

# ICAOS ANNUAL BUSINESS MEETING 2009

Reno, NV



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Interstate Commission for Adult Offender Supervision  
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**INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION**  
**2009 ANNUAL BUSINESS MEETING DOCKET BOOK**

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**INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION**  
**ANNUAL BUSINESS MEETING AGENDA**  
**NOVEMBER 1-5, 2009**  
*Grand Sierra Resort, Reno, Nevada*

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**SUNDAY, NOVEMBER 1, 2009**

*Executive Committee Member's Arrival*

**MONDAY, NOVEMBER 2, 2009**

- 1:00 pm – 3:00 pm                    **Executive Committee Meeting**  
*McKinley Room, Mezzanine Level*
- 5:00 pm                                **Public Hearing**  
*Shasta, Mezzanine Level*
- 6:00 pm                                **Reception**  
*Silver State Foyer, Silver State Pavilion*

**TUESDAY, NOVEMBER 3, 2009**

- 8:00 am – 9:30 am                **In-Service Training – Probable Cause Hearing**  
*N6-7, Conference and Exhibition Center*
- 10:00 am – 12:00 pm            **Commissioner Training**  
*S2-3, Silver State Pavilion*  
**DCA Meeting**  
*Nevada Foyer, Conference and Exhibition Center*
- 12:00 pm                            Lunch\*
- 1:00 pm – 2:00 pm                **Commissioner Training (Continued)**  
*S2-3, Silver State Pavilion*  
**DCA Meeting Wrap Up**  
*Nevada Foyer, Conference and Exhibition Center*
- 2:30 pm – 3:30 pm                **In-Service Training – ICOTS Reports**  
*N6-7, Conference and Exhibition Center*
- 3:45 pm – 5:15 pm                **East Region Meeting**  
*N2, Conference and Exhibition Center*  
**South Region Meeting**  
*Nevada Foyer, Conference and Exhibition Center*  
**Midwest Region Meeting**  
*N6, Conference and Exhibition Center*  
**West Region Meeting**  
*N5, Conference and Exhibition Center*

**WEDNESDAY, NOVEMBER 4, 2009**

8:00 am	<b>General Session <i>SI, Silver State Pavilion</i></b> <b>Flag Presentation</b> <b>Roll Call</b> <b>Approval of Agenda</b> <b>Approval of Minutes</b> <ul style="list-style-type: none"><li>• <i>September 10, 2008</i></li></ul>
8:15 am	<b>Welcome &amp; Overview</b> <i>Nevada Officials</i> <i>Ken Merz, Chairman</i>
8:30 am	<b>Training, Education and Public Relations Committee Report</b> <i>Dori Ege, Chair</i>
8:45 am	<b>Compliance Committee Report</b> <i>Mike McAlister, Chair</i>
9:00 am	<b>DCA Liaison Committee Report</b> <i>Warren Emmer, Chair</i>
9:15 am	<b>Legal Counsel Report</b> <i>Rick Masters, Legal Counsel</i>
9:30 am	<b>Victim Advocate Report</b> <i>Pat Tuthill, Victim's Advocate</i>
9:45 am	Break
10:00 am	<b>Rules Committee Report</b> <i>William Rankin, Chair</i>
12:00 pm	Lunch*
1:30 pm	<b>Finance Committee Report</b> <i>Kevin Kempf, Treasurer</i>
1:45 pm	<b>Information &amp; Technology Committee Report</b> <i>Kathie Winckler, Chair</i>
2:30 pm	Break
2:45 pm	<b>Old Business</b>
3:00 pm	<b>New Business</b>
4:00 pm	<b>Awards Presentation</b>
4:50 pm	<b>Oath of Office</b>
5:00 pm	<b>Adjourn</b>
5:10 pm	<b>Executive Committee Meeting</b> <i>Board Room, Conference and Exhibition Center</i>

\*Meals not provided



## INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION

### ANNUAL BUSINESS MEETING MINUTES

September 10, 2008

Wyndham Palm Springs Hotel,  
Palm Springs, CA

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#### Call to Order

The meeting was called to order by Chairman W. Emmer (ND) at 8:05 a.m. PDT. Chairman W. Emmer (ND) gave welcoming remarks.

#### Roll Call

Roll was called by Executive Director H. Hageman. Fifty-two out of fifty-three members were present, thereby constituting a quorum.

1. Alabama	Chris Norman
2. Alaska	Donna White
3. Arizona	Dori Ege
4. Arkansas	David Guntharp
5. California	Robert Ambroselli
6. Colorado	Jeaneene Miller
7. Connecticut	Tracy Johnson
8. Delaware	Carl Danberg
9. District of Columbia	Adrienne Poteat
10. Florida	Pamela Levine
11. Georgia	David Morrison
12. Hawaii	Janice Yamada
13. Idaho	Kevin Kempf
14. Illinois	Michelle Buscher
15. Indiana	Robert Champion
16. Iowa	Jeanette Bucklew

- |                    |                   |
|--------------------|-------------------|
| 17. Kansas         | Keven Pellant     |
| 18. Kentucky       | Lelia VanHoose    |
| 19. Maine          | Wayne Theriault   |
| 20. Maryland       | Patrick McGee     |
| 21. Massachusetts  | Mark Conrad       |
| 22. Michigan       | John Rubitschun   |
| 23. Minnesota      | Ken Merz          |
| 24. Mississippi    | Lora Cole         |
| 25. Missouri       | Wanda La Cour     |
| 26. Montana        | Cathy Gordon      |
| 27. Nebraska       | Ellen Brokofsky   |
| 28. Nevada         | Bernard Curtis    |
| 29. New Hampshire  | Mike McAlister    |
| 30. New Jersey     | Yolette Ross      |
| 31. New Mexico     | Edward Gonzales   |
| 32. New York       | Rich Bitel        |
| 33. North Carolina | Robert Lee Guy    |
| 34. North Dakota   | Warren Emmer      |
| 35. Ohio           | Linda Janes       |
| 36. Oklahoma       | Milton Gilliam    |
| 37. Oregon         | Mark Cadotte      |
| 38. Pennsylvania   | Benjamin Martinez |
| 39. Puerto Rico    | Rebecca Martinez  |
| 40. Rhode Island   | Ashbel Wall       |
| 41. South Carolina | Samuel Glover     |
| 42. South Dakota   | Ed Ligtenberg     |
| 43. Tennessee      | Gary Tullock      |
| 44. Texas          | Kathie Winckler   |
| 45. Utah           | Jim Ingle         |
| 46. Vermont        | Jacqueline Kotkin |
| 47. Virginia       | James Camache     |
| 48. Virgin Islands | Arline Swan       |
| 49. Washington     | Lin Miller        |
| 50. West Virginia  | Henry Lowery      |
| 51. Wisconsin      | William Rankin    |
| 52. Wyoming        | Les Pozsgi        |

Executive Director H. Hageman recognized Ex-Officio members:

- |                     |  |
|---------------------|--|
| • Pat Tuthill       | <i>National Association of Crime Victim</i>              |
| • Denton Darrington | <i>National Association of Legislators</i>               |
| • Tom Roy           | <i>American Parole and Probation Association</i>         |
| • Nick Alexander    | <i>National Association of Attorney General</i>          |
| • Cranston Mitchell | <i>Association of Paroling Authorities International</i> |

**Approval of Agenda**

**Commissioner D. Guntharp (AR) moved to approve the agenda. Commissioner E. Ligtenberg (SD) seconded. The agenda was approved.**

### **Approval Minutes**

**Commissioner D. Ege (AZ) moved to approve the 2007 Annual Business Meeting minutes. Commissioner D. Guntharp (AR) seconded. The minutes were approved.**

### **Welcome & Overview**

Commissioner R. Ambroselli (CA) welcomed participants to California on behalf of Matthew Cate, Secretary of California Department of Corrections and Rehabilitation and himself.

Chairman W. Emmer (ND) instructed the Commission on the rules and procedures of the meeting and gave a short overview of the Commission's accomplishments.

### **Compliance Committee Report**

Commissioner R. Guy (NC) stated that as the result of the open communication and hard work, no formal complaints were brought up to the Committee's attention in the past year.

Commissioner R. Guy (NC) encouraged the Commission to use three assessment tools that were developed by Executive Director H. Hageman:

- Self Assessment Checklist for Interstate Compact,
- Comprehensive Self Assessment for Interstate Compact Operations and
- Assessing Critical Public Safety Standards for Interstate Compact.

At the face-to-face meeting in April 2008, the Compliance Committee developed a first draft of the Compliance Committee Policy and Procedures document.

**Commissioner R. Guy (NC), Compliance Committee Chair, made a motion to accept the *Compliance Committee Report*. Commissioner G. Tullock (TN) seconded. The report was adopted.**

### **Ad Hoc Workgroup Report**

Chairman W. Emmer (ND) charged Vice-chair G. Powers (LA) to put together a small workgroup consisting of Rules Committee chair, Compliance Committee chair and Training Committee chair. Using the Compliance Committee Policy and Procedures draft and the Compliance Survey, the workgroup developed *ICAOS Guidelines for Resolving Compliance Issues* and *Policy and Procedure for Investigating Allegations of Non-Compliance with the Interstate Commission for Adult Offender Supervision* documents.

**Commissioner R. Guy (NC) made a motion to accept the *Ad Hoc Workgroup Report*. Commissioner J. Miller (CO) seconded. The report was adopted.**

### **Rules Committee Report**

Commissioner W. Rankin (WI), Rules Committee Chair, presented the Committee's Report to the Commission. He provided an overview of the Committee goals and accomplishments and introduced the Commission's two-year business calendar.

Commissioner W. Rankin (WI) informed the Commission that technical corrections were made to Rules 3.101-3 and 3.103. The corrections took effect on February 17, after they were posted on the Commission's website for commissioner's comments.

The Rules Committee received the following proposals, some of which would be presented for the consideration at the 2009 business meeting:

- Definition of *supervision* - (West Region)
- Rule 2.106 Offenders subject to deferred prosecution programs – (South Region)
- Rules 3.101-3(c) reporting instructions for sex offenders already registered in resigning in the receiving state – (Midwest Region)
- ICOTS definition - this proposal was referred back to the Technology Committee for reconsideration and justifications (Technology Committee)

### **Ad Hoc Committee on Treatment in Other Jurisdictions**

At the 2007 business meeting, the Commission voted to establish an Ad Hoc on Treatment in other Jurisdiction Committee. This Ad Hoc Committee consisted of Rules Committee members and commissioners of District of Columbia, Maryland and Virginia. The Committee's goal was to examine whether the Commission should allow neighboring states to agree upon expedited transfer procedures that would allow offenders to report for treatment out-of-state as quickly as reasonably possible.

The Committee voted to make the following recommendations to the Commission:

- ICAOS rules should not be amended to allow local agreements between compacting states
- ICAOS rules should not be amended to create special procedures or considerations for the purposes of allowing offenders access to treatment in other jurisdictions

**Commissioner W. Theriault (ME) made a motion to accept *Ad Hoc Committee on the Treatment in Other Jurisdiction and Rules Committee* reports. Commissioner K. Pellant (KS) seconded. The reports were adopted.**

### **Training, Education and Public Relations Committee Report**

Commissioner D. Ege (AZ), the Training Committee Interim Chair, expressed her gratitude towards the Committee members and the National Office staff.

Commissioner D. Ege (AZ) reported on the on-site trainings that were delivered by the Committee members and the National Office staff: Victim's Workshop (Atlanta, GA), State Council (Natick, MA and Anchorage, AK), PO Training (Winston-Salem, NC, DC, Anchorage, AK).

The Committee members and the National staff delivered the following WebEx trainings: PO Rules Training Sessions, DCA Training Sessions and ICOTS Leader Training.

Commissioner D. Ege (AZ) informed the Commission that the Training Committee received continuing Legal Education accreditation from the following states AL, CO, FL, LA, NC, VT, WA and WY.

Commissioner D. Ege (AZ) gave an overview of the on-demand usage statistics by quarter.

The Training Committee assisted the Technology Committee in the development of the ICOTS training plan.

The Committee members and the National Staff delivered a judicial workshop at the Illinois Judicial Education Conference (Chicago, IL) and ICAOS workshops at CSG Sex Offender Symposium (Reno, NV), APPA (Phoenix, AZ), AJCA (Savannah, GA), SSCA (San Antonio, TX), and APPA (Las Vegas, NV).

**Commissioner D. Ege (AZ) moved to accept *Training, Education and Public Relations Committee* report. Commissioner M. Gilliam (OK) seconded. The report was adopted.**

#### **Finance Committee Report**

Executive Director H. Hageman presented Finance Committee report to the Commission. He demonstrated Commission's expenses and revenue – FY 2008 is 6.7% below revenue due to delayed ICOTS payments, un-purchased equipment, not utilized Technical and Training Assistance funds, 2007 Annual Meeting budget and general administrative savings.

**Commissioner G. Tullock (TN) made a motion to accept the proposed FY 10 budget. Commissioner L. Janes (OH) seconded. The motion passed.**

#### **Ad Hoc Finance Committee Report**

Executive Director H. Hageman presented to the Commission the Ad Hoc Finance Committee Report.

At the 2007 business meeting, the Commission voted to establish an Ad Hoc Finance Committee that consisted of present Finance Committee members and commissioners of Maine and Virgin Islands to review the Commission's dues structure.

After reviewing the dues formula, the Committee passed the motion to make a recommendation to the full Commission to create an additional tier that includes states that have a dues ratio below 0.001. The Virgin Islands was the only Commission member affected by this decision.

**Commissioner W. Theriault moved to accept the Ad Hoc Finance Committee recommendation. Commissioner K. Merz (MN) seconded. The motion passed.**

**Commissioner D. Ege (AZ) made a motion to amend FY 10 budget to reduce its revenue to accommodate the lower tier. Commissioner D. Guntharp (AZ) seconded. The motion carried.**

#### **Legal Counsel Report**

Legal Counsel R. Masters informed the Commission about newly issued Advisory Opinions 1-2008 and 2- 2008.

Legal Counsel R. Masters requested that the Commission's litigation matter would be discussed during the closed session.

**Commissioner W. Theriault (ME) made a motion to go into Executive Session. Commissioner M. Gilliam (OK) seconded. Motion carried by vote of fifty two (52) to zero (0).**

**Commissioner H. Lowery (WV) made a motion to come out of Executive Session. Commissioner S. Glover (SC) seconded. Motion carried.**

**Commissioner J. Miller (CO) made a motion to accept the Legal Counsel Report and adopt its purpose. Commissioner K. Winkler (TX) seconded. Motion carried.**

#### **DCA Liaison Committee Report**

Commissioner M. Gilliam (OK), the Chair of DCA Liaison Committee, presented the DCA Liaison Report to the Commission. He recognized the members of the Committee and thanked them for their hard work.

Commissioner M. Gilliam (OK) presented Committee's goals and objectives. He reported to the Commission the results of the DCA Liaison meetings and DCA trainings.

**Commissioner M. Gilliam (OK) made a motion to accept *DCA Liaison Committee Report*. Commissioner A. Wall (RI) seconded. The report was adopted.**

**Official Designee M. Conrad (MA) made a motion to make schedule adjustments to the business meeting agenda. Commissioner P. McGee seconded. The motion passed.**

### **Victims' Advocate Report**

P. Tuthill (FL), Victims' Advocate, presented her report to the Commission. She requested the Commission to provide an opportunity for the Ex-officio Victim Representative to make brief remarks at the Commission trainings, on the significance of complying with the Compact and real consequences to the public for failure to comply.

P. Tuthill (FL), Victims' Advocate, reported on several criminal justice and victim outreach presentations she held across the country:

- October 2007 - North Carolina Probation Association.
- May 2008 - Georgia Criminal Justice Coordinating Council.
- September 2008 - Montana Probation Association
- October 2008 – annual conference of the Colorado Organization of Victim Advocates
- November 2008 – Georgia Mental Health Association Presentation
- Early 2009 – Massachusetts Eastern Region training for victim advocates

Victim's Advocate P. Tuthill (FL) is working with the National Office to develop the victims' rep web page on the Commission's website. This webpage will be updated monthly to include discussion board, additional links to victim organizations and victim assistance training announcements.

Victim Advocate P. Tuthill (FL) informed the Commission that victim representatives helped to promote the Peyton Tuthill Foundation Scholarships. Three \$1,000 college scholarships were awarded on July 1, 2008 to survivors of homicide.

**Commissioner M. Gilliam (OK) made a motion to accept the *Victims' Advocate Report*. Commissioner K. Winkler (TX) seconded. The report was adopted.**

### **Award Presentations**

- *Executive Chair Award* was presented to Commissioner William Rankin (WI) by Chairman W. Emmer (ND).
- *Executive Director Award* was presented to Deputy Compact Administrator Anne Precythe (NC) by Executive Director H. Hageman.
- *Peyton Tuthill Award* was presented to Victims' Advocate – Dan Levey (AZ) by Chairman W. Emmer (ND), Victims' Advocate P. Tuthill (FL) and Commissioner D. Ege (AZ).

Chairman W. Emmer (ND) recognized the Ex-Officio Senator Darrington for being one of the Commission's architects.

### **Committee Chair Recognition**

Recognition Awards were given to the Committee Chairs for their service to the Commission.

The Compliance Committee Chair Recognition Award was given to Commissioner R. Guy (NC) by Chairman W. Emmer (ND).

The Rules Committee Chair Recognition Award was given to Commissioner W. Rankin (WI) by Chairman W. Emmer (ND).

The Technology Committee Chair Recognition Award was given to Commissioner D. Guntharp (AR) by Chairman W. Emmer (ND).

The Training Committee Chair Recognition Award was given to Commissioner D. Ege (AZ) by Chairman W. Emmer (ND).

The DCA Liaison Committee Chair Recognition Award was given to Commissioner M. Gilliam (OK) by Chairman W. Emmer (ND).

Chairman W. Emmer (ND) recognized those who preserve the "Spirit of the Compact" and expressed his appreciation to them: John Rubitschun and his staff (MI), Naeemah Yarber (CO), Michael Maestas (CO), Tom Plumlee (TX), Donna Reed (MA), Denis Clark (ME), Tima Ellsmore (ME), Richard Rhines (OH), Debbie Duke (TN), Anne Precythe (NC), Judge Mollee Westfall (TX), Marjorie Owens (WA), Angela Tolley (KY).

Executive Director H. Hageman presented the Chair with a plaque of recognition for his leadership and service to the Commission.

### **New Business**

Commissioner R. Bitel (NY) on behalf of the East Region gave a donation to the Peyton Tuthill Scholarship Fund.

Commissioner D. Morrison (GA) emphasized the importance of the Spirit of the Compact.

Commissioner J. Bucklew (IO) informed the Commission about the Women Working in Corrections Conference on October 26-29, 2008. Attendees can find full information about the conference on [www.womenofcorrection.com](http://www.womenofcorrection.com).

Chairman W. Emmer (ND) recognized the National Office staff and thanked them for their hard work.

### **Information & Technology Report**

Commissioner D. Guntharp (AR), Technology Committee Chair, presented a short history of ICOTS development and progress.

Five states, Arkansas, Kentucky, Ohio, Indiana and North Carolina, volunteered to participate in ICOTS pilot launch on August 18, 2008.

The national implementation is scheduled for October 6, 2008.

Appriss representative Brian Oldham introduced his team and gave an overview of the Appriss history and accomplishments.

MIS Project Manager held demonstration of ICOTS functionalities.

**Commissioner D. Guntharp (AR) made a motion to implement ICOTS and require all new transfer cases between states be processed through the system on October 6, 2008. Commissioner G. Tullock (TN) seconded. Motion carried by vote of forty (40) to eleven (11).**

In the process of discussion, Appriss assured to fix the static fields of the supervision expiration date, victim sensitive and sex offender status to the dynamic fields before the national launch date - October 6, 2008.

Brian Oldham, Appriss, informed the Commission that 59 presented issues would be fixed in urgent matter based on the priority.

Brian Oldham, Appriss, stood by his words that all of the 59 issues were considered not showstoppers for the national ICOTS implementation.

MIS Manager S. Razor mentioned that every state ICOTS representative would have access to the working issues via FrontRange.

Brian Oldham, Appriss, assured the Commission that Appriss would be very flexible with the warranty timeframes and agreed to extend the warranty to six months after acceptance.

Commissioner R. Martinez (PR) informed the Commission that Puerto Rico would be having some training and language difficulties with the ICOTS implementation.

**Commissioner D. Guntharp (AR) moved to give 60 days for the legacy data load. Commissioner S. Glovers (SC) seconded. Motion carried by vote of forty three (43) to nine (9).**

Brian Oldham, Appriss, assured the Commission that the test files would be returned back to the sending state in 1-week timeframe.

Commissioner W. Rankin (WI) reminded Commission that there are three rules that would take effect upon implementation of ICOTS. The Executive Committee will determine the dates of these rules implementation.

### **Elections**

Commissioner D. Ege (AZ), the Nomination Committee spokesperson, explained the Commission's election process.

Commissioners K. Kempf (ID) and L. Janes (OH) were nominated for the Treasurer position.

Commissioner D. Ege (AZ) asked for nominations from the floor.

**Commissioner D. Guntharp (AR) made a motion to cease the nominations. Commissioner W. Theriault (ME) seconded. The motion passed.**

Commissioners K. Winckler (TX) and M. Gilliam (OK) were nominated for the Vice-Chair position.

Commissioner D. Ege (AZ) asked for nominations from the floor.

**Commissioner G. Tullock (TN) moved to cease the nominations. Commissioner B. Curtis (NV) seconded. The motion passed.**

Commissioner D. Ege (AZ) asked for nominations from the floor.

Commissioners R. Bitel (NY) and K. Merz (MN) were nominated for the Chairman position.

**Commissioner D. Guntharp (AR) made a motion to cease the Chairman nominations. Commissioner E. Ligtenberg (SD) seconded. The motion passed.**

The candidates delivered their speeches to the Commission.

Commissioner K. Kempf (ID) was elected as Treasurer.

Commissioner M. Gilliam (OK) was elected as Vice-Chair.

Commissioner K. Merz (MN) was elected as Chairman.

Senator D. Darrington (ID) delivered the Oath of Officers to the elected officers.

Chairman K. Merz (MN) asked the West Region to meet after the business meeting for the Midwest region chair election.

Chairman K. Merz (MN) announced that the next Annual Business Meeting would take place on November 2-4, 2008 in Reno, Nevada.

