

LAW AND PUBLIC SAFETY

JUVENILE JUSTICE COMMISSION

Juvenile Parole and Transitional Services

Classification Assignment Process for Juveniles

Definitions; Parole Contract Agreements

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

Proposed New Rules: N.J.A.C. 13:96-2.2A and 13:100-2.1A

Authorized By: Executive Board of the Juvenile Justice Commission, by the Honorable Paula T. Dow, Attorney General and Chair, Deborah R. Edwards, Attorney General's Designee.

Authority: N.J.S.A. 52:17B-170e(5) to (9), (14), (18), and (20) to (22); 52:17B-171; 52:17B-174; 52:17B-175; 52:17B-176; 52:17B-178; 52:17B-186; 2C:39-6a(9); 47:1A-1; 2A:4A-44d(5); and 30:4-123.67(b).

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

Proposal Number: PRN 2011-248.

Submit written comments by February 3, 2012 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 new rules and amendments at N.J.A.C. 13:96 and 13:100.

N.J.A.C. 13:96 governs parole and transitional services for juveniles on post-incarceration release from Commission facilities. N.J.A.C. 13:100 governs the classification and assignment of juveniles sentenced in the Superior Court Family Part, to a term of incarceration to be served under the supervision of the Commission.

The proposed new and amended rules implement authority granted to the Commission by N.J.S.A. 30:4-123.67(b), as amended effective August 1, 2010, to establish eligibility requirements for parole contract agreements entered into by juveniles under its care.

N.J.S.A. 30:4-123.67 provides for parole contract agreements to be entered into by both adult and juvenile inmates and parolees, the New Jersey State Parole Board, and, as applicable, either the Department of Corrections or the Commission. Under a parole contract agreement an inmate's sentence will be reduced, in consideration of the inmate successfully completing certain programs while incarcerated and maintaining a clean disciplinary record. Parole contract agreements were previously optional, but in 2009, N.J.S.A. 30:4-123.67 was amended to require agreements to be entered into with respect to all eligible inmates desiring them, effective August 1, 2010. See P.L. 2009, c. 330, § 7, approved January 18, 2010.

As amended, N.J.S.A. 30:4-123.67(b) provides that any inmate or parolee shall be permitted to apply for a parole contract agreement, and that the New Jersey Parole Board is required to accept all such applications. Generally, the statute provides that

the Board is required to approve any application “consistent with eligibility requirements promulgated by the board pursuant to section 4 of P.L.1979, c.441 (C.30:4-123.48).” However, with respect to juveniles, N.J.S.A. 30:4-123.67(b) authorizes the Commission to establish eligibility requirements, providing specifically that “... the commission may, by regulation, specify eligibility requirements for agreements with juvenile parolees and inmates and the procedures for effecting such agreements and reviewing juveniles' application for such agreements.”

Implementing this authority, the Commission proposes to promulgate two new rules, N.J.A.C. 13:96-2.2A and 13:100-2.1A, under which all committed juveniles incarcerated in Commission facilities who have not yet reached their “judicial restriction date,” and all juvenile parolees, are authorized and will be encouraged to apply for a parole contract agreement. The judicial restriction date is determined by reducing a juvenile’s imposed sentence by one-third, as calculated going forward from the original date of sentence, and as may be reduced by any applicable credits. Under the provisions of N.J.S.A. 2A:4A-44(d)2, a grant of parole prior to the judicial restriction date is generally subject to the approval of the sentencing court.

Under the proposed new rules, upon initial reception and again within a week prior to release on either parole or post-incarceration supervision, a juvenile shall be briefed on the opportunities and obligations presented under parole contract agreements, shall be encouraged to make an application for such an agreement, and shall be offered assistance in completing all necessary and incidental paperwork.

Related to the proposed new rules, the Commission is also proposing to add definitions for “judicial restriction date” and “parole contract agreement” to the definitions

found in N.J.A.C. 13:96-1.2 and 13:100-1.3. In addition, the Commission proposes to add a definition for “juvenile parolee” to the definitions found in N.J.A.C. 13:100-1.3. Finally, the Commission proposes to change the heading of N.J.A.C. 13:96-2 from “Residence Plan and Supervision” to “Residence Plan, Parole Contract Agreement, and Supervision.”

Because the Commission has provided a 60-day comment period on the notice of proposed new and amended rules, 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 new and amended rules will have a positive social impact, by ensuring that every juvenile committed to a Commission facility 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 N.J.A.C. 13:96 and 13:100 are met through the established budget process with funds allocated by the State. The Commission anticipates that the proposed new and amended rules 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 new and amended rules 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 will either be generated or lost in the State of New Jersey if the proposed new and amended rules are adopted.

Agriculture Industry Impact

The proposed new and amended rules will have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The proposed new and amended rules 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 new and amended rules 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 new and amended rules will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing, because the proposed new and amended rules concern only parole contract agreements entered into by and between the Commission, the New Jersey State Parole Board, and committed juveniles under Commission supervision.

Smart Growth Development Impact Analysis

The proposed new and amended rules will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules 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 new and amended rules concern only parole contract agreements entered into by and between the Commission, the New Jersey State Parole Board, and committed juveniles under Commission supervision.

Full text of the proposal follows (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 to be one-third of a juvenile’s imposed sentence, 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, would result in a reduction in the applicable term of incarceration or sentence.

...

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

13:96-2.2A Parole contract agreements

(a) All committed juveniles incarcerated in Commission facilities who have not yet reached their judicial restriction date, and all juvenile parolees, are authorized and shall be encouraged to apply for a parole contract agreement, as provided for under the provisions of P.L. 2009, c. 330 (N.J.S.A. 30:4-123.67).

(b) A representative of the Office of Juvenile Parole and Transitional Services shall meet with a juvenile within one week prior to the juvenile's release on either parole or post-incarceration supervision and shall:

- 1. Explain to the juvenile the opportunities and obligations presented under a parole contract agreement;**
- 2. Encourage the juvenile to make an application for a parole contract agreement; and**
- 3. Offer to the juvenile assistance in completing and filing all necessary and incidental paperwork.**

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:

...

“Judicial restriction date” means the date determined to be one-third of a juvenile’s imposed sentence, as calculated going forward from the original date of sentence, and as may be reduced by any applicable credits.

...

"Juvenile parolee" means an adjudicated delinquent who has been released from a Commission facility on parole, and/or post-incarceration supervision, and who is subject to the jurisdiction of the New Jersey State Parole Board.

...

"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, would result in a reduction in the applicable term of incarceration or sentence.

...

SUBCHAPTER 2. RECEPTION AND ASSIGNMENT PROCESS; PAROLE CONTRACT AGREEMENTS

13:100-2.1A Parole contract agreements

(a) All committed juveniles incarcerated in Commission facilities who have not yet reached their judicial restriction date, and all juvenile parolees, are authorized and shall be encouraged to apply for a parole contract agreement, as provided for

under the provisions of P.L. 2009, c. 330 (N.J.S.A. 30:4-123.67).

(b) During the assessment process provided for in N.J.A.C. 13:100-2.1(e), social services staff shall:

1. Explain to the juvenile the opportunities and obligations presented under a parole contract agreement;

2. Encourage the juvenile to make an application for a parole contract agreement; and

3. Offer to the juvenile assistance in completing and filing all necessary and incidental paperwork.