

# 2023 ICJ Rule Amendment Proposals Commenting Period

April 6 - May 8, 2023

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Proposals subject to change after commenting period.  
Final posting scheduled for August 28, 2023.

# Proposals At-A-Glance

	Rule Number and Name	Submitter	Supported by Rules Committee	Effect on other Rules & Advisory Opinions	UNITY Impact	FORMS Impact	FISCAL Impact
<b>Section 100 Definitions</b>							
1	* 1-101: Relocate (bundled with 4-101 and 4-103)	Rules Committee	Y	Y	No; unless 8-101 does not pass; TBD	No; unless 8-101 does not pass; TBD	No; unless 8-101 does not pass; TBD
<b>Section 400 Transfer of Supervision</b>							
2	* 4-101: Eligibility Requirements for the Transfer of Supervision (bundled with 1-101 and 4-103)	Rules Committee	Y	Y	No; unless 8-101 does not pass; TBD	No; unless 8-101 does not pass; TBD	No; unless 8-101 does not pass; TBD
3	4-102: Sending and Receiving Referrals	Midwest Region	N	Y	Y; TBD	N; TBD	Y; TBD
4	* 4-103: TOS Procedures for JSOs (bundled with 1-101 and 4-101)	Rules Committee	Y	Y	No; unless 8-101 does not pass; TBD	No; unless 8-101 does not pass; TBD	No; unless 8-101 does not pass; TBD
5	4-104: Authority to Accept/Deny Supervision	Delaware, Maryland	N	Y	N - but opportunity	N - but opportunity	N - but opportunity
6	4-104: Authority to Accept/Deny Supervision	West Region	Y	N	N - but opportunity	N - but opportunity	N - but opportunity
<b>Section 500 Supervision in Receiving State</b>							
7	^ 5-103: Reporting Juvenile Non-Compliance, Failed Supervision, and Retaking (bundled with NEW 5-103-A)	Technology Committee	Y	Y	See 5-103A impact	See 5-103A impact	See 5-103A impact
8	^ NEW 5-103A: Failed Supervision (bundled with 5-103)	Technology Committee	Y	Y	Y	Y; TBD	Y; TBD
9	5-103: Reporting Juvenile Non-Compliance, Failed Supervision, and Retaking	West Region	N	Y	N	N	N
<b>Section 600 Voluntary and Non-Voluntary Return of Juveniles/Runaways</b>							
10	6-102: Voluntary Return of Runaways, Probationary Release, Absconder's Escapes of Accused Delinquents and Accused Status Offenders	East Region	N	N	N	N	N
<b>Section 700 Additional Return Requirements for Sections 500 and 600</b>							
11	7-106: Transportation	Rules Committee	Y	N	N	N	N
12	7-106: Transportation	Arkansas, Missouri	Y	N	N	N	N
13	7-107: Airport Supervision	South Region	Y	N	N - but opportunity	N - but opportunity	N - but opportunity
<b>Section 800 Travel Permits</b>							
14	8-101: Travel Permits	Rules Committee	Y	Y	Y - if vote fails; TBD	N	Y - if vote fails; TBD
15	8-101: Travel Permits	East Region	Y	N	N	N	N

**PROPOSAL WITHDRAWN BY EAST REGION ON 4/12/2023**



# Commenting Instructions

***ICJ Commissioners, Compact Administrators, Deputy Compact Administrators, Designees, and ex officio members may submit comments on proposed ICJ Rule Amendments***



1. Review the Rule Amendment Proposals contained in this document or on the [ICJ Website Rule Amendment Forum](#) webpage
  - Proposed new language is red and underlined
  - Language proposed for removal is black with ~~strikethroughs~~
  - Proposals include justifications, effects on other rules and Advisory Opinions, and UNITY & ICJ Form impacts
  - Proposals include links to approved [Rules Committee](#) minutes of the meeting where each proposal was discussed
  - Fiscal impacts will be available at the final posting on August 28, 2023
2. Use the [2023 Rule Amendment Comments Form](#) to submit your comments. Submit one rule comment per form submission.
3. View all submitted comments by selecting “View Comments” for each proposal on the [ICJ Website Rule Amendment Forum](#) webpage
  - It may take up to 1 minute for your comment to appear on the dashboard. Please refresh the page before resubmitting your comment.

To learn more about the ICJ Rules Promulgation process, visit the Commission’s [Promulgation of Rules](#) webpage.

## **Proposed by the Rules Committee**

### ***RULE 1-101: Definitions***

Relocate: ~~when a juvenile remains in another state for more than ninety (90) consecutive days in any twelve (12) month period.~~

*History: “Relocate” adopted September 15, 2010, effective January 1, 2011;*

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### **Justification:**

The Rules Committee recommends eliminating the definition of “Relocate.” The current definition is inconsistent in all sections of rules that use the term. In many instances, “Relocate” seems to be used in the traditional sense of the word, that is “to move from one place to another.” This rule proposal is presented in tandem with proposals to Rules 4-101 and 4-103. The proposed changes promote consistency between rules and eliminate confusion.

### **Effect on Other Rules or Advisory Opinions:**

#### **Other Rules**

Rule 8-101: Travel Permits will be impacted by the adoption of this rule amendment bundle, consisting of Rule 1-101, 4-101, and 4-103. If the definition of “Relocate” is removed from Rule 1-101, the word “relocating” in Rule 8-101(1)(b)(ii) will revert to the Webster Dictionary version.

There is a separate proposal to remove the word “relocating” from Rule 8-101(1)(b)(ii).

The 800 Section is to be considered independently so the full commission can decide by an up or down vote if youth residing in the receiving state at the time of adjudication should be subject to the travel permit requirement.

#### **Advisory Opinions**

- [Advisory Opinion 01-2018](#) references Rule 1-101: Relocate definition and Rule 4-101(2). Opinion would require reanalysis.
- [Advisory Opinion 02-2017](#) references Rule 4-101(2). Rule reference update only.
- [Advisory Opinion 01-2016](#) references Rule 4-101(2). Rule reference update only.
- [Advisory Opinion 02-2015](#) references Rule 4-101(2) and Rule 4-102(2). Rule reference updates only.
- [Advisory Opinion 03-2011](#) references Rule 4-101(2). Rule reference update only.

### **UNITY Impact:**

If the bundle consisting of Rule 1-101, 4-101, and 4-103 is adopted and the Rule 8-101 amendment is also adopted:

- No impact.

If the bundle consisting of Rule 1-101, 4-101, and 4-103 is adopted but the Rule 8-101 amendment proposal is not adopted:

- Edits to UNITY data fields and workflow are required to remove the travel permit requirement for transfer of supervision cases for juveniles who already reside in the receiving state.

### **Forms Impact:**

If the bundle consisting of Rule 1-101, 4-101, and 4-103 is adopted and the Rule 8-101 amendment is also adopted:

- No impact.

If the bundle consisting of Rule 1-101, 4-101, and 4-103 is adopted but the Rule 8-101 amendment proposal is not adopted:

- No impact.

### **Fiscal Impact:**

If the bundle consisting of Rule 1-101, 4-101, and 4-103 is adopted and the Rule 8-101 amendment is also adopted:

- No impact.

If the bundle consisting of Rule 1-101, 4-101, and 4-103 is adopted but the Rule 8-101 amendment proposal is not adopted:

- **TBD**

### **Effective Date:**

**TBD**

**Rules Committee Action:** *Click on meeting date to view approved minutes.*

**06/01/2022** – Rules Committee voted 5-0-0 to recommend amendments to Rules 1-101, 4-101, and 4-103 for adoption as a bundle.

## **Proposed by the Rules Committee**

### **RULE 4-101: Eligibility Requirements for the Transfer of Supervision**

1. Each state that is a party to the ICJ shall process all referrals involving juveniles, for whom services have been requested, provided those juveniles are under juvenile jurisdiction in the sending state.
2. No state shall permit a juvenile who is eligible for transfer under this Compact to reside in ~~relocate to~~ another state except as provided by the Compact and these rules. A juvenile shall be eligible for transfer under ICJ if the following conditions are met:
  - a. is classified as a juvenile in the sending state; and
  - b. is an adjudicated delinquent, adjudicated status offender, or has a deferred adjudication in the sending state; and
  - c. is under the jurisdiction of a court or appropriate authority in the sending state; and
  - d. has a plan inclusive of residing in ~~relocating to~~ another state for a period exceeding ninety (90) consecutive days in any twelve (12) month period; and
  - e. has more than ninety (90) days or an indefinite period of supervision remaining at the time the sending state submits the transfer request; and
  - f.
    - i. will reside with a legal guardian, relative, non-relative or independently, excluding residential facilities; or
    - ii. is a full-time student at an accredited secondary school, or accredited university, college, or licensed specialized training program and can provide proof of acceptance and enrollment.
3. If a juvenile is placed pursuant to the ICJ and is also subject to the Interstate Compact on the Placement of Children (ICPC), placement and supervision through the ICPC would not be precluded.
4. A request for the transfer of supervision for the sole purpose of collecting restitution and/or court fines is not permitted.
5. A juvenile who is not eligible for transfer under this Compact is not subject to these rules.