**Adjourn**

**The Commission adjourned at 4:10 pm PDT.**

DRAFT



**INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION**

**ANNUAL BUSINESS MEETING MINUTES  
EXECUTIVE SESSION**

**September 10, 2008**

**Wyndham Palm Springs,  
Palm Springs, CA**

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**Commissioner W. Theriault (ME) made a motion to go into Executive Session. Commissioner M. Gilliam (OK) seconded. Motion carried by vote of fifty two (52) to zero (0).**

Legal Counsel R. Masters described in detail the litigation case of offender Thomas Stanton, who believed that his constitutional rights were violated by rejecting his request to transfer his supervision from Wisconsin to Minnesota.

After consulting both Attorney General of Wisconsin and Minnesota, Legal Counsel filed a petition for removal of the case.

Legal Counsel R. Masters mentioned that ICAOS has a liability policy with the CSG that will cover most of the legal fees for this action after a deductible.

**Commissioner H. Lowery (WV) made a motion to come out of Executive Session. Commissioner S. Glover (SC) seconded. Motion carried.**



## Notice of Public Hearing

In accordance with Compact Rule 2.109(c), prior to the Commission voting on any proposed rule or amendment, the text of the proposed rule or amendment shall be published by the Rules Committee no later than 30 days prior to the meeting at which vote on the rule is scheduled. The following rules, Rule 1.101 “Supervision,” Rule 2.104, Rule 2.106, Rule 2.110, Rule 3.101, Rule 3.101-1, Rule 3.101-3, Rule 3.102, Rule 3.104, Rule 3.104-1, Rule 3.107 and Rule 4.106 are scheduled for vote on November 4, 2009. A public hearing is scheduled for these rules. Details on location and time as well as the process for attending the hearing are outlined below:

**Place:** Shasta Room, Grand Sierra Resort, 2500 East Second Street Reno, Nevada 89595

**Date:** Monday, November 2, 2009

**Time:** 5:00 pm (PST)

**The manner which interested persons may submit notice to the Commission of their intent to attend and submit written comments, to:**

Ashley Lippert, Assistant Director

2760 Research Park Drive

Lexington, KY 40511

[alippert@interstatecompact.org](mailto:alippert@interstatecompact.org)

Phone (859)244-8227, Fax (859)244-8001

***RULE 1.101 Definitions***

“Supervision” means the ~~authority or oversight exercised by supervising~~ authorities of a sending or receiving state over an offender for a period of time determined by a court or releasing authority, during which time the offender is required to report to or be monitored by supervising authorities, ~~and includes any condition, qualification, special condition or requirement~~ and to comply with regulations and conditions, other than monetary conditions, imposed on the offender at the time of the offender’s release to the community or during the period of supervision in the community.

Justification:

The current definition of supervision has been interpreted to require transfer of certain offenders whom the sentencing courts have clearly not intended to be subject to “supervision” as it has been traditionally understood. These include offenders placed on probation as a means to preserve jurisdiction while the offenders pay court-ordered fees, fines, court costs and restitution.

Since the monitoring and collection of outstanding monies is the sending state’s responsibility under Rule 4.108, regardless of the offender’s location, there is no benefit in requiring transfer of cases, when the only conditions to be satisfied are monetary.

This amendment will eliminate confusion and inconsistencies among states in applying compact rules.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

NONE

ICOTS Impact:

NONE

Rules Committee Action:

On 9/22/2009, by 7-0 vote, Rules Committee recommended in favor of adoption.

Effective Date:

March 1, 2010

**Rule 2.104 Forms**

- (a) States shall use the forms or electronic information system authorized by the commission ~~for all communication regarding offenders between or among states.~~
- (b) The sending state shall retain the original forms containing the offender's signature until the termination of the offender's term of compact supervision.
- (c) Section (a) shall not be construed to prohibit written, electronic or oral communication between compact offices.

Justification:

Existing language appears to restrict compact offices from communicating about offenders' cases, by any means other than ICAOS forms or the electronic information system (ICOTS). Efficient compact operations require that compact offices have the ability to send messages and to clarify, discuss and resolve certain issues outside of ICOTS. The revised language clarifies the intent of the rule that ICAOS forms and ICOTS are to be used when appropriate to the purpose, but does not restrict other communications.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

NONE

ICOTS Impact:

NONE

Rules Committee Action:

On 9/22/2009, by 7-0 vote, Rules Committee recommended in favor of adoption.

Effective Date:

March 1, 2010

**Rule 2.106 *Offenders subject to deferred sentences***

Offenders subject to deferred sentences are eligible for transfer of supervision under the same eligibility requirements, terms, and conditions applicable to all other offenders under this compact.

Persons subject to supervision pursuant to a pre-trial release intervention program, bail, or similar program are not eligible for transfer under the terms and conditions of this compact.

Justification:

The intent of this proposal is to eliminate any case where the offender was in a bond-like status and focus on those offenders where courts/parole boards have made a final determination that the offender has committed an offense and should be supervised for a period of time.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

This proposal is consistent with Advisory Opinion 6-2005.

ICOTS Impact:

NONE

Rules Committee Action:

On 9/22/2009, by 4-3 vote, Rules Committee recommended against adoption.

Effective Date:

March 1, 2010

***Rule 2.110 Transfer of offenders under this compact***

- (a) No state shall permit an offender who is eligible for transfer under this compact to relocate to another state except as provided by the Compact and these rules.
- (b) An offender who is not eligible for transfer under this Compact is not subject to these rules and remains subject to the laws and regulations of the state responsible for the offender's supervision.
- (c) Upon violation of section (a), the sending state shall direct the offender to return to the sending state within 15 calendar days of receiving such notice. If the offender does not return to the sending state as ordered, the sending state shall issue a warrant that is effective in all compact member states, without limitation as to specific geographic area, no later than 10 calendar days following the offender's failure to appear in the sending state.

Justification:

Under the current rules, there is no explicit process requiring a sending state to take specific action when it or a receiving state learns that an offender who is eligible for transfer under the Compact has been permitted to relocate to the receiving state in violation of Compact rules. This poses a significant public safety risk because the offender is residing in the receiving state but not under supervision there. Paragraph (c) would clarify a sending state's responsibilities in this situation to remove the offender from the receiving state. This does not apply to offenders who have relocated to another state without permission.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

NONE

ICOTS Impact:

NONE

Rules Committee Action:

On 9/22/2009, by 7-0 vote, Rules Committee recommended in favor of adoption.

Effective Date:

March 1, 2010

**Rule 3.101 Mandatory transfer of supervision**

At the discretion of the sending state, an offender shall be eligible for transfer of supervision to a receiving state under the compact, and the receiving state shall accept transfer, if the offender:

- (a) has more than 90 days or an indefinite period of supervision remaining at the time the sending state transmits the transfer request; and
- (b) has a valid plan of supervision; and
- (c) is in substantial compliance with the terms of supervision in the sending state; and
- (d) is a resident of the receiving state; or
- (e)
  - (1) has resident family in the receiving state who have indicated a willingness and ability to assist as specified in the plan of supervision; and
  - (2) can obtain employment in the receiving state or has means of support.
- (f) Upon 3 returns from the same receiving state for violations and closures within five years of a specific offender to the sending state under the terms of this rule, any future applications for transfer to the same receiving state shall be considered under Rule 3.101-2.

Justification:

Many offenders apply multiple times for transfer to a specific state, after multiple failures of supervision. A reasonable case can be made that after three case failures in the same receiving state, that any future applications for transfer should be considered discretionary and not mandatory. After a certain point, the offender is simply not having a successful experience with supervision in the receiving state where multiple failures have occurred (3-Strikes Rule on Mandatory Cases).

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

NONE

ICOTS Impact:

NONE

Rules Committee Action:

*Amended the language to make it clear that all three violations and returns must occur from the same receiving state.*

2009-West Region-3.101

On 9/22/2009, by 7-0 vote, Rules Committee recommended against adoption.

Effective Date:

March 1, 2010

***Rule 3.101-1 Mandatory transfers of military, families of military, and family members employed, and employment transfer.***

(a) Transfers of military members- An offender who is a member of the military and has been deployed by the military to another state, shall be eligible for reporting instructions and transfer of supervision. The receiving state shall issue reporting instructions no later than two business days following receipt of such a request from the sending state.

(b) Transfer of offenders who live with family who are members of the military- An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and (e)(2) and who lives with a family member who has been deployed to another state, shall be eligible for reporting instructions and transfer of supervision, provided that the offender will live with the military member in the receiving state. The receiving state shall issue reporting instructions no later than two business days following receipt of such a request from the sending state.

(c) Employment transfer of family member to another state- An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and (e)(2) and whose family member, with whom he or she resides, is transferred to another state by their full-time employer, at the direction of the employer and as a condition of maintaining employment, shall be eligible for reporting instructions and transfer of supervision, provided that the offender will live with the family member in the receiving state. The receiving state shall issue reporting instructions no later than two business days following receipt of such a request from the sending state.

(d) Employment transfer of the offender to another state – An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and is transferred to another state by their full-time employer, at the direction of the employer and as a condition of maintaining employment shall be eligible for reporting instructions and transfer of supervision. The receiving state shall issue reporting instructions no later than two business days following receipt of such a request from the sending state.

Justification:

(c) For purpose of consistency

(d) An offender's ability to support themselves plays a major part in:

- 1) rehabilitation,
- 2) the ability to be a productive member of society and
- 3) the ability to pay legal financial obligations, including victim's compensation.

Offenders should not be put in a position to lose employment and become unemployed because they are transferred by their company to another state. If moving to the receiving state allows the offender to maintain employment, it should be a requirement to accept the offender.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

NONE

ICOTS Impact:

New reason for transfer and RFRI: Estimate \$11, 360

Rules Committee Action:

*Based on the comments replaced some of the language in the proposal and justification without materially altering the intent of the proposal.*

On 9/22/2009, by 7-0 vote, Rules Committee recommended in favor of adoption.

Effective Date:

March 1, 2010

**Rule 3.101-3 Transfer of supervision of sex offenders**

(a) Eligibility for Transfer-At the discretion of the sending state a sex offender shall be eligible for transfer to a receiving state under the Compact rules. A sex offender shall not be allowed to leave the sending state until the sending state's request for transfer of supervision has been approved, or reporting instructions have been issued, by the receiving state. In addition to the other provisions of Chapter 3 of these rules, the following criteria will apply.

(b) Application for Transfer-In addition to the information required in an application for transfer pursuant to Rule 3.107, in an application for transfer of supervision of a sex offender the sending state shall provide the following information, if available, to assist the receiving state in supervising the offender:

- (1) assessment information, including sex offender specific assessments;
- (2) social history;
- (3) information relevant to the sex offender's criminal sexual behavior;
- (4) law enforcement report that provides specific details of sex offense;
- (5) victim information
  - (A) the name, sex, age and relationship to the offender;
  - (B) the statement of the victim or victim's representative;
- (6) the sending state's current or recommended supervision and treatment plan.

(c) *Reporting instructions for sex offenders living in the receiving state at the time of sentencing*-Rule 3.103 applies to the transfer of sex offenders, who are placed on probation for a sex offense requiring registration in the sending or receiving states except for the following:

- (1) The receiving state shall have five business days to review the proposed residence to ensure compliance with local policies or laws prior to issuing reporting instruction. If the proposed residence is invalid due to existing state law or policy, the receiving state may deny reporting instructions.
- (2) No travel permit shall be granted by the sending state until reporting instructions are issued by the receiving state.

Justification:

Current rule requires all sex offenders requesting reporting instructions under 3.103 to remain in the sending state until reporting instructions are received. Early experience with the new rule has shown that a significant proportion of affected offenders are individuals who are not on probation for a sex offense.

Rather, they have previous convictions or adjudications, and are already registered as sex offenders in the receiving states.

Recent examples of affected offenders already registered and residing in the receiving state at the time of sentencing include:

- Offender placed on probation for DUI-2nd Offense; previously convicted and currently registered in receiving state;
- Offender placed on probation for Harassing Behavior; previously convicted and currently registered in receiving state;
- Offender placed on probation for Issue Worthless Checks, Possession of Marijuana; currently registered in receiving state;
- Offender placed on probation for Fraudulent Use of Credit Card; previously convicted and currently registered in receiving state;
- Offender placed on probation for Failure to Register Vehicle Information; currently registered in receiving state.

To require all sex offenders to remain in the sending state places unnecessary financial burdens on the offenders and/or the sending state. Preventing these individuals from returning to their residences also may create new public safety risks, by displacing the offenders and requiring them to find temporary housing. These registered sex offenders already reside in the receiving state, presumably in compliance with the state's residence and registration requirements. This proposal limits the scope of Rule 3.101-3 (c) to those offenders newly convicted of offenses requiring registration. In these cases, a receiving state is more likely to serve a public protection function by conducting a prior investigation to confirm the residence does not conflict with existing state law or policy.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

NONE

ICOTS Impact:

NONE

Rules Committee Action:

*In response to the comments, the committee removed the language "have been" with "are" placed on probation).*

On 9/22/2009, by 4-3 vote, Rules Committee recommended against adoption.

Effective Date:

March 1, 2010

***RULE 3.102 Submission of transfer request to a receiving state***

- (a) Except as provided in section (c), and subject to the exceptions in Rule 3.103 and 3.106, a sending state seeking to transfer supervision of an offender to another state shall submit a completed transfer request with all required information to the receiving state prior to allowing the offender to leave the sending state.
- (b) Except as provided in section (c), and subject to the exceptions in Rule 3.103 and 3.106, the sending state shall not allow the offender to travel to the receiving state until the receiving state has replied to the transfer request.
- (c) An offender who is employed in the receiving state at the time the transfer request is submitted and has been permitted to travel to the receiving state for the employment may be permitted to continue to travel to the receiving state for the employment while the transfer request is being investigated, provided that the following conditions are met:
- 1) Travel is limited to what is necessary to report to work, perform the duties of the job and return to the sending state.
  - 2) The offender shall return to the sending state daily during non-working hours, and
  - 3) The Transfer Request shall include notice that the offender has permission to travel to and from the receiving state, pursuant to this rule, while the transfer request is investigated.

Justification:

This amendment allows an offender to maintain existing employment in a receiving state, without interruption, while a transfer request is investigated. Under existing rules, an offender who has not requested transfer to another state may travel to and from that state, as long as the offender does not relocate. However, once a sending state submits a request to transfer supervision, Rule 3.102 bars the offender from any further travel to that state. Exceptions are possible for offenders who already reside in or who, due to emergency circumstances, need to relocate to the receiving state. No exception is currently provided for an offender who has employment in that state, but does not intend to relocate prior to completion of the investigation.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

NONE

ICOTS Impact:

NONE

2009-Rules Committee-3.102

Rules Committee Action:

On 9/22/2009, by 6-1 vote, Rules Committee recommended in favor of adoption.

Effective Date:

March 1, 2010

***RULE 3.104 Time allowed for investigation by receiving state***

- (a) A receiving state shall complete investigation and respond to a sending state's request for an offender's transfer of supervision no later than the 45<sup>th</sup> calendar day following receipt of a completed transfer request in the receiving state's compact office.
- (b) If a receiving state determines that an offender transfer request is incomplete the receiving state shall notify the sending state by rejecting the transfer request with the specific reason(s) for the rejection. If the offender is in the receiving state with reporting instructions, those instructions shall remain in effect provided that the sending state submits a completed transfer request within 15 calendar days following the rejection.

Justification:

This rule currently requires an incomplete transfer application to be rejected. Other ICAOS rules require that an offender in the receiving state with reporting instructions, must return to the sending state upon notice of rejection. The addition of this language allows the offender, whose transfer has been rejected pursuant to this rule, to remain in the receiving state for a reasonable amount of time to allow the sending state to either cure the defect in the transfer application or order the return of the offender. The addition of this language further clarifies the responsibilities of the sending state.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

NONE

ICOTS Impact:

Notification reminder to the sending user to initiate new transfer request: Estimate \$2,600

Rules Committee Action:

On 9/22/2009, by 7-0 vote, Rules Committee recommended in favor of adoption.

Effective Date:

March 1, 2010

***Rule 3.104-1 Acceptance of offender; issuance of reporting instructions***

- (a) If a receiving state accepts transfer of the offender, the receiving state's acceptance shall include reporting instructions.
- (b) Upon notice of acceptance of transfer by the receiving state, the sending state shall issue a travel permit to the offender and notify the receiving state of the offender's departure as required under Rule 4.105.
- (c) A receiving state shall assume responsibility for supervision of an offender upon the offender's arrival in the receiving state and shall submit notification of arrival as required under Rule 4.105.
- (d) An acceptance by the receiving state shall be valid for 120 calendar days. If the sending state has not sent a departure notice to the receiving state in that time frame, the receiving state may withdraw its acceptance and close interest in the case.

Justification:

This proposal is consistent with language in Rules 3.103 and 3.106 for offenders arriving in a receiving state. This language should be a part of Rule 3.104-1 as well because not all offenders arrive in a receiving state via Rules 3.103 or 3.106. Adding this language to this rule also makes it clear that the receiving state's responsibility for supervision begins upon the offender's arrival in the receiving state, and that an arrival notice is then due.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

NONE

ICOTS Impact:

NONE

Rules Committee Action:

On 9/22/2009, by 7-0 vote, Rules Committee recommended in favor of adoption.

Effective Date:

March 1, 2010

**Rule 3.107 Transfer Request**

- (a) A Transfer request for an offender shall be transmitted through the electronic information system authorized by the commission and shall contain—
1. transfer request form;
  2. instant offense in sufficient detail to describe the type and severity of offense and whether the charge has been reduced at the time of imposition of sentence;
  3. photograph of offender;
  4. conditions of supervision;
  5. any orders restricting the offender's contact with victims or any other person;
  6. any known orders protecting the offender from contact with any other person;
  7. information as to whether the offender is subject to sex offender registry requirements in the sending state along with supportive documentation;
  8. pre-sentence investigation report, if available;
  9. supervision history, if available;
  10. information relating to any court-ordered financial obligations, including but not limited to, fines, court costs, restitution, and family support; the balance that is owed by the offender on each; and the address of the office to which payment must be made.
- (b) The original signed Offender Application for Interstate Compact Transfer shall be maintained in the sending state. A copy of the signed Offender Application for Interstate Compact Transfer shall be attached to the transfer request.
- (c) Additional documents, such as the Judgment and Commitment, and any other information may be requested from the sending state following acceptance of the offender. The sending state shall provide the documents if available.

Justification:

We are discovering that in cases when states do not include the Offender Application with their packets as a discretionary attachment, it is difficult to obtain one from the sending state after the fact. We spend time we don't have in trying to obtain a signed copy of this application for violating offenders. In addition, we are becoming aware that because it is not mandatory in the rule that officer's are forgetting to even have the offender sign one – that can cause a lot of problems.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

NONE

ICOTS Impact:

2009-Rules Committee-3.107

ICOTS could force user to attach the document: *Estimate \$1,000*

Rules Committee Action:

On 9/22/2009, by 7-0 vote, Rules Committee recommended in favor of adoption.

Effective Date:

March 1, 2010

**Rule 4.106 Progress reports**

- (a) A receiving state shall provide to the sending state a progress report annually, or more frequently, upon the request of the sending state, for good cause shown. The receiving state shall provide the progress report within thirty (30) calendar days of receiving the request.
- (b) A progress report shall include-
  - (1) offender's name;
  - (2) offender's residence address;
  - (3) offender's telephone number and electronic mail address;
  - (4) name and address of offender's employer;
  - (5) supervising officer's summary of offender's conduct, progress and attitude, and compliance with conditions of supervision;
  - (6) programs of treatment attempted and completed by the offender;
  - (7) information about any sanctions that have been imposed on the offender since the previous progress report;
  - (8) supervising officer's recommendation;
  - (9) any other information requested by the sending state that is available in the receiving state.

Justification:

Progress reports are frequently needed for the sending state to complete regularly scheduled supervision reviews or final termination audits and must be received timely so that violations can be addressed prior to termination of supervision. All other compact processes have timeframes for response.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

NONE

ICOTS Impact:

Could establish a deadline in ICOTS through specialized CAR and workload action item w/ due date for a PR: Estimate \$7360

Rules Committee Action:

On 9/22/2009, by 7-0 vote, Rules Committee recommended in favor of adoption.

