

INTERSTATE COMMISSION FOR JUVENILES

Rules Committee Meeting Minutes

June 10, 2021
11:00 a.m. ET
Via WebEx



Voting Members in Attendance:

1. Tracy Hudrlik (MN), Commissioner
2. Judy Miller (AR), Designee
3. Mary Kay Hudson (IN), Commissioner
4. Roy Curtis (ME), Designee
5. Julie Hawkins (MO), Commissioner
6. Caitlyn Bickford (NH), Commissioner
7. Edwin Lee, Jr. (NJ), Designee
8. Daryl Liedecke (TX), Commissioner
9. Maureen Clifton (WY), Commissioner

Non-Voting Members in Attendance:

1. Matt Billinger (KS)
2. Kelly Palmateer (NY)
3. Stephen Horton (NC)

Members Not in Attendance:

1. Tomiko Frierson (IL), Commissioner
2. Galan Williamson (ME), Commissioner
3. Jennifer LeBaron (NJ), Commissioner
4. Raymundo Gallardo (UT)
5. Dawn Bailey (WA)

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

Call to Order

Chair Hudrlik (MN) called the meeting to order at 11:00 a.m. ET.

Roll Call

Director Underwood called the roll and quorum was established.

Agenda

M. Clifton (WY) made a motion to approve the agenda as presented.
J. Hawkins (MO) seconded. The motion carried.

Minutes

J. Miller (AR) made a motion to approve the April 7, 2021 meeting minutes as presented. C. Bickford (NH) seconded. The motion carried.

Discussion

ICJ 2021 Proposed Rule Amendments – Comments Review

- Chair Hudrlik opened the discussion of the comments received during the comment period (April 28 - June 4, 2021). First, she advised that the Technology Committee will review the UNITY and forms impact of the proposed rule amendments in June and July. The initial assessment by the National Office denotes the proposals to ICJ Rules 5-103 and 8-101 will have impacts. Quotes will be requested from the data management system vendor so that relevant information can be added prior to final posting of the proposed amendments in August.
- Chair Hudrlik indicated that the committee would only discuss proposals about which comments were received, unless members requested discussion on others.

SECTION 100

Rule 1-101: Definitions - Absconder

proposed by the Rules Committee (0 Comments)

- M. K. Hudson (IN) requested further discussion of the definition of “Absconder.” Noting that the proposal includes deletion of “with the intent,” she expressed concern that the remaining phrase “to avoid” could also imply intent. She suggested that the definition should focus on the juvenile being missing, and not on intent. R. Masters, Legal Counsel, agreed the definition “Absconder” should focus on whether the juvenile is present. The Rules Committee revised the proposal as follows:
 - Absconder: a juvenile probationer or parolee who hides, conceals, or absents him/herself ~~with the intent~~ **so that** ~~to avoid~~ **he/she is unavailable for the** legal process or authorized control.
- **D. Liedecke (TX) made a motion to amend the proposed rule amendment to ICJ Rule 1-101: Definitions - Absconder as amended, and update the justification accordingly. M. K. Hudson (IN) seconded. The motion passed by a 9-0-0 vote.**

Rule 1-101: Definitions - Proof of Entitlement

proposed by the Rules Committee (1 Comment)

- The Rules Committee discussed the comment from Oregon that the word “testimony” proposed in the new definition could result in increased requests for states to provide testimony at hearings in other states.
- Chair Hudrlik reported that the Executive Committee has discussed the issue of increased requests for testimony and requested input from legal counsel.
- R. Masters, Legal Counsel, updated that he prepared a Legal Memorandum for the Interstate Commission for Adult Offender Supervision (ICAOS) on a related topic. In summary, the memo states the purpose of the Compact with regards to interstate cooperation and that summoning officials in another state to testify defeats the purpose of the Compact. The ICJ Executive Committee continues to discuss and may release guidance in the months ahead.

