



## **Memorandum**

To: ICJ Executive Committee and Rules Committee Members

From: MaryLee Underwood, Executive Director

Date: September 1, 2021

Re: Public Notice of Revision to Correct Error in Consistency in Rule 5-101 (3)

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National Office staff recently identified an inconsistency in versions of Rule 5-101(3) posted on the Commission's website in the "Rules Step-by-Step" page and the PDF version of the ICJ Rules. While the "Rules Step-by-Step" version includes the phrase "*...which may include the imposition of sanctions,*" the PDF version includes the phrase "*...which may include the imposition of detention time in the receiving state.*"

National Office staff have reviewed the history of Rule 5-101 and determined that the "Rules Step-by-Step" version reflects the language adopted by the Commission at the 2013 Annual Business Meeting, which took effect April 1, 2014. The error first appeared in the PDF version that became effective on February 1, 2016. No further changes have been made to this paragraph since that time. Therefore, the PDF version should be revised for consistency.

This information has been reviewed by the Commission's Legal Counsel, Rules Committee Chair, and the Commission Chair. The Commission's Legal Counsel advised that the inconsistency is "correctable pursuant to the provisions of ICJ Rule 2-103 (11) because it is not a substantive or material change."

Rule 2-103 (11) states:

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 website 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.

After meeting with Legal Counsel Rick Masters, Commission Chair Jacey Rader, and National Office Staff, Rules Committee Chair Tracy Hudrlik directed that the "PDF version" should be amended for consistency. Notice of the revision was posted on the Commission's website on September 2, 2021. Any Commissioner or Designee may challenge the revision as described in ICJ Rule 2-103(11). If no challenge is made, the revision will take effect after 30 days.

# History of ICJ Rule 5-101(3)

## Issue

On Thursday, August 19, 2021 the ICJ National Office noticed that the language in Rule 5-101(3) differs on the Commission's website "[rules step-by-step](#)" page and the [ICJ Rules](#) document. This was discovered while reviewing [Advisory Opinion 01-2010](#) regarding sanctions. The ICJ Rules document includes the language "*which may include the imposition of detention time in the receiving state*" while the ICJ Website page for Rule 5-101 includes the language "*which may include the imposition of sanctions.*" In an effort to determine the correct language, the National Office undertook a thorough review of history of Rule 5-101.

## History of Rule 5-101

*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; amended September 11, 2019, effective March 1, 2020*

*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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## **2010**

The first version of ICJ Rule 4-104 (which was renumbered to 5-101 in 2014) did not contain the language in question.

### **ICJ Rules Effective March 1, 2010**

#### ***RULE 4-104: Cooperative 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. 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.
3. Neither sending states nor receiving states shall impose a supervision fee on any juvenile who is supervised under the provisions of the ICJ.
4. The sending state shall be financially responsible for treatment services ordered either by the court or paroling authority 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.

Source: ICJ Rules Effective March 1, 2010 – *internal document, available upon request*

At the 2010 ABM, the language in question was proposed by the Rules Committee.

#### 4-104 Proposal

##### **Proposed by Rules Committee**

##### ***RULE 4-104: Cooperative 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) ~~(2)~~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) ~~(3)~~Neither sending states nor receiving states shall impose a supervision fee on any juvenile who is supervised under the provisions of the ICJ.

Source: [2010 ABM Docket Book](#)

#### 2010 ABM Minutes

##### **Rule 4-104: Cooperative Supervision/Services Requirements**

**J. Hawkins (MO) made the motion to adopt the proposed amendment to Rule 4-104.**

**R. Wahl (UT) seconded.**

- The Commission discussed the ability to sanction juveniles and impose detention time.
- Chair Bonner referenced the legal opinion by R. Masters, Legal Counsel.
- C. Sullivan-Colglazier (WA) spoke in support of the rule.
- D. Gannon (SC) spoke against the rule relative to secure confinement.
- R. Wahl (UT) called the question.

