hereunder. It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and are therefore public business.

ARTICLE II

DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

- **“Adult”** means both individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law.
- **“By –laws”** mean those by-laws established by the Interstate Commission for its governance, or for directing or controlling the Interstate Commission’s actions or conduct.
- **“Compact Administrator”** means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state’s supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.
- **“Compacting state”** means any state which has enacted the enabling legislation for this compact.
- **“Commissioner”** means the voting representative of each compacting state appointed pursuant to Article III of this compact.
- **“Interstate Commission”** means the Interstate Commission for Adult Offender Supervision established by this compact.
- **“Member”** means the commissioner of a compacting state or designee, who shall be a person officially connected with the commissioner.

- **“Non Compacting state”** means any state which has not enacted the enabling legislation for this compact.
- **“Offender”** means an adult placed under, or 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.
- **“Person”** means any individual, corporation, business enterprise, or other legal entity, either public or private.
- **“Rules”** means acts of the Interstate Commission, duly promulgated pursuant to Article VIII of this compact, substantially affecting interested parties in addition to the Interstate Commission, which shall have the force and effect of law in the compacting states.
- **“State”** means a state of the United States, the District of Columbia and any other territorial possessions of the United States.
- **“State Council”** means the resident members of the State Council for Interstate Adult Offender Supervision created by each state under Article III of this compact.

ARTICLE III

THE COMPACT COMMISSION

The compacting states hereby create the “Interstate Commission for Adult Offender Supervision.” The Interstate Commission shall be a body corporate and joint agency of the compacting states. The Interstate Commission shall have all the responsibilities, powers and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

The Interstate Commission shall consist of Commissioners selected and appointed by resident members of a State Council for Interstate Adult Offender Supervision for each state.

In addition to the Commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners but who are members of

interested organizations; such non-commissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general and crime victims. All non-commissioner members of the Interstate Commission shall be ex-officio (nonvoting) members. The Interstate Commission may provide in its by-laws for such additional, ex-officio, non-voting members as it deems necessary.

Each compacting state represented at any meeting of the Interstate Commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the by-laws of the Interstate Commission.

The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of 27 or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

The Interstate Commission shall establish an Executive Committee which shall include commission officers, members and others as shall be determined by the By-laws. The Executive Committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking and/or amendment to the Compact. The Executive Committee oversees the day-to-day activities managed by the Executive Director and Interstate Commission staff; administers enforcement and compliance with the provisions of the compact, its by-laws and as directed by the Interstate Commission and performs other duties as directed by Commission or set forth in the By-laws.

ARTICLE IV

THE STATE COUNCIL

Each member state shall create a State Council for Interstate Adult Offender Supervision which shall be responsible for the appointment of the commissioner who shall serve on the Interstate Commission from that state. Each state council shall appoint as its commissioner the Compact Administrator from that state to serve on the Interstate Commission in such capacity under or

pursuant to applicable law of the member state. While each member state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups and compact administrators. Each compacting state retains the right to determine the qualifications of the Compact Administrator who shall be appointed by the state council or by the Governor in consultation with the Legislature and the Judiciary. In addition to appointment of its commissioner to the National Interstate Commission, each state council shall exercise oversight and advocacy concerning its participation in Interstate Commission activities and other duties as may be determined by each member state including but not limited to, development of policy concerning operations and procedures of the compact within that state.

ARTICLE V

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

- To adopt a seal and suitable by-laws governing the management and operation of the Interstate Commission
- To promulgate rules which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.
- To oversee, supervise and coordinate the interstate movement of offenders subject to the terms of this compact and any by-laws adopted and rules promulgated by the compact commission.
- To enforce compliance with compact provisions, Interstate Commission rules, and by-laws, using all necessary and proper means, including but not limited to, the use of judicial process.
- To establish and maintain offices.
- To purchase and maintain insurance and bonds
- To borrow, accept, or contract for services of personnel, including, but not limited to, members and their staffs.

- To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.
- To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel.
- To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of same.
- To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.
- To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.
- To establish a budget and make expenditures and levy dues as provided in Article X of this compact.
- To sue and be sued.
- To provide for dispute resolution among Compacting States.
- To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.
- To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.
- To coordinate education, training and public awareness regarding the interstate movement of offenders for officials involved in such activity.
- To establish uniform standards for the reporting, collecting, and exchanging of data.

