

2012 Rule Amendment Proposals for Public Comment

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Proposed by Rules Committee

RULE 1-101: Definitions

Substantial Compliance: ~~a juvenile who is sufficiently in compliance~~ Sufficient compliance by a juvenile with the terms and conditions of his or her supervision so as not to result in initiation of revocation of supervision proceedings by the sending or receiving state.

Justification:

Change provides clarity.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

None

JIDS' Impact:

None

Rules Committee Action:

Recommend for adoption

Effective Date:

Proposed by Executive Committee

RULE 3-101: Approved Forms

States shall use the electronic information system approved by the Commission for ~~The following forms have been approved and adopted by the Commission, and shall be used as appropriate in all cases~~ forms processed through the Interstate Compact for Juveniles.

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

~~Applications prepared on other than officially approved forms may be returned for revision. Official forms may be found at:~~

~~www.juvenilecompact.org~~

Justification:

The amendments to this rule are a result of the implementation of JIDS.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

None

JIDS' Impact:

None

Rules Committee Action:

Recommended for adoption

Effective Date:

Proposed by Executive Committee

RULE 3-102: Optional Forms

Use of the following forms is optional:

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

~~Official forms may be found at:~~

~~www.juvenilecompact.org~~

Justification:

Changes to this rule are a result of the implementation of JIDS.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

None

JIDS' Impact:

None

Rules Committee Action:

Recommended for adoption

Effective Date:

Proposed by Executive Committee

RULE 3-103: Form Modifications or Revisions - RESCIND

1. Forms approved and adopted by the Interstate Commission for Juveniles may not be changed, altered or otherwise modified and no other forms may be substituted for approved forms.
2. Form revisions shall:
 - a. Be adopted by majority vote of the members of the Commission; and
 - b. Be submitted in the same manner as outlined in Rule 7-101 for the adoption of Rules and Amendments.

Justification:

Rescinding this rule is a result of the implementation of JIDS.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

None

JIDS' Impact:

None

Rules Committee Action:

Recommended for adoption

Effective Date:

Proposed by Rules Committee

RULE 4-102: Sending and Receiving Referrals

Each ICJ Office shall forward all its cases within five (5) business days of receipt. Each ICJ Office shall adhere to the following screening process when sending and receiving referrals. Supervision shall not be provided without written approval from the receiving state's ICJ Office. The sending state shall maintain responsibility until supervision is accepted by the receiving state.

1. Each ICJ Office shall develop policies/procedures on how to handle ICJ matters within their state.
2. Each ICJ Office shall ensure all requests and coordination for ICJ supervision are between ICJ Offices.
3. The ICJ Office in the sending state shall comply with the rules listed below:
 - a. State Committed (Parole) Cases – The ICJ Office in the sending state shall ensure the following referral documents are complete and forwarded to the receiving state or electronic transfer if mutually agreed upon, in duplicate forty five (45) calendar days prior to the juvenile's anticipated arrival: Form IV, Form IA/VI and Order of Commitment. The ICJ Office in the sending state should also provide duplicate copies, (if available) of the Petition and/or Arrest Report(s), Legal and Social History, 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 shall be forwarded prior to placement in the receiving state.

When it is necessary to place a State Committed (parole) juvenile out of state prior to the acceptance of supervision, under the provision of Rule 5-101(4), the sending state shall be responsible for verifying the emergent circumstances of the juvenile's immediate placement justifying the use of a travel permit. Verification shall include consideration of the appropriateness of the placement, and to the extent possible, that such placement does not immediately compromise community safety. If approved by the sending state, they shall provide the receiving state with the approved travel permit along with a written explanation as to why standard operating procedures for submitting the referral could not be followed.

The sending state ICJ Office shall provide the complete ICJ referral to the receiving state ICJ office within ten (10) business days of the travel permit being issued. The receiving state shall make the decision whether or not they expedite the ICJ referral.

- b. Probation Cases – The ICJ Office in the sending state shall ensure the following referral documents are complete and forwarded to the receiving state or electronic transfer if mutually agreed upon, in duplicate, within five (5) business days of receipt: Form IV,

Form IA/VI, Order of Adjudication and Disposition, Conditions of Probation and Petition and/or Arrest Report(s). The ICJ Office in the sending state should also provide duplicate copies (if available) of Legal and Social History, and any other pertinent information deemed to be of benefit to the receiving state. Form V shall be forwarded prior to placement if the juvenile is not already residing in the receiving state.