**The motion passed by a 32 - 8 majority vote.**

##### **Rule 4-106: Closure of Cases**

**R. Mercado (NJ) made the motion to adopt the proposed amendment to Rule 4-106. S.**

**Jones (MD) seconded.**

**The motion passed by a 36 - 4 majority vote.**

Source: [2010 ABM minutes approved](#)

## 2011

The language first appears in the official ICJ Rules on January 1, 2011. Paragraph (2) included the language, “which may include the imposition of detention time in the receiving state.”

### ***RULE 4-104: Cooperative Supervision/Services Requirements***

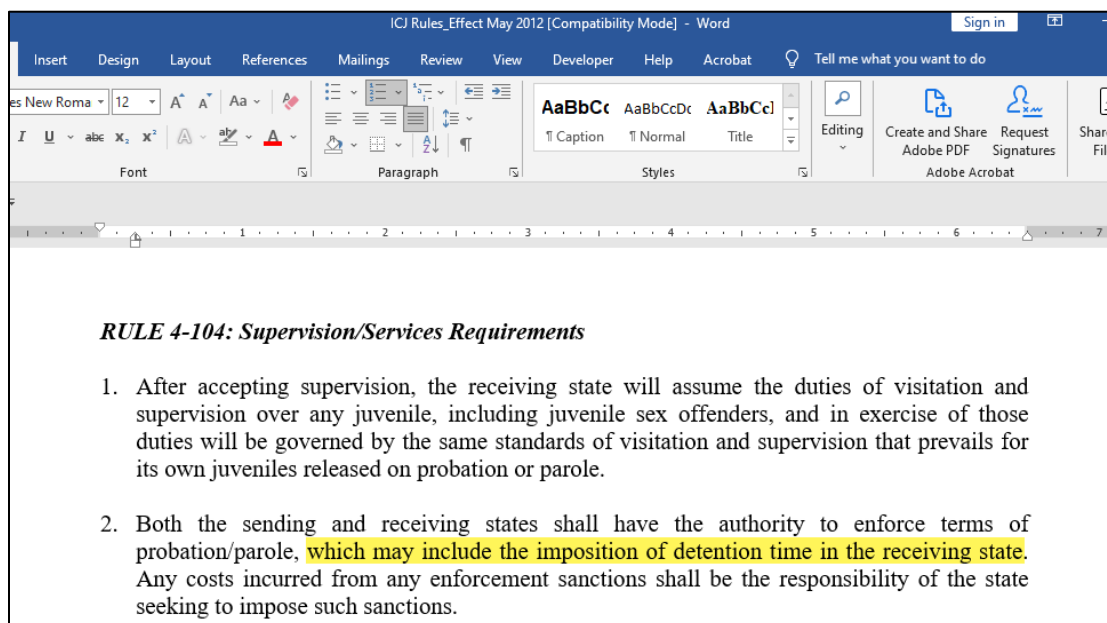
1. After accepting supervision, the receiving state will assume the duties of visitation and supervision over any juvenile, including juvenile sex offenders, and in exercise of those duties will be governed by the same standards of visitation and supervision that prevails for its own juveniles released 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. Neither sending states nor receiving states shall impose a supervision fee on any juvenile who is supervised under the provisions of the ICJ.

Source: ICJ Rules Effective January 1, 2011 – *internal document, available upon request*

