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LAW AND PUBLIC SAFETY

JUVENILE JUSTICE COMMISSION

Juvenile Parole and Transitional Services

Classification Assignment Process for Juveniles

Proposed Amendments: N.J.A.C. 13:96-1.2 and 2.2A and 13:100-1.3 and 2.1A

Authorized By: Executive Board of the Juvenile Justice Commission, the Honorable John J. Hoffman, Acting Attorney General and Chair, Deborah R. Edwards, Attorney General's Designee.

Authority: N.J.S.A. 52:17B-170.e, 171, 174, 176, and 186.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number PRN 2013-121.

Submit written comments by October 18, 2013 to:

John Wolff, Administrative Practice Officer
New Jersey Juvenile Justice Commission
1001 Spruce Street - Suite 202
Trenton, New Jersey 08638

The agency proposal follows:

Summary

The Juvenile Justice Commission (Commission) is proposing to adopt amendments to the rules found at N.J.A.C. 13:96 and 13:100.

The rules at N.J.A.C. 13:96 govern parole and transitional services for juveniles on post-incarceration release from Commission facilities; it was last readopted effective December 1, 2009. (See 41 N.J.R. 2771(a); 42 N.J.R. 73(c)) The rules at N.J.A.C. 13:100 govern the classification and assignment of juveniles sentenced by the Family Court to a term of

incarceration to be served under the supervision of the Commission; that chapter was last readopted effective February 23, 2011. (See 42 N.J.R. 2596(a); 43 N.J.R. 738(a)) In 2012, both chapters were amended to implement authority granted to the Commission by N.J.S.A. 30:4-123.67.b, as amended effective August 1, 2010, essentially by adopting new provisions that establish eligibility requirements for parole contract agreements entered into by juveniles under its care. The 2012 amendments were adopted with no public comments received. (See 43 N.J.R. 3125(a); 44 N.J.R. 1618(b))

The Commission is now proposing to amend the rules adopted in 2012 in order to make a number of clarifications.

The Commission proposes to amend two definitions that are found both in N.J.A.C. 13:96-1.2 and 13:100-1.3.

The Commission first proposes to amend the definition of "parole contract agreement," in order to make it clearer that such contract agreements apply to juvenile parolees, as well as to incarcerated juveniles, and to clarify that the fulfillment of the terms of the agreement would result in a "specified reduction of the juvenile parolee's parole term or the juvenile's primary parole eligibility date," which replaces "reduction in the applicable term of incarceration or sentence."

Second, the Commission proposes to amend the definition of "judicial restriction date," so that it coincides with the language of N.J.S.A. 2A:4A-44.d(2). Under the statute, the judicial restriction date is either one-third of a juvenile's imposed sentence, in the case of an adjudication for conduct that if committed by an adult would be a crime of the first, second, or third degree, or one-fourth of such sentence, in the case of an adjudication for conduct related to all other crimes, subject to applicable credits. At N.J.A.C. 13:96-1.2 and 13:100-1.3, the definition of "judicial restriction date" omits the one-fourth requirement. That requirement is applicable only to juveniles adjudicated for conduct related to crimes other than those of the first, second, or third degree, and as a factual matter, the Commission has never had jurisdiction

over such a juvenile. However, the Commission believes it appropriate to amend the definition of judicial restriction date to conform it to the governing statute.

Third, the Commission proposes to add N.J.A.C. 13:96-2.2A(c) and 13:100-2.1A(c) to state that under N.J.S.A. 30:4-123.67.c, the State Parole Board is responsible for specifying the components necessary for a parole contract agreement, and upon acceptance, to reduce the agreement to writing and monitor compliance therewith. The Commission also proposes to add a definition of "Board" to N.J.A.C. 13:100-1.3, defined as the New Jersey State Parole Board.

Finally, in order to be consistent with general statutory and regulatory usage, the Commission proposes to drop the plural "s" from "parole contract agreements" in the headings of N.J.A.C. 13:96-2.2A and 13:100-2.1A, and in the heading to N.J.A.C. 13:100-2.

Because the Commission has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendments will have a positive social impact, by ensuring that every juvenile committed to the Commission, including juvenile parolees, has the opportunity to apply for a parole contract agreement. Parole contract agreements provide a meaningful incentive for juveniles to opt into elective educational, training, and other activities that support the goal of providing committed juveniles with a rehabilitative path towards successful reintegration into their communities. By ensuring that all committed juveniles are authorized and encouraged to apply for a parole contract agreement, the Commission is acting to maximize the benefits to be realized by those agreements.