- e. ~~When it appears necessary to request an expedited transfer of supervision, the sending state's ICJ Office is responsible for verifying that a justification for an expedited transfer actually exists subject to the agreement of the receiving state. If so, a travel permit may be issued until the referral information can be provided to the receiving state's ICJ Office.~~
4. The sending state shall be responsive and timely in forwarding additional documentation at the request of the receiving state.
 5. The receiving state's ICJ Office shall request its local offices complete a home evaluation within thirty (30) calendar days after receipt of referral.
 6. The receiving state's ICJ Office shall, within forty five (45) calendar days of receipt of the referral, ~~make a reasonable effort to~~ forward to the sending state the home evaluation along with the final approval or disapproval of the request for supervision or show good cause why an extension is necessary.

Justification:

Rule 4-102(3)(a): Proposed language defines a procedure for placing a juvenile parolee across state lines prior to formal acceptance under the provision of Rule 5-101(4).

Rule 4-102(6): Proposed language provides clarity.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

May effect travel permit Rule 5-102

JIDS' Impact:

TBD

Rules Committee Action:

Recommended for adoption

Effective Date:

Proposed by Rules Committee

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 Rule 4-103(2) is applicable.
- ~~2. When it appears necessary to request an expedited transfer of supervision, the sending state's ICJ Office is responsible for verifying that a justification for an expedited transfer actually exists subject to the agreement of the receiving state. If so, a travel permit may be issued until the referral information can be provided to the receiving state's ICJ Office.~~
2. When it is necessary to place a juvenile sex offender out of state with a custodial parent or legal guardian prior to the acceptance of supervision, under the provision of Rule 5-101(4), the sending state shall be responsible for verifying the emergent circumstances of the juvenile's immediate placement justifying the use of a travel permit. Verification shall include consideration of the appropriateness of the placement, and to the extent possible, that such placement does not immediately compromise community safety. If approved by the sending state's ICJ Office, the following procedures shall be initiated:
 - a. The sending state shall provide the receiving state with an approved travel permit along with a written explanation as to why standard operating procedures for submitting the referral could not be followed.
 - b. The sending state shall transmit a complete ICJ referral to the receiving state within ten (10) business days of the travel permit being issued. The receiving state shall make the decision whether they expedite the ICJ referral or if they will process the referral according to Rule 4-102.
 - c. Within five (5) business days of receipt of the travel permit, the receiving state shall have the opportunity to advise the sending state of applicable registration requirements and/or reporting instructions. The sending state shall be responsible for communicating the registration requirements and/or reporting instructions to the juvenile and his/her family in a timely manner.
 - d. In the absence of the issuance of reporting instructions by a receiving state, the sending state shall maintain responsibility of the case until acceptance. If the receiving state issues reporting instructions, the receiving state, upon issuance, shall assume responsibility for supervision of the case.
- ~~3. Supervision shall not be provided without written approval from the receiving state's ICJ Office. The sending state shall maintain responsibility until supervision is accepted in the receiving state.~~

- ~~4.~~ 3. When transferring a juvenile sex offender, documentation should be provided to the receiving state in duplicate: Form IA/VI, Form IV, Form V, Order of Adjudication and Disposition, Conditions of Probation, Petition and/or Arrest Report, Risk Assessment, Safety Plan Specific Assessments (if available), Legal and Social History information pertaining to the criminal behavior, Victim Information, i.e., sex, age, relationship to the offender, sending state's current or recommended Supervision and Treatment Plan, and all other pertinent materials. NOTE: Parole conditions shall be forwarded to the receiving state upon the juvenile's release from an institution.
- ~~5.~~ 4. In conducting home evaluations for juvenile sex offenders, the receiving state shall ensure compliance with local policies or laws to issuing reporting instructions. If the proposed residence is unsuitable, the receiving state may deny acceptance referred to in Rule 5-101(4).
- ~~6.~~ 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.
- ~~7.~~ 6. A juvenile sex offender who fails to register when required will be subject to the laws of the receiving state.
- ~~8. The receiving state shall receive a travel permit at least 48 hours prior to the juvenile sex offender's departure from the sending state with the exception of expedited transfers. A travel permit shall not be granted by the sending state until reporting instructions are issued by the receiving state.~~

