

2021 ICJ Rule Amendments

Approved on October 7, 2021 at the
Annual Business Meeting

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1. 1-101: Absconder (Rules Committee)
 2. 1-101: Court (Rules Committee)
 3. NEW 1-101: Proof of Entitlement (Rules Committee)
 4. 2-103: Adoption of Rules and Amendments (Rules Committee)
 5. 3-101: Forms (Technology Committee)
 6. 4-102: Sending and Receiving Referrals (Rules Committee)
 7. 4-103: TOS Procedures for Juvenile Sex Offenders (Rules Committee)
 8. 4-104: Authority to Accept/Deny Supervision (Technology Committee)
 9. 5-101: Supervision/Services Requirements (Rules Committee)
 10. 5-102: Absconder Under ICJ Supervision (Rules Committee)
 11. 5-103: Reporting Juvenile Non Compliance, Failed Supervision, and Retaking (Juvenile/Adult Ad Hoc Committee)
 12. 5-103: Reporting Juvenile Non Compliance, Failed Supervision, and Retaking (Racial Justice Ad Hoc Committee)
 13. 7-104: Warrants (Juvenile/Adult Ad Hoc Committee)
 14. 7-105: Detention and Hearing on Failure to Return (Juvenile/Adult Ad Hoc Committee)
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Effective Date: March 1, 2022



Proposed by the Rules Committee

RULE 1-101: Definitions

Absconder: a juvenile probationer or parolee who hides, conceals, or absents him/herself ~~with the intent~~ so that to avoid he/she is unavailable for the legal process or authorized control.

History: Adopted December 2, 2009, effective March 1, 2010

Justification:

The Rules Committee recommends removing “with the intent” because there is lack of proof of intent in most cases. Not only is there a lack of proof of intent, but the presence or absence of intent does not matter. This change would shift the focus from the intent to the action.

Effect on Other Rules or Advisory Opinions:

No impact

UNITY Impact:

No impact

Forms Impact:

No impact

Fiscal Impact:

No impact

Effective Date:

March 1, 2022

Proposed by the Rules Committee

RULE 1-101: Definitions

Court: any person or institution ~~court~~ with the constitutional or statutory authority to adjudicate legal disputes and having jurisdiction over delinquent, neglected, or dependent children.

History: Adopted December 2, 2009, effective March 1, 2010

Justification:

The Technology Committee requested the definition of court be amended to include authorities who are eligible to sign forms as required by ICJ Rules. The Rules Committee further clarified the definition by removing the word “court” from its own definition.

Note from Legal Counsel:

In reviewing and comparing the statutory definition and the ICJ Rules definition, I do not believe that the two definitions conflict and the additional language in the Rules definition is for the purpose of interpreting the rules in the context of both the statute and the ICJ Rules.

Moreover, departure from the strict application of the statutory definition is permissible if the context requires it. See *Colautti v. Franklin*, 439 U.S. 379, 392 (1979). If the context indicates otherwise, i.e., if a mechanical application of a statutory definition throughout a statute would create an “obvious incongruity” or frustrate an evident statutory purpose for a particular provision, then it is permissible to depart from the definition. *Lawson v. Suwannee S.S. Co.*, 336 U.S. 198, 201 (1949); *Rowland v. California Men’s Colony*, 506 U.S. 194 (1993) (context indicates otherwise; the term “person” as used in 28 U.S.C. §1915(a) refers only to individuals and does not carry its Dictionary Act definition, which includes associations and artificial entities).

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

No impact

UNITY Impact:

No impact

Forms Impact:

No impact

Fiscal Impact:

No impact

Effective Date:

March 1, 2022

Proposed by the Rules Committee

New RULE 1-101: Definitions

Proof of Entitlement: Documentation or other evidence submitted as part of a requisition that enables a court to verify the authority of the requisitioner to the return of a juvenile.

