

## 2019 ICJ Rule Amendment Proposals Posted for Comment Period: May 1 - 31, 2019

#	Rule No.	2019 Amendments to ICJ Rules	Proposal Submitted By	Recommended for Adoption by Rules Cmte?
<b>Section 100 Definitions</b>				
1	<b>1-101</b>	Accused Delinquent	Midwest Region	<i>No</i>
2	<b>1-101</b>	Runaways	Rules Committee	<i>Yes</i>
<b>Section 200 General Provisions</b>				
3	<b>new tbd</b>	New State Council Rule title tbd	Rules Committee	<i>Yes</i>
<b>Section 400 Transfer of Supervision</b>				
4	<b>4-102</b>	Sending Rec Referrals	East Region	<i>Yes</i>
5	<b>4-103</b>	Transf Sup Procd JSO	East Region	<i>No</i>
6	<b>4-104 (5)</b>	AuthAcptDeny	Compliance Cmte	<i>Yes</i>
<b>Section 500 Supervision in Receiving State</b>				
7	<b>5-101</b>	Supervsion/Services Requirements	Rules Committee	<i>Yes</i>
<b>Section 600 Voluntary and Non-Voluntary Return of Juveniles/Runaways</b>				
8	<b>6-102</b>	Vol Return Runaways....	Rules Committee	<i>Yes</i>
9	<b>6-102 (8)</b>	Vol Return Runaways....	Midwest Region	<i>Yes</i>
10	<b>6-103</b>	Non-Vol Return Runaways...	Rules Committee	<i>Yes</i>
11	<b>6-103A</b>	Non-Vol Return Escapee...	Rules Committee	<i>Yes</i>
<b>Section 700 Additional Return Requirements for Sections 500 and 600</b>				
12	<b>7-104</b>	Warrants	Rules Committee	<i>Yes</i>
<b>Section 800 Travel Permits</b>				
13	<b>8-101</b>	Travel Permits	East Region	<i>No</i>
<b>Section 900 Dispute Resolution, Enforcement, Withdrawal, and Dissolution</b>				
14	<b>Section 900</b>	Introductory Paragraph	Compliance Cmte	<i>Yes</i>
15	<b>9-101</b>	... Resolution	Compliance Cmte	<i>Yes</i>
16	<b>9-102</b>	... Resolution of disputes...	Compliance Cmte	<i>Yes</i>
17	<b>9-103</b>	Enforcement Actions...	Compliance Cmte	<i>Yes</i>

ICJ Commissioners, Compact Administrators, Designees, Deputy Compact Administrators, and Ex Officios are invited to provide comments on the proposed ICJ Rule Amendments. More information is available on the Commission's website: [ICJ Rule Amendment Forum](#).

Comments will be posted on the Commission's website: [ICJ Rules History](#). The ICJ Rules Committee will review all comments received and prepare final amendments for posting on August 7, 2019.

## **Proposed by Midwest Region**

### ***RULE 1-101 Definitions***

Accused Delinquent: a person charged with an offense that, if committed by an adult, would be a criminal offense, including a juvenile who has been charged as an adult.

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#### **Justification:**

This amendment is to clarify that being charged as adult does not eliminate the applicability of the Compact. This amendment is suggested in conjunction with the amendment of ICJ Rule 6-102.

This issue was addressed in an ICJ Legal Memorandum issued 11/9/18 and Advisory Opinion 04-2018, released 12/13/18.

A proposal for amendment of the Rule 6-102, Voluntary Return of Runaway, has also been submitted.

#### **Effect on Other Rules, Advisory Opinions or Dispute Resolutions:**

ICJ Advisory Opinion 04-2018 references definition of accused delinquent.

#### **JIDS Impact:**

No Impact

#### **Forms Impact:**

No Impact

#### **Fiscal Impact:**

No Impact

#### **Effective Date:**

TBD

#### **Rules Committee Action:**

**01/02/19** – Voted 10-0-0 to not recommend for adoption.

## **Proposed by Rules Committee**

### ***RULE 1-101: Definitions***

Runaways: persons within the juvenile jurisdictional age limit established by the home state who have (1) voluntarily left their residence without permission of their legal guardian or custodial agency or (2) refuse to return to their residence as directed by their legal guardian or custodial agency, but who may or may not have been adjudicated.

*History: “Runaways” last amended September 27, 2017, effective March 1, 2018*

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#### **Justification:**

The issue referred by Executive Committee. The amendment would address a frequently asked question, which was the subject of a Legal Memorandum issued on 10-26-18 to clarify that a juvenile who leaves with permission, then refuses to return when directed by a parent, is considered a runaway and should be returned pursuant to the Compact.

#### **Effect on Other Rules, Advisory Opinions or Dispute Resolutions:**

Rules 6-102 and 6-103

ICJ Advisory Opinion 05-2018 reference definition of runaways.

Whitepaper: Temporary Secure Detention of Non-Adjudicated Juvenile Runaways, Oct. 2013

#### **JIDS Impact:**

No Impact

#### **Forms Impact:**

No Impact

#### **Fiscal Impact:**

No Impact

#### **Effective Date:**

TBD

#### **Rules Committee Action:**

**12/5/18** – Vote 8-0-0 to table until the next meeting.

**01/02/19** – Vote 10-0-0 to recommend for adoption.

## Proposed by Idaho to the Rules Committee

### *New RULE to Section 200 Provisions    RULE Number and Title to be assigned*

Each member state and territory shall establish and maintain a State Council for Interstate Juvenile Supervision as required by Article IX of the Interstate Compact for Juveniles. The State Council shall meet at least once annually and may exercise oversight and advocacy regarding the state's participation in Interstate Commission activities and other duties, including but not limited to the development of policy concerning operations and procedures of the compact within that state or territory. By January 1st of each year, member states and territories shall submit an annual report to the National Commission to include the membership roster and meeting dates from the previous year.

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#### **Justification:**

Article IX of the Interstate Compact for Juveniles and the ICJ Administrative Policy 01-2001: State Council Enforcement address the requirement that each member state and territory create a State Council for Interstate Juvenile Supervision.

The Idaho State Council proposes a new rule in the ICJ Rules Section 200 to incorporate the Statute requirement and the ICJ Administrative Policy into the ICJ Rules. The proposed language drafted is taken from the language in the statute and policy in an effort to strengthen the rules to emphasize both the requirement and the key elements of the State Councils for effective implementation of the Compact.

#### **Effect on Other Rules, Advisory Opinions or Dispute Resolutions:**

ICJ Administrative Policy 01-2011 State Council Enforcement requires edits to be consistent with new rule.