*History: Adopted 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,*

### **Justification:**

The Rules Committee recommends eliminating the definition of “Relocate.” The current definition is inconsistent in all sections of rules that use the term. In many instances, “Relocate” seems to be used in the traditional sense of the word, that is “to move from one place to another.” This rule proposal is presented in tandem with proposals to Rules 1-101 and 4-103. The proposed changes promote consistency between rules and eliminate confusion.

### **Effect on Other Rules or Advisory Opinions:**

#### **Other Rules**

Rule 8-101: Travel Permits will be impacted by the adoption of this rule amendment bundle, consisting of Rule 1-101, 4-101, and 4-103. If the definition of “Relocate” is removed from Rule 1-101, the word “relocating” in Rule 8-101(1)(b)(ii) will revert to the Webster Dictionary version.

There is a separate proposal to remove the word “relocating” from Rule 8-101(1)(b)(ii).

The 800 Section is to be considered independently so the full commission can decide by an up or down vote if youth residing in the receiving state at the time of adjudication should be subject to the travel permit requirement.

#### **Advisory Opinions**

- [Advisory Opinion 01-2018](#) references Rule 1-101: Relocate definition and Rule 4-101(2). Opinion would require reanalysis.
- [Advisory Opinion 02-2017](#) references Rule 4-101(2). Rule reference update only.
- [Advisory Opinion 01-2016](#) references Rule 4-101(2). Rule reference update only.
- [Advisory Opinion 02-2015](#) references Rule 4-101(2) and Rule 4-102(2). Rule reference updates only.
- [Advisory Opinion 03-2011](#) references Rule 4-101(2). Rule reference update only.

### **UNITY Impact:**

If the bundle consisting of Rule 1-101, 4-101, and 4-103 is adopted and the Rule 8-101 amendment is also adopted:

- No impact.

If the bundle consisting of Rule 1-101, 4-101, and 4-103 is adopted but the Rule 8-101 amendment proposal is not adopted:

- Edits to UNITY data fields and workflow are required to remove the travel permit requirement for transfer of supervision cases for juveniles who already reside in the receiving state.

### **Forms Impact:**

If the bundle consisting of Rule 1-101, 4-101, and 4-103 is adopted and the Rule 8-101 amendment is also adopted:

- No impact.

If the bundle consisting of Rule 1-101, 4-101, and 4-103 is adopted but the Rule 8-101 amendment proposal is not adopted:

- No impact.

### **Fiscal Impact:**

If the bundle consisting of Rule 1-101, 4-101, and 4-103 is adopted and the Rule 8-101 amendment is also adopted:

- No impact.

If the bundle consisting of Rule 1-101, 4-101, and 4-103 is adopted but the Rule 8-101 amendment proposal is not adopted:

- **TBD**

### **Effective Date:**

**TBD**

**Rules Committee Action:** *Click on meeting date to view approved minutes.*

**06/01/2022** – Rules Committee voted 5-0-0 to recommend amendments to Rules 1-101, 4-101, and 4-103 for adoption as a bundle.



## **Proposed by the Midwest Region**

### **RULE 4-102: Sending and Receiving Referrals**

1. Each ICJ Office shall develop policies/procedures on how to handle ICJ matters within its state.
2. The sending state shall maintain responsibility until supervision is accepted by, and the juvenile has arrived in, the receiving state, unless reporting instructions are approved as described in 4-102(2)(c).
  - a. State Committed (Parole) Cases – When transferring a juvenile parolee, 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, except as described in 4-102(2)(a)(ii).
    - i. The sending state shall ensure the following referral is complete and forwarded to the receiving state forty-five (45) calendar days prior to the juvenile's anticipated arrival. The referral shall contain: Form IV Parole or Probation Investigation Request; Form VI Application for Services and Waiver; and Order of Commitment. The sending state shall also provide copies (if available) of the Petition and/or Arrest Report(s), Legal and Social History, supervision summary if the juvenile has been on supervision in the sending state for more than 30 calendar days at the time the referral is forwarded, photograph, 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 Notification From Sending State of Parolee or Probationer Proceeding to the Receiving State shall be forwarded prior to or at the time the juvenile relocates to the receiving state.
    - ii. When it is necessary for a State Committed (parole) juvenile to relocate prior to the acceptance of supervision, under the provision of Rule 4-104(4), the sending state shall determine if the circumstances of the juvenile's immediate relocation justifies the use of a Form VII Out-of-State Travel Permit and Agreement to Return, including consideration of the appropriateness of the residence. If approved by the sending state, it shall provide the receiving state with the approved Form VII Out-of-State Travel Permit and Agreement to Return along with a written explanation as to why ICJ procedures for submitting the referral could not be followed.
    - iii. If not already submitted, the sending state shall provide the complete referral to the receiving state within ten (10) business days of the Form VII Out-of-State Travel Permit and Agreement to Return being issued. The receiving state shall make the decision whether or not it will expedite the referral.

b. Probation Cases – The sending state shall ensure the following referral is complete and forwarded to the receiving state. The referral shall contain: Form IV Parole or Probation Investigation Request; Form VI Application for Services and Waiver; Order of Adjudication and Disposition; Conditions of Probation; and Petition and/or Arrest Report(s). The sending state shall also provide (if available) Legal and Social History, supervision summary, if the juvenile has been on supervision in the sending state for more than 30 calendar days at the time the referral is forwarded, photograph, and any other pertinent information. Form V Notification From Sending State of Parolee or Probationer Proceeding to the Receiving State shall be forwarded prior to or at the time the juvenile relocates to the receiving state, if the juvenile is not already residing in the receiving state.

c. Reporting instructions – The sending state shall request reporting instructions for a juvenile who resides in the receiving state at the time of compact eligibility per 4-101.

i. The sending state shall submit a request for reporting instructions within 7 business days of the initial compact eligibility when the youth resides in the receiving state. A request for reporting instructions shall include, but not be limited to, conditions of supervision.

ii. The receiving state shall provide reporting instructions to the sending state within 5 business days of receiving a request for reporting instructions for a juvenile who was residing in the receiving state at the time of compact eligibility. Reporting instructions shall, at a minimum, identify a contact within the receiving state who is available to assist the juvenile and the family as needed during the investigation of the referral.

iii. The sending state shall be responsible for communicating reporting instructions to the juvenile and the family in a timely manner.

iv. The sending state shall maintain supervision responsibility until the juvenile is present in the receiving state and reported per the reporting instructions. The receiving state shall have the authority to supervise juveniles pursuant to reporting instructions issued in a manner and degree deemed necessary and appropriate.

3. The sending state shall forward additional documentation, if available, at the request of the receiving state. The receiving state shall not delay the investigation pending receipt of the additional documentation. If the juvenile is already residing in the receiving state, the receiving state shall obtain the juvenile's signature on the Form VI Application for Services and Waiver.
4. The receiving state shall, within forty-five (45) calendar days of receipt of the referral, forward to the sending state the home evaluation along with the final approval or disapproval of the request for supervision or provide an explanation of the delay to the sending state.

### **Justification:**

Juveniles who reside in the receiving state at the time of compact eligibility are not relocating. Due to this, they are not properly receiving testing placement travel permits and are sometimes not maintaining contact with the sending state. They can be left in the receiving state without active local supervision or any guidance while a transfer request is pending. It can be some time before the receiving state is even aware that the juvenile is in their community and compact eligible. This does not provide the youth with an immediate and clear path to receiving services or in following/completing conditions. Sending states do not know what local resources might be available for a juvenile while awaiting the transfer reply and therefore, delay in receiving needed services may occur. A process for sending and receiving states to share information and allow the receiving state to immediately begin to work with a juvenile as provided with this reporting instruction proposal is anticipated to greatly benefit both the juvenile and the community and avoid delays in provision of services or cases getting lost in the process of transfer.