## 2012

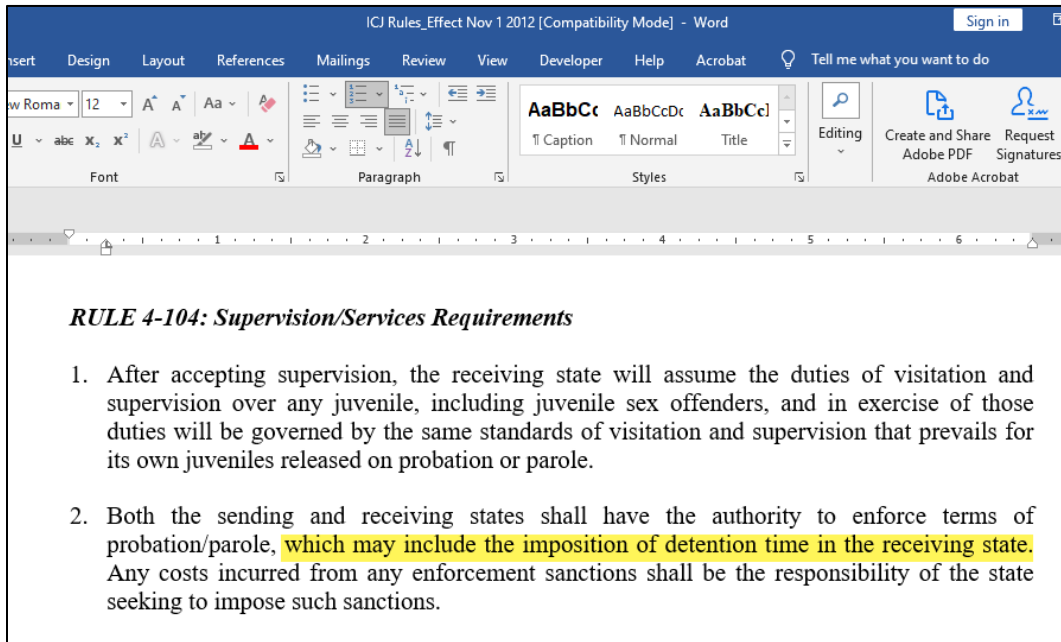
The May 1, 2012 and November 1, 2012 version of ICJ Rules retain the same language.

### **May 1, 2012 ICJ Rule 4-104(2)**



Source: ICJ Rules Effective May 1, 2012 – *internal document, available upon request*

## November 1, 2012 ICJ Rule 4-104(2)

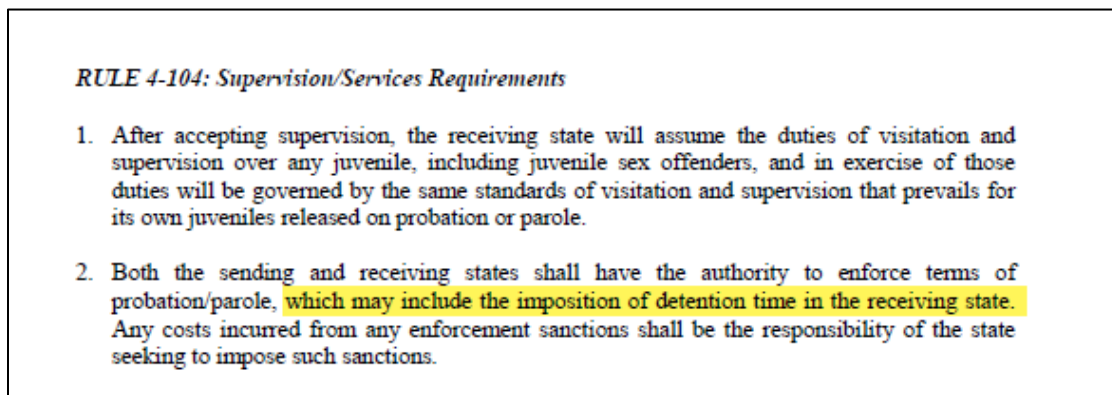


Source: ICJ Rules Effective November 1, 2012 – *internal document, available upon request*

## 2013

The April 1, 2013 version of ICJ Rule 4-104(2) retains the same language.

### ICJ Rules, effective April 1, 2013



Source: ICJ Rules Effective April 1, 2013 – *internal document, available upon request*

At the 2013 ABM, a proposal to Rule 4-104 which replaced “detention time in the receiving state” with “sanctions” was voted upon and passed. The rule was renumbered to Rule 5-101, for an effective date of April 1, 2014.

#### 4-104 Proposal, as presented at the 2013 ABM

**Proposed by Rules Committee**

***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. 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 interstate compact 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 sanctions, ~~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.