Effective Date:

March 1, 2010

## Offenders on Compact Supervision as of the Close of FY2009

<b>STATE</b>	<b>TOTAL OFFENDERS SUPERVISED FOR OTHER STATES</b>	<b>TOTAL OFFENDERS TRANSFERRED TO OTHER STATES</b>
Alabama	3,423	1,731
Alaska	254	274
Arizona	1,746	2,514
Arkansas	2,860	2,597
California	7,181	4,460
Colorado	2,290	2,929
Connecticut	1,033	1,381
Delaware	464	443
District of Columbia	563	398
Florida	6,899	7,193
Georgia	4,360	8,829
Hawaii	228	537
Idaho	664	1,447
Illinois	5,995	3,774
Indiana	3,452	2,356
Iowa	1,356	1,035
Kansas	2,267	2,315
Kentucky	2,832	3,446
Louisiana	2,095	2,074
Maine	478	306
Maryland	3,038	1,671
Massachusetts	2,404	1,180
Michigan	2,132	2,087
Minnesota	1,569	2,641
Mississippi	1,889	1,319
Missouri	3,034	5,341
Montana	443	1,023
Nebraska	940	452
Nevada	946	1,080
New Hampshire	555	759
New Jersey	2,530	3,747
New Mexico	2,011	1,196
New York	4,899	3,689
North Carolina	4,207	1,250
North Dakota	668	463
Ohio	3,602	2,875
Oklahoma	3,350	1,378
Oregon	1,369	1,909
Pennsylvania	3,311	4,572
Puerto Rico	312	112
Rhode Island	479	1,088
South Carolina	2,368	510

South Dakota	421	828
Tennessee	3,899	2,293
Texas	6,733	11,429
US Virgin Islands	38	12
Utah	562	416
Vermont	330	346
Virginia	3,101	7,211
Washington	2,527	1,046
West Virginia	1,228	693
Wisconsin	1,333	3,035
Wyoming	584	474

ICAOS  
Working Budget

	A	O	P	S
1				FY11
2		FY09	FY10	Proposed
3		Actual	Budget	Budget
4	<b>REVENUE</b>			
5	DUE ASSESSMENT	1,448,241.45	1,524,275.76	1,524,275.76
6	Carried Over Reserves	198,909.00	50,000.00	
7	Refunds			
10	INTEREST INCOME**	44,968.43	42,000.00	42,000.00
11	<b>Total Administration Revenue</b>	<b>1,692,118.88</b>	<b>1,616,275.76</b>	<b>1,566,275.76</b>
12				
13	<b>EXPENSE</b>			
14	60000 SALARIES & WAGES	391,805.67	420,000.00	435,000.00
15	61000 EMPLOYEE BENEFITS	88,883.58	100,000.00	100,000.00
18	61079 EDUCATION, ACCREDITATION	6,610.95	5,000.00	5,000.00
19	61089 PROFESSIONAL MEMBERSHIP FEES	279.00	575.00	575.00
20	62000 SUPPLIES	3,851.15	4,080.00	4,161.60
21	62010 POSTAGE	1,276.65	1,530.00	1,560.60
22	62090 COMPUTER SEVICES/SUPPORT	18,449.44	19,380.00	19,767.60
23	62130 OUTSIDE WEB SUPPORT	4,256.50	5,000.00	5,000.00
24	62140 SOFTWARE PURCHASE	1,388.74	1,530.00	1,560.60
25	62280 INSURANCE	7,257.00	8,011.08	8,171.30
26	62310 PHOTOCOPY	1,292.98	2,040.00	2,080.80
27	62320 MISCELLANEOUS		500.00	500.00
28	62340 CREDIT CARD MERCHANT FEES	799.60		
29	62360 DIRECT TELEPHONE EXPENSE	9,015.45	8,996.40	9,176.33
30	62370 CELL PHONE EXPENSE	1,770.85	2,040.00	2,080.80
32	62400 CONFERENCE CALLS		200.00	200.00
33	62410 MARKETING/ADVERTISING		1,000.00	1,000.00
34	66000 EQUIPMENT PURCHASE	15,110.62	10,000.00	10,000.00
35	68200 WEB/VIDEO CONFERENCE (WebEx)	31,607.24	32,720.00	32,720.00
36	68230 MEETING EXPENSE	1,183.63	1,500.00	1,500.00
37	72000 CONSULTANT SERVICES	15,321.23	50,000.00	50,000.00
38	74000 STAFF TRAVEL	15,067.97	18,360.00	18,727.20
39	78050 PRINTING	2,015.00	5,000.00	5,000.00
40	80000 LEGAL SERVICES	29,775.00	35,000.00	35,000.00
41	85000 RENT	43,716.12	42,840.00	43,696.80
43	91010 INDIRECT COST	93,249.14	104,665.83	106,984.61
44	<b>Total Administration Expenditures</b>	<b>783,983.51</b>	<b>879,968.31</b>	<b>899,463.24</b>
45				
46	<b>OTHER EXPENSE</b>			
47	11356 Executive Committee Meetings	18,079.86	15,000.00	15,000.00
48	11363 Annual Meeting	145,495.47	160,000.00	115,000.00
49	11364 Compliance Committee	51.03	15,000.00	15,000.00
50	11366 Rules Committee	5,849.87	15,000.00	15,000.00
51	11367 Technology Committee	9,166.66	15,000.00	15,000.00
52	11368 Training/Education Committee	6,896.47	15,000.00	15,000.00
57	DCA Training Institute			75,000.00
58	11373 Shop ICAOS	867.96		
59	Defense Litigation	11,350.00		
60	11354 ICOTS	454,458.25	375,000.00	325,000.00
61	Other Indirect Cost	25,164.99	57,037.50	57,775.00
62	<b>Total Other Expense</b>	<b>677,380.56</b>	<b>667,037.50</b>	<b>647,775.00</b>
63				
64	<b>Total Commission Expenses</b>	<b>1,461,364.07</b>	<b>1,547,005.81</b>	<b>1,547,238.24</b>
65				
66	<b>Over/Under Budget</b>	<b>230,754.81</b>	<b>69,269.95</b>	<b>19,037.52</b>
67				
68	<b>Fund Balance and Liabilities</b>	<b>1,872,756.77</b>		

**Interstate Compact for Adult Offender Supervision  
State Dues Assessment - FY'10**

<u>State</u>	<u>State Dues Ratio</u> <sup>2</sup>	<u>State Population</u> <sup>3</sup>	<u>U.S. Population</u> <sup>3</sup>	<u>State Offender Transfers</u> <sup>4</sup>	<u>U.S. Offender Transfers</u> <sup>4</sup>	<u>Dues Per State</u> <sup>1,5</sup>
U.S. Virgin Islands (a)	0.000356	102000	285230516	83	234085	\$10,314.65
Alaska	0.002257	626932	285230516	542	234085	\$20,629.30
Wyoming	0.002559	493782	285230516	793	234085	\$20,629.30
North Dakota	0.003206	642200	285230516	974	234085	\$20,629.30
Vermont	0.003293	608827	285230516	1042	234085	\$20,629.30
South Dakota (b)	0.003662	754844	285230516	1095	234085	\$20,629.30
Maine	0.003687	1274923	285230516	680	234085	\$20,629.30
New Hampshire (b)	0.004067	1235786	285230516	890	234085	\$20,629.30
Rhode Island	0.004200	1048319	285230516	1106	234085	\$20,629.30
Hawaii	0.004249	1211537	285230516	995	234085	\$20,629.30
Montana	0.004337	902195	285230516	1290	234085	\$20,629.30
Delaware	0.004338	783600	285230516	1388	234085	\$20,629.30
Idaho	0.004953	1293953	285230516	1257	234085	\$20,629.30
West Virginia	0.005554	1808344	285230516	1116	234085	\$20,629.30
Dist. of Columbia (b)	0.005725	572059	285230516	2211	234085	\$20,629.30
Nebraska	0.005830	1711263	285230516	1325	234085	\$20,629.30
Utah	0.005901	2233169	285230516	930	234085	\$20,629.30
New Mexico	0.007157	1819046	285230516	1858	234085	\$20,629.30
Puerto Rico (a)	0.007744	3808610	285230516	500	234085	\$20,629.30
Nevada	0.009746	1998257	285230516	2923	234085	\$28,651.80
Kansas	0.009959	2688418	285230516	2456	234085	\$28,651.80
Iowa	0.010651	2926324	285230516	2585	234085	\$28,651.80
Mississippi	0.010668	2844658	285230516	2660	234085	\$28,651.80
Oregon	0.011248	3421399	285230516	2458	234085	\$28,651.80
Connecticut	0.011250	3405565	285230516	2472	234085	\$28,651.80
Arkansas	0.012090	2673400	285230516	3466	234085	\$28,651.80
Oklahoma	0.014729	3450654	285230516	4064	234085	\$28,651.80
Kentucky	0.014864	4041769	285230516	3642	234085	\$28,651.80
Colorado	0.014922	4301261	285230516	3456	234085	\$28,651.80
South Carolina	0.015931	4012012	285230516	4166	234085	\$28,651.80
Alabama	0.016621	4447100	285230516	4132	234085	\$28,651.80
Indiana (b)	0.016725	6080485	285230516	2840	234085	\$28,651.80
Washington	0.017050	5894121	285230516	3145	234085	\$28,651.80
Arizona	0.017079	5130632	285230516	3785	234085	\$28,651.80
Massachusetts (b)	0.017405	6349097	285230516	2938	234085	\$28,651.80
Tennessee	0.017614	5689283	285230516	3577	234085	\$28,651.80
Louisiana	0.018275	4468976	285230516	4888	234085	\$28,651.80
Minnesota	0.018665	4919479	285230516	4701	234085	\$28,651.80
Wisconsin	0.018668	5363675	285230516	4338	234085	\$28,651.80
Maryland	0.021496	5296486	285230516	5717	234085	\$36,674.30
New Jersey	0.024148	8414350	285230516	4400	234085	\$36,674.30
Michigan	0.025457	9938444	285230516	3762	234085	\$36,674.30
North Carolina	0.028784	8049313	285230516	6870	234085	\$36,674.30

<b>Ohio</b>	0.029452	11353140	285230516	4471	234085	<b>\$36,674.30</b>
<b>Missouri</b>	0.029649	5595211	285230516	9289	234085	<b>\$36,674.30</b>
<b>Pennsylvania</b>	0.031196	12281054	285230516	4526	234085	<b>\$36,674.30</b>
<b>Georgia</b>	0.032677	8186453	285230516	8580	234085	<b>\$36,674.30</b>
<b>Virginia</b>	0.035263	7078515	285230516	10700	234085	<b>\$36,674.30</b>

<b>Florida</b>	0.047751	15982378	285230516	9239	234085	<b>\$44,696.81</b>
<b>New York</b>	0.053217	18976457	285230516	9341	234085	<b>\$44,696.81</b>
<b>Illinois</b>	0.054220	12419293	285230516	15192	234085	<b>\$44,696.81</b>

<b>Texas</b>	0.088867	20851820	285230516	24492	234085	<b>\$52,719.31</b>
<b>California</b>	0.114864	33871648	285230516	25978	234085	<b>\$52,719.31</b>

**\$1,524,275.83**

1 - Based on total projected operating budget

2 -  $(\text{State population} / \text{U.S. Population}) + (\text{State Offender Transfers} / \text{Total U.S. Offender Transfers}) / 2$

3 - Population data; U.S. Dept. of Commerce & U.S. Census Bureau; Census 2000

4 - Compact populations as of April 1, 2002; annual number of offender transfers both into and out of the state

5 - Dues increase voted on and approved at the 2005 and 2007 Annual Business Meeting

(a) - Territory data is projected based on an average state offender transfers to population ratio (1:1236)

(b) - Projected state transfer numbers; actual numbers not available

*Now and then, questions come our way about the relationship between ICOTS and the ICAOS Rules. Typically the questions are couched as “If the ICAOS Rules don’t require [it], why should my state do [it] for ICOTS?” or “If ICOTS doesn’t ask for [it], why does my state have to do [it]?”. After talking this over with other Commissioners, I’d like to offer the attached in reply to those questions. I hope you will share it and that others will find it helpful.*

*William Rankin, Chair  
ICAOS Rules Committee*

## **ICOTS: Our Shared Vehicle**

As ICAOS continues rolling out new developments in ICOTS, I am struck by the complexity and nuances of the interstate compact processes. Necessarily, ICAOS has committed significant resources to creating this vehicle for conducting our business. Still, I occasionally encounter new or unexpected quirks which don’t fit within my state’s usual practice. Sometimes, ICOTS needs us to perform certain functions we aren’t accustomed to doing or previously had no need to do. The question comes up, “Why should I be required to do these things this way, when not required by the ICAOS rules?” What exactly is the relationship between ICAOS requirements and ICOTS requirements?

I think the answer is fairly simple and fairly common. We recognize and accommodate related but distinctly different requirements every day. For example, this morning, on my way to work, I noticed that I needed to put gas in my car. I drove to the gas station, staying within the speed limit and stopping at each stop sign along my way. After filling the tank, I paid for my gas and drove to my office. I pulled into a designated parking space, stepped on the brake, shifted to “Park” and turned the key to “OFF”.

This trip illustrates the distinction between actions required by law and actions required to support an operation. I obeyed the speed limit, stopped at stop signs, paid for my gas and parked in the designated area because my state has enacted laws saying I must. If I wish to exercise the privilege of driving, I have an obligation to comply with those rules or face sanctions. I have no legal obligation to put gas in my car, or step on the brake or turn the key to “OFF” when I stop the car. I do those things because they are necessary for my car to function the way I need it to function.

ICOTS’ relationship to ICAOS and its rules is similar to the relationship between a car’s operating requirements and a state’s motor vehicle code. When a state decides to permit an offender to relocate to another state, the sending state becomes obligated to exercise that privilege in compliance with ICAOS rules. Accomplishing that objective requires the state to use ICOTS, with the attendant idiosyncratic mechanisms that make it work. ICOTS is like a shared vehicle; one which each of us is expected to operate in accordance with the instructions in the operator’s manual. Failure to follow the manufacturer’s directions may not violate code or statute, but will eventually diminish the vehicle’s performance and reliability, reducing the value of our shared investment.

An ICAOS rule is very different from an ICOTS functional requirement. ICOTS can neither

create nor negate an officially promulgated rule. ICOTS' design is generally consistent with ICAOS rules and ICOTS admirably supports most rule provisions. However, in those [few] instances where ICOTS does not support a rule requirement states are not relieved of the legal obligation to comply with the rule. In those [fewer] instances where ICOTS functions require a procedure not in the rules, states ought not decline to follow the procedure simply because it is not compelled by rule. Some actions are necessary simply because they help ICOTS function the way we need and expect it to function.

All of us have responsibility to preserve the value of our shared investment in ICOTS. By inspecting and periodically maintaining the cases we input, by following the instructions in the "owner's manual" and remembering the "rules of the road", we can assure that ICOTS will remain a reliable vehicle for carrying out the business and the purposes of the compact.



## Interstate Commission for Adult Offender Supervision

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*... Ensuring public safety for the 21<sup>st</sup> century*

### **REPORT OF THE STANDING COMMITTEE ON RULES Reno, Nevada November 4, 2009**

Mr. Chairman and Members of the Commission:

On behalf of the Rules Committee, I am pleased to present this report of the committee's activities since the 2008 Annual Business Meeting.

At the 2007 Annual Business Meeting, the Commission amended Rule 2.109 to require proposals for new or amended rules to be brought before the Commission "not later than the next annual meeting falling in an odd-numbered year." In keeping with the Commission's intent, the Rules Committee developed a business calendar inviting regional and standing committees to submit proposals to the committee through January 31, 2009. This date was subsequently extended to March 31, 2009, when this year's Annual Business Meeting was set for November.

As of the close of business on March 31, the committee had received a total of 15 proposals; six (6) proposals from regional committees and nine (9) proposals initiated by committee members. In April, the Rules Committee convened in Lexington to review and approve the draft proposals. The committee reviewed each proposal for technical accuracy, clarity of language and consistency with other rules. In some cases, modifications were made to proposals or justifications, provided that the modification did not change the intent of a standing committee's proposal. Following this review, the Rules Committee voted to approve the six (6) regional committee proposals and five (5) of the nine (9) proposals submitted by Rules Committee members.

During the afternoon of the April meeting, the Rules Committee was joined by the Chair of the Technology Committee and other members of the Executive Committee for a discussion of the interplay between ICAOS rules and the web-based Interstate Compact Offender Tracking System (ICOTS). The committee members expressed a general principle that ICAOS rules should not be altered simply to accommodate ICOTS. However, as procedures change through implementation of this new system, some rules may need amendments to reflect the new reality. As a result of this discussion, the Rules Committee drafted three additional (3) proposals to provide direction to states where ICOTS implementation may have created or highlighted areas of ambiguity.

The 14 approved proposals were posted for review and comments on the ICAOS website on May 15. The proposals were posted in a discussion forum open to commissioners, compact administrators, deputy compact administrators and ex-officio members. The discussion forum was held open for 90 days to allow sufficient time for states and regions to fully consider each proposal. When the discussion forum closed, twenty (20) respondents had submitted more than 150 comments. Significantly, several

respondents' postings reflected the collective opinions of regional committees or state councils.

The Rules Committee extends its appreciation to all who took the time to share your reactions to the proposals.

The Rules Committee also wishes to recognize the further assistance provided by Commissioner Kathie Winckler and the Technology Committee. At the Rules Committee's request, the Technology Committee reviewed each of the draft proposals and, where a proposal might affect ICOTS, solicited estimates from Appriss of what it might cost to implement the proposed change. This has allowed the Rules Committee to include an ICOTS impact statement with each final proposal. For the first time, commissioners voting on a proposed rule change will have an understanding of the potential fiscal impact on ICOTS.<sup>1</sup>

Following the comment period, the Rules Committee convened a second meeting in Lexington to prepare its final recommendations. Each member in attendance was assigned one or two proposals to review and lead the committee discussions. For each proposal, the committee members considered:

- Comments received: number of comments pro and con; did there seem to be a consensus among respondents? Did the respondents clearly understand the proposal?
- Policy implications: will the proposal create new policy or require a change in existing policy? If so, what is the likely impact on states? Is the impact widespread or limited to a relatively narrow set of facts? Will the proposal create a conflict with an existing rule, Advisory Opinion, or Dispute resolution?
- Technical issues: Is the proposal clearly written? If not, can it be rewritten without changing the intent of the proposal? Are there multiple substantive issues, requiring divided motions?
- ICOTS impact: Will the proposal require modification to ICOTS? What is the estimated cost to implement the change?
- Effective Dates: The committee set the effective date of each proposal at March 1, 2010. This date was chosen to allow time to develop and deliver revised training materials, procedures manuals or ICOTS recommendations.

Following the discussion, the committee voted to recommend for or against adoption of each proposal by the Commission. In two instances, the committee voted to withdraw proposals previously initiated by the Rules Committee. The committee's vote is included in the final report for each approved proposal. These reports were posted for public notice on October 1, 2009. They are included with each proposal before the Commission today.

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<sup>1</sup> A word of caution is necessary, here. A decision to adopt a proposal does not constitute approval to modify ICOTS. These are independent decisions. The Commission may adopt a proposal but no changes will be implemented in ICOTS unless and until approved by the Commission or by the Executive Committee, acting on behalf of the Commission.

Throughout the year, the committee had occasion to fill vacancies and occasionally struggled to maintain balanced representation. I am pleased to inform the Commission that the present voting membership of the Rules Committee includes two commissioners from each region, in addition to the chair. New members this year include Commissioners David Morrison (GA), Yolette Ross (NJ), John Rubitschun (MI) and Gary Tullock (TN). The committee enjoys a diversity of perspectives and opinions and in this the Commission is well served. At this time, the Chair wishes to extend its appreciation to the commissioners and *ex officio* members of the Rules Committee for their dedication and attention to the business of the committee. Drafting, editing or otherwise crafting rules can be a demanding and tedious task.

Finally, the committee wishes to express its great appreciation to the Executive Director and staff of the national office. They consistently and continually provide the highest level of support.

Respectfully submitted,

William Rankin, Commissioner (WI)  
Rules Committee Chair

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**2009 PROSALS TO CREATE OR AMEND ICAOS RULES**  
**FINAL RULES COMMITTEE ACTION**

RULE	TITLE	SUBMITTED BY	COMMITTEE RECOMMENDATION
1.101	<i>Definitions; "Business day"</i>	Rules Cmte	Withdrawn
1.101	<i>Definitions; "Supervision"</i>	West Region	Adopt; 7-0
2.104	<i>Forms</i>	Rules Cmte	Adopt; 7-0
2.106	<i>Offenders subject to deferred sentences</i>	South Region	Reject; 4-3
2.110	<i>Transfer of offenders under this compact</i>	Rules Cmte	Adopt; 7-0
3.101 (f)	<i>Mandatory transfer of supervision</i>	West Region	Reject; 7-0
3.101-1	<i>Mandatory transfers of military ...and employment transfer</i>	West Region	Adopt; 7-0
3.101-3 (c)	<i>Transfer of supervision of sex offenders</i>	Midwest Region	Reject; 4-3
3.102	<i>Submission of transfer request to a receiving state</i>	Rules Cmte	Adopt; 6-1
3.104	<i>Time allowed for investigation by receiving state</i>	Rules Cmte	Adopt; 7-0
3.104-1	<i>Acceptance of offender; issuance of reporting instructions</i>	Rules Cmte	Adopt; 7-0
3.107	<i>Transfer request</i>	Rules Cmte	Adopt; 7-0
4.105	<i>Arrival and departure notifications; withdrawal of reporting instructions</i>	Rules Cmte	Withdrawn
4.106	<i>Progress reports</i>	South Region	Adopt; 7-0

# INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION

## Information Technology Committee Report

### Annual Business Meeting

Reno, Nevada

November 4, 2009

Following is a summary of the activities of the Information Technology Committee during calendar year 2009.

- ICOTS statistics
  - 30,623 users
  - 199,558 offender files in system
    - 120,627 offenders under active supervision
  - 217,447 compact cases
  - 2,689,322 action items, including actions taken by field, supervisor and compact offices in both states (13.5 per offender)
  - 2,578,117 notifications (13.0 per offender)
- ICOTS help desk contacts, 2009
  - March 1,361
  - April 1,288
  - May 1,034
  - June 1,133
  - July 668
  - August 544
- Committee projects and accomplishments
  - Approved ICOTS enhancement submission process
  - Oversight of ICAOS Web page redesign
  - Oversight of audits performed by National Office: users; duplicate offenders
  - Oversight of releases of ICOTS software updates: 2.x, 3.x 4.0, 5.x, 6.x, 7.0
- Meetings with Appriss: 2 in-person & 2 by teleconference
- Approved and recommended expenditure for enhancements totaling \$12,650
- Surveys
  - User training – engaged with Training Committee to conduct a survey of extent of ICOTS training conducted by states
  - Data exchange survey – surveyed commissioners to determine their interest in a web service to exchange information with ICOTS
- ICOTS User Survey – surveyed almost 27,000 ICOTS users to determine their level of satisfaction with ICOTS Website Survey - surveyed a variety of groups to determine if the ICAOS website is meeting their needs.
- Future – contract with Appriss expires May 2010; plans are in place to meet with Appriss to negotiate future relationship

September 28<sup>th</sup>, 2009

*Kenneth Merz, Chairman  
Interstate Commission for Adult Offender Supervision*

*Re: Deputy Compact Administrator Liaison Committee Chair Report*

Dear Mr. Chairman,

I am happy to report you that the Deputy Compact Administrator Liaison Committee has been quite active during this business year.

The first course of business was to appoint a committee that would reflect a representative cross section of all Deputy Compact Administrators. Our committee includes the following Deputy Compact Administrators and Compact Administrators:

1. Charles Placek, North Dakota Compact Administrator
2. Anne Precythe, North Carolina Deputy Compact Administrator
3. Patty Malone, Massachusetts Deputy Compact Administrator
4. Kari Rumbaugh, Nebraska Deputy Compact Administrator
5. Sidney Nakamoto, Hawaii Deputy Compact Administrator

The second course of business was to chart a new mission for the committee. With the full support of the Executive Committee, the Deputy Compact Administrator Liaison Committee initiated three strategies that will elevate and accentuate the work of "DCAs" across the country.

1. The committee will propose efficiency measures that will maximize the flow of work with compact offices.
2. The work of the committee will strengthen the knowledge base of all Deputy Compact Administrators, regarding the work of the Commission.
3. The Chair of the DCA Liaison Committee will encourage the participation of all Commissioners in the work of the commission.