- Director Underwood commented that it is unknown if having the word “testimony” would increase the requests. She suggested the committee focus on two questions raised by the comment:
 1. Is the definition necessary?
 2. Should the term “testimony” be included in the proposed definition?
- Director Underwood suggested “Documentation or other evidence” could be substituted to avoid the term “testimony”. R. Curtis (ME) commented that the intent was to have a definition for the term and agreed with the proposed suggestion.
- **J. Miller (AR) made a motion to amend the proposed new Rule 1-101: Definitions - Proof of Entitlement submitted by the Rules Committee to read:**

Proof of Entitlement: Documentation or other evidence submitted as part of a requisition that enables a court to verify the authority of the requisitioner to the return of a juvenile
- **D. Liedecke (TX) seconded. The motion passed by a 9-0-0 vote.**

SECTION 400

Rule 4-102: Sending and Receiving Referrals

proposed by the ICJ Rules Committee (2 comments)

Paragraph 2. (a.) (i.)

- The Rules Committee discussed the comment from Oklahoma questioning the addition of the word “photograph,” noting that some states do not release photographs of youth.
- Chair Hudrlik responded that such states would not be impacted because photographs would not be required, given that they are include in the list of items that should be provided “if available”.
- J. Miller (AR) noted that she had spoken with the person who submitted the comment and clarified his concern was whether “if available” applied to the proposed addition.
- Chair Hudrlik confirmed that photograph is a part of the information to be furnished only if available and is not required. There was no motion to modify the proposal to Rule 4-102, paragraph 2. (a.) (i.).

Paragraph 2. (a.) (ii.)

- The Rules Committee discussed the comment from Oregon which opposed the following proposed amendment:

...to relocate with a legal guardian prior to the acceptance of supervision, and there is no legal guardian in the sending state ~~under the provision of Rule 4-104(4)~~
- Oregon’s comment stated:

Oregon has concerns pertaining to Rule Proposal for Rule 4-102: Sending and Receiving Referrals pertaining to the proposed wording in section (ii). In Oregon, The Oregon Youth Authority - OYA (OR’s juvenile justice agency) has full custodial and legal guardianship of a youth who is on parole to them and not the youth’s parents. In addition,

there are cases in other states where the state's child welfare agency has legal guardianship of a paroled youth. By not allowing these two categories of youths the opportunity to relocate to the receiving state due to extenuating circumstances, it could jeopardize the youth and/or their families safety.

For example: OR has had cases where one of their paroled youth (who had been residing out in the community) needed to relocate to another state immediately due to threats or recent violent acts committed against the youth and/or their family. Under the current rules, OR was able to relocate these youths right away ensuring their safety by using a travel permit testing placement as we went through the transfer request process. But if this rule proposal passes, it would exclude youths whose guardianship is under a state's agency (like OYA or a child welfare agency) to relocate right away when there is a clear and present need or extenuating circumstance for the relocation because the youth would have a legal guardian in the sending state, that being OYA. This rule does not appear to be fair to those youths as it excludes them. OR is wondering if wording along the lines of "...and there is no legal guardian beyond the custodial agency in the sending state" could please be added to this proposal?"

- J. Hawkins (MO) understands the concern that when the Oregon Youth Authority (OYA) has full custody of a juvenile living in the community and a parent moves, the rule would prohibit relocating on a travel permit because the parent does not have custody of the youth. R. Masters, Legal Counsel, suggested replacing *beyond* with *other*, if the suggestion is used.
- Director Underwood cautioned that modified language is inconsistent with Rule 4-104 which states: "...except when a juvenile has no legal guardian in the sending state and does have a legal guardian in the receiving state".
- Chair Hudrlik noted the proposed amendment was not a change to the rule. The amendment was inserting existing language from Rule 4-104(4) rather than referencing another rule within a rule.
- K. Palmateer (NY) commented that the proposal was restating what currently exists and questioned how the situation was currently addressed as it is not currently in the rules. J. Hawkins (MO) noted the comment was specific to a travel permit.
- Chair Hudrlik noted that the current proposal is not changing language the language is already in the rules. The modification suggested by Oregon comment would entail a proposed amendment to Rule 4-104(4). Therefore, it could not be taken up during this rules cycle. M. Billinger (KS) agreed it is in conflict and needs more vetting and perhaps should go to the next rules cycle.
- J. Hawkins (MO) supported consideration in the next cycle.
- R. Masters, Legal Counsel, advised the rule amendment could be tabled until the next cycle. Tabling the rule proposal would remove it from consideration in 2021 while keeping the proposal alive for consideration in the next rules cycle.
- **J. Hawkins (MO) made a motion to table the proposed amendment and recommendation for adoption to Rule 4-102: Sending and Receiving Referrals by the Rules Committee until the next cycle for further review. M. K. Hudson (IN) seconded. The motion passed by a 9-0-0 vote.**

