

Proposed by the West Region on 4/16/14

Rule 1-101:Definitions

Sanction: Requirement, up to and including detention time, imposed upon a juvenile for non-compliance with terms of supervision.

Justification:

Including detention time in the definition of Sanctions would clarify the authority given by the Compact to both the sending and receiving state to hold transferred youth accountable for non-compliance and would correspond to change in the rule.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

None

JIDS Impact:

None

Fiscal Impact:

\$0

Rules Committee Action:

The Rules Committee has no recommendation.

Effective Date:

Comments

Maria Genca, CT

CT ICJ is in agreement with this amendment as this clarifies that states can impose detention time for sanctions.

John Gusz, NJ

New Jersey opposes the expansion of the definition Sanction, up to and including detention time for the reasons expressed by this State under this Forum, Rule 5-101; Supervision/Services Requirements. Constitutional issues, including due process rights, have been raised with the introduction of the proposed expansion of this definition and rule.

(Comments for Rule 1-101: Sanction cont.)

Alicia Ehlers, ID

Idaho is in favor of any wording that makes the Compact easier to be understood by others and supports adding the words “up to and including detention time” in this rule. In addition to the Compact, Article IV Section 1 of the US Constitution, the Enforcement of Foreign Judgments Act and US Code 28 § 1738 all support the ability of a state to enforce another state’s court order. Due process rights and Probable Cause are separate issues beyond the definition of “Sanction.” However, all constitutional parameters around sanctions would still apply.

Proposed by Rules Committee on 2/5/14

RULE 2-102: Data Collection Expire

1. As required by Article III (K) of the compact, member states shall gather, maintain and report data regarding the interstate movement of juveniles who are supervised under this compact and the return of juveniles who have absconded, escaped or fled to avoid prosecution or run away. Each member state shall report annually by July 31st.
2. Runaways, escapees, absconders and accused delinquents:
 - a. The total number of runaways, escapees, absconders and accused delinquents located in and located out of the reporting state processed during the reporting period.
 - b. The total number of Requisitions (Form I and Form II) sent from and received by the reporting state during the reporting period.
 - c. The total number of juveniles who were not returned per Requisition (Form I and Form II) by or to the reporting state during the reporting period.
 - d. The reason(s) the juvenile was not returned per Requisition (Form I and II) by or to the reporting state during the reporting period.
3. Airport Supervision:
 - a. The total number of airport supervision requests met during the reporting period.
4. Parole Supervision:
 - a. The total number of incoming parole cases received from other states for investigation and/or supervision during the reporting period and the number which were sex offender related.
 - b. The total number of outgoing parole cases sent from the reporting state for investigation and/or supervision during the reporting period and the number which were sex offender related.
 - c. The total number of incoming parole cases terminated during the reporting period.
 - d. The total number of outgoing parole cases terminated during the reporting period.
 - e. The number of incoming / outgoing failed placements for violations and the number of incoming / outgoing returned.
 - f. The number of incoming / outgoing failed placements for reasons other than violations and the number of incoming / outgoing returned.
5. Probation Supervision:
 - a. The total number of incoming probation cases received from other states for investigation and/or supervision during the reporting period and the number which were sex offender related.
 - b. The total number of outgoing probation cases sent from the reporting state for investigation and/or supervision during the reporting period and the number which were sex offender related.
 - c. The total number of incoming probation cases terminated during the reporting period.
 - d. The total number of outgoing probation cases terminated during the reporting period.

*Please note that the final rule proposals are subject to change per the Rules Committee.

(Comments for Rule 2-102: Data Collection cont.)

- e. The number of incoming / outgoing failed placements for violations and the number of incoming / outgoing returned.
 - f. The number of incoming / outgoing failed placements for reasons other than violations and the number of incoming / outgoing returned.
6. This Rule will not expire until the Electronic Information System approved by the Commission is fully implemented and functional.

Justification:

Per Rule 2-102(6), JIDS is fully implemented and functional and can expire.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

None

JIDS Impact:

None

Fiscal Impact:

\$0

Rules Committee Action:

The Rules Committee recommended for adoption on February 5, 2014 by a 4-0-0 vote.

Effective Date:

Immediately

*Comments***Judy Miller, AR**

It is my opinion/recommendation that we should still have Rule 2-102, but only have the first paragraph that is currently listed in the Rule. This would let people know that Compact member states collect data per our statute.

Proposed by Rules Committee on 5/7/14

RULE 3-101: Forms

States shall use the electronic information system approved by the Commission for e-forms processed through the Interstate Compact for Juveniles.