To achieve our stated strategies, we have initiated the following action steps:

1. I have appointed a DCA regional chair for each of our recognized ICAOS regions. Each region Chair has convened a regional meeting to discuss the work of the committee. Regional chairs are as follows:
  - a. South Region Chair - Anne Precythe (NC)
  - b. East Region Chair - Patricia Malone (MA)
  - c. Midwest Region Chair - Kari Rumbaugh (NE)
  - d. West Region Chair - Sidney Nakamoto (HA)
2. I have assigned Charles Placek (ND) to special committee projects.
3. Our committee developed a DCA survey designed to help us better understand how we may accomplish our three strategies and as we also learn more about how the Commission is utilizing our ICOTS program.
  - a. We have forwarded our survey to all DCAs.
  - b. Forty-nine jurisdictions have completed the survey.

- c. We have tabulated the results of the survey.
- d. Our committee will discuss the survey results with both DCAs and Commissioners during the DCA Meeting at the 2009 Annual Business Meeting.
4. We have made training recommendations to the ICAOS Training Committee.
5. We have initiated work relative to a National DCA Training Institute. The first annual DCA Training Institute will occur in 2010. Future Training Institutes will occur on “even years”, as directed by the Commission.
6. I will discuss our three strategies both formally and informally with my fellow commissioners during the 2009 Annual Business Meeting.

I thank you, Mr. Chairman and my fellow members of the Commission, in giving me the privilege of serving as chair of this very important committee. The work of the DCAs is critical to the success of the work of the Commission. I believe that we truly are elevating and accentuating the work of DCAs through the work of this committee.

Respectfully,

Warren R. Emmer, Chair  
Deputy Compact Administrator Liaison Committee

**Interstate Commission for Adult Offender Supervision  
2009 Annual Meeting**

**2009 Report of the General Counsel for the Interstate Commission**

*General Legal Work:*

The General Counsel's Office assists the commission by providing legal guidance to the Interstate Commission and its committees with respect to legal issues which arise in the conduct of their responsibilities under the terms of the Compact, its Bylaws and administrative rules. The provisions of the Compact specifically authorize formal legal opinions concerning the meaning or interpretation of the actions of the Interstate Commission which are issued through the Executive Director's Office in consultation with the Office of General Counsel. These advisory opinions are made available to state officials who administer the compact for guidance. The General Counsel's office also works with the Commission and its member states to promote consistent application of and compliance with its requirements including the coordination and active participation in litigation concerning its enforcement and rule-making responsibilities.

Since the last annual report, in addition to day to day advice and counsel furnished to the Commission's Executive Director, the Executive Committee, the Rules Committee, the Compliance Committee, the Technology Committee and the Interstate Commission, the General Counsel's Office in conjunction with the Executive Director has issued one (1) advisory opinion concerning the interpretation and application of various provisions of the compact and its administrative rules and assisted with a number of informal requests for legal guidance from member states. The advisory opinions are public record and are available at the website of the Commission.

Judicial training concerning the Compact and its administrative rules has also been provided in a number of states under the auspices of the General Counsel's office. Other activities included assisting in the updates to the 'On-Demand' Judicial Training Modules now available on the ICAOS website, assisting in the update of the ICAOS Bench Book and review and update of Judicial training and New Commissioner training materials as well as Parole and Probation Officer legal and liability training modules used for both WebEx and live training sessions.

In addition the General Counsel assisted the Compliance Committee, the Executive Committee and Executive Committee Workgroup in several matters pertaining to investigation, compliance, and enforcement responsibilities under the compact including advice concerning the proposed Compliance Committee Guidelines and the Investigative Policy and Procedure document.

*Litigation Matters:*

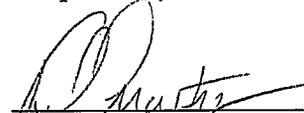
***Stanton vs. Alfonso Graham, et al., U.S. District Court, Western District of Wisconsin***

The General Counsel also provided representation for the Commission in a federal civil rights action filed by a Wisconsin offender alleging that he was wrongfully denied an application to transfer supervision to Minnesota. The suit named as Defendants the Interstate Commission for Adult Offender Supervision and various state officials including the Chair of the Wisconsin Parole Commission, the Wisconsin Compact Administrator, the Minnesota Probation and Parole Supervisor, the Minnesota Deputy Compact Administrator, a Wisconsin Administrative Law Judge and a Wisconsin Public Defender.

The complaint was initially filed in the Circuit Court of Dane County Wisconsin but was removed to the U.S. District Court for the Western District of Wisconsin based on diversity and federal question jurisdiction. Based on some state law claims which were also asserted the case was later returned from federal court to the Dane County Circuit Court. The Attorneys General of Wisconsin and Minnesota as well as the District Attorney for Hennepin County provided representation for the other state defendants.

Based on the Commission's legal position the Court dismissed ICAOS holding that an offender subject to the jurisdiction of the Compact has no constitutional right to a parole transfer and no private right of action against ICAOS under the terms of the Compact. In the final order, entered February 3, 2009, the Court adopted the holding in *Doe v. Pennsylvania Board of Probation and Parole, 513 F.3d 95 (3<sup>rd</sup> Cir. 2008)* which determined that the provisions of the Compact do not provide a basis for finding a 'clear individual right' which is 'unambiguously conferred' upon offenders whose supervision is transferred under the Compact. This decision was not appealed and has now become final. A copy of the decision is attached to this report.

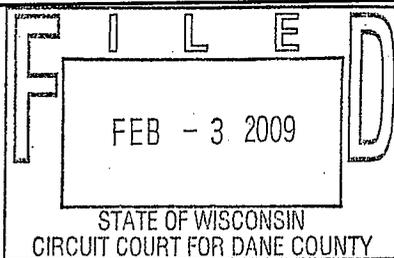
Respectfully submitted,



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Rick Masters, General Counsel

Thomas D. Stanton,  
Plaintiff/Petitioner  
vs.  
Alfonso Graham, et al,  
Defendant/Respondent



DECISION AND ORDER

Case No. 08 CV 2477

### BACKGROUND

Plaintiff's core claim is he was improperly and for false reasons denied a non-discretionary transfer of parole supervision from Wisconsin to Minnesota under the Interstate Compact for Adult Offender Supervision (ICAOS). The complaint includes claims in tort, certiorari, habeas corpus, declaratory judgment and federal civil rights and "whatsoever this Court, in its wisdom and discretion, may decide to label it" against the various defendants. (Complaint p. 1.)<sup>1</sup> However, Plaintiff raises only constitutional claims against defendants Longueville, Bisch, Lang and the ICAOS.

By an order of November 2008, the court allowed certain attorneys to appear *pro hac vice* and plaintiff objects to part of that order. Defendants Bisch, Lang, Longueville and ICAOS each filed motions to dismiss. These objections and motions are decided in favor of the affected defendants for the reasons stated below.

#### I. Admission Pro Hac Vice

On November 7, 2008, the court granted *pro hac vice* admission in this case to Attorneys Masters, for ICAOS, and Rogan, for Longueville, acting in association with Assistant Attorney General Finkelmeyer, for the State of Wisconsin. See SCR 10:03(4)(b). Plaintiff filed an objection November 19, 2008 asserting a conflict of interest inherent in the association. The conflict, according to Plaintiff, is that Longueville wrongfully denied Plaintiff's transfer application and Wisconsin officials knew that. The issue was briefed and the court continues the grant of admission *pro hac vice* as previously ordered.

A conflict may exist if an attorney representing one client will take positions directly adverse to another or where there is significant risk that representation of one will materially limit responsibilities being fulfilled to another client, former client, third person or by a person interest of the lawyer. SCR 20:1.7(a). In this case, the parties in question are taking the same positions, not adverse positions. (See Longueville brief p. 3 and ICOAS brief p. 1.) Further, there are no pending claims or counterclaims between the parties and there is no reasonable prospect of such claims, given these overlapping interests. (See Longueville brief p. 4.) Because there simply is no conflict, the court need not address any other issues raised related to the November 7, 2008 ruling. Further, any potential conflict related to use of otherwise confidential information among

<sup>1</sup> The history involving removal to federal court and return to state court is not referenced as particularly helpful here.

the defendants and their attorneys cannot be raised by Plaintiff and the defendants clearly do not object. *Forecki v. Kohlberg*, 273 Wis. 67, 295 N.W. 7 (1940). The motion to reconsider is denied.

## II. Motions to dismiss

A motion to dismiss will be granted where it's clear Plaintiff cannot prevail under any set of facts consistent with the complaint. Wis. Stat. 802.06(2)(a)6. The motions to dismiss filed by the various defendants will be considered together. Defendants Bisch and Lang seek dismissal based on:

1. lack of personal jurisdiction
2. improper service as to Lang
3. protection for defendants under 42 U.S. C. § 1983 for such claims
4. lack of a private right of action under the Compact or Constitution (due process, equal protection and 6<sup>th</sup> Amendment confrontation)

Defendant Longueville seeks dismissal based on:

1. lack of personal jurisdiction
2. lack of legal basis for the claim under the Compact or Constitution

Defendant ICAOS seeks dismissal based on:

1. lack of legal basis for a cause of action under the Compact or Constitution

As made clear in *O'Neal v. Coleman et al*, 2006 U.S. Dist. LEXUS 40702 (W.D. Wis., June 16, 2006)<sup>2</sup> defendant has no constitutional right to parole transfer. While Plaintiff claims he has a constitutional right to transfer his parole to another state there is no case law supporting that proposition and only contrary law. (For example see, *Williams v. Wisconsin*, 336 F. 3d 576 (7<sup>th</sup> Cir. 2003). Without such a constitutional right, there cannot be a due process violation. *Id.* Further, Mr. Stanton has not alleged and cannot show that as a white male convicted of felony murder that he was treated differently from others similarly situated and is a member of a protected class, as are prerequisites in any theoretically possible equal protection claim in this case. (See *Greer v. Amesqua*, 212 F. 3d 358 (7<sup>th</sup> Cir. 2000; *Pers. Adm'r of Mass. V. Feeney*, 442 U.S. 256 (1979) and *Arlington Heights v. Metro. Housing Development Corp.*, 429 U.S. 252 (1977) for equal protection analysis and protected class.)

In addition, 42 U.S.C. § 1983, presumably the civil rights law Mr. Stanton had in mind in his claim, provides Mr. Stanton with no help. The court adopts the holding in *Doe v. Pennsylvania Bd. Of Probation and Parole*, 513 F. 3d 95 (3d Cir. 2008) on this point. Such actions under 42 U.S.C. § 1983 are premised on a violation of a clear individual right under a federal statute that Congress unambiguously conferred upon a particular class. (See *Gonzaga University v. Doe*, 503 U.S. 273 (2002). Therefore, Mr. Stanton must show he has a clear right under the Compact in order to proceed with the § 1983 claim. The Compact states:

The rules are intended to effectuate the purposes of the compact and assist the member states in complying with their obligations by creating a uniform

---

<sup>2</sup> Plaintiff is simply in error when he asserts federal case law inapplicable to the questions in this case. When he claims a constitutional right, he is claiming a U.S. federal right and federal case law is clearly applicable.

system applicable to all cases and persons subject to the terms and conditions of the compact.

(See Introduction to ICOAS legislation *et seq.*) The main purpose of the Compact is to oversee “day-to-day operations” of the Compact which seeks to “promote public safety by systematically controlling the interstate movement of certain adult offenders.” (ICOAS introduction). The purpose, then is to confer an orderly process on those states adopting the Compact and not to create new rights for individuals. At best, Mr. Stanton has some implied or tangential right and not the sort of clear and unambiguous right needed to pursue his claim.

IT IS ORDERED, petitioner’s motion for reconsideration is denied and the listed defendants’ motions to dismiss are granted, for the reasons stated above.

Dated February 3, 2009.

BY THE COURT

  
Hon. Shelley J. Gaylord

**ICAOS Annual Business Meeting – November 2009  
Ex-officio Victims’ Representative Report  
Submitted by Pat Tuthill**

**Teleconference Meetings and Other Communication**

- Conducted 2 victim representative teleconferences to discuss proposed rules.
- Addressed calls from victim advocates related to victim concerns for information regarding offender status and notification.

**National Outreach and Awareness**

Coordinated with the National Association of Victim Service Professionals in Corrections to review concerns expressed by victim advocates across the country regarding ICOTS and victim issues. Annual conference Oct. 13 with issues discussed to provide a position paper.

**Criminal Justice and Victim Outreach Presentations**

• September 2008 –Montana Probation Association
• October 2008 –Colorado Organization of Victim Advocates Annual Conference
• November 2008 – Georgia Mental Health Association
• May 2009 – Massachusetts training on ICAOS to DOC and victim advocates
• August 2009 – APPA training provided on ICAOS/ICOTS and victim issues
• August 2009 – APPA Victim Issues Committee meeting on proposed rules
• September 2009 –National Day of Remembrance keynote speaker for Colorado Organization for Victim Assistance

**Four \$1,000 scholarships awarded by the Peyton Tuthill Foundation “**Hearts of Hope Scholarships**” to young homicide survivors. Recipients are from Anaheim CA, Folsom CA, Chicago IL, & Petersburg VA**

## **West Region Report**

Submitted by Chair: Edward Gonzales, New Mexico

The West Region attempted to meet every 60 days to provide an opportunity for Commissioners and guests to discuss current compact issues facing individual states, the region, and the nation. Our meetings provide for open and frequent communication between our neighboring states. It is the goal of the West Region to cooperate and assist one another in an effort to fulfill the mission and purpose of the Interstate Compact for Adult Offender Supervision.

Teleconference meetings held since the September 2008 Annual Business Meeting:

- October 29, 2008
- January 27, 2009
- March 25, 2009
- August 4, 2009
- August 5 2009

Topics discussed:

- ICOTS – Training, Legacy Upload
- State Councils – Progress – areas of assistance needed
- 2009 Rule Changes
- Training issues
- Compliance issues and communication issues

# ICAOS RULES



Published by:

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## Introduction

The Interstate Commission for Adult Offender Supervision is charged with overseeing the day-to-day operations of the Interstate Compact for Adult Offender Supervision, a formal agreement between member states that seeks to promote public safety by systematically controlling the interstate movement of certain adult offenders. As a creature of an interstate compact, the Commission is a quasi-governmental administrative body vested by the states with broad regulatory authority. Additionally, the Interstate Compact for Adult Offender Supervision has congressional consent under Article I, § 10 of the United States Constitution and pursuant to Title 4, Section 112(a) of the United States Code.

Through its rulemaking powers, the Commission seeks to achieve the goals of the compact by creating a regulatory system applicable to the interstate movement of adult offenders, provide an opportunity for input and timely notice to victims of crime and to the jurisdictions where offenders are authorized to travel or to relocate, establish a system of uniform data collection, provide access to information on active cases to authorized criminal justice officials, and coordinate regular reporting of Compact activities to heads of state councils, state executive, judicial, and legislative branches and criminal justice administrators. The Commission is also empowered to monitor compliance with the interstate compact and its duly promulgated rules, and where warranted to initiate interventions to address and correct noncompliance. The Commission will coordinate training and education regarding regulations of interstate movement of offenders for state officials involved in such activity.

These rules are promulgated by the Interstate Commission for Adult Offender Supervision pursuant to Article V and Article VIII of the Interstate Compact for Adult Offender Supervision. The rules are intended to effectuate the purposes of the compact and assist the member states in complying with their obligations by creating a uniform system applicable to all cases and persons subject to the terms and conditions of the compact. Under Article V, Rules promulgated by the Commission “shall have the force and effect of statutory law and shall be binding in the compacting states[.]” All state officials and state courts are required to effectuate the terms of the compact and ensure compliance with these rules. To the extent that state statutes, rules or policies conflict with the terms of the compact or rules duly promulgated by the Commission, such statutes, rules or policies are superseded by these rules to the extent of any conflict.

To further assist state officials in implementing the Compact and complying with its terms and these rules, the Commission has issued a number of advisory opinions. Additionally, informal opinions can be obtained from the Commission as warranted. Advisory opinions, contact information and other important information, can be found on the Commission’s website at <http://www.interstatecompact.org>.

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# Chapter 1 Definitions

## **Rule 1.101 Definitions**

As used in these rules, unless the context clearly requires a different construction-

**“Abscond”** means to be absent from the offender’s approved place of residence or employment with the intent of avoiding supervision.

**“Adult”** means both individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law.

**“Application fee”** means a reasonable sum of money charged an interstate compact offender by the sending state for each application for transfer prepared by the sending state.

**“Arrival”** means to report to the location and officials designated in reporting instructions given to an offender at the time of the offender’s departure from a sending state under an interstate compact transfer of supervision.

**“By-laws”** means those by-laws established by the Interstate Commission for Adult Offender Supervision for its governance, or for directing or controlling the Interstate Commission’s actions or conduct.

**“Compact”** means the Interstate Compact for Adult Offender Supervision.

**“Compact administrator”** means the individual in each compacting state appointed under the terms of this compact and responsible for the administration and management of the state’s supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the Interstate Commission for Adult Offender Supervision, and policies adopted by the State Council under this compact.

**“Compact commissioner” or “commissioner”** means the voting representative of each compacting state appointed under the terms of the Interstate Compact for Adult Offender Supervision as adopted in the member state.

**“Compliance”** means that an offender is abiding by all terms and conditions of supervision, including payment of restitution, family support, fines, court costs or other financial obligations imposed by the sending state.

**“Deferred sentence”** means a sentence the imposition of which is postponed pending the successful completion by the offender of the terms and conditions of supervision ordered by the court.

**“Detainer”** means an order to hold an offender in custody.

**“Discharge”** means the final completion of the sentence that was imposed on an offender by the sending state.

**“Extradition”** means the return of a fugitive to a state in which the offender is accused, or has been convicted of, committing a criminal offense, by order of the governor of the state to which the fugitive has fled to evade justice or escape prosecution.

*References:*

*ICAOS Dispute Resolution*

2-2004 [Offenders not transferred through the ICAOS must be returned through the extradition clause of the U.S. Constitution]

**“Offender”** means an adult placed under, or made subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies, and who is required to request transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision.

*References:*

*ICAOS Advisory Opinion*

9-2004 [CSL offenders seeking transfer of supervision are subject to ICAOS-New Jersey]

**“Plan of supervision”** means the terms under which an offender will be supervised, including proposed residence, proposed employment or viable means of support and the terms and conditions of supervision.

**“Probable cause hearing”** a hearing in compliance with the decisions of the U.S. Supreme Court, conducted on behalf of an offender accused of violating the terms or conditions of the offender’s parole or probation.

**“Receiving state”** means a state to which an offender requests transfer of supervision or is transferred.

**“Relocate”** means to remain in another state for more than 45 consecutive days in any 12 month period.

**“Reporting instructions”** means the orders given to an offender by a sending or receiving state directing the offender to report to a designated person or place, at a specified date and time, in another state. Reporting instructions shall include place, date, and time on which the offender is directed to report in the receiving state.

**“Resident”** means a person who—

- (1) has continuously inhabited a state for at least one year prior to the commission of the offense for which the offender is under supervision; and
- (2) intends that such state shall be the person’s principal place of residence; and
- (3) has not, unless incarcerated, remained in another state or states for a continuous period of six months or more with the intent to establish a new principal place of residence.

**“Resident family”** means a parent, grandparent, aunt, uncle, adult child, adult sibling, spouse, legal guardian, or step-parent who--

- (1) has resided in the receiving state for 180 days or longer as of the date of the transfer request; and
- (2) indicates willingness and ability to assist the offender as specified in the plan of supervision.

**“Retaking”** means the act of a sending state in physically removing an offender, or causing to have an offender removed, from a receiving state.

**“Rules”** means acts of the Interstate Commission, which have the force and effect of law in the compacting states, and are promulgated under the Interstate Compact for Adult Offender Supervision, and substantially affect interested parties in addition to the Interstate Commission,

**“Sending state”** means a state requesting the transfer of an offender, or which transfers supervision of an offender, under the terms of the Compact and its rules.

**“Sex offender”** means an adult placed under, or made subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies, and who is required to register as a sex offender either in the sending or receiving state and who is required to request transfer of supervision under the provisions of the Interstate Compact for Adult Offender Supervision.

**“Shall”** means that a state or other actor is required to perform an act, the non-performance of which may result in the imposition of sanctions as permitted by the Interstate Compact for Adult Offender Supervision, its by-laws and rules.

**“Significant violation”** means an offender’s failure to comply with the terms or conditions of supervision that, if occurring in the receiving state, would result in a request for revocation of supervision.

**“Special condition”** means a condition or term that is added to the standard conditions of parole or probation by either the sending or receiving state.

**“Subsequent receiving state”** means a state to which an offender is transferred that is not the sending state or the original receiving state.

**“Substantial compliance”** means that an offender is sufficiently in compliance with the terms and conditions of his or her supervision so as not to result in initiation of revocation of supervision proceedings by the sending state.

*References:*

*ICAOS Advisory Opinion*

7-2004 [determining “substantial compliance when there are pending charges in a receiving state]

**“Supervision”** means the authority or oversight exercised by supervising authorities of a sending or receiving state over an offender for a period of time determined by a court or releasing authority, during which the offender is required to report to or be monitored by supervising authorities, and includes any condition, qualification, special condition or requirement imposed on the offender at the time of the offender’s release to the community or during the period of supervision in the community.

*References:*

*ICAOS Advisory Opinions*

9-2004 [CSL offenders released to the community under the jurisdiction of the Courts]

8-2004 [Suspended sentence requiring payment of monitored restitution]

3-2005 [Requirement to complete a treatment program as a condition of supervision]

**“Supervision fee”** means a fee collected by the receiving state for the supervision of an offender.

**“Temporary travel permit”** means, for the purposes of Rule 3.108 (b), the written permission granted to an offender, whose supervision has been designated a “victim-sensitive” matter, to travel outside the supervising state for more than 24 hours but no more than 31 days. A temporary travel permit shall include a starting and ending date for travel.

**“Travel permit”** means the written permission granted to an offender authorizing the offender to travel from one state to another.

**“Victim”** means a natural person or the family of a natural person who has incurred direct or threatened physical or psychological harm as a result of an act or omission of an offender.

**“Victim-sensitive”** means a designation made by the sending state in accordance with its definition of “crime victim” under the statutes governing the rights of crime victims in the sending state. The receiving state shall give notice of offender’s movement to the sending state as specified in Rules 3.108 and 3.108-1.

**“Waiver”** means the voluntary relinquishment, in writing, of a known constitutional right or other right, claim or privilege by an offender.