#### **JIDS Impact:**

No Impact

#### **Forms Impact:**

No Impact

#### **Fiscal Impact:**

No Impact

#### **Effective Date:**

TBD

#### **Rules Committee Action:**

**01/02/10** – Voted 10-0-0 to recommend for adoption.

## Proposed by the EAST REGION

### *RULE 4-102: Sending and Receiving Referrals*

1. Each ICJ Office shall develop policies/procedures on how to handle ICJ matters within its state.
2. The sending state shall maintain responsibility until supervision is accepted by, and the juvenile has arrived in, the receiving state.
  - a. State Committed (Parole) Cases – When transferring a juvenile parolee, the sending state shall not allow the juvenile to transfer to the receiving state until the sending state’s request for transfer of supervision has been approved, except as described in 4-102(2)(a)(ii).
    - i. The sending state shall ensure the following referral is complete and forwarded to the receiving state forty-five (45) calendar days prior to the juvenile’s anticipated arrival. The referral shall contain: Form IV Parole or Probation Investigation Request, Form IA/VI Application for Services and Waiver, and Order of Commitment. The sending state shall also provide copies (if available) of the Petition and/or Arrest Report(s), Legal and Social History, supervision summary if the juvenile has been on supervision in the sending state for more than 30 calendar days at the time the referral is forwarded, and any other pertinent information deemed to be of benefit to the receiving state. Parole conditions, if not already included, shall be forwarded to the receiving state upon the juvenile’s release from an institution. Form V Report of Sending State Upon Parolee or Probationer Being Sent to the Receiving State shall be forwarded prior to the juvenile relocating to the receiving state.
    - ii. When it is necessary for a State Committed (parole) juvenile to relocate prior to the acceptance of supervision, under the provision of Rule 4-104(4), the sending state shall determine if the circumstances of the juvenile’s immediate relocation justifies the use of a Form VII Out-of-State Travel Permit and Agreement to Return, including consideration of the appropriateness of the residence. If approved by the sending state, it shall provide the receiving state with the approved Form VII Out-of-State Travel Permit and Agreement to Return along with a written explanation as to why ICJ procedures for submitting the referral could not be followed.
    - iii. If not already submitted, the sending state shall provide the complete referral to the receiving state within ten (10) business days of the Form VII Out-of-

State Travel Permit and Agreement to Return being issued. The receiving state shall make the decision whether or not it will expedite the referral.

- b. Probation Cases – The sending state shall ensure the following referral is complete and forwarded to the receiving state. The referral shall contain: Form IV Parole or Probation Investigation Request; Form IA/VI Application for Services and Waiver; Order of Adjudication and Disposition; Conditions of Probation and Petition and/or Arrest Report(s). The sending state ~~shall~~ should also provide Legal and Social History, supervision summary, if the juvenile has been on supervision in the sending state for more than 30 calendar days at the time the referral is forwarded. and any other pertinent information (if available). Form V Report of Sending State Upon Parolee or Probationer Being Sent to the Receiving State shall be forwarded prior to relocating if the juvenile is not already residing in the receiving state.
3. The sending state shall forward additional documentation, if available, at the request of the receiving state. The receiving state shall not delay the investigation pending receipt of the additional documentation. If the juvenile is already residing in the receiving state, the receiving state shall obtain the juvenile’s signature on the Form IA/VI Application for Service and Waiver.
4. The receiving state shall, within forty-five (45) calendar days of receipt of the referral, forward to the sending state the home evaluation along with the final approval or disapproval of the request for supervision or provide an explanation of the delay to the sending state.

*History: Adopted December 2, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; amended October 26, 2011, effective March 1, 2012; amended October 17, 2012, effective April 1, 2013; amended October 9, 2013, effective April 1, 2014; amended August 26, 2015, effective February 1, 2016; clerically amended October 17, 2016; amended September 27, 2017, effective March 1, 2018*

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**Justification:**

The proposed changes would require the sending state to include a supervision summary in their referral if the juvenile has been under supervision for more than 30 calendar days at the time the referral is being submitted.

A supervision summary would assist the receiving state in developing a plan of supervision and would provide information regarding the juvenile’s compliance with the conditions of supervision while in the sending state.

**Effect on Other Rules, Advisory Opinions or Dispute Resolutions:**

Rule 4-103(2) – Supervision Summary requirement not listed for juvenile sex offenders.  
ICJ Advisory Opinion 02-2015 references Rule 4-102.

**JIDS Impact:**

Potential (see Forms Impact)

**Forms Impact:**

Does the Commission desire a new standard Supervision Summary form to accompany this requirement? If so, the Technology Committee will oversee the creation of a new form.

**Fiscal Impact:**

Potential (see Forms Impact)

**Effective Date:**

TBD

**Rules Committee Action:**

**12/05/18** – Voted 5-1-2 to not recommend for adoption the proposal as presented and recommended that the East Region consider relocating the proposed language to the next sentence in both paragraphs 2 (a) I and 2 (b).

**2/06/19** – Voted 8-0-0 to recommend for adoption. The Rules Committee has the authority to modify the rules for grammatical purposes without changing the substance of the rule. For this reason, the recommended proposed language was relocated in both paragraphs 2 (a)I and 2(b) and the *should* corrected to *shall* in paragraph 2(b).

## Proposed by the EAST REGION

### *RULE 4-103: Transfer of Supervision Procedures for Juvenile Sex Offenders*

1. When transferring a juvenile sex offender, the sending state shall not allow the juvenile to transfer to the receiving state until the sending state's request for transfer of supervision has been approved, or reporting instructions have been issued by the receiving state ~~unless~~ pursuant to Rule 4-103(3)~~is applicable~~.
2. When transferring a juvenile sex offender, the referral shall consist of: Form IA/VI Application for Services and Waiver, Form IV Parole or Probation Investigation Request, Form V Report of Sending State Upon Parolee or Probationer Being Sent to the Receiving State, Order of Adjudication and Disposition, Conditions of Supervision, Petition and/or Arrest Report. The sending state shall also provide: Safety Plan, Specific Assessments, Legal and Social History information pertaining to the criminal behavior, Victim Information, i.e., sex, age, relationship to the juvenile, sending state's current or recommended Supervision and Treatment Plan, and all other pertinent materials (if available). Parole conditions, if not already included, shall be forwarded to the receiving state upon the juvenile's release from an institution.
3. When it is necessary for a juvenile sex offender to relocate with a legal guardian prior to the acceptance of supervision, and there is no legal guardian in the sending state, the sending state shall determine if the circumstances of the juvenile's immediate relocation justifies the use of a Form VII Out-of-State Travel Permit and Agreement to Return, including consideration of the appropriateness of the residence. If approved by the sending state's ICJ Office, the following shall be initiated:
  - a. The sending state shall provide the receiving state with an approved Form VII Out-of-State Travel Permit and Agreement to Return along with a written explanation as to why ICJ procedures for submitting the referral could not be followed.
  - b. If not already submitted, the sending state shall transmit a complete referral to the receiving state within ten (10) business days of the Form VII Out-of-State Travel Permit and Agreement to Return being issued. ~~The receiving state shall make the decision whether it will expedite the referral or process the referral according to Rule 4-102.~~
  - c. Within five (5) business days of receipt of the Form VII Out-of-State Travel Permit and Agreement to Return, the receiving state shall advise the sending state of reporting instructions and applicable registration requirements ~~and/or reporting instructions, if any~~. The sending state shall be responsible for communicating ~~the~~ reporting instructions and any registration requirements ~~and/or reporting instructions~~ to the juvenile and his/her family in a timely manner.
  - d. The sending state shall maintain responsibility until supervision is accepted by, and the juvenile has arrived in, the receiving state. The receiving state shall have the authority to supervise juveniles pursuant to reporting instructions issued under 4-103(3)(c).