- ~~Form I (Requisition for Runaway Juvenile)~~
- ~~Form II (Requisition for Escapee or Absconder/Accused Delinquent)~~
- ~~Form III (Consent for Voluntary Return of Out of State Juvenile)~~
- ~~Form IV (Parole or Probation Investigation Request)~~
- ~~Form V (Report of Sending State Upon Parolee or Probationer Being Sent to the Receiving State)~~
- ~~Form IA/VI (Application for Compact Services/Memorandum of Understanding and Waiver)~~
- ~~Form VII (Out of State Travel Permit and Agreement to Return)~~
- ~~Form VIII (Home Evaluation)~~
- ~~Form IX (Quarterly Progress or Violation Report)~~
- ~~Form X (Case Closure Notification Form)~~

Justification:

With the Forms listed in the rule it makes changes to the Forms in JIDS very difficult and it is not clear what would need to occur to make those changes. The Forms in JIDS should be based on the rules and the IT Committee should be able to make those changes as needed without a vote from the full Commission. Once the Commission approves a rule, the forms should reflect that rule. The Rules Committee and the IT Committee will still work together to ensure JIDS complies with the rules.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

None

JIDS Impact:

None

Fiscal Impact:

\$0

Rules Committee Action:

The Rules Committee recommended for adoption on May 7, 2014 by an 8-0-0 vote.

Effective Date:

*Comments***Judy Miller, AR**

It is my opinion/recommendation to leave the list of Mandatory and Optional ICJ Forms in the Rules. I think it is helpful when people are looking at the Rules, which refer to the ICJ Forms, that there be a list and name of the Forms.

I do not understand the Justification that was written for the removal of the Forms: "With the Forms listed in the Rules it makes changes to the forms in JIDS difficult." What is so difficult?

Also, the Justification states: "the IT Committee should be able to make those changes as needed without a vote from the full Commission." This needs to be clear that there may be occasions when the full Commission needs to vote on a Form or a Form change.

Proposed by Rules Committee on 5/7/14

RULE 3-102: Optional Forms Rescind

Use of the following forms is optional:

- Petition for Hearing on Requisition for Runaway Juvenile
- Order Setting Hearing for the Requisition for a Runaway Juvenile
- Petition for Requisition to Return a Runaway Juvenile (Form A)
- Petition for Hearing on Requisition for Escapee, Absconder, or Accused Delinquent
- Order Setting Hearing for Requisition for Escapee, Absconder, or Accused Delinquent
- Juvenile Rights Form for Consent for Voluntary Return of Out of State Juvenile
- Victim Notification Supplement Form

Justification:

With the Forms listed in the rule it makes changes to the Forms in JIDS very difficult and it is not clear what would need to occur to make those changes. The Forms in JIDS should be based on the rules and the IT Committee should be able to make those changes as needed without a vote from the full Commission. Once the Commission approves a rule, the forms should reflect that rule. The Rules Committee and the IT Committee will still work together to ensure JIDS complies with the rules. In addition, as these forms are optional, and rarely used, it is unnecessary to denote their optional use.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

None

JIDS Impact:

None

Fiscal Impact:

\$0

Rules Committee Action:

The Rules Committee recommended for adoption on May 7, 2014 by a 8-0-0 vote.

Effective Date:

*Comments***Judy Miller, AR**

It is my opinion/recommendation to leave the list of Mandatory and Optional ICJ Forms in the Rules. I think it is helpful when people are looking at the Rules, which refer to the ICJ Forms, that there be a list and name of the Forms.

I do not understand the Justification that was written for the removal of the Forms: "With the forms listed in the Rules it makes changes to the forms in JIDS difficult." What is so difficult?

Also, the Justification states: "the IT Committee should be able to make those changes as needed without a vote from the full Commission." This needs to be clear that there may be occasions when the full Commission needs to vote on a Form or a form change.