*History: Adopted November 3, 2003, effective August 1, 2004; “Compliance” amended October 26, 2004, effective January 1, 2005; “Resident” amended October 26, 2004, effective January 1, 2005; “Resident family” amended October 26, 2004, effective January 1, 2005; “Substantial compliance” adopted October 26, 2004, effective January 1, 2005; “Supervision” amended October 26, 2004, effective January 1, 2005; “Travel permit” amended September 13, 2005, effective January 1, 2006; “Victim” amended September 13, 2005, effective January 1, 2006; “Relocate” adopted September 13, 2005, effective January 1, 2006; “Compact” adopted September 13, 2005, effective January 1, 2006; “Resident” amended September 13, 2005, effective January 1, 2006; “Relocate” amended October 4, 2006, effective January 1, 2007; “Sex offender” adopted September 26, 2007, effective January 1, 2008.*

## Chapter 2 General Provisions

### ***Rule 2.101 Involvement of interstate compact offices***

- (a) Acceptance, rejection or termination of supervision of an offender under this compact shall be made only with the involvement and concurrence of a state's compact administrator or the compact administrator's designated deputies.
- (b) All formal written, electronic, and oral communication regarding an offender under this compact shall be made only through the office of a state's compact administrator or the compact administrator's designated deputies.
- (c) Transfer, modification or termination of supervision authority for an offender under this compact may be authorized only with the involvement and concurrence of a state's compact administrator or the compact administrator's designated deputies.
- (d) Violation reports or other notices regarding offenders under this compact shall be transmitted only through direct communication of the compact offices of the sending and receiving states.

*History: Adopted November 3, 2003, effective August 1, 2004.*

## ***Rule 2.102 Data collection and reporting***

- (a) As required by the compact, and as specified by the operational procedures and forms approved by the commission, the states shall gather, maintain and report data regarding the transfer and supervision of offenders supervised under this compact.
- (b)
  - (1) Each state shall report to the commission each month the total number of offenders supervised under the compact in that state.
  - (2) Each state shall report to the commission each month the numbers of offenders transferred to and received from other states in the previous month.
  - (3) Reports required under Rule 2.102 (b)(1) and (2) shall be received by the commission no later than the 15<sup>th</sup> day of each month.
- (c) This Rule will not expire until the Electronic Information System approved by the commission is fully implemented and functional.

*History: Adopted November 3, 2003, effective August 1, 2004; amended September 14, 2005, effective December 31, 2005.*

### **Rule 2.103 Dues formula**

- (a) The commission shall determine the formula to be used in calculating the annual assessments to be paid by states. Public notice of any proposed revision to the approved dues formula shall be given at least 30 days prior to the Commission meeting at which the proposed revision will be considered.
- (b) The commission shall consider the population of the states and the volume of offender transfers between states in determining and adjusting the assessment formula.
- (c) The approved formula and resulting assessments for all member states shall be distributed by the commission to each member state annually.
- (d)
  - (1) The dues formula is the—  
(Population of the state **divided by** Population of the United States) **plus**  
(Number of offenders sent from and received by a state **divided by** Total number of offenders sent from and received by all states) divided by two.
  - (2) The resulting ratios derived from the dues formula in Rule 2.103 (d)(1) shall be used to rank the member states and to determine the appropriate level of dues to be paid by each state under a tiered dues structure approved and adjusted by the Commission at its discretion.

*History: Adopted November 3, 2003, effective August 1, 2004.*

## **Rule 2.104 Forms**

- (a) States shall use the forms or electronic information system authorized by the commission for all communication regarding offenders between or among states.
- (b) The sending state shall retain the original forms containing the offender's signature until the termination of the offender's term of compact supervision.

*History: Adopted November 3, 2003, effective August 1, 2004; amended September 26, 2007, effective January 1, 2008.*

## **Rule 2.105 Misdemeanants**

- (a) A misdemeanor offender whose sentence includes one year or more of supervision shall be eligible for transfer, provided that all other criteria for transfer, as specified in Rule 3.101, have been satisfied; and the instant offense includes one or more of the following—
- (1) an offense in which a person has incurred direct or threatened physical or psychological harm;
  - (2) an offense that involves the use or possession of a firearm;
  - (3) a second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol;
  - (4) a sexual offense that requires the offender to register as a sex offender in the sending state.

### *References:*

#### *ICAOS Advisory Opinion*

- 4-2005 [Misdemeanant offender not meeting criteria of 2.105 may be transferred under Rule 3.101-2, discretionary transfer]
- 7-2006 [There are no exceptions to applicability of (a)(3) based on either the time period between the first and subsequent offense(s) or the jurisdiction in which the convictions occurred]
- 16-2006 [If the law of the sending state recognizes the use of an automobile as an element in an assault offense and the offender is so adjudicated, Rule 2.105 (a)(1) applies]
- 2-2008 [Based upon the provisions of the ICAOS rules, offenders not subject to ICAOS may, depending on the terms and conditions of their sentences, be free to move across state lines without prior approval from the receiving state and neither judges nor probation officers are prohibited by ICAOS from allowing such offenders to travel from Texas to another state]

*History: Adopted November 3, 2003, effective August 1, 2004; amended March 12, 2004; amended October 26, 2004, effective January 1, 2005.*

## ***Rule 2.106 Offenders subject to deferred sentences***

Offenders subject to deferred sentences are eligible for transfer of supervision under the same eligibility requirements, terms, and conditions applicable to all other offenders under this compact. Persons subject to supervision pursuant to a pre-trial intervention program, bail, or similar program are not eligible for transfer under the terms and conditions of this compact.

*References:*

*ICAOS Advisory Opinions*

*June 30, 2004* [Determining eligibility should be based on legal actions of a court rather than legal definitions]

*6-2005* [Deferred prosecution may be equivalent to deferred sentence if a finding or plea of guilt has been entered and all that is left is for the Court to impose sentence]

*History: Adopted November 3, 2003, effective August 1, 2004; amended March 12, 2004; amended October 26, 2004, effective January 1, 2005.*

## ***Rule 2.107 Offenders on furlough, work release***

A person who is released from incarceration under furlough, work-release, or other pre-parole program is not eligible for transfer under the compact.

*History: Adopted November 3, 2003, effective August 1, 2004.*

### ***Rule 2.108 Offenders with disabilities***

A receiving state shall continue to supervise offenders who become mentally ill or exhibit signs of mental illness or who develop a physical disability while supervised in the receiving state.

*History: Adopted November 3, 2003, effective August 1, 2004.*

## ***Rule 2.109 Adoption of rules; amendment***

Proposed new rules or amendments to the rules shall be adopted by majority vote of the members of the Interstate Commission in the following manner.

- (a) Proposed new rules and amendments to existing rules shall be submitted to the Interstate Commission office for referral to the Rules Committee in the following manner:
  - (1) Any Commissioner may submit a proposed rule or rule amendment for referral to the Rules Committee during the annual Commission meeting. This proposal would be made in the form of a motion and would have to be approved by a majority vote of a quorum of the Commission members present at the meeting.
  - (2) Standing ICAOS Committees may propose rules or rule amendments by a majority vote of that committee.
  - (3) ICAOS Regions may propose rules or rule amendments by a majority vote of members of that region.
- (b) The Rules Committee shall prepare a draft of all proposed rules and provide the draft to all Commissioners for review and comments. All written comments received by the Rules Committee on proposed rules shall be posted on the Commission's website upon receipt. Based on the comments made by the Commissioners the Rules Committee shall prepare a final draft of the proposed rule(s) or amendments for consideration by the Commission not later than the next annual meeting falling in an odd-numbered year.
- (c) Prior to the Commission voting on any proposed rule or amendment, the text of the proposed rule or amendment shall be published by the Rules Committee not later than 30 days prior to the meeting at which vote on the rule is scheduled, on the official web site of the Interstate Commission and in any other official publication that may be designated by the Interstate Commission for the publication of its rules. In addition to the text of the proposed rule or amendment, the reason for the proposed rule shall be provided.
- (d) Each proposed rule or amendment shall state-
  - (1) The place, time, and date of the scheduled public hearing;
  - (2) The manner in which interested persons may submit notice to the Interstate Commission of their intention to attend the public hearing and any written comments; and
  - (3) The name, position, physical and electronic mail address, telephone, and telefax number of the person to whom interested persons may respond with notice of their attendance and written comments.
- (e) Every public hearing shall be conducted in a manner guaranteeing each person who wishes to comment a fair and reasonable opportunity to comment. No transcript of the public hearing is required, unless a written request for a transcript is made, in

which case the person requesting the transcript shall pay for the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Interstate Commission from making a transcript or recording of the public hearing if it so chooses.

- (f) Nothing in this section shall be construed as requiring a separate public hearing on each rule. Rules may be grouped for the convenience of the Interstate Commission at public hearings required by this section.
- (g) Following the scheduled public hearing date, the Interstate Commission shall consider all written and oral comments received.
- (h) The Interstate Commission shall, by majority vote of the commissioners, take final action on the proposed rule or amendment by a vote of yes/no. The Commission shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.
- (i) Not later than sixty days after a rule is adopted, any interested person may file a petition for judicial review of the rule in the United States District Court of the District of Columbia or in the federal district court where the Interstate Commission's principal office is located. If the court finds that the Interstate Commission's action is not supported by substantial evidence, as defined in the federal Administrative Procedures Act, in the rulemaking record, the court shall hold the rule unlawful and set it aside. In the event that a petition for judicial review of a rule is filed against the Interstate Commission by a state, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.
- (j) Upon determination that an emergency exists, the Interstate Commission may promulgate an emergency rule that shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. An emergency rule is one that must be made effective immediately in order to-
  - (1) Meet an imminent threat to public health, safety, or welfare;
  - (2) Prevent a loss of federal or state funds;
  - (3) Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
  - (4) Protect human health and the environment.
- (k) The Chair of the Rules Committee may direct revisions to a rule or amendment adopted by the Commission, for purposes of correcting typographical errors, errors in format or grammatical errors. Public notice of any revisions shall be posted on the official web site of the Interstate Commission and in any other official publication that may be designated by the Interstate Commission for the publication of its rules. For a period of 30 days after posting, the revision is subject to challenge by any commissioner. The revision may be challenged only on grounds that the revision

results in a material change to a rule. A challenge shall be made in writing, and delivered to the Executive Director of the Commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without approval of the commission.

*References:*

*ICAOS Advisory Opinion*

*3-2006* [No provisions of the compact contemplates that a proposed rule or rule amendment may be officially voted upon at any point in the rulemaking process by anyone other than the duly appointed Commissioner of each state]

*History: Adopted November 3, 2003, effective August 1, 2004; amended September 13, 2005, effective September 13, 2005; amended October 4, 2006, effective October 4, 2006; amended September 26, 2007, effective January 1, 2008.*

## ***Rule 2.110 Transfer of offenders under this compact***

- (a) No state shall permit an offender who is eligible for transfer under this compact to relocate to another state except as provided by the Compact and these rules.
- (b) An offender who is not eligible for transfer under this Compact is not subject to these rules and remains subject to the laws and regulations of the state responsible for the offender's supervision.

*References:*

*ICAOS Advisory Opinions*

- 3-2004 [Offenders relocating to another state shall not be issued travel permits without the permission of the receiving state as provided by ICAOS rules]
- 9-2006 [States which allow eligible offenders to travel to a receiving state pending investigations are in violation of Rule 2.110 and Rule 3.102. In such circumstances the receiving state may properly reject the request for transfer]
- 2-2008 [The provisions of Rule 2.110 (a) limit the applicability of the ICAOS rules regarding transfer of supervision to eligible offenders who 'relocate' to another state]

*History: Adopted November 3, 2003, effective August 1, 2004; amended September 13, 2005, effective January 1, 2006.*

## Chapter 3 Transfer of Supervision

### ***Rule 3.101 Mandatory transfer of supervision***

At the discretion of the sending state, an offender shall be eligible for transfer of supervision to a receiving state under the compact, and the receiving state shall accept transfer, if the offender:

- (a) has more than 90 days or an indefinite period of supervision remaining at the time the sending state transmits the transfer request; and
- (b) has a valid plan of supervision; and
- (c) is in substantial compliance with the terms of supervision in the sending state; and
- (d) is a resident of the receiving state; or
- (e)
  - (1) has resident family in the receiving state who have indicated a willingness and ability to assist as specified in the plan of supervision; and
  - (2) can obtain employment in the receiving state or has means of support.

#### *References:*

##### *ICAOS Advisory Opinions*

- 7-2004 [While a sending state controls the decision of whether or not to transfer an offender under the Compact, the receiving state has no discretion as to whether or not to accept the case as long as the offender satisfies the criteria provided in this rule]
- 9-2004 [Upon proper application and documentation for verification of mandatory criteria of Rule 3.101, CSL offenders are subject to supervision under the Compact]
- 7-2005 [All mandatory transfers are subject to the requirement that they be pursuant to a “valid plan of supervision”]
- 8-2005 [The sending state determines if an offender is in substantial compliance. If a sending state has taken no action on outstanding warrants or pending charges the offender is considered to be in substantial compliance]
- 13-2006 [An undocumented immigrant who meets the definition of “offender” and seeks transfer under the Compact is subject to its jurisdiction and would not be a per se disqualification as long as the immigrant establishes the prerequisites of Rule 3.101 have been satisfied]
- 15-2006 [There is no obligation of the sending state to retake when requirements of 3.101 are no longer met]
- 2-2007 [A receiving state is not authorized to deny a transfer of an offender based solely on the fact that the offender intends to reside in Section 8 housing]

***History:*** *Adopted November 3, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended September 13, 2005, effective January 1, 2006; amended October 4, 2006, effective January 1, 2007; amended September 26, 2007, effective January 1, 2008.*

***Rule 3.101-1 Mandatory transfers of military, families of military, and family members employed***

- (a) *Transfers of military members-* An offender who is a member of the military and has been deployed by the military to another state, shall be eligible for reporting instructions and transfer of supervision. The receiving state shall issue reporting instructions no later than two business days following receipt of such a request from the sending state.
  
- (b) *Transfer of offenders who live with family who are members of the military-* An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and (e)(2) and who lives with a family member who has been deployed to another state, shall be eligible for reporting instructions and transfer of supervision, provided that the offender will live with the military member in the receiving state. The receiving state shall issue reporting instructions no later than two business days following receipt of such a request from the sending state.
  
- (c) *Employment transfer of family member to another state-* An offender who meets the criteria specified in Rules 3.101 (a), (b), & (c) and (e)(2) and whose family member, with whom he or she resides, is transferred to another state by their full-time employer, shall be eligible for reporting instructions and transfer of supervision, provided that the offender will live with the family member in the receiving state. The receiving state shall issue reporting instructions no later than two business days following receipt of such a request from the sending state.

*History: Adopted September 13, 2005, effective January 1, 2006; amended October 4, 2006, effective January 1, 2007; amended September 26, 2007, effective January 1, 2008.*

### ***Rule 3.101-2 Discretionary transfer of supervision***

- (a) A sending state may request transfer of supervision of an offender who does not meet the eligibility requirements in Rule 3.101.
- (b) The sending state must provide sufficient documentation to justify the requested transfer.
- (c) The receiving state shall have the discretion to accept or reject the transfer of supervision in a manner consistent with the purpose of the compact.

*References:*

*ICAOS Advisory Opinions*

4-2005 [Offenders not eligible for transfer under the provisions of Rule 2.105 and Rule 3.101 are eligible for transfer of supervision as a discretionary transfer]

8-2006 [Special condition(s) imposed on discretionary cases may result in retaking if the offender fails to fulfill requirements of the condition(s)]

*History: Adopted September 13, 2005, effective January 1, 2006.*

### **Rule 3.101-3 Transfer of supervision of sex offenders**

- (a) *Eligibility for Transfer*-At the discretion of the sending state a sex offender shall be eligible for transfer to a receiving state under the Compact rules. A sex offender shall not be allowed to leave the sending state until the sending state's request for transfer of supervision has been approved, or reporting instructions have been issued, by the receiving state. In addition to the other provisions of Chapter 3 of these rules, the following criteria will apply.
- (b) *Application for Transfer*-In addition to the information required in an application for transfer pursuant to Rule 3.107, in an application for transfer of supervision of a sex offender the sending state shall provide the following information, if available, to assist the receiving state in supervising the offender:
- (1) assessment information, including sex offender specific assessments;
  - (2) social history;
  - (3) information relevant to the sex offender's criminal sexual behavior;
  - (4) law enforcement report that provides specific details of sex offense;
  - (5) victim information
    - (A) the name, sex, age and relationship to the offender;
    - (B) the statement of the victim or victim's representative;
  - (6) the sending state's current or recommended supervision and treatment plan.
- (c) *Reporting instructions for sex offenders living in the receiving state at the time of sentencing*-Rule 3.103 applies to the transfer of sex offenders, except for the following:
- (1) The receiving state shall have five business days to review the proposed residence to ensure compliance with local policies or laws prior to issuing reporting instruction. If the proposed residence is invalid due to existing state law or policy, the receiving state may deny reporting instructions.
  - (2) No travel permit shall be granted by the sending state until reporting instructions are issued by the receiving state.

#### *References:*

#### *ICAOS Advisory Opinions*

1-2008 [An investigation in such cases would be largely meaningless without the cooperation of the sending state in providing sufficient details concerning the sex offense in question and a refusal to provide such information so as to allow the receiving state to make a reasonable determination as to whether the proposed residence violates local policies or laws would appear to violate the intent of this rule]

*History: Adopted September 26, 2007, effective January 1, 2008; editorial change effective February 17, 2008*

### ***Rule 3.102 Submission of transfer request to a receiving state***

- (a) Subject to the exceptions in Rule 3.103 and 3.106, a sending state seeking to transfer supervision of an offender to another state shall submit a completed transfer request with all required information to the receiving state prior to allowing the offender to leave the sending state.
- (b) Subject to the exceptions in Rule 3.103 and 3.106, the sending state shall not allow the offender to travel to the receiving state until the receiving state has replied to the transfer request.

*References:*

*ICAOS Advisory Opinions*

3-2004 [Once an application has been made under the Compact, an offender may not travel to the receiving state without the receiving state's permission]

9-2006 [States which allow eligible offenders to travel to a receiving state, without the receiving state's permission, are in violation of Rule 2.110 and 3.102. In such circumstances, the receiving state can properly reject the request for transfer of such an offender]

*History: Adopted November 4, 2003, effective August 1, 2004; amended September 26, 2007, effective January 1, 2008.*

***Rule 3.103 Reporting instructions; offender living in the receiving state at the time of sentencing***

- (a)
- (1) A reporting instructions request for an offender who was living in the receiving state at the time of sentencing shall be submitted by the sending state within seven calendar days of the sentencing date or release from incarceration to probation supervision. The sending state may grant a seven day travel permit to an offender who was living in the receiving state at the time of sentencing. Prior to granting a travel permit to an offender, the sending state shall verify that the offender is living in the receiving state.
  - (2) The receiving state shall issue reporting instructions no later than two business days following receipt of such a request from the sending state.
  - (3) The sending state shall ensure that the offender sign all forms requiring the offender's signature under Rule 3.107 prior to granting a travel permit to the offender. Upon request from the receiving state the sending state shall transmit all signed forms within 5 business days.
  - (4) The sending state shall transmit a departure notice to the receiving state per Rule 4.105.
  - (5) This section is applicable to offenders incarcerated for 6 months or less and released to probation supervision.
- (b) The sending state retains supervisory responsibility until the offender's arrival in the receiving state.
- (c) A receiving state shall assume responsibility for supervision of an offender who is granted reporting instructions upon the offender's arrival in the receiving state. The receiving state shall submit an arrival notice to the sending state per Rule 4.105.
- (d) A sending state shall transmit a completed transfer request for an offender granted reporting instructions no later than 15 calendar days following the granting to the offender of the reporting instructions.
- (e)
- (1) If the receiving state rejects the transfer request for an offender granted reporting instructions, or if the sending state fails to send a completed transfer request by the 15th calendar day following the granting of reporting instructions, the sending state shall, upon receiving notice of rejection or upon failure to timely send a required transfer request, direct the offender to return to the sending state within 15 calendar days of receiving notice of rejection or failure to send a transfer request. The receiving state retains authority to supervise the offender until the offender's directed departure date from the receiving state or issuance of the sending state's warrant.
  - (2) If the offender does not return to the sending state, as ordered, the sending state shall initiate the retaking of the offender by issuing a warrant that is effective in

all states without limitation as to specific geographic area, no later than 10 calendar days following the offender's failure to appear in the sending state.

*References:*

*ICAOS Advisory Opinions*

3-2004 [Rule 3.103 provides an exemption to 3.102 allowing for certain offenders to obtain reporting instructions pending a reply to a transfer request]

1-2006 [Rule 3.103 is not applicable to offenders released to supervision from prison]

3-2007 [If the investigation has not been completed, reporting instructions are required to be issued as provided in Rule 3.103(a). Upon completion of investigation, if the receiving state subsequently denies the transfer on the same basis or upon failure to satisfy any of the other requirements of Rule 3.101, the provisions of Rule 3.103(e)(1) and (2) clearly require the offender to return to the sending state or be retaken upon issuance of a warrant]

*History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended October 4, 2006, effective January 1, 2007; amended September 26, 2007, effective January 1, 2008; editorial change effective February 17, 2008.*

### ***Rule 3.104 Time allowed for investigation by receiving state***

- (a) A receiving state shall complete investigation and respond to a sending state's request for an offender's transfer of supervision no later than the 45<sup>th</sup> calendar day following receipt of a completed transfer request in the receiving state's compact office.
- (b) If a receiving state determines that an offender transfer request is incomplete, the receiving state shall notify the sending state by rejecting the transfer request with the specific reason(s) for the rejection.

*References:*

*ICAOS Advisory Opinion*

5-2006 [45 calendar days is the maximum time the receiving state has under the rules to respond to a sending state's request for transfer]

*History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended September 13, 2005, effective June 1, 2009.*

**Rule 3.104-1 Acceptance of offender; issuance of reporting instructions**

- (a) If a receiving state accepts transfer of the offender, the receiving state's acceptance shall include reporting instructions.
- (b) Upon notice of acceptance of transfer by the receiving state, the sending state shall issue a travel permit to the offender and notify the receiving state of the offender's departure as required under Rule 4.105.
- (c) An acceptance by the receiving state shall be valid for 120 calendar days. If the sending state has not sent a Departure Notice to the receiving state in that time frame, the receiving state may withdraw its acceptance and close interest in the case.