4. In conducting home evaluations for juvenile sex offenders, the receiving state shall ensure compliance with local policies or laws when issuing reporting instructions. If the proposed residence is unsuitable, the receiving state may deny acceptance referred to in Rule 4-104(4).
5. Juvenile sex offender shall abide by the registration laws in the receiving state, i.e., felony or sex offender registration, notification or DNA testing.
6. A juvenile sex offender who fails to register when required will be subject to the laws of the receiving state.

*History: Adopted December 2, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; amended October 26, 2011, effective March 1, 2012; amended October 17, 2012, effective April 1, 2013; amended October 9, 2013, effective April 1, 2014; amended August 26, 2015, effective February 1, 2016; clerically amended October 17, 2016*

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**Justification:**

The proposed change would require a receiving state to provide reporting instructions regarding any incoming juvenile sex offender to the sending state when it is necessary for that juvenile sex offender to relocate with a legal guardian prior to the acceptance of supervision.

When a juvenile sex offender is provided with a travel permit testing a proposed residence, that juvenile has the potential to reside in the receiving state without direct supervision for up to 55 days. It would benefit the receiving state to have some level supervision during this timeframe in order to ensure that the living arrangement is suitable, that the necessary services are in place and that the juvenile is compliant with registration requirements if applicable. The rule plainly states that the receiving state has the authority to supervise the juvenile pursuant to the reporting instructions that are provided and clearly indicates that the sending state maintains responsibility of the juvenile until the referral is official accepted by the receiving state.

This proposal also removes the expedited referral process language. This process is undefined and ambiguous and would only appear to be necessary when a juvenile sex offender is in the receiving state and not under direct supervision.

**Effect on Other Rules, Advisory Opinions or Dispute Resolutions:**

No Impact

**JIDS Impact:**

Edit to Expedited Request for Transfer of Supervision – Sex Offender workflow to remove the receiving state’s option to “Approve Expedition with No Reporting Instructions.” Edit all custom reports that currently reference this workflow.

**Forms Impact:**

No Impact

**Fiscal Impact:**

\$ 1,000 – 10 InStream Service Hours

**Effective Date:**

TBD

**Rules Committee Action:**

12/05/18 – Voted 6-1-1 to not recommend for adoption as proposed.

## Proposed by COMPLIANCE COMMITTEE

### ***RULE 4-104: Authority to Accept/Deny Supervision***

1. Only the receiving state's authorized Compact Office staff shall accept or deny supervision of a juvenile by that state after considering a recommendation by the investigating officer.
2. The receiving state's authorized Compact Office staff's signature is required on or with the Form VIII Home Evaluation that accepts or denies supervision of a juvenile by that state.
3. Supervision cannot be denied based solely on the juvenile's age or the offense.
4. Supervision may be denied when the home evaluation reveals that the proposed residence is unsuitable or that the juvenile is not in substantial compliance with the terms and conditions of supervision required by the sending or receiving state, except when a juvenile has no legal guardian remaining in the sending state and the juvenile does have a legal guardian residing in the receiving state.
5. Upon receipt of acceptance of supervision from the receiving state, ~~and within five (5) business days~~ prior to the juvenile's departure if the youth is not already residing in the receiving state, the sending state shall provide reporting instructions to the juvenile, and provide written notification of the juvenile's departure to the receiving state.
6. If the transfer of supervision in the receiving state is denied, the sending state shall return the juvenile within five (5) business days. This time period may be extended up to an additional five (5) business days with approval from both ICJ offices.

***History: Adopted as Rule 5-101 December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; amended October 26, 2011, effective March 1, 2012; renumbered as Rule 4-104, effective April 1, 2014; amended August 26, 2015, effective February 1, 2016; amended September 27, 2017, effective March 1, 2018***

*Comment: Rule 4-104 was originally titled "Supervision/Services Requirements," adopted December 2, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; amended October 26, 2011, effective March 1, 2012; renumbered as Rule 5-101, effective April 1, 2014*

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### **Justification:**

As long as reporting instructions are provided prior to the departure, it is not necessary that they be provided 5 days in advance. Five (5) seems arbitrary and could lead to states being found non-compliant.

### **Effect on Other Rules, Advisory Opinions or Dispute Resolutions:**

No Impact

**JIDS Impact:**

No Impact

**Forms Impact:**

No Impact

**Fiscal Impact:**

No Impact

**Effective Date:**

TBD

**Rules Committee Action:**

7/18/18 – Voted 8-0-0 to recommend for adoption.

## Proposed by Idaho to Rules Committee

### *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 prevail for its own juveniles released on probation or parole, except that neither the sending nor receiving state shall impose a supervision fee on any juvenile who is supervised under the provisions of the ICJ.
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 ICJ 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 detention time in the receiving state. 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 residence.
- ~~5. Neither sending states nor receiving states shall impose a supervision fee on any juvenile who is supervised under the provisions of the ICJ.~~
5. ~~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.
6. ~~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 secure facility shall be determined by the laws regarding the age of majority in the receiving state.
7. ~~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.

8. 9. Supervision for the sole purpose of collecting restitution and/or court fines is not a permissible reason to continue or extend supervision of a case. The receiving state may initiate the case closure request once all other terms of supervision have been met.

**History: Adopted as Rule 4-104 December 2, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; amended October 26, 2011, effective March 1, 2012; amended October 9, 2013 and renumbered as Rule 5-101, effective April 1, 2014; amended August 26, 2015, effective February 1, 2016**

*Comment: Rule 5-101 was originally titled "Authority to Accept/Deny Supervision," adopted December 2, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; amended October 26, 2011, effective March 1, 2012; renumbered as Rule 4-104, effective April 1, 2014*

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**Justification:**

The Idaho State Council recommends that the current Rule 5-101: Supervision/Services Requirements be amended for clarity. Rule 5-101(1) and 5-101(5), as currently written, appear to be contradictory in that states may charge supervision fees to their own juveniles.

The proposed amendment would clarify that juveniles under ICJ supervision should be treated the same as local, in-state juveniles, except on the issue of charging supervision fees.

**Effect on Other Rules, Advisory Opinions or Dispute Resolutions:**

ICJ Advisory Opinions 01-2010, 03-2011, 02-2012, 03-2012, and 04-2018 reference Rule 5-101(1) or (7).

**JIDS Impact:**

No Impact

**Forms Impact:**

No Impact

**Fiscal Impact:**

No Impact

**Effective Date:**

TBD

**Rules Committee Action:**

1/2/19 – Vote 10-0-0 to recommend for adoption.