### **Effect on Other Rules or Advisory Opinions:**

#### **Other Rules**

Pursuant to the proposal, the sending state's responsibility to supervise the juvenile appears to end upon the juvenile reporting as instructed, without consideration of whether the home evaluation report has been accepted or denied. Therefore, the proposal conflicts with Rule 4-104's delegation of authority to accept/deny supervision to the receiving state. Rule 4-104 states:

- (1) Only the receiving state's authorized Compact Office staff shall accept or deny supervision of a juvenile by that state after considering a recommendation by the investigating officer.
- (2) The receiving state's authorized Compact Office staff's signature is required on or with the Form VIII Home Evaluation Report that accepts or denies supervision of a juvenile by that state. . .

Regarding when the duties of supervision shift from the sending to the receiving state, the proposal also conflict with Rule 5-101(1) and 4-103(3). Rule 5-101(1), states that the receiving state assumes the duties of supervision "after accepting supervision." ICJ Rule 4-103(3)(d) states: "The sending state shall maintain responsibility until supervision is accepted by, and the juvenile has arrived in, the receive state. . . "

#### **Advisory Opinions**

[Advisory Opinion 02-2015](#) references 4-102 in entirety. Opinion would require rule reference edits and may require reanalysis.

**UNITY Impact:**

Yes; UNITY data fields and workflow changes required to track timeframes for requesting reporting instructions and related tasks.

**Forms Impact:**

No Impact.

**Fiscal Impact:**

TBD

**Effective Date:**

TBD

**Rules Committee Action:** *Click on meeting date to view approved minutes.*

[02/01/2023](#) – Rules Committee voted 9-0-0 to not recommend the proposal for adoption.



## Proposed by the 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(3) is applicable.
2. When transferring a juvenile sex offender, the referral shall consist of: Form VI Application for Services and Waiver, Form IV Parole or Probation Investigation Request, Order of Adjudication and Disposition, Conditions of Supervision, Petition and/or Arrest Report. The sending state shall also provide (if available): Safety Plan, Specific Assessments, Legal and Social History information pertaining to the criminal behavior, Victim Information, i.e., sex, age, relationship to the juvenile, sending state's current or recommended Supervision and Treatment Plan, photograph, and all other pertinent materials. Parole conditions, if not already included, shall be forwarded to the receiving state upon the juvenile's release from an institution. Form V Notification From Sending State of Parolee or Probationer Proceeding to the Receiving State shall be forwarded prior to or at the time juvenile relocates to the receiving state if the juvenile is not already residing in the receiving state pursuant to Rule 4-103(3).
3. When it is necessary for a juvenile sex offender to relocate or reside with a legal guardian prior to the acceptance of supervision, and there is no legal guardian in the sending state, the sending state shall determine if the circumstances ~~of the juvenile's immediate relocation~~ justify the use of a Form VII Out-of-State Travel Permit and Agreement to Return, including consideration of the appropriateness of the residence. If approved by the sending state's ICJ Office, the following shall be initiated:
  - a. The sending state shall provide the receiving state with an approved Form VII Out-of-State Travel Permit and Agreement to Return along with a written explanation as to why ICJ procedures for submitting the referral could not be followed.
  - b. If not already submitted, the sending state shall transmit a complete referral to the receiving state within ten (10) business days of the Form VII Out-of-State Travel Permit and Agreement to Return being issued. The receiving state shall make the decision whether it will expedite the referral or process the referral according to Rule 4-102.
  - c. Within five (5) business days of receipt of the Form VII Out-of-State Travel Permit and Agreement to Return, the receiving state shall advise the sending state of applicable registration requirements and/or reporting instructions, if any. 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. The sending state shall maintain responsibility until supervision is accepted by, and the juvenile has arrived in, the receiving state. The receiving state shall have the authority to supervise juveniles pursuant to reporting instructions issued under 4-103(3)(c).
4. In conducting home evaluations for juvenile sex offenders, the receiving state shall ensure compliance with local policies or laws when issuing reporting instructions. If the proposed residence is unsuitable, the receiving state may deny acceptance referred to in Rule 4-104(4).
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.
6. A juvenile sex offender who fails to register when required will be subject to the laws of the receiving state.

***History: Adopted 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 17, 2012, effective April 1, 2013; amended October 9, 2013, effective April 1, 2014; amended August 26, 2015, effective February 1, 2016; clerically amended October 17, 2016; clerically amended May 19, 2021; amended October 7, 2021, effective March 1, 2022***

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### **Justification:**

The Rules Committee recommends eliminating the definition of “Relocate.” The current definition is inconsistent in all sections of rules that use the term. In many instances, “Relocate” seems to be used in the traditional sense of the word, that is “to move from one place to another.” This rule proposal is presented in tandem with proposals to Rules 1-101 and 4-101. The proposed changes promote consistency between rules and eliminate confusion.

### **Effect on Other Rules or Advisory Opinions:**

#### **Other Rules**

Rule 8-101: Travel Permits will be impacted by the adoption of this rule amendment bundle, consisting of Rule 1-101, 4-101, and 4-103. If the definition of “Relocate” is removed from Rule 1-101, the word “relocating” in Rule 8-101(1)(b)(ii) will revert to the Webster Dictionary version.

There is a separate proposal to remove the word “relocating” from Rule 8-101(1)(b)(ii).

The 800 Section is to be considered independently so the full commission can decide by an up or down vote if youth residing in the receiving state at the time of adjudication should be subject to the travel permit requirement.

### **Advisory Opinions**

- [Advisory Opinion 01-2018](#) references Rule 1-101: Relocate definition and Rule 4-101(2). Opinion would require reanalysis.
- [Advisory Opinion 02-2017](#) references Rule 4-101(2). Rule reference update only.
- [Advisory Opinion 01-2016](#) references Rule 4-101(2). Rule reference update only.
- [Advisory Opinion 02-2015](#) references Rule 4-101(2) and Rule 4-102(2). Rule reference updates only.
- [Advisory Opinion 03-2011](#) references Rule 4-101(2). Rule reference update only.

### **UNITY Impact:**

If the bundle consisting of Rule 1-101, 4-101, and 4-103 is adopted and the Rule 8-101 amendment is also adopted:

- No impact.

If the bundle consisting of Rule 1-101, 4-101, and 4-103 is adopted but the Rule 8-101 amendment proposal is not adopted:

- Edits to UNITY data fields and workflow are required to remove the travel permit requirement for transfer of supervision cases for juveniles who already reside in the receiving state.

### **Forms Impact:**

If the bundle consisting of Rule 1-101, 4-101, and 4-103 is adopted and the Rule 8-101 amendment is also adopted:

- No impact.

If the bundle consisting of Rule 1-101, 4-101, and 4-103 is adopted but the Rule 8-101 amendment proposal is not adopted:

- No impact.

### **Fiscal Impact:**

If the bundle consisting of Rule 1-101, 4-101, and 4-103 is adopted and the Rule 8-101 amendment is also adopted:

- No impact.

If the bundle consisting of Rule 1-101, 4-101, and 4-103 is adopted but the Rule 8-101 amendment proposal is not adopted:

- **TBD**

**Effective Date:**

TBD

**Rules Committee Action:** *Click on meeting date to view approved minutes.*

[06/01/2022](#) – Rules Committee voted 5-0-0 to recommend amendments to Rules 1-1-101, 4-101, and 4-103 for adoption as a bundle.



**Proposed by Commissioner Mike Casey (DE) and Commissioner Sherry Jones (MD)**

**RULE 4-104: Authority to Accept/Deny Supervision**

1. Only the receiving state's authorized Compact Office staff shall accept or deny supervision of a juvenile by that state after considering a recommendation by the investigating officer.
2. The receiving state's authorized Compact Office staff's signature is required on or with the Form VIII Home Evaluation Report that accepts or denies supervision of a juvenile by that state.
3. Supervision cannot be denied based solely on the juvenile's age or the offense.
4. Supervision may be denied when the home evaluation reveals that the proposed residence is unsuitable or that the juvenile is not in substantial compliance with the terms and conditions of supervision required by the sending or receiving state, except ~~when a juvenile has no legal guardian remaining in the sending state and the juvenile does have a legal guardian residing in the receiving state.~~ as provided in Rule 4-104(5).
5. Supervision shall be accepted when:
  - a. There is no legal guardian remaining in the sending state who is able to provide a suitable and safe living environment for the juvenile as determined by the sending state, and
  - b. One of the following applies:
    - i. There is a legal guardian residing in the receiving state with whom the juvenile may reside, or
    - ii. An alternative residence has been identified and approved in the receiving state.
6. Upon receipt of acceptance of supervision from the receiving state, and prior to the juvenile's departure if the youth is not already residing in the receiving state, the sending state shall provide reporting instructions to the juvenile, and provide written notification of the juvenile's departure to the receiving state.
7. If the transfer of supervision is denied by the receiving state and the juvenile is already residing in the receiving state, the sending state shall, within five (5) business days, secure alternative living arrangements and submit an updated referral or return the juvenile to the sending state. This time period may be extended up to an additional five (5) business days with approval from both ICJ offices.