Justification:

Rule 4-103, as currently constructed, is prejudicial to the parent-child relationship in probation transfers of juvenile sex offenders. If a receiving state chooses not to agree that emergent circumstances exist, a juvenile sex offender that resides with the parent, legal guardian/custodian may potentially be required to remain in a sending state for a period up to forty-five (45) days. In this common set of circumstances, the juveniles' education and/or employment and/or court ordered treatment is interrupted and unnecessarily delayed. Additionally, there is potential interruption of the parent, legal guardian/custodian's employment and ability to provide care and custody to other siblings that may reside in the established residence in the receiving state. In congruence with ICJ Rule 5-101(4), interrupting the immediate proceeding of a juvenile and parent to their established residence serves no constructive purpose when considering such transfer will subsequently be a mandatory acceptance case under the except(ion) provision of Rule 5-101(4).

The proposed amendment language sets forth a prescribed process that will assist states in ensuring juvenile sex offenders are properly and timely advised of applicable registration requirement(s) in accordance with the laws, rules and/or regulations of the receiving state.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

None

Rules Committee Action:
Recommended for adoption

JIDS' Impact:
TBD

Effective Date:

Proposed by the Midwest Region

RULE 4-104: Supervision/Services Requirements

1. After accepting supervision, the receiving state will assume the duties of visitation and supervision over any juvenile, including juvenile sex offenders, and in exercise of those duties will be governed by the same standards of visitation and supervision that prevails for its own juveniles released on probation or parole.
2. 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.
3. The receiving state shall furnish written progress reports to the sending state on no less than a quarterly basis. Additional reports shall be sent in cases where there are concerns regarding the juvenile or there has been a change in placement.
4. ~~The Neither sending states nor receiving states shall~~ may impose a supervision fee on any juvenile who is supervised ~~under the provisions of the ICJ.~~ if the same supervision standards prevail for its own juveniles released on probation or parole. The sending state shall not impose a supervision fee on a juvenile who transfers to a receiving state.
5. 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. The age of majority and duration of supervision are determined by the sending state. Where circumstances require the receiving court to detain any juvenile under the ICJ, the type of incarceration shall be determined by the laws regarding the age of majority in the receiving state.
7. 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. Supervision for the sole purpose of collecting restitution is not a justifiable reason to open a case.

Justification:

Proposed by the Midwest Region for consistency for states that may impose supervision fees.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

None

JIDS' Impact:

None

Rules Committee Action:

Not recommended for adoption

Effective Date:

Proposed by the Rules Committee

RULE 4-106: Closure of Cases

1. The sending state has sole authority to discharge/terminate supervision of its juveniles with the exception of:
 - a. ~~w~~When a juvenile is convicted of a crime and sentenced under the jurisdiction of the adult court of the receiving state and the adult sentence is longer than the juvenile sentence. ~~i~~In such cases, the receiving state may close the supervision and administration of its ICJ case once it has notified the sending state's ICJ office, in writing, and provided ~~the sending state~~ it with a copy of the adult court order. ~~;~~~~or~~
 - b. Notification that a warrant has been issued for a juvenile who has absconded from supervision in the receiving state.
 - ~~c.~~b.Cases which terminate due to expiration of a court order or upon expiration of the maximum period of parole or probation may be closed by the receiving state without further action by the sending state. In such cases, the receiving state shall forward a summary report to the sending state, and notify the sending state in writing that, unless otherwise notified, the case will be closed due to the expiration of the court order within five (5) business days.
2. After the receiving state has accepted a probation/parole case for supervision, the sending state shall complete placement within 90 calendar days. If the placement is not made in the receiving state 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 90 calendar day timeframe, providing an appropriate explanation, or may resubmit the referral at a later date.
3. The receiving state may submit to the sending state a request for the early release of the juvenile from probation or parole. In such cases, the sending state shall be provided the opportunity to consider the matter, to advise the court of jurisdiction or state agency of the request, and to make known any objection or concern before the case is closed. Any decision to release a juvenile from probation/parole early shall be made by the appropriate authority in the sending state. The sending state will forward a copy of the discharge report or notification to close based on the receiving state's recommendation or, if the request to close has been denied, provide a written explanation, within sixty (60) calendar days as to why the juvenile cannot be released from probation/parole.
4. Files of closed cases shall be maintained in the ICJ Office for one (1) year after closure before they can be destroyed.