## Proposed by Rules Committee

### ***RULE 6-102: Voluntary Return of Runaways, Probation/Parole Absconders, Escapees or Accused Delinquents and Accused Status Offenders***

Once an out-of-state juvenile is found and detained, the following procedures shall apply:

1. Runaways and accused status offenders who are a danger to themselves or others shall be detained in secure facilities until returned by the home/demanding state. The holding state shall have the discretion to hold runaways and accused status offenders who are not a danger to themselves or others at a location it deems appropriate.
2. Probation/parole absconders, escapees or accused delinquents who have an active warrant shall be detained in secure facilities until returned by the home/demanding state. In the absence of an active warrant, the holding state shall have the discretion to hold the juvenile at a location it deems appropriate.
3. The holding state's ICJ Office shall be advised that the juvenile is being detained. The holding state's ICJ Office shall contact the home/demanding state's ICJ Office advising them of case specifics.
4. The home/demanding state's ICJ Office shall immediately initiate measures to determine the juvenile's residency and jurisdictional facts in that state.
5. At a court hearing (physical or electronic), the ~~judge~~ court in the holding state shall inform the juvenile of his/her due process rights and may use the ICJ Juvenile Rights Form. The court may elect to appoint counsel or a guardian ad litem to represent the juvenile.
6. If in agreement with the voluntary return, the juvenile shall sign the Form III Consent for Voluntary Return of Out-of-State Juveniles in the presence (physical or electronic) of a ~~judge~~ the court. The Form III Consent for Voluntary Return of Out-of-State Juveniles shall be signed by a ~~judge~~ the court.
7. When an out-of-state juvenile has reached the age of majority according to the holding state's laws and is brought before an adult court for an ICJ due process hearing, the home/demanding state shall accept an adult waiver instead of the Form III Consent for Voluntary Return of Out-of-State Juveniles, provided the waiver is signed by the juvenile and the ~~judge~~ court.
8. When consent has been duly executed, it shall be forwarded to and filed with the Compact administrator, or designee, of the holding state. The holding state's ICJ Office shall in turn, forward a copy of the consent to the Compact administrator, or designee, of the home/demanding state.
9. The home/demanding state shall be responsive to the holding state's court orders in effecting the return of its juveniles. Each ICJ Office shall have policies/procedures in place involving the return of juveniles that will ensure the safety of the public and juveniles.

10. Juveniles shall be returned by the home/demanding state in a safe manner and within five (5) business days of receiving a completed Form III Consent for Voluntary Return of Out-of-State Juveniles or adult waiver. This time period may be extended up to an additional five (5) business days with approval from both ICJ Offices.

***History: Adopted December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; clerically amended January 5, 2011, effective February 4, 2011; amended October 17, 2012, effective April 1, 2013; amended August 26, 2015, effective February 1, 2016***

**Justification:**

In some state, other court officials, such as commissioners, have judicial authority. This amendment would clarify that they can hear cases involving returns.

**Effect on Other Rules, Advisory Opinions or Dispute Resolutions:**

The term “judge” is used in the following rules:

1. RULE 6-102: Voluntary Return of Runaways, Probation/Parole Absconders, Escapees or Accused Delinquents and Accused Status Offenders
2. RULE 6-103: Non-Voluntary Return of Runaways and/or Accused Status Offenders
3. RULE 6-103A: Non-Voluntary Return of an Escapee, Absconder or Accused Delinquent

**JIDS Impact:**

Day-forward edits to Form III and Juvenile Rights Form

**Forms Impact:**

Edit Judge to Court on the following forms:

1. Form III (including English/Spanish, and Spanish versions available on website)
2. Juvenile Rights Form (including English/Spanish, and Spanish versions available on website)

**Fiscal Impact:**

\$250 – 2 InStream Service Hours for JIDS e-Forms

\$100 – Translator Services for Spanish Forms

**Effective Date:**

TBD

**Rules Committee Action:**

12/05/18 - Vote 8-0-0 to recommend for adoption.



## Proposed by MIDWEST REGION

### *RULE 6-102: Voluntary Return of Runaways, Probation/Parole Absconders, Escapees or Accused Delinquents and Accused Status Offenders*

Once an out-of-state juvenile is found and detained, the following procedures shall apply:

1. Runaways and accused status offenders who are a danger to themselves or others shall be detained in secure facilities until returned by the home/demanding state. The holding state shall have the discretion to hold runaways and accused status offenders who are not a danger to themselves or others at a location it deems appropriate.
2. Probation/parole absconders, escapees or accused delinquents who have an active warrant shall be detained in secure facilities until returned by the home/demanding state. In the absence of an active warrant, the holding state shall have the discretion to hold the juvenile at a location it deems appropriate.
3. The holding state's ICJ Office shall be advised that the juvenile is being detained. The holding state's ICJ Office shall contact the home/demanding state's ICJ Office advising them of case specifics.
4. The home/demanding state's ICJ Office shall immediately initiate measures to determine the juvenile's residency and jurisdictional facts in that state.
5. At a court hearing (physical or electronic), the judge in the holding state shall inform the juvenile of his/her due process rights and may use the ICJ Juvenile Rights Form. The court may elect to appoint counsel or a guardian ad litem to represent the juvenile.
6. If in agreement with the voluntary return, the juvenile shall sign the Form III Consent for Voluntary Return of Out-of-State Juveniles in the presence (physical or electronic) of a judge. The Form III Consent for Voluntary Return of Out-of-State Juveniles shall be signed by a judge.
7. When an out-of-state juvenile has reached the age of majority according to the holding state's laws and is brought before an adult court for an ICJ due process hearing, the home/demanding state shall accept an adult waiver instead of the Form III Consent for Voluntary Return of Out-of-State Juveniles, provided the waiver is signed by the juvenile and the judge.
8. When a juvenile is being detained on a warrant issued by an adult court, the juvenile shall be returned to the home/demanding state as a juvenile, when classified as a juvenile in the home/demanding state, even if charged as an adult. The home/demanding state shall accept the Form III Consent for Voluntary Return of Out-of-State Juveniles and assist in facilitating the juvenile's return.
- § 9. When consent has been duly executed, it shall be forwarded to and filed with the Compact administrator, or designee, of the holding state. The holding state's ICJ Office shall in turn,

forward a copy of the consent to the Compact administrator, or designee, of the home/demanding state.

~~9-10~~. The home/demanding state shall be responsive to the holding state's court orders in effecting the return of its juveniles. Each ICJ Office shall have policies/procedures in place involving the return of juveniles that will ensure the safety of the public and juveniles.

~~10-11~~. Juveniles shall be returned by the home/demanding state in a safe manner and within five (5) business days of receiving a completed Form III Consent for Voluntary Return of Out-of-State Juveniles or adult waiver. This time period may be extended up to an additional five (5) business days with approval from both ICJ Offices.

**Justification:**

The proposed amendment is intended to address cases in which the juvenile is a juvenile by age in the home/demanding state, but has charges pending from an adult court. In such cases,

- Some states will assist, but request that not entered into JIDS (because it is an adult case in their state).
- Other state ICJ offices require the home/demanding state directly contact the detention center where the juvenile is in custody.

This issue was addressed in an ICJ Legal Memorandum issued 11/9/18 and Advisory Opinion 04-2018, released 12/13/18.

A proposal for amendment of the Rule 1-101, definition of Accused Delinquent, has also been submitted.

**Effect on Other Rules, Advisory Opinions or Dispute Resolutions:**

ICJ Advisory Opinion 04-2018 was published to address this issue.

**JIDS Impact:**

No Impact

**Forms Impact:**

No Impact

**Fiscal Impact:**

No Impact

**Effective Date:**

TBD

**Rules Committee Action:**

1/2/05/19 – Vote 8-0-2 to recommend for adoption.