**Justification:**

A bold, pro-active approach must be undertaken to effect positive systemic change. ICJ transfer of supervision denials among groups broken down by race ranged from 4% to 21% in 2022 (See ICJ Data Walk) with 14% being the average. Racial groups with above average denial rates included African American, American Indian/Alaskan Native, Native Hawaiian/Pacific Islander and Other.

Based on the review of ICJ data, the 2022 Racial Justice Ad Hoc Committee recommended further discussion of amendment of ICJ Rule 4-104(4) to better meet the needs of youth who do not routinely live with a legal guardian.

This proposal is intended to clarify the “mandatory acceptance rule” and increase the equity of application. Reorganizing Rule 4-104 so that the “mandatory acceptance rule” is in a separate section will make it easier for practitioners to understand. Adding the phrase “with whom the juvenile may reside” is intended to address issues that have emerged in previous cases where it was not feasible for the juvenile to live with the legal guardian. Grounds for determining the juvenile may not reside with a legal guardian include but are not limited to: incarceration; major illness or incapacitation; legal order prohibiting the juvenile from residing with the legal guardian or a member of the legal guardian’s household; and documented refusal of the legal guardian to provide care for the juvenile.

This proposal also promotes the rights of parents and the well-being of juveniles by building models of kinship care that have evolved in other child welfare settings. Parents have a right to provide a home, either directly or indirectly, for their children and make decisions in their best interest without intervention from state agencies, unless deemed lawful. Please note: Some, if not all, states may require an investigation by their respective state child welfare agencies prior to a child being approved to reside in the care of non-relatives

Allowing parents to authorize alternative housing plans for their children while maintaining parental responsibility empowers the family to make decisions for themselves and will likely lead to more positive outcomes. This will likely lead to higher acceptance rates in respect to transfer of supervision cases across all racial groups.

Youth may be punished inadvertently through no fault of their own unless due diligence is done to identify supports for placement, thereby focusing on ruling in, rather than out, supervision approvals. Receiving state ICJ offices should accept in good faith the determination from the ICJ sending state that a juvenile may not reside with a guardian in the sending state.

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According to a 2012 report from the Annie E. Casey Foundation:

- Roughly 2.7 million American children lived with a relative, often their grandparents.
- Of these children, nearly 104,000 were placed in state-supervised formal “kinship care.”
- Additionally, “approximately 400,000 children who came to the attention of the child welfare system, but were diverted from state custody, live with kin as an alternative to foster care.”

In 2017, adults in the U.S. cared for more than 2.6 million of their relative children through formal and informal care. -KIDS COUNT, 2018, Annie E. Casey Foundation

This proposal would extend much needed stability to such youth when they are subject to the ICJ and provides evidence that non-traditional caregivers are able to provide safety, care and supervision to children and help divert those children from deeper involvement in child welfare and youth rehabilitative systems across the country. One may conclude that parents who are not cohabitating or residing with another adult in the home may need support outside of the home to assist them with family matters, particularly when their child(ren) is presenting concerning behavior. This may include placement of children with family temporarily or permanently.

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**Transforming Juvenile Probation: A Vision For Getting It Right**  
**Annie E. Casey Foundation Executive Summary, 2018**

**Commitment to Racial and Ethnic Equity**

Probation agencies must take determined and strategic action to address racial and ethnic disparities and promote equity. Probation agencies must make equity a top priority and create a culture in which issues of race and ethnic equity are freely and openly discussed. Heeding the lessons learned from past efforts, probation agencies must employ a battery of best practice steps to identify points of disparity and the causes behind them. Wherever significant problems and disparities are identified, system stakeholders must devise new strategies or practices to address the situation, monitor their impact and continually refine the approaches in an ongoing pursuit of greater equity.

.....

**Family Preservation Matters: Why Kinship Care for Black Families, Native American Families, and Other Families of Color is Critical to Preserve Culture and Restore Family Bonds**

Marcía Hopkins, MSW, Senior Manager, Youth Advocacy Program & Policy, September 24, 2020

- Valuing and pursuing kinship care arrangements promotes racial equity and is essential to ensuring permanency for children and youth and their communities.
- Supporting kinship care is a protective factor for children and communities
- Research is clear that placement with kin shows increased rates of [stability and permanency for children](#).
- Informal “kinship” care has been a strength for many cultures, including communities of color, throughout history. In Native American culture, kinship is broadly defined. For Black families, child rearing by relatives has been a long-standing tradition and protective factor.

## **Understanding ICWA Placements Using Kinship Care Research**

A publication of the National Indian Child Welfare Association-December 2019

The Indian Child Welfare Act, or ICWA, is a federal law passed in 1978. ICWA was passed in response to the alarmingly high number of American Indian and Alaska Native children being removed from their homes by both public and private agencies.

ICWA opponents mischaracterize who constitutes “family” against a body of research that demonstrates the value of extended family in children’s lives. Significant disparities remain between AI/AN children and non-AI/AN children in the rates of placement into kinship care

Research shows overwhelmingly that kinship care is the preferred placement for all children, not just AI/AN children, because of the profound and long-lasting benefits to mental health, economic, and educational well-being.

.....

The proposed rule amendment fits squarely within the mission and values of the Interstate Commission for Juveniles. The ICJ mission statement places focus on racial justice, while the ICJ vision and values statements together highlight the importance of racial diversity, fairness, and equitable outcomes for all juveniles served by the Compact.

The RDEI Committee is following through with action steps detailed in the 2020 ICJ Action Plan to Promote Racial Justice, specifically the vow of the Ad Hoc Committee on Racial Justice to make specific recommendations for change to the Commission. The RDEI Committee also has members who participated in the Leadership Exchange Series which emphasized movement from talking about philosophies to enacting real change through a racial lens. This proposal was developed by a work team of RDEI Committee Members, and endorsed at their meeting on 3/28/23.

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

#### **Other Rules**

This proposal has an indirect impact on the application of Rule 4-103(3), which states:

When it is necessary for a juvenile sex offender to relocate with a legal guardian prior to the acceptance of supervision, and there is no legal guardian in the sending state, the sending state shall determine if the circumstances of the juvenile’s immediate relocation justifies the use of a Form VII Out-of-State Travel Permit and Agreement to Return, including consideration of the appropriateness of the residence. If approved by the sending state’s ICJ Office, the following shall be initiated: . . .

Pursuant to the first clause of this rule, certain conditions must be applied in “mandatory acceptance” cases, as currently described in Rule 4-104(4). If Rule 4-104(4) is amended, questions would likely be raised about why the same requirements do not apply to other



juveniles transferring pursuant to the expanded mandatory acceptance rule. In other words, 4-103(3) would apply if they were transferring to live with a guardian, but not if they were transferring to live with a person approved by the guardian.

### **Advisory Opinions**

[Advisory Opinion 01-2018](#) references Rule 4-104(4) regarding concepts of mandatory acceptance. Opinion would require rule reference edits and may require reanalysis.

### **Data System Impact:**

This rule could pass without impact; however, passage would present an opportunity for system improvement and enhancement to case management and decision making.

### **Forms Impact:**

This rule could pass without impact; however, passage would present an opportunity for system improvement and enhancement to case management and decision making.

### **Fiscal Impact:**

This rule could pass without impact; however, passage would present an opportunity for system improvement and enhancement to case management and decision making.

### **Effective Date:**

TBD

### **Rules Committee Action:**

[03/01/23](#) – The Rules Committee voted 9-0-0 to not recommend the proposal for adoption.

## **Proposed by West Region**

### **RULE 4-104: Authority to Accept/Deny Supervision**

1. Only the receiving state's authorized Compact Office staff shall accept or deny supervision of a juvenile by that state after considering a recommendation by the investigating officer.
2. The receiving state's authorized Compact Office staff's signature is required on or with the Form VIII Home Evaluation Report that accepts or denies supervision of a juvenile by that state.
3. Supervision cannot be denied based solely on the juvenile's age or the offense.
4. Supervision may be denied when the home evaluation reveals that the proposed residence is unsuitable or that the juvenile is not in substantial compliance with the terms and conditions of supervision required by the sending or receiving state, except when a juvenile has no legal guardian remaining in the sending state and the juvenile does have a legal guardian residing in the receiving state.
5. Upon receipt of acceptance of supervision from the receiving state, and prior to the juvenile's departure if the youth is not already residing in the receiving state, the sending state shall provide reporting instructions to the juvenile, and provide a Form V: Notification of Sending State Upon Parolee or Probationer Proceeding to the Receiving State ~~written notification of the juvenile's departure~~ to the receiving state.
6. If the transfer of supervision is denied by the receiving state and the juvenile is already residing in the receiving state, the sending state shall, within five (5) business days, secure alternative living arrangements and submit an updated referral or return the juvenile to the sending state. This time period may be extended up to an additional five (5) business days with approval from both ICJ offices.