ARTICLE VI

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

Section A. By-laws

The Interstate Commission shall, by a majority of the Members, within twelve months of the first Interstate Commission meeting, adopt By-laws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Compact, including, but not limited to:

establishing the fiscal year of the Interstate Commission;

establishing an executive committee and such other committees as may be necessary.

providing reasonable standards and procedures:

(i) for the establishment of committees, and

(ii) governing any general or specific delegation of any authority or function of the Interstate Commission;

providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;

establishing the titles and responsibilities of the officers of the Interstate Commission;

providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Interstate Commission. Notwithstanding any civil service or other similar laws of any Compacting State, the By-laws shall exclusively govern the personnel policies and programs of the Interstate Commission; and

providing a mechanism for winding up the operations of the Interstate Commission and the equitable return of any surplus funds that may exist upon the termination of the Compact after the payment and/or reserving of all of its debts and obligations;

providing transition rules for "start up" administration of the compact;

establishing standards and procedures for compliance and technical assistance in carrying out the compact.

Section B. Officers and Staff

The Interstate Commission shall, by a majority of the Members, elect from among its Members a chairperson and a vice chairperson, each of whom shall have such authorities and duties as may be specified in the By-laws. The chairperson or, in his or her absence or disability, the vice chairperson, shall preside at all meetings of the Interstate Commission. The Officers so elected shall serve without compensation or remuneration from the Interstate Commission; PROVIDED THAT, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, and hire and supervise such other staff as may be authorized by the Interstate Commission, but shall not be a member.

Section C. Corporate Records of the Interstate Commission

The Interstate Commission shall maintain its corporate books and records in accordance with the By-laws.

Section D. Qualified Immunity, Defense and Indemnification

The Members, officers, executive director and employees of the Interstate Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities; PROVIDED, that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of any such person.

The Interstate Commission shall defend the Commissioner of a Compacting State, or his or her representatives or employees, or the Interstate Commission's representatives or employees, in any civil action seeking to impose liability, arising out of any actual or alleged act, error or

omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities; PROVIDED, that the actual or alleged act, error or omission did not result from intentional wrongdoing on the part of such person.

The Interstate Commission shall indemnify and hold the Commissioner of a Compacting State, the appointed designee or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgement obtained against such persons arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities, provided, that the actual or alleged act, error or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

ARTICLE VII

ACTIVITIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall meet and take such actions as are consistent with the provisions of this Compact.

Except as otherwise provided in this Compact and unless a greater percentage is required by the By-laws, in order to constitute an act of the Interstate Commission, such act shall have been taken at a meeting of the Interstate Commission and shall have received an affirmative vote of a majority of the members present.

Each Member of the Interstate Commission shall have the right and power to cast a vote to which that Compacting State is entitled and to participate in the business and affairs of the Interstate Commission. A Member shall vote in person on behalf of the state and shall not delegate a vote to another member state. However, a State Council shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the

member state at a specified meeting. The By-laws may provide for Members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone, or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings where members are present in person.

The Interstate Commission shall meet at least once during each calendar year. The chairperson of the Interstate Commission may call additional meetings at any time and, upon the request of a majority of the Members, shall call additional meetings.

The Interstate Commission's By-laws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. In promulgating such Rules, the Interstate Commission may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the Rules or as otherwise provided in the Compact. The Interstate Commission shall promulgate Rules consistent with the principles contained in the "Government in Sunshine Act," 5 U.S.C. Section 552(b), as may be amended. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

- relate solely to the Interstate Commission's internal personnel practices and procedures;
- disclose matters specifically exempted from disclosure by statute;
- disclosure trade secrets or commercial or financial information which is privileged or confidential;
- involve accusing any person of a crime, or formally censuring any person;

- disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- disclose investigatory records compiled for law enforcement purposes;
- disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated entity for the purpose of regulation or supervision of such entity;
- disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity;
- specifically relate to the Interstate Commission's issuance of a subpoena, or its participation in a civil action or proceeding.

