

INTERSTATE COMMISSION FOR JUVENILES

RULES COMMITTEE



Minutes

December 5, 2018

2:00 PM ET

Webex Teleconference

Commissioners/Designees in Attendance:

1. Jeff Cowger (KS), Chair
2. Judy Miller (AR), Designee
3. Anne Connor (ID), Designee
4. Tomiko Frierson (IL), Commissioner
5. Tracy Hudrlik (MN), Commissioner
6. Julie Hawkins (MO), Commissioner
7. Edwin Lee, Jr. (NJ), Designee
8. Dale Dodd (NM), Commissioner

Members Not in Attendance:

1. Melanie Grimes (DE), Commissioner
2. Galan Williamson (ME), Commissioner
3. Charles Frieberg (SD), Commissioner

Non-Voting Committee Members in Attendance:

1. Dawn Bailey (WA)

Guests in Attendance:

1. Kelly Palmateer (NY)

ICJ Staff in Attendance:

1. MaryLee Underwood, Executive Director
 2. Emma Goode, Training and Administrative Specialist
 3. Jennifer Adkins, Project Manager
 4. Leslie Anderson, Logistics and Administrative Coordinator
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Call to Order

Chair Cowger (KS) called the meeting to order at 2:00 PM ET.

Roll Call

Director Underwood called the roll and a quorum was established.

Agenda

- **A. Connor (ID) made a motion to approve the amended agenda. J. Miller (AR) seconded. The motion carried.**

Minutes

- **J. Miller (AR) made a motion to approve the amended July 18, 2018 meeting minutes. A. Connor (ID) seconded. The motion carried.**

Discussion

The Rules Committee discussed and took the following actions on the following four rule amendments proposed by the Rules Committee.

Rule 1-101 Definitions: Runaways

- Chair Cowger (KS) provided a brief history of the case that brought this proposal forward and a Legal Memorandum was prepared to address the issues surrounding the current definition of “Runaway” in this rule, as requested by Alaska and Iowa. The Memorandum has been reviewed by the Executive Committee, who directed that it be reformatted as an Advisory Opinion for consideration at its next meeting.
- J. Hawkins (MO) suggested that in the case brought forward the return of the juvenile would be the parent/guardian’s responsibility because the parent/guardian had given the juvenile permission to leave so it would not fall under the jurisdiction of the ICJ.
- Discussion was held by the committee regarding other scenarios that occur that would be brought under the jurisdiction of the ICJ by the proposed amendment. Changing the definition could open the Compact up to juveniles that would not generally be considered under the ICJ jurisdiction.
- J. Hawkins (MO) recommended developing alternative language to address the issue by expanding the criteria as an exception for the Form I Requisition in Rule 6-103 “*Non-Voluntary Return of Runaways and/or Accused Status Offenders*,” as opposed to changing the language of the definition of “runaway.”
- Chair Cowger (KS) suggested the proposal be tabled to allow time for J. Hawkins (MO) to further research the expansion of the Form I Requisition to possibly address future cases of a similar nature.
- The committee agreed to invite Rick Masters, Legal Counsel, to the future Committee meetings for further discussion.
- **A. Connor (ID) made a motion to table discussion of the proposed amendment to Rule 1-101 Definitions: Runaways. T. Frierson (IL) seconded. The motion carried by an 8-0-0 vote.**
- The national office will include this on the next meeting’s agenda.

Rule 6-102: Voluntary Return of Return of Runaways, Probation/Parole Absconders, Escapees or Accused Delinquents

- Chair Cowger (KS) provided a brief history of the case that brought this proposal forward. MO and other states have “commissioners” and others appointed to perform a judicial function. Julie Hawkins previously reported that a MO Court Commissioner interpreted ICJ Rules that use the term “judge” to mean that they were unauthorized to sign or act upon a Voluntary Return case.
- The committee discussed changing the word “Judge” to “Court” to allow for any judicial entity to be eligible to sign any applicable forms or act on an ICJ related case.
- **T. Hudrlik (MN) made a motion to recommend for adoption the proposed amendment to Rule 6-102: Voluntary Return of Runaways, Probation/Parole**

Absconders, Escapees, or Accused Delinquents and Accused Status Offenders as presented and amended. J. Hawkins (MO) seconded. The motion carried by an 8-0-0 vote.

Rule 6-103: Non-Voluntary Return of Runaways and/or Accused Status Offenders

- The committee held a discussion on amending the language “Judge” to “Court” to allow for any judicial entity to be eligible to sign any applicable forms or act on an ICJ related case to follow in accordance with the discussed proposal to amend Rule 6-102 “*Voluntary Returns and Return of Runaways, Probation/Parole Absconders, Escapee or Accused Delinquents*”.
- **T. Hudrlik (MN) made a motion to recommend for adoption the proposed amendment to Rule 6-103: Non-Voluntary Return of Runaways and/or Accused Status Offenders as presented and amended. J. Hawkins (MO) seconded. The motion carried by an 8-0-0 vote.**

Rule 6-103A: Non-Voluntary Return of an Escapee, Absconder or Accused Delinquent

- The committee held a discussion on amending the language “Judge” to “Court” to allow for any judicial entity to be eligible to sign any applicable forms or act on an ICJ related case to follow in accordance with the discussed proposal to amend Rule 6-102 “*Voluntary Returns and Return of Runaways, Probation/Parole Absconders, Escapee or Accused Delinquents*” and Rule 6-103 “*Non-Voluntary Return of Runaways and/or Accused Status Offenders.*”
- **J. Hawkins (MO) made a motion to recommend for adoption the proposed amendment to Rule 6-103A: Non-Voluntary Return of an Escapee, Absconder or Accused Delinquent as presented and amended. T. Frierson (IL) seconded. The motion carried by an 8-0-0 vote.**

The Rules Committee discussed and took the following actions on the following four rule amendments as proposed by the East Region.

Rule 4-102: Sending and Receiving Referrals

- Chair Cowger (KS) presented the proposed amendment to add language to the rule outlining which forms should be included in referral packets sent by the sending state. The proposal would require that a supervision summary be provided if the juvenile has been under supervision for more than 30 calendar days at the time of referral to the receiving state. This is proposed for both parole referrals and probation referrals.
- K. Palmateer (NY) discussed the importance of requiring a supervision summary in assisting in case management for the receiving state by providing information on the conditions completed prior to the transfer and the current standing of the juvenile before the transfer is completed.
- The committee discussed concerns about each state creating their own separate supervision summary. Members were concerned that it may be unachievable for such summaries to be provided initially in all cases, and that making it mandatory may be could delay or even stop the referrals. Historically, summaries have been included in the cover letter that is listed under enclosed documents in the Form IV. However, such inclusion has been optional, not mandatory.

- **T. Hudrlik (MN) made a motion to recommend for adoption the proposed amendment as presented by the East Region to Rule 4-102: Sending and Receiving Referrals. The motion fell to the floor for lack of a second.**
- The committee suggested relocating the proposed language of the addition of the supervision summary to paragraph 2 (a) I and 2 (b) to address concerns regarding the requirement of making it mandatory and adding it in as an “if available” document.
- **J. Miller (AR) made a motion to not recommend for adoption the proposed amendment to Rule 4-102 as written; and to recommend that the East Region consider moving the proposed sentence to the next sentence in both paragraphs 2 (a) I and 2 (b). D. Dodd (NM) seconded. T. Hudrlik (MN) opposed. A. Connor (ID) and J. Hawkins (MO) abstained. The motion carried by a 5-1-2 vote.**

Rule 4-103: Transfer of Supervision Procedures for Juvenile Sex Offenders

- Chair Cowger (KS) presented the proposed amendments to require the receiving state to provide reporting instructions regarding any incoming juvenile sex offender to the sending state during relocation prior to acceptance of supervision. Also proposed is the removal of expedited referrals for juvenile sex offenders.
- K. Palmateer (NY) provided several scenarios that had occurred within New York where these amendments would have been applicable. She also discussed that during the travel permit testing of a proposed residence a juvenile can potentially reside in the receiving state for up to fifty-five (55) days without any direct supervision, because the current Rule is silent to the responsibilities of the receiving states on what to do upon receipt of a travel permit.
- J. Hawkins (MO) discussed that states already have the authority to monitor incoming youth on travel permits because the receiving state has received notice. She also discussed concerns with this proposal being mandated as it could change the responsibility of the receiving state.
- The committee discussed concerns for liability due to lack of supervision/contact with the juvenile, the monitoring of the transfer of a juvenile before any information was made available to the receiving state, travel permits not being a court authorized document leaving the receiving state with the possibility of violating the rights of the juvenile/family, and the results from the commission on this same proposal from 2017.
- **J. Hawkins (MO) made a motion to not recommend for adoption the proposed amendment to Rule 4-103 Transfer of Supervision Procedures for Juvenile Sex Offenders as presented by the East Region. J. Miller (AR) seconded. T. Hudrlik (MN) opposed. A. Connor (ID) abstained. The motion carried by a 6-1-1 vote.**

Rule 4-104: Authority to Accept/Deny Supervision

- Chair Cowger (KS) presented the proposed amendment for the addition of language to allow supervision to be denied if the legal guardian in the receiving state refuses or is unable to engage in the home evaluation process.
- The committee discussed whether this language could allow the possibility for states to just deny supervision without probable cause and noted that Rule 4-104 (4) outlines the reasons for a denial clearly at this time.

- **T. Frierson (IL) made a motion to not recommend for adoption the proposed amendment to Rule 4-104 Authority to Accept/Deny Supervision as presented by the East Region. T. Hudrlik (MN) seconded. The motion carried by an 8-0-0 vote.**

Rule 8-101: Travel Permits

- Chair Cowger (KS) discussed the proposed amendment to add language regarding the receiving state's responsibility upon receipt of a travel permit for the purpose of testing a proposed residence to provide reporting instructions to the sending state.
- The committee discussed that this could open the receiving state up to having to supervise all juveniles with travel permits prior to the juvenile's arrival to the state.
- **T. Hudrlik (MN) made a motion to recommend to the East Region to consider amending the language "*shall*" to "*may*" in the proposed new paragraph 4 in Rule 8-101 Travel Permits. The motion fell to the floor for lack of a second.**
- **J. Miller (AR) made a motion to not recommend for adoption the proposed amendment to Rule 8-101 Travel Permits as presented by the East Region. D. Dodd (NM) seconded. T. Hudrlik (MN) opposed. A. Connor (ID) abstained. The motion carried by a 6-1-1 vote.**

Old Business

- There was no old business to discuss.

New Business

- Chair Cowger (KS) announced the Rules Committee Face-to-Face meeting will be held June 5, 2019 in Lexington, KY.
- Rule 7-104 is slated to be discussed at the next meeting.

Adjourn

- **Chair Cowger adjourned the meeting by acclamation at 4:02 p.m. ET.**