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#### **Justification:**

Identifying the Form helps avoid confusion as to how written notification is provided and is consistent with Rule 4-102.

#### **Effect on Other Rules or Advisory Opinions:**

None

#### **UNITY Impact:**

This rule could pass without impact; however, passage would present an opportunity for system improvement and enhancement to case management and decision making.

**Forms Impact:**

This rule could pass without impact; however, passage would present an opportunity for system improvement and enhancement to case management and decision making.

**Fiscal Impact:**

TBD

**Effective Date:**

TBD

**Rules Committee Action:** *Click on meeting date to view approved minutes.*

[03/01/2023](#) – Rules Committee voted 9-0-0 to recommend the proposal for adoption.

## **Proposed by the Technology Committee**

### ***RULE 5-103: Reporting Juvenile Non-Compliance, ~~Failed Supervision~~ and Retaking***

1. At any time during supervision if a juvenile is out of compliance with conditions of supervision, the receiving state shall notify the sending state using Form IX Quarterly Progress, Violation or Absconder Report, which shall contain:
  - a. the date of the new citation or technical violation that forms the basis of the violation;
  - b. description of the new citation or technical violation;
  - c. status and disposition, if any;
  - d. supporting documentation regarding the violation including but not limited to police reports, drug testing results, or any other document to support the violation;
  - e. description of efforts made to redirect the behavior, including therapeutic interventions, incentives and/or graduated sanctions, or other corrective actions consistent with supervision standards in the receiving state; and
  - f. receiving state recommendations.
2. The sending state shall respond to a violation report in which a revocation or discharge is recommended by the receiving state no later than ten (10) business days following receipt by the sending state. The response shall include the action to be taken by the sending state, which may include continue supervision, and the date that action will occur.
3. The decision of the sending state to retake a juvenile shall be conclusive and not reviewable within the receiving state. If the sending state determines the violation requires retaking or retaking is mandatory, the following shall be considered:
  - a. In those cases where the juvenile is suspected of having committed a criminal offense or an act of juvenile delinquency in the receiving state, the juvenile shall not be retaken without the consent of the receiving state until discharged from prosecution, or other form of proceeding, imprisonment, detention, or supervision.
  - b. The Form VI Application for Services and Waiver has the appropriate signatures; no further court procedures will be required for the juvenile's return.
  - c. A duly accredited officer of a sending state may enter a receiving state and apprehend and retake any such juvenile on probation or parole consistent with probable cause requirements, if any. If this is not practical, a warrant may be issued and the supervising state shall honor that warrant in full.
  - d. The sending state shall return the juvenile in a safe manner, pursuant to the ICJ Rules, within five (5) business days. This time period may be extended up to an additional five (5) business days with the approval from both ICJ Offices.

4. ~~Upon request from the receiving state, the sending state's ICJ Office shall return the juvenile within five (5) business days in accordance with these rules when:~~
- a. ~~A legal guardian remains in the sending state and the supervision in the receiving state fails as evidenced by:~~
    - i. ~~When a juvenile is no longer residing in the residence approved by the receiving state due to documented instances of violation of conditions of supervision; or~~
    - ii. ~~When an alternative residence is determined to be in the best interest of the juvenile due to documented instances of violation of conditions of supervision and no viable alternatives exist in the receiving state; or~~
    - iii. ~~When an immediate, serious threat to the health and safety of the juvenile and/or others in the residence or community is identified; and~~
    - iv. ~~The receiving state has documented efforts or interventions to redirect the behavior.~~
  - b. ~~The juvenile is not residing with a legal guardian and that person requests the juvenile be removed from his/her home. The sending state shall secure alternative living arrangements within five (5) business days or the juvenile shall be returned. This time period may be extended up to an additional five (5) business days with the approval from both ICJ Offices.~~
  - c. ~~A juvenile student or juvenile who resides independently in the receiving state whose transfer of supervision fails.~~

*History: Adopted October 9, 2013, effective April 1, 2014; amended August 26, 2015, effective February 1, 2016; clerically amended October 17, 2016; amended September 27, 2017, effective March 1, 2018; clerically amended May 19, 2021; amended October 7, 2021, effective March 1, 2022*

*Comment: Sections of Rule 5-103 were adopted as Rule 6-104 "Return of Juveniles Whose ICJ Placement Has Failed" December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; amended October 26, 2011, effective March 1, 2012; Rule 6-104 rescinded and replaced by Rule 5-103 October 9, 2013, effective April 1, 2014*

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### **Justification:**

The Technology Committee proposes separating failed supervision returns in 5-103(4) from violation reports and retaking procedures by creating a NEW Rule 5-103A (*view "Justification" section on NEW Rule: 5-103A proposal for more details*). Most of the language from 5-103(4) is relocated to the new proposed rule.

### **Effect on Other Rules or Advisory Opinions:**

This proposal is submitted as part of a bundle with the proposed NEW Rule 5-103A as presented by the Technology Committee.



**UNITY Impact:**

See UNITY Impact for the proposal to NEW Rule 5-103A

**Forms Impact:**

See Forms Impact for the proposal to NEW Rule 5-103A

**Fiscal Impact:**

See Fiscal Impact for the proposal to NEW Rule 5-103A

**Effective Date:**

TBD

**Rules Committee Action:** *Click on meeting date to view approved minutes.*

[03/01/2023](#) – Rules Committee voted 7-1-0 to not recommend the proposal for adoption.

**04/05/2023** – Rules Committee voted 6-1-0 to recommend the proposal for adoption.

## Proposed by Technology Committee

### **NEW Rule 5-103A: Failed Supervision Determined by Receiving State**

Upon request from the receiving state, the sending state's ICJ Office shall return the juvenile within five (5) business days in accordance with these rules when:

1. The receiving state may determine supervision has failed when a juvenile is not detained and one of the following circumstances applies:
  - a. A legal guardian remains in the sending state, and the receiving state has documented efforts or interventions to redirect the behavior, and: the supervision in the receiving state fails as evidenced by:
    - i. ~~When a~~ The juvenile is no longer resides ~~residing~~ in the residence approved by the receiving state due to documented instances of violation of conditions of supervision; or
    - ii. ~~When~~ An alternative residence is determined to be in the best interest of the juvenile due to documented instances of violation of conditions of supervision and no viable alternatives exist have been located in the receiving state; or
    - iii. ~~When~~ An immediate, serious threat to the health and safety of the juvenile and/or others in the residence or community is identified; and
    - iv. ~~The receiving state has documented efforts or interventions to redirect the behavior.~~
  - b. The juvenile does is not reside ~~residing~~ with a legal guardian and the ~~that~~ person with whom the juvenile resides requests the juvenile be removed from his/her home. ~~The sending state shall secure alternative living arrangements within five (5) business days or the juvenile shall be returned. This time period may be extended up to an additional five (5) business days with the approval from both ICJ Offices.~~
  - c. The ~~A juvenile~~ is a student or ~~juvenile who~~ resides independently in the receiving state and the ~~whose~~ transfer of supervision fails due to documented instances of violations of conditions of supervision, and the receiving state has documented efforts or interventions to redirect the behavior.
2. Upon a determination of failed supervision, the receiving state shall notify the sending state using Form IX Failed Supervision Report which shall contain the following information:
  - a. Details regarding how the supervising agent determined supervision in the receiving state failed; and
  - b. Description of efforts or interventions to redirect behavior or maintain current residence; and

- c. Any pending charges in the receiving state.
- 3. The sending state shall respond to the Form IX Failed Supervision Report no later than ten (10) business days following receipt by the sending state.
  - a. The response shall provide details of an alternative living arrangement secured by the sending state or provide notice that a decision has been made to return the juvenile.
  - b. If an alternative living arrangement is not secured, the juvenile shall be returned no later than ten (10) business days following receipt of the Form IX Failed Supervision Report by the sending state. This time period may be extended up to an additional five (5) business days with the approval from both ICJ Offices.