*History: Adopted October 26, 2004, effective August 1, 2004; amended September 13, 2005, effective January 1, 2006; amended October 4, 2006, effective January 1, 2007.*

### ***Rule 3.105 Request for transfer of a paroling offender***

- (a) A sending state shall submit a completed request for transfer of a paroling offender to a receiving state no earlier than 120 days prior to the offender's planned prison release date.
- (b) A sending state shall notify a receiving state of the offender's date of release from prison or if recommendation for parole of the offender has been withdrawn or denied.
- (c)
  - (1) A receiving state may withdraw its acceptance of the transfer request if the offender does not report to the receiving state by the fifth calendar day following the offender's intended date of departure from the sending state.
  - (2) A receiving state that withdraws its acceptance under Rule 3.105 (c) (1) shall immediately notify the sending state.
  - (3) Following withdrawal of the receiving state's acceptance, a sending state must resubmit a request for transfer of supervision of a paroling offender in the same manner as required in Rule 3.105 (a).

*References:*

*ICAOS Advisory Opinion*

5-2005 [A sending state must notify a receiving state if a parolee's release date has been withdrawn or denied]

*History: Adopted November 4, 2003, effective August 1, 2004.*

### ***Rule 3.106 Request for expedited reporting instructions***

- (a)
- (1) A sending state may request that a receiving state agree to expedited reporting instructions for an offender if the sending state believes that emergency circumstances exist and the receiving state agrees with that determination. If the receiving state does not agree with that determination, the offender shall not proceed to the receiving state until an acceptance is received under Rule 3.104-1.
  - (2)
    - (A) A receiving state shall provide a response for expedited reporting instructions to the sending state no later than two business days following receipt of such a request. The sending state shall transmit a departure notice to the receiving state upon the offender's departure.
    - (B) The sending state shall ensure that the offender signs all forms requiring the offender's signature under Rule 3.107 prior to granting reporting instructions to the offender. Upon request from the receiving state the sending state shall transmit all signed forms within 5 business days.
- (b) A receiving state shall assume responsibility for supervision of an offender who is granted reporting instructions during the investigation of the offender's plan of supervision upon the offender's arrival in the receiving state. The receiving state shall submit an arrival notice to the sending state per Rule 4.105.
- (c) A sending state shall transmit a completed transfer request for an offender granted reporting instructions no later than the seventh calendar day following the granting to the offender of the reporting instructions.
- (d)
- (1) If the receiving state rejects the transfer request for an offender granted reporting instructions, or if the sending state fails to send a completed transfer request by the seventh calendar day following the granting of reporting instructions, the sending state shall, upon receiving notice of rejection or upon failure to timely send a required transfer request, direct the offender to return to the sending state within 15 calendar days of receiving notice of rejection or failure to send a transfer request. The receiving state retains authority to supervise the offender until the offender's directed departure date from the receiving state or issuance of the sending state's warrant.
  - (2) If the offender does not return to the sending state as ordered, the sending state shall initiate the retaking of the offender by issuing a warrant that is effective in all states without limitation as to specific geographic area, no later than 10 calendar days following the offender's failure to appear in the sending state.

*History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended October 4, 2006, effective January 1, 2007; amended September 26, 2007, effective January 1, 2008.*

### ***Rule 3.107 Application for transfer of supervision***

- (a) A Transfer request for an offender shall be transmitted through the electronic information system authorized by the commission and shall contain—
- (1) transfer request form;
  - (2) instant offense in sufficient detail to describe the type and severity of offense and whether the charge has been reduced at the time of imposition of sentence;
  - (3) photograph of offender;
  - (4) conditions of supervision;
  - (5) any orders restricting the offender's contact with victims or any other person;
  - (6) any known orders protecting the offender from contact with any other person;
  - (7) information as to whether the offender is subject to sex offender registry requirements in the sending state along with supportive documentation;
  - (8) pre-sentence investigation report, if available;
  - (9) supervision history, if available;
  - (10) information relating to any court-ordered financial obligations, including but not limited to, fines, court costs, restitution, and family support; the balance that is owed by the offender on each; and the address of the office to which payment must be made.
- (b) The Offender Application for Interstate Compact Transfer shall be maintained in the sending state.
- (c) Additional documents, such as the Judgment and Commitment, and any other information may be requested from the sending state following acceptance of the offender. The sending state shall provide the documents if available.

*References:*

*ICAOS Advisory Opinions*

5-2005 [For paroling offenders a release date is to be required for the transfer application]

*History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended September 13, 2005 (to be effective upon the implementation of electronic system; date to be determined by Executive Committee), effective October 6, 2008; amended September 26, 2007, effective January 1, 2008.*

### ***Rule 3.108 Victim notification***

- (a) *Notification to victims upon transfer of offenders-* Within one business day of the issuance of reporting instructions or acceptance of transfer by the receiving state, the sending state shall initiate notification procedures of the transfer of supervision of the offender in accordance with its own laws to known victims in the sending state, and the receiving state shall initiate notification procedures of the transfer of supervision of the offender in accordance with its own laws to victims in the receiving state.
- (b) *Notification to victims upon violation by offender or other change in status-*
- (1) The receiving state is responsible for reporting information to the sending state when an offender-
    - (A) Commits a significant violation;
    - (B) Changes address;
    - (C) Returns to the sending state where an offender's victim resides;
    - (D) Departs the receiving state under an approved plan of supervision in a subsequent receiving state; or
    - (E) Is issued a temporary travel permit where supervision of the offender has been designated a victim-sensitive matter.
  - (2) Both the sending state and the receiving state shall notify known victims in their respective states of this information in accordance with their own laws or procedures.
- (c) The receiving state shall respond to requests for offender information from the sending state no later than the fifth business day following the receipt of the request.

***History: Adopted November 4, 2003, effective August 1, 2004.***

### ***Rule 3.108-1 Victims' right to be heard and comment***

- (a) When an offender submits a request to transfer to a receiving state or a subsequent receiving state, or to return to a sending state, the victim notification authority in the sending state shall, at the time of notification to the victim as required in Rule 3.108 (a), inform victims of the offender of their right to be heard and comment. Victims of the offender have the right to be heard regarding their concerns relating to the transfer request for their safety and family members' safety. Victims have the right to contact the sending state's interstate compact office at any time by telephone, telefax, or conventional or electronic mail regarding their concerns relating to the transfer request for their safety and family members' safety. The victim notification authority in the sending state shall provide victims of the offender with information regarding how to respond and be heard if the victim chooses.
- (b)
  - (1) Victims shall have ten business days from receipt of notice required in Rule 3.108-1 (a) to respond to the sending state. Receipt of notice shall be presumed to have occurred by the fifth business day following its sending.
  - (2) The receiving state shall continue to investigate the transfer request while awaiting response from the victim.
- (c) Upon receipt of the comments from victims of the offender, the sending state shall consider comments regarding their concerns relating to the transfer request for their safety and family members' safety. Victims' comments shall be confidential and shall not be disclosed to the public. The sending state or receiving state may impose special conditions of supervision on the offender, if the safety of the offender's victims or family members of victims is deemed to be at risk by the approval of the offender's request for transfer.
- (d) The sending state shall respond to the victim no later than five business days following receipt of victims' comments, indicating how victims' concerns will be addressed when transferring supervision of the offender.

*History: Adopted November 4, 2003, effective August 1, 2004.*

**Rule 3.109 Waiver of extradition**

- (a) An offender applying for interstate supervision shall execute, at the time of application for transfer, a waiver of extradition from any state to which the offender may abscond while under supervision in the receiving state.
- (b) States that are party to this compact waive all legal requirements to extradition of offenders who are fugitives from justice.

*References:*

*ICAOS Advisory Opinion*

2-2005 [In seeking a compact transfer of supervision, the offender accepts that a sending state can retake them at anytime and that formal extradition hearings would not be required]

*History: Adopted November 4, 2003, effective August 1, 2004.*

## Chapter 4 Supervision in Receiving State

### ***Rule 4.101 Manner and degree of supervision in receiving state***

A receiving state shall supervise an offender transferred under the interstate compact in a manner determined by the receiving state and consistent with the supervision of other similar offenders sentenced in the receiving state.

*References:*

*ICAOS Advisory Opinions*

2-2005 [Out of state offenders can be arrested and detained for failure to comply with conditions of probation if such a failure would have resulted in an arrest of a similar situated in-state offender]

5-2006 [This rule does not permit a state to impose the establishment of sex offender risk level or community notification on offenders transferred under the Compact if the receiving state does not impose these same requirements on its own offenders]

1-2007 [This rule does not permit the receiving state to provide no supervision and at a minimum the rules of the Compact contemplate that such an offender will be under some supervision for the duration of the conditions placed upon the offender by the sending state under Rule 4.102]

*History: Adopted November 4, 2003, effective August 1, 2004.*

***Rule 4.102 Duration of supervision in the receiving state***

A receiving state shall supervise an offender transferred under the interstate compact for a length of time determined by the sending state.

*History: Adopted November 4, 2003, effective August 1, 2004.*

### **Rule 4.103 Special conditions**

- (a) At the time of acceptance or during the term of supervision, the compact administrator or supervising authority in the receiving state may impose a special condition on an offender transferred under the interstate compact if that special condition would have been imposed on the offender if sentence had been imposed in the receiving state.
- (b) A receiving state shall notify a sending state that it intends to impose or has imposed a special condition on the offender, the nature of the special condition, and the purpose.
- (c) A sending state shall inform the receiving state of any special conditions to which the offender is subject at the time the request for transfer is made or at any time thereafter.
- (d) A receiving state that is unable to enforce a special condition imposed in the sending state shall notify the sending state of its inability to enforce a special condition at the time of request for transfer of supervision is made.

*References:*

*ICAOS Advisory Opinion*

2-2005 [In seeking a compact transfer of supervision, the offender accepts that a sending state can retake them at anytime and that formal extradition hearings would not be required and that he or she is subject to the same type of supervision afforded to other offenders in the receiving state.....The receiving state can even add additional requirements on an offender as a condition of transfer]

1-2008 [Rule 4.103 concerning special conditions does not authorize a receiving state to deny a mandatory transfer of an offender under the compact who meets the requirements of such a transfer under Rule 3.101]

*History: Adopted November 4, 2003, effective August 1, 2004; amended September 13, 2005, effective January 1, 2006.*

### ***Rule 4.103-1 Effect of special conditions or requirements***

For purposes of revocation or other punitive action against an offender, the probation or paroling authority of a sending state shall give the same effect to a violation of special conditions or requirement imposed by a receiving state as if those conditions or requirement had been imposed by the sending state. Failure of an offender to comply with special conditions or additional requirements imposed by a receiving state shall form the basis of punitive action in the sending state notwithstanding the absence of such conditions or requirements in the original plan of supervision issued by the sending state. For purposes of this rule, the original plan of supervision shall include, but not be limited to, any court orders setting forth the terms and conditions of probation, any orders incorporating a plan of supervision by reference, or any orders or directives of the paroling or probation authority.

*History: Adopted October 26, 2004, effective January 1, 2005; amended October 4, 2006, effective January 1, 2007.*

***Rule 4.104 Offender registration or DNA testing in receiving or sending state***

A receiving state shall require that an offender transferred under the interstate compact comply with any offender registration and DNA testing requirements in accordance with the laws or policies of the receiving state and shall assist the sending state to ensure DNA testing requirements and offender registration requirements of a sending state are fulfilled.

*History: Adopted November 4, 2003, effective August 1, 2004; amended September 26, 2007, effective January 1, 2008.*

**Rule 4.105 Arrival and departure notifications; withdrawal of reporting instructions**

- (a) *Departure notifications*-At the time of an offender's departure from any state pursuant to a transfer of supervision or the granting of reporting instructions, the state from which the offender departs shall notify the intended receiving state, and, if applicable, the sending state, through the electronic information system of the date and time of the offender's intended departure and the date by which the offender has been instructed to arrive.
- (b) *Arrival notifications*-At the time of an offender's arrival in any state pursuant to a transfer of supervision or the granting of reporting instructions, or upon the failure of an offender to arrive as instructed, the intended receiving state shall immediately notify the state from which the offender departed, and, if applicable, the sending state, through the electronic information system of the offender's arrival or failure to arrive.
- (c) A receiving state may withdraw its reporting instructions if the offender does not report to the receiving state as directed.

*History: Adopted November 4, 2003, effective August 1, 2004; amended September 13, 2005, effective June 1, 2009.*

### **Rule 4.106 Progress reports**

- (a) A receiving state shall provide to the sending state a progress report annually, or more frequently, upon the request of the sending state, for good cause shown.
- (b) A progress report shall include-
  - (1) offender's name;
  - (2) offender's residence address;
  - (3) offender's telephone number and electronic mail address;
  - (4) name and address of offender's employer;
  - (5) supervising officer's summary of offender's conduct, progress and attitude, and compliance with conditions of supervision;
  - (6) programs of treatment attempted and completed by the offender;
  - (7) information about any sanctions that have been imposed on the offender since the previous progress report;
  - (8) supervising officer's recommendation;
  - (9) any other information requested by the sending state that is available in the receiving state.

*History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005.*

## **Rule 4.107 Fees**

- (a) *Application fee*-A sending state may impose a fee for each transfer application prepared for an offender.
- (b) *Supervision fee*-
- (1) A receiving state may impose a reasonable supervision fee on an offender whom the state accepts for supervision, which shall not be greater than the fee charged to the state's own offenders.
  - (2) A sending state shall not impose a supervision fee on an offender whose supervision has been transferred to a receiving state.

### *References:*

#### *ICAOS Advisory Opinions*

2-2006 [The sending state is prohibited from imposing a supervision fee once the offender has been transferred under the Compact]

14-2006[A fee imposed by a sending state for purposes of defraying costs for sex offender registration and victim notification, not appearing to fit criteria of a "supervision fee," may be collected on Compact offenders at a sending state's responsibility]

*History: Adopted November 4, 2003, effective August 1, 2004.*

### ***Rule 4.108 Collection of restitution, fines and other costs***

- (a) A sending state is responsible for collecting all fines, family support, restitution, court costs, or other financial obligations imposed by the sending state on the offender.
- (b) Upon notice by the sending state that the offender is not complying with family support and restitution obligations, and financial obligations as set forth in subsection (a), the receiving state shall notify the offender that the offender is in violation of the conditions of supervision and must comply. The receiving state shall inform the offender of the address to which payments are to be sent.

*References:*

*ICAOS Advisory Opinion*

14-2006[A fee imposed by a sending state for purposes of defraying costs for sex offender registration and victim notification, not appearing to fit criteria of a “supervision fee,” may be collected on Compact offenders at a sending state’s responsibility. A receiving state would be obligated for notifying the offender to comply with such financial responsibility under Rule 4.108 (b)]

*History: Adopted November 4, 2003, effective August 1, 2004.*

### **Rule 4.109 Violation reports**

- (a) A receiving state shall notify a sending state of significant violations of conditions of supervision by an offender within 30 calendar days of discovery of the violation.
- (b) A violation report shall contain-
  - (1) offender's name and location;
  - (2) offender's state-issued identifying numbers;
  - (3) date of the offense or infraction that forms the basis of the violation;
  - (4) description of the offense or infraction;
  - (5) status and disposition, if any, of offense or infraction;
  - (6) dates and descriptions of any previous violations;
  - (7) receiving state's recommendation of actions sending state may take;
  - (8) name and title of the officer making the report; and
  - (9) if the offender has absconded, the offender's last known address and telephone number, name and address of the offender's employer, and the date of the offender's last personal contact with the supervising officer and details regarding how the supervising officer determined the offender to be an absconder.
  - (10) Supporting documentation regarding the violation including but not limited to police reports, toxicology reports, and preliminary findings.
- (c)
  - (1) The sending state shall respond to a report of a violation made by the receiving state no later than ten business days following receipt by the sending state. Receipt of a violation report shall be presumed to have occurred by the fifth business day following its transmission by the receiving state;
  - (2) The response by the sending state shall include action to be taken by the sending state and the date by which that action will begin and its estimated completion date.
  - (3) A sending state shall, upon receipt of an absconder violation report and case closure, issue a warrant for the offender that is effective in all states without limit as to specific geographic area.
  - (4) If an offender who has absconded is apprehended on a sending state's warrant within the jurisdiction of the receiving state that issued the violation report and case closure, the receiving state shall, upon request by the sending state, conduct a probable cause hearing as provided in Rule 5.108 (d) and (e) unless waived as provided in Rule 5.108 (b).

*History: Adopted November 4, 2003, effective August 1, 2004; amended September 26, 2007, effective January 1, 2008.*

### ***Rule 4.109-1 Authority to arrest and detain***

An offender in violation of the terms and conditions of supervision may be taken into custody or continued in custody by the receiving state.

*History: Adopted October 4, 2006, effective January 1, 2007.*

*References:*

*ICAOS Advisory Opinion*

17-2006[Each state should determine the extent to which authority is vested in parole and probation officers as well as other law enforcement and peace officers to effect such an arrest, including the need for a warrant.]

### **Rule 4.110 Transfer to a subsequent receiving state**

- (a) At the request of an offender for transfer to a subsequent receiving state, and with the approval of the sending state, the sending state shall prepare and transmit a request for transfer to the subsequent state in the same manner as an initial request for transfer is made.
- (b) The receiving state shall assist the sending state in acquiring the offender's signature on the "Application for Interstate Compact Transfer," and any other forms that may be required under Rule 3.107, and shall transmit these forms to the sending state.
- (c) The receiving state shall submit a statement to the sending state summarizing the offender's progress under supervision.
- (d) The receiving state shall issue a travel permit to the offender when the sending state informs the receiving state that the offender's transfer to the subsequent receiving state has been approved.
- (e) Notification of offender's departure and arrival shall be made as required under Rule 4.105.
- (f) Acceptance of the offender's transfer of supervision by a subsequent state and issuance of reporting instructions to the offender terminate the receiving state's supervisory obligations for the offender.

*History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended September 13, 2005 (to be effective upon the implementation of electronic system; date to be determined by Executive Committee) amended September 26, 2007, effective January 1, 2008.*

### **Rule 4.111 Return to the sending state**

- (a) Upon an offender's request to return to the sending state, the receiving state shall request reporting instructions, unless the offender is under active criminal investigation or is charged with a subsequent criminal offense in the receiving state. The offender shall remain in the receiving state until receipt of reporting instructions.
- (b) Except as provided in subsection (c), the sending state shall grant the request and provide reporting instructions no later than two business days following receipt of the request for reporting instructions from the receiving state.
- (c) In a victim sensitive case, the sending state shall not provide reporting instructions until the provisions of Rule 3.108-1 have been followed.
- (d) A receiving state shall notify the sending state as required in Rule 4.105 (a).

*History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective day January 1, 2005; amended September 26, 2007, effective January 1, 2008.*

### ***Rule 4.112 Closing of supervision by the receiving state***

- (a) The receiving state may close its supervision of an offender and cease supervision upon-
- (1) The date of discharge indicated for the offender at the time of application for supervision unless informed of an earlier or later date by the sending state;
  - (2) Notification to the sending state of the absconding of the offender from supervision in the receiving state;
  - (3) Notification to the sending state that the offender has been sentenced to incarceration for 180 days or longer, including judgment and sentencing documents and information about the offender's location;
  - (4) Notification of death; or
  - (5) Return to sending state.
- (b) A receiving state shall not terminate its supervision of an offender while the sending state is in the process of retaking the offender under Rule 5.101.
- (c) At the time a receiving state closes supervision, a case closure notice shall be provided to the sending state which shall include last known address and employment.

*References:*

*ICAOS Advisory Opinion*

11-2006[A receiving state closing supervision interest, does not preclude the jurisdiction of the Compact except for cases where the original term of supervision has expired]

*History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended September 26, 2007, effective January 1, 2008.*

## Chapter 5 Retaking

### ***Rule 5.101 Retaking by the sending state***

- (a) Except as required in Rules 5.102 and 5.103, at its sole discretion, a sending state may retake an offender, unless the offender has been charged with a subsequent criminal offense in the receiving state.
- (b) If the offender has been charged with a subsequent criminal offense in the receiving state, the offender shall not be retaken without the consent of the receiving state, or until criminal charges have been dismissed, sentence has been satisfied, or the offender has been released to supervision for the subsequent offense.

*References:*

*ICAOS Advisory Opinion*

*12-2006*[Neither the time frame nor the means by which the retaking of the offender shall occur as outlined in Rule 5.101 (a) are provided]

*History: Adopted November 4, 2003, effective August 1, 2004; amended September 26, 2007, effective January 1, 2008.*

### ***Rule 5.102 Mandatory retaking for a new felony conviction***

Upon a request from the receiving state, a sending state shall retake or order the return of an offender from the receiving state or a subsequent receiving state upon the offender's conviction for a new felony offense and-

- (a) completion of a term of incarceration for that conviction; or
- (b) placement under supervision for that felony offense.

If the offender does not return to the sending state as ordered, then the sending state shall issue a warrant that is effective in all compact member states, without limitation as to specific geographic area, no later than 10 calendar days following the offender's failure to appear in the sending state.

*History: Adopted November 4, 2003, effective August 1, 2004; amended October 26, 2004, effective January 1, 2005; amended October 4, 2006, effective January 1, 2007; amended September 26, 2007, effective January 1, 2008.*

### **Rule 5.103 Mandatory retaking for violation of conditions of supervision**

- (a) Upon a request by the receiving state and a showing that the offender has committed three or more significant violations arising from separate incidents that establish a pattern of non-compliance of the conditions of supervision, a sending state shall retake or order the return of an offender from the receiving state or a subsequent receiving state.
  
- (b) If the offender does not return to the sending state as ordered, then the sending state shall issue a warrant that is effective in all compact member states, without limitation as to specific geographic area, no later than 10 calendar days following the offender's failure to appear in the sending state.

*References:*

*ICAOS Advisory Opinions*

2-2005 [An out of state offender may be arrested and detained by a receiving state who are subject to retaking based on violations of supervision, *See* Rule 4.109-1]

10-2006 [Offenders transferred prior to the adoption of ICAOS rules August 1, 2004 may be retaken under the current rules if one of the significant violations occurred after August 1, 2004]

4-2007 [It is unreasonable to assume the subsequent application of Rule 5.103 (a) to include violations occurring prior to an application being accepted as a basis to require retaking]

*History: Adopted November 4, 2003, effective August 1, 2004; amended October 4, 2006, effective January 1, 2007; amended September 26, 2007, effective January 1, 2008.*

***Rule 5.104 Cost of retaking an offender***

A sending state shall be responsible for the cost of retaking the offender.