## Proposed by Rules Committee

### ***RULE 6-103: Non-Voluntary Return of Runaways and/or Accused Status Offenders***

A requisition applies to all juveniles in custody who refuse to voluntarily return to their home/demanding state or to request a juvenile whose whereabouts are known, but not in custody be picked up and detained pending return. A requisition may also be used to request a juvenile be picked up and detained pending return when they have left the state with the permission of their legal guardian/custodial agency but failed to return as directed.

1. Runaways and accused status offenders in custody who are a danger to themselves or others shall be detained in secure facilities until returned by the home/demanding state. The holding state shall have the discretion to hold runaways and accused status offenders who are not a danger to themselves or others at a location it deems appropriate.
2. The home/demanding state's ICJ Office shall maintain regular contact with the authorities preparing the requisition to ensure accurate preparation and timely delivery of said documents to minimize detention time.
3. When the juvenile is a runaway and/or an accused status offender, the legal guardian or custodial agency shall petition the court of jurisdiction in the home/demanding state for a requisition. When the juvenile is already in custody, this shall be done within sixty (60) calendar days of notification of the juvenile's refusal to voluntarily return.
  - a. The petitioner may use Form A, Petition for Requisition to Return a Runaway Juvenile, or other petition. The petition shall state the juvenile's name and date of birth, the name of the petitioner, and the basis of entitlement to the juvenile's custody, the circumstances of his/her running away, his/her location at the time application is made, and other facts showing that the juvenile is endangering his/her own welfare or the welfare of others and is not an emancipated minor.
    - i. The petition shall be verified by affidavit.
    - ii. The petition is to be accompanied by a certified copy of the document(s) on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees.
    - iii. Other affidavits and other documents may be submitted with such petition.
  - b. When it is determined that the juvenile should be returned, the ~~judge~~ court in the home/demanding state shall sign the Form I Requisition for Runaway Juvenile.
  - c. The Form I Requisition for Runaway Juvenile accompanied by the petition and supporting documentation shall be forwarded to the home/demanding state's ICJ Office.
4. Upon receipt of the Form I Requisition for Runaway Juvenile, the home/ demanding state's ICJ Office shall ensure the requisition packet is in order. The ICJ Office will submit the requisition packet through the electronic data system to the ICJ Office in the state where the

juvenile is located. The state where the juvenile is located may request and shall be entitled to receive originals or duly certified copies of any legal documents.

5. The ICJ Office in the state where the juvenile is located will forward the Form I Requisition for Runaway Juvenile to the appropriate court and request that a hearing be held within thirty (30) calendar days of the receipt of the requisition. If not already detained, the court shall order the juvenile be held pending a hearing on the requisition. This time period may be extended with the approval from both ICJ Offices.
6. The court in the holding state shall inform the juvenile of the demand made for his/her return and may elect to appoint counsel or a guardian ad litem. The purpose of said hearing is to determine proof of entitlement for the return of the juvenile. If proof of entitlement is not established, the ~~judge~~ court shall issue written findings detailing the reason(s) for denial.
7. In all cases, the order concerning the requisition shall be forwarded immediately from the holding court to the holding state's ICJ Office which shall forward the same to the home/demanding state's ICJ Office.
8. Juveniles held in detention, pending non-voluntary return to the home/demanding state, may be held for a maximum of ninety (90) calendar days.
9. Juveniles shall be returned by the home/demanding state within five (5) business days of the receipt of the order granting the requisition. This time period may be extended up to an additional five (5) business days with approval from both ICJ Offices.
10. If the legal guardian or custodial agency in the home/demanding state is unable or refuses to initiate the requisition process on a runaway, then the home/demanding state's appropriate authority shall initiate the requisition process on behalf of the juvenile.

***History: Adopted December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; amended October 26, 2011, effective March 1, 2012; amended October 17, 2012, effective November 1, 2012; amended October 9, 2013, effective April 1, 2014; amended August 26, 2015, effective February 1, 2016; amended September 27, 2017, effective March 1, 2018***

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### **Justification:**

#### *Paragraph 6*

In some state, other court officials, such as commissioners, have judicial authority. This amendment would clarify that they can sign requisitions.

#### *Introduction Paragraph*

The issue referred by Executive Committee. The amendment would address a frequently asked question, which was the subject of a Legal Memorandum issued on 10-26-18 to clarify that a juvenile who leaves with permission, then refuses to return when directed by a parent,

is considered a runaway and should be returned pursuant to the Compact. On December 13, 2018, Advisory Opinion 05-2018 was published to address this issue, with approval of the ICJ Executive Committee.

**Effect on Other Rules, Advisory Opinions or Dispute Resolutions:**

*Paragraph 6*

The term “judge” is used in the following rules:

1. RULE 6-102: Voluntary Return of Runaways, Probation/Parole Absconders, Escapees or Accused Delinquents and Accused Status Offenders
2. RULE 6-103: Non-Voluntary Return of Runaways and/or Accused Status Offenders
3. RULE 6-103A: Non-Voluntary Return of an Escapee, Absconder or Accused Delinquent

*Introduction Paragraph*

ICJ Advisory Opinion 05-2018 was published to address this issue.

**JIDS Impact:**

Day-forward edits to Form I and Order Setting Hearing for the Requisition of a Runaway.

**Forms Impact:**

Edit Judge to Court on the following forms:

1. Form I
2. Order Setting Hearing for the Requisition of a Runaway

**Fiscal Impact:**

\$250 – 2 InStream Services Hours for JIDS e-Forms

**Effective Date:**

TBD

**Rules Committee Action:**

*Paragraph 6*

**12/05/18** – Voted 8-0-0 to recommend for adoption.

*Introduction Paragraph*

**01/02/19** – Voted 10-0-0 to recommend for adoption.

## Proposed by Rules Committee

### *RULE 6-103A: Non-Voluntary Return of an Escapee, Absconder or Accused Delinquent*

A requisition applies to all juveniles in custody who refuse to voluntarily return to their home/demanding state or to request a juvenile whose whereabouts are known, but not in custody be picked up and detained pending return.

1. Probation/parole escapees, absconders or accused delinquents who have been taken into custody on a warrant shall be detained in secure facilities until returned by the demanding state.
2. The demanding state's ICJ Office shall maintain regular contact with the authorities preparing the requisition to ensure accurate preparation and timely delivery of said documents to minimize detention time.
3. The demanding state shall present to the court or appropriate authority a Form II Requisition for Escapee, Absconder, or Accused Delinquent, requesting the juvenile's return. When the juvenile is already in custody, this shall be done within sixty (60) calendar days of notification of the juvenile's refusal to voluntarily return.
  - a. The requisition shall be verified by affidavit, unless ~~a judge~~ the court is the requisitioner, and shall be accompanied by copies of supporting documents that show entitlement to the juvenile. Examples may include:
    - i. Judgment
    - ii. Order of Adjudication
    - iii. Order of Commitment
    - iv. Petition Alleging Delinquency
    - v. Other affidavits and documents may be submitted with such requisition.
  - b. When it is determined that the juvenile should be returned, the ~~judge~~ court or the appropriate authority in the demanding state shall sign the Form II Requisition for Escapee, Absconder, or Accused Delinquent.
  - c. The Form II Requisition for Escapee, Absconder, or Accused Delinquent accompanied by the supporting documentation shall be forwarded to the demanding state's ICJ Office.
4. Upon receipt of Form II Requisition for Escapee, Absconder, or Accused Delinquent, the demanding state's ICJ Office shall ensure the requisition packet is in order. The ICJ Office will submit the requisition packet through the electronic data system to the ICJ Office in the state where the juvenile is located. The state where the juvenile is located may request and shall be entitled to receive originals or duly certified copies of any legal documents.
5. The ICJ Office in the state where the juvenile is located will forward the Form II Requisition for Escapee, Absconder, or Accused Delinquent to the appropriate court and request that a

hearing be held within thirty (30) calendar days of the receipt of the requisition. If not already detained, the court shall order the juvenile be held pending a hearing on the requisition. This time period may be extended with the approval from both ICJ Offices.