- K. Palmateer (NY) pointed out that the motion to table the entire proposal also eliminated the proposed language in paragraph 2. (a.) (i.) and (b.). J. Hawkins (MO) affirmed that was not the intent and suggested to move the proposal forward without changes to paragraph 2. (a.) (ii.).
- **J. Hawkins (MO) made a motion to reconsider the motion to table the entire proposed amendment to Rule 4-102. M. K. Hudson (IN) seconded. The motion passed by a 9-0-0 vote.**
- Chair Hudrlik advised that the Rules Committee will return to a discussion of proposed amended language by Oregon to determine if any action should be taken.
- **M. K. Hudson (IN) made a motion to reject the proposed amended language in Rule 4-102, paragraph (2.) (a.) (ii.) proposed by Oregon. D. Liedecke (TX) seconded. The motion passed by a 9-0-0 vote.**
- M. K. Hudson (IN) commented that this rule proposal demonstrates the importance of the vetting process. The Commission comments on proposals and the Rules Committee acknowledges their voices by taking appropriate action.
- K. Palmateer (NY) cautioned that removal of the proposed amendment in paragraph 2 (a.) (i.) does not change the current practice, UNITY functionality, or address the concern raised by Oregon.

SECTION 500

Rule 5-101: Supervision/Services Requirements *proposed by the ICJ Rules Committee (1 comment)*

Paragraph numbering

- First, Chair Hudrlik suggested that an additional paragraph number should be added to the proposal for clarity and consistency with other sections. The Rules Committee agreed the change is not substantive and improves the flow of the rule.
- **M. K. Hudson (IN) made a motion that the proposed new paragraph in ICJ Rule 5-101 be separately numbered. C. Bickford (NH) seconded. The motion passed by a 9-0-0 vote.**

Comment on process

- The Rules Committee discussed the comment from Abbie Christian, Nebraska, that questioned whether the intent of the proposed new paragraph was for the sending state to request a new home evaluation.
- Chair Hudrlik stated that the intent was not really to have sending states request new home evaluations in most cases. She pointed out that the justification denotes the proposal stemmed from Legal Advisory Opinion #01-2020 and the intent was to clarify in the rules that the sending state may request additional information. M. K. Hudson (IN) concurred the intent of the proposed language was not to trigger the completion of a new home evaluation. J. Hawkins (MO) commented that the proposal that states *may request additional information*; therefore, what to send depends on what the sending state requests.
- Committee members discussed the proposal and the Legal Advisory Opinion #01-2020 and reached a consensus that both should remain as written.

- **D. Liedecke (TX) made a motion to advance the proposed amendment to Rule 5-101: Supervision/Services Requirements as written. J. Hawkins (MO) seconded. The motion passed by a 9-0-0 vote.**

SECTION 800

Rule 8-101: Travel Permit

proposed by the ICJ Technology Committee (1 comment)

- The Rules Committee discussed the comment from Nina Belli (OR). Oregon's comment stated:

Oregon has concerns pertaining to the wording in section (b)(ii) in Rule Proposal for Rule 8-101: Travel Permits.

"We have seen an increase of youths already being in their home state when their adjudication/disposition hearings in other states are held. Why would we need a travel permit when the youth is currently physically in their home state (receiving state) at the time of their adjudication/disposition? Where is the youth traveling to, their home that they are already at? Also, the youth has permission to remain or return home in the receiving state where they currently reside, per the sending state's Judge/court when they grant the youth release from detention or placed the youth on supervision. Support for this can be seen in the sending state's ICJ Form VI signed by their Judge, and at times it is also indicated in the youth's adjudication and disposition orders. Notification to the receiving state of a youth's status who is residing in their community is provided by use of the Form IV as part of the transfer packet. It appears that this would be creating additional work for the sending states locals and their ICJ offices by having them produce a travel permit after taking into account the above factors."
- J. Hawkins (MO) questioned the need for a travel permit when the youth is physically in the state where they typically reside at the time of their adjudication/disposition. She commented that there has been an increase in the number of virtual hearings, so the juvenile may or may not be in the sending state at the time of the hearing.
- K. Palmateer (NY) explained that the proposal was initiated by the UNITY Business Analysis Team during the UNITY development process. The goal was to clarify the different travel permit processes in UNITY. States use the travel permit for different things and the proposal was to be clear about the situation for which a state is using the travel permit, for example:
 - Testing residence for a transfer;
 - Testing residence with a family member and not sure if they will transfer; and
 - Juvenile residing in state of usual residence, while awaiting approval of transfer of supervision
- J. Hawkins (MO) supported Oregon's comments, noting the change could cause compliance issues with states that do not issue a travel permit when the juvenile is living in their state while pending disposition.
- K. Palmateer (NY) questioned whether it would violate the compact for a juvenile on active supervision to reside in the receiving state without a travel permit while