Justification:

The Rules Committee is proposing the term be defined for clarification for courts, other stakeholders, and criminal justice partners.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

No impact

UNITY Impact:

No impact

Forms Impact:

No impact

Fiscal Impact:

No impact

Effective Date:

March 1, 2022

Proposed by the Rules Committee

RULE 2-103: Adoption of Rules and Amendments

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

1. Proposed new rules and amendments to existing rules shall be submitted to the Rules Committee for referral and final approval by the full Commission:
 - a. Any ICJ Compact Commissioner or Designee may submit proposed rules or amendments for referral to the Rules Committee for future consideration, ~~during the annual meeting of the Commission. 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.~~
 - b. Standing ICJ Committees may propose rules or amendments by a majority vote of that committee.
 - c. ICJ Regions may propose rules or amendments by a majority vote of members of that region.
2. The Rules Committee shall ~~prepare~~ review a drafts of all proposed rules or amendments, and provide the drafts to the Commission for review and comments. All written comments received by the Rules Committee on proposed rules or amendments shall be posted on the Commission's website upon receipt. Based on these comments, the Rules Committee shall prepare a final draft of the proposed rules or amendments for consideration by the Commission not later than the next annual meeting falling in an odd-numbered year.
3. Prior to the Commission voting on any proposed rules or amendments, said text shall be published at the direction of the Rules Committee not later than thirty (30) days prior to the meeting at which a vote on the rule or amendment is scheduled, on the official website of the Commission and in any other official publication that may be designated by the 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.
4. Each proposed rule or amendment shall state:
 - a. The place, time, and date of the scheduled public hearing;
 - b. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments; and
 - c. 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.

5. Every public hearing shall be conducted in a manner providing 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 Commission from making a transcript or recording of the public hearing if it so chooses.
6. Nothing in this section shall be construed as requiring a separate public hearing on each rule or amendment. Rules or amendments may be grouped for the convenience of the Commission at public hearings required by this section.
7. Following the scheduled public hearing date, the Commission shall consider all written and oral comments received.
8. The Commission shall, by majority vote of a quorum of the Commissioners, take final action on the proposed rule or amendment by a vote of yes/no. No additional rules or amendments shall be made at the time such action is taken. A rule or amendment may be referred back to the Rules Committee for further action either prior to or subsequent to final action on the proposed rule or amendment. The Commission shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.
9. Not later than sixty (60) 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 Commission's principal office is located. If the court finds that the Commission's action is not supported by substantial evidence, as defined in the Model State 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 Commission by a state, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.
10. Upon determination that an emergency exists, the Commission may promulgate an emergency rule or amendment 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 (90) days after the effective date of the rule. An emergency rule or amendment is one that shall be made effective immediately in order to:
 - a. Meet an imminent threat to public health, safety, or welfare;
 - b. Prevent a loss of federal or state funds; or
 - c. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.

11. The Chair of the Rules Committee may direct revisions to a rule or amendments adopted by the Commission, for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the official website of the Interstate Commission for Juveniles and in any other official publication that may be designated by the Interstate Commission for Juveniles for the publication of its rules. For a period of thirty (30) days after posting, the revision is subject to challenge by any Commissioner or Designee. 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 the approval of the Commission.

History: Adopted as Rule 7-101 December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; amended October 9, 2013 and renumbered as Rule 2-103, effective April 1, 2014; amended September 27, 2017, effective March 1, 2018

Justification:

The Rules Committee recommends striking language from paragraph 1(a) that leads to confusion regarding how Commissioners and Designees may submit proposed new rules and amendments. The added language clarifies the appropriate process to be followed by Commissioners and Designees. The striking of the language indicated will help eliminate confusion about consideration of proposed rules and amendments at annual business meetings. The practice was abandoned several years ago because it prevented full vetting of proposed changes. However, the current language in Rule 2-103(1)(a) leads to some lingering confusion.

The Rules Committee recommends the changes to paragraph 2 in order to clarify that the Rules Committee's role is primarily to review proposals submitted by other Committees and Regions, and for grammatical correctness.

Effect on Other Rules, Advisory Opinions or Dispute Resolutions:

No impact

UNITY Impact:

No impact

Forms Impact:

No impact

Fiscal Impact:

No impact

Effective Date:

March 1, 2022

Proposed by the Technology Committee

RULE 3-101: ~~Forms~~ Electronic Information System

States shall use the electronic information system approved by the Commission to facilitate the supervision, travel notices, and return of juveniles pursuant to ~~for e-forms processed through the~~ Interstate Compact for Juveniles.

History: Deferred action December 3, 2009 (continued use of AJCA forms with revisions to logo, compact and rule notations); adopted September 15, 2010, effective January 1, 2011; amended October 26, 2011, effective March 1, 2012; amended October 17, 2012, effective April 1, 2013; amended October 9, 2013, effective April 1, 2014; amended October 29, 2014, effective January 1, 2015

Justification:

Due to the Commission transitioning its electronic information system from JIDS (a forms management system) to UNITY (a data fields systems), the amendment is proposed to clarify the movement away from focus on forms and more on processing of data.