6. The court in the holding state shall inform the juvenile of the demand made for his/her return and may elect to appoint counsel or a guardian ad litem. The purpose of said hearing is to determine proof of entitlement for the return of the juvenile. If proof of entitlement is not established, the ~~judge~~ court shall issue written findings detailing the reason(s) for denial.
7. In all cases, the order concerning the requisition shall be forwarded immediately from the holding court to the holding state's ICJ Office which shall forward the same to the demanding state's ICJ Office.
8. Juveniles held in detention, pending non-voluntary return to the demanding state, may be held for a maximum of ninety (90) calendar days.
9. Requisitioned juveniles shall be accompanied in their return to the demanding state unless both ICJ Offices determine otherwise. Juveniles shall be returned by the demanding state within five (5) business days of the receipt of the order granting the requisition. This time period may be extended up to an additional five (5) business days with approval from both ICJ Offices.

*History: Adopted October 9, 2013, effective April 1, 2014; amended August 26, 2015, effective February 1, 2016; amended September 27, 2017, effective March 1, 2018*

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**Justification:**

In some state, other court officials, such as commissioners, have judicial authority. This amendment would clarify that they can sign requisitions.

**Effect on Other Rules, Advisory Opinions or Dispute Resolutions:**

The term "judge" is used in the following rules:

1. RULE 6-102: Voluntary Return of Runaways, Probation/Parole Absconders, Escapees or Accused Delinquents and Accused Status Offenders
2. RULE 6-103: Non-Voluntary Return of Runaways and/or Accused Status Offenders
3. RULE 6-103A: Non-Voluntary Return of an Escapee, Absconder or Accused Delinquent

**JIDS Impact:**

Day-forward edits to Form II and Order Setting Hearing for Requisition for Escapee, Absconder, or Accused Delinquent

**Forms Impact:**

Edit Judge to Court on the following forms:

1. Form II - "judge or compact official"
2. Order Setting Hearing for Requisition for Escapee, Absconder, or Accused Delinquent

**Fiscal Impact:**

\$250 – 2 InStream Service Hours for JIDS e-Forms

**Effective Date:**

TBD

**Rules Committee Action:**

12/05/18 – Vote 8-0-0 to recommend for adoption.



## Proposed by Rules Committee

### *RULE 7-104: Warrants*

1. All warrants issued for juveniles subject to the Compact shall be entered into the National Crime Information Center (NCIC) with a nationwide pickup radius ~~with no bond amount set~~ and not eligible for bond.
2. Holding states shall honor all lawful warrants as entered by other states and shall, no later than the next business day, notify the ICJ Office in the home/demanding/sending state that the juvenile has been placed in custody pursuant to the warrant. Upon notification, the home/demanding/sending state shall issue a detainer or provide a copy of the warrant to the holding state.
3. Within two (2) business days of notification, the home/demanding/sending state shall inform the holding state whether the home/demanding/sending state intends to act upon and return the juvenile, or notify in writing the intent to withdraw the warrant. If mandated under other applicable rules, such as those pertaining to runaways or failed supervision, ~~Withdrawal of the absence of a~~ warrant does not negate the home/demanding/sending state's responsibility to return the juvenile ~~under other applicable rules~~.
4. The holding state shall not release the juvenile in custody on bond.

*History: Adopted as Rule 6-108 December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; renumbered as Rule 7-104, effective April 1, 2014; amended August 26, 2015, effective February 1, 2016; amended September 27, 2017, effective March 1, 2018*

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### **Justification:**

Paragraph 1. To clarify “with no bond amount set” does not imply the bond amount is \$0. Additionally, the proposed language mirrors the language utilized for entry into the NCIC system.

Paragraph 3. In many cases, a home state chooses not to act upon its warrant, but also does not withdraw the warrant. The rule does not require notice in these cases.

### **Effect on Other Rules, Advisory Opinions or Dispute Resolutions:**

“Other applicable rules” include 6-102, 6-103, 6-103A, 5-102, and 5-103.  
ICJ Advisory Opinion 03-2018 references 7-104 and requires review.

**JIDS Impact:**

No Impact

**Forms Impact:**

No Impact

**Fiscal Impact:**

No Impact

**Effective Date:**

TBD

**Rules Committee Action:**

**7/18/18** – Voted 8-0-0 to not recommend the proposed language suggested by the Executive Committee Sub-Committee and to propose alternative language to paragraph 3 to address the issue presented by the Executive Committee Sub-Committee.

**01/02/19** – Voted 10-0-0 to recommend for adoption their proposal to Rule 7-104(30 as amended.

**02/06/19** – Voted 8-0-0 to amend their proposal to Rule 7-104 in paragraph 3 to remove “*withdrawal*” and insert “*in the absence of*” and to recommend the proposed amendment for adoption.

**04/03/19** – Voted 10-0-0 to amend paragraph 1 and recommend for adoption.

## Proposed by the East Region

### **RULE 8-101: Travel Permits and Reporting Instructions for Juveniles Testing a Proposed Residence**

1. All travel permits shall be submitted prior to the juvenile's travel. Travel permits shall be mandatory for the following juveniles traveling out-of-state for a period in excess of twenty-four (24) consecutive hours who meet the criteria set forth in 1(a) or 1(b):
  - a. Juveniles who have been adjudicated and are on supervision for one of the following:
    - i. sex-related offenses;
    - ii. violent offenses that have resulted in personal injury or death; or
    - iii. offenses committed with a weapon;
  - b. Juveniles who are one of the following:
    - i. state committed;
    - ii. relocating pending a request for transfer of supervision, and who are subject to the terms of the Compact;
    - iii. returning to the state from which they were transferred for the purposes of visitation;
    - iv. transferring to a subsequent state(s) with the approval of the original sending state; or
    - v. transferred and the victim notification laws, policies and practices of the sending and/or receiving state require notification.
2. Juveniles traveling to a residential facility for placement shall be excluded from this rule; however, states may elect to use the Form VII Out-of-State Travel Permit and Agreement to Return for notification purposes.
3. The travel permit shall not exceed ninety (90) calendar days. ~~If for the purposes of testing a proposed residence, a referral is to be received by the receiving state's ICJ Office within thirty (30) calendar days of the effective date of the travel permit. The issuing state shall instruct the juvenile to immediately report any change in status during that period.~~ a. When a travel permit exceeds thirty (30) calendar days, the sending state shall provide specific instructions for the juvenile to maintain contact with his/her supervising agency.

