

Notice of Public Hearing

In accordance with Compact Rule 2.109(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 no later than 30 days prior to the meeting at which vote on the rule is scheduled. The following rules, Rule 1.101 (Relocate), 3.103 (Acceptance of the offender by the receiving state; Exception) and 3.106 (Request for expedited reporting instructions), were sent back to the Rules Committee for vote in 120 days and are scheduled for vote on January 19, 2005. A public hearing is scheduled for these rules. Details on location and time as well as the process for attending the hearing are outlined below.

Place: Teleconference (Phone: 866-469-3239, Room number: 24480081)

Date: Wednesday, January 18, 2006

Time: 2:00 pm (EST)

The manner which interested persons may submit notice to the Commission of their intent to attend:

In writing, either mail or email to Don Blackburn, Executive Director, 2760 Research Park Drive, Lexington, KY 40511, dblackburn@interstatecompact.org, 859-244-8008, Fax (859)244-8001.

Rule 1.101 (Relocate):

RULE 1.101

(ii) “Relocate” means to remain overnight in another outside a sending state for more than 90 either 30 consecutive days or 60 cumulative days in any 12 month period.

Justification: The word relocate is used in Rule 2.110 and 3.103. The definition was voted on and passed during the annual meeting in September, 2005. The Commission referred it back to the Rules Committee for further clarification concerning the number of days and to more specifically deal with consecutive days or cumulative days. The Commission voted to return it for a vote within 120 days.

Recommended implementation date: 30 days following vote.

Rule 3.103:

RULE 3.103 Acceptance of the offender by receiving state; exception

(a) A sending state shall not allow an offender ~~under supervision in the sending state~~ to relocate to a receiving state without the receiving state's acceptance of the transfer of supervision.

(b) Exception—

~~(1)(A) A sending state may grant a travel permit to an offender who was living in the receiving state at the time of sentencing.~~

(1)(A) A sending state may request reporting instructions from a receiving state through the electronic information system and 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.

~~(B) This exception is not applicable to offenders released to supervision from prison.~~

(B) The receiving state shall issue reporting instructions no later than two business days following receipt of such a request from the sending state.

(C) The sending state shall ensure that the offender sign all forms requiring the offender's signature under Rule 3.107 (a) prior to granting a travel permit to the offender. Signed forms shall be maintained in the sending state until termination of compact supervision. Upon request from the receiving state the sending state shall transmit all signed forms within 5 business days.

(D) The sending state shall transmit a departure notice to the receiving state per Rule 4.105 (a).

(E) This exception is applicable to offenders sentenced to jail as a condition of probation and released to probation supervision from a jail facility.

(F) This exception is not applicable to offenders released to supervision from prison.

(2) The sending state retains supervisory responsibility until the offender's arrival in the receiving state.

- (3) 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.
- (4) 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.
- (5)(A) If the receiving state rejects the transfer request for an offender granted ~~a travel permit~~ reporting instructions, or if the sending state fails to send a completed transfer request by the 15th day following the granting of ~~a travel permit~~ reporting instructions, the sending state shall, upon receiving notice of rejection or upon failure to timely send a required transfer request from the receiving state, direct the offender to return to the sending state ~~by a date specified by the sending state~~ within 30 calendar days after the receipt of notification of the rejection of the transfer request.
- (B) If the offender does not return to the sending state, as directed, the sending state shall initiate the retaking of the offender by issuing a warrant or an order to return no later than 10 calendar days following the offender's failure to appear in the sending state.
- (C) The receiving state shall continue to supervise the offender until a warrant is issued or notice is given by the sending state as required under Rule 4.105.

Justification: These proposed changes streamline this rule and puts the paragraphs in an order that is easier to follow for training purposes.

“Granted a travel permit” language was replaced with “granted reporting instructions” to remain consistent with that language used throughout the rule and in NACIS.

(b)(5)(A) and also in Rule 3.106 (d)(1) Recommended adding a time frame in which the sending state must order the return of an offender whose transfer request has been denied. As currently stated, states can interpret any time frame they choose to direct the offender's return. This lack of time frame is not consistent with the goal of continued supervision and tracking of offender movement.

(b)(1)(C) states that the receiving state may request the signed forms which must be transmitted by the sending state within 5 days of the request.

Effective Date: Upon implementation of NACIS

Rule 3.106:

RULE 3.106 Request for expedited reporting instructions

- (a)(1) A sending state may request that a receiving state agree to expedited ~~transfer~~ reporting instructions of 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 that agrees to expedited ~~transfer~~ reporting instructions of an offender shall immediately issue reporting instructions for the offender, and a sending state shall immediately ~~issue a travel permit~~ transmit a departure notice.
- (B) The sending state shall ensure that the offender signs all forms requiring the offender's signature under Rule 3.107(a) prior to granting ~~a travel permit~~ reporting instructions to the offender. ~~The sending state shall immediately transmit the signed forms electronically or by telefax to the receiving state.~~ Signed forms shall be maintained in the sending state until termination of compact supervision. Upon request from the receiving state the sending state shall transmit all signed forms within 5 business days.
- (C) ~~At the time of transmission of the signed forms, the sending state shall provide the receiving state with a copy of the offender's orders and conditions, documentation of the offender's residency, copy of any available pre-sentence report, copy of any order of protection, where applicable, and whether the offender is subject to sex offender registration in the sending state.~~
- (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 ~~a travel permit~~ reporting instructions no later than the seventh calendar day following the granting to the offender of the ~~travel permit~~ reporting instructions.
- (d)(1) If the receiving state rejects the transfer request for an offender granted ~~a travel permit~~ reporting instructions, or if the sending state fails to send a completed transfer request by the ~~7th~~ seventh calendar day following the granting of ~~a travel permit~~ 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 ~~by a date specified by the sending state~~ within 30 calendar days after receipt of notification of the rejection of the transfer request.

- (1) If the offender does not return to the sending state as directed, the sending state shall initiate the retaking of the offender no later than 10 calendar days following the offender's failure to appear in the sending state.
- (2) The receiving state shall continue to supervise the offender until a warrant is issued or notice is given by the sending state as required under Rule 4.105.

Justification: These proposed changes will assist in the transition to the electronic information system and will change the terminology from expedited transfer to expedited request for reporting instructions which more clearly defines the rule.

“Travel permit” changed to “reporting instructions.” This change in the language makes it clear that agents cannot provide a travel permit unless reporting instructions are approved and received. The receiving state does not provide a travel permit, but rather reporting instructions.

Added language that prohibits sending states from allowing their offenders to proceed to prospective reporting instructions when reporting instructions are denied. Currently, there is no provision from prohibiting sending states to send offenders to receiving states after a receiving state denies a request for reporting instructions under this rule. Therefore, several offenders travel without notification or supervision to prospective receiving states and it is not determined until the investigation phase of the process. Recommended adding a time frame, as in proposed change to 3.103 (within 30 calendar days) in which the sending state must order the return of an offender whose transfer request has been denied. As currently stated, states can interpret any time frame they choose to direct the offender's return. This lack of time frame is not consistent with the goal of continued supervision and tracking of offender movement.

(a)(2)(B) states that the receiving state may request the signed forms which must be transmitted by the sending state within 5 days of the request.

Effective Date: Upon implementation of NACIS