

INTERSTATE COMMISSION FOR JUVENILES

Rules Committee Meeting Minutes

February 2, 2022
2:00 p.m. ET
Via Zoom



Voting Members in Attendance:

1. Stephen Horton (NC), Commissioner, Chair
2. Caitlyn Bickford (NH), Commissioner, Vice Chair
3. Judy Miller (AR), Designee
4. Michael Farmer (CA), Commissioner
5. Mary Kay Hudson (IN), Commissioner
6. Tracy Hudrlik (MN), Commissioner
7. Julie Hawkins (MO), Commissioner
8. Edwin Lee, Jr. (NJ), Designee

Non-Voting Members in Attendance:

1. Anna Butler (KY)
2. Nita Wright (IN)
3. Michael Tymkew (MI)
4. Kelly Palmateer (NY)
5. Raymundo Gallardo (UT)
6. Dawn Bailey (WA)

Members Not in Attendance:

1. Jennifer LeBaron (NJ), Commissioner

Guest in Attendance:

None

National Office Staff & Legal Counsel in Attendance:

1. MaryLee Underwood, Executive Director
2. Emma Goode, Logistics and Administrative Specialist
3. Jenny Adkins, Operations and Policy Specialist
4. Joe Johnson, Project Manager

Call to Order

Chair Horton (NC) called the meeting to order at 2:00 p.m. ET.

Roll Call

Director Underwood called the roll and a quorum was established.

Agenda

M. Farmer (CA) made a motion to approve the agenda as presented. T. Hudrlik (MN) seconded. The motion carried.

Minutes

J. Miller (AR) made a motion to approve the December 1, 2021 meeting minutes as presented. M. K Hudson (IN) seconded. The motion carried.

Discussion

Rule 1-101: Relocate (Rules Subcommittee)

- J. Hawkins (MO), member of the Rules Subcommittee, provided an update on their work and presented for consideration proposed rule amendments. The term “relocate” is used differently throughout the rules. In some instances, it means the same as defined in Webster’s dictionary: “to locate again: establish or lay out in a new place.” In other instances, the use of the term is unique to ICJ and is defined in Rule 1:101 as: “when a juvenile remains in another state for more than 90 consecutive days in any 12 months.” Upon the review of the term’s usage throughout the rules, the Rules Subcommittee proposed to delete the definition of “relocate” and amend the rules as outlined below:

Rule 1-101

~~Relocate: when a juvenile remains in another state for more than ninety (90) consecutive days in any twelve (12) month period.~~

- T. Hudrlik (MN) asked if deleting the definition of “relocate” would create confusion regarding the requirements for relocation, as compared to travel on a travel permit. J. Hawkins (MO) replied the proposed change would not change the eligibility requirements in Rule 4-101(2)(d).

Rule 4-101(2): No state shall permit a juvenile who is eligible for transfer under this Compact ~~relocate~~ to **reside in** another state except as provided by the Compact and these rules. A juvenile shall be eligible for transfer under ICJ if the following conditions are met...

- d. has a plan inclusive of ~~relocating to~~ **residing in** another state for a period exceeding ninety (90) consecutive days in any twelve (12) month period; and...
- J. Hawkins (MO) explained that “reside” is a more appropriate word than the term “relocate” as defined by ICJ.

Rule 4-102(2)(a)(ii): ii. When it is necessary for a State Committed (parole) juvenile to ~~relocate~~ **reside in the receiving state** 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~~ justify the use of a Form VII Out-of-State Travel Permit and Agreement to Return, including consideration of the appropriateness of the residence.

- J. Hawkins (MO) updated that after the proposed change made by the Rules Subcommittee they were open to retaining the current language as the section refers to paroled juveniles, which means they are going to a known location.

Rule 4-103(3): When it is necessary for a juvenile sex offender **to relocate or reside** 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 justify the use of a Form VII Out-of-State Travel Permit and Agreement to Return, including consideration of the appropriateness of the residence

- J. Hawkins (MO) presented Rule 4-103(3) for further discussion, which addresses juvenile sex offenders. There are incidents when the juvenile sex offender could be residing out of state at the time of adjudication. C. Bickford (NH), member of the Rules Subcommittee, suggested to add “relocate or reside” to address those incidents.
- The Rules Committee reviewed a proposed justification statement for deletion of “relocate” and discussed how to package related proposals together to avoid unintended consequences should one or more proposals not pass. M. Farmer (CA) suggested replacing “doesn’t make sense” with “inconsistent” in the justification. Rules Subcommittee members agreed.
- M. K. Hudson (IN) shared that the Interstate Commission for Adult Offender Supervision (ICAOS) packaged related rules together regarding warrants. One of the strategies was explaining the packaged proposals with each of the regions to address questions and concerns prior to the vote. Director Underwood suggested advance planning to address questions in regions rather than closer to the voting period.
- N. Wright (IN) asked: “could language be included in the proposal that it is contingent upon the action taken regarding the definition of relocate?”
- J. Miller (AR) noted that the Rules Subcommittee also reviewed the term “relocate” in other areas of the rules and agreed deleting the definition of relocate would not impact these rules. The list of rules referenced are as follows:

Rule 4-102(2)(a)(i): Parole conditions, if not already included, shall be forwarded to the receiving state upon the juvenile’s release from an institution. Form V Notification From Sending State Of Parolee or Probationer Proceeding To The Receiving State shall be forwarded prior to or at the time the juvenile **relocates** to the receiving state.

Rule 4-102(2)(b): Form V Notification From Sending State Of Parolee or Probationer Proceeding To The Receiving State shall be forwarded prior to or at the time the juvenile **relocates** to the receiving state, if the juvenile is not already residing in the receiving state.

Rule 4-103(2): Parole conditions, if not already included, shall be forwarded to the receiving state upon the juvenile’s release from an institution. Form V Notification From Sending State of Parolee or Probationer Proceeding to the Receiving State shall be forwarded prior to or at the time juvenile **relocates** to the receiving state if the juvenile is not already residing in the receiving state pursuant to Rule 4-103(3).

Rule 5-104(2): After the receiving state has accepted a probation/parole case for supervision, the juvenile shall **relocate** within ninety (90) calendar days. If the juvenile does not relocate within this timeframe, the receiving state may close the case with written

notice to the sending state. The sending state may request an extension beyond the ninety (90) calendar day timeframe, providing an appropriate explanation, or may resubmit the referral at a later date.

Rule 8-101(1)(b)(ii):

b. Juveniles who are one of the following:

ii. state committed;

iii. **relocating** pending a request for transfer of supervision, and who are subject to the terms of the Compact;

- K. Palmateer (NY) asked how the changes would impact ICJ 4-103(3), which states:

‘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 justify the use of a Form VII Out-of-State Travel Permit and Agreement to Return, including consideration of the appropriateness of the residence.’

- K. Palmateer (NY) posed a couple of questions: If a juvenile was residing in the receiving state, would they be forced to remain in the sending state until acceptance? Would those juveniles who reside in a receiving state need a travel permit? The proposed changes would eliminate the need for those juveniles who reside in the receiving state at the time they are sentenced to be issued a travel permit under the Travel Permit Rule 8-101.
- J. Hawkins (MO) commented to New York’s concern that by leaving “relocate” in the Rule 8-101(1)(b)(ii), it would apply to that population of juveniles to require a travel permit when they are already residing in the receiving state. She acknowledged there are a lot of varied opinions on the topic.
- T. Hudrlik (MN) supports providing as much notification as possible on a sex offender and possibly bringing back a proposal for “reporting instructions”.
- N. Wright (IN) chatted “she supports.”
- J. Hawkins (MO) cautioned to implementing ICJ Rules with which states cannot comply. For example, states are often behind on the time frame awaiting a court hearing in another state. Oftentimes, the juvenile is in the receiving state prior to the receiving state’s knowledge. Additionally, she noted that the Subcommittee proposed that changes to the travel permit rule should not be packaged with the proposed rule amendments discussed earlier.
- **T. Hudrlik (MN) made a motion to table the discussion until the next meeting. J. Miller (AR) seconded. The motion passed.**
- Chair Horton (NC) acknowledged the work of the Rules Subcommittee and left it to their discretion whether or not they wished to continue their work for the next discussion.

Rule Proposal Guide

- Chair Horton presented a modified draft of the Rule Proposal Guide for discussion.
- T. Hudrlik (MN) shared her concern in the first section regarding one

Commissioner or Designee bringing forth one issue based on one incident as a proposal.

- Director Underwood noted issues are referred to the Rules Committee. The question is whether a Commissioner may put forth a proposal to the Commission for vote without an endorsement from the Rules Committee.
- M. K. Hudson (IN) agreed that Commissioners have an opportunity to share their proposals/concerns via committees and regions for input and support. The Rules Committee agreed. The National Office will shore the language in the draft for clarity and understanding to reflect and clarify that proposals from Commissioners/Designees can be submitted directly to the Rules Committee, but in order for the proposal to be voted on by the Commission they must be put forward as an amendment from the Rules Committee.
- **J. Hawkins (MO) made a motion to table the discussion until the next meeting to review an updated draft. T. Hudrlik (MN) seconded. The motion passed.**

Old Business

Rule Amendment Training

- Chair Horton updated that he and T. Hudrlik (MN) will present the live Rule Amendments Training via Zoom on February 9. Further, he and C. Bickford (NH) will lead the live Rule Amendments Training via Zoom on February 23.