For every meeting closed pursuant to this provision, the Interstate Commission's chief legal officer shall publicly certify that, in his or her opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflected in the vote of each Member on the question). All documents considered in connection with any action shall be identified in such minutes.

The Interstate Commission shall collect standardized data concerning the interstate movement of offenders as directed through its By-laws and Rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements.

ARTICLE VIII

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

The Interstate Commission shall promulgate Rules in order to effectively and efficiently achieve the purposes of the Compact including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states;

Rulemaking shall occur pursuant to the criteria set forth in this Article and the By-laws and Rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the federal Administrative Procedure Act, 5 U.S.C.S. section 551 et seq., and the Federal Advisory Committee Act, 5 U.S.C.S. app. 2, section 1 et seq., as may be amended (hereinafter "APA"). All Rules and amendments shall become binding as of the date specified in each Rule or amendment.

If a majority of the legislatures of the Compacting States rejects a Rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such Rule shall have no further force and effect in any Compacting State.

When promulgating a Rule, the Interstate Commission shall:

- publish the proposed Rule stating with particularity the text of the Rule which is proposed and the reason for the proposed Rule;
- allow persons to submit written data, facts, opinions and arguments, which information shall be publicly available;
- provide an opportunity for an informal hearing; and
- promulgate a final Rule and its effective date, if appropriate, based on the rulemaking record.

Not later than sixty days after a Rule is promulgated, any interested person may file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such Rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence, (as defined in the APA), in the rulemaking record, the court shall hold the Rule unlawful and set it aside.

Subjects to be addressed within 12 months after the first meeting must at a minimum include:

- notice to victims and opportunity to be heard;
- offender registration and compliance;
- violations/returns;
- transfer procedures and forms;
- eligibility for transfer;
- collection of restitution and fees from offenders;

- data collection and reporting;
- the level of supervision to be provided by the receiving state;
- transition rules governing the operation of the compact and the Interstate Commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact;
- Mediation, arbitration and dispute resolution.

The existing rules governing the operation of the previous compact superceded by this Act shall be null and void twelve (12) months after the first meeting of the Interstate Commission created hereunder.

Upon determination by the Interstate Commission that an emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule.

ARTICLE IX
OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION BY THE INTERSTATE
COMMISSION

Section A. Oversight

The Interstate Commission shall oversee the interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in Non-compacting States which may significantly affect Compacting States.

The courts and executive agencies in each Compacting State shall enforce this Compact and shall take all actions necessary and appropriate to effectuate the Compact's purposes and intent. In any judicial or administrative proceeding in a Compacting State pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Interstate Commission, the Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

Section B. Dispute Resolution

The Compacting States shall report to the Interstate Commission on issues or activities of concern to them, and cooperate with and support the Interstate Commission in the discharge of its duties and responsibilities.

The Interstate Commission shall attempt to resolve any disputes or other issues which are subject to the Compact and which may arise among Compacting States and Non-compacting States.

The Interstate Commission shall enact a By-law or promulgate a Rule providing for both mediation and binding dispute resolution for disputes among the Compacting States.

Section C. Enforcement

The Interstate Commission, in the reasonable exercise of its' discretion, shall enforce the provisions of this compact using any or all means set forth in Article XII, Section B, of this compact.

ARTICLE X

FINANCE

The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

The Interstate Commission shall levy on and collect an annual assessment from each Compacting State to cover the cost of the internal operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each Compacting State and shall promulgate a Rule binding upon all Compacting States which governs said assessment.

The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its By-laws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XI

COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

Any state, as defined in Article II of this compact, is eligible to become a Compacting State.

The Compact shall become effective and binding upon legislative enactment of the Compact into law by no less than 35 of the States. The initial effective date shall be the later of July 1, 2001, or upon enactment into law by the 35th jurisdiction. Thereafter it shall become effective and binding, as to any other Compacting State, upon enactment of the Compact into law by that State. The governors of Non-member states or their designees will be invited to participate in Interstate Commission activities on a non-voting basis prior to adoption of the compact by all states and territories of the United States.

Amendments to the Compact may be proposed by the Interstate Commission for enactment by the Compacting States. No amendment shall become effective and binding upon the Interstate Commission and the Compacting States unless and until it is enacted into law by unanimous consent of the Compacting States.