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**Justification:**

As a result of the [2022 UNITY Data Assessment](#) completed by the Compliance Committee it was discovered that in situations of Failed Supervision, not only was the required response to a violation report not being completed, but youth were not being returned in the 5 business days allowed by the current rule. The Data Assessment found that returns due to Failed Supervision were taking an average of 13 business days. The Information Technology Committee was tasked with reviewing 5-103 as it pertained to failed supervision and the UNITY workflow currently associated with the rule. It was determined that it is not feasible in most cases to meet the current requirement due to the complexity of investigation and finding a new residence. Also as written, 5-103 covers Non-Compliance, Failed Supervision, and Retaking. While Non-Compliance and Retaking have very specific processes and expectations, the same is not true for Failed Supervision. The current rule outlines when supervision can be considered to have failed but does not provide guidance on how to provide that information to the sending state.

This proposal brings over language from 5-103(4) and is intended to provide clarity regarding the process and expectations for both the sending and receiving states once the receiving state has made a determination of failed supervision. This change is intended to alleviate any confusion between reporting a violation which requests discharge or revocation and Failed Supervision which mandates either the return of the juvenile or securing an alternative residence. In addition, the time frame would be extended based on the findings of the 2022 UNITY Data Assessment.

The addition of using a separate form was also made part of this proposal to reduce confusion regarding what mechanism should be used by the receiving state to report a failed supervision. Current forms (Form IX QPR and VR) do not require the needed

information be included to justify a Failed Supervision. This new form allows field workers to gather the required information to initiate the Failed Supervision process. This form also facilitates the appropriate response to the Failed Supervision by the Sending State.

**Effect on Other Rules or Advisory Opinions:**

This proposal is submitted as part of a bundle with the proposed amendments to Rule 5-103 as presented by the Technology Committee.

**UNITY Impact:**

Edits to applicable UNITY Failed Supervision Event to permit use of new Form IX: Failed Supervision Report and addition of new timelines.

**Forms Impact:**

New Form IX: Failed Supervision Report

**Fiscal Impact:**

TBD

**Effective Date:**

March 1, 2024

**Rules Committee Action:** *Click on meeting date to view approved minutes.*

[03/01/2023](#) – Rules Committee voted 7-1-0 to not recommend the proposal for adoption.

**04/05/2023** – Rules Committee voted 6-1-0 to recommend the proposal for adoption.

## **Proposed by the West Region**

### ***RULE 5-103: Reporting Juvenile Non-Compliance, Failed Supervision and Retaking***

1. At any time during supervision if a juvenile is out of compliance with conditions of supervision, the receiving state shall notify the sending state using Form IX ~~Quarterly Progress, Violation or Absconder~~ Report, within 10 days of becoming aware of the violation, which shall contain:
  - a. the date of the new citation or technical violation that forms the basis of the violation;
  - b. description of the new citation or technical violation;
  - c. status and disposition, if any;
  - d. supporting documentation regarding the violation including but not limited to police reports, drug testing results, or any other document to support the violation;
  - e. description of efforts made to redirect the behavior, including therapeutic interventions, incentives and/or graduated sanctions, or other corrective action consistent with supervision standards in the receiving state; and
  - f. receiving state recommendations.
2. The sending state shall respond to a violation report in which a revocation or discharge is recommended by the receiving state no later than ten (10) business days following receipt by the sending state. The response shall include the action to be taken by the sending state, which may include continue supervision, and the date that action will occur.
3. The decision of the sending state to retake a juvenile shall be conclusive and not reviewable within the receiving state. If the sending state determines the violation requires retaking or retaking is mandatory, the following shall be considered:
  - a. In those cases where the juvenile is suspected of having committed a criminal offense or an act of juvenile delinquency in the receiving state, the juvenile shall not be retaken without the consent of the receiving state until discharged from prosecution, or other form of proceeding, imprisonment, detention, or supervision.
  - b. The Form VI Application for Services and Waiver has the appropriate signatures; no further court procedures will be required for the juvenile's return.
  - c. A duly accredited officer of a sending state may enter a receiving state and apprehend and retake any such juvenile on probation or parole consistent with probable cause requirements, if any. If this is not practical, a warrant may be issued and the supervising state shall honor that warrant in full.
  - d. The sending state shall return the juvenile in a safe manner, pursuant to the ICJ Rules, within five (5) business days. This time period may be extended up to an additional five (5) business days with the approval from both ICJ Offices.

4. Upon request from the receiving state, the sending state's ICJ Office shall return the juvenile within five (5) business days in accordance with these rules when:
  - a. A legal guardian remains in the sending state and the supervision in the receiving state fails as evidenced by:
    - i. When a juvenile is no longer residing in the residence approved by the receiving state due to documented instances of violation of conditions of supervision; or
    - ii. When an alternative residence is determined to be in the best interest of the juvenile due to documented instances of violation of conditions of supervision and no viable alternatives exist in the receiving state; or
    - iii. When an immediate, serious threat to the health and safety of the juvenile and/or others in the residence or community is identified; and
    - iv. The receiving state has documented efforts or interventions to redirect the behavior.
  - b. The juvenile is not residing with a legal guardian and that person requests the juvenile be removed from his/her home. The sending state shall secure alternative living arrangements within five (5) business days or the juvenile shall be returned. This time period may be extended up to an additional five (5) business days with the approval from both ICJ Offices.
  - c. A juvenile student or juvenile who resides independently in the receiving state whose transfer of supervision fails.

*History: Adopted October 9, 2013, effective April 1, 2014; amended August 26, 2015, effective February 1, 2016; clerically amended October 17, 2016; amended September 27, 2017, effective March 1, 2018; clerically amended May 19, 2021; amended October 7, 2021, effective March 1, 2022*

*Comment: Sections of Rule 5-103 were adopted as Rule 6-104 "Return of Juveniles Whose ICJ Placement Has Failed" December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; amended October 26, 2011, effective March 1, 2012; Rule 6-104 rescinded and replaced by Rule 5-103 October 9, 2013, effective April 1, 2014*

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**Justification:**

Removing Quarterly and Absconder from the rule language will help clarify which of the 3 versions of the form should be used when reporting violations. Adding a timeframe for reporting will help with delayed reporting of violations, as many times locals wait until the next 90-day QPR due date to report violations.

**Effect on Other Rules or Advisory Opinions:**

None

**UNITY Impact:**

None, as UNITY already has the 3 versions of the Form IX available

**Forms Impact:**

None, as the Form IX already has 3 versions available

**Fiscal Impact:**

No Impact.

**Effective Date:**

TBD

**Rules Committee Action:** *Click on meeting date to view approved minutes.*

[03/01/2023](#) –Rules Committee voted 9-0-0 to not recommend the proposal for adoption.



## **Proposed by the East Region**

### ***RULE 6-102: Voluntary Return of Runaways, Probation/Parole Absconders, Escapees or Accused Delinquents and Accused Status Offenders***

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

1. Runaways and accused status offenders who are a danger to themselves or others shall be detained in secure facilities until returned by the home/demanding state. The holding state shall have the discretion to hold runaways and accused status offenders who are not a danger to themselves or others at a location it deems appropriate.
2. Probation/parole absconders, escapees or accused delinquents who have an active warrant shall be detained in secure facilities until returned by the home/demanding state. In the absence of an active warrant, the holding state shall have the discretion to hold the juvenile at a location it deems appropriate.
3. The holding state's ICJ Office shall be advised that the juvenile is being detained. The holding state's ICJ Office shall contact the home/demanding state's ICJ Office advising them of case specifics.
4. The home/demanding state's ICJ Office shall immediately initiate measures to determine the juvenile's residency and jurisdictional facts in that state.
5. At a court hearing (physical or electronic), the court in the holding state shall inform the juvenile of his/her due process rights and may use the ICJ Juvenile Rights Form. The court may elect to appoint counsel or a guardian ad litem to represent the juvenile.
6. If in agreement with the voluntary return, the juvenile shall sign the Form III Consent for Voluntary Return of Out-of-State Juveniles in the presence (physical or electronic) of the court. The Form III Consent for Voluntary Return of Out-of-State Juveniles shall be signed by the court.
7. 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 Form III Consent for Voluntary Return of Out-of-State Juveniles, provided the waiver is signed by the juvenile and the court.
8. 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 ICJ Office shall in turn, forward a copy of the consent to the Compact administrator, or designee, of the home/demanding state.
9. 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. If available, each

ICJ Office shall provide after-business hours contact information for their state which shall be posted on the Commission's website.

10. Juveniles shall be returned by the home/demanding state in a safe manner and within five (5) business days of receiving a completed Form III Consent for Voluntary Return of Out-of-State Juveniles or adult waiver. This time period may be extended up to an additional five (5) business days with approval from both ICJ Offices.