pending approval of transfer of supervision. J. Hawkins (MO) commented that standard practice is all forms are included in the transfer of supervision packet.

- K. Palmateer (NY) noted that the selection of the type of travel permit sets the path in UNITY. Currently, the rules require a travel permit for a juvenile who is “relocating” pending a request for supervision.
- J. Miller (AR) stated that she is not comfortable with the language as proposed and does not understand completing the sending and receiving state addresses for a travel permit that would be the same address. J. Hawkins (MO) commented that under the current ICJ Rules, states were operating in a gray area of interpretation when juveniles already resides outside the state of disposition. She supported the comment by Oregon and does not support the proposed amendment.
- Chair Hudrlik summarized that the intent of the proposal was to the current rules, noting that the issue emerged through the UNITY development process because of the differences in the ways states interpret the current rules.
- Director Underwood noted the ICJ Rules define “relocate” as “when a juvenile remains in another state for more than 90 consecutive days in any 12 month period.” She recalled the lengthy discussion of the BA Team regarding the travel permit. Their intent was not to change anything, rather to ensure that the data management system functions in accordance with the rules.
- Chair Hudrlik presented the three options available to the Rules Committee:
 - Motion to support as presented.
 - Motion to withdraw previous support.
 - Motion to provide recommended changes and return to the Technology Committee.
- J. Miller (AR) suggested returning the proposal back to the Technology Committee with a recommended change. Director Underwood cautioned that due to the short time frame in the process, a recommendation to accompany the return of the proposal to the Technology Committee would be needed. M. K. Hudson (IN) suggested returning to the Technology Committee and sharing concerns without a recommendation.
- D. Liedecke (TX) cautioned that the proposal also included proposed language in paragraph 3. (c.). The Rules Committee reviewed and agreed it was only the proposed language in paragraph 1. (b.) (ii.) that was the concern.
- **M. K. Hudson (IN) made a motion that the Rules Committee withdraw its support of the proposed amendment to Rule 8-1011. (b.) (ii.) as presented; and to recommend that the Technology Committee withdraw the proposed amendment on comment received. J. Miller (AR) seconded. The motion passed by a 9-0-0 vote.**

Finalize the 2021 Proposed Rule Amendments

- Chair Hudrlik summarized that the rule proposals will be updated with the actions of the Rules Committee. The Technology Committee will review the proposals impact to UNITY and ICJ Forms and the decision by the Rules Committee regarding Rule 8-101 at their next meeting.
- The Rules Committee has scheduled meetings on July 7 and August 4 for any final tweaks before final positing.

2021 Annual Business Meeting Events

- Chair Hudrlik summarized the 2021 Annual Business Meeting events involving the Rules Committee:
 - September 9, 2021 @ 2:00 p.m. EST - Public Hearing
 - Members should plan to attend to assist in answering questions that may arise.
 - October 4, 2021 @ 3:30 p.m. EST - 2021 Rule Proposal Training
 - Members are invited to participate in the presentation, which will be like the one in the last rule cycle. ICJ Rules Committee members will present the rule proposals and were encouraged to advise the National Office of which rules they would like to present. At the July meeting, the training presentations will be assigned to begin preparation.
 - October 7, 2021 – The Commission will vote on the proposed rule amendments during the General Session of the 2021 Annual Business Meeting.

Old Business

There was no old business.

New Business

There was no new business.

Adjourn

- The next scheduled meetings of the Rules Committee are July 7 and August 4 both at 3:00 p.m. ET.
- **M. K. Hudson (IN) made a motion to adjourn. D. Liedecke (TX) seconded. Chair Hudrlik adjourned the meeting by acclamation at 12:59 p.m. ET.**