

Warrant Timeframe Amendments-Rules 2.110, 4.111, 5.101, 5.102, 5.103 & 5.103-1

Summary & Justification:

The following rules package includes amendments to six (6) rules (2.110, 4.111, 5.101, 5.102, 5.103 & 5.103-1) expanding the timeframe for issuing compact compliant warrants to a standard 15 business days when an offender fails to arrive/return as instructed or is subject to retaking. In addition, this proposal includes a proposed ICOTS enhancement to create new managed processes for tracking warrants for compact offenders enhancing the Commission's efforts and goals to provide effective tracking and communication.

This package is thought to improve stakeholder training efforts (due to confusion over various timeframes in current rules) while ensuring the timeframe supports public safety and efficient actions for managing offender movement as required in each state's compact statute.

FAQ's:

Q: My state has compliance concerns of meeting a 15-business day timeframe. Is assistance available?

A: As every state functions differently, states face different challenges issuing compact compliant warrants. States with compliance concerns are encouraged to proactively reach out for assistance sooner than later. The proposed rules actually EXPAND timeframes in most instances a warrant is required. The Commission's [Technical Training Assistance Policy](#) is available to all member states and provides solutions based on your state's specific technical or training needs.

Q: Fifteen business days (3 weeks) is too long, and our in-state policies require warrants to be issued within 5 business days. Why 15 business days?

A: Through various committee/region discussions over the years and based of the 2019 Warrant Audit responses, 15 business days is a balance between public safety and a state's ability to issue warrants. While recognizing some states may face challenges, it is important to establish a standard that can be measured. States can certainly establish their own policies and procedures for shorter timeframes internally to ensure activities are completed within the ICAOS rules.

Proposal to Create/Amend Rules:

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 business 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~~ 15 business days following the offender's failure to appear in the sending state.

4.111 Offenders returning to the sending state

- (a) For an offender returning 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 felony or violent crime in the receiving state. The receiving state shall provide the sending state with the reason(s) for the offender's return. The offender shall remain in the receiving state until receipt of reporting instructions.
- (b) If the receiving state rejects the transfer request for an offender who has arrived in the receiving state with approved reporting instructions under Rules 3.101-1, 3.101-3, 3.103 or 3.106, the receiving state shall, upon submitting notice of rejection, submit a request for return reporting instructions within 7 business days, unless 3.104 (b) or (c) applies or if the location of the offender is unknown, conduct activities pursuant to Rule 4.109-2.
- (c) Except as provided in subsection (e), the sending state shall grant the request no later than 2 business days following receipt of the request for reporting instructions from the receiving state. The instructions shall direct the offender to return to the sending state within 15 business days from the date the request was received.
- (d) The receiving state shall provide the offender reporting instructions and determine the offender's intended departure date. If unable to locate the offender to provide the reporting instructions, the receiving state shall conduct activities pursuant to Rule 4.109-2.
- (e) The receiving state retains authority to supervise the offender until the offender's directed departure date or issuance of the sending state's warrant. Upon departing, the receiving state shall notify the sending state as required in Rule 4.105 (a) and submit a case closure as required by Rule 4.112 (a)(5). The sending state shall notify the receiving state of the offender's arrival or failure to arrive as required by Rule 4.105 (b) prior to validating the case closure notice.
- (f) If the offender does not return to the sending state as ordered, the sending state shall issue a warrant no later than ~~10~~ 15 business days following the offender's failure to appear in the sending state.

Rule 5.101 Discretionary retaking by the sending state

- (a) Except as required in Rules 5.101-1, 5.102, 5.103 and 5.103-1 at its sole discretion, a sending state may order the return of an offender. The sending state must notify the receiving state within 15 business days of their issuance of the directive to the offender to return. The receiving state shall request return reporting instructions under Rule 4.111. If the offender does not

return to the sending state as ordered, then the sending state shall issue a warrant no later than ~~30 calendar~~ 15 business days following the offender's failure to appear in the sending state.

- (b) Except as required in Rules 5.101-1, 5.102, 5.103 and 5.103-1 at its sole discretion, a sending state may retake an offender via warrant. The sending state must notify the receiving state within 15 business days of the issuance of their warrant. The receiving state shall assist with the apprehension of the offender and shall notify the sending state once the offender is in custody on the sending state's warrant.

Rule 5.102 Mandatory retaking for a new felony or new violent crime conviction

- (a) Upon a request from the receiving state, a sending state shall retake an offender from the receiving state or a subsequent receiving state after the offender's conviction for a new felony offense or new violent crime and:
- (1) completion of a term of incarceration for that conviction; or
 - (2) placement under supervision for that felony or violent crime offense.
- (b) When a sending state is required to retake an offender, the sending state shall issue a warrant no later than 15 business days and, upon apprehension of the offender, file a detainer with the holding facility where the offender is in custody.

Rule 5.103 Offender behavior requiring retaking

- (a) Upon a request by the receiving state and documentation that the offender's behavior requires retaking, a sending state shall issue a warrant to retake or order the return of an offender from the receiving state or a subsequent receiving state within 15 business days of the receipt of the violation report.
- (b) If the offender is ordered to return in lieu of retaking, the receiving state shall request reporting instructions per Rule 4.111 within 7 business days following the receipt of the violation report response.
- (c) The receiving state retains authority to supervise until the offender's directed departure date. If the offender does not return to the sending state as ordered, then the sending state shall issue a warrant, no later than ~~10~~ 15 business days following the offender's failure to appear in the sending state.
- (d) If the sending state issues a warrant under subsection (c) of this rule, the receiving state shall attempt to apprehend the offender on the sending state's warrant and provide notification to the sending state. If the receiving state is unable to locate the offender to affect the apprehension, the receiving state shall follow Rule 4.109-2 (a) and (b).

Rule 5.103-1 Mandatory retaking for offenders who abscond

- (a) ~~Upon~~ Within 15 business days of receipt of an absconder violation report and case closure, the sending state shall issue a warrant and, upon apprehension of the offender, file a detainer with the holding facility where the offender is in custody.
- (b) 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).
- (c) Upon a finding of probable cause, the sending state shall retake the offender from the receiving state.
- (d) If probable cause is not established, the receiving state shall resume supervision upon the request of the sending state.
- (e) The sending state shall keep its warrant and detainer in place until the offender is retaken pursuant to paragraph (c), or supervision is resumed pursuant to paragraph (d).

Effect on other rules, advisory opinions, or dispute resolutions:

Possible footnote to [Advisory Opinion 3-2012](#)

ICOTS impact:

A separate ICOTS Enhancement to create a compliance measuring tool for warrant issuance will be proposed at the Annual Business Meeting as a separate vote. Review the functional specifications for this enhancement.

Scope and Metric

ICOTS proposals will provide new managed processes and data elements to enhanced state's warrant tracking efforts.

Committee action:

Rules Committee Nov 2020: Commissioner D. Littler (AZ) moved to adopt the workgroup's rule proposal package (which includes a warrant tracking ICOTS enhancement) expanding the timeframe for issuing compact compliant warrants to a standard 15-business day for Commission's consideration at the 2021 Annual Business Meeting. Commissioner R. Brunger (AK) seconded. Motion passed 7 to 1.

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Rules Committee June 2021: Review of comments by Commission members. Although one comment expressed concerns for complying with the proposed standard timeframe, no changes were made to the proposal considering it final for Commission vote in September.

Effective date:

April 1, 2022