*History: Adopted December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; clerically amended January 5, 2011, effective February 4, 2011; amended October 17, 2012, effective April 1, 2013; amended August 26, 2015, effective February 1, 2016; amended September 11, 2019, effective March 1, 2020*

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**Justification:**

Law enforcement, agencies, and others encountering ICJ juveniles after normal office hours should have access to after-hours contact information for both the home and the holding state in order to ensure the safety and protection of the juvenile & that the compact is being followed. In some states, non-delinquent runaways have been released by law enforcement agencies who indicated that they did not have appropriate contact information within their state or know how to respond.

Additionally, law enforcement agencies often have questions about age of majority because it varies from state to state. Resulting confusion has impacted decisions regarding holding of runaways/absconders/escapees/accused delinquents. Runaways are at higher risk for exploitation/trafficking, and releasing them without following ICJ Rules could potentially put them back in dangerous situations.

**Effect on Other Rules or Advisory Opinions:**

None

**UNITY Impact:**

No Impact.

**Forms Impact:**

No Impact.

**Fiscal Impact:**

No Impact.

**Effective Date:**

TBD

**Rules Committee Action:** *Click on meeting date to view approved minutes.*

[02/01/2023](#) – Rules Committee voted 6-3-0 to not recommend the proposal for adoption.

WITHDRAWN - 4/12/2023

## **Proposed by the Rules Committee**

### ***RULE 7-106: Transportation***

1. Holding/receiving states are responsible for transporting juveniles to local airports or other means of public transportation as arranged by the home/demanding/sending state and maintaining security of the juveniles until departure.
2. Home/demanding/sending states shall make every effort to accommodate the airport preferences of the holding/receiving state. Additionally, travel plans shall be made with consideration of normal business hours and exceptions shall be approved by the holding/receiving state.
3. Holding/receiving states shall not return to juveniles any personal belongings which could jeopardize the health, safety, or security of the juveniles or others (examples: weapon, cigarettes, medication, lighters, change of clothes, or cell phone).
4. Holding/receiving states shall confiscate all questionable personal belongings and return those belongings to the legal guardians by approved carrier, COD or at the expense of the home/demanding/sending state (e.g., United States Postal Service, United Parcel Service, or Federal Express).
5. In cases where a juvenile is being transported by a commercial airline carrier, the holding/receiving state shall ensure the juvenile has a picture identification card, if available, and/or a copy of the applicable ICJ paperwork or appropriate due process documentation in his/her possession before entering the airport.
6. The home/demanding/sending state shall not use commercial ground transportation unless all other options have been considered or the juvenile is accompanied by an adult.
7. The duly accredited officers of any compacting state, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this Compact, without interference.
8. In the event of an emergency situation including but not limited to weather, accident, mechanical issue, delayed flight, or missed flight, that interrupts or changes established travel plans during a return transport, the ICJ member states may provide necessary services and assistance, including temporary detention or appropriate shelter arrangements for the juvenile until the transport is rearranged and/or completed.

*History: Adopted as Rule 6-110 December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; renumbered as Rule 7-106, effective April 1, 2014; amended August 26, 2015, effective February 1, 2016; amended September 27, 2017, effective March 1, 2018*

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**Justification:**

This change would give states the authority to assist with the temporary detention/shelter of youth in any emergency situation caused by a disruption of an established travel plan.

**Effect on Other Rules or Advisory Opinions:**

None

**UNITY Impact:**

No Impact.

**Forms Impact:**

No Impact.

**Fiscal Impact:**

No Impact.

**Effective Date:**

TBD

**Rules Committee Action:** *Click on meeting date to view approved minutes.*

[08/10/2022](#) – Rules Committee voted 5-0-0 to recommend the amendment to 7-106(8) for adoption.

***RULE 7-106: Transportation***

1. Holding/receiving states are responsible for transporting juveniles to local airports or other means of public transportation as arranged by the home/demanding/sending state and maintaining security of the juveniles until departure.
2. Home/demanding/sending states shall make every effort to accommodate the airport preferences of the holding/receiving state. Additionally, travel plans shall be made with consideration of normal business hours and exceptions shall be approved by the holding/receiving state.
3. In collaboration with the holding/receiving state, demanding/sending state, and the lay-over state, discretion shall be used when determining which personal items may accompany the juvenile on their return. ~~Holding/receiving states shall not return to juveniles any personal belongings which could.~~ Items that may jeopardize the health, safety, or security of the juvenile or others shall be confiscated. ~~(examples: weapon, cigarettes, medication, lighters, change of clothes, or cell phone)~~
4. ~~Holding/receiving states shall confiscate all questionable~~ Confiscated personal belongings and return those belongings shall be returned to the legal guardians by checked luggage, approved carrier, COD or at the expense of the home/demanding/sending state. ~~(e.g., United States Postal Service, United Parcel Service, or Federal Express).~~
5. In cases where a juvenile is being transported by a commercial airline carrier, the holding/receiving state shall ensure the juvenile has a picture identification card, if available, and/or a copy of the applicable ICJ paperwork or appropriate due process documentation in his/her possession before entering the airport.
6. The home/demanding/sending state shall not use commercial ground transportation unless all other options have been considered or the juvenile is accompanied by an adult.
7. The duly accredited officers of any compacting state, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this Compact, without interference.

*History: Adopted as Rule 6-110 December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; renumbered as Rule 7-106, effective April 1, 2014; amended August 26, 2015, effective February 1, 2016; amended September 27, 2017, effective March 1, 2018*

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**Justification:**

Paragraph 3: The states involved in the juvenile's return should be allowed to use discretion when determining what belongings/items the juvenile can bring with them on their return trip. In some cases, there is no need to restrict the belongings; particularly, on one-way trips with no lay-overs. It can be a financial burden to the holding/receiving state's detention center or shelter on how to return the belongings. Some items may never be returned. In the past there were concerns with juveniles traveling with extra

clothing. In most cases when a picture of the juvenile is provided, this eliminates that issue.

Paragraph 4: Another option for returning belongings is for the home/demanding state to include the cost of checked baggage at the time the flight reservation is made. This relieves the issue of the holding/receiving state finding a way to return the items and how to pay for them. Returning belongings to the home/demanding state can be difficult and can be an extra expense for the detention center, shelter, or the family to arrange for payment to return these items.

**Effect on Other Rules or Advisory Opinions:**

None

**UNITY Impact:**

No Impact.

**Forms Impact:**

No Impact.

**Fiscal Impact:**

No Impact.

**Effective Date:**

TBD

**Rules Committee Action:** *Click on meeting date to view approved minutes.*

[03/01/2023](#) – Rules Committee voted 8-0-0 to recommend the proposal for adoption.



## **Proposed by South Region**

### **RULE 7-107: Airport Supervision**

1. All states shall provide supervision and assistance to unescorted juveniles at intermediate airports en route to the home/demanding/sending state.
2. Juveniles shall be supervised from arrival until departure.
3. Home/demanding/sending states shall ~~give the states providing~~ request airport supervision a minimum of forty-eight (48) hours in advance ~~notice~~. Exceptions may be approved by the intermediate airport state.
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 shall provide necessary services and assistance, including temporary detention or appropriate shelter arrangements for the juvenile until the transport is rearranged and/or completed.

***History: Adopted as Rule 6-111 December 3, 2009, effective March 1, 2010; clerically amended January 5, 2011, effective February 4, 2011; amended October 26, 2011, effective March 1, 2012; renumbered as Rule 7-107, effective April 1, 2014; amended August 26, 2015, effective February 1, 2016***

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#### **Justification:**

It is recommended the language be struck and amended in 7-107: Airport Supervision #3. By amending the language, the Rule would require the Home/Demanding State to “request” airport supervision from the layover State rather than simply “notifying” the layover State. The language change requires Home/Demanding States to adhere to the 48 hours advance notice of the request and provides greater communication to include the layover State.

#### **Effect on Other Rules or Advisory Opinions:**

None

#### **UNITY Impact:**

This rule could pass without impact; however, passage would present an opportunity for system improvement and enhancement to case management and decision making.

**Forms Impact:**

This rule could pass without impact; however, passage would present an opportunity for system improvement and enhancement to case management and decision making.

**Fiscal Impact:**

This rule could pass without impact; however, passage would present an opportunity for system improvement and enhancement to case management and decision making.

**Effective Date:**

TBD

**Rules Committee Action:** *Click on meeting date to view approved minutes.*

[02/01/2023](#) – Rules Committee voted 7-0-0 to return the proposal to the South Region to consider striking “unless an emergency occurs” and adding a new sentence: “Exceptions may be approved by the intermediate airport state.”