Effect on Other Rules or Advisory Opinions:

No Impact

UNITY Impact:

No impact

Forms Impact:

No impact

Fiscal Impact:

No impact

Effective Date:

March 1, 2022

Proposed by the Rules Committee

RULE 4-102: Sending and Receiving Referrals

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

Adjudication and Disposition; Conditions of Probation; and Petition and/or Arrest Report(s). The sending state shall also provide (if available) Legal and Social History, supervision summary, if the juvenile has been on supervision in the sending state for more than thirty (30) calendar days at the time the referral is forwarded, photograph, and any other pertinent information. Form V Notification From Sending State of Parolee or Probationer Proceeding to the Receiving State shall be forwarded prior to or at the time the juvenile relocates to the receiving state, ~~relocating~~ if the juvenile is not already residing in the receiving state.

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

History: Adopted December 2, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; amended October 26, 2011, effective March 1, 2012; amended October 17, 2012, effective April 1, 2013; amended October 9, 2013, effective April 1, 2014; amended August 26, 2015, effective February 1, 2016; clerically amended October 17, 2016; amended September 27, 2017, effective March 1, 2018; amended September 11, 2019, effective March 1, 2020; clerically amended May 19, 2021

Justification:

The Rules Committee recommends adding “photograph” in paragraphs 2(a)(i) and 2(b) to support states’ ability to comply with the REAL ID requirements.

The Rules Committee recommends edits to paragraph 2(a)(i) and paragraph (2)(b) to clarify that a Form V can be submitted prior to or at the time the juvenile relocates to the receiving state.

Effect on Other Rules or Advisory Opinions

Advisory Opinion 02-2015: "Signatures on the Form VI"

- Administrative edits required due to rule language change.

UNITY Impact:

No impact

Forms Impact:

No impact

Fiscal Impact:

No impact

Effective Date:

March 1, 2022

Proposed by the Rules Committee

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

1. When transferring a juvenile sex offender, the sending state shall not allow the juvenile to transfer to the receiving state until the sending state's request for transfer of supervision has been approved, or reporting instructions have been issued by the receiving state unless Rule 4-103(3) is applicable.
2. When transferring a juvenile sex offender, the referral shall consist of: Form VI Application for Services and Waiver, Form IV Parole or Probation Investigation Request, ~~Form V Notification From Sending State of Parolee or Probationer Proceeding to the Receiving State~~, Order of Adjudication and Disposition, Conditions of Supervision, Petition and/or Arrest Report. The sending state shall also provide (if available): Safety Plan, Specific Assessments, Legal and Social History information pertaining to the criminal behavior, Victim Information, i.e., sex, age, relationship to the juvenile, sending state's current or recommended Supervision and Treatment Plan, photograph, and all other pertinent materials ~~(if available)~~. Parole conditions, if not already included, shall be forwarded to the receiving state upon the juvenile's release from an institution. Form V Notification From Sending State of Parolee or Probationer Proceeding to the Receiving State shall be forwarded prior to or at the time juvenile relocates to the receiving state if the juvenile is not already residing in the receiving state pursuant to Rule 4-103(3).
3. When it is necessary for a juvenile sex offender to relocate with a legal guardian prior to the acceptance of supervision, and there is no legal guardian in the sending state, the sending state shall determine if the circumstances of the juvenile's immediate relocation justifies the use of a Form VII Out-of-State Travel Permit and Agreement to Return, including consideration of the appropriateness of the residence. If approved by the sending state's ICJ Office, the following shall be initiated:
 - a. The sending state shall provide the receiving state with an approved Form VII Out-of-State Travel Permit and Agreement to Return along with a written explanation as to why ICJ procedures for submitting the referral could not be followed.
 - b. If not already submitted, the sending state shall transmit a complete referral to the receiving state within ten (10) business days of the Form VII Out-of-State Travel Permit and Agreement to Return being issued. The receiving state shall make the decision whether it will expedite the referral or process the referral according to Rule 4-102.
 - c. Within five (5) business days of receipt of the Form VII Out-of-State Travel Permit and Agreement to Return, the receiving state shall advise the sending state of applicable registration requirements and/or reporting instructions, if any. The sending state shall be responsible for communicating the registration requirements and/or reporting instructions to the juvenile and his/her family in a timely manner.