Economic Impact

The costs associated with the proposed amendments are met through the established budget process with funds allocated by the State. The Commission anticipates that the proposed amendments will not have any economic impact on either the Commission or any other department or agency of the State government.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendments are not being proposed under the authority of, or in order to implement, comply with, or participate in any program established under Federal law or under a State statute that incorporates or refers to Federal law, standards, or requirements.

Jobs Impact

The Commission does not anticipate that any jobs either will be generated or lost in the State of New Jersey if the proposed amendments are adopted.

Agriculture Industry Impact

The proposed amendments will have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The proposed amendments will impose no reporting, recordkeeping, or other compliance requirements upon small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments affect only juveniles committed to the supervision of the Juvenile Justice Commission, and will have no effect on small businesses. Therefore, a regulatory flexibility analysis is not required.

Housing Affordability Impact Analysis

The proposed amendments will have an insignificant impact on affordable housing in New Jersey, and there is an extreme unlikelihood that the proposed amendments would evoke a change in the average costs associated with housing, because the proposed amendments concern only the parole and early release of juveniles under the supervision of the Juvenile Justice Commission.

Smart Growth Development Impact Analysis

The proposed amendments will have an insignificant impact on smart growth, and there is an extreme unlikelihood that the proposed amendments would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey, because the proposed amendments concern only the parole and early release of juveniles under the supervision of the Juvenile Justice Commission.

Full text of the proposal follow (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 96

JUVENILE PAROLE AND TRANSITIONAL SERVICES

SUBCHAPTER 1. GENERAL PROVISIONS

13:96-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

...

“Judicial restriction date” means the date determined under the provisions of N.J.S.A. 2A:4A-44 to be either one-third of a juvenile’s imposed sentence, in the case of an adjudication for conduct that if committed by an adult would be a crime of the first, second, or third degree, or one-fourth of such sentence, in the case of an adjudication for conduct related to all other crimes, in both cases, as calculated going forward from the original date of sentence[,] and as may be reduced by any applicable credits.

...

“Parole contract agreement” means the agreement provided for by P.L. 2009, c. 330 (N.J.S.A. 30:4-123.67) between the Commission, the New Jersey State Parole Board, and a juvenile or juvenile parolee that, if the terms of which are fulfilled by the juvenile or juvenile parolee, would result in a specified reduction [in the applicable term of incarceration or sentence] of the juvenile parolee’s parole term or the juvenile’s primary parole eligibility date.

...

SUBCHAPTER 2. RESIDENCE PLAN, PAROLE CONTRACT AGREEMENT, AND SUPERVISION

13:96-2.2A Parole contract agreement[s]

(a) – (b) (No change.)

(c) Under the provisions of N.J.S.A. 30:4-123.67(c), upon approval of the juvenile’s or juvenile parolee’s application for a parole contract agreement, the Board shall specify components necessary for the agreement. Upon acceptance of the agreement by the Commission, the Board, and the juvenile or juvenile parolee, the Board shall reduce the agreement to writing and monitor compliance with the parole contract agreement at least once every 12 months.

CHAPTER 100

CLASSIFICATION ASSIGNMENT PROCESS FOR JUVENILES

SUBCHAPTER 1. GENERAL PROVISIONS

13:100-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

“Board” means the New Jersey State Parole Board.

...

“Judicial restriction date” means the date determined under the provisions of N.J.S.A. 2A:4A-44 to be either one-third of a juvenile’s imposed sentence, in the case of an adjudication for conduct that if committed by an adult would be a crime of the first, second, or third degree, or one-fourth of such sentence, in the case of an adjudication for conduct related to all other crimes, in both cases, as calculated going forward from the original date of sentence[,] and as may be reduced by any applicable credits.

...

“Parole contract agreement” means the agreement provided for by P.L. 2009, c. 330 (N.J.S.A. 30:4-123.67) between the Commission, the New Jersey State Parole Board, and a juvenile or juvenile parolee that, if the terms of which are fulfilled by the juvenile or juvenile parolee, would result in a specified reduction [in the applicable term of incarceration or sentence] of the juvenile parolee's parole term or the juvenile's primary parole eligibility date.

...

SUBCHAPTER 2. RECEPTION AND ASSIGNMENT PROCESS; PAROLE CONTRACT AGREEMENT[S]

13:100-2.1A Parole contract agreement[s]

(a) – (b) (No change.)

(c) Under the provisions of N.J.S.A. 30:4-123.67(c), upon approval of the juvenile's or juvenile parolee's application for a parole contract agreement, the Board shall specify components necessary for the agreement. Upon acceptance of the agreement by the Commission, the Board, and the juvenile or juvenile parolee, the Board shall reduce the agreement to writing and monitor compliance with the parole contract agreement at least once every 12 months.