Source: [2013RuleAmendmentsFinal](#)

#### 2013 ABM Minutes

**4-104: Supervision/Services Requirements submitted by the Rules Committee**

- C. Hill (CA) questioned the proposed language in paragraph 2 regarding costs from conditions imposed. D. Liedecke (TX) questioned repercussions when costs are not paid.
- Chair Bisch clarified the costs would be imposed as the receiving state would impose their own and any payment default would be handled as a violation.
- **R. Bisch (MN) made a motion to approve for adoption the proposed amendment to Rule 4-104: Supervision/Services Requirements, paragraphs 2 and 3 as presented and recommended by the Rules Committee. M. Taylor-Gore (MS) seconded. The motion passed by a 42 - 6 vote.**

Source: [2013GeneralSession Minutes approved](#)

During the 2013 ABM, the Rules Committee chair announced the renumbering of ICJ Rules. Rule Amendment to 4-104 was moved to Section 500 and renumbered to 5-101, effective April 1, 2014.

#### ABM 2013 Minutes

**New Order of Rules Reorganization**

- Chair Bisch highlighted the plan by the Rules Committee for the reorganization of the rules by categories into the following sections:
  - Section 100 Definitions
  - Section 200 General Provisions
  - Section 300 Forms
  - Section 400 Transfer of Supervision
  - Section 500 Supervision in Receiving State
  - Section 600 Voluntary and Non-Voluntary Return of Juveniles/Runaways
  - Section 700 Additional Return Requirements for Sections 500 and 600
  - Section 800 Travel Permits
  - Section 900 Dispute Resolution, Enforcement, Withdrawal, and Dissolution
  - Section 1000 Transition Rule

Source: [2013GeneralSession Minutes approved](#)



Approved Rule Amendment with new Rule number, effective April 1, 2014

***RULE 5-101: 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. 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 interstate compact 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 sanctions.** ~~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.

Source: [2013RuleAmendmentsWeb](#)

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**2014**

The April 1, 2014 ICJ Rule 5-101(3) includes “which may include the imposition of sanctions.”

**Section 500 Supervision in Receiving State**

***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 prevails for its own juveniles released on probation or parole.
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 interstate compact 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 sanctions.** Any costs incurred from any enforcement sanctions shall be the responsibility of the state seeking to impose such sanctions.

Source: ICJ Rules Effective April 1, 2014 – *internal document, available upon request*

At the 2014 ABM, the West Region proposed amendments to Rule 5-101(3) to add “up to and including detention time.”

### West Region Proposal 2014

#### Proposed by the West Region – 2014

##### ***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 prevails for its own juveniles released on probation or parole.
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 interstate compact 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 sanctions up to and including detention time. Any costs incurred from any enforcement sanctions shall be the responsibility of the state seeking to impose such sanctions.

Source: [2014 Rule Proposals Final](#)

The West Region proposal to Rule 5-101 did not pass.

### 2014 ABM Minutes

#### **5-101: Supervision/Service Requirements submitted by the West Region**

- J. Seigel (IN) opposed the proposed amendment to Rule 5-101. A definition of the term *sanction* was approved previously and repeating the definition within the context of the rule is not necessary.
- M. Lacy (WV) made a motion to approve for adoption as presented the proposed amendment to Rule 5-101: Supervision/Service Requirements submitted by the West Region without a recommendation from the Rules Committee. P. Cox (OR) seconded. The motion failed by an 18 - 33 vote.

Source: [2014GeneralSession MINUTES approved](#)

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## 2015

The January 1, 2015 ICJ Rules mirror the 2014 ICJ Rules and retain “which may include the imposition of sanctions” in 5-101(3).

### 2015 ICJ Rules

#### Section 500 Supervision in Receiving State

##### *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 prevails for its own juveniles released on probation or parole.
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 interstate compact 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 sanctions. Any costs incurred from any enforcement sanctions shall be the responsibility of the state seeking to impose such sanctions.

Source: ICJ Rules Effective January 1, 2015 – *internal document, available upon request*

At the 2015 ABM, the following rule amendment proposal was presented for 5-101. The last time the Rule language had this language was 2013. It appears that the drafted proposal Word document was based off the wrong version of the ICJ Rule 5-101. There is no indication in any of the Rule Committee 2015 meeting minutes that there was a proposal to change the language in paragraph 3 back to the 2013 version.

### 2015 Proposal to 5-101

#### **Proposed by Rules Committee - 2015**

##### *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 prevails for its own juveniles released on probation or parole.
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 Interstate Compact 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 placement residence.