Justification:

Strengthens the rule to allow states to close cases in a timely manner.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

None

JIDS' Impact:

None

Rules Committee Action:

Recommended for adoption

Effective Date:

Proposed by the Rules Committee

RULE 5-102: Travel Permits

The purpose of this section is to meet a reasonable expectation of community safety.

1. Travel permits shall be mandatory for juveniles traveling out-of-state for a period in excess of twenty-four (24) consecutive hours and who have committed or which the adjudicated offenses or case circumstances include any of the following:
 - a. Sex-related offenses;
 - b. Violent offenses that have resulted in personal injury or death;
 - c. Offenses committed with a weapon;
 - d. Juveniles committed to state custody;
 - e. Juveniles testing placement and who are subject to the terms of the Compact;
 - f. Juveniles returning to the state from which they were transferred for the purposes of visitation;
 - g. Juveniles transferring to a subsequent state(s) with the approval of the initial sending state;
 - h. Transferred juveniles in which the victim notification laws, policies and practices of the sending and/or receiving state require such notification;
2. A travel permit may be used as a notification of juveniles traveling to an out-of-state private residential treatment facility who are under the terms or conditions of probation or parole and who are eligible for transfer under the Interstate Compact for the Placement of Children (ICPC).
3. The permit shall not exceed ninety (90) calendar days. If for the purposes of testing a placement, a referral packet 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 ensure the juvenile has been instructed 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. Authorization for out-of-state travel shall be approved at the discretion of the supervising person. An exception would be when the sending state has notified the receiving state that travel must be approved by the sending state's appropriate authority. The sending state's ICJ Office shall forward the Travel Permit via electronic communication, as appropriate, to the state in which the visit or transfer of supervision will occur. The authorized Travel Permit should be provided and received prior to the juvenile's movement. The receiving state upon receipt of the Travel Permit shall process and/or disseminate appropriate information in accordance with established law, policy, practice or procedure in the receiving state.

5. If a travel permit is issued, the sending state's supervising officer is responsible for victim notification in accordance with the laws, policies and practices of that state. The sending and receiving state shall collaborate to the extent possible to assure the legal requirements of victim notification are met through the timely exchange of all required and necessary information.

Justification:

This amendment proposal strikes in its entirety effective date 3/1/12, Rule 5.102 Travel Permits. The amendment permits a greater concentration of resources on a specific population of higher risk juveniles when travel is appropriate. Additionally, it reduces the time a sending state is afforded to transfer a case, consequently resulting in a greater continuity of supervision among states. The amendment also seeks to provide a meaningful enhancement of community safety by applying a travel permit requirement to those juveniles presenting a higher risk based upon the nature of their adjudicated offenses.

Effect on other Rules:

Rule 1-101: Definitions - Relocate: when a juvenile remains in another state for more than 90 consecutive days in a 12 month period.

Rule 4-101: Processing Referrals

2.a. A plan inclusive of relocating to another state for a period exceeding (90) consecutive days in any twelve (12) month period;

JIDS' Impact:

TBD

Rules Committee Action:

Recommend for adoption

Effective Date:

Proposed by the South Region

RULE 6-102: Voluntary Return of Out-of-State Juveniles

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

1. The holding state's ICJ Office shall be advised of juvenile detainment. The holding state's ICJ Office shall contact the home/demanding state's ICJ Office advising them of case specifics.
2. The home/demanding state's ICJ Office shall immediately initiate measures to determine juvenile's residency and jurisdictional facts in that state.
3. At a court hearing (physical or electronic), the judge in the holding state shall inform the juvenile of his/her due process rights under the compact ~~using~~ and may use the ICJ Juvenile Rights Forms ~~or an alternate, comparable procedure~~. The court may elect to appoint counsel or a guardian ad litem to represent the juvenile in this process.
4. If in agreement with the voluntary return, the juvenile ~~will~~ shall sign the approved ICJ Form III in the presence (physical or electronic) of a judge. ~~consenting to voluntarily return.~~ The ICJ Form III shall be signed by a judge and counsel or a guardian ad litem, if appointed.
5. 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 ICJ Form III, provided the waiver is signed by the juvenile, the Judge, and counsel, if appointed.
5. ~~6.~~ 6. 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 Compact office shall in turn, forward a copy of the consent to the Compact administrator, or designee, of the home/demanding state.
6. ~~7.~~ 7. 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.
7. ~~8.~~ 8. Juveniles are to be returned by the home/demanding state in a safe manner and within five (5) business days of receiving a completed Form III. This time period may be extended up to an additional five (5) business days with approval from both ICJ Offices.