**04/05/2023** – Rules Committee voted 7-0-0 to recommend the proposal for adoption.

## Proposed by Rules Committee

### RULE 8-101: Travel Permits

1. All travel permits shall be submitted prior to the juvenile's travel. Travel permits shall be mandatory for the following juveniles traveling out-of-state for a period in excess of twenty-four (24) consecutive hours who meet the criteria set forth in 1(a) or 1(b):
  - a. Juveniles who have been adjudicated and are on supervision for one of the following:
    - i. sex-related offenses;
    - ii. violent offenses that have resulted in personal injury or death; or
    - iii. offenses committed with a weapon;
  - b. Juveniles who are one of the following:
    - i. state committed;
    - ii. ~~relocating~~ pending a request for transfer of supervision, and who are subject to the terms of the Compact;
    - iii. returning to the state from which they were transferred for the purposes of visitation;
    - iv. transferring to a subsequent state(s) with the approval of the original sending state; or
    - v. transferred and the victim notification laws, policies and practices of the sending and/or receiving state require notification.
2. Juveniles traveling to a residential facility for placement shall be excluded from this rule; however, states may elect to use the Form VII Out-of-State Travel Permit and Agreement to Return for notification purposes.
3. The travel permit shall not exceed ninety (90) calendar days. If for the purposes of testing a proposed residence, a referral 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 instruct the juvenile 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. Out-of-state travel for a juvenile under Compact supervision is at the discretion of the supervising person in the receiving state. If the sending state wishes to retain authority to approve travel, it shall do so by notifying the supervising state in writing.

When the sending state retains authority to approve travel permits, the receiving state shall request and obtain approval prior to authorizing the juvenile's travel.

5. If a Form VII Out-of-State Travel Permit and Agreement to Return is issued, the sending state is responsible for victim notification in accordance with the laws, policies and practices of that state. The sending and receiving states shall collaborate to the extent possible to comply with

the legal requirements of victim notification through the timely exchange of required information.

History: Adopted as Rule 5-102 December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; amended October 26, 2011, effective March 1, 2012; amended October 17, 2012, effective April 1, 2013; amended October 9, 2013 and renumbered as Rule 8-101, effective April 1, 2014; amended August 26, 2015, effective February 1, 2016; amended September 27, 2017, effective March 1, 2018

*Comment: Rule 8-101 was originally titled “Informal Communication to Resolve Disputes or Controversies and Obtain Interpretation of the Rules,” adopted December 3, 2009, effective March 1, 2010; renumbered as Rule 9-101, effective April 1, 2014*

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### **Justification:**

The Rules Committee is recommending that the full Commission decide by an up or down vote on 8-101(1)(b)(ii) whether youth already residing outside of the state of adjudication should be subject to the travel permit requirement. The Rules Committee has decided this proposal will be considered separately from the bundled proposal (Rules 1-101, 4-101, and 4-103).

A vote in support of this proposal would make all transfers of supervision subject to the travel permit requirement, including those juveniles already residing in the receiving state at the time of adjudication. This would result in no changes to the UNITY system and no fiscal impact, as it would be consistent with the interpretation of the rule at the time UNITY was created.

If voted down, “relocating” would remain in the language and would be subject to the outcome of the bundled proposal (Rules 1-101, 4-101, and 4-103). If the bundled package passes, and the 8-101 proposal is voted down, “relocating” would return to a traditional sense of the term, that is “to move from one place to another.” Youth already residing out-of-state at the time of adjudication would not be subject to the travel permit requirement. This would have fiscal and UNITY impacts, as the travel permit workflow tied to this subgroup would have to be updated in UNITY.

### **Effect on Other Rules or Advisory Opinions:**

See above for potential impact on other rules.

No Advisory Opinion impacts.

**UNITY Impact:**

If the bundle consisting of Rule 1-101, 4-101, and 4-103 is adopted and the Rule 8-101 amendment is also adopted:

- No impact.

If the bundle consisting of Rule 1-101, 4-101, and 4-103 is adopted but the Rule 8-101 amendment proposal is not adopted:

- Edits to UNITY data fields and workflow are required to remove the travel permit requirement for transfer of supervision cases for juveniles who already reside in the receiving state.

**Forms Impact:**

If the bundle consisting of Rule 1-101, 4-101, and 4-103 is adopted and the Rule 8-101 amendment is also adopted:

- No impact.

If the bundle consisting of Rule 1-101, 4-101, and 4-103 is adopted but the Rule 8-101 amendment proposal is not adopted:

- No impact.

**Fiscal Impact:**

If the bundle consisting of Rule 1-101, 4-101, and 4-103 is adopted and the Rule 8-101 amendment is also adopted:

- No impact.

If the bundle consisting of Rule 1-101, 4-101, and 4-103 is adopted but the Rule 8-101 amendment proposal is not adopted:

- **TBD**

**Effective Date:**

**TBD**

**Rules Committee Action:** *Click on meeting date to view approved minutes.*

**06/01/2022** – Rules Committee voted 5-0-0 to recommend the amendment for adoption.

## Proposed by East Region

### RULE 8-101: Travel Permits

1. All travel permits shall be submitted prior to the juvenile's travel. Travel permits shall be mandatory for the following juveniles traveling out-of-state for a period in excess of twenty-four (24) consecutive hours who meet the criteria set forth in 1(a) or 1(b):
  - a. Juveniles who have been adjudicated or have deferred adjudications and are on supervision for one of the following:
    - i. sex-related offenses;
    - ii. violent offenses that have resulted in personal injury or death; or
    - iii. offenses committed with a weapon;
  - b. Juveniles who are one of the following:
    - i. state committed;
    - ii. relocating pending a request for transfer of supervision, and who are subject to the terms of the Compact;
    - iii. returning to the state from which they were transferred for the purposes of visitation;
    - iv. transferring to a subsequent state(s) with the approval of the original sending state; or
    - v. transferred and the victim notification laws, policies and practices of the sending and/or receiving state require notification.
2. Juveniles traveling to a residential facility for placement shall be excluded from this rule; however, states may elect to use the Form VII Out-of-State Travel Permit and Agreement to Return for notification purposes.
3. The travel permit shall not exceed ninety (90) calendar days. If for the purposes of testing a proposed residence, a referral 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 instruct the juvenile 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. Out-of-state travel for a juvenile under Compact supervision is at the discretion of the supervising person in the receiving state. If the sending state wishes to retain authority to approve travel, it shall do so by notifying the supervising state in writing.

When the sending state retains authority to approve travel permits, the receiving state shall request and obtain approval prior to authorizing the juvenile's travel.

5. If a Form VII Out-of-State Travel Permit and Agreement to Return is issued, the sending state is responsible for victim notification in accordance with the laws, policies and practices of that state. The sending and receiving states shall collaborate to the extent possible to comply with

the legal requirements of victim notification through the timely exchange of required information.

History: Adopted as Rule 5-102 December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; amended October 26, 2011, effective March 1, 2012; amended October 17, 2012, effective April 1, 2013; amended October 9, 2013 and renumbered as Rule 8-101, effective April 1, 2014; amended August 26, 2015, effective February 1, 2016; amended September 27, 2017, effective March 1, 2018

*Comment: Rule 8-101 was originally titled “Informal Communication to Resolve Disputes or Controversies and Obtain Interpretation of the Rules,” adopted December 3, 2009, effective March 1, 2010; renumbered as Rule 9-101, effective April 1, 2014*

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**Justification:**

With more states offering alternative sentencing in which adjudication is deferred and the juvenile is placed on supervision, which is treated similarly to Probation cases, this is a public safety justification to ensure Receiving States are aware when one of these juveniles is in their state. It would also align the rules with the eligibility for Transfer of Supervision requirements which “*is an adjudicated delinquent, adjudicated status offender, or has a deferred adjudication in the sending state.*”

**Effect on Other Rules or Advisory Opinions:**

None

**UNITY Impact:**

The East Region recommends adding an option for “deferred adjudication” in addition to Probation and Parole in the Travel Permit case type selector; however, in consideration of keeping consistency with the TOS selector options the Technology Committee assessment does not support adding this option but rather educating the Commission about Travel Permit requirements.

**Forms Impact:**

No Impact.

**Fiscal Impact:**

No Impact.



**Effective Date:**

TBD

**Rules Committee Action:** *Click on meeting date to view approved minutes.*

[02/01/2023](#) – Rules Committee voted 7-0-0 to recommend the proposal for adoption.