#### **4. If a travel permit is submitted for the purposes of testing a proposed residence:**

- a. The receiving state shall provide the sending state reporting instructions within five (5) business days of receipt of the Form VII Out-of-State Travel Permit and Agreement to Return. The sending state shall be responsible for communicating reporting instructions to the juvenile and his/her family in a timely manner. The referral is to be received by the receiving state's ICJ Office within thirty (30) calendar days of the effective date of the travel permit. The issuing state shall instruct the juvenile to immediately report any change in status during that period.

b. The sending state shall maintain responsibility until supervision is accepted by, and the juvenile has arrived in, the receiving state. The receiving state shall have the authority to supervise juveniles pursuant to reporting instructions issued.

5. 4.—Out-of-state travel for a juvenile under Compact supervision is at the discretion of the supervising person in the receiving state. If the sending state wishes to retain authority to approve travel, it shall do so by notifying the supervising state in writing. When the sending state retains authority to approve travel permits, the receiving state shall request and obtain approval prior to authorizing the juvenile’s travel.
6. 5.—If a Form VII Out-of-State Travel Permit and Agreement to Return is issued, the sending state is responsible for victim notification in accordance with the laws, policies and practices of that state. The sending and receiving states shall collaborate to the extent possible to comply with the legal requirements of victim notification through the timely exchange of required information.

*History: Adopted as Rule 5-102 December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; amended October 26, 2011, effective March 1, 2012; amended October 17, 2012, effective April 1, 2013; amended October 9, 2013 and renumbered as Rule 8-101, effective April 1, 2014; amended August 26, 2015, effective February 1, 2016; amended September 27, 2017, effective March 1, 2018*

*Comment: Rule 8-101 was originally titled “Informal Communication to Resolve Disputes or Controversies and Obtain Interpretation of the Rules,” adopted December 3, 2009, effective March 1, 2010; renumbered as Rule 9-101, effective April 1, 2014*

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**Justification:**

Rule 8-101, as currently written, appears to serve little purpose. The rule requires the sending state to submit travel permits to the receiving state when certain criteria are met, particularly when a juvenile is testing a proposed residence in the receiving state. The rule requires a sending state to submit notification to the receiving state that this permit is being issued.

However, the rule is silent regarding the receiving state’s obligations. The rule does not compel, or even allow, the receiving state to take any action on these types of travel permits, which creates a gap in direct supervision and services provided to the juvenile and the family. In these circumstances, the receiving state is made aware that juvenile is residing in the community, yet they wait for a referral to be submitted before initiating contact. While the sending state is required to maintain contact with the juvenile during this timeframe, it is difficult to effectively supervise the juvenile long distance, in a community with which the sending state PO is unfamiliar. Consequently, these juveniles can reside in the receiving state for up to 75 calendar days without the benefit of direct supervision; and the receiving state is exposed to potential liability issues by having

knowledge of the juvenile's presence in their community and not making efforts to ensure that the needs of the juvenile and the family are being met.

Data shows that the proposed residence is pursued by the sending state in 75% of these cases. Since there are very few instances in which a receiving state may deny supervision, most of these juveniles are accepted for supervision in the receiving state. The proposed change would require the receiving state to initiate contact with the juvenile upon his/her arrival in the receiving state. This would provide the receiving state with the authority to make contact (which mirrors the existing language in Rule 4-103 (3)(d)) and reinforces that the sending state maintains responsibility of supervision until the case is officially accepted by the receiving state. This change upholds the mission of the Interstate Commission for Juveniles and preserves child welfare and promotes public safety interest by providing continuous supervision and services to the juveniles who are relocating under the ICJ Rules.

**Effect on Other Rules, Advisory Opinions or Dispute Resolutions:**

No Impact

**JIDS Impact:**

Edits to Travel Permit – Testing Residence workflow to track 5 business day due date for the receiving state to submit reporting instructions to the sending state.

**Forms Impact:**

No Impact

**Fiscal Impact:**

\$ 375 – 3 InStream Service Hours

**Effective Date:**

TBD

**Rules Committee Action:**

12/05/18 - Vote 6-1-1 not to recommend for adoption.

**Proposed by COMPLIANCE COMMITTEE**

**Section 900 Dispute Resolution, Enforcement, Withdrawal, and Dissolution**

~~The compacting states shall report to the Commission on all issues and activities necessary for the administration of the Compact as well as issues and activities pertaining to compliance with provisions of the Compact and its by laws and rules.~~

~~The Commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues, which are subject to the Compact and which may arise among compacting states and between compacting and non compacting states. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.~~

~~The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact using any or all means set forth in Article XI of the Compact.~~

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**Justification:**

The amendment proposes the deletion of the introduction in its entirety to avoid confusion and attempts to edit the text. The text is quoted language from Article VII, Section B of the Compact and Compact language can only be amended with approval from all states.

**Effect on Other Rules, Advisory Opinions or Dispute Resolutions:**

None

**JIDS Impact:**

No Impact

**Forms Impact:**

No Impact

**Fiscal Impact:**

No Impact

**Effective Date:**

TBD

**Rules Committee Action:**

2/06/19 – Voted 8-0-0 to recommend for adoption.

## Proposed by COMPLIANCE COMMITTEE

### ***RULE 9-101: ~~Informal Communication to Resolve Disputes or Controversies and Obtain Interpretation of the Rules~~ Initial Dispute Resolution***

#### 1. ~~Informal~~ Direct communication.

Through the office of a state's Compact Commissioner, states shall attempt to resolve disputes or controversies by communicating with each other directly.

#### 2. ~~Failure to resolve~~ Assistance with resolution of dispute or controversy.

- a. Following a documented unsuccessful attempt to resolve controversies or disputes arising under this Compact, its by-laws or its rules as required under Rule 9-101, Section 1, compacting states shall pursue assistance with resolution of the dispute or controversy ~~informal dispute resolution processes~~ prior to resorting to ~~formal~~ dispute resolution alternatives.
- b. Parties shall submit a written request using the form approved by the Executive Committee to the Executive Director for assistance in resolving the controversy or dispute. The Executive Director, or the Chair of the Commission in the Executive Director's absence, shall provide a written response to the parties within ten (10) 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. In the event that a Commission officer(s) or member(s) of the Executive Committee or other committees authorized to process the dispute, is the Commissioner(s) or designee(s) of the state(s) which is a party(ies) to the dispute, such Commissioner(s) or designee(s) ~~will~~ shall refrain from participation in the dispute resolution ~~decision-making~~ process.

#### 3. Interpretation of the rules.

- a. Any state may submit a 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 and legal counsel in consultation with the Executive Committee and shall be circulated to all of the states.

***History: Adopted as Rule 8-101 December 3, 2009, effective March 1, 2010; renumbered as Rule 9-101, effective April 1, 2014; clerically amended February 4, 2015, effective February 4, 2015***

*Comment: Rule 9-101 was originally titled "Transition Rule," adopted December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective September 15, 2010; expired June 30, 2011*

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**Justification:**

The amendment is proposed to better reflect the process used and the title amended to describe the process.

