

2025 Rule Amendment Frequently Asked Questions

Q: How do states differentiate between absconders located in another state and supervised individuals who relocate to another state without authorization, as a direct violation of Rule 2.110?

A: A case is subject to the Compact only when there is clear intent to transfer supervision, established by submission of a transfer application and execution of a waiver of extradition (Advisory Opinion 3-2012).

Rule 2.110 does not apply when an individual absconds without any intent to transfer through the Compact and does not require elevation of the warrant in those circumstances.

The underlying violation behavior still exists and must be addressed by the sending state in accordance with its supervision and enforcement practices.

Consistent with Rule 2.110(a), only the sending state may determine whether permission or authorization to relocate was granted, as no state may “permit” relocation outside the Compact process.

When supervision was never transferred and no Compact application or waiver occurred, the individual remains a fugitive from justice subject to return under the U.S. Constitution’s extradition clause, not Compact retaking provisions.

Q: When a supervised individual previously reported as an absconder is apprehended in a receiving state, is a probable cause hearing required prior to retaking?

A: Yes. A probable cause (PC) hearing in accordance with Rule 5.108 is required when an absconder is located in the receiving state. The hearing ensures due process by preventing arbitrary detention, confirming the absconding behavior and alleged violations, establishing a factual record, and supporting the sending state’s revocation decision.

Q: Are probable cause (PC) hearings required for all behavior requiring retaking, or only when requested?

A: PC hearings are required when requested by the sending state, consistent with current practice and Rule 5.108. Both the sending and receiving states share responsibility for ensuring due process when alleged violations in the receiving state may result in revocation of conditional release. When a PC hearing is requested, the receiving state must conduct the hearing within 30 days, providing the supervised individual notice of the alleged violations and an opportunity to present evidence and witnesses before a neutral decision-maker.

If there is uncertainty as to whether the sending state intends to pursue revocation based on the receiving state’s violations, a PC hearing should be provided in accordance with Rule 5.108 to establish a proper record. Failure to conduct a requested PC hearing may limit the sending state’s ability to rely on those violations in subsequent revocation proceedings.

Q: How should the 30-day timeframe in the absconder rule be applied and documented?

A: The 30-day timeframe refers to the investigation period used to determine whether a supervised individual is truly absconding and begins when the supervising officer has reason to believe the individual is actively avoiding supervision. Best practice is to document this timeframe in the absconder details and record the discovery or determination date as the date the investigation is completed.

Q: Under Rule 4.109-2(c), must states still conduct a diligent search under Rule 4.109-2(a) when there is a history of violations?

A: Yes. States must still conduct an investigation to determine whether the supervised individual meets the definition of absconding. However, when there is a documented pattern of escalating violations that indicates a serious public safety concern, the investigation may be expedited and does not require use of the full 30-day investigation period.