- d. The sending state shall maintain responsibility until supervision is accepted by, and the juvenile has arrived in, the receiving state. The receiving state shall have the authority to supervise juveniles pursuant to reporting instructions issued under 4-103(3)(c).
4. In conducting home evaluations for juvenile sex offenders, the receiving state shall ensure compliance with local policies or laws when issuing reporting instructions. If the proposed residence is unsuitable, the receiving state may deny acceptance referred to in Rule 4-104(4).
5. Juvenile sex offender shall abide by the registration laws in the receiving state, i.e., felony or sex offender registration, notification or DNA testing.
6. A juvenile sex offender who fails to register when required will be subject to the laws of the receiving state.

History: Adopted December 2, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; amended October 26, 2011, effective March 1, 2012; amended October 17, 2012, effective April 1, 2013; amended October 9, 2013, effective April 1, 2014; amended August 26, 2015, effective February 1, 2016; clerically amended October 17, 2016; clerically amended May 19, 2021

Justification:

The Rules Committee recommends edits to paragraph 2 to clarify that a Form V can be submitted prior to or at the time the juvenile relocates to the receiving state, if the juvenile is not already residing in the receiving state.

The Rules Committee recommends adding “photograph” to paragraph 2 and relocate “if available” to be consistent with the proposed changes to Rule 4-102.

Effect on Other Rules or Advisory Opinions:

No impact

UNITY Impact:

No impact

Forms Impact:

No impact

Fiscal Impact:

No impact

Effective Date:

March 1, 2022

Proposed by the Technology Committee

RULE 4-104: Authority to Accept/Deny Supervision

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

History: Adopted as Rule 5-101 December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; amended October 26, 2011, effective March 1, 2012; renumbered as Rule 4-104, effective April 1, 2014; amended August 26, 2015, effective February 1, 2016; amended September 27, 2017, effective March 1, 2018; amended September 11, 2019, effective March 1, 2020; clerically amended May 19, 2021

Comment: Rule 4-104 was originally titled "Supervision/Services Requirements," adopted December 2, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; amended October 26, 2011, effective March 1, 2012; renumbered as Rule 5-101, effective April 1, 2014

Justification:

Operationally, some denials are submitted, but the juvenile will not be returning to the sending state. In those cases often in the process of transfer and investigating a case a new home plan is advisable. Currently, the rules would require the return of that juvenile

even if they ultimately may be approved to a different address in the receiving state. In other rules referencing the requirement to return a juvenile, the rules specify that the sending/holding state has five (5) business days to either secure alternative living arrangements and submit a new referral OR return the juvenile to the sending state. The UNITY BA Team thinks this language should be consistent with Rule 5-103(4)(b), and this language would add clear steps to be utilized in the UNITY data system.

Effect on Other Rules or Advisory Opinions:

No impact

UNITY Impact:

No impact

Forms Impact:

No impact

Fiscal Impact:

No impact

Effective Date:

March 1, 2022

Proposed by the Rules Committee

RULE 5-101: Supervision/Services Requirements

1. After accepting supervision, the receiving state will assume the duties of supervision over any juvenile, and in exercise of those duties will be governed by the same standards of supervision that prevail for its own juveniles released on probation or parole, except that neither the sending nor receiving state shall impose a supervision fee on any juvenile who is supervised under the provisions of the ICJ.
2. At the time of acceptance or during the term of supervision, the appropriate authority in the receiving state may impose conditions on a juvenile transferred under the ICJ if that condition would have been imposed on a juvenile in the receiving state. Any costs incurred from any conditions imposed by the receiving state shall not be the responsibility of the sending state.
3. Both the sending and receiving states shall have the authority to enforce terms of probation/parole, which may include the imposition of sanctions. Any costs incurred from any enforcement sanctions shall be the responsibility of the state seeking to impose such sanctions.
4. The receiving state shall furnish written progress reports to the sending state on no less than a quarterly basis. Additional reports shall be sent in cases where there are concerns regarding the juvenile or there has been a change in residence or in the person with whom the juvenile resides.
5. When the change of residence includes a change in the person with whom the juvenile resides, the sending state may request additional information regarding the new residence. If the sending state does not support this change, they shall notify the receiving state and propose an alternative living arrangement or affect the return of the juvenile.
6. The sending state shall be financially responsible for treatment services ordered by the appropriate authority in the sending state when they are not available through the supervising agency in the receiving state or cannot be obtained through Medicaid, private insurance, or other payor. The initial referral shall clearly state who will be responsible for purchasing treatment services.
7. The age of majority and duration of supervision are determined by the sending state. Where circumstances require the receiving court to detain any juvenile under the ICJ, the type of secure facility shall be determined by the laws regarding the age of majority in the receiving state.
8. Juvenile restitution payments or court fines are to be paid directly from the juvenile/juvenile's family to the adjudicating court or agency in the sending state. Supervising officers in the receiving state shall encourage the juvenile to make regular payments in accordance with the court order of the sending state. The sending state shall provide the specific payment schedule and payee information to the receiving state.