Justification:

Holding states often find that a defined juvenile from another state has reached the statutory age to be considered an adult in their state. In many cases, it is extremely difficult, if not impossible, to have someone who is being held in an adult jail to be taken before a juvenile court for a due process hearing. In these situations, the hearings are held in adult court and an adult waiver is

executed. Most ICJ Offices will accept adult waivers in lieu of the juvenile consent to return form, ICJ Form III. This practice needs to be recognized in the Rules.

The adult court due process hearing is more comprehensive than the hearing in juvenile court. As stated in the ICJ Bench Book, Chapter 2.1 – General Principles Affecting the Interstate Movement of Juveniles, “The Supreme Court has recognized that the right of interstate movement is a fundamental right protected by the constitution. . . However, juveniles enjoy reduced freedom of movement due to their legal status and the constitutionally protected interest of their parents in child rearing. The inherent differences between minors and adults, e.g., immaturity, vulnerability, need for parental guidance, have been recognized by the Supreme Court as sufficient to justify treating minors differently from adults under the U.S. Constitution.”

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

None

JIDS’ Impact:

None

Rules Committee Action:

Recommended for adoption

Effective Date:

Proposed by Rules Committee

RULE 6-104A: Absconder under ICJ Supervision

1. If there is reason to believe that a juvenile being supervised under the terms of the Interstate Compact for Juveniles in the receiving state has absconded, the receiving state shall attempt to locate the juvenile. Such activities shall include, but are not limited to:
 - a. Conducting a field contact at the last known place of residence;
 - b. Contacting the last known school or place of employment, if applicable; and
 - c. Contacting known family members and collateral contacts.

2. If the juvenile is not located, the receiving state shall submit a violation report to the sending state's ICJ office which shall include the following information:
 - a. The juvenile's last known address and telephone number,
 - b. Date of the juvenile's last personal contact with the supervising agent,
 - c. Details regarding how the supervising agent determined the juvenile to be an absconder, and
 - d. Any pending charges in the receiving state.

3. Upon receipt of an absconder violation report, the sending state shall issue a warrant and request law enforcement to submit the information to NCIC within ten (10) business days. Upon notification that a warrant has been issued, the receiving state may close interest in the matter.

4. Upon apprehension of the juvenile, the sending state shall make a determination if the juvenile shall return to the sending state or if the sending state will request supervision resume in the receiving state.

Justification:

New rule to address absconders and closure of cases

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

None

JIDS' Impact:

TBD

Rules Committee Action:

Recommend for adoption

Effective Date:

Proposed by the Rules Committee

RULE 6-111: Airport Supervision

1. All states shall provide supervision and assistance to unescorted juveniles at intermediate airports, in route to the home/demanding state.
2. Juveniles shall be supervised from arrival until departure.
3. Home/demanding states shall give the states providing airport supervision a minimum of 48 hours advance notice.
4. In the event of an emergency situation including but not limited to weather, delayed flight, or missed flight, that interrupts or changes established travel plans during a return transport, the ICJ member states may ~~shall~~ provide necessary services and assistance, including temporary detention or appropriate shelter arrangements for the juvenile until the transport is rearranged and/or completed. This would also apply to emergency situations with ground transportation returns.

Justification:

States use modes of transportation other than airline flights to return juveniles. There isn't an emergency rule to deal with other types of transports which could include bus or other ground transport. Airports for some states are several hours away and in many cases the closest airport may require driving to another state. In some instances, it is more cost effective to use the ground transport and in others there may be a medical or other concern (lack of ID) that prohibits a juvenile from flying. In these types of emergency situations there isn't any rule or procedure to appropriately see to the juvenile's safety and that of the community if there is a delay or interruption in the juvenile's transport.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

This rule change would not have an effect on other rules, advisory opinions or dispute resolutions but would strengthen and enhance the safety aspect of the compact.