Source: [2015 Rule Proposals FINAL](#)

The language in paragraph 4 was incorporated into a Rules Committee proposal from a withdrawn West Region proposal that is based on the correct version of Rule 5-101. It appears the error occurred when their proposal was incorporated into a Rules Committee version.

### West Region Withdrawn Proposal to Rule 5-101

Proposed by West Region – 2015

***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 prevails for its own juveniles released on probation or parole.
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 interstate compact 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 sanctions**. 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 ~~placement~~ **residence**.

Source: 2015 Rule 5-101 Supervision/Services Requirements West Region Proposal – *internal document, available upon request*

The ICJ Rules “working document” that was used to track proposed amendments during Rules Committee meetings in 2015 was based on the correct version of the rules (April 1, 2014 which read “sanctions”), so the error occurred when the individual rule proposal document was created.

At the 2015 ABM, the proposal to Rule 5-101 passed, despite containing incorrect language in paragraph 3 (which did not contain any editing marks, such as strike-throughs or red/underlined text):

### 2015 ABM Minutes

**SECTION 500 Supervision**

**5-101: Supervision/Services Requirements submitted by the Rules Committee**

- **R. Bisch (MN) made a motion to approve for adoption the proposed amendment as presented to Rule 5-101: Supervision/Services Requirements submitted and recommended by the Rules Committee. S. Jones (MD) seconded. The motion passed by a 47 - 3 vote.**

Source: [2015GeneralSession MINUTES approved](#)

## 2015 Approved Amendments, effective February 1, 2016

### Section 500: Supervision in Receiving State

#### *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 prevails for its own juveniles released on probation or parole.
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 Interstate Compact 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 placement residence.

Source: [2015 Rule Amendments Approved](#)

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## 2016

Since 2016, the language “which may include the imposition of detention time in the receiving state” has remained in Rule 5-101(3).

### Section 500 Supervision in Receiving State

#### *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 prevails for its own juveniles released on probation or parole.
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.

Sources: ICJ Rules Effective February 1, 2016 – *internal document, available upon request*

ICJ Rules Effective March 1, 2018 – *internal document, available upon request*

ICJ Rules Effective March 1, 2020 – *internal document, available upon request*

[ICJ Rules Effective April 23, 2020](#) (Current Version)

Advisory Opinion 01-2010 references 5-101. The first version, dated 1/25/10, did not include a reference to what is now 5-101(3). However, a subsequent revised version, dated 3/14/18, did:

### Advisory Opinion 01-2012, Revision date 3/14/18

#### Applicable Rules:

Rule 5-101 in relevant part provides:

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.

...

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.

<sup>1</sup> This Advisory Opinion has been revised to reflect ICJ Rules in effect March 1, 2018. The previous published opinion is available upon request from [ICJAdmin@juvenilecompact.org](mailto:ICJAdmin@juvenilecompact.org).

The Advisory Opinion was updated in 2020 due to a change in Rule 5-101(1), but the reference to 5-103(3) remains. See "[Adv Op 1-2020 PA Revised 030120](#)"

The ICJ Website "rules step-by-step" page for Rule 5-101 displays the 2013 version of this paragraph, as it was never flagged as a true change to be made:

ICJ Rule 5-101: Supervision/Services Requirements

https://www.juvenilecompact.org/legal/rules-step-by-step-table-of-contents/rule-5-101-supervision-services-requirements

Rules Step-by-Step Table of Contents / Rule 5-101: Supervision/Services Requirements

## RULE 5-101: SUPERVISION/SERVICES REQUIREMENTS

< Previous Chapter  
[Rule 4-104: Authority to Accept/Deny Supervision](#)

Next Chapter >  
[Rule 5-102: Absconder Under ICJ Supervision](#)

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 prevails 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 interstate compact 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 sanctions. Any costs incurred from any enforcement sanctions shall be the responsibility of the state seeking to impose such sanctions.

Source: [ICJ Website Rule 5-101](#)

It appears that the language has persisted in error in the ICJ Rules document since 2015 where it is assumed that the wrong version of Rule 5-101 was used to create the individual rule amendment document in Word. The Commission has approved Rule 5-101 twice since the language was changed to "sanctions" in 2013.