9. Supervision for the sole purpose of collecting restitution and/or court fines is not a permissible reason to continue or extend supervision of a case. The receiving state may initiate the case closure request once all other terms of supervision have been met.

History: Adopted as Rule 4-104 December 2, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; amended October 26, 2011, effective March 1, 2012; amended October 9, 2013 and renumbered as Rule 5-101, effective April 1, 2014; amended August 26, 2015, effective February 1, 2016; amended September 11, 2019, effective March 1, 2020; clerically amended October 1, 2021

Comment: Rule 5-101 was originally titled “Authority to Accept/Deny Supervision,” adopted December 2, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; amended October 26, 2011, effective March 1, 2012; renumbered as Rule 4-104, effective April 1, 2014

Justification:

To clarify the duties of the Receiving State; specifically, when there is a change in a juvenile’s residence and/or the person they were initially residing with, as addressed in the new paragraph 5.

Effect on Other Rules or Advisory Opinions:

Advisory Opinion 01-2020: “Can receiving state require sending state to provide revised Forms VI and IV when a juvenile makes an intrastate move after transfer of supervision is approved?”

- Legal Counsel to review effect on Advisory Opinion.
- Administrative edits required due to rule language change.

UNITY Impact:

No impact

Forms Impact:

No impact

Fiscal Impact:

No impact

Effective Date:

March 1, 2022

Proposed by the Rules Committee

RULE 5-102: Absconder Under ICJ Supervision

1. If there is reason to believe that a juvenile being supervised under the terms of the Interstate Compact for Juveniles in the receiving state has absconded, the receiving state shall attempt to locate the juvenile. Such activities shall include, but are not limited to:
 - a. conducting a field contact at the last known residence;
 - b. contacting the last known school or employer, if applicable; and
 - c. contacting known family members and collateral contacts.
2. If the juvenile is not located, the receiving state shall submit a Form IX Absconder Report ~~violation report~~ to the sending state's ICJ office which shall include the following information:
 - a. the juvenile's last known address and telephone number,
 - b. date of the juvenile's last personal contact with the supervising agent,
 - c. details regarding how the supervising agent determined the juvenile to be an absconder, and
 - d. any pending charges in the receiving state.
3. The receiving state may close the case upon notification that a warrant has been issued by the sending state for a juvenile who has absconded from supervision in the receiving state, or if the juvenile has been on absconder status for ten (10) business days.
4. Upon finding or apprehending the juvenile, the sending state shall make a determination if the juvenile shall return to the sending state or if the sending state will request supervision resume in the receiving state.

History: Adopted as Rule 6-104A October 17, 2012, effective April 1, 2013; renumbered as Rule 5-102, effective April 1, 2014; amended August 26, 2015, effective February 1, 2016

Comment: Rule 5-102 was originally titled "Travel Permits," adopted December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; amended October 26, 2011, effective March 1, 2012; amended October 17, 2012, effective April 1, 2013; amended October 9, 2013 and renumbered as Rule 8-101, effective April 1, 2014

Justification:

The Technology Committee approved splitting up the Form IX into three separate forms for Quarterly Progress, Violation, and Absconder Reports. Because the UNITY system produces only a Form IX Absconder Report for absconders, the Rules Committee supports changing "violation report" in paragraph 2 to the form name.

Effect on Other Rules or Advisory Opinions:

No impact

UNITY Impact:

No impact

Forms Impact:

No impact

Fiscal Impact:

No impact

Effective Date:

March 1, 2022

Proposed by the Juvenile/Adult Ad Hoc Committee

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

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

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

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

Justification:

The rule is currently silent regarding how to handle a return for failed supervision for juveniles residing independently in the receiving state. The addition to (4)(c) addresses how this population is handled in the event of a failed supervision.