JIDS' Impact:

None

Rules Committee Action:

Recommended for adoption

Effective Date:

Proposed by Rules Committee

RULE 7-101: Adoption of Rules and Amendments

Proposed new rules or amendments to the rules shall be adopted by majority vote of the members of the Commission in the following manner.

1. Proposed new rules and amendments to existing rules shall be submitted to the Rules Committee for referral and final approval by the full Commission:
 - a. Any ICJ Compact Commissioner or Designee may submit proposed rules or amendments for referral to the Rules Committee during the annual meeting of the Commission. This proposal would be made in the form of a motion and would have to be approved by a majority vote of a quorum of the Commission members present at the meeting.
 - b. Standing ICJ Committees may propose rules or amendments by a majority vote of that committee.
 - c. ICJ Regions may propose rules or amendments by a majority vote of members of that region.
2. The Rules Committee shall prepare a draft of all proposed rules or amendments and provide the draft to the Commission for review and comments. All written comments received by the Rules Committee on proposed rules or amendments shall be posted on the Commission's Website upon receipt. Based on these comments, the Rules Committee shall prepare a final draft of the proposed rules or amendments for consideration by the Commission not later than the next annual meeting.
3. Prior to the Commission voting on any proposed rules or amendments, said text shall be published at the direction of the Rules Committee not later than thirty (30) days prior to the meeting at which a vote on the rule or amendment is scheduled, on the official Web site of the Commission and in any other official publication that may be designated by the Commission for the publication of its rules. In addition to the text of the proposed rule or amendment, the reason for the proposed rule shall be provided.
4. Each proposed rule or amendment shall state:
 - a. The place, time, and date of the scheduled public hearing;
 - b. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments; and
 - c. The name, position, physical and electronic mail address, telephone, and telefax number of the person to whom interested persons may respond with notice of their attendance and written comments.

5. Every public hearing shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment. No transcript of the public hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall pay for the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Commission from making a transcript or recording of the public hearing if it so chooses.
6. Nothing in this section shall be construed as requiring a separate public hearing on each rule or amendment. Rules or amendments may be grouped for the convenience of the Commission at public hearings required by this section.
7. Following the scheduled public hearing date, the Commission shall consider all written and oral comments received.
8. The Commission shall, by majority vote of a quorum of the Commissioners, take final action on the proposed rule or amendment by a vote of yes/no. No additional rules or amendments shall be made at the time such action is taken. A rule or amendment may be referred back to the Rules Committee for further action either prior to or subsequent to final action on the proposed rule or amendment. The Commission shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.
9. Not later than sixty (60) days after a rule is adopted, any interested person may file a petition for judicial review of the rule in the United States District Court of the District of Columbia or in the federal district court where the Commission's principal office is located. If the court finds that the Commission's action is not supported by substantial evidence, as defined in the Model State Administrative Procedures Act, in the rulemaking record, the court shall hold the rule unlawful and set it aside. In the event that a petition for judicial review of a rule is filed against the Commission by a state, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.
10. Upon determination that an emergency exists, the Commission may promulgate an emergency rule or amendment that shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. An emergency rule or amendment is one that must be made effective immediately in order to:
 - a. Meet an imminent threat to public health, safety, or welfare;
 - b. Prevent a loss of federal or state funds;
 - c. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
 - d. Protect human health and the environment.

11. The Chair of the Rules Committee may direct revisions to a rule or amendments adopted by the Commission, for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the official web site of the Interstate Commission for Juveniles and in any other official publication that may be designated by the Interstate Commission for Juveniles for the publication of its rules. For a period of thirty (30) days after posting, the revision is subject to challenge by any Commissioner or Designee. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the Executive Director of the Commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

Justification:

The intent of this proposal is to eliminate confusion and unintended consequences resulting from amending rules from the floor of the Commission meeting, without properly vetting. This amendment limits the final vote of rule amendments to a simple yes or no vote.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

None

JIDS' Impact:

None

Rules Committee Action:

Recommended for adoption

Effective Date: