



INTERSTATE COMMISSION FOR JUVENILES

Serving Juveniles While Protecting Communities

Distinction Between Suspension of ICJ Rules & Suspension of Enforcement

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At the request of the ICJ Executive Committee, this White Paper is provided to clarify the effect of the Emergency Rule 2-108, promulgated by the ICJ Commission in April 2020. The purpose is to clarify that the Commission's decision to suspend of the enforcement of ICJ Rules does not mean that ICJ Rules are suspended. States are still obligated to perform all duties required by the Compact to the greatest extent possible.

The COVID-19 pandemic has resulted in emergency orders and emergency rules governing how governmental agencies are responding to protect the public, including Interstate Compact Commissions such as the Interstate Commission for Juveniles. On April 23, 2020, the ICJ Commission promulgated ICJ Rule 2-108.

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 calendar 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.

Rule 2-108, “the ICJ emergency rule” recognizes that various Presidential and Gubernatorial Executive Orders have made it more difficult in some circumstances to ensure transfers and transportation of juveniles/runaways subject to the compact within the normal time periods required under the compact. The ICJ emergency rule is designed to accommodate the effects of the pandemic upon member states and juvenile courts managing interstate transfer of supervision of juveniles. Nonetheless, ICJ Rule 2-108 require states to ***continue performing all duties required by the Compact to the greatest extent possible***, while providing a procedure for the Commission to suspend enforcement of ICJ Rules or parts thereof.

ICJ Rule 2-108 (2). states: “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.” By its own terms the rule is directed toward relieving the effect of the COVID-19 pandemic on the disruption of procedures or time frames regulating the movement of juveniles under the applicable provisions of the Compact (See ICJ Rule 2-108(1)(a)).

Pursuant to procedure outlined in Rule 2-108, the Commission has suspended enforcement of ICJ rules outlined in Sections 400, 500, 600, 700, and 800, including but not limited to provisions regarding timelines. This suspension took effect on April 23, 2020, and will remain active until 30 days after the end of the emergency, unless preemptive action is taken by the Executive Committee.

To be clear, the ICJ Rules have not been suspended. Instead, only enforcement action related to specified rules has been suspended. Member states are still required to perform all duties required by the Compact to the greatest extent possible and continue to implement the purposes of the Compact. Furthermore, ICJ Rule 2-108(4) specifically directs that “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.”