*History: Adopted November 4, 2003, effective August 1, 2004.*

### ***Rule 5.105 Time allowed for retaking an offender***

A sending state shall retake an offender within 30 calendar days after the decision to retake has been made or upon release of the offender from incarceration in the receiving state.

*History: Adopted November 4, 2003, effective August 1, 2004.*

***Rule 5.106 Cost of incarceration in receiving state***

A receiving state shall be responsible for the cost of detaining the offender in the receiving state pending the offender's retaking by the sending state.

*History: Adopted November 4, 2003, effective August 1, 2004.*

***Rule 5.107 Officers retaking an offender***

- (a) Officers authorized under the law of a sending state may enter a state where the offender is found and apprehend and retake the offender, subject to this compact, its rules, and due process requirements.
- (b) The sending state shall be required to establish the authority of the officer and the identity of the offender to be retaken.

*History: Adopted November 4, 2003, effective August 1, 2004.*

### ***Rule 5.108 Probable cause hearing in receiving state***

- (a) An offender subject to retaking for violation of conditions of supervision that may result in a revocation shall be afforded the opportunity for a probable cause hearing before a neutral and detached hearing officer in or reasonably near the place where the alleged violation occurred.
- (b) No waiver of a probable cause hearing shall be accepted unless accompanied by an admission by the offender to one or more significant violations of the terms or conditions of supervision.
- (c) A copy of a judgment of conviction regarding the conviction of a new felony offense by the offender shall be deemed conclusive proof that an offender may be retaken by a sending state without the need for further proceedings.
- (d) The offender shall be entitled to the following rights at the probable cause hearing:
  - (1) Written notice of the alleged violation(s);
  - (2) Disclosure of non-privileged or non-confidential evidence regarding the alleged violation(s);
  - (3) The opportunity to be heard in person and to present witnesses and documentary evidence relevant to the alleged violation(s);
  - (4) The opportunity to confront and cross-examine adverse witnesses, unless the hearing officer determines that a risk of harm to a witness exists.
- (e) The receiving state shall prepare and submit to the sending state a written report within 10 business days of the hearing that identifies the time, date and location of the hearing; lists the parties present at the hearing; and includes a clear and concise summary of the testimony taken and the evidence relied upon in rendering the decision. Any evidence or record generated during a probable cause hearing shall be forwarded to the sending state.
- (f) If the hearing officer determines that there is probable cause to believe that the offender has committed the alleged violations of conditions of supervision, the receiving state shall hold the offender in custody, and the sending state shall, within 15 business days of receipt of the hearing officer's report, notify the receiving state of the decision to retake or other action to be taken.
- (g) If probable cause is not established, the receiving state shall:
  - (1) Continue supervision if the offender is not in custody.
  - (2) Notify the sending state to vacate the warrant, and continue supervision upon release if the offender is in custody on the sending state's warrant.
  - (3) Vacate the receiving state's warrant and release the offender back to supervision within 24 hours of the hearing if the offender is in custody.

*References:*

*ICAOS Advisory Opinion*

2-2005 [Although Rule 5.108 requires that a probable cause hearing take place for an offender subject to retaking for violations of conditions that may result in revocation as outlined in subsection (a), allegations of due process violations in the actual revocation of probation or parole are matters addressed during proceedings in the sending state after the offender's return]

17-2006 [Each state should determine the extent to which authority is vested in parole and probation officers as well as other law enforcement and peace officers to effect such an arrest, including the need for a warrant.]

[\*Gagnon v. Scarpelli\*, 411 U.S. 778 \(1973\)](#)

*Ogden v. Klundt*, 550 P.2d 36, 39 (Wash. Ct. App. 1976)

See, *People ex rel. Crawford v. State*, 329 N.Y.S.2d 739 (N.Y. 1972)

*State ex rel. Nagy v. Alvis*, 90 N.E.2d 582 (Ohio 1950)

*State ex rel. Reddin v. Meekma*, 306 N.W.2d 664 (Wis. 1981)

*Bills v. Shulsen*, 700 P.2d 317 (Utah 1985)

*California v. Crump*, 433 A.2d 791 (N.J. Super. Ct. App. Div. 1981)

*California v. Crump*, 433 A.2d at 794, *Fisher v. Crist*, 594 P.2d 1140 (Mont. 1979)

*State v. Maglio*, 459 A.2d 1209 (N.J. Super. Ct. 1979)

*In re Hayes*, 468 N.E.2d 1083 (Mass. Ct. App. 1984)

[\*Morrissey v. Brewer\*, 408 U.S. 471 \(1972\)](#)

*In State v. Hill*, 334 N.W.2d 746 (Iowa 1983)

See e.g., *State ex rel. Ohio Adult Parole Authority v. Coniglio*, 610 N.E.2d 1196, 1198 (Ohio Ct. App. 1993)

*History: Adopted November 4, 2003, effective August 1, 2004; amended October 4, 2006, effective January 1, 2007; amended September 26, 2007, effective January 1, 2008.*

### ***Rule 5.109 Transport of offenders***

States that are party to this compact shall allow officers authorized by the law of the sending or receiving state to transport offenders through the state without interference.

*History: Adopted November 4, 2003, effective August 1, 2004.*

***Rule 5.110 Retaking offenders from local, state or federal correctional facilities***

- (a) Officers authorized by the law of a sending state may take custody of an offender from a local, state or federal correctional facility at the expiration of the sentence or the offender's release from that facility provided that
  - (1) No detainer has been placed against the offender by the state in which the correctional facility lies; and
  - (2) No extradition proceedings have been initiated against the offender by a third-party state.

***History: Adopted November 4, 2003, effective August 1, 2004.***

***Rule 5.111 Denial of bail or other release conditions to certain offenders***

An offender against whom retaking procedures have been instituted by a sending or receiving state shall not be admitted to bail or other release conditions in any state.

*History: Adopted November 4, 2003, effective August 1, 2004; amended October 4, 2006, effective January 1, 2007; amended September 26, 2007, effective January 1, 2008.*

## Chapter 6 Dispute Resolution and Interpretation of Rules

### ***Rule 6.101 Informal communication to resolve disputes or controversies and obtain interpretation of the rules***

- (a) Through the office of a state's compact administrator, states shall attempt to resolve disputes or controversies by communicating with each other by telephone, telefax, or electronic mail.
- (b) *Failure to resolve dispute or controversy-*
  - (1) Following an unsuccessful attempt to resolve controversies or disputes arising under this compact, its by-laws or its rules as required under Rule 6.101 (a), states shall pursue one or more of the informal dispute resolution processes set forth in Rule 6.101 (b)(2) prior to resorting to formal dispute resolution alternatives.
  - (2) Parties shall submit a written request to the executive director for assistance in resolving the controversy or dispute. The executive director shall provide a written response to the parties within ten business days and may, at the executive director's discretion, seek the assistance of legal counsel or the executive committee in resolving the dispute. The executive committee may authorize its standing committees or the executive director to assist in resolving the dispute or controversy.
- (c) *Interpretation of the rules-*Any state may submit an informal written request to the executive director for assistance in interpreting the rules of this compact. The executive director may seek the assistance of legal counsel, the executive committee, or both, in interpreting the rules. The executive committee may authorize its standing committees to assist in interpreting the rules. Interpretations of the rules shall be issued in writing by the executive director or the executive committee and shall be circulated to all of the states.

***History: Adopted November 4, 2003, effective August 1, 2004.***

## ***Rule 6.102 Formal resolution of disputes and controversies***

- (a) *Alternative dispute resolution*- Any controversy or dispute between or among parties that arises from or relates to this compact that is not resolved under Rule 6.101 may be resolved by alternative dispute resolution processes. These shall consist of mediation and arbitration.
- (b) *Mediation and arbitration*
- (1) Mediation
- (A) A state that is party to a dispute may request, or the executive committee may require, the submission of a matter in controversy to mediation.
- (B) Mediation shall be conducted by a mediator appointed by the executive committee from a list of mediators approved by the national organization responsible for setting standards for mediators, and pursuant to procedures customarily used in mediation proceedings.
- (2) Arbitration
- (A) Arbitration may be recommended by the executive committee in any dispute regardless of the parties' previous submission of the dispute to mediation.
- (B) Arbitration shall be administered by at least one neutral arbitrator or a panel of arbitrators not to exceed three members. These arbitrators shall be selected from a list of arbitrators maintained by the commission staff.
- (C) The arbitration may be administered pursuant to procedures customarily used in arbitration proceedings and at the direction of the arbitrator.
- (D) Upon the demand of any party to a dispute arising under the compact, the dispute shall be referred to the American Arbitration Association and shall be administered pursuant to its commercial arbitration rules.
- (E)
- (i) The arbitrator in all cases shall assess all costs of arbitration, including fees of the arbitrator and reasonable attorney fees of the prevailing party, against the party that did not prevail.
- (ii) The arbitrator shall have the power to impose any sanction permitted by this compact and other laws of the state or the federal district in which the commission has its principal offices.
- (F) Judgment on any award may be entered in any court having jurisdiction.

***History: Adopted November 4, 2003, effective August 1, 2004.***

### ***Rule 6.103 Enforcement actions against a defaulting state***

- (a) If the Interstate Commission determines that any state has at any time defaulted (“defaulting state”) in the performance of any of its obligations or responsibilities under this Compact, the by-laws or any duly promulgated rules the Interstate Commission may impose any or all of the following penalties-
  - (1) Fines, fees and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission;
  - (2) Remedial training and technical assistance as directed by the Interstate Commission;
  - (3) Suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the by-laws and rules have been exhausted. Immediate notice of suspension shall be given by the Interstate Commission to the governor, the chief justice or chief judicial officer of the state; the majority and minority leaders of the defaulting state’s legislature, and the state council.
  
- (b) The grounds for default include, but are not limited to, failure of a Compacting State to perform such obligations or responsibilities imposed upon it by this compact, Interstate Commission by-laws, or duly promulgated rules. The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission on the defaulting state pending a cure of the default. The Interstate Commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the Interstate Commission, in addition to any other penalties imposed herein, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this Compact shall be terminated from the effective date of suspension.
  
- (c) Within sixty days of the effective date of termination of a defaulting state, the Interstate Commission shall notify the governor, the chief justice or chief judicial officer and the majority and minority leaders of the defaulting state’s legislature and the state council of such termination.
  
- (d) The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.
  
- (e) The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the Interstate Commission and the defaulting state.

- (f) Reinstatement following termination of any compacting state requires both a reenactment of the Compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

*History: Adopted November 4, 2003, effective August 1, 2004.*

### ***Rule 6.104 Judicial Enforcement***

The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its offices to enforce compliance with the provisions of the Compact, its duly promulgated rules and by-laws, against any compacting state in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorneys' fees.

*History: Adopted November 4, 2003, effective August 1, 2004.*

# INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION BYLAWS

## ARTICLE I

### COMMISSION PURPOSE, FUNCTION AND BY-LAWS

#### *Section 1. Purpose.*

Pursuant to the terms of the Interstate Compact for Adult Offender Supervision, (the “Compact”), the Interstate Commission for Adult Offender Supervision (the “Commission”) is established to fulfill the objectives of the Compact, through means of joint cooperative action among the Compacting States: to promote, develop and facilitate safe, orderly, efficient, cost effective and uniform transfer and supervision of adult offenders in the community who are authorized pursuant to the bylaws and rules of this Compact to travel across state lines both to and from each compacting state, and, when necessary, return offenders to the originating jurisdictions.

#### *Section 2. Functions.*

In pursuit of the fundamental objectives set forth in the Compact, the Commission shall, as necessary or required, exercise all of the powers and fulfill all of the duties delegated to it by the Compacting States. The Commission’s activities shall include, but are not limited to, the following: the promulgation of binding rules and operating procedures; oversight and coordination of offender transfer and supervision activities in Compacting States; provision of a framework for the promotion of public safety and protection of victims; provision for the effective tracking, supervision, and rehabilitation of these offenders by the sending and receiving states; equitable distribution of the costs, benefits and obligations of the Compact among the Compacting States; enforcement of Commission Rules, Operating Procedures and By-laws; provision for dispute resolution; coordination of training and education regarding the regulation of interstate movement of offenders for officials involved in such activity; and the collection and dissemination of information concerning the activities of the Compact, as provided by the Compact, or as determined by the Commission to be warranted by, and consistent with, the objectives and provisions of the Compact.

#### *Section 3. By-laws.*

As required by the Compact, these By-laws shall govern the management and operations of the Commission. As adopted and subsequently amended, these By-laws shall remain at all times subject to, and limited by, the terms of the Compact.

## ARTICLE II

## **MEMBERSHIP**

### ***Section 1. Commissioners***

The Commission Membership shall be comprised as provided by the Compact. Each Compacting State shall have and be limited to one Member. A Member shall be the Commissioner of the Compacting State. Each Compacting State shall forward the name of its Commissioner to the Commission chairperson. The Commission chairperson shall promptly advise the Governor and State Council for Interstate Adult Supervision of the Compacting State of the need to appoint a new Commissioner upon the expiration of a designated term or the occurrence of mid-term vacancies.

### ***Section 2. Ex-Officio Members***

The Commission membership shall also include individuals who are not commissioners and who shall not have a vote, but who are members of interested organizations. Such non-commissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general and crime victims. In addition representatives of the National Institute of Corrections, the American Parole and Probation Association and Association of Paroling Authorities International shall be ex-officio members of the Commission.

## **ARTICLE III**

### **OFFICERS**

#### ***Section 1. Election and Succession.***

The officers of the Commission shall include a chairperson, vice chairperson, secretary and treasurer. The officers shall be duly appointed Commission Members, except that if the Commission appoints an Executive Director, then the Executive Director shall serve as the secretary. Officers shall be elected every two years by the Commission at any meeting at which a quorum is present, and shall serve for two years or until their successors are elected by the Commission. The officers so elected shall serve without compensation or remuneration, except as provided by the Compact.

#### ***Section 2. Duties.***

The officers shall perform all duties of their respective offices as provided by the Compact and these By-laws. Such duties shall include, but are not limited to, the following:

a. *Chairperson.* The chairperson shall call and preside at all meetings of the Commission and in conjunction with the Executive Committee shall prepare agendas for such meetings, shall make appointments to all committees of the Commission, and, in accordance with the Commission's directions, or subject to ratification by the Commission, shall act on the Commission's behalf during the interims between Commission meetings.

b. *Vice Chairperson.* The vice chairperson shall, in the absence or at the direction of the chairperson, perform any or all of the duties of the chairperson. In the event of a vacancy in the office of chairperson, the vice chairperson shall serve as acting chairperson until a new chairperson is elected by the Commission.

c. *Secretary.* The secretary shall keep minutes of all Commission meetings and shall act as the custodian of all documents and records pertaining to the status of the Compact and the business of the Commission.

d. *Treasurer.* The treasurer, with the assistance of the Commission's executive director, shall act as custodian of all Commission funds and shall be responsible for monitoring the administration of all fiscal policies and procedures set forth in the Compact or adopted by the Commission. Pursuant to the Compact, the treasurer shall execute such bond as may be required by the Commission covering the treasurer, the executive director and any other officers, Commission Members and Commission personnel, as determined by the Commission, who may be responsible for the receipt, disbursement, or management of Commission funds.

### ***Section 3. Costs and Expense Reimbursement.***

Subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by the officers in the performance of their duties and responsibilities as officers of the Commission.

### ***Section 4. Vacancies.***

Upon the resignation, removal, or death of an officer of the Commission before the next annual meeting of the Commission, a majority of the Executive Committee shall appoint a successor to hold office for the unexpired portion of the term of the officer whose position shall so become vacant or until the next regular or special meeting of the Commission at which the vacancy is filled by majority vote of the Commission, whichever first occurs.

## **ARTICLE IV**

### **COMMISSION PERSONNEL**

#### ***Section 1. Commission Staff and Offices.***

The Commission may by a majority of its Members, or through its executive committee appoint or retain an executive director, who shall serve at its pleasure and who shall act as secretary to the Commission, but shall not be a Member of the Commission. The executive director shall hire and supervise such other staff as may be authorized by the Commission. The executive director shall establish and manage the Commission's office

or offices, which shall be located in one or more of the Compacting States as determined by the Commission.

***Section 2. Duties of the Executive Director.***

As the Commission's principal administrator, the executive director shall also perform such other duties as may be delegated by the Commission or required by the Compact and these By-laws, including, but not limited to, the following:

- a. Recommend general policies and program initiatives for the Commission's consideration;
- b. Recommend for the Commission's consideration administrative personnel policies governing the recruitment, hiring, management, compensation and dismissal of Commission staff;
- c. Implement and monitor administration of all policies programs, and initiatives adopted by Commission;
- d. Prepare draft annual budgets for the Commission's consideration;
- e. Monitor all Commission expenditures for compliance with approved budgets, and maintain accurate records of account;
- f. Assist Commission Members as directed in securing required assessments from the Compacting States;
- g. Execute contracts on behalf of the Commission as directed;
- h. Receive service of process on behalf of the Commission;
- i. Prepare and disseminate all required reports and notices directed by the Commission; and
- j. Otherwise assist the Commission's officers in the performance of their duties under Article III herein.

**ARTICLE V**

**QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION**

***Section 1. Immunity.***

The Commission, its Members, officers, executive director, and employees shall be immune from suit and liability, either personally or in their official capacity, for any

**History:** Adopted November 20, 2002; amended November 3, 2003; amended October 27, 2004; amended September 13, 2005; amended October 4, 2006

claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that any such person shall not be protected from suit or liability, or both, for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

### ***Section 2. Defense***

Subject to the provisions of the Compact and rules promulgated thereunder, the Commission shall defend the Commissioner of a Compacting State, the Commissioner's representatives or employees, or the Commission, and its representatives or employees in any civil action seeking to impose liability against such person arising out of or relating to any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties, or responsibilities or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided, that the actual or alleged act, error, or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

### ***Section 3. Indemnification.***

The Commission shall indemnify and hold the Commissioner of a Compacting State, his or her representatives or employees, or the Commission, and its representatives or employees harmless in the amount of any settlement or judgment obtained against such person arising out of or relating to any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that the actual or alleged act, error, or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

## **ARTICLE VI**

### **MEETINGS OF THE COMMISSION**

#### ***Section 1. Meetings and Notice.***

The Commission shall meet at least once each calendar year at a time and place to be determined by the Commission. Additional meetings may be scheduled at the discretion of the chairperson, and must be called upon the request of a majority of Commission Members, as provided by the Compact. All Commission Members shall be given written notice of Commission meetings at least thirty (30) days prior to their scheduled dates.

Final agendas shall be provided to all Commission Members no later than ten (10) days prior to any meeting of the Commission. Thereafter, additional agenda items requiring Commission action may not be added to the final agenda, except by an affirmative vote of a majority of the Members. All Commission meetings shall be open to the public, except as set forth in Commission Rules or as otherwise provided by the Compact. Prior public notice shall be provided in a manner consistent with the federal Government in Sunshine Act, 5 U.S.C. § 552b, including, but not limited to, the following: publication of notice of the meeting at least ten (10) days prior to the meeting in a nationally distributed newspaper or an official newsletter regularly published by or on behalf of the Commission and distribution to interested parties who have requested in writing to receive such notices. A meeting may be closed to the public where the Commission determines by two-thirds (2/3rds) vote of its Members that there exists at least one of the conditions for closing a meeting, as provided by the Compact or Commission Rules.

### ***Section 2. Quorum.***

Commission Members representing a majority of the Compacting States shall constitute a quorum for the transaction of business, except as otherwise required in these By-laws. The participation of a Commission Member from a Compacting State in a meeting is sufficient to constitute the presence of that state for purposes of determining the existence of a quorum, provided the Member present is entitled to vote on behalf of the Compacting State represented. The presence of a quorum must be established before any vote of the Commission can be taken.

### ***Section 3. Voting.***

Each Compacting State represented at any meeting of the Commission by its Member is entitled to one vote. A Member shall vote himself or herself and shall not delegate his or her vote to another Member. Members may participate and vote in meetings of the Commission and its duly authorized committees by telephone or other means of telecommunication or electronic communication. Except as otherwise required by the Compact or these By-laws, any question submitted to a vote of the Commission shall be determined by a simple majority.

### ***Section 4. Procedure.***

Matters of parliamentary procedure not covered by these By-laws shall be governed by Robert's Rules of Order.

## ARTICLE VII

### COMMITTEES

#### *Section 1. Executive Committee.*

The Commission may establish an executive committee, which shall be empowered to act on behalf of the Commission during the interim between Commission meetings, except for rulemaking or amendment of the Compact. The Committee shall be composed of all officers of the Interstate Commission, the chairpersons of each committee, the regional representatives, and the ex-officio victims' representative to the Interstate Commission. The immediate past chairperson of the Commission shall also serve as an ex-officio member of the executive committee and both the ex-officio victims' representative and immediate past chairperson shall serve for a term of two years. The procedures, duties, budget, and tenure of such an executive committee shall be determined by the Commission. The power of such an executive committee to act on behalf of the Commission shall at all times be subject to any limitations imposed by the Commission, the Compact or these By-laws.

#### *Section 2. Other Committees.*

The Commission may establish such other committees as it deems necessary to carry out its objectives, which shall include, but not be limited to Finance Committee; Rules Committee; Compliance Committee; Information Technology Committee; and Training, Education and Public Relations Committee. The composition, procedures, duties, budget and tenure of such committees shall be determined by the Commission.

#### *Section 3. Regional Representatives.*

A regional representative of each of the four regions of the United States, Northeastern, Midwestern, Southern, and Western, shall be elected or reelected, beginning with the 2005 annual meeting, by a plurality vote of the commissioners of each region, and shall serve for two years or until a successor is elected by the commissioners of that region. The states and territories comprising each region shall be determined by reference to the regional divisions used by the Council of State Governments.

## ARTICLE VIII

### FINANCE

#### *Section 1. Fiscal Year.*

The Commission's fiscal year shall begin on July 1 and end on June 30.

**History:** Adopted November 20, 2002; amended November 3, 2003; amended October 27, 2004; amended September 13, 2005; amended October 4, 2006

## ***Section 2. Budget.***

The Commission shall operate on an annual budget cycle and shall, in any given year, adopt budgets for the following fiscal year or years only after notice and comment as provided by the Compact.

