

## **Proposed by the RULES COMMITTEE**

### ***Rule 2-108 Emergency Suspension of Enforcement***

1. Upon a declaration of a national emergency by the President of the United States and/or the declaration of emergency by one or more Governors of the compact member states in response to a crisis, the Commission may, by majority vote, authorize the Executive Committee to temporarily suspend enforcement of Commission rules or any part(s) thereof. Such suspension shall be justified based upon:
  - a. The degree of disruption of procedures or timeframes regulating the movement of juveniles under the applicable provisions of the Compact;
  - b. The degree of benefit (or detriment) of such suspension to the offender and/or public safety; and
  - c. The anticipated duration of the emergency.
2. Regardless of any suspension of enforcement, each member state shall perform all duties required by the Compact to the greatest extent possible, including returns and transfers of supervision.
3. Any suspension of enforcement of Commission rules shall cease 30 days after the termination of the national/state declaration(s) of emergency, unless preemptively concluded by majority vote of the Executive Committee.
4. Any suspension of enforcement of Commission rules shall not apply to duties specified in the Compact statute which are necessary for the operation of the Commission, including but not limited to, payment of dues and appointments of compact administrators and commissioners.

***History: Adopted as an emergency rule pursuant to ICJ Rule 2-103(10) on April 23, 2020, effective April 23, 2020***

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#### **Justification:**

In the wake of the COVID-19 pandemic, states of emergency have been declared by the President of the United States and the Governors of most member states. Due to these states of emergency, related executive orders, and other official directives, state ICJ offices throughout the nation have found it difficult or impossible to comply with the timelines and procedures set forth in the Commission's Rules.

This new rule would ensure that no enforcement action will be taken against states who are unable to comply with the deadlines or procedures set forth in the ICJ Rules when they are unable to do so because of a state of emergency. The new rule would also clarify that states must still implement the Compact to the greatest extent possible.

**Effect on Other Rules, Advisory Opinions or Dispute Resolutions:**

None

**JIDS Impact:**

No impact.

**Forms Impact:**

No impact.

**Fiscal Impact:**

No impact.

**Rules Committee Action:**

4/7/2020 – Voted 9-0-0 to recognize an emergency that justifies promulgation of an emergency rule pursuant to Rule 2-103(10) in order to meet an imminent threat to public health, safety, or welfare.

4/7/2020 – Voted 9-0-0 to recommend for adoption.

**Commission Action for Emergency Adoption:**

4/23/2020 – A Special Meeting of the Interstate Commission for Juveniles was convened for the purposes of emergency rule promulgation, pursuant to ICJ Rule 2-103(10). The Commission voted 48-2-0 to recognize that an emergency exists that justifies the promulgation of an emergency rule pursuant to Rule 2-103(10) and adopted proposed new Rule 2-108 regarding Emergency Suspension of Enforcement of Rules.

5/6/2020 – Pursuant to ICJ Rule 2-103(10), the Interstate Commission for Juveniles retroactively applied rulemaking procedures to Rule 2-108 and invited Commissioners, Compact Administrators, Deputy Compact Administrators, Designees and Ex Officios to submit comments on the rule. The commenting period was open from May 6, 2020 to June 6, 2020. One comment was received in support of Rule 2-108 and may be viewed on the [ICJ Website](#).

6/24/2020 – Pursuant to ICJ Rule 2-103(10), the Interstate Commission for Juveniles retroactively applied rulemaking procedures to Rule 2-108 and notified the Commission of the Public Hearing to be conducted virtually on July 28, 2020. The final amendment was posted on the [ICJ Website](#).

**Effective Date:**

April 23, 2020