Proposed by the West Region on 4/16/14

RULE 5-101: Supervision/Services Requirements

1. After accepting supervision, the receiving state will assume the duties of supervision over any juvenile, and in exercise of those duties will be governed by the same standards of supervision that prevails for its own juveniles released on probation or parole.
2. At the time of acceptance or during the term of supervision, the appropriate authority in the receiving state may impose conditions on a juvenile transferred under the interstate compact if that condition would have been imposed on a juvenile in the receiving state. Any costs incurred from any conditions imposed by the receiving state shall not be the responsibility of the sending state.
3. Both the sending and receiving states shall have the authority to enforce terms of probation/parole, which may include the imposition of sanctions up to and including detention time. Any costs incurred from any enforcement sanctions shall be the responsibility of the state seeking to impose such sanctions.
4. The receiving state shall furnish written progress reports to the sending state on no less than a quarterly basis. Additional reports shall be sent in cases where there are concerns regarding the juvenile or there has been a change in placement.
5. Neither sending states nor receiving states shall impose a supervision fee on any juvenile who is supervised under the provisions of the ICJ.
6. The sending state shall be financially responsible for treatment services ordered by the appropriate authority in the sending state when they are not available through the supervising agency in the receiving state or cannot be obtained through Medicaid, private insurance, or other payor. The initial referral shall clearly state who will be responsible for purchasing treatment services.
7. The age of majority and duration of supervision are determined by the sending state. Where circumstances require the receiving court to detain any juvenile under the ICJ, the type of incarceration shall be determined by the laws regarding the age of majority in the receiving state.
8. Juvenile restitution payments or court fines are to be paid directly from the juvenile/juvenile's family to the adjudicating court or agency in the sending state. Supervising officers in the receiving state shall encourage the juvenile to make regular payments in accordance with the court order of the sending state. The sending state shall provide the specific payment schedule and payee information to the receiving state.
9. Supervision for the sole purpose of collecting restitution is not a justifiable reason to open a case.

*Please note that the final rule proposals are subject to change per the Rules Committee.

Justification:

At the 2013 ABM, the Commission approved the removal of the word “detention time” from the language in #3 and replaced the term with “sanctions” in order to clarify that receiving states have the ability to provide other interventions beyond detention for youth that are non-compliant with supervision. Unfortunately, the removal of the term detention time may cause Judges to believe that they have the authority to impose sanctions up to but not including detention time on a non-compliant juvenile. Including both sanctions and detention time in the rule furthers the purpose of the compact by authorizing the sending and receiving courts to gain compliance from a transferred juvenile prior to determining the placement as failed.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

None

JIDS Impact:

None

Fiscal Impact:

\$0

Rules Committee Action:

The Rules Committee has no recommendation.

Effective Date:*Comments***Maria Genca, CT**

CT ICJ is in agreement with this amendment.

John Gusz, NJ

New Jersey, while appreciating the difficulty of non-compliance in ICJ mandatory acceptance cases, does not support the expansion of language concerning the imposition of sanctions **up to and including detention time** (by a receiving state). Juveniles not facing detention time or incarceration in the adjudication of the instant offense in a sending state should not be subjected to such sanctions that extend beyond the rehabilitative and punitive measures imposed under the original adjudication. If approved, the Amendment raises two issues of concern: (1.) To date, the Commission has failed to promulgate a rule entitling an absolute right to a probable cause hearing for a juvenile potentially facing a loss of liberty or freedom. To place a juvenile in detention without such right is contrary to *Gagnon v. Scarpelli*; *Morrissey v. Brewer*. While admittedly there is little in the area of case law regarding juveniles, *IN RE Gault*, 387, U.S. 1

(1967) must guide. (2.) In Compact cases, a receiving state is merely acting as a supervising agent for a sending state without legal jurisdiction of the case being transferred. Serious constitutional questions arise when there is an assumption that legal jurisdiction is transferred under the premise of Interstate Compact Transfer.

John Gusz, NJ

The previous N.J. post does not capture the entire discussion of the recent State Council Meeting regarding the proposed amended definition and Rule 5.101 Supervision/ Services Requirements. At this time, there is not unanimous opinion to oppose. The Council acknowledges the need to address non-compliant behavior especially in the areas of community safety and victims' rights. The Council fully appreciates the paramount importance of deterring future serious non-compliant behavior. Constitutional questions aside, the concept of the Commission developing a universal sanctioning grid and/or risk assessment tool (predicting future non-compliant behavior) should be considered as a benefit in achieving a consistency of application when addressing that behavior not rising to the level of future acts of juvenile delinquency (charges) or greater.

Alicia Ehlers, ID

Idaho is in favor of the addition of the words "up to and including detention time" in Rule 5-101(3). The first three rules in 5-101 indicate the legal authority of both states to impose terms and sanctions upon the juvenile, and there is also a legal opinion concurring. It makes little sense (safety and financial) for the sending state to sanction the juvenile to a few days of detention time when the witnesses and evidence remain in the receiving state. By case law, the sanctions cannot extend beyond the rehabilitative and punitive measures imposed under the original adjudication. It is up to the internal workings of each state to establish a mechanism along with policies and procedure within their own state to enact these rules and ensure the due process rights of the juvenile.