## ***Section 3. Accounting and Audit.***

The Commission, with the assistance of the executive director, shall keep accurate and timely accounts of its internal receipts and disbursements of the Commission funds, other than receivership assets. The treasurer, through the executive director, shall cause the Commission's financial accounts and reports, including the Commission's system of internal controls and procedures, to be audited annually by an independent certified or licensed public accountant, as required by the Compact, upon the determination of the Commission, but no less frequently than once each year. The report of such independent audit shall be made available to the public and shall be included in and become part of the annual report to the governors, legislatures, and judiciary of the Compacting States.

The Commission's internal accounts, any workpapers related to any internal audit, and any workpapers related to the independent audit shall be confidential; provided, that such materials shall be made available: (i) in compliance with the order of any court of competent jurisdiction; (ii) pursuant to such reasonable rules as the Commission shall promulgate; and (iii) to any Commissioner of a Compacting State, or their duly authorized representatives.

## ***Section 4. Public Participation in Meetings.***

Upon prior written request to the Commission, any person who desires to present a statement on a matter that is on the agenda shall be afforded an opportunity to present an oral statement to the Commission at an open meeting. The chairperson may, depending on the circumstances, afford any person who desires to present a statement on a matter that is on the agenda an opportunity to be heard absent a prior written request to the Commission. The chairperson may limit the time and manner of any such statements at any open meeting.

## ***Section 5. Debt Limitations.***

The Commission shall monitor its own and its committees' affairs for compliance with all provisions of the Compact, its rules and these By-laws governing the incurring of debt and the pledging of credit.

## ***Section 6. Travel Reimbursements.***

Subject to the availability of budgeted funds and unless otherwise provided by the Commission, Commission Members shall be reimbursed for any actual and necessary

expenses incurred pursuant to their attendance at all duly convened meetings of the Commission or its committees as provided by the Compact.

## **ARTICLE IX**

### **WITHDRAWAL, DEFAULT, AND TERMINATION**

Compacting States may withdraw from the Compact only as provided by the Compact. The Commission may terminate a Compacting State as provided by the Compact.

## **ARTICLE X**

### **ADOPTION AND AMENDMENT OF BY-LAWS**

Any By-law may be adopted, amended or repealed by a majority vote of the Members, provided that written notice and the full text of the proposed action is provided to all Commission Members at least thirty (30) days prior to the meeting at which the action is to be considered. Failing the required notice, a two-third (2/3rds) majority vote of the Members shall be required for such action.

## **ARTICLE XI**

### **DISSOLUTION OF THE COMPACT**

The Compact shall dissolve effective upon the date of the withdrawal or the termination by default of a Compacting State that reduces membership in the Compact to one Compacting State as provided by the Compact.

Upon dissolution of the Compact, the Compact becomes null and void and shall be of no further force and effect, and the business and affairs of the Commission shall be wound up. Each Compacting State in good standing at the time of the Compact's dissolution shall receive a pro rata distribution of surplus funds based upon a ratio, the numerator of which shall be the amount of its last paid annual assessment, and the denominator of which shall be the sum of the last paid annual assessments of all Compacting States in good standing at the time of the Compact's dissolution. A Compacting State is in good standing if it has paid its assessments timely.

**INTERSTATE COMPACT FOR THE SUPERVISION OF ADULT OFFENDERS**

**PREAMBLE**

- Whereas: The interstate compact for the supervision of Parolees and Probationers was established in 1937, it is the earliest corrections “compact” established among the states and has not been amended since its adoption over 62 years ago;
  
- Whereas: This compact is the only vehicle for the controlled movement of adult parolees and probationers across state lines, and it currently has jurisdiction over more than a quarter of a million offenders;
  
- Whereas: The complexities of the compact have become more difficult to administer, and many jurisdictions have expanded supervision expectations to include currently unregulated practices such as victim input, victim notification requirements and sex offender registration;
  
- Whereas: After hearings, national surveys, and a detailed study by a task force appointed by the National Institute of Corrections, the overwhelming recommendation has been to amend the document to bring about an effective management capacity that addresses public safety concerns and offender accountability;
  
- Whereas: Upon the adoption of this Interstate Compact for Adult Offender Supervision, it is the intention of the legislature to repeal the previous Interstate Compact for the Supervision of Parolees and Probationers on the effective date of this Compact.

Be it enacted by the General Assembly (Legislature) of the state of \_\_\_\_\_:

Short title: This Act may be cited as The Interstate Compact for Adult Offender Supervision.

## **ARTICLE I**

### **PURPOSE**

The compacting states to this Interstate Compact recognize that each state is responsible for the supervision of adult offenders in the community who are authorized pursuant to the Bylaws and Rules of this compact to travel across state lines both to and from each compacting state in such a manner as to track the location of offenders, transfer supervision authority in an orderly and efficient manner, and when necessary return offenders to the originating jurisdictions. The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime. It is the purpose of this compact and the Interstate Commission created hereunder, through means of joint and cooperative action among the compacting states: to provide the framework for the promotion of public safety and protect the rights of victims through the control and regulation of the interstate movement of offenders in the community; to provide for the effective tracking, supervision, and rehabilitation of these offenders by the sending and receiving states; and to equitably distribute the costs, benefits and obligations of the compact among the compacting states. In addition, this compact will: create a Interstate Commission which will establish uniform procedures to manage the movement between states of adults placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies which will promulgate rules to achieve the purpose of this compact; ensure an opportunity for input and timely notice to victims and to jurisdictions where defined offenders are authorized to travel or to relocate across state lines; establish a system of uniform data collection, access to information on active cases by authorized criminal justice officials, and regular reporting of Compact activities to heads of state councils, state executive, judicial, and legislative branches and criminal justice administrators; monitor compliance with rules governing interstate movement of offenders and initiate interventions to address and correct non-compliance; and coordinate training and education regarding regulations of interstate movement of offenders for officials involved in such activity.

The compacting states recognize that there is no “right” of any offender to live in another state and that duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any offender under supervision subject to the provisions of this compact and Bylaws and Rules promulgated hereunder. It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and are therefore public business.

## **ARTICLE II**

### **DEFINITIONS**

As used in this compact, unless the context clearly requires a different construction:

- **“Adult”** means both individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law.
- **“By –laws”** mean those by-laws established by the Interstate Commission for its governance, or for directing or controlling the Interstate Commission’s actions or conduct.
- **“Compact Administrator”** means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state’s supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.
- **“Compacting state”** means any state which has enacted the enabling legislation for this compact.
- **“Commissioner”** means the voting representative of each compacting state appointed pursuant to Article III of this compact.
- **“Interstate Commission”** means the Interstate Commission for Adult Offender Supervision established by this compact.
- **“Member”** means the commissioner of a compacting state or designee, who shall be a person officially connected with the commissioner.

- **“Non Compacting state”** means any state which has not enacted the enabling legislation for this compact.
- **“Offender”** means an adult placed under, or subject, to supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies.
- **“Person”** means any individual, corporation, business enterprise, or other legal entity, either public or private.
- **“Rules”** means acts of the Interstate Commission, duly promulgated pursuant to Article VIII of this compact, substantially affecting interested parties in addition to the Interstate Commission, which shall have the force and effect of law in the compacting states.
- **“State”** means a state of the United States, the District of Columbia and any other territorial possessions of the United States.
- **“State Council”** means the resident members of the State Council for Interstate Adult Offender Supervision created by each state under Article III of this compact.

### **ARTICLE III**

#### **THE COMPACT COMMISSION**

The compacting states hereby create the “Interstate Commission for Adult Offender Supervision.” The Interstate Commission shall be a body corporate and joint agency of the compacting states. The Interstate Commission shall have all the responsibilities, powers and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

The Interstate Commission shall consist of Commissioners selected and appointed by resident members of a State Council for Interstate Adult Offender Supervision for each state.

In addition to the Commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners but who are members of

interested organizations; such non-commissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general and crime victims. All non-commissioner members of the Interstate Commission shall be ex-officio (nonvoting) members. The Interstate Commission may provide in its by-laws for such additional, ex-officio, non-voting members as it deems necessary.

Each compacting state represented at any meeting of the Interstate Commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the by-laws of the Interstate Commission.

The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of 27 or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

The Interstate Commission shall establish an Executive Committee which shall include commission officers, members and others as shall be determined by the By-laws. The Executive Committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking and/or amendment to the Compact. The Executive Committee oversees the day-to-day activities managed by the Executive Director and Interstate Commission staff; administers enforcement and compliance with the provisions of the compact, its by-laws and as directed by the Interstate Commission and performs other duties as directed by Commission or set forth in the By-laws.

#### **ARTICLE IV**

#### **THE STATE COUNCIL**

Each member state shall create a State Council for Interstate Adult Offender Supervision which shall be responsible for the appointment of the commissioner who shall serve on the Interstate Commission from that state. Each state council shall appoint as its commissioner the Compact Administrator from that state to serve on the Interstate Commission in such capacity under or

pursuant to applicable law of the member state. While each member state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups and compact administrators. Each compacting state retains the right to determine the qualifications of the Compact Administrator who shall be appointed by the state council or by the Governor in consultation with the Legislature and the Judiciary. In addition to appointment of its commissioner to the National Interstate Commission, each state council shall exercise oversight and advocacy concerning its participation in Interstate Commission activities and other duties as may be determined by each member state including but not limited to, development of policy concerning operations and procedures of the compact within that state.

## **ARTICLE V**

### **POWERS AND DUTIES OF THE INTERSTATE COMMISSION**

The Interstate Commission shall have the following powers:

- To adopt a seal and suitable by-laws governing the management and operation of the Interstate Commission
- To promulgate rules which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.
- To oversee, supervise and coordinate the interstate movement of offenders subject to the terms of this compact and any by-laws adopted and rules promulgated by the compact commission.
- To enforce compliance with compact provisions, Interstate Commission rules, and by-laws, using all necessary and proper means, including but not limited to, the use of judicial process.
- To establish and maintain offices.
- To purchase and maintain insurance and bonds
- To borrow, accept, or contract for services of personnel, including, but not limited to, members and their staffs.

- To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.
- To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel.
- To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of same.
- To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.
- To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.
- To establish a budget and make expenditures and levy dues as provided in Article X of this compact.
- To sue and be sued.
- To provide for dispute resolution among Compacting States.
- To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.
- To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.
- To coordinate education, training and public awareness regarding the interstate movement of offenders for officials involved in such activity.
- To establish uniform standards for the reporting, collecting, and exchanging of data.

## ARTICLE VI

### ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

#### Section A. By-laws

The Interstate Commission shall, by a majority of the Members, within twelve months of the first Interstate Commission meeting, adopt By-laws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Compact, including, but not limited to:

establishing the fiscal year of the Interstate Commission;

establishing an executive committee and such other committees as may be necessary.

providing reasonable standards and procedures:

(i) for the establishment of committees, and

(ii) governing any general or specific delegation of any authority or function of the Interstate Commission;

providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;

establishing the titles and responsibilities of the officers of the Interstate Commission;

providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Interstate Commission. Notwithstanding any civil service or other similar laws of any Compacting State, the By-laws shall exclusively govern the personnel policies and programs of the Interstate Commission; and

providing a mechanism for winding up the operations of the Interstate Commission and the equitable return of any surplus funds that may exist upon the termination of the Compact after the payment and/or reserving of all of its debts and obligations;

providing transition rules for "start up" administration of the compact;

establishing standards and procedures for compliance and technical assistance in carrying out the compact.

### **Section B. Officers and Staff**

The Interstate Commission shall, by a majority of the Members, elect from among its Members a chairperson and a vice chairperson, each of whom shall have such authorities and duties as may be specified in the By-laws. The chairperson or, in his or her absence or disability, the vice chairperson, shall preside at all meetings of the Interstate Commission. The Officers so elected shall serve without compensation or remuneration from the Interstate Commission; PROVIDED THAT, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, and hire and supervise such other staff as may be authorized by the Interstate Commission, but shall not be a member.

### **Section C. Corporate Records of the Interstate Commission**

The Interstate Commission shall maintain its corporate books and records in accordance with the By-laws.

### **Section D. Qualified Immunity, Defense and Indemnification**

The Members, officers, executive director and employees of the Interstate Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities; PROVIDED, that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of any such person.

The Interstate Commission shall defend the Commissioner of a Compacting State, or his or her representatives or employees, or the Interstate Commission's representatives or employees, in any civil action seeking to impose liability, arising out of any actual or alleged act, error or

omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities; PROVIDED, that the actual or alleged act, error or omission did not result from intentional wrongdoing on the part of such person.

The Interstate Commission shall indemnify and hold the Commissioner of a Compacting State, the appointed designee or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgement obtained against such persons arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities, provided, that the actual or alleged act, error or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

## **ARTICLE VII**

### **ACTIVITIES OF THE INTERSTATE COMMISSION**

The Interstate Commission shall meet and take such actions as are consistent with the provisions of this Compact.

Except as otherwise provided in this Compact and unless a greater percentage is required by the By-laws, in order to constitute an act of the Interstate Commission, such act shall have been taken at a meeting of the Interstate Commission and shall have received an affirmative vote of a majority of the members present.

Each Member of the Interstate Commission shall have the right and power to cast a vote to which that Compacting State is entitled and to participate in the business and affairs of the Interstate Commission. A Member shall vote in person on behalf of the state and shall not delegate a vote to another member state. However, a State Council shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the

member state at a specified meeting. The By-laws may provide for Members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone, or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings where members are present in person.

The Interstate Commission shall meet at least once during each calendar year. The chairperson of the Interstate Commission may call additional meetings at any time and, upon the request of a majority of the Members, shall call additional meetings.

The Interstate Commission's By-laws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. In promulgating such Rules, the Interstate Commission may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the Rules or as otherwise provided in the Compact. The Interstate Commission shall promulgate Rules consistent with the principles contained in the "Government in Sunshine Act," 5 U.S.C. Section 552(b), as may be amended. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

- relate solely to the Interstate Commission's internal personnel practices and procedures;
- disclose matters specifically exempted from disclosure by statute;
- disclosure trade secrets or commercial or financial information which is privileged or confidential;
- involve accusing any person of a crime, or formally censuring any person;

- disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- disclose investigatory records compiled for law enforcement purposes;
- disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated entity for the purpose of regulation or supervision of such entity;
- disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity;
- specifically relate to the Interstate Commission's issuance of a subpoena, or its participation in a civil action or proceeding.

For every meeting closed pursuant to this provision, the Interstate Commission's chief legal officer shall publicly certify that, in his or her opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflected in the vote of each Member on the question). All documents considered in connection with any action shall be identified in such minutes.

The Interstate Commission shall collect standardized data concerning the interstate movement of offenders as directed through its By-laws and Rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements.

## **ARTICLE VIII**

### **RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION**

The Interstate Commission shall promulgate Rules in order to effectively and efficiently achieve the purposes of the Compact including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states;

Rulemaking shall occur pursuant to the criteria set forth in this Article and the By-laws and Rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the federal Administrative Procedure Act, 5 U.S.C.S. section 551 et seq., and the Federal Advisory Committee Act, 5 U.S.C.S. app. 2, section 1 et seq., as may be amended (hereinafter "APA"). All Rules and amendments shall become binding as of the date specified in each Rule or amendment.

If a majority of the legislatures of the Compacting States rejects a Rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such Rule shall have no further force and effect in any Compacting State.

When promulgating a Rule, the Interstate Commission shall:

- publish the proposed Rule stating with particularity the text of the Rule which is proposed and the reason for the proposed Rule;
- allow persons to submit written data, facts, opinions and arguments, which information shall be publicly available;
- provide an opportunity for an informal hearing; and
- promulgate a final Rule and its effective date, if appropriate, based on the rulemaking record.

Not later than sixty days after a Rule is promulgated, any interested person may file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such Rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence, (as defined in the APA), in the rulemaking record, the court shall hold the Rule unlawful and set it aside.

Subjects to be addressed within 12 months after the first meeting must at a minimum include:

- notice to victims and opportunity to be heard;
- offender registration and compliance;
- violations/returns;
- transfer procedures and forms;
- eligibility for transfer;
- collection of restitution and fees from offenders;

- data collection and reporting;
- the level of supervision to be provided by the receiving state;
- transition rules governing the operation of the compact and the Interstate Commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact;
- Mediation, arbitration and dispute resolution.

The existing rules governing the operation of the previous compact superceded by this Act shall be null and void twelve (12) months after the first meeting of the Interstate Commission created hereunder.

Upon determination by the Interstate Commission that an emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule.

**ARTICLE IX**  
**OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION BY THE INTERSTATE**  
**COMMISSION**

**Section A. Oversight**

The Interstate Commission shall oversee the interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in Non-compacting States which may significantly affect Compacting States.

The courts and executive agencies in each Compacting State shall enforce this Compact and shall take all actions necessary and appropriate to effectuate the Compact's purposes and intent. In any judicial or administrative proceeding in a Compacting State pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Interstate Commission, the Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

### **Section B. Dispute Resolution**

The Compacting States shall report to the Interstate Commission on issues or activities of concern to them, and cooperate with and support the Interstate Commission in the discharge of its duties and responsibilities.

The Interstate Commission shall attempt to resolve any disputes or other issues which are subject to the Compact and which may arise among Compacting States and Non-compacting States.

The Interstate Commission shall enact a By-law or promulgate a Rule providing for both mediation and binding dispute resolution for disputes among the Compacting States.

### **Section C. Enforcement**

The Interstate Commission, in the reasonable exercise of its' discretion, shall enforce the provisions of this compact using any or all means set forth in Article XII, Section B, of this compact.

## **ARTICLE X**

### **FINANCE**

The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

The Interstate Commission shall levy on and collect an annual assessment from each Compacting State to cover the cost of the internal operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each Compacting State and shall promulgate a Rule binding upon all Compacting States which governs said assessment.

The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its By-laws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

## **ARTICLE XI**

### **COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT**

Any state, as defined in Article II of this compact, is eligible to become a Compacting State.

The Compact shall become effective and binding upon legislative enactment of the Compact into law by no less than 35 of the States. The initial effective date shall be the later of July 1, 2001, or upon enactment into law by the 35<sup>th</sup> jurisdiction. Thereafter it shall become effective and binding, as to any other Compacting State, upon enactment of the Compact into law by that State. The governors of Non-member states or their designees will be invited to participate in Interstate Commission activities on a non-voting basis prior to adoption of the compact by all states and territories of the United States.

Amendments to the Compact may be proposed by the Interstate Commission for enactment by the Compacting States. No amendment shall become effective and binding upon the Interstate Commission and the Compacting States unless and until it is enacted into law by unanimous consent of the Compacting States.

## **ARTICLE XII**

### **WITHDRAWAL, DEFAULT, TERMINATION, AND JUDICIAL ENFORCEMENT**

### **Section A. Withdrawal**

Once effective, the Compact shall continue in force and remain binding upon each and every Compacting State; PROVIDED, that a Compacting State may withdraw from the Compact ("Withdrawing State") by enacting a statute specifically repealing the statute which enacted the Compact into law.

The effective date of withdrawal is the effective date of the repeal.

The Withdrawing State shall immediately notify the Chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this Compact in the Withdrawing State.

The Interstate Commission shall notify the other Compacting States of the Withdrawing State's intent to withdraw within sixty days of its receipt thereof.

The Withdrawing State is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

Reinstatement following withdrawal of any Compacting State shall occur upon the Withdrawing State reenacting the Compact or upon such later date as determined by the Interstate Commission

### **Section B. Default**

If the Interstate Commission determines that any Compacting State has at any time defaulted ("Defaulting State") in the performance of any of its obligations or responsibilities under this Compact, the By-laws or any duly promulgated Rules the Interstate Commission may impose any or all of the following penalties:

Fines, fees and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission;

Remedial training and technical assistance as directed by the Interstate Commission;

Suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the By-laws and Rules have been exhausted. Immediate notice of suspension shall be given by the Interstate Commission to the

Governor, the Chief Justice or Chief Judicial Officer of the state; the majority and minority leaders of the defaulting state's legislature, and the State Council.

The grounds for default include, but are not limited to, failure of a Compacting State to perform such obligations or responsibilities imposed upon it by this compact, Interstate Commission By-laws, or duly promulgated Rules. The Interstate Commission shall immediately notify the Defaulting State in writing of the penalty imposed by the Interstate Commission on the Defaulting State pending a cure of the default. The Interstate Commission shall stipulate the conditions and the time period within which the Defaulting State must cure its default. If the Defaulting State fails to cure the default within the time period specified by the Interstate Commission, in addition to any other penalties imposed herein, the Defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the Compacting States and all rights, privileges and benefits conferred by this Compact shall be terminated from the effective date of suspension. Within sixty days of the effective date of termination of a Defaulting State, the Interstate Commission shall notify the Governor, the Chief Justice or Chief Judicial Officer and the Majority and Minority Leaders of the Defaulting State's legislature and the state council of such termination.

The Defaulting State is responsible for all assessments, obligations and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

The Interstate Commission shall not bear any costs relating to the Defaulting State unless otherwise mutually agreed upon between the Interstate Commission and the Defaulting State.

Reinstatement following termination of any Compacting State requires both a reenactment of the Compact by the Defaulting State and the approval of the Interstate Commission pursuant to the Rules.

### **Section C. Judicial Enforcement**

The Interstate Commission may, by majority vote of the Members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the Federal District where the Interstate Commission has its offices to enforce

compliance with the provisions of the Compact, its duly promulgated Rules and By-laws, against any Compacting State in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorneys fees.

**Section D. Dissolution of Compact**

The Compact dissolves effective upon the date of the withdrawal or default of the Compacting State which reduces membership in the Compact to one Compacting State.

Upon the dissolution of this Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be wound up and any surplus funds shall be distributed in accordance with the By-laws.

**ARTICLE XIII**

**SEVERABILITY AND CONSTRUCTION**

The provisions of this Compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

The provisions of this Compact shall be liberally constructed to effectuate its purposes.

**ARTICLE XIV**

**BINDING EFFECT OF COMPACT AND OTHER LAWS**

**Section A. Other Laws**

Nothing herein prevents the enforcement of any other law of a Compacting State that is not inconsistent with this Compact.

All Compacting States' laws conflicting with this Compact are superseded to the extent of the conflict.

**Section B. Binding Effect of the Compact**

All lawful actions of the Interstate Commission, including all Rules and By-laws promulgated by the Interstate Commission, are binding upon the Compacting States.

All agreements between the Interstate Commission and the Compacting States are binding in accordance with their terms.

Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the Compacting States, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.

In the event any provision of this Compact exceeds the constitutional limits imposed on the legislature of any Compacting State, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the Compacting State and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this Compact becomes effective.