ARTICLE XII

WITHDRAWAL, DEFAULT, TERMINATION, AND JUDICIAL ENFORCEMENT

Section A. Withdrawal

Once effective, the Compact shall continue in force and remain binding upon each and every Compacting State; PROVIDED, that a Compacting State may withdraw from the Compact ("Withdrawing State") by enacting a statute specifically repealing the statute which enacted the Compact into law.

The effective date of withdrawal is the effective date of the repeal.

The Withdrawing State shall immediately notify the Chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this Compact in the Withdrawing State.

The Interstate Commission shall notify the other Compacting States of the Withdrawing State's intent to withdraw within sixty days of its receipt thereof.

The Withdrawing State is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

Reinstatement following withdrawal of any Compacting State shall occur upon the Withdrawing State reenacting the Compact or upon such later date as determined by the Interstate Commission

Section B. Default

If the Interstate Commission determines that any Compacting State has at any time defaulted ("Defaulting State") in the performance of any of its obligations or responsibilities under this Compact, the By-laws or any duly promulgated Rules the Interstate Commission may impose any or all of the following penalties:

Fines, fees and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission;

Remedial training and technical assistance as directed by the Interstate Commission;

Suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the By-laws and Rules have been exhausted. Immediate notice of suspension shall be given by the Interstate Commission to the

Governor, the Chief Justice or Chief Judicial Officer of the state; the majority and minority leaders of the defaulting state's legislature, and the State Council.

The grounds for default include, but are not limited to, failure of a Compacting State to perform such obligations or responsibilities imposed upon it by this compact, Interstate Commission By-laws, or duly promulgated Rules. The Interstate Commission shall immediately notify the Defaulting State in writing of the penalty imposed by the Interstate Commission on the Defaulting State pending a cure of the default. The Interstate Commission shall stipulate the conditions and the time period within which the Defaulting State must cure its default. If the Defaulting State fails to cure the default within the time period specified by the Interstate Commission, in addition to any other penalties imposed herein, the Defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the Compacting States and all rights, privileges and benefits conferred by this Compact shall be terminated from the effective date of suspension. Within sixty days of the effective date of termination of a Defaulting State, the Interstate Commission shall notify the Governor, the Chief Justice or Chief Judicial Officer and the Majority and Minority Leaders of the Defaulting State's legislature and the state council of such termination.

The Defaulting State is responsible for all assessments, obligations and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

The Interstate Commission shall not bear any costs relating to the Defaulting State unless otherwise mutually agreed upon between the Interstate Commission and the Defaulting State.

Reinstatement following termination of any Compacting State requires both a reenactment of the Compact by the Defaulting State and the approval of the Interstate Commission pursuant to the Rules.

Section C. Judicial Enforcement

The Interstate Commission may, by majority vote of the Members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the Federal District where the Interstate Commission has its offices to enforce

compliance with the provisions of the Compact, its duly promulgated Rules and By-laws, against any Compacting State in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorneys fees.

Section D. Dissolution of Compact

The Compact dissolves effective upon the date of the withdrawal or default of the Compacting State which reduces membership in the Compact to one Compacting State.

Upon the dissolution of this Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be wound up and any surplus funds shall be distributed in accordance with the By-laws.

ARTICLE XIII

SEVERABILITY AND CONSTRUCTION

The provisions of this Compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

The provisions of this Compact shall be liberally constructed to effectuate its purposes.

ARTICLE XIV

BINDING EFFECT OF COMPACT AND OTHER LAWS

Section A. Other Laws

Nothing herein prevents the enforcement of any other law of a Compacting State that is not inconsistent with this Compact.

All Compacting States' laws conflicting with this Compact are superseded to the extent of the conflict.

Section B. Binding Effect of the Compact

All lawful actions of the Interstate Commission, including all Rules and By-laws promulgated by the Interstate Commission, are binding upon the Compacting States.

All agreements between the Interstate Commission and the Compacting States are binding in accordance with their terms.

Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the Compacting States, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.

In the event any provision of this Compact exceeds the constitutional limits imposed on the legislature of any Compacting State, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the Compacting State and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this Compact becomes effective.