New Business

Rule 6-103A and Form II

- Chair Horton reported that an issue was discovered regarding the update to the Form II which was scheduled to go into effect March 1, 2022. The concern, raised by Julie Hawkins (MO), is that there is an inconsistency between Form II and Rule 6-103A. The Form II states “certified true” copies must be attached and Rule 6-103A does not state copies are to be certified. As such, the form imposes a requirement that is not based on the ICJ Rules. The ICJ National Office researched and discovered the error occurred in 2012 when Rule 6-103 (which included provisions now set forth in 6-103A) was amended.
- According to the Forms Responsibility Policy, the correction should be made to the Form II and re-submitted to the Rules and Executive Committees for the 30-day comment period.
- Director Underwood added that the Executive Committee approved a delay of the release of Form II to address the correction and allow time for the comment period.

Rule 7-104: Warrants and No-Bail Issue

- Chair Horton updated on a case last year between Idaho and Washington whereby a Washington Judge wished to issue a bail bond for a juvenile, stating that it is required according to the Washington State Constitution. Director Underwood shared the Interstate Compact for Juveniles (Statute) which states in Article XIII, Section A. Other Laws
All compacting states’ laws other than state Constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

- M. Farmer (CA) recalled the case involved adult charges and the request for bail was not directly related to juveniles. D. Bailey (WA) added she believed that the juvenile was held in adult jail and the judge did point to the Washington State Constitution for the requirement to issue bail.
- Chair Horton (NC) shared his understanding that there was a no bail bond for a fugitive from another state. M. K. Hudson (IN) concurred and added there can be no offer of bond or release until the individual is returned.
- J. Hawkins (MO) noted that the ICJ Bench Book, section 1.2.2 “The terms of the compact take precedence over state law even to the extent that a compact can trump a provision of the state’s constitution. See, e.g., *Wash. Metro Area Transit Auth. V. One Parcel of Land...*”
- Director Underwood acknowledged that section was flagged during the recent review of updates to the ICJ Bench Book, which is currently under review by Legal Counsel. She explained that the citation is accurate as it generally related to Compacts, but is not helpful on this matter. Since there has been minimal litigation related to the juvenile compact, the Bench Book includes a lot of general information related to other compacts that may be applicable in some situations. However, since the Compact directly says that it does not supersede state constitutions, there is no need to turn to case law to extrapolate. State constitutions supersede the provisions of the ICJ and its Rules.
- Chair Horton (NC) asked if a poll should be administered to determine frequency of the issue.
- N. Wright (IN) chatted “We’ve had a similar scenario where the adult side wanted to allow the bail, nonetheless, since the juvenile side had their hold properly in place, the bond still wouldn’t allow for the juvenile to be released. The matter merely transferred to the juvenile jurisdiction and removed the adult jurisdiction’s place in line.”
- M. Farmer (CA) offered to mention this issue in the next West Region meeting, adding he was uncertain if there was more than the one incident with this juvenile or if there were other incidents. D. Bailey (WA) updated she is aware of only the one.
- J. Hawkins (MO) cautioned that there would be a major impact if Rule 7-104: Warrants is changed. She also expressed concern about opening the door to other matters related to state Constitutions.
- T. Hudrlik (MN) requested more information in writing to better explain the request to the region meeting.
- M. K. Hudson (IN) requested clarity on whether the issue is about the compact superseding state law or another authority. Director Underwood referenced the ICJ Bench Book Section 2.1.2 and summarized the levels of legal authority. The Compact (Statute) is the first resource, as it has been adopted by all states and is therefore similar to federal law status. Many states have the bail bond provision in their state Constitutions; however, the language is not directed at either adults or juveniles specifically.
- Chair Horton (NC) summarized that he would communicate with Jedd Pelander (WA), Anne Connor (ID), and N. Wright (IN) and share information with the Rules Committee. Members of the Rules Committee will ask their region representatives to inquire in their next region meeting as to the frequency of cases such as the Idaho Washington case.

- **J. Hawkins (MO) made a motion to table the discussion until the June meeting to allow further research of the matter. M. Farmer (CA) seconded. The motion passed.**

Adjourn

C. Bickford (NH) made a motion to adjourn. Chair Horton adjourned the meeting by acclamation at 3:18 p.m. ET.