Paragraphs 1 and 2 are formal, since they require a written request to the Executive Director and may trigger involvement of the Legal Counsel, Executive Committee, and/or Compliance Committee.

The proposed change in paragraph 3 is grammatical.

Paragraph 3. The proposed change is grammatical. The sub-letter is not required with only one item in the paragraph.

**Effect on Other Rules, Advisory Opinions or Dispute Resolutions:**

Rule 9-102 and Rule 9-103 proposed amendments  
Compliance Policies

**JIDS Impact:**

No Impact

**Forms Impact:**

Administrative form to be approved by Executive Committee for requesting assistance with resolution of a dispute or controversy.

**Fiscal Impact:**

No Impact

**Effective Date:**

TBD

**Rules Committee Action:**

2/06/19 – Voted 8-0-0 to recommend for adoption.



## Proposed by COMPLIANCE COMMITTEE

### *RULE 9-102: ~~Formal~~ Alternative Resolution of Disputes and Controversies*

#### 1. Use of a Alternative dispute resolution.

- a. Any controversy or dispute between or among parties that arises from or relates to this Compact that is not resolved under Rule 9-101 may be resolved by alternative dispute resolution processes. These shall consist of mediation and arbitration.

#### 2. Mediation and arbitration.

##### a. Mediation.

- i. 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.
- ii. Mediation shall be conducted by a mediator appointed by the Executive Committee from a list of mediators approved by the Commission or a national organization responsible for setting standards for mediators, and pursuant to procedures customarily used in mediation proceedings.

##### b. Arbitration.

- i. Arbitration may be recommended by the Executive Committee in any dispute regardless of the parties' previous submission of the dispute to mediation.
- ii. Arbitration shall be administered by at least one neutral arbitrator or a panel of arbitrators not to exceed three (3) members. These arbitrators shall be selected from a list of arbitrators maintained by the Commission.
- iii. Arbitration may be administered pursuant to procedures customarily used in arbitration proceedings and at the direction of the arbitrator.
- iv. 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.
- v. 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.
- vi. The arbitrator shall have the power to impose any sanction permitted by the provisions of this Compact and authorized Compact rules.
- vii. Judgment on any arbitration award may be entered in any court having jurisdiction.

*History: Adopted as Rule 8-102 December 3, 2009, effective March 1, 2010; renumbered as Rule 9-102, effective April 1, 2014; clerically amended February 4, 2015, effective February 4, 2015*

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**Justification:**

Paragraph 1 retitled. The Compact states that the Commission will promulgate a rule regarding mediation and arbitration; however, this is not the “formal” dispute resolution process that ICJ has historically used. Rule 9-103 outlines the formal dispute resolution most commonly used by the Commission.

Paragraph 1(a). The proposed change is grammatical. The sub-letter is not required with only one sub-item in the paragraph.

**Effect on Other Rules, Advisory Opinions or Dispute Resolutions:**

Rule 9-101 and Rule 9-103 proposed amendments  
Compliance Policy

**JIDS Impact:**

No Impact

**Forms Impact:**

No Impact

**Fiscal Impact:**

No Impact

**Effective Date:**

TBD

**Rules Committee Action:**

2/06/19 – Voted 8-0-0 to recommend for adoption.

## Proposed by COMPLIANCE COMMITTEE

### *RULE 9-103: Enforcement Actions against a Defaulting State*

1. The Commission shall not bear any costs relating to curing the default, unless otherwise mutually agreed upon between the Commission and the defaulting state.
2. 4. The Commission shall impose sufficient sanctions ~~seek the minimum level of penalties necessary~~ to ensure the defaulting state's fulfillment ~~performance~~ of such obligations or responsibilities as imposed upon it by this compact and hold the defaulting state accountable. Sanctions shall be imposed in accordance with policies established by the Commission.
3. 2. If the 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 Commission may impose any or all of the following ~~penalties~~ sanctions.
  - a. Remedial training and technical assistance as directed by the Commission;
  - b. Alternative dispute resolution;
  - c. Fines, fees and costs in such amounts as are deemed to be reasonable as fixed by the Commission;
  - d. Suspension and/or termination of membership in the Compact. Suspension or termination shall be imposed only after all other reasonable means of securing compliance under the by-laws and rules have been exhausted, and the Commission has therefore determined that the offending state is in default. Immediate notice of suspension shall be given by the 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.
4. 3. 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, Commission by-laws, or duly promulgated rules, and any other grounds designating on Commission by-laws and rules. ~~The Commission shall immediately notify the defaulting state in writing of the default and the time period in which the defaulting state must cure said default. The Commission shall also specify a potential penalty to be imposed on the defaulting state pending a failure to cure the default. If the defaulting state fails to cure the default within the time period specified by the 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 termination.~~
5. The Commission shall immediately notify the defaulting state in writing of the default and the time period in which the defaulting state must cure said default. The Commission shall also specify a ~~potential penalty~~ sanction(s) to be imposed on the defaulting state ~~pending a~~

failure to cure the default., which shall be in addition to any costs associated with curing the default, including but not limited to: technical and training assistance and legal costs.

6. Sanctions may be abated if the default is cured. Conditions under which abatement may be considered shall be clearly outlined and provided to the defaulting state at the time the state is notified of the default.
7. If the defaulting state fails to cure the default within the time period specified by the Commission, in addition to any other penalties sanctions 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 termination.
8. 4. Within sixty (60) days of the effective date of termination of a defaulting state, the 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.
9. 5. 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.
- ~~6. The Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the Commission and the defaulting state.~~
10. 7. Reinstatement following termination of any compacting state requires both a reenactment of the Compact by the defaulting state and the approval of the Commission pursuant to the rules.

*History: Adopted as Rule 8-103 December 3, 2009, effective March 1, 2011; renumbered as Rule 9-103, effective April 1, 2014; clerically amended February 4, 2015, effective February 4, 2015; amended August 26, 2015, effective February 1, 2016*

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**Justification:**

Proposed amendment re-organizes paragraphs and adds provisions to clarify issues related to expectations, costs, penalties/sanctions, and enforcement. “Sanctions” is substituted for “penalties” throughout.

New paragraph 1. Language in current paragraph 6 was relocated to highlight that costs and penalties/sanctions are separate issues.

Current paragraph 3 was renumbered 4, then divided into paragraphs 4 and 5.

New language was added to proposed paragraph 5 to clarify that costs associated with curing the default are additional to any sanctions that may be imposed.

New language was added as proposed paragraph 6 to specify that sanctions may be abated.

Current paragraph 6 was moved, and would become paragraph 1 (as previously described).

**Effect on Other Rules, Advisory Opinions or Dispute Resolutions:**

Rule 9-101 and 9-102

Compliance Policies

Whitepaper: Why Your State Can Be Sanctioned for Violation the Compact, Sept. 2012

ICJ Advisory Opinion 01-2018 references Rule 9-103(2)

**JIDS Impact:**

No Impact

**Forms Impact:**

No Impact

**Fiscal Impact:**

No Impact

**Effective Date:**

TBD

**Rules Committee Action:**

**2/06/19** – Voted 8-0-0 to recommend for adoption.