Effect on Other Rules or Advisory Opinions:

No impact

UNITY Impact:

No impact

Forms Impact:

No impact

Fiscal Impact:

No impact

Effective Date:

March 1, 2022

Proposed by the Racial Justice Ad Hoc Committee

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

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

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

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

Justification:

The purpose of this amendment is to highlight the importance of using graduated sanctions and other structured responses to redirect behavior. This amendment also consolidates subsections 1(e) and 1(f) to clarify that redirecting behavior should be the purpose of both incentives and graduated sanctions.

The Ad Hoc Committee on Racial Justice believes increased focus on use of graduated sanctions and other structured responses will help ensure all youth and families serviced through ICJ are treated justly regardless of their race, sexual orientation, gender, cognitive ability, socio-economic status, victimization, adjudicated offense, and location. Such responses aid in reducing the number of failed placements resulting in revocation and racial disparities in the juvenile facilities nationally by redirecting all at risk youth behavior and stabilizing his/her living situation, thus increasing the number of successful terminations, and maintaining public safety.

According to Bill Shepardson of the Annie E. Casey Foundation, "To center the work around equity, leaders must go beyond surface solutions and really pay attention to the systemic factors that are producing inequitable results for certain groups." The Commission can "go beyond

surface solutions” by amending this rule so that supervising agents are encouraged to act in ways that address factors that contribute to negative behaviors and promote positive outcomes.

The Commission and ICJ Office Staff can encourage supervising agents to act in ways that enhances youth and family's positive perception of fairness/equity. As discussed in Good Probation Practice Desktop Guide on Equity Practices, this can be achieved when:

- (a) the youth/family understand procedural justice;
- (b) the youth/family are allowed to have a voice in the development of treatment plan;
- (c) the youth/family are respected and receive unbiased treatment services in the community and short-term Out-of-Home Placements (only when necessary); and
- (d) processes/decisions are clear and effective.

According to Point Park University Criminal Justice Administrator article titled, “Juvenile Recidivism: A Second Chance,” evidence-based programs (Multi-Systemic Therapy, Functional Family Therapy, etc.) aim to address factors that contribute to negative behaviors (i.e., truancy, recidivism, active drug use, anti-social activities, etc.) thus promoting positive social interactions. For example, an MST therapist works with both children and “parents to empower them, create more family support systems and incentives, and remove negative influences.”

Effect on Other Rules or Advisory Opinions:

No Impact

UNITY Impact:

Edit field label on Form IX: Quarterly Progress Report from: “SUMMARY OF ANY BEHAVIORAL ISSUES AND EFFORTS OR INTERVENTIONS TO REDIRECT BEHAVIOR (including sanctions, if applicable):” to “DESCRIPTION OF EFFORTS MADE TO REDIRECT BEHAVIOR (including therapeutic interventions, incentives and/or graduated sanctions, or other corrective actions):”

Edit field label on Form IX: Violation Report from: “SUMMARY OF EFFORTS OR INTERVENTIONS TO REDIRECT BEHAVIOR (including sanctions, if applicable):” to “DESCRIPTION OF EFFORTS MADE TO REDIRECT BEHAVIOR (including therapeutic interventions, incentives and/or graduated sanctions, or other corrective actions):”

Forms Impact:

See above.

The Ad Hoc Committee recommends that the Form IX be modified to include specific options for structured responses. This could mirror the format used in the ICOTS system used by the Interstate Commission for Adult Offender Supervision.

Fiscal Impact:

24 service hours or \$3,000

Effective Date:

March 1, 2022

Proposed by the Juvenile/Adult Ad Hoc Committee

RULE 7-104: Warrants

1. All warrants issued for juveniles subject to the Compact shall be entered into the National Crime Information Center (NCIC) with a nationwide pickup radius and not eligible for bond.
2. Holding states shall honor all lawful warrants as entered by other states. When a juvenile is placed in custody pursuant to a warrant issued by a juvenile court, the holding state ~~and shall,~~ no later than the next business day, notify the ICJ Office in the home/demanding/sending state ~~that the juvenile has been placed in custody pursuant to the warrant.~~ Upon notification, the home/demanding/sending state shall issue a detainer or provide a copy of the warrant to the holding state.
3. Within two (2) business days of notification, the home/demanding/sending state shall inform the holding state whether the home/demanding/sending state intends to act upon and return the juvenile, or notify in writing the intent to withdraw the warrant. If mandated under other applicable rules, such as those pertaining to runaways or failed supervision, the absence of a warrant does not negate the home/demanding/sending state's responsibility to return the juvenile.
4. When a juvenile is in custody pursuant to a warrant issued by a juvenile court, ~~the~~ the holding state shall not release the juvenile in custody on bond.
5. If the warrant is issued by an adult court, the juvenile shall be extradited pursuant to the Uniform Criminal Extradition Act (UCEA) or similar extradition law of the home/demanding state, unless the issuing authority in the home/demanding state determines that the juvenile should be returned pursuant to the ICJ. Regardless of other procedures used for the extradition/return, a Form III Consent for Voluntary Return of Out of State Juvenile may be used if approved by the issuing authority in the home/demanding state.

History: Adopted as Rule 6-108 December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; renumbered as Rule 7-104, effective April 1, 2014; amended August 26, 2015, effective February 1, 2016; amended September 27, 2017, effective March 1, 2018; amended September 11, 2019, effective March 1, 2020

Justification:

The proposal is intended to clarify that the charging documents dictate which return/extradition process will be used. This proposal is consistent with the historic practice of ICJ, as indicated in multiple sections of the ICJ Bench Book, and training provided by the National Association of Extradition Officials. Additional analysis is provided in ICJ Advisory Opinion 04-2018.

Effect on Other Rules or Advisory Opinions:

Advisory Opinion 03-2019: “Can a person subject to a juvenile warrant be released on bond when he is considered an adult under the laws of the demanding and holding states based on the age of majority?”

- Legal Counsel to review effect on Advisory Opinion.
- Administrative edits required due to rule language change.

Advisory Opinion 04-2018: “Whether a person should be returned as a juvenile when being detained as a juvenile in the holding state, but has an outstanding warrant from an adult court in the home state.”

- Legal Counsel to review effect on Advisory Opinion.

Advisory Opinion 03-2018: “Whether ICJ Rule 7-104 requires a home/demanding state to return a juvenile being held on a warrant even if the warrant has been withdrawn and whether state confidentiality laws prohibit entry of warrants issued for juveniles subject to the Compact into NCIC.”

- Legal Counsel to review effect on Advisory Opinion.
- Administrative edits required due to rule language change.

UNITY Impact:

No impact

Forms Impact:

No impact

Fiscal Impact:

No impact

Effective Date:

March 1, 2022

Proposed by the Juvenile/Adult Ad Hoc Committee

RULE 7-105: Detention and Hearing on Failure to Return

1. Where circumstances require the holding/receiving court to detain any juvenile under the ICJ, the type of secure facility shall be determined by the laws regarding the age of majority in the holding/receiving state. This would include an out-of-state juvenile that is charged as an adult and is subject to extradition under the Uniform Criminal Extradition Act (UCEA), or the home/demanding state's own extradition laws.
2. If a home/demanding/sending state is required to return a juvenile and fails to do so within ten (10) business days in accordance with these rules, a judicial hearing shall be provided in the holding state to hear the grounds for the juvenile's detention. This hearing shall determine whether the grounds submitted justify the continued detention of the juvenile subject to the provisions of these rules. A juvenile may be discharged from detention to a legal guardian or his/her designee if the holding/receiving state's court determines that further detention is not appropriate.

History: Adopted as Rule 6-109 December 3, 2009, effective March 1, 2010; amended September 15, 2010, effective January 1, 2011; renumbered as Rule 7-105, effective April 1, 2014; amended August 26, 2015, effective February 1, 2016

Justification:

To be consistent with the provisions of the Juvenile Justice Delinquency and Prevention Act (JJDP), this amendment to ICJ Rule 7-105 dictates the youth be detained per the laws of the holding state. Thus, requiring a juvenile to be extradited under the Uniform Criminal Extradition Act (UCEA) would have no bearing on the detention in the holding state. Additional analysis is provided in Advisory Opinion 04-2018.

Effect on Other Rules or Advisory Opinions:

Advisory Opinion 04-2018: "Whether a person should be returned as a juvenile when being detained as a juvenile in the holding state, but has an outstanding warrant from an adult court in the home state."

- Legal Counsel to review effect on Advisory Opinion.

UNITY Impact:

No impact

Forms Impact:

No impact

Fiscal Impact:

No impact

Effective Date:

March 1, 2022