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|  | Interstate Commission for Juveniles | Opinion Number: 01-2016 | Page Number: 1 |
| ICJ Advisory Opinion Issued by: Executive Director: Ashley H. Lippert Chief Legal Counsel: Richard L. Masters | | | |
| Description: Pre-adjudication Home Evaluation Requests | | Dated: July 28, 2016 | |

Background:

Pursuant to Commission Rule 9-101(3), the ICJ Rules Committee has requested an advisory opinion regarding the requirements of the Compact and ICJ Rules on the following issue:

Issues:

The ICJ Rules Committee is requesting a formal advisory opinion regarding a sending states ability to request that a receiving state conduct a home evaluation prior to a juvenile being adjudicated.

The following are the issues the Rules Committee is asking be addressed:

1. Can a state request a home evaluation for a juvenile who is pending adjudication for charges in the sending state?
2. What must the sending state provide when making such a request?
3. Is the receiving state required to provide a recommendation for acceptance or denial based on this information and the results of the home evaluation?


Applicable Compact Provisions and Rules:

“Rule 1-101 Home Evaluation:

“an evaluation and subsequent report of findings to determine if placement in a proposed and specified resource home/place is in the best interest of the juvenile and the community.”

“Rule 4-101 Eligibility Requirements for Transfer of Supervision

2. No state shall permit a juvenile who is eligible for transfer under this compact to relocate to another state except as provided by the Compact and these rules. A juvenile shall be eligible for transfer under the ICJ if the following conditions are met:

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b. is an adjudicated delinquent, adjudicated status offender, or has a deferred adjudication in the sending state; and . . .

“Rule 4-102: Sending and Receiving Referrals:

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.”


Analysis and Conclusions:

The Rules Committee asks if a state is permitted to request a home evaluation for a juvenile who is pending adjudication for charges in in the sending state and if so what must the sending state provide in making such a request and whether the receiving state is required to provide a recommendation for acceptance or denial based on this information and the results of the home evaluation?

While the existing ICJ rules don’t explicitly prohibit a sending state from requesting a home evaluation for a juvenile pending adjudication, the terms home evaluation are only used in the definitions provided in ICJ Rule 1-101 and in the specified procedures for sending and receiving ICJ referrals in Rule 4-102. These specified procedures are required to be followed with respect to a referral for transfer of a juvenile supervision case in which the juvenile is eligible for transfer under ICJ Rule 4-101 which provides the eligibility requirements for ICJ transfers.

Under the provisions of ICJ Rule 4-101.2, a juvenile is eligible for transfer only if the conditions specified in sub-sections a. through f. are satisfied. These conditions include the requirement that the juvenile “is an adjudicated delinquent, adjudicated status offender, or has a deferred adjudication in the sending state. . .”

As in other cases of statutory construction, the provisions of the Compact statute and rules should be interpreted in harmony with other sections of the statute, or in this case the above referenced ICJ rules and *"plain meaning is examined by looking at the language and design of the statute as a whole."* See, *Lockhart v. Napolitano*, 573 F.3d 251 (6th Cir. 2009). As the U.S. Supreme Court has further clarified, [O]ur inquiry must cease if the statutory language is unambiguous and the statutory scheme is coherent and consistent.” *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340 (1997) (*internal quotation marks omitted*).

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Consistent with such a "harmonious" and consistent interpretation of the ICJ Rules, the above referenced provisions providing the context within which the terms 'home evaluation' is used provide an appropriate means of determining the intent of a statute or rule. Accordingly, when read together in the context of the current ICJ Rules, it seems clear that a request for a home evaluation is intended to be used when a request for a transfer of supervision is made by a sending state on behalf of a juvenile who is "eligible for transfer under ICJ," which includes the requirement that the juvenile "is an adjudicated delinquent, adjudicated status offender, or has a deferred adjudication in the sending state." **See ICJ Rule 4-101 2. b.**

Based upon the above provisions of the ICJ rules and legal analysis, while a sending state is not explicitly prohibited from requesting a home evaluation for a juvenile pending adjudication on charges in the sending state, under the above referenced ICJ rules, a receiving state is not required to conduct such a home evaluation or report. Since the answer to this question, to which the two subsidiary questions are raised is in the negative it is unnecessary to address them.

Summary:

Based upon the above provisions of the ICJ rules and legal analysis, while a sending state is not explicitly prohibited from requesting a home evaluation for a juvenile pending adjudication on charges in the sending state, under the above referenced ICJ rules, a receiving state is not required to conduct such a home evaluation or report.